Case Study #2: Free Will and the “Affluenza” Teen

Read the sections on d'Holbach and Sartre in the chapter on Freedom in our text and the attached pieces from The Huffington Post and CNN. **The completed assignment should be three pages long, (approximately 2000 words)** using 12 pt. fonts and **single spacing** with one inch margins. **Please follow the assigned format as shown in the example provided with the first case study.** Each answer should be separated, numbered and proportionate to the number of points possible. Please refer to Case Study #1 for detailed instructions, rubrics and sample completed assignment. This study is worth a total of 100 points

**Your completed assignment is due on the 5th of July. No late case studies will be accepted!**

Questions:

1. **Paraphrase** the argument presented in Maia Szalavitz’s article (see attached) from The Huffington Post concluding that “addiction should be treated in order to reduce the odds of recidivism – and that treatment isn’t a substitute for paying one’s debt to society and to those who are harmed by criminal behavior.” Remember, you’re not summarizing the whole article – you’re just looking for reasons why Szalavitz holds that “Affluenza” is an insufficient defense in mitigating responsibility. (10 points)

2. **Asking the Right Questions:** The big question here is whether anyone’s beliefs and actions based on those beliefs are freely chosen. But before you can answer this question about free will, you need to gather some evidence and critical information. What **facts** would you need to know about this case to make a reasonably informed judgment? In this section, note that you should be raising questions such as demographic and psychological profiles of wealthy criminals compared to impoverished criminals, etc. but **not** questions about d'Holbach or Sartre. **Provide as a bulleted list and pose in question form.** For this assignment, you do not have to do the research but you need to raise the kind of questions that would drive such a project. These should be research questions and as such should be data-driven, concrete and answerable. (20 points)

3. **Would d’Holbach argue that this sort of wealthy and indulgent upbringing is a legitimate causal factor in one’s behavior?** Defend your answer including specific details from d’Holbach’s hard determinism & provide citations from d’Holbach (**primary source = d’Holbach’s writings and does not include secondary commentary from Solomon or from me**) to support your answer. Include d’Holbach’s notion of what it would take for someone to be called free and be very specific regarding the causes which d’Holbach would regard as causally relevant. (30 points)

4. **Would Sartre argue that if one has had such an upbringing, their responsibility is lessened in committing crimes?** Defend your answer using specific details from Sartre’s existentialism & provide citations from Sartre (**primary source = Sartre’s writings and**

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1 This policy may be waived if extraordinarily strong justification can be presented and documentation is provided.
does not include secondary commentary from Solomon or from me) to support your answer. Be sure to include a discussion of Sartre’s point that we are still free even if our choices are determined by prior causes (which would include biological and neurological states) and might even at some point become utterly predictable if those causes are known. (30 points)

5. Conclusion: Where do you stand on this issue? Do you think that someone might be less culpable (responsible) if one has had a wealthy and indulgent upbringing? Briefly defend your answer without resorting to a repetition of points made in previous sections. (10 points)

Background²: Case Study #2

The Value Of ‘Affluenza,’ Addiction And Parental Neglect As Get Out Of Jail Defenses³

By Maia Szalavitz

What’s a disease and what’s an excuse for bad behavior? These two questions are at the heart of virtually all debate over addiction and drug policy—and the Texas “affluenza” case may help shed new light on them.

After stealing beer, getting drunk enough to reach three times the legal limit, injuring nine people—and killing four in a gruesome crash—16-year-old Ethan Couch was sentenced to just 10 years of probation and treatment. No prison time. He will spend just a year at a California program for troubled teens (which charges $450,000 annually). Not surprisingly, the sentence has provoked widespread outrage.

But it wasn’t a “my disease of alcoholism/addiction made me do it” defense that got the Texas teen off so lightly. Instead, his attorney argued that the boy had “affluenza,” which the defense psychologist described as a disease of the rich that makes them unable to understand the

² Please note that you are not limited to the background offered – you may feel free to use any credible/reliable source as evidence for your arguments. Please provide full citation for all research.
consequences of their behavior. Unlike substance use disorders, however, affluenza is nowhere to be found in the DSM.

In court, the psychologist testified that Couch, “never learned that sometimes you don’t get your way. He had the cars and he had the money. He had freedoms that no young man would be able to handle.” He gave the example of how the boy had been allowed to drive at 13—and had received no punishment at 15 when police caught him in a car with an unconscious and undressed 14-year-old girl.

In other words, because Couch never learned that there are consequences to his actions, he should learn again that there are none—and that money can always buy an easier, softer way. In case it wasn’t already obvious that Couch received special treatment because of his privilege, reporters soon uncovered a case of a poor black teen who committed a much less severe crime and was given 10 years in juvenile prison by the same judge.

Unequal treatment in the justice system is an old story, of course. The difference here is the blatant use of privilege itself to justify more privilege and the idea that wealth itself can produce antisocial behavior. But by unpacking what would lead to a more just outcome in such cases, we can help clarify better ways of understanding the effects of early childhood experience and addiction on criminal responsibility.

While “affluenza” is obviously not a real disease, emotional neglect of children can occur in any class and can absolutely have lifelong effects on behavior. Failing to discipline a child is one form of emotional neglect. This may be more common for both the poor and the rich because in both cases, circumstances often mean that (for very different reasons) parents and children spend little time together.

In Born for Love: Why Empathy Is Essential—and Endangered, which I co-wrote with child psychiatrist Bruce Perry, we described the case of another rich Texas teen who committed a horrifying crime and wanted an expert witness to use mental illness to help justify his antisocial behavior.

“Ryan” (a pseudonym) raped and publicly sexually humiliated a developmentally disabled girl at a party to celebrate his admission to an Ivy League college. Like Couch, he’d previously avoided discipline for numerous antisocial acts. His parents contacted Dr. Perry in hopes of enlisting him as a defense expert.

Perry did find that the boy had a history of serious neglect. It turned out that his parents only spent an hour a day with him and that he’d had 18 nannies before finishing preschool, each one fired when his mother discovered that the baby preferred the nanny to herself. Such disrupted attachment has been associated clinically with antisocial behavior and seemed to be appropriate here, given that, from the child’s perspective, he’d basically lost every “mother” he had as soon as he connected with her.
Nonetheless, Perry did not agree to testify or to call the related bad behavior a disease. Instead, citing the majority of cases where children - rich or poor - who suffered similar neglect have managed to avoid committing heinous crimes, he found that Ryan was responsible for his own choices. Still, my co-author had little doubt that the emotional neglect he suffered, and the cultural context in which it happened, significantly skewed his moral compass, which is why we included the case in our book.

THE BACKGROUND FACTORS: WHICH ONES SHOULD BE MITIGATING?

Like other types of childhood trauma, neglect increases risk for alcoholism and other addictions, which can even further impair decision making. It’s unlikely that either of these two crimes would have occurred absent the disinhibiting effects of alcohol. Even so, alcohol misuse was also clearly not the only source of the problem in either case. Poor parenting is also implicated, as is social status.

Elevated social status—in both human and nonhuman primates—is linked with both reduced punishment for aggression and, according to a spate of recent research into the behavior and attitudes of those with wealth and power, to increased propensity towards cheating and reduced empathy.

While it is easy to argue that wealth and privileged attitudes should not be a sentence-mitigating factor in these kinds of cases—and possibly could be seen as aggravating—it’s far more difficult to dismiss emotional neglect and addictions as relevant factors.

That doesn’t mean literally letting people get away with murder. Mitigation should determine the level of intent and not preclude punishment. The problem here is that debates over whether addicts should receive “treatment not punishment” often elide victimless crimes like drug possession and those like Couch’s in which intoxication results in harm to uninvolved bystanders.

(Is intent important here? Couch presumably had no desire to hurt his victims, while “Ryan” wanted to use his as a way to demonstrate his social power. However, Couch wasn’t simply reckless while intoxicated and lacking agency: he chose to steal the beer that got him drunk, and unlike a poor teen with an alcohol problem, presumably had numerous other ways of obtaining the substance.)

Most of us accept that crimes such as Couch’s and Ryan’s require justice for the victims, in a way that crimes that only harm oneself do not. Society, we believe, should punish those who, even unintentionally, harm others while under the influence of alcohol or other drugs or while in the state of being addicted, in part because these alterations of consciousness only impair, not eliminate, the ability to make decisions.

Addicts do not shoot up in front of the police; drunk drivers try to evade detection. These facts show that moral agency is present, if not functioning well.
My own view is that addiction should be treated in order to reduce the odds of recidivism – and that treatment isn’t a substitute for paying one’s debt to society and to those who are harmed by criminal behavior.

Most addicts actually do not commit violent crimes, and some even commit no crimes other than those related to the legal status of their substance of choice. So, it’s clear that addiction itself doesn’t necessarily cause antisocial behavior. Unfortunately, since many of the same factors that lead to addiction—child abuse, neglect, family violence, other trauma—can also create antisocial behavior, those actions are often conveniently blamed on the drugs.

Disentangling the various aggravating and mitigating factors is hard—and humans clearly have both an evolutionary and a cultural bias towards excusing the rich, even as the data suggests that the early childhood experiences of the poor, and the lack of alternatives available to them, are far more likely to be harmful and to constrain true free choice.

Like it or not, disentangling these realities is the job of the criminal justice system. That system would work a lot better if we carefully considered three factors: our bias towards punishing the poor more harshly; the question of how drugs, addiction and childhood experience alter decision-making capacity; and what mix of legal consequences produces the best outcomes.

The “affluenza” case may be clearly a travesty of justice, and yet one can easily imagine an overly harsh sentence that would be just as absurd. If we want to prevent similar crimes—or deal with them appropriately if they do occur—disentangling intoxication, addiction, early childhood influences, intent and developmental capacity is critical.

We won’t succeed with made up disorders like “affluenza”—or by making addiction an all-purpose excuse.

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"Affluenza" teen Ethan Couch could get a lot more jail time than his defense attorneys were hoping for.
A Texas judge on Wednesday tentatively ordered Couch to spend 720 days in jail -- nearly two years -- as a condition for his continued probation for a 2013 drunken-driving crash that killed four people and seriously injured two others.

However, District Judge Wayne Salvant said he'd give the defense two weeks to make an argument against the order.

"Nothing is set in stone, so I might reconsider," he said at a court hearing in the case in Tarrant County, Texas.

The jail time is the latest twist in the deceptively complex and well-publicized sentence Couch received in 2013: 10 years of probation for intoxication manslaughter, instead of prison, after his lawyers cited a now notorious "affluenza" defense, suggesting he was too rich and spoiled to understand the consequences of his actions.

As part of that sentence, he was always subject to possible jail time when his probation case was moved to adult court, which it did Monday when he turned 19. The situation is further convoluted by the fact that he's already in jail, accused of violating probation in part by traveling to Mexico last year.

Ethan Couch is escorted Wednesday, the day a judge tentatively ordered him to spend nearly two years in jail.

Authorities said Couch, then 16, was drunk when the pickup he was driving plowed into four pedestrians on a road in Burleson, Texas, in June 2013. Couch's vehicle also struck a parked car, which then slid into another vehicle headed in the opposite direction.

Two people riding in the bed of the teen's pickup were tossed in the crash and severely injured. At the time, police said one was no longer able to move or talk because of a brain injury.

The case made national news after a psychologist testified that Couch was a victim of "affluenza," a product of wealthy, privileged parents who never set limits for him. A juvenile court sentenced him to 10 years of probation, despite prosecutors asking for 20 years behind bars.

Relatives of the crash victims blasted the sentence, saying they felt Couch got off too easy.

His probation was to be supervised by the juvenile court system until he turned 19, when it would be transitioned to adult court.
So why is he facing jail time now? First, as mentioned, he's already in a Tarrant County jail after a December arrest in Mexico. But we'll get back to that.

Wednesday's decision is technically separate from the Mexico arrest, and some sort of jail time was always possible when he turned 19 as a condition for continued probation.

State law mandates that certain young probationers serve a minimum 120 days in jail upon moving from the juvenile system to the adult system, according to prosecutors.

The maximum, Couch's attorney Scott Brown has argued, is 180 days for a transitioning probationer convicted of a second-degree felony like Couch.

So on Wednesday, two days after Couch's 19th birthday, Salvant ordered that Couch serve 720 days, or 180 days for each of the four manslaughter counts.

Couch's attorneys argued Wednesday that the four deaths should be counted as one case, not four. They'll have two weeks to try to convince Salvant.

How does Mexico come into play? Again, Couch is already in jail. Here's how that happened:

As part of his probation, he was ordered to stay away from drugs and alcohol. But in December 2015, a video emerged that allegedly showed him at a party where alcohol was consumed.

His probation officer tried to reach him, but couldn't. A Texas warrant for Couch's arrest was issued in mid-December.

As it turned out, Couch and his mother, Tonya Couch, fled to Mexico to avoid a probation hearing that might have led to jail time for him, authorities say. Mexican authorities found the pair later that month in a Pacific resort town and detained them.

In late January, Couch was returned to Tarrant County, where he's been in jail since.

Does the post-Mexico jailing have anything to do with Wednesday's order? Technically, no. Tarrant County Prosecutor Riley Shaw has said the time to punish Couch for probation violations as a juvenile effectively expired when he turned 19.

However, a judge can take Couch's juvenile probation record into account when setting conditions for his adult probation, Shaw said.

After Couch serves whatever jail term Salvant decides as a probation condition, Couch will be released -- again, on probation. He wouldn't face additional jail time unless he violated the probation terms from that point forward.
Speaking of probation terms, Salvant also set those Wednesday, and they're similar to what he faced as a juvenile. Among them: He can't consume alcohol or a controlled substance, or travel beyond Tarrant and adjacent counties without permission.

What about Couch's mother? Tonya Couch, who, like her son, was returned to the United States, is charged with hindering her son's apprehension. She was freed on $75,000 bond, CNN affiliate KTVT reported.

*CNN's Christopher Lett and Dana Ford contributed to this report.*