



Criminalized: Youth and Race in the United States

U.S. domestic public policies target youth in the United States in systematic and institutional ways that hinder the realization of human rights. Racist and discriminatory U.S. institutions and organizations, such as the police, prisons, and the Immigration and Naturalization Service (INS) or Border Patrol, target youth in the United States, specifically youth of color and immigrant youth¹, via public policies. This position paper discusses the criminalization of youth in the United States, ranging from domestic militarization proliferating through the neighborhoods of people of color and immigrants; to public policies targeting and impacting youth; to the massive expansion of the prison industrial complex seeking to incarcerate record numbers of peoples. All of these issues are inter-related and linked: as domestic militarization provokes the rationale for youth-specific public policies and the massive funding towards the prison industrial complex.

Youth do not experience the repercussions of the State in the same capacity. Male and female youth of color are impacted by public policies differently because of their racial and gender identities. For example, male youth of color are the racial profile for the police and prison systems and female youth of color with children on welfare receive punitive measures if preferring to complete their education for a high school degree rather than seeking employment. In these situations, youth experience the impact of the State differently due to the realities of race and gender. The topics discussed in this position paper do not reflect the myriad of issues that prevent youth in the United States from enjoying the full range of human rights. This paper highlights certain aspects of youth criminalization, which constructs an “enemy” of the State that is young, racialized, gendered, and poor. The paper concludes with recommendations leading to the advancement of human rights for youth in the United States.

¹ For the purposes of this paper, “people of color” and “youth of color” is defined as the following: people residing in the United States who self-identify as being, for example, of African, Caribbean, Chicana/Latina, Asian, Pacific Islander, Arab, and Indigenous descent. Anglos, whites, or European-Americans are not considered “people of color.” Thus, in the United States, “people of color” are considered individuals who are non-white, non-Anglo, and of non-European origin. Immigrants residing in the United States typically do not self-identify as “people of color,” but rather identify as being from their country of origin. However, U.S.-born children of immigrants from the South may identify as “people of color.” In the context of this paper, immigrants are discussed separately from U.S. people of color.

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DOMESTIC MILITARIZATION

Domestic militarization includes of a number of factors: weapon manufacturers, militaristic research and development (i.e. technological advancement for the formation of underground sensors and infrared scopes at use in the U.S.-Mexico border region), high numbers of peoples in prisons, anti-crime laws (i.e. Juvenile Justice Initiative in California, which is discussed below), powerful weapons (i.e. military rifles used by Border Patrol agents and semi-automatic weapons used by the police), and construction of a target or enemy. The fear of crime, a basis for many political campaigns, fuels the rationale for more police, more surveillance laws, and a tough-on-crime attitude. Youth of color who are poor are conceptualized as the target because of political campaigns coupled with racist media depictions of youth.

Police systems throughout the United States have recently received public condemnation by some members of Congress and residents in the United States due to extensive internal corruption, excessive shootings and brutality, and racial profiling. Despite extensive criticism, police units are being accessed for prospective security guards at predominately poor middle schools and high schools located in urban areas with a predominately youth of color student body. For example, the New York City Department of Education supported legislation to employ the New York Police Department with providing security at public schools.² The hiring of police departments to monitor school grounds contributes to the formation of a police state in schools.

The police state in schools is further implemented with the recent development of police and military academies replacing high schools in districts, which are 70% - 95% people of color. For example, in 1996 in Los Angeles, California, the Los Angeles Unified School District opened its first out of five "Junior Police Academy Magnet Schools."³ With regards to military academies, the San Francisco Chronicle reported on July 8, 2001 the opening of a military charter school in Oakland, California.⁴ The nearly two hundred middle school youth planning to attend Oakland Military Institute prepared by participating in a two-week "boot camp" at the California National Guard.⁵ The Oakland Military

² Davis, Nicole. Winter 2000. "School ground or Police State?" *ColorLines Magazine*. Volume 2, Number 4: 15.

³ An obstacle course at the school is modeled after the Los Angeles Police Department's own course and some of the teachers are LAPD officers.

⁴ May, Meredith. 2001. "Jerry Brown's military coup/'Boot camp' preps students for Oakland's new charter school, opening in fall despite its detractors." *San Francisco Chronicle*, July 8.

⁵ During the two-week training phase, youth were awoken by 4:30 a.m., wore uniforms, marched to their meals, and addressed adults with hands behind their backs. Thirty-six students quit the two-week intensive military type training. During the school year, students will be required to show up in uniform at 7:30 a.m. for six days per week. Their day begins with military drills and ceases at 6 p.m. after a full day of classes. A National Guard brigadier is the school's superintendent.

Institute opens in the Fall 2001 at a former Oakland Army Base.⁶ Currently, the student population breakdown is the following: 1/3 of the entire group are female; 70% of the entire group is African American, 20% of the group is Latino, and the remaining members of the group are Asian Americans and whites. The majority of the students are from Oakland, with some students from nearby vicinities and other states.⁷ Many of the platoon sergeants will serve as mentors or teacher's aides during the academic school year.

The INS is an institution under the jurisdiction of the U.S. Department of Justice that also interacts and impacts youth in the United States. With an increasing military presence in its enforcement strategies, the INS has influenced the domestic militarization issue. The INS conducts raids throughout the United States that results in the separation of children from parents, racial targeting, scapegoating, and human rights violations. An October 1998 report on INS raids noted the following findings (partial list):⁸

- Raids violate constitutional and civil rights.
- Raids destabilize families.
- Raids do not significantly impact migration patterns.

INS raids have a damaging impact on youth, especially those youth born in the United States with undocumented immigrant parents. INS raids separate families and impact youth due to the loss of a parent or parents. For example, on December 2, 1997, in Brewster, Washington, the INS conducted a raid at the Brewster Heights Packing Plant, arresting 45 workers, most of whom were women. Approximately 40 students at the Brewster Elementary School lost a parent due to the raid. According to the elementary school counselor, "I don't think there was a classroom that didn't have a child that lost a parent... There were lots of sad eyes in the school the next day."

PUBLIC POLICIES TARGETING AND IMPACTING YOUTH

National and local public policies have recently been focusing on the criminalization of youth rather than youth empowerment. Even though the U.S. government claims to emphasize education for youth, the reality for poor youth of color indicates the strong support of juvenile crime initiatives (or incarceration) rather than advancing or promoting educational opportunities. Many of the juvenile crime initiatives increase punishment for youth and expand possible youth-related offenses that can be punishable under the law.

⁶ According to the July 8, 2001 *San Francisco Chronicle*, this school is the first of its kind in unifying the military with school classes.

⁷ Mayor Brown sent out 4,000 letters to sixth-graders in the public school system of Oakland.

⁸ For a copy of *Portrait of Injustice*, the INS Raids report, please contact the National Network or Immigrant and Refugee Rights, 310 Eighth Street, Suite 307, Oakland, California 94607, (510) 465-1984 (tel), (510) 465-1885 (fax), email nnirr@nnirr.org, website: www.nnirr.org.

This change in the juvenile system is exemplified in laws that allow criminal prosecutors to assert their option, according to the law, to prosecute juveniles as adults. Public policies state youth cannot walk or gather in public spaces, such as the shopping mall, in groups of more than three people. More significantly, some of the major funders or supporters of these public policies that criminalize youth are U.S. corporations, some of whom are also connected to the business of the prison industrial complex (i.e. Chevron Corporation).

In California in November 2000, the voters overwhelmingly passed the Juvenile Crime Initiative, known as Proposition 21 on the voting ballot. A significant portion of this legislation focused on “gangs,” who are consistently conceptualized as youth of color by the media and the police, or “gang-related” activities.⁹ The policy strived to instill harsher sentencing for juvenile crimes, such as life sentences for home robbery and witness intimidation and the death penalty in some cases. Furthermore, the policy required youth who are fourteen and older to be tried as adults in criminal trials for crimes involving murder and specific sex offenses. Some of the major financial contributors in support of Proposition 21¹⁰ are U.S. companies or corporations, such as the following: Pacific Gas & Electric Company in San Francisco (\$50,000); Union Oil Company of California (\$50,000); Chevron Corporation (\$25,000); San Diego Gas & Electric (\$25,000); and TransAmerica in San Francisco (\$25,000). The ramifications of Proposition 21 has been an increase in youth being incarcerated, who are disproportionately youth of color and poor, and having other states adopt similar anti-youth policies.

Other states have adopted anti-loitering policies. For example, in a shopping mall in Albuquerque, New Mexico, the following policy was implemented: “Loitering or congregating in groups in excess of five (5) persons without the supervision of a parent or guardian over 21 years of age is not permitted. On Saturdays, groups without a parent or guardian cannot exceed three (3) persons. This rule also applies to weekdays during the school year when school is not in session.” The Southwest Organizing Project in Albuquerque, New Mexico surveyed over 200 high school youth regarding this specific policy and over 40% stated they had been harassed by mall security. A 1999 lawsuit filed by the mother of a female Latina teenager and a Latino student from the University of New Mexico alleged racial targeting of Chicano/Latino youth by the security staff.¹¹

Public policies not specifically intended to target youth do result in impacting youth. For example, the militarization of the U.S.-Mexico border has

⁹ It is imperative to acknowledge youth of color are perceived as “gang members” and white youth, particularly if wealthy, are not considered “gang members” but rather “individuals” or “groups.”

¹⁰ The cost of this initiative is near \$1 billion.

¹¹ “Fed Judge Denies Injunction Against Coronado Mall.” 1999. *Albuquerque Journal*, November 15.

a devastating impact on youth. On May 20, 1997, eighteen-year old Hernandez was fatally shot by Camp Pendleton Marine in Redford, Texas. The Marines were part of a counter-drug surveillance team. Hernandez was a U.S. citizen¹² and tending to his goats during the fatal shooting incident.¹³ In addition, Amnesty International (AI) has reported “The phenomenon of unaccompanied children, some as young as nine or ten, making their way to the USA, is a quiet but alarming tragedy. Each year, thousands of children enter the USA on their own, illegally.”¹⁴

THE PRISON INDUSTRIAL COMPLEX

The prison industrial complex is a major business in the United States, generating substantial profits for large U.S. corporations. The privatization of prisons -- which occurs when U.S. corporations invest in prisons -- has led to an increase in prison construction and a high demand for incarceration. U.S. corporations invest in prisons because of access to a cheap and captive labor force. The prison industrial complex affects youth, especially if youth are people of color, poor, and/or women, because the business of prisons relies on a consistent incoming long-term prison population. The privatization of prisons leads to the incarceration of youth at an early age, even for minor offenses, stifling any opportunity for a promising future.

The following statistics highlight the severity of the prison industrial complex:

- Between 1971 and 1992, public spending on prisons alone jumped from \$2.3 billion to \$31.2 billion.
- In 1995, prison building expenditures jumped by \$926 million while university construction dropped by \$954 million.
- Prisons soak up over \$32 billion while generating billions of dollars in profit for big business.
- Corporations are receiving a growing proportion of U.S. tax dollars to operate private prisons and provide services.
- Between 1987 and 1996, the number of inmates in prisons jumped from 3,122 to 78,000.

¹² Even if Hernandez was not a U.S. citizen, the brutal and fatal shooting is a human rights violation.

¹³ U.S. Congress. House. Committee on the Judiciary, Subcommittee on Immigration and Claims. 1998. *Oversight Investigation of the Death of Esequiel Hernandez, Jr.*, 105th Congress, 2nd session. Washington, D.C.: U.S. Government Printing Office. [Y4.] 89/1:ES 2].

¹⁴ Amnesty International. 1998. *United States of America: Human Rights Concerns in the Border Region with Mexico*. Amnesty International (AI Index: AMR 51/03/98).

- Chevron, TWA, and Victoria's Secret use prison labor to do data entry, book telephone reservations, and make lingerie at 23 cents an hour.¹⁵

The following statistics highlight the impact the prison industry has on people of color:

- In 1994, one in three black men between the ages of 20-29 were in prison, jail, on probation or on parole. In 1995, 47% of state and federal inmates were black, the largest group behind bars. Black men were seven times more likely than white men to be in prison. Native Americans are ten times more likely than whites to be imprisoned. Latinos are the fastest growing group behind bars.
- In 1970, there were 5,600 women in federal and state prisons. By 1996, there were 75,000. 60% of that population are black and Latina.
- In 1993, the overall incarceration rate for juveniles was 221 per 100,000; for Latino youth it was 481 per 100,000; and for black youth it was 810 per 100,000. Juvenile arrests fell by 4% in 1995, but only after a 64% rise in the previous seven years.¹⁶

Youth are also held in INS detention centers. On January 14, 1998, AI reported that 378 youth were in INS detention. The breakdown was as follows: 19 youth were 10 years of age or younger; 15 youth were 11 – 12 years old; 41 youth were 13 – 14 years old; 62 youth were 15 years old; 86 youth were 16 years old; and 155 youth were 17 years old. AI stated concern in their report regarding INS treatment of youth. Specifically, AI reported cases of alleged mistreatment of youth and Human Rights Watch reported the length of detention and inadequate detention conditions and facilities as problematic. Furthermore, AI expressed concern regarding youth having no right to legal representation.

Regional location is a factor in assessing how an immigrant will be treated in the United States. Immigrants from the South who are racialized are treated in a different manner than European or white-identified immigrants. Thus, the severity or length of detention coincides with race and migration from the global South. The disparity in the treatment of immigrants can be noted in the vastly different ways in which the United States secures its southern border with Mexico (a militarized zone under high control) and its northern border with Canada (a de-militarized zone with minimal control).

¹⁵ Rojas, Patrisia Macias. Fall 1998. "The Prison Industrial Complex: Complex Facts" *ColorLines Magazine*, Volume 1, Number 2.

¹⁶ Ibid.

RECOMMENDATIONS

In order to develop more effective public policy, we call on the U.S. government to develop better tools for understanding abuses and discrimination related to intersectionality of identities and the ways that systems of institutional discrimination work together to put particular communities at risk. In order to ensure the full spectrum of rights, the government, in collaboration with non-governmental organizations and where appropriate, UN bodies, should commit to the following:

- 1. Human Rights Standards:** International Human Rights standards must be applied in the development and implementation of both foreign and domestic policy. This includes ratifying, adopting and fully implementing all pending UN Treaties (without reservations), as well as reviewing and revising previously established overbroad reservations.
- 2. Educational Funding:** The funding of public education should not be based on property taxes. Basing it on property taxes leaves poor neighborhoods with no option but poor and inadequate schooling facilities. Re-distribute the funding of schools so that schools in poor urban areas have adequate facilities. This must be coupled with an increase in the construction of public schools and stopping the creation of youth-based police and military academies
- 3. Privatization of Prisons and Detention Centers:** Stop the privatization of the criminal justice system which provides U.S. corporations with an incentive to participate in the construction and expansion of the prison industrial complex. This also includes stopping the creation of police and military academies for youth
- 4. Data, documentation, reporting:** Where data is not already disaggregated using and intersectional analysis, it should be collected and made accessible, paying particular attention to data that captures the experiences of people who are subjected to discrimination or violence as a result of their multiple identities.
- 5. Decision-Making:** Government must ensure access to and participation of marginalized communities in decision-making processes. Looking particularly at funding youth empowerment programs and ensure that youth leadership will be held at the forefront decision-making and remedies.