

RULES, LAWS AND CONCEPTIONS OF JUSTICE IN MIDDLE SCHOOL: AN  
EXPLORATORY STUDY OF CHILDREN'S LEGAL CONSCIOUSNESS

by

Holly R. Stevens  
A Dissertation  
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The Requirements for the Degree  
of  
Doctor of Philosophy  
Criminology, Law and Society

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Summer Semester 2013  
George Mason University  
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## **DEDICATION**

This dissertation is dedicated to three very important people in my life.

To my mother, Denice, who has supported me in everything that I do and made many sacrifices to ensure that I was able to pursue my dreams.

To my husband, Marty, who I am quite sure had no idea what he was getting himself into when he started dating a graduate student who was preparing for comprehensive exams many years ago. I am glad that we made it through together!

And, to my son, Cole, who is an endless source of joy and a constant reminder of what is truly important in life.

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## **ABSTRACT**

### **RULES, LAWS AND CONCEPTIONS OF JUSTICE IN MIDDLE SCHOOL: AN EXPLORATORY STUDY OF CHILDREN'S LEGAL CONSCIOUSNESS**

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Legal consciousness research suggests that law is a pervasive force in everyday life that influences how people think about their own experiences, how they interpret future events, and how likely they are to seek out authority figures and legal institutions to remedy various problems they encounter. Research has consistently shown that minorities and other marginalized groups are less likely to seek out legal institutions to resolve problems or disputes than others, and legal consciousness research has sought to explore why this should be the case. Although not necessarily socially and economically disadvantaged, children, on account of their age, often lack the kind of access to formal legal actors or authorities to assert their rights or settle disputes that is afforded to adults. Thus, they can be viewed as legally disadvantaged and yet, to date, there have been very few explorations of how law operates in children's everyday lives.

To address this gap, this dissertation uses semi-structured interviews and observations of 6<sup>th</sup>-graders to describe how a group of children define and use rules and

laws and understand justice. I found that these children's conceptual understanding of what is law and what is fair is quite different from how they experienced and used these concepts to resolve their own problems in everyday life. In terms of their general understanding, children described a picture of justice and law that is closely tied to how formal law, legal institutions, and legal actors are supposed to operate. These conceptions often acknowledged law's contribution to social order and recognized the law as legitimate and trustworthy, often supposing that if certain rules or laws were unjust, legal authorities would change or improve them.

However, children's narratives of the particular everyday problems they encountered in their lives, often at school, depicted a less idealistic conception. Most often, children described a formal system of rules and methods of problem resolution that constrained their ability to resolve a problem, limited their involvement in problem resolution, and left them dissatisfied with the process and authority figures involved. Thus, this study reveals a tension between law on the books and law in action at an early age, with children who have a relative lack of experience with formal law and legal institutions. Moreover, this study posits that this contradiction between children's more abstract conceptual understandings of the law and their own personal experiences of quasi-legal rules, authorities, and dispute resolution processes within a school context could have potentially deleterious consequences. Specifically, it could lead children to become cynical about the law's capacity to resolve conflict and deliver justice and make them less likely to trust legal authorities and use the law as a resource in the future.

## CHAPTER ONE: INTRODUCTION

“In the little world in which children have their existence, whosoever brings them up, there is nothing so finely perceived and so finely felt, as injustice. It may be only small injustice that the child can be exposed to; but the child is small, and its world is small...”

Pip in Charles Dickens’s *Great Expectations* (part 1, chapter 8, paragraph 95)

Children encounter many problems on a daily basis. Most often, these problems are ordinary and are given very little consideration by adults. Children’s complaints and worries may be quickly dismissed by parents and teachers, only to have a new problem arise. Arguments with peers, difficulties with adult authority figures, and navigating the boundaries and rules set by adults while becoming increasingly independent from them are big challenges for children. Yet, these are challenges already experienced by the adults in their lives, and thus, often receive little serious contemplation by those same adults. It is important to understand that everyday seemingly meaningless troubles experienced by children are significant, just as adults’ everyday problems are meaningful. Their problems, although common, may not be trivial.

Everyday adult problems (e.g., dealing with neighbors, conducting typical business transactions, navigating regulations that give order to everyday life, etc.) have

been the focus of a growing body of research in the area of law and society and legal studies for the past several decades. These studies suggest that how we experience and understand these problems has an impact on how we think about legal systems generally (Ewick and Silbey, 1998; Merry, 1990; Sarat, 1990), our trust in legal and political systems (Tyler, 2001; Tyler, 2002), and the likelihood we will seek assistance asserting our rights and accessing justice (Sarat and Felstiner, 1989; Sarat, 1990). Moreover, research has consistently shown that minorities and disadvantaged groups are less likely to assert their rights, have decreased levels of trust in social institutions, and are less likely to access justice via formal legal channels (Merry, 1990; Engel and Munger, 2003; Sandefur, 2008).

Children generally lack access to assert rights and engage in formal dispute resolution via legal channels. Their inability to access such resources defines this group as similarly disadvantaged, at least in terms of the legal opportunities routinely granted to those who are simply older. For example, without assistance or support from their legal guardian or parent, children are unable to make decisions about their education or medical treatment, cannot be employed or earn income, and are seldom permitted to legally challenge decisions made on their behalf except under special circumstances. Unlike other disadvantaged groups, membership in this legally disadvantaged group is structurally bound by age.

Building upon legal consciousness research, this study explores children's stories of everyday problems. Its purpose is to investigate what these stories reveal about children's understanding of justice, rules, and laws, particularly in light of their inability

to use those institutions and processes available to adults. Moreover, this study seeks to describe how the social and economic inequality children experience, as a legally disadvantaged group, are represented in children's own stories of everyday life.

To investigate this topic, I conducted interviews with 68 children in the 6<sup>th</sup> grade at a middle school in the mid-Atlantic region of the U.S. Schools provide an opportunity to view children in a micro-society with rules, authority figures, responsibilities, and where interaction between peers and authority figures are standard (Brint, 2006a, Brint, 2006b; Havighurst, R.J., and Davis, 1943). In addition to providing academic education, schools are tasked with socializing students for participation in society as adults. This socialization includes education on what systems of rules and law, what behaviors are considered acceptable, and to convey potential consequences of noncompliance (Brint, 2006a, Brint, 2006b; Havighurst, R.J., and Davis, 1943). Schools therefore provide a setting where rules and authorities are important features of daily life, groups of children can be accessed in a single location, and where children are being socialized to become "good" or rule-abiding citizens.

I used a two-part interview protocol to collect both narratives on everyday problems children experienced and responses to semi-structured questions on rules, laws, and justice. I analyzed these qualitative data, examining how children understood concepts of rules, law and justice and exploring how children used these concepts in their everyday life. Prior research examining the role of law in everyday life has consistently noted the importance of hearing ordinary people's accounts of how people think about and use the law (Ewick and Silbey, 1998; Merry, 1990a; Merry, 1990b; Hoffman, 2003;

Marshall, 2000). These accounts, or narratives, give researchers an opportunity to learn about the human experience and understand the process by which individuals find meaning in their lives (Orbuch, 1997; Coles, 1989). Yet, because there is a lack of research on how children understand and perceive the role of rules, law and justice, more generally, additional semi-structured questions were included in this study's data collection.

This dissertation represents one of the first studies focusing solely on children's legal consciousness. As such, this research is exploratory, as there is only a very small body of empirical and theoretical literature on which to build. In addition to providing important findings related to how children view rules, laws and justice, this research provides a better understanding of the issues involved in conducting research on this topic with children and the feasibility of conducting more extensive study of this phenomena.

### **Children as a Disadvantaged Group**

This study is situated in childhood. Although there are certainly many benefits to being a child, as a group children are legally disadvantaged. Children are structurally unequal to the adults with whom they engage. As Sarre (in press) points out, children are legally, spatially, temporally and conceptually bound to their families while being tied to educational structures for compulsory education, and, at an ever-increasing rate, other institutions for before and after school activities and care. They have little voice in establishing or challenging these constraints and engaging in a dialogue can be challenging for children, particularly when other authority figures do not support them.

Children are often viewed as “incomplete persons” and as “projects for adult attention” (Mayall, 2005:79). Because children inevitably age out of their dependent status as they become adults, it is particularly important to society that they function “normally” as they reach adulthood. An important piece of society’s work with children is “measurements, assessment, and categorization; and an important goal is to establish whether this child is normal (Rose, 1985). If the child is abnormal, then intervention to return her or him to normality is appropriate” (Mayall, 2005:79). This type of assessment begins at birth and continues to the age of majority.

Adults in the child’s life play an important role in ensuring children become “normal” functioning adults and in determining the beliefs, values, cultural understandings, and decision making processes that will be used to constitute their everyday life. To this end, many social institutions and programs, like mandatory schooling, are provided to encourage appropriate development and socialization that generally results in compliance with norms, rules, and laws society has established.

Despite the high level of control families and institutions exert over children , they may also encourage children to challenge the rules and authorities that constrain them by teaching the importance of critical thinking, personal expression, open communication and dialogue, participation, and agency in making their own decisions (Sarre, 2013).

As children grow up, their rights become more consistent with rights afforded to adults, and at the age of majority all rights afforded to adults are bestowed upon children. For example, as a child becomes a teenager, s/he is eligible for a driver’s license, can

decide to be removed from compulsory education, become eligible to vote, enter into contracts, and can partake in other civil duties (e.g., holding local office, military duties, etc.). By their early twenties, young people are able to buy alcohol, must leave the custodial protections of the state (when the child has no other parent or guardian), and other features of childhood are removed. Families and institutions are tasked with preparing young people for this transition from childhood to adulthood and all the shifts in obligation, responsibility, and expectation that come along with this transition.

At each stage of development through childhood, families and educators pursue different curricula (formal and informal) to increase the likelihood that at the end of the transition to adulthood children arrive as “good” citizens, who actively participate in society and resolve problems via appropriate avenues. The children in this study provide a snapshot of children at 6th grade or about 12 years old. Children at this stage are at an important developmental stage socially, morally, and cognitively.

Research suggests that at this developmental crossroads, young people begin to experience more complex social and relational problems, have significant increases in responsibilities, such as the amount and complexity of homework assigned, experience cognitive growth in their ability to reason abstractly, and are given increased autonomy from parents, especially with access to and freedom with cellular and smart phones, texting, use of social media, gaming, and other technologies (Brown and Marin, 2009; Pew, 2012). Peer relationships become increasingly important and peer pressure may lead to exposure to drugs and alcohol or sexual behaviors, conduct, or materials. This is also the time when most bullying and cyber-bullying begins to be particularly problematic.

Finally, this age is also a time when both boys and girls are going through significant physical transformation and puberty. All in all, this makes for a challenging time when not only are problems more pervasive but may also be more complex for children to navigate and reason through than those in previous years.

### **Situating the Research**

At the heart of this research is understanding children's capacity to reason through their everyday problems and determine what schemas, or frames of understanding, shape this process. To inform the development of the research questions and methodology for this dissertation, I draw from and incorporate three areas of research: law and society, social psychology, particularly as it relates to procedural justice, and childhood development.

This study relies most heavily on law and society's legal consciousness literature, particularly Ewick and Silbey's *The Common Place of Law* (1998). Legal consciousness is the term used to describe how people use and understand the law at work in their everyday lives (Merry, 1990:5) or as "participation in the process of constructing legality" (Ewick and Silbey, 1998:35). In other words, legal consciousness is produced by what people say and do in their everyday life, particularly when dealing with problems or situations involving some kind of conflict (Ewick and Silbey, 1998). Legal consciousness research tends to focus on problems in order to understand individual's conceptions of legality because it is through attempts to resolve conflict that applications or assertions of law and legal-like concepts are often revealed (e.g., justice, fairness, equity, rights, etc.) (Ewick and Silbey, 1998; Nielsen, 2004). Furthermore, experiences

of problems and conflicts often lead to growth for both individuals and the cultures and societies in which they live (Coser, 1957). As individuals describe their accounts of a conflict, scholars can gain insight into the cultural meanings, social rules, and values of the individual and their social world (Ewick and Silbey, 1998).

Ewick and Silbey (1998) present three broad schemas of understanding to organize legal consciousness: Before the Law, With the Law, and Against the Law. Before the Law views law as separate from the individual's everyday life, and as an objective, rational, predictive set of rules and procedures. With the Law consciousness considers the law as an array of strategies individuals use to advance their own interests, comparing the law to a game where rules are flexible, and proficiency and familiarity with the game are indicators of success. From the perspective of Against the Law individuals are "unable to effectively resolve disputes, recognize truth, or respond to injustice" (Ewick and Silbey, 1998: 196). From this form of consciousness, the law regularly fails individuals by producing unfair, inequitable outcomes. The three schemas are not meant to precisely classify individuals into one of the three groups. Instead, the schemas provide an organizing mechanism to interpret the "multifaceted, and possibly contradictory consciousness" a person may exhibit when interpreting everyday problems (Ewick and Silbey, 1998: 50).

This study of children's everyday problems was informed by this (1998) model and concludes that the young people in this study exhibited schemas that resemble Ewick and Silbey's schemas in some respects. Yet, children also used schemas unrelated to law and schemas that, while still implicating formal rules and authority figures, were also

deeply rooted in their conceptions of justice more generally. The stories collected provide evidence that children's legal consciousness is oftentimes less related to formal conceptions of law and more related to broad conceptions of justice and rules. General conceptions of fairness and justice are widespread, demonstrating that, for children, schemas of legal consciousness used to understand and interpret everyday conflict may be defined less by law's bureaucratic elements (written rules, hierarchical authority, documentation) than schemas used by adults. This may be because children have relatively less experience with authority figures, formal rules and regulations, and legal-bureaucratic institutions. Thus, children rely on schemas that are founded on the normative features of justice which they are familiar, including features of both distributive and procedural fairness.

Related to legal consciousness is the process by which children are socialized to the law and how authority figures, rulemaking bodies, and legal institutions gain trust and compliance. The work in social psychology on legal socialization and procedural justice sheds light on this topic. Legal socialization research explores the process by which individuals become aware of and become compliant to rules and laws that guide behavior (Cohn and White, 1992; 1990). Procedural justice argues that individuals care more about how they are treated through the process of interacting with authority figures and institutions than the favorability of the actual outcome resulting from the process (Lind and Tyler, 1988; Tyler, 1988). Furthermore, Tyler (1990; 2006; 2002) argues that procedural fairness is a required predecessor to gaining trust and legitimacy, and thus compliance. In the everyday life, it seems unlikely that legal socialization and procedural

justice are unrelated to one another or to legal consciousness. This research is interested in how children's relationships with authority figures and institutions influence their construction of everyday problems.

### **The Importance of the Research**

This research tries to make several important contributions. First, it provides an extension of Ewick and Silbey's theory of legal consciousness by describing how children interpret conflict situations. This is an important contribution, as children are a disadvantaged group who are largely dependent upon the law but who also have little means to access the law for redress should the law fail them. This unbalanced relationship with the law has largely gone unexplored by the sociolegal community.

Data from this study demonstrate that children use schemas that implicate legal-like structures, including rules and justice, when interpreting their everyday troubles, including instances of bullying, issues navigating public and private space (particularly on social networking sites) and interpersonal conflict with authority figures. Children's schemas of legal consciousness are less structured than adult schemas that have been described in prior research. Yet, these schemas add to our knowledge of how rules and laws shape behavior. Moreover, this is one of the earliest snapshots of legal consciousness to date, thus, providing a useful starting point for a developmental theory of legal consciousness.

Second, this research provides an example of the contradiction between law on the books and law in action with a group of very young individuals who have very little experience with the legal system. This is an important contribution to sociolegal

scholarship for two reasons. First, this research demonstrates that from a very early age children can be unsatisfied with formal dispute resolution processes that resemble formal legal processing. Children are dissatisfied for several reasons, including a lack of opportunity to be heard, an inability to contribute to decisions that relate to consequences for offenders, and the absence of transparency to understand how decisions were made. Second, this research suggests that there is a disconnect between how children view law, legal institutions, and legal authorities outside their everyday lives (e.g., as impartial, fair, and just) and how they view law operating in their everyday problems could be harmful to society. Specifically, the disconnect may lead to decrease trust and legitimacy in the law and legal actors, thereby decreasing the likelihood that these children will access the law when problems arise.

Finally, this research provides a description of children's everyday problems and their efforts to resolve problems. There is little research that focuses on the problems children often experience in their lives. This research demonstrates that children face many difficult problems in adolescence and appear to be seeking assistance in making sense of those problems from the adults involved. Specifically, the narratives collected in this research depict children as seeking to be more involved with law by being heard by adult authority figures, having a say in decision making, and making claims on authority figures to help explain to them choices and decisions that are made, particularly when the process and the outcome seem unfair. Practically, the information and stories collected here are of value to anyone working with and studying young people, as their voices are often left out of the literature.

## **Organization of the Dissertation**

This dissertation proceeds as follows in the following manner: Chapter Two provides an overview of the relevant literature, including legal consciousness and frames of interpreting everyday conflict, and the little research that has been conducted on capacity of children to process and interpret conflict situations. Chapter Three presents the research questions and the methods used to conduct the research. Chapter Four describes the participants' responses to structured questions on rules, laws and justice and provides a generally understanding of where we meet these young people in terms of their knowledge of and socialization to the law. Chapter Five explores the themes that emerged from young people's stories of everyday problems using their own words. Finally, Chapter Six concludes this dissertation with a discussion of the study's findings, limitations and areas for future research.

## CHAPTER TWO: REVIEW OF LITERATURE

“The law is real, but it is also a figment of our imaginations. Like all fundamental institutions it casts a shadow of popular belief that may ultimately be more significant, albeit more difficult to comprehend, than the authorities, rules, and penalties that we ordinarily associate with the law.”

Stuart Scheingold, *Politics of Rights*, (2004:1)

The daily lives of individuals are shaped by the law. Much of the legal activity in society regulates interactions between individuals at the workplace, in their families, and in their communities and neighborhoods (Ewick and Silbey, 1998, Engel, 1995, Merry, 1990a, Merry, 1990b, Nielsen, 2000, Marshall, 2005). A smaller portion of legal activity occurs via formal legal institutions, which include the extensive network of criminal and civil courts in the United States. Thus, in order to study law as it operates most frequently, researchers must study the lives of ordinary people, their interactions with others, and decisions individuals make. Children experience the law in the same way adults do, through interactions with others. Few children, like adults, have experience with formal legal institutions. Therefore, to study how the law impacts children, we must examine how children act and make decisions in relation to the law in their day-to-day lives. This chapter provides the reader with an understanding of the relevant literature

regarding the social construction of the law, legal consciousness, and children's capacity for developing legal consciousness.

### **Socially Constructing the Law**

In order to examine how children think about the law within their everyday lives, what law means must be broad enough to include these experiences. Rather than using a definition of law that focuses exclusively on formal legal codes, regulations, and the institutions that adjudicate these matters, sociolegal scholars define the term law more broadly by using a social constructionist foundation. Examining law through this social constructionist lens makes possible the assumption that law is not a permanent, constant feature of social life. Rather, law is a dynamic and ever-changing force and its meaning is created through group interaction and collaboration. For example, the meaning of law, perceptions of legal authorities, and the likelihood a person accesses the law is directly impacted by an individual's experience with the law and individual characteristics (e.g., socioeconomic status, race and ethnicity, gender, etc.).

Childhood is also socially constructed. This means that children learn their role through experiences and create knowledge using previous experiences, social status and situation, their cultural background, the experiences and interactions of others that have been shared with them that form their social reality and social identity (Kukla, 2000). Meaning is not derived from inherent characteristics of the experience. Constructing social reality is an ongoing, iterative process that is ever-changing by individuals interpreting situations which then become a part of their knowledge and experience which in turn influence the interpretation of future experiences (Vygotsky, 1978; Kukla,

2000; Wertsch and Sohmer, 1995). Because individuals interpret events with their own social reality, individuals can experience the same situation and interpret events differently. It is by exploring shared experiences and interpretations that larger society develops a shared- meaning of norms, culture, and institutional identity and purpose. This process makes change in social meanings and institutions possible, as individuals from different cultures and generations construct means from different social realities and merge their understandings over time.

Similarly, legal realists suggest that the law is not deterministic; rather, formal laws are interpreted by individuals within the legal system and such interpretations are influenced by their perceptions, attitudes, and identities (Holmes, 1897; Frank, 1930; Fisher, 1993). This idea stands in direct contrast to legal formalism, which argues that legal actors should be constrained to only legal text when interpreting the law. The formalist ideology states that judges are not to describe what the law should be, but rather should be limited to what the law is. While legal realists present many separate and incongruent theories, they do have several principles that speak to social constructivism and justice. First, legal realists agree that legal decisions will be influenced by a judge's culture, religion, and politics. Second, realists agree that the interpretation of laws should benefit the welfare of society and judges should use their own interpretations of justice when making legal decisions.

Although few legal scholars connect legal realism and social constructivism, the two ideologies are closely connected. The perception and production of problems and conflicts is one area of legal scholarship that is directly related to social constructivism.

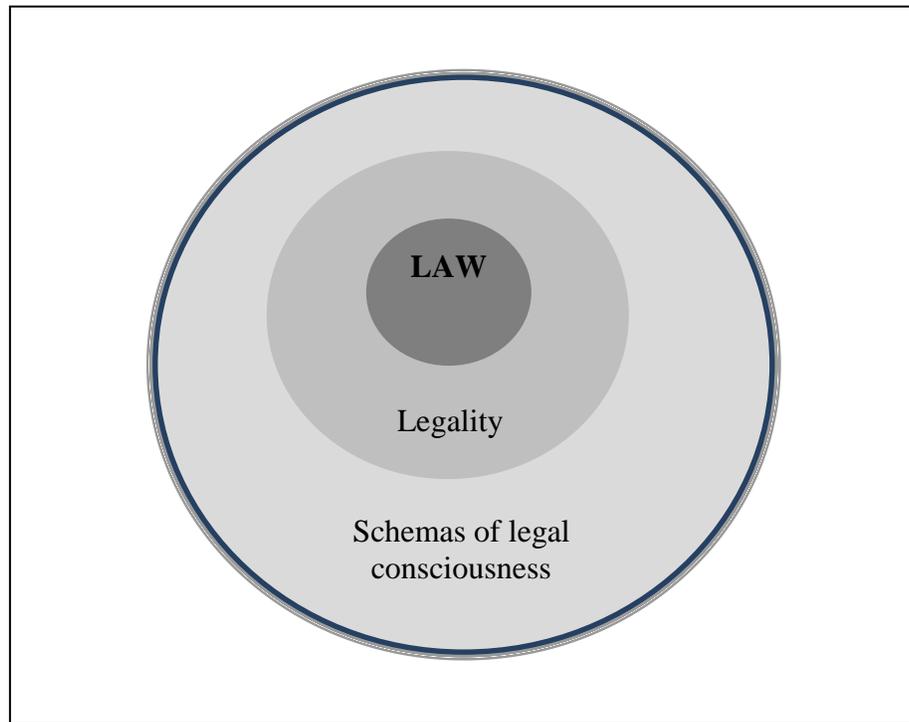
Problems and conflicts are socially constructed (Felstiner, Abel, Sarat, 1980/81). In 1980, Felstiner, Abel, and Sarat described a process by which individuals move from experiencing situations to identifying harm and seeking redress. The authors argue that while problems occur in everyday life understanding how an individual either determines an event as a problem or tolerates the event is paramount to understanding law (1980/81). In the three phase process the authors present, individuals begin by interpreting an event as “injurious” or a “violation of norms” (1980/81:635). This phase is a “critical transformation”, taking an event experienced by an individual and moving the event into a problem. This phase is called naming the dispute. In the second phase “blaming”, the individual places responsibility of the problem onto another individual or entity. Finally, the individual may “claim” the problem to the blamed party and asks for some remedy.

Felstiner, Abel and Sarat (1980/81) argue that socio-legal scholars should focus research on how individuals move from experiencing events to the naming, blaming, and claiming phases of the disputing process. They argue that “People do –or do not- perceive an experience as an injury, blame someone else, claim redress, or get their claims accepted because of their social position as well as their individual characteristics.” (p. 636, italics in original). One area of research that has examined how individuals move from experiencing a problem to naming a problem is the study of legality and legal consciousness.

## **Legality**

In legal communities, legality is often used to describe something that conforms or does not conform to codified laws. In sociolegal studies, the definition of legality

differs from its traditional legal definition. According to Ewick and Silbey (1998) legality describes the broader conception of law and legal culture in society. Legality is the aggregate of individual experiences, opinions, and understandings of law and all things legal in society (termed legal consciousness and discussed in the next section). Ewick and Silbey (1998) define the term “to refer to the meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what ends” (Ewick and Silbey, 1998: p.22). As depicted in Figure 1 below, the Law encompasses a small amount of conceptual space, and includes only specific legal doctrines, decisions, or the actions of formal legal institution. Law and legality are not strictly separate, however. Instead, the line between legality and law is, at times, blurry. Examples of when law and legality are indistinct are abundant and may include non-court ordered mediation, diversion programs, actions by higher courts to strike down a lower courts’ rulings, and practices of non-legal regulatory institutions (e.g., homeowner associations, membership organizations, business operation rules by state and local licensure bodies, etc.).



**Figure 1. Model of Legality**

Studying law and legality calls for different methodological strategies. Law, even in westernized societies where formal laws and legal institutions are plentiful, encompasses a much smaller amount of “conceptual space” and information than legality. It is also easier to construct operational definitions that enable researchers to quantify and measure law systematically. Because legality is a broader conception of the law, it is much more difficult to study empirically. A great number of researchers have studied separate components that are included in the conception of legality. Studies of public opinion on legal matters, procedural justice in police encounters, court proceedings, and correctional institutions, and measuring local legal culture are all examples of research that describes parts of a society’s legality. In an attempt to study many components of

legality simultaneously, sociolegal scholars began studying individuals' everyday experiences of legality. This area of research has become known as legal consciousness. As individuals experience exhibit legal consciousness, in all their variety, legality is constructed.

### **Legal Consciousness**

How do children consider concepts of laws, notions of justice, and obligations to authorities in their everyday lives? What constructions of those concepts are revealed when analyzing their problems? Answers to these questions are fundamental in understanding how children perceive their everyday problems. Legal consciousness explores these questions and seeks to determine how the lives of ordinary people are shaped by legal institutions and law and how ordinary people constitute the law through their experiences.

While early legal consciousness research focused on how law affected individuals directly involved in legal processes, operated within legal institutions, and acted as legal professionals (Kennedy, 1980), legal consciousness research conducted after the mid-1980's focused on how everyday people, including the working class (Merry, 1990; Sarat, 1990), pedestrians (Nielsen, 2004), and environmental activists (Fritzvold, 2006, 2009) among others, understand the influence of legality in their lives. Although much research has long documented that the American public has limited knowledge of actual codified legal doctrines and public safety institutions (Bennack, 1983; 1987; Souilliere, 2004), and a lack of trust in law-making and law-enforcing bodies (Murphy and Tenenhaus, 1968; Cladeira, 1977; Tyler, 2001; Tyler, 2002), it has also been widely

documented that informal laws, the normative foundation of laws, and general understandings of laws and legal consequences shape the behavior of everyday citizens (Black, 1976; Tyler, 2006; MacCoun, 1993). Thus, it is likely that as many researchers posit, it is not the law that directly shapes individual behavior, but rather that individuals' experiences of legality impact individual behavior. This seems even more applicable to children who have less contact with formal legal institutions and actors.

Sociolegal studies have documented how informal law and legality influence the problems ordinary people experience in nearly every setting of life, including their homes, workplaces, and communities (Ewick and Silbey, 1998; Hoffman, 2003; Marshall, 2000; Nielsen, 2000). Findings document dynamic, complex interpretations of the role legality plays in personal conflicts and how individual interpretations influence our understanding of legality and the law. Through individuals' everyday engagement with legality, the concept is given real, perceptible meaning. In addition, as individuals' interpretations evolve over time, change in informal and formal law, institutions, and social life is possible (Marshall and Barclay, 2006).

Legal consciousness as explored in this study examines how legality is a constitutive social process (Suchman and Edelman, 1996). This perspective embodies law as "a system of cultural and symbolic meaning" (Galanter, 1972), incorporating a "broad range of values and objectives" (Ewick and Silbey, 1998: 34). In this conception, law is defined, "as various modes of knowledge- as specific cultural conventions, logics, rituals, symbols, skills, practices and processes that citizens deploy in practical activity" (McCann and March, 1995: 210). Law and legal action is revealed and reproduced

primarily via the interactions of individuals through their words and actions. The institutional perspective stands in contrast to the constitutive perspective. The institutional perspective views the law as a regulatory mechanism used as a means to control social life, but is peripheral to individuals' lives.

One of the most well recognized works on legal consciousness as a constitutive process is Ewick and Silbey's *The Common Place of Law* (2008). Legal consciousness in this sense is more than a state of mind or an individual's opinion of a legal institution or event. It is even more than an idea about a social structure, an institution, or an event. Instead, legal consciousness is fashioned and exposed in what people say and do in their day-to-day lives, and yet, is shaped by the collective culture and community (Ewick and Silbey, 2008:46).

Individuals assign meanings to social structures, institutions and events and continuously process and reproduce interpretations of events. Over time, a baseline is established and assumptions tied to that baseline shape how individuals process their day-to-day encounters and activities. Sally Engle Merry (1990) describes this baseline consciousness as "... the way people conceive of the 'natural' and normal way of doing things, their habitual patterns of talk and action, and their commonsense understanding of the world" (Merry, 1990: 5). This type of consciousness is not limited to the law. An individual's consciousness develops around a host of social structures, institutions, events, including law and legal action. Moreover, consciousness is dynamic. It is shaped by each experience an individual encounters and is constantly evolving (McCann and March, 1995).

Similarly, legal consciousness has been broadly defined by a myriad of socio-legal researchers as “the ways people understand and use the law” (Merry, 1990:5) and “participation in the process of constructing legality” (Ewick and Silbey, 1998: 35) and “the way that law shapes how people make sense of their experiences” (Marshall, 2006: 7). Researchers have posited that interpretations of problem situations are shaped by an individual’s prior experiences that are legal and non-legal in nature, cultural values and conventions (including rituals, symbols, skills and practices), social situation (including race or ethnicity, socioeconomic status, and gender), and socialization, especially legal socialization and knowledge of rules and laws (whether correct or incorrect) (Galanter, 1972; Ewick and Silbey, 1998; Marshall, 2006; McCann and March, 1995; Nielsen, 2000).

### **Schemas of Legal Consciousness**

Legal consciousness is a dynamic and transformative construct. Moreover, as legal consciousness is derived from social contexts, individual interpretation, and choice, individuals “express through words or actions, a multifaceted, and possibly contradictory consciousness” (Ewick and Silbey, 1998: 50). Ewick and Silbey (1998) have provided the most comprehensive theory of legal consciousness to date using narratives of everyday problems. Their theory offers three types of legal consciousness that they call schemas.

Because the word schema is used across a variety of disciplines in different ways, it is helpful to define how sociolegal scholars use the word. In this context, a schema is a way of thinking about and organizing experiences, norms (e.g., rules of etiquette, how to

treat elders, informal codes of conduct, etc.) and social constructions (e.g., gender, ethnicity, private versus public, etc.) (Sewell, 1992). Individuals apply various schemas to events and structures in their lives make sense and meaning over time. As individuals use schemas to understand their lives they constitute and reproduce social structures of society (Sewell, 1992). In Ewick and Silbey's (1998) work, the structure that is being constituted and reproduced is legality.

The three schemas that Ewick and Silbey (1998) present are: Before the Law, With the Law, and Against the Law. Before the Law consciousness views the law as an abstract entity, outside of the individual's everyday life. In this conception, the law is thought to be a rational, objective, and predictable force. Before the Law operates by a "formally ordered, rational, and hierarchical system of known rules and procedures (Ewick and Silbey, 1998: 47). All persons are thought to be treated equally before the law, regardless of social conditions, or individual attributes, thereby increasing the law's legitimacy. With the Law legal consciousness is considers law a game or an array of strategies people can use to advance their own interests. This conception conceives of individuals as actors who hoard resources and act intentionally, based on their self-interests and maneuver around legal rules Instead of being seen as static and constraining, as in Before the Law, rules are perceived to be flexible. An individual's legal proficiency is suggestive of success. Ewick and Silbey (1998) suggest that one's ability to hire legal counsel is the most important factor in legal proficiency and achieving success. The final conception of legal consciousness is Against the Law. This conception is defined by individuals who imagine being trapped by the law, or powerless in its presence.

Individuals are “unable to effectively resolve disputes, recognize truth, or respond to injustice (Ewick and Silbey, 1998: 196). From this perspective, the law regularly fails individuals by producing unfair, inequitable outcomes. Over time, Ewick and Silbey (1998) imply that Against the Law consciousness may lead to acceptance of the problems they face and “lump it”. Alternatively, Against the Law consciousness can lead to resistance, “Unwilling to stand before the law, and unable to play with the law, people act against the law... people talk about the ruses, tricks, and subterfuges they use to appropriate part of the law’s power” (Ewick and Silbey, 1998: 28).

Ewick and Silbey (1998) note that it is unlikely that any one person’s legal consciousness is contained in any one category they provide. Instead, individuals exhibit multiple types of legal consciousness depending on the situation. Moreover, Ewick and Silbey (1998) find that individuals often present contradictory types of legal consciousness when interpreting a single event.

In other studies of legal consciousness, additional conceptions of legal consciousness have been identified. Fritsvold (2006, 2009) studied legal consciousness in radical environmentalists and posited that this group demonstrated a schema he termed Under the Law, whereby individuals perceive the law is founded by an illegitimate social order and thereby is illegitimate itself. This group views the law as corrupt force enacted by a corrupt social order. Other researchers have described in detail the process by which individuals think about and use the law in their everyday lives without describing separate schemas but rather identifying relationships between ways of thinking and individual variables, including gender and race (Nielsen, 2000). Still others have

documented the characteristics of legal consciousness individuals exhibit when dealing with particular issues, including various types of civil rights issues (see Silverstein, 1996; Goldberg-Hiller, 2004; Marshall, 2004, among others).

### **Limitations of Legal Consciousness**

Legal consciousness research and Ewick and Silbey's (1998) conceptions of legal consciousness, specifically, have received much attention and criticism over the past decade. Researchers have argued that the "law" presented in *The Common Place of Law* is so broadly defined that "it is everywhere and it is nowhere" (Mezey, 2001:53). Critics suggest that researchers should systematically account for legal schemas of consciousness as well as other schemas that help people make meaning of their experiences (Marshall, 2005). For example, critics suggest that authors should provide detail on the other types of schemas (unrelated to law) that are used by individuals to process daily life. Specifically, research should explore and account for schemas that shape an individual's status, including race and ethnicity, socioeconomic status, and gender (Mezey, 2001). Critics suggest that such characteristics that are deeply ingrained in a person's identity must be connected to schemas of understanding and that certainly there must be schemas of understanding that are unrelated to law more generally.

In response to critics, researchers suggest that in analyzing conflict narratives, it may be that schemas of legal consciousness are so ingrained with other schemas of interpretation that indeed law is everywhere or inescapable (Sarat, 1990, Gilliom, 2001; Kagan, 1995). Sociolegal scholars do not, however, argue that legal consciousness is the only type of consciousness that gives meaning to everyday life. Rather, legal

consciousness is one of many normative frameworks that assist individuals in interpreting day-to-day experiences (Heimer, 1999; Edelman, Erlanger, and Lande, 1993; Ellickson, 1991). These frameworks both compete and work together to give experiences meaning and shape future behavior. Theorists argue that although other types of consciousness also assist individuals in meaning-making does not mean law is superfluous. The difficulty here, however, is that these authors only give general suggestions about such frameworks and do not account for such schemas alongside their work in legal consciousness. For example, there is much research on how gender schemas assist individuals in understanding gender roles and expectations (see Stockard, J. (2006) for an overview), and how cultural schemas provide frameworks for understanding cultural norms shared by specific cultural groups (see Lipsett, (1993) and Nishida, H. (1999) among others) but these rarely are integrated with legal consciousness research in a systematic way.

## **Summary**

Legality is socially constructed through experience and is exhibited through individuals' schemas of legal consciousness. Legal consciousness is more than just people's impressions about the law and experiences with legal institutions. These impressions become part of an individual's understanding of law and quasi-legal rules or regulations which often play a role in individuals understanding of conflict situations, especially in the United States, a society that is inundated with legal information. Previous conflicts and their impact on an individual's legal consciousness influences

future behavior, including whether people look to the law and legal institutions to resolve conflict situations.

### **Children in Legal Consciousness Research**

If we seek to fully understand how legal consciousness constitutes legality and how perspectives on legality change over time, research should seek to understand how the meaning of law and foundations of legal consciousness evolve from childhood to adulthood. To do so, the role of law in the everyday lives of children and young people must be examined. The significance of childhood in the study of legal consciousness is both general and developmental.

First, of general significance to the area of legal consciousness is a disadvantaged population of citizens, whose role in society reaches into diverse areas of law, including civil and family law, educational law, and criminal law. Children's lives are subject to much legal regulation and dependent upon legal structures for protection from a variety of problems, including educational neglect, parental abuse, and medical harm (among others). Yet, children, unlike adults, have little ability to access dispute resolution channels to challenge such regulations or structures. Children are one of the few groups of people who are subject to much legal regulation without access to legal redress. Therefore, children are of great consequence when trying to understand how disadvantaged groups of people think about and use the law.

Second, a developmental perspective of legal consciousness is needed to truly understand how legality changes over time. Children's experiences with rules, laws, and authority figures throughout childhood likely impact their views as they become adults.

Thus, the experiences of children in relation to legality may be the foundation for a developmental theory of legal consciousness.

To date there have only been two studies that have considered legal consciousness of young people. Silbey (1989, 1991) sought to examine how adolescents experience the law as a cultural structure of meaning and how adolescents understand and use laws and rights in their lives. Her research included observations and brief interviews with eighth graders in an affluent suburban school. She observed several classes focused on civics and legal topics, including discussions on the American Constitution, classes where the children acted as judges and politicians when discussing an assigned social problem, and classes where the students prepared short plays relating to major court cases.

Through her observations, Silbey (1989, 1991) found that for these children the law was empowering. The students felt that the law gives people a voice, the capacity to be heard, and command attention so others will listen. One student described her desire to be an attorney because lawyers are smart and people listen to them. Another student described the right to free speech as important to protect people against accusations of wrong doing and to ensure that in the face of such accusations people can speak out to defend themselves. Silbey (1989, 1991) also found that children understand that each teacher has different expectations and rules for classroom behavior and mastering class material. The students do not feel constrained by these rules nor are they concerned with varying expectations. If children followed the rules they felt their lives would be easier or less “troublesome” (Silbey, 1989, p.17).

Silbey (1989, 1991) argues further that the students in her study do not equate rules in their lives to law in adult life. Rather, they view rules, generally, as something that may change as the authority figure in charge changes. Laws, in contrast, are permanent, unchanging, and applicable to all situations. The adolescents she studied appear to look forward to a time when they are able to access law as adults.

Silbey's (1989, 1991) work provides some assurance that children consider how rules constraint their behavior in a regulatory manner that is similar to regulations law places on behavior. Yet, her work also suggests that youth may conceptualize rules in schools differently than laws. Silbey notes that the study is limited in that it only included mostly white, middle-upper class adolescents. Moreover, the study examined only how the students perceived formal laws, which likely have little applicability on the everyday lives of adolescent students.

As much work has been conducted since Silbey's study in the area of legal consciousness, it seems that these findings are not dissimilar to how adults may consider law in everyday life and how formal constitutional rights, like freedom of speech, may be viewed when explored outside of everyday life or direct experience. That is, it is likely that adults would consider constitutional protections (e.g., freedom of speech or protections against self-incrimination, right to confront one's accusers, etc.) to be empowering when asked or when discussing such laws out of context. However, one's view of these laws may be quite different to individuals who have direct experience with these laws in their lives, which would be a fairly small number of adults.

In a more recent study, Morrill and colleagues (2000) set out to conduct a narrative analysis of adolescent stories of conflict. The research was guided by several exploratory research questions, including: how do youth characterize everyday conflict in their narratives, what types of decision making and reasoning are used in stories of conflict, and how do youth handle or resolve conflict? Morrill et al. (2000) analyzed 267 stories from ninth graders from a large urban high school in the U.S. The narratives were drafted by students in English classes where the following instruction was provided:

*“Think of a time you experienced a conflict with another student. Did you know the student? Where were you? How did the conflict begin? What happened? Was anyone else involved? Express what was going on in your mind before, during and after the conflict. Was it resolved? How?”* (italics in the original, p.533)

The narratives were analyzed to determine the students “consciousness of conflict” and sense of self-described through the conflict situation.

The authors identified four types of “tales”: action tales, moral tales, expressive tales, and rational tales. Moral tales in this study are most closely related to conceptions of rules and fairness, but the authors focus on how moral reasoning and normative expectations and obligation impact decision making, rather than how rules (or laws) are present or absence in the student’s narratives. In the example narratives Morrill and colleagues provide, even when there are clear places in the narratives where there are threats of violence, harassment, actual violence and formal consequences the student narratives make little mention of authority figures, formal rules, or the detailed thought process they engaged in to be able to explore the students’ legal consciousness.

The authors do mention that there were rigid rule-orientations but the authors do not describe this concept at length or provide narrative examples. In addition, the authors suggest that some writers' highlighting of aspects of fairness and justice may be linked to an early sense of "conventional, adult legality" (p.542) but there is no explanation of this idea.

This study informs this dissertation in several ways. First, the authors note that students were not asked to write about conflict with authority figures where law may be more salient, and call for this to be the topic of future research. Moreover, even though students were asked to provide details on who was involved in the conflict, authority figures were largely missing from more than half of the narratives and it appears that in many others their role is minimal. This seems surprising and suggests that either these students were dealing with their peer conflicts (some of which involved serious threats of violence and actual violence in the school setting) without any authority figures intervening or that, perhaps, because the instructions asked students to think about a peer conflict, students were primed to be thinking about the peers involved in the situation and left out the role authority figures played in the conflict.

Second, since students were asked to write the story in an English class, this format did not allow for researchers to ask follow up questions or hear students' interpretations aloud in their own voice – which some narrative researchers insist is an important feature of storytelling (Mishler, 1986). As legal consciousness scholars have found, the way people think about conflict situations is complex and, at times, contradictory. In addition, reasoning is often not a linear process that is easily explored

in a short essay. Furthermore, in a school setting, and particularly in an English class, students' ideas of conflict may also be constricted by not only the written format, but the idea that the story need be appropriate for a teacher to view and that it be grammatically correct and structurally sound, as it was turned in to their English teacher, thereby limiting the complexity and detail in the narrative. Thus, it appears that the semi-structured interview techniques that legal consciousness research has used may be most appropriate for studying legal consciousness in children.

### **Unanswered Questions**

Although these studies provide guidance for exploring how children understand and view law in their everyday lives, several questions remain unanswered. First, do children use rules and laws to process and interpret their problems? Second, while children understand what rules and laws are, how is that conceptual understanding related to their legal consciousness? Finally, if children do not use schemas of legal consciousness to interpret problems, what type of schemas are used by children to make sense of their problems and when does legality become pervasive enough to trickle down to young people's lives? My research explores how a group of children in 6<sup>th</sup> grade make sense of rules and laws in their everyday lives and how their knowledge of rules and laws, as important social concepts, are related to their interpretations of everyday problems. This exploration includes both an examination of the children's stories of their everyday problems and their responses to specific questions on rules and laws.

## **Key Assumptions**

In the absence of additional research to inform this study, findings from cognitive development, moral reasoning, and legal socialization provided evidence for three key assumptions with which this study was conceptualized.

First, this research assumes that children have the capacity to reason using abstract concepts like the law. Cognitive and moral development research suggests that children develop the capacity to reason using abstract and moral concepts through developmental and social processes. Theories of moral development by Piaget (1932) and advanced by Kohlberg (1981) posit that children's understanding advances through various stages enabling children to interpret situations in an increasingly complex manner, place themselves in others' situations, and think about conflicting situations and hypothetical experiences, as age and development progress. Other moral developmental scholars suggest that the process of development may be less linear and be linked to social and gender roles and relationships, particularly for women (Gilligan, 1982).

It is not the aim of this study to determine the exact process by which children are able to reason in an abstract manner that includes ideas of rules and laws. Instead, this research presupposes that children are capable of abstract reasoning using moral principles. Although there is disagreement with the particular mechanisms that drive moral reasoning, collectively, the various developmental literatures suggest that children as young as age two begin to develop moral reasoning skills and are moving toward a more complex level of reasoning around age eleven. My research presupposes that

children are capable of engaging in interpretive judgment regarding legal ideas and authority figures.

Second, this research assumes that children understand and use rules and laws differently as they accumulate information on and experience with rules and laws. Research suggests that children are socialized to understand and apply rules and laws in their daily lives. Most research in this area, also known as legal socialization research, has focused on methods to ensure children understand rules and laws in a way that leads to compliance and positive views of authority figures (Tapp and Levine, 1977; Krislov, et al., 1966). Studies suggest values developed in childhood are at the heart of subsequent adolescent and adult behavior, particularly as it relates to positive and legitimate views of legal and social authority figures (Easton, 1965; Tapp and Levine, 1977; Melton, 1985). Early research in this area also acknowledges that legal socialization is influenced by social interaction with peers, educators, and media, which increases in amount and complexity as children age (Tapp and Kohlberg, 1971).

Recently, Fagan and Tyler (2005) show evidence that over time and age, interpretations of the law and perceptions of the law and legal actors change. Using a random sample of children ages 10-16 in an inner city, Fagan and Tyler (2005) show evidence that how children experience the law and how they believe others experience the law, shape their own evaluations of the law and thus their interpretations and behaviors. Additionally, there was evidence that children's views of legitimacy of the law and legal authorities directly impacts compliance. This is consistent with similar research using adult participants (Sunshine and Tyler, 2003; Tyler, 1990; Tyler and Huo, 2002). I

assume that these processes are linked to a child's developing legal consciousness and that the development of legal consciousness is also a developmental progression that emerges in childhood and changes over time.

Finally, this study conceives law broadly. Because this study seeks to explore how law operates in young people's lives, it takes a wider view of law than previous sociolegal research. Not only does this study explore how law impacts children's lives but it examines how justice and rules impact children's lives. First, as mentioned previously, rules are informal laws used to regulate behavior in places where normative expectations may not be shared or additional clarity and explication is needed to achieve regulation. Schools are an exceptional example of a place where normative expectations are likely not shared due to the diversity of students and staff. Thus, additional clarity is required to ensure that behavioral expectations widely known and met. Authority figures establish rules to achieve such clarity. Second, morality and justice are conceptual foundations of law. Because children are in the midst of learning about law and legal institutions, it is expected that conceptions of justice may be highly intertwined with conceptions of law. This idea is bolstered by previous research on moral reasoning and legal socialization which have often found that children think about rules and laws in terms of justice (i.e., fairness, equality, etc.) (see Kohlberg, 1969; Tapp and Levine, 1977, and others).

## **Summary**

Legality is socially constructed through experience and is exhibited through individuals' schemas of legal consciousness. This research fills two significant gaps in

the literature. First, prior legal consciousness research has largely ignored children as a disadvantaged group. Second, research on legal consciousness has consistently been criticized for over-emphasizing the importance of schemas of interpretation that relate to the law while neglecting to document schemas that relate to other socially constructed structures that are embedded in everyday life (e.g., socioeconomic status, race and ethnicity, gender, occupational status, etc.). This study strived to examine how children interpret their everyday problems. Of specific interest was to document if children use schemas relating to law and to understand how children may contribute to the construction of legality. Addressing concerns of prior legal consciousness research with children, this research also sought to examine how children think about rules and laws outside their everyday conflicts.

### **CHAPTER THREE: METHODS**

This study explores how children conceptualize rules, law and justice as they confront problems in their everyday lives. Informed by prior research (as described in Chapter Two), this study sought to explore several research questions. First, do children use schemas related to rules and laws to process and interpret their problems? Second, if children do not use schemas related to rules and laws to interpret problems, what types of schemas are used? To systematically answer these research questions, I collected narratives of everyday problems from a group of children. Because most children have a general lack of experience with legal institutions and actors (when compared to adults), I thought it important to also ask children about rules and laws directly. Thus, a key question guiding this dissertation was, “How do children think about rules and laws when asked directly?”

This chapter describes the processes used to collect the data and methodological choices made during this study. Detailed descriptions of the county, school, and participants involved in this study are also provided. This information gives the reader a context for interpreting the narratives and qualitative data that follow in Chapters Four and Five.

## **Research Setting**

To access children in a single location where systems of rules and interactions between peers and authorities were typical, this research was conducted in a school. Specifically, this research was initially proposed with children from two grades: 3<sup>rd</sup> and 6<sup>th</sup> grade. These grades were selected for several reasons. First, children in 3<sup>rd</sup> and 6<sup>th</sup> grades are at developmental crossroads. Around 3<sup>rd</sup> grade (age 8) children are at the concrete operations stage of cognitive development, where they are developing the ability to think about abstract concepts and interpret them in light of their own experiences (Piaget, 1952). Additionally, these children begin to develop lasting relationships and engaging socially as peer groups, independent of adults (Perkins, 1969).

In 6<sup>th</sup> grade (approximately age 12) most children have advanced into the formal operations stage of cognitive development (Piaget, 1952). This stage of development hones students' ability to think about complex relationships, hypothetical situations, and situations with contradictory goals, all while interpreting these situations into their own sense of self and ideas of the world (Piaget, 1952; Perkins, 1969). This stage also signals the child's entrance to adolescence, and a mid-point of sorts on the path to adulthood. Additionally, 6<sup>th</sup> graders are exposed to an increasing number of rules and responsibilities that they may begin to internalize at a more advanced level than in earlier years due to their increasing sophistication in critical thinking.

## **Research Site**

This research took place in a large suburban county (population between 250,000 and 500,000 persons) in the Mid-Atlantic region. "Walsh County" (a pseudonym) is

wealthy and has one of the highest median incomes in the U.S. However, the county also has significant ethnic and racial diversity, with about half of the county residents describing their race as a minority group and as speaking a language other than English in their homes (a rate higher than the state average and most neighboring counties), and a rate of unemployment higher than its neighboring counties. The racial and ethnic diversity and economic challenges experienced by low income residents are relatively new characteristics of the county. In the past twenty years, Walsh County has nearly doubled in population and the minority population has grown by nearly 200%, with persons identifying as Hispanics and Asians having the highest rate of growth. Overall, the county has a low percentage of households living below the poverty line (a rate lower than the state average and lower than neighboring counties), yet, due to the high cost of living in the suburban area, many families have difficulty making ends meet. Also, a disproportionate number of minority families in the county are living below the poverty line.

There are two different types of public school systems in the county, including one county system, and several city-based school systems. The county system serves the majority of the county's children. Within the county public school system, there are nearly 100 schools that serve nearly 100,000 students. At the time of the study, less than 50% of students enrolled in the county public school system identified themselves as white, nearly 40% were identified as economically disadvantaged, and more than 15% were enrolled in English for Speakers of Other Languages (ESOL). In some schools, the ESOL enrollment is much higher, up to 75%.

## **Conducting Research in Walsh County Public Schools**

Like many public school systems, Walsh County has an established protocol for external researchers (non-faculty or staff) to propose and gain approval to conduct research within their schools and with their students. This process is overseen by the administrative office and research proposals must pass through several levels of human subject protections, designed to protect the rights and privacy of faculty, staff, students, and students' families and to prevent multiple concurrent projects in any one classroom taking students away from their academic studies. The guidelines require that the research not ask students about their own or their family members' racial or ethnic background, political affiliation, mental or physical disorders, sexual behavior or attitudes, illegal behavior, religious practices or beliefs, income and governmental assistance the student's family may receive, and various other information on legally protected relationships (e.g., physicians, therapists, and clinicians, lawyers, or religious leaders, etc.). Guidelines also require researchers to attend a training session on mandatory reporting of abuse and sign a statement confirming that the researcher will report any concerns that may arise during the research. Finally, researchers working directly with students must successfully pass a basic background check.

The research proposal application must include justification for the research, a full accounting of the research methods, including all materials, interview protocols and surveys, a list of proposed schools and number of classes or students that the researcher would like to will participate, parental consent forms, complete details on how the data will be protected and stored, and an overview of how the research will be used and

disseminated. The administrative office reviews applications and determines if the research project should be approved. If approval is provided, the administrative office selects schools to participate in the research which may or may not match the proposed schools.

I submitted a comprehensive research proposal to the administrative office for approval in November 2007. The research was given preliminary approval by the administrative office on January 22, 2008. Two schools (one elementary school and one middle school, described in the following section) were selected by the administrative office to participate in this research study and each school's principal agreed to participate. Once the approval of the principal was provided, I met with all teachers in the grades of interest (3<sup>rd</sup> and 6<sup>th</sup> grade) to gain their approval. In the elementary school, one teacher gave approval. In the middle school, three teachers approved the research. Consent from the principals and teachers was provided to the main office and the research proposal was given final approval and permitted to move forward.

Once the research had been approved by the school, the research was reviewed and approved by George Mason University's Human Subjects Review Board (HSRB).

### **The School**

Two schools were initially selected by the county's administrative office for participation in this study: Candon Hills Elementary School and Spencer Middle School (pseudonyms). Data collection began at both schools in February 2008. After conducting several interviews with twelve 3<sup>rd</sup> graders and experiencing significant challenges coordinating time to take students out of the classroom and determining that it would take

several sessions per student to complete the interview (due to the limited amount of time available per interview session – less than 20 minutes at a time<sup>1</sup>), I decided to continue only with the 6<sup>th</sup> grade participants in the selected middle school for this dissertation. Although this meant that I was unable to compare data from two groups of children at different developmental periods, thereby not allowing for a developmental analysis, continuing with the older group of children I decided was more practical for several reasons. First, because more teachers in Spencer Middle School agreed to participate, it was more likely that I would be able to interview more 6<sup>th</sup> grade students than 3<sup>rd</sup> grade students. Second, because 6<sup>th</sup> grade students were older and interacted in a wider variety of interpersonal relationships and activities (larger peer group, increased number of authority figures, including teachers, and increased access to extracurricular activities, etc.), I hypothesized that children in 6<sup>th</sup> grade were more likely to experience everyday problems that would be related rules and laws. Finally, based on developmental research and the schedule of academic courses in Walsh County Public Schools, I thought that children in 6<sup>th</sup> grade would be more likely to have been introduced to topics related to the law and legal institutions and have a firmer grasp of these abstract topics than 3<sup>rd</sup> grade students. Therefore, I continued the research with students in 6<sup>th</sup> grade at Spencer Middle School only.

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<sup>1</sup> In the 3<sup>rd</sup> grade, students had relatively short periods of time for a scheduled lesson or subject. Because of concerns with students missing more than one lesson for the study, the teacher thought it would be best to only take students out of the class for one lesson period at a time, thereby limiting the work that would need to be made up. Thus, the interview time available was about 20 minutes once I had met the student and moved to a separate designated space for the interview. In practice, interviews took place during art, music, recess, and free time most often. However, because the teacher directed the time available even when more time was scheduled for these non-core academic periods, interview periods per student were limited.

Spencer Middle School is located in the northern part of the county close to the county boundary and just outside what would be considered the main city in the county. The area the school serves has undergone major population growth in recent years and the school was built to accommodate that growth. The school was constructed shortly before the study began. Spencer Middle School serves 6<sup>th</sup> – 8<sup>th</sup> grades and has about 1200 students enrolled, annually. The student demographics mimic those of the county (but not the county public school system on a whole), with about half being white, about 20% Hispanic, about 10% African American, 10% Asian, and nearly 10% identifying as more than one race / ethnicity. Because the school was newly opened at the time of this study, it had no history of academic performance. The school has since become a high performing school in the county, based on national performance measures and standardized testing conducted by the state. At the time of the study, nearly 10% of students were enrolled in ESOL, more than 20% were in “gifted” classes, nearly 12% were receiving special education services, and 20% were identified as economically disadvantaged.

**Table 1. Demographic Comparison**

	<b>County Public School System</b>	<b>Spencer Middle School</b>	<b>Students in this study</b>
Total Students	100,000	1,200	68
Grade	K – 12 <sup>th</sup>	6 <sup>th</sup> – 8 <sup>th</sup>	6 <sup>th</sup>
<b>Students' Race / Ethnicity<sup>2</sup></b>			
White	40%	50%	41%
Hispanic / Latino of any race	27%	20%	24%
Black / African American	18%	10%	25%
Asian	8%	10%	9%
Other or Identifying as more than one Race	7%	10%	1%
Economically disadvantaged	40%	20%	-
ESOL Enrollment	17%	10%	-
Gifted Program <sup>3</sup>	-	20%	24%
Receiving Special Education Services	11%	12%	-

The school is located on a short road that connects two larger roads that span the county. The road was newly developed at the time of this study and the school was one of

<sup>2</sup> Race/ Ethnicity was provided by the parents and collected as part of the school's annual data collection processes for data reported for the "County Public School System" and for "Spencer Middle School". Due to school regulations for external research, I was unable to ask students directly about their race / ethnicity. Therefore, for "Students in this study" the data was derived from the interviews without solicitation (e.g., when students reported detailed information about being Latino, the student was categorized as Latino). When no information was provided in the interview, the researcher coded a student's race / ethnicity as best could be determined by appearance. For example, a student who provided no other information that would identify their race in the interview but who was black was coded as Black / African American. This means that this study's demographic reporting of race/ ethnicity is likely underreporting children who would identify as multiple races and may be miscategorizing students' race/ethnicities.

<sup>3</sup> The data provided for the County and Spencer Middle School is provided in the annual data reporting. The data provided for this study includes only students who were recruited from a gifted history class. As a part of school regulations for external research, I was unable to ask students about gifted and special education programming, thus the only time I was aware a student was involved in the gifted program was when the student agreed to participate from that class.

few buildings or enhancements on the road. The school has a relatively traditional appearance with two stories and mostly brick and concrete block exterior. It has a large parking lot and a carpool and bus lane that circles in front of the school and around the parking lot. The school is surrounded by sport fields, a modern track, and lots of green space with trees surrounding the school's property on three sides. There are no homes or businesses within walking distance.

As you enter the school, there is a security check desk. If you are not a teacher or a student, you must check in at the desk and provide your driver's license or other government issued ID. The attendant at the desk provides approved visitors with a visitors pass (a sticker with your driver's license ID picture, date, and time on it). The visitor's ID is kept until check out. Any non-parent, guardian, or approved visitors enter the school they are diverted to the main office to be approved before checking in at the security desk.

Student lockers line the halls of the school, as do bulletin boards and decorative motifs, which usually depict themes that change periodically as lesson plans or emphasis in classes change. There are also motifs that depict lessons from the school's character education program. At the time of the study, the school had an anti-bullying and character education program that were provided to the student via handouts, assembly programs, lesson plans, and various in class activities. The library is a round shaped room at the center rear of the school almost like a central point of the school with two hallways running directly to the library.

## **Character Education and Anti-Bullying Programs**

At the time of this study, Spencer Middle School participated in a structured character education program and an anti-bullying program. Both programs place an emphasis on collaborative problem solving and building strong community bonds within and outside the school. Spencer Middle School implemented this program in its first year (the year of this study began) so there were few examples of activities or processes that the school was using to achieve its goals. Both programs are developed by the same company and the curricula for these programs are purchased by the school. It was unclear to me at the time of the study if all public schools in Walsh County used the same program. The programs both strive to improve classroom management, academic achievement, and school climate. To achieve these goals the program's curriculum includes classroom activities, teacher training materials, school-wide activities and challenges, and school assembly ideas. As this was the first year of the schools operation, it was not clear if the school will implement the entire program and if there will be consistency in implementation across classrooms and grades. During this study, no student specifically mentioned either program or its components, but there were hallway decorations and bulletin boards that espoused respectful peer interactions, civic duty, teamwork, and anti-bullying messages.

## **The Administrators and Classroom Teachers**

Students were recruited from the classes of two 6<sup>th</sup> grade teachers: Mrs. Parmarter and Ms. Gates (pseudonyms). Mrs. Parmarter is a young teacher with three years of full time teaching experience. She is white, has a Master's degree in secondary education, and

is married with a young family of her own living in Walsh County. She appeared easy going and was enthusiastic about her students participating in this research. At the time of the study, she taught civics to the entire 6<sup>th</sup> grade and 6<sup>th</sup> grade history in the gifted program. Her classroom is colorfully decorated in themes that change with lesson plans and seasons. Her civics classes often involve lively discussions that the students appear to enjoy.

Mrs. Gates has been teaching for twelve years, ten of which have been in Walsh County. She is a senior teacher in the school, has a Master's degree, is white, married and her children are in high school in a neighboring county. She teaches English to all 6<sup>th</sup> graders at Spencer Middle School. Students report that she is a well-liked teacher at the school. She has a more "old school" policy and also is considered by the students as being "tough," particularly when talking in class. Her classes are more regimented than Mrs. Parmarter.

The school's principal is Mrs. Woodward. Mrs. Woodward has been a teacher in the county for more than twenty years and had plans to retire in a few years at the time of the study. She appeared positive and very proud of the new school and her teachers throughout our conversations. When first visiting the school, Mrs. Woodward was happy to provide an extensive tour and describe specialized programming and classes the school is equipped to provide, including very modern science labs for students. Mrs. Woodward appeared to be a "by the books" kind of person and provided me with a copy of the parent handbook, student handbook, and directed me to the Walsh County Public Schools parent and student handbook (which are referenced in the handbooks she provided). In addition,

she gave me a student planner which all the students use to organize their schedules and manage time. The planners provided to these students are produced by the same company as the character education and anti-bullying curriculums and have messages reinforcing monthly themes and lessons (some examples of the themes in the planners provided to students were: positive attitude, citizenship, helping, responsibility, respect, trustworthiness, compromise, etc.). It did not seem that the school required teachers to emphasize or follow the corresponding monthly theme in the planners.

Other teachers are mentioned in students' stories in Chapter Five. When I was able to gather additional information about those teachers, I provide additional description. I had little interaction with teachers who were not a part of this study, thus, I often had no information about other teachers' backgrounds, teaching styles, or other students' perceptions of those teachers.

### **The Student Participants**

Each student in two of Mrs. Parmarter's classes (one civics class and one history class for students in the gifted program) and two of Mrs. Gates' 6<sup>th</sup> grade English classes was asked to take home a parental consent form describing the study and asking for permission to participate. Because neither I, nor the teachers, could require the students take the form home to their parents, some students chose not to take a form from the stack passed around their class. The process was entirely voluntary.

The consent form included a cover letter from the principal describing the study and noting that the public school system had approved the research. A copy of the form is provided in the appendix. Parents were asked to sign the form if they were willing to let

their child participate and return the form to their teacher. The teacher provided me with signed forms every few days. Each teacher reminded their students to return the form and students were provided additional copies of the consent form if necessary. Both teachers were very helpful in the effort to get parents to consent to their child's participation. This was crucial as I had no ability to connect with parents or speak with students about the study until a parent consented to their participation. Because I was not permitted to speak with parents, and I did not have access to a demographic profile of the 6<sup>th</sup> grade students or their families, I was unable to discern whether there were significant differences between the group of students who participated in this study and the larger group of 6<sup>th</sup> graders in Spencer Middle School.

This study spanned two school years. Parents were asked to provide consent for students to participate in spring of 2008. When the new school year began in fall of 2008, the new sixth graders were also asked to participate. Approximately sixty-five consent forms were distributed in the spring of 2008. Thirty-three students returned consent forms, provided verbal assent, and were interviewed in spring 2008. Sixty-two consent forms were distributed in the fall of 2009. Thirty-five students returned consent forms, provided verbal assent and were interviewed in 2008-2009 school year. All 68 students who returned a parental consent form provided verbal assent to be interviewed and were including in the analyses that are reported in Chapters Four and Five.

Table 2 provides as overview of the participants demographic variables. There is no statistical information available on the demographic composition of the entire 6<sup>th</sup> grade at Spencer Middle School, thus, it is difficult to determine if this study included a

group that was representative. Moreover, it is unknown if the several of the demographic variables presented in Table 2 are accurate. As mentioned earlier in this chapter, there were many constraints on questions that could be posed to the student participants. Because I was unable to ask about the student's race or ethnicity, I had to rely on information the student provided during the interview or in the absence of any information, the appearance of the student. This is a less than ideal situation and resulted in no students being coded as multiple races. It is also likely that some of those students coded as White, Black, or Asian would have identified as Latino / Hispanic or Other.

Throughout student stories of conflict, formal punishment in the school setting was often mentioned. Because it is an important feature of the children's stories and interaction with formal rule making bodies is of interest to legal consciousness, these data were tabulated and included in Table 2. Students were tabulated by highest level of discipline they reported throughout their interview sessions.

**Table 2. Participant Characteristics**

<b>Sex</b>	<b>Number</b>	<b>Percentage</b>
Male	30	44%
Female	38	56%
<b>TOTAL</b>	<b>68</b>	<b>100%</b>

<b>Race / Ethnicity<sup>4</sup></b>	<b>Number</b>	<b>Percentage</b>
White	28	41%
Black / African American	17	25%
Latino / Hispanic	16	24%
Asian	6	9%
Other	1	1%
<b>TOTAL</b>	<b>68</b>	<b>100%</b>

<b>School Discipline<sup>5</sup></b>	<b>Number</b>	<b>Percentage</b>
Level 1	22	32%
Level 2	8	12%
Level 3	2	3%
None	36	53%
<b>TOTAL</b>	<b>68</b>	<b>100%</b>

<b>Gifted Program<sup>6</sup></b>	<b>16</b>	<b>24%</b>
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<sup>4</sup> Due to school regulations for external research, I was unable to ask students directly about their race / ethnicity. Therefore, this data was derived from the interviews without solicitation (e.g., when students reported detailed information about being Latino, the student was categorized as Latino). When no information was provided in the interview, the researcher coded a student's race / ethnicity as best could be determined by appearance. For example, a student who provided no other information that would identify their race in the interview but who was black was coded as Black / African American. This means that this study's demographic reporting of race/ ethnicity is likely underreporting children who would identify as multiple races and may be miscategorizing students' race/ethnicities.

<sup>5</sup> Discipline levels report discipline that the student reported in their stories. Level 1 represents a recess or free time "detention" where the student was removed from that time for disciplinary problems. Level 2 is a lunch detention. Level 3 is a more harsh punishment which includes being pulled from classes to a solitary area for a specific period of time.

<sup>6</sup> The data provided for this study includes only students who were recruited from a gifted history class. As a part of school regulations for external research, I was unable to ask students about gifted and special education programming, thus the only time I was aware a student was involved in the gifted program was when the student agreed to participate from that class.

## **Methods**

My review of the relevant literature and conceptualization of this study lead me to make several methodological decisions. First, I am studying a phenomenon in children and their lives, so it was imperative to have children tell their stories of conflict in their own words, without associating me as an authority figure who could possibly influence how they told their stories, either because they were worried about the consequences of doing so or because rather than telling me what they actually thought they changed their story in order to meet with my approval. Therefore, it was critical to become a recognizable figure in their classrooms that did not assist the teacher or serve the role of an authority figure.

To achieve my aim, I spent time in the teachers' participating classrooms, the library, and in the lunch area throughout the study. I was careful not to spend all my time just chatting with teachers and tried to talk with students who were and both involved and not involved in the study as I was "hanging around." Although invited to use the teacher's lounge area and a free staff desk in the library when I was not interviewing students, I chose not to use these spaces. Rather, I would sit in the student study area of the library or in the classrooms when I was free.

Second, to understand children's decision making and interpretation processes it was important to have in-depth interviews as opposed to a survey or brief questionnaire that uses closed-ended questions. There are also several reasons I felt it was necessary to hear the students' own voice rather than have the students write down their own stories. First, I did not want the participants' mastery of writing and reading to impact their

ability to participate in the study. Second, it seems that asking a young person in school to write a story would be viewed as an assignment that would be subject to grading and read by their teachers. Finally, I wanted to be able to probe the participant when storytelling and ask questions if necessary. For these reasons, it seemed an interview setting that asked participants to tell me a story was the most suitable method of collecting young people's narratives.

Finally, I abstained from talking about rules, law, justice, or authority in my questions or probes throughout the interview until the end of the interview which included structured questions about the utility and purpose of rules and laws and the meaning of justice. I made this decision as to not taint the process by bringing rules and laws to the forefront of the conversation. Rather, if other schemas were used by children to interpret their experience I wanted to hear students describe such schemas. Specific details about the interview are provided in the following section and the protocol I used is provided in the Appendix.

### **The Data Collection Process**

Students who returned a signed informed consent form were scheduled for an interview. Interviews took place in several locations, including the library research room (a separate room within the library for class activities and research projects), classrooms (both unused classrooms and those assigned to the teachers participating in this study when no one else was present). Spencer Middle School has a "block" class schedule, meaning that twice a week there are longer periods ("blocks" of time) where students

spend additional time in specific classes. This time is typically used for class projects, group discussions, or a mix of activities (e.g., traditional lesson and activities) that require longer periods of time.

Each week, I emailed with the teachers to determine which class periods and days would be best to conduct interviews (because of the block schedule, class times changed and this was the best way to coordinate efforts). This was important because there were specific classes students could not miss, so removing the student for an interview was not possible. I would go to the school two or three days per week. Upon entering the school, I would check in with security (I had received a permanent guest pass after coming to the school several times) and head to one of the teacher's rooms. Depending on whom I needed to interview and the work that was being conducted, I would ask a student for an interview and then conduct this in another room. If no students were available who had consent to participate, I would observe the class.

At the time of the interview students provided verbal assent to participate in the study and to have their interview recorded using a digital voice recorder. Each participant received a unique identification code which was used on all interview notes, recordings, and transcripts in place of actual identifying information. The only record of original participant names and identification codes was kept by the author in a secure location with other research materials.

### **The Interviews**

This study used a two-part protocol for the interviews. First, the interview began with a group of questions designed to allow the child being interviewed become

comfortable with the interviewer and begin talking about their life and recent experiences. Rather than using the questions as a structured interview schedule, the protocol was designed to begin a conversation with students regarding various elements and experiences in their day-to-day lives. In this way, stories of conflict might arise in conversation if they resonated in the participant's experiences. Probes and follow-up questions flowed naturally from each participant's individual responses and accounts of events that were experienced.

The first section of the interview included the following questions:

*Can you tell me about your class?*

*Do you like school?*

*What do you like best? What do you dislike?*

*How about your teachers? What are they like?*

*Can you describe your day for me?*

*Can you tell me about a problem or disagreement that you have had recently?*

*Can you tell me about a time you were unhappy recently? How about a time when someone else made you unhappy?*

As noted previously, not all questions above were asked to every participant in this particular order. These were designed to allow the child to bring up topics and problems that were salient experiences in their life.

The second part of the interview included several more specific questions on rules, law, and justice. There are few studies that have asked participants directly about these topics. One study, conducted by Tapp and Kohlberg (1977), aimed to explore the relationship between moral reasoning and concepts of law and legal justice, asked children through college several direct questions that were of interest to this study. Because these questions had been used with groups of children the approximate age of children in this study with success, I adapted this section of the interview protocol from questions used by Tapp and Kohlberg (1977)<sup>7</sup>.

*What is a rule?*

*Why do we have rules?*

*What is a law?*

*Why do we have laws?*

*What would it be like if there were no rules?*

*Why do you follow the rules?*

*Is it ever okay to break one of the rules? Can you think of a situation where that might be okay?*

*Is it ever okay to break the law? Can you think of a situation where that might be okay?*

*What is justice? What comes to mind when you hear the word justice?*

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<sup>7</sup> Tapp and Kohlberg (1977) asked many of the same questions as I used in this study. The questions were adapted slightly by changing phrasing. The ordering of questions is not described in Tapp and Kohlberg's work, thus, I asked questions in an order that seemed logical.

In these questions, the participants were left to define what type of rule or the context of the rule. For example, several students asked a follow-up to determine if the question was talking about at school or at home. To these follow-up questions I responded “either” or “you decide”. Few participants made distinction between rules at home versus at school.

Interviews were recorded using a digital voice recorder, thereby freeing me to engage actively in the interview and limit the need for lengthy note-taking. In practice, I took very few notes during the interview. The interview process was designed in this way to allow the researcher to better connect with the student. Although contemporaneous note taking might be considered preferable (Emerson, 1995), the ability to connect with the interview subject and read their body language and facial expressions at all times was of paramount importance. In order to assist in recalling thoughts and reflections that occurred during the interview, a short research memo was compiled after each interview. This memo contained my personal perceptions and observations regarding the interview. The interview recordings were later transcribed verbatim for analysis.

### **Time Spent in the Classrooms**

During time between interviews or when students were unable to be removed from class for an interview, I observed Mrs. Parmarter’s and Mrs. Gates’ classes, groups in the library, on the athletic fields, or in the lunchroom. Because of the time I spent in the class, I often sat at a table in the rear of the classrooms in Mrs. Parmarter’s and Mrs. Gates’ rooms. In other areas I sat in empty tables or sat with groups of students. This

allowed children to become familiar with my presence as an adult in their classes and their school, but separate from authority figures within their lives.

Observations conducted in classrooms were documented contemporaneously and used to draft analytic memos. Because the events viewed in the classroom were often not the events described in the narratives of participants, the observed situations were not analyzed alongside the interview data.

### **Using Conflict Narratives**

In this study, I talked with students about their lives generally and about conflicts and problems they have experienced and collected narratives of those conflict experiences. While the topic of conflicts and problems was informed by previous research, I entered into this study with limited preconceived notions on how children would determine what a conflict situation is, who would play a role in their stories, or how the conflict would resolve (if at all).

People explain their motives, actions, and interpretations of events to themselves and to others through stories (Mishler, 1986; Bruner, 1986; Ewick and Silbey, 1995, 2003). The narrative of such stories comprises a sequence of statements connected to give the words meaning in both a chronological sense and to reveal the moral order in which the individual engages within (Ewick and Silbey, 1995). Not only do narratives communicate the individual's understanding of events, but narratives describe the world the story-teller lives within, as they understand it. The narratives collected in this study illustrate the children in this study's interpretation of conflicts experienced in their everyday lives.

The narrative has become an important feature of legal consciousness research because it enables participants to give the researcher access to their world via their story. Thus, allowing researchers to analyze an individual's interpretations of what occurred within their worldview. As mentioned, these narratives bridge the gap between "social interaction and larger social and cultural forces that shape and are shaped by everyday experience" (Morrill, et al., 2000: 523). Narrative researchers have also found that as individuals engage in the act of "storytelling" they relive and explain their actions to themselves (Bruner, 1990, Ewick and Silbey, 1995). Moreover, the reconstruction of events may influence one's construction of future experiences and behaviors.

This method is also well-suited to study children's everyday experiences. For example, Morrill and colleagues argue that:

youth narratives of conflict offer glimpses into how young people make sense of conflict in their everyday lives as well we insights into how the images and decisional bases embedded in their storytelling connect to adult-centered discourses found in popular media and formal education. (2000: 523).

The narratives of children's conflicts enable me to explore of the frames of memory that are generated as they tell their stories to make sense of and organize events that have happened in the past and negotiate their past experiences with their current worldview. The stories provide much information that interviews and surveys could not. A story allows an individual to express multiple points of view and conflicting perspectives simultaneously (Bellow and Minow, 1996).

The children in this study talked about problems easily. In nearly all cases, conversations of what things that bothered them and problems they had arose in conversation naturally through the first set of questions in the interview (see above). Typically, children described several problems, including issues with accomplishing homework on time, interacting with parents, teachers and sibling, making friends, and navigating the differences between family and school life.

### **Data Coding and Analysis**

I used Atlas.ti version 6.1 software, a software package for qualitative data management and analysis. Atlas.ti allows for coding, linking, developing memos, and creating tables and graphics. Interview transcripts were imported into Atlas.ti, as were reflective analytic memos that had been created outside Atlas.ti. Interview transcripts and reflective analytic memos were used in this analysis. As this was an exploratory study, the sample of children used was not intended to be representative, nor are the results intended to be generalizable to a larger group of children.

This study uses a constant comparative analytic process. Drawing upon the work from Glaser and Strauss (1967), Corbin and Strauss (2008), and Maykut and Morehouse, this study seeks to understand and describe the social process of meaning-making in which the students in this study engage. This study uses words instead of numbers because, as Maykut and Morehouse (1994:18) describe:

words are the way that most people come to understand their situations; we create our world with words; we explain ourselves with words; we defend and hide ourselves with words...the task of the researcher is to find patterns within those

words and to present those patterns for others to inspect while at the same time staying as close to the construction of the world as the participants originally experienced it.

Framed by the research questions, this research uses a process of inductive reasoning to identify salient categories and themes of meaning and relationships between categories from the data itself. Specifically, this coding process gave segments of data a concise name, or code, to describe the data. This first stage of the coding process was conducted in a line by line, systematic fashion. In each line of data, a code was given to each action or subject, thereby describing what the participant was doing or describing within their narrative, and with whom the participant was engaged. Denoting participant actions at this micro-level enables thinking around the participant's reported behaviors, the characterization of others within the narrative, and the implicit behaviors and perceptions the researcher interprets through the telling of the narrative. The categories then became the basis for organizing and conceptualizing the data (Dey, 1993, 2004).

In the second phase of coding the categories are integrated and refined using relational coding. While the categories must be meaningful alone in this analytic method, they also must be related to the context of the research questions. Using relational coding, or axial coding, the researcher begins to draw categories together as related concepts. This stage includes comparing and contrasting codes and participants. For example, the preliminary analysis of the data documented the relationship between the student participant and the antagonist in their narrative influences how the participant interprets a conflict. Thus, the analyses examined not only how the student participant

interpreted the conflict but also coded these interpretations into groups depending on the role of the antagonist. These groups included authority figures at school, authority figures outside of school, siblings, and peers.

Using the relational codes, an explanatory model was developed. The process of moving through the coding stages enables the researchers to move from elementary, descriptive codes to an emergent theory (Charmaz, 2006). The following stages were used in this study. Although the process is described in a linear manner above, it was actually an iterative process, with coding and analyses occurring simultaneously by comparing codes, and exploring and refining relationships. See the coding trees in the Appendix for additional detail.

### **Reflectivity and Analytic Rigor**

In the past, scholars have criticized qualitative research methods as lacking scientific rigor, however, other scholars have suggested that not only do qualitative methods follow a structured analytic process but also permit the researcher to seek a more textured understanding of “how” things happen (Glaser and Strauss, 1967; Corbin and Strauss, 2008; Maykut and Morehouse, 1994). This is in contrast to quantitative methods which often focus on deriving inferences and making predictions to larger populations from small samples of participants. Moreover, qualitative work is often used to build theories or determine how a theory explains a behavior. As Ragin, Nagel and White (2004:10) describe:

A quantitative researcher may observe a statistical relation between two variables, connect this relation to theory, but still not know if the mechanisms producing the

statistical relation are the same as those described in the theory.... Qualitative research can be used to test for the existence of these mechanisms through in-depth investigation of selected cases.

Because qualitative research is based on social data in relatively small samples of participants, many consumers of research find it difficult to assess the quality of the work being presented. Although many qualitative researchers agree that it can be difficult to establish formal standards of quality (Ragin, Nagel, and White, 2004), evaluative criteria to be used in judging research using qualitative methods have been offered by many researchers (Glaser and Strauss, 1967; Corbin and Strauss, 2008; Mays and Pope, 1995; Silverman, 1989; Reybold, Lammert, and Stribling, 2012). Researchers have given guidance to consumers of qualitative research on thinking about and evaluating reflectivity, authenticity, credibility, triangulation (when possible), and participant selection. A criticism of qualitative research is the lack of adequate detail in describing the methods used, thus limiting the ability to evaluate or replicate the study methods (Mays and Pope, 1995).

To overcome these criticisms of qualitative research, I used reflective memos and detailed field notes to record early interpretations and details of the data collection periods. These memos are then analyzed during the data analysis period to ensure that I looked for exceptional cases (i.e., those that did not fit with my initial interpretations, alternative coding schemes, and explanatory patterns). This process was iterative and ongoing during the coding of data and the drafting of this manuscript. This process

increased my ability to look critically at the data and be aware of my biases. As Emerson, Fretz, and Shaw (1995:106) stated this process

...is not meant to lead a writer to be more craftily inventive through the use of persuasive rhetorical skills. Rather it invites the ethnographer to make more conscious choices when creating field note records that portray social worlds as experienced and perceived by others.

Moreover, throughout this chapter I have provided detailed descriptions of methodological decisions that were made throughout the study.

Throughout the study, I was conscious that my presence, particularly as a person of similar age to the student's teachers, may have impacted the interview process and the stories the children told. Yet, I did not get that sense throughout the interviews.

Surprisingly, most students were forthcoming and thoughtful, but not overly obliging or eager to please. The children in this study would likely not reflect upon their experiences in such a descriptive manner without being probed as was done during the interview.

However, while that makes the interview an artificial setting for such reflection, I do not think that their narratives or responses were artificial. At each decision making point throughout the study, I have tried to analyze both the narrative data and my memos in a conscientious manner that would facilitate valid data-driven findings.

## **Summary**

This dissertation uses narrative and responses to semi-structured interview questions to describe how examine three research questions. First, how do children understand and use the law in their everyday lives? Second, if children do not use law as

a means for organizing and interpreting their everyday problems, what types of social structures are used? Third, how do children conceptualize and understand rules and laws more generally? Sixty-eight 6<sup>th</sup> grade students from Spencer Middle School participated in this research. The data collection efforts described in this chapter produced a significant volume of data, as is common in qualitative research. The findings from this research are presented in two separate chapters. Chapter Four describes the findings from analyzing children's responses to structured questions about the meaning and importance of rules, laws and justice. Chapter Five describes the findings of young people's narratives of conflict.

## **CHAPTER FOUR: THOUGHTS ON RULES AND JUSTICE**

Although the focus of legal consciousness is everyday problems that may be outside formal laws and legal institutions, it was important to gain some understanding of what children in this study knew about rules, laws and justice and how they conceptualized these social structures. This information provides a context for interpreting the narrative stories that were collected. Instead of assuming that students had a particular understanding of rules and laws that would be age appropriate for this group, this research gathers each student's specific understanding. This enabled a textured analysis of each child's narrative in reference to their own individual understanding of rules, laws and justice. In addition, much of the work on determining what is an age-appropriate understanding of rules and laws was conducted in the 1970s and 1980s. As the conceptions children have today may have changed since that time, the data in this chapter also provides an update to that research.

### **The Value of Rules and Laws**

The value of rules to these students encompassed two themes: organization (41 students) and prevention (38 students)<sup>8</sup>. First, children in this study felt that rules helped order life both at home and at school.

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<sup>8</sup> Three students' responses had components of both themes.

**Carrie:** It would be pretty hard to get anything accomplished. There would be no order. It would be chaotic. Who would decide what to do or how to get us to do anything?

**Zoey:** It would be confusing. I wouldn't come to school if I didn't have to. So, we wouldn't learn anything. Or maybe I would come to school but it would be more fun because there were no rules and we could just have fun. Maybe our teachers wouldn't teach us if we did come to school since they wouldn't have to. They could have fun, too.

The second theme in students' responses was that rules help prevent problems. Most often these students were equating rules to laws and thus responded that rules help prevent social problems that are violations of actual laws. For example, stealing and murder were often named by students.

**Samuel:** Rules stop us from doing whatever we want, like stealing or hurting someone. Or everyone just running around killing each other. It would be pretty scary. Even just here [at school] it would be hard to feel safe.

**Zoey:** It's sad to think of people this way, but I think everyone would just be out for themselves. They would not care if they hurt other people or took their things.

I don't think people would live for as long. It would be like before we were civilized.

These responses give evidence that young people think about rules and laws as having similar behavior-regulating value to society.

Interestingly, two students provided responses thought that people would be incapable of living in groups without some sort of rules ordering behavior.

**Allie:** How would that even happen? If you have more than two people doing anything I feel like you have some rules between the two of you. Even if you don't write them down, you decide that you are going to share the work, or split up how you get food and cook it, or whatever. That is just...what do you call it...being human or..wait, human nature. Yeah, it's just human nature- making rules.

**Miles:** "That would never happen. There are so many rules. We could never get rid of them. And, people would just make new ones up. We can't live without some rules. Some rules suck but there are some that we kinda need. There would be no games or sports if we didn't have rules. We would just be running around with like a ball or a lacrosse stick. Stupid. How would people get anywhere? Or survive? I don't think we [humans] would have lived this long if there were no rules.

The themes contained in students' responses were similar to previous studies. Tapp and Kohlberg (1977) found that these themes are typical of children in the preconventional and conventional stages of moral development which is where middle school aged children typically fall. Alternate theories of moral development suggest that females may think about rules and laws differently than males. For example, Gilligan (1982) suggests that women and men simply think differently about moral decisions. For men, she hypothesizes that reasoning is organized by moral principles and hierarchies of social relationships. Women, by contrast, interpret moral decisions in relation to interpersonal relationships, care and responsibility to others. Yet, for this question, there were no patterned differences in the themes when analyzed by sex or ethnicity, meaning that the two themes were distributed evenly across different groups.

### **The Function of Rules and Laws**

Structured questions also asked: "What is a rule?" and "What is a law?" It was very easy for students to describe a rule, but when asked about a law after their description of a rule, young people had difficulty distinguishing between the two. Most described the rules and laws in the same way with different example. The main difference young people could see between rules and laws is the scope for whom each applies and the type of consequence for violating each- with rules being "smaller" both in scope and their corresponding punishments' severity.

**Christa:** Rules are strict...[she struggles to find the word she wants] guidelines that tell people how to behave and sometimes there is a punishment attached if you break do not do what is expected.

**Interviewer:** What do you think a law is?

**Christa:** Um [looks confused at the question]. It's the same thing except it is written down somewhere. Rules might be written down but they don't have to be. I think laws have to be written down. And the punishment is worse sometimes.

**Emily:** A rule is a set code that we follow to make sure we all live happily.

**Interviewer:** And what is a law?

**Emily:** It's a rule that we have all voted on so it to everyone. Rules might not apply to everyone because they are in different schools or live somewhere else. A law is for everyone.

Some young people could not formulate a definition of these concepts but answered with an example.

**Devon:** A rule is like "Don't run by the pool". It's meant for safety.

**Interviewer:** And what is a law?

**Devon:** It's the same thing just bigger. And you go to jail if you break it. Rules you just get in trouble or hurt and then you would learn your lesson.

When exploring the data by sex, it was found that more girls noted that they thought rules and laws require a collective decision making by society (24 girls compared to 15 boys). These sentiments included mention of “voting” “we [society] all agree”, and “leaders decide on our behalf”, among other phrases.

Prior studies noted that children’s responses fell in three hierarchical categories: prohibitive (a guideline to restrict behaviors), prescriptive (a neutral regulation), or beneficial-rational (personally or socially beneficial guideline (Tapp and Kohlberg, 1977). In Tapp and Kohlberg’s work, beneficial-rational construction of rules and laws was indicative of post-conventional reasoning and not common in middle school aged children. In this study, nearly all participants explained rules and laws in a context of benefits to society rather than a simply thinking that a rule prohibits behaviors but not thinking that it serves a purpose socially (prohibitive). Notably, students who described the beneficial properties of rules and laws and those that described the collective agreement elements reported more involvement in a variety of extracurricular activities. This gives weight to both Rogoff and Rogoff’s (2000) theory of development as participation that supports the idea that development is linked to interpersonal relationships and engagement. This body of research suggests that individual development cannot be separated from interpersonal and community processes (Rogoff, 2000; Rogoff et al., 1995). An individual’s role in society is continually changing based on their current “place” in society, the communities they participate within, and the cultures to which they belong. Thus, it seems that if children are involved in a variety of

activities and groups, they may interpret rules and laws as an artifact of collective organizing.

### **Compliance with the Law**

To determine young people's understanding of compliance and reasons for compliance they were asked: "Why should people follow the rules?" and "Why do you follow the rules?" Responses from children in this study can be grouped into three categories: avoiding negative consequences, social conformity, and principled conformity.

### **Avoiding negative consequences**

Very few (4) students indicate that the justification for compliance is to avoid negative consequences of rule breaking behaviors. The few who did indicate this sentiment were boys and experienced more disciplinary actions at school than was typical of the group, as a whole.

**Tyler:** Everyone should follow the rules so they don't get in trouble. Same for laws. No one wants to go to jail. I don't want to get in trouble so I try not to break rules. I definitely don't break any laws. I don't want to go to jail.

**Heather:** I don't break the rules because I would get in trouble. If it is at school, I would get in more trouble at home for not following rules at school.

**Kristen:** People just don't want to go to jail. If they didn't think they would get in trouble no one would obey the law or the rules. I probably wouldn't.

**Zoey:** No one wants to be the person in trouble. Or the one the teacher doesn't like and I don't want to be on my mom's bad side. I just listen.

### **Social conformity**

Several students indicated that they were compliant out of respect for others and because it was better for everyone. These students appeared to engage in a logical deduction that compliance was necessary to ensure the good of everyone in society, not just themselves. They also indicated that following rules or laws was necessary to "fit in" with the group.

**Avery:** Well, we don't want everyone to go crazy. I think we know that it would be a disaster if everyone broke the rules, so we follow them for everyone.

**David:** People who break the law aren't good people. I don't think we want to be like them, so we follow the rules. You fit in better if you are nice and that means following the rules.

**Jacob:** No one wants someone who plays by their own rules on their team. You wouldn't get picked to play with anyone on a team. It's probably like that when you are grown up, too. You have to play fair to get along with who you work with or live with or whatever.

### **Principled Conformity**

A small group of students articulated that they complied with rules simply because it was the right thing to do. These responses demonstrated a sense of justice and morality. At times, the principled responses seemed to be guided by a sense of absolute rules and morality. Students made normative judgments that rules laws were founded on basic morals and were indicators of good and bad behaviors.

**Noah:** You should follow a rule because it is a rule. A rule tells you that something is right or wrong. If it is wrong, then you shouldn't do it.

**Interviewer:** Can you give me an example?

**Noah:** Stealing. You shouldn't steal because it isn't right.

**George.** It's about doing the right thing. You aren't a good person if you break laws. It just isn't right. Even if you don't get caught you or hurt anyone you should feel bad about it. I don't think that happens with criminals but that is why they are bad and deserve to go to jail.

## **Summary**

It is surprising that the smallest group of students (4) described reasons relating to negative consequences. It seems that this could have several explanations. First, students in 6<sup>th</sup> grade may believe that rules and laws are necessary artifacts of society that should be followed for social or principled reasons. Certainly, social life for young people has become a more complex and structured environment over time. It is possible that instead of simply wanting to avoid negative reactions from others, children here believe rules and laws should be complied with because they are a necessary.

Second, it seems that when children think about rules and laws, they may be thinking about formal rules and laws that operate outside their everyday life and thus are not interpreting the question as applicable to their own behavior. Perhaps if given an example of a rule that operates in their daily life or an example situation and asked why a rule should be obeyed more students would indicate that avoiding negative consequences is the paramount reason. Similarly, it could be that young people are just educated to think about the concept of a rules or law as necessities for social good and to be a just society and thus are giving back responses that are in line with education provided to them on this topic.

## **Changing and Breaking Rules and Laws**

To determine children's perspectives on transformative nature and applicability of rules and laws, students were asked "Can rules be changed?" and "Are there times when it might be okay to break a rule?" Interestingly, though the questions were phrased with

the term rule, students easily responded with examples of rules and laws in this conversation. The terms were used interchangeably by some students.

### **Changing Rules- Agreement, Innovation, and Injustice**

Students indicated that rules and laws can be changed if there is a collective agreement by those who the rules or law impact.

**Samantha:** Rules can definitely be changed. If we all decide that it isn't fair or maybe that we just don't need it anymore then it can be changed. That happens with laws, I think. Doesn't it?

**Interviewer:** What do you think?

**Samantha:** I think they can.

**William:** If everyone says it should be changed then I don't see why not. If the rules are for us all to get along and be safe and we all think they should change then they should. That's not how it really works but it should work that way.

Young people demonstrated a capacity for understanding that social norms and values change over time and explained that rules should change to accommodate these shifts. Responses were varied and complex covering examples from driving, to cell phone and computer use, to authority relationships in the school setting.

**Seth:** Definitely. Things change and so we have to change the rules.

Things like cars weren't even invented a long time ago so we made new laws for driving. At school, we didn't need rules for DSs before because there weren't any. They are pretty new. So, new rules are made and old ones are changed.

**Lucy:** It seems like they [rules] have to change.

**Interviewer:** Why do you say that?

**Lucy:** Well, things change so rules have to change, too.

**Interviewer:** Can you give an example of when things changed and a rule had to change, too?

**Lucy:** [thinking]. Well, in school we have rules about talking on our phone. There were no phones before so we need to make new rules. I guess that isn't changing a rule but it is making new ones and they probably had to change it when younger kids got phones. A lot of elementary kids have phones now and some kids in my classes have ones that you can email and Google stuff [smartphones].

Other students indicated that rules and laws could and should be changed, particularly in instances where injustice occurs. In responses that connected rule change to injustice, examples ranged from school rules that they felt were unfair to very sophisticated examples from current public policy debates, including racism, gender bias,

and gay marriage. Although these examples were not given by every student, these responses give evidence that at least some of the young people in this study are connected to current legal discourse and it permeates their understandings of rules and laws.

**Heather:** If rules are not right they should be changed. Laws that discriminate should be changed. We are learning about segregation right now. That is definitely not right and was a law that needed to be changed.

**Avery:** Rules should be changed when they aren't how we think anymore. There are some rules that just don't matter because things have changed.

**Interviewer:** What kinds of things? Can you think of an example?

**Avery:** Well, laws that were about women not voting or being able to do things in the military. Or what about gay marriage. That is being changed right now. At least in some places. But it should be changed. It's not right.

**Ricky.** Rules change every year in school. So, I guess they can change.

**Interviewer:** Why do you think they change?

**Ricky.** Well, some are just not fair and are fixed, I think. Some teachers have different sets of rules. That is confusing and doesn't really work because you never know what you might get in trouble for. I think that is fixed in this school. All of the rules are the same for 6th graders. That works better. It seems more fair.

## **Breaking Rules**

Conversations with these students about breaking rules revealed that most think that there are times where it is permissible to break a rule. In all cases where students felt that rule breaking was allowed, it was only in circumstances where the rule was unjust or violating.

**David.** If it's not right and it's like an emergency or something important. If it's just not right then you should probably try to talk to someone about it before just not following rules. I am not sure about a law, though. I wouldn't want to break a law and get in trouble unless it was really important. If you were starving you shouldn't get in trouble for stealing food. If you are trying to get away from bad guys, like in the movies, you shouldn't get in trouble for hurting them or taking a car to get away.

**Cadence:** Isn't that called civil disobedience? I think that's what it's called when you break a law but you don't think that you are doing anything wrong and you aren't being violent. Like Martin Luther King. It's about right and wrong. Laws can be wrong.

**Ross:** Yeah, people decide not to follow the rules all the time. I think it's okay if you think that it's a bad rule or law. I don't know if that is enough to stay out of trouble. It's not at school but maybe if you are grown up

people will listen if you say that it is wrong and that is why you don't think you should follow it.

The remaining students indicated that they were not able to decide that it was acceptable to not follow a particular rule or law. Each of these responses indicated in some way that their status as children did not allow them to make decisions about following or not following rules and laws.

**Savannah:** I don't think we can decide that it's ok to break a rule. We would still get in trouble. It's not for us to decide. Teachers make the rules for us and the classrooms. We can't just decide not to obey them.

**Interviewer:** Why?

**Savannah.** That just not for us to decide. We're just kids.

**David:** I don't know. I am not sure anyone would be happy with me deciding when it was a good idea to follow rules. And especially not laws. We should just follow those. Maybe when we get older and vote we can help decide but not now.

Nearly all students could think of a situation where it would be acceptable to break the rules. Previous research argues that this is a sign of preconventional moral reasoning (Piaget, 1962; Tapp and Kohlberg, 1977). Other research suggests that this

strict rule abiding perspective may also be more common in children with strict authority figures or from cultures where rules, laws, and authority figures are absolute (Tapp and Kohlberg, 1977).

In the above discussion with Noah, he goes on to indicate that he does not think that rules should be broken.

**Interviewer:** What if others are stealing?

**Noah:** It's still not right. Just because other people are breaking rules does not make it okay for you to do it. It's about right and wrong not about fitting in with your friends doing what they think is cool. Rules are made for a reason.

**Interviewer:** Are there any circumstances you think it would be ok to break a rule?

**Noah:** No, even if you think it isn't right I think you have to talk to someone else about that not just decide. Kids can't make the rules. We might think we know better but the people who make the rules probably thought about it [instances where they might be unfair] before making them [rules].

### **What is Justice?**

Justice is a deeply rooted construct of morality. From a very early age, children are socialized to values that are constructed with conceptions of justice (Piaget, 1932).

Legal institutions and laws, themselves, are also founded on principles of justice (Rawls,

1971). Therefore, discussing the concept of justice with children in this study, alongside rules and laws seems essential.

Justice is a complex theoretical and practical construct (Rawls, 1971; Bell, 2007; Braithwaite, 2002). The term is difficult to define for everyday people, as well. Children in this study were asked the question: “What do you think justice is?” or “What is justice?” Only general themes connected the responses and some are features of justice, rather than definitions of what justice is. These themes, however, are shared in the literature on justice as important features. The themes were: fairness, participation in decision making, being treated with respect, and ensuring good for society. Yet, many responses, across themes, related to the formal legal system, legal institutions, or legal actors.

### **Fairness**

Nearly all of the students’ responses included some mention of fairness and formal systems of dispute resolution. Although follow-up questions were asked on what fairness meant to students, responses were vague.

**Elena:** Justice is what laws get you. Like if you go to court. The judge decides what is fair and that you get justice.

**Rodney:** It’s when things are fair.

**Interviewer:** What kinds of things?

**Rodney:** Everything. But mostly when you go to a court or there is a judge.

**Dexter:** That's what police do. They catch bad guys and get justice for people.

### **Participation in Decision Making**

Other students were able to articulate components of fairness they thought were important to achieve justice. Students felt that it would be just if the person of interest (often they put themselves into this position in their response) was involved in the decision making.

**Christina:** I think justice means a fair decision.

**Interviewer:** What is a fair decision?

**Christina:** Well, whoever is in charge has to listen to everyone and be fair to everyone. We should be able to talk it out and come to an agreement of what is best for everyone. You shouldn't just get a consequence without being able to explain or talk about why you did something.

**Zoey:** Well, like in the courts you have a right to be heard or be a witness and after hearing everyone the judge decides what justice is.

**Levi:** Justice is when something is fair.

**Interviewer:** What do you think it means to be fair?

**Levi:** It's when you do the right thing.

**Interviewer:** What is the right thing, do you think? How do you know that the right thing is?

**Levi:** Well, it's when everyone gets to say what happened, we talk it through and then the grown up decides what is the best thing.

**Jamie.** Adults decide what justice is. They go to court and the judge hears them out and then he decides.

**Interviewer:** What about you – what would justice look like for you?

**Jamie.** We don't get to help decide until we are older. Right now it's just the grown-ups who figure it out. Sometimes if they [adults] are being fair they at least listen to us for a minute before deciding what consequence we get.

### **Ensuring Good for Society**

Similar to adults, when asked about specifically about justice, children in this study have difficulty constructing a definition. In addition, the children's responses seem to connect justice to formal law rather than as something that applies to their everyday lives. Very few (2) students described justice as a social problem that impacted their lives, as a young person.

**Lucy:** Justice is what right and wrong is. If you are doing the right thing it is justice. If not, then it isn't. It is better for everyone to do what is right. Then we are thinking of everyone not just ourselves.

**Kevin.** I think that is what is better for everyone. If decisions are made thinking of everyone then they are just. If not, then we aren't being fair to everyone and that isn't justice. We should be thinking of what is best for everyone not just ourselves. That doesn't happen much though because it is hard to think about what is best for everyone, especially if it isn't that great for you.

## **Conclusion**

Children's responses to specific questions on rules, laws and justice provide evidence that they are certainly able to understand and interpret that meaning of these socially constructed concepts. Children provided similar responses to questions about the value and function of rules and laws to classical research (Tapp and Kohlberg, 1977), with few exceptions. As discussed above, one exception was the low number of students who believed that rules and laws should be complied with to avoid consequences. As there have been many societal and educational changes since the 1977, the similarities are notable. While the data does not provide any possible explanations, one can surmise that perhaps the similarities are due to the lack of change in the concept of rules and laws.

While scholars take a broad view of the law and seek to explore how it impacts everyday life, everyday people do not. It seems unreasonable and unnecessary to expect

everyday people to think about the law in broad terms. Instead, individuals define abstract concepts like rules, laws and justice in terms of information and experiences available to them. The children in this study have little experience with the legal system, legal institutions, or legal authorities. Thus, it seems that these children rely on information provided to them through academic lessons, family members, media or other sources. Interestingly, responses children provided in this study do not differ significantly from responses children provided in Tapp and Kohlberg's study in 1977.

When asked about justice, students seemed to connect the term to formal law and legal institutions which are very much outside their everyday life. This might be explained by the way children are socialized to understand justice. Justice is often referenced in terms of law, legal problems and legal institutions in literature, media, and pop culture. Students learn by connecting related concepts, thus it seems natural that law and justice would be connected, particularly in young children's minds. In addition, it is unlikely that justice is discussed in middle school without connection to the law. As Willis (2012) notes, most graduate students studying criminal justice do not discuss the nature or the values underpinning the term justice. Thus, it would seem highly unlikely that justice would be discussed in a way that students can separate it from the law.

## CHAPTER FIVE: ANALYZING THE NARRATIVES

“Convincing narratives have a kind of weight that mathematical formulas do not. They allow us to revive moral argumentation in disciplines that, since the eighteenth century, had aimed at value neutrality.”

Stephen Toulmin, *Return to Reason* (2001: 123)

In this chapter, I analyze children’s narratives of their experiences of problems to understand the role rules, laws and justice play in children’s everyday lives. Children’s narratives varied in topic, complexity, and context. Yet, five salient themes emerged across the stories:

- Resigned to childhood
- Substituting higher authorities
- Being heard and having a say
- Desert and Fairness
- Crusading.

Children’s narratives describe a very different picture of rules, law and justice when compared to their responses in Chapter Four. The themes contained in the narrative data are incongruent with the impartial, formal legal system described in the previous chapter. There is also some variation among different sex and ethnic groups in

this analysis. This suggests that the way children use the law in their lives is likely situated not only by their social status but also by the larger cultural groups to which they are a member. This chapter describes each theme that emerged in the analysis of the narratives and uses the words of the children involved as often as possible to provide evidence of the thematic representation.

### **Part I. Resigned to Childhood**

*Jake: A problem? Hmmm. [pause while he is thinking.] I don't think I have any problems. I get along with everyone pretty much but I don't really get to do anything where I could get in trouble. You know? I'm here [at school] and I don't get into fights or anything. I like everyone. We don't really talk about anything that you can disagree with or fight over. I'm pretty bored here actually. I get good grades, though. Then, either my mom picks me up and I go home or I go to different activities. I am in a bunch of activities [emphasis on activities]- I go to basketball, I play the saxophone and have lessons for that, I started swimming this year, and then we have some things with our church. I don't have time to get in trouble. I wish there was more time to just hang out with other kids, but everyone on my street has different stuff going on [extracurricular activities] and our parents are always around so it's not like we are ever even alone enough to get in a fight with each other or have a problem that they [the parents] don't help out with.*

This was one of the first interviews I conducted. Jake is white, has dark hair and wears glasses. He is shorter than many of his fellow students and is very easy going.

Jake seems to get along with everyone and has many friends. He gets good grades and participates in many school and extra-curricular activities. When Jake first started this story, and I admit, for some time after I had transcribed his interview, I was a bit frustrated. He had no stories of conflict that he wanted to share. He wasn't being rude. He didn't seem to be being trite. He was thoughtful throughout our time together. He was genuinely interested in my questions and genuinely interested in thoughtfully responding.

It just seemed he could truly not think of a salient problem with which he had grappled. We talked of problems his family and parents discussed, including which activities he would be enrolled in and what day camps he would attend in summer months. He is generally relaxed and likes many activities and he reported that he could not recall a time where he had argued with his parents over those activities. I was frustrated at first because the lack of a conflict story was disappointing. After interviewing several other students, however, I realized that these children were not using rules and laws as their primary schema of interpretation. Rather, these children interpreted events from their position as a child, excluding themselves from making decisions or engaging in dialogue with authority figures, and instead allowing authority figures to act on their behalf without much participation on their part. Their role as a child and the lack of agency in society they possess due to that role plays a lead function in their narratives.

Jake is encouraged to be busy throughout his day by his parents. By his account, there is little downtime. He does not reflect on whether this is something he likes or

dislikes. He simply accepts it. Jake also reports little involvement in the selection of his activities.

***Jake:** I like everything. So, whatever they [his parents] pick has worked out ok.*

*They ask me about camps in the summer sometimes. But, most are like the same things I do during the year. I go to one for sports, one for music. And, it's planned pretty early [in advance] so I can't change my mind.*

***Interviewer:** Have you ever asked to go to one camp and not been allowed to go?*

***Jake:** I think so. But, I think it was because it was the same week as a music camp that I go to. And, I have to go to that.*

***Interviewer:** Why?*

***Jake:** It's really important to my parents that I play an instrument and that I practice. So, I've just always gone to this one camp for music. Every year I go. My mom says it's a good one [camp for music].*

***Interviewer:** Do you like going?*

***Jake:** I guess so. It is a lot of practice. Some other people who are at my school go.*

This is not to say that Jake is uninterested in his life. He is energetic and reportedly pretty good at everything he tries. He displays a complete and certain trust in his parents and teachers and their decisions made on his behalf. He does not criticize their choices and does not remember a time when he got into a fight with his parents. He trusts them implicitly to make the decisions that guide his daily life.

**Interviewer:** *Do you remember a time when you and your parents had a disagreement?*

**Jake:** *Not really. Maybe in the mornings... [he carries on without follow up]... Sometimes I am late getting up. I am not a morning person. I could sleep all day. I get in trouble then but I can't be late getting to school so it's not really something that we disagree about. I have to get up and get to school. I don't really get in trouble for it. I just hate getting up and sometimes my mom gets angry that she has to remind me so many times.*

**Interviewer:** *How about a disagreement with your teachers or friends?*

**Jake:** *Nah. I always do what my teachers say and I get good grades. My friends are mostly at my activities and we are busy practicing. Like when I go to basketball, there would be nothing to disagree about [at practice]. We do what our coach wants us to do. Some parents get upset about how well their kids are doing but not mine. They just want me to participate. It's not like they are worried about how many points I get. Same with saxophone. They just want me to play. I mean, they want me to be good, but they aren't mad if I don't get a solo or 1<sup>st</sup> chair or something. They aren't like that.*

Jake seems to be encouraged to do well in everything he does but he does not feel the need to be perfect. He does not “rock the boat.” Jake trusts his parents, teachers and other authority figures completely. He seems quite protected by these same figures. Although he is not directly involved in the decision making that impacts his everyday life and activities, he feels that the way that decisions are made are fair and he respects the

authority figures in his life. Jake's narrative does not implicate the law in any way. He doesn't interrogate the way that decisions are made or if those decisions are fair. While he understands how formal rules and authority figures impact his activities, Jake's life is very much outside the law. He uses schemas of consciousness that implicate his family structure and cultural and social expectations, rather than schemas that connect conflict to law or justice.

Jake does not use his voice. He trusts authority figures because he believes that authority figures have his best interests in mind. Jake does not engage in decision making, contest decisions that have been made, or use his own voice to speak his opinion. We, as a society, certainly do not want each child to contest every decision made by authority figures, but we also do not want children to conform and comply without any critical reflection of the decisions that are being made on their behalf. It is an important balance to strike for parents and teachers. At this time, it does not seem that Jake's parents or teachers are concerned with his indifferent attitude toward rules and laws. It seems that as Jake ages he may begin to use schemas that resemble *Before the Law* to interpret conflict. Or as he has an increasing number of experiences with legal actors and institutions, his views on rules, laws and authority figures may shape his way of thinking in an entirely different way.

Christopher reports a very different life than Jake but also interprets events in his life using the lens of his status as a child. Christopher has three siblings and both his parents work. He generally does what he told because he has learned that is the easiest path to take. He reports being continually in trouble both at home and in school. His

parents both work and he attends before and after care at school. During some of that time, he attends extra tutoring in reading and math. He participates in sports when his grades allow and if the practices are at a time his family can arrange for transportation.

*Christopher: I don't even bother anymore. I get into trouble a lot. Sometimes I deserve it, sometimes I don't. But, I guess it's pretty one-sided. I don't try to fight about it. I just try to do what I am told but I forget to get my work done or I don't do it right, don't think enough about it, I guess. But, I think it's worse if you try to explain. So, if I get in trouble I just do what they tell me to do [as punishment or a consequence]. I mean sometimes, like when I get in trouble for not getting my [home] work done I have to stay back from recess or music to get it done. I guess Ms. White doesn't really think of that as a punishment, but it is, right? But, you can't fight it, so it's really a problem that they think I have, not a problem for me. My problem is I need to do better. Try harder. That's what my mom says. I used to try to explain to her but she sides with my teacher so why bother. Explaining just gets me in more trouble.*

Chris has lots of stories about problems he encountered, but none of his stories intimated feelings of injustice or contention. He did not focus on if his troubles or consequences were deserved or fair. This is not to say that he did not mention desert or fairness. He did, but it wasn't a focus. He did not dwell on these concepts. Rather, his focus in each example that he gave was how he just tried to carry on. No story that he told included talking back to his teachers, explaining what happened, appealing to a higher authority, or even a back and forth conversation with himself trying to make sense

of what was happening. He did not engage with the conflict situations that confronted him on a consistent basis. Rather, he repeated others' sentiments about himself as if they were his own reflection. He was resigned.

**Interviewer:** *Why do you think you are always getting into trouble?*

**Christopher:** *I guess because I do things wrong. Well, I guess that is what they think.*

**Interviewer:** *Is that what you think?*

**Christopher:** *No. I think I am just different and that gets me in trouble.*

**Interviewer:** *How are you different?*

**Christopher:** *I have trouble getting my school work done. No one else has trouble in my classes. I don't like homework. I don't like to read the books they make us read. Then I have to go to a special class and I have to go to do extra work after school when I could be playing. If I don't get it done, I have to stay in from recess, too. It's not like that makes me like it [school work] more. Most kids don't have any trouble getting their work done.*

**Interviewer:** *What exactly do you get in trouble for?*

**Christopher:** *Sometimes just not getting my work done. But most of the time I do not apply myself. That's what my mom says. I don't try hard enough.*

**Interviewer:** *what do you think?*

**Christopher:** *I don't think it matters. I do my work and no matter how hard I try or don't try I get in trouble.*

**Interviewer:** *Is that fair?*

**Christopher:** *[pauses, as if thinking if he should say something]. I don't think it matters. You know?*

**Interviewer:** *Why not?*

**Christopher:** *Well, it's not like if I care or if I say it isn't fair that it will change.*

**Interviewer:** *If you were older would it matter?*

**Christopher:** *Probably not. I mean some kids might think that yeah, when they get older no one can make them do anything or get them in trouble. They can do anything they want and so they could say that it wasn't fair and it would change things. But, that's not really true. You have to still go to school or get a job so someone is telling you what to do and you still get in trouble if you don't get it [understand the work]. So, I guess you are just still doing what you are told to do and keeping your mouth shut.*

At the beginning of Christopher's interview he was quiet and a bit withdrawn but after talking with him about who I was and that what he said could not be repeated he slowly opened up. At our second meeting, he was much more forthcoming but seemed disconnected generally. He is not involved in decisions about his daily life. He did not mention any close friends. At the time of interviewing, he was being pulled from some of his classes for additional tutoring but he reported "hating" that he was not in class with his peers.

There are many participants in this study who are resigned to just comply with rules because it is easier or obey authority because of their limited social status as children. Very few, however, do not reflect on the situation and think that some of the

challenges they are experiencing can be remedied. Christopher's lack of interest in pursuing the difficulties he is experiencing is what makes his story interesting. It matters not if the trouble he is experiencing is because he has academic or behavioral problems. Rather, what is compelling in this story is that Christopher has already decided that there is no reason to think about whether the troubles he is experiencing are unfair or unjust. He would prefer to just keep his head down, try to do what he is told, and keep moving on. Later in the above conversation, Christopher reveals that he cannot see how things would change in the near future.

*Christopher: I'm just the troublemaker. I don't think I'll ever be better at school so I think I'll probably always be getting in trouble, even when I try [to be better at school and not get in trouble].*

At this age, developmentally, we would expect that a child would rebel against situations where he feels that he was treated unfairly. Unfortunately, at this stage, Christopher is showing signs of simply being indifferent. He does use some general schemas of justice to interpret his problems; however, his primary schemas of interpretation seem to be more related to social status and family roles, than any form of rule or legal consciousness. His voice has been neglected in such a way, that he does not even attempt to explain situations. He feels powerless in his own life. Christopher described a situation where his teacher sent home a note to his mom.

*Christopher: I guess she couldn't get in touch with my mom and it is hard for her to come in for meetings since she is at work, so she [his teacher] sent home a note*

*with me. I gave it to my mom but then the next morning it was on our counter so I read it. She thinks I have some disability and should be tested. It said something about how I don't react or act out when I get in trouble or consequences. My mom talked to me about it and she is going to do whatever the school wants but it isn't like I can't react or I don't feel anything, it's just that I don't care what they think. Everything I do is wrong and gets me in trouble. When I have tried to talk to someone about it, I get in more trouble. So, why would I work to change their minds? They make the decisions. I do what I am told. That is how it is supposed to work and even when I do that someone thinks there is a problem with what I do. Doesn't make any sense.*

Christopher's lack of interest and communication at times when it would be expected of other students concerns his teachers, yet, there seems to be little emphasis on talking with Christopher about these issues. Moreover, Christopher does not appear to have an authority figure who is asking him more about how he feels, or giving him other opportunities and encouragement to participate in his life, particularly by talking about concerns they may have surrounding his behavior. Some researchers suggest that adults do not encourage that type of engagement because it threatens the power structures, particularly in the classroom. As John (2003), a researcher in children's rights, states, "Children's participation may pose threats to established power relationships between adults and children." (John, 2003:208). In our current educational system, where teachers are underpaid and overburdened by overcrowded classrooms, a lack of resources, and a lack in support from administrators, to encourage and work to ensure children feel

comfortable to speak out against unfairness, even those they feel only personally, may be a tall order. However, a lack of trust in authority figures decreases the likelihood that children will seek out those figures when an injustice occurs. Given Christopher is in middle school, he has many more years ahead of him where he will encounter more difficult challenges.

### **Summary**

Encouraging children to participate in their life requires encouragement from adults who listen to their ideas and concerns. Ideally, this process begins very early in a child's life by parents and guardians who encourage children to taking an increasingly active role in choosing extracurricular activities and academic interests, when possible. We, as a society seek to have children who actively participate in family decisions, peer groups, and age-appropriate activities. The goal of this participation is to develop an informed and educated citizen.

Several children (about 10% of children in this study), including Jake and Christopher, did not describe active participation in their lives like some other children in this study. Jake has many activities in his life; however, he does make decisions about activities in which he participates. Rather, his parents make decisions on his behalf. He complies with authority figures and rules because he should. He does not reflect on that process. He does not report any salient conflict situations. While Jake is certainly willing to conform with rules and decisions made on his behalf, his conformity seems to be more related to his age and social status than a critical reflection of the rules or authority figures in his life. Thus, while Jake conforms with rules and laws, there is no evidence

from his interviews in this study that his compliance is a result of respect and deference to rules and authority figures. Instead, he seems to make meaning from events in his life using schemas that relate to his role in his family and his role as a child.

Christopher described several conflict situations in our time together. Yet, in all of those situations, Christopher seemed to think of himself as a child who was unable to successfully engage in conflict situations. When he had a conflict with the rules or authority figures, he complied with rules and authority figures because it was simply easier than trying to argue. While Christopher's narratives certainly provide some insight into his struggles with authority figures, his engagement with conceptions of rules or authority figures is secondary to his interpretation of his problems as a manifestation of his social status.

Thus, for both Christopher and Jake, it seems that there are other schemas of interpretation, primarily schemas that relate to their social status as a child, are used to interpret conflicts. Yet, there is some evidence that both boys connect their social status as a child to their lack of ability to engage with authority figures and rules in a manner consistent with adults. For example, both boys are cognizant that with age they will have increased opportunity to make decisions that impact their lives and have less regulation from adult authority figures, including parents and teachers.

## **Part II. Substituting Higher Authorities**

In some stories, children use adults to engage with the rules. In these types of stories, all but one (out of 13), the adult engaging on behalf of the student was a parent.

In the one other story of this type was a teacher engaging with the law on behalf of the student. In each of these stories, young people seem to understand that they, as children, do not have enough agency to engage in a successful battle with the rules. Yet, they do understand that their parents or other authorities can engage with rules on their behalf and face less resistance and possibly achieve more desirable outcomes.

Sarah's story exemplifies this typology. Sarah is a white, middle class student who was recruited from the gifted history class. By all accounts, she is a bright student. She has a close group of friends that form a "clique" of sorts in the grade. She wears very expensive clothing and often has the latest gadget. Her mother drops her off and picks her up from school. During our time together, Sarah was engaged, bubbly, and forthcoming.

She told me about the following events, which I describe in chronological order for ease of understanding<sup>9</sup>.

*In the middle of the school year, Sarah and several friends were in a fight with a girl from a separate 6th grade class. Sarah was in a reading group with Emma, the other girl involved in the conflict. After school, Sarah was waiting for her mother with a group of friends (due to security concerns, the school operates a pick up lane where the students are held with their grade group until after buses have left and their parent is near the front of the pickup lane. At that time a student is released to walk to their parent's car.) The group of girls were talking when someone other than Sarah called another girl who was released to her*

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<sup>9</sup> When Sarah told this story it was out of order and took some time to dissect. This is her telling of the story and I did not attempt to confirm any details with other parties.

*grandmother's care gross and said that she smelled. This was not loud enough to gain any teacher's attention or the attention of surrounding groups. The girl who was insulted was from a family with more children than Sarah's and where both parents worked full time. Her grandmother picked her up from school because the school bus ride was quite long and interfered with her getting to other activities on time.*

*Emma went to a teacher and said that Sarah had been talking about her. Emma appeared to be quite upset and reported that the group of girls had been talking about her throughout the past week. The teacher singled Sarah out from the group to talk with the teacher about what had happened while Emma left with her grandmother. Sarah told the teacher that she had not called Emma anything and that she barely knew her. The teacher asked Sarah to be nice to others and asked (though there was no ability for Sarah to decline) that she write Emma an apology. This action appears to be in line with the school's anti-bullying approach and character building program. Sarah begrudgingly agreed to write a note to Emma and give it to the teacher tomorrow to deliver to Emma. Later that night, Sarah after writing the apology note, posted on her Facebook wall that she had gotten in trouble by Emma and that Ms. Parks was rude since she hadn't even listened to her side of the story. Sarah did not remember exactly what she had posted but didn't think that it was that mean to Emma or Ms. Parks. Though, she did note that she didn't expect either of them to see the post since neither were on Facebook, or at least not her friends and her parents had set the privacy settings*

*so no other than the friends they allowed her to have could see her post. But, many of the other girls who were in Sarah's group of friends posted negative comments about Emma and Ms. Parks. Someone who has able to see the post and thread of comments called the school the following day. This time, Sarah was called to the office to discuss the situation with the principal.*

*By her telling, Sarah's conflict story begins at this point and the main characters are Ms. Parks and the principal, Ms. Woodward. When called to discuss the situation in the Principal's office, the principal asked what she had posted about her teacher on Facebook. Sarah lied to the principal by telling her she did not know what she was talking about and that the principal should call her mother. The principal called Sarah's mother. Sarah's mother came to the school to discuss that matter that afternoon.*

*At that meeting, Sarah's mother did not agree that Sarah should be punished by the school for something she may or may not have done at home. Her mother said she would take a look at the Facebook post and punish Sarah if she felt it was needed. The school did not agree, stating that Sarah's behavior fell under bullying another class mate and since this was the second incident, Sarah would be punished by a lunchtime detention until she wrote apology notes that met the principal's satisfaction. Sarah was in the room while her mother and principal discussed the matter. Sarah's mother said that she would not encourage her daughter to write the apologies because the behavior had occurred out of school, wasn't bullying behavior, and thus was up to her and her husband*

*to make that decision. Additionally, her mother began to question why Sarah had been singled out during the initial name-calling incident when an entire group of girls was present and Sarah denied being the one to call Emma anything.*

*The principal indicated that she was not present at the incident but agreed with her teacher's decision on the matter as she had been the one who had observed the interaction. Sarah's mother asked that the principal suspend the punishment until she could talk with Sarah's father and the principal agreed that they would talk the following day. As it was late in the day, Sarah returned home with her mother instead of class. Sarah reports that her mother may have looked at the post on Facebook since she can see her account but that they never discussed the matter further with her father and she has not served any detention, nor has she written any apology notes. Sarah also said that she never got the opportunity to give Ms. Parks the first note she was asked to write to Emma so she still had that one. Sarah went to one detention, the first day that her mother visited the school. She thinks her mother talked with the principal again because she never spoke about the event with anyone again.*

In recent years, studies show that with the increase in “helicopter parenting”, schools have greater difficulty navigating parent-teacher relationships and communications (Landeros, 2011; Warner, 2010). Sarah' story provides one example of how students invite their parents into their conflicts at schools and how this involvement impacts views of rules and authority figures.

While Sarah's problem does give way to an interesting discussion about schools' abilities to punish students for bullying behaviors toward other students while at home, this is not the topic of this dissertation. Nor is it the focus of this work to explore how over-involvement by parents may or may not cause problems for teachers to manage their classroom. Instead, what is of interest is Sarah's story is how she handles the problem and that she seeks out the assistance of her mom, quite early in the interaction. Sarah is a very bright child. She has no difficulty speaking her mind and she has no interest in trying to deal with authority figures at school, particularly when she felt the school had overstepped their boundaries.

*Sarah: I didn't even do anything. I shouldn't be in trouble. But I'm not going to talk back. I definitely wouldn't get out of it [trouble] then. And, at first it was just a little note I had to write. But, then, trying to get me in trouble for something I did at home. No way. That is for my mom and dad to decide. They let me be on Facebook. The school can call them. And, I wasn't bullying. I didn't even say anything that bad. And, Emma isn't even on Facebook....My mom told the school the same thing. She would discuss it with my dad. It's not their business*

Sarah displays a keen understanding of how to work with and manipulate the rules and authority figures at school. In addition to the exchange above, Sarah noted during her interview that:

*Sarah: Teachers are not the boss. I have parents. They can talk with them.*

While I did feel that Sarah was being a bit haughtier in the interview than she likely would likely have been when speaking to others, I did not feel that Sarah was telling me

something that was inconsistent with the rest of her interview or behaviors that I observed during my time at the school.

### **Summary**

Children who engage adults to participate in their conflict situations on their behalf, exhibit schemas of legal consciousness that are consistent with Ewick and Silbey's (1998) *With the Law* legal consciousness. Sarah views the rules as a game and engages with the authority figures in school by supplementing her own parents as higher authorities. She knows that it would not benefit her to be disrespectful or to talk back to her teachers or the principal. At the same time, she has no intention of letting the rules that are clearly stated in the school's handbook and that teachers have made clear through the anti-bullying program apply to her, especially since her behavior was after school hours.

Sarah and the few other students, who report positioning adult authority figures to engage with the rules or laws, show their ability to work around their inability to access and leverage power over rule-making and rule-enforcing bodies. Like adults who recognize the central role attorneys play in accessing the law (Ewick and Silbey, 1998), these children recognize that adults are better able to position their dispute in a way that increases likelihood of avoiding negative consequences. Unlike adults who use attorneys to access the law, children did not report that relying on their parents or guardians created additional obstacles in achieving their goals.

In all instances where children relied on adults, the adult was a parent or legal guardian. In addition, all students who described this schema were white students. The

basis for this difference is not clear. While the students were all white, they appeared to be from varied socioeconomic backgrounds and did not have other shared experiences (either in the conflict situations they reported in their interviews or in the activities they described as a part of their everyday lives).

### **Part III. Being Heard and Having a Say**

The most common theme in stories (nearly half all stories exhibited this theme; n=28), particularly girls' conflict stories (more than 60% of stories from girls; n=22), was a sense of needing to be heard and wanting to have a say in how the conflict was resolved. These are key characteristics of restorative justice. It is fundamental to restorative justice that all involved parties in a conflict are encouraged to participate in the process, are able to speak during the dispute resolution process, and are able to decide on appropriate consequences (Braithwaite, 1989; Liebmann, 2007). These children had little interest in punishment, retribution, or even ensuring the conflict was resolved in a positive manner for them. Instead, the children revealed deep discontent from often being removed from the process of conflict resolution.

Emma is a black student with long hair that is often braided in interesting designs. She is quiet and likes to read. She appears to be from a less affluent family and notes during the interview that her parents don't think that buying her trendy clothes is a good use of their money. She doesn't play any sports and is not involved in any group activities at the school. She is involved in a youth group that is affiliated with her church and partakes in activities often on the weekends. Emma was also the subject of Sarah's bullying in the previous narrative.

*About two weeks after the initial confrontation with Sarah (as described in Part II above), Sarah and two of her friends, Kristen and Melissa, were taunting Emma afterschool about her outfit she was wearing. Sarah was in the group afterschool at the time. All three girls were called aside by the same teacher, Ms. Parks, and given a warning. Later that night, all three girls posted about the event on Facebook. Emma heard of the posts the next day and was found crying by a Ms. Brown. Because the girls were in different classes, Ms. Brown called upon the principal to deal with the situation. The principal called all three girls in and all three were given a lunch “detention” (meaning they eat alone in their classroom with a teacher’s aide) and their parents called, as per the bullying policy in the school. By Sarah’s account, she said nothing to Emma but did engage in the Facebook conversation by posting about the event and responding to other posts.*

*Sarah now feels bitter and has been picking on Emma but only after school and online. Emma hears of these events online only from others and Sarah reports that she usually looks sad or is embarrassed if Sarah or her friends are around but “she deserves it. Why would we be nicer to her when she keeps getting us in trouble? She is such a bitch. Even my mom is mad at me now. It’s a good thing she isn’t on Facebook. She isn’t even allowed [by her parents]. How sad is that? But, she hears about what we put on there. I don’t know from who. If she keeps telling on us it will only get worse [for her].”*

*Emma just wants the girls to stop teasing her.*

*Emma: "I don't know what I ever did. I am not even in most of their classes. We don't do anything together. I hardly ever see them, but when I do they are so mean. Then they get in trouble and they talk about me online and then it is worse the next time I see them. It does not help that no one has asked them to stop. Giving them a punishment hasn't worked. Maybe the teachers should just stop doing anything. Or ask me what I want them to do. They haven't made it better, but maybe if I could just talk with them and ask them why they are doing it [bullying her]."*

Emma and Sarah's story is common in middle and elementary school. These simple acts of bullying increase substantially during the tween and teen years (Finkelhor, 2009). To make matters worse, bullying now is not contained in school or on the playground. Mobile technologies and social networking have made bullying more pervasive and unrelenting even during evening and weekends when the victim is away from the bully, spatially.

Interestingly, Emma is different than most female bullying victims. Most female victims do not want to have a sit down with their bully (Bazelon, 2013). Often, individuals feel that it would make no difference and only make the situation more unbearable. Emma shows no need for retribution or harsh punishments for her offenders. Rather, she wants to connect with them. She seems to really want to try to be heard by the teachers and her offenders, in hopes that her voice will help the bullying stop. Her story has clear restorative justice elements.

The schema Emma uses to interpret the problems with Sarah and other peers emphasizes a need to be heard and share her perspective. She feels that it is important to resolve the conflict for everyone to have a say in what ultimately happens (regarding punishment) and in the process in which the punishment is determined. These components emphasize both restorative justice and procedural fairness.

*Emma: I don't understand why I can't talk to them, I could go to the principal's office to hear what is said to them, and what they say. Then, I would know. I would figure out what is bothering them about me and I could tell them how it makes me feel. No one wants to make other people feel bad, right? Well, I mean most people, so they would probably realize it and maybe they wouldn't talk about me anymore or be mean [she looks at me hopefully]. The teacher's don't even ask me what I want. I am the one who is being bashed on Facebook, someone should ask me. But, I guess that isn't in the bullying policy.*

The characteristics of Emma's story are most aligned with behaviors that could lead to contact with the legal system. Conflicts that involve bullying of peers may escalate either online with threatening comments or in person with physical altercation which could lead to the involvement of formal legal actors (i.e., police and courts). And, yet her schemas of understanding do not fit into these well-constructed schemas of legal consciousness. This may be because often legality in the traditional sense points to adversarial relationships, as do the schemas of legal consciousness. Emma does not

identify her relationship with either the teachers or her bullies as adversarial but rather wants to engage in a collaborative approach to resolve the problem.

The outcome Emma sought was also different from the outcome that would be obtained from an adversarial process. That is, she did not want to seek more formal or harsh punishment in an attempt to force the girls to stop bullying her. Rather, she wanted to engage in a dialogue about the conflict in hopes of making sense of what was going on, share with the girls the difficulties she was having, and in her mind, hopefully, persuade to their moral sensibilities to stop behaving badly.

While some may believe that Emma's thoughts on resolution are naïve, she is also asking for an opportunity to engage in skills that the education system has taught her are important. For example, schools teach students that compromise and "talking it out" are important methods of resolving conflict. Moreover, these are important skills for adults to use in conflict resolution. Emma believes that she has an important voice that should be heard and she wants to use that voice not only to try to resolve the conflict she is experiencing but also confront those that are doing her wrong.

Another student's, experience of bullying displayed a similar need to be heard and have a say in the way her conflict was resolved. Christina is Latina and a first generation U.S. citizen. She lives with her parents and grandparents, and three siblings. Her family is economically unstable and she has moved homes twice this school year both which resulted in a change in school. She has been at the current school for about four months.

*Christina: I love having a big family but it is hard and it's different than most people in my school. We had to move from our old house to a new one and now I*

*go to school here. It's different. At my old school, there were more kids who were like me. I haven't made a lot of friends here yet. It's hard. I don't even know if other kids really know anything about me but they can be really mean sometimes even if they are just joking around with each other.*

**Interviewer:** *What do they do that is mean?*

**Christina:** *Well, one girl in my class, her name is Megan told everyone that I'm poor, my mom doesn't speak English and that we get food stamps. It's really mean because my mom doesn't speak English very much, we usually just speak Spanish at home because my grandma can't speak it at all. And, I don't know if we are on food stamps. We definitely don't live in a big, nice house like most of the kids here. I go by a lot of really nice houses on the bus but we live in a small house but it's nice, I think. Even if I didn't like my house, I can't really do anything about it. I heard the other kids in my class talking about me during lunch. I know my teacher knows that they said stuff because she talked to a bunch of them and she told them to stop. But, maybe if they got to know me they wouldn't think I was so different or stupid. I can't change that they think being poor is bad. I mean I know we don't have as much money as some people but I don't think we are poor. We do ok. Everyone works which isn't like a lot of kids here. Their moms stay at home all day. But, we can't do that but it's okay. Not everyone should be the same but that doesn't make it okay to be mean to me. I think that if I talked with them they would get it. I had a lot of friends at my old school even though I wasn't there very long. They might like me if I could just talk*

*to them about it. I tried at recess once but they weren't nice. Maybe instead of just telling them to stop she [the teacher] could try to get them to work with me in class or something. Sometimes we work in teams but I just work with whoever is left or near me. I can't really do anything about the rest of it. But, they would probably just forget about that part if I could talk to them.*

### **Summary**

Many students in this study reported a desire to be heard by peers and by authority figures during the processing of a conflict situation. Some also wanted to have a say in how the conflict proceeded and resolution was sought. These components of restorative and procedural fairness are taught to students throughout their childhood and adolescence. Yet, it appears they struggle with finding opportunities to practice these skills in real life.

Perhaps because we encourage children to “talk it out” and compromise to resolve their problems, this restorative justice type of consciousness was common among the young people in this study. Because restorative justice seeks to allow each affected party to vocalize their experience and request specific needs for offenders to make amends with victims and affected community members, researchers have argued that restorative justice is no one conception of justice. Rather every experience of restorative justice is unique. Each participant has different concerns and different requests to achieve reparation for wrongs.

Children who exhibit a desire for dispute resolution that resembles restorative justice are seeking an alternative to formal dispute resolution processes in their school.

Each child has a different experience of events and unique concerns and needs that they would like to voice. Schools are unlikely to be able to provide a dispute resolution process that meets these children's needs, given the limited time and resources available in schools for conflict resolution. This is a similar tension many court systems experience when balancing the limited resource availability and the need for alternative or specialized courts to solve problems (e.g., drug treatment courts, domestic violence courts, veteran courts, housing conditions court, etc.).

There were sex and ethnic differences in the frequency this theme was exhibited by children in this study. More girls in this study had conflicts where being heard and having a say in the process was a part of their understanding. In addition, more than half of the girls' who had stories that exhibited this type of understanding were Latina. In addition, there is some research that suggests cultures with closer familial and community bonds place more emphasis on collaborative problem solving and talking through problems without involving formal conflict resolution and authority figures (Chavajay, P. and Rogoff, B., 2002; Yellow Bird and Snipp, 2002). This could be because developmentally girls are more talkative and process meaning through verbal communication and personal emotional relationships (Fishman, P., 1978; Goldschmidt, O. and Weller, 2000) or because of cultural differences in problem solving and conflict resolution. Interestingly, but also consistent with other research, is that more of the girls in this study reported peer conflicts that would be deemed "bullying" by the school. More research is needed to determine if these gender and ethnic differences are

significant and if and how this theme evolves from a schema of understanding that seems to systematically implicate components of justice to schemas of legal consciousness.

#### **Part IV. Desert and Fairness**

Many stories exhibited a desire for a retributive sense of justice (e.g., a fair and proportional punishment or consequence for the wrongdoing). The children studied want others to be punished when rules are broken or wrongs are committed, particularly if they were involved in the situation and were also punished. Their stories are clear examples of young people connecting fairness to just outcomes. At the same time, most stories contain some mention of what features the young person feels are important to achieve fair punishment or consequences. These features include, desert, equality, proportionality, and predictable procedures that are transparent.

Levi is a quiet, studious young man. He is small for his age but is talkative and charming. He has two younger sisters. He describes his parents as both working, with his mother working from home periodically. His mother also volunteers often at the school for special events and at his sisters' school in the library when her schedule allows.

*Levi: I really hate math. I mean I really hate it and I'm not good at it, like at all. But, you know I have to try. I need to get good grades, even in math... We are doing some really hard stuff right now and I needed a calculator but I don't have one. I did but I lost it and I haven't told my dad about it yet. So, I brought my DS. It has a calculator on it. Then Miles saw me using it. Ms. Thomas didn't see it. He brought his in the next day and I brought mine again. You know, we aren't supposed to bring them [to school], right? Well, we aren't. We can't bring any*

*games or stuff like that to school. They are really serious about it. Same with the people who have phones. But some people don't get in trouble who should. I got in trouble. Someone saw me using it by my desk as a calculator. That is all I was doing, I swear. So, I got in trouble. I had to take it to the office and they locked it up and called my dad to come get it. You can't even get it to take it home unless your mom or dad comes and like signs it out or whatever. I also had to stay back from recess and have my lunch alone. That is so embarrassing. You know eating alone. No one knows why you stay in from recess. You could have on the wrong shoes or not have a jacket or need more help on some homework or whatever. When you eat alone everyone knows you are in trouble. Then, the next day Miles still had his DS and Ms. Parks saw him because he was using it in her class and that is not even math class. She just told him to put it away and she didn't want to see it again. That's it. He should get in trouble the same as me. We both deserved it and we should both have the same consequence. He bragged that he didn't get in trouble and he still brings it in all the time. If he had gotten in the same trouble as me he probably wouldn't do that.*

Levi's understanding of a justice outcome clearly contains components of retributive justice. He is clearly unhappy with inconsistent treatment of students across students who violated the same rule. Although there are many conceptions of retributive justice, most share basic components like those that Levi describes. Retributive justice is also one of the primary conceptions of justice in the U.S. and generally one of the first

the children learn. In socializing even very young children, rules are established and consequences for breaking those rules are developed. Parents and teachers conceive of proportional treatment based on both the rule violated and the age and development of the child. This is another form of preparing the child for transition into adult society where rules and laws have more serious consequences.

Levi did not feel that his punishment was unjust as he was blameworthy, the punishment was distributed as intended (and written down in the student conduct book), and it was proportional to his actions. However, Levi began to feel injustice when someone else violating the same rule went unpunished.

Levi's story mimics stories of inconsistency in the legal system and it is not uncommon. Schools have the same trouble assigning consistent consequences to rule breaking, as society does with law breaking. Research has shown that punishment in school for similar behaviors varies by student characteristics, school characteristics, and staff member characteristics (Skiba, R. et al., 2002; Skiba, R. and Peterson, R., 2003; McCarthy and Hoge, 1987). Punishment has been shown to be related to race, socioeconomic status, academic performance, and special education status. Suggesting that school systems experience challenges very much like the legal system which is often charged with discrimination on similar characteristics.

Levi describes discontent and a decrease in trust in the system of which he is part.

**Levi:** *Why do we even have rules and [set or corresponding] consequences if they aren't used. What sense does that make. It would be better to have no system set up. I mean if you aren't going to follow it anyway.*

*Interviewer: Do you think it would be better to have no consequences written down for specific rules?*

*Levi: I guess it doesn't matter since we don't follow it. How is that different from having none? It makes no sense. I kept up my end of the bargain. I sat and had lunch alone. I didn't go to recess. The teachers don't keep up their end [of the bargain].*

Levi's is certainly respectful to the rules. He may break them but he understands the need for rules and accepts punishment when they are broken. He makes no effort to challenge the rules or the rule making authorities he encounters. He buys into the collective need for the rules and the values they support. However, he is also distrustful of a system that operates in a haphazard and inconsistent manner.

Like Levi, Elena's story is one of frustration over the way in which punishment was exacted. Her story is also one of disappointment in the process of achieving justice. Elena was engaged in a bullying situation similar to Emma (above, part II). Elena is Hispanic. She moved to the U.S. when she was 8 and moved to the school district with her family two years ago. Her family only speaks Spanish at home. Elena performed poorly in her former school, which by all reports from her teachers was caused by language difficulties, particularly in reading. Elena does much better now and has no problems speaking during her interview (which was conducted completely in English). However, she believes that her thick accent, which is still present, is the cause for much of the bullying she receives.

**Elena:** *I don't fit in here. I don't want to be in this middle school. If I could I would go back to 5<sup>th</sup> grade, even though it is in an elementary school. They should just have 6<sup>th</sup> grade in the same school. There were many kids who did not speak English very well and who learned it later, like me. I didn't get really good grades then because I could not read very well. But, I got better.*

**Interviewer:** *Why do you think that the other kids aren't nice?*

**Elena:** *Well, some pick on my voice and that I read slowly. It is still hard for me to read out loud sometimes. I understand the words but getting them to come out makes me sound stupid sometimes. Two of them [other students] laugh at me when I read. They get ssshed by Ms. Thomas but then they just pick on me later. Usually at recess or lunch they talk like me, real slow, like I read [mimic]. They are so mean. I can't help it. I practice. There are lots of kids here that speak different languages but most have been doing it since they were born so it's not hard for them. They don't understand. There is a nice girl on my bus who tells them to shut up if they say anything to me there.*

Spencer Middle School is quite ethnically diverse with many minority families and students speaking languages other than English. Yet, she does not feel like there is a group with which she fits in. She reports having few friends and finds making friends challenging because she is hesitant to speak out loud to new people. She does have many friends at her church and says that it is easier to fit in there. The church is located in another county so many of her friends there do not attend school alongside her.

As my time with Elena went on, she described the following events.

***Elena:** I want to hang out with the popular girls but they don't like me. They aren't nice to me.*

***Interviewer:** Why do you think that?*

***Elena:** I don't live near them or ride that bus and they talk about me [not nicely]. Keri and Melissa in my class are the popular ones. I want them to be nice to me. I try to get them to like me but they don't. They just talk about me. It's embarrassing [she is very sad and close to tears at this point]. I was walking to my next class in the hall and they were behind me with a group of their friends. They were saying that I can't read and I am stupid or something like that. They were speaking slowly like pausing or whatever they think I sound like when I read [aloud]. I turned deep red and just hurried to my locker without looking back at them but they know I heard them. At my next class, Ms. Parks asked me what was wrong. I didn't want to tell her but she pulled me outside in the hall when class started. They [Keri and Melissa] were in the class, so I really did not want to say anything but I told her. She [Ms. Parks] let me go back inside and took them outside in the hall to speak to them. They came back into the class looking mad at me. I tried not to look at them. I was even more embarrassed. I heard the next day that they both got a recess detention for it. They had to serve it on different days, too.*

Elena was clearly upset that this had happened. She went on to say:

*They were mean and so they deserved to get in trouble but not that much. That is not what is supposed to happen. What they were doing really wasn't that mean. I cannot believe that is what Ms. Parks gave them. I was glad that someone said something. You should not make people feel bad about something they can't help. I am working on my reading. But I don't think it was fair to give them something so bad [her voice cracks and she seems apologetic that the other girls got in trouble]. Maybe just a warning would have worked. I don't talk about people since I know how mean it is but I can't believe that everyone who picks on someone gets a detention. No one would be able to do to recess EVER [with emphasis]. I bet their parents were really mad. Mine would be.*

Elena, working from only her knowledge of the situation, was very concerned about the appropriateness of the punishment that her offenders received. She did not think that the punishment fit the misbehavior and was clearly connecting what had occurred to principles of fairness and justice, and at the same time making moral judgment of Keri and Melissa's behaviors. Later, I learned that Keri and Melissa had been in trouble quite often for picking on others, several of whom had learning difficulties. One teacher called Keri and Melissa "the worst kind of middle school pariahs" and noted that the school often had difficulty punishing them according to the code of conduct because their parents often became involved and punishments were forgotten in favor of being obliging to their parents who see their behaviors as typical for girls their age. This incident was the third incident and the first where a punishment was served.

Elena did not want to be heard or to be involved in the process of justice like Emma or Christina (Part III above). Instead she was cognizant of the wrong that was being done and that there should be some punishment. Yet, she was hesitant to decide if the punishment given was proportional to the behavior of Keri and Melissa and she wondered if all students who acted in such a way received equal penalty. Of course, because Elena did not know the complete reasoning behind the punishment, she doubted Ms. Parks' judgment in the matter. Ms. Parks also never discussed the incident further with Elena to inform her that the punishment assigned was not only for the incident with which she was involved.

Elena's story also depicts how shared values become part of her schemas of understanding. Elena's comment "*You should not make people feel bad for something they can't help*" is her interpreting the problem as something against a value in her consciousness.

### **Summary**

Students exhibited a desire for fair and just punishment for those who had wronged them. The school has a fairly rigid set of rules and schedule of consequences, however, students feel, at times, that the rules and consequences do not "fit the crime" and are not applied consistently. Children's stories show a keen understanding for components of retributive justice, including a desire for punishment to be deserved, in line (or proportional) with the offense committed, and fairly and consistently applied.

This is not surprising as this is a customary understanding of how systems of rules and punishment function.

Students do not, however, describe being involved in the process to distribute punishment or establishing the punishments for problematic behavior. Because of this, many children seem dissatisfied with both process and the authority figures who were involved. This could be troublesome for schools. Research has consistently documented that trust and legitimacy in rules and authority figures increases compliance (Tyler and Huo, 2002; Tyler, 1990). If children consistently question the rationale for rules and wonder how punishments are conceived and distributed, legitimacy and compliance may decrease.

## **Part V. Crusading**

The final theme that emerged from the stories collected was one of crusading via active engagement with the rules and authority figures. These stories exhibited efforts to promote social change at the school. There were very few students (3) who described components of this theme. Lucy's story exemplifies this theme. Lucy is an upper, middle class, white student. She is very intelligent and is involved in the gifted program. Her mother is an attorney and her father is an engineer. She has one older brother.

*Lucy: I like being involved. A lot of the trouble I have is because I get involved in situations where I shouldn't, or I don't have to be [involved]. One of my friends, Kelly, got into trouble in her class for chewing gum in the hall after lunch a few weeks ago. It's against the rules to chew gum in the school, ever. It's stupid. We aren't babies. We can chew gum without causing a problem. The only teacher*

*who would answer my questions about it said that it is because it's a distraction in class. But, if someone is chomping on their gum to the point of distraction, just ask them to throw it away. I started a petition. I don't think anything will happen but most of the classes [in the 6<sup>th</sup> grade] signed it and I gave it to Ms. Gates [lead English teacher]. No one gets in a lot of trouble because of the stupid no chewing gum rule but I don't think it's a good rule...why not tell someone that we think it's stupid. Or unnecessary, I guess. I didn't put that it was stupid in the petition. My mom said I needed to come up with a better argument and think about why we think it's stupid.*

Many resources have been dedicated to encouraging youth activism in the past. Sociologists have studied factors that increase the likelihood children would be involved in the political process as adults. These studies have shown that participation in civic and activist activities as a child are good predictors of involvement in the political involvement, increased voting participation, higher rates of volunteerism, and increase in charitable contributions and charity work (Kahne, J., and Sporte, S., 2008). Over time, the emphasis on where the best place to socialize children to these activities has cycled through the family, the school, peer group, churches and other social institutions (Torney-Purta, J., 2002).

Lucy was a member of a very small group of participants in this research that displayed a sense of active engagement in her interviews. She described three instances of getting involved in others' conflict situations with two petitions and one small boycott.

When asked why it was important for her to insert herself in these situations, she responded:

***Lucy:** Why not? I can't get in trouble for getting involved. Well, I guess that isn't true. I do think that one teacher thinks I am silly and that I waste my time. I haven't gotten in trouble for it, but I have been told it is none of my business and that I should mind my own business.*

***Interviewer:** Who has told you that it wasn't any of your business?*

***Lucy:** Just the teachers. My friends are glad that I did the petition. If there are rules that no one can explain or will tell us why we have them, then why shouldn't I ask? My mom says that asking questions is a good thing.*

***Interviewer:** It sounds like you talked with your mom about the petition quite a bit. What else did she say?*

***Lucy:** I always tell her when I am doing something like that. Just in case I get in trouble at school for it. My dad, too. They read the beginning part of my petition, like the paragraph at the top, about why we don't think it is a good rule. They make sure that I am being respectful and don't put words like "stupid" in there.*

***Interviewer:** Do you think they worry that you will get in trouble?*

***Lucy:** No. They are pretty cool. They say as long as you are being respectful when you ask questions or do a petition, or whatever, then it's ok.*

Lucy is only one of two children whose parents actively support their active engagement in school. She describes how her parents encourage her activities while

ensuring that she is being respectful. Lucy also mentioned that she knows other parents are not supportive of her activities or other students joining in with her.

*Lucy: Two kids told me they couldn't sign one of my petitions because their parents think that it is stupid. They think they will get in trouble. Seems silly since we can't get in trouble for signing a piece of paper. And we shouldn't get in trouble for asking the teachers to change something we don't think is okay.*

Similar to other students' parents, the sixth grade teachers, who voiced their annoyance with Lucy's antics several times during the study, are not in full support of her engagement with these challenges. At one point, the Mrs. Woodward, when I provided an update on how the study was going, asked if I had heard about "our little 6<sup>th</sup> grade petitioner?" The comment was made with humor and an eye roll. It appears that the students also think the teachers are irritated by the petitions. Nicole, a comrade of Lucy's:

*Nicole: I think some of the rules are just ridiculous. No one can tell us why we have them. A friend of mine Lucy started a petition about the library door and I signed it but the teachers just ignore us and sometimes I think they get mad when we do something like that. Or maybe not mad, maybe annoyed.*

Lucy explained further what happened with the library door petition:

*Lucy: Well, I got in trouble for using one of the doors in the library. There is one door that we cannot use but it exits right into the hall where we are supposed to go. For some reason, we can't use it. So, we have to line up single file in front of the same door the next class enters through. And then exit when the bell rings. It*

*is like we are in third grade the way we have to line up and wait. The door I used is a double door that has an exit sign on it. But, it also has a sign that we cannot use it. It is used only for teachers to go out in the hall to monitor the halls when we go to our next class. The day I used that it [the door students are prohibited from using] was when I was leaving later than the rest of the class because I was talking with the librarian about a book that she was going to request from another one of the schools so I could use it for a book report. I was doing school work. Then we were running late [her friend Nicole was with her during this incident]. So, we left through the other doors because they exited into the hall closer to our next class. Ms. Parks gave us both a lunch detention. I had already had a warning. Nicole hadn't though and she got in the same amount of trouble. It really wasn't very fair and it was for using a door.*

**Nicole** *[separate interview on the same incident]: I did get a detention. But, I think it was more for asking why that door is off limits to us than for using it. I wasn't being disrespectful. I really was just asking. I have wondered since the beginning of the year but hadn't asked. So, I asked. Ms. Parks, who isn't even my teacher, was not happy. So, we both got into trouble. I don't know if I hadn't said anything if I would have just got a warning. Maybe we both would have. Or maybe not.*

**Interviewer:** *Did Ms. Parks answer your question?*

**Nicole:** *No, but since you have to take home a note to your parents when you get a detention, my mom asked me and I told her that I was going to ask my teacher*

again because I really want to know. But, she did not think that was a good idea. She told me to just behave.

**Lucy:** Nicole asked why we couldn't use the door but I wondered too. But, we never got an answer. My mom said I could ask for a meeting to discuss the rule with my teachers or even the principal. She said it is in the code of conduct book. But, I didn't. I did start a petition asking for permission to use that door because we could get to class faster so there would be fewer kids running in the halls [trying to get to class on time] or getting to class late after library.

**Interviewer:** Are lots of kids late to their next class after library?

**Lucy:** Well, I don't really know. It is hard to make it from the library where we have to exit, to your locker, and then to class on time. It would be easier if they let us use the other door which goes right out to our lockers not the other hall. So, it seems like it could be safer for us [it doesn't really sound like she believes this]. You know the teachers could at least say why the rule exists when we have people sign the petition. You know? They could at least pretend they care about our question. Ignoring us doesn't really make me want to listen.

**Interviewer:** What about the meeting your mom said you could request?

**Lucy:** I guess I could do that. Maybe if my mom could go with me or if it wasn't just me and the teachers. Like if it were everyone who signed the petition. That would be ok. It would just be them telling us why it is a good rule. Maybe we should all sign a petition asking for a group meeting? I'm going to ask my mom

*about that. I'll have to look up what the code of conduct book says about these meetings.*

One teacher was in support of Lucy and her colleagues' efforts. Mrs. Parmarter, their civics teacher, was exceptionally proud of her students.

***Mrs. Parmarter:** Although we haven't begun lessons on civil disobedience, these kids are doing what I will be encouraging them to do. Ask questions! Get involved. If there is something they don't agree with they should speak up. They have to do it politely or there will be repercussions from other teachers or the administration, though. I do have to work with them to understand the constraints because there are some teachers, who really do not think that it is the students' place to speak out. And, they don't think it is my place to teach them or encourage them in that way. Instead, I guess they think I am supposed to teach them about the importance of these historical events and the ways in which the citizens of this country can speak up for their rights but not encourage them to do so until they are a citizen of age [she states with significant sarcasm here]."*

Other stories of active engagement were about actively speaking up to ensure that consequences for rule breaking were distributed. In these two stories, a peer was being bullied by other students or the student felt that a punishment or consequence was unfair, but the student was not directly involved in the conflict. Instead, they inserted themselves into the situation to ensure that rules were used to distribute consequences to their peers who had engaged in rule-breaking behaviors.

**Seth:** *My teacher Mrs. McKay let us have a quick break to go to the bathroom before lunch because after was our long block class last week. Me and Allen, David, and Chris were sent together. Only three can be in the bathroom at a time so the others went and I waited outside the door. I heard Chris say, "I dare you!" And then David said "Or are you scared?" I think it was Allen who then said "I'm not scared of anything."*

*Then I heard a really loud bang. And they Allen and Chris ran out and Allen said that David did it. I looked into the bathroom and there was a dent in the wall like someone had kicked it. David was looking at it. He said he didn't do it. But, Allen told me he did. But, then I remembered what I had heard before the noise. It seemed like maybe Allen had done it as a bet. We went back to class and told Mrs. McKay what had happened and we all went to the Mrs. Woodward's office [the principal]. We each had to go in separately and talk to the Mrs. Woodward. When David was in the office Allen was sitting next to me and said to make sure I told him what he had said- he meant that I was supposed to say that David had done it. But I didn't know. So, when it was my turn, I went in and told her [the principal] what I had heard and that I didn't think it was David who did it – even if that is what the others had said. So, then we all went back to class and the Mrs. Woodward said she would talk to us after lunch. At lunch, Allen asked what I told him and I told him what I had heard and what I had said. He was really mad, said that he didn't do it and now he doesn't talk to me. Neither does Chris. Allen got in trouble and David told me later that Allen had been laughing*

*at him a lot lately and saying that he was a pu... [stops mid-word] ...a bad word...that he was acting like a little kid or something. He's my friend now. He didn't think I would tell what I had heard or that I believed him. I think it was the right thing to do, but now he doesn't want to be my friend, but he probably would get me in trouble next, who knows? But, Allen doesn't think that very many people would stand up for someone when they didn't have to and one of their friends were involved. But, I told him it was the right thing to do. I am sure more people care about doing what is right than having a friend who is not being a good person. At least more than Allen thinks.*

Although Seth believes his behavior is common, it is not. Both in this study and in other research, standing up to a friend when bullying is occurring is uncommon (Coloroso, 2010; Bazelon, 2013). More common, is the student going along with his peers by joining in or ignoring the situation. Teachers and parents struggle to find a balance in these situations between wanting students to stand up for one another and to mind one's own business. Many schools have policies that ask students to report bullying directly to teachers for intervention. Yet, many teachers encourage students (at least in lessons) the importance of talking out their problems and working with one another. These two forms of resolution are not mutually exclusive (i.e. a teacher could be involved and help students talk through a problem) but in practice it appears from this study that this occurs infrequently. Moreover, parents struggle with encouraging students to insert themselves into situations like Seth. Few would argue that telling the truth is problematic

but parents often have an interest in telling their children to mind their own business as to not increase the likelihood that they will become the target of bullying.

### **Summary**

Lucy and Seth describe different types of crusading; however, both are encouraged to do what they think is best for themselves and others. Their actions are out of the ordinary for students in this study. It is difficult for young people who are trying to navigate boundaries of authority figures and increasingly important peer relationships to be different. Differences, particularly in the ability to challenge the social order they live in, should be encouraged. The ways these students are questioning the standard power structures established by authority figures are pro-social and predict future participation in positive civic activities.

Children in this research appear to be receiving mixed messages as to what types of engagement with rules and authority figures is appropriate. On one hand, children are taught lessons on critical thinking, speaking clearly and respectfully, persuasive writing, and most directly connected, civic engagement, character development (honesty, integrity, standing up for others, anti-bullying programming, etc.). Substantial amounts of time are dedicated to these programs. The character development programs are structured programs that take students away from key subject instruction. Yet, on the other hand when the opportunity presents itself to practice the skills that are taught, teachers do not encourage students.

There is little doubt that the students' teachers likely feel that the petitions and other topics of complaints are trivial and inconsequential. Teachers have full workloads

and high levels of stress, and thus little time deal with challenges (Yavuz, M., 2009). However, without encouraging participation in the processes they are educated on as young people; it seems naïve of society to be discouraged when there is a lack of student involvement as they reach the age of majority. Only the very passionate students, and likely those receiving encouragement from adults outside school, are likely to engage in challenging the rules or injustices they view or experience.

## **Conclusion**

Most of the children's narratives collected in this study describe some use of rules and laws in the process of making meaning from their everyday problems. Few students, however, use schemas related to their social status as a primary lens of interpretation, rather than law. This suggests that perhaps law is not as pervasive in children's lives when compared to adults or that children feel sufficiently powerless in the face of adult authorities that they do not question the rules or decisions that govern their lives. Nearly all other children experience some dissatisfaction with the process of attempting to resolve their everyday conflicts. For example, most children seek either additional means for a more individualized process of resolution that would allow students to talk through their problems and discuss appropriate punishments. Others would like to be more involved in the process of establishing the formal rules and established consequences. Allowing children to participate in that process would provide transparency in the process of identifying problematic behaviors and the distribution of punishment.

A smaller number of children work with the rules to seek resolution to their problems. This research describes two groups who use very different tactics of working

with the rules. First, some children involve authority figures to engage with authority figures and systems of rules on their behalf. In doing so, these children effectively negate their social status and lack of agency in the system. Other children use methods of challenging the status quo. In the next chapter, I discuss the differences in children's responses in Chapter Four and Chapter Five.

## **CHAPTER SIX: DISCUSSION AND CONCLUSION**

This study sought to understand how children think about and use rules, law and justice in their everyday life. Because there were several unanswered questions about the extent to which rules, laws, and justice pervade children's lives, it was the primary research question of this dissertation to determine if these concepts are used to organize and frame children's understanding of their own lives. In addition, specific questions were posed to children on the definition, purpose and value of rules, laws, and justice to determine if the presence or absence of schemas of legal consciousness were related to understanding of these topics.

Data collected in this dissertation reveal a tension between law on the books and law in action at an early age with a group of individuals who have a relative lack of experience with the law. In this context, law for children is analogous to formal rules which operate in a similar fashion to law in adults' lives. Children use information from school and home to develop conceptual understanding of rules, law, and justice. However, schemas related to law used to interpret children's own experience are quite different from how the concepts of rules, laws and justice are understood outside of their own lives. Children's understanding of rules, laws and justice are connected to formal legal institutions and actors. In addition, children describe rules and laws as being fair

and believe that authority figures and legal actors ensure that rules and laws remain fair and protect the rights of others.

Children's interpretations of rules and law, as they operate in their own personal conflict situations (e.g., through formal rules, authority figures, and systems of rule processing and punishment distribution), are quite different. Rather than seeing rules and authority figures as fair and just, children feel constrained and largely unable to access resolutions using formal dispute processing channels available to them, particularly at school. Interestingly, while children describe rules, laws and justice as fair and just, their conceptions are also formal and structured, **yet** in their own stories children describe a desire for less formal and more individualized methods of conflict resolution and those children who experience more formal processing (through the school's disciplinary code) describe that process as unfair. The sections that follow further describe these findings. Implications, limitations, and improvements for future research are also described.

### **Examining the Findings**

The children in this study provided vivid accounts of problems experienced at school and in their lives outside of school. Their stories paint a picture of problems that children cope with at quite a young age. The sixth graders in this study were coping with significant changes in their community, entering a new school, forming new friendships, and navigating additional authority figures (i.e., for the first time, these children were "switching" classes each day, meaning each child has multiple teachers on a daily basis and must navigate multiple teachers' expectations and sets of rules and norms for behavior in their classrooms). Their stories reflect these challenges and demonstrate that

some children do use legal-like concepts as a framework for understanding conflict, primarily underlying conceptions of justice.

### **The Great Divide**

Children's conceptual knowledge of rules, laws and justice are disconnected from their interpretations of rules and authorities in their own lives. Conceptually, most children understand the rules, laws and justice in their finest form, as grand social structures that protect individuals' rights, defend individuals from "bad" people, and **correct** wrongs done to people. Nearly all children also associate the concepts with the formal legal system and legal actors, such as the courts, police officers, or judges. Children also report that legal systems, legal institutions, and the actors that represent them, are trustworthy and legitimate sources of authority. Preserving social order and protecting individual rights were primary reasons children felt laws are a necessary component of social life. Children cannot imagine a society without laws and believe that those laws are fair and operate in a way that impartially serves all people.

However, in their own lives, children often seem to feel constrained by formal rules, disempowered, and unable to use their own voice to achieve meaningful resolution of problems. Many children desired a less formal system of dispute resolution where authority figures gave them a voice during the process or allowed them to have a say in the distribution of punishment. In Spencer Middle School, the code of conduct and system of consequences and punishment are clearly outlined and appear to be followed quite systematically. Instead of bringing a transparent system of accountability to the

school, this formal system seems to leave students few options to manage their own conflicts and to participate in the process of resolution.

At this age, it appears that children are not aware of a connection between how rules and authorities operate in their own lives and how rules, laws, and justice operate in the “grown-up” world. Children viewed the rules and authority figures that constrained and structured their lives as different from laws and authority figures that govern society through legal systems and structures. Although it is not certain that this disconnect is deleterious, it points toward a number of issues for contemplation and more extensive research.

First, children’s desire for conflict resolution is often not fulfilled. It seems that the resolution process schools use for conflicts, which has similar features to a formal legal system, is ill equipped to resolve conflicts in the ways children desire. Children express a need to have a say in decision making that impacts their daily lives and be listened to during dispute resolution processes. Much like traditional courts, schools are often not set up in a way that allows for collective decision making by the students or that allows for a restorative justice approach to resolution. This leaves many children feeling unsatisfied by the process and the outcome of their situations. The challenge for the school is to design an environment in which students can use their knowledge and experiences to guide further learning about and involvement with resolving conflicts while adhering to the system of established rules, thus assuming a higher level of agency in constructing legality.

Children's interpretations of conflict situations often depend upon situational factors, including the persons involved. It also seems that the manner in which children would like a conflict to resolve (e.g., more consistent punishments, being heard by other parties, have petition acknowledged by authority figures, etc.) are influenced by situational factors. Thus, in order to achieve a sense of justice for all children, a system would have to process disputes in an individualized manner. This would not be possible for many schools due to lack of time and resources. Moreover, even if possible, structural barriers, including the time it would take to process conflicts and make decisions on consequences, may lead to other problems leading to equal levels of dissatisfaction with the system.

Conversely, although children have disconnected understandings of rules and laws, by large measure, the children in this story were compliant with rules and felt that the law was a legitimate, protective, and just social structure. As a society, we rely on compliance with rules and laws. If there was a sense that as children age and their experiences with additional legal structures and authorities increase, compliance and legitimacy of the law would not decrease, it is possible that the disconnect may not be problematic. However, it seems more likely that as children get older the contradiction between their abstract conceptual understandings and their personal experiences with formal quasi-legal rules, authorities, and law could have a potentially harmful impact on children's trust in the law and views of legitimacy of the law, legal institutions, and legal actors.

The importance of trust in and legitimacy of the law should not be overlooked. The legal system, as a whole, can only operate successfully when individuals comply with the rules and processes it has established. Prior research consistently documents that trust increases compliance in a variety of legal areas, including directives from police officers (Tyler and Huo, 2002; Flexon, Lurgio, and Greenleaf, 2009), orders from court decisions and judges (Tyler and Huo, 2002; Tyler, 1998), and payment of taxes (Wahl, Kastlunger and Kirchler, 2010). Thus, it is likely beneficial to encourage schools and parents to provide a realistic education on justice and the law, encourage compliance when laws and authorities engage in just action and behaviors, and provide opportunities for students to practice confronting injustices and illegitimate rules and laws in an appropriate manner from an early age.

### **Authorities as Stifling Participation with Conflict**

Children's narratives in this study exhibited five themes, including a lack of engagement, a reliance on authority figures to engage on their behalf, the desire to be more engaged in the process of conflict resolution, wanting to be heard, retribution, and actively engaging with conflict situations. In each story reported, an authority figure made an appearance and the actions of the authority figure(s) seem to be directly related to how the children understands the situation. The involvement of the authority figures seems related to how the children engage and reflect upon their situation.

Children's experiences of conflict are tied to adult authority figures in a way that shows the importance of their role as an archetype. The relationship between children's understanding of conflict and their adult authority figures seems to be similar to an

apprenticeship, where the children are modeling the shared meanings, behaviors, skills, and thinking patterns that have been communicated as appropriate or favorable.

It is important to note, that this study did not collect information on what the adult authority figures were modeling to the children or how the adults' perceived the conflict situations the children experienced. Instead, this study relied only on the interpretations the children made within the story without consideration if that was the intent of the adult. It is quite irrelevant that the adults in the children's narratives may not be depicted in a realistic fashion- it is instead the interpretation by the children that gives the construction of the adult figure importance; not the relation to what the adult intended or actually behaved, acted, or spoke.

The children in this study are beginning to articulate their understandings of formal rules and laws in their conflict situations by implicating conceptions and components of fairness, justice, and activism. The themes revealed in Chapter Four can be further categorized into groups by those who participate in the process of using the rules and laws and those who do not. The ability of young people to understand their conflict situations is founded on the ability to think critically which requires particular cognitive capacities. In addition, it likely requires some socialization to rules and laws and a sense of morality. The children in this study had an age-appropriate level understanding of those capacities (as determined by previous moral reasoning and developmental research) (Tapp and Kohlberg, 1977). Yet, some children did not use rules and law to interpret problems and others, even when rules and laws were accessible and understood. What is more, very few children engaged with the rules, laws or

authority figures in a proactive way. Those who did either: 1) worked around the rules and authorities by engaging higher authorities (Part II, Chapter Four), or 2) used appropriate methods to contest rules they felt were unjust (Part V, Chapter Four).

Other children used the aspects of rules, law, and justice to interpret their problems but did not engage to resolve their conflicts in a way they felt was satisfactory. I attribute this lack of engagement to a relative lack of opportunity to participate in the process of resolving conflicts and problems. In addition, due to their social status on account of their age in relation to authority figures, they lacked agency in the system to fully participate. Because there is little opportunity to practice skills to engage with authority figures and the formal conflict resolution system in schools, children may never develop a sense that formal dispute resolution institutions are accessible. Specifically, girls in this study seem most at risk to not access traditional systems of dispute resolution. They report a desire for less formal methods to resolve conflict and an opportunity to participate in the process, particularly in a manner that allows them to communicate with those involved about their experiences and their preferences for punishment. This is consistent in many ways with Rogoff, et al. (2003), Gilligan (1982), and Morelli, et al. (2003) who have provided evidence that moral learning occurs through participation and interaction with peers, and that characteristics, such as gender and socioeconomic status, influence how authority figures, rules, and laws are viewed.

A lack of access to opportunities to participate in cultural activities, such as conflict situations that involve adult authority figures, is not uncommon in middle-class Westernized communities according to Morelli, et al (2003). Instead, it is common to

exclude children from many of the activities and their attention is managed by adults (Rogoff et al., 1993). In place of actual participation alongside adult community members, lessons and exercises are contrived and occur outside the context in which the skills would be used (Rogoff, et al, 1993; Ochs and Schieffelin, 1984). Children in this dissertation were often engaged in activities in this manner.

Many of the stories collected in this research suggest that the students are given assignments that encourage collaboration and team work. Other data, including the observations from my time in the classroom and the information presented in the student and parent handbook, imply that being able to actively engage in conflict resolution, being respected, having a voice, and speaking out against wrong doings is expected and encouraged. Classes often have exercises where students are encouraged to role-play these types of skills and behaviors in fictional situations (particularly around bullying). It is contradictory then that many children did not feel that these same skills were something they were encouraged to use when an actual conflict situation arose.

### **Authorities as Guiding Participation in Enacting Legality**

Some stories of practicing engaging in conflict situations did provide evidence that adults were guiding children's participation in conflict situations by encouraging critical thinking and actively pursuing of justice (e.g., Lucy and Seth). However, many of the conflicts children experienced were likely regarded as inconsequential to adults in their lives. Such situations, (e.g., fighting against rules about chewing gum, typical clique behaviors, using different door to the library, etc.), however, represented an opportunity for children to practice methods of conflict resolution that they could use in

the future to speak out and resolve larger injustices. Interestingly, the children who reported these types of narratives were all white and appeared to be in the upper or upper-middle class. As there were only a small number of children who engaged with the rules in this way, this finding requires additional investigation. Yet, using this data to speculate, it appears that children who are comfortable crusading against perceived injustices, may be afforded a different type of legal socialization by parents who also are comfortable engaging “With the Law” and using formal legal actors and institutions to access justice.

Not all children appear to receive that type of encouragement, however. The role of authority figures in encouraging children to practice engaging with rules they feel are unjust is also an opportunity for authority figures to demonstrate procedural fairness and assist in establishing trust for authority figures. Children in this study appeared to be seeking to participate in the rule making and conflict resolution processes. Many were confused or angered about how the consequences to rule breaking were distributed and the process by which blame was assigned. Still others simply wanted to be heard as the target of the conflict or rule breaking behavior. It is well documented that enacting procedures that followers (in this case children) deem unfair decreases trust in the authority who enacts such procedures and increases concerns relating to abuse and exploitation of power (van Dijke, De Cremer, and Mayer, 2010; Lind, 2001; Thibaut and Walker, 1975). In addition, research has determined that in the absence of other evidence on an authority figure’s trustworthiness, people rely on procedural fairness to determine trustworthiness and those people who experience procedural fairness are more likely to

accept authorities' decisions (Tyler, Boeckmann, Smith and Huo, 1997; Tyler and Lind, 1992). The trust that authorities gain increases compliance and increases future trust in authority figures.

Schools present an opportunity to increase trust in authority figures by involving students in procedures that enact rules that govern their day to day lives and in mechanisms that distribute consequences to students violating rules. Research has documented that students as young as age six or seven (first grade) have the ability to recognize procedural fairness and that judgments of procedural fairness have an impact on how authority figures are viewed (Fry and Corfield, 1983; Hicks and Lawrence, 1993). Participation would also provide an opportunity to practice skills that will be used in the future and that are being taught in class. For example, students are taught that participating in political processes, including voting, are beneficial for society and a proper way to engage in establishing laws and regulations that govern behavior. Thus, encouraging students to actively participate in the conflict resolution process or by allowing them to be heard in their own voice as the conflict is resolved, as many students in this study desired, has several benefits (presuming the procedures are fair), including increasing trust in authorities and formal rule making and processing bodies and providing a real-life opportunity to practice skills that are being taught in school.

By not involving children in processes that directly impact conflict situations with which they are engaged increases the likelihood that the students will see authority figures in their lives as unworthy of their trust, increase the likelihood that they will view

formal rule making bodies and resolution processes as unjust, and may encourage the development of schemas of legal consciousness that focus on resistance.

### **Limitations and Future Research**

The qualitative nature of this study means that my analysis, findings, and conclusions are dependent on my subjective understanding of the narratives children described to me. Moreover, the data collected was dependent upon the children's understanding and willingness to describe salient problems in their lives. For example, in some interviews children were especially forthcoming and had a very clear understanding of the concepts of rules, laws and justice. In other interviews, greater portions of time were spent ensuring the children were comfortable in the interview setting which resulted in less time to describe their accounts of everyday problems. While I used several methods, including reflective memos and iterative coding techniques, to reflect on and limit bias, it is not possible to remove all bias. To give the reader a clear understanding of the methods used, I have tried to describe my research process in detail and reflect on challenges as they arose in the research.

My research question focused on a large conceptual issue: how children think about and use law in their lives. Yet, the group of participants in this study represented only a small number of children. I recognize that my participants were likely different from many other children, particularly those who lived in different geographical areas (e.g., urban or rural areas) and possessed different individual and social characteristics (e.g., cultural background, socioeconomic status, etc.). Yet, due to the restrictions placed on this research by the school district, it is difficult to map specific individual and social

characteristics to the data collected. Thus, it would be beneficial to have fewer constraints placed upon the research from the schools. Previous research (Fagan and Tyler, 2005) has shown evidence that neighborhood characteristics and experience with legal authorities impacts legal socialization, it would be useful to explore how these variations are related to children's legal consciousness. Moreover, it is likely that family characteristics (including ethnic background, cultural and religious practices, professional status, etc.) would impact how children view rules, law and authority figures. Future research should attempt to recruit groups of children of varying individual and familial characteristics and should see what relationships such characteristics have to legal consciousness.

This study was originally designed as a study at two periods in time (3<sup>rd</sup> and 6<sup>th</sup> grade) but because of limitations on researcher time and availability of students, the study was scaled down to include only 6<sup>th</sup> grade students. To explore how schemas of consciousness change over time, future studies should track children over time in a longitudinal design or explore multiple groups of students at various ages. Findings from such studies would add much to the conceptual and theoretical understanding of children's legal socialization and legal consciousness.

Through the integration of sociolegal and developmental literatures, this research is positioned to contribute to many discussions in both the social sciences and education. This research should encourage others to explore children as a group worthy of sociolegal study. Particularly, studies that explore children's development of legal consciousness and understanding of justice as a foundation of law are needed. Moreover, this study

demonstrates that children have a contribution to be made to constructing legality and are a population who have a desire to communicate what they are feeling and experiencing. Understanding how children move from this stage to adulthood in terms of their legal consciousness is ripe for study. In addition, the elusive conception of justice as it operates and structures both childhood and adulthood is particularly under-researched and a missing piece to our understanding of the construction of legality and to understanding trust and legitimacy in law.

## References

## References

- Andersen, R.C. (1997). The notion of schemata and the educational enterprise: General discussion of the conference. In R.C. Andersen, R.J. Spiro, & W.E. Montague (Eds). *Schooling and the Acquisition of Knowledge*. Hillsdale, NJ: Erlbaum.
- Andersen, R.C. (1978). Schema-directed processes in language comprehension. In A.M. Lesgold, J.W. Pellegrino, S.D. Fokkema, & R. Glaser (Eds) *Cognitive Psychology and Instruction*. New York: Plenum.
- Bellow, G., & Minow, M. (1996). *Law Stories*. Ann Arbor, MI: University of Michigan Press.
- Bennack, Jr., F. A. (1983). *The American public, the media, and the judicial system*. New York: Hearst Corporation.
- Bennack, Jr., F. A. (1987). *The American public's knowledge of the U.S. Constitution: A national survey of public awareness and personal opinion. A Hearst report*. New York: Hearst Corporation.
- Black, D. (1976). *The Behavior of Law*. New York: Academic Press.
- Brainerd, C. J. (1978). *Piaget's theory of intelligence*. Englewood Cliffs, NJ: Prentice-Hall.
- Bruner, E. M. (1986). Experience and its expressions. *The anthropology of experience*, 3-30.
- Carpendale, J. I. (2000). Kohlberg and Piaget on stages and moral reasoning. *Developmental Review*, 20(2), 181-205.
- Charmaz, K. (2000). Grounded Theory Methodology: Objectivist and Constructivist Qualitative Methods. In N.K. Denzin and Y. Lincoln (Eds.) *Handbook of Qualitative Research 2nd ed.* Thousand Oaks, CA: Sage.
- Charmaz, K. (2006). *Constructing grounded theory: A practical guide through qualitative analysis*. Thousand Oaks, CA: Sage Publications Limited.
- Chavajay, P., & Rogoff, B. (2002). Schooling and Traditional Collaborative Social Organization of Problem Solving by Mayan Mothers and Children. *Developmental Psychology*, 38(1): 55-66.
- Clandin, D.J., & Connelly, F.M. (2000). *Narrative inquiry: Experience and story in qualitative research*. San Francisco: Jossey-Bass Publications.

- Cohn, E. S., & White, S. O. (1990). *Legal socialization: A study of norms and rules*. Springer-Verlag Publishing.
- Conley, J., & O'Barr, W. (1998). *Just Words: Law, Language, and Power*. Chicago: University of Chicago Press.
- Corbin, J., & Strauss, A. (2008). *Basics of Qualitative Research, 3<sup>rd</sup> Edition*. Thousand Oaks, CA: Sage Publications.
- Coser, L. A. (1957). Social conflict and the theory of social change. *British Journal of Sociology*, 197-207.
- Crawley, W., & Ritsema, J. (2006). Strategies in developing the student self: The production and maintenance of collective identities in a midwest school setting. *Journal of Knowledge and Best Practices in Juvenile Justice and Psychology*, 1(1): 25-34.
- Denzin, N. K., & Lincoln, Y. S. (2000). The discipline and practice of qualitative research. *Handbook of qualitative research*, 2, 1-28.
- DeVries, R. & Zan, B. (1994). *Moral classrooms, Moral Children: Creating a constructivist atmosphere in early education*. Teachers College Press.
- Dey, I. (1993). *Qualitative Data Analysis*. London: Routledge.
- van Dijke, M., De Cremer, D., and Mayer, D.M. (2010). The role of authority power in explaining procedural fairness effects. *Journal of Applied Psychology*, 95(3): 488-502.
- Edelman, L. B., Erlanger, H. S., & Lande, J. (1993). Internal dispute resolution: The transformation of civil rights in the workplace. *Law and Society Review*, 27(3), 497-534.
- Ehman, L. H. (1980). The American school in the political socialization process. *Review of Educational Research*, 50(1), 99-119.
- Ellickson, R. C. (1991). *Order without law: How neighbors settle disputes*. Harvard University Press.
- Emerson, R.M., Fretz, R.I., Shaw, L.L. (1995). *Writing Ethnographic Fieldnotes*. Chicago: University Press.
- Engel, D. M., & Munger, F. W. (2003). *Rights of inclusion: Law and identity in the life stories of Americans with disabilities*. University of Chicago Press.

- Ewick, P., & Silbey, S. S. (1995). Subversive stories and hegemonic tales: Toward a sociology of narrative. *Law & Society Review*, 29, 197.
- Ewick, P., & Silbey, S. (2003). Narrating Social Structure: Stories of Resistance to Legal Authority. *American Journal of Sociology*, 108(6), 1328-1372.
- Ewick, P., & Silbey, S.S. (1998). *The common place of law: stories from everyday life*. Chicago: University Press.
- Fagan, J., & Tyler, T.R. (2005). Legal Socialization of Children and Adolescents. *Social Justice Research*, 18(5): 217-242.
- Felstiner, W. L., Abel, R. L., & Sarat, A. (1980). The Emergence and Transformation of Disputes: Naming, Blaming, Claiming... *Law & Society Review*, 15, 631.
- Finkelhor, D., Turner, H., Ormrod, R., Hamby, S., & Kracke, K. (2009) *Children's exposure to violence: A comprehensive national Survey*. U.S. Department of Justice.
- Fishman, P. (1978). Interaction: The work women do. *Social Problems*, 25: 397-406.
- Flanagan, C. A., & Sherrod, L. R. (1998). Youth political development: An introduction. *Journal of Social Issues*, 54(3), 447-456.
- Flexon, J.L., Lurigio, A.J., and Greenleaf, A.J. (2009). Exploring the dimensions of trust in the police among Chicago juveniles. *Journal of Criminal Justice*, 37(2): 180-189.
- Fritsvold, E. D. (2006). "*Fat, Lazy Americans*": *Legal Consciousness & Radical Environmental Activism* (Doctoral dissertation, University of California, Irvine).
- Fritsvole, E.D. (2009). Under the law: Legal consciousness and radical environmental activism. *Law and Social Inquiry*, 34(4): 799-824.
- Fry, P., & Corfield, V. (1983). Children's judgments of authority figures with respect to outcome and procedural fairness. *Journal of Genetic Psychology*, 143(2), 241-250.
- Gilligan, C. (1982). *In a different voice: Psychological theory and women's development* (Vol. 326). Harvard University Press.
- Gilliom, J. (2001). *Overseers of the poor: Surveillance, resistance, and the limits of privacy*. University of Chicago Press.
- Glaser, B.G., & Strauss, A. (1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research*. New York: Aldine de Gruyter.

- Goldberg-Hiller, J. (2004). *The limits to union: Same-sex marriage and the politics of civil rights*. University of Michigan Press.
- Goldschmidt, O.T., & Weller, L. (2000). "Talking emotions": Gender differences in a variety of conversational contexts. *Symbolic Interaction*, 23(2): 117-134.
- Helwig, C.C. (1995). Adolescents' and young adults' conceptions of civil liberties: Freedom of speech and religion. *Child Development*, 66(1): 152-166.
- Helwig, C.C. (1997). The role of agent and social context in judgments of freedom of speech and religion. *Child Development*, 68(3): 484-495.
- Hess, R.D., & Torney, J. (1967). *The development of political attitudes in children*. Chicago: Aldine Press.
- Hicks, A.J., & Lawrence, J.A., (1993). Children's criteria for procedural justice: Developing a sense of young people's procedural justice scale. *Social Justice Research*, 6(2): 163-182.
- Hoffmann, E. A. (2003). Legal consciousness and dispute resolution: Different disputing behavior at two similar taxicab companies. *Law & Social Inquiry*, 28(3), 691-716.
- Hull, K.E. (2003). The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage. *Law & Social Inquiry* 28(3): 629-57.
- Keniston, K. (1968). *Young radicals: Notes on committed youth*. New York: Harcourt, Brace & World.
- Kennedy, D. (1980). Toward an Historical Understanding of Legal Consciousness: The Case of Classical Legal Thought in America, 1850-1940. *Research in Law and Sociology*, 3(3).
- Kohlberg, L. (1969). *Stage and sequence: The cognitive-developmental approach to socialization* (pp. 347-480). Rand McNally.
- Kohlberg, L. (1971). Stages of moral development as a basis for moral education. In C.M. Beck, B.S. Crittenden, & E.V. Sullivan (Eds.), *Moral Education*. Toronto, Canada: University of Toronto Press.
- Kukla, A. (2000). *Social constructivism and the philosophy of science*. Routledge.
- Landeros, M. (2011). Defining the 'good mother' and the 'professional teacher': parent-teacher relationships in an affluent school district. *Gender and Education*, 23(3):247-262.

- Lind, E.A. (2001). Thinking critically about justice judgments. *Journal of Vocational Behavior*, 58(2): 220-226.
- Lind, E.A., and Tyler, T.R. (1988). *The social psychology of procedural justice*. N.Y.: Plenum.
- Lipset, D. (1993). Review: Culture as a hierarchy of schemas. *Current Anthropology*, 34.4, 497-498
- Lourenço, O., & Machado, A. (1996). In defense of Piaget's theory: A reply to 10 common criticisms. *Psychological Review*, 103(1), 143.
- MacCoun, R.J. (1993). Drugs and the Law: Psychological Analysis of Drug Prohibition. *Psychological Bulletin*, 113(3): 497-512.
- Marshall, A. M., & Barclay, S. (2006). In their own words: how ordinary people construct the legal world. *Law & Social Inquiry*, 28(3), 617-628.
- Marshall, A. M. (2006). Injustice frames, legality, and the everyday construction of sexual harassment. *Law & Social Inquiry*, 28(3), 659-689.
- Marshall, A. (2005). *Confronting sexual harassment: The law and politics of everyday life*. Burlington, VT: Ashgate Publishing.
- Martin, T.A., & Cohn, E.A. (2004). Attitudes toward the criminal legal system: scale development and predictors. *Psychology, Crime, and Law*, 10(4):367-391.
- Mayall, B. (2008). 5 Conversations with Children. *Research with children*, 109.
- Mays, N., & Pope, C. (1995). Rigour and qualitative research. *BMJ: British Medical Journal*, 311(6997), 109.
- McCann, M. & Tracey March (1995), Law & Everyday Forms of Resistance: A Socio-political Assessment. *Studies in Law, Politics and Society*, 15, 207-236.
- McLellan and Yates, 1997; Youniss, J., McLellan, J. A., & Yates, M. (1997). What we know about engendering civic identity. *American Behavioral Scientist*, 40(5), 620-631.
- Merry, S. E. (1990). *Getting justice and getting even: Legal consciousness among working-class Americans*. Chicago: University of Chicago Press.
- Merry, S. E. (1990). The Discourses of Mediation and the Power of Naming. *Yale Journal of Law and Human Behavior*, 2, 1.
- Mezey, N. (2001). Law as culture. *Yale Journal of Law and Human Behavior*, 13, 35.

- Mishler, E.G. (1986). *Research Interviewing: Context & Narrative*. Cambridge: Harvard University Press.
- Morelli, G., Rogoff, B., & Angelillo, C. (2003). Cultural variation in young children's access to work or involvement in specialised child-focused activities. *International Journal of Behavioral Development*, 27(3): 264-274.
- Morrill, C., Yalda, C., Adelman, M., Musheno, M., Bejarano, C. (2000). Telling Tales in School: Youth Culture and Conflict Narratives. *Law & Society Review*, 34(3): 521-565.
- Murphy, W. F., & Tanenhaus, J. (1968). Public opinion and the United States Supreme Court: Mapping of some prerequisites for court legitimation of regime changes. *Law & Society Review*, 2(3), 357-384.
- Nielsen, L. B. (2004). *License to Harass: Law, Hierarchy, and Offensive Public Speech*. Princeton University Press.
- Nielsen, L.B. (2000). Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment. *Law & Society Review*, 34(4): 1055-1090.
- Nishida, H. (1999). Cultural Schema Theory: In W.B. Gudykunst (Ed.), *Theorizing About Intercultural Communication*, (pp. 401–418). Thousand Oaks, CA: Sage Publications, Inc.
- Ochs, E., & Schieffelin, B.B. (1984). Language acquisition and socialization: Three developmental stories and their implications. In R.A. Schweder and R.A. LeVine (Eds.) *Culture Theory: Essays on Mind Self, and Emotion*. Cambridge: Cambridge University Press.
- Perkins, H.V. (1969). *Human Development and Learning*. Belmont, CA: Wadsworth Publishing.
- Piaget, J. (1962). *Play, dreams, and imitation (Vol. 24)*. New York: Norton.
- Piaget, J. (1932/1965). *The moral judgment of the child*. London: Routledge Press.
- Piaget, J. (1952). *The origins of intelligence in children*. Madison, CT: International Universities Press.
- Power, C., Higgins, A., & Kohlberg, L. (1989). The habit of the common life: Building character through democratic community schools. *Moral development and character education: A dialogue*, 125-143.

- Ragin, C. C., Nagel, J., & White, P. (2004). *Workshop on scientific foundations of qualitative research*. National Science Foundation.
- Rogoff, B., Baker-Sennett, J., Lacasa, P., & Goldsmith, D. (1995). Development through participation in sociocultural activity. *New Directions for Child and Adolescent Development*, 1995(67), 45-65.
- Rumelhard, D.E. (1980). Schemata: The Building Blocks of Cognition. In B. Spiro, C. B.C. Bruce, and W.F. Bewer (Eds). *Theoretical Issues in Reading Comprehension*. Hillsdale, NJ: Erlbaum.
- Sandefur, R. (2008). Access to civil justice and race, class, and gender inequality. *Annual Review of Sociology*, 34.
- Sarat, A. (1990). '...The law is all over': power, resistance, and the legal consciousness of the welfare poor. *Yale Journal of Law and Humanities*, 2:343-79.
- Sarre, S. (in press). Time in reconstructing the (school) child. *Childhood*.
- Scheingold, S. A. (2004). *The politics of rights: Lawyers, public policy, and political change*. University of Michigan Press.
- Sewell, W. H, Jr. (1992). A Theory of Structure: Duality, Agency and Transformation, *American Journal of Sociology*, 89 (1): 1-29.
- Silbey, S. (1989). Child's Play: The Origins of Hegemony, Acquiescence, and Obligation in Adolescents' Studies of Law. Paper presented at the annual meeting of the Law and Society Association in Madison, WI. June 8-11, 1989.
- Silbey, S. (1991). Le Rapport des jeunes au Droit a L'Est et L'Ouest [Child's Play: A Cultural Analysis of American Adolescents' Legal Consciousness] *Droit et Societe*, no. 19.
- Silbey, S.S. (2005). After Legal Consciousness. *American Review of Law and Social Sciences*, 1: 323-368.
- Stockard, J. (2006). Gender socialization. In Chafetz, J.S. (Ed) *Handbook of sociology and Gender*. Springer.
- Suchman, M. C., & Edelman, L. B. (1996). Legal Rational Myths: The New Institutionalism and the Law and Society Tradition. *Law & Social Inquiry*, 21, 903.
- Tapp, J.L., & Kohlberg, L. (1977). Developing Senses of Law and Legal Justice. In J.L. Tapp & F.J. Levine (Eds.) *Law, Justice, and the Individual in Society*. New York: Holt, Rinehart, and Winston.

- Tapp, J. L., & Melton, G. B. (1983). Preparing children for decision making: Implications of legal socialization research. *Children's competence to consent*, 215-234.
- Tapp, J. L., & Levine, F. J. (1974). Legal socialization: Strategies for an ethical legality. *Stanford Law Review*, 27, 1.
- Thibaut, J.W., & Walker, L. (1975). *Procedural justice: A psychological analysis*. New York: Erlbaum and Associates.
- Torney-Purta, J. (2002). The school's role in developing civic engagement: A study of adolescents in twenty-eight countries. *Applied developmental science*, 6(4), 203-212.
- Toulmin, S. (2001). *Return to Reason*. Cambridge, MA: Harvard University Press.
- Tyler, T.R. (2001). Trust and law abiding behavior: Building better relationship between the police, courts, and the minority community. *Boston University Law Review*, 81, 361-406.
- Tyler, T.R. and Huo, Y.J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. New York: Russell-Sage Foundation.
- Tyler, T.R. (2006). Legitimacy and Legitimation. *Annual Review of Psychology*, 57, 375-400.
- Vygotsky, L. (1978). *Mind in society: The development of higher psychological processes*. Harvard University Press.
- Wahl, I., Kastlunger, B., & Kirchler, E. (2010). Trust in authorities and power to enforce tax compliance: An empirical analysis of the "Slippery Slope Framework". *Law and Policy*, 32(4): 383-406.
- Warner, C. H. (2010). Emotional Safeguarding: Exploring the Nature of Middle-Class Parents' School Involvement. *Sociological Forum*, 25(4): 703-724.
- Wertsch, J. V., & Sohmer, R. (1995). Vygotsky on learning and development. *Human Development*, 38(6), 332-337.
- Yellow Bird, M. & Snipp, C.M. (2002). American Indian Families. In R.L. Talyor (Ed.), *Minority families in the United States: A multicultural perspective* (pp. 227-249). Upper Saddle River, NJ: Prentice Hall.

## **APPENDIX**

## Consent to Participate in Research

### Research Procedures

Your child's class has been asked to participate in a research study conducted by researchers from George Mason University. The purpose of this study is to gather students' thoughts and perceptions about rules and laws. Should you and your child decide to participate in this research study, your child will be interviewed individually at a time convenient for your child and his/her teacher. Your child will not be asked any specific questions about their rule- or law-breaking behavior. Instead, the interview will explore your child's perceptions of rules and laws in their individual lives. The interview questions will ask your child about his/her class, teacher, the class rules, and perceptions of the rules. The interview will take approximately 45 minutes.

### Potential Risks

The researchers perceive no potential risks to your child by participating in this research project.

### Benefits

There are no direct benefits for participating in this study.

### Confidentiality

Your child's identification will be kept confidential. The results of this project will be coded in such a way that the respondents' identities will not be attached in any way to the distributed findings of this research. All interviews will be audio recorded with a mini-cassette recorder and will be transcribed. Only your child's first name will be used during the interview. This name and other identifying material (teacher names, places, etc.) will be replaced with pseudonyms when the interview is transcribed. This data will be stored in a secure location only accessible to the research team members. The results of this research will be presented to educators, researchers, and practitioners through local, regional, and national conference presentations and journal publications. Participants will have access to any reports published from this project by contacting the research team at the contact information provided.

### Participation & Withdrawal

Your child's participation is entirely voluntary. Students who decide not to participate will not be penalized in any way. Should your child choose to participate, he/she can withdraw at any time without consequences of any kind.

### Questions

You may have questions or concerns during the time of your child's participation in the study, or after its completion. If you have any questions about the research procedures, please contact Ms. Holly Stevens of George Mason University at 571-332-9255 or [hstevens@gmu.edu](mailto:hstevens@gmu.edu). Dr. Jon B. Gould is the Principal Investigator and he may be contacted at 703-993-8481 or [jbgould@gmu.edu](mailto:jbgould@gmu.edu). You may contact the George Mason University Office of Research Subjects Protections at 703-993-4121 or [hsrb@gmu.edu](mailto:hsrb@gmu.edu) if you have questions or comments regarding your rights as a participant in the research.

This research has been reviewed according to George Mason University and Prince William County Public Schools' procedures governing your child's participation in this research.

### Consent

I have read this consent form and I freely consent for my child to participate.

Signature of Parent/Legal Guardian \_\_\_\_\_ Date \_\_\_\_\_

Student's Name (printed) \_\_\_\_\_

## **Consent to Participate in Research**

### **Children, Rules, & Laws Research Project**

#### **Verbal Assent Script**

Hi, I'm [insert researcher's name], a researcher from George Mason University. We are conducting a research study in your class. A research study is one way we can learn more about people and the world. We are asking everyone in [insert teacher's name] if they want to be involved. If you want to, I would ask you some questions and we would just talk for awhile. I would also record what we are saying with this little recorder so that I don't have to remember everything while we are talking.

There are no consequences if you do not want to participate. If we start talking and you decide you don't want to talk anymore, that is okay too. We will just stop. There are no benefits or rewards if you decide to participate.

When we are finished talking with a lot of people we will write a report about what everyone has said. The report will not have your name in it and no one will be able to tell that you were involved with the study.

If you ever have questions about what we talked about you can ask me and if I am not around you can ask your teacher to contact me.

Would you like to participate?

## Protocol Children & Legal Consciousness

Introduction of researcher to student

General Questions (*The goal was to to ask open ended questions to see what kinds of experiences came up in conversations about their day to day lives, and how the participants interpreted these experiences. The goal was not to ask all questions in this section but rather to get the student talking about their life and for stories of their interactions and problems to arise naturally.*)

Can you tell me about your class?

Do you like school?

What do you like best? What do you dislike?

How about your teachers? What are they like?

Can you describe your day for me?

Can you tell me about a time you were unhappy recently? How about a time when someone else made you unhappy?

More Specific Questions (*ask all questions in this group*)

What is a rule?

Why do we have rules?

What is a law?

Why do we have laws?

Does your class have any classroom rules?

What are they?

Who made them?

How about rules at home?

What would it be like if there were no rules?

What happens if someone breaks a rule at school? How about at home?

Is it ever okay to break one of the rules? Can you think of a situation where that might be okay?

Is it ever okay to break the law? Can you think of a situation where that might be okay?

Why do you follow the rules?

What is justice? What comes to mind when you hear the word justice?

Other Questions (ask all questions in this group)

How old are you?

What do you do after school?

What do you do on the weekends?

## **BIOGRAPHY**

Holly R. Stevens was born on February 7, 1981 in Johnson City, New York. She received her Bachelor of Arts degree in Psychology and Sociology from the State University of New York at Cortland in 2002 and a Master of Arts in Forensic Psychology from Marymount University in 2005. While pursuing her doctorate, she worked as a research assistant for the Juvenile Justice and Residential Facility Census and Census of Juvenile Probation Supervision Offices projects and as a research associate at the Federal Judicial Center, Vera Institute of Justice, and on several projects funded by the Office of Defender Services. She also served as the Assistant Director of the Spangenberg Project at George Mason University, managing a number of research and training projects on public defense and access to justice. She currently serves as the lead researcher and director of several program evaluations at the Children's Law Center in Washington, DC. She will continue in this position after completing her doctoral degree requirements.