Rethinking How We Police Youth: Incorporating Knowledge of Adolescence into Policing Teens

By Lisa H. Thurau, Esq.

I. Introduction

The dynamics of police/youth interactions are often characterized by high rates of arrest, use of force during interactions, juvenile court involvement, counterproductive incarceration, and disproportionate minority contact. This article’s goal is to persuade readers to recognize the importance of addressing these issues through analyzing the issue’s various dimensions.

Police are involved in the lives of children and teens to an unprecedented extent in America: in their homes, on the streets, in malls, in schools, and by pursuing youths’ activities on Facebook and MySpace. Twenty-first century youth policing increasingly requires specialized skills, comprehension of youth development, and the impact of stressors on youth living in risk, as well as alternatives to adult-oriented treatment and punishment. Research increasingly shows that police decisions to pull youth into the juvenile justice system, through arrest and referrals to detention, often have the unintended effect of increasing juvenile recidivism and criminality—while not containing or stopping it. Juveniles are generally not arrested for tremendously dangerous offenses: assault represents 17% of all juvenile arrests in 2005, larceny 16%, drug possession 12%, and obstruction of justice/disorderly conduct combined account for 21% of all juvenile arrests. When police deliver youth committing minor infractions into a justice system that often fails to rehabilitate and routinely traumatizes them, it is important to stop and reconsider our society’s approach to and use of police with youth.

A Bureau of Justice Statistics survey of people aged 16-64 indicates that the challenges involved in policing youth are great: between 1998 and 2008, youth aged sixteen, seventeen, and eighteen represented 7.6% of the population and were involved in only 3.5% of all interactions with police. But this minority of interactions represented 30.1% of all interactions involving use of force by the police, with police reportedly initiating the use of force in 81% of the incidents.

This article outlines some dimensions and impacts of police/youth interactions, police and youths’ reactions and responses to each other, followed by recommendations for successful training interventions to reframe the way police and youth interact with each other. Additionally, this article analyzes the challenges in developing a sustained political constituency to focus on these issues. Finally, this article concludes by proposing an organizational agenda to address these issues systematically and innovatively.

II. Overview of Police/Youth Dynamics

Today, the prevalent approach to policing children and teens in America is antithetical to all that is known about child and adolescent development, psychiatry, and effective intervention with children and teens. The current approach depends on an authoritarian framework and assumes that youth perceive, comprehend, behave, and respond like adults, while believing that youth pose the same or worse risks than adults.

Persistent juvenile justice reform efforts developed during the past forty-five years include:

- Advocating for the implementation of In Re Gault’s promise to provide youth with legal representation when they were charged with criminal offenses and risked the deprivation of their liberty;
- Questioning extensive detention of children;
- Demanding reform of juvenile courts and increased judicial education, in order to challenge the treatment of youth in facilities where they are committed for rehabilitation;
- Addressing the blatant racially disproportionate treatment of youth within the juvenile justice system.

However, these various efforts have not considered the role of police as central to the reform of juvenile justice.

The predominant motivation and focus of juvenile justice reform initiatives has been the necessary reiteration and insistence of what seems obvious to those who conceived the juvenile court one hundred years ago: children differ from adults.
developmentally, therefore, any justice system addressing their offenses must recognize those differences. After nearly fifteen years of prosecutors, courts, and correctional officials trying to “adultify” youth, the United States has realized that such an approach wreaks havoc by creating more recidivism than the hundred-year-old wisdom of protecting children with the goals of re-education and rehabilitation.

It is not news that, “[y]oung people are vulnerable to the demands and pressures of society. As they mature and develop, they may become involved in criminal activity, and the likelihood of their incarceration increases.”1 At a time when it is well recognized that youth possess diminished emotional competence to address complicated situations and respond appropriately, it is disturbing that so little effort is made to prepare police for eventual youth interaction. It is particularly stunning in view of the fact that police work with youth in extremely emotionally demanding situations, including abuse and neglect cases, domestic violence, and crime scenes. Such preparation would involve ensuring their “toolbelt” includes approaches for working with youth to avoid confrontation, escalation, and arrest. However, only one state has enacted a statute requiring police training in juvenile matters.11 It is likewise disturbing that many adults—parents, teachers, and advocates—assume youth know how to interact with police, and as a result, these interactions are not worthy of explicit discussion or intensive focus and education.

Sadly, techniques for anticipating and addressing youths’ resistance to authority and authority defiance disorder (“ADD”) are not discussed in police academies. While police are recognized as the gatekeepers of the juvenile justice system, many system reformers erroneously assume that police cannot be persuaded to change their ways or question the wisdom of their approach. These default conclusions have resulted in reformers ignoring the complicated role of policing in the juvenile justice system. This commitment to “old ways of thinking” is harmful to system reform because opportunities are lost to capitalize on a growing, but unorganized awareness among officers that “we can’t arrest our way out of this.” One police commissioner recently noted:

The strong emphasis on “law and order,” with the resulting increase in incarceration has torn a hole in the social fabric of many communities...Although curfews and ‘sweeps’ are intended to reduce crime and drug activity, the indiscriminate use of these and other aggressive police tactics in communities of color has created and/or reinforced distrust of the police.12

Even as polls indicate Americans’ intolerance towards police’s use of force,13 the prevalent approach to policing youth, especially impoverished and African-American, Latino, and immigrant youth, is characterized by militarism, excessive displays of force that concretize the power of the state and “systematize” the social, racial, and economic status quo. Some of the tactics used by police pursuing “broken window” paradigms, which lead to massive arrests of African-American, Latino and immigrant youth on questionable charges, have raised the question of whether police presence is itself a criminogenic factor in some neighborhoods and schools. Indeed, many issues causing conflict among youth must be seen as “embedded within local contexts of power and identity” and youths’ use of particular conflict strategies, such as violence, must be understood as occurring within a wider set of conflict resolution strategies used more generally in the culture.14

And while this use of police power is a tolerated norm, there is inversely a stark intolerance and punitive approach to expressions of conflict among youth. The best example of this is the rate at which school fighting leads to arrest. There is little tolerance for viewing conflict among youth as normative or “creative,” much less as an opportunity for learning: “...conflict is a site for creativity...” where from the perspective of youths, conflict situations may be grounds for testing rules and relationships; for creating autonomy and identity; and for maintaining social boundaries or exclusions from other youths as well as adults.15 Instead of viewing conflict between young people as “a productive social phenomenon, [and] not merely a destructive phenomenon”16 by which police can teach youth how to mediate or present themselves to each other peacefully, police are encouraged by structural, philosophical, and cultural factors to arrest and punish youth. Officers who deviate from this approach often do so at their professional peril.
1. Dimensions of the Impact on Youth

"How can you tell us we can be anything if they [the police] treat us like we're nothing?" Sophomore Student, Maya Angelou Public Charter School, Washington, D.C. 2001

The prevalence of police in the lives of youth has increased tremendously over the last twenty years. Youth increasingly see police on the streets, in their schools, in local shopping malls, and in their homes. Youth are also subject to surveillance via the remote reach of the "eyes of the law" as police inspect Facebook and other computer social networking sites for proof of wrongdoing. Yet there is little proactive effort by adults to clarify for teens how to interact with police, much less to explain what constitutes criminal conduct in spite of the spiraling increase in the criminalization of conduct. Indeed, according to the latest U.S. Department of Justice data, the top five charges leading youth to be referred to court are for eminently divertible conduct: assault, larceny, drugs, obstruction of justice, and disorderly conduct.

The area in which criminalization of normative youthful behavior has been a subject of great concern is in the schools. In that realm, the National Council of Family and Juvenile Court Judges has urged collaboration between the justice system and school officials to "commit to keeping school misbehavior and truancy out of the formal juvenile delinquency court."

While the punitive approach of police appears to be the predominant response to policing teens in all areas, differences in arrest rates and court referrals reflect the extent to which police anticipate their assertion of power will be tolerated in the communities where they work. Youths' socioeconomic status has enormous impacts on officers' decisions to arrest—regardless of the offense's severity. The more a community is perceived to be invested in its youth, the lower the rate of arrests, as officers are pressured to consider the harm of arrest and court involvement to youths' futures and their parents' investments. Conversely, in communities that are not perceived to be powerful or organized, whose youth are not expected to be successful, the police's liberal use of arrest power to control youth conduct is more frequent and often perceived by police to be both necessary and less damaging to youth and their communities.

The fact that American cities are now pervasively racially segregated plays a powerful role in analyzing disproportionately high arrest rates of minority youth. Professor David R. Williams of Harvard University School of Public Health noted that American cities rate 80% on the segregation index. The segregation index is determined by the percentage of minorities who would have to move out of a city to create racial equality among a city's citizens. In the last quarter of the twentieth century, American cities had the highest concentration per capita of police coverage, the largest number of minority youth, and despite the fact that they are commercial centers, the lowest access to "dynamics of opportunity" for minority youth.

The data available on the quantity and content of police/youth interactions is limited. The most relied-upon source is the Bureau of Justice Statistics survey. In its survey, Bureau of Justice statisticians concluded that approximately four to five million youth aged sixteen, seventeen, eighteen, and nineteen have face-to-face interactions with police annually. Unfortunately, existing instruments do not capture information for youth aged fourteen and fifteen, who represent over 45% of youth aged fourteen to seventeen in juvenile courts. Differences in police treatment of youth by gender and race are consistent over time.

Due to changes in the survey collection instrument, including aggregation of age and collection of data creating rates of contact by age, it is difficult to consistently demonstrate this data's prevalence. However, several trends remain unchanged since the survey was initially conducted in 1996. For example:

- Males typically account for a larger percentage of contacts with police involving force, compared to their overall level of police contacts.
- African-American and Hispanic youths are more likely to experience use of force; for instance, African-American youth have an overall police contact rate of one in ten contacts, but their use of force rate is one in four.
- The percentage of police-initiated contacts resulting in use of force remains stable at 80% between 2002-2005.
- The younger the person, the more likely the use of force by police.
Rethinking How We Police Youth

**Selected Data from Contacts Between Police & the Public Reports 1997-2007**

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of youth aged 16-19 in U.S. Population</th>
<th>Percentage of youth who had contact with police</th>
<th>Police reports of use of force with youth aged 16-19</th>
<th>Rate of contacts by age/100,000 youth aged 16-19</th>
<th>Percentage of use of force w/youth</th>
<th>Percentage of use force in jurisdictions w/population of &lt;100,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>7.6%</td>
<td>10.0% for 16-19 y.o.</td>
<td>129,045</td>
<td>229 for 16-17 y.o. 343 for 18-19 y.o.</td>
<td>30.6%</td>
<td>73.8%</td>
</tr>
<tr>
<td>2002</td>
<td>7.5%</td>
<td>20.8% for 16-17 y.o.</td>
<td>152,120</td>
<td>208 for 16-17 y.o. 324 for 18-19 y.o.</td>
<td>22.8%</td>
<td>65.3%</td>
</tr>
<tr>
<td>2005</td>
<td>NA</td>
<td>20.8% for 16-17 y.o.</td>
<td>158,960</td>
<td>NA</td>
<td>22.5%</td>
<td>NA</td>
</tr>
</tbody>
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*Data on respondents‘ description of their own behavior, including provocations in the form of arguing, cursing, insulting, disobeying, threatening, hitting, and running from officers was not disaggregated by age.*

The 2002 Bureau of Justice Statistics survey report indicates that for youth aged sixteen, seventeen, and eighteen out of 4,200,000 American youth:

- The top five charges leading youth to be referred to court constituted 7.6% of the population,
- Represented about 3.5% of Americans who had contact with officers, and involved 30.6% use of force or threat of force incidents with officers.28

Additionally, placement of police in schools has increased dramatically since 1991 due to the implementation of the federal Gun Free Schools Act.29 According to the National Center for Education Statistics:

- Nearly 70% of public school students, ages twelve through eighteen, reported that police officers or security guards patrol their hallways;
- 61% of public high schools utilize random police dog sniff-searches; and
- 11% of public school students pass through metal detectors at schools.30

One consequence of this prevalence of school police may be found in * Arresting Children*, a study of juvenile arrest statistics between 1980 and 2006. The data indicates that while the ages of arrested youth have remained almost identical in the study’s twenty-six years, the arrest of preteens has dramatically increased for simple assault and disorderly conduct.31

Disparities in police arrests for minority youth committing identical offenses remains large and hardly addressed in any systemic manner. Consider the extent of the disparities:

- For juvenile arrests per 1,000 persons in the population, African-American youth are twice as likely to be arrested according to Relative Rate Index Statistics (“RRIS”).32
- From 2001 to 2006, the arrest rate for white youth decreased 9%, while arrests of black youth increased 7%. They showed the greatest disparity in arrest rates for offenses against persons, for “which African Americans are nearly 4 times more likely than whites to be arrested.”33
- Although African-American youth were 17% of the nation’s youth population in 2005, they represented 30% of the youth arrested in America, and the overall RRIS for “arrests of African-American youth in 2006 remained at the highest point in a decade . . .”, leading to the incontrovertible conclusion that while most African-American youth are arrested for
nonviolent crimes, they are also disproportionately arrested for every offense. \textsuperscript{34}

- Latino youth may be faring even worse, they were over-arrested by a factor of two in Los Angeles, California, and by a factor of five in Massachusetts—all the more remarkable in view of states’ inconsistent definition, and consequently, uneven collection of Latino youth arrest data.\textsuperscript{35}

Scientific studies have demonstrated that police officers unconsciously attribute a higher level of intentionality to the conduct of minority and impoverished youth than to the identical conduct of other youth. Police are more likely to treat other youth as less culpable and more willing to attribute their behavior to immaturity, “The very nature of police-youth encounters often occur under legally and causally ambiguous circumstances where judgments have to be made quickly but with limited information—in other words, the kinds of decision-making contacts most vulnerable to unconscious stereotype use.”\textsuperscript{36}

An earlier study indicated that when race was held constant, stereotypes regarding socioeconomic class were equally powerful determinants in officers’ decision making.\textsuperscript{37} In his overview addressing theories of disproportionate minority arrests (“DMA”), Arthur Garrison concludes that attributing these disparities to racial bias on the part of police or to disproportionate rates of criminal activity falls short of a more nuanced explanation of the many social, economic, and legal factors that impact police decision making.\textsuperscript{38}

The lack of attention and effort to redress this aspect of youths’ modern life seems more disturbing in view of the various methods that exist to undermine officers’ biased, default assumptions. Developing relationships with members of stereotyped groups is considered the best method of challenging unconscious stereotyping. It is also considered central to community policing; 65% of American police departments claim to have adopted the community policing approach, but it is generally recognized that community policing is often more boasted of than it is implemented.\textsuperscript{39}

There are other causes for youth arrest having little to do with the police, and more to do with other youth-serving agencies’ structural failures. By one account in 2004, there were 12,700 children and youth detained in nineteen states’ juvenile correctional facilities due to an unavailability of mental health care\textsuperscript{40} or housing. This is a remarkable systemic failure in a country where the number one youth disability is mental illness.\textsuperscript{41} Experts estimate that 60% to 70% of incarcerated youth suffer from diagnosable and treatable mental illnesses, but these youth are currently provided nothing more than psychotropic medications for their illness.\textsuperscript{42}

Indeed, Dr. Joseph Cocozza, a national expert on this issue, estimates that rates of mental disorders among court-involved youth are two to three times higher than the general youth population; in some facilities 75% to 100% of youth in custody have a mental illness that meets a DSM-IV diagnosis; 20% of these youth suffer from the most severe mental illnesses, such as schizophrenia or bipolar disorder, and use alcohol and illegal substances to regulate the diseases.\textsuperscript{43}

A 2007 roundtable between the International Association of Chiefs of Police and the National Federation of Families for Children’s Mental Health addressed these mental health issues. The roundtable recommended developing guidelines for families to communicate with offices about their children’s mental health problems, as well as increasing officer training certification programs for dealing with children and youth suffering from mental health issues.\textsuperscript{44} Given the variety of mental health issues that children and teens present, training police to determine whether youth should be brought to the emergency room or the police station should be viewed as an essential skill for the job. Unfortunately, learning to recognize the signs of mental illness among youth is not a skill routinely taught in police academies.

Similarly, the nation-wide rate at which youth are transferred from state custody in dependency cases to state custody in delinquency cases is alarming. In Massachusetts, for example, 55% of incarcerated youth were also in the custody of the Department of Social Services.\textsuperscript{45} The arrest and national warehousing of children in correctional facilities due to the lack of alternatives explains a disturbing increase in the number of youth placed in detention—and the reported discomfort of police for arresting so many youth rather than considering other options for their care.

An array of toxic aspects found in American youth life have been continually well documented, from economic and familial stressors, to a commercial culture that promotes behaviors antithetical to healthy development.\textsuperscript{46} Added to these factors are the constant diminution of public services to children and youth over the last thirty years, from HUD client services in housing projects to after school programs and access to school-based counseling, psychological services, and health centers. Police are placed in the difficult position of addressing the failure or absence of local, state, and federal policy and programs for serving and protecting youth—with very few tools beyond arrest.
to assist them.

Finally, the manner in which police and youth interact has enormous political implications. On a daily basis, impoverished and minority youth see the world as bifurcated; the many political achievements of civil rights and human rights movements are trumped and take on a theoretical aspect in the worlds in which they live. The education children receive in American history classes about civil liberties and the civil rights movements’ successes are vitiated in daily life when police disrespect them, conduct unnecessary pat frisks, stop and challenge their behavior, or demean them. Such police conduct undermines youth’s sense of power in and trust of the institutions and systems of American culture—schools, police, municipal government—that determine their lives. The chasm between theory and daily reality successfully promotes alienation, anomie, and anger in many youth. Sadly, this phenomenon is not unique to the United States.47

James Forman Jr. explored the impact of racially biased, harsh policing of youth in his analysis of high school students in Washington, D.C. who are routinely stopped, frisked, and insulted by police officers:

But what does it mean to preach these virtues [of hard work and good behavior] if the government’s most visible representatives in your community violate those rules routinely, and at your expense? Police officers are the principal arm of the state that inner-city kids see... This places an awesome responsibility on officers of the law, because how they treat young people, particularly in inner-city neighborhoods that tend to be heavily policed, will have a profound impact on how kids begin to see the state, society, and themselves. [emphasis added] 48

2. Political Constituency for Youth

Parental advocacy on behalf of their children regarding interactions with the police is a complicated matter. Some parents are intimidated by police; they quite reasonably fear retaliation for filing complaints. This author has observed scenes in which parents have attempted to file complaints against police in Boston and have been actively dissuaded, even attacked by IAD officers who suggested that “maybe your child deserved it.”

Additionally, there is disagreement within communities about how police should treat youth. Some parents are very supportive of punitive policing approaches and seek increased police involvement in public schools and elsewhere. They express strong interest in strict and immediately imposed consequences upon their children.

For these various and opposed reasons, it is rare to find a sustained, empowered, political constituency demanding accountability or dialogue about how police interactions should be formulated. Typically, activism appears limited to extreme incidents, such as when youth and police are involved in a beating or killing.

Another factor that stifles challenges to police conduct is the prohibitive cost of initiating a lawsuit on behalf of a youth who does not suffer serious physical damage. Attorneys at the National Police Accountability Project estimate that to survive a police department’s motion to dismiss or for summary judgment agains: a plaintiff bringing claims of misconduct costs between $50,000 and $100,000.

Recourse is further hampered by the absence of structures ensuring police department accountability across America. Generally, high-functioning, effective civilian review mechanisms are the exception, not the rule.49 In short, for too many parents there is nowhere—and no one—to turn to. Addressing police misconduct is often left to overworked juvenile defenders or local politicians who take the issue to the media. While both groups may be successful in either criticizing police conduct or deploring youth behavior, neither is positioned to go beyond bemoaning the “troubles,” or to work proactively to create different approaches to improving police/youth relations.

3. Police Reactions & Responses

Police are increasingly being trained to view themselves as problem solvers and use new approaches to handle “old” situations. But many officers, like many parents trying to discipline their children, still employ a reactive approach to youth misbehavior that is fast and punitive. This results in some youth viewing police as a source of harm, rather than help. Acutely sensitive to officers’ demeanor and language, some youth read and misread officers’ actions with a heightened expectation of disrespect and violence. More than adults, youth perceive race as determining the outcome of their interactions with police.50 For some youth, police become emblematic of the rules and structural obstacles they perceive as pervading their lives, schools, and job opportunities. Worse than viewing police as draconian authority figures, teens increasingly view police as adverse to their safety.51 These dynamics seriously sabotage effective policing and public safety.

Additionally, police officers’ approach to youth appears to be strongly determined by the community’s valuation of its youth. The general view is that for wealthy, non-minority youth, police take a
more lax approach to law enforcement. Also, the police may not enforce laws strictly due to parents’ outrage and investment in children. For impoverished children, there are no obstacles preventing police from enforcing laws strictly. This claim is underscored by extreme disproportionality in urban arrest rates among poor, black, and latino youth for identical offenses committed by white youth. Additionally, it is demonstrated in data showing that police tend to under-refer minority youth to pre-arraignment diversion programs.52

Policing youth has extended to the public school system, where local police officers, known as School Resource Officers, are asked to enforce “zero tolerance” policies and to work with troubled youth in an alternative school setting.53 Typically, the only “resource” such officers can provide is arrest power. They are not trained in community-based alternatives, and in some areas there are no alternatives to which youth can be referred. Officers are also not trained in special education or the behavioral issues children with special needs manifest, despite the fact that these children are entitled to protection from punishment.

The Charles Hamilton Houston Institute on Race and Justice is releasing a study based on interviews of over sixty officers from sixteen police departments in sixteen school districts across the state of Massachusetts. The study found that there are major differences in officers’ policing styles and departments’ approach to officers’ deployment acts as a major determinant of what style officers can adopt. Officers agree that working with youth makes most of them interested in learning more about child and adolescent development and psychology. This is increasingly critical in view of the impact of police involvement in schools. In Clayton County, Georgia, there was a 600% increase in referrals to juvenile court over a three year period; additionally, they increased by 71% and 40% respectively in Denver and Philadelphia in three school years.54 “At their peak in 2003, school referrals accounted for about a quarter of total referrals to juvenile court.” In Springfield, Massachusetts, 40% of the juvenile court caseload was based on school-based arrests and summons.55

Research addressing how school-based policing is implemented is hampered by shortages of quantitative and qualitative data. Youth advocates are concerned that differential treatment, demonstrated in the ratio of suspensions and expulsions of minority youth, will be mirrored by the ratio of minority youth arrests. One recent study confirmed that concern; the rate at which youth in an urban Connecticut high school were suspended and arrested was three times higher than youth in the neighboring all-white suburb where there were no arrests but much higher numbers of suspensions.56

The disparity in police treatment of youth has enormous implications for the entire juvenile justice system. A recent longitudinal study of 779 boys shows that the decision to arrest youth who are “poor, impulsive, poorly supervised by their parents, and exposed to deviant friends” and deliver them into the juvenile court systems results in an increase in their involvement in the court system as youth and as adults.57 The iatrogenic and criminogenic impacts of such intervention were measured at a rate seven times higher than for youth who were not subject to police-initiated juvenile court intervention. This finding is remarkable because the boys were not charged with serious, violent offenses.58 Indeed, like most juveniles, the boys in this study were charged with the top three offenses most youth are charged with: assault and battery (fighting), larceny (shoplifting) and drug possession (marijuana). One important conclusion to draw from this study is that the current set of institutional responses to youth for such crimes—from arrest, to detention, arraignment, and adjudication—appears to be a recipe for its recurrence. In view of the fact that youth in this study were charged with the same crimes as youth nationally in America, this study raises serious questions about the American juvenile justice system’s effectiveness in meeting its goals.59

Officers routinely express concern about how to understand and address increased violence between girls in the forms of physical attacks, the use of online and instant messaging to disclose sexual information for harassment and humiliation purposes, and bullying. The pressure for assistance in working with girls is so great that the International Association of Chiefs of Police was funded by the U.S. Department of Justice to develop training, which was piloted with recruits in the Philadelphia and Seattle Police Departments in April and August 2009.60

The most acute challenge for police working with Latino youth is obviously the language barrier. Officers often feel subverted when Latino youth speak to each other in Spanish.61 The number of Spanish-speaking and Latino officers has increased, but they are not nearly as well organized or institutionalized as African-American officers. Officers working with Latino and immigrant youth often have no background in these cultures, much less an understanding of how youths’ experiences with officers in their country of origin affects their interactions with American officers, whether for better or worse. The plight of Latino children in America today—including their prospects for economic independence—presents some of the
grimmmest statistics on American youth. Latino youth predominantly populate smaller American cities, often cities which have lost their core industrial base and offer inexpensive housing. These cities are also characterized by offering fewer services and resources to strapped families, which in turn provokes high levels of involvement of municipal police in Latino communities. The consequences felt by Latino youth are intense, even if the consequence's extent is not always quantified due to data collection systems that continue to fail to differentiate beyond white and black.62

4. Youths' Responses & Reactions: Fight, Flight, & Fidelity

Youth behavior when interacting with the police falls into three broad categories of responses: fight, flight, or fidelity. Youths' tendency to challenge authority—from parents to teachers to police—is perceived as having increased. The perception that parents side with youth in challenging the state's authority has also increased. The open hostility, disrespect, and provocation some youth show for officers is remarkable. This author conducted two high school surveys of youth in Massachusetts; youth and officers each estimated that 15% of police interactions with youth are initiated by youth who provoke them.63

For other youth, a pervasive sense of helplessness, their natural anger at authority, and the social, educational, and cultural emphasis on assertion of rights converge and often explode during interactions with police. One source of youths' fury may be that youth perceive the officer's win as their loss—especially when it occurs in front of peers and damages their reputation. Youth perceive confrontations with the police as another public announcement of their powerlessness64 and will sometimes hide this realization by appearing “proud” of their arrest—that is, until they arrive at the stationhouse.

There are those youth who are faithful and demonstrate strong fidelity to the ideal of police authority and the protection it promises. They seek refuge from other youth among the police. These youth may show fidelity intermittently, and not necessarily in front of their peers. For them, the role of the police as “keepers of the peace” is an enormous boon.

Youths’ expressions of disrespect towards officers are a significant element of police/youth interactions. For some urban youth, warring with the police becomes a central focus of activity. Police find it difficult to understand this hostility, and are angry that youth characterize police as “the bad guys” when deaths resulting from teen-on-teen crime vastly outstrip damage caused by police-on-youth violence.

Juvenile defenders in major urban areas have been chagrined to watch their clients openly mock and taunt officers after their cases have been dismissed. “It’s an all out war,” said one Philadelphia defender. In suburban areas, “everyone’s a lawyer,” said an officer from the tony Philadelphia suburb of Bervyn attending an IACP training.

Research by Margaret Beale Spencer and her colleagues on African-American urban teens’ appropriation of “hypermasculine” behaviors is aimed at helping teachers understand this behavior and develop responses that pierce this façade without undermining some of the protections it offers. Such lessons are especially well-suited and transferable to officers to prepare them to work with youth who engage in this sort of posturing:

In the case of youth, adolescents in general and Black adolescents in particular have relatively little ‘control.’ For adolescents in general, adults organize much of their days, lives, and opportunities to explore roles. Further, low-income urban youth may have relatively little control over the neighborhood and school dangers they encounter. Black youth have no control over the vast media expressions and stereotypes of Black hypermasculinity, which they interpret in relation to self. Consequently, when manhood is threatened, youth encountering these varying levels of risk may resort to more impulse-driven hypermasculine behaviors.65

Spencer describes the dynamics by which boys use hypermasculinity coping behaviors in a manner that may bolster self-image and offer short term survival relief. Those same behaviors eventually cause young men reliant on this coping mechanism to become victims of their hypermasculinity, as their extreme responses lead to more fighting, and inevitably to conflicts with the police.66 In poverty-stricken areas, the all-too-normal adolescent response of being more concerned about self-image, rather than self-interest, plays out often with more pernicious consequences.

In subsequent publications, Spencer has outlined both policy implications and lessons for adults working with youth to help them recognize the fragility of such youths’ egos and to avoid exacerbation of youths’ sense of vulnerability in order to decrease their need to express themselves through acts of dominance and violence. Spencer demonstrates the importance of understanding the chest-thumping bravado of youth as a “weapon of the weak” that youth use to transcend the shame67 of an arrest—an act which is perceived by youth to publicly proclaim—and sadly confirm—their powerlessness.
III. The Education of Police and Youth

In considering the source of police officers' and youths' reactions and responses to each other, it is important to understand the social and historical circumstances, cultural beliefs, and idiosyncratic views that generate default assumptions. Equally important is an examination of the explicit messages and lessons police do and do not learn in the academy and "on the job." Similarly, understanding how youth have both stayed the same and changed from twenty or twenty-five years ago in their assertion of "rights" and their interactions with adults is critical for recognizing both the problems and possibilities of reframing this relationship.

1. What Police are Taught Today

"When all you have is a hammer in your pocket, everything is going to look like a nail," Chief Harold Hurt of the Houston Police Department noted in a recent speech on the importance of increasing the array of responses officers use when dealing with youth.68 However, training police to use a range of approaches beyond arrests and summons when interacting with youth is the exception, not the rule. Such training is currently statutorily required in only one state—Connecticut.69 Elsewhere, this issue receives little or no attention beyond a recitation of laws regarding police treatment of youth in custody.

This represents a costly lost opportunity.

A recent longitudinal study has made it eminently clear that arrest and court involvement may be "crimogenic" in nature. The previously mentioned longitudinal study,70 finding that arrest and system-involvement of youth reinforced instead of corrected boys' criminal behaviors, was interpreted by its authors to require states to change their reliance on arrest for such conduct and on detention and concentration of large numbers of youth in facilities.71 It is likely this conclusion would be supported by a study of the effectiveness of such approaches with youth of the middle and upper classes who are not sent into the system.

But this approach is not widely accepted. Instead, police are taught to treat youth the same as adults—except as far as Miranda rights. Even as regards to the provision of Miranda protections,72 the experience of defenders and a cursory review of juvenile case law demonstrates law enforcement's inadequate grasp of the special application of due process protections, "enhanced" Miranda, youth require. As police are increasingly involved with children and teens, it is remarkable that a fair number of courts have actually reduced the obligation to ensure youth are provided Miranda's protections.73

Similarly, police placed in schools are not uniformly trained in working with youth. In some places, officer deployment is determined by union rules of seniority, while in others, by an officer's suitability for being a school resource officer. The burgeoning school-based arrests of youth for minor offenses or school discipline infractions has mobilized advocates, who argue for increased training and restricted police authority.74 But there is no systemic push to require school-based officers to receive even a fraction of the required education that is required of daycare workers, teachers, social workers, or others working with children. No organized constituency demands it, and no organization currently supplies the training to deliver it.75

National police organizations have neither recognized nor promoted a national curriculum for working with youth. Existing curricula appears to give wide berth to confronting race and avoids even neutral means of increasing officers' awareness of race issues through implicit assumption tests76 and of how descending ladders of inference can lead to incorrect conclusions.77 There is no systemic officer training regarding special communication skills for developing relationships with youth and working with them prior to an incident, much less training offering officers practical ways to capitalize on scientific understanding of adolescent behavior to make asserting police authority with teens more efficacious.

A central source of confusion for officers—why teens do things that are short-sighted, impulsive, stupid, why they get upset over "nothing"—is not explored in police trainings. Teens' tendency to prize self-image over self-interest in their choices is not analyzed, and officers are routinely bewildered by teens whose bravado in the street turns to tears at the stationhouse. Officers are not taught how to recognize or respond to the leading mental illnesses affecting teens. Indeed, a recent study of police training indicates that "there is a pronounced lack of specialized youth training courses. Although some topics are subsumed under other courses, line and supervisory officers felt specialized training is warranted...the general sentiment of supervisory and line officers was that the training they did receive was inadequate."78

While national standards require departments to connect to local youth-serving agencies and recommend integration of police efforts with them, police departments do not make such integration of efforts a priority or a core aspect of their approach to policing teens. For a nation in which 65% of the police departments boast a community policing
approach which presumes community awareness, there is no systemic incentive to require officers working with large youth populations to understand the community they are policing from a youth or youth worker’s perspective.

The International Association of Chiefs of Police (“IACP”) and the Commission on Accreditation of Law Enforcement Agencies (“CALEA”)79 have issued departmental guidelines for treatment of youth in police custody. Both organizations promote arrest of youth as a last resort, but it is unclear how many departments actually abide by the guidelines, or have any regulations directing the treatment of youth.

It is important to recognize that police are on the frontlines daily addressing the fallout of social and political domestic polices in the U.S. They are also working in a society where diversity is the norm and the lack of consensus on social norms transform decision making into complicated processes that the pressures of the moment or an incident do not permit.

However, most departments reject putting their enforcement efforts into the context of the socioeconomic realities in which they work. They rarely express any willingness to connect law enforcement with economic development for public interests.80 While some departments recognize that “[p]olice executives must take the lead in reducing street violence as well as shaping the broad social context through nontraditional policing strategies that restore stability in the hardest-hit neighborhoods,”81 they appear to be in the minority.

2. What Youth Are Taught Today

The majority of parents assume that most youth know how to stay out of trouble and understand what consequences they will experience for being involved in wrongdoing. However, this assumption is flawed.

In a country that is increasingly regulated and under surveillance, and where the law changes almost daily on central issues of police power regarding search and seizure, it is remarkable how little information is disseminated to youth on how to behave with police. Simply put, they are not taught how to navigate between respecting police authority and asserting one’s rights knowledgeably. Most education for youth about the law is framed in terms of what youths’ rights are.

When asked, youth generally know that they are entitled to their rights.82 Those youth who have had interactions with the police will also insist their rights were not read to them. But it is a rare youth who can actually recite the Miranda warnings and/or know that the first thing to do during an interrogation is ask for an attorney and remain silent until the attorney’s arrival. In short, there is very little in the way of programmatic and systematic efforts to warn youth about the behavior that can land them in trouble beyond the obvious cardinal sins of hurting and stealing.

In speaking with youth in Massachusetts over the last ten years, it is obvious that most youth have no knowledge of the juvenile court system’s unique features, such as that it is a court of civil jurisdiction, including at what age a youth is treated as an adult, the differences between juvenile and adult courts, the rules of joint venture (i.e. which may mean having any knowledge of the crime and acting with intent to commit it or accomplish the objective of the crime), and how school zone laws will affect and enhance penalties. At a time when sexual behaviors can have lifelong criminal consequences, youth are not being taught about what conduct to avoid, including minor touching incidents and sexting. Furthermore, almost all youth believe juvenile cases ensure a sealed record, while in many states there is no reason for youth to assume this.

In some cases youth believe information that is inaccurate and harmful when they interact with police. For instance, when playing Juvenile Justice Jeopardy,83 youth were asked whether a male police officer may pat-frisk or search girls, and they vehemently insist that girls have the right to push away an officer who tries. Many youth believe an officer must have a warrant to conduct a pat-frisk. And even when youth correctly understand the law, i.e. probable cause is a predicate for conducting a pat-frisk, the assertion of their legal rights is rarely conducive to avoiding arrest.

They are shocked to learn that this conduct will typically lead to a charge of resisting arrest and disorderly conduct, and that it may even result in felony charges of assault and battery on a police officer. Massachusetts youth routinely believe, in spite of case law and a long history of practice to the contrary, that they do not have to answer an officer’s questions when stopped on the street for a field investigation observation (“FIO”). This is incorrect, and failure to answer will in some cases lead to arrest for disorderly conduct.

3. Support for Proactive Policing Initiatives

Some police departments value changing this approach towards youth. For instance, Ward Clapham, Chief of the Metro Vancouver Transit Police, argues that police “work harder and harder doing the wrong things. Reacting to crime and putting on band-aids is not working and will not work. The problem is that the systems and structures are aligned for this post-incident, corrective,
adversarial model.\textsuperscript{84} Commissioner Frank Straub of White Plains, New York, used a combination of police training and a new philosophy to work with youth in White Plains’ most impoverished parts. In White Plains, the city used structured presentations, group learning, role-playing, and problem-solving activities, along with pairing youth and police officers to spend significant amounts of time discussing policing and life in the city’s poorest quarters.\textsuperscript{85} The resulting decrease in criminal activity was dramatic.

In Boston, after intensive public advocacy and training for police on youth issues, the Massachusetts Bay Transit Authority ("MBTA") Transit Police Department reduced juvenile arrests from 682 in 2000, to 80 in 2008. The Department developed two approaches to address its teen-related policing headaches: youth staying in subway stations too long and truant youth. By recognizing the role anonymity plays in juveniles’ activity, the head of the investigative unit developed teams consisting of officers and school headmasters, known as STOP WATCH teams. These teams would visit certain subway stations for the primary purpose of developing relationships with youth. The same police lieutenant, supported by command staff, assigned officers to interview youth at places where truant teens congregated. The result of the survey of 856 youth in the 2007-2008 academic year led to advocacy by the MBTA Transit Police for improved mental health services for teens, reduced use of school suspension and expulsion policies, and support for a truancy center addressing the root issues of children’s truancy. These efforts led to a reduction in juvenile arrests, an increase in inter-departmental efforts, and the MBTA’s receipt of the prestigious IACP Webber Seavey Award in 2005.\textsuperscript{86}

The focus on relationship-building in these examples is central. As one community organizer noted, “rules without relationship lead to rebellion.”\textsuperscript{87} One youth explained, “[I]t they give us rules all the time, but if they gave us expectations and treated us like we could meet them, we would just naturally follow the rules.”

These relationships’ development is critical for redressing racial imbalances in police treatment of youth. “The role that social relationships play in stereotype malleability may offer more in the way of pragmatic suggestions for change . . . . It has been documented that when perceivers are motivated to develop a relationship with a member of a stereotyped group, or to form a good impression of that person, then automatic stereotype activation is inhibited.”\textsuperscript{88}

Thus, relationship-building with youth offers opportunities for reducing unnecessary confrontations and undoes some of the racial stereotypes that accrue to police/youth relations due to their separation in age and culture. The MBTA example suggests that this approach to police/youth relations also reduces arrests.

4. What is Necessary to Promote Progressive Policing

In analyzing the changes wrought by a global economy, Thomas Friedman argues that as the world moves from a “primarily vertical (command and control) value-creation model to a more increasingly horizontal (connect and collaborate) creation model, it doesn’t affect just how business gets done. It affects everything . . . [including what role government has to play.]”\textsuperscript{89} There is a striking similarity between Friedman’s recognition of the existence and limitations of “command and control” and the potential of “connect and collaborate” approaches in business and policing. The move towards connect and collaborate is obvious from the frequency with which leaders in police circles voice the belief that an increasing array of problems cannot be cured by arrest, that “we need to be smart on crime, not just hard on crime,” and help gangs, for instance, recognize their own self-interest in laying down their guns.\textsuperscript{90}

There is much anecdotal discussion of the time “costs” of arresting, processing, detaining, and incarcerating youth. Police chiefs and command staff routinely view the time spent processing youth through an arrest and interview process as major drains on department staff time. Efforts to quantify the cost of arrests have indicated that in the state of California, the cost of arresting an adult is about $400, while it is $428 for a juvenile. Related costs for a juvenile’s arrest include $226 for the district attorney filing, $848 for court costs and $396 for a public defender. Youth who are detained an average of two weeks tend to cost the state an additional $2,300.\textsuperscript{91} The Urban Institute has estimated the cost of adult arrest to be $1,000.\textsuperscript{92} One study conducted by researchers at the Bureau of Justice Statistics estimated that the United States spent $72,406,000,000 for 13,700,000 arrests in 2001, or an average of $5,285 for each arrest.\textsuperscript{93} These are significant numbers when one considers that about 80% of youth who are committed to incarceration facilities are charged with nonviolent crimes.\textsuperscript{94}

The high costs that localities and states incur in the current economic crisis offer opportunities for increasing the use of police diversion programs, referral of youth to structured community programs, community-based rehabilitation services, and reduction of incarceration for youth who are charged

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with nonviolent offenses. As indicated above, in most states 80% of incarcerated youth are charged with nonviolent, non-person offenses. One study indicates that technical probation violations, such as violating curfew or failing to go to school, are a major reason youth are being incarcerated.95

While there is increased support in major police publications for a change in approach,96 police departments that have changed their approach to policing teens and individual officers pushing for different approaches in less progressive departments remain outliers in an authoritarian-based youth correction system. Innovative departments are rarely supported or recognized, nor is their work rigorously evaluated or replicated. The guiding principles that make these departments effective are not incorporated into police academies’ curriculum or departments’ practices. There appears to be no institutional vehicle or opportunity for exchange of workable approaches. These new techniques are not collected, coordinated, or made available to departments and advocates interested in policing youth differently. To date, no organization has included in its “mission” the goal of promoting progressive, pro-youth policing practices.

The absence of political and organizational pressure is best demonstrated by a cursory review of available literature. Much of what is problematic and requires improvement in police conduct towards youth today was researched, validated, and recommended in the 1950s and 1960s.97 Consider this analysis of the dynamic between police and youth in 1964:

... [I]t is not unlikely that frequent encounters with police, particularly those involving youths innocent of wrongdoing, will increase the hostility of these juveniles towards law-enforcement personnel. It is also not unlikely that the frequency of such encounters will in time reduce their significance in the eyes of apprehended juveniles, thereby leading these youths to regard them as “routine.” Such responses to police encounters, however, are those which law enforcement personnel perceive as indicators of the serious delinquent. They thus serve to vindicate and reinforce officers’ prejudices, leading to closer surveillance of Negro districts, more frequent encounters with Negro youths, and so on in a vicious circle. Moreover, the consequences of this change of events are reflected in police statistics showing a disproportionately high percentage of Negroes among juvenile offenders, thereby providing “objective” justification for concentrating police attention on Negro youths.98

The fact that these practices have not changed much in forty-five years suggests that the absence of consistent, focused advocacy, and a strong political constituency to develop the incentives necessary for meaningful reform are critical to bring about these changes.

IV. Conclusion

Legal actions to change police procedures and behavior are critically important and sometimes the only viable means when a department refuses to consider alternative approaches. But the challenge for advocates lies in maintaining and sustaining the reform sought by lawsuits. Creating vehicles for parents and communities to express both their serious concerns and propose new approaches is critical—especially before an incident occurs. Without accurate data, community organizing, and an advocacy organization’s sustained focus, the pressure to create institutional change in policing youth will remain, at best, episodic and intermittent.99

The need for relevant research undergirded by a youth development approach to policing is needed. Resources to promote change in how police treat youth in police departments are critical. All these changes are based on the development of a political organization that would push for a sea change in society in how police/youth issues are approached. The return of federal support for community policing,100 which was systematically de-funded over the last eight years, offers a tremendous opportunity to treat our young people as a vital part of public safety initiatives and inject a more proactive approach to their treatment by and use of police resources.

Recently, an editorial deplored an ACLU report demonstrating that minority youth were arrested at rates five times higher than white youth in East Hartford public schools. The New York Times expressed astonishment that there is such a huge disconnect between police and youth. They noted,

While most police officers know how to handle adults, dealing with children and teenagers requires special diplomatic and communications skills. Specialists in child development and juvenile justice need to develop standards, and local police departments need to develop training programs.101

An organization focused on these issues would make that much-needed achievement a reality. Organized advocacy, research, oversight of juvenile justice procedures, and training officers in practical applications of cutting edge information on adolescent development and psychology can achieve
a variety of positive outcomes, including reduction of juvenile arrests and detentions, especially of minority youth, where statistics indicate society is failing in significant ways.

Such a national organization’s primary functions would be to serve as a research clearinghouse, a technical assistance resource to police departments and communities alike, and a source of public education and consciousness raising on the issue. It could be focused on collection, development, and dissemination of research on evidence-based best practices on police/youth interactions. Factors that form teens’ view of police and factors that influence police responses to teens must be better understood. The organization could create a blueprint delineating how psychiatry, modern child, adolescent, and youth development should be incorporated into police practices for conducting FIOs, Miranda warnings, arrests, interrogations, detention decisions, and non-incent interactions with youth.

Such a national organization could become the source of training and mentoring on topics related to police/youth interactions for police departments’ and communities’ use. Some of the efforts the organization could undertake include assessing police departments’ approaches to policing teens and providing recommendations for institutional change based on successful approaches elsewhere. This would also enable reform to integrate the national standards set forth by Commission of Accreditation of Law Enforcement Agencies (“CALEA”) into departments’ regulations as well as support CALEA in the expansion of its standards in the realm of school resource officers.

Training programs could be customized to each police department and emphasize context-specific approaches to police training. These trainings should consider socioeconomic ramifications of youths’ lives, particular historical relations with police, and integrate developmental science into lessons for police to recognize signs of the top five mental health issues teens experience. Training would focus on:

- Practices to de-escalate conflict among and with juveniles through better understanding of how self-image typically trumps a teen’s self-interest;
- Preparing officers to anticipate resistance with each group of youths’ special triggers (i.e. “you’re doing this to me because I’m black,” “my father could buy your house three times over,” “you have no right”);
- Practices and techniques to give police officers the skills to “read” teen situations faster and more accurately;
- Presentation of implicit assumption theory and how “ladders of reference” lead to differential treatment and use of authority by police;
- Examination of impacts of police decisions to detain youth and long term ramifications of such decisions;
- Review of critical aspects of adolescent development and etiology of anti-social behaviors;
- Focus on recognizing youth who present mental health issues, using filmed examples of such presentations and discussions of best response practices;
- Increasing opportunities for proactive interaction with youth workers and school resources to refer youth to services to avoid arrest and use of detention;
- Model methods of relationship building between police, youth, youth advocates, and youth workers.

Such an organization must empower parents, communities, and youth advocates to work with police departments to improve the quality of police/youth interactions. This can be done by offering parents and advocates information and strategies for developing consensus about how youth should be treated and working with police and youth to effectuate that approach.

Together, these initiatives could work towards developing the awareness and political constituency needed to change society and police departments’ approach to working with youth generally, and specifically, youth who commit offenses. The potential for change, increased non-incident related relationship building, and the expansion of the officer-as-teacher (outside the safety curriculum), will surely yield benefits. Reducing the trauma caused by arrest, increasing the possibility of bonding with a male authority figure, and developing networks of care among the gatekeepers are the first steps necessary to usher a gentler, kinder, and more effective juvenile justice system into existence in the twenty-first century.

Endnotes

* Lisa H. Thurau, Founder and Director of Strategies for Youth has worked in New York and Boston as a researcher, organizer, and legal advocate for children and teens’ issues in the realms of juvenile justice, education, and youth employment.

1 MEISSA SICKMUND, DELINQUENCY CASES IN JUVENILE COURT, 2005, OJJDP Fact Sheet (U.S. Dep’t
of Justice Office of Justice Programs June 2009).

2 Id.


4 Id.

5 The National Juvenile Defender Center has been the organization dedicated to ensuring the promise of In Re Gault, 387 U.S. 1 (1967) for youth across the U.S.

6 The Juvenile Detention Alternatives Initiative created by the Annie E. Casey Foundation has created both an awareness of the overuse of detention of juveniles and the abuses and harms that occur from detention so that the issue of detention is on the forefront of every agenda regarding juvenile justice reform. For more information, see http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx.

7 PATTI PURITZ & MARY ANN SCALI, BEYOND THE WALLS: IMPROVING CONDITIONS OF CONFINEMENT FOR YOUTH IN CUSTODY (American Bar Association Juvenile Justice Center 1998). This was the first of many publications investigating the extent of abuses occurring in the nation’s juvenile facilities.

8 Disproportionate Minority Confinement (DMC) was a term coined in 1974 with authorization of the Juvenile Justice Delinquency Prevention Act (JJDPA). Under the JJDPA, states were mandated to address the cause of DMC issues in the juvenile justice system. But until the year 2000 and the release of the Building Blocks for Youth report, And Justice for Some, the failure of states to adhere to the mandate was something of a non-issue. The report was developed with the collaboration of national-level advocates, including Youth Law Center, American Bar Association Juvenile Justice Center, Communication Works, Communications Consortium Media Center, Center on Juvenile and Criminal Justice, Juvenile Law Center, Minorities in Law Enforcement, National Council on Crime and Delinquency, and Pretrial Services Resource Center. With the release of this report, the extent of disproportionate treatment of youth of color at every juncture of the involvement in the juvenile justice system was documented beyond a doubt. This report launched calls for reform at all levels of the juvenile justice system. The report is available at http://www.buildingblocksforyouth.org/justiceforsome/jfs.pdf.


10 DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE 232-34 (1995). Goleman notes that in the twenty years prior to the publication of his book, rates of social problems among youth including withdrawal, anxiety, attentional deficits, and aggression increased; he blames such deterioration in social skills development on the absence of strong social supports and the increase in external stressors on families and children. Such views have led educators and psychologists to argue for teaching emotional competence in the schools. See, for example, Marc Brackett’s Recognizing, Understanding, Labeling, Expressing and Regulating (RULE) program at Yale University (Bantam Books, 1995).

11 CONN. GEN. STAT. ANN. §§ 7-294h (West 1989). Police Officer Standards and Training Council must provide officers 14 hours of training in “techniques for handling incidents involving juveniles” including “information regarding resources of the juvenile justice system in the state…”


15 Id. at 47.

16 Id. at 48-49.


18 This is of special concern in states that employ “joint venture” statutes in which the act of being with a group involved in wrongdoing is sufficient to implicate youth.

19 AMANDA PETTERUTI & NASTASSIA WALSH, MOVING TARGETS: A DECADE OF RESISTANCE TO THE PRISON INDUSTRIAL COMPLEX (Justice Policy Institute 2008).

20 SICKMUND, supra note 1, at 2.


22 Terence Thornberry, Race, Socioeconomic Status and Sentencing in the Juvenile Justice System, 64 J. CRIM. L. & CRIMINOLOGY 90, 96 (1973).


and Delinquency: Predictions and Outcomes of Police-Juvenile Encounters, 22 SOC. PROBS. 367, 368-83 (1975); Herbert Jacob, Black and White Perceptions of Justice in the City, 6 LAW & SOC’Y REV. 69, 69-90 (1971).


39 The essential theory of community policing is the basis of Police Athletic Leagues, which operate unevenly across the U.S. A recent study of the impact of these leagues showed change in officers’ response to youth, but not vice versa, see Dana Rabois & David A. F. Haaga, Facilitating Police-Minority Youth Attitude Change: The Effects of Cooperation within a Competitive Context and Exposure to Typical Exemplars, 30 J. COMMUNITY PSYCHOL. 189 (2002).


41 Goleman, supra note 10.

42 Eve Bender, Justice System Ill Equipped to Treat Mentally Ill Youth, 37 PSYCHIATRIC NEWS 17, 17 (Dec. 2002). For more information, see, National Center for Mental Health & Juvenile Justice, at www.ncmjjh.org.


45 CITIZENS FOR JUVENILE JUSTICE, ISSUE BRIEFING: DSS GATEWAY TO JUVENILE CRIME (2000).

46 This issue has been extensively explored. See GEOFFREY CANADA, FIST, STICK, KNIFE, GUN, (Beacon Press 1995); GEOFFREY CANADA, REACHING OUT FOR MANHOOD (1998); JAMES GARBARINO, RAISING CHILDREN IN A SOCIA LLY TOXIC ENVIRONMENT (Jossey-Bass Publishers 1995); MIKE A. MALES, FRAMING YOUTH (ME Common Courage Press 1999); DEBORAH PROTHROW-STTH & HARVEY SPIVAK, MURDER IS NO ACCIDENT: UNDERSTANDING AND PREVENTING YOUTH VIOLENCE IN AMERICA (2004); DEBORAH PROTHROW-STTH & HARVEY SPIVAK, SUGAR AND SPICE AND NO LONGER NICE: PREVENTING VIOLENCE AMONG GIRLS (Jossey-Bass Inc. 2005); LEONARD SAX, BOYS ADrift, (New York: Basic Books 2007); THINGS GET HECTIC (P. Kay et al., eds, 1999).

47 Notably, European youths’ vision of their

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position—sandwiched between a lack of economic opportunity and militaristic police forces—results in explosions and the expression of their rage when an unarmed youth has been shot by the police. In Paris, it was the Malian immigrant sixteen-year-old who ran from the police and was electrocuted when he took shelter near an electrical generator. In Athens, it was when a special police unit fired a warning shot which ricocheted and killed a fifteen-year-old; rioting went on for weeks. See Valia Kaimaki, Mass Uprising of Greece’s Youth, LE MONDE DIPLOMATIQUE, Jan. 2009, at 7; Laurent Bonelli, Classes Dangereuses, LE MONDE DIPLOMATIQUE, Mar. 2008, at 10; Elsa Vigoureux, Le Peril Jaune, LE NOUVEL OBSERVATEUR, Dec. 2008, at 24.


53 The focus on use of force espoused by the National Association of School Resource Officers was evident in February 2009 by the NASRO home page’s offer of SRO Active Shooter Training Programs. Notably, lessons on shooting or “bringing down” student shooters was also offered to SROs and teachers throughout the U.S. through SAMSHA in spring 2008. NASRO, http://nasro.mobi/cms (last visited Sept. 23, 2009).

54 Heather Cobb, Separate and Unequal: The Disparate Impact of School-Based Referrals to Juvenile Court, 44 HARV. C.R.-C.L. L. REV., 581, at 584 (2009).


56 AMERICAN CIVIL LIBERTIES UNION & AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, HARD


58 Gatti, et al., supra note 57.

59 SICKMUND, supra note 1.

60 These trainings were funded by the U.S. Department of Justice and presented by the International Association of Chiefs of Police. The workshops were advertised as being “designed to equip law enforcement first responders with effective responses to situations that involve contact with girls aged 12-17 who may be suspects, offenders or victims. Through lecture, interactive discussions and exercises, law enforcement officers will learn strategies they can use to increase positive interactions with and decrease the arrest or incarceration of adolescent girls who may be at-risk of or involved in status or juvenile delinquent behavior.” http://www.theiacp.org/About/WhatsNew/tabid/459/Default.aspx?id=1166&v=1


62 The 2009 Policy Recommendations of La Raza, the country’s largest constituency-based advocacy organization for Latinos, made treatment of Latino youth one of its priorities: “Throughout the United States, Latino youth in particular are targeted for severe punishment at the hands of the juvenile justice system and in every stage of the process, including police stops, arrest, detention, waiver to adult criminal court, and sentencing. Moreover, many Latino youth are unnecessarily confined instead of being diverted into community-based programs. These problems are compounded by the lack of adequate data collection, making Latino youth invisible in the justice system.” NASRO, http://nasro.mobi/cms (last visited March 28, 2009).

63 Survey of Student Attitudes towards Police, conducted by the Juvenile Justice Center, Suffolk Law School, in Everett High School in 2005 and Cambridge Rindge and Latin School in 2006 and analyzed by the Center for Crime and Justice Policy Research.


Id. Spencer notes that understanding these behaviors will assist in addressing them: "Understanding the complex, nuanced nature of coping responses such as hyper-masculinity is a key step in designing targeted interventions and policies to mitigate risk and promote resilience. This understanding must include not only an assessment of risk but also an appraisal of social supports and a precise analysis of how these can contribute to resilience." Id. at 241. Thus, her study found, specifically, age (being older), extremely low household income, and ethnicity function as risks associated with specific coping methods: hypermasculine attitudes and low positive attitudes about self. Similarly, as a system of adaptations, low positive self-attitudes reinforce the deployment of reactive "hypermasculine coping methods." Id. at 251.


Chief Harold Hurt, Address at the Int'l Ass’n of Chiefs of Police Convention: Policing Teens: What Police Need to Know about Disproportionate Minority Contact and How to Address it in their Jurisdictions (Nov. 10, 2008).

Conn. Gen. Stat. § 7-294h (1995), (provides that Police Officer Standards and Training Council must provide officers 14 hours of training in "techniques for handling incidents involving juveniles" including "information regarding resources of the juvenile justice system in the state" a minimum of 14 hours); Conn. Gen. Stat. § 7-294y (requires each police department to have a written policy regarding the handling and processing of juvenile matters for arrests, referrals, diversion and detention).

Uberto, et al., *supra* note 57.

Id.

Such protections include requiring the presence of a concerned adult during a custodial interrogation of a youth under the age of fourteen, interrogation practices that provide more breaks and the presence of an "interested adult," reading the Miranda protections and ascertaining whether a juvenile has the competence to understand them, and prohibition on the use of tricks and deceit to obtain confessions.

See People v. Dilworth, 661 N.E.2d 310, 313-16, 318 (1995) (school resource officer on staff of alternative school could conducted searches of students for contraband in furtherance of school safety on a lesser fourth amendment standard of suspicion and without obligation to Mirandaize students who he searched); In re William V., 4 Cal. Rptr. 3d 695, 695 (Cal. Ct. App. 2003) (police officers assigned to high schools were school officials and not officers for purposes of fourth amendment and could initiate searches with lower level of suspicion and without obligation to give Miranda protections); Shade v. City of Farmington, 309 F.3d 1034, 1059-61 (8th Cir. 2002) (police search of youth outside of school did not require Miranda warnings or higher standard of suspicion to justify search because youth were in custody of teacher and not police); T.S. v. State, 863 N.E.2d 362, 367-69 (Ind. Ct. App. 2007) (police officer hired by state’s public schools police force did not have to meet same standards for reasonableness for searches or providing Miranda protections as "outside" police officer); see also, In re Josue T., 989 P.2d 431 (N.M. Ct. App. 1999) and Vassallo v. Lando, 591 F. Supp. 2d 172 (E.D.N.Y. 2008).

See Ronnie Casella, Punishing Dangerousness Through Preventive Detention: Examining the Institutional Link between Schools and Prisons, Address at the Civil Rights Project Conference on the School to Prison Pipeline (2003), available at http://uex.sagepub.com/cgi/reprint/42/6/536.pdf; see also Annette Fuentez, Discipline and Punish: Zero Tolerance Policies Have Created a 'Lockdown Environment' in Schools, The Nation, Dec. 15, 2003., (quoting Judith Browne of the Advancement Project, as saying: "We're seeing very minor conduct becoming a criminal act. Things a police officer might not arrest someone for in a bar fight, we're seeing schools calling in police to make arrests for....It could be a student who refuses to sit down in class, or the spitball," she said. "In addition to getting the three-to-five-day suspension, these kids are getting arrested."); ADVANCEMENT PROJECT, ET AL., EDUCATION ON LOCKDOWN THE SCHOOLHOUSE TO JAILHOUSE TRACK (2005), available at http://www.advancementproject.org/reports/FINALEOLrep.pdf; ADVANCEMENT PROJECT & CIVIL RIGHTS PROJECT, OPPORTUNITIES SUSPENDED (June 2000), available at www.civilrightsproject.ucla.edu/research/.../exec_summary.pdf.

NASRO reportedly does not offer training on child or adolescent development, or tactics used by psychiatrists to de-escalate conflicts with children and youth, nor does it train officers how to recognize mental health issues. Such trainings focus on "helping the patrol officer transfer from the street to the school." Most officers attend only a single forty hour session of NASRO programming which includes a range of subjects ranging juvenile law to stopping school shooters. It is estimated that there are 21,000 school resource officers in the United States; it is unclear how many have received formal training. NASRO has 8,000 dues paying members. Telephone Interview by Charles Hamilton Houston Institute with Richard Castor, Executive Director, NASRO (Feb. 2, 2009). For more information on NASRO, see www.nasro.org.

Tests to understand the impact of implicit assumptions in decision making processes has become
something of a cottage industry. Strategies for Youth has recommended officers take the tests available at www.implicit.org. Harvard University’s Project Implicit officers an array of tests as well as the theory behind the tests’ creation. Implicit Assoc. Test by Project Implicit, available at https://implicit.harvard.edu/implicit.

77 For analysis of how decision making is determined by “ladders of inference,” analysis of action science, or how workers and managers face situations, see CHRISTOPHER ARYGIRIS, FLAWED ADVICE AND THE MANAGEMENT TRAP: HOW MANAGERS CAN KNOW WHEN THEY’RE GETTING GOOD ADVICE AND WHEN THEY’RE NOT, 196-97 (Oxford University Press 2000). The following excerpt from Reasoning, Learning and Action, offers a snapshot of his theory which could be useful for training police. “Typically there are many layers of inference among the data, the experience, and the recommended action or choice. This phenomenon can be illustrated on the ladder of inference. This change of logic must be made explicit and subjected to testing by the other members of the management team who may have alternative points of view. By vetting the logic in an open and challenging discussion, the logic chain is validated and a robust choice results.” CHRIS ARGYRIS, REASONING, LEARNING, AND ACTION, Chapter 20 (Joessey-Bass Publishers 1983). Most notably, it is exactly this kind of examination of this particular aspect of the decision making process that Arthur Garrison’s concluded was required for attaining a better understanding of disproportionate minority arrest: “Therefore, it is the process of the officer formulating his or her point of view that is important to study.” Garrison, supra note 38, at 61.


80 The literature is rife with examples of police supporting private and governmental economic development that has a harmful effect on impoverished people; the converse is rare. One organization, Fight Crime, Invest in Kids, does make the connection between the economics of children’s lives and crime. Composed of over 3,000 police chiefs, sheriffs, prosecutors, other law enforcement leaders, this group’s mission “focuses on high quality early education programs, prevention of child abuse and neglect, after-school programs for children and teens, and interventions to get troubled kids back on track.” It would be interesting to research how these chiefs’ commitment to social investment is paralleled by their approaches to policing youth.


82 These observations of youth come from the author’s experience playing Juvenile Justice Jeopardy with nearly 3000 youth in the metropolitan Boston area from 2003 to the present. As part of this game, youth are asked to explain what their rights are, whether they must consent to searches, whether they may remain silent while being interrogated, etc.

83 Juvenile Justice Jeopardy is a game invented by the author to discuss how the juvenile justice system works. One of the five segments of the game focuses on interactions with police.


85 Straub, supra note 12, at 64-65.

86 For a summary of these efforts, see MBTA Training Effort, NEWS FROM THE CENTER (Suffolk University Law School Juvenile Justice System), June 2007, at 7.


88 Graham and Lowery, supra note 36, at 501.


91 See SACRAMENTO COUNTY PROBATION DAY REPORTING CENTER COST ANALYSIS, available at http://www.elsconsulting.com/DRCCostAnalysis Final.pdf. The data can be found in this study of a juvenile probation daily report center program. In April 2009, Roseville, California found the costs of arrests so onerous that it began charging all defendants $150 to defray the $400/person arrest cost amounting to $22,000 monthly and over $2 million annually.


94 SICKMUND, supra note 1.

95 ERIKA GEBO, PROBATION VIOLATION PILOT STUDY, FINAL REPORT, (Suffolk University Center for Crime and Justice Policy Research, March 2009).

96 See, e.g., POLICE CHIEF MAG. in Sept., Nov., and Dec. 2008 for prime examples of such thinking.
97 See Donald J. Black & Albert J. Reiss, Jr., Police Control of Juveniles, 35 AM. SOC. REV. 63 (1970) (finding that “mobilization of police control juveniles is then overwhelming a reactive rather than a proactive process”); David J. Bordua & Larry L. Tiff, Citizen Interviews, Organizational Feedback, and Police-Community Relations Decisions, 6 LAW & SOC’Y REV. 155 (1971) (officers’ failure to initiate stops courteously and give explanations for contact are critical to positive relations with youth and undermines perception that stops are legitimate); John P. Clark, Isolation of the Police: A Comparison of the British and American Situations, 56 THE J.CRIM. L. & CRIMINOLOGY & POLICE SCI. 307 (1965) (isolation of American police from relationship building opportunities with youth increases arrests and is “dysfunctional” in addressing juvenile delinquency); Dale Danner & Russell K. Schutt, Race and Juvenile Justice Processing in Court and Police Agencies, 87 AM. J. OF SOC. 113 (1982) (race is a more important predictor of police dispositions than court dispositions); Irving Pilavin & Scott Briar, Police Encounters with Juveniles, 70 AM. J. OF SOC. 206 (1964) (inferences police draw about youth from their demeanor leads to police action without hard evidence of wrong doing); Ilana Hadar & John R. Snortum, The Eye of the Beholder: Differential Perceptions of Policy by the Police and the Public, 2 CRIM. JUST. & BEHAV. 37 (1975) (police and youth both feel persecuted; authors recommend community policing approaches and relationship building efforts to decrease isolation of officers and increase their knowledge of the communities they police to reduce complaints); Harlan Hahn, Ghetto Assessments of Police Protection and Authority, 6 LAW & SOC’Y REV. 183 (1971) (to gain trust and cooperation of communities where police treatment has been called into question, police departments should focus officers—who typically deprecate such activity—on opportunities to provide services “that offer direct and tangible personal benefits” to promote benefits).


100 Under President Obama’s Stimulus plan enacted in February 2009, $1 billion was allocated to local policing efforts for Community Oriented Policing Services (COPS) programs.