

ANNOTATED BIBLIOGRAPHY: HUMANIZING YOUTH OF COLOR & CHALLENGING ADULTIFICATION, TRANSFER, & SEVERE SENTENCES

The resources in this annotated bibliography were compiled as part of the December 2022 session of the Racial Justice Training Series co-hosted by the Georgetown Juvenile Justice Clinic & Initiative and the Gault Center based on Chapter 10: The Dehumanization of Youth of Color: When the Children Aren't Children Anymore in *Rage of Innocence: How America Criminalizes Black Youth* by Kristin Henning.

In addition to Prof. Kristin Henning, this webinar featured:

- **Eric Campbell**, formerly-incarcerated founder of [SPUD, Inc.](#), which uses music to support youth to develop self-expression, mindful thinking, and decision-making skills.
- **Carmen Daughter**, [the Deputy Executive Director at Advancement Project](#), a next generation, multi-racial civil rights organization that envisions a future where people of color are free – where they can thrive, be safe and exercise power.
- **Kristen Rome**, [Co-Executive Director, Louisiana Center for Children's Rights](#), where she focuses on ending life-without-parole sentences for youth.

Watch the webinar recording for a full understanding of how these resources can help advocates end transfer to adult court, severe sentences, and the imprisonment of youth of color:

<https://www.youtube.com/watch?v=QPDXugEDE6k>

The descriptions of the resources are drawn from the linked and cited sources. They are listed in reverse chronological order.

I. Book

Kristin Henning, Chapter 10: The Dehumanization of Youth of Color: When the Children Aren't Children Anymore in *The Rage of Innocence: How America Criminalizes Black Youth*, Penguin Random House (2021).

- In Chapter 10 of *The Rage of Innocence*, Kristin Henning writes about the history, data, and research behind trying Black youth as adults and incarcerating them in adult jails and prisons.
- **About *The Rage of Innocence*:** Drawing upon twenty-five years of experience representing young people in Washington, D.C.'s juvenile courts, Henning confronts America's irrational and manufactured fears of Black youth and makes a compelling case that the nation's obsession with policing and incarcerating Black America begins with

Black children. Unlike White youth, who are afforded the freedom to test boundaries, experiment with sex and drugs, and figure out who they are and who they want to be, Black youth are seen as a threat to White America and denied the privilege of healthy adolescent development. Weaving together powerful narratives and persuasive data, Henning examines the criminalization of Black adolescent play and sexuality, the demonization of Black fashion, hair, and music, and the discriminatory impact of police in schools. *The Rage of Innocence* lays bare the long-term consequences of racism and trauma that Black children experience at the hands of police and their vigilante surrogates and explains how discriminatory and aggressive policing has socialized a generation of Black teenagers to fear and resent the police.

II. Relevant Videos

A Mother's Fight for Justice, SCSJ Communications, June 18, 2018 (2:35). Available: https://www.youtube.com/watch?time_continue=155&v=640aayLEJhc&feature=emb_logo

- In this video, Niecey Fennell's mother tells the story of how her teenage daughter died while in an adult jail.

Kalief Browder, Nightline, July 12, 2015 (3:24). Available: <https://www.youtube.com/watch?v=axR4O2Ax8vs>

- This video features an interview with Kalief Browder, who was held in solitary confinement for significant periods of time as a teenager and died by suicide after his release.

III. Fact Sheets, Data, and Policy Reports

Richard Mendel, *Why Youth Incarceration Fails: An Updated Review of the Evidence*, The Sentencing Project (November 2022). Available: <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/?emci=b9d436ba-5d76-ed11-819c-000d3a9eb474&emdi=cfa1ec97-0777-ed11-819c-000d3a9eb474&ceid=12746625>

- Incarcerating youth undermines public safety, damages young people's physical and mental health, impedes their educational and career success, and often exposes them to abuse.
- Racial and ethnic disparities in incarceration are vast and unjust. Black youth and other youth of color are incarcerated in detention centers (the equivalent of jails in the adult

justice system) at far higher rates than their white peers. Many studies have found that these disparities at detention are driven, at least in part, by biased decision-making against youth of color.

- Youth of color are also incarcerated disproportionately at the correctional phase of the juvenile court process – after they are adjudicated delinquent (found guilty of an offense). Research finds that the disparities in correctional confinement are due primarily to the cumulative impact of large disparities in early stages of justice system involvement (arrest, formal processing in court, and detention).
- Incarceration does lasting damage to young people’s health and wellbeing. Studies find that incarceration during adolescence leads to poorer health in adulthood.
- Incarceration does not reduce delinquent behavior. State-level data on recidivism consistently show that youth who are released from correctional confinement experience high rates of rearrest, new adjudications (in juvenile court) or convictions (in adult court), and reincarceration.
- Incarceration impedes young people’s success in education and employment. A number of studies show that incarceration makes it less likely that young people will graduate high school. The school re-enrollment rates of youth returning home from juvenile facilities are low. Studies find that incarceration in juvenile facilities also reduces college enrollment and completion and lowers employment and earnings in adulthood.
- Juvenile facilities are rife with maltreatment and abuse. Systemic or recurring abuses were documented in the state-funded youth correctional facilities of 29 states and the District of Columbia between 2000 and 2015. Since 2015, the stream of abuse revelations in youth incarceration facilities has continued, with alarming revelations of pervasive abuse in Florida, New Hampshire, and Texas, among other states. Surveys of currently or previously incarcerated youth reveal that many have been abused physically or sexually in their facilities by staff or peers, and that most have witnessed abuses – often repeatedly.

John Kelly, “Estimate Shows Adult Court is Increasingly Rare Destination for Youth,” *The Imprint*, November 9, 2021. Available: <https://imprintnews.org/youth-services-insider/estimate-shows-adult-court-is-increasingly-rare-destination-for-youth/60281>

- The National Center for Juvenile Justice’s recent report using 2019 data estimates that 53,000 youth were charged as adults that year, which is an 80% drop from the mid-1990s when an estimated 250,000 youth were exposed to adult criminal charges and a 30% decrease from 2015.
- This reduction is due in part to fewer number of states that automatically treat some teens under 18 as adults, no matter what.

“Racial and Ethnic Fairness: National Data show Disparities for Minority Youth at the Court Referral, Detention, Placement, and Waiver to Criminal Court Stages,” *OJJDP Statistical Briefing Book*. Released on June 22, 2021. Available:

https://www.ojjdp.gov/ojstatbb/special_topics/qa11601.asp?qaDate=2019

- In 2019, Black youth were judicially waived (transferred by a judge) at 1.5xs the rate of White youth.
- Black youth made up almost 52% of all youth judicially waived in 2019.

Natalie Chang, “This is Solitary,” *The Atlantic*, accessed December 2022. Available:

<https://www.theatlantic.com/sponsored/spike/this-is-solitary/1245/>

- This interactive multimedia piece provides data, research, and stories of youth in solitary confinement.

IV. Cases

***State of Tennessee v. Tyshon Booker*, E2018-01439-SC-R11-CD (2022)**

In *Booker*, the Tennessee Supreme Court declared unconstitutional (pursuant to the Eighth Amendment) the state’s mandatory sentencing scheme that essentially gave a “death in prison” sentence to children convicted of murder (even felony murder) in adult court. Prior to this decision, all people convicted of murder were given a life sentence with no opportunity for parole until they had served 51 years. The Tennessee Supreme Court relied on **Miller v. Alabama, 567 U.S. 460 (2012)** in determining this unconstitutional, stating “youth matters in sentencing.” Tennessee’s automatic life sentence was the harshest in the country, denying possibility for parole longer than any other state.

***Jones v. Mississippi*, 593 U.S. __ (2021)**

The United Supreme Court affirmed that state courts must follow *Miller* and *Montgomery*, but ruled that courts do not need to make an explicit statement that a child is “permanently incorrigible” before imposing a life-without-parole sentence. In her dissent, Justice Sotomayor highlights the stark racial disparities in sentencing youth to life-without-parole: 70 percent of all youths sentenced to life-without-parole are children of color. The trend has worsened since *Miller*: 72 percent of children sentenced to life-without-parole after *Miller* were Black, compared to 61 percent of children sentenced before *Miller*.

***Miller v. Alabama*, 567 U.S. 460 (2012)**

The United States Supreme Court held that the Eighth Amendment's prohibition against cruel and unusual punishment forbids the mandatory sentencing of life in prison without the possibility of parole for juvenile homicide offenders. While the Court did not prohibit life without parole sentences, it made clear that courts must consider a least five factors before imposing the sentence: 1) the child's age and immaturity, 2) the family home environment, 3) circumstances of the offense, including the role of the child and peer pressure, and (4) incapacities of youth that may have disadvantaged them in the legal system, and (5) the child's potential for rehabilitation.

***Montgomery v. Louisiana*, 577 U.S. __ (2016)**

The Court held that *Miller* applies retroactively, meaning states are required to hold new sentencing hearings for everyone serving a mandatory life-without-parole sentence for an offense when they were under age 18. The Court re-affirmed that life-without-parole sentences should be rare.

***Graham v. Florida*, 560 U.S. 48 (2010)**

The United States Supreme Court held that sentencing a person to life without parole for a non-homicide offense is unconstitutional in violation of the Eighth Amendment, if they were under age 18 at the time of the offense. When sentencing children, courts must take into account their lessened moral culpability compared with adults and their capacity for maturation and rehabilitation.

***Roper v. Simmons*, 543 U.S. 551 (2005)**

The United States Supreme Court held that it is a violation of the Eighth Amendment's prohibition of cruel and unusual punishment to execute a person for an offense that took place before they were 18 years old.

V. Empirical Research Articles

Peter S. Lehmann, *Sentencing Other People's Children: The Intersection of Race, Gender, and Juvenility in the Adult Criminal Court*, 41(5) *Journal of Crime and Justice* 553 (2018).

Purpose

- To determine whether youth of color receive harsher sentences in adult criminal cases compared to white youth or adults of any race.

Methodology

- The dataset includes people sentenced for felonies in Florida circuit courts between 1995 and 2006. The study population included 1,107,233 people ages 14-89 at the time of offense, 30,733 of whom were transferred from juvenile court.
- Researchers analyzed the data to determine the joint effects of race, gender, and age on sentencing outcomes. Sentencing outcomes examined included the decision to incarcerate (prison or jail) and the length of incarceration term. Researchers controlled for offense type.

Results

- Black, Hispanic, and male adults and youth were sentenced more harshly than whites and females.
- Youth are sentenced more severely in criminal proceedings (in terms of length of prison and jail sentences) than both young adults and older adults.
- For sentences to prison and jail sentence length, Black male youth (transferred from juvenile to adult court) are sentenced more harshly than other youth and adults.
- While Black male adults are most likely to be sentenced to jail compared to all groups, Black males ages 14-17 have a greater likelihood of receiving this sentence than youth of other races.

Relevance

- Transfer to adult court exposes Black youth to biased sentencing and additional risk of unfairly harsh punishments compared to white youth.

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

STUDY 1

Purpose

- To determine the extent to which we dehumanize Black children, testing the following hypotheses:
 - That Black boys are seen as less “childlike” than their white peers,
 - That the characteristics associated with childhood will be applied less when thinking specifically about Black boys relative to white boys, and;
 - That these trends would be exacerbated in contexts where Black males are dehumanized by associating them (implicitly) with apes.

Methodology

- 123 students from a public university participated in the study, 96% of which were female.

- Participants were asked a series of questions about how innocent children were in general without specifying race and how innocent white and Black children were.

Results

- For every age group after the age of 9 (i.e., 10 –13 through 22–25), Black children and adults were rated as significantly less innocent than white children and adults or children and adults generally. The analyses revealed no differences in ratings of innocence between white people and people generally, either within an age group or overall.

Relevance

- Supports the proposition that the general population sees Black children as less innocent than white children.

STUDY 2

Purpose

- To examine whether perceptions of innocence differed by target race and the severity of crimes committed.
- To examine whether dehumanization contributes to the perception of Black children as less innocent.

Methodology

- 59 students from a large public university participated.
- Participants were shown a series of pictures of white, Black or Latino children and were asked to estimate the child’s age, culpability, the attitude of the participant about Black people, and asked to take an IAT.

Results

- Participants overestimated the age of Black felony suspects to a greater degree than that of Black misdemeanor suspects. There was no difference in age errors between white suspects, nor between Latino suspects.
- Participants rated Black felony suspects as older than white felony suspects or Latino felony suspects, but revealed no such effects for misdemeanor suspects.
- Black felony suspects were seen as 4.53 years older than they actually were, this would mean that boys would be misperceived as legal adults at roughly the age of 13 and a half.
- Black people were rated as more culpable than Latinos, and Latinos were rated as more culpable than white people.
- Black felony suspects were viewed as significantly more culpable than either white felony suspects or Latino felony suspects.
- A simple correlation found that age errors were moderately related to ratings of culpability such that the older a child was rated, the more culpable the child was seen to be
- The dehumanization IAT significantly predicted age overestimations of Black children. The more readily participants implicitly associated Black people with apes, the higher their age overestimation for both Black misdemeanor suspects and Black felony suspects.
- The dehumanization IAT significantly predicted perceptions of the culpability of Black children. The more readily participants implicitly associated Black people with apes, the

higher their culpability ratings for both Black misdemeanor suspects.

- Implicit anti-Black dehumanization predicted ratings of white culpability in that the more participants associated apes with Black people, the less they found white targets culpable for criminal misdeeds.

Relevance

- Black children are seen as older and more culpable than their counterparts.

STUDY 3a

Purpose

- To establish if implicit dehumanization facilitates racial disparities in real-world policing contexts.

Methodology

- 60 police officers from a large urban police department participated.
- Used the same methodology as Study 2.

Results

- Participants overestimated the age of Black felony suspects to a greater degree than that of Black misdemeanor suspects, as well as all other suspects.
- White targets were rated as less culpable when associated with felonies, whereas Black targets were rated as significantly more culpable when associated with felonies. There was no difference in culpability for Latinos across crime type.
- There was a difference between white targets suspected of felonies and both Black targets and Latino targets. No differences emerged between Black and Latino felony suspects or between any misdemeanor suspects.
- The older an officer thought a child was, the more culpable that child was rated for their suspected crime.
- The more quickly participants associated Black people with apes, the higher was their age overestimation for both Black misdemeanor suspects and Black felony suspects.
- The dehumanization IAT significantly predicted perceptions of the culpability of Black children. The more readily participants implicitly associated Black people with apes, the higher were their culpability ratings for both Black misdemeanor suspects and Black felony suspects.
- Implicit dehumanization of Black people was a significant predictor of racial disparities in the use of force against child suspects, even controlling for other measures of bias. The more officers implicitly associated Black people with apes, the more officers had used force against Black children relative to children of other races.

Relevance

- Police officers are also subject to dehumanizing Black youth.

STUDY 3b

Purpose

- To replicate the findings of Study 3a with a larger sample size.

Methodology

- 116 police officers from a large police department participated in the study.
- Participants completed the ATB Scale, the personalized IAT, and the dehumanization IAT. Participants then completed a survey regarding children, age, race and culpability.

Results

- Results were the same as found in Study 3a.

Relevance

- See Study 3a.

STUDY 4

Purpose

- To establish if the presence of dehumanizing associations contributes to the racial disparities in the juvenile justice system.

Methodology

- 82 students from a large public university participated.
- Participants were primed with names of apes or of great cats.
- Participants were then asked to complete an “essentialism scale” to determine whether a population views social categories as essentialized. The scale was accompanied by a picture of a Black or white child to focus the survey taker on Black or white children.
- Participants were then asked to read crimes scenarios and to conduct an age and culpability assessment.

Results

- White children were seen as a more essentialized group than were Black children.
- The ape prime led to lower ratings of Black childhood essentialism than did the cat prime, whereas prime had no effect on the essentialism ratings of white children.
- Black targets were perceived as older than were white targets.
- After an ape prime, participants underestimated white suspects’ age when they were suspected of a felony relative to a misdemeanor, whereas Black suspects had significantly greater age overestimations when suspected of a felony relative to a misdemeanor.
- Black targets were perceived as more culpable than were white targets.
- Targets were seen as more culpable after participants were primed with apes than after they were primed with great cats.
- Similar to the patterns of age overestimation, implicit dehumanization was associated with an increased culpability gap between felony and misdemeanor suspects for Black people but was associated with the opposite for white people, leading to the perceptions of reduced culpability for white children.
- The study found a moderately strong relationship between age errors and ratings of culpability such that the older participants rated a target, the more culpable they were rated for their suspected crimes.

- Perceptions of essentialism fully explain the effect of the ape prime on the age overestimations of Black felony suspects.

Relevance

- This study offers more proof that Black children are not equally “afforded the privilege of innocence—resulting in violent inequalities.”

Anita Rattan, Cynthia S. Levine, Carol S. Dweck, Jennifer L. Eberhardt, *Race and the Fragility of the Legal Distinction Between Juveniles and Adults*, PLoS ONE 7(5)(2012).

Purpose

- This study examined whether white Americans—a group overrepresented in jury pools, the legal field, and the judiciary— would perceive juvenile status as a mitigating factor to the same degree when primed to think of Blacks versus whites. In other words, the study asked whether race influences the extent to which juveniles are viewed as less culpable than adults and, as a result, the support for a punitive policy directed at them.

Methodology

- A nationally-representative sample of 735 white Americans participated (347 males, 388 females, mean age = 50.47, SD = 16.51). Participants reviewed materials detailing that life without parole sentences for juveniles in non-homicide cases were currently under review by the Supreme Court. Embedded in the materials, participants read about a 14-year-old male with 17 prior juvenile convictions on his record who raped an elderly woman, one of the two cases that the Supreme Court selected as representative for review in order to determine the constitutionality of these sentences generally. Researchers manipulated one word in the passage about the rape—the race of the assailant—describing him as either Black or white.
- Dependent Variables: Participants were asked to rank their support of life without parole for juveniles when no victim had been killed (i.e. not at all “1” – extremely “6”). They were also asked to rank how much juveniles who committed the same crime as adults should be seen as less blameworthy (i.e. juveniles are less blameworthy than adults “1”– juveniles and adults are equally blameworthy “6”).
- Control Variables: Participants were asked to rank their feelings towards both white and Black Americans (i.e. “0” unfavorable feeling - “100” very warm feeling). They were also asked to rank their political affiliation (i.e. strong republican “1” – strong democrat “7”) and ideology extremely liberal (i.e. “1” – extremely conservative “7”) which were used to create a political attitudes composite. Finally, participants were asked about the race of the assailant from the previous passage; those who incorrectly recalled his race were excluded from the analysis.

Results

- Researchers found that participants in the Black prime condition expressed significantly more support for life without parole sentences for juveniles in non-homicide cases than did those in

the white prime condition. Similarly, participants in the Black prime condition perceived juveniles as more similar to adults in blameworthiness, than participants did in the white prime condition.

- Additionally, the degree to which participants broke down the established legal boundary between juveniles' and adults' culpability (applying a more adult standard of blameworthiness when the crime was associated with Black) accounted for their greater support for juvenile life without parole sentences in the Black prime condition.

Relevance

- These results indicate that the association of egregious or heinous crime with Black youth versus white youth can affect both policy support for harsh juvenile sentences and perceptions of juveniles' culpability relative to adults.

George S. Bridges & Sara Steen, *Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms*, 63 Am. Soc. Rev. 554, 561 (1998).

Purpose

- To determine if court officials perceive and judge minority offenders as compared to white counterparts.
- To determine if court officials perceive minorities as more likely than white youths to commit future crimes.
- To determine the perceived causes of crime by youth by the court officials making decisions.

Methodology

- The study analyzed 233 narrative reports written by probation officers in 3 counties in a western state.
- Compared narratives based on age, race and sex of the juvenile offenders; and severity of offense, pretrial detention and prior offenses to control for those variables.

Results

- Reports on Black youths were more likely to include negative internal attributions (negative personality assessments) than reports for white youth, whereas reports on white youth included more environmental attributions (blaming behavior on negative environmental factors).
- Black youths were judged to have a higher risk of reoffending than white youths.
- Probation officers were more likely to recommend sentences beyond the normal sentencing range when the report included negative internal attributions.

Relevance

- Provides evidence that probation officers are also affected by implicit bias, and offers some hints as to how to frame issues (based on environmental attributions) that may sway a probation officer's disposition recommendation.