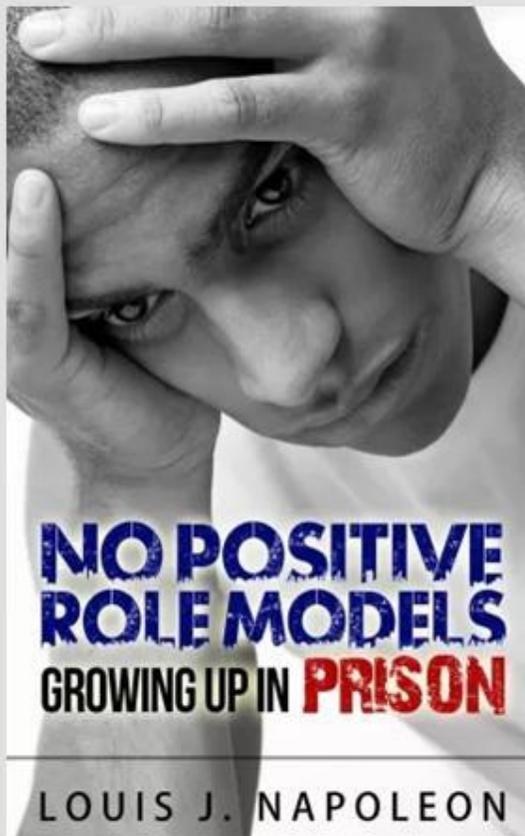


Criminal Justice Injustice

Juveniles In Adult Prisons



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From the *Handbook of Research on Black Males*
Michigan State University Press | Examines the
treatment of youth offenders in adult prisons.

No Positive Role Models: Growing Up in Prison

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Previously Incarcerated Juvenile in Adult Prison

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Abstract

Black communities with high racial inequality and limited or no access to quality education, employment, health care, and other basic services feed America's criminal justice industry. One in every 15 African American men is incarcerated, compared to one in every 106 white men. African American offenders receive 10 percent more jail time for the same offense as white offenders. Young African American males, including a disproportionate number of juveniles, account for more than half the prisoners incarcerated in America. An estimated 250,000 minors are tried, sentenced, or incarcerated as adults every year, mostly African American and Hispanic. According to the U.S. Department of Justice and the Centers for Disease Control and Prevention, the phenomena discussed above is called the school-to-prison pipeline, which "does not protect the community and substantially increases the likelihood that youth will re-offend." Minority juveniles are paraded into adult courts without hesitation, their civil rights ignored, manipulated, and violated in plain sight; with little out-cry from the public, teenagers are transported to adult prisons to learn their lesson. Pop culture, right-wing politics, rebellious rap music, and a cynical media have made it easier for the judicial system to point unforgiving fingers at "incorrigible" black youth. "While African American juvenile youth are about 16 percent of the youth population, 37 percent of their cases are moved to criminal court and 58 percent of African American youth are sent to adult prisons." (The Sentencing Project, 2016).

Prosecuting juveniles in adult court is a no-win proposition and yields negative consequences. Adult sentences for youth are typically punitive and longer, and minority offenders are subsequently disproportionately impacted for life because developmental and rehabilitative resources are typically unavailable to young offenders, thus minimizing future potential (Ashkar & Kenny, 2008).

Keywords: waiver, transfer, juveniles, racial disparity, courts

No Positive Role Models: Growing Up in Prison

Incarcerating Black juvenile males in adult prisons is counterproductive and threatens to create a permanent underclass of young Black males who are ineligible to vote, unlikely to be employable, and remain unproductive members of society. Black male identity is still forming in adolescence, and spending time with adults in prison has the potential to embody negative influences. Black juveniles who are prosecuted and imprisoned with adults will likely adopt and internalize the behaviors that are the norm in the prison environment. These adverse effects become almost impossible to reverse after incarceration. Growing up in prison means there are less opportunities to be exposed to positive role models.

This chapter will explore the inequalities in rates of minority incarceration due to systemic racism and a history of harsh treatment of juveniles. Following is a discussion of how the adult prison environment is ineffective and harmful to youth offenders, contributing to recidivism. Another section acknowledges how American politics and culture have contributed to both the problem and the solution of the imprisonment of juveniles with adults, which eliminates chances of rehabilitation through skill-building opportunities and interaction with adults who are positive influencers.

Analysis

In the documentary, *They Call Us Monsters*, released in January 2017, three teens growing up in an adult prison system tell their stories through short film. The film highlights questions that the justice system struggles to answer: Are young criminals dangerous monsters, or wayward youth who need programs involving social skills training? Can juvenile incarceration be solved with social skills training and better education? By placing juveniles in prisons where they are forced to interact with hardcore, seasoned criminals, society is assuming the former, that juvenile delinquents are “dangerous”, and exasperating the problem. Though many people would like to think they can wash their hands of these teens once they’re behind bars, the tough-on-crime impact of imprisonment will have detrimental effects on society for decades to come (Fagan, Redding, 2003, 2005).

Juveniles not only face a punishment that is ill-fitting for their age and level of development and maturity, but they also face an environment that is destructive to their future. The purpose of prison is to punish the offender for crimes committed. The hope is that prisoners will repent and, if they are fortunate enough to return to society, they will lead new, better lives. But in the majority of cases, statistics show that prisons fail to rehabilitate offenders. As a result of mass incarceration and disproportionate minority confinement, African American and Hispanic juvenile males know this failure all too well, as adult relatives and family friends recycle in and out of prisons, halfway houses, and treatment centers. Many minority juvenile males actually expect to serve prison time at some point in their life, and they are, in fact, entering the adult prison system in alarming numbers, incarcerated at a rate of six times that of whites (NAACP, 2017). The inequality of minority incarceration is not a new phenomenon. Researchers and prisoner rights advocates, like *The Sentencing Project*, have characterized the

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criminal justice system as having a “cascade of disparities”, including policing tactics that increase the odds that minority males will be stopped, frisked, and taken to jail. The juvenile justice system has been throwing African American kids to the wolves for a long time, dishing out unimaginable punishments. Black males are arrested at a higher rate, often due to a greater police presence in their communities; are prosecuted at a higher rate; serve more time incarcerated than other ethnic groups; and are sentenced to death at higher rates than white counterparts (Reisig, Bales, Hay, & Wang, 2007).

As history reveals, change is possible in the prison system. Throughout the late 18th century, children as young as seven years-old stood trial in criminal court for crimes committed and were sentenced to prison or death. The 19th century saw a move toward more humane treatment of juvenile offenders and the understanding that they were not miniature adults but rather immature adolescents still developing, devoid of full cognitive capabilities. Around 1825, the Society for the Prevention of Juvenile Delinquency advocated the separation of juvenile and adult offenders. This policy picked up momentum and facilities for juvenile offenders were opened in major cities throughout America. The mission to rehabilitate was stated clearly in the laws that established juvenile courts, and this yielded fundamental and procedural standards, separating juvenile and criminal justice systems. For many years the focus was on the juvenile offender, not the offense, on rehabilitation, not punishment, but the social justice pendulum began to swing toward punishment and retribution in the 1980s. The public wanted “just us” and a “crackdown on crack” in urban cities. States removed certain classes of offenders from the juvenile justice system, expanded eligibility for criminal court, created punitive sentencing laws, and the boys in blue operated with impunity. Sentencing juveniles to an adult prison was seen as unethical during the 18th century, so why is it acceptable now?

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Systemic racism is the number one reason so many African American juvenile males are growing up in adult prisons and, when released, are unprepared to face astronomical reentry barriers. The design and calculation of this system is inarguable, the history long and destructive. The Scottsboro Boys are classic examples: nine teenagers, 13-19 years old, were falsely accused of raping two white women in Alabama in 1931. The Scottsboro Boys were convicted and sentenced to death by an all-white jury, despite medical evidence that they were innocent and one of the alleged victims recanting her accusations. The prosecution, aware of their innocence, told the jury, "If you don't give these men death sentences, the electric chair might as well be abolished." Found guilty initially, the Scottsboro Boys were later exonerated, but their time served in maximum security prisons, including on death row, shattered their innocence and their futures dramatically (U.S. Supreme Court, 1932). Because African American male youths were being tried as adults, the death penalty was a legal option for their punishment, setting a tone for how juveniles could be treated despite their age, a mindset that remains in how juveniles are imprisoned with adults today.

Even though the U.S. Supreme Court eventually legalized the death penalty in all states for defendants under the age of 18 at the time of their crime in *Roper vs Simmons* (2005), it did not benefit George Stinney, a 14-year-old African-American, the youngest person executed in America. Charged with first-degree murder, he was convicted by an all-white jury in less than 10 minutes and sentenced to death with no mandatory appeal, as is the procedure with capitol cases. He died in South Carolina's electric chair on June 16, 1944. On December 17, 2014, his conviction was posthumously vacated, 70 years after his execution; the circuit court judge ruled that the prosecution and trial were fundamentally flawed, that he had not received a fair trial, that his defense was ineffective, and that the confession was likely coerced and thus inadmissible.

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The court also found the execution of a 14-year-old constituted "cruel and unusual punishment" (Mullen, 2014).

The legal treatment of youths as adults has been astounding; although the law currently protects juveniles from the death penalty, Black male juveniles still experience discriminatory and unjust sentences. In addition to facing the death penalty, young Black males have experienced dangerous and brutal prison environments for decades due to exposure to older career criminals after being sentenced as adults. For example, O. C. Harry, an 11-year-old African-American, was taken from his classroom at school, arrested on a misdemeanor charge, and ushered into a county jail cell block with adult male pedophiles. A deputy returned a half hour later, just in time to prevent a gang sexual assault. He was moved to the women's section of the jail where he remained for a week (1959, Madison County Jail, Edwardsville, Illinois). Unfortunately, in both past and present, youths have been placed in prison systems that are potentially and significantly more harmful than incarceration with their peers.

What populations of juveniles are tried as adults? Minors prosecuted as adults in New Jersey are almost 90 percent Black and Hispanic, selected for adult prosecution based on where they live—and their race. On October 12, 2016, New York Public Radio – WNYC FM, WNYC AM published a series called "Kids in Prison", which explores what it was like for a juvenile in an adult prison. They accessed data from the New Jersey Administrative Office of the Court, July 2011 through May 2016. Of the 1,251 petitions to the court by prosecutors to try juveniles as adults, 87.6 percent were Black or Hispanic and 692 were granted (WNYC, 2016).

Research has shown that incarceration of juveniles in adult prisons reduces criminal activity less than time served in juvenile facilities where adequate rehabilitative services, i.e. school, appropriate counseling, and life skills activities, are more likely to be available (Aizer &

Doyle, 2013). Adult prisons are punitive, designed and built to punish, and the necessary programs that can contribute to young Black males' rehabilitation are rarely available. Prisons and correctional facilities are often built and located in rural areas, requiring six or seven hours of travel for urban parents seeking to visit their children who are incarcerated. In these remote areas of the state, the number of minority guards and support staff tend to be minimal, which further limits the personal contact minority youth have with adult, non-criminal males. The only adults of color with whom a juvenile in prison might bond with are likely to be drug dealers, robbers, burglars, pimps, con-men, and veteran convicts who, themselves, are in need of positive Black male interaction. Consequently, communication between incarcerated adults and teenagers promotes the influence of seemingly-grandiose "gangsta" lifestyles, dominating and negatively affecting young minds. Two or three years, or even less, into a sentence, any chance of juvenile offenders gravitating towards careers as engineers, scientists, or doctors is dubious at best. The harsh, day-to-day reality of dog-eat-dog, no-compromise, stand-your-ground-no-matter-what, get-your-money, you-against-the-world indoctrination can wipe out any sense of right and wrong. Right becomes anything that enhances one's "hustle". Wrong is only contemplated when the former convict is arrested again. A young offender's lifestyle has been shaped by the prison environment. What else could they become but career criminals, mimicking their prison mentors and peers?

Take James Lewis, for instance, an inmate in the Wisconsin State Reformatory, captivated by the exciting and glamorous crime escapades narrated by older, respected Black prisoners; he was arrested just eight hours after his release, attempting to apply burglary "techniques" his prison mentor taught him and other young offenders (parole release, 1965). Undaunted, his career as a criminal spanned more than 35 years, returning to prison seven more

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times before “retiring” in 1993. In order to prevent repeat offenses and provide a better and more effective consequence for juveniles, separation from adult criminals is vital.

More recently, the government has taken steps to address these significant problems with incarceration and rehabilitation. The Obama administration initiated by-partisan legislation to address over-criminalization and mass incarceration. *The Sentencing Reform and Corrections Act of 2015* targeted the reduction of mandatory minimum prison terms of nonviolent drug offenders, and the *Fair Chance to Compete for Jobs Act of 2015* prohibited federal agencies and federal contractors from requesting criminal history information before the applicant has received a job offer, thus giving previously incarcerated job seekers a chance to obtain employment based on job skills and qualifications alone (Congress.gov, 2016). The former president commuted 1,715 sentences and pardoned 148 prisoners. These are steps in the right direction but may not find much support in the Trump administration. Trump’s white right cabinet and political appointees speak volumes and suggest a bleak future for minorities over the next four years. Michael Collins of the Drug Policy Alliance said in reference to Barack Obama, “He is to be applauded for his actions. . .but we know that the next occupant of the White House is unsympathetic to the cause of mass incarceration, and to the plight of those serving unjust sentences in federal prison.” A recent Pew Research Study pointed out that 76 percent of white republicans believe police officers generally treat African American arrestees fairly, that police violence and discrimination is exaggerated: “About three-quarters of Republicans say that police around the country are doing an excellent or good job when it comes to treating racial and ethnic groups equally, using the right amount of force for each situation and holding officers accountable when misconduct occurs” (Pew Research Center, 2017). The views of both the

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current administration and its supporters may create further barriers for more just treatment of juvenile offenders, specifically those who are minorities.

Unbiased researchers can clearly see that the U.S. criminal justice system is fraught with racism and, by design or not, is tantamount to 21st century slave labor for corporate tycoons who have invested in the prison industrial complex. The police, prosecutors, courts, and Wall Street investors have a synergetic, efficiently run ATM machine that recruits and recycles African American and Hispanic prisoners. The corporate bigwigs lobby State Legislatures and courts for longer sentences, "truth-in-sentencing", and "three-strikes-you're-out laws" to keep prisons operating at capacity and the contracts coming. Corrections Corporation of America, the largest private prison company, has worked with legislators to draft model legislation impacting sentencing policy, prison privatization, and tough-on-crime proposals. It has contributed funds to sit on issue task forces and sponsor events hosting legislators. Whether crime rises or falls, for-profit prisons need to keep cells occupied to ensure that an able-bodied, healthy workforce is readily available.

Corporations who invest in prisons lose money if prisoners reform, get out, and stay out. They have vested economic interest and the political influence to maintain the world's largest penal system. As long as reducing incarceration is tied to fiscal pressures, little attention will be paid to the root causes: racism and poverty. It is unlikely that the powers-that-be will allow the recidivism rate to be significantly reduced without a fight. At least 37 states have legalized the contracting of prison labor by private corporations ACLU. (2017). Some of the companies that have used prison labor are McDonalds, Victoria's Secret, Starbucks, Boeing, and the U.S. military. As seen from these perspectives, many hurdles exist in the way of eliminating juvenile sentencing to adult prisons and the disproportionate incarceration of minorities. Corrections

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Corporation of America (CCA) said in its 2010 Annual Report filed with the Securities and Exchange Commission, “The demand for our facilities and services could be adversely affected by. . .leniency in conviction or parole standards and sentencing practices” (ACLU, 2010).

Conclusion

The practice of sentencing juveniles to adult prisons should be terminated, “except for extraordinary exceptions,” e.g., South Carolina Church murders and Sandy Hook Elementary School massacre. Any time spent in an adult prison has an indelible negative effect on a juvenile offender. Once juvenile offenders arrive in an adult prison, radical changes must be contemplated, reconciled, and implemented to establish their identity as either predator or prey. There is little way for offenders to avoid this violent culture. If a young African American male is going to be imprisoned for any length of time, as a matter of self-preservation, he will gravitate to the etched-in-stone prison code—“kill or be killed,” “the strong survive”—which means he will harden his heart, cultivate secret survival skills, and feel compelled to collaborate with peers in various activities that may or may not conform to his personal value system. This abnormal environment will not allow a youth to be or become normal, wholesome, and well-meaning for long.

Juveniles in adult prisons are unserved, underserved, or inappropriately served because they can be preyed on by adults, as seen in the case of O.C. Harry, or because they are simply not provided the resources for learning academic and social skills. While it is possible to convert a prison experience into an opportunity for future success, astronomical odds and real time realities stand in one’s way, and that is a great deal of territory for most juvenile minds to absorb and navigate effectively. If rehabilitation is the expectation of criminal justice professionals, the environment must be less stressful, less violent, and conducive to education, growth, and empowerment where young offenders can gain insight into their behavior that recognizes alternatives and opportunities for positive transformation. Effective intervention programs must target the culture of being male, African American, and adolescent, as well as the contextual

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factor of having lived in high-risk, inner-city neighborhoods. Reaching the numbers of “street savvy” juvenile offenders requires a bit of “hustler insight”, specific street knowledge, and life experience they can “feel”, spoken in a language they understand, that is socially and culturally acceptable to them. If properly engaged, young offenders will learn how to avoid the typical pitfalls of post-prison life. They will find regular work, avoid drugs, and stay free of new crimes. Pre-release and post-release training are necessary to leave a life of crime behind.

This chapter examined the history of the treatment of youth offenders as adults leading up to modern practices, as well as the failures of the government in policymaking and the dangerous influence of adult criminals on youth offenders, to oppose the incarceration of juvenile Black males in adult prisons and point out systemic racism in criminal justice administration.

Incarcerated Lives Matter!

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