INTERSECTIONS OF SPECIAL EDUCATION LAW AND JUVENILE JUSTICE

POLICY AND PRACTICE

by

KATIE YOUNG CADIGAN

Presented to the Faculty of the Graduate School of
The University of Texas at Arlington in Partial Fulfillment
of the Requirements
for the Degree of

MASTER OF ARTS IN SOCIOLOGY

THE UNIVERSITY OF TEXAS AT ARLINGTON

August 2006
ACKNOWLEDGEMENTS

To all the people who have supported me throughout my academic endeavors up to this point, I am eternally grateful. The guidance, tutelage, and encouragement of Dr. Beth Anne Shelton, Dr. Ben Agger, Dr. Joan Acker, and Dr. Deb McBrier helped me navigate the sometimes treacherous terrain of graduate school in general and thesis-writing in particular.

I owe thanks also the juvenile justice professionals I have had the pleasure of working with and the youth we served. I wish to acknowledge Principal Linda Taylor for her willingness to answer my questions.

Finally, I am deeply indebted to my family: to Peter, Debbie, Kelly, Jenny and Danny for their constant support; to Derrick for always believing in me and for providing comic relief; and to Jayden for helping me to keep everything in perspective.

June 26, 2006
ABSTRACT

INTERSECTIONS OF SPECIAL EDUCATION LAW AND JUVENILE JUSTICE

POLICY AND PRACTICE

Publication No. ______

Katie Young Cadigan, M.A.

The University of Texas at Arlington, 2006

Supervising Professor: Beth Ann Shelton

The purpose of this research is threefold: to summarize law as it relates to youth with disabilities in juvenile justice facilities; to synthesize existing literature hypothesizing explanations for the disproportionate numbers of youth with disabilities involved with the juvenile justice system and proposing effective educational programs to serve those youth; and to discover the ways in which the educational programs and policy and procedures of two juvenile justice facilities both correspond with and contradict literature recommendations and special education law.

Special education legislative documents, policy and procedure manuals for two juvenile justice facilities and personal reflections of my employment experiences at these facilities will serve as primary data sources. Differential association provides the
theoretical framework for this research and suggests that youth with disabilities in juvenile justice facilities need greater exposure to influences that are favorable to education and unfavorable to delinquency.
# TABLE OF CONTENTS

ACKNOWLEDGEMENTS ...................................................................................... iv

ABSTRACT ............................................................................................................. v

Chapter

1. INTRODUCTION .............................................................................................. 1

   1.1 Youth with Disabilities in the Juvenile Justice System ......................... 2

   1.2 Overview: Oregon and Texas Juvenile Justice Systems .................... 4

       1.2.1 Population Profile ........................................................................... 5

   1.3 My Experience with the Juvenile Justice System ............................. 7

       1.3.1 TSAC Residents ............................................................................. 9

       1.3.2 JJAEP Cadets ............................................................................... 9

       1.3.3 TSAC Staff .................................................................................... 11

       1.3.4 JJAEP Staff .................................................................................. 12

       1.3.5 TSAC Facility ............................................................................... 12

       1.3.6 JJAEP Facility ............................................................................... 13

2. SPECIAL EDUCATION LAW ......................................................................... 14

   2.1 Individuals with Disabilities Education Act .................................... 14

   2.2 Texas Behavior Support Initiative ..................................................... 16

   2.3 Oregon Statutes and Administrative Rules ..................................... 17
3. THEORY ................................................................. 19
   3.1 Differential Association ........................................... 19
   3.2 Theorizing Overrepresentation .................................. 19

4. METHODOLOGY .......................................................... 23
   4.1 Document Analysis .................................................. 23
   4.2 Personal Reflection .................................................. 25

5. FINDINGS ................................................................. 26
   5.1 Effective Educational Programs in Juvenile Justice Facilities .... 26
   5.2 Educational Programming at the TSAC and JJAEP .............. 27
      5.2.1 TSAC Daily Program ........................................... 28
      5.2.2 JJAEP School Day .............................................. 30
      5.2.3 Program Success ............................................... 32
   5.3 Intersections: Juvenile Justice Policy and Practice &
       Special Education Law ............................................ 33
      5.3.1 Collaboration .................................................... 33
      5.3.2 Positive Behavior Support .................................... 36
      5.3.3 Procedural Safeguards ....................................... 37

6. CONCLUSION .............................................................. 40
   6.1 Summary ............................................................ 40
   6.2 Recommendations .................................................. 41
   6.3 Areas for Further Study ............................................ 44
Appendix

A. JJAEP CLASSROOM RULES .......................................................... 46

B. JJAEP MAJOR AND MINOR RULE VIOLATIONS ....................... 48

REFERENCES .................................................................................. 50

BIOGRAPHICAL INFORMATION ................................................. 54
CHAPTER 1
INTRODUCTION

The most common feature shared by young offenders is early school failure (Kipnis 2001). And yet, across the country, states are cutting funds for education (Western, Schiraldi and Ziedenberg 2003). Teachers are receiving pay cuts. Schools are being closed. The school year is being shortened. Public universities are raising tuition, while decreasing the amount of financial aid available. At the same time, spending is on the rise for corrections. New prisons are being built. Salaries are increasing for corrections officers. Between 1980 and 2000, spending on corrections grew by 104%, while spending on higher education dropped by 21% (Western et al. 2003).

In the midst of these politics, it is youth that suffer the most. An under funded and undervalued education system fails to educate all youth, many of whom find themselves in trouble with the law. Particular groups of youth bear more of the burden than others. One of these groups is youth with disabilities become delinquent.

Delinquency is defined socially through the establishment of norms. Youth who engage in behavior outside the boundaries of these norms, such as regular school attendance, are labeled delinquent. Delinquency is also defined legally by federal criminal law. Violation of the law results in a youth’s classification as delinquent. For
the purposes of this research, delinquency is defined as engagement in behavior that violates the law.

1.1 Youth with Disabilities in the Juvenile Justice System

Delivering educational services to youth with disabilities in juvenile justice facilities is a topic of interest to a broad group of stakeholders across the country, including policymakers, educators, law enforcement agents, youth and their parents. The prevalence of youth with disabilities involved in the juvenile justice system is described by rough estimates only due to definitional, diagnostic, procedural, analytical and presentational issues (Casey and Keilitz 1990). What is certain is that these youth are overrepresented at all levels of the juvenile justice system, from initial referrals to secure detention.

Recent studies report an overall disability rate among youth in juvenile justice facilities ranging from 30% to 70% (Quinn et al. 2000, Burrell and Warboys 2000). The conservative end of this range is over three times the 8.6% of the total school-age population in the United States qualifying for special education services under the 1997 Individuals with Disabilities Education Act (IDEA) (U.S. Department of Education 2006). Emotional or behavioral disorders and learning disabilities are the most prevalent disabilities among youth in the juvenile justice system. A 1995 study reports that almost 50% of youth involved with the juvenile justice system have a learning disability and over 60% exhibit an emotional or behavioral disorder (Snyder and Sickmund 1995). The implications of these statistics are serious for the long-term
outcomes for these youth: for the majority of them, educational programming within the juvenile justice system will be their last exposure to formal education.

There is a tremendous deficiency in research addressing the implementation of special education policy in the juvenile justice environment. A significant finding to arise out of an extensive 2003 report issued by the National Council on Disability is the “lack of reliable, accurate, empirically-based data on almost every dimension relevant to increasing and improving services for youth with disabilities at risk of entering the juvenile justice system or already involved in it.” Meeting the educational needs of these youth is an area particularly lacking research and program support (Special Education Report 2003). Students with disabilities housed in juvenile facilities are all too often not receiving the services guaranteed to them through legislation such as IDEA and are instead falling through the cracks, producing high levels of recidivism and low levels of school achievement.

This project works toward bridging this knowledge gap by conducting and reporting on an inquiry into the special education practices of a juvenile justice program in Texas and one in Oregon as well as relevant federal and state legislation. Specific research questions to be addressed include: What are the elements of effective educational programs within juvenile justice facilities? How do the two facilities that serve as my case studies measure up to these standards? Is programming in one state more effective than programming in the other state? At what points do juvenile justice policy and practice intersect with special education law?
In the remainder of this chapter, I will provide an overview of the juvenile justice systems in Oregon and Texas, followed by a presentation of my personal experience with the juvenile justice facilities that will serve as my case studies. Chapter 2 will introduce and summarize the relevant federal and state special education legislation. Chapters 3 and 4 will provide an overview of popular theories that account for the overrepresentation of youth with disabilities in the juvenile justice system and my methodological approach, respectively. My research questions will be answered in chapter 5, followed by a summary and suggested areas for further research in chapter 6.

1.2 Overview: Oregon and Texas Juvenile Justice Systems

Juvenile justice, both in Oregon and in Texas, is a collaborative process involving a network of county and state departments. Juvenile offenders are initially referred to local county authorities. First time offenders who have committed minor offenses undergo informal proceedings resulting in either diversion or deferred prosecution. Diversion means that the juvenile is referred to a community intervention appropriate to his or her offense such as drug and alcohol counseling and/or community service. Deferred prosecution typically involves a probation period and possibly time in a county detention facility. Juvenile offenders whose offenses are more severe or who have already been unsuccessful at the county level may begin formal proceedings, at which point the juvenile may be directed to the state level, either the Oregon Youth Authority, (OYA), or the Texas Youth Commission (TYC).

Established in 1996, OYA maintains legal and physical custody over youth between the ages of 12 and 18 referred by county juvenile courts in Oregon. Youth
may remain in OYA custody until age 25. As of January 2006, 1,969 youth were housed in the 10 facilities operated by OYA (OYA and OJDDA 2005). Six of these facilities are close custody facilities, providing the highest level of security and structure. The remaining four facilities are known as community programs, which help youth transition from close custody back into the community.

TYC was originally established as the Texas Youth Development Council in 1949. A series of reformations and legal events led to the council’s evolvement into TYC in 1983. Youth between the ages of 10 and 17 may be committed to TYC and may remain there until age 21. TYC currently runs 15 secure facilities and nine halfway houses for juvenile offenders, which housed 2,614 youth in 2005 (TJPC 2005).

1.2.1 Population Profile

The following data describe the juvenile populations of Oregon and Texas, but are reflective of the national juvenile population as well. The statistics clearly show that males, racial minorities, and youth with disabilities are disproportionately represented in the juvenile justice population.

In Oregon, juvenile offenders are classified into one of six race categories: African-America, Asian, Hispanic, Native American, Other/Unknown, or White. Of the 26,364 youth referred to Oregon’s juvenile justice system in 2005, 71.5% were White, 5.2% were African-American, 1.4% were Asian, 13.6% were Hispanic, 1.7% were Native American, and race was unknown for 6.6%. As of January 2006, the OYA close custody population was 68% White, 9% African-American, 2% Asian, 15% Hispanic, 5% Native American, and 1% unknown.
Texas juvenile offenders are classified as one of four race categories: Anglo, Black/African-American (different reports use different names) Hispanic, or Other. In 2003, 44% of the juveniles referred to the Texas juvenile justice system were Hispanic, 23% were African-American, 32% were Anglo, and 1% were other. The 2005 TYC population was 43% Hispanic, 33% African-American, 23% Anglo, and 1% other.

Young males have more contacts with law enforcement than do their female peers. In 2005, 64.7% of Oregon juvenile referrals to law enforcement were male. In 2003, 72% percent of Texas juveniles referred to law enforcement were male. Looking at those juveniles detained in state facilities, males composed 83% of OYA community facilities and 92% of OYA close custody facilities as of January 2006. The 2005 population of TYC facilities was 90% male.

The data collected describing disabilities and special education needs among juvenile offenders is less thorough than race and gender data in both Oregon and Texas. In Oregon, need of special education services are only reported for youth in OYA close custody facilities. As of January 2006, 64% of youth in close custody qualified for special education services. Texas collects special education information on youth enrolled in a JJAEP as well as youth committed to TYC. In 2003, 26% of youth attending a JJAEP received special education services. Of TYC's 2005 population, 40% received special education service.

The demographics of the juvenile justice populations throughout Oregon and Texas are similar in terms of gender, but differ significantly in terms of race. In both states, there is a positive correlation between the level of security the youth is kept in
and the percentage of the population that is male, non-White, and qualifying for special education services. Now that a rough sketch of the population receiving educational services in Oregon and Texas juvenile facilities has been established, I will proceed to describe the two facilities that serve as my case studies.

1.3 My Experience with the Juvenile Justice System

I have been employed in the juvenile justice field on two different occasions. The first time, in the midst of my undergraduate career, I worked as a part-time residential counselor at a transitional shelter and assessment center (TSAC) run by a private, non-profit agency in Oregon. The second time, after earning my bachelor’s degree, I was employed as a full-time officer with a Texas county juvenile services department in the juvenile justice alternative education program (JJAEP). These two facilities differ greatly on a number of factors including their size, affiliation, and approach.

As a residential counselor for the Oregon TSAC, I was part of a team responsible for the supervision and treatment of up to 14 male youth awaiting placement in another facility or transitioning home from a secure environment. I was hired within the first few months of the facility’s opening, which gave me the unique experience of participating in the program’s early development. The adverse side of this was a lack of established policies and procedures.

I participated in all program activities with a group of up to seven youth. These activities included meals, educational classes, skill building groups, recreation, and drug
and alcohol groups. A therapeutic philosophy was reflected in both the physical environment and the treatment approach.

The juvenile justice alternative education program I worked at strictly adheres to a military model of operation. It is one of 26 JJAEPs functioning in Texas by mandate of the 1995 74th Texas Legislature, which requires any county in Texas with a population exceeding 125,000 to operate a juvenile justice alternative education program.

In addition to basic orientation training, which familiarized me with the department’s policy and procedures, I received 120 hours of training during my year of employment. Topics such as crisis intervention, report writing, special needs of juveniles, supervision, and security were covered through direct instruction, readings, and videos.

As an officer, my primary duties involved the supervision of juveniles attending the JJAEP. Each morning, I was assigned a team of twelve students to lead through their school day. I attended each class with my team, documented any rule violations or other behavior of concern, and referred youth down the appropriate avenues for disciplinary action when necessary.

My employment at these two facilities gave me an opportunity to experience two diverse approaches to juvenile justice in general, and more specifically, the unique needs of youth with disabilities involved with the juvenile system. I valued my direct work with the youth, though both in Oregon and in Texas, I found myself desiring a
more active role in indirect work in the field, such as program development and research.

1.3.1 TSAC Residents

Males between the ages of 12 and 17 come to the Oregon TSAC only as the result of a direct referral from the county’s Department of Youth Services. They may come directly from the county’s detention center after serving time for an offense, or may bypass the detention altogether for first time, less severe offenses.

The ethnic background of the residents mirrors the overwhelmingly (86%) Caucasian population of the area. During my six months with the program, there was one resident with Hispanic ancestry and one Native American resident. Many youth had been residing apart from their immediate families prior to entering the facility, either with friends, extended family, or foster parents. Gang affiliation, substance abuse and truancy were common themes. From the TSAC, some residents transitioned home, while others waited for openings in substance abuse or sex offender programs.

Academic difficulties were prevalent among TSAC residents, whether due to learning disabilities or chronic truancy. Other disabilities among the youth I worked with at the TSAC included partial paralysis, (the result of a drive-by shooting), schizophrenia, and traumatic brain injury.

1.3.2 JJAEP Cadets

A student attending any public school in the county may be placed in the Texas JJAEP after an expulsion or by order of the county juvenile court. The procedures for JJAEP placement are delineated in Section 37.007 of the Texas Education Code.
A student may come directly from their home school after committing an offense on or within 300 feet of school grounds requiring expulsion, either mandatory or discretionary. Felony drug offenses, weapon offenses, aggravated or sexual assault, arson, indecency with a child, retaliation, murder, attempted murder, or kidnapping are offenses resulting in mandatory expulsion. Discretionary expulsion may occur following serious or persistent misbehavior, misdemeanor drug or alcohol offenses, assault on a teacher, felony criminal mischief, terrorist threat, or inhalant abuse. A student may be expelled directly from his or her home campus, or from the district alternative program, where he or she had been sent previously for serious and persistent misbehavior.

Students not expelled from their home campus may be ordered to attend the JJAEP by the juvenile court. Typically this occurs when the offense did not occur within 300 feet of school grounds or at a school-sponsored function. In some counties, a student may enter the JJAEP through an agreement between the school district and the juvenile department.

Depending on the nature and severity of the offense, the youth may be held first in the county’s juvenile detention facility, which has a separate educational component, and eventually transferred to the facility’s residential program, at which point they would also begin the JJAEP.

The facility’s population fluctuates throughout the school year, peaking to over 100 students around spring break. Males outnumber females significantly. Hispanic and Caucasian youth equally comprise the majority, with African-Americans and
occasionally an Asian-American making up the remainder of the student body. Cadets, as the students are called upon entering the JJAEP, range in age from 10 years old, the age at which someone is legally classified as a juvenile and responsible for their own actions in Texas, to 17 years old, at which point they could be referred to the adult correctional system. Though I did see a few 10-12 year old cadets during my time at the facility, the vast majority of youth were between 13 and 17 years old.

Youth sent to the JJAEP during my employment had committed offenses ranging from persistent misconduct to involuntary vehicular manslaughter. For many, it was not their first time attending the JJAEP. A few would be transferred to a Texas Youth Commission facility.

During the past seven years, students attending the JJAEP who had been receiving special education services at their home campuses range from 27% of the total enrollment for the 2005-2006 school year to 48% of the total enrollment during the 1999-2000 school year, with an average of 34.7%. Learning and emotional/behavioral disorders were the most prevalent diagnoses among these students.

1.3.3 TSAC Staff

The Oregon TSAC staff consisted of a half-dozen residential counselors with varying levels of case management responsibility, two teachers, and a cook, all supervised by a program director. Levels of education ranged from some college to advanced degrees. Both genders were equally represented, though no minorities were on staff during my employment.
1.3.4 JJAEP Staff

Over forty staff members work directly with the cadets at the Texas JJAEP as drill instructors, officers, supervisors, case managers, and specialists. These specialists include a full-time nurse and counselor in addition to staff shared with the county’s juvenile detention center, such as probation officers, a family preservation specialist, and a drug and alcohol counselor. The education staff includes a principal and teachers certified in math, science, reading and language arts, and social studies. A few are also certified in special education. A program manager and a program supervisor oversee daily operations and manage staff.

During the period of my employment, the staff as a whole was racially and culturally diverse, though no minority groups were represented in the educational staff. A few employees were bilingual in English and Spanish. All employees had completed high school and many held a college degree. All drill instructors had previous or current military experience.

1.3.5 TSAC Facility

The Oregon TSAC is one of three free-standing buildings operated by the same private non-profit community agency located on the county’s youth campus, which houses juvenile courts and detention. It is a semi-secure facility, meaning that certain areas within the building can be locked, such as the dorms, but that residents could exit the building through unlocked doors in common areas, such as the day room.

From the outside, the facility looks similar to a large house. An administrative area constitutes the front of the building. The residential area consists of two pods, each
with seven beds. The pods are separated by a day room, kitchen, and dining room, much like ones that would be found in a private home. Each pod also has a control room in which case files are held and only staff members are allowed.

1.3.6 JJAEP Facility

A new, all-encompassing juvenile justice facility was constructed in the county and opened the summer of 2003. It is a fully secure building housing not only the Texas juvenile justice alternative education program, but also a residential program, detention, and juvenile court, each of which had previously occupied separate sites. Youth in the facility’s residential or JJAEP program never come into contact with youth in detention. They have separate cafeterias and dormitories (for residents) and occupy shared areas, such as the gym, at different times. Each area is contained by a steel, automatic-locking door that is opened only when a magnetized employee badge is held in close proximity.

Each of the eight classrooms contains a unisex bathroom. This feature was designed to simplify cadet supervision. In the old school building, cadets had to exit the classroom to use a restroom at the end of the hall, requiring the staff member supervising that cadet’s team to position him or herself in the classroom doorway and simultaneously watch both the cadet walking to the restroom and the remainder of the team in the classroom.
CHAPTER 2
SPECIAL EDUCATION LAW

2.1 Individuals with Disabilities Education Act

Legal action to protect and support the educational rights of persons with disabilities was initiated through efforts to provide a free and appropriate education (FAPE) to children with disabilities. This initiative first officially appeared as the Education for All Handicapped Children Act (Public Law 94-142), passed by Congress in 1975. Additional components of the law assured protection for the rights of children with disabilities and their parents, and provided state and local education systems with assistance to ensure that all children with disabilities were receiving an education.

In 1997, the Education for All Handicapped Children Act evolved into the Individuals with Disabilities Education Act, which not only provided a FAPE to all children regardless of ability, but also worked toward improving the educational outcomes of children with disabilities. Issues concerning the discipline of special education students were also addressed, requiring that problematic behavior be addressed rather than merely punished. 1997 amendments also promoted the concept of a least restrictive environment; that each student, regardless of ability, has a right to be educated to the greatest extent possible in the mainstream classroom with students who
are do not have disabilities. Parental involvement also became a stronger focus at this time.

Procedural safeguards were implemented in the form of documents explaining legal rights concerning the education of a student with a disability that are required to be given to parents at various points in the special education process, including the time of their child’s initial referral for evaluation and placement changes. Procedural safeguards protect the rights of students and parents in regards to the provision of a free and public education through accountability measures, consistency, and a fair dispute resolution process. Students along with parents were encouraged to be more active partners in the development of Individualized Education Plans (IEP).

Another important feature of IDEA is that it provides specific criteria to be used in determining a student’s eligibility for special education services. As defined by IDEA, the term “child with a disability” means a child: with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who, by reason thereof, needs special education and related services.

As a part of IDEA’s most recent revision in 2004, more thorough and specialized training is required of educators working with students receiving special education services. Further, scientifically-based instructional practices were called for and an emphasis was placed on obtaining and utilizing assistive technology devices as appropriate.
2.2 Texas Behavior Support Initiative

The 2001 77th Texas Legislative Session specifically addressed through Senate Bill 1196 the use of confinement, restraint, seclusion, and time-out as disciplinary actions toward students with disabilities. The Texas Behavior Support Initiative, designed to provide positive behavior support and implement preventative measures arose from this legislation.

The bill text defines restraint as “the use of physical force or a mechanical device to restrict the free movement of all or a portion of a student’s body.” Seclusion refers to “a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person and contains less than 50 square feet of space.” Time out is defined as “a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting that is not locked and from which the student is not physically prevented from leaving.”

Effective September 1, 2001, the bill prohibits the practice of seclusion in Texas public schools. The only instance in which a student may be confined in a locked space is in an emergency situation if the student possesses a weapon and the confinement is necessary to prevent harm to the student or others while awaiting the arrival of law enforcement. Limitations are placed on the use of restraint and time-out. Specifically, the bill requires that procedures consistent with professionally accepted standards be adopted and that personnel be trained according to the procedures for the use of either restraint or time-out.
Beyond these prohibitions and restrictions, TBSI offers a positive, preventative school-wide approach to discipline and behavior management. It provides a three-tiered method of intervention to reach students initially on a universal level, and ultimately target students for whom preliminary interventions are unsuccessful.

As an officer at the Texas JJAEP, I participated in extensive TBSI training. In the juvenile justice setting, the primary change brought about by TBSI is the requirement of documented attempts at de-escalation prior to the physical restraint of a cadet. Parents must be notified within 24 hours of the restraint and provided with a copy of a report detailing the circumstances surrounding the restraint.

2.3 Oregon Statutes and Administrative Rules

Oregon statutes and administrative rules use different language than Texas legislation related to disciplinary action, with the exception of “restraint.” “Seclusion,” “time-out,” and “confinement” do not appear anywhere in Oregon law. Instead, “isolation” and “physical intervention” are used in Chapter 416 of Oregon Administrative Rules. Quoting OAR 416-490-0010, isolation is defined as “any instance when an offender because of behavior or conduct is confined alone for over 15 minutes in a room other than the room or cell in which he or she usually sleeps.”

A physical intervention refers to “direct physical contact where reasonable force is applied against resistance, either to restrict movement or mobility or to disengage from harmful behavior displayed by an offender.” These methods of intervention are only allowed within the jurisdiction of the OYA. This is different than in Texas, where
restraint, seclusion, confinement and time-out are written into the Texas Education Code which governs all public schools in the state.

Instead of a JJAEP, Juvenile Detention Education Programs (JDEP), or Youth Corrections Education Programs (YCEP) operate to educate detained youth. Defined by Oregon Administrative Rule 581-015-0301, a JDEP provides “educational services to youths lodged overnight who receive educational services on consecutive days within a detention facility,” which are operated by Oregon counties. A YCEP provides “educational services to youths in youth correctional facilities of the Oregon Youth Authority, and includes secure regional youth facilities, regional accountability camps, residential academies and satellites, camps and branches of those facilities.” The transition shelter and assessment center was run by a private non-profit agency rather than a government agency, so it is technically neither a JDEP nor a YCEP, though it functions more as a JDEP.

Because youth in OYA facilities are held in custody longer than youth in county detention centers, YCEPs are more established educational programs, while JDEPs occupy more of a tutoring function, assisting youth with academics short-term. Both YCEPs and JDEPs must comply with the special education requirements of Oregon Administrative Rules (581-015-0033 through 518-015-0042), which address issues such as special education program criteria, the obligation to find and evaluate students who may be in need of services, and collecting and reporting data on youth receiving special education services.
CHAPTER 3
THEORY

3.1 Differential Association

The theoretical framework for this research is centered on Sutherland's (1947) differential association as well as multiple theories specific to youth with disabilities in the juvenile justice system. In this section, I first present the foundational elements of differential association and then briefly present the theories specific to the overrepresentation of youth with disabilities in the juvenile justice system.

Differential association explains crime and delinquency through normative conflict in society. Varying structure of norms give rise to a range of definitions of acceptable behavior which conflict with one another. Individuals learn definitions from sources such as peer groups, family and cultural groups that are either favorable or unfavorable to the law. Delinquency occurs then when the frequency, duration, intensity, and priority of definitions favorable to delinquency outweigh the frequency, duration, intensity, and priority of definitions unfavorable to delinquency (Sutherland 1947).

3.2 Theorizing Overrepresentation

Several theories circulate throughout the research community to explain the overrepresentation of youth with disabilities in juvenile justice facilities. The most
prominent of these include school failure, social learning, susceptibility, metacognitive deficits, and differential treatment.

The school failure and social learning theories complement differential association. The school failure theory (Osher, Woodruff, and Simms 2002) rests on the view that delinquency is the direct result of a two-part process. First, emotional, behavioral, intellectual, and/or learning disabilities cause school failure, academically, socially, or otherwise. Second, a poor self-image develops as a result of that failure, leading to delinquency, often first appearing as dropping out of or being suspended from school. Further, these youth tend to gravitate toward peer groups that condone delinquent behavior and reinforce the negative self image (Larson 1988). Peer groups are also relevant to the social learning theory, which asserts that delinquent behavior is learned and valued to meet youths’ need for recognition (Morrison and Epps 2002).

A predisposition to criminal behavior is the backbone of the susceptibility theory (Keilitz and Dunivant 1987). This perspective claims that personality and cognitive defects, such as poor impulse control, suggestibility, irritability, inability to foresee consequences, and insufficient perception of social cues, all equate to a greater likelihood of delinquent activity among youth with disabilities.

Similar to the susceptibility theory, the metacognitive theory claims that underdevelopment in the social and cognitive realms, particularly problem-solving skills, increases the risk of delinquency among youth with disabilities (Larson 1988). Greater maturity of these skills has been shown to equate to socially and legally acceptable behavior in a study of detained youth exhibiting high rates of problematic
behavior. After being taught cognitive problem solving skills and self-regulation techniques, the youths’ behavior dramatically improved (Feindler, Marriott and Iwata 1984).

The differential treatment theory (Keilitz and Dunivant 1987) suggests that youth with disabilities participate in delinquent activities at similar rates and as do their peers without disabilities. It is different treatment from police and juvenile court systems that is responsible for the disproportionate numbers of youth with disabilities in the system. For example, a juvenile with a serious emotional disturbance may present an argumentative, combative demeanor in front of a judge, not fully understanding the potential consequences for such behavior. The judge may chose to detain the youth, who might have been diverted had he or she been more agreeable.

This theory is supported by a 1981 study (Broder et al. 1981) in which youth with learning disabilities reported similar rates of delinquent activity as their non-learning disabled peers, but were twice as likely to become involved with the juvenile justice system as a result of those activities. This could be mean that youth with learning disabilities are caught more often, or that their cases are less likely to be dismissed.

The school failure and social learning theories in particular point to a direct correlation between students with disabilities failing in the school environment and subsequently finding themselves in the juvenile justice environment. The inverse of this suggests that success in the school environment would prevent juvenile justice involvement for these youth. Preventative measures are necessary at the public school
level, before youth with disabilities are expelled or drop out. However, the large numbers of youth already housed in juvenile justice facilities must also be reached. For these youth, effective educational services must be delivered within the juvenile justice facilities. A positive educational experience within a juvenile justice facility will increase the likelihood of continued interest in, dedication to, and success in school after release.
CHAPTER 4

METHODOLOGY

What are the elements of effective educational programs within juvenile justice facilities? How do the two facilities that serve as my case studies measure up to these standards? At what points do juvenile justice policy and practice intersect with special education law? To answer these research questions, I will use a combination of document analysis and personal reflection.

4.1 Document Analysis

Document analysis is an appropriate methodology for addressing my first and third research questions. To ascertain the effective elements of educational programs within juvenile justice facilities, I will survey correctional education literature. To discover the points of intersection between special education law and juvenile justice policy and practice, employment and legislative documents will be my primary data sources. Specifically, these documents include policy and procedure manuals and training materials I received during my employment at the Oregon TSAC and the Texas JJAEP, as well as TSBI and IDEA legislative documents and the Oregon Administrative Rules.

The situation of documents as primary data sources creates several unique features. First, documents are replicable. They are able to be reproduced and distributed across sites and over time, creating a systemization of action. For instance,
the previously mentioned 74th Texas Legislature produced documents specifying standards for the development of JJAEPs to be distributed throughout the state so all qualifying counties would have the same guidelines to follow.

Secondly, documents make otherwise invisible connections available for discovery (Campbell and Gregor 2004). For example, an Individual Education Plan (IEP) follows a youth receiving special education services from his or her home campus to the Texas juvenile justice alternative education program or the Oregon transition shelter and assessment center following an expulsion. The IEP connects both campuses and allows for continuity in the student’s education and assures that special education needs continue to be met.

Documents can be very beneficial for the coordination and systemization of efforts in governmental, health care, and education institutions. They can also, however, be involved in the objectification of individuals (Campbell and Gregor 2004). In the context of this study, this could appear as labels such as defiant, impulsive, or antisocial in a juvenile’s case file that may influence perceptions held by officers or other staff interacting with the juvenile prior to ever meeting the juvenile.

The three primary elements of documentary analysis are content, production, and use (Prior 2003). Content analysis is concerned with the material the document contains. What words and images appear and what messages do they relay? Production is focused on not only the people or agencies behind the construction of the document, but also the process through which the document is created. An analysis of use involves the consumption of the document. Who is the document used by and for what
purposes? The production and use of the documents I analyze is primarily a standard, governmental process not appropriate for extensive discussion in this report. Therefore, I will focus on the content aspect of the documents.

4.2 Personal Reflection

Personal reflection as a method of conducting social research cannot claim objectivity and must account for its limitations. My experience of youth with disabilities in the juvenile justice system was as an employee, an outsider from the perspective of the youth. My observations of the programs and the people and processes involved provide only one perspective. In supplementing the legal and literature materials concerning the education of youth with disabilities in the juvenile justice system with my own experience, I offer a more complete picture of the issue.

Other staff members may have interpreted policy and procedure and the scope of their jobs differently than I did. The multiples duties of the job may have been prioritized differently among staff. For example, I was more concerned that a youth be engaged in class than address me while standing at the position of attention. On several occasions however, I witnessed a military drill officer at the Texas JJAEP sanction a cadet during class time for improperly assuming the position of attention.
5.1 Effective Educational Programs in Juvenile Justice Facilities

What are the elements of effective educational programs within juvenile justice facilities? The literature related to the delivery of special education services within a juvenile justice setting is embedded within the broader field of correctional education literature. A survey of this literature reveals several features of educational programs proven to be effective in the juvenile justice environment.

Multiple studies have concluded that transition is the most overlooked facet of services for youth both with and without disabilities in the juvenile justice system (Griller-Clark 2003, Nelson et al. 2004, Rutherford et al. 2000). Transition planning for youth with disabilities beginning at the age of 14 is mandated by the 1997 IDEA Amendments. Section 300.29 of IDEA defines transition as:

A coordinated set of activities for a student, designed with an outcome-oriented process, which promotes movement from school to post-school activities including post-secondary education, vocational training, integrated employment (including supported employment), continuing education, adult services, independent living, or community participation.

For youth in the juvenile justice system, this definition includes movement to and from juvenile justice facilities as well. Transition services are crucial to the longevity and continuance of academic, social, and behavioral progress made within a juvenile justice facility (Rowe and Pfannenstiel 1991, Larson and Turner 2002).
Special education services must be delivered to qualifying youth within juvenile justice facilities in accordance with legal mandates. All staff should be appropriately trained to ensure that the needs of incarcerated youth with disabilities are served in all aspects of the correctional program. Assessments of deficits as well as strengths should be completed using IEPs and/or other feedback from ARD committees. Contrary to prior practice, students should be challenged with tasks such as problem solving and reading comprehension, even if mastery has not been shown in basic skills (Gemignani 1994).

According to a report published by the United States Department of Justice, the most important feature of educational programming within juvenile justice facilities is the placement of education as the top priority, rather than as merely another service for incarcerated youth (Gemignani 1994). Concern for safety and security often precludes educative efforts by emphasizing discipline above all else, detracting from incarcerated youths’ opportunity to progress academically and ultimately assume responsible citizenship (Maughan 1999).

5.2 Educational Programming at the TSAC and JJAEP

How do Oregon and Texas juvenile facilities in general, and the transitional shelter and assessment center and juvenile justice alternative education program in particular, measure up to the standards for correctional education discussed in the previous section? Is education a priority? Are special education services delivered appropriately? Do youth receive services to assist them with the transition out of the juvenile facility? Reflecting on my experiences of the educational programs within the
Oregon TSAC and the Texas JJAEP allows me to compare each program with the previously discussed components of effective correctional education programs and with legal mandates.

5.2.1 TSAC Daily Program

Every morning, each pod meets separately with a counselor to fill out a goal sheet, which is then shared with the rest of the pod. Any community issues, such as pod cleanliness or use of profanity, could be brought up by residents or the staff member. All residents meet for breakfast before beginning a series of skills training, group counseling, and academic instruction.

The academic component of the daily program consists of about 2 hours a day in a room designated as the classroom. There is one fulltime teacher on staff responsible for the education of all residents. Most of the educational program is delivered in a tutoring fashion. Residents work on different assignments, often worksheets with basic math problems or vocabulary exercises, at their own paces while staff circulate to assist as needed. Consistent with a least restrictive environment mandated by IDEA, all residents participated in academics at the same time and in the same place regardless of qualification for special education services. However, no specific accommodations are made for those students with disabilities.

Issues such as transitioning back into the community or onto the next placement are addressed both in a group setting and individually with counselors. Cognitive skills are practiced, encouraging the youth to recognize the thought patterns and consequent behaviors that led to their involvement with the juvenile justice system.
Counselors responsible for case management pull individual residents throughout the day to review plans for future placements, discuss progress toward goals, or any concerns the resident may be having. Free time activities and group recreation, such as basketball games or walks take place in the late afternoon or early evening.

Opposing the recommendation that education be placed as the central feature of programs for incarcerated youth, academic activities seem to be squeezed into the daily TSAC program. Educational programming within the TSAC falls short of the requirements of Oregon Administrative Rule to provide a continuum of services to meet the individual special education needs of all children with disabilities and to establish and conduct special education as an integral part of a regular school program. Consistent with recommendations in the literature, transitional services are provided to all youth, regardless of disability status, to help them smoothly progress to life beyond the facility. The transitional services provided are limited however, and do not include vocational training or development of independent living skills.

The Oregon Transition Initiative, an ongoing collaborative project between the Oregon Department of Education, Juvenile Corrections Education Program, and local school districts and corrections personnel, recognizes the importance of transitional services for incarcerated youth. With the support of this initiative, a fully accredited school operates within one of the OYA close custody facilities. The school focuses on academics, workplace readiness, and social skills. The students range in age from 12 to 20 and have typically committed crimes involving violence, gang activity, and/or
substance abuse. Over two-thirds of the students qualify for special education services under IDEA.

Teams composed of special education teachers, vocational instructors, corrections staff, and parents work with groups of 40-45 students. Behavioral problems are addressed through the schools problem solving center. In the few years since the school’s opening, there has been a 400% increase in students at the facility earning a high school diploma or GED as well as reports of significantly fewer discipline referrals (Larson and Turner 2002).

5.2.2 JJAEP School Day

Upon entry to the program, all students acquire the title of cadet and are issued a camouflage uniform consisting of boots, pants and a long-sleeve button-down top. Every morning begins with a uniform inspection in which each cadet is required to individually appear before a drill instructor who checks to see that boots have been shined and uniforms pressed. Female cadets are required to wear long hair in a bun and are prohibited from wearing any make-up. Male cadets are required to remain clean-shaven.

Each school day commences with all students rising to their feet and standing at the position of attention with the right hand in a salute. As a group, they repeat after a staff member each of ten classroom rules (See Appendix A). They remain standing at attention while the principal approaches students individually, shaking hands with each student and greeting him or her by name. At the prompt of the supervising staff
member, either an officer or drill instructor, each team forms a single file line and then proceeds to march to their first class.

Cadets start each class session by “opening class.” This practice is initiated by the staff member responsible for the team asking a cadet to call the team to their feet and lead them in a unison greeting to the teacher. After the 45-minute lesson, class is then “closed” in a similar manner, thanking the teacher for the class.

With two exceptions, teams march from classroom to classroom to receive instruction in various core subjects, including math, reading, science, social studies and language arts. One exception is the GED classroom in which mostly older students remain for the entire school day and prepare at individual paces for the General Equivalency Diploma exam. The second exception is the Behavior Improvement Program (BIP).

A cadet is placed in the BIP after repeatedly disrupting the regular JJAEP classroom environment by committing 3 major rule violations (See Appendix B). A cadet placed in BIP may return to the regular classroom after two weeks if there are no further rule violations, or may remain in BIP for the rest of their enrollment in the JJAEP if they continue to fail to comply with the rules. BIP students remain in one classroom for the entire day, are always supervised by a drill instructor rather than an officer, and are visited by each core curriculum teacher throughout the day to receive instruction.

Minor rule infractions occurring throughout the school day, such as talking without permission or moving while at the position of attention, are typically punished
with physical training (PT). This involves the cadet being sent to a drill instructor who then assigns and supervises push-ups, sit-ups, or any other approved exercise. The amount of PT assigned is at the discretion of the drill instructor and dependent on the cadet, the rule violated, and often, the disposition of the drill instructor at that particular time. If several students are acting inappropriately in class, the class may be ended and the entire team sent to a drill instructor for PT.

While education is the predominant activity of the daily program at the Texas JJAEP, it does not always take precedence over drill and discipline, as evidenced by the practice of removing students who exhibit behavior problems from the classroom to be sanctioned. Furthermore, little is done in the way of preparing students to transition back to their home school.

5.2.3 Program Success

One reliable indicator of success for educational programs within juvenile justice facilities is recidivism rates. Do youth commit additional offenses after leaving the facility? Recidivism rates specifically for the Oregon TSAC and the Texas JJAEP, but are available for the overall OYA and TYC populations. Within one year after release, 54.9% of youth detained in a TYC facility in 2004 were referred back to the juvenile justice system. Of the youth released from an OYA facility in 2004, 31.3% were referred back to the juvenile justice system within one year. Though this is only one indicator of program success, the significant difference in recidivism rates between Oregon and Texas suggests that Oregon juvenile justice programs are more effective. A more complete picture of program success should examine the activities of youth who
do not commit additional offenses after release. Are they employed, attending school, or otherwise responsibly involved with society?

5.3 Intersections: Juvenile Justice Policy and Practice & Special Education Law

At what points do juvenile justice policy and practice intersect with special education law? The theories discussed in chapter 3 offering explanations for the overrepresentation of youth with disabilities involved in the juvenile justice system intersect at multiple sites with special education law and juvenile justice policy and practice. Collaboration, positive behavior supports, and procedural safeguards are all themes prevalent in the literature (Houchins et al.; Meisel et al.) as well as primary points of intersection with both special education law and juvenile justice policy and practice.

5.3.1 Collaboration

A functional definition of collaboration appropriate to this study is “an active relationship in which education and treatment professionals in juvenile detention and confinement facilities agree to work together to achieve common goals” (Meisel et al. 1998:62). IDEA 2004 mentions collaboration at two points. First, as part of the requirements of the annual report to Congress, specifically that the report discuss the effectiveness of the promotion of collaboration between IEP team members (Section 609 20 U.S.C. 1408 (b-4)). Second, in the context of the responsibility of the advisory board to “develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities” (20 U.S.C. 1411 (6-c)).
The special education process as a whole is collaborative in nature. An Admissions, Review, and Dismissal (ARD) committee, comprised of one or both parents, at least one regular education teacher of the student, one special education teacher, an individual qualified to interpret evaluation results, and a school representative who is knowledgeable about curriculum, resources, and is qualified to supervise the provision of instruction to students with disabilities (TEA 2002:14).

The ARD committee collaborates initially to determine if a student is in fact in need of special education services based on the prior evaluation. If services are warranted, the committee then bears the responsibility of creating the IEP. In addition to the evaluation results, the IEP must consider the student’s strengths and parental concerns to formulate a plan that clearly specifies the student’s current academic level and how academic progress is affected by his or her disability. Measurable goals must also be stated, as well as what special resources and services will be delivered to the student to ensure progress toward those goals.

If the behavior of a student with a disability warrants an expulsion, the 1997 IDEA Amendments require the ARD committee to meet in order to determine whether or not the behavior was a manifestation of the disability. The student may only be removed from the classroom for a period exceeding ten days after this process and a conclusion that the behavior was not manifest of the student’s disability.

A functional behavioral assessment (FBA) and subsequent behavior intervention plan may be called for if the student’s behavior interferes with his or her ability to learn. This also is a collaborative effort in which interviews with teachers, parents, and
possibly the student are used in conjunction with an analysis of school disciplinary records and sometimes unobtrusive observation of the student. The objective of the FBA is to create an accurate picture of the student’s specific behavior problem(s) so that appropriate alternative behaviors may be taught and encouraged.

Similarly, the juvenile justice system involves intra-departmental collaboration between judges, juvenile facility staff, educators, probation officers and mental health providers. At both the Oregon TSAC and the Texas JJAEP intra-agency collaboration is essential to smooth and successful daily operations. A section of the JJAEP policies and procedures handbook, titled “Probation Department Collaboration with other Agencies,” describes the department’s participation in the “Community Resource Coordination Group (CRCG).” In accordance with Texas Juvenile Probation Commission standards, the CRCG meets monthly to staff cases and “catch children that may otherwise fall through the cracks of the system.” Texas Education Agency, Texas Youth Commission and Texas Department of Protective and Regulatory Services are among the other state agencies represented in the CRCG.

Oregon’s transition shelter and assessment center collaborates with the state and county juvenile justice departments, sharing case files and communicating about the youth they serve. Collaboration also occurs among the various programs run by the non-profit agency as many of the youth who begin in one of the residential facilities transition to one of the outpatient programs.

Collaborative efforts are also supported by state legislature. Chapter 339 of the Oregon Revised Statutes requires communication between school districts and law
enforcement upon the arrest of a juvenile and upon the return of a juvenile back into the community.

5.3.2 Positive Behavior Support

Positive behavior support (PBS), closely aligned with the previously introduced wraparound theory, is a team-based systems approach focusing on prevention for all students. It is implemented school-wide, while also providing specific classroom and individual student interventions. The goals of PBS include improving academic achievement and school climate by promoting appropriate student behavior and encouraging school and community involvement. PBS also strives to reverse problematic behavior patterns and prevent future behavior problems.

A point of intersection between the JJAEP policies and PBS is found in the four concepts guiding the interactions of all department staff with juveniles. These concepts include positive re-direction, positive enforcement, positive affirmation, and positive role model (Policy & Procedure Handbook: 24), elements consistent with the PBS philosophy.

The positive behavior support movement is active in Oregon as well, though is not backed by legislature at this time. Taking steps toward its goal of creating behavioral changes for students through the implementation of school wide PBS, the Oregon Department of Education is providing technical assistance and in-service training for communities in 10 school districts throughout the state during the current 2005-2006 school year.
Implementation of PBS in a juvenile justice setting, such as the Oregon TSAC or Texas JJAEP, may encounter a number of barriers. The traditional correctional model is based on security and punishment. Transitioning to a PBS model emphasizing positive reinforcement and putting youth in charge of their own lives requires significant change in attitudes and philosophies of juvenile correctional leaders. This conflict between standard juvenile policy and procedure and PBS is evident at my previous places of employment.

The JJAEP is an extension of state’s juvenile court, and therefore shares the same purpose and goals as stated in Title 3 of the Texas Family Code. These goals are presented in the opening pages of the Employee Handbook I received upon being hired. The first goal is “to provide for the protection of the public and public safety, including: appropriate punishment for criminal acts committed by juveniles; to remove, where appropriate, the taint of criminality from children committing certain unlawful acts.” These concerns are listed prior to mention of treatment or rehabilitation for children and appear to be influenced by the susceptibility theory, assuming that internal deficits in youth are responsible for their delinquency. Oregon’s juvenile justice mission also emphasizes the community’s rights and protection before the rights and rehabilitation of juveniles.

5.3.3 Procedural Safeguards

Implementation of the procedural safeguards required by IDEA is evidenced in the JJAEPs use of the “Parental Notification Report of Personal Restraint” document. Any time a juvenile in the program is physically restrained by a staff member, this
report is completed as a means of communicating to the parent a detailed description of the circumstances and behaviors that necessitated the emergency restraint.

The staff member(s) involved must choose at least one of three reasons for administering the restraint: threat of imminent serious physical harm to themselves; threat of imminent serious harm to others; or threat of imminent serious property destruction. De-escalation measures attempted, such as verbal redirection, time out, supervised separation, as well as the student's response to de-escalation efforts prior to the restraint must also be included in the report, along with notification of any injury incurred during the restraint, behavioral consequences, actions taken to return the student to normal activities, or observation of the student following the restraint. Finally, the report indicates the time, date and type of notification given to the parent (telephone & written, handed to the parent, by mail, etc).

However, juvenile justice policy is not entirely consistent with special education law concerning procedural safeguards mandated by IDEA. As explained previously, a student with a disability may only be removed from their regular classroom for a period of more than 10 days after a thorough ARD committee meeting in which manifest determination is addressed. However, once a student with a disability is placed in the JJAEP, they may be moved to the BIP program instantaneously following a behavior problem at the discretion of one individual. Parents are not necessarily notified and no attempt is made to determine whether or not a disability may have influenced the behavior.
My observation of the BIP program was that it typically acted as a babysitting service for students who has exasperated the education and correctional staff. Teachers often gave students in the BIP program less challenging assignments and sometimes simply showed them movies. Students with documented learning and/or emotional or behavioral disorders were sent to BIP more frequently than other students and often remained there for longer periods of time. This trend violates the IDEA mandated rights of all students to be educated in the least restrictive environment.
CHAPTER 6
CONCLUSION

6.1 Summary

The alarmingly high rate of youth with disabilities involved with the juvenile justice system necessitates concentrated efforts to be put forth not only to decrease the trend, but also to educate and rehabilitate those youth already adjudicated. The literature highlights key features of effective educational programming in a juvenile justice environment. These features include prioritizing education, providing transition services, and delivering special education services in accordance with the law.

Legislation such as IDEA, Texas Senate Bill 1196, and Oregon Revised Statutes and Administrative Rules, coupled with the results of numerous empirical studies provide guidelines to effectively and expediently educate and rehabilitate youth with disabilities in juvenile justice facilities. Analysis of these legislative documents and studies on the education of youth with disabilities in the juvenile justice system shows common threads which both intersect with and diverge from juvenile justice policy and practice. Noteworthy points of intersection include collaboration between juvenile justice systems, educators, families and communities, positive behavior support, and procedural safeguards.

Collaboration between stakeholders exists in each state, as evidenced by communication between school districts and juvenile departments. PBS is practiced at
the JJAEP and legislatively supported in Texas. While it is not directly present at the TSAC, the PBS model is gaining momentum in Oregon. Some of these points of intersection, however, are also areas in which the two facilities acting as case studies for this research fall short. While procedural safeguards were implemented at the JJAEP in the form of the parental notification document when a physical restraint was administered to a student, no such notification was given when a student was placed in the BIP. The BIP was in further violation of IDEA mandates in that failed to educate students with disabilities in a least restrictive environment.

6.2 Recommendations

These findings suggest that all youth, particularly those with disabilities, could be better served at the Oregon TSAC by a daily program that allotted more time to academics and provided more stimulating, challenging work. The Texas JJAEP academic program could be improved by ending the practice of prioritizing drills and discipline over school work. The Texas JJAEP would be in greater compliance with special education law if parents were notified when their child was placed in the BIP. Both programs would be enhanced by more extensive transition services such as vocational training and networking with community agencies.

The aforementioned changes, however, are not sufficient. A shift in the philosophies shaping the overall programs for youth with disabilities in the juvenile justice system is necessary as well. The needs of youth with disabilities in the juvenile justice system are unique and cannot be adequately addressed solely through policy designed to serve the general population of persons with disabilities or the general
population of persons involved with the justice system. The high rates of juvenile justice involvement for youth with disabilities and their complex needs warrants increased research and policy development specific to this population.

Taking into consideration the correlation between school failure and delinquency, youth with disabilities need not only greater exposure to definitions unfavorable to delinquent behavior, but also definitions that are favorable to education. The Texas JJAEP and the Oregon TSAC fail to do this adequately, despite the previously mentioned collaboration and positive behavior support as points of intersection between the law and the juvenile programs.

The large number of youth in the JJAEP foster peer groups that promote definitions favorable to delinquency. That students may be pulled out of class for disciplinary purposes sends a message that education is valued behind punishment. The TSAC daily program, devoting limited time and energy to education, does not promote definitions favorable to education. Lack of challenging work in both settings reinforces definitions unfavorable to education.

A Report of the Surgeon General on Youth Violence discusses both effective and ineffective prevention and treatment programs for delinquent youth. Both the therapeutic residential approach of the Oregon TSAC and the military boot camp style of the Texas JJAEP are discussed as ineffective models. The report includes evaluations of four boot camps, three of which produced no reduction in recidivism and one which produced increased rates of recidivism and significant harmful effects on the youth. Therapeutic residential programs were found to have positive effects on the
youth for as long as they were in the program. This progress was seldom maintained after release, however, and youth frequently reoffended, often committing more serious offenses than they had before.

Effective programs discussed in the Surgeon General’s Report almost exclusively stress family and community involvement, positive reinforcements, and problem solving skills. These are elements of the PBS model, which is closely related to a treatment approach known as wraparound.

The wraparound model promotes a team-based, comprehensive and flexible style of service delivery to youth and their families. Wraparound theory also moves away from explaining the presence of emotional disturbance among youth through family dysfunction and instead calls for active involvement of the family and community in securing services for youth with special needs (Malysiak 1997). Wraparound services are highly individualized and build upon the strengths of the particular child and family. Primarily used in families with children whose emotional needs are complex and severe, the wraparound approach has produced success in the juvenile justice field as well (VanDenBerg, Bruns, and Burchard 2003).

A program in Washington State employs the wraparound model of service delivery in its work with juveniles in the justice system who also have mental health needs. Upon a youth’s referral to the juvenile justice system, the youth and his or her family are referred to a family assistance specialist (Kerbs et al. 2004). The strengths of the youth and family are identified and built upon through connections to community agencies. By developing supports for the juvenile offender within the family and
community, the youth’s support system is firmly in place after the youth’s involvement with the juvenile justice system is over. This support system becomes a primary source of definitions favorable to education and unfavorable to delinquency. In its first three years of operation, the program’s participants were less than half as likely to re-offend as were other youth involved in the county’s juvenile justice system (Kerbs et al. 2004). I believe that the Oregon transition shelter and assessment center and the Texas juvenile justice alternative education program would produce significantly lower rates of recidivism and higher rates of success in school by exposing youth to more definitions favorable to education and unfavorable to delinquency if a wraparound approach were adopted.

6.3 Areas for Further Study

To evaluate the effectiveness of the delivery of special education services in juvenile justice settings, comparative and longitudinal research should be conducted. Facilities in additional states throughout the country should be studied to compare the effectiveness of various methods of implementation and their rates of success in reducing the rates of youth with disabilities that become adjudicated and improving the outcomes for those already involved with the system.

Special education within the juvenile justice system is an area offering ample opportunity for research. Continued inquiry into this general topic should consider the changing demography of youth with disabilities. Minority youth are already overrepresented in the juvenile justice system. Particularly in urban areas, minority student populations are rapidly increasing. The percentage of minority students with
disabilities is greater than the percentage of minority students in the overall student population. At the same time, the numbers of minority persons pursuing careers in the special education field is decreasing (20 U.S.C. 1400). These realities provide a number of important and interesting research possibilities that might improve services to minority students with disabilities both in regular campus and juvenile justice settings.
APPENDIX A

JJAEP CLASSROOM RULES
While attending classes in the J.J.A.E.P., you are responsible for your behavior. The teacher is there to give you the proper education you need to prepare you for the future. While you are in class you are required to comply with the following rules:

1. Raise your hand to speak in class. Talking without permission will not be tolerated.
2. Address your teacher as “Sir” or “Ma’am” at all times.
3. No disruptions or horseplay of any kind.
4. You are responsible for letting someone know if you need help in class or on an assignment. Help will be arranged when requested.
5. No food, drinks, candy or chewing gum of any kind are allowed in the classroom unless it is brought by the teacher.
6. Class participation is mandatory.
7. Cadets shall sit with a straight posture as if in a position of attention seated (back against the chair, hands on the table, feet underneath the table).
8. Do not adjust position or arrangement of classroom chair. Ask a staff member to adjust it if necessary.
9. Bathrooms are not to be used during class times.
10. Do not touch or play with the plastic cover on red button near doorway in each classroom.

-JJAEP Cadet Handbook
APPENDIX B

JJAEP MAJOR AND MINOR RULE VIOLATIONS
Firm and fair military style discipline has been established within the Williamson County J.J.A.E.P. to respond to disruptive behavior from students. This discipline fosters self-respect, trust, desire, determination as a method of curbing negative behavior and attitudes. Each cadet is responsible for reviewing and knowing all rules, rule infractions and possible consequences within the J.J.A.E.P. In addition to the physical discipline program, disciplinary reports shall be written on any cadet who violates J.J.A.E.P.’s rules and procedures. Cadets’ behavior and progress will be recorded and discussed with the cadet’s assigned Case Manager whom shall in turn report all pertinent information to the Court or cadet’s field probation officer as needed.  

-JJAEP Cadet Handbook

**MAJOR RULE VIOLATIONS**

- Destruction of County Property
- Possession / Use / Coming to School Under Influence of Drugs, Alcohol
- Inappropriate physical contact / sexual acting out
- Refusal To Take A Urinalysis Drug Test
- Antagonizing, Aggravating, Provoking Peers / Staff
- Leaving Building Without Permission
- Refusal to Comply With Informal Sanction Efforts
- Fighting, Assaultive, Threatening Others
- Possession of Dangerous Contraband (Weapons, etc.)
- Refusal To Attend Class
- Violation of Other Texas or U.S. Laws
- Refusal to Follow Instructions
- Tattooing or Piercing Others
- Use of Profanity, Demeaning, Offensive Language

**MINOR RULE VIOLATIONS**

- Horseplay
- Not Complying With Dress Code
- Talking Without Permission
- Moving At Position of Attention
- Making Offensive, Demeaning Gesture
- Sleeping In Class
- Tattooing or Piercing Self or Others
REFERENCES


Houchins, David E., Kristine Jolivette, Suana Wessendorf, Megan McGlynn and C.
Behavioral Support in a Juvenile Justice Setting.” Education and Treatment of

in C. M. Nelson, R. B. Rutherford, & B. I. Wolford (Eds.). Special Education in
the Criminal Justice System. Columbus, OH: Merrill.

Kerbs, Jodi, Rita Gaylor, Michael Pullman, and Patricia Roe. 2004. “Wraparound and

Kipnis, Aaron. 2001. “Education or Incarceration? The Choice is Ours” The Special
Edge California Department of Education.

Link Between Learning Disabilities and Delinquency.” Journal of Learning

Involved Youth with Learning, Attention, and Behavioral Disabilities.” College
Park, MD: Center for Effective Collaboration and Practice, American Institutes
for Research.


Delinquency: A Test of Differential Association and Control Theories."

Maughan, Susan. 1999. “Policy Interpretation and Implementation of the Juvenile
Justice Alternative Programs Throughout the State of Texas.” Journal of

Meisel, Sheri, Peter Leone, Kelly Henderson and Mary Cohen. 1998. “Collaborate to

Public Schooling in the Juvenile Justice System.” Journal of Negro Education
71(3): 218-32.

Delinquents.” Remedial and Special Education 7:7-17.


BIOGRAPHICAL INFORMATION

Katie Young Cadigan graduated from the University of Oregon in 2002 with a Bachelor of Arts degree in sociology. During her undergraduate career, she spent two summers in New York as a camp counselor for youth living in the city’s housing projects and homeless shelters. She also served as an AmeriCorps member with an agency providing dropout prevention programming to youth in Austin, Texas.

While completing her Master’s degree at the University of Texas at Arlington, Katie worked as a graduate research assistant, assisting with undergraduate statistics courses. These experiences reflect her interest in research and commitment to serving the young people in her community, which also guide her future career and education plans.