

APPENDIX TO POLICY 6

Fair and Impartial Policing of Youth: Race, National Origin, and Immigration Status

Strategies for Youth has created [12 Model Law Enforcement Policies for Youth Interaction](#) to provide law enforcement agencies and officers with guidance on how to interact with youth in developmentally appropriate, trauma-informed, equitable ways that comply with the law. This appendix contains additional source and background information for [Policy 6: Fair and Impartial Policing of Youth: Race, National Origin, and Immigration Status](#).

Federal Laws Prohibiting Race and National Origin Discrimination by Law Enforcement Agencies

U.S. DEP'T OF JUST., THE DEPARTMENT'S IMPLEMENTATION AND ADMINISTRATIVE ENFORCEMENT OF TITLE VI AND THE SAFE STREETS ACT (2022)

https://www.ojp.gov/ocr_titlevi

This memorandum describes the Department of Justice's enforcement role in the law enforcement context of Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act.

Federal Guidance on Protected Characteristics and Law Enforcement Interactions

U.S. DEP'T OF JUST., GUIDANCE FOR FEDERAL LAW ENFORCEMENT AGENCIES REGARDING THE USE OF RACE, ETHNICITY, GENDER, NATIONAL ORIGIN, RELIGION, SEXUAL ORIENTATION, GENDER IDENTITY, AND DISABILITY (2023)

[Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability \(justice.gov\)](#)

This guidance states that "federal law enforcement personnel may not consider race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or disability in law enforcement or intelligence activities unless the following conditions are met: (1) There is trustworthy context- and content-specific information, with sufficient details regarding factors such as locality, time frame, method, and purpose to provide assurance that the information is reliable and links persons possessing a particular listed characteristic to: an identified criminal incident, scheme, or organization; a threat to national

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or homeland security; a violation of Federal immigration or customs law; or an authorized intelligence activity; and (2) Law enforcement personnel reasonably believe the law enforcement activity, including national or homeland security operations or intelligence activity to be undertaken is merited under the totality of the circumstances, weighing all factors, including any temporal exigency or the nature of any potential harm to be averted." *Id.*, at 3. The guidance also "prohibits the use of generalized assumptions or stereotypes about individuals or groups bearing these characteristics as a basis for law enforcement decision-making." *Id.*, at 2.

Race and National Origin and Youth Arrests

U.S. DEP'T OF JUST. OFFICE OF JUV. JUST. & DELINQ. PREVENTION, STATISTICAL BRIEFING BOOK, RACIAL AND ETHNIC FAIRNESS (2020)

https://www.ojjdp.gov/ojstatbb/special_topics/qa11501.asp?qaDate=2020

In 2020, the rate of arrests for Black youth was approximately 2.3 times more than the rate for white youth. *See id.* The rate of arrests for Native American youth was approximately 1.7 times more than the rate for white youth. *See id.*

U.S. DEP'T OF EDUC. OFF. FOR C.R., REFERRALS TO LAW ENFORCEMENT AND SCHOOL-RELATED ARRESTS IN U.S. PUBLIC SCHOOLS 1 (2023)

<https://www2.ed.gov/about/offices/list/ocr/docs/referrals-and-arrests-part-5.pdf>

In the 2017-18 school year, Black youth represented approximately 15.1% of overall student enrollment, 28.7% of students referred to law enforcement, and 31.6% of students subjected to school-based arrest. *Id.* Native American/Alaska Native Youth represented approximately 1% overall of student enrollment, 1.7% of students referred to law enforcement, and 1.6% of students subjected to school-based arrest. *Id.* "Hispanic or Latino" students represented approximately 27.2% of overall student enrollment, 25.7% of student referred to law enforcement, and 26.4% of students subjected to school-based arrests. *Id.* White students represented approximately 47.3% of overall student enrollment, 37.8% of students referred to law enforcement, and 34.4% of students subjected to school-based arrest. *Id.* Asian students represented approximately 5.2% of overall student enrollment, 1.6% of students referred to law enforcement, and 1.2% of students subjected to school-based arrest. *Id.*

NAT'L CTR. FOR JUV. JUST., YOUTH AND THE JUVENILE JUSTICE SYSTEM 2022 NATIONAL REPORT 164 (2022)

<https://ojjdp.ojp.gov/library/publications/youth-and-juvenile-justice-system-2022-national-report>

Although national arrest data does not account for ethnicity, "there is considerable evidence of racial inequities at the point of arrest. Black youth accounted for 17% of the youth population in 2019 (ages 10–17), but accounted for 34% of juvenile arrests. For specific offenses, the level of overrepresentation for Black youth was more substantial: in 2019, Black youth accounted for 48% of juvenile arrests for violent crimes, nearly 3 times their proportion of the youth population. Comparing arrest rates (per 100,000 youth ages 10–17) reveals similar disparities. In 2019, the overall juvenile arrest rate for Black youth was 60% above the rate for American Indian youth, more than double the rate for White youth, and nine times the rate for Asian youth." *Id.*

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ANNIE E. CASEY FOUND., INCREASE SUCCESSFUL DIVERSION FOR YOUTH OF COLOR 3 (2022)

<https://assets.aecf.org/m/resourcedoc/aecf-increasesuccessfuldiversion-2022.pdf>

“Despite similar involvement in most types of delinquent conduct, youth of color are arrested at far higher rates than white youth, according to federal data and research studies. Black youth are arrested at 2.5 times the rate of white youth nationwide, with higher arrests rates in every offending category other than liquor-related offenses. Native American youth are also arrested at higher rates than white youth.”

Race and Law Enforcement Stops and Surveillance of Youth

U.S. DEP’T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 67 (2015)

https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

Black and non-Black residents of Ferguson, Missouri told DOJ that Ferguson Police Department pedestrian stops almost always involved Black youth.

U.S. DEP’T OF JUST., INVESTIGATION OF THE BALTIMORE POLICE DEPARTMENT 63 (2016)

https://www.justice.gov/d9/bpd_findings_8-10-16.pdf

“Officers patrolling predominantly African-American neighborhoods routinely receive orders to ‘clear corners’ by stopping or arresting African-American youth standing on sidewalks In some cases, supervisors have issued explicitly discriminatory orders, such as directing a shift to arrest ‘all the black hoodies in a neighborhood.’” *Id.*

KRISTIN HENNING, THE RAGE OF INNOCENCE: HOW AMERICA CRIMINALIZES BLACK YOUTH xvii (2021)

“In many Black neighborhoods, police are parked on the corner, are stationed at the front door of the school, and drive through the community at all hours of day and night asking youth people to lift their shirts to prove they aren’t carrying guns in their waistbands.”

Law Enforcement Stops Based on Neighborhood

Illinois v. Wardlow, 528 U.S. 119, 124 (2000)

In *Wardlow*, the Supreme Court held that “the fact that the stop occurred in a ‘high crime area’ [is] among the relevant contextual considerations,” but observed that “[a]n individual’s presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime.” *Id.* at 124.

People v. Shabaz, 378 N.W.2d 451 (Mich. 1985)

“While the crime rate in a neighborhood may be a valid consideration to be taken into account when assessing reasonable suspicion, that alone would not establish the grounds for an investigatory stop.”

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State v. Goldsmith, 277 A.3d 1028, 1040 (N.J. 2022)

“[J]ust because crime is prevalent in a particular area does not mean that residents in those areas have lesser constitutional protection from random stops. Law-abiding citizens who live and work in high-crime areas undoubtedly want law enforcement to be able to fully execute their duties and protect their communities; at the same time, however, those individuals likely do not want the necessary policing of their neighborhoods to occur at the expense of their own constitutional rights of privacy and freedom.” *Goldsmith*, 277 A.3d at 1040. In *Goldsmith*, the court held the officer provided only “vague testimony” that “fell short of providing factual support for his conclusory statement that the area was high crime.” *Id.*

Donna M. Bishop & Michael J. Leiber, *Racial and Ethnic Differences in Delinquency and Justice System Responses*, in THE OXFORD HANDBOOK OF JUVENILE CRIME AND JUVENILE JUSTICE 444, 459-60 (Barry C. Feld & Donna M. Bishop eds., 2011).

“Numerous researchers have found that neighborhood characteristics structure the exercise of officers’ discretion in ways that make youth of color more vulnerable to stops and arrests.” One study found that “irrespective of neighborhood crime rates, in racially mixed and primarily African American neighborhoods, police were more likely to initiate contacts and with suspects and also to use or threat to use force.”

Unreasonable Use of Force and Threats by Law Enforcement Against Youth of Color

U.S. DEP’T OF JUST., INVESTIGATION OF THE CITY OF MINNEAPOLIS AND THE MINNEAPOLIS POLICE DEPARTMENT 14-15, 22-24, 38-40 (2023) [hereinafter INVESTIGATION OF THE CITY OF MINNEAPOLIS AND THE MINNEAPOLIS POLICE DEPARTMENT]

https://www.justice.gov/d9/2023-06/minneapolis_findings_report.pdf

DOJ found that the Minneapolis Police Department (MPD) discriminates against Black and Native American individuals, that MPD used force against Black youth at a rate 12 times the per capita rate for white youth, and that MPD used force against Native American youth at 14 times the per capita rate for white youth, including disparities in the use of bodily force and unholstering or pointing guns at Black and Native American youth. DOJ also noted such incidents as the use of racist statements and threats against Somali-American youth during a traffic stop, the use of force as retaliation against a teenager who criticized the police, and incidents in which MPD failed to hold officers accountable for serious misconduct directed against youth, including MPD’s failure in 2017 to hold Derek Chauvin accountable when he beat and pinned to a wall a compliant Black 14-year-old who posed no threat—three years before Chauvin killed George Floyd. *See id.* at 1, 6, 26, 45.

Perceptions of Black Youth as Older, More Mature, and More Deserving of Harsh Treatment

Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY & SOC. PSYCH. 526 (2014).

In this 2014 research study, law enforcement officers who were shown photographs of White, Black, and Latino males suspected of criminal behavior overestimated the age of the Black youth by five years, and underestimated the age of White youth by one year. *See id.* at 533-35. Researchers also found that civilians participating in the study perceived the “innocence” of Black youth aged 10-13 to be equivalent to that of non-Black youth aged 14-17 and perceived the “innocence” of Black youth aged 14-17 to be equivalent to that of non-Black adults aged 18-21. *See id.* at 529-32. The researchers also found, in an aspect of the study involving police officers, that the implicit dehumanization of Blacks was a significant predictor of racial disparities in the use of force against Black child suspects. *See id.* at 539-40.

Aneeta Rattan et al., *Race and the Fragility of the Legal Distinction Between Juveniles and Adults*, 7 PLOS ONE, (May 23, 2012), at 1.

In this 2012 study, participants were more likely to support severe sentences when they believed a violent adolescent offender was Black, and willing to accept less punitive sentences when they believed the offender was White. *See id.* at 1.

REBECCA EPSTEIN ET AL., *GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS' CHILDHOOD*, GEO. L. CTR. ON POVERTY & INEQ. (2017)

<https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>

In this study, participants viewed Black girls as older than their stated age, more knowledgeable about sex and other adult topics, more likely to take on adult roles and responsibilities than White girls of their age, and less in need of protection and nurturing than White girls. The authors also noted the potential implications of their findings for disparate treatment of Black girls in the juvenile justice system.

Impact of Biased Policing on the Lived Experiences of Youth of Color and their Communities

***Commonwealth v. Warren*, 58 N.E.3d 333 (Mass. 2016)**

Warren involved a Black man who evaded contact with Boston Police Department (BPD) officers, including by running away when officers called to him to stop. *See id.* at 341-42. In agreeing with the defendant that the police lacked reasonable suspicion for an investigatory stop, the Court considered BPD data finding that Black men were “more likely to be targeted for police-civilian encounters” and “disproportionately targeted for repeat police encounters.” *Id.* at 342. Although flight from police is generally a factor in determining whether reasonable suspicion exists, the court said, given the BPD data, “flight is not necessarily probative of a suspect’s state of mind or consciousness of guilt. Rather, the finding

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that black males in Boston are disproportionately and repeatedly targeted for [field operations] encounters suggest a reason for flight totally unrelated to consciousness of guilt. Such an individual, when approached by the police, might just as easily be motivated by the desire to avoid the recurring indignity of being racially profiled as by the desire to hide criminal activity. Given this reality for black males in the city of Boston," *Warren* held, courts should consider the BPD data in weighing flight from police as a factor in the reasonable suspicion analysis. *See id.*

***Washington v. State*, 287 A.3d 301, 324-25 (Md. 2022)³**

In *Washington*, the court acknowledged the defendant's claims of a history of "police discrimination, excessive force, and other misconduct" by the Baltimore Police Department, including the police killing of Freddie Gray, a U.S. Department of Justice (DOJ) civil rights investigation and subsequent settlement between the City and DOJ. *Id.* at 324. "[T]he circumstance that people, particularly young African American men, may flee police for innocent reasons may be considered in the Fourth Amendment reasonable suspicion calculus," the Court stated, although it found Baltimore officers had reasonable suspicion to stop the defendant. *Id.* at 325.

U.S. DEP'T OF JUST., INVESTIGATION OF THE LOUISVILLE METRO GOVERNMENT 45 (2023)

[hereinafter INVESTIGATION OF THE LOUISVILLE METRO GOVERNMENT]

<https://www.justice.gov/crt/case-document/file/1572951/download>

Black youth in Louisville, Kentucky told DOJ that interactions with police officers made them feel "intimidated," "mad," "scared," "panic," and "paranoia." DOJ also noted research linking frequent and invasive police stops to adverse youth health effects, including trauma, anxiety, psychological distress, substance abuse, and an increased likelihood of the youth disengaging from school and engaging in delinquent behavior. *See id.*

U.S. DEP'T OF JUST., INVESTIGATION OF THE CHICAGO POLICE DEPARTMENT 143 (2017)

https://www.justice.gov/d9/chicago_findings_1-13-17.pdf

"One youth told [DOJ] that the nature of the police presence in his neighborhood makes him feel like he is in 'an open-air prison.'" In addition, Black youth told DOJ that they are "routinely called 'nigger,' 'animal,' or 'pieces of shit' by CPD officers. A 19-year-old black male reported that CPD officers called him a 'monkey.' Such statements were confirmed by CPD officers." *Id.* at 146.

Amanda Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321, 2321-27 (2014)

In this research survey, young Black men described trauma and anxiety as a result of physically and emotionally invasive police encounters.

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Juan Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, 7 PROCS. NAT'L ACAD. SCIS. U.S. AM. 116, 8261-68 (2019)

In this research survey, youth who experienced more frequent police stops described greater psychological distress.

Rod K. Brunson & Kashea Pegram, *Kids Do Not So Much Make Trouble, They Are Trouble: Police-Youth Relations*, 28 FUTURE CHILD. 83, 91 (2018).

In a survey of more than 1,000 New York City youths, "Black and Latino males were more likely than their white and Asian peers to report adverse police experiences. Black and Latino males were also more likely to report verbal and physical mistreatment by officers." *Id.* "Perceptions of intense police harassment in neighborhoods besieged by officers have been shown to deter young men of color from fully participating in public life. Several studies have examined how police saturation of minority neighborhoods restricts the use of public spaces among young black and Latino males." *Id.* at 92.

HENNING, *supra*, at 204-35

In this chapter, the author describes how Black youth experience "policing as trauma." The author described research in which "[y]oung black men who experience physically and emotionally invasive police encounters report considerable signs of trauma and anxiety. Those signs increase with the frequency of the police contact, the intrusiveness of the contact, and the young men's perception that the contact was unfair." *Id.*, at 214. *See also id.*, at 166. "Black youth who are stopped will cycle through a range of emotions from resentment at being unfairly targeted, fear of getting hurt or killed, anxiety about getting in trouble, embarrassment at being harassed in front of friends, confusion about what the officer wants them to do, stress about whether they might have done something wrong, and exhaustion at the repetition and futility of it all. Just as these youth have a hard time understanding all they are feeling and why, they have an even harder time finding the words to express it."

How the Reality or Perception of Police Bias Undermines the Relationship Between Law Enforcement and the Public

INVESTIGATION OF THE CITY OF MINNEAPOLIS AND THE MINNEAPOLIS POLICE DEPARTMENT, *supra*, at 42-47

DOJ found that the Police Department "has failed to sufficiently address known racial disparities, missing race data, and allegations of bias, damaging community trust."

INVESTIGATION OF THE LOUISVILLE METRO GOVERNMENT, *supra*, at 51-53

DOJ described discriminatory policing practices in Louisville as "counterproductive" and undermining of public safety.

Racial Disproportionality in the Juvenile Justice System

Racial and Ethnic Disparities provision of the Juvenile Justice and Delinquency Prevention Act, 34 U.S.C. § 11133(a)(15).

This statute requires that states implement strategies to “identify and reduce racial and ethnic disparities” among system-involved youth, including by tracking and analyzing data and track data from five juvenile justice system “decision points,” (arrest, diversion, pretrial detention, disposition, and transfer to the adult justice system), and developing a “work plan” with “measurable objectives” for policy, practice or other system changes. See *id.*

U.S. DEP’T OF JUST. OFFICE OF JUV. JUST. & DELINQ, RACIAL AND ETHNIC DISPARITY IN JUVENILE JUSTICE PROCESSING LITERATURE REVIEW: A PRODUCT OF THE MODEL PROGRAMS GUIDE (2022)

<https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>

“Data have shown that youths of color are more likely than white youths to be arrested and subsequently go deeper into the juvenile justice system Most scholars acknowledge there are numerous factors at work and that this complex social problem cannot be reduced to either differential offending or differential treatment alone Although some progress has been made and overall involvement in the juvenile justice system has been decreasing nationally, disparities continue to exist today, especially for Black and American Indian/Alaska Native youths.” *Id.*

NAT’L CTR. FOR JUV. JUST., *supra*, at 163.

“Youth from racial and ethnic minority groups experience the juvenile justice system differently than their White peers. For example, youth from racial and ethnic minority groups are (and have been) more likely to be arrested, detained, and ordered to residential placement than White youth, and are more likely to be tried as adults in criminal court. Such racial and ethnic disparities often leads to the overrepresentation of racial and ethnic minority youth—particularly Black youth—at various stages of the juvenile justice system.” *Id.*

LORIE FRIDELL ET AL., RACIALLY BIASED POLICING: A PRINCIPLED RESPONSE, POLICE EXECUTIVE RESEARCH FORUM 1 (2001).

“Police are now looking to the public for partnerships and collaborative problem-solving solutions to community ills. If substantial segments of the community are the victims of police bias, or even perceive that they are, the likelihood of success is dim. We all know that racial profiling is unacceptable and is at variance with the standards and values inherent in ensuring fair and dignified police response to all.” *Id.* at 1.

Brunson & Pegram, *supra*, at 89.

“Much of the research on minority youths’ adverse police experiences has focused on black youths. Though this research has yielded important findings, it hasn’t given us enough information about how other young people of color experience and view officers. This issue warrants careful investigation, because scholars have noted that the attitudes of Latino youth toward police fall somewhere between those of their white and black counterparts.” *Id.*

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NATIONAL ORIGIN DISCRIMINATION U.S. DEP'T OF JUST. C.R. DIV., FEDERAL PROTECTIONS AGAINST NATIONAL ORIGIN DISCRIMINATION

<https://www.justice.gov/crt/federal-protections-against-national-origin-discrimination-1#:~:text=Federal%20laws%20prohibit%20discrimination%20based,%2C%20ancestry%2C%20culture%20or%20language>

This brochure outlines federal protections against discrimination based on national origin.

U.S. DEP'T OF JUST. CMTY. RELS. SERV., NATIONAL ORIGIN

<https://www.justice.gov/crs/our-focus/national-origin>

“National origin-based bias is discrimination based on a person’s actual or perceived country or region of origin, ethnicity, or accent.” This website also describes the work of the DOJ Community Relations Service to “support communities experiencing national origin conflicts.”

Overlap Between Race, National Origin, and Immigration Status

Brunson & Pegram, *supra*, at 90

In a study of Afro-Caribbean youths’ experiences with New York City Police Department officers, youth believed that the “racial animus” they received from officers “stemmed from officers’ unfounded suspicions about their immigration status.” *Id.* The study’s authors wrote that “the police have a difficult time distinguishing between citizens from Puerto Rico and possible undocumented immigrants from the Dominican Republic,” making it likely that Latino youth from many backgrounds would be viewed with suspicion. *Id.*

Law Enforcement and Undocumented Immigrant Communities

ANNIE E. CASEY FOUND., A GUIDE TO JUVENILE DETENTION REFORM NONCITIZEN YOUTH IN THE JUVENILE JUSTICE SYSTEM (2014)

<https://assets.aecf.org/m/resourcedoc/aecf-NoncitizenYouthintheJJSystem-2014.pdf>

This practice guide is “intended to alert the reader to detention and juvenile court practices and policies that may unfairly prejudice noncitizen youth and to provide a basic introduction to key immigration concepts and processes as they apply to youth involved in the juvenile justice system. *See id.* at 2. The guide’s “purpose is to assist in the development of informed policies and procedures.” *Id.* at 3. “The guide promotes policies and procedures that are consistent with detention and equity reform, and that: minimize unnecessary detention or separation of noncitizen youth from their families and communities; ensure that detention practices do not unfairly prejudice noncitizen youth; promote responses aimed at rehabilitation and reintegration; minimize the unnecessary and often devastating immigration consequences for noncitizen youth of their involvement in the juvenile justice system; and preserve the ability of noncitizen youth to pursue immigration relief to which they may be entitled under federal law.” *Id.* at 3; *see id.* at 21 (describing the federal law regarding local immigration enforcement, “the programs and mechanisms by which local law enforcement and juvenile justice systems participate in immigration enforcement,” and the “practical and policy implications of local immigration enforcement”)

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NAT'L COLLABORATION FOR YOUTH & NAT'L JUV. JUST. NETWORK, UNDOCUMENTED IMMIGRANT YOUTH: GUIDE FOR ADVOCATES AND SERVICE PROVIDERS (2006)

https://www.njjn.org/uploads/digital-library/resource_451.pdf

"Involving local agencies in federal immigration enforcement is not in the best interest of either the youth or local law enforcement. Youth suffer when they are referred to DHS to be "screened" for qualification of legal status. The DHS focuses on enforcement of immigration law, not on investigating relief for youth At the same time, local law enforcement suffers because referring a child to immigration agencies undermines community policing efforts, which rely on trust between the community and police. Immigrant children would have legitimate reason to fear providing information to the police about crimes committed against them or that they have witnessed. Actively encouraging local police to look out for undocumented immigrants might also lead to a high level of racial profiling and other civil rights violations." *Id.* at 10-11. This policy brief also refutes the "myth" that racial, ethnic and immigrant youth are "predisposed to be in gangs" by asserting that these youth "have no special disposition to gang membership, but rather, they simply are overrepresented in socio-economic categories that often lead to gang activity. Gang membership is most closely associated with youth who come from poor communities that suffer from lack of employment and education opportunities and family disintegration. Children of immigrants, who are generally poorer than children of U.S. citizens, tend to reside in these communities. Socio-economic characteristics are the main reasons leading to the large representation of immigrant youth and youth of color in gangs, not racial/ethnic or nationality characteristics." *Id.*, at 12.