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*“Knowing the Ledge”: Participatory Action Research as Legal Studies for Urban High School Youth*

*Standin’ on shaky ground to close to the edge—let’s see if I know the ledge.  
-Eric B. and Rakim, “Juice”*

Many youth of color in urban areas (read cities) are challenged with navigating their lives at a moment in time where their existence is constantly in question. Zero-tolerance discipline policies, harsher sentencing laws, and the gentrification of communities of color have devastating effects for the lives of young people. Coupled with the fact that urban schools can operate as spaces that devalue their views, values and understandings of the world, the following account is the attempt to articulate an effort to challenge deficit theories that permeate discussions on urban youth. Through the setting of a street law class at a high school with a social justice focus, the remaining pages are the efforts of two facilitators (an African-American male and a Latina of Puerto Rican descent, one a qualitative sociologists, the other a lawyer, both trained as qualitative researchers) and a group of high school freshmen to analyze the processes of the judicial system to analyze their lives.

For the purposes of this document, the authors use the concept of “knowing the ledge” to articulate the process by which students and facilitators, as co-researchers, gain, exchange, and debate concepts of the criminal justice system. As participatory action

research (PAR), the process became one by which both students and facilitators were challenged to reflect and think collaboratively about how our knowledge of the law affects our decisions and how we move in the world.

Utilizing the concepts of PAR, we borrow from Cahill's (2004) understanding of the process as a

Collective approach to research in which the participants look critically at their social and/or environmental contexts and develop proposals to address the problems raised by the research. PAR takes lived experience as the starting point for investigation, places emphasis upon the research process, and reconsiders the value of research as a vehicle for social change (Cahill 2004, p.275)

Given the context of the institution we teach in (a social justice high school that was a result of a community initiative for quality education), we thought the idea of a law class would enable us as researchers (both facilitators and students) to engage in a collective process to engage the real-life conditions of young people in their communities. As a process more than a conclusive exercise, the intent of our course was to initiate a broader dialogue with young people around their relationship to the criminal justice system.

Because our work concentrates on the use of generative themes in curriculum development, the article is structured to inform the reader on the steps taken in the collaborative process. Beginning with the conditions that created the high school, this account seeks to provide a window for those interested in authentic collaboration with students. Followed by a section that provides the initial motivation for the course, the document delves into the structure of the course and the process of curricular collaboration. After the collaboration discussion we provide examples of student implementation of the core concepts of the class to create their presentation for the larger student body. Concluding with suggestions for future work in PAR with young people,

we understand our article as contributing to the larger discussion of PAR as community engaged research.

Throughout each section we speak to the “messiness” of creating and executing a curriculum built around a broad framework and the steps taken to implement our collective ideas. As an African-American male and a Latina facilitator with a class of African-American and Latino/a students, it was imperative for our process to include the real and often harsh realities of the intersections of race, class, and gender in our lives. In this sense our work was not meant to be objective. Instead, we understand ourselves as “part of the situation” we were investigating (McNiff and Whitehead 2005, p.5). Our own interactions with the criminal justice system as youth and as adults informed the construction of the course. Through this process we were able to educate each other through the exchange of ideas. Instead of “helping” our students to understand the function of the criminal justice system, we saw ourselves as standing in solidarity with our students as co-researchers throughout the development and implementation of the course. As traditional research would suggest establishing distance between researcher and subject, our work stands in opposition through the implementation of an alternative framework by which to engage young people. Our work is close and exposed. By confronting the realities of young people coupled with our own experiences, we were constantly challenged to “make it all make sense.”

Where a key component of PAR is action, our students felt the best way to demonstrate their knowledge of the court system would be to provide a presentation to their classmates. This came in the form of a mock-trial, where students were able to use their newfound skills to analyze a scenario of their own creation. Similar to the group in

which Cahill participated with young women, our students felt that even though their classmates were not in their class, they should be informed on how the legal system works. Knowledge in this sense was “produced in collaboration and in action” (Cahill, p.283).

*A Brief Note on the Lawndale/Little Village Multiplex and the School for Social Justice*

Where it is not the focus of this document, the narrative of the high school was central to our process. As facilitators of the law class, we would be remiss in refusing to recognize the fact that without the efforts of community members, our course (and the school) would not exist. In our attempt to be accountable to the efforts that brought the school into existence, our process begins with the demand for quality education.

Little Village, the Mexican-American neighborhood where the high school is located, is on Chicago’s Southwest Side. Beginning as early as 1995, members of the Little Village community, through political and grassroots organizing, began to place pressure on Chicago Public Schools (CPS) to create a high school to address issues of over-crowding. Recognizing these issues to be of immediate concern, Little Village community members organized themselves to lobby for a new high school in their neighborhood. After consistent pressure by the community to the school board, \$30 million was allocated to build a high school in Little Village. Despite the promise of \$30 million dollars by the mayor to build a school, by the Fall of 2000, no ground had been broken in Little Village for the high school. The fact that Little Village was promised a building well before the decision to build selective enrollment schools was of no consequence (Note: Selective-enrollment schools, unlike neighborhood schools, require applicants to have a particular composite test score before taking the entrance exam for

admission). These schools are mostly populated by the children of middle-income and affluent families with a population that remains significantly White (currently the CPS student population is 10% White-selective enrollment high schools are 25 to 35% White on average). Little Village and North Lawndale (the community where African-American students reside), as working-class communities of color, were not placed high on CPS's priority list.

Community members, under the request of elected officials for the neighborhood, first sought to address the problem through CPS protocols. When this process proved ineffective, members of the Little Village community decided to stage a hunger strike. The protest lasted nineteen days, beginning on May 13 and ending on June 2. Due to national media coverage and substantial support throughout the city, CPS decided to approach negotiations with the community members from Little Village. The ensuing dialogue resulted in the community being granted its original request for the high school. In the last days of the strike, the hunger strikers forced CPS to the negotiating table, resulting in the approval of the high school originally set for construction in 1998. Currently the building stands at the corner of 31<sup>st</sup> and Kostner Avenue. Four schools are housed in the structure ((1)visual and performing arts, (2)math, science and technology, (3)world languages and (4)social justice) are be housed in the complex, all of which opened in the summer of 2005.

Remembering the spirit of the hunger strikers and the participation of young people in it the initiative, the original planning committee vowed the new high school complex to be a space that reflected the core values of *democracy, community ownership, self-discipline, flexibility, collaboration, life-long learning, innovation, accountability,*

*leadership development, cross-cultural respect, efficacy, teamwork, and empowerment.*

Discussed in later sections, the core values were key in the inclusion of the African-American community, as students from two distinct ethnicities and cultural backgrounds converge to create effective schooling. Remembering the community initiative served as a critical element in the design of our course.

#### *Motivations for course*

The inspiration for this class stemmed from sitting in a criminal procedure class in law school. The topic of conversation on one particular day was the 4<sup>th</sup> Amendment and citizens' rights against unreasonable search and seizure. Specifically, the professor was discussing the particular rights that are triggered when one is pulled over by the police. He admonished that we had the right to refuse the search of our vehicles, that officers may not search glove compartments or trunks without a warrant and that it is better to be detained and later have evidence ruled inadmissible based on an illegal search than to give officers permission to search if you are in fact concealing something.

I immediately thought about all of the illegal searches that I had witnessed living on the southwest side of Chicago and contemplated giving that advice to members of my one hundred percent Puerto Rican family. I raised my hand and asked, "would you give that same advice to a 17 year old black man?" The professor, who had years of experience as a criminal trial attorney, looked at me very sternly and replied, "No." Up until this point, my law school experience had been totally devoid of any discussion of race. Even constitutional law where desegregation, miscegenation and discrimination were discussed, the conversations were never grounded in race. Instead, professors focused exclusively on the legal standards used to find laws unconstitutional.

The criminal procedure class brought on a period of reflection where I felt that as empowering as the law could be there was a cold and harsh reality of what it means to give people of color and people living in urban areas legal advice. Similar to the work of Critical Race Theorists on the inequitable application of legal standards to people of color in the United States, we felt our class should speak to the racial realities of the legal system (Bell 1973, Crenshaw, Gotanda, Thomas, and Peller 1995, Harris 2000, Delgado and Stefancic 2001, McCristal-Culp, Harris, and Valdez 2002). Somehow a balance needs to be stricken between explaining what the law *is* and how it will be, and has historically been, applied. This was a constant theme throughout the colloquium. On our first day of class the colloquium opened with a discussion of what is just, what is fair and whether justice and fairness are one and the same.

My motivations as an African-American male who is also a native Chicagoan are similar, but depart in that I am not an attorney, but have experiential knowledge of the criminal justice system. Where PAR is for those “who are trying to live in the direction of the values and commitments that inspire their lives,” I clearly understood the potential for our student’s unwarranted contact with law enforcement and the criminal justice system (McNiff and Whitehead, p.23). Chicago, as a city that has implemented numerous draconian policies resulting in the continuous surveillance and containment of youth of color, uses the rhetoric of safety to justify its actions. Communities are rationalized as “safer” if streets are clear of young people, minimizing the possibilities of neighborhood conflict often connected to the drug trade or gang rivalries.

With these concerns operating as the baseline for the course, the task became to develop a framework that would introduce students to the law, while simultaneously

providing the opportunities for students to collaborate with us in developing the content. As our class was predominantly male (11 males, 6 females), my moment of solidarity occurred when there were a series of narcotics busts at the high school. During the first weeks of the school, several groups of students were caught with marijuana. Where this type of infraction would warrant minimal punishment in some school districts, drug infractions have serious consequences in Chicago Public Schools. If a student is caught with drugs on school grounds, in addition to the mandatory 10-day suspension, s/he is required to attend a mandatory expulsion hearing. In the hearing the infraction is reviewed by the principal and the central office official who has oversight of expulsions. The principal and the central office official can offer a rationale to the district as to why the student should be expelled. Additionally, the policy gives schools the option to proceed with pressing criminal charges (Chicago Public Schools 2005, p26). Coupled with Drug-Free Safe Zone legislation in the State of Illinois, the accused, if found guilty of the infraction, faces sentencing that could be double the regular sentence for similar offenses. In Illinois, if you are inside or within 1000 feet of a school building, public housing complex, or public park and are found guilty of possession of narcotics with intent to distribute, you are in violation of the Drug-Free Safe Zone Act. In short, drug possession on school grounds could get you in a mess of trouble.

Upon hearing about the busts at the high school, I wondered: How much do students understand their rights as young people in the United States? Additionally, I wanted to interrogate the idea that if students developed a deeper understanding of their rights and the restrictions placed upon them as young people, they would have the tools by which to make informed decisions, possibly limiting their contact with the criminal

justice system. Lastly, I grappled with the question ‘what would this process look like?’ How could we work collaboratively with students to investigate their issues and concerns?

Luckily, for us, the drug busts and the law class occurred around the same time. In our personal conversations about events, in conjunction with being approached by the principal on teaching a class at the school in the colloquium structure, we decided to create a class that would address our aforementioned concerns.

### *Scope and Structure of Course*

The school for social justice implements numerous curricular models that differ from those most often used in traditional public schools. One of these models was the colloquium structure. The current principal of the high school, through his research as a member of the design team, observed a structured-day innovation that provided students with a self-selected course that explored an issue relevant to their lives. Instead of housing the social justice component solely in the colloquium structure, colloquia provided the opportunity to enhance student knowledge of subject matter discussed in the classroom. With this as the operating concept for the colloquium structure, our class was offered once a week on Wednesdays for two and a half hours. Our students, unbeknownst to our motivations for developing the course, chose our colloquium from a list of seven other offerings.

Nevertheless, the colloquium structure posed numerous challenges in developing continuity. Where traditional classroom structures allow for consistent contact with students in the classroom, we were often regulated to tracking down students in the hallways to remind them of what we would be working on next in colloquium. Because

the class only met on the Wednesdays where there were no holidays or district-mandated half-days, we were regulated to eleven sessions. As tasks were completed in class, the facilitators bore the responsibility of custodian for all course materials. Where our students did not have access to copy machines and some of the legal search engines used for our course, we would bring all relevant material to class based on the expressed needs of the students. Returning to the messiness of PAR, the colloquium structure made one member of the facilitation team leery about assigning homework because of the aforementioned breaks between class meetings. In our commitment to reflexivity in our process, we as facilitators had to embrace this potential confrontation that led to a potential contradiction in our structure and implementation (Morell in Ginwright et.al. 2006, p. 112-113). Where many would view this as a shortcoming, we decided that our lack of continuity would make completion of assignments outside of the classroom more difficult. We pondered the idea of sending electronic reminders of assignments, but our students were not frequent email users.

*Method: PAR as Legal Studies*

Where traditional course planning suggests the mapping of goals, objectives, enduring understandings, vocabulary words and activities, our process was considerably messier. As a collaborative process, we went against conventional wisdom and used a loose framework for the course and generated themes with our students to create the class. Our goal for the class was, not only to educate the students on areas of the law relevant to them, but also to teach them some of the same skills that are taught to students in law school. In order to initiate the process, our first session included a discussion of their personal knowledge of the law and the criminal justice system. During this

conversation students began to tell us personal stories about family members and friends who had been involved in custody cases, murder-trials, robbery trials, and other situations involving the criminal justice system. This was followed with a conversation on the U.S. Constitution and the issues of rights. Paying specific attention to the first (freedom of speech), second (the right to bear arms), and fourth (protection against unlawful search and seizure), amendments, we asked the students to inform us on what type of cases they were interested in researching. Their list is as follows:

- Homicide
- Gang violence
- Drugs
- Child Abuse
- Domestic Abuse
- Teen Pregnancy
- Sexual Assault
- Property Rights

From this group of concerns we were able to list the relevant skills needed to understand the proceedings of a criminal trial. Our list included the duties and responsibilities of the judge, jurors, bailiff, prosecuting attorney, defense attorney, plaintiff and witnesses. In the attempt to disseminate information provided to first-year law students, our challenge was to condense constitutional law, trial advocacy, and criminal procedure in eleven sessions. Using the same materials and databases accessible to first-year law students, we pulled actual cases to provide real-examples of the type of cases they wanted to investigate.

Field notes were critical to our process. As one facilitator would lead the discussion, the other would record field notes that would be reviewed after each session. These served as the building blocks for the next sessions as our notes would provide us

information on key issues to address in subsequent sessions. As PAR, our form of member-checking included a section of each section allotted to a review of the day's session and what our responsibilities were as facilitators to bring back for the next session. Because our process was developmental, we were not looking for a fixed outcome (McNiff and Whitehead 2005, p. 29). Instead, we wanted our process of co-construction to inform the direction of the class.

In subsequent sessions, students were given cases to read on particular areas of the law. For example, when discussing murder and attempted armed robbery, they read a case entitled *The State v. John Hudson*. Where this was a case that involved a shooting that took place during an attempted robbery, students were taught how to spot the issues, rules, and holding of a case. Just as in law school, where pseudonyms were used to protect the identity of the plaintiff, our cases were actual court cases that went to trial. From review of the issues, rule and holding we would generate a vocabulary list and defined each word. As our vocabulary list grew, students were equipped with a working knowledge of the legal system that they were able to use in their final presentation to the student body. Upon reading a series of cases on a particular area, we would examine whether the conclusion of the court was "just" or "fair."

For the duration of the class, the legal cases provided a segue way to discuss areas of law and apply the cases to the everyday lives of the students. Many of our conversations on just and fair decisions were centered in students discussing how a similar situation took place in their neighborhood. As facilitators, we noticed considerable variation in the number of students that knew the final verdicts of the cases in the community. Due to our intentionality in structuring the course to develop critical consciousness, we noticed

many of our students commenting on how much a decision can rest on the skills of the lawyer chosen to defend or prosecute. They also commented on the amount of power given to judges to make a decision that could instantly change a person's life for the better or make that same person's life considerably worse. Coupled with our member-checking sessions at the end of each course, we were informed on how these relevant cases kept their interests and continued to draw them to the subject matter of the course.

In order to assess student application of legal terminology and responsibilities, the second half of each session was dedicated to preparing for the final presentation to the student body. Beginning with a brief discussion explaining the techniques that we would learn in the session, we would use selected cases (also called fact patterns) to hold in-class trials to provide practice for the final presentation. For example, when discussing the direct examination of a witness, the students learned that they could not ask leading questions, the types of questions they should ask and how to make several different objections. Again, by using the same techniques taught to first-year law students, the class learned how to conduct a direct examination and a cross examination of a witness, in addition to preparing opening statements and closing arguments. Remaining accountable to curricular co-construction, the class created the facts of the case and participated as lawyers and witnesses while the study body served as the jury for the final presentation.

### *The Field Trip*

One of the results of our curricular collaboration came in the form of a field trip. As our feedback portion of the sessions would allow for us to review the days' session, it

would also allow ourselves as facilitators to develop ideas to present to the collective. This particular field trip was significant in that it evolved directly from a real-life concern of some of the students in our class. Noted earlier, the issue of property rights was chosen as one of the areas of investigation. The choice was timely in that some of the students in the course (and school) live in communities that are rapidly gentrifying. When we inquired as to why they picked property rights as one of the issues to be investigated by the class, they explained to us that many of the residents in their community were being forced to leave. Many of the situations involved residents having their apartment buildings sold and converted to expensive condominium developments. Others mentioned instances where people were unable to pay the property taxes and/or mortgage for the building and the property went into foreclosure. With these issues at hand, we organized a field trip to the chancery court. Here was where decisions were made on foreclosures, property tax liens, and property purchases. For the purposes of the course, our trip operated as a modified fieldwork session, in that students would be able to interview a judge and ask him about the inner-workings of the judicial system. It was fieldwork for us because we ventured outside of the classroom to engage someone in the “real world” (Fals Borda in Pearson and Bradbury 2005, p.34).

Before our journey we prepped our students as to what they were going to see. We informed them that this courtroom would not have the suspense of many of the current television primetime court dramas (e.g. Boston Public, Law and Order, Shark, etc.). Instead, we told them to expect the exact opposite. We explained to the group that where there was the possibility of observing a minor quarrel, much of the cases that came through the chancery division had much more to do with documents and how the

documents were interpreted. Initially, we were worried that our explanation of the court would deter them from wanting to visit. To our surprise, students were still excited to visit the courthouse.

When we arrived students were impressed at the size of the building and the number of people who appeared to be conducting business in the hallway. Upon entering the courtroom, we noticed that we were the only people in attendance. Because the courtroom was small, we occupied almost the entire seating area.

The session was extremely quick. We only got to see one session where the judge asked the attorney if some papers had been signed. When the attorney answered in the affirmative, the judge stamped the papers, banged the gavel, and left the courtroom. Students were surprised at how fast the session went. One of the students asked, “that’s it?” As facilitators, we were also surprised at how fast the session went. We all were disappointed at the fact that we didn’t get to see more sessions.

However, our opportunity arose when the judge came from behind the door and made the request for us to stay. When he came out he explained to us that he had some business he needed to take care of before he could speak to us. His conversation with us was informative and engaging. Students were surprised to know that he was from a neighborhood that was close to where they lived and had many of the same concerns growing up as a young person. As the group continued to ask questions, many of the students welcomed his frankness and sincerity. He was clear in his conversation with us that most court decisions are based on how “facts” are presented and interpreted by judges and juries. Students were amused by his stories as a defense lawyer and how he was forced to think quickly. For the facilitators, the session was important to us because

our discussions in earlier sessions we were validated on the importance of understanding the various uses of the law. In our feedback session on the bus back to the school, students expressed how they enjoyed discussing the law from someone who had “really been through it.”

### *Preparing for the Big Day*

Mentioned in earlier sections, our culminating event was the presentation of the mock trial to the student body. Our collective process placed the responsibility of creating the facts of the story on the students. As facilitators, our job was to record what they told us and distribute it to the prosecution and defense so they could prepare their cases. The following entry is the case we recorded at the request of the students. Our only guide to the students was to make the case realistic. It is copied at length to allow readers a glimpse into what the students thought would make a realistic case.

The defendant, Julio X is charged with battery and attempted murder. This case involves a battery that took place on the 1500 block of south Kildare on October 15, 2005. After Julio and Peter Q were arguing about a hand played in a card game, Julio allegedly threw a punch at Peter that hit him in the jaw. After the punch, the two wrestled to the ground and proceeded to roll outside of the house and down the steps. As they rolled onto the sidewalk, Mitria V. called the police to alert them of a fight taking place and alerted the 911 dispatcher of the presence of a gun. The two responding officers placed in their report that upon arriving on the scene Julio X was found sitting on the steps of the residence while Peter Q lay unconscious and bleeding from the top of his head. Julio explained to the officers that as they were rolling on the ground they became separated and Peter pulled a gun. He continued to explain that he only threw the brick at Peter because he saw the gun. To date, no weapon has been retrieved from the scene. Julio’s claim is that when the police were called, one of Peter’s associates grabbed the weapon and ran.

As students dictated and debated the facts to us, we checked with the collective of students to ascertain if the facts were correct. Upon responding, the facts of the case were typed. The next task was to decide upon evidence, eyewitnesses for the prosecution

and the defense, prosecuting attorneys, defense attorneys, plaintiff, and defendant. As a request of the group, the two facilitators were chosen as judge and bailiff. Our evidence was a recording of the 911 call and the brick thrown at Peters head. The remainder of the case rested in the testimony of the eyewitnesses. As a result of our conversations and collective planning each session, the last two full colloquium sessions were dedicated to the preparation of the case.

The last colloquium session was a full school assembly where students presented what they learned in their particular sessions. Some students read poetry, while others made sculptures, displayed movies, and gave a full presentation on the work they did with people younger than themselves in a nearby elementary school. When it came time for us to present, the prosecution went first and offered its case to the court. The defense team made their opening statements and witnesses were called on behalf of the prosecution. Following the direct and cross-examination of the eyewitnesses for the prosecution, the same process was enacted for the defense. After each side made their closing statements, the student body made their decision as jury: guilty. When the defense was upset, everyone in the group talked about how they enjoyed being able to take the lead in decision-making around their own learning. Students also commented on how the process was difficult at first because few spaces allowed them to make actual decisions themselves and would be entirely dependent on their input. In critique, they felt that they needed more sessions to perfect their arguments and they wanted more interactions with people working in the legal system. As facilitators, their critique was important for us to hear in that this would serve as a critical reference for any subsequent law colloquia.

*In Critique: Recognizing the Limitations of Our Work*

In addition to student critique, we had our own critique of the process as facilitators. Most glaring to our process was the lack of continuity with the colloquium structure. Where our contact was limited to once a week, often times the distance between sessions would require us to spend much of the beginning of the sessions on review of the last session. Because we did not have a system of distributing and retrieving assignments outside of the colloquium session, our scope was limited in terms of how we could engage students. As a suggested improvement, if we decide to have the colloquium again we should incorporate the use of list-serves and other forms of information technology that would allow students and facilitators to communicate outside of the sessions.

Another critique of ours was the centering of our reporting mechanism in the work of the facilitators. Where this document reports about the work of the students, we did not create a collective document with the students, reifying the classical paradigms of the researcher and “the researched.” New innovations would be to write collectively with our students to reflect the concepts of collective research and collaborative curriculum development. Moving in this direction would provide concrete examples of PAR as authentic research collaborations with adults and young people.

Where our project utilized many components of PAR (e.g. political education, collective strategizing, reflections about power, sharing power, etc.) our process did not include subsequent ventures in the field to investigate our process (Ginwright and James 2000, p. 34). Despite our limitations and access to courts and different sets of lawyers

and judges, there were other outlets of the criminal justice system that could have been explored to enhance our project (e.g. interviews with actual police officers, city council members, ex-offenders, etc.).

This also speaks to our documentation. Where our project was largely centered in field notes, member-checking and student journaling, audio and video documentation would have provided us the opportunity to enhance our research. While the concern is not to produce generalizable data, the depth provided in audio and video documentation allow those who are interested in the process the opportunity to delve deeper into the process.

In the end, our first take at PAR was fruitful on many levels. As researchers, we were able to venture into a realm where the views and values of young people were usually ignored (Aurat in Cameron and Grant-Smith 2005, p.23). Our attempt to reverse the trend was not a smooth road. Instead, our process included a host of challenges that allow for the necessary reflection and action to begin the process of improving our conditions. Throughout the process of critiquing our work to make the next iteration more powerful, the challenge PAR presents to traditional research paradigms is critical in the social justice project of education.

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