

PERPETRATING JUSTICE: REPRESENTATIONS OF THE LEGAL SYSTEM IN
CHILDREN'S AND YOUNG ADULT LITERATURE

By

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To my parents

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Children's books about the legal system have been published in America and England since Victorian times, but, throughout the last two decades, the criminal justice system gained a larger and more visible presence in children's literature, both in works that uphold the integrity of legal practices and in works that critique the system. Representations of the legal system are offered to child readers of all ages through picture books, middle grade novels, and young adult fiction and through a variety of genres, including realistic fiction, historical fiction, and fantasy. Though these works focus on different aspects of the legal system, like incarcerated parents, prisons, juvenile delinquency, and trials, they usually place greater emphasis on individuals within the system rather than on the system itself, ultimately upholding the status quo of the legal system. This resistance to advocating for institutional changes can be seen as conservative, but the books' willingness to address sensitive subjects, like prisons and crime, is also progressive, so these books as a whole cannot be uniformly categorized as conservative or liberal.

The books can, however, be read as examples of multicultural children's literature because they provide representations of a distinct group of people who are frequently

feared, ignored, or dismissed by society. Yet while individuals whose lives are closely affected by the criminal justice system constitute a specific group that shares a common culture, these individuals also come from a variety of other distinct cultural groups, which influence the different experiences that they have within the legal culture, as well as the rejection that they may receive from society. These other cultural memberships, like gender, race, and class, may also not always be fully portrayed, as these books struggle to find a balance between accurately representing the incarcerated population and avoiding harmful stereotypes about criminals.

By examining these books as examples of multicultural literature and as an important subset of children's literature that does not receive much scholarly attention, *Perpetrating Justice* strives to give a balanced view of the trials and tribulations associated with representing the legal system in works for, about, and read by children.

CHAPTER 1 INTRODUCTION

When I started this project, people warned me that I would not find enough material to sustain it; now I know that I have far too much material to condense into a single dissertation. Once you start looking for crime in children's literature, you discover that it is everywhere. Crimes are committed against characters' selves, against property, against individuals, institutions, and all of humanity. Innocent people are falsely accused of crimes in nearly every genre. Child and adolescent characters are frequently victims, as well as perpetrators, of crime, and children and teens routinely act as detectives. Yet often, crimes are never officially investigated, and the offenders are never prosecuted or punished by the law.

Private, personal, or karmic justice may prevail, as in the case of many fairy tales, fables, and juvenile detective stories. Other times, obtaining justice, at least in the sense of finding and punishing the guilty party, is not even the point of the stories. For example, in Beverly Cleary's *Dear Mr. Henshaw* (1983), Leigh Botts is ultimately happy that he never identifies the lunch thief. He is proud that he stopped the thefts by constructing a burglar alarm for his lunch box, but he is relieved that the thief did not trigger the alarm and get caught because he does not want the thief to be in trouble, especially when his or her stealing may stem from family problems, an issue with which Leigh, a child of a recent divorce, can sympathize (Cleary 98-104). Similarly, in Laurie Halse Anderson's *Speak* (1999), Melinda Sordino spends most of her freshman year of high school in silence, reeling from an unreported rape. When her rapist corners and threatens her for a second time, she is finally able to voice her dissent and to silence him with a shard of glass held at his throat before the girls' lacrosse team appears

(*Speak* 193-195). This exposure of Melinda's attacker goes a long way in redeeming Melinda's reputation at school, though no mention is ever made of the school authorities or the police getting involved, but Melinda's recovery and regaining of her voice and sense of self are not dependent on external factors, like the approbation of her peers or even the prosecution of her attacker.

Though the majority of crimes in children's literature¹ are not addressed in a formal legal setting, many books—probably more than you might think—examine aspects of criminal justice systems. These books have been published in America and Great Britain at least since Victorian times, but, throughout the 1990s and the 2000s, the criminal justice system gained a larger and more visible presence in children's and young adult literature, both in works that uphold the integrity of the law and its practices and in works that critique the system. This unprecedented rise in the number of children's books published about the legal system in recent years can likely be explained by the American cultural fascination with trials and crime dramas, by the relaxing attitude towards many previously taboo subjects in children's literature, like prisons and violent crime, and especially by the increased number of incarcerated Americans. On February 29, 2008, *The New York Times* reported, "For the first time in the nation's history, more than one in 100 American adults are behind bars, according to a new report [by the Pew Center on the States]. Nationwide, the prison population grew by 25,000 last year, bringing it to almost 1.6 million, after three decades of growth that has seen the prison population nearly triple. Another 723,000 people are in local

¹ When using the term "children's literature," I am also referring to young adult literature, which I consider as a subfield within the larger field of children's literature. Only in Chapter Four do I differentiate between young adult novels and children's books for younger readers. Also, for variety's sake, I interchange the terms "legal system" and "criminal justice system" throughout this project, recognizing that the terms are not quite identical.

jails” (Liptak np). As a correlation to this ever increasing prison population, “[m]ore than 2.3 million children in the United States have a parent in prison” (Martone 15).

Like the populations that they describe, the audience for books about the criminal justice system has expanded as well. Children’s books about the legal system published in the late nineteenth and early twentieth century were aimed chiefly at an audience of older children and adolescents. But, as Michael Cart observes, the genre of young adult literature is “addressing a younger and younger audience” (10), and subjects that were once perceived as only appropriate for teens and older children now enter works for younger children as well. Consequently, there are now numerous books for middle schoolers, as well as a handful of picture books, which introduce readers to aspects of the criminal justice system.

Yet scholarship about these books has not caught up with the market’s growth. In the field of law and literature studies, Ian Ward’s *Law and Literature: Possibilities and Perspectives* (1995) is significant because Ward includes children’s literature in his discussion of law in literature.² But he only addresses older, canonical works³ that explore the legal system in allegorical, abstract, or philosophical ways, and he limits his analysis of these stories to the phenomenon of “double vision,” comparing how the law presented in these books appears differently to child and adult readers. In more recent years, legal scholars have focused on J.K. Rowling’s *Harry Potter* series, publishing

2 The field of law and literature studies is roughly divided into “law in literature” and “law as literature.” As Ward explains, “Essentially, ‘law *in* literature’ examines the possible relevance of literary texts, particularly those which present themselves as telling a legal story, as texts appropriate for study by legal scholars.... ‘Law as literature,’ on the other hand, seeks to apply the techniques of literary criticism to legal texts” (Ward 3; italics in original).

3 The children’s books that Ward includes in his study are Beatrix Potter’s picture books, Lewis Carroll’s *Alice’s Adventures in Wonderland*, Rudyard Kipling’s *Jungle Books*, Mark Twain’s *Adventures of Huckleberry Finn*, William Golding’s *Lord of the Flies*, and Jonathan Swift’s *Gulliver’s Travels*.

articles and even entire journal issues about these books,⁴ while still overlooking the many other, lesser known children's works that raise questions about legal systems. Literary scholars have also barely investigated this rich body of work, only publishing a few scattered articles about the criminal justice system portrayed in specific books, like Harper Lee's *To Kill a Mockingbird* (1960) and Mildred D. Taylor's *Roll of Thunder, Hear My Cry* (1976). And, while the field of education offers numerous volumes about the importance of a social justice curriculum in schools to teach children about issues of racism, sexism, classism, ableism, heterosexism, anti-Semitism, and other forms of discrimination, these volumes do not include strategies or recommended readings for teaching about the criminal justice system.⁵

Initially, such oversight in these three fields is surprising, especially since children's literature offers myriad representations of the legal system, but children's issues are often sidelined, both in literature and legal studies, as well as in life. While children are at the center of education, the issue may receive less scholarly attention in

4 Some of the law in literature articles that have been published about the Harry Potter books are: "Kidlit' as 'Law-and-Lit': *Harry Potter and the Scales of Justice*" by William P. MacNeil (2002); "Harry Potter and the Rule of Law: The Central Weakness of Legal Concepts in the Wizard World" by Susan Hall (2003); "Harry Potter and the Unforgivable Curses: Norm-formation, Inconsistency, and the Rule of Law in the Wizarding World" by Aaron Schwabach (2005); and "Agents of the Good, Servants of Evil: Harry Potter and the Law of Agency" by Daniel S. Kleinberger (2007). The journal issue devoted to the series is "Harry Potter and the Law," *Texas Wesleyan Law Review*, by Timothy S. Hall et al (2005).

5 Some of the education guides that advocate for a social justice curriculum in schools but do not address issues of the criminal justice system within these curriculums are: *Teaching for Diversity and Social Justice: A Sourcebook*, edited by Maurianne Adams, Lee Anne Bell, and Pat Griffin (1997); *Teaching for Social Justice*, edited by William Ayers, Jean Ann Hunt, and Therese Quinn (1998); *Class Actions: Teaching for Social Justice in Elementary and Middle School*, edited by JoBeth Allen (1999); *Readings for Diversity and Social Justice*, edited by Maurianne Adams et al (2000); *Reading, Writing, and Rising Up: Teaching About Social Justice and the Power of the Written Word* by Linda Christensen (2000); *Rethinking Our Classrooms: Teaching for Equity and Justice, Volume One*, edited by Bill Bigelow et al (2002); *Parallel Practices: Social Justice-Focused Teacher Education and the Elementary School Classroom* by Barbara Regenspan (2002); *Against Common Sense: Teaching and Learning Toward Social Justice* by Kevin Kumashiro (2004); and *Social Studies for Social Justice: Teaching Strategies for the Elementary Classroom* by Rahima Wade (2007).

this field both because it is controversial and because it is less visible than other social justice topics. Nevertheless, closer examinations of children's books about the criminal justice system are certainly warranted. As Ward states,

For the overwhelming majority who never engage in an immediate study of law, these early encounters with legal literature may well be the only occasion when these issues are ever seriously considered and when decisions might be reached. Only a tiny minority of the community will ever study law after the ages of around 18 or 19, but the vast majority who encounter a reasonably wide spectrum of children's literature will already have engaged in the jurisprudential debate. If legal language is, to use Foucault's phrase, a 'specialized knowledge,' then literature, and especially children's literature, can serve to de-specialise it, and for that it should be treasured. (Ward 117-118)

In particular, books that are specifically about the legal system provide child and teen readers with opportunities to learn about the law, both in the present and in the past, from a variety of perspectives and to consider changes that they may desire to promote and work towards regarding the legal system in the future.

Of course, children are exposed to information about the legal system through channels other than books. They learn about the system through social studies and government classes, through what they hear from their parents, neighbors, and peers, and sometimes through their own experiences with the system. They can also watch a large number of television shows and movies about the criminal justice system. Often, these shows and films are aimed at an adult audience, but children and teens still watch them regularly. Other times, the shows and films are made for a general or even a child audience. For example, the 1933 movie, *Wild Boys of the Road*, exposed young viewers to courtroom scenes, which do not appear to be prevalent in the children's books of the era, not to mention teenagers' brawls at railroad depots with police and railway officers. Similarly, the 2005 film version of Kate DiCamillo's popular book,

Because of Winn Dixie, which already introduced elementary school children to a shy, guitar playing ex-con, increased its commentary on the criminal justice system by adding the character of a mean, egotistical police officer whose harassing, slapstick high jinks contributed nothing of value to the movie's plot. Finally, there are theatre performances, detective kits, and even video games⁶ designed to teach children about the legal system.

If I could, I would explore all of the different sources and media that influence children's and teens' understandings of the legal system, but, alas, I cannot, so this project focuses on fictional works about the legal system for children and adolescents. I concentrate chiefly on the representations of the legal system designed for an American audience, so my work draws primarily from American writers and publishers, though I also use works from Great Britain, particularly when they have been published in the United States or have proven to be popular with American children. (Not surprisingly, other countries have stories about their own legal systems.) Furthermore, while the publication dates of the books included in this research span over one hundred and fifty years, the majority of the texts addressed were written in the Victorian era or in the last twenty years, two periods in which prisons grew exponentially, simultaneously prompting public debate about the role of the criminal justice system in society.

I have also restricted my literary sample to focus attention on several key and recurrent concerns in children's books about the criminal justice system: child characters with an incarcerated parent, historical fiction about prisons, the juvenile

⁶ The website "Our Courts: 21st Century Civics," a program conceived by Justice Sandra Day O'Connor, offers three video games designed to teach students about their civil rights and the American legal system. For more information, go to <http://ourcourts.org/>. There are also courtroom Nintendo DS (Dual Screen) games, including "Phoenix Wright: Ace Attorney" and its sequels, the latest of which is "Apollo Justice."

justice system, and criminal trials. Perhaps surprisingly, children's literature offers an amazing array of topics and perspectives related to the legal system, including books about political prisoners, like Jane Yolen and Robert J. Harris's *Girl in a Cage* (2002) and Gloria Whelan's *The Impossible Journey* (2003), and books about children in the witness protection program, like Jacqueline Woodson's *Hush* (2002). There are also novels told from the perspectives of the children of executioners and prison guards, including Laura E. Williams's *The Executioner's Daughter* (2000), Elvira Woodruff's *The Ravenmaster's Secret* (2003), and Gennifer Choldenko's *Al Capone Does My Shirts* (2004) and *Al Capone Shines My Shoes* (2009). All of these books provide information about and insights into legal systems, but I chose to focus on the four topics mentioned above because they occur most frequently in children's books about the criminal justice system. Moreover, these works offer a balance of conservative and progressive ideologies, while also providing representations of a particular cultural group—people whose lives have been drastically affected by the legal system—which makes these books works of multicultural children's literature.

Questions of Categorization: Radical and/or Conservative

In examining such a politically charged topic as the criminal justice system, questions about the ideologies behind the children's books on this topic inevitably arise. Do these books tend to be conservative or liberal, even radical or subversive, in their approach to the legal system? Can they easily be categorized according to such ideologies, which are difficult to define themselves? Such questions mirror a larger debate taking place within the field of children's literature as a whole, where scholars argue about the conservativeness or progressiveness of the field's contents and trends.

Certainly, most of the books for children and teenagers, including stories that involve crimes and even the formal legal system, do not openly advocate a political or social agenda. Yet, in *Tales for Little Rebels: A Collection of Radical Children's Literature* (2008), Julia L. Mickenberg and Philip Nel assert, "Stories that uphold the status quo (arguably the majority of works published for children) may not seem political, but they represent efforts to teach children that the current social, political, economic, and environmental orders are as they should be" (1). Such conservative reinforcements about the adequacy and desirability of existing systems underlie many children's books about the legal system, especially in works centered on prisoners, juvenile delinquents, and their families. The focus in these books rests on individuals, usually those who have damaged their own lives and their families' lives by entering the criminal justice system. The system generally remains faceless, but, when an individual officer of the court becomes a central character, that character is usually good, implying that the system that he or she represents is also good or at least benign. Very few questions about alternatives or improvements to the existing criminal justice system are made, even in the books about unfair trials, because the injustices identified in the legal proceedings stem more frequently from the prejudices of individuals rather than the miscalculations of the court or the arbitrariness of the law.

As conservative as these books can be in their upholding of the status quo, the same books can also be considered inherently progressive or radical because they address such a sensitive and frequently undiscussed subject. Their classification depends largely on what definition of radical is being used. For example, according to Jack Zipes, "A radical literature, especially a radical children's literature, wants to

explore the essence of phenomena, experiences, actions, and social relations and seeks to enable young people to grasp the basic conditions in which they live” (qtd in Mickenberg and Nel vii). All of the books discussed offer some perspective on the criminal justice system, providing young readers with insights into a part of the society in which they live, however distant it may seem to their lives, so each of these works appears to fit Zipes’s definition, even though some of the books explore the system more thoroughly than others.

Similarly, in *Radical Change: Books for Youth in a Digital Age* (1999), Eliza T. Dresang asserts, “*Radical Change* means fundamental change, departing from the usual or traditional in literature for youth, although still related to it” (4-5; italics in original). Dresang argues that there are three types of Radical Change in children’s literature: Type One Radical Change literature focuses on new forms, formats, and organizational styles for books (19); Type Two Radical Change literature involves new perspectives and narrative voices (24); and Type Three Radical Change literature introduces new subjects, settings, and characters to the field (26). While certain children’s books about the criminal justice system fit within each of Dresang’s three categories, Type Three Radical Change literature most broadly defines the body of works examined in this project. Children’s books about prisons, courtrooms, and convicts have been available in small numbers at least since the Victorian era, but, in the last 20 years, a far greater number of these books were published for new generations, featuring new characters, new scenarios, and new, more vivid, and more diverse portrayals of the legal system.

If Dresang's and Zipes's definitions of radical children's literature seem overly broad and inclusive, then Herbert Kohl's definition is the opposite. In *Should We Burn Babar?: Essays on Children's Literature and the Power of Stories* (1995), Kohl states, "Though there is a great deal of compassionate, liberal literature for young adults on sensitive issues, it is hard to find any radical literature on the same topics" (59). Indeed, Kohl, working from a clear leftist-Marxist tradition, can only identify two existing children's novels that he considers radical, as well as a few other novels and picture books that come close to the mark.⁷ His inability to identify more radical works of children's literature stems from the characteristics that he assigns to his definition of a radical children's book: a focus on community growth and development rather than on an individual character's growth and development, collective action, an evil but thoroughly knowable enemy, an emphasis on comradeship as distinct from friendship and love, and no guaranteed resolution, let alone a happy ending (Kohl 66-68). Though Kohl does not define "compassionate, liberal literature for young adults" (59), I assume that at least some of the books that I discuss would qualify as such, especially those that critique the system or at least the imperfect humans who comprise it, but none of these books encompasses all of the criteria that Kohl sets forth in order for a book to be deemed radical. Very few works do since several of Kohl's criteria, especially the valuing of a community's growth over an individual's growth and the rejection of happy

⁷ The two books that Kohl considers to be works of radical children's literature are Geoffrey Trease's *Bows Against the Barons* (1934), a retelling of Robin Hood as a conscientious social reformer rather than an outlaw who only steals from the rich, and Trease's *Comrades for the Charter* (1934), a story of two poor boys who, in 1839, join the Chartist movement designed to bring democracy to Europe (Kohl 68-75). Kohl also recommends Virginia Hamilton's *The Planet of Junior Brown* (1971) and Vera William's trilogy, *A Chair for My Mother* (1982), *Something Special for Me* (1983), and *Music, Music for Everyone* (1984) as books that come close to being radical (75-82).

endings, rightly or wrongly go against the standard practices inherent in Western children's and young adult literature.

Whereas Kohl's definition of radical children's literature is highly exclusionary, the definition of subversive literature that Alison Lurie champions in *Don't Tell the Grown-Ups: The Subversive Power of Children's Literature* (1990) is far less rigid. Lurie considers subversive books to be those that "recommended—even celebrated—daydreaming, disobedience, answering back, running away from home, and concealing one's private thoughts and feelings from unsympathetic grown-ups" (x). In contrast to these books, Lurie declares that characters in books designed to instill values and proper decorum "learned to depend on authority for help and advice. They also learned to be hardworking, responsible, and practical; to stay on the track and be content with their lot in life" (x). Like Dresang's Radical Change literature, Lurie's categories of subversive and non-subversive books do not have the political element that the definitions of Kohl or even Zipes include, but many of the children's books about the legal system incorporate aspects of both subversive and non-subversive literature. The protagonists are often disobedient and rebellious, or they dream of a life in which the criminal justice system does not intrude. Nevertheless, some of the characters do seek help from adults, even within the legal system, and most of the books emphasize the importance of maturity and caretaking, which include hard work and responsible, pragmatic decision making.

In the end, children's books about the legal system as a whole cannot be uniformly categorized as conservative, liberal, radical, or subversive. There are too many variables among individual books and among definitions of classifications. As Kimberley

Reynolds states in *Radical Children's Literature: Future Visions and Aesthetic Transformations in Juvenile Fiction* (2007), "[C]hildren's literature provides a curious and paradoxical cultural space: a space that is simultaneously highly regulated and overlooked, orthodox and radical, didactic and subversive" (3). This ambiguity holds true for the books discussed in this project, as well as for the entire field of children's and young adult literature. Additionally, Reynolds recalls, "It is not accidental that at decisive moments in social history children have been at the center of ideological activity or that writing for children has been put into the service of those who are trying to disseminate new world views, values, and social models" (2). Specifically regarding children's works on the criminal justice system, in which few alternatives or alterations to the system are presented, the books may seem conservative or invested in maintaining the status quo of the system. But, even though very few books advocate for changes to the existing legal system, some of the books do raise questions about human factors, such as racism, sexism, classism, and outsider status in the community, which can taint legal and judicial outcomes. The majority of the books also introduce sympathetic characters whose lives have been affected by the criminal justice system, either positively or negatively, and whom young readers may remember later when they are given the opportunity to make real world decisions about the legal system.

Finding a Framework: Children's Books about the Legal System as Multicultural Children's Literature

Though the ideologies of children's books about the legal system may vary considerably, these works can be considered as examples of multicultural children's literature. As with other works for children and teenagers that address sensitive issues, the need for multicultural children's literature has been debated since its inception.

Different academic schools of thought about how multicultural children's literature should be understood have emerged as well. Early studies in this area examined only books about specific races and ethnicities, whereas later scholars expanded the categories of multicultural children's literature to include other groups of people who face oppression stemming from issues of religion, gender, sexual orientation, socioeconomic class, and physical and mental challenges. Still other scholars, rather than focusing on specific, often underrepresented groups, contend that all individuals are multicultural in the sense that each person belongs to multiple social groups, so all literature is therefore multicultural.

Considered the foundational academic text on multicultural children's literature, Rudine Sims's⁸ *Shadow and Substance: Afro-American Experience in Contemporary Children's Fiction* (1982) develops three categories to describe children's books about African Americans published between 1965 and 1979. The first category, Social Conscience Books, contains works in which the characters' race creates problems that must be acknowledged and solved, typically by the development of a social conscience in other, usually white, characters (Sims 17-31). The second category, Melting Pot Books, features characters who are as homogeneous as possible, portraying racial differences as only skin deep and denying the existence of cultural differences (Sims 33-46). The final category, Culturally Conscious Books, fully conveys and celebrates the cultural distinctions, experiences, and traditions of African Americans (or any other group) (Sims 49-73). Sims's three categories of multicultural children's literature have

⁸ Shortly after the publication of *Shadow and Substance: Afro-American Experience in Contemporary Children's Fiction*, Rudine Sims married and took her husband's last name, so all of her later work, most of which addresses multicultural children's literature, appears under the name of Rudine Sims Bishop.

been adapted to fit children's books about other minority groups, including Jewish Americans, Asian Americans, and Hispanic Americans. In the most recent adaptation of Sims's three-tiered model, Michael Cart and Christine A. Jenkins document the development of GLBTQ young adult literature, renaming Sims's three categories as Homosexual Visibility, Gay Assimilation, and Queer Consciousness/Community (xix-xx).

Sims's categorization system has been integral to the study of multicultural children's literature, and children's books about the legal system can easily be organized and discussed in terms of her categories. But other developments in multicultural children's literature, in which such clear-cut classification systems are deliberately avoided and greater emphasis is placed on the overall educational goals of the literature, are more relevant to this project. It is undoubtedly important for children's books to feature groups of people, like prisoners and their families, who have frequently been denied a voice by society, but it is equally, if not more, important, to question the power dynamics in society that contributed to these people's marginalization. To promote this questioning, Maria José Botelho and Masha Kabakow Rudman developed critical multicultural analysis, in which, "The 'critical' in critical multicultural analysis means keeping the power relations of class, race, and gender at the center of our investigations of children's literature, thus connecting our reading to sociopolitical and economic justice. 'Multicultural' signals the diverse historical and cultural experiences within these power relations" (271). Though Botelho and Rudman overstate the difference between their own critical multicultural analysis and other studies of multicultural children's literature, the exploration of overlapping cultural identities and

power relations among the oppressed and the oppressors is central in examining the representations of people in the legal system in books for children and young adults.

After all, individuals whose lives are closely affected by the criminal justice system constitute a distinct group of people who are frequently feared, ignored, or dismissed by mainstream society. Yet, while individuals in this group do share a common culture created by the legal system, as well as their own actions, they also come from a variety of other cultural groups, which influence the different experiences that they have within the legal or prison culture, as well as the amount and type of rejection that they may receive from society. Also, within the legal and prison cultures themselves, the power dynamics between the oppressed and the oppressors are affected by the power dynamics of other cultural factors, such as race, class, and gender.

Like other works of multicultural children's literature, children's books about people involved in the legal system attempt to provide representations of a minority group in society, one that is particularly rife with power struggles, in ways that are both accurate and non-stereotypical. As Donna L. Gilton explains in *Multicultural and Ethnic Children's Literature in the United States* (2007), "The creators and promoters of this [multicultural] literature have always had several goals—to tell their own stories, to share their cultures and histories with a variety of young people, and more indirectly, to address and counteract cultural stereotypes" (28). Many of the children's books about the criminal justice system seek to challenge readers' assumptions about criminals and prison life, while asking readers to question their notions of fairness as well. Most of these works also provide accurate, well-researched accounts of trials, prison conditions, and common obstacles facing those who have a parent in prison, those who have been

released from prison, and those who are on probation. Because few of these works of fiction have been written by someone who has been on trial, served time, or had a parent in prison, however, the issue of cultural authenticity, at least in the sense of the authors' need to belong to the group that they are writing about in order for their work to be truly authentic, is not as central here as it is in works of multicultural children's literature about other groups.⁹

Another important distinction between multicultural children's literature about people whose lives are closely tied to the legal system and about other groups of people is the tone in which the cultural distinctions about the group are expressed. Gilton states, "Multiculturalism is applied cultural diversity. At its best, it enables all to participate in the general U.S. public culture and to maintain their own cultural base....If done well, it also encourages people to be interested not only in themselves but in their neighbors as well" (20). Writers of children's books about the legal system certainly want to attract a wider audience of readers than children and teenagers whose lives are personally affected by the system, and most of the authors strive to increase readers' awareness of the criminal justice system and its distinct cultural base. But, while many

⁹ As Gilton explains, "There are three schools of thought on cultural authenticity: *Multicultural literature should be written by all*. The author's own background should not make a difference. *Write what you know*. People not belonging to a culture should not write on that culture. *Only members of a culture should write their own story*. A writer's background will determine how well he or she describes the culture under consideration. *Background makes a definite difference as people write about a culture new or unknown to them*. Most of the time, works by members of cultural groups are much more authentic than those from the outside. *However, people not indigenous to a group can learn enough about a culture new to them to do a good job*. How much or what kind(s) of preparation necessary for this is open to much debate. *Also, some cultural group members may not know their own culture that well* and may make errors writing about or illustrating a story about their own culture or a related one" (81-82; italics in original). Some of the fictional works discussed in this project were written by people with a relative in prison or by former teachers or counselors in prisons and juvenile detention facilities, but most of the authors admit that they were not overly familiar with the legal system before beginning their novels. Also, while I could not find any children's fiction about the legal system written by inmates or former inmates, there are two works of children's non-fiction about the criminal justice system penned by people who are or have been incarcerated: Jack Gantos's *Hole in My Life* (2002) and Stanley "Tookie" Williams's *Life in Prison* (1998).

works of multicultural children's literature celebrate a culture's uniqueness, children's books about the legal system cannot do so as they do not want to want to glorify this culture. Instead, many of these books struggle with the dilemma of how to value the lives and dignity of prisoners without either promoting a prison sentence as an acceptable part of life or dismissing inmates as irrelevant or irredeemable.

Despite this difference from many other works of multicultural children's literature, children's books about the legal system can still be productively understood through the framework of multicultural children's literature. As Botelho and Rudman explain,

The metaphors of mirrors and windows have often framed the scholarship of multicultural children's literature. Children need to see themselves reflected so as to affirm who they and their communities are. They also require windows through which they may view a variety of differences. Books are one way they learn about the world. Once these foundations of story and society are internalized, literature can become a conduit—a door—to engage children in social practices that function for social justice.
(1)

In organizing the diverse materials for my project, I have employed the multicultural metaphors of mirrors, windows, and doors to address what appears to be the primary goal of each of the four groups of books I examine, with each group of books focusing on one of the four key concerns identified earlier: child characters with an incarcerated parent, historical fiction about prisons, the juvenile justice system, and criminal trials. While I consider the use of the multicultural metaphors helpful in organizing my research and in identifying the main objectives of these books, I also confess that these metaphors have their limitations. For example, though a particular book may serve as a mirror for a child with a parent in prison, allowing that child to see a character like herself in a book, it may also function as a window for another child, permitting him to learn about the criminal justice system and, hopefully, to empathize

with the book's character and with real-life children in the same situation. I also like to think that any of these books could serve as a door, encouraging child readers to apply what they have learned from the books to their own understandings of and actions in the world, both now as children and later as adults. But the books themselves often seem to prioritize one of these three metaphors (and its aims), and so I have structured my chapters accordingly.

The idea of children's literature as a mirror is primarily examined in Chapter Two, "On the Other Side of the Bars: Child Characters with a Parent in Prison," the only chapter that includes picture books, most of which appear to be written for children in similar circumstances as the characters in the stories. The novels for older readers also easily allow children whose parents are behind bars to identify with the characters, though, of course, all of these works can—and should—be read by other children and teenagers. This chapter explores the ways in which these picture books and chapter books handle the challenges of accurately representing the incarcerated population, particularly in terms of their portrayals of imprisoned parents' gender, race, class, and criminal offense, while simultaneously avoiding the reinforcement of harmful stereotypes about the criminal population. Many of the books try to steer away from sensitive political issues by focusing their stories on individual child characters and their unique experiences and challenges in coping with their parents' incarcerations, and all of the contemporary novels feature the child characters' friendships with other socially marginalized individuals as a way of reducing the stigma and the adversity of having a parent behind bars.

Chapters Three and Four are the principle window chapters, in which the novels are designed to help child and teen readers gain a greater awareness of the legal system, as well as an increased amount of compassion for those involved in it. Chapter Three, “Marking Change, Continuity, and the Passage of Time: Historical Fiction about Prisons,” compares older novels that I found in the University of Florida’s Baldwin Library of Historical Children’s Literature with contemporary works of historical fiction. All of these books introduce readers to prisons, prison practices, and inmates in British and American settings between 1730 and 1969. The contemporary works describe the horrors of incarceration and its negative effects on individual lives much more vividly than do their older counterparts, but all of the books take care to avoid criticizing the judicial system whenever possible. This chapter also explores the distancing effect of historical fiction, considering the ways in which historical fiction can be used to make connections between the past and the present, especially for younger readers. Finally, as part of the distancing effect, the contemporary books’ recurrent use of England, especially during Victorian times, as a setting that allows American readers to examine more closely issues of class and its impact on the criminal justice system is discussed.

In Chapter Four, “Losses and Gains: Power Dynamics among Fictional Juvenile Offenders and the Juvenile Justice System,” attention turns from criminal characters first written about or later set in historical times to contemporary juvenile offenders who are or have been in juvenile correctional facilities, halfway houses, or on probation. Issues of power are central to all of these young adult novels, in which protagonists struggle to retain a sense of personal power, even as they live under the social control of the juvenile justice system. This chapter examines the power dynamics between the

youthful offenders and their friends and families, authority figures, and the larger community, while also evaluating the considerations of personal responsibility and power, as well as mitigating factors that can affect the behaviors of both inmates and corrections officers. Lastly, the fictional representations of the juvenile offenders and the system itself are examined, along with their power to influence how readers perceive their existing, real-world counterparts.

Finally, Chapter Five, “Trials and Their Tribulations: Performances of (In)Justice,” discusses books that encourage young readers to open the door, applying what they have read about to similar situations in real life that they are likely to encounter in the future. This chapter addresses the performativity of trials, heavily emphasizing the discrepancies between performative justice and actual justice, both in works of fantasy, especially J. K. Rowling’s *Harry Potter* series, and works of realistic fiction. The performative elements of trials are highlighted through Rowling’s use of the pensieve, a magical device that allows characters (and readers) to enter other people’s memories, as well as through the realistic novels’ portrayals of attorneys’ performance strategies, the use of different narrative formats, and the distancing effect of historical fiction. While these books teach children about judicial practices and courtroom procedure, they focus more on the injustices that can occur when individual and community prejudices take over a court of law, an instructive lesson to future voters and jurors.

CHAPTER 2 ON THE OTHER SIDE OF THE BARS: CHILD CHARACTERS WITH A PARENT IN PRISON

In E. Nesbit's *The Railway Children* (1961, 1905), one of the most well-known older novels about children with an incarcerated parent, Mother does not tell her three children about Father's arrest and imprisonment. Instead, in regards to the fact that "Father will be away for some time," Mother reports, "I want you not to ask me any questions about this trouble; and not to ask anybody else any questions" (Nesbit 18). Approximately a century later, in Susan Patron's *The Higher Power of Lucky* (2006), winner of the 2007 John Newbery Medal, Lucky is shocked to overhear Mrs. Prender talking at a Smokers Anonymous meeting about having to take in her grandson while his mother is in prison. Lucky realizes that Mrs. Prender is talking about Miles, the little boy whose constant requests for cookies and read-alouds irritate her to no end, but "Miles's mother was supposed to be in Florida, nursing her sick friend" (Patron 72-73). Miles's mother's incarceration has been kept a secret from the town's children, even from Miles himself, just as Nesbit's Mother shielded her children from the truth of their father's imprisonment over one hundred years earlier.

Yet, the parallelism here is misleading. Out of the twenty-one books discussed in this chapter, *The Railway Children* and *The Higher Power of Lucky* are the only works in which children are not aware of their parents' incarcerations from the novels' onsets.¹ While in the past, some research warned "that children ought to be protected from the knowledge that their parents are incarcerated as a way of minimizing the trauma

¹ Roberta, the oldest child in *The Railway Children*, eventually learns about her father's incarceration when she finds an old newspaper clipping about his trial and sentencing. Once she confronts her mother with the clipping, her mother tells her the entire story, but neither Roberta nor Mother ever tells Peter or Phyllis about their father's imprisonment. In *The Higher Power of Lucky*, Miles too learns of his mother's incarceration by the end of the novel after Lucky tells him in a moment of anger.

associated with the separation (Becker and Margolin 1967),” more recent studies “argue that the unwillingness of family, friends, or caregivers to discuss parental incarceration exacerbates children’s emotional distress (Synder-Joy and Carlo 1998)” (Parke and Clarke-Stewart 200). Given the trends in child psychology towards open discussions of sensitive topics, as well as the increase in realism in children’s and young adult literature, it is hardly surprising that more books for children are addressing the topics of parental incarceration and the child protagonists’ awareness of and feelings about their parents’ situations.² Though the majority of the works that tackle this issue are aimed at middle schoolers and one book is clearly intended for young adults, children with parents in prison are also introduced to younger readers through picture books, making parental incarceration one of the first issues involving the criminal justice system that children may be exposed to in literature.

Of course, the increasing number of children’s books about incarcerated parents also corresponds to the increasing number of Americans in prison. The exact number of American parents in prison, however, has been difficult to establish. In *Loving Through Bars: Children with Parents in Prison* (2005), Cynthia Martone states, “More than 2.3 million children in the United States have a parent in prison” (1). The most recent “Bureau of Justice Statistics Special Report: Parents in Prison and Their Minor Children” (August 2008; revised March 2010) declares, “An estimated 809,800 prisoners of the 1,518,535 held in the nation’s prisons at midyear 2007 were parents of minor children, or children under age 18. Parents held in the nation’s prisons—52% of state inmates and 63% of federal inmates—reported having an estimated 1,706,600 minor children,

² Of the twenty-one books that I found on this topic, five were published between the 1860s and 1920, and the other sixteen were published in the 1990s and the 2000s.

accounting for 2.3% of the U.S. residents under age 18” (Glaze and Maruschak 1). But the Bureau of Justice’s statistics do not include children whose parents have already been released from prison or are on parole. As Jeremy Travis and Michelle Waul, editors of *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities* (2003), note, “[I]f we include adults who have recently been released from prisons and jails and those adults on parole, the number of affected children more than doubles—to an estimated 3.2 million in 2001 (Mumola 2002)” (1), a number that has almost certainly increased over the years as the American prison population has continued to grow.³

Regardless of the exact number of American children with an incarcerated parent, there are plenty of children in this situation, and books about this subject function as multicultural mirrors, allowing these children to see characters like themselves with whom they can easily identify. The importance of this identification, particularly for children in minority groups—like those with incarcerated parents—who do not often see themselves, their families, or their communities presented in books, is at the heart of multicultural children’s literature.⁴ Yet as vital as it is for children with parents in prison to see characters like themselves in children’s books, it is also beneficial for other children to read about these characters as well, so that they may develop a better understanding of and empathy for children in this situation.

³ Though the Bureau of Justice statistics only track children whose parents are actually behind bars at a given time, the statistics still report, “Children of incarcerated parents increased by 80% (761,000 children) during this period [1999 to midyear 2007]” (Glaze and Maruschak 1).

⁴ In the introduction, I propose that people who are incarcerated or have family members incarcerated can be considered a minority group with a unique culture, even as this group is composed of individuals from a wide variety of other cultures.

As part of presenting the topic of parental incarceration, a number of politically sensitive issues arise. Here, the mirror that encourages children to find themselves in these books becomes less reflective, often blocking out larger questions about the social factors that contribute to incarceration rates, as well as portrayals of crimes that may not be considered appropriate for children, like rape. Few, if any, of the works fully address social issues in their individual stories, focusing instead on one child and his/her unique experience with a parent's imprisonment. Nevertheless, taken as a whole, these books raise interesting questions about the dilemma of accurately representing harsh realities, like the overrepresentation of African Americans and the poor behind bars, while also avoiding the reinforcement of harmful stereotypes about the criminal population, a concern that is particularly pressing in picture books, the works most likely to be read and viewed by the youngest readers. But many child and teen readers are likely unaware of the larger issues surrounding incarceration, so the representations that readers receive in these books may define their perceptions of this segment of the population, regardless of how accurately these books actually represent reality.

While each book's focus on individual child characters' points of view may obscure larger social issues, the books' focuses also allow readers to realize the myriad ways in which a parent's incarceration can affect a child's life. Moreover, the presentation of these child characters with imprisoned parents also raises questions about representations and realities. As Travis and Waul report,

[A] few studies have found that children of incarcerated parents are more likely to exhibit low self-esteem, depression, emotional withdrawal from friends and family, and inappropriate or disruptive behavior at home and in school (Henriques 1982; Johnston 1995a; Jose-Kampfner 1995; Stanton

1980). In addition, some evidence suggests that children of incarcerated parents are at high risk for future delinquency and/or criminal behavior (Johnston 1995a). (15)

Given these studies, the children's books about incarcerated parents walk a fine line between featuring young characters who suffer from these negative consequences of their parents' imprisonment and not pigeonholing their characters—and real-life children with a parent in prison—into certain expected (and usually negative) roles and behaviors. Though some, but not all, of the characters presented do experience a sampling of these problems, all of the works, particularly the contemporary novels, show the ways in which children's lives are complicated by their parents' incarcerations. Yet no matter how adversely a character's life is affected by a parent's imprisonment, nearly all of the works emphasize the character's ability to overcome this adversity.

Additionally, though many of the characters in these works are stigmatized by having a parent in prison, *all* of the contemporary novels take steps to minimize the social marginality of the protagonists' situations, either through the inclusion of other young characters with incarcerated parents or through friendships with other social pariahs.

Statistically Challenged or Challenging Statistics?: Portrayals of Criminal Offenses, Gender, Class, and Race

Each of these books addresses an individual child's struggle to come to terms with a parent's incarceration and the strains that it places on his/her own life. Each also provides a representation of a parent behind bars, a parent of a particular race, gender, and class who has been incarcerated for a particular offense. Taken as a whole, these representations of imprisoned parents indicate the efforts made by individual authors and publishing houses to juggle the dual, sometimes competing, considerations of accurately reflecting the populations most affected by incarceration and avoiding the

stereotyping of criminals. Striking a balance between these considerations can be so difficult that many books, especially the contemporary chapter books, attempt to minimize or eliminate references to race and class. (The gender of the incarcerated parent appears to be less controversial and certainly less avoidable.) By focusing primarily on their characters' personal problems rather than on the larger issues of representation, these books are putting the concerns of the child characters first but sometimes skirting the social factors that impact rates of incarceration as well.

In the five older works that include an incarcerated parent, all of the imprisoned parents are male and either European or European American.⁵ The main characters' families in Eliza Weaver Bradburn's *Rosa, or, The Two Castles* (1863?), Millicent Evison's *Rainbow Gold* (1920), and Nesbit's *The Railway Children* vary from well-to-do to incredibly wealthy. Yet the aspect that most separates these older works from their contemporary counterparts is the high rate of unjust incarcerations involving the imprisoned fathers. Nesbit's Father did not commit the act of treason for which he is convicted, and Evison's Mr. Hamilton is innocent of speculation with his company's funds. As readers eventually learn, both men were set up by jealous co-workers who hoped to profit from their downfalls, so their families' unwavering belief in their innocence is justified. Similarly, while the unnamed father in A.L.O.E.'s *The Prisoner and the Peach* (186?) and Sir Elbert in Bradburn's *Rosa, or the Two Castles* are technically guilty of their respective "crimes"—reading a Bible out loud to neighbors and

⁵ E. Nesbit's *The Railway Children* (1961; 1905) and Caroline Chesebro's *The Poacher's Sons* (1879) are set in England. A.L.O.E.'s *The Prisoner and the Peach* (186?) takes place in Italy, and Eliza Weaver Bradburn's *Rosa, or The Two Castles* (1863?) occurs in a fantastical setting. Millicent Evison's *Rainbow Gold* (1920) is the only older work discussed in this chapter that is set in America, but all of the contemporary novels and picture books occur in the United States, except for Vivian Alcock's *A Kind of Thief* (1994), which takes place in England.

being granted a greater amount of respect from the Duke than Sir Envy receives—the texts indicate the injustice of incarcerating people for such offenses. (Interestingly, while A.L.O.E. and Bradburn do point out the unfairness of the fathers' prison sentences, they place more emphasis on the lessons that can be learned through such injustices, like patience, humility, and a willingness to submit to God's plan.) In fact, George Sandhurst, the father in Caroline Chesebro's *The Poacher's Sons* (1879?) is the only parent in the older works who is justifiably incarcerated for a legitimate legal (and violent) offense: shooting and wounding the gamekeeper of the grounds on which he was poaching.

In contrast, none of the more contemporary works on the subject presents such unfair incarcerations. Kenny Kane, aka Killer Kane, from Rodman Philbrick's *Freak the Mighty* (2001) is the only parent who insists on his innocence, telling his son, "I know what they told you,' [...] 'It's all a big lie, you understand? I never killed anybody, and that's the truth, so help me God" (*Freak* 101). But his "truth" turns out to be untrue, as readers learn when Max's repressed memories of his father's murder of his mother come flooding back to him as he witnesses his father strangling another woman. Otherwise, even though several characters, like Elinor and Matthew in Vivian Alcock's *A Kind of Thief* (1994), Angel in Katherine Paterson's *The Same Stuff as Stars* (2002), and Deet in Kirkpatrick Hill's *Do Not Pass Go* (2007), want to believe, however briefly, in their parents' innocence, the characters (and the readers) do not hold onto these illusions for long. The guilt of the incarcerated parent is made clear in each contemporary work, possibly as a way of upholding the integrity of the judicial system,

at least when parents are involved,⁶ and possibly because the authors do not want child readers with incarcerated parents to cling to ideas about their own parents' innocence.

The incarcerated parents in the contemporary novels and picture books may all be guilty, but they are guilty of a wide variety of crimes. In the ten novels for older children and teenagers, five parents are serving time for drug-related crimes (either possession or distribution). Two are in prison for murder, one for assault, one for armed robbery, one for embezzlement, one for property destruction, and one for throwing illegal parties, complete with gambling, alcohol, and prostitutes. In the picture books for younger readers, the crimes are a little gentler and mostly consist of some form of theft. One parent simply steals, another steals money, and a third steals televisions. One father is convicted of forging checks. Two of the picture books do not specify what crime landed the parents in prison, and, unlike in the contemporary novels, the offenses are not really important to the plots or character development of the picture books, so little, if any, information on the crimes is needed to advance the stories. Yet, in looking at all of the parental crimes committed in the contemporary works, the vast majority of the crimes are non-violent. Travis and Waul state, "Overall, the majority of parents in state prisons were either serving time for violent offenses (44 percent) or drug offenses (24 percent)" (4), but more of these books feature parents who are incarcerated for drugs than for violent crimes, a tempering shift that is hardly surprising in works for young readers. Travis and Waul also note, "A significant number of incarcerated parents struggle with substance abuse" (6), a reality that is played out in the majority of the contemporary

⁶ Though all of the incarcerated parents in these contemporary stories are guilty of the crimes for which they are imprisoned, young readers meet plenty of wrongfully convicted characters in other works, some of which are discussed in Chapters Three, Four, and Five.

novels but in none of the picture books, further demonstrating that many of the crimes for which fictional parents are serving time have been written with their audiences' ages in mind.

Despite considerations of readers' ages and the associated understandings of certain crimes, as well as their perceived levels of appropriateness for children, the gender representations of parent prisoners and their crimes are fairly accurate. The contemporary chapter books include four incarcerated mothers and eight imprisoned fathers, and the picture books show two mothers and four fathers behind bars. While a greater number of American men are still incarcerated, "the number of children under age 18 with a mother in prison more than doubled since 1991" (Glaze and Maruschak 2), a reality that these books reflect. Moreover, as Ross D. Parke and K. Alison Clarke-Stewart explain, federal sentencing guidelines for drug offenses "have especially contributed to increased incarceration rates among women, who are more likely to be incarcerated for economic offenses and drug-related crimes" (191). Indeed, all of the incarcerated mothers in the contemporary stories whose crimes are told are serving time for drug offenses or grand larceny. And, while six fathers in these books are convicted on non-violent charges, fathers also commit all of the violent crimes in these stories, including two murders of mothers, assault against a child, and armed robbery. Although "inmate fathers were more likely than mothers to be incarcerated for a violent offense (46 vs. 26 percent)" (Travis and Waul 5), one has to wonder if the repeated association of imprisoned fathers and violence in books can lead to stereotypical images of real-life male inmates, many of whom are actually convicted of non-violent offenses.

Fathers may still assume all of the culpability for violent acts in these children's books, but the portrayals of class are more varied, even as these portrayals are often relegated to the background of the stories. In actuality, "[i]ncarceration disproportionately affects families living in poverty, and imprisonment of a parent contributes to the financial strain among the families and caregivers left behind" (Travis and Waul 19). This reality is clearly articulated in works like Coe Booth's *Tyrell* (2007), Vera B. Williams' *Amber Was Brave, Essie Was Smart* (2001), and Richard Peck's *Strays Like Us* (2000), which introduce characters in dire financial straits. For example, after the father of Booth's title character violates his parole and returns to prison, Tyrell, his mother, and his little brother must exchange their apartment in the projects for a room in Bennett, an old hotel that has been turned into an emergency shelter for the homeless. Similarly, in Williams' picture book, Amber, Essie, and their mother are making do in a small apartment with minimal food in the cupboards and without a telephone, while the girls' father serves time for forging checks. And when Peck's Molly was staying with her mother prior to her hospitalization and incarceration, they constantly moved from one hotel or shelter to another. Molly never had store-bought clothes until her great aunt, Fay, takes her shopping. Though Aunt Fay cannot afford any extras for Molly, she is able to provide her with a stable, lower middle class lifestyle—a lifestyle of necessities but few luxuries—that many of the other characters in these works share,⁷ placing the books' emphasis on middle class families with an

⁷ Many of these works do not draw significant attention to the financial situations of the main characters' families, either before or during a parent's incarceration, but class indicators are presented through details, such as the characters' homes, education, employment, and speech patterns. From these small clues, I concluded that the following works feature characters of the lower middle to middle classes: *The Higher Power of Lucky* by Susan Patron; *Freak the Mighty* and *Max the Mighty* by Rodman Philbrick; *Harry Sue* by Sue Stauffacher; *The Same Stuff as Stars* by Katherine Paterson; *Jakeman* by Deborah Ellis; *Do Not Pass Go* by Kirkpatrick Hill; *Flush* by Carl Hiassen; *Nine Candles* by Maria Testa; *Mama*

imprisoned relative rather than on the poorer families who are actually more likely to watch a family member go to prison.

Yet, when any family cannot afford luxuries or even all of the necessities, one of its members may be tempted to turn to crime to improve their financial situation. In Maria Testa's picture book, *Nine Candles* (1996), seven year old Raymond explains that Mama is in prison for stealing money from the restaurant where she worked. He adds, "Mama says she made a mistake. She says she was wrong to take that money, even though Dad was out of a job at the time" (Testa np). Likewise, in Hill's *Do Not Pass Go*, Charley takes methamphetamines, which the police find in his car, because he is trying to keep himself awake while he works two jobs, although Deet notes that his father has to work so much because his parents are irresponsible with money.⁸

But people who are poor or who are struggling to make ends meet are not the only people in prison, a fact that these books make clear. As Deet observes in his journal, "*I used to think people who had fancy houses, fancy cars, had these perfect lives. But they have to come visit people in prison too*" (Hill 218; italics in original), though they have to do so less frequently than other classes of people. Readers meet several well-to-do families with incarcerated relatives in Hill's novel, as well as in Alcock's *A Kind of*

Loves Me from Away by Pat Brisson; *When Andy's Father Went to Prison* by Martha Whitmore Hickman; *A Visit to the Big House* by Oliver Butterworth; and *Visiting Day* by Jacqueline Woodson. Portrayals of class in children's literature and particularly in children's books about the criminal justice system are discussed primarily in Chapter Three, although they are also mentioned in Chapters Four and Five as well.

⁸ Charley is actually Deet's stepfather, but, since Deet has never met his biological father, he refers to Charley as Dad.

Thief, Nesbit's *The Railway Children*,⁹ and Julius Lester's *When Dad Killed Mom* (2003).

Though “[a]bout half of parents in state prison provided the primary financial support for their minor children” (Glaze and Maruschak 5), the only child characters whose economic situations change drastically once a parent is incarcerated are those at the bottom or at the top of the financial spectrum. Of the poorest child characters, Booth's Tyrell ends up in a homeless shelter, and Williams' Amber and Essie live without a phone or extra food for snacks, whereas Peck's Molly acquires a stable home with new clothes and a stocked refrigerator. Of the wealthiest child characters, Alcock's Elinor, Matthew, and Judy are sent to live with resentful, less financially successful relatives and are enrolled in public schools after their father is arrested for embezzlement. And Nesbit's Mother informs Bobbie, Peter, and Phyllis that “[w]e've got to play at being poor for a bit” (21), although they still hire Mrs. Viney to help around the house, so the family is clearly far from destitute. In addition, Lester's Jenna and Jeremy, children of a college psychologist and an artist, inherit their family home and their mother's assets and artwork after her murder, but their daily lives are not greatly affected by these fiscal changes. Nor are most of the child characters from the middle classes financially hurt or helped by their parents' imprisonment and their subsequent living situations. These books provide a broad continuum of financial situations and

⁹ Of the older works mentioned in this chapter, Bradburn's *Rosa, or The Two Castles* and Evison's *Rainbow Gold* also showcase wealthy families with an incarcerated parent. Bradburn's Rosa and her father lose all of their property when he is arrested, and Rosa becomes a servant, so that she can see her father on a regular basis. Once he is released from prison, however, his captor, Sir Envy, returns his land and his possessions. Unlike Rosa, Evison's three child protagonists do not even temporarily lose financial security. Instead, they are taken in by their very rich grandfather when their father is sent to prison, and the family remains together after Mr. Hamilton's release. I do not include these books in my analysis of class portrayals because they have long been out of print and, therefore, are not likely to be read by many young readers today. Nesbit's *The Railway Children*, on the other hand, remains in print.

repercussions, but fiscal matters do not receive much attention in many of these books, allowing their child characters (and readers) to concentrate on issues of personal socialization rather than on issues of class and financial concerns.

The issue of racial representation is also submerged or completely ignored in many of these works, particularly the contemporary novels, both in spite of and because of the subject's many sensitive connections to incarceration and the composition of the prison population. The Bureau of Justice claims, "Black children (6.7%) were seven and a half times more likely than white children (0.9%) to have a parent in prison. Hispanic children (2.4%) were more than two and a half times more likely than white children to have a parent in prison" (Glaze and Maruschak 2). Yet, of the contemporary chapter books that include incarcerated parents, only Booth's *Tyrell* and Deborah Ellis' *Jakeman* (2007) have African American children as the main characters. The other eight books feature Caucasian children whose parents are behind bars, although both Ellis' *Jakeman* and Hill's *Do Not Pass Go* present the inmates whom the child characters see in the prisons' visiting rooms as being racially diverse. The practice of racism is also condemned in Sue Stauffacher's *Harry Sue* (2007), where Harry Sue's grandmother is portrayed as racist, as well as sadistic and cruel, and in Ellis' *Jakeman*, where the racially diverse busload of foster children who are returning from visiting their mothers in prison, overhear the following conversation in a roadside cafe:

"I hate them Mohawks," one of the men said. He was eating blueberry pie and had a dribble of blue spit on his chin.

"I hate Mexicans," his friend said.

"And we both hate..." They didn't say what they both hated, but they looked hard at Jake and the other black kids.

"Americans?" Gitana finished for them. (Ellis 137)

Apart from these works, issues of race or racism are never mentioned in the chapter books, probably because many authors are uncertain about how to put their concerns about these issues into the creation of characters and plot elements that are both accurate and nonstereotypical.

Indeed, even the contemporary picture books, which are more racially diverse than the novels, do not put racial concerns or representations into words. Instead, they follow the genre conventions that Maria Nikolajeva and Carole Scott illustrate in *How Picturebooks Work* (2001), namely, “If we consider what images and words each do best, it is clear that physical description [of characters] belongs in the realm of the illustrator, who can, in an instant, communicate information about appearance that would take many words and much reading time” (83). So, while none of the picture books describes the races or ethnicities of child characters or the inmates whom the characters see, the illustrations in Jacqueline Woodson’s *Visiting Day* (2002), Testa’s *Nine Candles*, and possibly Pat Brisson’s *Mama Loves Me from Away* (2004) introduce children of color who are visiting their parents in prison,¹⁰ whereas Martha Whitmore Hickman’s *When Andy’s Father Went to Prison* (1990), Oliver Butterworth’s *A Visit to the Big House* (1993), and Williams’ *Amber Was Brave, Essie Was Smart* feature white children with incarcerated parents. Testa’s *Nine Candles* and Brisson’s *Mama Loves Me from Away* also both portray racially diverse inmates in the prisoners’ visiting rooms, although all of the prison guards in *Nine Candles* are white. And all of the inmates and prison guards alike are white in Butterworth’s *A Visit to the Big House* and Hickman’s

¹⁰ The unnamed narrator in Woodson’s *Visiting Day* is African American. Raymond in Testa’s *Nine Candles* is possibly Latino, and Sugar in Brisson’s *Mama Loves Me from Away* may be Latino, Asian American, or Pacific Islander.

When Andy's Father Went to Prison, though one of the members of the parole board in Hickman's illustrations may be African-American.

It is James Ransome's illustrations in Woodson's *Visiting Day*, however, that have garnered the most critical attention, both because Ransome and Woodson are well-known figures in the field of children's literature and because of the political message contained within the book's pictures. As Michelle H. Martin explains in *Brown Gold: Milestones of African-American Children's Picture Books, 1845-2002* (2004),

Subtle though it is, this picture book [*Visiting Day*] visually represents a sad reality of the American penal system: in the illustration of the inside of the bus, all of the passengers going to visit the prison seem to be black. Likewise, when the girl and her grandmother finally get to see Daddy, everyone in jail, with the exception of the uniformed guard and perhaps one khaki-shirted prisoner, all also seem to be black. Given the high percentage of black males "doing time" in American jails and prisons, Ransome makes a statement in the illustrations on which Woodson's text need not comment. (79)

And it is a powerful, undoubtedly controversial statement, one that it is even more critical to examine since *Visiting Day* is the only picture book about an incarcerated parent that is still in print. While the book may reflect the actual racial make-up of some prisons and jails,¹¹ as well as referring to the overrepresentation of African Americans in the criminal justice system as a whole, such stark depictions of racial power structures within prisons can reinforce a stereotype, as well as reflect a reality. Debra Van Ausdale and Joe R. Feagin state in *The First R: How Children Learn Race and Racism* (2001), "The constant media reiteration of the differential representation of Black and Latino Americans in the criminal justice system, including prisons, undoubtedly feeds the

¹¹ In the "Author's Note" and the "Artist's Note" of *Visiting Day*, both Woodson and Ransome recall visiting family members in prison, so Ransome's illustrations could be based on the people whom he saw in the prison's visiting room.

conviction among many whites, young and old, that average Black and Latino Americans are somehow much more criminal, violent, and dangerous than whites” (204), an impression that many adults do not want children to receive from the books that they read.

As Leslie Edmunds observes, “Since children apparently begin to form racial attitudes and attain some racial identity in the preschool and early school years, it is important to look at the racial images presented to them then” (32). Indeed, Dean Cristol and Belinda Gimbert report that “children’s racial awareness begins around 3-4 years of age” (202), so it is vital that children’s books, especially those aimed at the youngest audiences, find sensitive and balanced ways to present the races of those involved in the criminal justice system. But, because it is extremely difficult to accurately portray the incarcerated parents of many children of color and simultaneously avoid presenting racially stereotypical images of criminals, many writers prefer to avoid or gloss over racial concerns by presenting all of the characters in their books as white. Such depictions may reduce realism and limit the visibility of people of color in works for children, but they also avoid the perpetuation of racial stereotypes that lead Ausdale and Feagin to assert that “children, especially white children, are likely to associate criminality, and violent criminality, with the people of color with whom they come in contact” (204). I honestly do not know which concern is more important, but, in portraying the race, as well as the class and gender of incarcerated parents, a wide array of representations assists young readers in understanding that many different people are incarcerated for many different reasons, while also increasing the likelihood

that the children who need to find characters like themselves in these books will be able to do so.

Personal Realities and Representations: Daily Life for Child Characters with Incarcerated Parents

It is certainly important to examine how books about incarcerated parents address larger issues of representation, such as those involving race, class, gender, and the types of crimes committed. But it is equally important to consider the portrayals of individual child characters, their lives, and their relationships with their incarcerated parents, particularly since these books place a greater emphasis on the concerns of the individual child. For while these works provide insights about how some children's books handle sensitive sociological realities, they also show how child characters react to their parents' imprisonment, and, thanks to literary utopianism, most of these characters fare far better than many psychological studies suggest that they should. In fact, nearly all of the works, with the notable exception of Booth's *Tyrell*, end with some degree of hope and confidence for the children's futures, a component of children's literature that many authors and scholars consider reassuringly necessary.¹²

Before considering the futures of the child characters, however, an examination of their past and current realities is in order. As Travis and Waul observe, "A parent's incarceration does not necessarily signal the onset of family and child development needs, but rather in most cases adds to the burdens of a family already struggling to overcome life's obstacles and setbacks. The incarceration of a family member may further exacerbate an environment already characterized by ongoing poverty, stress, or

¹² Booth's *Tyrell* is definitely a work of young adult fiction, so its ambiguous, potentially unhappy ending for its main character is more acceptable within this narrower genre's conventions.

trauma" (1-2),¹³ which is certainly the case for most of these child characters, particularly in the contemporary novels. While some of the picture books hint at financial strains in the families' pasts, the families portrayed in the chapter books suffer from a wide variety of setbacks and stressors that precede a parent's incarceration. For example, Peck's Molly and Paterson's Angel and Bernie move constantly as their mothers are unable to settle down anywhere for long. Molly's mother shoots up, and Angel and Bernie's mother drinks. The children's mother dies in Alcock's *A Kind of Thief*, and they acquire a young stepmother, followed by a baby stepbrother. Booth's Tyrell and his family sink further into financial ruin each time Tyrell's father returns to prison. In Carl Hiassen's *Flush* (2005), Noah and Abbey's parents are fighting, and, in Lester's *When Dad Kills Mom*, Jenna and Jeremy's parents are no longer living together, in part because their mother is concerned that their father is having an inappropriate relationship with Jenna. (Hugging her does cause him to have an erection.) And Stauffacher's Harry Sue's drunken father is so angry about his wife's getting a restraining order against him that he throws Harry Sue, then five years old, out of a window, causing "a severe case of bruising, a dislocated shoulder, and two broken ribs" (15). So, clearly, many of these child characters have endured challenges and pain even before they lose a parent to prison.

Moreover, once they have a parent in prison, many of their living situations change. In the picture books, Woodson's unnamed female narrator and Brisson's Sugar live with their grandmothers after their parents' incarcerations, while the other children

¹³ While this chapter focuses on books in which parents are incarcerated, there are obviously children with other family members incarcerated as well. Jacqueline Woodson's *After Tupac and D Foster* (2008) includes an older brother who is behind bars.

remain at home with the non-incarcerated parent. In the chapter books, only Hiassen's Noah, Hill's Deet, and Booth's Tyrell continue to stay with one parent and their siblings. Patron's Miles, Philbrick's Max, Alcock's Elinor, Peck's Molly, and Stauffacher's Harry Sue are taken in by other relatives.¹⁴ Lester's Jenna moves in with her father's first wife, and Jeremy, after a brief time of living under his grandfather's care, is adopted by the family of a school friend. Paterson's Angel and Bernie are shuffled among their mother, their great-grandmother, and the foster care system, and Ellis' Jake and Shoshona are wards of the state.

Though Ellis' Jake and Shoshona and Paterson's Angel and Bernie are the only characters who actually spend time in foster homes in these books, several other works also convey fear and deep suspicions about the government-run foster care system, even though none of these books openly criticizes the government's criminal justice system.¹⁵ For example, in *Strays Like Us*, when Molly asks Aunt Fay if she might be taken to a foster home while her mother serves her prison sentence for selling dope, Aunt Fay replies, "Over my dead body!" (Peck 142). Aunt Fay is so anxious to keep Molly out of foster care that she recruits Mrs. Voorhees, Molly's maternal grandmother whom Molly has only known as one of Aunt Fay's home health care patients, to vouch for Aunt Fay's suitability as a guardian. Likewise, in *The Same Stuff as Stars*, Angel

¹⁴ Patron's Miles and Stauffacher's Harry Sue live with their grandmothers, and Philbrick's Max lives with both of his maternal grandparents. Alcock's Elinor is sent to live with distant cousins, while her siblings are sent to live with other relatives, and Peck's Molly is dropped off with her great-aunt.

¹⁵ According to Travis and Waul, "Children are more likely to be placed in foster care (10 percent) if their mother is sentenced to prison than if their father is incarcerated (2 percent)" (18). Travis and Waul also note that "many children are informally 'placed' with other family members and do not enter the foster care system following the arrest of a parent" (17). Such informal placements are seen in Alcock's *A Kind of Thief* and Lester's *When Dad Killed Mom*. Readers are not told how Miles and Max ended up in the care of their grandparents in Patron's *The Higher Power of Lucky* and Philbrick's *Freak the Mighty* and *Max the Mighty*.

asks Liza Irwin, the town's librarian, to inform the child welfare worker that Angel is better off with her great-grandmother than she would be if she were returned to a foster home. Hill's *Do Not Pass Go* also connects stays in foster care with subsequent stays in prison when Charley tells Deet about his favorite cellmate, Ronny, who was abandoned by his mother and "raised in foster homes there [in California], one worse than the other. One jail sentence after another" (116). Only in Stauffacher's *Harry Sue* is there the unstated implication that a child may actually be better off in foster care than in the care of a relative, since Harry Sue ends up living with her abusive paternal grandmother after both of her parents are incarcerated, her father for assaulting her and her mother for making crystal methamphetamine in the kitchen. Yet, even in this case, the fact that Harry Sue's grandmother not only rears her for six years but also operates a home day care in which small children are left alone, kept in bathtubs, drugged with cough syrup, and abused, shows that Social Services obviously does not always pay adequate attention to the individuals and facilities that it licenses to care for children.

Like Stauffacher's *Harry Sue*, Paterson's *The Same Stuff as Stars* portrays Child Welfare as not providing sufficient oversight of the people with whom it entrusts its young charges, whereas Ellis' *Jakeman* suggests that the problem with the foster care system is actually too much uncompassionate, bureaucratic scrutiny of the children themselves. In Paterson's novel, Wayne, Angel and Bernie's father, thinks that Angel should return to foster care after her mother takes off with Bernie, leaving Angel alone with her great-grandmother. Yet Angel is terrified of returning to a foster home, remembering, "Home, ha! More like a reformatory. Angel had gotten whacked every time she'd turned around" (Paterson 170). Even worse for Angel, she and Bernie had

been separated, and Angel thinks that Child Welfare ultimately returned them to their mother's custody "because they'd made a mistake, putting her and Bernie into bad situations" (Paterson 170).¹⁶

Ellis' Jake and Shoshona also move from one "bad situation" to the next in New York's foster care system with six different placements in three years, while their mother serves time for cocaine possession. Jake, Shoshona, and the rest of the foster children with whom they visit the prison are accustomed to being treated shabbily by most of the adults they encounter in Social Services and the criminal justice system, but all of the children are infuriated after they read their personal, confidential files that Ms. Granite, a social worker, leaves on the bus when she is hospitalized for food poisoning. After reading these permanent records that follow them from one home and school to the next, "all over the bus, the kids began to protest—quietly at first, but quickly gaining in strength as they realized how little of their real lives was found in those files" (Ellis 162). Indeed, the clinical descriptions and prognostications in the files seem woefully inadequate in exploring the reasons behind some of the children's behaviors and fears. Yet the worst thing about the children's records is how Social Services curtails the children's prospects, becoming complicit in its own limitations in providing its charges with a strong foundation for adulthood. As Jake's file states, "Both Jacob and his sister have high dreams for the future—Shoshona wants to be an opera singer and Jake wants to have something to do with art."¹⁷ Given their circumstances and Jake's poor

¹⁶ Paterson also shows the problems with foster care through her portrayal of Verna, Angel and Bernie's mother. In thinking about her own experiences within the foster care system, Angel recalls, "Verna had never lived with her real mother or father. She'd spent time in eight different foster homes and a group home before she ran away and married Daddy. She hadn't even finished high school" (Paterson 7).

¹⁷ The title of Ellis' book, *Jakeman*, is also the name of Jake's alter ego in the comic books that he draws, admittedly with pens that he shoplifted. As Jake explains, "His name is Jakeman, the Barbed Wire Boy.

school performance, we would be serving them well to encourage them to lower their expectations. It will spare them disappointment and frustration down the line” (Ellis 158). Unfortunately, too many children with incarcerated parents, regardless of whether they are in foster care or not, are told that they will not be able to achieve much with their lives, but the institutional placement of limitations on children’s potential seems particularly unfair.

Even though a parent’s incarceration (or a child’s placement in foster care) should not prevent a child from being recognized as a person of multiple dimensions and potential, many children with incarcerated parents do suffer from a host of related problems, which should not be ignored or minimized. Eric Eckholm reports, “Recent studies indicate that having an incarcerated parent [...] measurably increases the likelihood of physically aggressive behavior, social isolation, depression and problems in school—all portending dimmer prospects in adulthood” (np). And some of the contemporary chapter books show child characters struggling with severe emotional turmoil. Phibrick’s Max, an eighth grader when readers are introduced to him, has been traumatized since he witnessed his mother’s murder when he was four years old, although he represses the memory of his father’s strangling her for most of the story. Though he becomes a “gentle giant,” Max was also called Kicker in day care because he lashed out physically at both children and adults after his mother’s death, and he remains wary of people until he meets Kevin, the boy next door who becomes his best

He looks like a regular kid, but he’s not. If he’s grabbed by bad guys, barbed wire comes out of his skin and the attackers get all bloody and sore. He’s got other superpowers, too, like legs that grow long when he needs to run and arms that grow strong when he needs to fight” (Ellis 40). The connections between Jakeman’s barbed wire defenses and the barbed wire that Jake sees when he visits his mother in prison are clear.

friend.¹⁸ Similarly, Ellis' Jake, who is eleven years old, still wets the bed and hides in closets and under the bed at night because he was so frightened when armed police officers woke him up on the night that they arrested his mother (Ellis 157-160). And Carolyn, a little girl on the prison bus with Jake, steals pets and refuses to speak because the police shot her cat when they took her mother into custody (Ellis 94).¹⁹

These characters from Philbrick's *Freak the Mighty* and *Max the Mighty* (1998) and Ellis' *Jakeman* are the most severely traumatized children that we meet in these works, but other child characters experience other problems, especially in school. Booth's Tyrell drops out of high school at age fifteen after his father goes back to prison, and his little brother, Troy, is in Special Education classes, although Tyrell thinks that his mother has Troy in Special Ed so that she can get additional welfare money. Philbrick's Max has also been in special classes for the learning disabled, and he refuses to answer teachers' questions, explaining, "getting up in the class and saying stuff is not something I do" (*Freak* 76). Additionally, Ellis' Jake's "schoolwork is substandard" (158), and Paterson's Bernie fails first grade. Bernie is also hyperactive and resistant to authority, two qualities that will probably make his future time in school more difficult. Though none of the girls with imprisoned parents experiences any academic setbacks, Stauffacher's Harry Sue makes as much trouble at school as possible, and most of the characters, both males and females, are social pariahs who

¹⁸ Eckholm states, "Among 5 year-old urban boys, 49 percent of those who had a father incarcerated within the previous 30 months exhibited physically aggressive behaviors like hitting others or destroying objects, compared with 38 percent of those in otherwise similar circumstances who did not have a father imprisoned, Dr. Wildeman found" (np).

¹⁹ Though Ellis' Jake and Carolyn are the child characters who are the most traumatized after seeing their mothers' arrests, Paterson's Angel and Alcock's Elinor are also afraid of the police after their fathers' arrests.

prefer to be left alone by their peers.²⁰ Yet while these books show some of the effects that a parent's incarceration can have on a child's behavior, the books also avoid boxing their young characters into preconceived or stereotypical expectations of a child with a parent behind bars, just as many of the stories try to avoid stereotyping the class, race, and gender of the incarcerated parents. Perhaps a similar objection could be made that most of these young characters actually cope with their parents' incarcerations and other problems *too well*, especially by the stories' ends. Yet by endowing these characters with a great deal of resiliency, the stories encourage readers to believe that they too can triumph over their own realities (even if the realities presented are not necessarily realistic).

An important reality that the statistics do not discuss, but that a number of these books convey well, is the caretaking that children with incarcerated parents often undertake. Prior to Charley's imprisonment for possession of methamphetamines in *Do Not Pass Go*, "[s]ometimes Deet felt like he was the only grown-up in the house" (Hill 12). But, while his father is in jail, Deet becomes like a grown-up, caring for his two younger sisters, cleaning the house, and preparing the meals, while his mother holds down a waitressing job to pay the bills. Angel too—a fifth grader—cleans, cooks, shops, and serves as the primary caregiver of her little brother in *The Same Stuff as Stars*, observing, "[T]he duty [of taking care of Bernie] had become like the sun in the solar system, the center around which all the other parts of her life revolved. Without it, she would likely fly to pieces" (Paterson 103). And she nearly does fall apart when their

²⁰ According to Parke and Clarke-Stewart, "Boys are more likely to exhibit externalizing behavior problems (aggression, defiance, disobedience), while girls are more likely to display internalizing problems (depression, anxiety, withdrawal) (Cummings, Davies, and Campbell 2000)" (204). With a few exceptions, like Stauffacher's Harry Sue, most of the child characters conform to these gender expectations.

mother takes Bernie away from her, but then she feels obligated to take care of Grandma instead. Ellis' Shoshona attempts to take her mother's place with Jake as well, even crooning the same lullabies that their mother used to sing, and both Shoshona and Jake try to look out for their mother in prison by saving up to buy her the three care packages that she is allowed each year. Stauffacher's Harry Sue would welcome the opportunity to take care of the mother whom she longs to join behind bars, but, until she can reunite with her mother, she watches out for the younger children who attend her grandmother's day care, protecting them from harm and even saving baby Moon Pie's life.

Alcock's Elinor and Booth's Tyrell also provide daily care and nurturing for their siblings and friends, but their parents also want them to assume financial responsibility for their families, even if this means that they must commit some type of crime. As Elinor's father is being arrested for embezzlement, he tells Elinor that she is "the strong one in the family, the sensible one," even as he slips a baggage receipt into the pocket of her bathrobe (Alcock 5). With this receipt, he gives her the responsibility of fetching his suitcase, which contains stacks of cash, as well as his passport, and he expects her to hand the contents of the suitcase over to Sophia, her stepmother. Angry at her father for turning her into his accomplice—"a kind of thief" as the book's title says—she lies to Sophia about burning the receipt, intending to keep the money for herself and her siblings. Being responsible for the money and the future that it represents for her family gives Elinor nightmares, though, especially after learning that Mrs. Carter, one of the relatives with whom she is living, was cheated out of her life savings by George, Elinor's father. After that, Elinor cannot find peace until she gives the money to Mrs. Carter,

who, in turn, delivers it to Mr. Brimly, the lawyer representing George. Likewise, Tyrell's mother expects him to earn enough to get them out of the emergency homeless shelter, even if it means that he has to sell marijuana to get the money. Tyrell refuses to deal in drugs, but he rakes in several thousand dollars by throwing an illegal party, complete with alcohol and prostitutes, the very crime that landed his father in prison.

Tyrell thoroughly enjoys organizing his first party and is already planning improvements for the next one when the book ends, but both he and Paterson's Angel resent being thrust into the role of caregiver. As Tyrell tells his new friend, Jasmine, "And now, 'cause of him [his incarcerated father], I gotta be the man. I gotta make the money to take care of my moms and brother. I gotta put my freedom on the line.' [...]" 'And what's s'posed to happen when he get out in August? I'm s'posed to go back to being a kid again? 'Cause I don't think I could go back, you know what I mean?" (Booth 224). Tyrell certainly does not go back to being a kid, but, at least temporarily, he abandons his care giving role, leaving his mother to move in with her new boyfriend and his younger brother in the custody of Child Services.²¹ At the end of the book, he is determined to look out for himself. Angel too has a moment in which she would like to be responsible only for herself, but she has been taking care of other people for so long that she would be lost without these duties. Nevertheless, she feels that she is being cheated out of a childhood, so, when she visits Verna, her mother, in the hospital after Verna's new boyfriend causes a car accident that injures both Verna and Bernie, Angel informs her mother, "I'm not supposed to be the grown-up. That's your job" (Paterson

²¹ Troy, Tyrell's little brother, is taken into the custody of Child Services only at the very end of the book, so readers do not see how he fares with Child Services, nor are they given a sense of whether or not Troy's life might be improved if he were placed in the foster care system.

239). But, in the book's final scene, she is still tending to Bernie and teaching him how to care for others, including their imprisoned father.

In fact, Angel sees visiting their father in prison as a significant gesture of love, as well as a familial responsibility, feelings shared by the other child characters who visit a parent behind bars. Parke and Clarke-Stewart claim, "Some resist the idea of visitation by children either because of the unpleasant and inhospitable visiting conditions (Hairston 1991) or because they believe visitation will produce negative reactions in the children (Bloom and Steinhart 1993)" (207). But, in the contemporary novels, approximately half of the young protagonists see their parents in prison, and, in the picture books, only Williams' Amber and Essie do not visit their incarcerated parent.²² The children's motivations for visiting their parents are largely similar, as they seek to assure their parents of their support and also receive reassurance that they too are loved, yet the portrayals of the emotional atmosphere of the prison visiting rooms and the personal visits vary in different books.

In Paterson's *The Same Stuff as Stars* and Brisson's *Mama Loves Me from Away*, the mood of the visits is sad and depressing. When Bernie asks why they have to keep visiting their father, who has been imprisoned for armed robbery since Bernie was a baby, Angel replies, "Cause he's our daddy, Bernie. It would just break his heart not to see his family. It's the only thing keeps him going in a place like this. You gotta know someone cares about you, or you just give up" (Paterson 19). If their father did give up, his defeat would correspond to that of many of the prison's visitors, whom Angel

²² In actual American prisons, Parke and Clarke-Stewart report, "Investigations of the patterns of visitation reveal that approximately half of incarcerated parents do not receive any visits from their children (Snell 1994)" (207).

describes as wearing “the same, tired expression” (Paterson 16). Bernie and Verna both hate going to the prison, and, even though Angel feels compelled to go, she too has little to chat about with her father, making their time together forced and awkward. Unlike Angel, Brisson’s Sugar has plenty of things to say to her mother, who is in prison “for a long time” for an unspecified reason (Brisson np). In this book, the sorrow of the visit stems from it being too short and Sugar missing her mother so much, especially at story time. When Sugar is forced to leave her mother, Mama promises, “Until I can be home with you again, Sugar, I will send you a story across the miles every night. It will be our special time” (Brisson np). And the images of Sugar’s tears as she cuddles against her mother for a few final seconds, as well as the dark grays of the prison visiting room, add to the despair of their separation.

Raymond in Testa’s *Nine Candles* and Jake in Ellis’ *Jakeman* also miss their mothers very much, but the prison atmosphere in these books invokes fear rather than sorrow. Like several of the other picture books about visiting an incarcerated parent, Testa’s *Nine Candles* shows an image of a watchtower inside the prison, but it is the only picture book that includes images of guards escorting dogs on leashes and carrying guns. Frightening prison officials are also a big part of Jake’s prison visits. Actually, most of the prison guards portrayed in the contemporary novels are cranky and rude, with the exception of the friendly, helpful, and named guards in Hill’s *Do Not Pass Go*, but the guards and the warden in Ellis’ *Jakeman* are uniformly sadistic, bullying and humiliating the young visitors whenever possible. Jake and the other experienced visitors school the first timers about the guards, both to relieve the boredom of waiting and to educate their new friends, saying,

“I hope you’re wearing new underwear because the guards might strip-search you, and they’ll laugh if it’s torn.”

“They listen in on your conversations, so don’t confess to any crimes.”

“If you break even just one rule, they’ll throw you out.” (Ellis 48)

Of course, they enjoy teasing the newcomers, but their observations about the guards’ willingness to embarrass, threaten, or evict visitors are spot-on. Additionally, on a more personal level, Jake notes, “It was always scary, waiting to see if Mom remembered him” (Ellis 49). While his mother does remember him, her visit with her two children is neither warm nor reassuring as she lashes out, blaming the children, as well as her ex-boyfriend, for landing her in prison.

Rather than presenting prison visits as frightening or sad, Hiassen’s *Flush*, Butterworth’s *A Visit to the Big House*, and Hickman’s *When Andy’s Father Went to Prison* narrate their characters’ visits with their incarcerated parents very matter-of-factly, keeping possible emotional responses to these visits well in check. For example, after Hiassen’s Noah returns home from visiting his father in the local jail, his mother confronts him right away. Noah understands, thinking,

I knew she was worried that the jailhouse visit had shaken me up, so I told her I was fine.

She said, “I’m sure it wasn’t easy seeing your father behind bars.”

“They brought him to a private room,” I said. “He wasn’t even wearing handcuffs.”

My mother frowned slightly. “Still, it’s not a happy picture.” (Hiassen 6)

But Noah is seemingly not bothered by any of his jailhouse visits with his father, who sunk a gambling boat that he believed was polluting the ocean, even when his father is sporting handcuffs and an orange jumpsuit. Likewise, Butterworth’s Willie and Hickman’s Andy take their prison visits in stride, although both of them are initially very upset about their fathers being arrested, and the black and white illustrations in these books are neither detailed nor bleak. Interestingly too, Noah, Willie, and Andy each visit

their incarcerated fathers in a private room (or at a picnic table in the prison yard) rather than in a large, crowded visiting room, which may prevent them (and readers) from being influenced by the feelings of other inmates' visitors.

In contrast, Deet in Hill's *Do Not Pass Go* and the female narrator in Woodson's *Visiting Day* not only see their fathers in packed visiting rooms, but they also socialize with the other visitors, actually making their prison visits enjoyable. Of course, both child characters miss their parents and would much rather have them at home, but their visits are usually filled with laughter rather than tears or anger. Though Deet's mother initially forbids him to visit the jail, "a terrible place, full of terrible people" (Hill 68), she eventually allows him to see his father every day after school since she works during visiting hours. Deet enters the jail with trepidation, but he soon looks forward to his time there each day. During his first glimpse of the inmates in the visiting room, "Deet searched their faces to see what could have brought them to jail, but they were so ordinary. Where were the perverts, the steely-eyed hoodlums, the disgusting underbelly of society? They were prisoners, in jail, but they looked like anybody else you might see in the streets" (Hill 102). And this sense of ordinariness and normalcy is central to the image of the jail that Hill presents in her novel. Deet quickly gets swept up in the stories of the other visitors and his father's cellmates, often shocked to remember that these people or their loved ones are in prison and that bad things, like fights, recidivism, and pain, often occur there. As his new friend Sheena laments her brother's transfer to a prison farther from home, stressing how she will miss seeing the people whom she has come to know in the jail's visiting room, Deet realizes, "Maybe he'd miss visiting too. And he was sure Mom would. Hard to believe how your attitude could change" (Hill

220). The attitude of Woodson's young, female narrator never changes, at least not within the pages of the picture book. She is always excited about visiting her father because "only on Visiting Day do I get to tell Daddy everything that has happened over the month, while I sit on his lap and he pulls on my braids, smiling his big me-and-Grandma-have-been-gone-forever smile, laughing his big laugh, showing me and Grandma off to his friends, pressing peppermints into my hand and kisses against Grandma's cheek" (Woodson np). All of the other visitors and inmates in Ransome's pictures are smiling and laughing too, showing how joyful their brief time together can be.

However happy or sad such visits are, not all of the child characters see their parents in prison. Stauffacher's Harry Sue is not even able to locate her incarcerated mother until the end of the novel because her grandmother would not accept her mother's calls, so Harry Sue and her mother have had no contact for years.²³ Alcock's Elinor is also desperate to see her father in prison, but he will not allow his children to see him behind bars, although it is unclear whether this refusal is to protect them or himself. On the other hand, in Booth's *Tyrell* and Lester's *When Dad Killed Mom*, it is the children who refuse to visit their fathers. Tyrell recalls taking the bus to see his father in prison when he was younger, but, as he says, "I ain't never going through that shit again. I'm too old for that now. If my pops wanna see me he need to keep his ass home" (Booth 113). Similarly, Lester's Jeremy is too angry with his father over the murder of his mother to want to see him anywhere, let alone in prison. His sister, Jenna,

²³ Unlike Harry Sue's mother, the Bureau of Justice Statistics states, "More than three-quarters of state prison inmates who were parents of minor children reported that they had some contact with their children since admission" (Glaze and Maruschak 6). This contact may take the form of letters, phone calls, or visits. And Harry Sue and her mother do finally get to see each other at the end of the story.

takes her father's side, at least initially, insisting that he was justified in shooting their mother, and she does visit him a few times. But she stops going because he only wants to discuss the possibility of her testifying on his behalf at his trial, and she resents being manipulated.

While the younger child characters in the picture books all simply miss their incarcerated parents, who are portrayed as loving and repentant, the older child characters in the contemporary chapter books often have mixed feelings about their imprisoned parents, and their parents themselves are a mixed bag, some easily identified as good or bad and some more difficult to categorize. Yet, in presenting a variety of child-parent relationships, with all of the accompanying emotions of love, guilt, blame, anger, sadness, compassion, and understanding, as well as an array of individual children in different living situations and with different challenges, these books do a much better job addressing the specific problems facing children with imprisoned parents than they do at addressing the social ills that contributed to the incarcerations of their parents in the first place. Indeed, these books concentrate on showing the ways in which their young characters survive their parents' mistakes, with some making greater efforts to preserve and protect their fractured families than others, but with each child somehow greatly affected by his/her parent's incarceration. The suffering of these child characters, not to mention their parents, is often significant, but none of these books blames the legal system for the separation of parent and child, which is somewhat surprising given the willingness of several books to criticize the foster care system, another government institution. In fact, most of these books tactfully avoid laying blame upon anyone, although the mother in Ellis' *Jakeman* complains that her children's needs

and her boyfriend's habit involved her in drugs and Stauffacher's Harry Sue feels responsible for her mother's incarceration and her father's death in prison. Focusing on survival rather than blame, most of these child characters make efforts to heal or at least maintain their families, while also seeking friends and surrogate family members who will help them. These actions allow them to overcome, at least partially, the adversity and the stigmatization attached to having a parent in prison.

Stigmatizing and Normalizing: Perceptions of Children with Parents in Prison

These friends and surrogate family members are especially important in the contemporary chapter books. Whereas all of the picture books, save Hickman's *When Andy's Father Went to Prison*, spotlight only the child characters and their families, all of the chapter books show their central protagonists interacting with other children and adults, often in situations where they are stigmatized for having parents in prison. This stigmatization takes various forms, including taunting, shunning, false sympathy, and suspicions about the child characters' own criminal futures. Yet even as these characters are stigmatized by their parents' incarcerations, they are also normalized through their friendships with other social outcasts, although their normalization is limited and certainly does not usher them into mainstream society. Indeed, by associating closely with other marginalized individuals, the social stigma of having an incarcerated parent may actually be reinforced or even increased for child readers, but their friendships with other disadvantaged people certainly benefit the child characters, giving them a sense of belonging, as well as shared suffering and strength.

Rather than expose children to possible ridicule or social isolation, some adults caution children not to share information about their parents' incarceration with people outside of the family. In Williams' *Amber Was Brave, Essie Was Smart*, "Mommy says

not to tell anyone” (22), and in Hill’s *Do Not Pass Go*, Deet counsels his younger sisters, Jam and P.J., to avoid talking about Dad in school, although “he felt bad giving them that warning, because he knew that by doing so he’d given them the idea that there was something to be ashamed of” (Hill 79). A sense of shame, as well as a desire to protect her children from the ugliness of the truth of their father’s wrongful conviction, motivates the mother in Nesbit’s *The Railway Children* to sever all of her ties with “the people she used to know before she came to live at Three Chimneys” (Nesbit 92), the family’s new, smaller residence. Shame and embarrassment may also explain the father’s reaction to Rose’s news that she wrote a school paper about her family in Butterworth’s *A Visit to the Big House*. Upon hearing about Rose’s assignment,

[h]er daddy didn’t look happy at that.
“Did you say where I was?”
“No,” Rose said. “I just said you were away.”
“I see,” Daddy said, and looked at Mother. (Butterworth 34)

Though it is unclear whether Rose’s vagueness about her father’s whereabouts is self-initiated or guided by her parents, the mother acquiesces to Willy’s request to take the picture that he drew of Daddy behind bars to school, even though neither of them knows how Willy’s classmates will respond to this new information.

Willy is seemingly unconcerned about revealing his father’s current home to his classmates, but many of the characters in the chapter books worry about how their peers will react to the news of their parents’ incarcerations, anticipating both ridicule and rejection. Alcock’s Elinor and Paterson’s Angel are sent to new schools, where they face unknown classmates. Consequently, on the morning of her first day, Elinor remains in bed until the last possible moment, thinking, “Soon it would be time to get up and go to a new school, where everyone knew about her father. She didn’t want to think about

that” (Alcock 112). Denial is harder to come by for Angel, who has started afresh at multiple grade schools and, therefore, knows from experience how she is likely to be talked about and stared at by the other children. But knowledge about what she is facing does not actually make the first day any easier. Unlike Elinor and Angel, Lester’s Jenna and Jeremy and Hill’s Deet return to the schools that they had attended before their fathers’ arrests, although Jeremy refuses to leave the art room and attend his regular classes for several months after losing his mother. Jenna too initially wants nothing to do with school, reflecting, “I’m never going back to that place and have people stare at me like I’m some freak on *The Jerry Springer Show*. CHILDREN ALONE: ONE PARENT DEAD, ONE IN JAIL” (Lester 14).

Deet, while also specifically concerned about the reactions of his classmates and his teachers, lashes out against the entire town in his anger, shame, and fear, seeing their community in a new light. As he observes, “Every car they passed, every person on the street, looked like an enemy, someone who would turn against Dad, against them. The respectable people, the thoughtless people, who wouldn’t ask questions, how and why and what sort of person Dad was. They’d just condemn him. A dark town they were living in, full of hard people. Deet wondered why he hadn’t seen it before” (Hill 78). And he probably will not see it again as Deet’s friends and neighbors rally around him and his family, offering the greatest level of support given in any of the books. In fact, no one ever says a negative word to Deet about his father, although his grandfather is furious about the arrest, and none of the shameful or socially isolating repercussions that Deet had imagined come to fruition.

Unfortunately, all of the other child characters who anticipate social stigmatization from their peers and communities receive it, sometimes in even greater abundance than they had expected. For example, in Hiassen's *Flush*, Noah is relieved that his father's arrest occurs during the summer, which "meant that Abbey and I didn't have to face all the other kids at once. It's a pretty small town and news gets around fast, so by now it was no secret that our father was in the slammer for sinking Dusty Muleman's casino boat. Everybody would be talking about it" (Hiassen 12). Noah is prepared for the gossip, but he is not anticipating the bullying from Muleman's son and his friends or the fight into which he is forced. Toni in Evison's *Rainbow Gold* is also taken aback by her classmates' cruelty, which includes placing newspaper articles about convicts and prisons in her desk (278). And, in Hickman's *When Andy's Father Went to Prison*, the only picture book in which a child is ostracized for having an incarcerated parent, Andy is devastated when Donald informs him, "I just can't [come over to play], [...] 'My mother won't let me. She said your father is a no-good criminal'" (Hickman np). While such humiliations are new to Andy and Toni, whose parents have been imprisoned only recently, similar experiences are commonplace to Paterson's Angel and Philbrick's Max, both of whose parents have been behind bars for years. On the day that Megan Armstrong, a popular girl, confronts Angel about her father's crime, causing all of the students to stare and whisper, Angel reminds herself, "It wasn't as if it hadn't happened before. She ought to be used to it by now, shouldn't she?" (Paterson 154). Max too tries to shut out the voices that he hears around him, calling, "Maxi Pad! Maxi Pad! Ask him quick about his dad! Killer Kane! Killer Kane! Had a kid who got no brain" (*Freak* 76).

Difficult as these open displays of disdain and condescension are to bear, other child characters struggle to stomach displays of concern and false sympathy, recognizing them as ill-concealed bids for information. Alcock's Elinor perceives the curiosity oozing from "[p]eople who'd never bothered to return her smile, [and who] now stopped and asked, 'How are you, dear. It must have been terrible for you all...'" (Alcock 86). Similarly, in Hill's *Do Not Pass Go*, Sheena, Deet's new friend from the prison visiting room, complains that her friends act differently towards her now that her brother is in jail. They "[t]hrow little looks at each other, talk in this fakey-sweet voice. They *enjoy* people's troubles" (Hill 186; italics in original), and neither Sheena nor Elinor takes pleasure in providing other people with enjoyment at the expense of themselves and their family members.

Yet being seen as a criminal oneself is even worse than being mistreated for having a family member who is a criminal. The stigmatization of criminality is often passed down in families, and the children of inmates may be viewed as future felons by the police, the community, their families, and even themselves. Boys' behavior seems to be especially at risk of being perceived as criminal, probably because of stereotypes about males, the greater number of men in American prisons, and boys' greater tendency to externalize their feelings and frustrations.

In Ellis' *Jakeman*, the prison authorities and the social workers alike label several of the boys who are visiting their incarcerated mothers as future criminals. When Harlan, a teenage boy, shows a guard a picture of his mother, whom he believes was killed by the prison's refusal to provide her with medical treatment when she said that she was ill, the guard threatens him, telling his laughing co-workers, "This one's a crime

waiting to happen” (Ellis 55). Another guard notices the non-confrontational Jake scooting away from the fence because he is afraid of the barbed wire falling and cutting him and says, “Don’t you like barbed wire, boy?” [...] ‘Better get used to it. You’ll probably spend your whole life looking through it” (Ellis 50). Warden Scofield also makes a point of telling Jake and Shoshona that she keeps the prison visiting room as bleak and inhospitable as possible, lest the child visitors begin to feel at home (Ellis 76), and, according to their Social Services files, Jake and especially Harlan are likely to find a future home behind bars.

While hearing such dire predictions about their futures cannot help Jake’s and Harlan’s self-images, no character appears to be more terrified—or certain—of his violently criminal future than Philbrick’s Max, who is a dead ringer for his father, both in looks and in size. As Max remarks, “Looking like your father is okay unless dear old Dad happens to be Killer Kane and he’s in prison for murdering your mother. Which means people look at me and think maybe I’ll grow up to be just like him, or worse” (*Max* 15). Even Max’s guardians, his grandparents, take years to see Max as himself, not as the son of the man who killed their daughter. Because of his parentage, his large stature, and other people’s distrust of him, Max does not trust himself, and he sees himself as someone whom people should fear. For example, when Mrs. Addison, the school principal, informs Max that his father has an upcoming parole hearing and would like to see him, Max shuts down. Then, after regaining his calm, he realizes,

It’s like I blanked out or something, and the nurse is giving me this cup of water, and the weird thing is she’s crying.
“I’m sorry,” I say. “I didn’t mean to hurt you.”
“You didn’t,” she says. “I cry easy, don’t you worry about it.”
I do worry about it, though, because if she’s crying, I must have hit her and I don’t remember it. Which, if you think about it, is *really* scary.

Who knows what I might do and then not remember it? (*Freak* 85-86; italics in original)

Even after he befriends Kevin and assists him in quests to help people in *Freak the Mighty* and rescues Worm from her abusive stepfather in the subsequent *Max the Mighty*, Max only begins to trust himself at the end of the second novel, largely because the people around him show that they trust him. Finally, Max accepts that he may not “turn out to be another accident of nature” (*Freak* 139), like his father.

If being an “accident of nature” means being a criminal, however, there is nothing that Stauffacher’s Harry Sue would like to become more, at least for most of the story. She introduces herself to readers as someone who intends “on following in the family tradition: a career of incarceration. As soon as I was old enough, I was headed for the joint. First I had to have the required fourteen to sixteen years of rotten childhood. So far, I had only served eleven years and change” (Stauffacher 3). Besides her “rotten childhood,” Harry Sue’s other qualifications for being a future connette²⁴ including having both of her parents incarcerated at one point (her father is now deceased, having died in prison) and living with a grandmother who, as her friend, Homer, says, “trained” her father to use violence to deal with his problems (Stauffacher 12). Harry Sue exploits the fact that her background predisposes her to a life of crime because she thinks that being incarcerated is her only chance of being reunited with her mother. The only female character with an imprisoned parent to act out rather than internalize her problems, Harry Sue is a master at staring down her teachers, destroying art supplies, electrocuting a boy with a rigged brassiere, coating blackboard erasers with extra chalk

²⁴ A “connette” is a female convict. Stauffacher’s *Harry Sue* includes a glossary of Conglish, the English slang spoken by American convicts. Similarly, the historical novel, *The Pickpocket’s Tale* by Karen Schwabach (2008), discussed in Chapter 3, contains a glossary of flash-cant, expressions used by London criminals in the 1730s.

dust so that she can get prissy Violet as dirty as possible, and engaging in any other behaviors she can think of that may prove that she is irredeemable. Yet Harry Sue also stands up for younger children, dries Homer's tears, shares her food, and saves Violet's life when the extra chalk dust on the erasers triggers an asthma attack.²⁵ Disgusted by her inability to behave like a criminal—admittedly, she has a very stereotypical idea of how criminals behave—Harry Sue eventually decides to make a home for herself on the outside in a community of friends rather than to continue working towards her own cell behind bars.

Though Harry Sue probably overemphasizes the calculated personal choice involved in deciding on a life of crime or not, statistics do show that “the adolescent children of incarcerated parents are anywhere from one-half to three times as likely to be arrested as their peers” (Eddy and Reid 237). While this reality does not justify the prison officials and social workers' labeling of Jake and Harlan or help soothe Max's anxieties, it does show that the cycle of incarceration that characters such as Paterson's Angel and Grandma and Booth's Tyrell worry about is a valid concern. Interestingly, neither Angel nor Grandma appears anxious about Angel's possible criminal career, but both of them are concerned about seven-year-old Bernie's future. When Bernie refuses to obey once too often, Angel cries, “I'm trying to keep you outta jail, Bernie Morgan. I don't want you to grow up to be a criminal and leave your wife and b-b-break your children's hearts” (Paterson 100). Obviously, Angel is projecting their father's life onto Bernie, but Grandma has seen both of her sons, as well as her grandson (Angel and

²⁵ Harry Sue constantly berates herself for these acts of kindness since she thinks that she must be without a heart, like the Tin Man in her favorite book, *The Wizard of Oz*, in order to survive in prison. Obsessed with *The Wizard of Oz*, which her mother read to her, Harry Sue also compares herself to Dorothy, asking, “Why couldn't I be more like Dorothy? She wastes two witches without even trying and doesn't lose sleep over it. I couldn't even do an accident right” (Stauffer 100-101).

Bernie's father), go to prison.²⁶ She fears that she may somehow be responsible for all of their incarcerations, but she also seems to regard such imprisonments as commonplace, hoping, "I just pray to God I don't live long enough to see that boy [Bernie] go to jail" (Paterson 210).

Tyrell is also apprehensive about following his father's footsteps straight into a prison cell, at least at the beginning of Booth's novel. His friend, Cal, who also has an incarcerated father, is "the first person to tell you, he gonna end up in jail. Soon. That's just how he livin'" (Booth 59). Unlike Cal, Tyrell is largely leading a life of inactivity when the story starts, but, feeling pressured to support his mother and his little brother, Tyrell throws his first illegal party at a school bus depot. By the party's end, they have wrecked and vandalized the depot, but Tyrell concludes, "[W]e ain't got caught, everybody had fun, and I got rent money. Far as I'm concerned, that's all that count" (Booth 292). Tyrell no longer seems afraid to risk a prison sentence as he plans his career as a DJ and party organizer and moves in with Cal and his brothers, all of whom are drug dealers.

Undoubtedly, Tyrell is the character who is most at risk of ending up behind bars at the novel's conclusion. To be sure, the futures of many of the other characters are also uncertain, but, unlike Tyrell, these characters have established supportive communities of friends, adopted relatives, and biological relatives who attempt to keep them out of trouble. As Parke and Clarke-Stewart remark, "Yet another predictor of how well children adjust to parental incarceration is likely to be the quality of relationships

²⁶ Readers do not learn why Wayne's father went to prison, but readers do learn that Wayne's uncle, Ray, whom Angel knows as the star man, stole to support his drug habit. After his death, Angel and Miss Liza "talk about Ray Morgan, about how he'd longed to go to college and become an astronomer, but went, instead, to war and in that short time lived through so much killing he drugged himself for years afterward, trying to dull the pain of all that horror" (Paterson 223). Ray is an excellent example of a good person who went to prison.

within their extended families and their nonfamily informal social networks” (205). While the picture book characters seek comfort and consolation almost exclusively within their biological families, the characters in the contemporary novels, including Booth’s Tyrell, find support within the larger community, albeit always from people who have also been excluded from mainstream society.

The reasons why these other—and “othered”—characters exist on the outskirts of mainstream society vary. Peck’s Molly befriends Will, the boy next door, whose father is supposedly in jail, but he is actually dying of AIDS in an upstairs bedroom.²⁷ Like Molly’s mother, Will’s father is a drug addict too. Stauffacher’s Harry Sue is best friends with a quadriplegic who was injured in a diving accident and now lives in a tree house, furious at the world. And the people who become Harry Sue’s legal guardians after her grandmother goes to prison are a lost boy from Sudan (now grown up) and a confrontational home health care worker who was severely ill as a child and who lost her first husband, another quadriplegic. After Philbrick’s Max befriends Kevin, a boy genius who eventually dies of a congenital birth defect that also prevented his physical growth, Max takes Worm, an abused child with a deceased father, under his wing. In addition to her Uncle Ray, a former drug user and an ex-con whom she calls the star man because of his love of astronomy, Angel also bonds with Miss Liza, a librarian with a spinal deformity that has drastically affected her size and posture. Lester’s Jenna dates Gregory, whose father committed suicide and whose mother has been in a mental institution since his father’s death, whereas Jeremy attaches himself to his art teacher,

²⁷ Will’s parents told the neighbors that their son was in jail because, as Will says, “If you’ve got somebody in jail, people don’t ask” (Peck 110). But AIDS is obviously horribly stigmatized in this small town if Will’s grandparents are more comfortable telling people that their son is in prison. And, indeed, after Will’s father dies and people learn what he died from, they treat Will differently, making fun of him, wearing gloves to treat his skinned knee, and encouraging him to stay out of school.

who also lost her mother as a child. Hiassen's Noah seeks help from several of the town's oddballs in proving that Dusty Muleman really is contaminating the ocean, and his grandfather, who had faked his own death years earlier to extricate himself from legal difficulties, returns to help Noah and his family. In Patron's *The Higher Power of Lucky*, the only novel that further normalizes children with parents in prison by making one of them a supporting character rather than the chief protagonist, Miles, the child with an incarcerated mother, is presented alongside Lucky, whose mother died, in a trailer park community filled with all kinds of recovering addicts. At her new home, Alcock's Elinor lives with Timon, Mrs. Carter's adopted son, a former thief who resided in a children's home because his stepfather hit him. At her new school, Elinor is also paired up with Janet, the daughter of a police officer, who is both teased and avoided because of her father's profession.

Though the majority of child characters with incarcerated parents in the contemporary chapter books are normalized—or at least have their marginality minimized—by their friendships with other people who are also social outsiders, other child characters are normalized by their association with other children who have a parent in prison (which, of course, renders them socially stigmatized as well). Ellis' Jake and Shoshona visit their mother in prison in the company of other foster children who are all visiting their incarcerated female relatives, and Hill's Deet befriends numerous people whom he meets in the prison visiting room, including Sheena, a girl in his class. (Dennis Slater, a popular athlete at school, also turns out to have a big brother in jail with Deet's father, but no one at school knows about Dennis' brother. Nor is Dennis allowed to visit his brother, so, while he feels separated from his peers, he is not treated

as an outcast). Deet's mother has a similar experience, in which people share stories about their own run-ins with the law with her. As she tells Deet, "But you couldn't believe how many people ask me about Dad right away, not even embarrassed, and start telling me about their boyfriend or brother or even themselves getting in trouble. Like I just joined some kind of club" (Hill 88). Whereas Deet and his mother are shocked to find out that so many "ordinary" people in their community have been on the wrong side of the law, Tyrell and his friends regard a parent's imprisonment as a standard, well-known occurrence. Yet, perhaps because of the commonality and the visibility of incarceration in his neighborhood, which almost erases the social stigma of having a parent in prison, many of his friends and even his mother advocate Tyrell's involvement with illegal activities, regarding the possible legal consequences as a necessary risk.

This recurrent pattern of connecting child characters who have a parent behind bars with other marginalized characters, both adults and children, serves two divergent purposes. On the one hand, it reinforces the assumption that having an incarcerated parent is indeed a social stigma, one that may even be comparable to having a disfiguring disease, a deceased parent, or an abusive relative. These comparisons make the predicaments of children with incarcerated parents seem more dire, especially for real-life children in the same situation, and, for other young readers, they cement the outsider status of children with imprisoned parents, even as they suggest that these children merit the same sympathy as other disadvantaged people. On the other hand, by presenting these child characters as people with a specific loss or problem, like so many other people who are also suffering from a particular loss, problem, or disadvantage, the marginalization of all of these characters is lessened. They may not

be fully normalized, but they are no longer isolated in their own pain. Lester's Jenna especially recognizes the importance of uniting with other people who have survived similar losses, and she creates The Haven, an online community for children who have lost a parent.²⁸ Likewise, in Hill's *Do Not Pass Go*, Sheena would like to establish meetings, like Al-Anon,²⁹ "for kids with someone in jail. So they'd have someone to talk to too" (Hill 186). For many of these characters, it is enough to spend time with other people who have suffered and survived some tragedy or setback. They do not have to share the same misfortune because these characters recognize and respect the emotional strength and life lessons that are gained through suffering, and they realize how their endurance of certain situations and conditions sets them apart. As Lester's Jeremy observes when he finally returns to his classroom after his mother's death and his father's sentencing, "Everything that had happened at the trial, what I did and all, was in the papers and on television and the other kids seem like they look up to me now, like I know things they don't. And I do" (Lester 188).³⁰ So do the other child characters with incarcerated parents.

²⁸ Jenna comes up with the plan for The Haven after learning about the AIDS quilt, where family members contribute squares of messages and pictures about the person they lost to AIDS. She wonders, "What if I started a website where kids could put pictures of the parent who died and write about them? It would be like this incredible quilt, except you wouldn't have to make a trip someplace to see it. No matter where you were, it would be there. Maybe kids from places like Kosovo or Northern Ireland who've lost parents killed in wars would write stuff, and it wouldn't matter if you couldn't read the language they were writing in because you'd know, you'd just know, what they were saying" (Lester 161). I find it really interesting too that Jenna and Jeremy identify themselves more as children who have lost a parent than as children with a parent in prison.

²⁹ Al-Anon is a twelve-step support group for friends and family members of alcoholics.

³⁰ Jeremy tells the judge at his father's trial about his mother's diary, which he has kept hidden since he found it in her art studio after her death. The judge reads the diary, and Jenna's and Jeremy's father's defense of suffering from battered spouse syndrome is disproved. Chapter Five discusses books with trials in them, but I did not include this book in that chapter since the trial begins but is abruptly recessed when their father's lies are discovered. He confesses to his children and the court in the judge's chambers, and he accepts a plea bargain rather than resume the trial.

Because of the knowledge and support that the characters have acquired from other social outcasts in their communities and/or from their own families, most of these books suggest that their child protagonists will overcome the adversity of having a parent in prison and will ultimately be all right. This reassuring message is important because all of these books, except Booth's *Tyrell*, are for young readers in elementary or middle school, probably making the issue of parental incarceration one of the first legal subjects that child readers discover in books. Moreover, these books, especially the picture books, are clearly intended to serve as mirrors that provide opportunities for real-life children with incarcerated parents to find characters like themselves in the stories that they read. Of course, these books also allow other children to learn about the subculture of children with parents behind bars, encouraging them to develop empathy for these children and, hopefully, reducing the stigmatization of having a parent in prison. Yet as vital as it is to have books that focus on individual representations of children with a parent in prison, especially for child readers in this situation, the relegation of the larger social issues surrounding imprisonment, like race and class, to the background in these books, prevents child readers from seeing issues of incarceration as societal problems that they can question and perhaps address when they are older. Subsequent chapters will also consider the tendency of children's books about the criminal justice system to emphasize the behaviors of individuals within the legal institution rather than the institution itself.

CHAPTER 3 MARKING CHANGE, CONTINUITY, AND THE PASSAGE OF TIME: HISTORICAL FICTION ABOUT PRISONS

Bells resounded regularly throughout prisons in Victorian England. They woke the prisoners in the morning, recorded the passage of time throughout the day, alerted visitors of the need to leave before the gates were locked, and announced the executions of inmates. Today, the drone and cry of buzzers and alarms have replaced the ringing of bells in prisons, but all of these sounds mark both changes and continuity in the prisoners' isolated world, just as works of historical fiction attempt to mark the changes and continuity that their authors perceive in the world around them. Of course, as a genre, historical fiction¹ is intended to transport readers to a new and unfamiliar—albeit past and historically accurate—time and place. So historical novels that include prisons, their practices, and their effects on those confined within them serve as excellent multicultural windows that can educate young readers about prison conditions in the past and promote empathy for past prisoners and, ideally, present and future ones as well.²

¹ The genre of historical fiction has been classified and defined in numerous ways. As Joanne Brown and Nancy St. Clair state in *The Distant Mirror: Reflections on Young Adult Historical Fiction* (2006),

Amy J. Elias has offered a definition [of historical fiction] that is both concise and sufficiently encompassing. In *Sublime Desire: History and Post-1960s Fiction* she lists three primary characteristics that mark the genre:

1. specific historical detail, featured prominently, is crucial to plot or character development or some experimental representation of these narrative attributes;
2. a *sense* of history informs all facets of the fictional construct (from authorial perspective to character development to selection of place);
3. this sense of history emerges from and is constructed by the text itself. (11; italics in original)

For the purpose of this project, I am using Elias' definition of historical fiction.

² Works of historical fiction about trials are discussed in Chapter Five.

Two related samples of children's books about prisons are addressed in this chapter. The first section explores works found in the Baldwin Library of Historical Children's Literature at the University of Florida, a special collection of "volumes that were loved and read by children and so ordinary that no one else [besides Ruth Baldwin] collected them" (Smith 300). The books about prisons that I located in this archive are a mixture of "classic" and obscure texts and have publication dates ranging from the 1850s to 1920. The second section examines contemporary works of historical fiction that include prisons. While the publication dates of these books are far more recent, their stories are set between 1730 and 1969 with the majority of the books set in the mid-1800s. These contemporary historical novels were always intended to be works of historical fiction, but the books from the Baldwin Library, once works of contemporary fiction, can now be read as part of the historical literary record, one that has influenced the writing and publication of the contemporary historical novels. As Joanne Brown and Nancy St. Clair explain in *The Distant Mirror: Reflections on Young Adult Historical Fiction* (2006), "Certainly, there is a distinction between fiction that from its inception is set in the past and fiction whose publication is contemporaneous with its readers; however, with the passage of time the latter involves readers in a historical period and imparts knowledge of it just as fiction does that is deliberately set in the past" (11). Yet, even though both samples of books provide important knowledge about the past, the contemporary works frequently offer more graphic descriptions of prisons and prison life than their earlier counterparts, as well as a more complex assessment of prison practices and the negative effects of incarceration, reflecting, obviously, more contemporary attitudes and concerns.

In addition to being sorted by their publication dates, most of these novels can also be categorized as either American or British, focusing on the books' settings rather than on their authors' nationalities. Among the books found in the Baldwin Library, four are set in England, four are set in America, and three are set elsewhere. Among the contemporary works of historical fiction, seven of the books (or at least the delivery of their legal verdicts and sentences) take place in England, and two take place in America. In total, eleven of the works conduct legal business in British courts of law and prisons, predominantly around the time of the Victorian era.³

This recurrent use of Victorian England as the books' setting, especially in the contemporary historical novels, raises interesting questions both about the cultural fascination with this particular setting and about the larger connection between contemporary historical fiction and the historical literary record (as well as what we now know as historical fact). Indeed, contemporary historical fiction about prisons builds upon the literary record of earlier children's books on this subject, as well as on the much admired and often imitated works of Charles Dickens. The literary influence of Dickens, as well as the absence of a cohesive American penal system (either in reality or in print), and the rigid social class hierarchy of this era in England all contribute to the

³ Of the books found in the Baldwin Library, Mrs. Edwin Sheppard's *Hester Power's Girlhood* (1867), Charlotte Mary Yonge's *The Trial: More Links of the Daisy Chain* (1868), Caroline Chesebro's *The Poacher's Sons* (1879?), and E. Nesbit's *The Railway Children* (1905) are set in England; Clara F. Guernsey's *The Silver Cup* (1865), *It Won't Hurt You* (1868), Mark Twain's *The Adventures of Tom Sawyer* (1876), and Millicent Evison's *Rainbow Gold* (1920) are set in America; A.L.O.E.'s *The Prisoner and the Peach* (186?) is set in Italy; Eliza Weaver Bradburn's *Rosa, or, The Two Castles* (1863?) is set in Happy Castle and Captive Castle; and the setting of *The Eye of God Every-where* (185?) is unspecified. Of the contemporary works of historical fiction, only M.P. Barker's *A Difficult Boy* (2008) and Chris Carlton Brown's *Hoppergrass* (2009) take place exclusively in America, while Paul Bajoria's *The Printer's Devil* (2005), Eleanor Updale's *Montmorency: Thief, Liar, Gentleman?* (2005), and Avi's *The Traitor's Gate* (2007) are set entirely in England. In Ian Lawrence's *The Convicts* (2005), *The Cannibals: The Curse of the Jolly Stone Trilogy—Book II* (2007), and *The Castaways: The Curse of the Jolly Stone—Book III* (2007) and Karen Schwabach's *The Pickpocket's Tale* (2008), the prisoners are tried, sentenced, and confined within British prisons before being transported to Australia and America, respectively.

repeated use of Victorian England as a setting for these children's books about prisons. But, even as the contemporary historical novels return to earlier settings, like Victorian England, they also reflect more contemporary values and views, both about children's literature and about the legal system. Nevertheless, as comparisons between the older works and the contemporary historical novels demonstrate, the very expectation that historical fiction should raise readers' awareness about prisons is historical and part of the effect of the literary tradition.

Additionally, the use of Victorian England as a setting in contemporary works of historical fiction enhances the distancing effect, particularly for American readers, by locating the stories' events not only in the past but also in another country.⁴ The distancing effect, in which readers are able to view social injustices in other times and places that are simultaneously alien and familiar to them, is a hallmark of historical fiction more broadly (as well as of fantasy fiction). Such removal or distance from sensitive subject matter, like prisons and questions about the political and social factors that influence who ends up in them, can certainly make these topics "safer" and easier to approach, especially with young readers. For example, numerous contemporary historical novels about prisons take place in Victorian England—or even earlier in the case of *The Pickpocket's Tale*—where the distance of both time and/or geography more readily permits authors and readers to examine the ways in which prisoners and the prison system itself are influenced by issues of socioeconomic class, a factor that many Americans tend to dismiss or deny. Of course, there is a danger that the distance that

⁴ All of the contemporary works of historical fiction have been published by American publishers and marketed to American children and teens, so, while at least two of the books by British authors were also published in England, I'm concentrating more on the ways in which these books can be seen by American readers.

historical fiction provides can allow readers and even authors to overlook the relevance of the problems of the past or to feel merely congratulatory about how much our current prison system has evolved. But, at the same time, historical fiction, by the very nature of this distance, opens up topics that may otherwise be unaddressed or at least under-addressed, particularly in children's and young adult literature, and learning about the conditions and practices of past penal systems may encourage some readers to become more aware of the system in the present.

Becoming Historical: Books from the Baldwin Library about Prisons

Over 15 million people passed through English and Welsh prisons between 1837 and 1901 (Priestly 52). As the police, the politicians, and the public struggled to cope with this large number of inmates and with the rapidly growing prison system that housed them, prison reform became a central, recurring debate in Victorian England. Government officials and citizens argued about individual elements of the prison system, like debtors' prisons, transportation, capital punishment, and the separate system (a form of solitary confinement), as well as about the larger issue of the proper roles of rehabilitation and punishment within a prison's walls. Yet, while views on the system were varied, England's penal system itself was well unified, having been established over 200 years earlier.

In the younger United States, however, "The new apparatus [a police force, prisons, and juvenile institutions] emerged slowly, institution by institution, in an ad hoc fashion. [...] Individual reformers focused on particular solutions to immediate problems: the police as a response to urban disorder; the prison as an alternative to corporal punishments. Building the system took a hundred years and was not complete until about 1920" (Walker 50). Indeed, while debates in Victorian England raged over

competing prison reform movements, the emerging American prison system was this country's reform. No wonder then that, while prison reformers in general are mentioned, the American prison reform movement during this time does not receive the kind of scholarly attention and documentation given to the reform movements in England. Moreover, as Lawrence M. Friedman explains in *Crime and Punishment in American History* (1993), the reforms that did occur in the United States "affected, on the whole, the great northern penitentiaries and certain special categories of offenders—notably, children. But they left virtually untouched the huge squalid mass of county and local prisons: the end of the line for thousands of men and women who were picked up for drunkenness or vagrancy, as well as brawlers, petty thieves, and countless others" (166). This slow and geographically erratic emergence of a penal system also prevents scholars from accurately estimating how many people were incarcerated in American prisons and jails during this time.

Despite the different developmental stages of the separate criminal justice systems in America and England, many of the children's books about prisons written in both countries during this era provide only generalized descriptions of prisons for their young readers. For example, in the books set in England, dreariness, lack of light, and cramped or underground spaces emerge as recurring aspects of prison, though the descriptions vary in detail and intensity. In Eliza Weaver Bradburn's *Rosa, or the Two Castles* (186?), as the Porter and Rosa descend to the dungeon through "long, dimly-lighted passages," the Porter informs Rosa that "it is a long time since they [the prisoners' cells] were swept," implying that the worst thing about prison may be its dust (53). Charlotte Mary Yonge's *The Trial: More Links of the Daisy Chain* (1868), which

offers the most historically accurate and detailed account of the Victorian English prison system of any of the older works, describes the physical structure of the prisons and the cells in a calm, factual manner. As she explains, a cell is

“[j]ust twice as wide as a coffin [...] though, happily, there is more liberality of height [...]” There was a ground glass window opposite to the door, and a shelf, holding a Bible, Prayer and hymn book, and two others, one religious, and one secular, from the library. A rust-colored jacket, with a black patch marked with white numbers, and a tarpaulin hat, crossed with two lines of red paint on the crown, hung on the wall. (Yonge 309)⁵

Finally, in *The Eye of God Every-where* (185?), the portrayal of the jailer’s ever present scrutiny through “one small opening, large enough for an eye to look through” (5) and the inmate’s consequent madness suggests that prison should perhaps be seen as an intimidating, if not terrifying, environment.

With less variation in tone, the prisons from the children’s books set in America are also described in vague generalities, accompanied by a seeming intention of not frightening young readers. The “modern” American prison, which first emerged in the 1820s, attracted a great deal of attention from European countries, especially France and Great Britain, even though prisons appeared initially in England in the 1500s (Walker 80-81). Yet the American prisons do not appear to any advantage over the English ones in the literary record; both countries’ penal institutions shared the same focuses on work, religion, limited human contact, and punishment. The descriptions of prisons in American works for children, however, greatly soften the actual physical conditions found in many cells. For example, in *It Won’t Hurt You* (1868), a story about the evils of alcohol, life in a prison is described as being “closed in by stone walls and

⁵ Yonge’s descriptions of prisons and prison practices coincide almost perfectly with those detailed by Philip Priestley in *Victorian Prison Lives: English Prison Biography 1830-1914* (1985), right down to the reading materials found in the white-washed cells. As part of her research for *The Trial*, she visited Portland Prison (Hayter 40).

iron bars” (60), and the little used jail in Tom Sawyer’s St. Petersburg is “a trifling little brick den that stood in a marsh at the edge of the village” without any guards (*Tom Sawyer* 78). In Millicent Evison’s *Rainbow Gold* (1920), Mr. Hamilton refuses to let his children see him in prison (28), but the narrator depicts Mr. Hamilton at Christmas as sitting alone in his cell, “gazing through the high window which formed a frame for a square of starry sky. On a small shelf-like table beside him were a few books, some sprays of holly, and some open letters” (198).

While most of the descriptions of the prisons’ physical characteristics in books set in both England and America consist of non-threatening generalities, several of the British books, most notably Yonge’s *The Trial: More Links of the Daisy Chain*, address issues specific to England’s prison system of the era in ways that the American books do not, quite possibly because of the lack of uniformity in the American criminal justice system. *The Trial* divides its pages between the continuing chronicles of the May family, first introduced in *The Daisy Chain or Aspirations: A Family Chronicle* (1856), and the sufferings and triumphs of Leonard Ward, a family friend who is wrongfully convicted and imprisoned for the murder of his uncle.⁶ This work is also the only children’s novel that I found in the Baldwin Library that refuses either to disengage itself from the penal practices of its time or merely to validate them. Even so, the judicial process, which is only partially described, never actually falls under scrutiny, for even Dr. May, the staunchest supporter of the innocent prisoner Leonard Ward, concedes “that everyone who merely saw the newspaper report in black and white, without coming into personal

⁶ *The Trial: More Links of the Daisy Chain* is a sequel to *The Daisy Chain or Aspirations: A Family Chronicle*, which Yonge describes as “a domestic record of home events, large and small, during those years of early life when the character is chiefly formed...an endeavor to trace the effects of those aspirations which are a part of every youthful nature” (Hayter 6). *The Daisy Chain* describes the coming-of-age of the May children, most of whom have reached adulthood before the opening of *The Trial*.

contact with the prisoner, could not understand how the slightest question of the justice of the verdict could arise” (Yonge 226-227). Through such observations, the integrity of England’s judicial system is repeatedly and loyally defended. As June Sturrock remarks,

[D]espite its presentation of the relation between family hierarchy and family violence, and the reliance of its plot on a failure of the justice system, *The Trial* overtly argues for traditional power relations both in social institutions and in the family. [...] Leonard, his sisters, and the May family all come to regard the murder and its consequences in part as a lesson in the necessity for being ‘submissive and yielding’ (237) to patriarchal figures (111),

as well as to God. In fact, the only individuals associated with the trial whom Yonge describes with indignity and scorn are the courtroom gossips and sightseers who flock in droves to Vintry Mill, the murder site, destroying furniture and ripping wallpaper to collect “memorials of ‘the murderer, Ward’” (Yonge 227).

Though Yonge criticizes these individuals who cling to the fringes of the judicial system that she defends, she still champions the individuals central to the functioning of the prison system, even as she subjects the penal system itself to critique. While the novel’s characters never fail to describe the prison officials as fair and full of “all consideration” (Yonge 231), the descriptions and, more importantly, the effects of certain practices, such as the separate system at existing, contemporary prisons like Pentonville and Millbank, where the fictional Leonard is housed, concern and alarm many of the story’s characters. Moreover, since the novel portrays Leonard Ward both before and after, as well as during, his three and a half years of incarceration, readers receive a much more detailed impression of the devastating effects of institutionalization than they do from any of the other works referenced. In particular, the novel effectively conveys the long-term results of living under continual isolation and constant scrutiny,

two elements that were essential to England's use of the separate system and panopticism.

This continual isolation occurs in most of the fictional prison works set in England, just as it occurred historically under the penal practice called the separate system. This practice of solitary confinement appears at the forefront of prison development at the beginning of the Victorian era and serves as the disciplinary model on which first Pentonville and then numerous other English prisons were constructed (Priestley 36-37). Captain Joshua Jebb, the designer of the revolutionary Pentonville, praised the separate system, claiming that "in depriving a prisoner of the contaminating influences arising from being associated with his fellow prisoners, all the good influences which can be brought to bear upon his character are substituted for them" (Priestley 36). Like Captain Jebb, many people lauded the reformatory aspects of the separate system, which supposedly provided inmates with the solitude needed to pray and to repent (Priestley 37). Others more highly prized the punitive dimension of the system, which condemned convicts to extended periods of enforced isolation with no companions except their own bitter thoughts (Priestley 37).

The British children's stories present the punitive, not the reformatory, view of the separate system. For example, in A.L.O.E.'s *The Prisoner and the Peach* (186?), Marco Colletti sits in his solitary cell for weeks on end until he begins to feel "as if all the world had forgotten him, and – like many others when in long trouble – he was tempted to feel as if God had forgotten him too" (13). Similarly, even the steadfast Sir Elbert in *Rosa, or The Two Castles* wears under his prison conditions, and, in *The Trial*, prison solitude is pronounced "terrible" even by Ethel May, a character who greatly values reflection

and repentance (Yonge 292). In fact, this extended period of isolation plays such havoc with Leonard's thoughts that he can no longer be confident that he did not commit the murder for which he is imprisoned, and he is forced to ask Dr. May about his guilt even after receiving his official pardon and release papers. Leonard explains his uncertainty to Dr. May, reflecting,

"At Millbank [an existing prison employing the separate system], I generally thought I remembered it [the murder] just as they described it in court, and that it was some miserable ruinous delusion that hindered my confessing; but the odd thing was, that the moment any one opened my door, I forgot all about it—resolutions and all, and was myself again."

"Then surely – surely you left that horror with the solitude?"

"Yes, till lately; but when it did come back, I could not be sure what was recollection of fact, and what was of my own fancy." (Yonge 365)

Swayed, perhaps by fictional accounts such as this, in which a man comes to doubt his own innocence, as well as by other documented cases of mental disturbances and breakdowns in prisoners, the public gradually withdrew its support of the separate system. The period of solitary confinement slowly decreased from 18 months to 28 days under the 1877 Prison Act (Priestley 39). Nevertheless, when *The Trial* was first published in 1864, the typical period of isolation lasted for nine months (Priestley 39), a length of time that Yonge obviously considered far too long.

A particular aspect of the separate system that appealed to many reformers was the fact that, as Captain Jebb boasts, "scarcely an hour in the day will pass without his [the prisoner's] seeing one or other of the prison officers" (Priestley 36). Conversely, scarcely a second of the day passed in which the prison officers were not able to see the prisoners. This incessant observation is the key characteristic of the Panopticon, a prison structure designed by Jeremy Bentham in 1785. Since the prisoners can never be certain who is watching them or when this observation is occurring, they are forced

to be on their guard against violating the rules constantly, lest they be caught and punished. As Foucault explains, “Hence the major effect of the Panopticon: to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power” (201). In fact, this visibility often extends beyond the walls of the institution, sometimes through the prisoners’ internalization of the institution’s watchfulness and sometimes through the far-reaching eyes of other institutional officials or concerned citizens.

Some released convicts continue to perceive the visibility of the law and its power in their own minds and act accordingly. For example, in *The Eye of God Every-where*, soldiers constantly observe Marcus, a traitor who joined a conspiracy to assassinate the king, through a small hole in his cell’s wall until he is driven insane by the constant, staring presence of an eye. As the narrator reports, “How he tried to escape that vengeful eye!—moved to every corner of his den—hid his face in the straw, the only thing it contained; even then he seem[ed] to *feel* it was watching him” (*Eye* 6; italics in original). This feeling continues to terrorize him after his release, and only the loving glance of his sister can suppress it, even temporarily. Likewise, in *The Trial*, Leonard retains his sanity, but the combination of the constant supervision and the isolation renders him thoroughly passive and obedient, almost without a mind of his own. He cannot eat, read, or write a letter until someone bids him to do so. As Dr. May observes, “If one told him to chop off his finger, he would do it, and never show whether he liked it [...] I never saw spirit so quenched” (Yonge 372). Thus, in showing the radical change that has come over Leonard, formerly an unusually strong-minded and stubborn

individual, after only three and half years in prison, Yonge forces readers to consider the damaging effects of panopticism and the separate system.

Several other authors also point out the negative effects of incarceration, though they do not critique or condemn any particular prison practice. For example, when Father waits in the garden to rejoin his family after he is exonerated and released from prison in E. Nesbit's *The Railway Children* (1961), first published in 1905, the narrator observes, "I see Father walking in the garden—waiting. He is looking at the flowers, and each flower is a miracle to eyes that all these months of spring and summer have seen only flagstones and gravel and a little grudging grass" (222). While this indirect acknowledgement of what Father has suffered in his months of captivity may seem small, it is actually quite significant in a book in which two of Father's children never learn of his imprisonment. Furthermore, in Evison's more forthright *Rainbow Gold*, when the innocent Mr. Hamilton is released from prison, his face "had a peculiar yellow pallor, due to close confinement" (358). Likewise, in Caroline Chesebro's *The Poacher's Sons* (1879?), the narrator states, "At the expiration of his term [three years' imprisonment for shooting the games keeper], George Sandhurst was released from prison; but the confinement and the restraints of prison-life had so told upon his health, that he did not live many months after his release" (91-92). Chesebro provides no details about what these "restraints of prison-life" (91) are, but both she and Evison acknowledge that incarceration produces physical consequences.

Clara F. Guernsey's *The Silver Cup* (1865), a novel about two boys who are wrongfully convicted of stealing a silver cup, and Mrs. Edwin Sheppard's *Hester Power's Girlhood* (1867), a story about a teenage girl wrongfully imprisoned for stealing

four pieces of jewelry, make this point even more explicitly. *The Silver Cup* also emphasizes the almost complete freedom that each American warden and jailer has over his own institution, thereby rendering the treatment under each man unique.⁷ As Friedman states, “Despite all these institutional changes [for children—houses of refuge, reform schools, private ‘industrial’ schools], children could still be arrested, detained, tried, and sent to prisons in many states” (165).⁸ Thus, Lucian Martin and Bunny experience an adult prison for, “[a]t that time there was no House of Refuge or juvenile prison in the state. [...] They were allowed to walk in the jail-yard for two hours a day, but were kept locked up the rest of the time in a tiny whitewashed room with a grated window, where the only furniture was a bed, two chairs and a table” (Guernsey 222). While Mr. Bruce, the jailer, is described as “very kind” (Guernsey 228) and is portrayed as lenient in his treatment of the two boys, Stephens, the under-jailer, beats Bunny, a lame, very young child,⁹ with a horsewhip for refusing to pick up his basket-work before turning the lash on Lucian for attempting to protect the younger Bunny (Guernsey 247-251). Bunny never fully recovers from this attack and dies shortly after the boys’ exoneration and release from prison.

⁷ As Walker explains in *Popular Justice: A History of American Criminal Justice, 2nd edition* (1998), “Politics dominated prison administration, just as it did the police. [...] Like police officers, prison guards got their jobs through political patronage and received no formal training. Only a few wardens had any advanced education. Turnover was extremely high.” (90)

⁸ America is currently returning to this judicial strategy as more juveniles today are sentenced as adults and sent to adult prisons.

⁹ Guernsey gives no definite age for either Bunny or Lucian. Bunny, however, is still young enough to hold people’s hands and sit in their laps, and Lucian is old enough to attend school and help his father in the mill. Accepting the notion that seven is the age of reason, which Friedman suggests existed in American courts of laws (163), as well as in religious communities, I am assuming that Bunny is probably at least seven years old but not much older.

Despite her depiction of this beating, however, Guernsey takes care to avoid condemning the burgeoning penal system, instead identifying Stephens as one bad employee whom Mr. Bruce fires and whom the narrator identifies as “cruel” (Guernsey 249) and “totally unfit for the place” (Guernsey 248). Moreover, the narrator never addresses Stephens as “mister,” the title that the other male authority figures in the book receive, further suggesting that Guernsey does not consider him an official part of the legal community. Yet Guernsey also takes an additional step to uphold the authority of the law. When Will, Bunny’s older brother, asks how the innocent boys could have been convicted, Mr. Clifton, the minister, replies, “They [presumably the jurors] could only judge by the evidence before them, and they did not know the children as we do” (Guernsey 233). This response squarely places the burden of the judgment on the evidence and not on an imperfect system that makes mistakes.

Whereas Guernsey struggles to uphold the integrity of the courts and the prisons, Sheppard intimates that legal justice may be purchased. In *Hester Power’s Girlhood*, which takes place in England, Isabella Falkstone, the victim of Hester’s alleged burglaries and Hester’s former best friend, seeks to buy Hester out of prison,¹⁰ suggesting that money can influence the legal system, even in very direct ways. Sir Huston, Isabella’s father, refuses his daughter’s request, not because he finds it immoral or unethical, but because he truly believes that Hester is guilty and, therefore, deserves to be incarcerated. (Isabella also believes that her friend is guilty, but she still wishes that Hester was not in prison, particularly since Hester is deathly ill.) Sir Huston

¹⁰ Hester is apparently sixteen or seventeen years old at the time of her arrest and incarceration. Though her story takes place in England rather than America, she, like Guernsey’s Bunny and Lucian, is confined within a general prison, not an institution for juveniles.

tells his daughter, “She is in the hands of the law, and it must take its course. She may be suffering, even ill; but it is only proper that she should suffer” (175). Hester dies in prison before her trial can occur and before her innocence is established, and, though Sheppard offers contradictory messages about justice and mercy throughout her novel, both Lady Falkstone and the rector absolve Isabella of guilt in the wrongful arrest and resultant death of her friend because Hester did appear to be truly guilty at the time of Isabella’s accusations.

In a similar, though more lighthearted vein, Evison’s *Rainbow Gold* also considers the flaws in the American legal system. For example, when Mr. Hastings declares that it is enough that the jury found Mr. Hamilton, his son-in-law, guilty of speculation with company funds, Ma responds, “Mr. Hastings, we all know that innocent men are *often* punished for crimes they never committed. Why may it not be so in this case?” (Evison 217; italics in original). As Ma persuades Mr. Hastings that it is worth his while to investigate Mr. Hamilton’s case—if only to win the love of his grandchildren, particularly Toni—he capitulates, agreeing, “As you say, money can set the machinery of the law in motion” (Evison 220). Using his vast resources, Mr. Hastings is able to hire an excellent—and expensive—attorney who finds proof of Mr. Hamilton’s innocence and secures his release from prison. By so clearly linking Mr. Hamilton’s exoneration with Mr. Hastings’ financial support, Evison highlights the relationship between actual justice and money, also refusing to offer, as Guernsey, Sheppard, and Yonge do, extenuating circumstances that attempt to exonerate the legal system of blame in these cases of wrongful conviction.

In fact, in *The Trial*, the book that most clearly calls for an element of prison reform, even as it steadfastly defends the integrity of the courts, the Mays and Leonard himself recognize his incarceration as a miscarriage of human justice, but this critique is tempered by their more fervent belief in his imprisonment as evidence of warranted divine justice, if not retribution. After all, Leonard's temper and his stubborn pride led him to Vintry Mills, the site of the murder and other corruptions. He had refused to live under the dominion of Henry, his older brother, and he had even hurled a rock at Henry once in a fit of rage. As Leonard tells Dr. May in a discussion about his continued faith after his conviction, "If – I have not [lost faith...], it is her [Ethel's] doing. In those happy days when we read Marmion, and could not believe that God would not always show the right, she showed me how we only see bits and scraps of His justice here, and it works round in the end! Nay, if I had only not done that thing to Henry, I should not be here now! It is right! It is right" (Yonge 224).

Thus, while Leonard is innocent of the murder for which he has been imprisoned, he clearly believes that, because of his other sins, especially his act of violence against his brother, his sentence is just. Dr. May and his oldest daughter Ethel support this belief, even as they suffer in spirit with Leonard, defend his character from others, and work to free him. They admire the strong and repentant man that this ordeal has made him. Before the trial, Dr. May declares triumphantly, "If it be so [if Leonard is convicted], it will be right; one will try to believe it good for him. Nay, there's proof enough in what it has done for him already. If you could only see him" (Yonge 193). Moreover, the Mays, especially Ethel, harbor a belief that Leonard's suffering is preparing him for something greater, a belief which is vindicated when Leonard seeks to become a foreign

missionary after his release from prison, an occupation that Ethel—and Yonge—consider to be the highest calling.¹¹

Despite the “happy ending” for Leonard Ward, the prison systems in these works for children, regardless of the stories’ settings, are clearly detrimental and damaging to many of the characters that they house, as well as to the characters’ families. Yonge’s Leonard, Evison’s Mr. Hamilton, Twain’s Muff Potter, Nesbit’s Father, Guernsey’s Bunny and Lucian, and Sheppard’s Hester are all innocent of the crimes for which they are imprisoned. Two of the three incarcerated juveniles, Bunny and Hester, die as a result of their treatment in prison. *The Eye of God Every-where*’s Marcus is driven insane, and Evison’s Mr. Hamilton and Chesebro’s George Sandhurst are physically changed by their prison experience. Yonge’s Leonard Ward also appears to be a broken man when he leaves prison. Taken as a whole then, this collection of books from the Baldwin Library leaves little doubt about the horrors of incarceration and the injustices of the legal system. Yet in the majority of the works discussed, the sufferings of the characters are simply acknowledged and accepted, even embraced, as most of the authors find ways to uphold the status quo of the criminal justice system, shifting blame to individuals, circumstances, or the appearance of evidence rather than critiquing the system that imparts the suffering that the books so frequently and calmly present to readers.

Intentionally Historic: Contemporary Works of Historical Fiction about Prisons

Though the desire of the authors of the contemporary works of historical fiction either to uphold or to challenge the status quo is debatable, their characters’ sufferings

¹¹ In fact, as Alethea Hayter reports in her biography *Charlotte Yonge*, “most of her [Yonge’s] profits from her books went to support missionary work, which to her was the essence of chivalry and romance” (23).

behind bars or under sentence of transportation are described much more fully than the sufferings of their counterparts in the books found in the Baldwin Library. The verdicts handed down in these contemporary novels are also more accurate, however harsh the sentences may seem. Only two characters are innocent of the crimes for which they are arrested: Daniel Linnehan in M.P. Barker's *A Difficult Boy* (2008) and Tom Tin, the protagonist of Ian Lawrence's trilogy, *The Convicts* (2005), *The Cannibals: The Curse of the Jolly Stone Trilogy—Book II* (2007), and *The Castaways: The Curse of the Jolly Stone Trilogy—Book III* (2007). While the works discussed in this section focus less on the wrongfully convicted, they do address issues of juvenile crime more frequently. Daniel and Tom are both teenagers when they are arrested. The boys in Chris Carlton Brown's *Hoppergrass* (2009) are also adolescents, and Molly in Karen Schwabach's *A Pickpocket's Tale* (2008) is only ten years old.¹² This greater focus on young protagonists not only complies with the current trend in publishing that argues that child and adolescent readers are most interested in reading about characters who are near their own ages, but it may also draw readers more fully into considerations of the prison conditions if they can more readily imagine themselves in the characters' places.

Whether the incarcerated characters introduced in these novels are adults, children, or adolescents, the books examine prison practices, like the separate system, from more varied perspectives than do the older works. They also describe several different types of penal institutions as well, including debtors' prisons, the hulks, transportation ships, and juvenile facilities. Moreover, some of the books also explore a wider array of the negative effects of incarceration, whereas others demonstrate the

¹² Barker's Daniel and Schwabach's Molly are confined with a general population of inmates of all ages. Lawrence's Tom and Brown's Bowser are held within prisons that house only boys.

ways in which the prison system helps the convicts to establish better lives. Either way, none of the works of contemporary historical fiction minimizes the wretchedness of the prison experience.

Certainly, the images of the prisons that these books offer to young readers are far more frightening and menacing than the descriptions offered in their older counterparts. For example, in 1820s England, when Lawrence's Tom is escorted into Newgate Prison at night to await his murder trial, he observes that the prison "rang with the clank of iron and the shrieks of the insane. But it was even worse in daylight, when the putrid fog oozed through windows and air shafts. In the exercise yard the convicts trudged round and round. A man walked the long treadmill, his back bent as he stumbled forever uphill" (*Convicts* 58). Similarly, in Schwabach's *The Pickpocket's Tale*, which opens in England in 1730, Molly Abraham, another inmate of Newgate Prison, notes that "the stench of rot and failure were as much a part of the prison walls as the stones themselves" (13). And Inspector Copperfield (aka Mr. Nottingham) from Avi's *The Traitor's Gate* (2007) succinctly describes most of the possible horrors awaiting an English criminal in 1849, declaring, "Jail them. Set them to the treadmill.¹³ Put them in the hulks. Transport them. If necessary, hang them" (96). Even Brown's *Hoppergrass*, which takes place in the relative safety of the Belmont School for Boys in Virginia in 1969, a minimum security facility with screen mesh, dorm rooms, and house fathers, as

¹³ The treadmill, mentioned by both Avi and Lawrence, was "a big, iron frame of steps around a revolving cylinder. Prisoners, both male and female in the early [nineteenth] century, trudged up the steps in their own separate compartments on the wheel for up to six hours a day. It was like climbing a mountain for nothing" (Duckworth 69). Though sometimes the labor of the treadmill was used for productive purposes, like pumping water or grinding wheat, its most common use was purely punitive (Priestly 125). Another routine, punitive practice that is mentioned by Avi is the crank, which "was a wheel with a counting device fitted into a box of gravel which the prisoner had to turn for a given number of rotations; it was another useless activity which did nothing but move gravel in a box" (Duckworth 69-70). Interestingly, while these prison activities are referenced in the novels, they are never actually described.

well as isolation cells, offers a far scarier picture of Lorton, a maximum security facility for boys. At Lorton, “[i]t was like animal cages—just concrete and bars and barbed wire. Dark, too. They didn’t waste much electricity on light” (Brown 145).

As bleak as these descriptions of the penal institutions are, the images of debtors’ prisons, the hulks, and transportation seem intended to horrify modern readers further, while also classifying these punishments as both more exotic and more contemptible through assurances that such practices no longer exist. Of course, debtors’ prisons were far safer than the hulks or the cells and ships where people being transported were held since they did not house actual law breakers. Indeed, when Avi’s John Huffam first enters Whitecross Street Prison to visit his father, whose massive debts have driven his family from their home and led to the sale of all of their belongings, as well as to public ridicule, John notes,

It was not what I expected. Here was a large, spacious courtyard in which perhaps seventy people—men, women, and children—were milling about in what appeared to be an aimless fashion. It could have been a public London promenade. There were fair numbers of patently poor people, but there were others quite well dressed, including one or two gentlemen in top hats. People were sauntering alone or in groups, sitting, chatting, reading. At the far back wall—where there were no windows—a few men were even hitting a ball against the brick with small racquets. Among all these people—I presumed them to be prisoners—a number of guards mingled.
(*Traitor’s* 203)

Yet as tolerable as this scene in the prison courtyard seems, particularly in comparison to scenes depicted in other prison environments, John adds, “It was oddly calm, a world unto itself. And yet, as I looked further, there was barely a smile to be seen. Rather, a sullen gloom prevailed, an aimless mood that suggested not so much boredom as stagnation” (*Traitor’s* 206). This sense of quiet despair can also ensnare the debtors’ family members, particularly those who reside within the prisons alongside the debtors,

like John's mother and sister, but other family members as well, like John and Lawrence's Tom, who choose to live outside of the prison gates and who must desperately search for funds to free their families.

As hopelessly grim as the debtors' situation appears in both *The Traitor's Gate* and *The Convicts*, the hulks, with their more structured prison regime and their outbreaks of violence, are portrayed in Lawrence's *The Convicts* and *The Castaways* as far more threatening places. After Tom is wrongfully convicted of murder—his twin brother, from whom he was separated at birth, actually committed the crime—and is sentenced to be transported to Australia for seven years, he is sent to the *Lachesis*,¹⁴ a prison ship for boys, to await transportation. But, as Jeannie Duckworth explains in *Fagin's Children: Criminal Children in Victorian England* (2002), the hulks “were intended for prisoners awaiting transportation, or those unfit to go; but many of those sentenced never proceeded any further. When Australia was opened up as a transport destination, due to the immense administration difficulties fleets could only be organised about once a year, so prisoners had to wait, sometimes for years, for a suitable ship, if they went at all” (82). And the hulks were not desirable places to remain indefinitely. Upon approaching the hulk for the first time, Tom says,

A heavy chain appeared, then others, with no beginnings or endings to any of them. They arched through the fog like strands of gigantic cobwebs, as though their only purpose was to lash the mist in place. Then a shape formed ahead, a great wooden wall. For a foot above the water it was plastered with mussels and barnacles, with weeds that trailed in the river like eels swimming by. Plank upon plank it rose, forever, it seemed, to a top that I couldn't see. There were tiny square windows, closely barred, each

¹⁴ In *The Convicts*' “Author's Note,” Lawrence reports, “I combined three hulks [*Euryalus*, *Bellerophon*, and *Defence*] into one [the fictional *Lachesis*], hoping to find at least a fair representation of conditions for convict boys” (194). Since many of the details about the hulks that he includes are also mentioned in Jeannie Duckworth's *Fagin's Children: Criminal Children in Victorian England* (2002), his representation appears both fair and accurate.

fitted with a wooden lid hinged at the top. A face was at one, and it scared me to see it. A ghost could have been no whiter. From each window came sounds of creaks and groans and coughs. From each poured a foul stench, a feeling of sadness and despair. The guard beside me covered his face with his hand, and for a moment there was pity in his eyes. (*Convicts* 76)

Once aboard the prison ship, Tom finds life on the hulk to be as miserable as his first glimpse of it intimated. The imprisoned boys are weighed down with twelve pound chains on both ankles and with additional chains around their waists (*Convicts* 78-79) while they walk in circles on the deck, sleep in hammocks, and are frequently beaten and caned. They spend hours at menial manual labor, either stitching shirts or “wash[ing] the same bit of wood over and over” (*Convicts* 88). And, when the day’s mind-numbing horrors are over, the nightly terrorizations of younger and weaker boys by older and stronger boys begins. Not surprisingly, Tom is desperate to escape the hulk, but his failed escape attempt only earns him and his accomplices guaranteed spots on the next ship heading to Australia, a sentence deemed even harsher than serving out one’s time in the hulks.

Indeed, transportation, a British punishment from the 1600s to 1857 (*Convicts* 194), was perceived as even worse than a death sentence by many criminals. As Duckworth reports, “In an effort to control the rampant crime rate, the British government elected to transport its felons ‘out of sight and out of mind’ to the new colony on the other side of the world from which few would ever return” (113). The new colony to which Duckworth was referring was, of course, Australia, where Lawrence’s Tom and the father of Avi’s Sary the Sneak are sent, but earlier it could also have been the British holdings in North America.¹⁵ In Schwabach’s *The Pickpocket’s Tale*, Molly is

¹⁵ Schwabach reports in “How Much of This Story Is True?” that “[a]bout fifty thousand English criminals came to the American colonies as unwilling immigrants. (That’s almost five hundred times the number of

sentenced to seven years transportation in Virginia after she is convicted of stealing a handkerchief. (Instead of going to Virginia, she is sold as an indentured servant in New York and is then forced to remain in service until she is twenty-one years of age—four years longer than her original sentence of transportation). Molly’s journey to the American colonies in 1730 on a ship with other convicted men, women, and children, as well as a few voluntary indentured servants, is far more pleasant than her time in Newgate Prison, for even though she is forced to sleep in the hold of the ship, “the women and girls weren’t chained, and were allowed up on deck whenever they wanted” (Schwabach 23-24). For Tom’s journey to New South Wales, Australia, approximately a century later, however, “the ship was still a traveling prison, steaming hot or cold as frost. It stank of sweat and waste, and seethed with a simmering violence, like a cage overfilled with wild beasts” (*Cannibals* 14). Yet regardless of their traveling conditions, both Molly and Tom face danger on their ships because “[s]ome English convict ships were probably as deadly as slave ships. Although nobody knows the exact numbers, it’s estimated that starvation and disease killed as many as 30 percent of the convicts on the ships” (Schwabach 216). Perhaps even worse, Molly and Tom know that they must confront the unknown once they reach their respective destinations, the factor that made the sentence of transportation truly terrifying.

For many of the criminal characters in England who are not transported—or at least are awaiting transportation—the separate system appears to be enforced far less frequently and far less rigidly in the works of contemporary historical fiction than it is in

passengers on the *Mayflower*.” (216). Duckworth also notes, “During the eighty-year period of convict transport around 160,000 men, women and children were shipped in bondage to Australia, although, due to gaps in the records, the exact number will never be known” (114).

the older books, if it is enforced at all. This softening of the separate system, both in describing its practices and its effects, suggests that the authors (and presumably the public) of the Victorian era were more consumed than modern writers and readers are with this particular prison reform, probably because its use prompted such spirited public debates at the time. Admittedly, in Avi's *The Traitor's Gate*, when Sary the Sneak informs John of the fate that awaits her in prison if she is arrested as a traitor, she tells him that the officials will "[s]ay I can't talk to anyone. *Anyone*" (338; italics in original). Yet, in all of the other works, the prisoners talk, socialize, and interact much of the time as long as they are in the general population.

When Montmorency, the title character of Eleanor Updale's *Montmorency: Thief, Liar, Gentleman?* (2005) is in an English prison in the 1870s,¹⁶ the separate system is preserved in the chapel, where "each man sat in a tiny cubicle of his own, making it impossible for the prisoners to talk to each other" (35), but Montmorency shares his cell—and much conversation—with two other inmates. Of course, as the narrator reveals, "the authorities had originally intended that convicts should be kept apart at all times, so that they could not corrupt one another further, but crime was rising faster than new prisons could be built, and soon there were two, and then three, to a cell" (Updale 17). Indeed, because of the rising crime rates and the great expense of building a prison designed in accordance with the model of the separate system and its many individual cells, the silence system emerged, in which prisoners lived and worked together but "communication by word, gesture or sign was prohibited" (Duckworth 65).

¹⁶ *Montmorency: Thief, Liar, Gentleman?* is the first book in a series. The other three books in the series (so far) are *Montmorency on the Rocks: Doctor, Aristocrat, Murderer?* (2006), *Montmorency and the Assassins* (2007), and *Montmorency's Revenge* (2008). In these later works, Montmorency's criminal skills are put to good use, and Montmorency does not return to prison, although lawbreakers frequently appear and other characters are incarcerated.

The prison officials and guards on the hulk in Lawrence's *The Convicts* and *The Castaways* attempt to enforce the silence system, but, not surprisingly, the boys manage to communicate frequently, either behind the guards' backs or at night when they are left largely unsupervised.¹⁷

Yet the separate system remains in place as an additional and extreme punishment for those who break the prison's most important rules (not unlike solitary confinement in contemporary prisons). For example, after Tom and his accomplices are returned to the hulk following their failed escape attempt, they are sent to the black hole, where Tom recalls, "I could neither stretch out on the floor nor stand beneath the ceiling. I had to curl like a bug, or crook myself against the curve of the wall. There was no day and no night, nothing but an ever-ending darkness. Even the quaver of the ship's bell didn't reach me down there. Time meant nothing" (*Convicts* 157), although it later turns out that the boys were kept in the dark hole (separately) for eleven days. Similarly, in Brown's *Hoppergrass*, which takes place over a century later in America, Bowser and Nose are both put in lockdown after they defy prison authorities. As Bowser explains, "Lockdown was where they put you if you shouldn't or couldn't be around the other boys for any reason. Sometimes a hardrock would end up there on his way to Lorton, the maximum security facility. Sometimes they'd put a boy with the flu in there" (Brown 111). Because lockdown functioned as a sick room, as well as a site for punishment, it does not seem nearly as intimidating as the black hole, but, after spending several days there, Bowser laments, "I was sick of being in a cage. I could feel confinement in my

¹⁷ Duckworth comments on the use of the silence system aboard the hulks: "The authorities declared that in these messes [on the hulks] only rational conversation was permitted, but it was clear that forty to fifty men could not be crammed into one side of a ship's deck and swing elbow to elbow in hammocks at night without finding ample opportunity for free conversation" (82).

chest like a hand that could squeeze my heart until it burst” (Brown 198). Thus, while several books from the Baldwin Library focus on the ghastliness of the separate system, the contemporary historical novels minimize both its use and its effects when it is used, usually as an added punishment.

Yet interestingly enough, some of the modern books’ portrayals of the convicts’ socialization would have provided Victorian reformers who were in favor of the separate system with strong examples of the dangers of prisoner interaction. For example, as Mr. Mendez and Mr. Lopez talk with Molly in Newgate Prison, Molly “noted with interest that Mrs. Wilkes was going through the two gentlemen’s pockets” (Schwabach 11), stealing in prison just as she steals in New York after she is transported. Also in Newgate Prison, Tom is housed with boys who “spent hours arranged in a circle, picking each other’s pockets, applauding the quickest hands” (*Convicts* 58). Clearly, it is no wonder that James Greenwood, a British investigative journalist in the second half of the 1800s, wrote that “the more they [children] are imprisoned the more is their dishonesty strengthened” (Duckworth 21). Likewise, Updale’s Montmorency, an adult who has spent his entire life as a thief, hatches his largest criminal scheme in prison, the one that is intended—and ultimately does—transform him into a gentleman. Reflecting upon the numerous difficulties of his complicated plan to enter the homes of the wealthy via London’s underground sewage system and burgle them, Montmorency concludes, “Between them, the thieves, fraudsters, and degenerates with whom he shared his days should have all the information he needed to carry out his new enterprise. They weren’t all masters of their art—after all, they’d all been caught—but some of them were very experienced and it would be a shame to let their talents go to waste” (Updale 16). Such

sharing of criminal expertise and exposure to new types of illegal behavior were primary reasons that the Victorian supporters of the separate system cited when advocating for this system of isolation.

But the panopticism that, along with isolation, was an inveterate part of the separate system does not appear in the *prisons* of the contemporary works of historical fiction at all. The criminals in Paul Bajoria's *The Printer's Devil* (2005) invoke the threat of panopticism in the notes that they leave for one another as they all try to figure out who among them is hiding a priceless treasure. In the bosun's note to two rival thieves, he writes, "The law is watching the 3 frends [a pub] & I [drawing of an eyeball] am wachin yu" (Bajoria 67). In turn, he receives a note, informing him that "eys ar watchin you evry niht. Eys ar watchin you now" (Bajoria 116), and Mog does find a hole in the wall through which the bosun's every move is being observed. While these criminals, some of whom may have experienced elements of the Panopticon in English prisons, turn this punitive strategy to their own advantage, John most clearly internalizes the scrutiny of the law in Avi's *The Traitor's Gate*. Though he is innocent of any wrongdoing, John realizes, "Police stations had been of little consequence to me...previously. Given my new world of worries, including my talk with Inspector Copperfield, the sight [of a police station] made me uneasy. It was almost as if, even as I looked at it, *it* was looking at *me*—and with none too favorable an eye" (*Traitor's* 129; italics in original). John may now feel that he is under the constant surveillance of the law, but none of the inmates in the contemporary historical novels shares his concerns, particularly since most of them are able to escape the notice of the law, as represented by the prison guards, whenever necessary.

Though the inmates may have escaped the dire feelings invoked by panopticism, they certainly do not escape many other negative effects of incarceration, which the contemporary works of historical fiction delve into with considerable detail. Like the older texts, Lawrence's *The Convicts* and *The Castaways* and Barker's *A Difficult Boy* focus on the ill effects of prison life on the convicts' physical and mental health. When Lawrence's Tom and the other boys with whom he was transported return to England illegally following their escape from the ship that took them to Australia and are subsequently returned to the hulk, one of their company, Boggis, begins to decline in captivity, although he had endured the chains, ill treatment, and prison regime on the hulk in the past. Tom explains why Boggis is more readily defeated by his current stint in prison, saying, "Boggis had seen the wide world [during their transportation, escape, and return]. He was like Oten Acres and all the farm boys who—without their huge horizons—were always the first to waste away in the hulk" (*Castaways* 185). And Oten Acres, along with other boys from rural England and a few lads from the cities, pass away in *The Convicts*, seemingly as much from the disheartening effects of confinement as from the lack of food and physical maltreatment.

Similarly, when Barker's Daniel returns from a few days in the jail of Springfield, Massachusetts, in 1839, his "eyes were red and teary. He rubbed his face with his sleeve and shook his head. 'It's the sun. It hurts me eyes. It was so awful dark in that cell,' he said in an unsteady voice" (Barker 258). Ethan, Daniel's younger friend and fellow indentured servant, expects Daniel to be overjoyed at having been exonerated of the crime of robbing Mr. Lyman, their cruel master who routinely cheats his fellow townspeople, and at the prospect of Mr. Lyman's illegal accounting activities being

exposed. But Daniel, too broken to rejoice in his change of fortune, is initially wary of the attempts of Ethan's father and Silas Lyman to help him. As the narrator points out, Daniel "looked sad and weary and old, as though he'd been gone for years instead of days. Though the bruises Mr. Lyman had given him were beginning to fade to green,¹⁸ he seemed to have one or two new ones, and his face looked a sickly gray where it wasn't bruised. When they reached the house, he needed Silas's help to get out of the carriage" (Barker 283).

While Barker and Lawrence both describe the physical and psychological damage that imprisonment can cause, other harmful consequences of incarceration are also depicted in the works of contemporary historical fiction, consequences that are rarely addressed in the older works. One such consequence is institutionalization, in which inmates become so acclimated to the routine of prison life and their places within the prison society that they cannot adjust to life on the other side of the prison walls, at least not without a struggle. Even Updale's Montmorency, who had a fully formed, albeit illegal, plan for his post-prison life, discovers that "he was suddenly uncertain of what to do when the prison doors thundered shut behind him, and the routines of his life were taken away" (44). Montmorency overcomes his feelings of disorientation at life on the outside, but Weedle, one of Tom's adolescent prison mates who accompanies him across the Pacific Ocean twice, decides that he does not even want to try leaving the hulk again. When Tom informs him that he has successfully obtained pardons for four of the boys, including Weedle and himself, Weedle declares, "Tom, I don't want no

¹⁸ Mr. Lyman beats Daniel severely before Daniel is taken into custody, and the constable who arrests Daniel does not dispute Mr. Lyman's claim that he and Daniel fought, resulting in the bruises and blood on Daniel's body, even if the constable does not fully believe it (Barker 258).

pardon,' [...] 'I'm a proper nob [prison bully] now.¹⁹ If they send me to Australia, I'll be a holy terror there. I think I was meant to be a nob, Tom, like you was meant to be a sailor. Promise you'll stop my pardon if you can" (*Castaways* 183). Tom eventually tears up Weedle's pardon, so that Weedle can devote himself to a life of terrorizing other inmates, showing how the prison environment designed to punish Weedle for his petty crimes actually leads him to realize that the hulk is a place in which he can achieve position and power. And, if Weedle, a boy who triumphs over cannibals, shipwrecks, and snakes, feels like he cannot find a more appealing future outside of prison rather than in it, how many of the other convicts can?

Besides fighting against the institutionalizing effects of prison, many released inmates have to contend with others' prejudice and fear too. As Schwabach's Molly tries to settle into her life as an indentured servant in New York, Mrs. Grip constantly needles her, criticizing her and the Bells, the people who purchased Molly, and gossiping loudly about them at every turn. Even in the synagogue, Mrs. Grip tells an attentive group, "I can't understand why the Bells would do it—take in a common criminal from the London streets, a convict who's done who-knows-what nasty crimes, and bring her into the house to mingle with their own children" (Schwabach 93). She also gripes about the practice of transportation itself, saying, "I think it's a wicked shame that those judges keep dumping the scum of the London streets on His Majesty's law-abiding subjects in America" (Schwabach 61). Many of Molly's neighbors listen to Mrs. Grip and, consequently, keep their distance from Molly, but the Bells attempt to protect Molly from

¹⁹ According to Duckworth, "[T]he more spirited lads [on the hulks] turned their attention to bullying their colleagues. It appears that bullying was incessant and organised; directed and encouraged by a group of boys who were known as the 'Nobs'" (85).

Mrs. Grip's influence, at least inside their own home. Unlike Molly, Updale's Montmorency quickly escapes the public label of "criminal" by hiding his former identity. But, as he leaves the prison, the guards, who have singled him out for extra abuse throughout his prison term because they resent the attention that he has received as Dr. Fawcett's medical test subject, confiscate the few coins and the letter that Dr. Fawcett left for him, so determined are they to prevent him from having any advantages when he leaves prison.

Just as Montmorency's farewell package is ripped from his hands by a few cruel guards, other instances of legal officials' cruelty and corruption can be witnessed in the works of contemporary historical fiction. In Bajoria's *The Printer's Devil*, the customs officer overlooks thievery on the London docks when he is bribed to do so, and Mr. Glibstaff, an employee of the City Magistrates, uses his position in the courts to his own financial advantage. Mog, the printer's devil (or apprentice), takes care to avoid Mr. Glibstaff whenever possible since "[p]eople who didn't do as he told them—or, more usually, didn't pay him whatever money he fancied charging in return for leaving them alone—tended to find themselves summoned before the Magistrates and accused of some dreamt-up offense, for which they usually ended up paying out even more money in fines" (Bajoria 186). Captain Mattock, the captain of the ship that transports Molly to America in *The Pickpocket's Tale*, is also willing to overlook a few legal technicalities in exchange for a greater profit on his human cargo, lying to potential customers about the ship's passengers being convicts and neglecting to inform the prisoners that they can refuse two people who propose to buy their labor (Schwabach 44-45). And Tom learns that the wheels of justice can be greased by influence, as well as money, in *The*

Castaways when he blackmails Mr. Goodfellow, a corrupt yet influential man whom he holds responsible for his family's misfortunes, into getting four pardons for himself and his friends from the prime minister. Mr. Goodfellow agrees, acknowledging, "Yes, I can pull strings, Tom. Very well, you'll get your pardons" (*Castaways* 152).

Each of the works mentioned in the previous paragraph highlights the corruption of an individual employed by or connected with the legal system, but Brown's *Hoppergrass* offers the largest example of corruption within a prison. The conspiracy of silence and self-protection that shrouds Virginia's Belmont School for Boys is first revealed when one of the guards, Shorty Nub, hits Nose, an inmate, with a baseball bat and knocks him unconscious, and Mr. Ball, the warden, backs the Nub's untrue account of having first been attacked by Nose, even though Mr. Ball witnessed the entire incident himself (Brown 73-74). Shorty Nub then sets up Nose to take the fall for the death of another inmate, one who died as a result of the Nub's negligence in overseeing the boys' work crew. Nose is placed in lockdown to await transfer to Lorton, the maximum security juvenile prison. Bowser tries to convince numerous prison employees of the truth, but many of the adults refuse to listen to Bowser's version of what happened. Finally, with a little help from the school's custodian and librarian, Bowser is able to uncover Shorty Nub's whereabouts at the time of the boy's death, also exposing the fact that Shorty Nub and two other prison employees were drugging, kidnapping, raping, and photographing female inmates from the nearby Barnet School for Girls. After these atrocious crimes come to light, Mr. Ball threatens Bowser and still refuses to return Nose to the general population, all in an attempt to cover up his knowledge of Shorty Nub's illegal activities.

Clearly, the corruption runs to the very highest offices of the Belmont School for Boys, suggesting that the institution itself is crooked, but other legal officials with even more authority than Mr. Ball ultimately restore order, thereby preserving the larger integrity of the criminal justice system. Mr. Wineburg, the Commonwealth of Virginia's Attorney, acting on the advice of a local police officer, Deputy Sasser, intervenes at Belmont, sending Nose and Bowser to the Juvenile Diagnostic Center to obtain their statements and to protect them. Mr. Wineburg also grants Deputy Sasser permission to question Mr. Ball about his running of Belmont, an action that will presumably land him in prison along with the other employees who were charged in the sex ring scandal.

While the misconduct of Mr. Ball and other employees at the Belmont School for Boys shows that the exercise of the law can be grossly distorted, *A Difficult Boy* addresses the limitations, rather than the corruptions, of the law. After Ethan and Daniel uncover Mr. Lyman's falsified ledgers, which were used to cheat Daniel out of his family land, force both Daniel and Ethan into indentured servitude, and swindle countless others, Mr. Lyman's son, Silas, and Ethan's father, Mr. Root, discuss the actions that they should take against Mr. Lyman. Mr. Root wants to see Mr. Lyman publicly tried and imprisoned, but Silas disagrees, arguing,

"The law may see him locked up, perhaps impoverished as well, but it probably won't see anybody paid back, [...] If he's prosecuted, he'll fight until he exhausts his appeals. Court costs and lawyers' fees will whittle away his fortune until there's hardly anything left to repay the people he's cheated. [...] If you let me handle things myself, I can use the income from the store and the farm, sell some land, perhaps, or even the house, to return what he's taken. It will take some time, but I swear to you I'll go over every page of those books and see that every penny's repaid, with interest and damages. The law can't promise you that. Which would you prefer, Mr. Root, to see him jailed or to see restitution paid to his victims?" He spread his hands wide. "The law may not have room for both." (Barker 285-286)

At first glance, it may appear that Silas would merely like to protect his father from public disgrace and prison, but, as there is no love lost between father and son, Silas's concern about his father's victims and their best interests is genuine. Even Daniel, the person who suffered the most from Mr. Lyman's deceptions, agrees that he would rather have compensation from Mr. Lyman's bank accounts than retribution from the law.

Though Mr. Lyman escapes the formal notice of the law, the courts and prisons exact harsh retribution from many of the characters discussed in this section, particularly those who are innocent or who are convicted of petty crimes. But, like Yonge's older work, *The Trial: More Links of the Daisy Chain*, Lawrence's trilogy and Schwabach's *The Pickpocket's Tale* insist that their main characters' lives are actually improved by their prison sentences. Tom too, mistakenly believing that he killed a blind man near the river, is convinced that his wrongful conviction for murdering a different man is ultimately just (*Convicts* 64) and that the time that he spends in captivity transforms him into a better person, a person who could make his father proud. Indeed, when he is reunited with his father, the captain of the ship that transports him to Australia, he is frustrated because his father only notices the physical consequences of Tom's imprisonment, not the fact that he is "stronger on the inside because of it" (*Cannibals* 1). Later, after his return to England, Tom articulates the changes that he sees in himself more clearly, specifying, "Benevolence was exactly what I'd learned in my travels. Gone was the selfish, coddled boy, and in his place was one who truly cared for the welfare of others" (*Castaways* 202).

Transportation also teaches Molly that she “cared [cares] about other people” (Schwabach 210), something that she is not able to do in London—“[i]n Molly’s London anyway—[which was] an all-out fight for survival in which you couldn’t be bothered to think about other people” (Schwabach 210). Unlike Tom, Molly initially resents her time in prison and her sentence of transportation, but she slowly acclimates to her new life as the Bells’ indentured servant in New York, eventually becoming ashamed of having been a thief and having spent time in prison. She realizes that “[o]f course David [Bell] and everybody else knew she’d been in Newgate, but she didn’t feel like talking about it when they were all looking at her” (Schwabach 152). Instead of looking for opportunities to steal or to stow away to London, she begins to welcome the stability of her new life away from the slums, the crime, and the poverty until “[i]t occurred [occurs] to Molly that she was [is] actually freer than she had been before she belonged to the Bells” (Schwabach 212). Such a statement implies that her punishment—transportation across the ocean for petty theft—is not only fair but actually magnanimous, but, though transportation works out well for the fictional Molly, not all real transported convicts were so fortunate.

Indeed, most of the fictional convicts in the works of contemporary historical fiction are not so fortunate. These historical novels provide much more nuanced accounts of the prisoners’ sufferings, as well as more instances of corruption, than do the older historical works from the Baldwin Library. Yet, while the novels discussed in this section make fewer direct statements absolving the legal system of guilt than the Baldwin books do, all of the historical novels tend to place the blame on corrupt individuals within the system rather than upon defects in the system itself. Even in Brown’s *Hoppergrass*, the

only novel that explores a widespread case of prison corruption, other officials more highly placed within the legal system restore the integrity of the institution. Likewise, the false arrest of Daniel in *A Difficult Boy* and the wrongful conviction of Tom in *The Convicts* can be attributed to strong circumstantial evidence rather than to faulty judicial proceedings. Daniel did break into Mr. Lyman's desk to search for evidence of Mr. Lyman's fraud, and the murder that Tom was convicted of was actually perpetrated by his identical twin brother, of whose very existence Tom was unaware. Though the contemporary historical novels join their older counterparts in their general refusal to implicate the legal system as a whole in any wrongdoing, these modern novels differ from several of the older ones, most notably Yonge's *The Trial*, by not advocating for any specific prison reform at all. Instead, the contemporary works of historical fiction focus chiefly on the seeming injustices and brutalities of a bygone era, but their use of a distant time and/or place allows their stories to be viewed as either progressive or conservative, depending on how the genre of historical fiction is understood.

Reaching Back to Go Beyond: Can Historical Fiction Promote Contemporary Prison Reform?

As previously noted, Victorian England is a popular setting for children's books about prisons, both for older and especially for more contemporary works of historical fiction, because its prison system was more evolved and more uniform than the American penal system of this era, leading to more active public debates about prison conditions and reforms and to more scholarly and historical writings. Additionally, many of the contemporary children's historical novels discussed in this chapter appear to have been greatly influenced by the works of Charles Dickens, the great author of Victorian England who often explored issues of legal justice in his writing. Avi's *The Traitor's Gate*

is an acknowledged homage to Dickens, with Avi's story occurring in 1849, the same year in which Dickens's *David Copperfield* appeared in serialized installments. Not only are many of Avi's characters reading the serials throughout the novel, but several of the characters' names are drawn from Dickens's works, like Inspector Copperfield and Mr. Magwitch, or from Dickens himself, whose two middle names, John Huffam, become the name of Avi's protagonist. The other contemporary authors who set their stories in Victorian England do not tie their works so tightly to Dickens, but they nevertheless preserve a Dickensian influence in their use of eccentric characters, remarkable coincidences that unite characters and plots, and motifs of a helpless child pitted against a cold and indifferent world, not to mention prison settings.²⁰ The shadow of one of Dickens's most well known characters, Fagin, the den leader of a pack of child thieves in *Oliver Twist* (1838),²¹ also stretches across Lawrence's *The Convicts* and Schwabach's *The Pickpocket's Tale*, where, respectively, the Darkey and Mink oversee gangs of child thieves and pickpockets.

Important as are Dickens's literary influence and access to more historical sources, the choice of so many contemporary writers of historical fiction to locate the legal action of their stories in Victorian England can probably be attributed to the greater distance of this setting from today's readers, particularly American readers. Of course, the use of distance when introducing sensitive subjects to young readers is hardly new,

²⁰ Nowadays, we are accustomed to prisons being depicted in books, films, television shows, music, and video games, but, as Duckworth points out, Dickens's visits to prisons "gave him a rare insight into the conditions and affairs of the criminal classes, of which the middle-class reading public of the time would have had very little knowledge. The only people who would have known about crime and punishment were those who were involved in it—the legal classes and the lower classes" (58-59). Dickens's novels helped pave the way for the multitudes of media portrayals of the legal system that we have today.

²¹ Interestingly, "[t]he character of Fagin, in *Oliver Twist*, was probably based on the famous Jewish fence, Isaac (Ikey) Solomon, whose methods of employing and training boy pickpockets were the standard practice and remained so for several decades" (Duckworth 25).

nor is the practice confined to the genre of historical fiction. Indeed, *The Prisoner and the Peach*, *Rosa, or the Two Castles*, and *The Eye of God Every-where*, stories from the Baldwin Library that can now be read as historical fiction but were once contemporary tales, are respectively set in Italy, an imaginary kingdom, and an unspecified location. And other older works, though written by American authors and/or produced by American publishers, are set in England, as are most of the contemporary works discussed. Yet despite the recurrent use of the distancing effect across time and genres, its presence in works where sensitive and potentially volatile topics, like prisons, class, and race, are included can lead readers, especially young readers, to consider these issues, however interesting, as part of a remote past that has little relevance to today's world, and many readers revel in this seeming disconnection from modern life. As Margaret Atwood observes, "Some may say that the past is safer....With the past, at least we know what happened...The Titanic may be sinking, but we're not on it. Watching it subside, we are diverted for a short time from the leaking lifeboat we are actually in right now" (qtd in Brown and St. Clair 52). Because of their very distance from the readers' own time and/or place, works of historical fiction can seem much "safer," even escapist. But this removal also allows the writers to tackle issues that are too controversial to address easily in contemporary settings, particularly when confronted with a child or adolescent audience and, worse, the adults who monitor children's reading materials.

Despite or perhaps because of their focus on the past, historical novels can disclose important information about contemporary times as well. Brown and St. Clair point out that, "as much as readers might learn about the past from historical fiction, the

genre also tells us much about the period in which the fiction was written, revealing writers' concerns about and attitudes towards the cultural tensions of their own times" (14).²² This idea of this two-pronged revelation may offer another reason for why so many contemporary historical novels about prisons are set in Victorian England, a time, not unlike our own, in which the prison population has grown exponentially and concerns about prison conditions, corruption, and criminal justice reform have become widespread and often divisive. Addressing these issues in a remote setting draws far less ire, permitting readers to approach the issues with more emotional, as well as historical, distance, even as the authors may hope that learning about prison conditions and reforms in the past may motivate their readers to take an interest in these topics both in the present and in the future.

In addition to suggesting similarities between the challenges facing the criminal justice system in Victorian England and contemporary America, the setting of Victorian England also allows for a greater focus on the ways in which socioeconomic class influences the criminal justice system and the resultant treatment that different individuals may receive within it. In American works about the legal system, both those set in the past and in the present, the issue of class is often secondary to the issue of race (or gender). Indeed, issues of class, though often present, are rarely discussed in

²² The notion that historical fiction can tell readers as much, if not more, about the era in which it was written rather than the period in which it was set has become a sensitive issue in the study of children's historical fiction. In her well-known essay, "Writing Backward: Modern Models in Historical Fiction," Anne Scott MacLeod criticizes the current tendency of many historical children's novels to endorse contemporary values, particularly about gender roles, rather than the values that would be more in keeping with the novels' time periods. She states, "[M]any narratives play to modern sensibilities. Their protagonists experience their own societies as though they were time-travelers, noting racism, sexism, religious bigotry, and outmoded beliefs as outsiders, not as people of and in their own cultures" (MacLeod np). While MacLeod finds these insertions of modern attitudes in historical works both offensive and untruthful, Brown and St. Clair appear to accept that historical fiction writers "inevitably insert into their narratives contemporary concerns that may resonate widely for their readers but were mostly ignored during the era of the narrative" (121).

children's and young adult literature as a whole or in scholarly criticism of the field. As Ian Wojcik-Andrews remarks, "The absence of class analysis [in children's literature] has nothing to do with class being a settled issue. Quite the contrary. Perhaps it is *too* unsettling" (120; italics in original). In contemporary historical novels set in Victorian England, however, class distinctions are more readily and obviously drawn, both because of the remote setting itself and because of the perceived minimum of racial diversity in this setting. England, as Valerie Krips points out, has "a culture peculiarly formed by ideas of class, modern and ancient. The English, unlike many of their European cousins, have retained their monarchy and, along with it, a substantial hierarchical class system supported by institutional frameworks" (196). On the other hand, "[o]ne of the United States' most cherished myths is that we live in a classless society" (Brown and St. Clair 105), so class issues are presented more strongly in the historical novels that occur in England rather than America.

As a whole, the older historical novels contain more explicit references to class than do their contemporary counterparts. *Hester Power's Girlhood*, which takes place in England, is by far the most classist work with multiple warnings given to both Hester and Isabella about "keep[ing] in their proper places" (Sheppard 17) and with an implication that Hester, the daughter of laborers, would never have fallen afoul of the law if she had not "erred" (Sheppard 55) in making a wealthy and nobly born friend. But other older works, even those set in America, contain elements of class bias too, including Twain's *The Adventures of Tom Sawyer*, Guernsey's *The Silver Cup*, and Evison's *Rainbow Gold*. (*The Adventures of Tom Sawyer* and *The Silver Cup* are also the only two older books discussed that include non-white characters, and their

portrayals of Injun Joe, Bunny, and Will, all Native Americans, contain racial stereotypes—at least by current standards).

In the contemporary works of historical fiction, class remains a much more central issue in the novels set in England, although classism lurks in the two novels that take place entirely in America too. But a greater emphasis is placed on racial and ethnic differences in these two works. Because America is hardly as free from class strictures as it frequently purports to be, authors and audiences alike may find it easier to consider class distinctions in historical works set in England, particularly when the books are about institutions, like prisons, that have politically and socially sensitive connections to class, as well as to race and gender.²³

Class differences in the contemporary novels set in Victorian England are announced in the usual ways—titles, speech patterns and dialects, education, specific knowledge bases, deportment, material possessions, property, and servants—but money is the most important indicator of class within prisons. Indeed, because there “tended to be one law for the rich and another for the poor” (Duckworth 42), readers do not meet any wealthy English convicts. Moreover, Avi’s Mr. Huffam and Updale’s Montmorency are the only prisoners who are concerned with maintaining or attaining a certain class status (one that is backed by considerable financial resources but that also encompasses the mannerisms and cultural background of a gentleman). Most of the other convicts commit crimes solely in order to survive, and all of the inmates, including Mr. Huffam and Montmorency, are destitute at the time of their incarceration.

²³ Gender frequently plays a role in the criminal justice system and especially in people’s images of criminals, but it does not strike me as a significant factor in the works of historical fiction about prisons since both male and female criminals and prisoners are featured in these stories. Gender representation among inmates are discussed in more detail in Chapters Two and Four.

Nevertheless, several of the prisoners are charged for the privilege of being incarcerated or are offered extra privileges for a fee. As the bailiff explains before Mr. Huffam enters debtors' prison, "The costs encumbered by Mr. Huffam in prison shall be four shillings a week. That is, of course, on the paupers' side. Mr. Huffam has the option of paying for a great variety of genteel comforts—lodging, food, et cetera, et cetera, as set forth by the warden" (*Traitor's* 190). Though Mr. Huffam is unconcerned about these additional expenses and is anxious to establish himself as "genteel," his son, John, is greatly troubled about accumulating more debts. Approximately a century before the Victorian era, Schwabach's Molly also worries about the expenses that she may incur in Newgate Prison, where she awaits first her trial and then transportation. Molly passes out at her sentencing and awakes inside the prison, where she realizes, "[s]omeone must have carried her here. A prisoner or a bailiff? Would she have to pay them for it? You had to pay for everything in Newgate: your food, your cell, everything. Even your chains—if you could pay to have your chains removed, the turnkeys took them off. Otherwise they left them on" (Schwabach 8). Prisoners aboard Molly's convict ship have the option of buying additional rations and better accommodations as well.

In far less direct ways, class plays a role in Barker's *A Difficult Boy* and Brown's *Hoppergrass*, the two contemporary works of historical fiction set in America, but concerns about racial and ethnic prejudices overshadow class concerns in these stories.²⁴ Barker's Ethan and Daniel are both poor indentured servants, but Daniel is Irish, so, while Ethan receives gentler treatment and is permitted to play with the other

²⁴ Racial concerns are also central to the most well known series of historical fiction about the legal system, Mildred D. Taylor's Logan Family saga. Even though multiple characters in this series are arrested (and one is tried and executed), Taylor never takes readers farther into a prison than the sheriff's office, so I did not include her works in this chapter, though some of the books are discussed in Chapters Five and Six.

boys in town, Daniel only receives many anti-Irish slurs, jokes, and insults. Because of the general sentiment against his ethnic heritage, the townspeople are quick to assume that Daniel is guilty when Mr. Lyman has him arrested, and they are so slow to recognize his innocence when he is released that he decides to move west rather than continue to live under the stigma of guilt. The racial lines are drawn even more clearly in *Hoppergrass*, where the boys, by their own choosing, sit, work, and recreate only with members of their own race, though class differences are still mentioned. For example, Bowser readily admits, "Since I came from a good home, they [the authorities] thought I had to be nuts to have done what I did [participated in the robbery of a drug store in which his accomplice was shot]. I went along with that because I didn't want to get stuck in Belmont. Plus, I thought maybe I was nuts" (Brown 31). In contrast to Bowser, "[m]ost of the boys there came from poor families. Many of them had been abandoned by their families or even mistreated" (Brown 34). Bowser's higher class status changes how the prison officials perceive him, but the book's tensions rest on clashes of race, not class, as Shorty Nub pits the African Americans and the European Americans against one another after his negligence causes a boy's death. Shorty Nub blames Nose, an African American, for the accident, and the white boys, with the exception of Bowser, back up the Nub's version of events. Race relations in the juvenile facility deteriorate, moving from self-enforced segregation to intimidation and physical fights. Unfortunately, while Nose and Bowser become the best of friends, the racial animosity among the rest of the boys is never resolved.

This American tendency to focus on issues of race and ethnicity rather than class will be discussed further in the next chapter, which examines American juvenile

delinquents in contemporary, realistic novels. Yet the trend to set historical novels about prisons in England, especially Victorian England, as a way to delve into issues of class (and perhaps avoid having to confront issues of race) provides readers with new insights into a factor that can influence incarceration in modern America, as well as in historic England, even as the distancing effect allows readers to approach the topic at their own pace. Certainly, all of these historical works, whether they are set in England, America, or elsewhere, permit readers to see different aspects of prison life, and the individual books vary in the tones and images that they convey about prisons and the people who live within them. Regardless of their differences, each historical novel opens a window through which readers can squarely see accounts of the past and, hopefully, glimpse the past's connections to the present and the future.

CHAPTER 4 LOSSES AND GAINS: POWER DYNAMICS AMONG FICTIONAL JUVENILE OFFENDERS AND THE JUVENILE JUSTICE SYSTEM

Because of its changing legal definitions and social connotations, juvenile delinquency can be difficult to define, though, as with pornography, art, and truth, many people claim that they know it when they see it. Indeed, many characters in children's and especially young adult literature can be unofficially labeled as juvenile delinquents, either for their transgressions or their attitudes, but the characters discussed in this chapter all formally appear within the juvenile justice system as suspects, criminals, or convicts. Moreover, once these characters enter the system, most of them find it extremely difficult to extricate themselves.

While there are still relatively few books about contemporary juvenile delinquents who are actually involved in the legal system, there is no shortage of real-life teenagers who run afoul of the police. According to the Office of Juvenile Justice and Delinquency Prevention, "In 2008, law enforcement agencies in the United States made an estimated 2.11 million arrests of persons younger than age 18" (Puzzanchera 1). Yet, "[n]ationally, fewer than 93,000 juvenile offenders were held in residential placement facilities on February 22, 2006" (OJJDP np). Despite the two year difference in which these statistics were gathered, it is still remarkable—and fortunate—how few arrested juveniles end up behind bars, particularly when seven of the eleven main characters featured in the novels about youthful offenders are serving time in some sort of juvenile residential placement facility.

Of course, incarcerated juveniles are not a new phenomenon, not even in children's literature. Clara F. Guernsey's *The Silver Cup* (1865) and Mrs. Edwin Sheppard's *Hester Power's Girlhood* (1867) introduce three young characters who are

behind bars in adult prisons, even though Hester, the oldest of these three characters, is only sixteen or seventeen years old. (All of these characters are also innocent of the crimes for which they have been arrested.) Similarly, Walter Dean Myers' *Monster* (2001), one of the better known recent works for teenagers about the legal system, sets the story of sixteen year old Steve Harmon in an adult prison,¹ and Arjay Moran, one of the three main characters in Gordan Korman's *The Juvie Three* (2008), spends time in a medium-security adult prison before he is transferred into Douglas Healy's halfway house with two other juvenile offenders.

Despite the fact that real-life juvenile prisoners are increasingly tried and housed within the adult criminal justice system, the novels that are explored in this chapter concentrate on youths who are within the confines of the juvenile justice system. Laurie Halse Anderson's *Twisted* (2007) and Alex Sanchez's *Bait* (2009) feature characters who are both on probation (though Sanchez's Diego also spends a few days in a juvenile correctional facility), and Korman's *The Juvie Three* showcases the effort needed to start a new halfway house within the juvenile justice system. Meanwhile, Louis Sachar's *Holes* (2001), Carol Plum-Ucci's *The Body of Christopher Creed* (2001), E.L. Konigsburg's *Silent to the Bone* (2002), Walter Dean Myers' *Lockdown* (2010), and Paul Volponi's *Rikers High* (2010) all have characters in juvenile detention facilities, and Louis Sachar's *Small Steps* (2006) continues the story of a teenage boy who has been released from such an institution.

Intimidating as these juvenile institutions are shown to be, and all of these books make a special effort to highlight the despair, violence, and isolation that their

¹ Myers' *Monster*, particularly its performative aspects, is discussed in Chapter Five.

characters experience while locked up, each of the books in which a character is in juvie also makes it clear that far greater horrors can be found in other, stricter juvenile detention centers or in adult prisons. Plum-Ucci's Bo Richardson, a longtime, petty juvenile offender, is threatened with adult prison when he refuses to confess to placing a harassing phone call. Chief Bowen informs Bo, "Look, forget Egg Harbor, forget the juvenile delinquent slumber party up there. You want to go to *Jamesburg* [the adult prison], Richardson? You got one foot in real jail, mister. You have pushed us and pushed us for years" (Plum-Ucci 128; italics in original).

Other characters, like Myers' Reese, Volponi's Martin, Sachar's Stanley and Theodore, and Korman's Gecko, Arjay, and Terence, are in special programs within the juvenile justice system that supposedly provide them with greater opportunities for rehabilitation and keep them from encountering hardened and dangerous inmates, although some of the prisoners that they do meet are menacing enough. For example, Volponi's Martin is transferred to Sprung #3, a high school program for teenagers inside Rikers Island, a New York jail that houses both adults and adolescents,² and Myers' Reese participates in a work-release program in which he spends ten days a month cleaning and assisting residents at a nursing home. Sachar's labor-intensive Camp Green Lake Juvenile Correctional Facility is considered an alternative to jail, at least by the judge who sentences Stanley (*Holes* 5), and the halfway house that Korman's Healy sets up for three boys is an experimental, highly structured program. As Healy explains to Gecko, "Here's how it works: you live with me and two other boys in an apartment.

² As Martin says, "Rikers is a jail, not a prison. Most everybody here is waiting for an outcome to their case. Anybody getting sentenced to more than a year goes upstate to do his time. And there are no adolescents up there, no kiddy playtime. It's all man-on-man" (Volponi 72).

You go to school; you go into counseling; you do community service. To be blunt, you work your butt off and keep your nose clean” (Korman 11-12). However unbearable all of these boys consider their current homes in the juvenile justice system, they also know that there are far worse places where they may find themselves if they do not manage to follow the rules of their present facilities or special programs.

In fact, the always bleak, sometimes brutal depictions of daily life even within these special programs, not to mention the threats of harsher, more violent prison environments, form an important component of the window that these books offer to young readers. While most multicultural windows are designed to educate and to promote empathy for the books’ characters and the real-life people these characters represent, the view that these novels offer readers into the world of the juvenile justice system is one laced with warnings and forebodings. Certainly, the books educate their readers about the American juvenile justice system, and they do promote some feelings of empathy for their main characters, all of whom are portrayed, at worst, as decent people who have made a few very bad choices. But, unlike the historical novels about criminal justice systems, the tones of the contemporary novels frequently favor fear over empathy as they attempt to instill in their readers a deep desire to avoid entering the juvenile justice system themselves.³

Because of their frightening tones and mature subject matter, as well as the centrality of the prison experience in these contemporary novels—a centrality that is not softened by a child character mediating between the incarcerated individual and the

³ It is possible that these books are read by real-life juvenile delinquents who are searching for characters like themselves to identify with, but the tones of the books indicate that they are intended to educate and entertain a general audience of young readers (“windows”), not provide consolation or identification with readers in the same situations as the main characters (“mirrors”). Therefore, under the multicultural rubric of “mirrors,” “windows,” and “doors,” I classified these books as “windows” rather than “mirrors.”

reader, by historical or fantastical distancing, or by performative elements—most of these books are considered to be young adult novels, aimed at an adolescent audience. And, as Roberta Seelinger Trites maintains in *Disturbing the Universe: Power and Repression in Adolescent Literature* (2000), “The chief characteristic that distinguishes adolescent literature from children’s literature is the issue of how social power is deployed during the course of the narrative” (2).⁴ Obviously, issues of social power are extremely important to characters living within the confines of the juvenile justice system—an institution that is all about the enforcement of social power, often through the restriction of personal power—and power is a recurring theme in all of these contemporary young adult novels.

The first three sections of this chapter explore the power dynamics between the young protagonists in the juvenile justice system and their families and communities, authority figures, and other juvenile offenders. Though these characters are always at the mercy of the system (and society as a whole), most of the power struggles within the system are portrayed at the level of the individual. In particular, the individual justice system employee’s use of power within the system, for good or for ill, is most closely examined in these works, even as power hierarchies within the system are also used to maintain order, both by the guards and by the prisoners. Lastly, the final section considers the power of representation, questioning the images of gender, race, class, youthful offenders, and the juvenile justice system itself that are portrayed in these

⁴ The terms young adult (YA) literature and adolescent literature are frequently used interchangeably. Also, as I mention in the introduction, I consider young adult literature to be a field under the umbrella of children’s literature, so, when I refer to children’s literature in other chapters, I am including young adult literature within this larger field, though Trites, for the purposes of her argument, distinguishes between young adult literature for teenagers and children’s literature for younger readers. In this chapter, I will refer to young adult literature more specifically too.

works and that can consequently affect how readers perceive the real-life juvenile justice system and the adolescents within it.

Before Encountering the System: Individual Losses and Surrenders of Power

In elaborating on the distinction between children's literature and young adult literature, Trites argues, "Children's literature often affirms the child's sense of Self and her or his personal power. But in the adolescent novel, protagonists must learn about the social forces that made them what they are. They learn to negotiate the levels of power that exist in the myriad social institutions within which they must function" (3). Long before they encounter the juvenile justice system then, the characters in these novels are shaped by numerous institutions, including their families, their schools, and their communities. Moreover, as several of these books suggest, these social institutions can contribute to the characters' participation in the activities that lead to the involvement of yet another institution—the juvenile justice system—in their lives, particularly when these social institutions strip the characters of their sense of individual power. Other characters also deprive themselves of a sense of empowerment through their beliefs in fate, destiny, or the inevitability of their incarceration. Yet, while some of these books allow their characters' loss of personal power to be a mitigating factor in their subsequent involvement with the legal system, other books emphasize the personal choice that their characters have in deciding to commit a criminal act, suggesting that they surrendered their right to any remaining personal power when they became part of the system.

Not surprisingly, families are the first institution that children must learn to negotiate, and, as several of these novels demonstrate, familial environments in which parents override the child's exercise of power through abuse can lead to criminal

behavior in their children, who are seeking a way to regain the personal power that the parent has taken from them. For example, in *The Juvie Three*, Terence desperately wants to join a gang because his father, “while shouting, smacking, and cursing the dreams out of Terence” (Korman 18), has also deprived Terence of a sense of belonging, a feeling that he thinks he can recoup in a gang. Myers’ Reese also endures a physically abusive father, and Anderson’s Tyler has a verbally abusive father, although neither Myers nor Anderson directly ties the abuse at home with their characters’ crimes.

In Sanchez’s *Bait*, however, the sexual abuse of Diego by his stepfather, Mac, is closely connected with Diego’s two assault charges. Unwilling to admit to anyone that his stepfather molested and raped him as a small boy, Diego, now sixteen years old, cuts himself, punches the wall, suffers flashbacks, and has nightmares about sharks. (Not only is he ashamed and angry about what happened to him as a child, he also holds himself responsible for Mac’s suicide since Mac killed himself the day after Diego threatened him with a gun, lest Mac begin to abuse Diego’s younger stepbrother, Eddie, as well.) Fearful that he brought his sexual abuse upon himself by being gay or that being raped by a man will make him gay (which he mistakenly conflates with being a pedophile),⁵ Diego cannot stand to be around gay men or even to be touched by men. His first assault conviction occurs because Fabio, a gay classmate, smiles at him, and his second assault conviction results from Guerrero’s calling him a “faggot.” These physical responses to perceived threats on his heterosexual masculinity are triggered

⁵ Alex Sanchez, a popular author of LGBTQ books for teens and tweens, does not allow Diego’s misperception of gay men as pedophiles to stand. He is very careful to draw distinctions between being gay and being a pedophile, as well as between being gay and being the victim of same-sex abuse.

by his need to reassert the power that Mac's molestation took away from him, although, clearly, there are better techniques for addressing his feelings of helplessness, techniques that Mr. Vidas, his gay probation officer and a fellow sexual abuse survivor, shares with him.

Like Diego, thirteen-year-old Branwell in Konigsburg's *Silent to the Bone* is sexually abused within his home, but, in his case, the perpetrator is twenty-year-old Vivian Shawcurt, the British au pair whom his father and stepmother hired to take care of his new baby stepsister, Nikki. Konigsburg's novel is the only contemporary work discussed in this chapter that is not told from the point(s) of view of the character(s) who is (are) in trouble with the legal system. Instead, *Silent to the Bone* is narrated by Connor, Branwell's best friend, who visits him every day in the Clarion County Juvenile Behavioral Center. There, Branwell is awaiting possible charges of aggravated assault, manslaughter, or second degree murder of his baby stepsister, depending on her recovery from the injuries that she suffered after being shaken. Branwell has not spoken since he dialed 9-1-1 the afternoon of Nikki's attack, and, after a month in detention, Connor is "the first to hear him speak. He spoke to me because even before I knew the details, I believed in him. I knew that Branwell did not hurt that baby" (Konigsburg 9). Connor is correct; Vivian is the guilty party. But Connor's older stepsister, Margaret, is also correct when she says that "Branwell was struck dumb because he has a terrible secret of which he dare not speak" (Konigsburg 138). Branwell's secret is that Vivian purposely allowed him to see her in the bathroom several times, even asking him to wash her back, and causing him to have his first erection. Vivian notices the erection, which she intentionally elicited, and blackmails Branwell with this information, getting

him to take care of Nikki and not to tell his father or his stepmother about her having sex with her boyfriend while she is supposed to be working. Though Branwell is innocent of deliberately injuring Nikki, he knows that he is complicit in the circumstances that allowed her to be hurt, and, overwhelmed with guilt, shame, and the power that Vivian has over him, he loses his ability to speak. As Margaret explains to Connor, “He [Branwell] could not accept the way he felt about Vivian, and she knew it, and she used it” (Konigsburg 254). And neither of Branwell’s parents noticed until Nikki was assaulted.⁶

Influential as the home environment is in contributing to at least two of the characters’ involvement in the juvenile justice system, particularly when their sense of personal power is taken from them through abuse, Anderson’s *Twisted* also suggests that the school community plays a part in motivating Tyler’s property crime. Bullied at school, as well as at home, for as long as he can remember, Tyler is sick of being a nobody whose lunch money is stolen and whose face is shoved into a toilet. In a desire to assert himself and earn some social capital, Tyler spray paints the high school “with words that proclaimed the superiority of the junior class and a couple crude remarks about the manhood of Principal Hughes” (*Twisted* 10).⁷ His bid for attention succeeds, at least for a time with a certain population of the high school, but it holds the attention

⁶ Branwell’s father and stepmother do not notice the change in Branwell because they are both overly preoccupied with their work, their new marriage, and their new baby. In Sanchez’s *Bait*, Diego’s mother chooses not to acknowledge her suspicions about her son’s abuse at the hands of her husband because she does not want to lose him and the comfortable life in America that he is offering her and Diego, native Mexicans.

⁷ Clearly, Tyler’s behavior is not uncommon. It is noted in *Juvenile Justice: A Guide to Theory, Policy, and Practice*, 6th edition (2008) that “[p]eer recognition for male middle-class youth may be a reason for senseless acts of destruction of property” (Cox 57).

of the law much longer, resulting in far worse losses of power and privilege than Tyler ever imagined.

Tyler's act of vandalism has very specific motivations, but other characters commit crimes simply because they live in neighborhoods and families in which they are surrounded by so many temptations to break the law that the commission of crimes and the possibly resultant prison sentences appear almost inevitable. These characters are so resigned to the loss of personal power to poverty, their neighborhoods, and their criminal relatives that they are fatalistic about their own involvement in the juvenile justice system. Volponi's Martin and Myers' Reese both have fathers who have done time. Reese's older brother has also been in prison, as have the older brothers of Sachar's Theodore and Korman's Gecko. Gecko's brother even begins grooming him at the age of nine to become a getaway driver. On the streets on his way to school, Sachar's Theodore is offered a chance to sell drugs. And Myers' Reese cannot wait to get out of juvenile detention, but he is afraid that he will immediately return to prison after his release. He explains his fears, saying, "I knew the streets were waiting to mess with me. All my homies hanging out and dealing whatever they had were waiting, all the suckers leaning against the rail on the corner and looking to see who was weak were waiting, and all the gangbangers with nothing to do but cook up some mad were waiting. Yeah, home" (*Lockdown* 82-83). Given their home lives and their neighborhoods, many people would not be surprised by these boys' involvement with the juvenile justice system, and the boys themselves seem uncertain if, having gotten caught up in the legal system once, they can overcome their environmental influences and avoid more illegal activities in the future.

Like these characters who believe that the ability to avoid illegal activities and further involvement in the juvenile justice system may be out of their own control, Sachar's Stanley and Sanchez's Diego also relinquish some sense of personal power through their beliefs in fate and destiny. As Pat Pinsent notes, "Even though *Holes* could be regarded as falling entirely within the mode of realism, in that none of its events actually transcends possibility, it seems to me that it is more illuminating to describe the book as a fairy tale, partly because it possesses so many elements of the genre, but also since, like many fairy tales, it conveys a sense that Fate and Fortune are at work in ensuring the happy ending" (207).⁸ But before the happy ending can occur, Stanley is sent to Camp Green Lake for stealing the sneakers that baseball legend Clyde Livingston had donated to an auction to raise money for a homeless shelter, a crime that he did not commit. In searching for an explanation for this miscarriage of justice, Stanley decides, "It wasn't destiny [...] It was his no-good-dirty-rotten-pig-stealing-great-great-grandfather" (*Holes* 25). By blaming his misfortunes on his family's curse, one that his ancestor began when he left for America without fulfilling his promise to carry Madame Zeroni over the mountain and sing a specific song to her, Stanley becomes less responsible for the events, both good and bad, in his life. Similarly, after he is arrested for the second time, Diego thinks, "Maybe this was his destiny: to be locked up in a real jail cell, where at least he couldn't hurt anyone, not even himself" (Sanchez 114). With this perspective, he is able to avoid shouldering all of the blame for

⁸ Regarding the genre classification of *Holes*, Annette Wannamaker also observes, "The novel does not easily fit into any one genre: while it is often classified as contemporary realism, it could also fit into the categories of fantasy or magical realism" (16). For the purposes of this project, I am more interested in the story's realistic aspects.

his quick temper and fists or even assigning blame to Mac, whose abusive actions he prefers to ignore.

A number of the books offer mitigating factors to explain, at least partially, their protagonists' run-ins with the juvenile justice system, whether it is destiny, family curses, crime-ridden neighborhoods, incarcerated relatives, bullying, or abuse. Yet the system places the responsibility for these characters' actions (or alleged actions in the cases of Sacher's Stanley and Konigsburg's Branwell) on the characters themselves. In Myers' *Lockdown*, Mr. Cintron, a prison administrator, tells Reese, a fourteen-year-old serving time for stealing a doctor's prescription pads and selling them to a drug dealer, "You're in here with boys who can steal, who can shoot each other, who can kill. That's the kind of life you chose, and that's the life you got. And you're one of them" (47). Though this attitude does not allow for much differentiation among individual juvenile offenders and the reasons and motivations behind their offenses, it does remind the characters—and the readers—that committing a crime is usually a choice. It may also give thoughtful readers an opportunity to consider questions of personal responsibility, especially in relation to environmental and familial considerations and pressures. But, whether the books place more blame on the individual juvenile offenders, on unfortunate circumstances, or even on fate for landing their characters in the legal system, none of the novels holds the juvenile justice system itself responsible for any of its seeming failures, like wrongful incarcerations, inmates who are injured in its custody, or the inability of the system to rehabilitate many juvenile offenders.

Accepting Your Place: Power Structures within the System

Though the juvenile justice system itself is never portrayed as failing or as an institution in need of change, specific individuals within the system are shown as

corrupted by the power that they hold, especially when they abuse it—or when they abuse the juvenile offenders. Likewise, just as any abuses within the system are attributed to individuals, any successes, like the rehabilitation of a juvenile delinquent, can be traced back to a particular individual within the system. Despite this focus on individual employees, both good and bad, in the juvenile justice system, definite power hierarchies within the system are also revealed in the books that take place in juvenile detention facilities, and the inmates mimic and adapt the power structures that they observe among the prison officials for their own purposes. Furthermore, the inmates also bully and tear each other down, just as the corrections officers often intimidate and harass them, all in an effort to increase or retain their own sense of personal power—or at least the illusion of it—within the institution.

While the inmates vie with each other for status within their own hierarchies of power, the prison officials are determined to make sure that the inmates realize and accept their comparatively powerless positions as convicted felons, both within the juvenile correctional institutions and within the larger society.⁹ In Sachar's *Holes*, the Warden forces the boys to dig holes every day for what she hopes will be her own monetary gain, and officers, like Mr. Sir and Mr. Pendanski, belittle the boys, especially

⁹ Though this section addresses the abuses and corruptions of power by prison officials in juvenile institutions, the police also abuse their positions of authority in Plum-Ucci's *The Body of Christopher Creed* and Sachar's *Small Steps*. In Plum-Ucci's novel, Chief Bowen implies that Torey and his friend, Ali, should implicate Bo in placing a harassing phone call, even if one of them committed the crime, because he would rather arrest Bo than his children's friends. Also, when Bo tells Chief Bowen that his children know about his affair with Ali's mother, Chief Bowen hits Bo six times, giving him two black eyes. After this assault, Chief Bowen resigns, but Mrs. Adams tells Torey that the other two officers present "would have kept the dirty little secret" (Plum-Ucci 257). In Sachar's *Small Steps*, when Theodore unknowingly uses two counterfeit tickets at a rock concert, the police use excessive force in evicting him from his seat, especially after Ginny, his friend, begins having a seizure that the police think Theodore induced through drugs. Theodore is lying on the ground in handcuffs being beaten with a night stick when the mayor intervenes and demands that Theodore be released, altering the power dynamics at play with her threat to demote any officer who does not let Theodore go. She also questions whether the police's actions were racially motivated.

Zero, the smallest inmate whom Mr. Pendanski in particular deems to be worthless. Even worse, in Volponi's *Rikers High* and Myers' *Lockdown*, the corrections officers humiliate and demean the inmates both through verbal insults and physical assaults. The boys are routinely told that they are nothing, and they are slapped, hit, and manhandled on a regular basis. Upon entering the special school program at Rikers after he is sliced across the face with a razor by another inmate, leaving a cut that requires fifty-three stitches, Volponi's Martin is immediately made aware of his new house's power dynamics when Officer Johnson pulls him over for a chat before they even enter the house.¹⁰ Martin describes the little area outside of the jail's doors, saying, "We were in *his* private jail now, a ten-foot space where he made all the rules and kept them with his fists" (Volponi 30; italics in original). All of the guards in Volponi and Myers' novels enforce the rules with their fists. The only time that a corrections officer backs down or apologizes for a use of excessive force is when a female guard sprays an inmate with a fire extinguisher in *Rikers High*. She subsequently admits that she was wrong and brings him Chinese food for lunch, lest he report her and place her job in jeopardy.

Apart from this one incident, the corrections officers seem confident in their unchallenged ability to maintain power and control over the inmates. As Volponi's Martin, a seventeen year old who is waiting to plead guilty for steering (directing an undercover police officer to a marijuana dealer in his neighborhood), observes,

¹⁰ In the "Author's Note" in the front matter of *Rikers High*, Volponi reports, "The overwhelming majority of incidents that occur in this book really happened. I witnessed them firsthand during the six years I worked as a teacher on Rikers Island. The fiction here is the creation of a protagonist who represents the actual experiences of several student-inmates" (np).

But the COs [corrections officers] inside aren't scared, because they stick up for each other. That uniform connects them like one big gang. Only they're more dangerous than any gang I know, because they have badges and the courts to back them up.

Inmates have COs outnumbered, maybe thirty to one. But they're all apart, fighting over every little thing, and the COs are too much together. Even if some COs don't like each other, they hate inmates even worse.

The only time a CO has to worry is if a bunch of inmates jump him all at once. And every CO has a personal alarm clipped to his shirt. When he hits the button, a signal goes off in a control room up at the front of the jail. The riot squad comes running on the double. And those animals will hit anything that moves, including kids with their hands up in the air. (Volponi 33)

Because the corrections officers are so united in the preservation of their power, very few inmates will openly cross them. For example, in *Rikers High*, Officer Arrigo hits Jessup, an inmate who had raised a fist against him, so hard that Jessup has to be sent to the clinic, where a report will be filed. In order to justify his attack on Jessup, Officer Arrigo punches himself in the eye and claims that Jessup assaulted him. Not only do his fellow COs back up his story, but a number of the inmates write witness statements, corroborating Officer Arrigo's version of events, because they are told to do so, though they also hope to gain favors or preferential treatment (Volponi 181-193). Similarly, when Mr. Pugh, a guard in Myers' *Lockdown*, realizes that a physical altercation is about to break out between Reese and Cabo, he leaves the room, letting the fight occur. Later, when Reese is called to Mr. Cintron's office about the fight, he concedes, "I wasn't going to rat Mr. Pugh out because I knew he could do a lot more to me than I could to him" (*Lockdown* 51).¹¹

The despicable behavior of these prison officers stems from their confidence in the power granted them by the institution and its protection, as well as their ability to

¹¹ Excessive and cruel as the actions of the corrections officers may seem to readers, the books' characters never appear surprised by the guards' actions, perhaps because they witness so much cruelty among themselves, as well as from the guards.

exercise this power as they see fit, usually in ways that disempower and demoralize the inmates. But other individuals within the system use their authority to empower the boys in their care to believe in themselves and their futures. In Sanchez's *Bait*, for example, Mr. Vidas, Diego's probation officer, gets Diego to open up about his past abuse, and he shows Diego how to express his feelings in non-violent ways. Though Diego initially feels betrayed when he learns that Mr. Vidas is gay, Mr. Vidas still becomes a father figure to him, and he is even reluctant to end his probation because, "[t]o him, Vidas had become more than a PO [probation officer]: a friend. *More than a friend*" (Sanchez 236; italics in original). Douglas Healy in Korman's *The Juvie Three* also becomes an integral and trusted figure in the lives of the three boys in his custody, even defending their decision not to report the accident in which he suffered a head injury and resultant temporary amnesia to the authorities.¹² At the end of the novel, all three of his charges—boys who were convicted of driving a getaway car during a robbery, of manslaughter,¹³ and of orchestrating a gang heist—agree that they "had made mistakes and suffered misfortunes. But the best thing that's happened to any of them is Douglas Healy" (Korman 246), who gives each of them a chance to turn his life around.

Though more detached than Korman's Healy or Sanchez's Mr. Vidas, the guards at the juvenile behavioral center in Konigsburg's *Silent to the Bone* and some of the teachers in Volponi's *Rikers High* exercise their power benevolently and appear

¹² Douglas Healy is a former juvenile offender who was convicted of assault after he got into a fight while selling fireworks with his cousin. He served thirty-two months in a juvenile correctional facility, which motivated his desire to open the halfway house and offer other juvenile offenders a better chance at rehabilitation.

¹³ Arjay pushed a football player who was ganging up on him, and the boy fell, hit his head on a statue, and died. It was an accident or possibly even self-defense, so Healy believes, "Arjay's the rarest thing in the system—a genuine innocent man. He just ran into a DA up for reelection in a bad year for youth crime" (Korman 24).

genuinely interested in and concerned about the boys in their facilities. The guards report on Branwell's condition to Connor, get notebooks so that Connor can record the letters and words that Branwell is supplying him through blinks and nods at flashcards, and do not share Branwell and Connor's system of nonverbal communication with Branwell's adult visitors. Teachers like Mrs. Daniels, Miss Archer, and Demarco Costa are also likely to side with the boys rather than with other adults, like the corrections officers, and they try to defend the boys from the officers' attacks whenever possible. Martin especially likes Demarco, who calls the boys by their names rather than their prison numbers and encourages them to think positively about themselves. When Demarco hands out their report cards at the end of a term, he informs the boys, "These grades are probably the most important ones you'll ever receive. They prove that no matter how tough things get in your life you can still concentrate on school and move ahead. You should be really proud of these report cards. I want you to know that I'm proud to hand them out" (Volponi 187). As Martin remarks, "Dudes couldn't help but feel better about themselves after a speech like that" (Volponi 187), and this validation is especially valuable since these boys are not given many opportunities to feel good about themselves.¹⁴

Despite the fact that some of the teachers in Volponi's *Rikers High* strive to improve the inmates' self-esteem, or perhaps because of it, there are constant power struggles among the good teachers, the principal, and the corrections officers assigned

¹⁴ In Myers' *Lockdown*, Reese admits that Mr. Cintron is "the only one at Progress who I believed most of the time" (11), and Mr. Cintron does allow Reese to remain in the work-release program despite his three fights. But he also demeans Reese regularly, and he has his own—admittedly positive—agenda in demonstrating the effectiveness of the work-release program, his own pet project. So, it is unclear throughout the novel whether he is actually trying to help Reese with "tough love" or if he simply needs Reese's record to be as clean as possible in order to make the work-release program look better.

to the jail's special school program over the comparative importance of genuine learning, the outward appearance of the program, and the security of the facility. These tensions come to a head when Mr. Murray, an indifferent teacher, loses his metal chalk holder, and the corrections officers must find it before it can be transformed into a weapon. They ransack the school, strip search all the boys, and call the Turtles (guards in riot gear) to search the dormitories, but all of their efforts turn up naught because Mr. Murray had found the chalk holder at the bottom of his bag earlier. But neither he nor Ms. Jackson, the principal, thinks to report this discovery to the prison officials. A furious Captain Montenez fires Mr. Murray on the spot, despite Ms. Jackson's objections, suggesting that prison officials ultimately have control over the school's staff, even though Demarco tells the boys that the now absent Murray is really awaiting an evaluation and probable transfer from the Board of Education. This unresolved struggle for the upper hand in the school reemerges several days later when Mrs. Daniels, the science teacher, refuses to participate in the cover-up of Officer Arrigo's assault on Jessup. She files a report with Internal Affairs, prompting an investigation that may portend trouble for Officer Arrigo and his co-workers, but she also has to leave the school after filing her report, so the book suggests that no clear victor is likely to emerge soon in this contentious power skirmish. Yet the presentation of these competing factions within the jail enhances and heightens the focus on individual employees as the problem rather than the institution itself.

While the corrections officers in Volponi's *Rikers High* may battle the teachers and the principal for power in the jail's school, their own group's power dynamics are clearly established in their official hierarchy. The guards may have the most direct contact and

immediate power over the inmates, but their superiors are the captains, who “wear white shirts to stand out from the COs, who dress in blue and report to them” (Volponi 86). The captains’ occasional appearances in the school, the dormitory, or the halls motivate the corrections officers to respond even more quickly and harshly to any infractions, and the boys too understand the need to be on their best behavior in the presence of higher authorities. So, on the rare occasion in which they glimpse a deputy warden, the boys “just froze and only their eyes turned sideways to see, because that deputy warden had probably ten times the power of a captain” (Volponi 175). At the principal’s request, the deputy warden has come to investigate her complaints about students being allowed to sleep in class—another power play in the confrontation among teachers, the principal, and the corrections officers. Captain Montenez responds to his superior’s presence by yanking a sleeping student out of his chair and expelling him from the school program, a dramatic response to an offense that he normally overlooks.¹⁵

Like the jail authorities in Volponi’s novel, the staff in Sachar’s *Holes* follows a carefully defined chain of command. The Warden, the highest power in the camp, bosses and often abuses the camp counselors, particularly Mr. Sir, who in turn take out their frustrations on the inmates, especially Stanley and Zero, the boys on the lowest rung of the prisoners’ own power structure. Camp Green Lake’s hierarchy is disrupted when first Zero and then Stanley run away, and the Warden tries to cover up their disappearances. Stanley’s new lawyer, Ms. Morengo, proves his innocence and comes

¹⁵ Though Volponi emphasizes the importance of the jail’s chain of authority in the inmates’ lives, he also mentions the power held by the district attorney, who, as Martin says, “had every kid on Rikers shook. That’s because he had the power, and held a good part of your life in his hands” (Volponi 244).

to the camp to get Stanley. Since the Warden will not (and cannot) release Stanley to her, Ms. Morengo returns the next day with the Texas Attorney General, whose power as “the chief law enforcement officer for the state” (*Holes* 215), supersedes the Warden’s control of the camp. He takes over the facility himself, eventually closing it, while also reassuring readers that higher authorities within the legal system can step in to remedy the wrongdoings of other individuals within the system who have abused their power.

Imitating the authorities in Volponi’s *Rikers High* and Sachar’s *Holes*, the juvenile inmates create their own hierarchies, and they engage in power struggles as the boys at the top strive to protect their positions of control from other boys who would like to climb the prison ladder. Though Sachar’s Stanley is far from power-hungry, he is nevertheless pleased when the other inmates start referring to him as Caveman because this bestowal of a nickname “meant that they accepted him as a member of the group. He would have been glad even if they’d call him Barf Bag” (*Holes* 54). Shortly after Stanley begins to answer to the name of Caveman, he also moves ahead of Zero in the water line, the visible manifestation of the boys’ hierarchy, after he gives X-Ray, the boy at the front of the line, the lipstick case that he found in his hole. Following this exchange, “Stanley moved up one place in line” (*Holes* 63), a reward for his obedience to the boys’ established power structure.

Just as X-Ray is the undisputed head of the boys’ cabin in *Holes*, Brick is the leader of Sprung #3, at least when Volponi’s Martin first arrives. As such, Brick and his closest associates control the use of the phones, play with the good basketball in the yard, and obtain “mountains of food on their plates” (Volponi 48), more that they can

possibly eat, while Martin is still hungry after finishing his portion. Brick has attained his position of power through “juggling,” in which he sells items from the commissary to the other boys on credit, obtaining two of everything that he advances when he is reimbursed, and through his willingness to collect debts by the use of force if necessary. But Brick’s control of the house begins to falter when Martin, the new inmate, refuses to follow Brick’s rules, prompting other boys to follow his example. Then Brick loses his Spanish interpreter to a transfer and, consequently, his stranglehold over the Hispanic inmates is loosened. He tries to maintain his power by having his enforcers beat up several boys, but, despite these displays of violence, the other boys refuse to pay their debts or to submit to Brick’s decrees about phone use, so, when Martin leaves Sprung #3, power plays to assume Brick’s former position are beginning.

As part of their efforts to acquire individual power among the other inmates and to advance their positions in the group’s hierarchy, the boys frequently take power from one another through bullying and physical assaults, the same strategies that the guards employ to maintain their power. Boys in Sachar’s *Holes*, Volponi’s *Rikers High*, and Myers’ *Lockdown* fight, both verbally and physically, over numerous issues, including debts, insults, deals, items stolen from one another, and the choice of television station. In the end, however, all of their altercations are bids for power, just as surely as Toon’s bloody nose and black eye in *Lockdown* are evidence of another inmate’s bid to be accepted into 3-5-7, a prison gang. In particular, Myers’ novel stresses the damage that inmates do to one another in an effort to keep others from gaining more than they have, especially the possibility of a future beyond bars. As Mr. Cintron tries to explain to Reese after Reese gets into yet another fight,

Ninety percent of the inmates here aren't going anywhere with their lives and they know it. It's not because they can't, it's because they simply won't. They know it, and every time they see someone who looks like he might break the cycle and do something with his life, they want to pull him back in. [...] Especially if you look like them, if you come from the same environment they come from. If you turn your life around, you're putting the blame on them for not turning theirs around. (*Lockdown* 141)

Discouraging as this portrayal of so many fictional juvenile offenders and their futures is, the desire of certain inmates to keep other inmates from leaving prison reveals only an additional, particularly cruel play for power because, as all prisoners know, power taken from the strong carries more social currency than power taken from the weak.

Though these desires to keep one another down and the frequently violent behaviors to which these desires lead do not justify the prison officials' abuses of power, they may help to explain some of the corrections officers' untoward actions, just as mitigating factors can be offered to rationalize some of the juvenile offenders' poor choices. Unfortunately, some inmates, like some prison officials, want all of the prisoners to accept their places of relative powerlessness within the legal system, believing that they can do no better. Yet other prison officials help the boys in their custody to regain a sense of their own worth and personal power, which will help them to negotiate more successfully with social powers, both inside and outside of the juvenile justice system.

Trying to Move On: Struggles to Regain Personal Power

After a criminalizing encounter with the legal system, reclaiming one's sense of personal power and worth can be difficult. Trites remarks, "When adolescents grapple with such questions as, 'Do I dare disturb the universe?' they must reckon with both their sense of individual power and their recognition of the social forces that require them to modify their behaviors" (6). The guilty juvenile offenders in these books have

already “disturbed the universe” in socially unsanctioned ways, and they are paying heavily for these disturbances. Moreover, they are beginning to consider how they may next change their lives and the world, either for good or for ill. As they endeavor to make these changes, they are well aware of the social pressures upon them because both the criminal justice system and society as a whole are predisposed to suspect recidivism in juvenile offenders and to scrutinize their behavior accordingly. But many of these boys have a much more tenuous grasp on their own power. In fact, some of the boys are so overwhelmed by the social powers bearing down on them that they resort to suicide or another form of escape, either as a complete surrender of personal power or as an extreme assertion of their control over their own lives. Fortunately, many of the boys, especially the books’ main characters, seize other means or moments of empowerment as they begin the gradual, often painful process of self-discovery and the reclamation of their own sense of power.

Yet as part of reclaiming their own sense of power, several of the books’ characters must also reconcile themselves to the fact that their records give the legal system a greater amount of power over them, including the perhaps unfair power to more readily suspect them of and investigate them for crimes that they actually did not commit. For example, when Plum-Ucci’s Torey complains that the police are questioning Bo about the threatening phone call because he is from the poorer, more questionable part of town, Torey’s mother, an attorney, replies, “They’re [the police] not picking on him because of where’s he from but because he’s got a record as long as your arm. I have personally seen that kid in court five or six times, did you know that?” (Plum-Ucci 126). Like Bo, Anderson’s Tyler and Myers’ Reese are also considered as

viable suspects in new crimes by the police because of their past misdeeds. When Bethany, a popular girl whom Tyler really likes, is photographed drunk and naked at a party and the pictures are circulated over the Internet, the police interview Tyler three times and confiscate his computer as evidence of a possible crime, both because he was seen at the party with Bethany and because of his arrest record. Similarly, two detectives inform Reese that Freddy Booker, the man who snitched on Reese about the stolen prescription pads, has now fingered him for stealing the prescription drugs that led to the death of a user. The detectives offer Reese a deal: he can get three years added to his current juvenile term if he pleads guilty or he can go to trial and risk a twenty year sentence. Reese is innocent of the new charges, but he seriously considers pleading guilty because he does not think that he can endure twenty more years in prison. Fortunately, he is not compelled to make a final decision because the detectives drop him from their investigation, but he, Tyler, and Bo all realize that their presumption of innocence has been damaged, if not destroyed, by their previous encounters with the law.

Like the police, society as a whole also prejudices these juvenile offenders based on their previous crimes, frequently dismissing them as irredeemable, avoiding them, or even harassing them. As a counselor at a halfway house informs Sachar's Theodore, "If you think life was unfair before you went to prison, [...] it's going to be twice as bad when you go back [home]. People are going to expect the worst from you, and treat you that way" (*Small* 4). Indeed, a lot of people treat Theodore as a crime waiting to happen. Convicted of assault and battery at the age of fourteen after he got into a fight at a movie theater that sent his two opponents to the hospital, Theodore—also known as

Armpit at Camp Green Lake where he knew Stanley, aka Caveman—is drug tested by his parents, either feared or scorned by his peers, and ditched by a date whose friends convince her that he is dangerous. Even worse, after Theodore begins dating Kaira, a famous rock star, her stepfather and manager, tries to set Theodore up as the fall guy for the murder of Kaira because Theodore has a criminal record.

Extreme as this example is, many other characters, including Plum-Ucci's Bo, Anderson's Tyler, Myers' Reese, Sanchez's Diego, and Korman's Gecko, Arjay, and Terence are also treated differently because of their involvement with the juvenile justice system. Their schoolmates and neighbors fear Diego, Gecko, Arjay, and Terence, and Reese is embarrassed to admit, even to himself, that Mr. Hooft, a resident at the nursing home where he serves his work-release hours, "was looking over at me like he was scared of me" (*Lockdown* 56). As for Tyler, after the rumors circulate about him taking and distributing the photos of Bethany, he finds his personal effects destroyed, his wallet stolen, and his face pummeled, even though he had nothing to do with the crime for which he is being condemned. Similarly, both Bo and Torey are viewed as possible killers after Renee Bowen, the police chief's daughter, wrongfully accuses them of murdering Creed together in *The Body of Christopher Creed*. Though, unlike Bo, Torey does not have a juvenile record, the stigma of Bo's previous criminal history, as well as his social status as a "boon" (a member of the lower class in Steepleton, New Jersey), and Torey's friendship with him are enough to taint both boys with the suspicion of murder, although public opinion eventually shifts from Torey, if not from Bo.

Confronted with so many prejudgments, suspicions, and even blatant fear, many of the boys feel overwhelmed by the social powers pushing against them. But a few boys maintain or develop enough personal power to continue interacting with the individuals who fear them most, and some of these individuals realize the inaccuracy of their initial assessments of the boys. For example, in Sachar's *Small Steps*, Ginny's mother "was ready to move away when she found out that the boy next door was a violent criminal who would soon be returning home" (21). But later, after Theodore and Ginny, a ten-year-old with cerebral palsy, become best friends, Ginny's mother is very pleased with her decision to remain in their home.¹⁶ Mr. Hooft and Reese in Myers' *Lockdown* also transform their relationship from one based on fear and mutual disregard to one in which they share confidences and trust. And Mrs. Liebowitz, the boys' elderly neighbor in Korman's *The Juvie Three*, who initially refuses to let Arjay help her carry her groceries or her garbage, is finally worn down by Arjay's continual offers of help. He tackles various odd jobs for her, and, in return, she changes her mind about all three boys and begins to watch out for them in a whole new way. For example, when DeAndre and his gang threaten to attack Terence, Arjay, and Gecko one night, Mrs. Liebowitz shouts down from her post at the window, "I've dialed nine-one-one and I'm about to push the send button. You get out of here and leave *my* boys alone" (Korman 202; emphasis mine).

Though Korman's three protagonists, especially Arjay, should be proud of the new relationship that they have established with Mrs. Liebowitz, other characters cannot take

¹⁶ Theodore is also fortunate in that he finds an employer, Jack Dunlevy, at a landscaping company, who is willing to hire an ex-convict with apparently no questions asked. Dunlevy also offers X-Ray, another former inmate at Camp Green Lake, a job at the end of the novel.

pride in anything in their lives, and so they try to escape them. In Myers' *Lockdown*, Toon opts to attempt suicide rather than go home to parents who are perpetually disappointed in him, and, in Volponi's *Rikers High*, Sanchez, who was terrified about completing his sentence in an adult prison, succeeds in hanging himself, although it is unclear whether his suicide was intentional or his plan to fake a suicide in exchange for money ended badly. Feeling like a failure, Anderson's Tyler also tries to shoot himself with his father's gun and to run away, but he cannot bring himself to complete either act. Lastly, the "perfect" life of Plum-Ucci's Torey comes crashing down around him after he is falsely accused of murder and also discovers the body of a missing man, Bob Haines, in the woods. Torey develops post-traumatic stress disorder, is hospitalized in a mental health facility, and finishes his junior year of high school at home before going to a boarding school for his senior year. He leaves his home town because he cannot endure the accusations that still linger around him, and his escape from these social pressures allows him to make a fresh start. While Torey's decision to go to boarding school is clearly self-empowering, as well as escapist, the motivations of Toon, Sanchez, and Tyler are less clear. Their actions can be understood as an assertion of their own power over their lives, particularly since all of these characters feel completely disempowered by the juvenile justice system, their peers, and their families, or they can be perceived as surrenders to the numerous social pressures surrounding them. Either way, with his death, Sanchez can no longer participate in any negotiations of power.

Unlike the unfortunate Sanchez, all of the main protagonists in these works continue to make what Sachar would call "small steps" in increasing their personal power. Once Tyler turns eighteen in *Twisted*, he defies his father, changing his class

schedule and returning to his landscaping job. He also initiates a meeting with his probation officer and informs the principal that he will be returning to class, even though he has not yet been cleared in the matter of Bethany's photographs. Sanchez's Diego participates in a visualization exercise with Mr. Vidas and imagines letting go of Mac, as well as the resentment and anger that Mac's abuse created. And Konigsburg's Branwell finally verbalizes his shameful secret, telling Connor about what happened with Vivian in the bathroom. In Korman's *The Juvie Three*, Gecko, Arjay, and Terence choose to remain in the halfway house and live as if Healy were still supervising them when he is actually in the hospital, transforming a form of social control into a matter of personal choice and empowerment.¹⁷ Similarly, Volponi's Martin elects to call for a guard rather than cut the boy who sliced his own face, and Myers' Reese has an epiphany in a detention cell, in which he realizes, "I just need to stay away from people who gave up on themselves" (*Lockdown* 242). Following his own advice, he pours his energy into taking care of his nine year old sister, the most optimistic person he knows, after his release. Plum-Ucci's Torey also avoids the people who can pull him down by leaving for boarding school, where he initiates his own Internet search for Christopher Creed, who he believes is alive. Meanwhile, Theodore in *Small Steps* perseveres with his goal of finishing high school and earns a promotion at work, while *Holes'* Stanley manages to

¹⁷ Gecko also has his own moment of self-empowerment when he sees an unsupervised UPS truck and hops in, ready to steal it, either out of habit or from the stress of Healy's accident and subsequent absence, but he resists the temptation. As Korman details, "He shifts into drive and feels the transmission pull forward. His foot is half an inch from the pedal—he's visualizing himself wheeling into traffic—when it finds the brake again. He slams back into park and slumps in the seat. No. That's the old Gecko" (113).

save his friend Zero's life, discovering in the course of this rescue mission that "[h]e liked himself now" (*Holes* 185).¹⁸

Even as the boys begin to regain a greater degree of control over their own lives, the social pressures weighing down on them do not necessarily lessen. The boys are just getting more adept at negotiating their own powers and the powers that have both legal and social control over them. All of the boys are also choosing to invest their power and energy in socially acceptable choices and behaviors, decisions made in large part because of the supportive people in their lives, as well as because of their desires to avoid further contact with the legal system. Yet several of the people who support and motivate the boys come from the juvenile justice system itself, whether they are employees of the system, like Mr. Vidas, Healy, and Demarco, or the boys' fellow inmates, like Toon. (The combined factors of the boys' resistance to spending more time in the system and the support that some of them receive from individuals within the system offer an endorsement of the juvenile justice system, however much the boys personally hate it.) Other characters obtain support from their friends and families. Wherever it comes from, encouragement and assistance appear vital to the boys' chances of overcoming their experiences within the legal system and of continuing to take "small steps."¹⁹

¹⁸ Or, if you prefer to see *Holes* as a fairy tale about fate, Stanley does not begin to like himself until after he has carried Zero, a descendant of Madame Zeroni, up a mountain while singing a lullaby that his mother taught him, breaking the curse that has remained upon his family for four generations.

¹⁹ Just as these juvenile offenders need the support of others, child characters with incarcerated parents are also portrayed as needing strong friendships or surrogate families to help overcome the stigma and adversity of having a parent behind bars. Yet while these juvenile offenders rely on their friends, families, and individuals whom they meet within the juvenile justice system for support, the children with imprisoned parents befriend other socially marginalized individuals. For more information on child characters with incarcerated parents and their friendships, see Chapter Two.

Images Offered: The Power of Representation

While the previous sections have been concerned with the power negotiations of individual juvenile offenders, this section addresses the images of the offenders and the juvenile justice system as a whole. The representations of the system and the characters within its confines that are found in these works do not always represent reality. Nevertheless, they still have the power to influence readers' perceptions not only of the characters and the fictional systems that exert power over them but also of real-life youthful offenders and the actual American juvenile justice system.²⁰

For example, in an accurate depiction of the American juvenile justice system, girls would be present, but no female inmates or probationers appear in these books or in any contemporary, realistic works that I could find. Indeed, Sheppard's *Hester Power's Girlhood*, published in 1867, and Karen Schwabach's *A Pickpocket's Tale* (2008), set in 1730, are the only works in my sample to feature an incarcerated girl, although readers do briefly meet a female juvenile delinquent in Chris Carleton Brown's *Hoppergrass* (2009), another work of historical fiction. Not only are all of these works historical, but Sheppard and Schwabach's novels are also set in England, removing the delinquent girls from contemporary, American settings.²¹ Unfortunately, this lack of representation of American female juvenile offenders is not new. In "Where the 'Bad' Girls Are (Contained): Representations of the 1950s Female Juvenile Delinquent in Children's Literature and *Ladies' Home Journal*," I argue that, in the midst of the national panic

²⁰ All of these books are set in the United States.

²¹ Schwabach's Molly is actually sentenced to transportation to the American colonies, so part of the book takes place in New York, but all of the legal action in the story occurs in England under the British system of law. Chapter Three discusses both Schwabach and Sheppard's works in more detail.

over juvenile crime in the 1950s, the female juvenile delinquent was largely ignored.²² In fact, I located only three children's books from that decade that featured girl delinquents—Hal Ellson's *Tomboy* (1950), Elizabeth George Speare's *The Witch of Blackbird Pond* (1958), and Anne Alexander's *The Pink Dress* (1959)—and only in Speare's work of historical fiction does the protagonist see the inside of a jail cell. Alexander's Sue is sentenced to community service, and Ellson's Tomboy has thus far successfully evaded the police.

Despite this apparent downward turn in the number of contemporary books featuring female juvenile delinquents between the 1950s and the 2000s, the number of girls who are being arrested, formally charged, and incarcerated by the American legal system has increased.²³ As Cox et al. note, "Historically, we [Americans] have observed three to four arrests of juvenile males for every arrest of a juvenile female. During the period from 2001 to 2005, this ratio changed considerably so that juvenile females now account for roughly 42% of arrests of those under 18 years of age" (67). Moreover, the Office of Juvenile Justice and Delinquency Prevention reports, "Nationally, females accounted for 15% of juvenile offenders in residential placements in 2006" (np). The reality of so many girls being arrested and imprisoned needs to be reflected in children's

²² Working from the psychoanalytic viewpoint that predominated the few studies of female juvenile delinquents in the 1950s, I conclude, "[T]he 1950s delinquent girl was—and remains—a largely ignored figure, probably in large part because if her agency was not being limited by her relationship with her father, then it was restricted by 'a presupposed relation to bad-boy rebellion' (Medovoi 267), or both" (Caponegro 326).

²³ Despite their increasing numbers in the juvenile justice system, Cox et al. state, "According to Chesney-Lind (1999), females have been largely overlooked by those interested in juvenile justice, and indeed many of their survival mechanisms (e.g., running away when confronted with abusers) have been criminalized. It appears that the juvenile justice network does not always act in the best interests of female juveniles because it ignores their unique problems (Holsinger, 2000)" (67).

and young adult novels about the juvenile justice system, lest readers come to believe that juvenile delinquency is a problem endemic only to young males.

Though these books feature only male protagonists, they do include a more racially diverse group of boys. Of the eleven main characters, six are Caucasian, four are African American, and one is Hispanic American. In actuality, “[f]or every 100,000 non-Hispanic black juveniles living in the U.S., 767 were in a residential placement facility on February 22, 2006—for Hispanics the rate was 326, and for non-Hispanic whites it was 170” (OJJDP np). Furthermore, “[i]n 2008, although black youth accounted for just 16% of the youth population ages 10-17, they were involved in 52% of juvenile Violent Crime Index arrests and 33% of juvenile Property Crime Index arrests” (Puzzanchera 1).²⁴ Given these statistics, the main characters do not accurately reflect the racial composition of juvenile arrests and incarcerations in the United States, although they come closer to representing the racial realities of an incarcerated population than the children’s books about characters with an imprisoned parent do,²⁵ and Volponi’s *Rikers High* and Myers’ *Lockdown* both introduce readers to juvenile detention centers that are full of African American and Hispanic American teenagers. As Volponi’s Martin observes in looking around his dormitory, “There were thirty-two other black faces, sixteen Spanish ones, and Ritz [the sole Caucasian, nicknamed for being a

²⁴ In considering factors that could contribute to the high rates of arrests and incarcerations among African American youth, Cox et al. posit, “[B]lacks and other minority group members may be overrepresented in the official statistics simply because they live in high-crime areas that are heavily policed, and, therefore, are more likely to be arrested than those living in less heavily policed areas” (23). Drakeford and Staples focus more on the racial biases that they see at play in the criminal justice system, contending, “[S]ome juvenile justice officials make decisions [about which offenders to arrest or incarcerate] based on a belief that African American families are dysfunctional and unable to control or parent their children effectively” (56).

²⁵ For more information about the racial representations of child characters and their imprisoned parents, see Chapter Two.

cracker]" (129). When he first sees Ritz, Martin comments, "Just a few of them [Caucasians] had passed through Mod-3 in all the time I was there. White dudes are usually real quiet in jail and keep to themselves, because they've got no power and nobody to watch their backs" (Volponi 44). Likewise, in Myers' *Lockdown*, the other inmates whom Reese describes are also African American or Hispanic American.

In offering readers such forthright depictions of the racial composition of juvenile offenders in many facilities, Volponi and Myers are accurately representing reality, and neither author appears concerned about reinforcing negative racial stereotypes about youthful offenders. William Drakeford and Jeanine M. Staples may disagree with their presentation strategies, though, noting, "African American males are often thought to be aggressive, violent, dangerous, and lacking the discipline necessary to refrain from criminal behavior (Leiber & Mack, 2003). These attitudes are often reinforced in the media, who often inspire fear about African American youth" (56). The portrayal of so many dark faces behind bars in Volponi and Myers' novels may unintentionally strengthen such negative attitudes and fears in some readers rather than prompting them to consider why so many minority teenagers end up in juvenile justice centers in the first place.

While it is unclear how readers may interpret authors' depictions of race, both Myers and especially Sachar make it very clear in their works that racism should be condemned. In Myers' *Lockdown*, the elderly Mr. Hooft makes several disparaging remarks about African Americans, which Reese first ignores and then politely refutes. In *Holes*, racism is offered as the explanation for why there is no lake or precipitation at Camp Green Lake. In the town that once existed near the lake, Miss Katherine, a white

school teacher, kissed Sam, an African American onion seller. Because of this kiss, a mob shot and killed both Sam and his beloved donkey, breaking Miss Katherine's heart and causing her to avenge Sam's death by becoming Kissin' Kate Barlow, a notorious outlaw. In commenting on these events, the narrator notes, "That all happened one hundred and ten years ago. Since then, not one drop of rain has fallen on Camp Green Lake. You make the decision: Whom did God punish?" (*Holes* 115).²⁶ Moreover, in Sachar's *Small Steps*, after Theodore is handcuffed and beaten by several police officers who thought that he was knowingly using counterfeit tickets and that he had triggered Ginny's seizures with drugs, the officers try to blame him for their physical response to the situation, telling Cherry Lane, the mayor, that Theodore made a threatening gesture and resisted arrest. But Cherry is having none of their excuses. She informs the officers, "I'm not going to let you justify your actions by blaming the victim, [...] 'Would the gesture have been so threatening if he was white?'" (*Small* 108-109).

Concerns about racism and racial representations receive a good deal of attention in Sachar's *Small Steps* and *Holes*, Myers' *Lockdown*, and Volponi's *Rikers High*, but issues of class and classism take center stage in Anderson's *Twisted* and especially Plum-Ucci's *The Body of Christopher Creed*. Anderson's Tyler reports, "My parents were struggling wannabes of the upper middle class" (*Twisted* 8), and his arrest for vandalism is viewed as a humiliation and a serious impediment to their social climbing. References to class status and to finances fill the pages, and, in this book, the upper

²⁶ The mob murder of Sam is the most blatantly racist in *Holes*, but Annette Wannamaker explores the idea of inherited white privilege in this work, particularly focusing on the relationship between Stanley, who is Caucasian, and Zero, who is African American. She notes, "[W]hen Stanley takes responsibility for his inherited privilege by working together with Zero, he offers up a model of whiteness for young people to follow that is not merely oppressive nor merely crippled into inaction by 'white guilt,' but that is positive and pro-active" (22).

middle class is presented as the underclass to the extremely wealthy. In contrast, the class warfare in *The Body of Christopher Creed* occurs between the upper middle class, to which Torey belongs, and the lower class, the boons, of which Bo is a member.²⁷ After Creed, an unpopular classmate goes missing, Torey's best friends, all of whom come from well-to-do families, sit around the cafeteria and speculate on who might have killed Creed, quickly narrowing their suspect list down to the boons. This exclusive focus on the boons really bothers Torey, who reflects, "And they were scoping out boons and pointing the finger. I mean, they were talking about a *murder* here. And for evidence they were bringing up zits, souped-up cars, and people smelling bad" (Plum-Ucci 64; italics in original). Torey becomes even more disturbed when he realizes that Mrs. Creed, the missing boy's mother, and the police are also concentrating their investigation on the boons, particularly Bo, whose arrest record and prior assault of Creed make him the prime suspect.

Unlike Plum-Ucci's *The Body of Christopher Creed* and Anderson's *Twisted*, the other novels do not emphasize issues of class. Konigsburg's *Silent to the Bone* is the only other novel with upper-middle class characters, but its references to class are as infrequent as are the mentions of class or money in the other novels that introduce lower middle class or poor characters. In Sachar's *Holes*, readers are told that Stanley's parents cannot afford to hire him an attorney, and, in Volponi's *Riker High*, Martin is represented by a public defender. Moreover, Martin is in Rikers, awaiting his appearance before the judge, because his mother "didn't have the money [for bail] and

²⁷ Though Plum-Ucci's novel is narrated by a member of the upper middle class rather than a boon, its focus on class divisions casts it as a descendant of S.E. Hinton's *The Outsiders*, an early young adult novel about gang fights between the upper and lower classes, as well as juvenile delinquents who, by and large, managed to avoid the attention of the police.

had to worry about supporting my [his] sisters and Grandma” (Volponi 10). Eight of the eleven main characters in these novels come from families that are struggling financially, but none of these books explores the possible connection between the characters’ economic status and their involvement in the juvenile justice system. Yet Drakeford and Staples state, “Research suggests that what appears to be racial bias may, in fact, be class bias on the part of juvenile justice professionals (Wordes et al., 1994). Minority youths are disproportionately impoverished (OJJDP, 2002)” (55).

Elaborating on this possible class bias, Cox et al. note,

According to further research, the actual relationship between social class and delinquency may be that social class is important in determining whether a particular juvenile becomes part of the official statistics, not in determining whether a juvenile will actually commit a delinquent act (Dentler & Monroe, 1961; Short & Nye, 1958; Tittle, Villemez, & Smith, 1978). Most studies of self-reported delinquency have shown little or no difference by social class in the commission of delinquent acts. (56)

Since the class variances in delinquency appear to occur at the level of institutional intervention rather than at the level of juvenile commission, the representation of a larger number of youthful offenders from the lower classes in these books is accurate, particularly when the offenders are both poor and people of color. But, even as the books reflect the class realities of many real-life juvenile offenders, most of the books also distance themselves from this accurate representation by addressing issues of class only in peripheral ways.

Of course, class, race, and gender are essential aspects of the overall image of juvenile offenders presented in these young adult novels. But each of these works offers a more detailed psychological composite of one or more fictional teenagers who are part of the juvenile justice system as well, and the emotional and moral depictions of these main characters often differ from those of the other youthful offenders portrayed in

the novels. Even when they are guilty, the main characters never really seem to be criminals because readers become well acquainted with their values, their fears, and their dreams. These juvenile offenders are humanized, so that readers are not afraid of them, and each book suggests that its central protagonist(s) will achieve a future beyond the criminal justice system. As Trites states, “[A]dolescent literature is at its heart a romantic literature because so many of us—authors, critics, teachers, teenagers—need to believe in the possibility of adolescent growth” (15). And these books allow us to do so—at least for the main characters. Yet, even as these books portray their main characters as redeemable, many of them also introduce secondary characters who are frightening, cruel, and remorseless, characters whom readers are probably happy to envision within the confines of the juvenile justice system. Perhaps if these characters were developed more fully, like the chief protagonists are, or if readers were granted access to the thoughts behind their actions, then they may seem less reprehensible or intimidating. But, as the books stand, the main characters, all of whom are wholly capable of growth and deserving of their own personal power, often appear as exceptions within the juvenile justice system.

In fact, the novels’ depictions of so many threatening secondary characters may justify the need for a juvenile justice system, both in these fictional works and in real life. The books show that the experience of being on probation or especially behind bars is awful and humiliating, but they also suggest that many young offenders need these forms of supervision. Moreover, readers cannot be entirely sure in many cases if even the redeemable main characters seek to improve themselves because of or in spite of their contact with the juvenile justice system. Sanchez’s Diego and Sachar’s Stanley

especially benefit from their time within the system, even though the innocent Stanley should never have been there in the first place. Both boys increase their self-esteem and their personal power during their encounters with the system, although no one at Camp Green Lake really intends to help Stanley (or any of the other boys). And the other main characters gain knowledge and strength from their experiences with the system, despite the fact that these gains frequently come at an enormous cost of great suffering and the loss of much personal power.

These books' representations of the juvenile justice system and youthful offenders are not always completely accurate, but they do possess the power to alter readers' understandings of the system, the delinquents within it, and the power dynamics between them, both in the individual works and in real-life. Thus, the multicultural window into young adult novels about juvenile offenders teaches that the juvenile justice system is not only necessary in protecting society but sometimes beneficial in rehabilitating those within it, whether this rehabilitation is the result of deliberate empowerment or the instilling of a desire to avoid further punishment and the imposition of increased social pressures. Hopefully, readers will also put down these books with a stronger aim to avoid being incarcerated themselves, as well as a willingness to refrain from automatically labeling and prejudging any youthful offenders they might meet.

CHAPTER 5
TRIALS AND THEIR TRIBULATIONS: PERFORMANCES OF (IN)JUSTICE

As the court proceedings begin in Philip Pullman's *The Scarecrow and His Servant* (2004), Lord Scarecrow encourages Jack, "[H]ave confidence in the law, my boy! Right is on our side!" (184). Yet clearly right and the law are not always on the same side, either inside or outside of a courtroom, even in children's literature. In Pullman's novel, justice ultimately prevails when Lord Scarecrow, his servant Jack, and the birds are awarded joint possession of Spring Valley, thanks to the common sense of the jury. But Pullman still emphasizes the bias and lunacy of a legal system in which the presiding judge is a relative of the defendants and so much legalese is spoken that no one, not even the lawyers and the judge, can distinguish between genuine terms of law and creative mumbo jumbo. Like *The Scarecrow and His Servant*, other well-known and even canonical works for children and young adults that include trial scenes focus on the absurdities and injustices of the law and legal systems. In *Alice's Adventures in Wonderland* (1865) and *The Wind in the Willows* (1908), Lewis Carroll and Kenneth Grahame respectively satirize formal English court proceedings through the nonsensical trial of the Knave of Hearts, accused of stealing the queen's tarts (Carroll 95-108), and the sentencing of Toad for stealing a car, driving recklessly, and, most seriously, "cheeking the police" (Grahame 142).

In these fantasy novels, the injustices almost go undetected amidst the ludicrousness of the court proceedings, but, in the more realistic novels, the biases of the court officers and jurors and the unfairness of many of their verdicts take center

stage. Harper Lee's *To Kill a Mockingbird* (1960),¹ Mildred D. Taylor's *Let the Circle Be Unbroken* (1981), Walter Dean Myers' *Monster* (1999), and Shelley Pearsall's *Crooked River* (2005) all highlight racial prejudice in the American legal system, whereas Avi's *The True Confessions of Charlotte Doyle* (1990) describes the gender bias of Captain Jaggerty, the ship's judge and prosecutor, against Charlotte. Other works, like Mark Twain's *The Adventures of Tom Sawyer* (1876), Kate Klise's *Trial by Jury Journal* (2002), and Wick Downing's *The Trials of Kate Hope* (2008), describe prosecutions against wrongfully accused social pariahs of a low socioeconomic class.

While each of these novels draws attention to an impairing oddity or a gross injustice that cripples a judicial system, J. K. Rowling's *Harry Potter* series subjects its legal system to the most thorough examination, revealing the largest number of injustices, a pattern of judicial misconduct that extends through four leaders' terms in office, and a heightened awareness of justice as a performance. Of course, the *Harry Potter* series consists of seven books and includes several thousand more pages than any of the other novels discussed, providing Rowling far greater freedom than other authors in expanding plot lines and in exploring themes, but her decision to include so many scenes and references devoted to legal injustices merits our attention. Moreover, she clearly connects the judicial wrongdoings with quests for power and political stability within the Ministry of Magic, the British wizards' government, with each successive administration further eroding its citizens' legal rights, often ostensibly for the cause of heightened security. The resultant performances of justice become increasingly about

¹ Unlike the other books discussed, *To Kill a Mockingbird* was not written specifically for a child or young adult audience, but I am including it in this discussion because it is required reading in many middle schools and high schools.

show rather than substance, as Rowling demonstrates through direct admissions by Ministry officials, tighter governmental control of the press, and, most importantly, memories of past trials viewed in Dumbledore's pensieve. The pensieve, which allows individuals to experience other people's memories, functions as a framing device that allows the performances of justice to be viewed both in Harry Potter's time, as well as during the time in which they occurred, so that readers are able to see these performances simultaneously from several different perspectives.

From any perspective, however, the list of judicial wrongdoing and errors in the wizarding world is a long one. Of all of the miscarriages of justice in Rowling's books, perhaps the most egregious are the wrongful incarcerations of at least three people—Hogwarts' gameskeeper, Rubeus Hagrid; Harry's godfather, Sirius Black; and Knight Bus conductor, Stan Shunpike²—all of whom are sent to Azkaban, the wizards' prison, without a trial. Voldemort's uncle, Morfin, and the house elf, Hokey, are also wrongfully convicted of murder, with Morfin ending his days in Azkaban. Buckbeak, an innocent hippogriff under a death sentence because of Draco Malfoy's exaggerated injuries and his father's influence with the government, must be rescued illegally by Harry and Hermione in order to survive. Barty Crouch Jr., though actually guilty of murder, is kissed by Dementors, the guards of Azkaban who possess the ability to remove one's soul with a kiss, before he is formally tried. Harry Potter himself is wrongfully prosecuted twice for breaking the Decree for the Reasonable Restriction of Underage Sorcery, once when he is innocent and once when his actions are justified. Additionally, the Aurors,

² Death Eaters (Voldemort's supporters) perform the Imperius Curse on Stan Shunpike in *Harry Potter and the Deathly Hallows*, forcing him to behave as one of them, but, at the time of his incarceration in *Harry Potter and the Half-Blood Prince*, he is not a Death Eater, as even government officials admit.

the police of the wizarding world, have been granted leave to perform the normally illegal Unforgiveable Curses³ against suspects, even killing them. Deals are being cut with criminals in exchange for information, prosecutions and punishments are carried out selectively, and the Muggle-born Registration Commission is established to try and to incarcerate wizards and witches who cannot prove their pure blood status, i.e., an ancestry populated by other witches and wizards rather than by Muggles (non-magical people).⁴

With a judicial system so clearly riddled with errors and human rights violations, it is hardly surprising that Rowling takes particular care in demonstrating how these injustices are the result of the Ministry of Magic's greater interest in performative justice than in actual justice, an institutional failing that Rowling repeatedly condemns. Of course, all acts of justice are ultimately performative. As Dwight Conquergood explains, "Justice—to paraphrase Victor Turner—lives only in performance, 'only in so far as its rituals are "going concerns"'; Justice can be seen only when it is acted out. All the interlocking rituals of criminal punishment...are performed so that citizens can see 'justice done': 'All of justice is a stage; it is the appearance—the ritual—that is the meaningful thing'" (343). Nevertheless, for Rowling, the ritual of justice assumes a new

³ The Unforgiveable Curses are the Imperius Curse, which places the victim under the spell caster's control, the Cruciatus Curse, which physically tortures the victim, and "Avada Kedavra," or Killing Curse. Harry Potter is the only person known to survive the Killing Curse.

⁴ In this paper, I am focusing on the Ministry of Magic's unjust dealings in trials and criminal matters. For a broader examination of wizarding laws and other legal injustices executed by the wizards' government, like their unfair treatment of other magical creatures, including house elves, centaurs, werewolves, giants, and merpeople, see "Harry Potter and the Law," *Texas Wesleyan Law Review*, 2005 by Timothy S. Hall et al, "Kidlit' as 'Law-and-Lit': Harry Potter and the Scales of Justice" by William P. MacNeil, and "Harry Potter and the Rule of Law: The Central Weakness of Legal Concepts in the Wizard World" by Susan Hall.

and distasteful meaning when it is used as a thin veneer to conceal flagrant injustices and civil rights violations.

Most of the other authors whose works feature courtroom scenes share Rowling's views about the performance of justice. Myers writes a large part of *Monster* as a movie script, a genre that is designed to be performed, even as he critiques the performance of the system central to his script. Pullman's *The Scarecrow and His Servant* describes the ceremonial rituals of the court, even as it satirizes the proceedings, with the narrator noting the costumes and the processional order of the courtroom players (179-180). In *To Kill a Mockingbird*, Miss Maudie compares Tom Robinson's trial to "a Roman carnival" (159), and, in *Crooked River*, the prosecutor claims that the accused's defense is merely a "theatrical exhibition" (163). The biases of some jurors are made immediately clear in *Trial by Jury Journal*, and the judges in *The Scarecrow and His Servant* and *Crooked River* clearly attempt to influence the juries' verdicts. Similarly, on board the *Seahawk*, the main setting for Avi's *The True Confessions of Charlotte Doyle*, Charlotte's trial is deemed a mere formality, only a nicety to be observed. As Captain Jaggerty announces at the onset of the proceedings, "Considering the overwhelming evidence against the accused, it [a trial] needn't be held at all" (*True* 169-170), and the fact that he is actually the murderer himself further demonstrates the mere sham of the show that he is about to stage.

Obviously, most of the fictional trials feature negative portrayals of the performance of justice, in which actual justice is seldom achieved. Even in the rare cases where readers may consider that justice is served, questions remain about whether the performative proceedings justify the end result. The sheer number of

negative images of the judicial system in these novels can seem overwhelming, but, as Kimberley Reynolds points out, “In the absence of new ways of thinking or creating alternatives to the way society works, writing for children may take up a diagnostic position, identifying problems as a first step towards formulating solutions” (Reynolds 14-15). Though the democratic system of justice is often praised, it is far from perfect, and these books provide examples of the multicultural door through which young readers can first observe some of the most common obstacles to achieving actual justice, like fear and prejudice. Then, after becoming aware of these obstacles and the negative effects that they can have on individuals, communities, and even nations, they will hopefully be motivated, both personally and communally, to take action and to prevent these obstacles from overriding the performance of actual justice.

Towards this end, the first part of this chapter examines the fear-driven deterioration of the judicial system in the *Harry Potter* series, focusing particularly on the importance of the pensieve as a performance device that teaches Harry and the readers how injustices build upon one another. The second part explores realistic novels that, like the *Harry Potter* books, reveal inadequacies of judicial systems, often by exploring events and community prejudices that are not featured in the courtroom itself but are nevertheless influential behind the scenes. Instead of using a magical device, like the pensieve, these books emphasize the performativity of justice through their portrayals of individual attorneys’ performances, through different narrative formats, and through the distancing effect of historical fiction. Ultimately, of course, performativity cannot be avoided in a courtroom, but the performances should not overwhelm or consume the quest for justice that they are supposed to aid.

Peering into the Pensieve: Trials in the *Harry Potter* Series

Rowling emphasizes the performative aspects of the legal system in many ways. She provides descriptions of dungeons in which trials take place (complete with chairs with chains to bind defendants), of biased and vindictive judges and prosecutors, who are often the same person, and of enthusiastic courtroom audiences alternately seeking vengeance and acquittal. Yet she also demonstrates to readers how the absence of a trial can be as much of a performance as a full trial before the entire Wizengamot, the highest wizards' court in England. For example, when Cornelius Fudge, the Minister of Magic, takes Hagrid to Azkaban simply because he was blamed—again wrongfully—for opening the Chamber of Secrets and setting an unknown monster upon Hogwarts' students during his school days, Fudge tells Dumbledore and Hagrid, “Look at it from my point of view...I'm under a lot of pressure. Got to be *seen* to be doing something” (*Chamber of Secrets* 261; emphasis mine). Similarly, under the administration of the next Minister of Magic, Rufus Scrimgeour, Mr. Weasley admits to Harry that Stan Shunpike and two other unnamed individuals who were all arrested as suspected Death Eaters are probably innocent, adding, “...but the top level [of the Ministry of Magic, for which he works] want to look as though they're making some progress, and ‘three arrests’ sounds better than ‘three arrests and releases...’” (*Half-Blood Prince* 331). So Hagrid, Stan, and at least two other innocent people endure Azkaban in order to provide job security for Ministry officials and a sense of false safety for the wizarding public.

Such counterfeit displays of justice are also featured as headlines in the press, especially as the Ministry increasingly pressures media sources to portray the government, its laws, and their application in a positive light. These command performances given by the press on the recommendation of the government obviously

interfere with a free press's role in preserving governmental integrity. Noel Chevalier notes, "[T]he fact that the wizard press is so easily controlled by the Ministry allows Rowling to blend Harry's personal story with a wider critique of systems of authority that define the wizarding world and to raise the issues of political justice within a society defined by such rigid authoritarianism" (400). The governmental authoritarians are as terrified as they are rigid, afraid of both Voldemort and of exposure before the wizarding public, so they compel the media to join them in projecting a façade of calm competence, lest their denials and distortions of the truth—and of justice—become public knowledge.

As significant as are both these public and private performances of justice, Rowling's invention of the pensieve as a device for storing, viewing, and framing memories, including memories of trial scenes, so that their effects can be seen in both the past and the present, is the innovation that allows the performativity of justice to be viewed in a new vividness by child and teen readers. The pensieve itself is a "shallow basin...with odd carvings around the edge: runes and symbols" (*Goblet of Fire* 583), but what makes it unique is its ability to contain the memories of individuals, which can be entered and experienced firsthand. The memory then becomes a performance, enacted for the viewers who enter through the pensieve, as Harry, Dumbledore, and Rowling's readers do, and the performance reveals everything in the memory as it appeared to the person who first created the memory.⁵ Spectators in the pensieve can make their own evaluations of the memories that they witness, but they cannot alter the contents of the

⁵ The pensieve's storage and conveyance of memories also provides interesting considerations and connotations with both the unconscious and historical memory.

memories in the pensieve, which appear as “light made liquid—or like wind made solid” (*Goblet of Fire* 583).

However the memories look on the surface, a journey into them through the pensieve equips Harry with important knowledge that enables him to fight more effectively against the Dark Lord Voldemort. On these journeys through other people’s memories, he learns about Professor Trelawney’s prophecy, which led Voldemort to target Harry and his parents, and about Voldemort’s ancestry and early life, which Harry uses to find the horcruxes that he needs to destroy before confronting Voldemort.⁶ Scenes observed in the pensieve also cause Harry to rethink some of his most deeply held beliefs. For example, after reliving Severus Snape’s memories of being bullied by Harry’s father and godfather when they were all students at Hogwarts, Harry has to accept that even his heroes are flawed. Likewise, when the memories that Snape bequeathes to Harry with his last breaths absolve him of murder, intended assault, and lifelong service to Voldemort, while also revealing a deep love for Harry’s own mother, Harry must see the man whom he has always hated from an entirely new perspective. Clearly, the importance of the pensieve as a conduit of memories in the *Harry Potter* series cannot be understated. Its significance is highlighted not only by its connection to these life (and story) altering revelations but also by its being the first object that Harry notices as he enters the Headmaster’s office after defeating Voldemort (*Deathly Hallows* 747).

⁶ Professor Trelawney’s prophecy predicted that Voldemort could be killed only by a child born in July whose parents had escaped Voldemort on three occasions and whom Voldemort would make his equal. Fearing such a person, Voldemort attempted to kill Harry, murdering his parents as they tried to stop him, and unintentionally giving Harry his scar, the mark of their equality (*Order of the Phoenix* 841-843). The horcruxes that Harry must destroy are pieces of Voldemort’s soul that he broke off from his whole soul through acts of murder and then placed within objects of personal significance.

In addition to these memories that have a deeply personal impact on Harry, the first memories that Harry actually witnesses in the pensieve are recollections of three trials conducted shortly after the first fall of Voldemort more than 10 years before Harry sees them. By revealing these memories of legal injustices through the same device as the other integral (and often more personal) memories, Rowling emphasizes the importance of exposing the corruptions and injustices committed by the Ministry of Magic. Indeed, the pensieve illuminates previous miscarriages of justice and reveals the ways in which the misjudgments of the past can impact the present.

As a site for illumination, the pensieve does more than just provide new information. In fact, William P. MacNeil claims that very little new knowledge is actually gleaned from the visit into Dumbledore's recollections of the trials of Igor Karkaroff, Ludo Bagman, and Barty Crouch Jr. in *Harry Potter and the Goblet of Fire* (2000).⁷ In discussing these scenes, MacNeil observes, "[n]othing startling here, at least in causal terms of 'who?', 'what?', or 'why?,' all of which points to a *thematic*, rather than structural, function for the pensieve's trial scenes in the narrative as a whole" (MacNeil 548; italics in original). While I was perhaps initially more startled by some of the pensieve's revelations than was MacNeil, I do agree that the information presented firsthand in the pensieve could have been provided through secondhand accounts, a common way for Rowling to get certain facts, including information about judicial practices and laws, to her readers, such as when Professor McGonagall deduces that

⁷ When MacNeil's article was published, only the first four books in the series were on the market, and the pensieve does not appear until the fourth book, so he had no way of knowing how Rowling would make use of the pensieve as a purveyor of knowledge in the later books. That being said, I still think that there is some new factual knowledge provided in the pensieve's trial scenes in Book 4 as well.

Willy Widdershins turned over information about Dumbledore's Army to the Ministry in exchange for a dismissal of the charges against him (*Order of the Phoenix* 613-614).

Instead, Rowling makes a deliberate choice to depict the courtroom scenes through the pensieve, and, by doing so, she enables the pensieve to function as a framing device, as well as a screen on which memories are played. Victor Turner explains the importance of the framing process, saying, "It is often *reflexive*, in that, to 'frame,' a group must cut out a piece of itself for inspection (and retrospection). To do this it must create—by rules of exclusion and inclusion—a bordered space and a privileged time within which images and symbols of what has been sectioned off can be 'relived,' scrutinized, assessed, revalued, and, if need be, remodeled and rearranged" (266; italics in original). Through the pensieve, Rowling creates this "bordered space and [. . .] privileged time" (Turner 266) where individuals, both inside and outside of the pensieve, can restructure their notions about the characters and about the role of the judicial system in the wizarding world—and, ideally, in our own world as well. After all, as Perry Nodelman explains, "in the act of reading fantasy, 'experiencing something clearly and completely different from ourselves, we become acutely aware of who and what we are'" (qtd in Doughty 256). Seeing the differences between the characters' world and our own, between their judicial system and ours, can help us to see the similarities as well, an aspect of the distancing effect that is commonly used in both fantasy fiction and historical fiction.⁸

Of course, all trials offer some framework for the viewing of an event, and scholars such as Richard Harbinger and Lucy Winner examine this framework in comparison to

⁸ The distancing effect, particularly in regard to historical fiction, is discussed in more detail in Chapter Three.

the framework of a drama, since all legal proceedings contain elements of performance. Harbinger describes every trial as consisting of both a “play within” and a “play without” (122), explaining, “That aspect of the trial which I have denominated the courtroom drama (the ‘play without’) stages the legal combat between the prosecuting attorney and the defense attorney. That aspect which I have denominated the crime drama (the ‘play within’) tells the story of the alleged killing by the defendant” (Harbinger 123) or the details of any other alleged crime. Winner builds upon Harbinger’s components of a dramatic trial, adding,

The multiple layers of spectatorial positions in a trial range from witnesses to the alleged crime to the judge, the jury, and the audience in the courtroom, to the wider public, who view, hear, or read about the spectacle of the trial. I see these as expanding frames—from the inner frame around the story, crime, or injury, to the frame of the trial, to a wider frame, which is the play *without*, in which the wider public uses the trial as a way to consider a social issue, form opinions, and organize its experience. (151; italics in original)

Obviously, the trials as seen through the pensieve also have Harry and the readers as additional—and very belated—spectators, which is actually one of the pensieve’s most interesting features. Not only does it reveal Harbinger’s plays “within” and “without” (Harbinger 122), but it reveals Winner’s “wider frame” (Winner 151) as well, *both* at the time of the trials and at the time of Harry’s attendance of them, over 10 years later, clearly portraying the long-term effects of the wizards’ skewed distribution of justice.

For example, in the first trial presented, Igor Karkaroff, an admitted Death Eater, offers names of other Voldemort supporters in exchange for an early release from Azkaban. In a scene reminiscent of the McCarthy hearings or a negotiating session at a district attorney’s office, Karkaroff volunteers six names—four of Death Eaters already captured or killed, Severus Snape, whom we are told has already been cleared of such

charges through the testimony of Albus Dumbledore, and Augustus Rookwood, a Ministry employee in the Department of Mysteries (*Goblet of Fire* 590). As in all of the trial scenes in the pensieve, the “play without” features Barty Crouch Sr., the Head of the Department of Magical Law Enforcement, who acts as both judge and prosecuting attorney, and the defendant, who represents himself. The “play within” involves Karkaroff’s activities as a Death Eater, although no specifics are given in his case. Yet, in the “wider frame” of the trial’s era, specifics were not needed. Everyone present at the trial and everyone who learned of the trial through the articles of *The Daily Prophet* reporter Rita Skeeter⁹ knew what atrocities the Death Eaters had committed. Voldemort’s followers engaged in torture, murder, and the formation of armies of dementors, giants, and even Inferi (possessed corpses), all in an attempt to “cleanse” the wizarding world of all but its pure blood members. As a reaction against this reign of terror, most wizards and witches merely wanted leaders who would eradicate any and all remnants of this brutal chapter of history, and they did not care what measures the government took, as long as they felt more secure.

A decade later, Harry and the readers can bring some hindsight, as well as emotional distance, to this judicial spectacle. They know that, since his release from Azkaban, Karkaroff has become the headmaster of Durmstrang, one of Hogwarts’ rival schools, where he supposedly undertakes the teaching of the Dark Arts.¹⁰ Yet they are

⁹ *The Daily Prophet* is the main source of public information within the wizarding world. *Witch Weekly Magazine* and *The Quibbler* are two other publications mentioned, but neither of them is credited as being a legitimate source of news. Despite its many articles revealing bias and misinformation, *The Daily Prophet* remains the most respected media outlet, which is perhaps why both the Ministry of Magic and Voldemort work so hard to control it.

¹⁰ When Voldemort returns in bodily form, Karkaroff flees, knowing that, after turning state’s evidence against the Death Eaters, his life is in danger, and, indeed, his body is found a year later.

also more sensitive to the fact that the information given under the circumstances of this hearing may not be trustworthy. After all, if Karkaroff is not able to provide valuable information to the court, then he will endure a longer stay in Azkaban under the guard of the dementors, creatures whom Defense Against the Dark Arts professor, Remus Lupin, describes as being “among the foulest creatures that walk this earth. They infest the darkest, filthiest places, they glory in decay and despair, they drain peace, hope, and happiness out of the air around them” (*Prisoner of Azkaban* 187). Faced with such a threat, a person may incriminate almost anyone. Indeed, the only proof that Harry and the readers see of the freshly implicated Rookwood’s complicity with Voldemort in *Harry Potter and the Goblet of Fire* comes from the next trial observed, in which another defendant links Rookwood with the Death Eaters. (In *Harry Potter and the Order of the Phoenix*, Rookwood puts the final seal on his guilt when he rejoins the Death Eaters after breaking out of Azkaban.) Additionally, in terms of Winner’s “wider frame,” Harry and the readers know that the information dispensed to the public through the media is possibly compromised, either by yellow journalism, embodied by the loathsome reporter, Rita Skeeter, or by the Ministry of Magic’s interference with the press.

Publicity is certainly a determining factor in the second trial, which stars Ludo Bagman, a champion Quidditch player. Presumably as a result of the Ministry’s follow-up on Karkaroff’s tip about Rookwood, Bagman is charged with providing information to Rookwood and consequently to Voldemort. Bagman concedes the charge but claims ignorance about Rookwood’s allegiance to Voldemort (*Goblet of Fire* 592-593). Because of his celebrity status, Bagman’s transgressions are treated lightly, at least by everyone but Crouch Sr. When Crouch Sr. recommends that Bagman serve a stint in

Azkaban, the audience is outraged, not necessarily because they believe that Bagman was truly ignorant of what he was doing but because they do not want to lose a popular and valuable athlete on the Quidditch field. In the public mindset, Bagman's athletic prowess and fame outperform Crouch Sr.'s courtroom dramatics, and, not surprisingly, given the "angry outcry from the surrounding benches" at Crouch Sr.'s suggested sentence, no one on the jury moves to convict (*Goblet of Fire* 592).¹¹

Thus, the first two trials witnessed in the pensieve reveal the use of informants and the influence of celebrity as possible impediments to justice, stumbling blocks that occur in the real world, as well as in the wizarding world. The trial of Barty Crouch Jr. and three other suspected Death Eaters is even more fraught with judicial errors. This courtroom drama pits father against son when Barty Crouch Jr. and his co-defendants stand accused of torturing Frank and Alice Longbottom, the parents of Harry's classmate, Neville, into insanity with the Cruciatus Curse, supposedly in the hopes of obtaining information about the defeated Voldemort's whereabouts. The trial functions as little more than an opportunity for Crouch Sr. to publicly denounce his son, spewing hatred and venom towards the barely grown child whom he believes has ruined his political ambitions, while Crouch Jr. protests his innocence and begs for mercy that his father will not grant (*Goblet of Fire* 594-596).

Not surprisingly, given his father's desire to profit politically from his harsh attitudes towards Death Eaters, Crouch Jr. and the others receive life sentences in Azkaban. Right after this pivotal moment, the memory of the trial is disrupted by Dumbledore's

¹¹ Later, Bagman will join the Ministry of Magic and become the Head of the Department of Magical Games and Sports. He is a heavy gambler who cheats to cover his debts, so readers learn that he is dishonest, but we never learn whether or not he was telling the truth during his trial.

gently extracting Harry from the pensieve, but Sirius Black provides an ending to the story, actually even before Harry sees the trial in the pensieve. Sirius tells Harry, Ron, and Hermione that Crouch Jr. died a year into his sentence, adding, “Once the boy had died, people started feeling a bit more sympathetic toward the son and started asking how a nice young lad from a good family had gone so badly astray. The conclusion was that his father never cared much for him” (*Goblet of Fire* 529-530). After the threat of Crouch Jr. is removed by his death and the public has had more time to process their feelings about Voldemort’s reign and its supposed end, the “wider frame” of the trial begins to shift. People are able to feel regret and even pity for the young Voldemort supporter, an emotion that was impossible for them at the time of Crouch Jr.’s trial, when public feeling was entirely on the side of his father. Now, as Crouch Sr. is passed over for the job of Minister of Magic, it is not entirely clear whether his son’s crime or his response to that crime has caused him to lose the position that he coveted. As Robert A. Ferguson observes, “Those who conduct a trial are always on trial themselves” (xiii), and neither the son nor the father could be wholly absolved of guilt in the public eye.

Yet Harry at least appears to have doubts about the younger Crouch’s guilt, asking both Sirius and Dumbledore if they think that he might be innocent. Sirius replies, “The boy was definitely caught in the company of people I’d bet my life were Death Eaters—but he might have been in the wrong place at the wrong time, just like the house-elf” (*Goblet of Fire* 528). (Sirius is referring to Winky, the elder Crouch’s house-elf, who was caught holding the wand that conjured the Dark Mark, Voldemort’s sign, in the sky above the World Cup Tournament, a transgression for which Crouch Sr. dismissed

her.¹²) Dumbledore too tells Harry that he has “no idea” about whether or not Crouch Jr. was involved in the torturing of the Longbottoms (*Goblet of Fire* 603). He prefaces this statement, saying, “The attacks on them came after Voldemort’s fall from power, just when everyone thought they were safe. Those attacks caused a wave of fury such as I have never known. The Ministry was under great pressure to catch those who had done it. Unfortunately the Longbottoms’ evidence was—given their condition—none too reliable” (*Goblet of Fire* 603).

With apparently no substantial evidence, the kind of high-pressure stakes that often lead the Ministry of Magic into flawed judicial decision making, and the fact that Crouch Jr. is the only defendant seen in the pensieve who insists on his innocence, it is easy to think that the Ministry has made another mistake and that Crouch Jr. is yet another victim of wrongful incarceration, like Hagrid and Sirius.¹³ In this case, though, the Ministry actually arrested the right person. At the end of *Harry Potter and the Goblet of Fire*, Crouch Jr. turns up alive, having been masquerading all year at Hogwarts as Mad-Eye Moody, a retired Auror and current Defense Against the Dark Arts professor. Under the administration of Veritaserum, a truth telling potion, by Dumbledore, Crouch Jr. describes his removal from Azkaban by his father,¹⁴ his conspiracy with Voldemort

¹² Dismissing Winky is a cruel act, like sentencing her to transportation. By giving her clothes, Crouch Sr. frees her, permanently severing her connections with his family, and, while some house-elves, like Dobby, may yearn to be free, Winky considers freedom and unemployment to be disgraceful states for house-elves.

¹³ At this point in the series, Hagrid and Sirius are the only wrongfully incarcerated people presented.

¹⁴ The dying request of the younger Crouch’s mother was for her husband to help her to switch places with her son, so that she died in Azkaban, and he was free. Out of love for his wife, Crouch Sr. agreed, believing that he could keep his son hidden and under the control of the illegal Imperius Curse. He succeeded for a number of years until he was overpowered by his son and Wormtail, another Death Eater, and subjected to the Imperius Curse himself before his death.

and a fellow Death Eater, the murder of his father, and his plans to deliver Harry to Voldemort.

Clearly, Crouch Jr. is no innocent after all. Nevertheless, Rowling wants her readers to at least entertain, if not believe in, the possibility of his innocence throughout most of *Harry Potter and the Goblet of Fire*. Of course, this possibility heightens the suspense and the disbelief at the end of the novel. More importantly for Rowling's theme of (in)justice, though, it raises the question of whether the right results—the incarceration of the guilty party—justify the Ministry's shoddy trial work. If readers can condone the judicial (not to mention familial) bias and the lack of credible evidence in the younger Crouch's case because he was guilty, then how can they be upset when the same judicial tactics lead to wrongful verdicts against Hagrid, Sirius, Stan Shunpike, and others?

Not only does Rowling use the trial scenes from the pensieve to ask whether readers are willing to sacrifice justice for security, as do the wizards—and the rest of us—so often, but she also begins to demonstrate, through the memories of the past trials, how injustices build upon one another. Following the three trials viewed in the pensieve, in which issues of truth and fairness become increasingly murky, Rowling presents two more courtroom scenes under two different administrations in the Ministry of Magic. Each of these trials occurs in the present day setting of the story, and each shows a greater manipulation of the law by those intended to protect it.

First, in *Harry Potter and the Order of the Phoenix* (2003), Harry is tried before the entire Wizengamot for the normally minor crime of violating the Decree for the Reasonable Restriction of Underage Sorcery. Thanks to the interventions of

Dumbledore, who introduces himself to the court as a witness but proceeds to act as Harry's attorney, Harry is acquitted after Dumbledore calls Mrs. Figg, a witness who corroborates Harry's story of using magic only as a necessary defense in order to repel the dementors who were attacking him and his Muggle cousin, Dudley.¹⁵ (This sudden appearance of Dumbledore as counsel—even unofficially—and the calling of a defense witness, events that do not happen in any of the other trial scenes, also reveal the lack of consistency within the wizards' judicial system as a whole. Rowling never establishes clear guidelines about all of the defendant's rights, like the right to counsel or the right to a trial by jury.) Despite Mrs. Figg's testimony that Harry was certainly justified in breaking the law, Cornelius Fudge, the Minister of Magic and the presiding judge, continues to discredit Harry for his own political agenda, pushing for a conviction regardless of Harry's legal culpability in this matter. Indeed, Fudge even dredges up one of Harry's past transgressions (admittedly, one of many)—blowing up his Muggle Aunt Marge—although Fudge had previously declined to prosecute Harry for this offense.

But now Harry is claiming that Voldemort has returned to human form, an event that would (and does) obliterate all stability in the wizarding world, along with Fudge's political capital, so Fudge must destroy Harry's credibility in order to save the office that he loves, even if it means taking some liberties with the law. As Dumbledore informs him in front of the Wizengamot,

The ministry does not have the power to expel Hogwarts students, Cornelius, as I reminded you on the night of the second of August [when the alleged crime occurred] ... Nor does it have the right to confiscate

¹⁵ The witness for Harry, Mrs. Figg, is a Squib (a person of wizarding parents who cannot perform magic herself), and Fudge challenges her on these grounds, wanting to know her parentage and whether or not Squibs can see dementors (*Order of the Phoenix* 145). In the disrespect that Fudge shows Mrs. Figg, more of the general wizarding community's prejudice against those who are not competent, pure-blood wizards and witches is revealed.)

wands until charges have been successfully proven, again, as I reminded you on the night of the second of August. In your admirable haste to ensure that the law is upheld, you appear, inadvertently I am sure, to have overlooked a few laws yourself. (*Order of the Phoenix* 149)

When overlooking laws does not accomplish Fudge's aims, he begins to change the laws instead, making Dolores Umbridge the High Inquisitor of Hogwarts and thereby giving her power over both Dumbledore and Harry, so that she can do her best to muzzle and discredit both of them.

Fudge's tactics of editing or entirely rewriting the law to suit his own purposes are also employed by Umbridge and by Voldemort and his puppet Minister of Magic, Pius Thickenese,¹⁶ all of whom shatter and then remake the law in ways that Fudge could never imagine. With the creation of the Muggle-born Registration Commission in *Harry Potter and the Deathly Hallows* (2007), being a Muggle-born witch or wizard actually becomes a crime, a theft of magical ability from a pure-blood witch or wizard, rather than a mere political or social liability. Conjuring up images of documentation boards that are often created before an ethnic segregation or genocide, like the internment camps for Japanese Americans and the ghettos and concentration camps for European Jews during World War II, the wizards' commission ostensibly tries people on the basis of their heritage, although, of course, no defense offered by a targeted person is acceptable. The goal is the removal of the "undesirables" from society, and the measures of enforcement are nearly as extreme as the goal, since dementors herd the Muggle-borns into Azkaban and Umbridge threatens those who resist with a dementor's kiss.

¹⁶ Voldemort controls Thickenese through the Imperius Curse, manipulating his actions both before and during his tenure as Minister of Magic.

The horror of the situation is both readily apparent and in keeping with Voldemort's legacy of terror, but the legality of this atrocity emerges as a new tool in Voldemort's arsenal. Instead of threatening and torturing Muggle-borns on the streets or in their homes as he and his Death Eaters did previously, Ministry officials can now assume these duties for them within the very walls of the Ministry itself, granting an official sanction to the acts and even an illusion of fairness to the hearings. Thus, Voldemort is able to remove himself from the proceedings completely, while certain officials at the Ministry, Death Eaters and non-Death Eaters alike, carry out the work of their shared mission of preserving a pure-blooded legacy. At long last, Umbridge, the despicable head of the Muggle-born Registration Commission whom Rowling never names as a Death Eater but who definitely shares their ideals, is, as Harry notes, "in her element, upholding the twisted laws she had helped to write" (*Deathly Hallows* 259).

Indeed, justice and the laws become more twisted with each successive administration of the Ministry of Magic, prompting Harry—and presumably readers—to wonder why the British wizards cannot obtain better leadership. When Scrimgeour, the Minister before Thicknesse, approaches Harry about becoming a poster boy for the Ministry, Harry reminds him of Stan Shunpike's incarceration, saying, "You're doing what Barty Crouch did. You never get it right, you people, do you? Either we've got Fudge, pretending everything's lovely while people get murdered right under his nose, or we've got you, chucking the wrong people into jail and trying to pretend you've got 'the Chosen One'¹⁷ working for you" (*Half-Blood Prince* 346-347). Admittedly, each

¹⁷ "The Chosen One" is what *The Daily Prophet* began calling Harry after it became clear that he was telling the truth about Voldemort's return, reflecting the belief of many in the wizarding community that Harry is destined to defeat Voldemort.

leader is governing under increasingly strained and frightening circumstances, which cause them to take extreme measures to protect either themselves or their constituents, but these extremes often lead to injustices. And they can dismiss these injustices as necessary collateral damage, as Scrimgeour does with Stan and Fudge does with Hagrid and Sirius, because they can justify the injustices historically, at least to themselves.

After all, they have established precedents for their decisions, set by past leaders, beginning with Barty Crouch Sr. in the series and probably extending farther back to earlier government officials. Each new leader copies the judicial mistakes of the past, magnifying the potential for wrong decisions and wrongful incarcerations, but they do not truly learn from the past as Rowling expects Harry and readers to do from the pensieve. In this way, Rowling contrasts the leaders' fear with the illumination offered by the memories shown in the pensieve, memories which lead Harry and readers to question the past and to gain insights that allow them to realize that the judicial wrongdoings committed then actually did very little to make the wizarding world safer, perhaps even making the future—now the present—more unsure.

Although the leaders of the wizarding world do not learn from the past—at least in any positive way—they nevertheless seek to return to it, as do many other leaders and communities in children's books that involve unjust trials. Ferguson explains the objectives of any trial, stating,

We tend to forget that trials perform many different functions at once. Most conspicuously, they resolve conflict, protect the innocent, punish the guilty, compensate for injury, and declare the law. But they also satisfy revenge, purge communal resentments, assign limits to deviance, identify acceptable otherness, give victims a say, rationalize change, place controls on the unknown, and publicize power. At still another level, they publicize the

available answers to a problem and guard the status quo ante by seeking to return a community to its place before the disruption of crime. (19)

Focusing on this last function of the trial, the complicated and diverse motives of the various Ministers of Magic and other high Ministry officials who imitate and build upon former subversions of justice can all be reduced to their most basic point: a fear of the world as it currently is and may be becoming. Crouch Sr., Fudge, and Scrimgeour all want to return to a pre-Voldemort world, which has been idealized as a far more innocent time, whereas Voldemort and Umbridge seek a more distant past when Salazar Slytherin was alive and breaking off from the other Hogwarts founders to educate only wizards and witches of pure-blood heritage and ability. The miscarriages of justice that they each enact are undertaken as attempts to crush the present and to resurrect some version of the past.

In Place of the Pensieve: Trials in Realistic Fiction

Similar attempts to crush the present and to resurrect the past are found in most of the realistic novels that contain trials as well, where courtroom dramas are staged in order to allow the local citizenry an opportunity to regain a sense (or illusion) of personal and communal safety. The defendants are on trial not only for a specific criminal offense but also—and perhaps more seriously—for deviating from the social norms of the communities judging them. The courtroom players and the communities in which they live are afraid of losing the upper hand against “others,” like the defendants, and of the changes in gender, race, and class relations that these defendants represent. Again, fear cripples the judicial system, and justice becomes merely a reflective performance of a community’s outrage and resistance to change rather than a performance of meaningful and substantive justice.

The courtrooms may function as a mirror of—and a conduit for—the prejudices and fears of individuals and communities in these realistic works, but the structure and integrity of the judicial system itself is never put on trial. When the system fails, individual and community biases, often accompanied by the presentation of false or unreliable testimony or manufactured evidence, are to blame, not the legal institution itself. Nevertheless, these books teach readers that the workings of the judicial system are largely dependent upon citizen involvement, so a few people can compromise the institution, at least of the level of individual cases. Even Rowling's *Harry Potter* series, which presents a pattern of increasingly unfair judicial proceedings, does not acknowledge institutional failure. Instead, the injustices are laid at the feet of inept, misguided, or corrupt leaders within the Ministry of Magic. The soundness of the existing system is further endorsed when the Order of the Phoenix maintains the same governmental structure after the fall of Voldemort. Rather than creating new institutions, they choose new leaders, people whom they believe truly understand how to serve justice. None of the realistic novels implements new judicial leadership, which is not really necessary since most of the judges in these works do not appear to be as influenced by community outcry as are the leaders of the wizarding world, though the prejudices of jurors are revealed in a number of the cases. But all of these works, both fantastic and realistic, remind readers—future voters, jurors, and members of the legal community—of the potential power of the individual in the courtroom.

Despite this recent spate of children's books about trials, strong courtroom performances of justice, meaningful or otherwise, are scarce in children's books from the 1800s, where trial scenes are rare, brief, and significantly less developed than their

counterparts in books published in the next century and beyond. Indeed, the trial scenes are sometimes only described through secondhand testimony, and none of the books places justice—or at least earthly justice—at the heart of its story. Nonetheless, it is interesting to note that the defendants remain cast as community outsiders. For example, in Caroline Chesebro's *The Poacher's Sons* (1879), a poor, shiftless (and guilty) poacher is on trial for shooting a gameskeeper who was trying to apprehend him, but the only reference made to his trial is when Robert Sandhurst informs his younger brother, Ritchie, about his appearance before the magistrate to answer questions about their father's whereabouts on the night in question. Similarly, the trial and the sentencing of two innocent boys, one of whom is an adopted villager and one of whom is a Native American, in Clara Guernsey's *The Silver Cup* (1865) is described in five sentences. As the narrator explains, "My space forbids me to linger over this part of the story [the boys' pre-trial incarceration], or over the trial, which took place in three weeks from the time of the arrest" (Guernsey 224), but no other justification for these crucial missing scenes in a 316 page book is given. In Twain's *The Adventures of Tom Sawyer* and Charlotte Mary Yonge's *The Trial: More Links of the Daisy Chain* (1868), readers respectively accompany two more innocent outcasts, Muff Potter, the town drunkard, and Leonard Ward, a newcomer to Vintry Mills, into the courtrooms. These brief courtroom scenes are pivotal to the novels' plots since Tom's taking the witness stand heightens his respectability in St. Petersburg and leads to Muff's freedom, whereas Leonard is convicted at the end of his trial. But the pithy trial scenes are almost lost in the midst of Twain's adventures and Yonge's moral lessons of divine justice and servitude.

Similarly, in contemporary works of historical fiction set in England but published in America, like Avi's *The Traitor's Gate* (2007), Ian Lawrence's *The Convicts* (2005), Karen Schwabach's *The Pickpocket's Tale* (2008) and Eleanor Updale's *Montmorency: Thief, Liar, Gentleman?* (2005), only brief descriptions of courtrooms and summaries of trials appear. There are not any actual enactments of trials. Updale's *Montmorency* comments on the atmosphere at the trial of his former cellmate, Freakshow, noting that the courtroom "was as cramped as the opera house with a greater variety and strength of human smells, and the same air of theatrical excitement" (140). But even in this murder trial that has garnished huge amounts of public interest, the proceedings are merely described, so that they appear mundane and almost tedious. Perhaps because, as Mr. Tuckum explains to John in *The Traitor's Gate*, "The law—in *its* eloquence—does not allow a defendant to speak on his own behalf" (*Traitor's* 194; italics in original), trial scenes from this era in British history are perceived as lacking in drama by today's standards. Or perhaps books that focus on British trials, either in historical fiction or in realistic, contemporary fiction, simply do not get published in the American market.

Indeed, the American publication of books that feature well-developed American trials for children and adolescents did not take off until the release of Harper Lee's *To Kill a Mockingbird* (1960), which coincided with the rise of realism in children's and especially young adult literature. The performances of justice in the courtrooms of these realistic novels put forth examples of wrongful accusations and convictions, discrimination, sexism, classism, and racism. Yet the books also take care to note that these injustices would not occur so frequently in the courtrooms if they were not

tolerated, condoned, or even encouraged by the communities that the courts serve, and they suggest that, if characters (and readers) can learn to question and to conquer their prejudices and fears of “the other,” then performances of justice could result in the distribution of actual justice far more often.

Of course, some elements of a trial will always be performative in an adversarial court system. The attorneys for both sides present their versions of the crime, the witnesses testify to what they know about the event, the defendant faces his accusers, and the judge presides over the proceedings. Unfortunately or not, the performances and the presentations of all of the courtroom players impact the outcome of the trial, and, since experienced courtroom players know this, they try to use the performances to their advantage. Sometimes the elements of the performance are subtle. For example, Mr. Jamison, the white lawyer for T.J., the African American defendant on trial for murder in Mildred D. Taylor’s *Let the Circle Be Unbroken* (1981) asks the Logan family not to attend T.J.’s trial because he does not want the jury to connect his client with “radical” African Americans who have boycotted the local store that is owned by a Night Rider. Mr. Jamison, a friend of the Logan family, also assures them that he and Mr. Macabee, the prosecutor, have agreed not to discuss the events following the murder at trial, so the people in the courtroom will not know about either the Logan children’s helping T.J. to return home after the murder or the attempted lynching of T.J. by white men in the community (*Let the Circle* 38). Other times the performance is more blatant, such as when a group of townsmen paint Amik’s (or Indian John’s) face with grease and soot in Shelley Pearsall’s *Crooked River* (2005), so that he will look more savage and menacing at his murder trial and be more likely to be convicted (114).

In Walter Dean Myers's *Monster* and Wick Downing's *The Trials of Kate Hope*, readers learn how at least two lawyers plan their performance strategies. Steve Harmon, the sixteen year old African American protagonist in *Monster*, is facing capital charges for felony murder,¹⁸ and he is trying desperately to incorporate this reality into his identity as he uses his journal and his movie script of his trial to figure out who he is. Miss O'Brien, his defense attorney, seems only mildly interested in finding out who Steve really is, but she is very concerned with who he appears to be in court. Discussing his relationship with James King, his co-defendant, Miss O'Brien tells Steve, "You're going to have to break the link [between you]. He's sitting there looking surly. Maybe he thinks he's tough, I don't know. I do know that you'd better put some distance between yourself and whatever being a tough guy represents. You need to *present yourself* as someone the jurors can believe in" (*Monster* 215-216; emphasis mine). In order to help Steve accomplish this task, Miss O'Brien reviews his testimony with him, developing a game in which she turns over a Styrofoam cup whenever she does not approve of Steve's answer, and Steve visualizes the position of the cup as he testifies in court.

Like Miss O'Brien, Kate Hope focuses on how she can use witnesses' performances on the stand to improve her case. Kate is a fourteen year old lawyer in Colorado in 1973,¹⁹ and she is trying her first solo case on behalf of Herman, a large

¹⁸ The United States Supreme Court ruling in *Roper v. Simmons* in 2005 made it unconstitutional to execute individuals who committed their crimes while under 18 years of age, so Steve Harmon would not be tried on capital charges today.

¹⁹ In the "Author's Note," Downing, who is an attorney, as well as a writer, states that "though there'd have been hurdles to clear, it would have been possible for a fourteen-year-old girl to practice law in Colorado in 1973" (324). Because the original requirements to practice law as stated in the *Revised Statutes of Colorado, 1867*, which did not include any age restrictions, had never been specifically repealed in 1973,

dog that has been wrongfully accused of attacking and biting a baby. From watching her grandfather, who is also her mentor and her law partner, exaggerate his age and his feeble health for the benefit of the jury in an earlier case, Kate learns the importance of performance at a trial, and she follows her grandfather's lead, producing "a manufactured spring in [her] step" and "call[ing] [her]self Pumpkin to bring on the glow" that would make her—and Herman—more attractive to the jury (Downing 238). She also allows her grandfather's voice in her head to coach her through her performance as an attorney, so that she in turn can get the witnesses to perform in a certain way on the stand.

For example, even though she is dreading it, Kate must cross-examine Ron Benson since he claims to have witnessed the attack on the baby. Once she has him on the stand, she deliberately riles Ron, a local football hero and the boyfriend of the injured baby's au pair, because she knows that he cannot bear being challenged, especially by girls. She begins:

In my best "If you don't understand, just ask me" voice, I asked Ron if he'd seen the dog today that had done this awful thing. "Yes," he said, ready to explode, and leveling a stare at me that no doubt would have terrified a lineman on the opposing football team.

"You and Herman aren't really buddies, are you, Mr. Benson?"

"You mean, do I like that dog?" he demanded, snarling at me. "Would I want that animal in my house? Around my children if I had any?"

I started to object. *Don't*, Grampa's voice said. *He's close to helping you.*

"Actually, I meant that every time he's seen you this morning, he's acted aggressively. You understand what I mean by 'aggressively,' don't you?"

"Yes, I know what you mean!" Ron said, his neck all swollen and red ... and then he seemed to catch himself. (Downing 266; italics in original)

Kate could indeed practice law as she is a person of "good moral character" who had studied law for the requisite numbers of years and had passed her qualifying examination (Downing 325-327).

Before Ron manages to catch himself, though, Kate exposes an angry side of his personality, discrediting his character and softening the effects of his testimony against Herman.

While performances like those staged by Miss O'Brien and Kate exemplify elements of Harbinger's "play without," they do not necessarily allow for the entirety of Harbinger's "play within," let alone Winner's "wider frame," to be told. As the novels repeatedly inform readers, sometimes through their formats and sometimes through their texts, the entire story of a crime and its aftereffects, both on individuals and on communities, is too large, too complex, and too nuanced to be condensed into a trial. Ferguson agrees, explaining, "A legal narrative declares itself [usually in a verdict]; nonlegal narratives question those declarations. The contrasts are striking but also necessary. People will always require more than official writings to understand what they want to know about a trial" (26).

All of the novels offer more information and insights into the crime and its community setting than any "official writings" of the trials set within them would. Even in *Harry Potter*, the trial scenes in the pensieve, though each tells a story, only achieve a larger meaning and significance because of the knowledge that Harry and the readers accumulate through other events and sources. But the unusual narrative formats of three of the novels particularly stress the limitations of a trial in being able to tell the entire story of a criminal event. First, in *Monster*, Myers alternates between a typed movie script of the trial that Steve is writing and Steve's personal, "handwritten" journal, which describes his current life in prison, as well as his recollections of events before the robbery and murder. Through his journal entries, readers gain empathy for Steve,

regardless of how they feel about his guilt or innocence,²⁰ and they see the humanity that so rarely surfaces in Steve's cinematic version of his trial. Of course, it is important to remember that, within the parameters of the novel, Steve is equally responsible for the content of the film script and the journal entries, and the script, intended to be a performance piece about the American criminal justice system, could obviously be biased. Nevertheless, by juxtaposing the film script and the journal entries, Myers creates a jarring dissonance between the trial scenes and Steve's interior life that leaves the court appearing harsh, sterile, and indifferent to the people who appear before it.

Similarly, in *Crooked River*, Pearsall describes the trial of Amik and the events leading up to his trial in two different formats, although, unlike Myers, she also employs two different narrators. Amik, a member of the Chippewa or the Ojibbeway tribe, comments on his captivity and murder trial in Ohio in 1812 in free verse, and Rebecca, a thirteen year old white girl whose father is holding Amik as a prisoner in their attic, uses prose to relate her changing opinions of Amik and the racist town in which she lives. Both Amik and Rebecca provide readers with information that is deliberately lied about or omitted in court, such as the murder of Amik's friend by the white men who were hunting them and the fact that the feather supposedly left by Amik near the murdered trapper's body was actually taken from him in Rebecca's attic. Through Rebecca and Amik, readers learn the truth of Amik's innocence and the town's guilt, and they can feel relief when Amik, aided secretly by Rebecca, as well as by a horrific thunder storm, manages to escape the gallows.

²⁰ Myers never directly informs readers of Steve's guilt or innocence, so readers are able to arrive at their own decisions about this matter.

In Klise's *Trial by Jury Journal*, sixth grader Lily Watson also helps an innocent man to avoid a death sentence. The book's format moves the action of the trial almost entirely out of the courtroom and into Winner's "wider frame" of public opinion, nearly negating the purpose of a courthouse entirely. The novel, purportedly Lily's research paper about being the first juvenile juror in Missouri, contains newspaper clippings, radio show transcripts, Lily's journal, a juror's gossip column, another juror's autobiography, and a fourth juror's drawings, as well as collected pieces of evidence not introduced in court, like conspirators' notes, threats against the defense attorney, and bribes to jurors. All of these papers tell readers about the trial of Bob White, a poor, functionally illiterate outcast wrongfully accused of murdering Perry Keet, as well as about the actual kidnapping of Perry by Rhett Tyle and Anna Conda. But readers learn about all of these happenings secondhand, either through Lily or through media coverage. They never accompany Lily into the courtroom, and the only direct testimony from the trial that they are privy to is one brief recording of Bob White's cross-examination played "[l]ive from the majestic studios of K-TYLE atop Tyle-o-Polis in downtown Tyleville" (Klise 182). Guilt and innocence are determined first by the press, admittedly manipulated by Rhett Tyle, the richest and most influential man in town—as well as Perry's kidnapper—and then through Lily's discoveries of new evidence. A verdict is never actually reached in court, underscoring the unimportance of the actual judicial institution in this story.

The narrative formats of *Trial by Jury Journal*, *Crooked River*, and *Monster* all expose readers to truths and perspectives that remain hidden or repressed during their characters' trials, but many of the realistic novels, including *Crooked River*, explore the

theme of a trial's limitations through their historical settings.²¹ Winner explains, "As a play is often a mirror of its time, so is a trial. A public trial can function dramatically to reinforce prevailing notions and prejudices. In a different historical period, the trial transcript brings these prevailing notions and prejudices to light for later audiences to see" (154). Without using a pensieve or even multiple-voice narrative formats, children's works of historical fiction can reveal the community attitudes and prejudices that have contributed to so many of the problems and empty performances within the judicial system, both past and present, to a new generation. Furthermore, these stories emphasize the frequent inability or inadequacy of trials to deliver verdicts that are not in keeping with community norms.

After all, a court system frequently reflects the values and beliefs of the people that it serves. As Paul Berman points out, "trials provide a stage upon which conflicting points of view can be articulated and argued, finally creating a 'consensus narrative' that attempts to unify the philosophical, political, or moral values of the community" (qtd in Winner 154). The problem is that this "consensus narrative" may not be just or even true. Ferguson notes that one of the numerous functions of a trial is to "guard the status quo ante" (19), and sometimes the community and the court that represents it sacrifice an individual for the sake of the status quo and the "consensus narrative."

One of the most famous sacrifices to the status quo and the "consensus narrative" in American literature occurs in Harper Lee's *To Kill a Mockingbird* when Tom Robinson, an African American defendant, is wrongfully found guilty of raping Mayella Ewell, a white woman, in Maycomb, Alabama, in 1935. There is no direct evidence

²¹ For more information on historically based books, also known as works of historical fiction, see Chapter Three.

against Tom, and the characters of the star witnesses against him are easily impugned. Yet the jury finds Tom guilty because it is easier for them to do so than it is for them to question their long held beliefs about the dangers that black men hold for white women. Moreover, even if they do not truly believe that Tom is guilty of rape, they know, by his own admission, that he is guilty of having “the unmitigated temerity to ‘feel sorry’ for a white woman” (Lee 204), and, for people who have little else besides skin color to justify their feelings of superiority, Tom’s pity towards one of their own “superior” race is an unthinkable and unforgiveable emotion. Legally guilty or not, he must be removed from their midst, lest he damage any more of their ideals and illusions or encourage other African Americans to do the same. By contrasting the courtroom verdict and the community’s general endorsement of it with what the readers recognize as an injustice, “*To Kill a Mockingbird* presents the argument that the forces that motivate society are not consonant with the democratic ideals embedded in its legal system and that the disjunction between the codes men and women profess and those they live by threatens to unravel individual lives as well as the social fabric” (Johnson 129).

Unfortunately, individuals who are living by a private and less democratic code often think that, in maintaining the status quo, both inside and outside of the courtroom, they are actually preventing the unraveling of society. In *Let the Circle Be Unbroken*, the Logan children have no illusions about what the outcome of T.J.’s trial will be because their father frankly tells them that T.J. is “in the hands of the law now and that law like jus’ ‘bout everything in this country is made for the white folks” (Taylor 35). T.J. will be executed, regardless of his innocence in the murder, because he has dared to consider himself as a friend to Melvin and R.W. Simms, two white teenagers who actually

committed the murder, and because he has publicly accused his two new “friends” of the crime. Neither the African American nor the white communities in this small Mississippi town in 1935 are pleased with this interracial friendship,²² but only the white citizens have the power to restore their social order, both in the courtroom during T.J.’s trial and in the darkness when the Night Riders troll.

Whereas the privileged, i.e., Caucasian communities in *Let the Circle Be Unbroken* and *To Kill a Mockingbird* employ trial verdicts as another way to preserve their distinction and superiority, Captain Jaggery in *The True Confessions of Charlotte Doyle* and the settlers’ community in *Crooked River* also use the justice system to protect and improve their own positions. In Avi’s *The True Confessions of Charlotte Doyle*, which is set on a ship at sea between England and America in 1832, 13 year old Charlotte is convicted of murdering Mr. Hollybrass, the first mate. Captain Jaggery, the judge and the prosecutor at her trial, as well as the actual murderer, assures Charlotte that she must be blamed for Mr. Hollybrass’s death and the rest of the terrible voyage²³ because she is the “unnatural one” (*True* 202), a girl who gave up her position as a lady to work and dress as a member of the male crew, but Captain Jaggery is not merely sacrificing Charlotte to maintain traditional gender roles and boundaries. He murdered Mr. Hollybrass and would happily kill Charlotte as well in the name of justice in order to safeguard his captaincy of the *Seahawk*, a position of power and honor that both Mr. Hollybrass and Charlotte thought him unfit to hold. Likewise, in *Crooked River*, the

²² As Hamdia Bosmajian explains, “For whites, T.J. is a scapegoat of convenience who will be burdened with the blame for a criminal act, but his role as a scapegoat for the black community is more complex” (148).

²³ In addition to the murder of Mr. Hollybrass, the people on board the *Seahawk* have also endured a mutiny that resulted in a death and injuries and a fierce hurricane.

townspeople transform Amik into a political sacrifice. As Rebecca's older brother, Amos, rationalizes, "What if seeing what happens to Indian John sends the rest of the Indians out of here for good and leaves us to live in peace?" (Pearsall 189). In point of fact, the townspeople have not been physically threatened by the nearby Native Americans, but their land would certainly be easier to seize in their absence. Thus, personal and communal agendas can clearly influence and skew performances of justice.

As the unjust verdicts against Amik, Charlotte, T.J., and Tom Robinson show, juries do not always arrive at the right decisions, often because they bring their personal prejudices and community biases into the jury box with them. Ferguson observes, "Juries provide the most potent symbol of self-rule ever invented and represent the high-water mark of democratic understanding and republican principle. On the other hand, and at almost every stage of its existence, the institution has been found wanting or suspect in practical application" (52). Frequently, jurors are regarded as either too ignorant or too prejudiced to make objective decisions based on the evidence presented in court, such as it is, and *Trial by Jury Journal*, the only novel told at least partially from a juror's perspective, certainly does nothing to negate the notion of a biased jury. (For that matter, a few of the jurors do not seem very bright either.) Describing the voir dire process in her journal, Lily recalls that, when Ms. Mute, the defense attorney, asked if any of the potential jurors did not believe that a defendant is innocent until proven guilty, "[n]ot a single hand went up, which I couldn't believe. Everyone KNOWS Bob White is guilty. Maybe I should've raised my hand, but I didn't want to be the only one" (Klise 25). And clearly Lily is not the only one who should have raised her hand. Buzz Ard, one of Lily's fellow jurors, reports in his newspaper column at the beginning of the trial that

“[t]he prosecution’s case is tighter than a drum” (Klise 28),²⁴ and Anna Conda, another juror who later turns out to be in cahoots with Rhett Tyle, Perry’s kidnapper, attempts to turn the jury pool against Bob White. While Anna’s reasons for contaminating the jury are extreme and rare, the prejudices and predetermined judgments of Lily and Buzz, not to mention the jurors of the other trials discussed, are not unusual, and they can result in unfair, conciliatory verdicts that privilege and protect mainstream society while hurting the outcasts and scapegoats and making a mockery of justice.

The pursuit of justice in these novels is also compromised by a lack of solid, direct evidence in all of the cases. Without non-controvertible evidence before them, jurors are forced to base their decisions largely on the performances of the witnesses and the attorneys, and they are more readily able to bring their prejudices to bear on the verdicts. And, as most of these novels attest, this combination of factors can lead to a lot of wrongful convictions. In fact, the only pieces of physical evidence offered in any of the courts of law are Amik’s feather and Charlotte’s knife, both of which were actually planted at the murder scenes, showing that even physical evidence is not always reliable. Otherwise, all of the evidence against the accused comes from witnesses’ testimony, which is sometimes trustworthy, sometimes inaccurate, and sometimes untrue. As the Innocent Project’s report, “250 Exonerated: Too Many Wrongful Convictions” states, “76% [of the 250 people exonerated by this organization] were convicted based at least in part on eyewitness misidentification” (22-23). While *Harry*

²⁴ In his daily column, “What’s the Buzz,” Buzz reveals a lot of information that he probably could not get away with in real life. For example, he reports, “And here’s the big news: I can’t reveal the names of my fellow jurors (and it’s killing me!), but I’ll tell you this much: We’ve got a star-studded lineup here to beat the band. Think local celebrity recluse. Starving artist. Fashion designer” (Klise 29). Readers in Tyleville could easily identify the “local celebrity recluse” at least, so Buzz has essentially named her. He continues to report from his sequestration, even identifying the hotel where the jury stays by description, if not name.

Potter's Sirius Black is mistakenly identified as Peter Pettigrew's killer by Muggle witnesses, intentionally false identifications and deliberately misconstrued scenarios actually play larger and more damaging roles in *To Kill a Mockingbird*, *The True Confessions of Charlotte Doyle*, *Let the Circle Be Unbroken*, *Crooked River*, *Trial by Jury Journal*, and *The Trials of Kate Hope*. The parts played by jailhouse snitches in *Monster* and by false confessions in *Trial by Jury Journal* and *Harry Potter and the Half-Blood Prince* are also shown to be as unreliable as the testimony of many of the witnesses,²⁵ and none of these performances provides substantive proof of guilt.

Yet forcing jurors—and readers—to make decisions based on individuals' performances in the courtroom only underscores the importance of performativity in trials as a whole, while also reminding readers that actual justice must girder the performances of justice if such performances are to have any true worth at all. Thanks to the Romantics' understanding of childhood innocence, children are often still perceived as better judges of fairness and morality than adults, and many authors (and other adults) seem anxious to tap into this idea, attempting to teach children about the follies, hypocrisies, and prejudices that can jeopardize a trial before the children acquire the indifference or cynicism of age. For example, after the trial of Tom Robinson, twelve year old Jem asks his father, Atticus, how the jury could have convicted Tom Robinson when there was no real evidence against him. Atticus responds, "I don't know, but they did it. They've done it before and they did it tonight and they'll do it again and when they do it—seems that only children weep" (Lee 213). Unfortunately, juries will indeed

²⁵ The Innocence Project's report, "250 Exonerated: Too Many Wrongful Convictions," discusses the impact that snitches and false confessions can have on wrongful convictions. For example, of the 250 people exonerated through the efforts of the Innocence Project, "19% were convicted based at least in part on testimony from snitches and informants" (38-39), and "27% were convicted based at least in part on false confessions, admissions or guilty pleas" (32-33).

convict an innocent person for the wrong reasons again. But children's and young adult novels that feature such injustices and their consequences may help the children who weep now to grow into adults who will not only weep but also work to ensure that the performance of justice is as authentic and actualized as possible.

CHAPTER 6 CONCLUSION: THE JURY'S STILL OUT

Of course, the jury is still out—and, in a sense, always will be—in ruling on how effectively these works teach children and adolescents about the legal system. After all, the books themselves vary in the aspects of the criminal justice system that they address, in the progressiveness or conservativeness of their ideologies, and in their literary strengths. But each of the books contributes to readers' awareness of individuals whose lives are affected by the legal system, an often overlooked or dismissed group—and, indeed, a culture—and I hope that my dissertation brings some attention to this important subset of children's and young adult literature and the real-life people and situations that it reflects.

As I continue to research this topic, I plan to explore children's stories about youthful activists who use the legal system to right a social wrong through the lenses of the often conflicting child reform models of protecting children and liberating them from adult constraints and oversight. I am especially interested in the portrayal of young activists in the recent abundance of books about children and adolescents in the American civil rights movement, many of which are biographical. Similarly, I also want to investigate other children's works of non-fiction about the criminal justice system more closely to see how these books portray the system differently than their fictional counterparts and to determine if these books can be considered multicultural as well.

In my introduction, I acknowledge that I perceive a great deal of overlap among the multicultural metaphors of mirrors, window, and doors, at least in children's books about the legal system. Ideally, all of these works should fulfill all three metaphors and their functions simultaneously, if in varying degrees, encouraging readers to search for

at least partial reflections of themselves in all kinds of characters, promoting education and empathy, and encouraging children to apply what they have learned in their books to the world around them. Whenever possible, children's books about the criminal justice system—and about multiculturalism and issues of social justice more broadly—should also exert a special effort to inspire their readers to believe that social change, as well as individual change, is possible. And, indeed, my greatest critique of the children's books about the criminal justice system is their emphasis on changing or fixing the individuals within the system rather than on considering larger questions about the system itself.

I realize that the most frequently asked question about my dissertation will probably continue to be: what role do these books play in influencing children's views on the legal system? Of course, no one can definitively answer this question, but I hope that Botelho and Rudman are not being overly optimistic when they observe, "Children's literature can redress injustice as much as reflect it. It can inspire readers to reflect on their lived experience, re-imagine socially just worlds, provide new ways of exercising power, and offer tools for building cultural and historical understanding" (266). May these books fulfill all of these aspirations.

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BIOGRAPHICAL SKETCH

Prior to coming to the University of Florida, Ramona Anne Caponegro received a Bachelor of Arts from Saint Louis University in 2004, where she majored in English, minored in psychology, and completed a certificate (an interdisciplinary minor) in Community Service, Social Justice, and Peace in the American City. She completed her Master of Arts in the Department of English at the University of Florida in 2006 before beginning her doctoral studies. In addition to teaching classes in children's literature, she also worked as the Coordinator of the Center for Children's Literature and Culture and as Assistant to the Curator of the Baldwin Library of Historical Children's Literature. After completing her dissertation, Ramona took a deep breath.