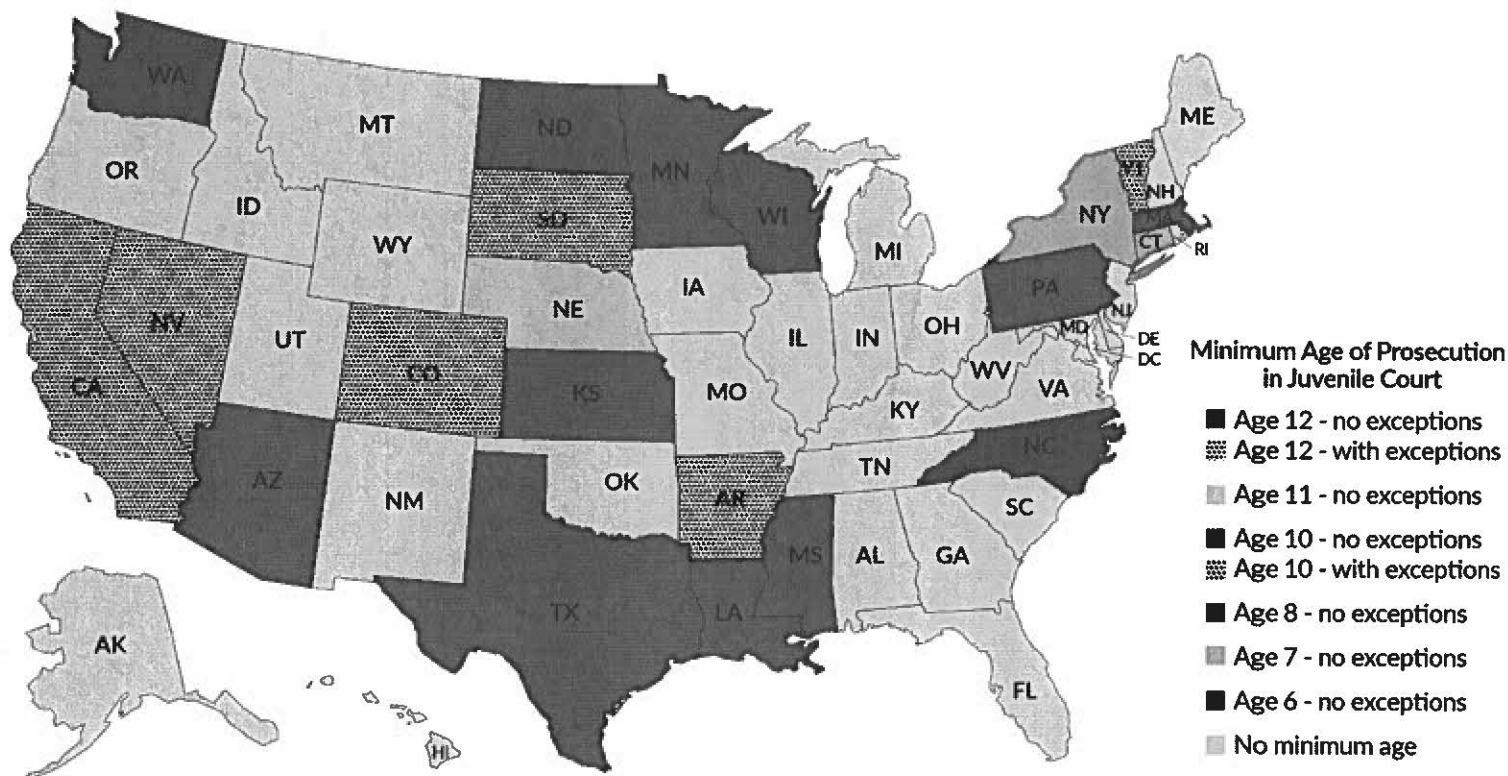


# The Criminalization of Childhood

## In 29 states, it is legal to prosecute a 5-year-old in juvenile court

Most states do not set a minimum age of prosecution in juvenile court. And although common sense knowledge of child development<sup>1</sup> and international standards<sup>2</sup> compel removal of younger children from the juvenile legal system, states have yet to heed the call.

Because younger children are inherently more vulnerable,<sup>3</sup> they should not be subject to the potential harms of juvenile court and the life-long consequences that stem from such involvement. States should strengthen community supports outside the justice system and set the minimum age of prosecution at 14 years old.



Most states have failed to set a minimum age of juvenile court jurisdiction or have set the minimum age far too low.

- Only 2 states have a minimum age of prosecution set at 12 years old: California and Massachusetts<sup>4</sup>
- 1 state has a minimum age of 11 years old: Nebraska<sup>5</sup>
- 14 states have a minimum age of 10: Arizona, Arkansas, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin<sup>6</sup>
- 1 state has a minimum age of 8: Washington<sup>7</sup>
- 2 states have a minimum age of 7: Connecticut and New York<sup>8</sup>
- 1 state has a minimum age of 6: North Carolina<sup>9</sup>

In the past several years, some states have raised their minimum age of juvenile court jurisdiction and prosecuted fewer children under 14. In 2005, delinquency courts handled over 313,000 cases where the respondent was under 14 years old.<sup>10</sup> In 2017, that number fell to just over 138,000 cases.<sup>11</sup>

Furthermore, by removing children under 14 years old from juvenile court jurisdiction, states will save money and more effectively utilize the limited resources allocated for delinquency matters.

- <sup>1</sup> *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (noting that there was no special training required to account for a child's age).
- <sup>2</sup> While there is not a specified minimum age of criminal responsibility under the UN Convention on the Rights of the Child (CRC), the UN's Global Study on Children Deprived of Liberty recommends that all UN member states set a minimum age of criminal responsibility no lower than age 14. GEN. ASSEMBLY, UNITED NATIONS, GLOBAL STUDY ON CHILDREN DEPRIVED OF LIBERTY 10 (2019), <https://undocs.org/en/A/74/136>. Additionally, the UN Committee on the Rights of the Child (which is responsible for monitoring compliance with the CRC) encourages countries to consider minimum ages as high as 16, based on collective international standards. CONVENTION ON THE RIGHTS OF THE CHILD, UNITED NATIONS, GENERAL COMMENT NO. 10: CHILDREN'S RIGHTS IN JUVENILE JUSTICE 10 (2007), <https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>. Among countries that set the minimum age of criminal responsibility at 14 or higher are Argentina, China, Congo, Germany, Italy, Poland, Spain, Somalia, Sweden, Russia, and Ukraine, to name a few. CHILD RIGHTS INT'L NETWORK, *The Minimum Age of Criminal Responsibility*, <https://home.crin.org/issues/deprivation-of-liberty/minimum-age-of-criminal-responsibility> (last visited Sept. 3, 2019).
- <sup>3</sup> Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 27 *LAW & HUM. BEHAV.* 333 (2003) (noting the vulnerability of youth in legal contexts as study demonstrates that youth 15 and younger are more likely than older adolescents and adults to lack competence-related capacities, and that developmental immaturity may impact youth's legal decision-making in other contexts such as confessing to the police or the decision to take a plea agreement). See also Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 *CHILD DEV.* 28 (2009) (indicating the vulnerability of youth through research on mechanisms underlying developmental immaturity in adolescents, with results demonstrating that age is related to future orientation with younger youth less likely to plan ahead and think about the future consequences of their actions).
- <sup>4</sup> CAL. WELF. & INST. CODE § 602 (West 2019); MASS. GEN. LAWS ANN. ch. 119, § 52 (West 2018).
- <sup>5</sup> NEB. REV. STAT. ANN. § 43-247(1) (West 2016).
- <sup>6</sup> ARIZ. REV. STAT. ANN. § 8-307(A) (West 1997); ARK. CODE ANN. § 9-27-303(15) (West 2019); COLO. REV. STAT. ANN. § 19-2-104(1)(a) (West 2018); KAN. STAT. ANN. § 38-2302(n) (West 2016); LA. CHILD. CODE ANN. § art. 804(3) (West 2011); *In re S.A.C.*, 529 N.W.2d 517 (Minn. Ct. App. 1995) (applying MINN. STAT. ANN. § 260C.007(6)(12) (West 2019)); MINN. STAT. ANN. § 611.14 (West 2012); MISS. CODE ANN. § 43-21-105(i) (West 2019); NEV. REV. STAT. ANN. § 194.010 (West 2015); N.D. CENT. CODE ANN. § 12.1-04-01 (West 2019); 42 PA. STAT. AND CONS. STAT. ANN. § 6302 (West 2018); S.D. CODIFIED LAWS § 26-8C-2 (West 2019); TEX. FAM. CODE ANN. § 51.02(2)(A) (West 2015); VT. STAT. ANN. tit. 33, § 5102(2)(c) (West 2019); WIS. STAT. ANN. § 938.12(1) (West 2019).
- <sup>7</sup> WASH. REV. CODE ANN. § 9A.04.050 (West 2011).
- <sup>8</sup> CONN. GEN. STAT. ANN. § 46b-120(1)(A)(i) (West 2019); N.Y. FAM. CT. ACT § 301.2(1) (McKinney 2016).
- <sup>9</sup> N.C. GEN. STAT. ANN. § 7B-1501 (West 2017).
- <sup>10</sup> MELISSA SICKMUND ET AL., *Easy Access to Juvenile Court Statistics: 1985-2017*, U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, <https://www.ojjdp.gov/ojstatbb/ezajcs/asp/selection.asp>.
- <sup>11</sup> *Id.*

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# More than 30,000 children under age 10 have been arrested in the US since 2013: FBI

From 2013 to 2018, 30,467 children under the age of 10 were arrested in the US.

By Bill Hutchinson

October 1, 2019, 9:31 AM • 19 min read



Ad 1 of 1

00:18



## Nearly 30,000 US kids under age 10 have been arrested since 2013: FBI

In the United States, 34 states have no minimum age for delinquency, while most of the rest have set the age at 10, according to the government.

The recent arrests of two 6-year-old students in Orlando, which prompted outrage and the firing of the officer who restrained one child's hands with flex cuffs, mirrors a persistent problem confronting law enforcement and schools with thousands of children arrested annually and treated like "mini-adults," experts said.

Stunning annual crime statistics compiled by the Federal Bureau of Investigation (FBI) show that between 2013 and 2018 (the most recent year for which complete data is available), at least 30,467 children under the age of 10 were arrested in the United States. And the numbers skyrocket for children between the ages of 10 to 12 with 266,321 arrested during the same six-year time span, according to the data.

Rules about the age children can be arrested vary around the world. In England and Wales, for instance, the age of criminal responsibility is 10, with alternative arrangements for those under 10. In Scotland, it is 8.

In the United States, 34 states have no minimum age for delinquency (according to the most recent data), while most of the rest have set the age at

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## ARRESTS OF CHILDREN UNDER THE AGE OF 10

YEAR	ARRESTS
2013	6,394
2014	6,458
2015	5,144
2016	4,902
2017	4,068
2018	3,501

SOURCE: FBI CRIME IN THE UNITED STATES ANNUAL REPORTS



© Arrests of children under the age of 10  
FBI Crime in the United States annual reports ABC News.

### A tantrum leads to a 6-year-old's arrest

Meralyn Kirkland, the grandmother of one of the 6-year-olds arrested this month in Orlando by a school resource officer, told ABC affiliate station WFTV in Orlando that her granddaughter, who is black, was taken into custody on suspicion of battery when she allegedly had a meltdown at school and ended up kicking a staff member.

The girl was taken to the local Juvenile Assessment Center, but when Kirkland went to get her she says she was told the child was being fingerprinted.

"I think when they said fingerprinted is when it hit home to me," Kirkland told WFTV. "And I'm, like, fingerprinted? And they said yes, and they escorted me into an office and on the desk in that office were two mugshot pictures of my 6-year-old granddaughter."

+ (MORE: 6-year-old's arrest raises questions about school discipline and behavioral disorders)

Kirkland said that if the school resource officer took the time to inquire, he would have learned the girl is prone to temper tantrums because she suffers from sleep apnea.

Orlando Police Chief Orlando Rolon announced last week that the school resource officer had been fired for allegedly violating department policy by

failing to get a supervisor's approval for arresting a child under the age of 12.


Details on the arrest of another 6-year-old last week by the same officer who arrested Kirkland's granddaughter were not disclosed by Rolon, who cited rules governing the privacy of minors.

"A top priority is to earn and protect the trust between the community and the officers," Rolon said at the press conference. "Because of this incident, the trust has been put in question. I apologize to the children involved and their families."

### **A dodgeball game, playing with food and refusing to go to the principal's office**

Other such arrests of young children have made headlines as well:



 A 7-year-old boy emerged from a Miami-Dade police car's back seat on Jan. 26, 2018, in metal handcuffs while his mother videotaped and comforted him from just a few feet away. WPLG

-- In July, a 10-year-old black boy was arrested on charges of aggravated assault after he threw a ball at another child's face during a dodgeball game on the playground of a suburban Detroit school, officials said. The charges were later dropped and prosecutors denied that race played a factor, as the boy's mom had charged.

-- In August, the U.S. Court of Appeals for the 8th Circuit ruled that a school resource officer in Kansas City, Missouri, who handcuffed a crying 7-year-old boy for refusing to go to the principal's office and leaving him cuffed there, was "a reasonable course of action" and did not violate the child's constitutional rights. According to a lawsuit filed by the American Civil Liberties Union against the school district, the boy, who has a hearing impairment, broke down and began "hollering" after he was asked to move next to another student who teased him.

-- In January 2018, a 7-year-old boy was handcuffed at a Miami school and placed in a police car because, according to an incident report by Miami-Dade Schools Police Department, he misbehaved after a teacher told him "not to play with his food." The district said he "attacked" the teacher and continued to fight her even after she restrained him. According to the chief of the Miami-Dade Schools Police Department, cuffing a 7-year-old, while

10, according to government data. The federal system prefers to defer to the state delinquency system for minors, according to the Congressional Research Service, although the federal tradition, is reported to be seven.

And 24 states have no minimum age to transfer juvenile cases to adult criminal court according to the Department of Justice's Office of Juvenile Justice and Delinquency Prevention.

While the rate of arrests of juveniles 10 to 17 has been on a steady decline in the U.S. since hitting a peak in the mid-1990s and the arrests of those 12 and under represents a mere fraction of the total made annually in the U.S. (more than 7.8 million in 2018 alone).

While the FBI's latest crime report released on Monday shows the numbers of children arrested under the age of 10 have continue to gradually declining in the past five years from a high in 2014 of 6,458 to 3,501 in 2018, experts say it is still too many.


"This is ridiculous. If we are going to treat children like this, we better think very clearly what the ramifications are, especially if we are so inclined to stop the violence," said Lisa Thureau, founder and executive director of Strategies for Youth, a Cambridge, Massachusetts, nonprofit that trains law enforcement agencies in how to handle young children. "This is producing it and it's also attenuating children's connection to school."

An area of particular concern with juvenile arrests are those in school -- especially how discipline affects those of different races and how officers are trained to deal with children.

"rare," was "warranted to prevent his erratic and violent behavior from bringing further harm to others or himself."

-- In August 2018, a school resource officer in Denton, Texas, was captured on his body-camera video putting a 10-year-old boy with autism in handcuffs and holding him to the ground by the neck after he became obstreperous with a teacher when he was pulled out of a cubbyhole where he was hiding in the classroom, according to police and the child's parents. In a written summary by the Denton Independent School District, the boy was described as engaging in self-harming behaviors and that he engaged in "physically assaultive and unsafe behaviors. The Denton Police Department Office of Professional Standards initiated a review of the incident and no violations were found, a statement by the City of Denton said.



 Bodycam footage of a child with autism seemingly being held down and handcuffed was released this week.  
WFAA

Beyond these headline-grabbing incidents, there were hundreds more arrests for serious offenses, according to the FBI data. In 2018, 155 children under the age of 10 were arrested for possessing weapons, 22 were arrested for rape, 11 for robbery, 56 for arson, and 289 for larceny and theft, including 15 for vehicle theft. Details of those cases were not immediately available.

It was not clear how many of those incidents occurred in schools and data surrounding arrests in schools is somewhat murky. According to the U.S. Department of Education Civil Rights Data Collection for 2015-'16, the most recent data available, over 290,600 cases in schools were referred to law enforcement or resulted in arrest. Black students were disproportionately subject to those disciplinary measures -- representing 15% of the student body and 31% of referrals, a 16% gap (up from 11% the year before). Students with disabilities were also disproportionately subject to that kind of discipline, according to the data.

In 2013-'14, the data was similar -- 260,000 students were referred to law enforcement and 92,000 were subjected to school-related arrests. In addition to contacts with law enforcement, the data shows that there were racial disparities in out-of-school suspensions as well, beginning in

preschool, with black children -- or children of color -- disproportionately banned from school property.

### **Lack of training**

Some experts said that police and school resource officer interventions with children so young was not surprising.

"None of this is shocking. It's predictable when you don't equip sworn police officers to deal with children and adolescents, who require a different approach," Thureau told ABC News. "You have to be developmentally appropriate, and trauma-informed, and racially equitable. We're not equipping officers to be that generally in the United States, much less when you place them in schools."

Thureau said recruits in police academies are generally given a total of four to six hours of training on how to deal with disciplinary encounters with children, in schools and on the streets. And a 2013 report from the Bureau of Justice Statistics said that 62% of police recruits were trained on interacting with youth.

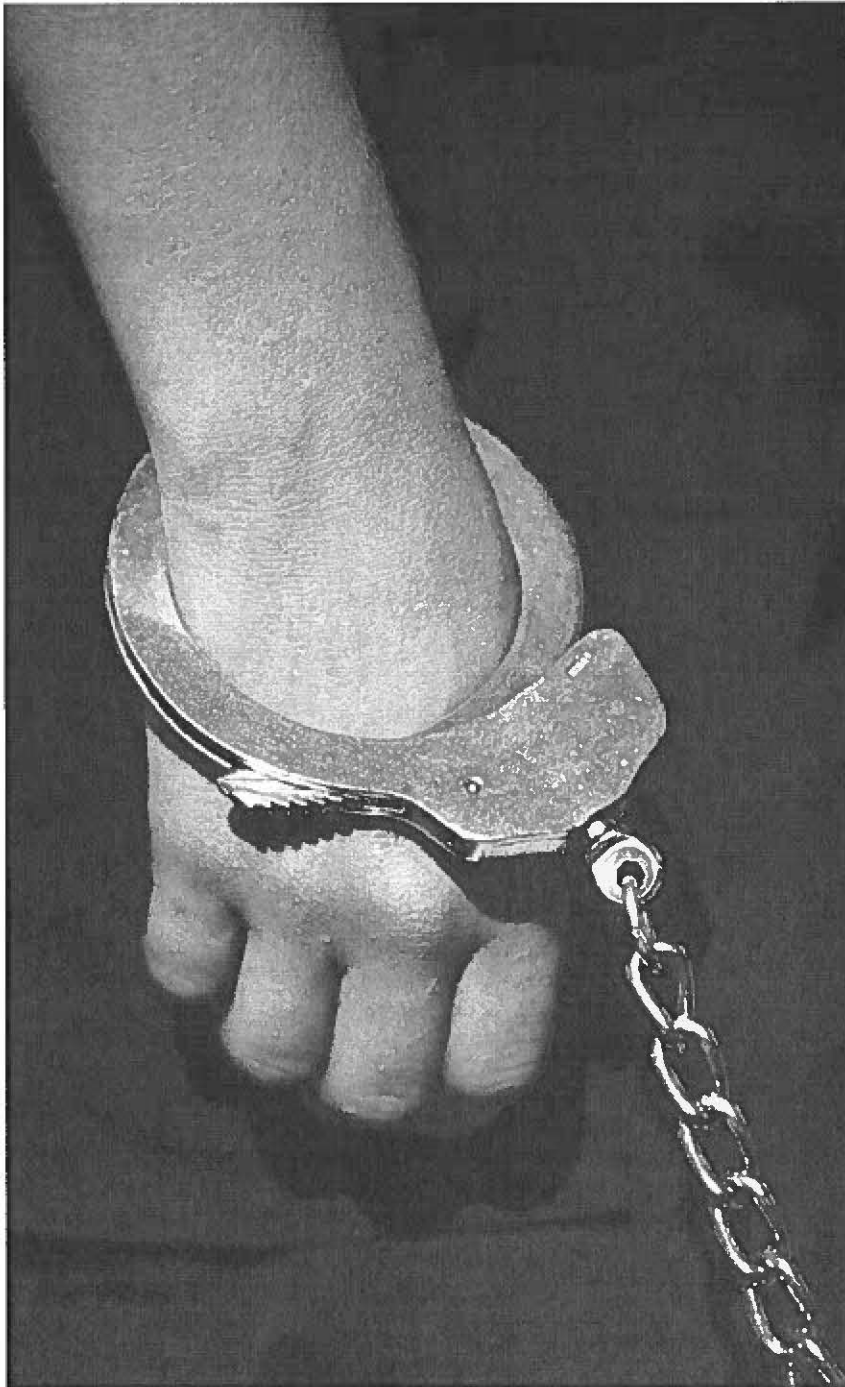
Some school districts employ deputies from local police departments, while others, such as Miami-Dade County in Florida, employ an independent police force for their schools. Still, others employ school resource officers, defined in U.S. DOE reports as "career sworn law enforcement officers with arrest authority, who have specialized training and are assigned to work in collaboration with school organizations." According to the U.S. DOE, 42% of schools employed SROs in 2015-'16 and nearly 11% employed sworn law enforcement officers.


Some states have laws and regulations surrounding the certification or training of SROs, while others do not.

+ (MORE: School resource officer fired after arresting 6-year-olds)

"Then you compound this with systems that don't put any attention to...in-service training for more experienced officers, and then you compound that with a lack of policies," Thureau said. "Most police departments have no policies for how to deal with these youth and so the default assumption is you treat them like mini-adults."





 In this undated file photo, a child is shown wearing handcuffs.  
Robert W. Ginn/Newscom, FILE

Mo Canady, executive director of the National Association of School Resource Officers, a nonprofit that trains about 10,000 school resource officers a year across the nation, said more than just training goes into a good SRO.

"There has to be a lot of sensitivity that takes place from an officer's standpoint working within a school," Canady told ABC News. "There are three things we're very clear that have to happen: One is that an officer that's going to work in that environment must be very carefully selected. You're talking about putting an adult from your law enforcement agency in a school environment, working with sometimes young children.

"So you've got to make sure that the moral character is right, that they are veterans, that we have a good track record on them, that they really want to work with youth and they've shown that they do that through volunteer opportunities and those kinds of things," he added.

He said the training his organization does with officers, who are oftentimes mandated by state or local jurisdictions to take the course, includes dealing with special needs students and understanding adolescent brain development.

"We want officers to understand the science behind that. What's going on with kids at different phases of their lives and how much brain development impacts that," Canady said. "When we understand that and officers are well educated on that, then they're better able to de-escalate situations. So that's a critically important piece."

Canady, a retired Alabama police officer who spent half of his 25-year law enforcement career as a school resource officer, said officers are also trained to refrain from getting involved in instances that are clearly disciplinary matters that can be handled by school officials.

"The number one goal we teach to SROs that come to our training is that the most important thing they're going to do is build relationships with students," Canady said. "Bridging the gap between law enforcement and youth is critically important and when they do that and they do it the right way they also find themselves with some valuable intelligence at times that has helped us stop acts of violence before they ever occur."

Karol Mason, president of John Jay College of Criminal Justice in New York, told ABC News that many programs have been developed in recent years to stem the numbers of arrests of children and give police and schools the tools needed to address the issue.

When she was a former assistant attorney general in charge of the Office of Justice Programs in the Obama administration, Mason was part of a task force that presented a report called "My Brother's Keeper" to President Barack Obama in 2014, which included guidance on how schools and police should handle disciplining young children.

"Even relatively simple actions, such as removing suspension as a consequence for low-level offenses, can have a significant impact on suspension rates," the report said, noting that contacts with the criminal justice system can have devastating and lasting impacts on youth and disproportionately affect minorities.

An update two years later noted successes from the program. In Philadelphia, for instance, the Police School Diversion Program prevented children over 10 involved in low-level offenses from being arrested and logged a 54% decline in school-based arrests, the administration said in its report. Students who are diverted and their families are provided with other resources, including food and housing assistance and tutoring.

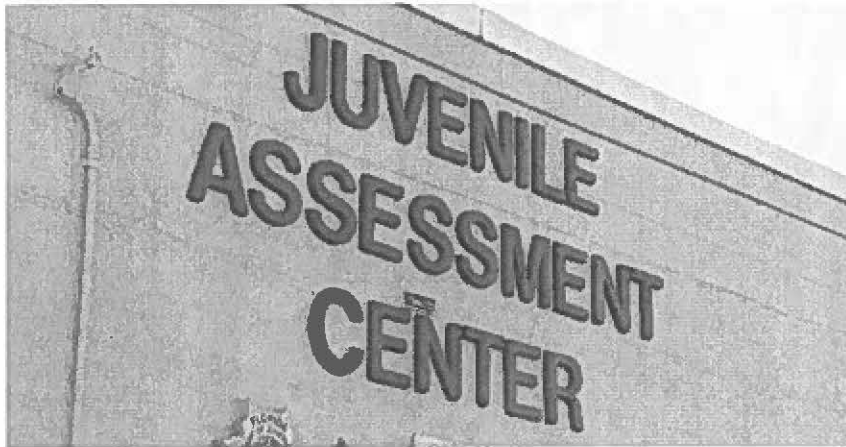
+ (MORE: Prosecutors drop charge against boy accused of hitting classmate in face with ball )


"It talked about how are we supporting the success of our children of color, particularly our young men and boys of color. And one of the issues that President Obama always talked about was that we don't give children the freedom to be children and to make mistakes and grow up," Mason said.

### **Racial disparity**

In July, the U.S. Commission on Civil Rights released the report "Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities" that analyzed more than 2.7 million student suspensions handed out at U.S. public schools in the 2015-'16 academic year. The study found that students with disabilities are at higher risk of being suspended than their peers, and black students with disabilities lost approximately 77 more days of school due to exclusionary discipline than their white peers.

The commission's report also showed that 1.6 million students attend a school with a sworn law enforcement officer but not a school counselor. The report found that in the 2015-'16 academic year, schools reported having more than 27,000 school resource officers, compared to 23,000 social workers.



 Officer Dennis Turner of the Orlando Police Department, handcuffed 6-year-old Kaia Rolle and transported her to the Juvenile Assessment Center in Orlando, Fla.

WFTV

"Students of color as a whole, as well as by individual racial group, do not commit more disciplinable offenses than their white peers -- but black students, Latino students, and Native American students in the aggregate receive substantially more school discipline than their white peers and receive harsher and longer punishments than their white peers receive for like offenses," Catherine E. Lhamon, the chair of the commission, wrote in a letter addressed to President Donald Trump and Vice President Mike Pence.

The commission made a series of recommendations, including providing teachers with resources, guidance, training, and support to ensure nondiscriminatory discipline in schools and that Congress should provide funding incentives to states to ensure all schools have adequate counselors and social workers.

+ (MORE: 7-year-old boy handcuffed in Florida school after allegedly attacking

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teacher)

"It's not a criminal justice issue, it's a discipline issue and the schools need to think of it that way and not create a pathway for them (young students) into the criminal justice system. Because once they have that on their records and you start treating them a certain way and perceiving them a certain way, there is an unfortunate trajectory," Mason told ABC News.

Mason said some school districts, including one in Charles County, Maryland, have created teams that monitor the behavior of students to figure out what resources they need to make the child successful and avoid disciplinary problems.

"There are a lot of studies that talk about the effect of trauma on child development and arresting a 7-year-old, putting them in handcuffs and taking them out of school, that's trauma and trauma disrupts normal development," Mason said. "Is this child going to definitely wind up in the criminal justice system? No. But are you increasing the likelihood that it could happen because of this? Yes."

*This report was featured in the Monday, Sept. 30, 2019, episode of ABC News' daily news podcast, "Start Here."*



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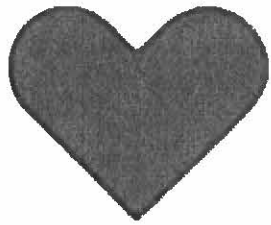
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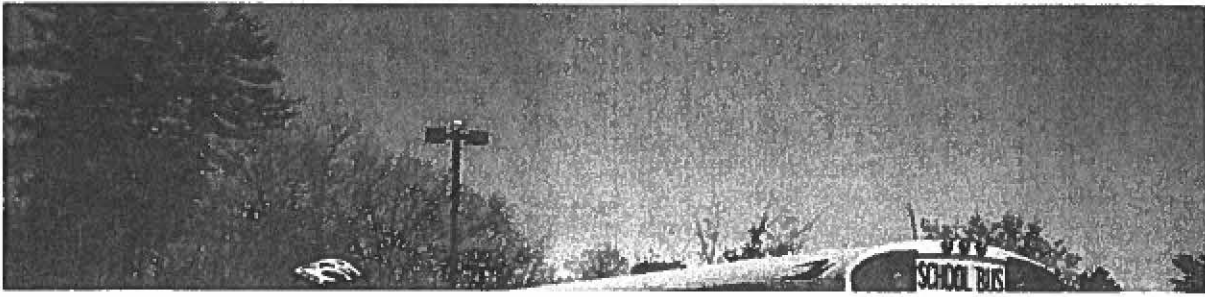
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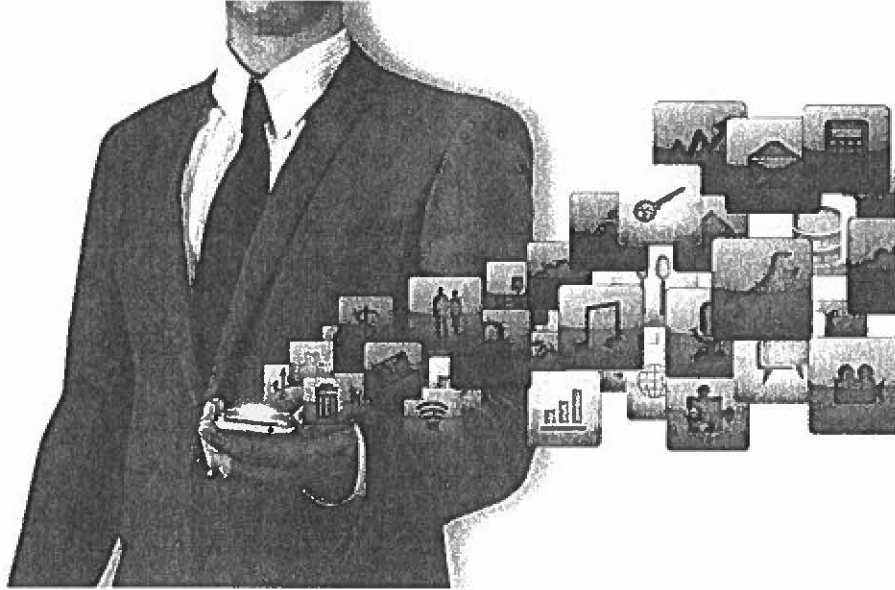
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## Role of police officers questioned, justified in Concord schools



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By EILEEN O'GRADY (/byline?byline=By EILEEN O'GRADY)

Monitor staff

Published: 7/6/2020 5:51:57 PM

Amid growing calls for reform in police practices across the country and school discipline in New Hampshire, the role of the school resource officer is receiving some renewed scrutiny, including in Concord.

In a list of recommendations to the Concord School District June 22, a social justice task force that was gathered to analyze the racial climate in city schools recommended removing any resource officers — armed, uniformed police department employees who are stationed in schools.

Across the country, some large city districts including Minneapolis, Denver, Seattle and Portland, Maine have voted to remove police from schools in recent weeks, amid protests against police brutality and the death of George Floyd, citing discomfort with an armed officer and links to a “school to prison” pipeline.





AD

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“I think the ultimate issue is that it is a law enforcement role,” said Mattison Howard, a rising senior at Concord High School. “I think we have to ask ourselves if it is really appropriate to have this armed law enforcement in our schools.”

In early June, following Concord’s Black Lives Matter protest against police brutality, Howard, 17, started a Change.org petition to the Concord School Board that called for the end of the school resource officer program. It has been signed by 152 people.

Howard said her decision to start the petition was based on conversations she has had with her Black peers in recent weeks about law enforcement, and studies she has read about arrests of students that creates a cycle of recrimination that’s often referred to as a school to prison pipeline.

“As a student myself I can say that I do not feel comfortable with an armed police officer in my school,” Howard said. “Schools are supposed to be a place of education and having an armed police officer definitely makes me feel unsafe.”

## Role of the SRO

School resource officers have a “triad role,” in New Hampshire schools, according to the state Department of Safety, where they act as law enforcers, educators and informal counselors. Having an officer in a school is intended to build positive relationships between students and law enforcement, and address behavioral issues.

Politicians often call for increasing the numbers of officers in schools after high-profile school shootings like the one at Sandy Hook Elementary in 2012 to keep students safe.

However, schools with SROs tend to refer more students to law enforcement for disciplinary action, and for lower-level offenses, according to a 2016 study by Jason Nance published in the Washington University Law Review. Students who have been arrested at school are less likely to graduate and more likely to be back in the criminal justice system later in life, Nance said. Nationally, Black students are more than twice as likely as their white classmates to be arrested at school, according to the American Civil Liberties Union.

In Concord, school and police officials cited the benefits of school resource officers who work at both Concord High and Merrimack Valley High School.

“SROs are vital in our efforts to build trust and legitimacy in our interactions and relationships with our community’s youth,” Concord Police Chief Bradley Osgood said. “The presence of a SRO can provide a sense of security for students, faculty and staff, decrease the need for the school to call 911 for emergencies and may prevent or minimize vandalism and injurious behavior.”

The Concord Police Department has one school resource officer stationed at Concord High School, and two assigned to the Merrimack Valley School District.



New Hampshire had approximately 60 resource officers stationed in schools in the 2018-2019 school year, according to the Department of Safety. However, public information officer Paul Raymond said there is no definitive data, .

“Some schools have multiple, some don’t have any,” Raymond said. “There is no defined number, and no way they are tracked.”

The New Hampshire Department of Education also does not keep data on the number of school resource officers that are stationed in New Hampshire schools.

The exact role an officer takes in school is determined locally by the school districts and police departments.

Concord’s resource officers are present in school buildings every day of the week during normal school hours. They are armed and uniformed, though the uniform is a “softer,” more dressed-down version of attire a patrol officer would wear, with utility pants and a polo shirt.

Concord High School Principal Mike Reardon said the role of school resource officer Brendan Ryder is to build positive relationships with students and be someone they can turn to with a problem.

“Yes he’s a police officer, but his ultimate reason for being here is to assist students in accessing their education,” Reardon said. “The fundamental idea is that they are here as a resource to kids, to create not a school-to-prison pipeline, but a dialogue in a non-threatening way in a school building so that things go more smoothly outside of a school building, so that kids see police officers as human beings and not as just a kind of imperial threat.”

Reardon said he is aware of suggestions to remove the officer from high school and disagrees with the proposal.

“You can’t talk about school resource officers as a group and say, ‘they all have to go.’ That has its own very palpable and inherent bias,” Reardon said. “I know there may very well might be issues with this whole concept nationwide, but here at Concord, I would be loathe to lose someone of his ability and nature. He adds so much to our building.”

The Concord Police Department and Concord School District have a memorandum of understanding to share the cost of the resource officer’s salary.

Soon after officers get assigned to a school, they take a five-day course of basic school resource officer training. Concord Police Department also sends its SROs to a school resource officer conference each summer.

“I think the SRO is a great opportunity for any police officer. It’s a great assignment to have and it is a great learning experience,” Osgood said. “I like to have the officers have the opportunity to experience policing in a different way.”

By state law, school districts must alert local police to cases of drugs, alcohol, vandalism, stealing and fighting at school, and Concord High School handbook says they can involve police in the student discipline for these misbehaviors. They can also be involved in cases of setting off a fire alarm.

“The SRO is typically the lead person on these incidents in hopes that the connections he has made with the students and ability to identify [and] speak to the student may assist in deescalating the situation,” said Concord High School assistant principal Tim Herbert.

Concord High School's officer only deals with incidents at that school. For a problem at Rundlett Middle School or any of the elementary schools, a different patrol officer from the department would be sent to handle it, Osgood said.

Police may also get involved if a student doesn't remain 1,000 feet away from school grounds while serving time during an out-of-school suspension, the policy said.

Officers aren't always consulted for matters beyond student discipline.

For example, high school officials never alerted Concord High School's former resource officer in 2018, when school officials received reports of former teacher Howie Leung kissing a high school student in a car, according to former superintendent Terri Forsten. Instead, school officials conducted their own investigation, which was eventually forwarded to the state Department of Education. State officials alerted police, which ultimately led to Leung's arrest on sexual assault charges involving another student.

## **Increase or decrease SROs?**

In a June 29 meeting of Concord's Public Safety Advisory Board, Osgood said he would not recommend reducing or eliminating Concord's school resource officer positions. He said they have been a huge benefit to the patrol division and the whole department.

"We've had a very successful SRO program in the Concord School District for two decades," Osgood said. "They're a resource not only for the students but for the faculty and staff, as well."

In January, the Concord teachers union requested, via a letter to the school board, that the administration increase the number of school resource officers in the district and place one in every school to help handle physical and verbal violence teachers say they have been receiving from students. The violence, mostly in the preschool to elementary school levels, was making teachers feel unsafe at work, the letter said.

James McKim, president of Manchester NAACP, acted as an advisor to the task force when coming up with recommendations for making the district more racially equitable. He agrees the role of the officers should be examined but isn't fully on board with removing the officers entirely.

"I think there may be some valid reasons to have an officer who is there to watch over and protect the school and to help with discipline," McKim said. "The whole effort needs to be scrutinized very carefully to make sure that the original intent and the actual needs are being met in an appropriate manner."

Concord administrators will continue to examine current discipline policy and its impact on students of color in the months to come. Concord High has plans for major reforms of its traditional discipline system, including a move to a restorative justice model.

"Neither one of us negates the reality that some students in our schools may have had interactions with police officers that have left them feeling a certain way, and then they see a uniformed officer those feelings come back to them," Herbert said. "But at the same time, I think having both parties at the table and having dialogue around that is probably going to be more beneficial than taking a carte blanche, 'they all have to go' approach."

# The Superpredator Myth, 20 Years Later

04.07.14

The New York Times reported this week on the “superpredator” myth, which 20 years ago led nearly every state in the country to expand laws that removed children from juvenile courts and exposed them to adult sentences, including life without parole.

A documentary by Retro Report, The Superpredator Scare, tells the story of how influential criminologists in the 1990s issued predictions of a coming wave of “superpredators”: “radically impulsive, brutally remorseless” “elementary school youngsters who pack guns instead of lunches” and “have absolutely no respect for human life.” Much of this frightening imagery was racially coded.

In 1995, John Dilulio, a professor at Princeton who coined the term “superpredator,” predicted that the number of juveniles in custody would increase three-fold in the coming years and that, by 2010, there would be “an estimated 270,000 more young predators on the streets than in 1990.” Criminologist James Fox joined in the rhetoric, saying publicly, “Unless we act today, we’re going to have a bloodbath when these kids grow up.”

These predictions set off a panic, fueled by highly publicized heinous crimes committed by juvenile offenders, which led nearly every state to pass legislation between 1992 and 1999 that dramatically increased the treatment of juveniles as adults for purposes of sentencing and punishment.

As Dilulio and Fox themselves later admitted, the prediction of a juvenile superpredator epidemic turned out to be wrong. In fact, violent juvenile crime rates had already started to fall in the mid-1990’s. By 2000, the juvenile homicide rate stabilized below the 1985 level.

Dilulio and Fox were among the criminologists who submitted an amicus brief in support of the petitioners in Miller v. Alabama. In Miller and its companion case, Jackson v. Hobbs, EJI argued that the mandatory life-without-parole sentences imposed on 14-year-olds Evan Miller and Kuntrell Jackson violated the Eighth Amendment’s prohibition against cruel and unusual punishment.

The criminologists’ amicus brief summarized extensive research data demonstrating that “the predictions by the proponents of the juvenile superpredator myth” were wrong. “Yet,” it concluded, “the superpredator myth contributed to the dismantling of transfer restrictions, the lowering of the minimum age for adult prosecution of children, and it threw thousands of children into an ill-suited and excessive punishment regime.” The research shows that these new laws “had no material effect on the subsequent decrease in crime rates,” and yet almost all of these laws remain on the books. And while the Supreme Court in Miller struck down mandatory life-without-parole sentences for children, thousands of kids remain sentenced to die in prison as states fight retroactive application of the decision to sentences imposed during the height of the superpredator panic.

States facing the mounting costs of excessive sentences imposed on children have begun to reform laws enacted in response to the superpredator myth. But children as young as ten continue to be exposed to adult prosecution in the United States; 10,000 children are housed in adult jails and prisons on any given day in America; and nearly 3000 American children have been sentenced to die in prison.

Tags: **Juvenile Life Without Parole** **Juveniles** **Prosecuting Children as Adults** **Racial Bias**

OP-ED CONTRIBUTOR

# The New 'Superpredator' Myth

By Alex S. Vitale

March 23, 2018

The criminologist John DiIulio sparked panic in 1995 when he predicted there would be an explosion of juvenile superpredators in the coming years, resulting in widespread violence. His baseless theory was wrong; youth crime has fallen dramatically ever since.

Mr. DiIulio has retracted some of his ideas, but the damage is done. The “superpredator myth” ushered in a wave of intensified policing and harsher sentences that fueled mass incarceration.

Something similar is happening today.

The way the police and prosecutors are trying to dismantle youth gangs — haphazardly putting teenager’s names into gang databases, issuing civil injunctions, levying broad conspiracy charges and increasing deportations — is also a misguided panic that is likely to have the same effect.

This kind of law enforcement relies on the same logic that has driven much of the enormous increase in incarceration over the last 40 years. It wrongly assumes that deterrence and incapacitation are the only ways to change the behavior of young people and that any teenager who commits a crime is a hardened sociopath.

California has pursued this punitive approach for many years and has little to show for it. For example, the Los Angeles Police Department’s Community Resources Against Street Hoodlums unit, tasked with combating gang-related crime, achieved a temporary drop in crime. But the unit disbanded in the late 1990s after officers were accused of widespread brutality, framing of suspects and stealing then reselling drugs. The city’s problem with gang violence persists.

Los Angeles, Chicago and other major cities also use gang databases to subject young people to heightened surveillance, criminal penalties, deportation and inclusion in broad-reaching civil injunctions. These databases have come under scrutiny because a child may be included for arbitrary reasons, like wearing a certain color of clothing or hanging out in a particular park. Portland, Ore., eliminated its database last year after a local journalist pressed the Police Department for information about its contents and use. California also passed a law requiring that people be notified when they’re added to a database and giving them the right to petition to be removed from it.

Similar concerns have been raised about the use of gang injunctions that criminalize people based on their alleged connection to a gang. The restrictions on association are often impossible to abide by, given their broad scope. In many cases, to avoid associating with “known gang members” means people can’t see certain relatives, walk to school with certain friends or visit local parks.

The use of large-scale conspiracy cases is also problematic. A few years ago, the New York Police Department began Operation Crew Cut, which involves long-term investigations of people suspected of being gang members in high-violence areas. Working with prosecutors, the department has conducted dozens of high-profile raids in which more than 2,000 young people have been arrested on state and federal conspiracy charges.

The Police Department believes that by targeting small groups of people responsible for much of the city’s gun violence, such raids have helped reduce the number of shootings over the past two years. Crime is down in targeted areas, but crime is also down across the city and the country. So it’s impossible to isolate the raids as the reasons for these declines.

It’s also unclear whether the gains in New York will be durable. Gang-suppression efforts in other parts of the country rarely show long-term success, in part because teenagers in poor, racially segregated communities will continue to face the challenges of insecurity and hopelessness that drive youth violence.

Through the New York Police Department’s use of conspiracy cases, these raids cover a wide range of behaviors that are not acts of violence, like marijuana possession. This approach misunderstands the nature of gangs and the dense social networks inhabited by these young people targeted for prosecution. Despite overheated rhetoric from the police, politicians and the media, there is often very little evidence in these conspiracy cases of an organized hierarchical structure to these alleged gangs, which instead are often loose affiliations without purpose beyond socializing and seeking mutual safety.

Most of the raids in New York have been concentrated in and around public housing developments, where teenagers have little choice but to develop continuing relationships, even if those acquaintances are involved in violence. The police claim that because these young people spend time together in a park, were previously arrested together and are seen together in Facebook posts, they are in a well-defined gang engaged in ongoing crime and violence. But that is much too simplistic.

Prosecutors rely heavily on these conspiracy charges, not because they involve true criminal enterprises but because they can be used as leverage against defendants. State conspiracy and federal RICO anti-racketeering statutes allow prosecutors to threaten decades of prison time based merely on evidence of associations and potentially unrelated low-level criminal charges from the past.

The gang designation also usually makes defendants ineligible for bail, giving them a stronger incentive to provide evidence against others or take a plea deal. In many cases, the only evidence against a defendant accused of violence is the testimony of someone in jail hoping to avoid prosecution. Many young people have complained to their public defenders that during questioning, the police have pressured them to hand over social media passwords, even when they have not been charged with a crime and in the absence of a parent or legal representative.

Many of the defendants in the New York City cases are jailed before trial for long periods of time and face possibly decades in prison, even though a vast majority of them are not being accused of actual involvement in violence. That leaves their families to choose either getting evicted from public housing or agreeing that their child will be banned from their home forever. Communities are undermined as young people are forced to testify against their neighbors to avoid prosecution.

Instead of doubling down on gang-suppression policing, New York City should invest in better alternatives. The city supports 18 Cure Violence programs to reduce shootings. The program's sites, often a substantial portion of the area's police precinct, rely on community-based "violence interrupters" who work with young people. New York also promulgates anti-violence public health messaging and involves young people in social activities like art programs and service projects.

The John Jay College of Criminal Justice reported last fall that neighborhoods with Cure Violence sites had significant crime reductions compared with similar control areas without them. In the East New York site run by Man Up, gun injury rates fell by 50 percent over four years; the control site in East Flatbush fell by only 5 percent. Similarly, shootings were down by 63 percent in the Save Our Streets South Bronx area, but only 17 percent in the East Harlem control neighborhood.

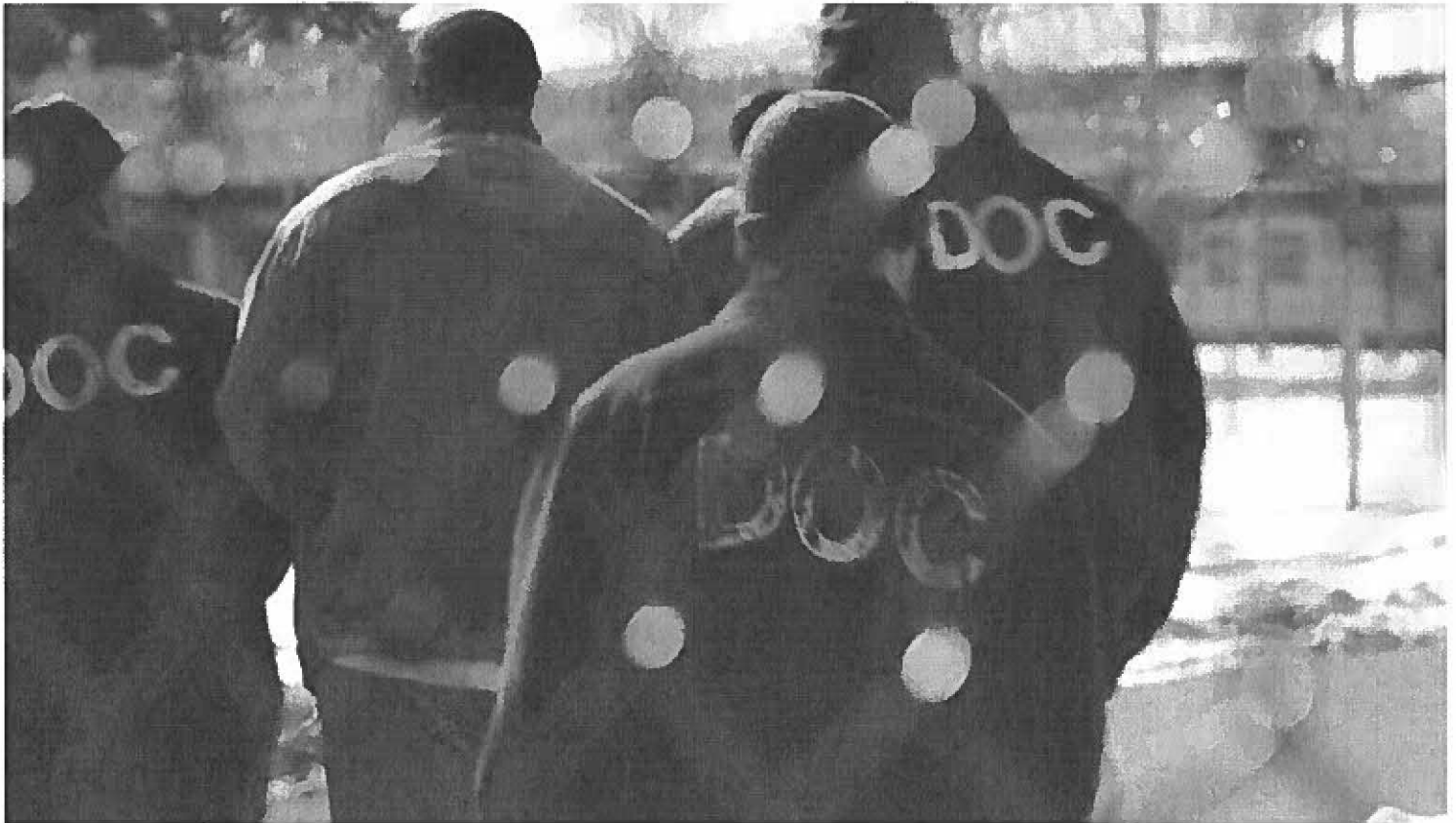
When community-based alternatives are well funded and well operated, they can make a real difference in reducing gun violence. Though no one program will solve all of our violence problems, it's time to dial back the criminalization approach and give communities the resources they need to create lasting public safety.

Alex S. Vitale, a professor of sociology at Brooklyn College, is the author of "The End of Policing."

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## They Were Sentenced as “Superpredators.” Who Were They Really?

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MAY 2, 2017

by [Priyanka Boghani](https://www.pbs.org/wgbh/frontline/person/priyanka-boghani/) (<https://www.pbs.org/wgbh/frontline/person/priyanka-boghani/>)

Anthony Rolon was 17 when he got into a fight and stabbed Robert Botelho Jr. to death.

It was the 1990s, and states across the country were cracking down on juvenile crimes amid fears of a new type of remorseless teenage criminal — a “superpredator.” Rolon was locked up for life with no chance of release.

“They’re just looking at the crime,” Rolon says in the new FRONTLINE documentary, *Second Chance Kids* (<https://www.pbs.org/wgbh/frontline/film/second-chance-kids/>). “They don’t take into account how you grew up. They don’t take into account whether you had your parents in your life ... You’re sentenced to life without parole. You’re a predator, and that’s it.”

“At the time,” Rolon says, “my mother was getting high, so I didn’t have no relationship with her. My father sold drugs. I learned negativity from him. I had anger, man. It was just all anger ... I didn’t think about the victim’s family. I didn’t care.”

In the years since Rolon was sentenced, the “superpredator” theory has been largely discredited and disavowed. Starting in the mid-2000s, a series of Supreme Court rulings began to make the case that kids are different than adults when it comes to crime — more vulnerable to outside pressures, more impulsive, and therefore less culpable for their crimes. In the 2012 case *Miller v. Alabama*, the justices said that mandatory life sentences without the possibility of parole for juveniles were unconstitutional. Importantly, the court said that a juvenile’s background and personal circumstances were clearly relevant to their sentencing.

In the wake of those rulings, states have moved to reconsider how they punish juveniles — and what they do with the roughly 2,230 inmates serving life without parole for crimes committed as juveniles.

## What Were Their Backgrounds?

During the height of the superpredator scare, academics like John Dilulio, the Princeton professor who coined the phrase, predicted that a wave of ruthless, violent young offenders was on the horizon. "A superpredator is a young juvenile criminal who is so impulsive, so remorseless, that he can kill, rape, maim, without giving it a second thought," Dilulio said in 1996.

Though he would later disavow the theory, critics say the damage was done. Lawmakers latched onto the theory, resulting in tough-on-crime policies for juveniles across the country.

In 2012, the Sentencing Project, a nonprofit dedicated to criminal justice reform, released a national survey that offered a more three-dimensional portrait of those sentenced to life without parole as juveniles. They received responses from 1,579 inmates, representing two-thirds of the population serving that sentence at the time.

There was "overwhelming evidence that the childhoods they had were considerably violent and disrupted," said Ashley Nellis, a senior research analyst at The Sentencing Project and author of the [survey \(http://www.sentencingproject.org/publications/the-lives-of-juvenile-lifers-findings-from-a-national-survey/\)](http://www.sentencingproject.org/publications/the-lives-of-juvenile-lifers-findings-from-a-national-survey/).

The survey found that 79 percent reported witnessing violence in their homes growing up. Those surveyed were six times more likely to say they had witnessed violence in their homes when compared to youth in the general public. More than half reported seeing violence in their neighborhood on a weekly basis. More than a quarter had a parent in prison, while 59 percent had a close relative who was incarcerated.

"All of those factors were very important in terms of their upbringing and how they adjusted to life," Nellis said.

The survey also found high levels of abuse, especially among girls. Around 47 percent reported being physically abused, including nearly 80 percent of girls, while 20 percent reported being sexually abused, including 77 percent of girls.

"Most of these kids were victims before they were perpetrators," said Carla Barrett, a professor in the John Jay College of Criminal Justice. "That's not meant as a way to excuse their offending, but a way to understand their offending. You don't normally have a 14- or 15-year-old involved in serious violent crime without something having gone wrong early on or somewhere in their past."

## Who Got Life Without Parole?

Most of those sentenced to life without parole for juvenile crimes were charged in homicide-related crimes. Many committed the killing themselves. In other cases, a jury found that even though they didn't pull the trigger or directly cause the death themselves, they conspired to commit a felony that led to someone's death.

A majority of juvenile lifers — nearly 66 percent — are black, according to data collected from corrections departments across the country and analyzed by Phillips Black, a public interest law practice.

The data ([https://poseidon01.ssrn.com/delivery.php?](https://poseidon01.ssrn.com/delivery.php?ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098)

[ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098](https://poseidon01.ssrn.com/delivery.php?ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098) collected in 2015, showed that life without parole sentences were disproportionately imposed on black juveniles, even when compared to rates of arrest. While three percent of white juveniles arrested for murder were sentenced to life without parole, five percent of black juveniles were locked away for life.

The Phillips Black report ([https://poseidon01.ssrn.com/delivery.php?](https://poseidon01.ssrn.com/delivery.php?ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098)

[ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098](https://poseidon01.ssrn.com/delivery.php?ID=922005065110003078016066070122013100030050050078068020092085102072067005101010081103029001033127027001029093098) noted the stark racial disparities in some states in particular, noting that while the population of the state of Texas was 43.5 percent white, all 17 people serving life without parole for juvenile crimes in 2015 were black or Hispanic. In Illinois, nearly 82 percent of the juveniles sentenced to life without parole were minorities, even though they made up 38 percent of the state's population. Louisiana, Pennsylvania, North Carolina, South Carolina and other states showed similar disparities.



"Unfortunately, many of our nation's most extreme sentencing practices do disproportionately fall on the backs of people of color, and juvenile life without parole has been no exception," said John Mills, the lead author of the report.

Barrett, who researches the consequences of the criminal justice system on young people, said there's racial disparity across the entire system — from which young people are tried as adults to which adults receive the death penalty. Factors as wide-ranging as the history of racism in American society and the role of implicit bias in policing and sentencing, can all influence the outcomes seen in such cases, she said.

"We know that it's not always driven by the commission of crime," she said. "Sometimes the explanation of why more members of one group get arrested than another is because they're committing more of those crimes. Other times it's where you're putting law enforcement resources or the types of crimes you're focusing on. And then it has to do with implicit bias among prosecutors, among juries, among even defense attorneys and judges that are making these decisions."

## How are States Changing?

Five states — California, Florida, Pennsylvania, Louisiana and Michigan — are responsible for nearly two-thirds of all life without parole sentences for juveniles, according to the Phillips Black report.

After the 2012 Supreme Court decision in *Miller v. Alabama*, some states started implementing the ruling retroactively, meaning that any inmate who had been sentenced to mandatory life without parole as a juvenile would have an opportunity to be re-sentenced or to have a parole hearing. In Massachusetts, for example, more than 60 inmates were affected by the ruling, including Rolon, who was granted parole in 2014 over the objections of his victim's family.

Other states only applied the rule going forward, until the Supreme Court weighed in again in 2016, clarifying that its 2012 decision applied retroactively.

The Supreme Court clarified ([https://www.supremecourt.gov/opinions/15pdf/14-280\\_diff\\_ifkn.pdf](https://www.supremecourt.gov/opinions/15pdf/14-280_diff_ifkn.pdf)) another aspect of the ruling in 2016, re-iterating that life without parole sentences should be banned for "all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility."

Nineteen states and the District of Columbia now ban sentencing juveniles to life without parole, while a handful of other states don't use the sentence as a matter of practice. California, Florida and Pennsylvania have since narrowed the criteria for who can receive that sentence, while legislation has been introduced ([http://www.nola.com/politics/index.ssf/2017/04/juvenile\\_lifers\\_change.html](http://www.nola.com/politics/index.ssf/2017/04/juvenile_lifers_change.html)) in Louisiana that would eliminate life without parole for juveniles. Michigan changed its laws in 2014 so juveniles wouldn't automatically be eligible for life without parole.

In addition to tackling sentencing policies, some states have worked on raising the age (<https://www.pbs.org/wgbh/frontline/article/why-states-are-changing-course-on-juvenile-crime/>) at which juveniles can be tried as adults, reducing the chance that juveniles from 14 to 16 years old would be charged in adult courts and given mandatory sentences. However, some states still mandate long sentences — from 25 to 40 years — for juveniles, which some advocates say still doesn't comply with the Supreme Court's view of juvenile sentencing.

"There are dangerous youth, but they're few and far between," Barrett said, "We have to look at who's getting caught up in these wide nets that we throw out in our criminal justice system."



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