

*Book Review***How Structural Racism Works***The Rage of Innocence: How America Criminalizes Black Youth*

by Kristin Henning

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*Reviewed by Lisa Thurau**

Want to understand how structural racism works? How race robs Black youth of the American dream?

If so, then *The Rage of Innocence: How America Criminalizes Black Youth* by Kristin Henning is necessary reading. Henning, from her frontline position as a juvenile defender in Washington, D.C. for the last 25 years, offers a description of law enforcement's success in criminalizing youth based on their race. Her expertise has made her the leading scholar and nationally recognized trainer for juvenile defenders integrating race in their defense of youth.

Henning's book is rich in examples from defense practice, and her insights into how Black youth perceive the world and the options presented to them. Her analyses rest on both her experience and the distillation of a voluminous amount of wide-ranging research supporting the inexorable conclusion that the current approach to policing Black youth too often embraces a racially determined double standard that results in destructive, illegitimate, and illegal outcomes for many youth.

As someone who works to reform and train police officers to interact with youth in such a way as to make arrest a matter of last resort, I am grateful that one book so neatly refutes, through individual cases and mountains of data, the cliché I so often I hear, "Well, if they were arrested, they must have done something." Or law enforcement officers who say, "Fear is the only thing they understand." Too often I am met with disbelief from members of the general public that some law enforcement officers and some agencies so routinely devalue, derail, and destroy young people's lives—without justification.

I'm going to focus my review on three aspects of her book—how identity is

policed, how street interactions should remove any belief that youth have rights, and the role of chronic stress and exposure to trauma on youths' views and interactions with police. These topics are not given sufficient attention in the national media or in discussions of how police/youth interactions escalate into use of force and sometimes death. With the advent of cell phone footage, and the murder of George Floyd, it has become harder for Americans to deny these realities or to assume they belong to another age, has declined. Henning's book offers an in-depth examination of how Black youth in particular, in cities like Washington, D.C. or Chicago, and in small towns like San Marcos, Texas experience the "day to day brutalities of American policing [that] remain largely hidden from public view."

The brutality may not always result in death, but it definitely wounds Black youth. It keeps them off guard, anxious, and hypervigilant about the next possibly degrading or deadly encounter and confirms their worst fears of just how vulnerable and defenseless they are.¹

¹ Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014–2017, A. Geller, *Am J Public Health*, 2021; Geller, et al. Aggressive Policing and the Mental Health of Young Urban Men, *Am J Public Health*. 104(12): 2321–2327 (2014); Mental Health Consequences of Racial/Ethnic Disparities in Policing Among Adolescents in the U.S. and the U.K., *American Journal of Public Health*, 111 (2021); Bacher-Hicks, A. and de la Campa, E. Social Costs of Proactive Policing: The Impact of NYC's Stop and Frisk Program on Educational Attainment, 2020; Coming of Age with Stop and Frisk: Experiences, Self-Perceptions, and Public Safety Implications, Vera Institute, September 2013; When Policing Youth, Honey Works Better Than Vinegar, L. H. Thurau and Adam D. Fine, *The Crime Report*, January 20, 2021; Legewie, J. Aggressive Policing and the Educational Performance of Minority Youth, *American Sociological Review*, 84(2): 220–247 (2019); Amanda Geller, 2017. "Policing America's Children: Police Contact and Consequences Among Teens in Fragile Families." <https://ideas.repec.org/p/prj/crcwel/wp18-02-ff.html>; Working Papers wp18-02-ff, Princeton University, School of Public and International Affairs, Center for Research on Child Wellbeing. <https://ideas.repec.org/s/prj/crcwel.html>.

It also drives some Black youth into the very activities law enforcement seeks to stop in the name of public safety. The impact of such negative interactions is as profound as it is prevalent.² ChildTrends issued a paper in September 2022 expanding the list of adverse childhood experiences to include "adverse police contact."³

This predatory kind of policing, by which law enforcement takes advantage of young people's vulnerability, also occurs in small towns. I remember being in West Monroe, Louisiana where children were routinely arrested for walking in the street. A juvenile defender there refused to sit with any member of the police force or the prosecutor's office to help us create a Juvenile Justice Jeopardy game for kids there. Why? I asked. "That is the number one reason for arresting kids and this town has no sidewalks," he shouted. The cynicism of such policing conduct, and the helplessness of the kids in its maw, inexorably leads to the conclusion that race matters more than any kind of criminal conduct.

And lest you think this is just about the south, consider the recent results of the Office of Child Advocate's review of arrests in Massachusetts. Released in early November 2022, the OCA 2021 data showed that Black youth were "over 3 times more likely to be the subject of an application for complaint" and police responded by arresting Black kids 4 times more than they did white youth for similar charges; white youth instead received a paper summons. And no, the severity

² Geller, et al. Aggressive Policing and the Mental Health of Young Urban Men, *Am J Public Health*. 104(12): 2321–2327 (2014). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4232139/22> Bacher-Hicks, A. and de la Campa, E. Social Costs of Proactive Policing: The Impact of NYC's Stop and Frisk Program on Educational Attainment, 2020.

³ Reducing Adverse Police Contact Would Heal Wounds for Children & Their Communities, Victor St. John et al., *Child Trends*, June 2022.

See INNOCENCE, next page

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INNOCENCE, from page 3

of the offenses committed by Black youth could not fully explain these disparities in police decisions. The officers' responses certainly explained the difference in the disproportionate levels of trauma experienced by Black youth at the hands of police in Massachusetts.

Henning's book, based on rigorous and wide-ranging research, demonstrates the short- and long-term harm that policing by overwhelming and controlling youth, showing them who's in charge, denying them a voice and the benefit of the doubt, fails to serve law enforcement's mission or public safety.

Her main goal is to show how, through seemingly benign laws and certain policing practices, race becomes the sole focus

no hoods law enacted to ban the KKK, have been perversely used to arrest Black youth for wearing sweatshirt hoodies.

Noting how rarely law enforcement responds to older white youth engaging in much more serious behaviors demonstrates how the disproportionality of the response can best be understood as a need to subjugate Black youth. She systematically describes how Black identity from clothing to music—all too routinely appropriated and adopted by white youth with no consequences—leads police to criminalize Black youth. Henning compares how the uniform of Black youth—hoodies, or white t-shirts and sagging shorts—becomes justification for investigatory stops by police while white youth dressed like Goths or fraternity partygoers aren't treated as a risk much less subject to the same levels of surveillance.

Animated by conduct that is hard to characterize as anything else but the need to show Black youth who's in charge, race becomes the sole focus of policing.

of policing, animated by conduct that is hard to characterize as anything else but the need to subjugate Black youth. If you wonder whether Henning's claims are overstated, you only need look at the number of times law enforcement treats parents the same way—for instance, handcuffing parents of Black children killed by the police in the back of patrol vehicles, while police investigate.⁴

Black Identity: Provocation for Arrest

Henning demonstrates how features of Black identity—hair styles, clothes, music, socializing—trigger suspicion and perceptions of threat that result in wildly over-reactive responses of law enforcement, ultimately putting Black youth at risk. She also demonstrates how laws that appear neutral or racially beneficial on their face, like the Washington, D.C.

She also demonstrates how possession of certain items, like cell phones or toy guns, viewed as harmless in the hands of white kids become dangerous tools of destruction when held by a Black youth. Music is a major source of identity for youth. When the music is hip hop, it becomes evidence to suspect Black youth; country music, which is as misogynistic and openly racist, is never in the news as a way of understanding bad behaviors, such as domestic violence, among white youth.

Henning's book goes one step further, frequently offering explanations of how Black youth try to navigate the unending double standards they face. Black youth are routinely viewed as older and therefore more culpable⁵, and because they are assumed to be older they are also assumed to be more streetwise and knowledgeable. Even when officers are reminded they are children⁶ they

disproportionately experience force, restraints, and pepper spray.⁷ She concludes that “racial identity becomes the most important organizing principles in their lives, often surpassing gender, religion and socioeconomic class” (at 114).

The vicious irony of how racial identity now overrides all features is a reflection of how these forms of policing have made Black youth and communities conclude that segregation is safer.

Being Policed in the Streets: Damned If You Do and Damned If You Don't

Henning's descriptions of her young clients' encounters with law enforcement in Washington, D.C. demonstrate trends that other researchers have tracked for years. While many advocates and researchers focus exclusively on the impacts of police in school, as though that's the only place youth encounter police, Henning thankfully focuses extensively on what's happening on our nation's streets.

She describes the surveillance and overuse of investigatory stops, which are rightfully described as pretextual since they are not based on any observable legal reason for the stop. Probably the most typical stop is for “walking while Black” in neighborhoods where “you don't belong.” But Henning's description of the case of Andre and James, walking down a street in their “own” neighborhood in D.C. also describes these pernicious stops.

When the boys are stopped by police, they are asked if they heard gunshots. The boys are cooperative and polite, and say “no.” What happens next is something many youth have recounted to me and depicts the vise they're in. The officers ask them to show their waists, they do. Then officers ask if they can search them. Four officers jump out of the car and surround them. Andre and James could

temporary Issues in Juvenile Justice, Nov. 2021, Vol. 11, No. 1; “School policing falls hardest on Black students and those with disabilities, study shows,” Corey Mitchell, Joe Yerardi and Susan Ferriss, Center for Public Integrity, USA Today, September 8, 2021.

⁷ A search of the Centers for Disease Control Web-based Injury Statistics Query and Reporting System finds that 172,472 children aged 5 to 18 were brought to emergency rooms for nonfatal injuries resulting from legal interventions between 2001 and 2020, <https://wisqars.cdc.gov/cgi-bin/broker.exe>

See *INNOCENCE*, page 14

⁴ “Mississippi police shoot black teenager in the head outside store,” *The Guardian*, Oct. 10, 2022; “The wrong decision”: Texas DPS says local police made crucial error as school shooting continued,” *The Texas Tribune*, Joshua Fechter and Reese Oxner, May 27, 2022; “Tamir Rice's teen sister ‘tackled,’ handcuffed after his shooting, mom says,” Elliott McLaughlin, CNN, December 9, 2014.

⁵ *The Essence of Innocence: Consequences of Dehumanizing Black Children*, P.A. Goff et al., *Journal of Personality and Social Psychology*, 2014, Vol. 106, No. 4, 526–545, 2014.

⁶ *Catch and Stun: The Use and Abuse of Conducted Electrical Weapons Used on Youth*, published by Strategies for Youth, January 2022, at 9; “The Overrepresentation of Youth with Disabilities in the Juvenile Justice System,” Keidra McGriff, Con-

INNOCENCE, from page 4

say no. But that would escalate officers' suspicion or trigger another reason to arrest them and certainly prolong the interaction. Or the boys could say yes, which would mean that anything illegal they had on them, would be found and lead to arrest.

Is this true due process? Do youth have rights? Not seeing any here. Neither did the U.S. Supreme Court in *JDB v. North Carolina* (2011) where the majority noted that children are most susceptible to influence, and therefore unlikely to feel "free to leave" the way an adult might—and an officer would be likely to accept.

Henning's multiple examples demonstrate the paucity of evidence leading to these stops and the abundance of charges heaped on youth. Andre didn't consent to the search; he deferred to four large police officers because he reasonably

to settle "on a negative identity when they have been rejected or ignored after trying their best to receive positive feedback from adults..." (p. 213). The impacts on youth cannot be understated. Several studies Henning cites describe the impact of being subject to or observing such police conduct resulting in "emotional distress during the stop and post-traumatic stress after the stop" (p. 214).

"Contempt of Cop" Arrests

Henning also provides a major examination of how "contempt of cop arrests"⁸ result in minor interactions escalating into arrests and charges. When youth question an officer's efforts to stop them, the speed at which such interactions can devolve from a verbal interaction into an officer's use of force or decision to arrest increases young people's fear. As the girlfriend of the youth charged with "obstruction of justice" said, "I don't know how we got here. One minute we

And the *speed* at which the escalation and "laying on of hands" occurs reflects again the profound role of racial bias in police response. Take Tamir Rice's case. As he is standing in a playground, Officer Loehman arrives and shoots before getting out of the car—on the presumption that if someone is Black, they must be holding a gun. When that officer called the shooting in, he said "20 year old Black male down."

Some officers perceive disrespect when youth run away from police. The running both confirms the guilt and triggers an officer's belief that he needs to control the situation. Asking children to manage their behavior so that officers don't perceive "contempt" is obscene. Asking officers to understand that youth who are scared are going to speak more slowly, stutter, look away, is only reasonable.

At Strategies for Youth (SFY), before we begin a training, we look for evidence of "contempt of cop arrests" in arrest data, as a metric of the need for officer training. Looking at federal data on juvenile arrests, we have previously estimated that about 40% of juvenile arrests appear to be related to "contempt" for bad behavior during the interaction, or for refusing to stop the behavior the officer wants stopped. Sometimes, the contempt can be as simple as a question, like "Why?" or an assertion of rights.¹⁰

A major focus of SFY's police trainings on trauma focuses on how much fear looks like "guilt." We urge officers to recognize the inherent trauma in any interaction with police for Black youth, including transgenerational trauma, officers' treatment of their families, their communities, and what they see on social media. Why don't officers assume that youth enter such interactions in a state of anxiety?

A glimmer of hope from Cleveland indicated a rejection of past policing practices there. In its new youth

Predatory policing flourishes when there's little oversight, when there's a perception that this is the best way to "keep kids in line" and that public safety requires such tactics.

perceived he had no choice. As Henning notes, "Black children live in a perpetual Catch 22. They are beaten or killed if they have the audacity to stand their ground and resist. They are presumed guilty if they exercise their right to run or walk away. They are emotionally debilitated if they submit or comply" (at 163).

I use the term predatory policing to convey that, like predators, officers often take advantage of youth's weakness, their ignorance of their rights or willingness to waive them, their understanding that if they do insist on their rights such an assertion will escalate the situation, and their readiness to concede to demands and accept the assertion of another's power as the best path to survival.

This kind of policing flourishes when there's little oversight, there's a perception that this is the best way to "keep kids in line," and that public safety requires such tactics. This kind of policing generates youth who are sure that they will always be viewed as criminals, no matter what they do, and leads them to conclude that all police want them incarcerated. Worse yet, this vicious cycle encourages some youth

were walking into the Metro station, talking and laughing, and the next thing I know there were two police officers in front of us. They went from 0 to 100 in a matter of seconds."

Contempt is in the eye of the beholder. Based on what we see in the pre-training evaluations we circulate to officers asking them to describe youth, many officers are predisposed to find youth disrespectful and contemptuous and deserving of contempt in return. Surely some youth enjoy antagonizing officers. But too often, officers who are not trained to work with young people misinterpret cognitive and developmental disabilities, deafness, or fear as disrespect, which can lead to terrible consequences including the use of force.⁹

⁸ Disorderly (mis) Conduct: The Problem with 'Contempt of Cop' Arrests, Christy Lopez, American Constitutional Society, June 7, 2010.

⁹ "9-year-old girl's brutal treatment at hands of police shows dangerous lapse in policy. *While she cried for her father, police pepper-sprayed and forced her into a patrol car. This girl isn't alone, and states need procedures to protect them.*" USA Today, Feb. 4, 2021; "Family of infant pepper sprayed by Refugio

police speaks out," Alanis Taylor, KRIS6, Oct. 21, 2021; Girl pepper sprayed by Hagerstown police apologizes, Dan Dearth, Herald-Mail, Oct. 6, 2016; "Tiny wrists in cuffs: How police use force against children," Associated Press, Helen Wiffering, Colleen Long, and Camille Fasset, Oct. 20, 2021.

¹⁰ "When Asking 'Why Me?' Means Disorderly Conduct," Lisa H. Thureau, *Youth Today*, September 1, 2009.

See *INNOCENCE*, next page

INNOCENCE, from page 14

interactions policy¹¹ issued in May 2021, the following trauma-informed directive for investigatory stops prohibits officers to claim young people's normative responses to the arrival of officers is sufficient evidence for giving chase—in the absence of a crime:

Investigatory Stops

A. In addition to the provisions set in GPO 2.02.02, Investigatory Stops, officers shall be aware of the potential behavioral response youth may employ that can impact the direction of an investigative stop in unintended ways. These responses may include but are not limited to: 1. Fleeing 2. Verbal challenges 3. Freezing or unexpected non-responsiveness 4. Outright disregard for police directives 5. Presumption of mistreatments

B. Behavioral responses alone cannot provide the basis for probable cause.

If the U.S. wants to demonstrate its commitment to racial justice, this policy on investigatory stops, enacted as part of the USDOJ Consent Decree, should be a national model.

Trauma

Henning explains why, growing up in these circumstances, some youth become alienated, some start carrying guns, and others simply give up. The level of fear some youth live in of police presents a debilitating gauntlet.

Henning also shows how the trauma produced by these interactions sometimes leads to conduct that gets youth more system-involved.

She demonstrates how such policing treatment is criminogenic in nature, both from examples of her clients and by invoking two very important studies on this topic by Wiley and Finn-Esbensen¹² and DeToro¹³. First because youth

perceive there is no incentive for “being good” if all youth of color are stopped and investigated on the assumption they are criminal. Second, when they perceive that asking police for assistance will harm them in this “righteous” role, too. Third, the trauma inherently leads to responses that appear excessive, resulting from hypervigilance and the perception that at any moment one must act to protect oneself, to survive, because of the life and death nature of so many situations.

So many responses to trauma further imperil youth and put them at risk of system involvement—from using drugs/alcohol to numb their fear and anxiety, boundary-testing and risk-taking to trigger the fall of the next hammer; and resistance and expression of contempt to police. Perhaps the least understood aspect of trauma is how it depresses some youth, resigns them to the conclusion that there is “no safe place” for them in many parts of America.

Reason to Hope

SFY's mission has been to close two enormous gaps in American policing: 1) the lack of developmentally appropriate, trauma-informed, racially equitable trainings of officers to interact with youth effectively, making arrest and use of force a last resort; and 2) create policies that distinguish youth from adults to guide officers to use developmentally appropriate responses, and to hold them responsible for their interactions with youth.

In the absence of such structural reforms, we must rely on young people's resilience. And my oh my, are they resilient and often very gracious! When describing officers' treatment of them, I frequently heard young people say, ‘He was probably just having a bad day.’ Their capacity to find humor and joy, to forgive and try again, is both a hallmark of youth and incredibly regenerative. Young people's voices and activism continue to be a source of inspiration and hope, often leading to conversations that make adults think about the need to act.

Henning also details myriad legislative efforts to address racism in policing. Across the country new legislation is being enacted to protect youth, such as legislation to protect youth during custodial interrogations by mandating the presence of parents and attorneys and prohibiting the use of deceit.

Even better, some law enforcement leaders and officers are “just saying no.”

They are standing up against profiling by proxy—neighbors seeking to have police deal with youth of color who are doing nothing. Since advocates began focusing on this kind of profiling, the number of officers who are being fired and prosecuted for unreasonable and excessive use of force has dramatically increased.

In the meantime, those of us who have the luxury to avoid such interactions because we are white and wealthy need to consider what Black youth are experiencing and demand more of law enforcement agencies—more training, more developmentally appropriate and trauma-informed policies, more alternatives to arrest, more mental health supports. These reforms will necessarily also help white youth, especially those living in poverty and chaos, who experience some of the same kinds of over-policing, ignorance of trauma, and the need for equipping officers with additional skills and systems with alternatives to arrest.

Focusing on the gatekeepers to the juvenile justice system is the ignored and critical first step to addressing who is in it and harmed by it. Yet most reform efforts focus on post-arrest agendas.

Kids Are Priority Only When They're a Problem

Too often, the realization of the need to do something by those of us not on the frontlines comes too late. SFY, Cleveland's many youth advocates and Chief Williams of the Cleveland Division of Police, begged for funding from government sources and private foundations to enable us to train officers in 2014. On November 23, Tamir Rice was killed.

Why was equipping officers to interact effectively with youth no one's priority until a 12 year old child died?

In early 2015, after we began work in Cleveland, I saw a friend and her 12 year old son driving by. She stopped to chat. She, like me, is white and we both live in a middle class neighborhood. She asked her son to show me what she had just bought him for getting good grades.

He held up a toy pistol set, with caps. At the bottom of the packaging was written, *For safety, only use outside; do not use inside.*

I thought of how I, and others, immediately criticized Tamir's mother for giving him a toy gun (which she had not) instead of criticizing the enduring and ugly fact that the rules for white and Black children remain as different as night and day. ■

¹¹ General Police Order: Interactions With Youth. Calvin D. Williams, Chief, Cleveland Division of Police. February 2, 2021.

¹² “The Unintended Consequences of Being Stopped or Arrested: An Exploration of the Labeling Mechanisms Through Which Police Contact Leads to Subsequent Delinquency,” S.A. Wiley, L.A. Slocum, F.A. Esbensen, *Criminology*, Oct. 2013.

¹³ “The criminogenic and psychological effects of police stops on adolescent black and Latino boys,” DeToro et al., *Proceedings of National Academy of Sciences*, 2019.



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