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Lynette Parker

*Reach Institute for School Leadership*, lp450@nyu.edu

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# Schools and the No-Prison Phenomenon: Anti-Blackness and Secondary Policing in the Black Lives Matter Era

## **Cover Page Footnote**

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## **Schools and the No-Prison Phenomenon: Anti-Blackness and Secondary Policing in the Black Lives Matter Era**

Lynette Parker

Reach Institute for School Leadership

### **Abstract**

*Black boys in schools are often labeled as discipline problems, criminalized and overclassified into special education programs. This article describes the ways in which current practices of labeling and disciplining Black boys have far-reaching impacts on their lives beyond school. It explores the ways Black boys, who are surveilled and criminalized in school, are further victimized when school records are used to characterize them as deviant as a way of justifying violence against them. Drawing upon anti-blackness as a theoretical framework, the author explores the 9-1-1 transcripts in the cases of Trayvon Martin and Tamir Rice to clarify the role of surveillance, then explains how school records are implicated in the no-prison phenomenon prevalent in many Black Lives Matter cases. The paper reveals not only the ways in which Black boys remain under the watchful eye of society, policed in their every move, but it also demonstrates acceptance of policing of Black boys' bodies. The paper offers insight for practitioners and policy makers about the consequences of racialized and gendered labeling violence.*

### **Introduction**

The labeling and criminalization of Black boys in school is not new (Ferguson, 2001; Noguera, 2003, 2009; Monroe, 2005). But the ways in which labels and criminalization have been used in broader society to justify the treatment of Black boys in this era wrought with Blue-On-Black murders is raising new concerns. Recently, society has witnessed a wave of secondary policing of Black boys by “concerned citizens” and even worse, this secondary policing that has led to the deaths of Tamir Rice, Trayvon Martin and others, has relied upon the school labels and discipline records of these youth as means for examining and justifying their murders outside of school.

Secondary policing, which is essentially the hyper-surveillance of Black boys by society, aids the police in confining and limiting the freedom of Black boys in America. I argue here that such secondary policing poses a philosophical and pragmatic issue for educators who discipline and label boys of color in schools. It connects the schooling practices, within what has been called the educational industrial complex, to the larger practices of criminalizing and ultimately murdering Black boys.

This paper focuses on the secondary policing through surveillance, specifically in the cases of Tamir Rice and Trayvon Martin. It examines how the characterization of young boys as “bad” or criminal in schools intertwines with the actions “concerned citizens” such as George Zimmerman, the Tamir Rice “caller,” police, and a legal system that has failed to prosecute or to indict.

In the first part of the paper, I outline the criminalization processes in schools, paying close attention to the situations that frame Black boys as deviant. I outline the prevalent literature of surveillance and the expectation of criminality in schools. In addressing the topic of Black Lives Matters and the Education Industrial Complex, I examine ways in which the open disciplining of students and adultifying actions in school contributes to a broader policing of Black boys’ bodies.

Drawing upon anti-blackness as a theoretical framework, I examine the manifestation of surveillance beyond school using 9-1-1 phone transcripts. These transcripts offer insight into how parks and public sidewalks, like those upon which Tamir Rice played and Trayvon Martin walked, become spaces where the indoctrination of Black male criminality and subhumanity play out through surveilling eyes of the non-Black “other.” Lastly, I return to the schools and classrooms to further explain the ways in which school records serve to justify violence against Black boys creating what I call a “school to no-prison” phenomenon for their murderers.

### **Indoctrinating Criminality – Practices in School**

The ways in which criminality is attached to males of color begins very early in schools. There is an expectation that Black males will perform in ways that are violent, disruptive, and otherwise unsettling. In a 2016 report at the Yale Child Study Center, Gilliam, Maupin, Reyes, Accavitti, and Shic (2016) found that educators ( $N=132$ ) who were primed to watch a video of preschool-aged children and look for possible “behavior that could become a challenge” held their gaze on Black boys longer than any other children in the study. The gaze was one that supported an expectation of deviant behavior from young Black boys. “Early education staff,” according to the report, “tend to observe more closely Blacks, and especially Black boys when challenging behaviors are expected” (p.11). For Black boys, the implicit biases regarding their expected criminality precedes them and is present before they enter school at ages four and five.

When Black boys are in preschool and kindergarten, schools subconsciously begin the process of dehumanization. It is in the early grades, argues Rashid (2009), that Black boys go from ‘brilliant babies to at risk’ as a

result of teacher beliefs and biases, low expectations, and subpar resources. Additionally, the behaviors that have been associated with white boyhood mischievousness become an indication of criminal tendencies when those same behaviors are enacted by Black boys. Ferguson (2001) has argued that, “in the case of African-American boys, misbehavior is likely to be interpreted as symptomatic of ominous criminal proclivities. Because of this, teachers are more likely to pay attention to and punish rule breaking, as “moral” and “pragmatic” reasons for acting converge with criteria of culpability” (p. 89).

When teachers in schools classify Black males as “bad” through disciplinary actions, isolating their seats, and writing up “bad” behavior to create documentation in a cumulative file, they create permanent records of criminality. These practices serve to concretize “badness” as a characteristic of Black boys and reify existing stereotypes. Brown and Bigler (2005) argue that when students in schools bear witness to these practices of isolating and punishing Black boys, they also begin to classify Black boys as “bad” (as their teachers have); it is demonstrative of cultural cognition and understanding of race and gender. This understanding includes the knowledge that, “a) individuals (including the self) can be sorted into racial and gender categories, b) cultural stereotypes are associated with racial and gender groups, and c) racial and gender stereotypes carry broad social implications” (Brown & Bigler, 2005, p. 537). Not only can Black boys in preschool and kindergarten be disciplined in their classrooms, but in the minds of their five and six year-old classmates, they are being constructed as “bad” boys. Students are being indoctrinated to classify Black males as “bad”, creating a schema that is reified in the disciplining politics of school, in the media, and ultimately in the broader society.

For many students attending schools in the U.S., criminalization of Black boys within their schools is normalized. Whalen, Henker, Dotemoto, and Hinshaw, (1983) found that students ascribe normal and abnormal behaviors to their peers. They begin to deem it unlikely for peers who are hyperactive or described as deviant as having future success. Whalen et. al., when summarizing related studies state, “[c]hildren’s ratings of their peers show moderate to strong relationships with judgments made by the teachers, who are presumably more competent experienced observers” (p. 1588). In this way, teachers’ beliefs serve as a marker of what is right, and if they believe a child to be bad or criminal, the students they serve begin to take those beliefs as fact.

Ladson-Billings (2011) argues that this construction of Black boys in society as “bad” is devoid of childhood and the playfulness associated with being a child. Rather she explains, “[w]hen they are somewhere between the ages of

three and six they are acknowledged as cute but rarely as intellectually capable...This notion of cute does not last long. Before they are moved to a category that resembles criminals” (p. 10). This transition from cute to criminal exists because of the negative socializing about Black boyhood.

### **Problematizing Black Boyhood**

Monroe (2005) argues that, “[e]ducators’ unwillingness to draw distinctions between severe and minor offenses and the breadth with which zero tolerance approaches are applied appear to be primary sources of the problem” (p. 47). When students begin policing their peers (tattling), they also are unable to distinguish between playful, boyish buffoonery from criminal behavior. Ferguson attributes this to “adultification” in which Black children’s behaviors are seen through lenses of them as criminals or endangered species (p. 82). She posits that through adultification, “their transgressions are made to take on a sinister, intentional, fully conscious tone that is stripped of any element of childish naiveté” (p. 83). This is in opposition to White males who are allowed to be adored, and forgiven for their mischievous behaviors.

The boyhood of Black males, however does not allow for mischievousness. It has been rendered unimaginable in U.S. society. Dumas and Nelson (2016) argue,

Black boyhood itself been rendered both unimagined and unimaginable. For us, Black boyhood is the material and discursive social phenomenon of childhood for Black boys. Rather than a developmental phase on the way to Black manhood, Black boyhood is a social experience *in the now*—not merely for some future existence or accomplishment—in which Black boys possess their own agential subjectivity and impact the world even as they remain vulnerable to the material effects of racism...Thus, to assert that Black boyhood is unimagined and unimaginable is to lament that we have created a world in which Black boys cannot *be*. (p. 28. Italics in the original.)

The Black boy’s body too quickly begins to take on stereotypes associated with Black men (i.e.- savage, non-human, criminalized “other”). The dehumanization of Black men, and by extension Black boys plays out in the ways in which they are policed. Goff et. al. (2014) found that police officers’ “unconscious” dehumanization of Black boys caused them to have more negative and violent interactions that included wrist locks, kicking, punching, striking, using police dogs, and ultimately killing them. The study also found that “anti-

black<sup>1</sup>” dehumanization rather than regular prejudice contributed to ill-treatment and criminalization of Black boys.

Ladson Billings (2011) suggest that this unimaginability of Black boys as children and related treatment of Black boys as criminals is rooted in our paradoxical and problematic positioning along a binary - love of athletes and superstars and our hatred of criminals and thugs. In schools, the vision of Black boys and their trajectory as criminals undergird the perceptions by teachers and leaders, which undoubtedly trickle down to influence students.

Ann Ferguson (2001) explains that teachers not only criminalize Black boys, but these adults also introduce certain Black boys to other students as “hoodlums and troublemakers” simultaneously admonishing the boys and creating an expectation of deviant behavior among their peers. The classifications and stereotypes associated with Black boys contribute to surveillance and punishment by their peers and adults in the larger society outside of schools; it also contributes to the story they tell when asked to bear witness to their observations of Black boys.

Goff, Jackson, DiLeone, Culotta, and Di’Tomasso (2014) found that at age ten, Black children (boys in particular) are viewed as “significantly less innocent than other children at *any* age group” (p. 529 - Italics added for emphasis). Because of this view of Black boys as older, criminalizing practices occur when males are in the fourth grade, and Kunjufu (2005) signals fourth grade as the grade in which Black males become threats. Despite this, the stereotyping of Black criminality begins much earlier in schools.

Student peers as young as ten become cognizant of both gendered and racialized discrimination associated with punishment. Dore, Hoffman, Lillard, and Trawalter (2014) explored children’s perceptions of others’ pain. They found that by age ten, children like adults, had been socialized to believe that African-Americans felt less pain than they themselves felt. This bias in pain threshold is part of the process of dehumanization and inhumanization that ultimately justifies the criminalization, beatings, and murder of Black boys. In essence, dehumanizing Black males in schools also allows society to make sense surveillance and secondary policing outside of school.

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<sup>1</sup> Note that scholars differ in the spelling of “anti-black”. The quotes used in the paper reflect the spelling used by various scholars.

### **Theoretical Framework – Anti-blackness**

Bell (2001) argued that Blacks are the faces at the bottom of the well. This understanding of Blacks as the lowest level of humanity contributes to the framework of anti-blackness. Beyond this classification, anti-blackness (and anti-black racism) is the negating fact of blackness that renders humanity beyond the reach of Blacks. Anti-blackness theory, which emerged from Afro-pessimism (Wilderson, 2010; Sexton, 2011), offers clarification about the social acceptability of surveillance of Black boys in school and in broader society. What anti-blackness as a theoretical frame clarifies is the non-neutrality of surveillance in America, the pervasiveness of white supremacy, and the operationalizing of anti-black racism that renders Whites innocent. As a theoretical framework anti-blackness offers insight into how the non-indictment of Timothy A. Loehmann, and the non-guilty verdict for George Zimmerman can exist.

In their formulations, Afro-pessimism scholars frame blackness as nothingness and argue that in all of its strivings can never approach humanity. The very conception of “black” remains outside of humanity. Blackness is understood as the negation of humanity, and anti-blackness is the unyielding global effort to expel it. It is the formulations of blackness as an abjection, permanently antithetical to the human that grounds anti-blackness as a theoretical framework. Gordon (1995) argues that in an anti-black world, “...the white’s existence is justified, whereas the black’s existence needs justification. The black’s existence lacks something” (p. 100).

Fanon (1967) situates the black(ness) beyond the zone of nonbeing. In his account, “there is a zone of nonbeing, an extraordinarily sterile and arid region, an utterly naked declivity where an authentic upheaval can be born. In most cases, the black man lacks the advantage of being able to accomplish this descent into a real hell” (p. 8). This is to say that the Black man is unable to reach a level of humanity at which he could even begin to define himself.

Scholars have delineated the ways in which anti-blackness undergirds policy and practice in education. Dumas (2016) contends, “...in essence of anti-blackness in education policy: the Black is constructed as always already problem --as nonhuman: inherently uneducable, or at the very least, unworthy of education...” (p. 16). The uneducable, of course, needs to be isolated - set apart from the humans in the class. In so being, it reifies that he is conceptualized as being on the outskirts of humanity. Wun (2014) suggest that the very nature of the No Child Left Behind (NCLB) as an education policy is anti-blackness that locates the problems of education within the Black student. More poignantly, Wun situates NCLB, “at the level of the [s]ymbolic, the register that allows



subjects to elide what operates at the level of the [r]eal, the register where phobic anxieties, tensions, and abjection lives” (p. 472). It is the phobic anxieties, tensions, and associations between Black bodies and abjection upon which anti-blackness is operationalized in the surveillance of 12-year-old Tamir Rice and 17-year-old Trayvon Martin.

In the next section, I draw upon anti-blackness as a theoretical framework to make sense of surveillance and policing that occurred in Cleveland and in Florida. I employ discourse analysis as a method of deconstructing 9-1-1-telephone transcripts associated with the deaths of both Tamir Rice and Trayvon Martin. In so doing, I aim to reveal how policing experiences extend beyond the schoolyard and demonstrate the degree of policing and indoctrination of criminality beyond the classroom. I attempt to make the case that for Black boys who attempt to navigate public spaces, eyes of white supremacy and anti-blackness confine them.

Excessive surveillance and discipline of Black boys extends beyond the schoolyard. That is, the “gaze” that educators (and students) have on Black boys from pre-school onward is not confined to schools. Surveillance and often violent discipline of Black boys’ is part of the dehumanization inherent in an anti-black world order. It is, according to Wilderson (2010) who clarifies the policing paradigm that exists in ‘civil society’, the fact that “White people are not protected by the police, they are the police” (p. 82). Their ability to police is institutionalized in virtually every facet of society.

### **Methodological Approach**

To make sense of the interdependence of policing, anti-blackness, and schooling, I use the next section to elucidate the process of secondary policing and the role of school labels as a redemptive factor for those who police and destroy Black bodies. I employ a discourse analysis of the 9-1-1 transcripts using anti-blackness as my theoretical lens. It is useful as it is concerned with, among other things, the ways in which power (particularly White power and dominance) is manifested through discourse (Fairclough, 1999, 2006; Gee, 1999). Jaworski and Coupland (2006) argue, “[d]iscourse is language use relative to social, political and cultural formations -- it is language reflecting social order but also language shaping social order, and shaping individuals’ interaction with society” (p. 3).

The Trayvon Martin call lasted 4 minutes and 17 seconds. The Tamir Rice call lasted 2 minutes and 6 seconds. The transcribed conversations serve as the data for analysis. Though there are available transcriptions of Martin’s and

Rice's calls, none of the available transcript account for the pauses and "white noise" that contributes to the meanings of the conversations. Therefore, I have transcribed the audio files using Gumperz and Berenz (1993) method for notating and transcribing conversational exchanges. The method allows for the capture of pauses, rises in intonation, elongated words, and inflections that add to meaning in conversation. Particularly relevant about conversational interactions and utterances is the fact that they exemplify the degrees to which Martin and Rice were surveilled.

### **Surveilling Black Bodies**

Surveillance itself is an enactment of power. Social institutions have empowered non-Blacks to gaze upon Black boys' bodies and ascribe criminality in an effort to control the body or to serve as co-conspirators with state agents who do such work. In an age where cameras are openly displayed in public spaces, there is an expectation that Black bodies will perform in the deviant manner associated with "blackness". Ehlers (2012) explains that "[r]acial subjectivity, of which the body bears the limits, is relegated and constrained such that racial subjects form and conduct themselves in relation to the naturalized 'truth' of racial discursive discipline." Surveillance within an anti-black social structure, then, sees a body that walks and one that stares as one that is subject to discipline.

In the beginning of the 9-1-1 call, George Zimmerman situates his call.

**911 dispatcher:** Sanford police department. This line is being recorded. This is Shawn

**Zimmerman:** [breath] Hey we've had some break-ins in my neighborhood and there's a real suspicious guy uh It's Retreat View Circle. Um[mm:] the best address I can give you is 111 Retreat View Circle.

His first utterance is "Hey we've had some break-ins in my neighborhood and there's a real suspicious guy." This provides a rationale for the surveillance allowing the possibility biases or prejudice to be justified. The conversation continues.

**Zimmerman:** This guy looks like he[ee]'s up to no:: go::]d or he's on drugs or something. It's raining and he's just <.5secs> walking around looking about.

**911 dispatcher:** OK, and this guy is he White, Black, or Hispanic?

**Zimmerman:** He looks Black.

**911 dispatcher:** Did you see what he was wearing?

**Zimmerman:** Yeah, a dark hoodie like a gray hoodie. And either jeans or sweatpants and white tennis shoes. <3secs> He's here now. He's just staring. Overlap =dispatcher overlap Oh he's just walking around the area= Zimmerman looking at all the houses

**911 dispatcher:** OK.

What George Zimmerman observes is a Black teenager walking in the rain and looking about. Walking. Looking. Two seemingly innocent performances of existing in the world are criminalized through anti-blackness. Walking and looking, when performed by a Black body are rendered suspect, and require further inspection. Zimmerman has imposed notions of pathology in stating “he looks like he is up to no good.”

It is perpetual criminology of blackness that makes walking in the rain and looking a criminal offense. It is, as Sexton states “[t]he racial imaginary that accompanies these strategies of social control [that] slates the black body as the primary source of danger ...<sup>2</sup>” (p. 235-236). The history of Black men walking or being has been deemed criminal. In the book *Worse than Slavery: Parchment Farms and the Ordeal of Jim Crow Justice*, the observation of Black men walking and looking were similarly defined as criminal. Labeling those acts in court as vagrancy and loitering relegated Black men to parchment farms, which in all accounts was worse than slavery because they were not attached to white owners who valued them as propertied labor (Oshinsky, 1996).

Additionally, it is the hoodie, that has come to confer criminality, and served to activate implicit biases that exist within an anti-black society. Beety (2012) argued that the hoodie was symbolic in that it served as an indicator of criminal behavior. But hoodies in and of themselves do not denote criminality; it is only when they are worn on Black bodies that they hold the justification that Beety suggests.

In Tamir Rice's case, his surveillance was no less the examination of a Black boy's performative behavior as confirming - pathologies with Black subhumanity. It is enforced even in uncertainty. The “caller,” according to the police report was a White male, aged 52. This man had been a victim of a previous assault in 2012 and “because of this he became frightened by [Tamir's]

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<sup>2</sup> Sexton is describing Black pathology in relation to health and the AIDS epidemic, but his framing extends beyond the health care analogy.

actions.” The report also noted that – “[the caller] was not threatened by this [Tamir Rice] and that he did not come into direct contact with [Tamir Rice]” yet describes twelve-year-old Rice’s actions as frightening even as he sat across the street far removed from the physical presence of Tamir (Morgan, J. 2015).

In the call, Tamir is observed from afar, and his movements are relayed in order to make a case.

**Hollinger:** [Static] 9-1-1 police this is the police Hollinger

**Caller:** Hi How are you

**Hollinger:** Good

**Caller:** <pauses> I’m sitting at the park on west boulevard by the west boulevard rapid station [ static] <1>[static] There’s a guy here with a pistol you know it’s probably fake but he’s pointing it at ever on [time 18s]

**Hollinger:** And where are you at sir?

**Caller:** I’m sitting in the park at west Cudell. <..>West Boulevard by the west boulevard tracks R –Rapid transit station---

**Hollinger:** Are You – So you’re at the rapid station

**Caller:** [Coughing <2>]

**Hollinger:** Are you at the rapid station [33 s]

**Caller:** No – I’m sitting across the street at the park.

**Hollinger:** What’s the name of the park – Cudell?

**Caller:** Cudell. Yes. The guy keeps pulling it out it in and out of his pants. It’s probably fake, but he’s scaring the shit out of people

In this case, Tamir does not even realize he is being watched, marked, and targeted for discipline. His body, performance, and being have been called into question and are points of inquiry in the conversation between the dispatcher and the caller. In a conversation in which Tamir himself is excluded, his blackness (perhaps more than a gun believed to be fake) as a heightened threat to the social order is recognized in the visibility of the black body (Hartman and Wilderson, 2003, p. 191). Black men as violent and as a source of fear is a white creation. Fanon posits that recognition of blackness signals White racialized fears. “Look, a Negro!” elicits from Whites an expectation of pathology and justifies fears. It is as Amour (2000) calls it “negrophobia” and “reasonable racism.” The caller is experiencing a “Look, a Negro!” moment in which the pathologies and stereotypes associated with blackness and black bodies come to the fore (Fanon, 1967, p. 113).

A public space is shaped by expectations of safety. As such, Browne (2015) contends, “...some acts in public are abnormalized by way of racializing

surveillance and then coded for disciplinary measures that are punitive in their effects” (p. 17). Black boys being out in public, like Rice and Martin, is problematic. In public, the presence of Black boys was a threat that warranted<sup>3</sup> a call to the authorities.

The surveillance experienced by Rice and Martin was not neutral. Rather it was what Browne (2015) calls a racialized surveillance - “a technology of social control where surveillance practices, policies, and performances concern the production of norms pertaining to race and exercise a ‘power to define what is in or out of place’” (p. 16). The non-neutrality of surveillance further delineates the way videos provided clear evidence of crime, but are deconstructed within a legal system that actively attaches criminality to the bodies of innocent Black victims.

Decades earlier, jurors had been similarly convinced that a Black male doubled over on the cement with hands raised above his head in an attempt to protect himself, receiving blow after blow by White police officers, was in fact in full control of his actions and contributed to his own beating. Butler (1993) postures that even visual evidence like the video in the Rodney King case is, “not neutral to race; it is itself a racial formation, an episteme, hegemonic and forceful” (p. 17). In such cases, where there is visual evidence of racist violence, the paranoia of White Americans serving as jurors allows for the justification of that violence. Butler argues that in the trial of Rodney King, “the visual representation of the Black male body beaten on the street by the policemen and their batons was taken up by an interpretive framework to construe King as the agent of violence, one whose agency is phantasmatically implied as the narrative precedent and antecedent to the [video] frames that [were] shown” (p. 16). The attorneys in the case effectively flipped the script and ascribed violence to a cowering Black body.

The defining of public space as white space is also explained by Fanon. He argues that “[a]s long as the [B]lack man is among his own, he will have no occasion, except in minor internal conflicts, to experience his being through others” p. 109. While out in public spaces, that is white spaces, Black boys and Black men are subjected to surveillance as an enactment of white power. Browne (2015) suggests that, “[s]urveillance is nothing new to black folk. It is the fact of antiblackness” (p.10).

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<sup>3</sup> The distinction has been made that Tamir Rice’s action of playing with a replica gun that looked real warrants a call to authorities, however, the extreme is that Trayvon walking in a neighborhood with nothing but skittles is likewise criminalized. There is, then no “unwarranted” position for Black boys.

### **Naming Blackness and Justifying Surveillance**

Policing Black people in public is a readily understood and normative practice in the U.S. mainly because of the nature of racial socialization (DuRocher, 2011). There are specific expectations attached to racialized bodies. Ehlers (2012) argues “race is a form of discipline that produces subjects...rather than being corporeal ‘truths,’ blackness and whiteness are (a) normative and regulatory ideals, (b) coercive demands, (c) forms of power, as they are enmeshed with certain form of knowledge that invest bodies” (p -). Naming a subject as Black or White established an ideological expectation. Those raced as Black are expected to be interpellated (Althusser, 1971) as subjects expected to respond as “black” bringing forth all of the associated pathologies.

In the 9-1-1 calls, the request for identity provides the fodder for violence. Racialization of subjects as “Black” enabled and justified engagement with such violence.

Transcript of the Trayvon Martin 9-1-1 call:

**911 dispatcher:** OK, and this guy is he White, Black, or Hispanic?

**Zimmerman:** He looks Black.

Tamir Rice Call:

**Hollinger:** What does he look like?

**Caller:** He has a camouflage hat on

**Hollinger:** Is he Black or White?

**Caller:** He has a gray – gray coat with black sleeves gray pants on

**Hollinger:** Is he Black or White?

**Caller:** I’m sorry?

**Hollinger:** Is he Black or White?

**Caller:** <.5> He’s Black [static]

On its face, the marker “Black” appears to be a simple descriptor that assists in identifying the suspect. Yet, “Black” carries with it a much more nuanced marker that shapes interactions. Racialization allows a Black body, confirmed as Black, to take upon it all of the violence White society believes it deserves. Hartman and Wilderson (2003) add that racialization of the Black body ‘disposes of bodies, appropriates their products, and fixes them on a visual grid’ (p. 191).

Ehlers (2012) suggests that the limiting and constricting characteristics of race are particularly debilitating for Blacks. “Race as a discipline,” Ehlers contends, “produces and regulates subjectivity in that mechanisms of control and techniques of power” (p. 31). This suggests that the limitations of blackness are defined by race. She further argues, “Black subjects are situated within an anti-black context where the black body/self continues to be torn asunder within relations of civil society.”

In these segments of the transcripts, blackness as an identity marker for both Trayvon Martin and Tamir Rice was confirmed. Identification as ‘Black’ means they can be constructed as non-beings, subhumans, and socially dead; Black means, no humans involved (NHI) (Fanon, 1967; Wilderson, 2015; Wynter, 1994). Racializing their bodies serve to establish limits of guilt and limits to innocence. As noted earlier, Goff et.al. (2014) found that when police interact with Blacks, whom they have dehumanized, their interactions are notably more violent.

### **Destroying Black Bodies**

In a society that operates under white supremacy and anti-black racism, maintaining a civil society require eliminating what is deemed uncivil; it is the goal of anti-blackness. Black boys are considered uncivil and the epitome of “nobodies.” To be a nobody, according to Hill (2016), is to be vulnerable. Further, “to be nobody is to be subject to State violence ...[t]o be nobody is to be considered disposable” (p. XVII, XIX). The disposable nature of Black bodies in the minds of the general population, specifically in the institutions that serve to both police and educate them, and the repressive and ideological state apparatuses respectively (Althusser, 1971), work together to exonerate those have disposed of them.

In the cases of Martin and Rice, there is an active effort to expel the threat posed.

Transcript of the Trayvon Martin 9-1-1 call:

**Zimmerman:** Now he’s just staring at me.

**911 dispatcher:** OK, uh you said that’s 1111 Retreat View or 111?

**Zimmerman:** That’s the - That’s the clubhouse. = 911dispatcher overlap That’s the club house. Do you know what the=

**911 dispatcher:** He’s near the clubhouse now?

**Zimmerman:** Yeah, now he’s coming towards me. [911dispatcher Ok] <3s> He’s got his hands in his waistband. <5s> And he’s a Black male. [1:03]

**911 dispatcher:** Ok. How old would you say he is?

**Zimmerman:** He's got a button on his shirt. About like his late teens.

**911 dispatcher:** Late teens? Ok

**Zimmerman:** Um, huh. Something's wrong with him. <3s> Yep, he's coming to check me out. He's got something in his hands. I don't know what his deal is. **911 dispatcher:** Ok just Let me know if he does anything, OK? =Zimmerman overlap Please Get an officer over here>

**Zimmerman:** OK.

**911 dispatcher:** Yeah. We've got him on the wire. Just let me know if this guy does anything else.

**Zimmerman:** <1.5>OK. <3sec> These assholes. They always get away. <6secs> Yep <3secs>. When you come to the clubhouse, you come straight in [pause] and make a left. <2sec> Actually, you'd - would go past the clubhouse. [1:54]

**911 dispatcher:**

OK, so it's on the left hand side from the clubhouse?

**Zimmerman:**

[pause] no[o:]. You go in [breath] straight through the entrance[pause] and then you'd make a would go left. Uh You go straight in, don't turn and make a left. Shit he's running [2:08]

**911 dispatcher:** He's running? Which way is he running?

**Zimmerman:**<2s>Uh down toward the uh other entrance of the neighborhood. [>car door slams

**911 dispatcher:** OK, which entrance that that he's headed towards?

**Zimmerman:** The back entrance. <5seconds> [>>>whispers]  
Fucking coons

**911 dispatcher:** Are you following him? [2:24]

**Zimmerman:** Yeah. [2:25]

**911 dispatcher:** OK. We don't need you to do that.



George Zimmerman proceeds to follow and accost Martin after being told that he needn't do so. In this scenario, an adult White male follows a child in a white van. In most cases, a parent would instruct his or her child to run when being followed by a stranger in a van, but in this case, Zimmerman saw Martin's running through a pathological lens and further ascribed guilt to that action. In the same way that run-away slaves were ascribed in the white mind a diseased "drapetomania", so too were Martin's actions (specifically his fleeing) was reimagined in Zimmerman's mind in accordance with the guilt of blackness. This interaction ends with a 17-year old boy lying dead of a gunshot wound to the chest. Zimmerman, however, was found not guilty by a jury of his peers.

The "Caller" who had surveilled Tamir Rice was not part of the killing directly. However, within 1.5 seconds of the encounter, police officer Timothy A. Loehmann took the life of Tamir Rice, with a gunshot wound to the abdomen, an action which was caused by the caller's surveillance and 9-1-1 call. Officer Loehmann was not indicted. He faced no criminal charges for murdering Tamir Rice. The officer, a rookie cop who had failed to be hired at five other police precincts and had been released from Independence Police force, was exonerated. According to a New York Times article, Timothy McGinty, the prosecutor for Cuyahoga County, believed Tamir Rice's death to be a tragedy and "a perfect storm of human error, mistakes and miscommunications" (Williams & Smith, 2015, p. 1). He refused to acknowledge any anti-black racism beneath the actions of the caller, the dispatch operator, or Loehmann himself. McGinty ultimately concluded that the murder of the 12-year old was "horrible, unfortunate and regrettable. But it was not, by the laws that binds us, a crime" (Williams & Smith, 2015). His statement is part of a well-known socially acceptable practice of failure to criminalize those who kill Black boys within a legal framework.

### **Returning to School – Construction of Criminals and Deviance**

What remains is examining the benefits of subpoenaing school records for victims Trayvon Martin and Tamir Rice. When attorneys turn to and draw from school records to make cases about the characteristics of children, and police detectives seek evidence regarding a victims' characteristics in special education records, they do so in an attempt to attribute the pathologies to the victims.

The school records of suspension and other information about Martin were shared by the school and helped to construct "other" criminal character traits of Blackness. This was done in conjunction with Federal Rule 404, namely 404 subsection 2A which states, "(A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it" (Federal Rules of Evidence). The subpoenas that allow

for the collection of school records, however, often fail to examine the factors that lead to the criminalization and suspension of Black males and the classification of them as special education students, which reads as socially deviant in the minds of many. Those who subpoena records tend to be less concerned about the biases inherent to both discipline and special education recommendations. Instead, as Thompson (2015) elucidates, use of Federal Rule 404a becomes relevant in constructing the character of the victim using biases operating in society. He argues, that [t]he implicit belief that African-Americans are inherently violent can be used as both a sword and a shield in a trial concerning a criminal act... [A] non-Black defendant [like Zimmerman] need not offer evidence of a Black victim's violent charter to support a claim of self-defense. Rather, the victim's [Trayvon Martin's] stereotypical blackness implies propensity for violence (among other character traits..." (p. 322). This image became crucial in shaping what the brain saw, and who it saw as the aggressor (Beety, 2012).

Zimmerman's attorney, Mark O'Mara sought school records in an attempt to provide prospective jurors a specific frame of Martin. According to Alvarez (2013) the evidence from sought by O'Mara would "presumably counter any attempt by the prosecutors to portray Mr. Martin, who had no criminal record, as a victim with an unblemished personal life" (p. 2). School records were then to stand in lieu of criminal records.

Martin, however, like many African American children, attended school in a district where Black students are hyper-criminalized. For example, in Miami-Dade Schools, students were facing trespassing charges because they had returned to school while on suspension, and students had been arrested for "disruption of a school function" for cursing at a teacher. According to the assistant public defender Gordon Weekes Jr, in Miami-Dade schools, where Trayvon Martin attended Dr. Michael Krop High School, if a child spits a spitball across a classroom, educators "criminalized that and call it battery" (Smiley & Vasquez, 2013).

In schools like Marion-Seltzer, where Tamir Rice attended school prior to his death, the heighten attention to anti-bullying and social emotional learning for student belies the existence of racism and biases in its employees. A review of an interview in which Rice is classified as an emotionally disturbed special education student also fails to provide investigators or prosecutors with the background of racism that creates such "characteristics".

In the 224-page investigation into the use of deadly force report in which detectives interviewed friends, family members, neighbors, officers, and

employees of the Cudell recreation center, detectives compiled information to justify the non-indictment of officer Timothy A. Loehmann. This report included an interview with Tamir Rice's former teacher. The report file no 15-00004, the "Tamir Rice File" included among other report documents<sup>4</sup> school records including Cleveland Heights School, Cleveland school disciplinary records, electronic school records, permanent records (Morgan, J. 2015). Additionally, on March 20, 2015, a female teacher whose race and age were redacted on the report explained in an interview that Tamir Rice was a sixth grade student in the Special Education Program. She indicated that the program was for emotionally disturbed children. She also revealed Tamir had been in an "altercation" the week before.

Not only was Rice classified as emotionally disturbed, but he also attended school within the Cleveland Municipal School District that employed Resource police officer Matt Cisnero, amongst others, whose views about Rice's mother and demonstrate a politic of disgust (Hancock, 2004). This informs the pathologizing of Black mothers as welfare queens, as well as the "shaming" that Perry-Harris (2011) identifies as part of the racist discourse that marks Blacks in America.

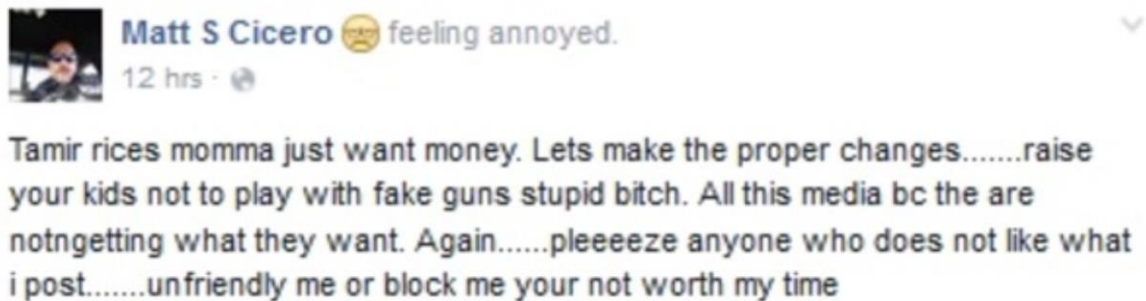


Figure 1 - School safety officer Matthew Cisneros who works in the district where Rice went to school holds the position that blames Rice for his death and denigrates Rice's mother. Source: <http://www.newsnet5.com/news/local-news/investigations/cmsd-resource-off>.

The interviews and the details of the report demonstrate that Rice's classification as emotionally disturbed is taken at face value; it fails to consider the misclassification and misrepresentations of Blacks in special education. The

<sup>4</sup> The Tamir Rice File included Cellular Phone Search (BCI search warrant, Cellular phone extraction report, cellular phone warrant), Children and Family Services (subpoena, summary report, children services documents 1 of 2, children services document 2 of 2), Cleveland Heights police, MetroHealth Hospital (summary report, medical records 1 of 2, medical records 2 of 2), Ohio Guidestone Treatment Facility, and school records.

report does not acknowledge that much of the scholarship oft special education points to the problems of referrals as discriminatory, racist, and biased (Shapiro, Loeb, & Bowermater, 1993; Civil Rights Project, 2001; Kearns, Ford, & Linney, 2005; Blanchett, 2006). For students who are poor and Black, the likelihood of being referred to special education is heightened (Jordan, 2005). So, for students like Tamir Rice, it is a specific classification into special education that relies upon educator “judgment” that proves problematic. According to O’Connor and Fernandez (2006) referrals that are based on judgment, rather than those based on non-judgment (i.e. Blindness, deafness, or physical disability) are subject and prone to racial discrimination and biases. Rice’s classification is one that is often prone to racial bias.

What does the classification of “special education” – specifically a classification as emotionally disturbed – mean? A problematic interpretation would be that Rice was disturbed so perhaps he acted in a manner that could warrant a quick take down. In the minds of some, once a label of emotionally disturbed is ascribed, such classification indicates there could be justification for approaching and murdering him within 1.5 seconds.

Similarly, when examining the use of suspension and discipline data for Trayvon Martin, lawyers did not account for the disproportionate disciplining of Black students, and Black boys in particular. For example, according to a 2014 report from the Office of Civil Rights, Black students are suspended and expelled at rates three times higher than their White counter parts. Additionally, a report from the OCR published in 2013-14 found that Black preschool children are 3.6 times more likely to be suspended than their White peers. The report indicated that while Black boys make up only 19% of the preschool population, they make up 45% of those children receiving one or more out-of-school suspensions.

It is such accounts of Black boys in schools that are exploited by media and appropriated by attorneys in cases like those of the murders of Tamir Rice and Trayvon Martin. That school information, often framed by implicit biases and stereotypes, contributed to the “guilt of the innocent” and the “innocence of the guilty.” These inflated and fabricated notions of “badness” in schools become fodder for the broader society that continually police Black boys. Schools then, are not only are sites of socialization, but are sources of justification.

While I do not pretend that school records were the only factors in decisions made by the jury or in the decision of the Prosecutor Timothy McGinty not to charge officer Loehmann, it is clear that the information was part of the narrative used to construct the Black victims as somehow contributing to their

own demise. What this means for educators is that the ways in which we construct Black boys contributes to their policing and to their murders and can be implicated in a “school-no prison” phenomenon that exonerates murderers.

In the cases of Trayvon Martin, and Tamir Rice society has demonstrated not only the ways in which Black boys exist under the watchful eye of society, policed in their every move, has been demonstrated within American society. That same society’s acceptance of the policing of black boys’ bodies has also become clear in light of these events. These two young Black boys were no doubt policed in schools, but it is the ways in which their bodies were also surveilled outside of school that captures what Douglass and Wilderson (2013) calls “the violence of presence” which constructs Black boys’ bodies as threatening, even when walking or playing innocently with a toy gun. In both cases, the special education information and school discipline records were solicited to make sense of and justify their deaths, making the discipline of Black boys in schools truly a life-or-death, guilty-or innocent matter.

### **Conclusion**

Most teachers in the United States enter classrooms having themselves matriculated through the K-12 education system, and having been socialized in particular ways (Bowles & Gintis, 1977; Cookson and Persell, 1995; DuRocher, 2011). Their socialization in a society of white supremacy, in which the criminalization of Blacks is corroborated in media and in policing, contributes to their treatment of young Black male students as criminals. Ferguson (2001) argues, “[t]eacher perceptions of students are grounded in their own location in social categories of race, class, and gender. They make sense of their interactions with pupils and the conditions of their work from these social locations” (p. 89). When teachers make claims that a student is headed for jail or has “the pen” written all over them, they reify that classification for themselves, and they contribute to the socialization of their students.

In an era where the Black Lives Matter Movement seeks to name and dismantle anti-blackness as a prevailing practice in social institutions, schools need to begin to dismantle themselves as anti-black institutions. Educators need to be aware of how they deal with students who refuse to spit their gum out; they need to challenge what sense it makes to give students detention for being tardy or suspending them for excessive tardies. They need to be cognizant of how 1 a student with multiple suspensions may be interpreted as deviant outside of school. As it stands, schools are actively participating in the construction Black boys as ‘nobodies” who do not matter.

Black Lives Matter is “an ideological and political intervention in a world where Black lives are systematically and intentionally targeted for demise.” Schools need to do a better job of demonstrating that Black Lives *do*, in fact matter<sup>5</sup>.

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<sup>5</sup> It is important that the idea that Black lives should matter in school not be reformulated to imply all students matter. There is ample evidence that Black students’ chronic failure relates to the level to which they matter is schools and education policy (which at this point is very little).

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