

2019

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Recommended Citation

Ilana Friedman, *Youth at the Center: A Timeline Approach to the Challenges Facing Black Children*, 63 St. Louis U. L.J. (2019).

Available at: <https://scholarship.law.slu.edu/lj/vol63/iss4/5>

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YOUTH AT THE CENTER: A TIMELINE APPROACH TO THE CHALLENGES FACING BLACK CHILDREN

ILANA FRIEDMAN*

INTRODUCTION

At the center of *Forward Through Ferguson's* Action Plan are children, a demographic critical to any long-range plan of reform in St. Louis. Yet the challenges facing African American children are often looked at in isolation to one another, whether it be education, health care, or juvenile justice. To fully capture the labyrinth of hurdles facing Black youth, this article presents a timeline approach, synthesizing the most recent sociological work to demonstrate the categorical and overwhelming discrimination, top to bottom, faced by all too many Black youth in America.

The unique typology of this article is structured in a “timeline” fashion, starting with birth, and continuing through the notable and unequal increases in likelihood that African Americans will come into contact with the criminal justice system virtually at all points throughout their lives. The ticks on the timeline are associated with empirical studies and other notable scientific analyses related to the connections between disparate outcomes, structural inequalities, invidious discrimination, and implicit biases in the American justice system. This timeline approach overwhelmingly indicates Black bodies are particularly and persistently vulnerable to incarceration. Moreover, these micro-choices at a macro-level demonstrate the ever-relevance of race and, therefore, discredit any assertion of a post-racial America. In conclusion, this

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Cradle-To-Grave Approach to Incarceration reveals that in all too many cases, Black children's lives are profoundly limited by the ingrained implicit biases and structural inequities germane to America.¹

While a timeline approach has been alluded to by scholars such as Loic Wacquant and Alice Goffman,² it has never been articulated or demonstrated in a work dedicated solely to a comprehensive synthesis of relevant literature. This article does that, revealing a startling confluence of structural inequities and implicit biases impacting children from a young age, eventually pulling them towards incarceration at a dramatically higher rate when compared to their White counterparts.

Approaches to this research revolve around asking questions related to typical milestones in one's life: at age four or five, young children normally start school, so how are Black and White children educated differently? Are there inequities between Black and White children already apparent in kindergarten? Are standardized tests scores differentiated on account of race and, therefore, do they affect the likelihood of post-secondary education as a feasible option after high school? How have educational environments become increasingly criminalized? Does punishment within schools look different depending on the racial makeup of classrooms? Is there a connection between punishment in schools and juvenile corrections? Does an early connection to juvenile justice contribute to recidivism later in life and how are certain racial groups disproportionately impacted? How does *perceived educational attainment* on behalf of educators differ depending on one's race? Is the *school to prison pipeline* unequally impacting children of color?

Demographic examinations of the American prison population reveal wide racial disparities. Police are frontline actors in the American justice system, so are we patrolling communities differently based on race? Do law enforcement personnel use force differently based on perceived phenotype of an alleged offender? How has the militarization of police developed in America and does this militarization impact communities of color differently versus their White counterparts? Are individuals charged with capital crimes divergently when controlling for race? Do juries weigh information differently depending on the race of a defendant? Do judges sentence White and Black offenders differently? Is job acquisition by ex-convicts different when factoring for race? This article suggests the answers to these questions, among many others, implicate the connections systemic inequality and implicit bias and the ways in which these

1. This work is an adapted section from my Master's Thesis, *The Cradle-To-Grave Approach to Incarceration: Disparate Impact and the American Criminal Justice System*.

2. See generally Loic Wacquant, *Deadly Symbiosis: When Ghetto and Prison Meet and Mesh*, 3 PUNISHMENT & SOC'Y 95 (2001); ALICE GOFFMAN, *ON THE RUN: FUGITIVE LIFE IN AN AMERICAN CITY* (2014).

concepts go unacknowledged and unprotected, rendering black and brown individuals disproportionately vulnerable to incarceration.

I. THE CONFLUENCE OF RACE AND POVERTY

Disproportionate economic, social, and physical insecurities within the Black community are a harsh reality in America. Although racial segregation has fallen, for example, income segregation has risen.³ A 2016 study from the Pew Research Center established the median adjusted income for households headed by Blacks was \$43,300 and \$71,300 for Whites.⁴ Coupled with divergent rates in college completion, Black Americans earn over \$24,000 less than their White counterparts and have a median net worth one thirteenth the households headed by White Americans (\$144,200 versus \$11,200).⁵ Median weekly earnings for full-time wage and salary workers aged sixteen to twenty-four are also unequal when controlling for race: in the third quarter of 2016, Black men made \$448, while their White counterparts made \$517.⁶ Contributing to this inequality is unemployment where, in Milwaukee for example, one in two Black men do not have a job.⁷ National unemployment rates are also unequal; 29.4% of Black men aged sixteen to nineteen were unemployed in the fourth quarter of 2016, while only 15.6% of White men in the same age group were unemployed.⁸ For those age twenty to twenty-four, Black men were unemployed at a rate of 15.3% compared with 7.9% of their White counterparts.⁹

If one cannot get a job, one cannot pay rent or sustain permanent housing. As demonstrated by sociologist Matthew Desmond, problems associated with housing and eviction are especially severe for the American poor, where sixteen families daily in the city of Milwaukee alone are evicted through court proceedings.¹⁰ In *Evicted: Poverty and Profit in the American City*, Desmond

3. Sean F. Reardon et al., *Neighborhood Income Composition by Household Race and Income, 1990–2009*, 660 ANNALS AM. ACAD. POL. & SOC. SCI., 78, 80 (2015) (quoting Ferguson, *infra* note 27, at 27).

4. *On Views of Race and Inequality, Blacks and Whites Are Worlds Apart*, PEW RESEARCH CTR., June 27, 2016, www.pewsocialtrends.org/2016/06/27/on-views-of-race-and-inequality-blacks-and-whites-are-worlds-apart/ [<https://perma.cc/L5DA-EGLT>] (last visited Apr. 25, 2019).

5. *Id.*

6. CHRISTINA STACY & MYCHAL COHEN, BAN THE BOX AND RACIAL DISCRIMINATION: A REVIEW OF THE EVIDENCE AND POLICY RECOMMENDATIONS, URBAN INST. RES. REP. 4 (2017). Median usual weekly earnings of full-time wage and salary workers by age, race, Hispanic or Latino ethnicity, and sex, third quarter 2016 averages, not seasonally adjusted. US BUREAU OF LA STATISTICS, last modified Oct. 20, 2016, <https://www.bls.gov/news.release/wkyeng.t03.htm> [<https://perma.cc/KH38-4SR4>] (last visited Apr. 25, 2019).

7. MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* 25 (2016).

8. STACY & COHEN, *supra* note 6, at 4.

9. *Id.*

10. DESMOND, *supra* note 7, at 4.

acknowledges that poverty means exclusion from homeownership and public housing and, “Today, the majority of poor renting families in America spend over half of their income on housing, and at least one in four dedicates over 70 percent to paying the rent and keeping the lights on.”¹¹ As a result, in 2013 one in eight families were unable to pay their rent.¹² It means that almost one in five poor renting families miss utility payments and receive disconnection notices every year,¹³ a problem that weighs disproportionately on urban Black communities.¹⁴ In Milwaukee, Wisconsin, for example, more than one in five Black women have been evicted, while the trends approach one in fifteen for White women.¹⁵ Further, while families living in poverty theoretically qualify for public assistance, three in four receive nothing.¹⁶

Desmond also highlights the disparities in housing that stem from ill-conceived federal policies and unexpected economic downturns, including the 2008 economic downturn, which unsurprisingly fell unequally on the backs of people of color.¹⁷ For instance,

New Deal policies made home ownership a real possibility for white families, but black families were denied these benefits when the federal government deemed their neighborhoods too risky for insured mortgages and officials loyal to Jim Crow blocked black veterans from using GI mortgages. Over three centuries of systematic dispossession from the land created a semipermanent black rental class and an artificially high demand for inner-city apartments.¹⁸

While predatory loan practices among the subprime lending industry enticed Americans of all colors to enter riskier contracts, between 2007 and 2010 the average White family’s wealth was reduced eleven percent while the average Black family lost thirty-one percent of their wealth.¹⁹

Marked racial gaps in homeownership are notable as well. While seventy-two percent of White household heads own a home, only forty-three percent of Black household heads do.²⁰ Loic Wacquant observes that this trend in lack of Black homeownership is distinctly associated with the “prisonization” of public housing.²¹ These establishments—with personal security patrols and police forces, mandatory identification checks, sign-in stations, metal detectors, video and other electronic surveillance, police permeation, random pat down searches,

11. *Id.* at 4, 13.

12. *Id.* at 5.

13. *Id.* at 15.

14. *Id.* at 252.

15. DESMOND, *supra* note 7, at 299.

16. *Id.* at 59.

17. *Id.* at 125.

18. *Id.* at 251.

19. *Id.* at 125.

20. Pew, *supra* note 4.

21. Wacquant, *supra* note 2, at 107–08.

segregation, curfews, and resident counts—come to look and feel just like jails even though the residents have not been charged with or convicted of crimes.²²

Other connections between prison and housing persist as well. In 2013, a study in the *American Sociological Review* indicated that only Whites live in significantly more disadvantaged neighborhoods after prison, a non-obvious detail that means White convicts are less likely to return to their old communities, and therefore less likely to reoffend in those communities.²³ Meanwhile, Black individuals are more likely to come from disadvantaged neighborhoods before prison, and then return to those neighborhoods following release. So while White middle class offenders tend to be removed permanently from White middle class communities, housing for Black individuals remains constant—compounding problems of poverty and recidivism.

It should be no surprise, therefore, that when examining decreased earning potentials by race, American poverty levels are uneven, particularly in urban areas. In cities across the United States, for example, economic transformations explicitly and disproportionately burdened Black individuals. In 1980s Milwaukee, for example, the Black poverty rate reached twenty-eight percent, and by 1990, it was forty-two percent.²⁴ Fast-forward to 2014, where ten percent of Whites were living in poverty, but the figure for Black Americans is more than twice as high—twenty-six percent.²⁵

The disastrous effects of systemic poverty begins to manifest in children younger than two years old, as “significant disparities in vocabulary and language processing efficiency were already evident at 18 months between infants from higher- and lower-[socioeconomic status] families, and by 24 months there was a 6-month gap between [socioeconomic] groups in processing skills critical to language development.”²⁶ Racial gaps are also evident even among Black families with well-educated parents.²⁷ Part of the reason for this may be that publically-funded educational opportunities are both unequal and stratified on racial grounds as well, mimicking the later ethnoracial recruitment of the criminal justice system: “75% of the pupils of Chicago’s establishments come from families living under the official poverty line and nine of every ten are black or Latino.”²⁸ Nationally, Linda Darling-Hammond’s piece *Unequal*

22. *Id.* at 107–08.

23. Glenn Firebaugh et al., *Racial Variation in the Effect of Incarceration on Neighborhood Attainment*, 78 AM. SOC. REV. 142, 142, 160 (2013).

24. DESMOND, *supra* note 7, at 24.

25. Pew, *supra* note 4.

26. Anne Fernald et al., *SES Differences in Language Processing Skill and Vocabulary Are Evident at 18 Months*, 16 DEVELOPMENTAL SCI. 234, 234 (2013).

27. RONALD F. FERGUSON, *AIMING HIGHER TOGETHER: STRATEGIZING BETTER EDUCATIONAL OUTCOMES FOR BOYS AND YOUNG MEN OF COLOR 13* (Malcom Weiner Center for Social Policy, Harvard Kennedy School Urban Institute) (2016).

28. Wacquant, *supra* note 2, at 108.

Opportunity: Race and Education highlights the fact that schools with two-thirds minority students tend to be underfunded.²⁹ In synthesizing numerous state studies, Darling-Hammond indicates that on every tangible measure, “schools serving greater numbers of students of color had significantly fewer resources than schools serving mostly white students.”³⁰

While Darling-Hammond’s piece is over twenty years old, this pervasive inequity holds true today. In America, the cumulative evidence exhibits extensive disparity between Black and White students where Black students typically come from disadvantaged backgrounds, including extremely segregated neighborhoods and deeply segregated public schools that are *visibly* unequal, further impacting access to differential resources like college preparatory materials, Advanced Placement courses, and physical building qualities.³¹ Much like connections between public housing and prison, Sociologist Loic Wacquant also observes this phenomenon in schools where,

Like inmates, these children are herded into decaying and overcrowded facilities built like bunkers, where undertrained and underpaid teachers, hampered by a shocking penury of equipment and supplies . . . strive to regulate conduct so as to maintain order and minimize violent incidents.³²

Essential educational programs and supplies are tossed to the wayside in order to fund increased weapons, surveillance technology, and security personnel for schools.³³

These structural inequalities compound, resulting in White students with not only more economic resources, but also possessing greater social, cultural, and symbolic capital than their Black peers. In Chicago, for example, sixty-six percent of Black students fail to complete coursework and read at an eighth grade level.³⁴

29. Linda Darling-Hammond, *Unequal Opportunity: Race and Education*, BROOKINGS, Mar. 1, 1998, <https://www.brookings.edu/articles/unequal-opportunity-race-and-education/> [<https://perma.cc/732A-TASZ>] (last visited Apr. 25, 2019).

30. *Id.*

31. David Eitle & Tamela McNulty Eitle, *Public School Segregation and Juvenile Violent Crime Arrests in Metropolitan Areas*, 51 SOC. Q. 436, 439, 440, 451 (2010); VALERIE E. LEE & DAVID T. BURKHAM, *INEQUALITY AT THE STARTING GATE: SOCIAL BACKGROUND DIFFERENCES IN ACHIEVEMENT AS CHILDREN BEGIN SCHOOL 1* (2002); Douglas B. Downey et al., *Are Schools the Great Equalizer? Cognitive Inequality during the Summer Months and the School Year*, 69 AM. SOC. REV. 613, 632–33 (2004); JEANNIE OAKES, *KEEPING TRACK: HOW SCHOOLS STRUCTURE INEQUALITY 4* (2d ed. 1985); Russel W. Rumberger & J. Doug Willms, *The Impact of Racial and Ethnic Segregation on the Achievement Gap in California High Schools*, 14 EDUC. EVALUATION & POL’Y ANALYSIS 377, 378–79 (1992); Gary Orfield & Chungmei Lee, *Why Segregation Matters: Poverty and Educational Inequality*, CIV. RTS. PROJECT AT HARV. U. (2005).

32. Wacquant, *supra* note 2, at 108.

33. *Id.* at 108.

34. Wacquant, *supra* note 2, at 108; AMANDA E. LEWIS & JOHN B. DIAMOND, *DESPITE THE BEST INTENTIONS: HOW RACIAL INEQUALITY THRIVES IN GOOD SCHOOLS* (2015).

As mentioned above, even when young Black students have successful parents, they can still find themselves trapped in failing schools. One nationally representative sample found that, “even among children with highly educated parents, children of color score lower than whites on cognitive skills assessments.”³⁵ A project funded by the Bill and Melinda Gates Foundation found that children in the most segregated schools and those with the highest levels of concentration of students of color have limited access to well-behaved, consistently on-task learning environments.³⁶ Other analyses consistently find these issues regarding lack of access to quality educators in high minority schools as well.³⁷ Accordingly, research indicates Blacks in America are not only consistently completing less schooling than their White counterparts, but persistent educational gaps remain when compared with their White peers.

These findings should be understood in concert with other societal struggles detailed above such as lower instances of household ownership, higher rates of eviction, lower earning potential, limited social networks, and fewer chances at upward mobility.³⁸ As recognized by multiple scholars, these *systemic* inequities contribute to criminogenic environments, all of which increase the likelihood of arrest, imprisonment, and recidivism. Accordingly, while ample research focuses on narrowing educational gaps and standardized test scores among Black and White peers in school,³⁹ other factors converge to challenge upward mobility, thereby making Black bodies more vulnerable to the timeline of incarceration.⁴⁰

35. FERGUSON, *supra* note 27, at 5.

36. Bill & Melinda Gates Foundation, *Learning about Teaching: Initial Findings from the Measures of Effective Teaching Project*, <https://docs.gatesfoundation.org/documents/preliminary-findings-research-paper.pdf> [<https://perma.cc/N6ZT-LNGY>] (last visited Apr. 15, 2019); Bill & Melinda Gates Foundation, *Gathering Feedback for Teaching: Combining High-Quality Observations with Student Surveys and Achievement Gains*, http://k12education.gatesfoundation.org/download/?Num=2530&filename=MET_Gathering_Feedback_for_Teaching_Summary1.pdf [<https://perma.cc/65RL-BBYV>] (last visited Apr. 15, 2019). See FERGUSON, *supra* note 27, at 29, 30.

37. Don Boyd et al., *The Effect of School Neighborhoods on Teachers' Career Decisions*, in *WHITHER OPPORTUNITY? RISING INEQUALITY AND CHILDREN'S LIFE CHANCES* 377, 378 (Greg J. Duncan & Richard J. Murnane eds., 2011).

38. When searching for daily goods, more affluent or privileged individuals complete these tasks with impunity, but these pursuits for poor Black men become a “net of entrapment.” GOFFMAN, *supra* note 2, at 52–53.

39. Roland G. Fryer, Jr., *Racial Inequality in the 21st Century: The Declining Significance of Discrimination*, in *HANDBOOK OF LABOR ECONOMICS* 855–972 (Orley Ashenfelter & David Card eds., 2011); FERGUSON, *supra* note 27, at 4.

40. WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS AND PUBLIC POLICY* 32 (1987) (discussing the convergence of racial and economic segregation specifically). See JENNIFER F. HAMER, *ABANDONED IN THE HEARTLAND: WORK, FAMILY, AND LIVING IN EAST ST. LOUIS* 6–7 (2011); Edward S. Shihadeh & Nicole Flynn,

II. THE TIMELINE OF INCARCERATION

A. *Early Life and Early Educational Attainment*

By the time a child reaches formal educational spheres, the impacts of poverty, low socioeconomic status, and lack of familial income on that student's future educational attainment is notable and predisposes an already vulnerable child to incarceration. A nationally representative analysis entitled the Early-Childhood Longitudinal Study found that boys and young men of color lag behind their peers in cognitive skills by age two.⁴¹ Betty Hart and Todd Risley's famous work, *The 30 Million Word Gap by Age 3*, demonstrated the effects on early education accomplishments stating, "the three year old children from families on welfare not only had smaller vocabularies . . . but they were also adding words more slowly. Projecting the developmental trajectory of the welfare children's vocabulary growth curves, we could see an ever-widening gap."⁴² This included the child on welfare having about half as much experience with different words per hour as the average working class child, and even less than one-third of the average child in a professional family, culminating in acquired experience by age four of forty-five million words for a professional family's child, twenty-six million words for a working class family's child, and a remarkably low thirteen million words for a welfare family's child.⁴³ These measurements taken in kindergarten are also extremely predictive of racial differences observed by children in special education placements later in fifth grade.⁴⁴

Researchers also suggest that school and educational environments function to reproduce the social order, with the role of teachers being of primary significance.⁴⁵ "School ineffectiveness," writes Gottfredson, "cannot be easily

Segregation and Crime: The Effect of Black Social Isolation on the Rates of Black Urban Violence. 74 SOC. FORCES 1325, 1329 (1996).

41. Roland G. Fryer, Jr. & Steven D. Levitt, *Testing for Racial Differences in the Mental Ability of Young Children*, 103 AM. ECON. REV. 981, 982 (2013); TAMARA HALLE ET AL., DISPARITIES IN EARLY LEARNING AND DEVELOPMENT: LESSONS FROM THE EARLY CHILDHOOD LONGITUDINAL STUDY – BIRTH COHORT (ECLS-B), <https://www.childtrends.org/wp-content/uploads/2013/05/2009-52DisparitiesEExecSumm.pdf> [<https://perma.cc/P87J-RKBE>] (last visited Apr. 15, 2019). See FERGUSON, *supra* note 27, at vi, 11.

42. Betty Hart & Todd R. Risley, *The Early Catastrophe: The 30 Million Word Gap by Age 3*, AM. EDUCATOR 4, 7 (Spring 2003).

43. *Id.* at 8.

44. FERGUSON, *supra* note 27, at vi.

45. SAMUEL BOWLES & HERBERT GINTIS, *SCHOOLING IN CAPITALIST AMERICA: EDUCATIONAL REFORM AND THE CONTRADICTIONS OF ECONOMIC LIFE* 6–10 (1976). See PIERRE BOURDIEU & JEAN-CLAUDE PASSERON, *REPRODUCTION IN EDUCATION, SOCIETY, AND CULTURE* 60–61 (1977); Karl L. Alexander et al., *School Performance, Status Relations, and the Structure of Sentiment: Bringing the Teacher Back In* 52 AM. SOC. REV. 665, 680 (1987); Delbert S. Elliott et

separated from community ineffectiveness.”⁴⁶ For minority and disadvantaged youth performance, school experience and teacher characteristics are imperative for life course trajectories.⁴⁷ Alexander and colleagues state:

As agents of academic socialization, teachers likely place second only to parents, and their influence is probably greatest in the primary grades, where youngsters are acclimating to the academic routine. As the frontline representative of the school, the teacher mediates the student’s relations to the broader institutional environment. Teachers embody organizational authority, and with young children they represent adult authority as well. In the classroom, the teacher doles out rewards and punishments, bears responsibility for performance evaluations, and maintains control over classroom resources.⁴⁸

When combined with the “intensely interpersonal” environment of a classroom, the preeminence of teachers, and their ability to control virtually all methods of reward and punishment, contributes to self-fulfilling prophecy of chronically undervaluing minority children as the result of implicit bias.⁴⁹ Research indicates that

[T]eachers form impressions about students’ potential in the very early grades, and that these impressions frequently are grounded in superficial or inappropriate cues...[Y]oungsters so singled out are stigmatized and suffer from being thought of by their teachers and their peers, and even themselves, as “losers.”⁵⁰

In regards to judgments of abilities and required levels of punishment in school, research suggests that mismatches in student-teacher racial and socioeconomic backgrounds may be important in early grade perceptions of attainment.⁵¹ Specifically, the divergent background characteristics of teachers—which influences their levels of conscientiousness, ineptitude, or laxness—can further influence and determine responses to students’ needs, when they share empathy with student adjustment stresses, methods of exhibiting potential hostile reactions to wrongdoing, and can heavily influence

al., *Violence in American Schools: An Overview*, in *VIOLENCE IN AMERICAN SCHOOLS* (Delbert S. Elliott et al., eds., 1998).

46. DENISE C. GOTTFREDSON, *SCHOOLS AND DELINQUENCY* 83 (2001).

47. Alexander et al., *supra* note 45, at 680. See JAMES S. COLEMAN ET AL., U.S. DEP’T OF HEALTH, EDUCATION & WELFARE, *EQUALITY OF EDUCATIONAL OPPORTUNITY* 120–22 (1966); Nancy St. John, *Thirty-Six Teachers: Their Characteristics and Outcomes for Black and White Pupils*, 8 AM. EDUC. RES. J., 635, 642 (1971); BARBARA HEYNS, *SUMMER LEARNING AND THE EFFECTS OF SCHOOLING* 12 (1978).

48. Alexander et al., *supra* note 45, at 680.

49. *Id.*

50. *Id.* at 665.

51. JERE E. BROPHY & THOMAS L. GOOD, *TEACHER-STUDENT RELATIONSHIPS: CAUSES AND CONSEQUENCES* 28 (1974).

student comfort among mismatched students.⁵² For instance, young Black students' expectations diminished when mismatched with their White middle-class teachers.⁵³ Researchers suggest these findings are largely attributable not precisely to the racial mismatch among White middle-class teachers and their Black disadvantaged students, but to the lack of familiarity with and the resulting inability to empathize with diverse backgrounds of their pupils.⁵⁴ Illustratively,

Teachers from high status backgrounds . . . will be less familiar with, and perhaps less comfortable with, working-class surroundings and poverty. The same applies to white teachers dealing with poor black youngsters. . . High-status and white teachers who are out of their element and lack common experience with their students may find it difficult to identify with them and, as a consequence, have difficulty working well with them.⁵⁵

In regard to the present work, research indicates the frustrated relationships between students and teachers is commonly associated with implicit bias on behalf of teachers:

The evidence indicates that high-status teachers, both black and white, experience special difficulties relating to minority youngsters. They perceive such youngsters as relatively lacking in the qualities of personal maturity that make for a "good student," hold lower performance expectations of them, and evaluate the school climate much less favorably when working with such students. As a result, blacks who begin first grade with test scores very similar to their white age-mates have fallen noticeably behind by year's end. This probably is the onset of race-differentiated achievement trajectories.⁵⁶

Accordingly, aforementioned vocabulary weaknesses coupled with poor educational experiences involving decreased access to adequately funded schools and lack of skilled and empathetic teachers largely shape the substantially unequal educational outcomes of Black versus White children in America. For minority and disadvantaged youth, research indicates increased successes for these children when working with teachers who explicitly feel committed to minority and disadvantaged youth and do not explicitly discount their abilities.⁵⁷ While there is evidence that young Black men have the *desire* to succeed academically on par with any other social group, they are simultaneously *underrepresented* as those who excel in school and

52. *Id.*; Alexander et al., *supra* note 45, at 666.

53. Doris R. Entwisle & Murray Webster, Jr., *Raising Children's Expectations for Their Own Performance: A Classroom Application*, in EXPECTATION STATUS THEORY: A THEORETICAL RESEARCH PROGRAM 211–43 (J. Berger et al., eds. 1974)

54. Alexander et al., *supra* note 45, at 679.

55. *Id.* at 667. See Joseph Berger et al., *Status Characteristics and Social Interaction*, 37 AM. SOC. REV. 241, 253 (1972).

56. Alexander et al., *supra* note 45, at 679.

57. St. John, *supra* note 47, at 646.

overrepresented among those with low grades, test scores, and disciplinary problems, even by the start of kindergarten.⁵⁸

Research also demonstrates that mismatch in student-teacher racial makeups also influence the observations of disobedience within primary educational spheres. For example, even though Black students may be perceived as misbehaving, Black students could be misunderstood as the result of different cultural styles and practices when combined with a subordinate status.⁵⁹ In a study on first graders, Alexander and colleagues found Black students were especially vulnerable to low evaluations of maturity when they were “mismatched” with White teachers or teachers of high socioeconomic status.⁶⁰ This was again attributed to teachers’ uncomfortableness and lack of familiarity with those in lower socioeconomic statuses than themselves. While the research later in life among adolescent students is varied, a national analysis conducted in 1988 indicated racial matching among students and teachers was related to teachers’ subjective expectations of student educational attainment.⁶¹ Specifically, they found that tenth graders were often evaluated more favorably by same-race than by different-race teachers.⁶²

Importantly, there is no indication that young Black boys perceive *teaching* as less effective or with lower expectations than their White and Asian peers and even rate teaching levels marginally more favorably.⁶³ However, classrooms with “higher percentages of students of color rate teachers lower on *care, confer, challenge, and classroom management*.”⁶⁴ Further, Black students were the most likely to report they were accused of not paying attention in class.⁶⁵ Interestingly, the data also indicates that once placed in student-teacher racial matching situations, Black students are rated *more favorably* than White students, but the race, gender, and ethnicity of teachers did not impact how much students learned between eighth and tenth grade.⁶⁶ It is for these reasons that researchers suggest that indicators of systemic misbehavior and underachievement in schools should not be attributed to students’ inherent disobedience or inability, but should be focused upon drawing healthier instruction and improved educators to disadvantaged environments.⁶⁷

58. FERGUSON, *supra* note 27, at vi (emphasis added).

59. Alexander et al., *supra* note 45, at 667.

60. *Id.*

61. Ronald G. Ehrenberg et al., *Do Teachers’ Race, Gender, and Ethnicity Matter? Evidence from the National Education Longitudinal Study of 1988*, 48 INDUS. & LAB. REL. REV. 547, 557 (1995).

62. *Id.* at 559.

63. FERGUSON, *supra* note 27, at 22, 24.

64. *Id.* at 22.

65. *Id.* at 23.

66. Ehrenberg et al., *supra* note 61, at 559.

67. FERGUSON, *supra* note 27, at 29–30.

Coupled with implicit beliefs on behalf of their teachers, biases develop at young ages for school-aged peers as well and influence Black educational attainment. Consistently, Lewis and Diamond discuss that although not everyone consciously recognizes their own racial stereotyping, the exposure to race-based status beliefs, like that Black or Latinx individuals are less intelligent than Whites, do influence educational performance and everyday interactions with students of color.⁶⁸ Specifically, across-peer relationships and stereotypes among student-peers likely impact Black educational development. Further, research indicates that stereotypes are well established in children's memories, "before children develop the cognitive ability and flexibility to question or critically evaluate the stereotype's validity or acceptability."⁶⁹ These findings indicate the potential solidification of stereotyped beliefs impacting implicit behavior and implicit decision-making later in life among a host of professions and responsibilities. Moreover, the research suggests students may manifest biases in a host of decisions in academic environments towards each other without intentionally doing so.⁷⁰ As a result, chronic underachievement starts immediately upon entering school and persists in stability over time as the result of disparate treatment on behalf of both teachers and student-peers, perhaps even cementing by the time children reach secondary education.⁷¹

Research also demonstrates that peer pressure and peer relationships are cogent threats to young Black male educational attainment when compared with their White peers. For instance, more than half of Black students, but fewer than forty percent of White students, report they hide effort in school due to risk of what others might say or think.⁷² This is also related to findings that Black boys were more likely than their White peers to hold back in academic spheres.⁷³ For instance, in one analysis, between thirty five and forty percent of Black males agree that they "sometimes," "usually," or "always" "do things they don't want to because of peer pressure from other students," indicating that Black students are consistently the most conflicted of all students in educational

68. Lewis & Diamond, *supra* note 34, at 11.

69. Patricia G. Devine, *Stereotypes and Prejudice: Their Automatic and Controlled Components*, 56 J. PERSONALITY & SOC. PSYCHOL. 5, 6 (1989) (citing GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* (1954)); Phyllis A. Katz, *The Acquisition Of Racial Attitudes In Children*, in *TOWARDS THE ELIMINATION OF RACISM*, 125-154 (Phyllis A. Katz ed., 1976); JUDITH D. R. PORTER, *BLACK CHILD, WHITE CHILD: THE DEVELOPMENT OF RACIAL ATTITUDES* (1971); Harold M. Proshansky, *The Development Of Intergroup Attitudes*, in *REVIEW OF CHILD DEVELOPMENT RESEARCH* 311 (Lois Wladis Hoffman & Martin L. Hoffman eds., 1966).

70. *Id.*

71. Alexander et al., *supra* note 45, at 665-666; Karl L. Alexander & Martha A. Cook, *Curricula and Coursework: A Surprise Ending to a Familiar Story*, 47 AM. SOC. REV. 626, 627, 637 (1982); DORIS R. ENTWISLE & LESLIE ALEC HAYDUK, *EARLY SCHOOLING: COGNITIVE AND AFFECTIVE OUTCOMES* 161 (1982).

72. FERGUSON, *supra* note 27, at 41.

73. *Id.* at 43.

environments.⁷⁴ Simultaneously, measures also indicate that youth, including Black young males, do not disrespect teachers out of rebellion or misguided personal values, but do so as another manifestation of social conformity and peer pressure.⁷⁵ Sadly, as a result:

[Black young men] of color who fail to avoid or escape the person-environment fit predicament may be trapped in a self-reinforcing cycle of underachievement and self-defeating behavior. Their skills and behaviors may seem to confirm negative stereotypes and justify disciplinary decisions that treat them as the 'other' rather than empathetically as valued members of the community.⁷⁶

Correspondingly, Ogbu's "oppositional culture" explanation focuses on Black students' resistance in schooling and other institutions because of historically subjugated relationships with White individuals and perceptions of limited occupational opportunities.⁷⁷ In an attempt to maintain racial identity, Ogbu posits that some Black students develop peer groups that reject symbols and behaviors that are viewed as "White," while other Black students who are successful in the classroom are at risk for social outcasting among their Black peers.⁷⁸ As a result, these dilemmas lead many Black students to comply with social norms, frequently negative in characterization, even when disapproving of them personally.⁷⁹

In regards to the actual effect on achievement in secondary schools, researchers found no relationship between student-teacher mismatch and gains on standardized test scores for those with similar skill levels, but Black students did learn more when matched with White teachers with high socioeconomic status.⁸⁰ Thus, while the amount of learning taking place and resulting test scores is still relatively unclear, the evidence does increasingly suggest that Black students receive lower subjective evaluations among White teachers than Black teachers.⁸¹ Further, Gamoran established that, "minority students whose test scores and socioeconomic backgrounds matching those of Whites are no less likely to be placed in high tracks."⁸² Thus, there is an indication that bias does creep its way in to gifted program determinations.⁸³ For instance, when

74. *Id.* at 37.

75. *Id.* at 40.

76. *Id.* at 59.

77. John U. Ogbu, *Minority Coping Responses and School Experience*, 18 J. PSYCHOHISTORY 4, 433, 441, 446 (1991).

78. *Id.*

79. FERGUSON, *supra* note 27, at 43.

80. Ehrenberg et al., *supra* note 61, at 559; Alexander et al., *supra* note 45, at 665; Trevor H. Williams, *Teacher Prophecies and the Inheritance of Inequality*, 49 SOC. EDU. 3, 223, 234 (1976).

81. Ehrenberg et al., *supra* note 61, at 559.

82. Adam Gamoran, *Tracking and Inequality: New Directions for Research and Practice*, 5 (Wisc. Center for Education Research, Working Paper No. 2009-6, 2009).

83. FERGUSON, *supra* note 27, at 47.

undertaking universal screening for these programs, a report found that Black students were systematically under-referred to the gifted program and an eighty percent increase was observed for Black students qualifying for subsidized meals.⁸⁴ Moreover, “[o]n other ‘attainment’ measures (e.g., college attendance rates, enrollment in a college-bound high school program), minority youth often fare better than equally able Whites.”⁸⁵

In regards to special education assignments, Losen and Welner suggest that while, “all minority groups are vulnerable to discrimination in identification for special education,” African Americans appear to bear the brunt of over-identification.⁸⁶ These sorts of misdiagnoses can be extremely detrimental to a child’s educational attainment, resulting in full denial of academic opportunities and increasing the chance of dropout or even eventual incarceration as the result of academic unviability.⁸⁷ It is also important to note that in one analysis, Hibel and colleagues did not find racial bias influencing determinations on placement in special education programs.⁸⁸ However, this finding was likely explained by the fact that, “students of color tend to be more concentrated than whites in schools lacking the capacity to serve all students who qualify for special education placements.”⁸⁹ Thus overall, research indicates that, “[i]f anything, students of color were, on average, *underassigned* to special education in elementary school because they were *overrepresented* in schools where the need was greatest.”⁹⁰

Taken collectively, these findings indicate that teachers implicitly associate minority students with underachievement and classroom disruption. These conclusions add to the cumulative disadvantage experienced by poor minority students, who on average fall behind their White counterparts even before reaching kindergarten and are labeled as deviant within classrooms. This labeling further predisposes these children to decreased schooling through legal mechanisms of formal punishment within the juvenile justice system.

84. David Card & Laura Giuliano, *Can Universal Screening Increase the Representation of Low Income and Minority Students in Gifted Education?*, NBER Working Paper 21519 Cambridge, MA: NATIONAL BUREAU OF ECONOMIC RESEARCH, 20 (2015); FERGUSON, *supra* note 27, at 48.

85. Alexander et al., *supra* note 45, at 665. See Alexander & Cook, *supra* note 71; Karl L. Alexander et al., *Social Background, Academic Resources, and College Graduation: Recent Evidence from the National Longitudinal Study*, 90 AM. J. EDU., 315–33 (1982).

86. Daniel J. Losen & Kevin G. Welner, *Disabling Discrimination in Our Public Schools: Comprehensive Legal Challenges to Inappropriate and Inadequate Special Education Services for Minority Children*, 36 HARV. CIV. RTS.–C.L. L. REV. 407, 412 (2001).

87. *Id.*

88. Jacob Hibel et al., *Who Is Placed into Special Education?*, 83 SOC. EDU. 312, 326 (2010).

89. FERGUSON, *supra* note 27, at 49.

90. *Id.* at 50.

B. Juvenile Justice and the School to Prison Pipeline

While the literature is mixed regarding actual educational attainment among Black male students, this cannot be said regarding the disproportionate vulnerability these students face in relation to potential punishment while in school. This conception is so well documented, in fact, that Wacquant labels public schools as “institutions of confinement” whose primary mission is not to educate, but to ensure custody and control.⁹¹ This assertion is also consistent with what Blau and Blau label *relative deprivation theory*, where structured inequality and racial segregation associated with school environments, for example, produces pervasive feelings of frustration and hostility among disadvantaged groups.⁹² As Eitle and McNulty Eitle observe:

[R]acial segregation is viewed as a form of structured inequality that contributes to a collective feeling among isolated blacks that such inequality is based on their ascriptive status. Their recognition that there is not open and equal access to wealth and opportunity generates anger, alienation, frustration, and hostility. Relatively high rates of violence are therefore expected as a response to the feelings produced by structured inequality.⁹³

As a result, violent behavior among young boys is viewed as adaptive, normative, and rational when given no other option in dangerous environments.⁹⁴

In connection with the biased educators highlighted above, Pedro Noguera in *The Trouble with Black Boys*, identifies Black boys as potential targets for reprimand within academic environments as the result of assumptions on behalf of educators stating, Black boys are “assumed to be at risk because they are too aggressive, too loud, too violent, too dumb, too hard to control, too streetwise, and too focused on sports.”⁹⁵ For this reason, most academic reprimand is handled in a biased, cyclical fashion based in the creation and inevitability of academic failure through self-fulfilling prophecies.⁹⁶ Thus, there is no true opportunity for poor Black boys to demonstrate artistic or academic abilities beyond those tied to sports.⁹⁷ Further, “[e]vidence indicates that stereotypes and stigmas reduce the probability of [black young men of color] receiving the benefit of the doubt for second and subsequent infractions and receiving frequent punishment from teachers and administrators, causing even innocent students to

91. Wacquant, *supra* note 2 at 108.

92. Peter Blau & Judith Blau, *The Cost of Inequality: Metropolitan Structure and Violent Crime*, 38 AM. SOC. REV. 736–49 (1982); John R. Logan & Steven F. Messner, *Racial Residential Segregation and Suburban Violent Crime*, 68 SOC. SCI. Q., 511–27 (1987).

93. Eitle & McNulty Eitle, *supra* note 31, at 438.

94. Wilson, *supra* note 40, at 21–22; Eitle & McNulty Eitle, *supra* note 31, at 439.

95. PEDRO NOGUERA, *THE TROUBLE WITH BLACK BOYS: AND OTHER REFLECTIONS ON RACE, EQUITY, AND THE FUTURE OF PUBLIC EDUCATION* xxi (2008).

96. *Id.*; see FERGUSON, *supra* note 27, at 45.

97. Noguera, *supra* note 95, at xxi.

be suspected and accused (and oftentimes alienated) more than Asians, whites, and females.”⁹⁸

These findings are in accordance with systemic-based research comparing the presence of school segregation to levels of school violence. Researchers found an inverse association between the level of school violence and school segregation in metropolitan areas: “[s]chool districts with relatively low rates of school segregation had the highest rates of school violence if the level of residential inequality (including higher rates of residential segregation) was relatively high[.]”⁹⁹ The present work suggests this is a connection to Wacquant’s theory of the regulation of space also taking part in academic environments, coupled with the manifestation of implicit bias impacting violent episodes between out-groups in integrated schools. Eitle and McNulty Eitle consistently state, “increased interaction between black and white teens, under certain conditions, may foster competition, resentment, anger, and ultimately, increased rates of juvenile violence[.]”¹⁰⁰

Accordingly, chastisement often in the form of legal repercussions awaits Black juveniles and renders them significantly vulnerable to arrest.¹⁰¹ This phenomenon should be understood as a systemic and well-documented issue, not simply in a single school as “[t]he literature contains several decades of documented racial, ethnic, and gender disparities in numbers of office disciplinary referrals and associated punishments, with non-Asian black young men of color referred, suspended, or expelled more often than whites, Asians, and females.”¹⁰² For instance, Russell Skiba established Black students were between two and four times more likely than White students to be referred to the office for problematic behavior. Further, “black and Latino students were more likely than white students to be suspended or expelled for infractions in the same [office disciplinary referral] categories.”¹⁰³ Using data from the United States Office of Civil Rights establishes that Blacks and Native American students are disproportionately overrepresented than Whites in regards to out-of-school suspensions.¹⁰⁴ Skiba and colleague’s analysis in 2014 found the odds of being

98. Jason A. Okonofua & Jennifer L. Eberhardt, *Two Strikes: Race and the Disciplining of Young Students*, 26 PSYCHOL. SCI. 617, 617 (2015) (quoting FERGUSON, *supra* note 27, at 54-56).

99. Eitle & McNulty Eitle, *supra* note 31, at 442, 450.

100. *Id.* at 450; see GORDON W. ALLPORT, THE NATURE OF PREJUDICE 338 (1954); THOMAS F. PETTIGREW, RACIALLY SEPARATE OR TOGETHER? 70 (Ronald Kissack & Susan Gamer eds., 1971); Susan Olzak et al., *Poverty, Segregation, and Race Riots: 1960 to 1993*, 61 AM. SOC. REV. 590, 591 (1996).

101. Eitle & McNulty Eitle, *supra* note 31, at 450.

102. FERGUSON, *supra* note 27, at 51, 52.

103. Russell J. Skiba et al., *Race is not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCHOL. REV. 85, 101 (2011); FERGUSON, *supra* note 27, at 52.

104. GRACE KENA ET AL., THE CONDITION OF EDUCATION 2015 80 (US Dep’t of Educ., Nat’l Ctr. for Educ. Statistics ed., 2015); see FERGUSON, *supra* note 27, at 51.

suspended for Black students at twenty-five percent higher than their White counterparts, though they were both equally as likely to be expelled.¹⁰⁵ Richard Milner “describes classrooms where black and white children were equally engaged in inappropriate behaviors but teachers singled out black students for reprimand.”¹⁰⁶ Furthermore, a White student committing around forty crimes was about as likely to be imprisoned as Black and Hispanic students who committed only five offenses.¹⁰⁷ Kimberlé Williams Crenshaw’s work—*Black Girls Matter: Pushed Out, Overpoliced and Underprotected*—reports that in New York and Boston, “black boys and girls were subject to larger achievement gaps and harsher forms of discipline than their white counterparts.”¹⁰⁸ Department of Education data from 2011-2012 revealed that Black males were suspended more than three times as often as their White counterparts, Black girls were suspended six times as often, and only two percent of White girls were punished with exclusionary suspensions versus twelve percent of Black girls.¹⁰⁹ In Crenshaw’s same work, she revealed that in Boston, fewer than three times as many Black boys were enrolled in school as White boys, but Black boys were disciplined almost eight times more than White boys.¹¹⁰ Likewise, in New York City, although there were twice as many Black boys enrolled in school, they were also disciplined at six times the rate of their White male peers.¹¹¹ The expulsion rates are also staggering across racial lines: in Boston, Black boys were expelled at ten times the rate of their White peers, and six times the rate in New York City.¹¹²

It is important to note that Ronald Ferguson’s analysis within *Aiming Higher Together: Strategizing Better Educational Outcomes for Boys and Young Men of Color* suggests many manifestations of racially disparate school discipline not to be the result of stereotypes or implicit bias.¹¹³ Rather, Ferguson stresses a systemic issue in the disproportionality in concentration of Black students in schools and communities that generate more behavioral problems and associated institutional stresses.¹¹⁴ However, even if correct, when coupled with ample evidence documented throughout the present work, many systemic issues flourish disproportionately on the backs of Black individuals in America, and

105. Skiba, *supra* note 103, at 95, 102.

106. RICHARD H. MILNER, IV, *RAC(E)ING TO CLASS: CONFRONTING POVERTY AND RACE IN SCHOOLS AND CLASSROOMS* 122 (Harv. Univ. Press ed., 2015) (quoting FERGUSON, *supra* note 27, at 51).

107. *Id.*

108. KIMBERLÉ WILLIAMS CRENSHAW, *BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED AND UNDERPROTECTED* (2015).

109. *Id.* at 16.

110. *Id.* at 19-20.

111. *Id.* at 20.

112. *Id.* at 21.

113. FERGUSON, *supra* note 27, at 54.

114. *Id.*

while not specifically the result of implicit biases, systemic issues, such as school dropout, hold just as much power in one's vulnerability towards incarceration.

Regardless, findings also indicate that administrators favor removal of students via out-of-school suspensions versus in-school disciplining techniques.¹¹⁵ The present work, among the work of many other scholars, suggests that school suspensions engender out-of-school environments, anti-academic counter-cultures, and behavior likely to culminate in eventual incarceration.¹¹⁶ Okonofua and colleagues label this disparity in discipline the "Black Escalation Effect" where in tandem with stereotypes and stigma, "bias and apprehension about bias can build on one another in school settings in a vicious cycle that undermines teacher-student relationships over time and exacerbates inequality."¹¹⁷

The glaring inequalities associated with these statistics listed above are also largely attributable to federal funding requirements institutionalizing zero-tolerance policies towards drug and gang-related instances.¹¹⁸ These policies include a net widening towards arrests, increased high-tech security measures, heavy police presence, and the criminalization of minor infractions.¹¹⁹ Once upon a time, these infractions were simply labeled broken school rules. However, new instructions have expanded these violations into official criminal matters with legal repercussions falling disproportionately on minority and

115. See, e.g., Neil Blomberg, *Effective Discipline for Misbehavior: In School vs. Out of School Suspension*, 27 CONCEPT, INTERDISC. J. GRADUATE STUD. 4-5 (2004), available at <https://concept.journals.villanova.edu/article/view/138/109> [<https://perma.cc/SQC6-TJVU>] (last visited Apr. 25, 2019) (reviewing literature that suspension does not address root causes of misbehavior and tends to push out the students who are most in need of school supports).

116. Consistently with this conception, research from the Social Science Research Council shows that people of color were overrepresented in 2013 among young men and women disconnected from both work and school, where 11.3% of Whites among sixteen to twenty-four year olds were disconnected, compared with 21.6% of Blacks. See Kristen Lewis & Sarah Burd-Sharps, *Zeroing in on Place and Race: Youth Disconnected in America's Cities*, SOC. SCI. RES. COUNCIL (2015).

117. FERGUSON, *supra* note 27, at 54. See Okonofua & Eberhardt, *supra* note 98; see also Allegra Clara McComb, *Stanford researchers reveal teachers more likely to label black students 'troublemakers'*, STAN. DAILY, May 7, 2015, <https://www.stanforddaily.com/2015/05/07/stanford-researchers-reveal-teachers-more-likely-to-label-black-students-troublemakers/> [<https://perma.cc/manage/create?folder=7821>] (last visited Apr. 25, 2019) (explaining that this escalation is also the mechanism by which teachers are more likely to label Black students as "troublemakers" than White students, as they detect a pattern in unrelated events that they otherwise might not notice in a White student, and are therefore more likely to suspend or expel the Black student down the line).

118. Tia Stevens & Merry Morash, *Racial/Ethnic Disparities in Boys' Probability of Arrest and Court Actions in 1980 and 2000: The Disproportionate Impact of "Getting Tough" on Crime*, 13 YOUTH VIOLENCE & JUV. JUST. 77, 89 (2015).

119. *Id.*

disadvantaged youth.¹²⁰ From the increased severity of school discipline procedures, it may come as no surprise that the most recent juvenile arrest numbers are also substantial and stratified when factoring for race.¹²¹ The overall trend of formal court intervention for juveniles has been increasing since the 1990s. The same can be said for the influx of those into correctional placement and for the inequality associated with arrests of minorities.¹²² For instance, in 2010, it was estimated that more than 1.6 million arrests of juveniles took place in the United States, with nearly 1.4 million delinquency cases processed in juvenile courts.¹²³ In one analysis, researchers found that from 2004 to 2008, Black versus White disparity in arrest equaled 5 to 1, with the Black arrest rate *increasing* twenty-four percent while White arrest rate *decreased* three percent.¹²⁴

Another analysis found that this extends to the declining arrests rates for White youth happening quicker than for Black youth.¹²⁵ White arrest rates dropped to pre-1980 levels four years after their peak, versus fifteen years following its peak for Black youth.¹²⁶ Further, “Black youth are more than twice as likely as white youth to have been arrested. In 2010, for example, the arrest rate for black youth was 9,140 per 100,000 youth, compared with only 4,243 per 100,000 white youth.”¹²⁷ A Black youth’s case is more likely to be handled in a formal process than his White counterpart’s informal process (sixty-four percent versus fifty-five percent for delinquency cases).¹²⁸ In 2000, Black youth had case rates approximately twice that of White youth (95.6 versus 46.3 per 1,000), leading to more involvement and overrepresentation of Blacks in prison, whose

120. *Id.*

121. It should be noted that many researchers found high levels of racial segregation is inversely associated with a substantially lower probability for juvenile arrests for violent crime, albeit an outdated finding especially in consideration of the following more recent analyses. See Allen E. Liska & Mitchell B. Chamlin, *Social Structure and Crime Control Among Macrosocial Units*, 90 AM. J. SOC. 383, 385 (1984); Allen E. Liska et al., *Testing the Economic Production and Conflict Models of Crime Control*, 64 SOC. FORCES, 119–38 (1985); ALLEN E. LISKA, SOCIAL THREAT AND SOCIAL CONTROL 141 (1992).

122. Stevens & Morash, *supra* note 118, at 77.

123. Charles Puzzanchera & W. Kang, *Easy Access to FBI Arrest Statistics 1994-2014*, NAT’L. CTR. JUV. JUST, Aug. 7, 2017, <http://www.ojjdp.gov/ojstatbb/ezaucr/> [<https://perma.cc/Z4UQ-2MM3>] (last visited Apr. 25, 2019); Charles Puzzanchera & W. Kang, *Easy Access to Juvenile Court Statistics 1985-2016*, NAT’L. CTR. JUV. JUST, Aug. 22, 2018, <http://ojjdp.gov/ojstatbb/ezajcs/> [<https://perma.cc/9ZQH-P37S>] (last visited Apr. 25, 2019). See Stevens & Morash, *supra* note 118, at 77.

124. Charles Puzzanchera, *Juvenile Arrests 2008*, JUV. JUST. BULL., Dec. 2009, <https://www.ncjrs.gov/pdffiles1/ojjdp/228479.pdf> [<https://perma.cc/2DVR-RZCJ>] (last visited Apr. 25, 2019).

125. Stevens & Morash, *supra* note 118, at 78.

126. Stevens & Morash, *supra* note 118, at 78.

127. *Id.* at 78.

128. *Id.* at 79.

charges were often associated with drug-related offenses.¹²⁹ According to the December 2014 fact sheet on Delinquency Cases in Juvenile Court in 2011, the rate at which Black youth were referred to juvenile court for a delinquency offense was more than twice the rate for White youth.¹³⁰ Further, Black youth were nearly five times as likely to be incarcerated as their White peers.¹³¹

In essence, from 1980 to 2000, the increased probability for a charge was most dramatic for Black boys, formal intervention and punishment was disproportionately felt by Black youth, and “those who are black have been most affected by increased severity in justice system responses.”¹³² African American children were also more likely to be placed in long-term correctional placements, indicating that although there is no formal conviction, an arrest record remains and disruption of life persists.¹³³ Accordingly, the impetus behind the importance of increased anti-bias training involved with school discipline, legal intervention, and law enforcement arrest procedures is clear.

The criminalization of Black existence within educational spheres also has a lasting impact. For example, “Arrest, conviction, and placement may reduce youths’ legitimate opportunities,” leading to persistent instability altering one’s entire life course.¹³⁴ Hirschfield remarked that arrest can lead to dropout, which further decreased labor market success.¹³⁵ Further, early justice system involvement in one’s life, “exposes youth to other youth who are alienated from school and who are prone to illegal activity at the same time that it separates them from youth who avoid lawbreaking.”¹³⁶ Becky Pettit and Bruce Western found that around sixty percent of Black men who did not finish high school will be sent to prison by their mid-thirties.¹³⁷ The collateral damage of early justice system involvement virtually has no end, as it spans further to fully encapsulate

129. *Id.* at 79.

130. Sarah Hockenberry & Charles Puzanchera, *Delinquency Cases in Juvenile Court, 2011*, JUV. OFFENDERS & VICTIMS: NAT’L REP. SERIES, Dec. 2014, <http://www.ojjdp.gov/pubs/248409.pdf> [<https://perma.cc/3QEZ-TYP6>] (last visited Apr. 25, 2019).

131. Melinda D. Anderson, *Learning Behind Bars*, THE ATLANTIC, June 6, 2016, www.theatlantic.com/education/archive/2016/06/learning-behind-bars/485663 [<https://perma.cc/H4B9-KUVC>] (last visited Apr. 25, 2019).

132. Stevens & Morash, *supra* note 118, at 88-89.

133. *Id.* at 89.

134. Robert J. Sampson & John H. Laub, J, *A Life-Course Theory of Cumulative Disadvantage and the Stability of Delinquency*, in DEVELOPMENTAL THEORIES OF CRIME AND DELINQUENCY 1–29 (Terence P. Thornberry ed., 1997) (quoting Stevens & Morash, *supra* note 118, at 90).

135. Paul Hirschfield, *Another Way Out: The Impact of Juvenile Arrests on High School Dropout* 82 SOC. EDU., 368, 368, 371 (1997); Stevens & Morash, *supra* note 118, at 90.

136. Stevens & Morash, *supra* note 118, at 90. See Randi Hjalmarsson, *Criminal justice involvement and high school completion*, 63 J. URBAN ECON., 613, 628 (2007).

137. Becky Pettit & Bruce Western, *Mass Incarceration and the Life-Course: Race and Class Inequality in U.S. Incarceration*, 69 AMERICAN SOC. REV. 151, 164 (2004).

a disruption in family life and even obsession of hypermasculinity and the further use of force and dominance over others.¹³⁸

Another factor in the increased likelihood of incarceration for Black bodies in schools is associated with illicit drugs. The War on Drugs is an especially important factor in young minority influx into the juvenile justice system as, “every year since 1988, drug cases were the type most likely to be handled formally.”¹³⁹ Some suggest that living in poverty-stricken areas and with limited educational or economic opportunities leads towards a life of crime and drug use.¹⁴⁰ However, a longitudinal study conducted by the Institute of Social Research on demographic subgroup trends for secondary school students related to substance use, beliefs about drugs, age of initiation, non-continuation of drug use, and sources for drugs outside medical supervision found that the annual prevalence of drug use declined for twenty-eight of thirty-four drug outcomes reported in 2014, especially annual prevalence of marijuana, while cigarette smoking and alcohol use are at the lowest levels recorded in the history of this survey.¹⁴¹ Moreover, in regards to race, this study found that Blacks still have, “the lowest levels for most licit and illicit drugs at all three grade levels, and in particular for hallucinogens, ecstasy, and all forms of prescription drugs,” as well as the use of alcohol and cigarettes.¹⁴² While African Americans and Hispanics were found to use marijuana at considerably higher rates, both of these demographic groups were also shown to have generally lower rates than White students of prescription drug use.¹⁴³ Monitoring the Future, a United States data collection effort on the comparative use of drugs among youth between 1980 and 2000, noted that for every year in the two decades of this study, Black twelfth graders had the lowest use prevalence of marijuana and cocaine.¹⁴⁴

In a recently published twelve-year longitudinal study, researchers in the Chicago-region also examined drug use among youths after detention, finding that use disorder rates differed markedly by race and ethnicity and non-Hispanic Whites were “significantly more likely” than minorities to have drug and alcohol

138. Victor M. Rios, *The Consequences of the Criminal Justice Pipeline on Black and Latino Masculinity*, 623 ANNALS AM. ACAD. POL. & SOC. SCI. 150–162 (2009) (quoting Stevens & Morash, *supra* note 118, at 90).

139. Stevens & Morash, *supra* note 118, at 78.

140. See HAMER, *supra* note 40, at 141; Anders Walker, *The New Jim Crow? Recovering the Progressive Origins of Mass Incarceration*, 41 HASTINGS CONST. L.Q. 845, 866 (2014).

141. Lloyd D. Johnston et al., *Demographic Subgroup Trends among Adolescents for Fifty-One Classes of Licit and Illicit Drugs, 1975-2012*, INST. SOC. RES. UNIV. MICH. (2013); Lloyd D. Johnston et al., *Monitoring the Future National Survey Results on Drug Use 1975-2014: 2014 Overview*, INST. SOC. RES. UNIV. MICH. 5, 6 (2015).

142. *Id.*

143. *Id.*

144. *Id.*; see Stevens & Morash, *supra* note 118, at 79.

abuse disorders.¹⁴⁵ While drug use disorders with cocaine, hallucinogens, PCP, opiate, amphetamine, and sedatives were rare among African Americans, they were prevalent among non-Hispanic Whites.¹⁴⁶ For example, nearly fifty percent of non-Hispanic Whites had substance use disorders eight years after release, compared with around a quarter of African Americans.¹⁴⁷ Non-Hispanic Whites not only had greater odds of marijuana use disorders when compared with African Americans, but African Americans also had the lowest prevalence of “other” illicit drug-use disorders (1.7%) when compared with non-Hispanic Whites (twenty percent) as well.¹⁴⁸ Accordingly, researchers found that non-Hispanic Whites had more than nineteen times greater odds than African Americans for “other” illicit drug-use disorders.¹⁴⁹ These findings are also consistent with a host of other drug use disorders, where non-Hispanic Whites had more than thirty times the odds of cocaine-use, eighteen times the odds for hallucinogens and PCP, and fifty times the odds for opiate use disorders.¹⁵⁰ Importantly, this study controlled for additional time that African Americans spend in correctional facilities. Still, researchers found that racial and ethnic differences in drug use disorders persisted.¹⁵¹

Based off these findings alone, one could therefore assume that the majority of drug convictions should be overwhelmingly associated with non-Hispanic Whites. Yet, research routinely demonstrates that African Americans are more likely to be arrested for drug-related charges.¹⁵² Further, analyses also indicate that minorities, and especially juvenile minorities, are disproportionately incarcerated for drug crimes.¹⁵³ For this reason, racial and ethnic drug use differences do not appear to explain higher court involvement of Black youth in

145. Leah J. Welty et al., *Health Disparities in Drug- and Alcohol-Use Disorders: A 12-Year Longitudinal Study of Youths After Detention*, 106(5) AM. J. PUB. HEALTH, 872, 874–875 (2016).

146. *Id.* at 876.

147. *Id.* at 875.

148. *Id.*

149. *Id.*

150. Welty et al., *supra* note 145, at 876.

151. *Id.* at 877.

152. Meghana Kakade et al., *Adolescent Substance Use and Other Illegal Behaviors and Racial Disparities in Criminal Justice System Involvement: Findings From a US National Survey*, 102(7) AM. J. PUB. HEALTH, 1307–08 (2012); Katherine Beckett et al., *Drug Use, Drug Possession Arrests, and the Question of Race: Lessons from Seattle*, 52(3) SOC. PROBS. 419, 420, 434, (2012).

153. Doris J. James, *Profile of Jail Inmates, 2002*, BUREAU JUST. STAT. SPECIAL REP. (2002), available at <https://www.bjs.gov/content/pub/pdf/pji02.pdf> [<https://perma.cc/39RN-A6TU>] (last visited Apr. 25, 2019); Melissa Sickmund et al., *Easy Access to Juvenile Court Statistics: 1985-2016*, NAT'L. CTR. JUV. JUST., Aug. 22, 2018, <https://www.ojjdp.gov/ojstatbb/ezajcs/> [<https://perma.cc/LJP3-98WJ>] (last visited Apr. 25, 2019); Stevens & Morash, *supra* note 118, at 79.

2000, and could be attributed to system administrators' biases fueling unequal incarceration.¹⁵⁴

CONCLUSION

On the whole, research demonstrates that

Even though many of these children have done nothing wrong, they are targeted by police, presumed guilty, and suspected by law enforcement of being dangerous or engaged in criminal activity. The random stops, questioning, and harassment dramatically increase the risk of arrest for petty crimes. Many of these children develop criminal records for behavior that more affluent children engage in with impunity.¹⁵⁵

Instead of enriching safe havens, schools are increasingly ways in which poor Black boys develop criminal records and begin a life on the run, further relegating them to a lower status in constant connection with systemic mass imprisonment. Goffman documents this destruction by stating:

In the neighborhood of 6th street and others like it, boys begin in school, but many make the transition to the juvenile courts and detention centers in their preteen or teenage years. By the time many young men in the neighborhood have entered their late teens or early twenties, the penal system has largely replaced the educational system as a key setting of young adulthood. These boys and young men are not freshman or seniors but defendants and inmates, spending their time in courtrooms instead of classrooms, attending sentencing hearings and probation meetings, not proms or graduations.

As the criminal justice system has come to occupy a central place in their lives and by extension those of their partners and families, it has become a principal base around which they construct a meaningful social world. It is through their dealings with police, the courts, the parole board, and the prison that young men and those close to them work out who they are and who they are to each other.¹⁵⁶

Goffman's riveting account helps to explain why youth need to be at the center of any long-term plan of reform. It is not enough to simply study one or two challenges facing minority youth in urban settings, it is actually necessary to take a comprehensive look at all of the challenges urban youth face. Only then can we grasp the scope of the change that needs to take place.

154. Stevens & Morash, *supra* note 118, at 79.

155. Bryan Stevenson, *Undue Time: When adult sentences for children's crimes mean entire lives spent behind bars*, MEDIUM, Oct. 27, 2014, <https://medium.com/galleys/all-gods-children-c034eee5804b> [<https://perma.cc/4J84-5KKS>] (last visited Apr. 25, 2019).

156. GOFFMAN, *supra* note 2, at 109.

