

# Criminalizing Kids

## The Overlooked Reason for Failing Schools

HEATHER ANN THOMPSON

*The nation's dropout rate* reached crisis levels in 2009, and test scores posted by its poorest public schools were also grim. Only 70 percent of first-year students entering America's high schools were graduating, with a full 1.2 million students dropping out each school year. In 2009, the Detroit public school system reported math scores that were the worst in forty years of participation in the National Assessment of Educational Progress test. So great was the problem of "low performing" schools by 2010 that the U.S. Department of Education set up ten regional advisory committees "to collect information on the educational needs across the country" and President Barack Obama committed \$3.5 billion to fund schools that were doing particularly poorly.

Politicians and policy makers offer various explanations for the dire state of public education in America. Some blame self-interested teacher unions for abysmal graduation rates and test scores. Others argue that deepening poverty rates coupled with increasing racial segregation have undermined school success. All have missed the proverbial elephant in the classroom, which is the extent to which the nation's public school system has been criminalized over the last forty years. More specifically, they have failed to reckon with the devastating effect that this unprecedented criminalization of educational spaces has had on the ability of teachers to teach and students to learn. If we are truly serious about fixing our nation's schools, and if we ever hope to roll back the re-segregation and ever-deepening poverty of these same institutions, we must first recognize the enormous price

that public school children have paid for America's recent embrace of the world's most massive and punitive penal state—a vast carceral apparatus that has wed our economy, society, and political structures to the practice of punishment in unprecedented ways. We must challenge the view that society's needs can best be met by criminalizing the most needy and the spaces in which they live, work, and learn.

*Although most Americans* are at least vaguely aware that this nation has beefed up its law-and-order apparatuses considerably over the last five decades, few grasp what a dramatic and destructive political and policy shift has actually occurred. Before the early 1970s, the U.S. incarceration rate was fairly unremarkable. Indeed, according to the U.S. Department of Justice, Bureau of Justice Statistics, in the thirty-five years prior to 1970 the prison population in this country only increased by 52,249. In the subsequent thirty-five years, however, from 1970 to 2005, it increased by a staggering 1,266,437, a far larger percentage of the total U.S. population. While the incarceration rate of the nation as a whole rose to historic and even shocking levels after the 1960s, as Michelle Alexander notes in her pathbreaking study *The New Jim Crow*, the rate for African Americans in particular became catastrophic. Eventually one out of every nine black men aged twenty to thirty-four would be in prison in America.

The origins of this deeply racialized crisis are complex, but the political backlash to the civil rights momentum of the 1960s was a central cause. As the 1960s unfolded, white fears of black agitation both implicitly and explicitly contributed to a complete overhaul

of this country's criminal laws as well as its state and federal policies governing punishment. In short, the more contested urban spaces became in the 1960s, and the more they erupted in protest and outrage, the more certain were white voters that crime had become the nation's most pressing problem, that blacks were responsible for this breakdown of law and order, and that the way to deal with both blacks and crime was to beef up the carceral state.

Notably, however, at the very time the foundation of the carceral state was first being laid, namely when the Johnson administration passed the Law Enforcement Assistance Act of 1965, which earmarked historically new levels of funding for the nation's criminal justice apparatus, the nation was not experiencing a crime wave. Indeed, the same states that were clamoring most loudly to bolster the criminal justice system in the mid-1960s were, according to data gathered by the federal as well as state governments, experiencing the lowest crime rate since 1910.

As the 1960s wore on, though, and not coincidentally because the federal reporting standards changed and because more money was available to areas that reported high crime rates, the nation's crime problem seemed even graver than it was. With whites increasingly unnerved by the civil rights unrest continuing to engulf the country, all plans to give greater resources to police departments, pass more stringent laws, and make the punishment for breaking those laws more punitive were enthusiastically embraced. Speaking to a reporter from the *New York Times* in 1964, one taxi driver bluntly articulated the white view that blacks' civil rights desires directly undermined public safety: "[W]e have a terrific crime problem here and if you segregate [blacks], it's easier to police them."

As the twentieth century came to a close, policies born of white fear of urban unrest had led to the wholesale criminalization of urban spaces of color. Thanks to a revolution in drug legislation, to the enforcement of particularly aggressive new law-and-order policies such as Stop and Frisk, and to a simultaneous overhaul of sentencing guidelines, by 2010 the Justice Department reported that more than seven million Americans were trapped in the

criminal justice system—either on parole, on probation, or in prison—and the overwhelming majority of them came from poor inner-city neighborhoods. Indeed, it mattered little whether one came from an urban enclave of a southern state like Texas, a western state like California, or a northeastern state like Pennsylvania; law-and-order rhetoric dominated the political landscape and scarred the social landscape of America's inner cities. Indeed, by 2010, states across the country were spending as much as a billion dollars a year on their myriad new anti-crime measures, leaving few resources to repair the damage caused to America's inner cities by this same turn to criminalization.

*Arguably, nowhere* was the cost of criminalizing urban spaces higher, and its consequences more painfully felt, than in our nation's public school system. Even though America's school-aged children had since time immemorial engaged in fights, been disrespectful to teachers, skipped classes, bullied one another, and engaged in acts of vandalism as well as other inappropriate behaviors, in the late-1960s school systems began employing security staffs in order to deal with such student conduct far more aggressively and punitively.

Not coincidentally, the districts most eager to bring a police presence into city schools were those that had also experienced an upsurge of civil rights activism on the part of their students. Detroit city schools, for example, got their greatest influx of police officers on the heels of some particularly dramatic Black Power protests in its institutions such as those that gripped Northern High School in 1969. Atlanta city schools also did not bring a law enforcement presence to its buildings until similarly volatile racial experiences in 1969, and, that same year, the state of Kansas decided it was time to pass specific legislation so that its educational facilities could hire school security officers and "designate any one or more of such school security officers as a campus police officer" in order to "aid and supplement law enforcement agencies of the state and of the city and county."

Forty years later, many urban schools, including those in which the civil rights movement had placed so much hope, have come to resemble penal institutions. This hyper-criminalization of inner-city public schools and students has been fueled by a growing conviction on the part of the nation's politicians and the public alike that inner-city school kids had become particularly violent. Whereas the school children of the 1940s disrupted the classroom by running in the halls, chewing gum, and littering, by the 1980s, it would seem, young people were more likely to rape and rob.

As a fascinating piece by Barry O'Neil in the *New York Times* magazine has pointed out, however, evidence that schools were in fact witnessing new levels of youth violence was always scant at best. Indeed, most alarmist claims to that effect, it turns out, actually originated in a "fundamentalist attack on public schools" penned by born-again Christian T. Cullen Davis of Ft. Worth, Texas. Remarkably, Davis's admittedly unscientific list of numerous heinous acts committed by today's youth was, by the 1980s, being cited as gospel by everyone from Secretary of Education William Bennett to Harvard president Derek Bok to surgeon general nominee Joycelyn Elders to the right-wing television talk-show pundit Rush Limbaugh. By the 1990s, it had become a given that the nation's inner-city youth were more violent than ever, and that these animalistic kids needed new forms of surveillance, a new degree of punishment, and new levels of containment.

Thanks to the soon widespread belief that America's inner-city public schools now required military-like tactics to keep them safe, by 2011 the school district of Philadelphia, for instance, boasted "a huge security force consisting of 657 personnel, including 408 School Police Officers and 249 School Security Officers." As also reported in a January 2011 report, "Zero Tolerance in Philadelphia," the school district had formed an intimate alliance with the city's juvenile justice system in order to facilitate the monitoring and censuring of student conduct. In Texas, legislation also came to mandate that "the juvenile justice community and the education community come together to help make safe schools a re-

ality," and such laws operated in myriad other urban districts as well.

Eventually America's public school students in poor neighborhoods found themselves in legal trouble not only for more serious offenses such as bringing a weapon to school, but far more often for much lesser "offenses," such as truancy. In a number of urban school districts, for instance, this age-old student behavior can now land a student's file on the desk of the district attorney or even lead that student to be shackled with an electronic tether otherwise intended for use on parolees.

Ironically, simultaneous to administrators' criminalizing truancy in new ways as the twentieth century wound down—ostensibly so that kids would spend more time in the classroom—the criminalization of other student behaviors was leading to record rates of expulsion. Of those students expelled or arrested for acts such as smoking, talking back, having a cell phone in class, or having any sharp object in a backpack, an overwhelming number of them hadn't yet even entered high school. One study of the Philadelphia school system revealed that "nearly all of the students expelled in 2008–09 were between the ages of 8 and 14, and the most common ages of the expelled students were 11 and 12."

Once kicked out of school, young students then find themselves sent to various special institutions that cities and counties have been forced to set up specifically to teach kids deemed too disruptive for the traditional classroom. According to an NBC affiliate in Miami, Florida, for example, instead of readmitting eight-year-old Samuel Burgos to his elementary school a full year after expelling him for coming to school with a toy gun, Broward Country School District chose to assign him to "a correctional school for problem children" located in a different city altogether.

Older students in America's urban districts routinely risked not only expulsion but arrest as their schools increasingly embraced so-called "zero tolerance" policies. By the close of the 1990s, according to sociologists John Hagen, Carla Shedd, and Monique Payne, not only did every single school in the nation's

third largest urban center, Chicago, have police officers patrolling the hallways, but it had also passed a loitering law “which permitted police to arrest anyone whom they suspected of being a gang member for congregating with no apparent legal purpose.” That particular “zero tolerance” policy “resulted in more than 42,000 arrests.” It also led to a formal agreement between the Chicago public schools and the Chicago Police Department in which “the city police department [would] release to each school’s administrators on a daily basis the names of youth arrested off campus,” which, in turn, could be “used to justify school suspension and expulsion decisions.”

By the new millennium, organizations such as the American Civil Liberties Union and the Education Law Project were reporting that urban school districts such as Philadelphia’s had a student arrest rate that “was between three and 25 times higher than most of the other districts” in that state and, in this and other states such as Florida, the overwhelming number of public school kids who were arrested had engaged in acts that even tough-on-crime prosecutors had to classify as a misdemeanor.

Clearly, not every child in America’s inner-city public schools got expelled or arrested. All of them, however, no matter how well-behaved they were or how successfully they managed to dodge notice by school administrators or police—suffered the daily humiliations, and hostile learning environments, that the post-1960s criminalization ensured. No student could escape the surveillance cameras and digital security systems, and all lived in fear of being patted down, wanded, and even strip searched at the whim of school police personnel. Without question such capricious and degrading treatment sapped student self-esteem. As one Philadelphia kid put it to a team studying zero tolerance policies in his school, “It makes it seem as though they expect us to be negative. I feel violated.” Another explained further, “I have to go through the [metal] detector every day, making me feel like they don’t trust me.” Still another remarked on the treatment he endured coming into his school for the first time, “I had to take off my shoes and they searched me like

I was a real criminal. . . [after that] I was making up every excuse not to go to school.”

Not going to school, either because students hoped to avoid the embarrassment of being searched, or because they had been expelled for having a pack of cigarettes or arrested for doodling on a desk or texting in a math class, clearly affected their ability to do well academically. Policy makers and politicians alike, however, have completely ignored this reality when they propose remedies for America’s “dropout crisis” or its ever-widening “achievement gap.” They not only have missed the fact that literally tens of thousands of children across the nation have landed in jail cells instead of classrooms, but they also have failed to see the high price that even those kids who managed to don a graduation gown rather than a prison jumpsuit have paid for the hypercriminalization of city schools. As one student put it to criminologist Paul Hirschfield, “You’re not expected to leave this school and go to college. You’re not expected to do anything.”

*To be sure*, a real barrier to any politicians, policy makers, and even many parents being willing to reckon with the steep costs of criminalizing our nation’s public schools remains the belief that school districts must work hard to “keep schools safe.” Even the nation’s poorest inner-city parents, those who have made it crystal clear that they don’t want armed police officers in city schools and that they object strongly to district-level measures that criminalize their children, fret mightily about the issue of school safety. Although the existence of metal detectors provides such parents some level of relief that guns won’t be in their child’s classroom, the price paid for this peace of mind—that their kids feel under siege and themselves risk arrest for the most benign of acts—is indeed dear. School administrators must begin to find ways to keep schools safe without turning them into prisons.

Just as we all need to reassess the roots of poor school performance, so must we rethink our views on school violence in America. Not only do our assumptions about a newly violent youth rest on a most dubious and

nonscientific evidentiary foundation, but so does our belief that public schools are now more violent than ever before. To be sure, the phenomenon of bullying has always been, and remains, a problem in our nation's schools—both public and private. Notably, however, the sort of “violence” and the types of “crimes” that the post-1970 criminalization of public school students allegedly sought to address was already on the decline when the most draconian policies, such as zero tolerance, were implemented around the country, as were violence rates in society as a whole. According to national statistics provided by the Curry School of Education at the University of Virginia, school violence is today at a record low. So, the fact that juvenile expulsions and arrest rates have continued to skyrocket does not indicate at all that schools are less safe than they were decades ago. Even though school districts have become more, not less, punitive each subsequent year of the 2000s, the data are clear: our nation's inner-city kids are not “super predators” nor are they wild animals who should be tamed with tasers and long terms behind bars.

Not only are urban schoolchildren less prone to violence today than they were in the early twentieth century, but they also do not engage in more lawless behaviors than their counterparts in other seemingly safer districts. Indeed, when one compares data from the nation's poorest inner-city schools with other schools in the state, one finds that, although inner-city kids are far more criminalized, their levels of violence are in fact no higher. For example, when researchers compared “School Safety Incident” data from the Philadelphia public schools in the 2008-2009 school year with like data from the rest of the state of Pennsylvania, they found, “The rest of the state had more than five times as many incidents as Philadelphia... [and yet] in Philadelphia, students were arrested for these incidents nearly *twice* as often as they were in the rest of Pennsylvania.” Studies such as this one reveal that official ideas about violence and safety are highly subjective and that inner-city

kids are “being criminalized more than their peers across the state for the same behaviors.”

Notwithstanding the paucity of evidence to indicate that today's youth in general, and urban youth of color in particular, should be policed to a historically and internationally unprecedented extent, the fact that juvenile arrest rates have soared in recent years has only fueled the political call for even greater criminalization of our nation's public schools. We as a nation, must work hard to resist equating rising youth arrest rates with out-of-control youth violence and, instead, focus our attention on the very clear connections that exist between the criminalization of public school kids and their poor academic performance. As a research report done by the American Psychological Association concluded clearly in 2007, there is “a negative relationship between the use of school suspension and expulsion and school-wide academic achievement.” Other research shows similar findings. Ultimately, these kids' notable academic underachievement does not stem from the fact that their teachers want decent pay and job security; it results from being treated day in and day out as the worst of the worst in society and being forced to learn not what analogies they might need to know for the SAT, but what rules of conduct might land them in jail. And while policy measures to fund and desegregate our nation's schools would certainly help these kids perform better than they do, unless this nation is willing also to decriminalize the spaces where inner-city kids go to learn—five days a week, nine months a year, every single year of their lives from the age of five to eighteen—these spaces will remain deeply impoverished and intensely segregated bastions of despair.

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Heather Ann Thompson is Associate Professor of History in the Department of African American Studies and the Department of History at Temple University. She is completing a major history of the Attica Prison uprising of 1971 for Pantheon Books. Readers may contact Thompson at [hathomps@temple.edu](mailto:hathomps@temple.edu)