Early Education

Pipeline to Prison: Special education too often leads to jail for thousands of American children

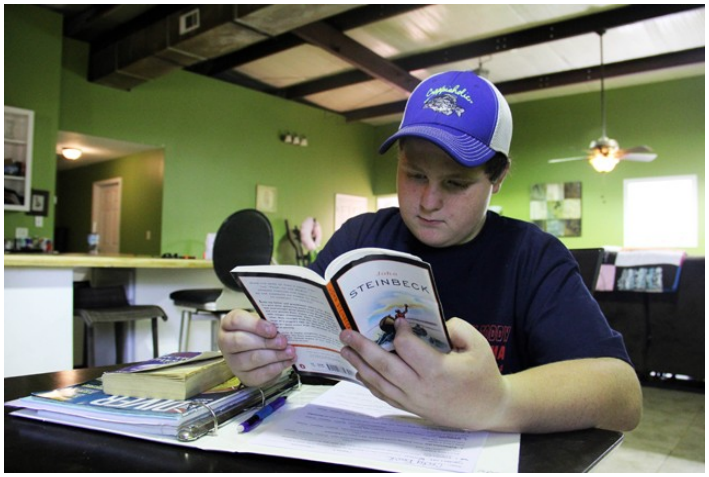
by **JACKIE MADER** and **SARAH BUTRYMOWICZ** October 26, 2014

GRENADA, Miss.— Cody Beck was 12 years old when he was handcuffed in front of several classmates and put in the back of a police car outside of Grenada Middle School. Cody had lost his temper in an argument with another student, and hit several teachers when they tried to intervene. He was taken to the local youth court, and then sent to a mental health facility two hours away from his home. Twelve days later, the sixth-grader was released from the facility and charged with three counts of assault.

Officials at his school determined the incident was a result of Cody's disability. As a child, Cody was diagnosed with bipolar disorder. He had been given an Individual Education Program, or IEP, a legal document that details the resources, accommodations, and classes that a special education student should receive to help manage his or her disability. But despite there being a medical reason for his behavior, Cody was not allowed to return to school. He was called to youth court three times in the four months after the incident

happened, and was out of school for nearly half that time as he waited to start at a special private school.

Cody is one of thousands of children caught up in the juvenile justice system each year. At least one in three of those arrested has a disability, ranging from emotional disability like bipolar disorder to learning disabilities like dyslexia, and some researchers estimate the figure may be as high as 70 percent. Across the country, students with emotional disabilities are three times more likely to be arrested before leaving high school than the general population.



Cody Beck reads a book that was assigned by his teacher at Grenada Middle School. Since April, Cody has been on a "homebound" program due to behavior, where he does his work at home and meets with a teacher for four hours each week for instruction. (Photo by Jackie Mader)

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When the special education system fails youth and they end up in jail, many stay there for years or decades. The vast majority of adults in American prisons have a disability, according to a 1997 Bureau of Justice Statistics survey. Data hasn't been updated since, but experts attribute the high percentage of individuals with disabilities in the nation's bloated prison population – which has grown 700 percent since 1970 – in part to deep problems in the education of children with special needs.

In Mississippi and across the country, the path to prison often starts very early for kids who struggle to manage behavioral or emotional disabilities in low-performing schools that lack mental health care, highly qualified special education teachers, and appropriately trained staff. Federal law requires schools to provide an education for kids with disabilities in an environment as close to a regular classroom as possible. But often, special needs students receive an

inferior education, fall behind, and end up with few options for college or career. For youth with disabilities who end up in jail, education can be minimal, and at times, non-existent, even though federal law requires that they receive an education until age 21.

"A lot of times, it's a major setback," said Elissa Johnson, a staff attorney for the Southern Poverty Law Center. She added that some transgressions are serious, and it's behavior that needs to be addressed, "But when you're dealing with students with disabilities, youth court referrals are harmful."

Nationwide, at least 73 percent of youth with emotional disabilities who drop out of school are arrested within five years, according to a federal study.

Experts say that students with emotional disabilities can be impulsive, inattentive, or aggressive, behavior that gets them in trouble. "When we're talking about emotional or behavioral disabilities, we're really talking about kids with serious mental health needs," said Reece Peterson, a professor of special education at the University of Nebraska-Lincoln.

Learning disabilities can also land special needs children in trouble more often than their peers. "Kids with learning disabilities that are not properly remediated in a school setting start to dislike school, or act up at school, or do things to distract from the fact that they're not doing well," said Diane Smith Howard, senior staff attorney for the National Disability Rights Network.

More than 14,600 youth were involved with Mississippi's juvenile justice system in 2012, but it's unknown how many were in special education since the state does not track that information. (According to a Mississippi Department of Education (DOE) official, both the DOE and the Public Safety Office believed the other department was responsible. The official said that the DOE will begin to collect that data this year.)

Although numbers fluctuate as students move in and out of the system, some federal data show that kids with disabilities are overrepresented in the state's detention facilities. In 2011, 13 percent of students in the state's public school system qualified for special education. But at the Oakley Youth Development Center, about 27 percent of students had disabilities, according to a federal Office of Civil Rights survey. Officials at the Rankin County Detention Center

say that 50 percent of the children they've had this year qualify for special education.

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Many of these kids enter the justice system shortchanged by schools and far behind their non-disabled peers. In the 2012-13 school year, only 13 percent of eighth-grade students with disabilities scored proficient or above on the state's language arts exam, compared to 58 percent of non-disabled students. According to a previous Clarion-Ledger review of data, during the 2011-2012 school year, less than a quarter of special education students in Mississippi received a regular diploma, far lower than the national average of 64 percent in 2011.

"I'm trying to be proactive. Everything we talk to them about is about not becoming a victim to the system." Alfonso Franklin, program manager at the Mississippi Center for Justice.

"Young people who generally end up in trouble were not prepared from the beginning educationally," said Oleta Garrett Fitzgerald, director of the Children's Defense Fund's Southern Regional Office. A 2013 report by the Minneapolis-based PACER Center, a parent training center, warned that one of the biggest reasons students end up in the corrections system is "school failure."

Many kids across Mississippi also lack access to pre-kindergarten, meaning they may start behind academically, socially, and emotionally, and can miss a critical time period to identify disabilities and begin treatment. Only about 17 percent of children under 5 in Mississippi receive a screening for developmental or behavioral problems, compared to the national average of about 31 percent.

"Early education and nurturing is absolutely critical," said Fitzgerald. "Children whose needs are met at an early age are able to go to school ready to learn…They're much less likely to be discipline problems in the classroom."

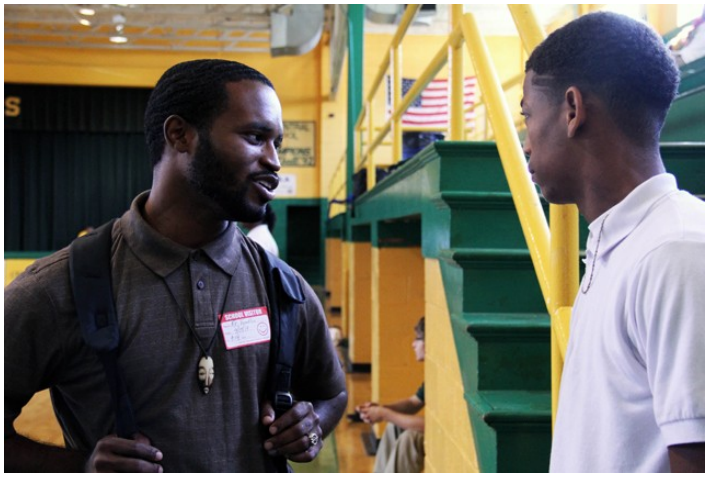
First step — suspension

To an outsider, Cody seems like any other 14-year-old boy. He's soft-spoken around strangers and spends his free time playing with his baby sister, hunting with his dad, and building things outside in the family's wood shop in their modest rural home near Grenada Lake. He aspires to be an underwater welder, like his father. But from a young age, Cody has struggled to manage his anger. He has outbursts when he argues with others, especially with other children. If he is touched while angry, he tries to get away, even if that means hitting someone else. His parents say he especially tends to clash with "bullies," which can spiral into heated fights.

In his 2013-14 IEP, it was recommended that Cody receive individual instruction, be placed in a small class with other students with emotional disabilities, and daily therapy sessions. His teachers set short-term goals for Cody, such as "develop the ability to identify impulsive thoughts and consequences" and "develop the ability to identify and express feelings of anger and distress in socially acceptable ways." In his IEP, his teachers also detailed his academic abilities: he was reading nearly at grade level, but his math and writing skills were several grades behind. They wrote that Cody "tries to do his best work and desires to learn."

Robert Beck, Cody's father, said he also explained to Cody's teachers what he found to work best in calming Cody down, like speaking in a calm voice and refraining from making physical contact.

Still, from a young age, Cody was suspended for behavioral incidents and missed more than a dozen days of school in the months leading



Alfonso Franklin, a project manager for the Mississippi Center For Justice, talks to a young man in his Youth in Transition program. Franklin's program aims to keep youth out of jail by keeping them in school and providing jobs and mentors. (Photo by Jackie Mader)

up to his arrest. When asked about the fighting, Cody said he loses his temper when other kids tease him, or when he hears "people talking about my parents, telling me I'm stupid."

For many students with disabilities, suspensions are often the entry point in the pipeline to the criminal justice system. Statewide, more than 8,000 students with disabilities received an out of school suspension, and nearly half of those received more than one in the 2011-12 school year, according to estimates by the federal Office of Civil Rights.

“Many of those kids get in further trouble out of school,” said Reece Peterson, “and they end up in the juvenile justice system.”

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Several special education students who have been arrested said in interviews that their trouble with the law was preceded by frequent suspensions for fighting or “talking back.” One 16-year-old special education student at Oakley Youth Development Center, a long-term center for incarcerated youth, said in the past, “loud noises and

childish people" would set him off. A 15-year-old student at Oakley who qualifies for special education said that she was incarcerated after assaulting a police officer. She had already been suspended from school numerous times for things like "playing in the hall" during class or talking back to teachers.

What would have happened to Cody Beck in a different state?Like Cody Beck, thousands of special education students in Mississippi lose valuable time in school through suspensions, expulsions and arrests each year. According to federal data, more than 8,000 special education students in Mississippi received an out-of-school suspension in the 2011-2012 school year– about 14 percent of all special education students in the state. Experts say a suspension can lead to bigger trouble for students later on, including time in jail. By comparison, just 5 percent of Utah's students with special needs were given an out-of-school suspension, one of the lowest rates in the country.Keeping all students in school is a priority, said Utah Department of Education director of special education Glenna Gallo. Although she couldn't speak directly to a student in Cody's situation, she said that Utah educators are taught to prevent disruptive behavior from leading to arrest. "We have quite of a few of our staff trained in crisis de-escalation," she said, adding that teachers and administrators are given strategies for calming down students with behavioral disabilities without touching them.

The Utah Department of Education has provided administrators with workshops in crisis intervention strategies, which includes referring special education students to mental health services instead of suspending them. Sending a student to a private treatment program, as in Cody's case in Mississippi, would only be a last resort. "Utah generally keeps their students within the school community," Gallo said.

— Sarah Butrymowicz

School discipline policies often do not take into account students with disabilities. They may, for example, include zero tolerance policies not only for serious behavior, but also for disrespect or noncompliance. Experts say this can lead schools to disproportionately suspend special education students, whose actions may be manifestations of their disability.

A 2013 report by several nonprofits found that some Mississippi school discipline policies include vague or subjective language, like expulsion for "any action which is deemed disorderly conduct or misconduct." In Caledonia, Mississippi, several parents interviewed said that deputies who work in the nearby Lowndes County School District respond in extreme ways, such as pulling out a Taser gun when kids, including those with behavioral or emotional disabilities, act out in school. (Officials from the district said that no Taser guns have been used on children at school, but police officers on the campuses do carry them. The district's security guards do not.)

Not enough teachers, not enough counseling

One of the main reasons special needs children are jailed more often than their peers is because teachers aren't trained in how to manage kids who are insubordinate or disruptive, according to the 2013 report by the PACER Center. For years, Mississippi has experienced a shortage of highly qualified special education teachers, especially in the lowest-performing schools. (Nearly one-third of Mississippi's districts are considered "critical needs" districts by the state.)

Reece Peterson says discipline needs to move to a more "teaching-based" approach so that students explicitly learn correct behavior. "If [a student] has a disability that has characteristics of being aggressive and acting out, we can't simply punish him for that," Peterson said. "We would want to provide some sort of service or intervention for it."

But these resources are lacking in Mississippi. During the 2011-12 school year, only about half the children ages 2 to 17 who have problems that require counseling received mental health care, compared to more than 60 percent nationwide. Paul Bowen, administrator of the Rankin County Youth Court, said he sees many youth who have untreated mental health problems. The detention facility provides counseling while the youth are incarcerated, but few

continue once they get home. “Many of these children would respond positively,” Bowen said. “But they’re dependent on adults to get them there and many families can’t afford those services.”

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There have been some efforts to find solutions. In 2013, administrators at the Rankin County Detention Center rolled out a new behavior management program called Positive Behavioral Interventions and Supports, or PBIS, which aims to teach and reward positive behaviors, rather than focusing on punishment and negative behaviors. Paul Bowen said that since the program launched, the detention center has seen a 65 percent decrease in incidents related to behavior. Some states, like Minnesota, have rolled out this program in all schools.

In the absence of school-based efforts and resources, a handful of nonprofits have launched programs to keep the most at-risk students out of the justice system. In the Delta town of Ruleville, Alfonso Franklin, a project manager at the Mississippi Center for Justice, runs a program aimed at helping boys transition out of the system, or keeping them out from the start. He frequently tracks down students who are absent from school, checks in with their teachers, and organizes speakers to talk about the impact of getting arrested. “I’m trying to be proactive,” Franklin said, adding that there are few recreational activities or resources in rural Mississippi. “Everything we talk to them about is about not becoming a victim to the system.”

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Efforts like these are critical, experts say, since preventing an arrest in the first place is much easier than helping kids stay out of jail once they’ve spent time there. Dennis Daniels, superintendent of the

Oakley Youth Development Center, said that Oakley sees so many students with disabilities because communities and schools tend to "deal with the behavior before they deal with the disorder."

"There's nobody dealing with their disabilities," Daniels said. "If you don't get them help in the community, they get locked up."

No way back

After an arrest, families say they often encounter districts that are reluctant to let those children return to school, or schools that are ill-equipped to handle them. "The school district might say 'I'm uncomfortable with you returning to school, we're going to put you in an alternative program," said Smith Howard.

After an arrest, many students lose valuable learning time and fall even further behind, while others become a frequent fixture in youth courts and a patchwork system of detention centers, youth jails, and alternative schools for education. A 2006 study found that for all students, a

After his arrest, Cody's team of special education teachers and school officials decided to send him to the Millcreek Day Treatment center, a privately run facility in the northwest Mississippi town of Batesville, which is accredited by the state of Mississippi as a "special non-public school." There, Cody's parents say he was mixed with "a lot of problem kids and the school work wasn't challenging." Cody said he was frequently given worksheets and word searches. One of his assignments as a seventh-grade student was to read and complete a 68-page packet called "How I Learned to Control My Temper," which is written at a low-elementary level and tells the story of a boy who learns different ways to handle his temper. It includes several pages of activities, like drawing pictures, and playing tic-tac-toe.

first-time arrest during high school nearly doubles the odds of that student dropping out, while a court appearance nearly quadruples the odds of dropout.

Megan Williams, a therapist at Millcreek that the school provided for comment, said that although she can't speak about any former or current students, she guesses the packet was "not from the teacher, but from the therapist." (At Millcreek, Cody had daily access to a special education teacher and a therapist.) Regarding the classwork, Williams said that "each classroom is different," and she was not able to speak about the academic program at the facility.

In dozens of daily reports sent home by Millcreek, Cody's behavior seemed to improve, although there were still a few behavioral incidents that resulted in time out of school. For several stretches of time, he received perfect or near perfect scores for "respecting others," "following directions," and his individual goal to "stay positive." On several reports, teachers commented that Cody "did all class work" and "ignored negativity."

After an incident last October, however, Millcreek referred Cody to a behavioral treatment center in Tennessee. When he was released, his father and stepmother asked the school district to move Cody to back to the public school, where they wanted him to receive more challenging work. Instead, school officials offered to put him on a "homebound program" where he would complete work sent home every day, and spend two hours twice a week working with a teacher at a regular school. In the future, they said, he could possibly transition back to the regular school.

"When we're talking about

Officials at Grenada Middle School said they couldn't discuss individual students. Bea Colbert, director of special education for the Grenada School District, said that the decision to put a child on a homebound

emotional or behavioral disabilities, we're really talking about kids with serious mental health needs," Reece Peterson, a professor of special education at the University of Nebraska-Lincoln

program "depends on the individual circumstances." The amount of time a child spends homebound also varies by child, Colbert said, but could be based on how well the child has been working with the academic teacher, "how much time [in school] they're able to tolerate," or how well the child is doing in counseling sessions. "Our ultimate goal for every child is to be in their least restrictive environment and to earn a traditional diploma," Colbert said. "But for some children, that may not be a realistic goal."

Cody's parents said they were torn, since they knew he may not be ready to handle a large class, but they didn't want him to be isolated. In April this year, they agreed to keep him at home, but they said his education now consists of him spending most of his days alone, teaching himself the material that is sent home from school. When teachers at Grenada Middle School wanted to move him on to eighth grade this year, his parents argued that he has missed too much school, and has not learned enough, to move on. This year, Cody is repeating seventh grade.

"What they're doing now is not providing him with an education," said Bobbi Jo Beck, Cody's stepmother. She said she fears that if he doesn't learn how to interact with others and control his temper, future incidents could lead to more arrests and jail time, which is something she sees frequently at her job as a nurse at a county jail. "It scares me," Bobbi Jo said. "I don't want that to happen to him."

This story was produced in partnership with the Juvenile Justice Information Exchange, the only national news outlet reporting the

juvenile justice issue daily. Read more about efforts to improve education in Mississippi.

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