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## ARTICLE

**Feeding the School-to-Prison Pipeline: The Convergence of Neoliberalism, Conservatism, and Penal Populism**

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**Abstract**

The increase in prisons and the policing of schools are both rooted in the convergence of neoliberalism, conservatism, and penal populism. This convergence criminalizes minority youth and reinforces the school-to-prison pipeline. Politicians and public servants criminalize minority youth by espousing tough-on-crime rhetoric for political gain. Law enforcement and school officials compound the matter by implementing zero-tolerance policies in the name of public safety. The result is that minority youth who have been suspended, expelled, or adjudicated in the juvenile justice system will likely be fed into the school-to-prison-pipeline and be further excluded from our neoliberal society.

**Introduction**

*He who opens a school door closes a prison.*

-- Victor Hugo (1802-1885)

We incarcerate an obscene number of people—over 2.3 million—with one in every 41 Black adults over the age of 18 being incarcerated, as compared to one in every 96 Hispanic adults, and one in every 245 White adults (Pew Center on the States, 2009). The population of incarcerated youth has followed suit. During the 1990s, it rose by 43% and reached an approximate total of 100,000 by 2006 (Muncie, 2008), a total composed disproportionately of African Americans and Latinos. Mass incarceration in the United States, then, functions as a racial caste system (Alexander, 2010).

As prison populations have grown, prison spending has squeezed out spending on education (National Association for the Advancement of Colored People [NAACP], 2011). We have gone from spending \$15.6 billion on prisons in 1986 to \$38.2 billion—nearly twice what was spent on higher education—in 2001 (Darling-Hammond, 2006). The investment that many states are currently making is clear—prisons before public schools. California, for example, spends \$50,000 per inmate each year, and \$8,852 per pupil per year (Fensterwald, 2011). Contrary to Hugo’s postulation, our society has opted to support a “*grotesque prison boom*” that has resulted in less financing of public education (Jones, 2010, p. 395, emphasis in the original; Mauer, 2006).

In some cities, there are “million dollar blocks,” areas where states have spent millions of dollars to incarcerate the residents, rather than to educate them (Hawkins, 2010). These areas typically have low-performing schools. A NAACP report (2011) found, for example, that in Los Angeles, 69 of the 90 low-performing schools (67 percent) are in neighborhoods with the highest incarceration rates. The result is that a disproportionate number of Black and Latino children attend “drop out factories” (Balfanz & Letgers, 2004, p.5), or low-performing schools with high dropout rates, which in part explains why 17.6 percent of Hispanics and 9.3 percent of Blacks between 16 and 24 years of age have dropped out, compared to the national average of 8.1 percent (Chapman, Laird, Ifill, & KewalRamani, 2011).

With the implementation of zero-tolerance policies in schools, particularly after the highly publicized Columbine school murder-suicides, the drop-out factories and many other schools resemble detention facilities. They staff school resource officers (Justice Policy Institute, 2011), and require students to pass through metal detectors, undergo random searches, and be surveilled by security cameras and guards (Devine, 1996; Rios, 2009). Additionally, public school students are also now more likely to be suspended, with the number of students suspended each year having risen from 1.7 million in 1974 to 3.1 million in 2003 (Wald & Losen, 2003). Like the prison population, the suspension and expulsion rates are racialized and gendered. National Center for Educational Statistics (2010) reports that Black, Hispanic, and multiracial male students are suspended at significantly and disproportionately higher rates than Asian, Native American, and White students.

In this essay, we argue that the increase in prisons and the policing of schools is rooted in the convergence of neoliberalism, conservatism, and “penal populism” (Pratt, 2007); a convergence that criminalizes minority youth and reinforces the school-to-prison pipeline, i.e., “policies and practices that systemically push at-risk youth out of mainstream public schools and into the juvenile or criminal justice systems” (Kim, 2009/10, p. 956). As we discuss below, politicians and public servants criminalize minority youth by espousing media-driven tough-on-crime rhetoric for political gain. Law enforcement and school officials compound the effect by implementing zero-tolerance policies in the name of public

safety. Those minority youth who have been suspended, expelled, and/or adjudicated in the juvenile justice system typically reside in neighborhoods with under-resourced schools that have a bureaucratic incentive to remove under-performing students. Consequently, there is a great likelihood that youth of color will be fed into the school-to-prison-pipeline and experience further exclusion from our neoliberal society.

## Neoliberalism and Penal Populism

### *Neoliberalism*

As Wacquant (2009) points out, neoliberalism has turned the United States into a “*centaur state*,” or a nation with small government accountability for those at the top and paternalistic control of those at the bottom (p. 43, emphasis in the original). Control of the working class, poor, and marginalized has shifted from the dispensing of public services to the use of prisons, and is justified with the argument that the citizenry must take on personal responsibility. The expansion of the prison system and the defunding of the welfare state “*are two sides of the same political coin*,” such that “[t]he generosity of the latter is in direct proportion to the stinginess of the former, and it expands to the degree that both are driven by moral behaviourism” (Wacquant, 2009, p. 292–3, emphasis in original). Prisons, then, serve to placate the growing working class that is dissatisfied with the greater inequalities and employment insecurities and to warehouse those who reject the labor market and those deemed disruptive elements, while reaffirming the authority of the state (Wacquant, 2001, p. 402). The low caste status ascribed to poor African-Americans in our society makes them the beneficiaries of a perverse “*de facto policy of carceral affirmative action*” and, thus, are overrepresented in prisons, jails, and detention facilities (Wacquant, 2001, p. 403, emphasis in the original). In this way, the burgeoning prison system has become a central institution of the United States.

Along with an expansion of the prison system, neoliberalism has given rise to a new punitive common sense, which normalizes the economic competitiveness of the neo-liberal economy, the insecurities involved in the wage-and-labor market, and criminalization of poverty (Wacquant, 2009). The punitive thinking is driven in part by the ideas put forth by neo-conservative think-tanks, such as the American Enterprise Institute, the Heritage Foundation, and the Manhattan Institute, since Reagan’s first presidential term. Wacquant (2009) documents that policy entrepreneurs, including Rudy Giuliani, who served as mayor of New York City (1994-2001), and William Bratton, who served as Police Commissioner of New York City (1994-1996), also promulgated intrusive tough-on-crime policies.

More to the point, in New York City, Giuliani, and Bratton trumpeted and enacted zero-tolerance policies that enforced misdemeanor ordinances to curtail crimes deemed detrimental to the quality of life (e.g., public intoxication and panhandling) and used stops and frisks as so-called crime-fighting tools. Though Giuliani and Bratton are no longer public servants, the zero-tolerance policing continues, now under the leadership of Mayor Michael Bloomberg and Commissioner Ray Kelly. In the first 9 months of 2009, the New York Police Department stopped approximately 450,000 people—84% of whom were Black and Latino—and frisked most of them (Herbert, 2010). These startling statistics are even more troubling considering that the data also indicate that only 6 percent of the total stops ended in an arrest; 1.5 percent of Hispanics, 1.6 percent of Blacks, and 2.2 percent of Whites were found with drugs; weapons were found on 1.1 percent of Blacks, 1.4 percent of the Hispanics, and 1.7 percent of the Whites (Herbert, 2010).

Zero-tolerance policies, which date back to Nixon’s war on drugs in the early 1970s (Newburn, 2010), are now regularly used to control working-class and poor youth throughout our neoliberal society. Numerous studies document the aggressive policing—unwarranted stops, questioning, and frisking—of urban, minority youth (Brunson & Miller, 2006; Brunson & Weitzer, 2009; Carr, Napolitano, & Keating, 2007; Rios, 2009; Sanchez & Adams, 2011; Solis, Portillos, & Brunson, 2009). Such racialized policing tactics currently serve to hyper-criminalize young people of color (Rios, 2009).

### *Penal Populism*

Penal populism, or the populist response to crime (Pratt, 2007), criminalizes urban youth of color. Consider, for example, the alarmist media narratives that are part and parcel of penal populism. A *Time* magazine feature in September 2001, called Latina/o gangs in Los Angeles “a nightmare” and stated that these “[g]angs, it turns out, can take more beatings and lock-down time than any humane society is prepared to deal out” (cited in Bender, 2003, p. 63). Such discourse of savagery (Macek, 2006) is not only dehumanizing, but in effect justifies “the social and physical deaths of young Latino men” (Cacho, 2007, p. 182). Like other media, film also stereotypically depicts youth of color as criminal elements. Research shows that films regularly portray urban youth, mostly Blacks and Latinos, as threats to the social order (Mora, 2011; Mora & Christianakis, 2012). The representation of minority youth as criminals in the media and popular culture

undoubtedly becomes part of both the public imagination and the penal populism.

In the United States, penal populism is promulgated by policy entrepreneurs. Note that in the early 1990s, a number of conservative think-tank fellows erroneously argued that the impending increase in the youth demographic, driven in part by high birthrates among non-Whites, would result in a new generation of young criminals they dubbed *super-predators* (e.g., see DiIulio, 1995). The media and law enforcement then trumpeted the notion of super-predators and created a moral panic (Pizarro, Chermak, & Gruenewald, 2007).

The super-predators discourse resulted in the passage of various laws targeting youth. In 1996, the U.S. Congress passed the *Violent Youth Predator Act*, which legislated mandatory minimum sentences for youth convicted of violent crimes and lowered the minimum age for trying juveniles as adults from 16 to 14 years of age. Four years later, having succumbed to the hysteria about youth crime, California voters passed *Proposition 21: The Gang Violence and Juvenile Crime Prevention Act of 1998* with 62% of the vote. Like other tough-on-crime legislation being urged by penal populism, Proposition 21 did not focus on rehabilitative or preventative interventions, but rather on punishing juvenile offenders with increased sanctions, especially for crimes deemed to be gang-related, and giving prosecutors more discretionary power to try juveniles as adults (Taylor, 2002). Presently, more than thirty states have stiffened penalties against youth for various crimes, including non-violent offenses, and nearly all states have made it easier to transfer juveniles to adult criminal courts (Wald & Losen, 2003). The penal populist rhetoric about youth, particularly minority youth, has been so influential that presently juvenile courts focus mostly on punishing youth, rather than on protecting their well-being, which was the central aim of the nation's first juvenile court, established in 1899 (Fionda, 1998; Grisso & Schwartz, 2000; Muncie, 2005; Muncie, 2008; Schaffner, 2002).

Politicians promote, and are responsive to, penal populism (Pratt, 2007). We see this, for example, in the campaign for Proposition 21. Pete Wilson, the Governor of California at the time, repeatedly invoked the Mexican Mafia, a violent Mexican American prison gang, to garner support for the ballot initiative (Rios, 2008). The construction of Mexican American youth as criminals was meant to resonate primarily with White voters who perceived Latino youth (and gang members) as dangerous beings encroaching on their children's safety and privileges (see Rios 2008, p. 109).

Racialized fear-mongering of the sort described herein stigmatizes poor youth of color and negatively impacts the lives of urban youth of color. In neighborhoods with police-identified street gangs, the police not only regularly stop and search youth, but also regularly classify many of them as gang members, associates, or affiliates, even when they have no gang ties. As Zatz (1985) points out, the subjective "gang label (and the police perceptions and stereotypes consistent with this label)... [then] operate[s] as a 'master status' or contingency that influences the workings of the legal process and rates of movement through it" (p. 15). Youth who are classified as gang-involved by law enforcement face greater scrutiny when stopped, arrested, and tried, and in California, they face longer sentences if convicted of particular crimes. In this way, many poor youth of color "find themselves trapped in a closed circuit of perpetual marginality, circulating between ghetto and prison" (Alexander, 2010, p. 191).

### **Crime Control Models and Schooling**

Schools throughout the country use a crime-control model to manage students (Kupchik & Monahan, 2006; Hirschfield, 2008; Losen & Skiba, 2010; Simon, 2007; Skiba, 2000). Over 90% of public schools have implemented conservative disciplinary policies based on zero tolerance (Kaufman et al., 2001) to exclude students who cannot be "responsibilized" (Muncie, 2006, p. 786). As a result, suspensions and expulsions are now common punishments for student behavior deemed inappropriate (Hirschfield 2008; Simon 2007; Skiba 2000). While proponents of conservative and neoliberal crime-control policies argue that they are necessary to curtail school violence, but research indicates that most punishment is meted out for minor transgressions (Simon, 2007; UCLA-IDEA, 2006). A study of California schools, for example, finds that during the 2003-2004 academic year, the most common reasons for expelling students were the disruption of school activities and defiance of school authorities (UCLA-IDEA, 2006). The wide-spread use of zero tolerance is startling given that there is compelling research indicating that it does not improve students' behavior, does not make schools safer, is unfair (e.g., they are uniform and leave no room for a discretionary consideration of the circumstances surrounding rule violations), and disproportionately impacts minority students (American Psychological Association [APA], 2008; Curwin & Mendler 1999; Losen & Skiba, 2010; Skiba & Peterson, 1999; Skiba & Rausch, 2006; Verdugo, 2000, 2002). Nonetheless, zero-tolerance policies reiterate the neoliberal and conservative discourse of personal responsibility and accountability, without accounting for contextual considerations.

Minority students, particularly those with disabilities, are over-represented in the suspension and expulsion rates (Losen &

Skiba, 2010); Noguera, 2003; Wald & Losen, 2003., likely because of “racial profiling in schools” (Wald & Losen 2003, p. 13). The behavior of minority children with disabilities is typically constructed as defiant or criminal rather than an expression of their special needs, requiring the attention of skilled educators (Kim, Losen, & Hewitt, 2010). That may partly explain why minority students are more likely to be suspended for behavior viewed as threatening or disrespectful, while White students are typically suspended for carrying weapons or drug infractions (Skiba, 2000). In the end, we have “...an excluded student body whose makeup echoes the racial disparities seen in the US prison population” (Goddard & Myers, 2011), where minority youth account for approximately two-thirds of the juveniles in detention facilities and nearly all the youth are tried as adults in some states (Muncie, 2005). The exclusion of minority youth from schooling, in effect, initiates the process of “carceral affirmative action” (Wacquant, 2001, p.5) that results in the removal of men of color from their families, the labor market, and the welfare system.

Due to the expansion of zero-tolerance policies, there is now a visible police presence at many schools, particularly at those in urban neighborhoods (Ayers, Ayers, Dohrn, & Jackson, 2001; Hutchinson & Pullman 2007; Muncie, 2006; Sanchez & Adams, 2011; Wald & Losen, 2003). Some schools are legally required to report students who fail to abide by particular disciplinary rules to the police (Wald & Losen, 2003). In many jurisdictions, the police are summoned for infractions (e.g., food fights) that in the past were handled by school officials (Sanchez & Adams, 2011; Wald & Losen, 2003), thus “extending the arm of policing from the neighborhood to the school setting” (Sanchez & Adams, 2011, p. 327). The result is that Black and Latino students are exposed to racialized policing, and so they are more likely to be arrested than White peers, even when accused of the very same school code violations (Kim, 2009/10, p. 957). Consequently, rather than being nurturing, community institutions, many schools contribute to African American and Latino students’ hyper-criminalization (Sanchez & Adams, 2011) and reiterate the authority and legitimacy of the centaur-state.

### **The Exclusion of Minority Youth from Public Schooling**

Youth who seek to re-enter school after leaving detention facilities face a number of challenges. The juvenile justice system may not provide the paperwork students need to re-enroll, and schools may not accept educational credits earned while in detention (Feierman, Levick, & Mody, 2009/10). What is more, schools are often reluctant to support youth who were detained (Feierman et al., 2009/10; Wald & Losen, 2003), in part because schools prefer to exclude those who may not do well on standardized exams mandated by No Child Left Behind (Darling-Hammond, 2007; Ryan, 2004), resulting in high drop-out rates among these students (Feierman et al., 2009/10; Wald & Losen, 2003). In other words, the neoliberal reforms which aim to make schools more competitive and accountable actually create systems of exclusion wherein students who need the most support are denied participation. The end result is that “the effects of the school-to-prison pipeline” are magnified and “heighten the likelihood that children will find themselves returning to the justice system they just exited” (Feierman et al., 2009/10, p. 1115).

It seems that a good education and access to support services at school are particularly vital for the life opportunities of minority youth who may find themselves exposed to criminalization by police and schools and those returning from juvenile detention facilities. Research suggests that most incarcerated youth struggle academically in school, do not read at grade level, do not attend school regularly, and have been suspended at least once (Balfanz, Spiridakis, Neild, & Legters, 2003). Additionally, nearly half of incarcerated youth have at least one learning disability (Gemignani, 1994). Unfortunately, however, minority students are likely to both attend schools with fewer resources and to have less access to qualified teachers (Darling-Hammond, 2004; 2006; Oakes, 2004; Orfield, 2001). These inequalities contribute not just to the present “disparate achievement by race and class” (Darling-Hammond, 2006, p. 13), but also feed “...the ‘school-to-prison pipeline’ that is increasingly well oiled in many states” (Darling-Hammond, 2006, p. 14). With fewer students in the education system and more people incarcerated, neoliberals and conservatives alike can justify the increased spending on prisons as a necessary public-safety expense.

Neoliberal and conservative policies that depict public education as an economic drain linked to an unsustainable welfare state (see Burchell, 1996) are defunding and privatizing public education, two reforms that do not bode well for low-income students of color, including those who reside in areas with high incarceration rates. Consider, for example, the neoliberal expansion of charter schools into urban communities, which President Obama’s educational policies are now furthering (see Christianakis & Mora, 2011; Mora & Christianakis, 2011). Research indicates that charter-school students, most of whom are children of color, are not faring any better than peers at comparable traditional schools (Gwynne & de la Torre, 2009; Robelen, 2008; Zimmer, Blanc, Gill, & Christman, 2008). In fact, the 2007 National Assessment of Educational Progress (NAEP) data indicate that when compared to charter-school students, traditional public-school students in fourth grade scored *higher* in both reading and mathematics, and that eighth-grade, traditional public-school

students scored *higher* in mathematics and the same in reading (Robelen, 2008). Similarly, a 2009 Stanford University study of 2,403 charter schools in 15 states found that 37% of the charters had learning gains that were significantly below those of traditional public schools, 46 % showed no difference, and only 17% showed significantly better gains (Center for Research on Education Outcomes [CREDO], 2009). Also, many charter schools employ unqualified and less experienced teachers (Brown, Gutstein, & Lipman, 2009; Fuller, Gawlik, Gonzales, Park, & Gibbings, 2003). Teachers who are less experienced and not credentialed are more likely to teach minority students and more likely to refer them for special education services, where students of color are overrepresented (Cartledge, 2005).

In addition, researchers find that many charter schools throughout the country under-serve English language learners (ELLs) and students with special needs (Advocates for Children, 2002; Betts, Rice, Zau, Tang, & Koedel, 2006; Buckley & Schneider, 2007; Pallas & Jennings, 2009; Kane et al., 2009). Data from a California study suggest that those charters that serve ELLs do not provide the number of qualified and specialized teachers needed (Fuller et al., 2003). By not providing qualified teachers, charter schools are in violation of *Lau v. Nichols* (1974), which guarantees equal access to the core curriculum.

School choice is also resulting in the exclusion of students with special needs, undoing decades of progress toward mainstreaming (Howe & Welner, 2002). A recent General Accountability Office (2012) report finds that charter schools enroll students at rates lower than those of public schools. Similarly, a study of 502 charter schools in California found that charter schools have fewer students with special needs than regular public schools, that Black students were overrepresented in classes for the severely learning disabled and the emotionally disturbed, and that ethnically-diverse students with special needs are more likely to be segregated than their White counterparts (Fierros & Blomberg, 2005). There is ample evidence that some charters schools are counseling out children with disabilities (Estes, 2006; Fierros & Blomberg, 2005; Grant, 2005; Howe & Welner, 2002; Rhim & McLaughlin, 2007). Furthermore, in a recent survey, 3% of charter schools admitted telling parents of children with disabilities they could not admit their children, and 44% of the schools owned up to informing parents that their children would be better served at another school (Rhim & McLaughlin, 2007). In Texas, charter schools actually have the legal right to exclude children with behavioral problems, including those who suffer from emotional disorders (Estes, 2006). Recent news stories indicate that Black parents in New Orleans and Detroit are concerned that local charter schools are discriminating against students with special needs by excluding them (Guerra & Hulett, 2010; Reckdahl, 2010). Of the special needs children who are enrolled in charter schools, many have inexperienced and uncredentialed teachers, the very type of teachers who “are less likely to be knowledgeable about the Individuals with Disabilities Education Act (IDEA), the Least Restrictive Environment (LRE), and Free and Appropriate Education (FAE) requirements of the law” (Grant, 2005, p. 71). Given how reluctant many charter schools are to serve students with learning needs, there is no reason to believe that charter schools will opt to serve underperforming students who have had contact with the juvenile justice system, for fear that these students will do poorly on the standardized tests.

## Conclusion

The convergence of neoliberalism, conservatism, and penal populism has shifted the fiscal priorities away from social programs and education to the funding of prison expansion. It has also reified zero-tolerance policies that criminalize minority youth in and out of schools. As a result, youth of color are particularly vulnerable to the “policies and practices that systemically push at-risk youth out of mainstream public schools and into the juvenile or criminal justice systems” (Kim, 2009/10, p. 956). The high suspension and expulsion rates and the political influence of penal populism allow neoliberals and conservatives alike to justify both the increased prison spending and the policing of schools as necessary safety measures. In this way, the shifting of fiscal priorities normalizes the transfer of Brown and Black bodies from school classrooms to prison cells, thus, perpetuating a racial caste system (Alexander, 2010).

Children’s lives are on the line. We must not tolerate the criminalization of our youth. We must bring an end to the punishing discourses of penal populism. It is imperative that we counter the conservative and neoliberal policies that are perpetuating the expansion of prisons, while dismantling the welfare state and wreaking havoc on economically depressed and racially isolated communities. If we truly want to have a pluralistic, democratic, and just society, we cannot be silent, nor can we be complacent as children are fed into the school-to-prison pipeline.

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