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Volume 2

**The Annual Review of Criminal Justice Studies**  
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**Volume 2**

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زيتون )Zaythun - Olive(

“It is not the eyes  
that are blind,  
but the hearts.”

The little girl in me.  
The one who would ace every paper she wrote  
because her voice was tired of screaming,

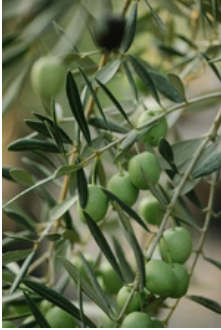
And the little girl  
who showed up to every history class early because she was eager  
to understand  
why the world was as wicked as it still is,

And the little girl  
who would be in the front seat of every law class because she  
wanted learn how to help her people overpower the oppressors;



That little girl  
is lost,  
and confused,  
and running on fumes.

That little girl  
has blossomed  
in a broken system  
that will find any means  
to hurt her people.



Palestine.  
142 days and counting. It  
is February 26th, 2024.

Long live their names.  
Long live the mothers  
who've had to clean up  
her own flesh and blood,  
showed it to the world;  
showed that her faith in God  
is stronger than the fear of the oppressor

Long live the fathers, brothers, uncles, and grandfathers who are  
pulling out the children of Gaza from under the rubble of hospitals,  
and school yards, churches and childhood homes because the weak  
and helpless were the targets.

Long live the martyred children who's only soul  
purpose in life was to show how brutal the  
oppressor truly is, and how this dunya is only a test.

May they all reunite in Jannah,  
Ameen.

“from the river to the sea,  
falestine shall be free.”

Some may see these words  
like it’s a weed;  
growing in places where it “shouldn’t be;”  
invading every inch of injustice across the globe.

Some may see a dagger;  
a dagger of a people  
who’s faith is so strong  
they stay in their homeland.  
protecting it;  
what’s left of it.

This phrase shows unity.  
resilience.  
prosperity.  
justice.  
rebellion.  
freedom.



The little girl in me.  
the first generation  
eldest daughter  
to 2 immigrant pakistani parents;  
she was so terrified of  
what she was a product of.

I was too much of “the colonizer” for my people,  
but not enough to walk the  
in the Land of the Free  
without fearing for my freedom.

I fear for my people.  
I fear for my family.  
i fear that my voice may astray so far  
that the oppressor finally silences me,  
and i am no longer.

why shall i fear  
speaking up for my people's lives  
to also know the oppressors can take mine?

take it.

if i could be with my people.  
be hand in hand with the men  
who pulled themselves together  
because they had no other choice but  
to be the hero's of the horrors.

if i could be with my people.  
be shoulder to shoulder  
with every mother of Gaza;  
help her wrap the remainings of her child  
just for her to not be able to mourn in peace  
because she must publicly cast this  
as an example for the world to see;  
to show how the world is so cruel,  
and how blind this dunya could be.

the oppressors may win the war,  
but the iman of my people,  
and the strength of the believers

and the spirit of the freedom fighters,  
and the allies of the chosen ones,  
will outshine this pain.

we will scream their names.

no army is too big,  
and no person is too small.

power to the people.  
power to palestine.

if everyone that was fighting against this occupation  
burned up as Aaron Bushnell did,  
or documented everything like  
Bisan, Motaz or every other journalist,  
or ran into an active war zone to save people  
like the doctors, and nurses of Gaza,  
Who would we have left?  
everyone would be gone.  
dead.  
turned to ashes.  
killed.

how many more deaths does it take  
to show what would happen  
if Palestine isn't free?

as an ummah,  
we are one.  
if one part of the body hurts,  
we all hurt.





Dear readers,

Welcome to the second volume of *The Annual Review of Criminal Justice Studies*, a scholarly journal dedicated to the critical analysis of crime, law, and justice systems. As faculty advisors, we have the honor of introducing this year's issue by reflecting on its unique contribution to advancing our understandings of how ideas and systems of crime, law, and justice shape broader issues of social justice in the US.

As friends and collaborators of more than a decade, we have witnessed firsthand the transformative impact of critical scholarship. Rooted in an understanding of systemic issues and challenging structural power asymmetries, critical scholarship is both a political practice and ethical responsibility. As researchers, scholars, and educators, it is incumbent on us to undo prevailing narratives, question assumptions, and confront the inherent biases within the systems that govern our lives. To put it plainly, knowledge production is not merely an academic exercise; it is a means for effecting meaningful change in the world.

Our contemporary moment—a product of long histories of inequality—is marked by debates about how the so-called criminal justice system promotes and/or denies equality, fairness, and accountability. Consequently, the need for rigorous and thoughtful analysis has never been greater. At its core, *The Annual Review of Criminal Justice Studies* serves as a venue for critical scholarship—a space where ideas are interrogated, assumptions are challenged, and new paths forward are forged.

This volume represents a collaboration between the Department of Criminal Justice Studies at San Francisco State University and the Department of Sociology at John Jay College of Criminal Justice. Over the course of the past year, students from both institutions participated in ARCJS programming that was akin to an honors seminar. Through workshops, lectures, a research symposium, and upcoming roundtable discussions at the American Society of Criminology annual meeting, these students honed their skills, built relationships, and exchanged in constructive dialogue about the complexities of criminal justice. Each author's dedication to their craft and commitment to advancing justice is evident in the depth and breadth of the analyses that follow.

The undergraduate editorial boards at both campuses worked tirelessly to bring this volume to fruition. A testament to their commitment to quality research, this volume is comprised of papers that have undergone a rigorous double-blinded peer-review, which you will find reflected in the caliber of each entry. Thus, we'd like to take this opportunity to thank Ximena Nieves, Estefany Romero, and Eduardo Hernandez from SFSU and Csja'Marie Bryan, Araceli Tapia, and Amy Zou from John Jay. Your commitment to excellence and your support for your peers exemplify the camaraderie that a better future will require.

The excellence of this volume would not be possible without the efforts of our administrative specialist, Alysia Gong, and design and layout assistant, Aleeyah Hassan. Alysia handled all correspondence, organization, and the unglamorous, but necessary, work for both teams to allow our editorial boards to focus solely on authors and content. Aleeyah brought her layout skills to demonstrate how design – both in terms of attention to accessibility and using visual arts – can advance justice in ways that complement academic research.

A special thank you is in order for our Editor-In-Chief, Claudia Lomeli-Rodriguez. Claudia's brilliance, professionalism, and leadership have been indispensable throughout the programmatic and editorial process. An author and member of last year's inaugural editorial board, her guidance has played a central role in bringing this journal into existence and her vision ensures its longevity. Thank you also to Amelia Moranska. Amelia served as Co-Editor-In-Chief during the fall semester, a time in which she made impactful contributions that will leave lasting impressions on *ARCJS* moving forward.

Additionally, we extend our thanks to our colleagues and campus leaders at San Francisco State University and John Jay College of Criminal Justice for their support and encouragement. Your commitment to fostering a culture of scholarly inquiry and academic excellence have been invaluable.

We would also like to express our special gratitude to the Cowherd Family for their generous donations, which have made it possible for us to print a gratis copy of this volume for each of our student contributors and staff members. The Cowherd Family's support for undergraduate scholarship by historically excluded student populations is not only deeply appreciated, it is an inspiration to us all. We are honored to have their endorsement.

Finally, we invite each of our readers to join us in our mission. As faculty advisors, we believe that *ARCJS* has an important role to play in advancing conversations about justice and shaping our collective visions of a better future. We are accepting fiduciary sponsors and intellectual partners who share our commitment to support historically excluded student populations in their journey to produce rigorous and critical scholarship.

In closing, we hope that you will find the articles that follow as fascinating and thought-provoking as we do, that they will serve as a testament to the power of undergraduate research, and that they will inspire you to join us in our pursuit of knowledge and justice.

In community,  
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Dear Readers,

It is with great pleasure that I introduce the second volume of *The Annual Review of Criminal Justice Studies (ARCJS)*. This volume is a product of a year-long collaboration between students at San Francisco State University and John Jay College of Criminal Justice. Through our working together, we grew from being passive receivers of knowledge in the classroom – where we are often only expected to regurgitate ideas from assigned readings—to become active producers of knowledge. This journal is a rare venue that welcomes and publishes undergraduates’ original ideas about the social issues we feel are most pressing in our society. As the outgoing Editor-In-Chief, I am proud to have led a project that makes it possible for students to speak on (and speak out against) the social issues we feel are most important to address.

This volume is divided into four sections according to common themes across the papers. Our first theme, “A Gender Lens”, includes five papers that advance gender discourses at ARCJS. This is a welcomed step forward for our journal, as the first volume included only one. In the inaugural volume, “Abuse of Power: Sexual Abuse in the Federal Prison System” (a paper I wrote) examined how federal correctional officers are able to leverage their power to sexually abuse women with virtual impunity. The papers in this volume’s first section are an important increase in ARCJS’s attention to the intersections of gender, crime, and justice. My hope is that they will inspire future authors to advance the discourse even further; and that a tradition of gender analysis will develop.

Hosana Seyoum opens this volume's series of articles with an analysis of sex worker reform taking place without the input or insight of sex workers and emphasizes the value of their suppressed voices. Daniella Krynsky continues the section with an essay on how political figures have put aside the best interests of society in favor of their own personal and political agendas. Contributing to the reproductive rights theme, Lauren Sulaiman places attention on incarcerated women's lack of access to reproductive and prenatal medical care, the harm created by the treatment of pregnant women, and potential solutions to create a better health system for incarcerated women. To continue the gender lens, Maggie Wheeler emphasizes the importance of treating child victims of sexual exploitation as victims and not perpetrators of prostitution. Tyrol Brito closes the section with a reflection on the connection between finding a purpose, hegemonic masculinity, and the criminalization of marginalized masculinity.

Incarceration, the theme of the second section, is a long-standing topic of debate in discourses on crime and justice systems. The prison and punitive responses to social issues are in many ways at the heart of how (and who) we respond to when harm occurs. The authors of this section highlight how, rather than rehabilitate, prisons are perpetuating a cycle of abuse and trauma. To transition into the next section we begin with a gender lens article to emphasize its relevance in conventional criminological discussions.

Michelle Garcia Luna's article about the horrid conditions of women's prisons where women are subject to unsanitary conditions, sexual assault, and inadequate medical treatment as well as outlines potential solutions to creating a more humane prison environment. Importantly, I chose to include Garcia Luna's article in this section as opposed to the previous one on gender to highlight the common depravities across male and female

institutions as well as showcase the leading role gender analyses can play in comprehending the inhumanity of incarceration. Stella Daniels-Simpson continues the section by tracing the root of Americans' fascination with punishment and calls for a shift to transformative justice to address root causes of crimes rather than continuing to feed the never-ending cycle of punishment and violence. To follow, Giovana Numa investigates the misuse of solitary confinement as a control tactic and the effects it causes on incarcerated individuals, especially to those belonging to vulnerable populations. Paola Saavedra Ramirez, who authored a piece in the inaugural volume, closes the section by detailing the historical practices of the United States public education system designed to prevent equal opportunities towards black, indigenous, children of color and currently places them in punitive environments.

My generation is uniquely aware of the violence and terror that police are licensed to inflict on certain people and communities. At pivotal moments in our lives, our exposure to police has not been of a protective role but one responsible for unjustifiable bloodshed and tyranny. Thus, the third section in this volume is titled "Police Violence" to emphasize that the existence of police is a form of violence. The authors in this section showcase ways in which the actions or pure presence of police contribute to the persecution of citizens. In my reading of their work, I see how they represent a contemporary re-emergence of a broad based social movement that calls for a reckoning with the role police play in social injustice.

Florian Griese introduces the section through an analysis of punk and rap lyrics of police misconduct in racism, corruption, violence, deadly violence, and sexual violence to compare them to filed misconduct reports against police. Following is Gisselle Marroquin's exploration of racial disparities in police stops and the use of force tactics against African Americans and Latinos.

Using the NYPD and its budget as an example, Josie-Grace Valerius outlines how current police practices are ineffective and could be resolved by redirecting the budget to be funneled to community centers, city education programs and staffing, and recidivism reduction programs. To continue the section, Ashli Hamilton explores the role of media representation in the cases of the Central Park Five. Cynthia Thomas closes the section with a reflection of how years of physical and verbal attacks due to her skin tone resulted in feelings of powerlessness. Thomas grew to see the police badge as the path to power and respect. However, once a police officer, the realization sets in that they are now the oppressor.

The fourth section, “Law, Policy, and Institutions”, showcases various methods of how these systems impact society and shape injustice. These injustices can range from the handling of juvenile delinquency to genocide. While at face value, these are drastically different examples, they are tied together by the belief that the social systems and practices we have in place negatively impact, or even destroy, our communities. The authors of this section show a drive to be contributors of societal change that puts humanity first.

To begin, Adrienne Amandazi studies the rise in juvenile delinquency, the role of the community and schools in delinquency, as well as potential solutions. Subsequently, Tausifa Haque details how judicial and societal factors shield male professional athletes from facing criminal consequences. To continue the section, Yadira Carrillo Mejia emphasizes the importance of understating and recognizing genocide, as the United States has a deep history of involvement. Carrillo further explains that discrimination is the first step towards genocide and the United States must take a firm stance on protecting all of its citizens.



Similarly, Marbel Diderik closes the journal by analyzing the history of Israel, Palestine, and Hamas under a Counter-Colonial Criminology lens and also uses international humanitarian and war law to underscore the humanitarian crisis innocent civilians are suffering through. Thus, this volume closes where it began.

“Zaythun” (the Arabic word for olive) opens this volume to serve as both preamble to the scholarship published in the pages that follow as well as insight into the most difficult contemporary issue we grapple with as undergraduate students. In the poem, Haya Shahzad shares a heartfelt reflection on the tribulations of her people and her life experience in relation to the tragedy going on in Palestine. It is a poem that amounts to nothing less than a cry for freedom and justice that strikes a chord with all critical thinkers of my generation. Many of us are not as intimately aware about what’s happening in Gaza as Shahzad, but we know one thing for sure: genocidal warfare has no place in a world that values freedom and humanity; the world that my generation wants to live in. As the ARCJS faculty advisors put it in their letter, critical scholarship is “rooted in an understanding of systemic issues and challenging structural power asymmetries”, which makes it “both a political practice and ethical responsibility.” With that in mind, Shahzad’s work is an outstanding example of critical scholarship and I am happy to see it published in the opening pages of this volume.

With the publication of our second volume, my time as editor-in-chief has come to an end. Stepping back from the role, I see that ARCJS has created a culture of research and collaboration between two universities on opposite coasts where developing meaningful connections can be a challenge. ARCJS has given 32 undergraduate authors the space to be active contributors to important discussions on crime, justice, and possibilities for the future.

As I look to the future, I look forward to seeing how ARCJS grows its audience and authorship, as this is a special project that results in students' growth as writers, researchers, professional collaborators, and leaders.

To close, I want to (one last time) congratulate all the authors and thank all of my editorial board and collaborators. This project cannot be possible without their dedication.

Claudia

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# A Gender Lens

Speak for Yourself, Don't Speak for Me:  
Democratizing Discourse and Sex Work Reform

Hosana B. Seyoum

## **Introduction**

Often, deliberations about regulating sex work take place in stuffy legislative hearings, NGO conferences, and the hallowed halls of academia. This cacophony of debate has drowned out the voices of sex workers. The right to speak is reserved for seasoned bureaucrats and concerned philanthropists. From time to time, politicians or NGO leaders will employ the ‘reformed prostitute’ as a prop for their argument. One faction of feminists may rally around the redeemed woman, freed at last from the shackles of patriarchy. Simultaneously, another camp of feminists will delight in the notion of sex work as empowerment. In either case, the input of sex workers is not given much regard. Deemed as ‘misrepresentation’ in Nancy Fraser’s social justice theory, “powerful groups such as neo-abolitionists monopolize their experience by determining who can and who cannot speak on the issue of prostitution” (Lister, 2018, p. 4). As a result, there is a dissonance between the trenchant politics driving legislation and the appeals of sex workers. This process silences sex workers by refusing them access to the democratic process. Those who face the consequences of criminalizing sex work are overlooked, with sanctimonious and patronizing decisions made on their behalf.

Unsurprisingly, this condescending approach to legal reform has not yielded its desired results (agency, safety, labor regulations). Oftentimes, these attempts at reform have done more harm than good, exacerbating the exploitation of sex workers. Evidently, there is a disjuncture between the body of organizations shaping policy and the communities facing its ramification.

Considering the discursive influence of legal and political actors in catalyzing policy, the position of sex workers should take precedence in determining the legitimacy and regulation of their labor. Designing policy conducive to safe and equitable work conditions can only be actualized with the contribution of the communities in mind. Foundational to understanding recent policy trends is an outline of the socioeconomic imperatives and ideological perspectives underpinning contemporary sex work legislation. A review of current literature on sex work, salient critiques of legislation, and social theories on the laws policing sexuality offers a sense of the political climate engendering reform. Upon identifying the role of recent anti-trafficking initiatives and radical feminist discourse in shaping prohibitive sex work policies, this research aims to emphasize the value of reorienting legal discourse to center the exigencies of sex workers.

### **The Moral Basis of Policing Sex Work: Subjectivity of Choice**

Much of the discourse surrounding sex work and its regulation is centered on the morality of sex work itself. Between the lines of humanitarian rhetoric and an insistence on protecting women from a violent industry, there lies the incentive of regulating morality. Sex work still maintains a disreputable status, floating in limbo between a form of empowerment and subjugation but always tainted by stigma. An anthology of short stories and essays submitted by sex workers and compiled by Annie Oakley, *Working Sex: Sex Workers Write About a Changing Industry*, features a short essay by Janelle Galazia on the issues that shroud the debate about sex work:



The exchange between worker and customer is a complicated negotiation of need, illusion, denial, boundaries, and specific neuroses; but central to the exchange is cash. By keeping the debate about sex work focused on sex, and not work, the true nature of the issue is obscured. The arguments range around ideas of obscenity, appropriate and inappropriate sexualities, representations of femininity, notions of morality: Important issues in their own right, but in the context of sex work debate function more as a smoke screen that keeps us from confronting what's really going on. In this framework women are sluts instead of workers, or victims instead of cognizant participants in an economy. The real question here is, why are our options so lame? What are the economic realities that make the sex industry the most viable choice for many people? (Oakley, 2007, p. 88-89)

Galazia highlights how current discourse detracts from issues of economic disparity and labor regulations by emphasizing morality.

A defining schism in third-wave feminism, the debate about sex work prompts moral deliberation, derision, pity, condescension, condemnation, and cries of empowerment. Most of all, the issue of sex work is an embodiment of sexual politics and an unruly variable in a regulated economy, both of which are inextricable from morality. It follows that determining the legitimacy of sex work as labor and regulating it accordingly takes place within a moral framework, consciously or unwittingly. In efforts to contain the moral enigma and subversive capacity of sex work,

respective legislation is a means of regulating the economic influence of the sex industry and the morality of society. Different models of legislating sex work reflect a multitude of moral approaches; the Nordic model with its aims of limiting the demand for sex work, or partial legalization's prohibition of brothels and public solicitation, both reflect varying sentiments about morality and choice. At the injunction of race, sex, class, and economy, the dilemma of regulating sex work encompasses a range of social issues. The economic exigencies that have forged a billion-dollar commercial sex industry are not to be taken for granted. Wealth disparities, racial inequality, and individual circumstances converge into the complex decision of choosing sex work. Discounting the multitude of circumstances, intersectional experiences, and individual stories that shape the sex industry to apply a blanket of victimization is reductive at best. The prohibitionist approach projects an idea of women's liberation from a one-dimensional perspective, often from a position of socioeconomic privilege. Painting the experience of sex workers with a broad brush, suggesting that only internalized misogyny and vulnerability could entice people enough to choose what is considered inherently violent and exploitative work, implies a morally inferior conception of sex work - distinguishing one form of economic survival as less dignified than other forms of physically taxing labor. What's more, radical feminists' prohibitive stance undermines their longstanding discursive object; promoting a woman's right to choose. The issue of agency has been a focal point of feminist discourse, touted since the inception of the suffrage movement and sustained through 2nd feminism. Actualizing a narrow vision of appears to be at odds

with the notion of agency. The attitude towards choice becomes ambivalent when feminism arrives at the issue of sex work. In a translated interview with *Público* about her essay, *El sentido de consentir*, Clara Serra mentions how sex work is treated exceptionally regarding agency and consent. A researcher at the University of Barcelona, philosopher, and feminist, Clara brings a blended perspective to the discussion of sex work:

I think one of the interesting questions is what kind of democratic anomalies there are in the area of women and sex. It seems to me that the legal invalidation of consent is a breach of the liberal principles of our democracies. That is, in principle, we have decided that an adult, unless he is subject to coercion by another, is someone who knows what he does with his life. In the field of prostitution, we are allowed to say that consent is not valid and, by the way, this is said by those who say they are putting consent at the center. (Serra, 2024)

She posits that the push towards prohibitive sex work policies distinguish the treatment of sex work as a “democratic anomaly.” In a Western political arena that champions agency and self-determination, the prohibition of sex work is an outlier. What compels this exceptional treatment of sexual labor is not just the concern for safety but a moral imperative to police sexuality. It’s fair to ask what warrants this undermining of an adult’s agency. Sex workers are not less equipped than others to determine their choice of labor. In their uncanny reproduction of patriarchal power, are the women who promote criminalizing sex work exempt from subjugating other women? The subjectivity of choice shades perceptions of sex work. Many generalize the experience

of coercion and try to understand sex work by making a clean demarcation between liberated choice and a desperate means of survival, as though financial security and survival become coercive factors only when applied to sex work. In a time where many resort to precarious labor; working in factories, other physically demanding jobs, and conceding to long hours to survive, financial insecurity is not a factor unique to sex work. Considering this, why is sex work subject to more scrutiny as a choice of labor? If financial pressure obscures personal choice for many, it's compelling to explore why sex work is construed as an outlier.

### **Discursive Power and Deviance**

Following a protracted history of discourse around sex that served to regulate, categorize, and codify illicit form of sexuality, sex work legislation today reflects a Foucauldian synthesis of how discursive control is obscured, lends to stigma and criminalization; supporting the analysis that discursive power is contingent on debates about agency:

Power is tolerable only on condition that it masks a substantial part of itself. Its success is proportional to its ability to hide its own mechanisms. Would power be accepted if it were entirely cynical? For it, secrecy is not in the nature of an abuse; it is indispensable to its operation. Not only because power imposes secrecy on those whom it dominates, but because it is perhaps just as indispensable to the latter: would they accept it if they did not see it as a mere limit placed on their desire, leaving a measure of freedom however slight-intact? Power as a pure limit set on freedom is, at least in our society, the general form of its acceptability. (Foucault, 1990, p. 86)

Materializing as a form of discursive power, the stigmatization of sex work often leveraged by pimps is echoed by the derision and condemnation of sex work in political and feminist discourse. This subtle influence seeps into most sex work-related conversation, impels legislation, and exacerbates the marginalization of sex workers.

The moral framing of sex work as disreputable labor or a form of gendered violence, has precipitated a flurry of legislation criminalizing the purchase of sex and a broadening legal scope of what constitutes trafficking. In a strange twist, secular feminists advocate for criminalization working alongside conservative politicians and Evangelical NGOs to propel what Angela Davis coined carceral feminism, referenced in Elizabeth Bernstein's discursive ethnography *Brokered Subjects*. Working from a framework that identifies sex work as a menace to egalitarian heterosexual marriages, "feminist family values" have become an impetus behind promoting and utilizing the carceral state to secure the neoliberal family unit. "In 2007, NOW-NYC and Equality Now, prominent feminist organizations, sponsored a rally on behalf of a New York State law that would increase the criminal penalty against men convicted of purchasing sex from 90 days to a year in person." (Bernstein, 2018, p. 43) This pivot from grassroots feminist activism in the 1970s, that sought social justice solutions for gendered issues, to modern advocacy for harsher penalties through the criminal justice system have defined a new era of feminism and sex work legislation.

Akin to the conservative sentiments of the Victorian era, sex work today is identified by some as a threat to securing an insular

middle class. Once again, regulating sex work “becomes an integral part of the bourgeois order.” (Foucault, 1990, p. 5) What does this mean for legislation? The staunchest proponents of harsher sentencing for purchasing sex are those who champion “family values” and construct sex work as a threat to the secure family unit. This framework positions normative, heterosexual partnership as an essential function of securing socioeconomic status. Extramarital sex, ostensibly encouraged by the pesky temptation of sex workers, is consequently disruptive to this social order. Outside of feminist discourse, the ubiquitous societal fixation on sex predates the stigma and concerns shaping contemporary legislation, sex work retains the status of a morally dubious and unconventional form of labor. The pitfall of some organizations that advocate for decriminalization is enabling discourse that lingers on morality, legitimizing the deliberation over policing morality by merely entertaining it. The relentless need for advocates to justify the nature of sex work itself has rendered the dilemma of decriminalization a moral question rather than recognizing and subverting the criminalization of sex work for what it is: exploiting legal power to exert control over sexuality and morality.

A sustained imperative to moderate and regulate sex has taken many forms over the years. Foucault’s *History of Sexuality* outlines how public discourse has served to promote the regulation of sex, reflected in the unrelenting infatuation with analyzing and talking about sex over the years. A proliferation of conversations surrounding sex and repression can be traced from the late 18th century through contemporary history. During the Counter-Reformation, detailed and sordid confessions to priests

about sexual temptation, desire, and illicit acts were a way of proving piety and naming temptation in efforts to resist it. Conversely, Foucault posits that those who spoke about sex openly and liberally, ostensibly in rebellion against repression, were unwittingly serving the same power mechanisms. This obsession with talking about sex to demystify and categorize it - even when driven by the desire to subvert Victorian values - made discourse surrounding sex increasingly utilitarian. Perhaps unwittingly, discourse served as the driving force behind codifying and labeling private sexual lives. Today, conversations surrounding sex have saturated public and academic discourse; both the renouncement and celebration of ‘illegitimate’ modes of sexuality work towards the same ends: vitalizing its moral value and empowering efforts to regulate and contain it.

Foucault details how efforts to repress and categorize “illegitimate” modes of sexuality relegated certain groups to the fringes of society and to institutions:

If it was truly necessary to make room for illegitimate sexualities, it was reasoned, let them take their infernal mischief elsewhere: to a place where they could be reintegrated, if not in the circuits of production, at least in those of profit. The brothel and the mental hospital would be those places of tolerance: the prostitute, the client, and the pimp, together with the psychiatrist and his hysteric - those “other Victorians” as Steven Marcus would say - have surreptitiously transferred the pleasures that are unspoken into the order of things (Foucault, 1990, p. 4)

Thus, the deviant status of sex work consolidated into fixed

public perception and continues to be treated as such. It's telling to witness Victorian-era sentiments invoked in defense of contemporary sex work legislation. Since the midst of the 20th century, we've witnessed a tendency to pathologize these "illegitimate modes" of sexuality. Homosexuality, for instance, was characterized as a mental illness in the DSM manual as of 1952 and identified as a sociopathic personality disturbance. After much contention, it was removed in 1973, yet countless paraphilias still remain. Modes of sexuality that exist outside the utility of reproduction or heterosexual norms are still targeted. This can be seen in recent legislative trends; the decision to overturn *Roe v. Wade*, 410 U.S. 113 (1973) and its implications for reproductive rights, the jeopardization of trans rights and access to gender reassignment surgery, and a longstanding history of criminalizing sex work. As Alice Miller succinctly noted, "use of criminal law to regulate sex, gender, and reproduction is decidedly not new; it's a hallmark of the modern state." (Lauren, 2023, p. 6)

When recreational or alternate modes of sexuality are displaced to the margins of society, including these communities in deliberations become essential to shaping public opinion and legislation. In her interview, Serra details the importance of democratizing discourse about sex, "What seems to me to be democratic anomaly is this kind of collective veto by which the voices of sex workers do not appear" (Serra, 2024). The inclusion of their voices is pivotal to shifting discourse away from the moral debate about sex itself, and towards addressing labor regulations. Leveraging discursive control to address sex workers' concerns about legislation demystifies the sexual politics appropriated by conservatives and different factions of feminism.



## **Sex work and Sex Trafficking; The Dangers of Conflation**

Beginning in the mid-1990s, immigration concerns in conjunction with a drive to control sex manifested as increasingly widespread feminist lead anti-sex work and anti-trafficking discourse. Detailed in her book, *Brokered Subjects*, Elizabeth Bernstein analyzes how the discourse surrounding sex-trafficking came to prevail in humanitarian, secular feminist, and Evangelical groups. Bernstein explores how disparate groups converged behind the cause of vilifying sex work. During this period, anti-trafficking laws reflected a tendency in political and humanitarian discourse to conflate most forms of prostitution with sex trafficking. Flexible criteria for what constituted trafficking left sex workers vulnerable to public derision and harsher penalties for selling sex. In their support of border control state agendas and anti-trafficking campaigns, “feminist activism unwittingly supports the deportation of migrant sex workers under the guise of securing their protection.” (Bernstein, 2018, p. 37) Radical feminism’s shift towards carceral politics also coincides with women (particularly from the global south and women of color) becoming the fastest-growing segment of the prison population, with a “2,800% increase in incarcerated women between 1970 and 2001.” (Bernstein, 2018, p. 41)

Following the lead of feminists who advocate for the Nordic model, anti-trafficking laws are pushed by activists and politicians who aim to limit demand for sex work by criminalizing clients and treating workers as victims. Their working theory is that limiting demand for sexual labor would shrink the sex trafficking industry. However, the phrasing of these laws unequivocally conflates all migratory sex work with sex trafficking:

The US Trafficking Victims' Protection Act (TVPA) OF 2000 is similarly vague in its definitions...According to section 103 of the original act, "sex trafficking" is defined as "the recruitment, harbor, or transportation, provision, or obtaining of a person for the purpose of a commercial sex act" (here the presence or absence of force is left unspecified)..Although "trafficking" is explicitly equated with all forms of sexual commerce, the act later specifies that only "severe forms of trafficking" are subject to official state sanction...(Bernstein, 2018, p. 15)

In practice, recent anti-trafficking laws cause some of the same issues as implementation of the Nordic model. Brothel raids, harsher sentencing for clients, and fear of law enforcement all lend to the mounting pressure and dangerous circumstances for engaging in sex work. In addition, constructing all sex workers as victims and conflating their experiences with that of trafficking victims, "anti-trafficking laws" enable a condescending approach to sex work by aiming to push consenting adults out of sex work and impeding on their right to work.

This is not to say that sex trafficking is not a problem, certainly a sizable portion of human trafficking takes the form of sexual exploitation, employing debt bondage and coercion to trap victims into sex work. As of 2014, the Global Report on Trafficking in Persons (TIP) was the only extant global mechanism with the endeavor of measuring the magnitude of human trafficking and combating it. "A 2014 TIP report found that more than 60% of trafficking victims are foreigners in the country in which they're identified. In East Asia, South Asia, and the Pacific, cases related to sexual exploitation comprise 26% of

all trafficking; and 66% in Europe and Central Asia.” (Swanson, 2016, p. 594-95). In this respect, advocating for decriminalization is by no means a reason to minimize the issue of sex trafficking, but there is a crucial distinction to be made between chosen labor and trafficking. That being said, no other labor sector or industry linked with trafficking is targeted for dissolution as in the case of sex work. Domestic servants, factory workers, and childcare workers are also vulnerable to exploitation or trafficking, but we don’t see campaigns to criminalize childcare or domestic labor despite the exploitative potential in those sectors. More importantly, workers in these sectors enjoy a presumption of agency not afforded to sex workers.

Recognizing that the exploitation of labor can occur in many forms, what remains contested in the case of sex work is the element of morality. Considering a recent global awareness of the trafficking issue, contention over the existing relationship between human trafficking and sex work has fueled the debate about criminalizing sex work. The argument for prohibiting prostitution is buttressed by sex trafficking panic and moral sentiment. In widening the scope of what constitutes trafficking, hasty anti-trafficking laws are complicit in contributing to growing incarceration rates and the imposition of harsher sentences on clients and sex workers. This onslaught of conservative legislation concerning sex work has had harmful consequences on sex workers, in the United States and abroad. Many countries deemed noncompliant with efforts to minimize sex trafficking, wherein noncompliance can be flexibly defined, encounter diplomatic sanctions and repercussions.

In this way, prominent countries impose international standards for regulating sex work. Bernstein denotes the impact of this pressure abroad: “Responding to related concerns, Cambodia introduced anti-trafficking legislation ostensibly designed to suppress human trafficking and sexual exploitation. On the basis of observational research with female sex workers, Lisa Maher and her colleagues found that following the introduction of the law, there was an escalation in police crackdowns and brothel closure, with sex workers being displaced to streets and guesthouses, impacting their ability to negotiate safe sex and increasing their exposure to violence.” (Bernstein, 2018, p. 61)

The reactionary nature of existing laws is a response to a global moral panic and is shaping the contours of sex work reform internationally.

### **In light of Capitalism: The Limitations of Agency**

In the throes of late-stage capitalism, exploitative labor practices and dispensable employment have already muddied the waters concerning what it means to sell one's body. The distinction between sex work and other forms of labor as exceptional and inherently more exploitative is rooted in a moralist argument, the last bastion of the Puritan tradition. While other forms of migratory labor are viewed as benign, the label of “trafficking” is more liberally applied to instances of migratory sex work. Indeed, if activists and politicians alike are worried about the economic conditions that push people to opt for exploitative work to survive, they're pursuing the wrong cause. The strenuous labor conditions in Amazon factories and the circumstances that leave workers with limited labor options raise questions about agency.

Are these factory workers more inclined to choose their form of labor than sex workers? Their form of labor certainly does not evoke the same moral upheaval or push for criminalization as the issue of sex work. Perhaps it is easier to decry sex work than it is to confront the insatiable consumer demand that feeds exploitative labor practices across the board. Criminalizing sex work will not mean the economic pressure to sell sex ceases to exist, rather, criminalization makes the means of survival become significantly more dangerous once sex work is branded with its illicit status.

### **Carceral Feminism**

Perhaps the most surprising alliance in recent years has been between far-right politicians, evangelical organizations, and secular feminists. This unlikely coalition has been working towards the objective of imposing harsher sentences on sex traffickers and clients to mitigate the growth of the commercial sex industry and to a larger extent, the sex trafficking industry. Far from the grassroots approach of 1970s feminism, modern carceral feminism seeks solutions to social problems such as gendered violence through harsher criminal penalties and carceral justice. Neo- abolitionist feminists have colluded with far-right politicians and campaign to the benefit of the prison industrial complex. In her book, *Brokered Subjects*, Elizabeth Bernstein notes that: “Although a decade of feminist research and activism has addressed the role of the neoliberal state in criminalizing the survival strategies of poor women of color in particular, the significance of feminism’s own widening embrace of the neoliberal carceral state has only begun to come into focus.” (Bernstein, 2018, p. 43)

Modern carceral feminism constructs sex work as a threat to gender equality, securing privatized income, and the neoliberal family unit. Utilizing the platform of feminism to push punitive legislation mostly caters to women of a particular social strata. This iteration of feminism has fashioned the activist into a sentinel for private interests. The proliferation of pornography and the commercial sex industry have been marked by some feminists as a threat to (usually heterosexual), long-term, amative relationships. Constructing sex work as a threat to secure, traditional relationships and forming laws accordingly, this sect of radical feminism rebrands conservative beliefs about the family unit as women's empowerment.

### **Analysis of Legislative Models: Structure v Agency**

For the purposes of this analysis, legislative models can be subsumed into two camps: Structure and Agency oriented theories. Structural theories behind sex work legislation include various modes of criminalization; driven by an ideology of determinism and limited agency within structural systems. For instance, feminist theory that advocates abolishing prostitution would stem from this emphasis on structural pressures; positing that patriarchal oppression and violence exert enough control that it dilutes a woman's choice to engage in sex work. In contrast, theories of agency give precedence to free will and hold that individual actors can actualize change despite structural limitations. Regarding sex work legislation, this usually entails legalization and decriminalization with the aims of mitigating structural obstacles through stringent policy and labor regulations. The former orientation is comprised of Full Criminalization, partial criminalization, and partial decriminalization.

The latter orientation: Complete decriminalization and legalization. The debate between structure and agency has been a prominent topic in sociology and in discourse concerning sex work; cultural attitudes, stigma, and legislation have reflected a prevailing, structural orientation.

### **Structure-Oriented Models**

Full criminalization is the model most prevalent in North America, Russia, South Africa, and Croatia. Apart from Nevada, sex work is fully criminalized in the United States.

Criminalization is a model of legal recourse characterized by persecuting all parties involved in the solicitation and purchase of sex work. This model of legislation is often supported by a theory of deterrence, the argument that criminal punishment will keep people from buying and selling sex. Consequences for sex workers, pimps, suspected traffickers, and clients are driven by retributive punishment. This has proven ineffective; since the passage of the Mann Act in 1910, sex work has grown into a \$14 billion industry with an estimate of 2 million sex workers in the US alone (Sawicki et al., 2019). The notion that criminalization will mitigate the dangers of sex work or push workers into different labor sectors has long been discredited. Instead, criminalizing sex workers effectively makes it more difficult to leave the industry, and effectively makes for untenable and desperate labor conditions; with the impediment of a criminal record limiting the ability to pursue another career.

In Kenya, South Africa, and New York, simply carrying condoms is sufficient evidence for selling sex and can lead to arrest. Endangering the sexual health of workers by instilling a fear of carrying protection, this is an apt example of how criminalization puts sex workers at further risk. In addition, criminalizing sex workers makes them vulnerable to mistreatment by the state itself. Police officers exploit this vulnerability and leverage the fear of arrest for sexual favors. According to a study by Urban Justice Center “17% of sex workers interviewed in a New York study reported harassment and abuse, including rape, by police” (Urban Justice Center, 2003). While stringent anti-trafficking regulation on the federal level has had far-reaching consequence on sex work, there are variations in penal severity for soliciting and buying sex from state to state. Even at the city level, prosecutors exercise their own discretion in dismissing or trying prostitution cases. In Baltimore and Manhattan, there have been gradual steps towards decriminalizing sex workers. In December of 2021, the Manhattan District Attorney’s Office announced it would stop prosecuting those arrested for prostitution while still prosecuting clients. (Porterfield, 2021) Informally modeling its approach after the Nordic model, this distinction between the criminality of clients and workers is a growing policy trend. The issue inherent in criminalizing one party and not the other is almost intuitive, it destabilizes the status of sex work as a whole and a crash course in economics can point to the interplay of supply and demand. Partial criminalization is the model of legislating sex work in the UK, France, and most prevalent in Central and South America.



This legislative model does not explicitly criminalize sex work but includes caveats to legislation that inhibit and indirectly condemn sex work. In Canada, this entails a de facto form of prohibition through laws that prohibit loitering, “procurement” of clients, and brothel keeping (or “bawdy houses”). (Lewis, 2010) In the UK, a similar policy of de facto prohibition permits prostitution but criminalizes surrounding activities such as soliciting sex publicly and brothel keeping. Selling sex alongside another sex worker in the same location meets the criteria for brothel keeping. This caveat in legislation leaves sex workers to weigh two options: taking the legal risk of working in a brothel or jeopardizing their personal safety by working alone. In some cases, clients leverage the criminality of brothel keeping, coercing or threatening sex workers. In the UK, the English Prostitutes Collective has criticized the government’s regulation of sex work because it has created a de facto system of partial legalization wherein workers still face the dangers of criminalization if they don’t comply with the guidelines for legal work.

In her qualitative study, Billie Lister employed a Participatory Research Action framework to address the “...longer-term ramifications of raids and criminal sanctions on sex workers” (Lister, 2018, p. 25). In 2017, she collaborated with English Prostitute’s Collective to formulate a research design and questions that explored the issues legislation posed for sex workers who worked in brothels and independently at the time.

Noting the contribution of sex workers, “I decided that following their lead with regard to what needed to be addressed was the best strategy. I used participatory Action Research (PAR) as my research design because it can empower sex workers as co-producers of knowledge in research (Lister, 2018, p. 26).”

Employing a sex worker as a project researcher who conducted interviews with a sample population of 10 women, Lister’s research yielded earnest responses to the issue of criminalization.

Speaking on the impact of brothel raids, one participant stated “The police raids make it worse because places close down which are known to be safe and friendly, so we can’t work in them. I know some girls work on the street after that, or they had to move town, and their lives were disrupted. You don’t know if the new place will be okay, and also if you expect the police to come around people are more nervous, the manager puts the prices up, you have to pay more money, the tension goes up.” (Lister, 2018, p.30). Brothel raids and closures in the UK displace sex workers, often compelling workers to find new work in brothels with more exploitative practices and less earning potential. This mode of legislation creates precarious work conditions for sex workers and limits their options. Lister’s study also highlights how criminalization traps women who wanted to engage in sex work temporarily. One participant lamented, “I can’t do what I was doing before...because you’ve got the DBS check so that one night [of the police raid] just changed my life. So now it means I have to work by myself and it also means I can’t do the things I was doing before...what was a part-time sex working gig...has now turned into a full-time sex working gig. Because I can’t do what I want to do.” (Lister, 2018, p. 33). Evey’s interview pinpoints the

counterproductive consequences of criminalization. If the aim is to encourage sex workers to leave the industry, criminalization only limits earning potential of workers once branded with a record.

Since the passage of Sweden's sex purchase criminalization act(*sexköpslagen*) in 1999, the 'Nordic Model' has become a mainstay of the discourse around sex work legislation. (Levy, 2018, p.1)

Replicated in Ireland, France, and gaining traction in many parts of the global north, the Nordic model represents a prominent position in the debate surrounding sex work legislation. The Nordic model aims to abolish sex work by criminalizing only the client, its unfaltering proponents are neo-abolitionist feminists, who construct sex work as a form of violence against women. This model aims to eliminate the demand for sex work by criminalizing the clients. Of course, this premise acts on several contentious suppositions. One being that heterosexual sex in and of itself constitutes an act of control and subjugation of women by men, with sex work serving as another iteration of violence against women. The dogmatic stance against sex work taken by radical feminism echoes conservative sentiments about sex. This brand of feminist advocacy discounts the voices of sex workers in the very conversations that determine the safety and equity of their work conditions. Furthermore, the assumption that no one can choose sex work of their own volition is patronizing. Discounting the experiences of women who choose to sell sex and effectively pathologizing all men who choose to buy sex, the Nordic model is subsumed under structural orientation.

Aside from its ethical shortcomings, the fatal flaw of the abolitionist model is its consequence on sex workers. To protect clients from prosecution, sex workers are compelled to put themselves in more compromising positions. For the sake of a client's discretion, they may solicit in isolated areas or visit clients without taking personal information.

### **Agency-Oriented Models**

Alternatively, the conditional legalization of sex work in many countries is contingent on registration and compulsory health checks. This approach falls under agency-oriented legislation and aims to mitigate structural violence by implementing stringent regulations. In Germany, prostitution has been legal since the end of World War 2 but its legal status as a legitimate service was established in 2002. This legislation enabled sex workers to enroll in state-funded health insurance and benefit from social services. Pensions and unemployment benefits were ensured to promote labor rights for sex workers on par with other industries. Since the passage of Germany's 2017 Prostitution Protection Act, sex workers have been required to register with authorities to work or face fines and criminalization. Critics have identified the drawbacks of this approach by noting that licensing and approved venues are not accessible to all workers, acknowledging how regulating access to legal working status fosters inequality in the industry.

Pursuing this route entails a rigorous and expensive process, leaving rich, well-connected brothels or financially advantaged workers with access to legitimate status. This has resulted in a two-tiered system, often referred to as backdoor

criminalization, where part of the industry operates above board while a greater portion still must navigate the risks of working illegally. To mitigate structural obstacles and promote agency, stringent regulation has reproduced some of the restrictions and limitations on workers found in other models. Overregulation displaces agency from workers to bureaucratic bodies. Much like full criminalization, this endangers sex workers' health and safety by pushing part of the commercial sex market into the shadows. Independent sex workers who cannot afford to pursue the registration process

or workers apprehended without registration papers on hand are still left to navigate the risks of engaging in illicit work. There have also been attempts to apply restorative justice practices to sex work legislation with disappointing results. In Canada, a restorative justice approach to prosecuting clients offers lenient sentencing for participants if they participate in treatment and diversion programs. This approach has its drawbacks. In an almost comical imitation of counter-reformation confessions, defendants are sent to a community hearing to hear how their purchase of sex has been detrimental to the community.

As sex work-related RJ-D programs have a community-as-victim orientation, the community is often involved in some way in these programs, typically through a form of community conferencing. This component of the program provides members of the community with a forum for publicly airing or venting their feelings about what they perceive to be the negative effects of the industry (including those who work in and use it) on the surrounding community. The public moralizing/shaming/condemning aspect of prostitution

RJ-D programs, resulting in part from such community conferencing, is meant to help clients. (Lewis, 2010, p. 290).

In the wake of these public shame-fests, one must wonder if we've really come so far from Victorian-era ideas about sex. Although this application of restorative justice to sex work legislation is a far cry from the aspirations of restorative justice, it lays the groundwork for alternative interventions for sex workers. The concept of harm reduction, integral to restorative justice practice, could be directed at sex workers who would like to leave the industry of their own volition. Through offering resources for those who would like to leave sex work instead of shaming clients and workers, restorative justice might be employed in targeting systemic barriers instead of punishing clients and workers.

### **Model for Policy Reform and Participatory Action Research**

On the issue of trafficking, a more effective legislative approach to support victims wanting to escape trafficking would center on the removal of prostitution laws from the criminal code and providing conviction relief for trafficking survivors. 90% of trafficking survivors have been arrested at some point, a concerning statistic given that a criminal record makes it less likely that they can leave sex work and go into another field of work. (Lauren, 2023, p. 8) To make matters worse, traffickers are more likely to target marginalized communities and a criminal record makes women more vulnerable to exploitation. In Kristina Lauren's "Case for Expanding Vacatur and Decriminalizing Sex Work in response to Human Trafficking in Virginia and the United States", she asserts that "Criminalizing sex workers turns them into targets who have already been exploited by the criminal justice system" (Lauren,

2023). In her thesis, she denotes the dangers of weaponizing criminal justice against marginalized groups and makes a case for conviction relief.

Perhaps a sensible approach to engendering sex work related policy reform would involve a pragmatic analysis of what legalization entails for sex workers, an effort to recognize and deconstruct the systems of exploitation that render sex work dangerous, and an exploration of what the ideal model for decriminalization looks like in the eyes of sex workers. Billie Lister's Participation Action Research included suggestions from sex workers in terms of legislation they would like to see:

Sex workers argued that the current criminalization agenda was problematic and made suggestions regarding what they thought needed to occur for them to be able to work freely and safely. This begins with decriminalization and the formation of sex-work specific policies. The sex workers who participated in the study argued that the only option to offer safety is the complete decriminalization of prostitution (Lister, 2018, p. 34).

Lister also emphasized that “decriminalization alone is insufficient. Our study found that sex workers did not support any changes to the employer-based relationship – they preferred to be self-contracted workers. Legal independents argued they should be permitted to obtain the same rights as other self-contracted workers given they were tax-payers” (Lister, 2018, p. 35).

Of the few countries that serve as a prototype for decriminalization, there's a lot to be learned from New Zealand's 2003 Prostitution Reform Act. The Act dissolved the criminal status of both buying and selling sex but in an important distinction from other models of legalization, does not require the stringent registration process of sex workers. Most importantly, the law was formulated in collaboration with the New Zealand Prostitutes Collective. An encouraging step in the direction of legislation that considers the needs of sex workers, the PRA has provisions to "safeguard the human rights of sex workers and protect them from exploitation, promote the welfare and occupational health and safety of sex workers, and prohibit the use in prostitution of persons under 18 years of age." (New Zealand Ministry of Justice, 2003)

Despite the lofty aspirations of decriminalizing commercial sex in New Zealand, the 2003 Prostitution Reform Act still had shortcomings in the brothel sector. Complete decriminalization without extensive labor regulation has proven to fall short of protecting sex workers from brothel owners and enabled exploitative practices. Sex workers in New Zealand brothels reported continued exploitation by brothel owners (or bizimps) who imposed unfair management practices before the passage of the PRA. With their recent legal status, unscrupulous brothel owners were empowered to impose fines, bonds, and extraneous fees on sex workers. (New Zealand Prostitution Law Review Committee, 2008, p. 153) On the other hand, self-contracted workers report satisfaction with the results of the PRA. This report published five years after the passage of the PRA highlights the positive impact decriminalization can have and paves the way for policy reform in other countries.



Decriminalization has meant that sex workers and their clients no longer have to be as clandestine about their activities. This means negotiations can take place at a less hurried pace, and maybe within sight of other workers and members of the public. The Committee was told that street-based workers are now seen during daylight hours as well as after dark, that they work in better lit areas, and are more ‘up-front’ about working. Street based workers reported that it is now easier to refuse a client – 61.9% of street-based workers in the CSOM study reported that it was now easier to refuse... a client. (New Zealand Prostitution Law Review Committee, 2008, p. 121)

In a report commissioned by the New Zealand Ministry of Justice, a review of the PRA 2003 put together by a committee of public health officials, sex workers, academics, social workers, city council members, and criminologists aimed to evaluate the results of the PRA three years after its passage and address shortcomings in the brothel sector. The Prostitution Law Review Committee found high uses of condoms throughout the industry since the law was passed. Additionally, upon surveying prostitutes, the committee found that 90% of sex workers felt the PRA protected their legal rights, over 60% of sex workers felt that they were able to refuse to provide sexual services since the passage of the PRA.” New Zealand Prostitution Law Review Committee, 2008, p.14) However, there were several recommendations made to remedy the issue of exploitation in brothels. In assessing the brothel operator certification system, the report mentions that lack of regular inspections leaves a gap in workers’ protection. (Although all brothels must be certified, the Ministry of Justice has no role in enforcing or monitoring operator certificates once issued. (New

Zealand Prostitution Law Review Committee, 2008, p. ) The committee recommended inspections through the Department of Labor and continued inspections through the Ministry of Health, as well as informing brothel operators of their responsibilities regarding occupational health, safety, and safer sex practices. (New Zealand Prostitution Law Review Committee, 2008, p. 95, 96 & 160) The committee also identified best practices for those who want to exit the industry, recommending a collaboration of social services, education initiatives, etc. for those who chose to leave.

### **Illustrative Example of Empirical Analysis**

To collect qualitative data and gauge the consensus of sex workers, I compiled secondhand research interviews, extrapolated findings from the Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003, first-person narration from an anthology of sex worker's short stories, and participatory action research findings from a secondary source. To compare different legislative models and weigh consequences of different approaches, I reviewed journals, articles, and books on sex work related legislation and weighed prominent critiques of several legislative models. To gauge how sex workers regarded disparate policies, I referenced interviews with sex workers and participatory action research. I reviewed the recommendations for legislation going forward from PAR research findings and the New Zealand Committees' law review (made in collaboration with the New Zealand Prostitute Collective). Integrating critiques of various legislative models and compiling information regarding safety, health, and legal repercussions for sex workers in various jurisdictions, xI was able to form a comprehensive overview of the current debate on reforming sex work and interject my perspective

on how to include sex workers in legal discourse going forward. The prevailing theme in much of my research was the importance of implementing labor protections for sex work that mirror other labor sectors with additional regulations and safety inspections to address the risks particular to sex work. In addition to decriminalization, labor rights were a recurring suggestion from the English Prostitute's Collective and the New Zealand PRA review committee. Central to this recommendation is the recognition of sex work as work, deserving of the same protections as other labor sectors. Decriminalization in conjunction with labor regulations work wo-fold to protect sex workers by affording safer labor conditions and mitigating the stigma that accompanies the illegitimate status of sex work. In addition, decriminalization encourages sex workers to seek legal recourse if they experience exploitative conditions or assault. Regarding trafficking, this means that victims can reach out for help without fear of recrimination. In the review of the PRA 2003, the New Zealand committee reached several recommendations along these lines. The committee compiled several conclusions and suggestions: frequent brothel inspections, protections for self-contracted workers, and inspections through public health programs. The committee surmised that "one of the consequences of decriminalization has been the illumination of the workings of an industry which have historically been hidden." (New Zealand Prostitution Law Review Committee, 2008). Through demystifying the workings of the sex industry and encouraging sex workers' collaboration with legislators, conditions can improve.

In recognition of how social attitudes shape legislation, the inclusion of sex workers in public initiatives could begin to shift the perspective of legislative discourse. Acknowledging the

opportunity for exploitation inherent in almost any labor sector, the foci of sex work legislation should include labor protection. Going forward, a model for implementing reforms in other countries would include consulting participatory action research and collaborating with groups like the New Zealand Prostitute Collective in formulating policy as mentioned before, overzealous and stringent legislation can impinge on workers' agency so labor regulations should be implemented cautiously and as needed. Applying a critical lens to anti-trafficking discourse and the appropriation of sexual politics, as well as deferring to the suggestions of sex workers would yield safer policies for sex workers. A review of current literature on legal reform for sex work yielded several promising solutions. Lauren's case for expanding vacatur offers a vital solution for trafficking victims inclined to leave the industry by expunging criminal records and removing criminal penalties. Canada's attempts to implement restorative justice practices to address sex work, although misguided, offer valuable insight into the potential for restorative justice programs to offer social support to those who may want to leave the sex industry of their own volition. If legal measures must be employed, they can be used to support victims without criminalizing consenting adults.

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How Political Interest Overruled the Common Good:  
Women's Rights and The Abortion Argument

Daniella Krynsky

### **What is the “Common Good?”**

In July 2022, a ten-year-old was faced with a life-or-death decision that the internet broke into an argument over. The case I refer to is the 2022 Ohio child-rape and Indiana abortion case. The heartbreaking story broke national headlines, stating:

On Monday, three days after the Supreme Court issued its groundbreaking decision to overturn *Roe v. Wade*, Dr. Caitlin Bernard, an Indianapolis obstetrician-gynecologist, took a call from a colleague, a child abuse doctor in Ohio. Hours after the Supreme Court action, the Buckeye state had outlawed any abortion after six weeks. Now this doctor had a 10-year-old patient in the office who was six weeks and three days pregnant. (Fradette & Rudavsky 2022, para 1-2).

Soon after that more news outlets broke headlines talking about how the child is pregnant because of rape. Her abortion was lifesaving, yet it seemed to take a backseat to some opinionated people. When the internet broke out in division over the story, the scale ranged from people exclaiming that the entire case itself is fake to the other end of people citing specifically this case when protesting the overturn of *Roe v. Wade* and restrictive reproduction rights. With opinions coming from all angles of the topic, even reaching President Biden, it is hard to try to think about the case from a fundamental point of view: what about the child? A ten-year-old girl, pregnant because she was raped was faced with two options, bear the child of her rapist— a possible death sentence by childbirth, or receive a life-saving abortion. The personal agendas of politicians pushed for that death sentence



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of childbirth, otherwise the right to an abortion would still be constitutional. It is those who offer life-saving reproductive health care that fight for the common good of citizens.

The common good isn't something that is going to meet everyone's needs, as every individual holds their own set of values— however, the common good does provide comfort and peace to people in a community. For example, it is because of the common good that things like public transportation, public schools, and cultural institutions exist. Those facilities—whether material, cultural or institutional—that the members of a community provide to all members to fulfill a relational obligation they all must care for certain interests that they have in common. (Stanford 2018). Sometimes it's the things we don't even realize are there, until they are taken away.

To understand political interest, it is important to note that there are several definitions of it. The political interest I refer to is how politicians use their position and political power to further motions of their interests and personal beliefs. They engage with the political system with the motivation to change it for themselves and their values— when these values oppose the common consensus of society, there begins to be problems. It is a politician's job to understand the body of people they represent and take into consideration all those opinions from that body and create legislature for the common good, as it is the members of a community who know what is in the best interest of their community. In modern day, women have suffered immensely by the law because political interest has overruled the common good for their equal rights, and it is imperative to amend the system in order to bring them equality.

issues regarding sexuality and reproductive choice. Once again, women are on the stage debating with the legislature for their equal rights. It's with these historic motions to work towards a country where abortion is a constitutional right that puts these current and past decades as another landmark in the long and continuous timeline of women's inequalities and their fight towards equality in a patriarchal nation.

### **Judges Impartiality and Roe v. Wade**

Most modern issues are settled in courts; the Supreme Court for those viewed as most critical to the nation. It is crucial for judges to remain impartial when hearing cases and deciding the ruling. Judges must use legal basis for their decisions as well as, in the United States, look at the Constitution. If personal belief is used as reasoning the decision is no longer for the common good of the people but rather the personal interest of the judge— the integrity of the ruling is ruined. A case that was decided by something other than a legal and unbiased basis is the overturn of Roe v. Wade.

Roe v. Wade is a Supreme Court Case, U.S. 410 113, that was decided in 1973. The anonymous woman, Jane Roe, was fighting for her right to have an abortion without the unborn child posing a threat to her life. In volume 410 of the U.S. Reports in the official documentation of Supreme Court Case Roe v. Wade states:

Roe alleged that she was unmarried and pregnant; that she wished to terminate her pregnancy by an abortion ... [However] that she was unable to get a "legal" abortion in Texas because her life did not appear to be threatened by the continuation of her pregnancy... (Roe v. Wade, 410 U.S. 113, 1973).

## **History of Women's Inequality**

The issues in the contemporary United States are not the first time women have suffered because of the political structure made by personal agendas. The U.S. Women's Suffrage Movement was a historical landmark moment for American women. Women won a right that shouldn't have had to be fought for. The right to vote for your country's government is a right that should be granted to any citizen regardless of gender, race or religion. However, it was a battle that was fought, and it was a milestone for women deconstructing the misogyny rooted in our nation— even if it still took decades to add it into our Constitution. Through the mere gender identity as a woman, that individual is oppressed by American society and politics. They are victims of “Othering.” The notion of Othering, a term coined by Gayatri Spivak originally “...used by the colonizers to create and sustain the negative and inferior views and assumptions about the colonized natives,” has now broadened into the practice of oppressing specific groups because of their race, gender, religion, age, class, etc. When speaking about the Othering of women, I refer to the continuous implementation of policies that allow for our nation to fall deeper into the hole of misogyny that plagues our communities as well as support the idea of Othering women from what is identified as the societal norm, and in a sense, the desire of the patriarchy. From the Salem Witch Trials used a means to control women who spoke out against the men in power, to the fight for the right to vote and have a say in the country's government. Then the belittling of women by essentially enforcing the social norm to work at home or if they did work— they would be paid less than men, to more contemporary

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In this case, Wade argued back that a woman's right to privacy and choice of abortion is secondary to the unborn child's right to life — therefore the states also have the power to regulate the right to abortion to protect the life of the fetus.

The argument was centered around the fact that Roe was denied an abortion because the pregnancy did not pose a medical risk to her life. That's it. It was just that her pregnancy can be carried to full term with no risks to her life, so she should. This case is a landmark in the abortion topic in the United States and the Court ruled in favor of Jane Roe in 1973 establishing the choice of abortion as a Constitutional right to Americans. A short 49 years later, in 2022, this decision was overturned during the debate on a ruling for Jackson v. Women's Health Organization.

The Justices of the Supreme Court did not act with impartiality. I believe that their own political agendas and personal value systems influenced the decision to overturn the 49-year-long decision. We are told these people rule free of political parties, yet their actions and rulings prove otherwise. Had the Justices followed with holding the common good of the American people over their own bias, the right to an abortion would still be a Constitutional right rather than a state-to-state decision. This is because the majority opinion in the United States is for the right to reproductive choice. According to author Carrie Blazina at the Pew Research Center:

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About six-in-ten adults (57%) disapprove of the court's decision that the U.S. Constitution does not guarantee a right to abortion and that abortion laws can be set by states, including 43% who strongly disapprove, .... About four-in-ten (41%) approve, including 25% who strongly approve. (Blazina 2022).

When speaking on *Roe v. Wade*, it's hard to not talk about *Dobbs v. Jackson Women's Health Organization*, because its decision was the one that resulted in the *Roe v. Wade* overturn. In the official US reports of the Supreme Court trial *Dobbs v. Jackson Women's Health Organization*, 597 U. S. \_\_\_\_ No. 19-1392 (2022) the Judges precede the case and its topic of abortion by stating that the Court has been "reluctant" to recognize rights that are not mentioned in the Constitution (597 U. S. \_\_\_\_, 2022.). However, the Constitution was drafted centuries ago when a lot of societal norms that were purposely left out of the document have since been amended to the original Bill of Rights to match with our evolution as a society and the common good of today's nation. While it is the foundation for our government for its symbolism of freedom, democracy, and equality for all— there needs to be a universal understanding that it was created in a past society. As noted previously, judges must review the Constitution when deciding on a ruling, and while it is true that the rights for or against abortion are not mentioned in the Constitution, that should not constitute "reluctance" to establish them. In previous cases, the absence of something from the Constitution has not given the Court's an opposition to vote or decide on it.

The result of *Dobbs v. Jackson* states that the Constitution does not confer a right to abortion; and the authority to regulate abortion is returned to the people and their elected

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elected representatives. (Cornell Law, 2022). This Supreme Court decision reversed *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*.

It is also important to discuss who overturned this case. Who were the nine people who decided to reverse the right to an abortion for the entire nation? The Justices were as follows: Chief Justice John Roberts, Justice Clarence Thomas, Justice Samuel Alito, Justice Neil Gorsuch, Justice Amy Coney Barrett, Justice Brett Kavanaugh, Justice Stephen Breyer, Justice Sonia Sotomayor, Justice Elena Kagan. Most of the Justices were biologically men and ruled on this matter without having a uterus. A decision that restricts and takes freedom from women. The issue of a majority men's court voting on a women's matter is a whole issue in itself; however, I want to focus on another ill of the court; partisanship. "Justices should be selected based on impartiality, rather than their identical views with the appointing administration." (Jain 2022). With that said, our current court makes it easy to identify which Justices lean to be conservative or liberal, based on their appointers and patterns in past rulings. Currently, SCOTUS has a 6-3 conservative-leaning bias, with all six conservative judges appointed by Republican presidents (Jain 2022). Unsurprisingly, judges appointed under a Republican administration have traditionally conservative views. This is seen evidently in the 2015 landmark case, *Obergefell v. Hodges*, that legalized same-sex marriage in a 5-4 decision. All four dissenters were conservative leaning judges (Jain 2022). Same-sex marriage is a frowned upon practice to people who believe in traditionally conservative ideals. This example of a Judge appointed under Republican rule, using their power in the Court to continue to vote for

conservative ideals shows exactly how these partisanships can influence huge decisions for the common good.

There is an absolute necessity for reform because with one political party dominating the Court, it will— more likely than not— always be the majority rule. As long as Justices are appointed by whoever the President sees fit, and then voted through the Senate on a simple majority rule, there will be bias in the court. The President will see it fit to nominate someone of their own party, and if they step out from their party it will be someone of similar if not identical political and personal beliefs. Then, these Justices are not even leashed by term limits, they are to rule for however long as they wish. The system itself is outdated entirely. How it is that a Justice can rule 20, 30, or more decades and a President is maxed at eight. Senators at six. House of Representatives, two. All these politicians are held to term limits to ensure that political power is regulated. Yet, the Supreme Court holds no term limits. When other branches of the government make decisions the motion passes through several branches to ensure equal power. Yet, when the Supreme Court rules on a constitutional issue, that judgment is virtually final. (Supreme Court of the United States, 2023). There is an overwhelming imbalance in the Supreme Court, and it's plagued with political polarization. To call the whole Supreme Court System a scam is a bit harsh, but is it too radical to propose that the Supreme Court needs some reformation in order to restore impartiality and more rulings for the common good?

## **Overturn**

There is this trend with American politicians, who have sworn to preserve and uphold the notion of common good, where it will not be done if the common good does not align with their personal views and values. Following that, unfortunately, I believe this is what has happened for several states post *Roe v. Wade*. The true tragedy of the overturn is how certain people in power immediately implemented their personal and political agenda to ban abortions when for nearly 50 years prior it was legal and Constitutional to receive and perform an abortion nationwide in the United States.

The common good has always provided the most leeway to people while putting public safety as a priority. The majority opinion on the topic of abortion, in the United States, is in favor of the choice being left to the individual giving them “reproductive choice.” Again, reminder that Pew Research Center has reported that the majority, 6 out of 10, of American citizens push for pro-choice laws as stated previously. Of course, there is discourse and there is debate, that is why the topic is known as “The Abortion Argument.” However, the majority of U.S. citizens in these statistics are in favor of allowing for the choice to be made by the individual rather than the court of law. Had the common good been considered, a decision regarding the regulation or legality of abortion would have been made with respect to this majority.

As of December 8th, 2023, 21 of the 50 continental states in the United States have some form of an abortion ban. 14 of those 21 states have a full abortion ban, these states include: Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Montana, North Dakota, Oklahoma, South Dakota, Texas,



Tennessee, West Virginia. In most— if not all— of these full ban states, abortion is banned in most circumstances. (New York Times 2023).

Infamously, Texas was one of the first states to implement abortion regulations. How ironic it is that the state where Jane Roe originated from, and fought relentlessly for her and her fellow Texans to gain reproductive choice, is the one that had the quickest turnaround and one of the harshest abortion regulations in the nation. Effective September 1st, 2022, only 70 days after the overturn of *Roe v. Wade*, Texas passed Senate Bill 8, also known as the “Heartbeat Bill.” In summary, this bill restricts an individual from getting an abortion after a fetal heartbeat is detected, which has been cited as detectable six weeks after conception which is also as early as five weeks after the start of an individual’s last menstrual cycle. The average time individuals find out they are pregnant is two to three weeks after your expected menstrual cycle, otherwise known as six to seven weeks after conception. Results of this anti-abortion law include an increase in Texas’ births and fetal mortality.

### **Fetal Mortality**

New York Times author David J Goodman writes in his article how the analysis found that Texas had nearly 10,000 more births between April and December of last year [2022] than would have been expected without Senate Bill 8. The finding would suggest a striking number of pregnancies carried to term that otherwise might not have been, absent the law known as Senate Bill 8. (Goodman 2023). That is a 3% increased birth rate, a direct result of *Roe v. Wade* being overturned. Cross referenced with another source, the

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John Hopkins Bloomberg School of Public Health, they published an article speaking on the results in Texas. They also explain how researchers from the Johns Hopkins Bloomberg School of Public Health estimate that the Texas abortion ban that went into effect in September 2021 was associated with 9,799 additional live births in the state between April and December 2022. (John Hopkins Bloomberg School of Public Health, 2023). Again, we see the information how in months there was an estimated 10,000 more births. The John Hopkins researchers thoroughly explain how this number was calculated: ... the researchers used statistical modeling to create a “synthetic” Texas based on monthly live birth data from all 50 states and Washington, D.C., from 2016 through 2022.

The researchers calculated that there would have been 287,289 live births in Texas from April to December 2022 had the abortion ban not gone into effect in September 2021.

The number of observed births during this period was 297,088, a difference of 9,799.

(John Hopkins Bloomberg School of Public Health, 2023).

The reason I bring up the idea of increased birth rate in Texas is because of its relationship with the increased fetal mortality in Texas. CNN Author, Isabelle Chapman writes how “2,200 infants died in Texas in 2022, an increase of 227 deaths, or 11.5%.” (Chapman, 2023). That’s right, in a politician’s attempt to preserve the life of an unborn fetus— the ability to terminate an unhealthy pregnancy for the mother and/or child is taken. A woman is forced to carry to term a child they know may not survive. In

circumstances, if the pregnancy poses a very serious threat to the mother's life—an abortion can be authorized in these full ban abortion states. However, this is a very strict and rare occurrence ever since the full ban went into effect. It is through several state's anti-abortion tactics, such as Senate Bill 8, and the nationwide lack of abortion support that pushes pregnant individuals into a corner and forces them to give birth. Having to face prosecution and/or death or bear a child should not be the decision individuals have to face when experiencing an unwanted pregnancy. Note that this evidence, results, and observations are restricted to Texas. However, that does not mean it can't apply outside of specifications and on a more general spectrum to other fully ban abortion states.

### **Women's Mortality**

In other news on the overturn and the women affected, The Harvard Gazette, have reported on the increased suicide rate and depression rate amongst women in relation to misogynistic laws and laws enacted that have prosecuted women for exercising the choice of abortion. In their article, they write about a study published in December that showed a connection between restrictive abortion laws and increased suicides by women of reproductive age in the U.S. (Powell, 2023). The study, which was conducted by the University of Pennsylvania, writes how stress is a key contributor to mental health burden and a major driver of increased suicide risk. This stressor—restriction to abortion—affects women of a specific age in a specific cause of death, which is suicide. (Berger, 2023). Further covering the Pennsylvanian research. The results are from a process that goes as follows:

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They conducted what's called a difference-in-differences analysis, using state-level data from 1974 through 2016 and covering the entire population of adult women during that time... Every time a state enforced a law that was related to reproductive care, we incorporated it into the index. Then, among women of reproductive age, they analyzed suicide rates before and after the laws took effect, comparing those numbers to broad suicide trends and to rates in places without such restrictions. (Berger, 2023) Of course, it is necessary to understand two perspectives on this, Berger explains how researchers did not have access to data about the experiences or mental health of individual women. (Berger, 2023). However, even with limitations, the findings still hold ground. To ignore the data is parallel to blatantly ignoring the suffering of citizens before your eyes. The data can help medical professionals and health care providers understand the suicide risk in women of reproductive age. This data can also be applied outside of the medical field. Women are dying because of restrictive laws, this data could— should— be presented to politicians who decide on these laws. While the Constitution is missing a section on abortion, it once missed a section on a woman's right to vote— yet it was amended to fit our modern society. Therefore, it is time to amend the Constitution for the common good and well-being of the people. There needs to be a demand that research on behalf of the outcomes of possible laws be taken into account by lawmakers and politicians voting on them, if it means there will be preservation of well-being, life, and the common good.

## **The People's Fight**

Women across the nation are outraged. They are living with a body they do not get a choice in controlling as the government has already decided they have jurisdiction over them. The continuous injustices in our political systems don't just affect the formal and legal lives of women, but the very core and soul of their being and identity. When women are forced to abide by rules and laws made solely for the control and regulation of themselves, they are being stripped of the one thing this nation prides itself for providing—freedom. The United States has constantly been at a point where the containment and control of women's lives is normalized and a consistent factor in our history. It's through the acknowledgment, awareness, and fight that we are able to earn rights that women should have had in the first place. Women's Rights and Feminism is not solely a woman's battle. As a community and collective society, we have a moral obligation to fight and support the betterment of our common good that is taken from us by political powers. The common good is for women, for men, for humans. It is a genderless battle, and only won through collective forces. The deconstruction of political interest ruling our nation seems like an endless battle, but throughout history people have proved they will not be silent until themselves and their neighbors are treated equally. Until we are all given the common good and treated with the respect any human deserves.

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Intersection between Incarceration and Reproductive  
Health:  
Lack of Access for  
Incarcerated Pregnant Women in the United States

Lauren Sulaiman

## **Introduction**

Over the last fifty years, the problem of mass incarceration in the United States has gained more attention from the general public. Nevertheless, one topic deserving of more awareness and examination is the unique challenges experienced by the 172,700 women and girls currently held in prisons, jails, and other correctional facilities in the United States (Monazzam & Budd, 2023). Incarcerated women have had a challenging time navigating the country's criminal justice system, often encountering issues such as sexual abuse, harassment, and other forms of gender-based violence, while being geographically situated in facilities far from their families. Before entering their sentence, many incarcerated women also reported their experience with homelessness, childhood disadvantages such as losing a parent or both parents, being supported through public assistance programs, and being arrested before the age of 18 (Monazzam & Budd, 2023). Several women also entered prison when they were pregnant and expecting a child; however, since the majority of them had no health insurance, they experienced difficulties with obtaining prenatal care and additional medical services (Monazzam & Budd, 2023).

Stemming from the topic of pregnancy, one critical area often overlooked in discussions about incarcerated women is their access to reproductive services during their time at institutional correctional facilities. Given that “nearly three-quarters of incarcerated women are of childbearing age” or between the ages of 18 and 44 years (Sufrin et al., 2019), it opens the possibility for more women to report a pregnancy when incarcerated. Yet, for incarcerated women, access to prenatal care and other reproductive services including abortions can be challenging. In this paper, I explore the intersections of incarceration, pregnancy, and access to

reproductive health services among incarcerated pregnant women in the United States. I examine existing works of literature, particularly research articles, and commentaries on incarcerated pregnant women and access to reproductive health services in prisons and jails. I organized my research paper into five sections. The first section discusses how incarceration impacts access to pregnancy-related services and focuses on two specific forms of reproductive health - prenatal care and abortions. The second section examines the harmful practices, most notably shackling, which pregnant women are more vulnerable to as incarcerated people. The third section summarizes my research findings and leads into my fourth section. The fifth and final section provides recommendations on how to improve reproductive healthcare for incarcerated women through policy change and support programs. I would like to acknowledge that this paper utilizes the terms “women” and “woman” to align with the language referenced in the cited research articles and publications. However, I recognize that many individuals may not identify with these terms and their individual experiences should be respected, recognized, and valued in research.

### **Methodology**

To explore the intersections between incarceration, pregnancy, and access to reproductive health services, and to gain a better understanding of the experiences of pregnant incarcerated women, I adopted a qualitative research design. Qualitative methods are beneficial for capturing the nuanced experiences and perspectives of marginalized groups and honing in on individual lived experiences and narratives while generating knowledge about people from underrepresented groups. I conducted a search of published

literature using two databases for scholarly literature, Google Scholar and John Jay College of Criminal Justice's Lloyd Sealy Library database. The selection criteria included peer-reviewed articles ranging from research articles, analysis and commentary works, and reviews. The selected search terms were "incarcerated pregnant women," "pregnancy while incarcerated," "access to reproductive health services," "prenatal care in prisons," and "abortion access for incarcerated women." Afterward, I selected articles that examined the experiences of pregnant incarcerated women within the United States's carceral institutions and discussed topics related to maternal health care, prenatal care, and abortion access while incarcerated. It was critical for me to understand the issue of reproductive health among incarcerated women through professionals whose fields of study were closely aligned with the topics of incarceration, criminal justice, reproductive health care, and women's health. Several authors of the selected readings were medical doctors and medical professionals who specialized in family care, women's health, pregnancy, psychiatry, and sociology, and examined the issue of incarcerated pregnant women through in-depth interviews, database searches, and a critical lens. This emphasized the need to recognize the experiences of incarcerated pregnant women not solely through legal and criminal justice matters, but also through the medical and healthcare lens. This helps to further understand the intersections of incarceration and pregnancy and how ongoing health disparities continue to pose risks for this population.

**Literature Review/Historical Context**  
**Incarceration & Access to Pregnancy-Related Services**  
**Access to Prenatal Care**

While the incarceration of women in the United States continues to increase, research on prenatal care of this population remains limited. Few studies have explored the experiences of pregnant incarcerated

women in seeking care services during and after their pregnancy, and few scholars have provided their commentary on this issue. To stimulate discussions on pregnancy and incarceration, Jennifer Bronson, Ph.D., and Carolyn Sufrin, MD, Ph.D., reviewed existing research and literature on pregnancy among women in prisons and jails. The authors highlight the experiences of pregnant incarcerated women and suggest ways to improve data collection among this population. Bronson and Sufrin emphasize the flaws of maternal health within the general US population, stating that despite the United States's advancement in technology, the country still witnesses higher rates of maternal deaths, infant mortality, and preterm deaths than most developing countries (Bronson & Sufrin, 2019, p. 58S). If this information is a generalization of the US population as a whole, imagine how it reflects in correctional facilities, where incarcerated women may not be entitled to the same privileges and protections as non-incarcerated women.

Pregnancy is a significant time in a woman's health, and proper prenatal care and nutrition are critical to ensuring the health of the mother and fetus. Prenatal care, or the care one gets while they are pregnant, may include regular visits with a doctor, nurse, or midwife, someone who can help monitor and keep updated with the health of the mother and fetus's development. In 2004, 54% of incarcerated pregnant women reported "some type of pregnancy care when incarcerated" (Bronson & Sufrin, 2019, p. 59S). Although some may consider this rate as relatively high, this statistic indicates that only around half of pregnant women in prisons received prenatal care, while the remaining half most likely received no services to aid their pregnancy. In addition, Susan Hatters Friedman, MD, Aimee Kaempf, MD, and Sarah Kauffman, MD, provided commentary on the struggles of

obtaining prenatal care while incarcerated. They note that among incarcerated women, there are additional struggles that impact their pregnancy such as, “maternal trauma, poor nutrition, substance use, mental illness, chronic medical conditions, low socioeconomic status, and limited social support” and the lack of prenatal care (Friedman et al., 2020, p. 2). As referenced in their analysis, the basic standards of prenatal care might include access to pregnancy counseling, abortion services, treatment for substance abuse and other health conditions, and assistance with vitamins and diet nutrition (Friedman et al., 2020, p. 2). These resources become even more difficult to obtain when pregnant women lack control over their environment due to being incarcerated. Pregnant incarcerated women often have strict sleeping times, diets, and medication, which make it challenging to schedule or attend pregnancy counseling sessions and receive additional care services to assist their pregnancy. There are also obstacles with transporting incarcerated women from their correctional facilities to medical facilities, as well as coordinating time with care professionals while aligning to the schedule of the prison or jail (Friedman et al., 2020, p. 2). Overall, incarcerated women lack control over their environment, significantly impacting their ability to access necessary resources and support systems during their pregnancy.

### **Access to Abortions**

Alongside prenatal care, abortions remain a critical aspect of reproductive health that becomes increasingly more difficult for incarcerated women to access. Research conducted by Carolyn B. Sufrin and her colleagues explored how incarceration influences women’s decision-making on abortions and access to abortions (Sufrin et al, 2023). After conducting a qualitative study and interviewing several pregnant women in prisons and jails between

2018 to 2020, the authors concluded that incarceration did shape pregnant women's thoughts on their pregnancies and access to abortions. Oftentimes, residing in a "carceral environment" left pregnant women questioning their reproductive well-being as well as how being incarcerated would impact their pregnancy experience. The study revealed four themes around abortion and pregnancy-making: the obstruction of desired abortion by medical providers; the assumption among incarcerated women that they had no right to abortions; the intention constraining of abortion access by carceral bureaucracy, and women wishing they had aborted due to carceral conditions. In this paper, I will delve into the first two themes. In the study, the participants report that while they expressed their desires for an abortion, the doctor responded, "My country jail does not do that" (Sufrin et al, 2023, p. 168) and rejected their requests. While this may not be true, and jails did allow abortions, custody officers reported that the jail would "involve logistical hurdles as small tactics" to stall the abortion procedure (Sufrin et al, 2023, p. 168). In other words, jails and prisons employed small tactics that resulted in incarcerated pregnant women missing their appointments and stalling their abortions. Considering that incarcerated women already have limited access to these necessary services, the act of overtly denying them is manipulative and inhumane. These barriers result in incarcerated pregnant women feeling more apprehensive about seeking health and build a distrustful atmosphere within the facility.

The second theme, the assumption among incarcerated women that they had no right to abortions, demonstrates the misconceptions about abortions and incarceration. Many participants believe that

they lost most of their rights, including abortions when they became incarcerated, or they were never made aware of their rights. One participant stated, “I mean, I didn’t really have a choice of anything, so they didn’t ask” which was echoed among other incarcerated women (Sufrin et al., 2023, p. 171). Another participant went even further to state that they believed they didn’t have the right to an abortion because everything was decided for them by the correctional facility. More specifically, everything was decided for them, from what they ate, to what they drank, and when they got to see a doctor (Sufrin et al., 2023, p. 171). This illustrated that many incarcerated women felt restricted during their pregnancies. Rather than being reassured of reproductive health options, they remained uncertain or uninformed about what choices were available to them. While many non-incarcerated women are likely to have more autonomy over decisions like these, incarcerated pregnant women remain dependent on their carceral system to make decisions concerning abortions.

### **Harmful Practices Impacting Pregnant Women The Use of Shackling & Restraints**

In addition to the lack of prenatal care services provided to incarcerated women, the prevalence of harmful practices such as shackling is especially dangerous among pregnant women. The review, “Pregnancy in Incarcerated Women: Need for National Legislation to Standardize Care” by Smriti Nair et al., examined various areas of improvement in women’s prisons. It specifically mentioned the danger of using shackles on incarcerated pregnant women. The review noted that in addition to mental health, physical and sexual trauma, substance abuse and treatment, and diet nutrition, shackling also played a significant role in pregnancy outcomes. Shackling involves the use of devices such as handcuffs,



ankle cuffs, security chains, or other mechanical devices that restrict an incarcerated individual's movements. This practice is intentionally used to limit one's range of motion to prevent them from escaping or harming themselves or another person.

The restriction of one's movement can make it especially difficult to get medical attention when necessary. For instance, when used during labor, shackles could result in increased pain felt by the incarcerated women (Nair et al., 2021). Outside of labor, shackles can result in increased discomfort for the pregnant woman, increased fall risk, delays when having a medical emergency, and blood clots. Also, it can trigger underlying health problems that could be of great risk to their pregnancy. The authors further mentioned that women with depression or PTSD may feel triggered through the use of shackles, endangering the health of pregnant women and the developing fetus. Fortunately, state legislation has taken action to restrict routine shackling in correctional facilities. In the United States, 22 states enacted policies to restrict the use of shackles during pregnancy, and some even banned this practice during labor and delivery (Friedman et al., 2020, p. 2). However, this raises the question of what are the best practices of restraint to use with incarcerated pregnant women to ensure their health and protection. Incarcerated pregnant women are uniquely impacted by the practice of shackling because despite being more vulnerable to health risks during their pregnancy, they are still subjected to treatment that endangers their well-being and that of their unborn child. When incarcerated pregnant women finally obtain resources to maintain their health, oftentimes their only option is to rely on their correctional facility to supply them with their necessary resources. Another concern is whether the facility has enough funding, experienced staff, or the infrastructure to care for its

needs, to care for its needs, as well as comprehensive support systems such as prenatal care, mental health services, and additional programs to address the unique needs of pregnant incarcerated individuals. In general, incarcerated pregnant women are likely to experience more difficulty obtaining reproductive health services while bearing the harmful practices of their correctional facilities.

### **Discussions & Findings**

The objective of this research paper was to understand how incarceration impacts reproductive health resources among pregnant women incarcerated in United States prisons, jails, and other correctional facilities. By examining the intersection between incarceration and reproductive health, this paper sought to shed awareness on the unique challenges that incarcerated pregnant women face when held within the confines of the criminal justice system. Through a review of several research articles and commentaries, it's evident that incarceration affects pregnant women's access to reproductive health services and their overall reproductive well-being. Regarding pregnancy-related services such as prenatal care, the research revealed that incarcerated pregnant women were more likely to experience difficulties scheduling or attending pregnancy counseling sessions or visits with medical professionals due to their structured prison or jail schedule. While non-incarcerated women might have more autonomy over scheduling their appointments or decision-making on abortions, incarcerated women are left more dependent on correctional facilities because these facilities have control over almost every aspect of their daily lives. Incarceration also intersects with

incarcerated women's access to abortions. Within prisons and jails, there's a sense of gatekeeping, where institutions do not want the incarcerated to be made aware of their right to abortions or other reproductive services. Many incarcerated women reported never having an abortion because they believed they were not allowed to get one after being incarcerated. Several also felt restrained and limited in several aspects of their lives when incarcerated. The lack of autonomy to make decisions concerning their reproductive health showcased how incarceration shaped women's abilities to think critically about making decisions on abortions. Incarceration also makes pregnant women more vulnerable to encountering harmful practices such as shackling. Although shackling is portrayed as a method of protection for correctional facilities, its implementation and utilization on incarcerated pregnant women have raised concerns about its impact on the psychological and physical well-being of pregnant women.

Incarcerated pregnant women are more susceptible to increased discomfort, increased fall risk, and delays during a medical emergency due to limited mobility. Mental illnesses such as depression and PTSD can also be triggered when shackling is employed. Overall, incarceration limited pregnant women's access to and knowledge of reproductive health services, while placing their reproductive well-being at great risk.

### **Gaps in Literature & Suggestions for Future Study**

While reviewing my selected articles, I noticed that the research and commentaries lacked discussions on the racialized dimensions of incarceration and its impact on pregnant women. Racial and ethnic disparities are evident in the United States criminal justice system and without further research on topics, the experiences of pregnant incarcerated women of color will continue

to be overlooked. Research should prioritize the experiences of Black, Latinx, and Indigenous women, along with individuals from the LGBTQ+ community and gender-expansive folk, who can become pregnant and seek reproductive health services but continue to face systemic obstacles when obtaining these services. Despite the enlightening articles and commentaries that I reviewed in this paper, the topics of incarceration of women in the United States and reproductive health services available to incarcerated women are two areas that lack research and data. When the topic of pregnancy is brought into the discussion, research becomes even more scarce. With this in mind, more research should center on understanding the distinct experiences of incarcerated pregnant women. Other areas that require more research are the experiences of incarcerated women of color and the intersections between incarcerated pregnant women of color and access to reproductive health services. I would also advise scholars who pursue research in these topics to implement the framework of intersectionality and examine topics of oppression and reproductive health among marginalized communities through an intersectional lens. Intersectionality will help analyze the perspectives of multiple groups and acknowledge that certain groups are more privileged or oppressed than others because of systemic structures that shape our everyday lives and decisions.

### **Recommendations to Improve Reproductive Healthcare for Incarcerated Women**

While there are evident gaps in research surrounding incarceration and pregnant women, physical interventions and programs can be implemented to improve the experiences of incarcerated pregnant women both during and after their pregnancy.

Regarding prenatal care, the criminal justice system and carceral

institutions should provide improved access to medical treatment services. These services might include consistent appointments with a medical professional, who can keep track of the individual's health during and after their pregnancy, as well as prescribe the necessary medication to maintain their health. Medical and healthcare-related services should also cater to the unique circumstances of incarcerated women, whether it's recognizing their possible experiences with gender-based violence or trauma or their role as soon-to-be mothers or caregivers to their children. Overall, as Knittel et al. stated in their article, "Evidence-based recommendations to improve reproductive healthcare for incarcerated women," these services should be gender-responsive. Additionally, doula labor support programs and childbirth and parenting education programs can address the emotional, physical, and educational needs of women while they're incarcerated (Knittel et al., 2017, p. 202). It allows soon-to-be mothers to learn more about their bodies, and parenting responsibilities and empowers them to make more well-informed decisions on both their health and the health of their children. Promoting a sense of agency among pregnant incarcerated women is one way to not only make their experience while incarcerated better but also allow for a smoother transition while reentering into a community after they're released.

Furthermore, the use of harmful practices such as shackling should remain prohibited for pregnant women, especially while they're in labor (Knittel et al, 2017, p. 203). More states should enact policies that restrict the use of this restraining method, and instead, provide additional oversight when other methods are used on pregnant women. As previously discussed, several pregnant women have incarcerated. Pregnant women should have consistent counseling

sessions with a trusted medical professional who can advise them on their health condition and make referrals for abortion or contraception services. Pregnant incarcerated women should also have the freedom to exercise autonomy to make decisions about their bodies and health. Therefore, policies should also emphasize “shared decision-making” (Knittel et al, 2017, p. 203) to encourage the active involvement of incarcerated women in decisions concerning their pregnancy and health needs.

### **Conclusion**

Hence, when people first think of mass incarceration, the general conception may be of the increasing number of incarcerated males who enter prisons, jails, and other correctional facilities. However, one area often overlooked by research, publications, and public perception is the experiences of incarcerated women, particularly incarcerated pregnant women. These individuals are forced to navigate a strict environment, under constant surveillance, and lack everyday needs during an important time in their lives. This paper highlighted the intersection of incarceration, pregnancy, and reproductive health, an area where more research and data are needed. However, there remain more areas that have yet to be covered. The obstacles and challenges described in this paper did not happen in a vacuum. Rather, they are intertwined in a larger system of systemic issues and social structures that continue to shape the experiences of incarcerated pregnant women. Highlighting the experiences of marginalized communities such as women of color can open the door to more research that highlights the systemic injustices that drive mass incarceration. As mass incarceration prevails in the United States, there’s a growing urgency to learn more about the flaws of this system and develop strategies to resolve this issue.

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Child “Prostitution”:  
Legal and Policy Frameworks:  
Examining the Criminalization of Child  
Victims

Maggie Wheeler

## **Introduction**

Historically, children victims of exploitation such as prostitution or human trafficking were seen as delinquents rather than victims. This perspective contributed to the criminalization of child victims, as they were arrested, charged, and prosecuted for offenses related to their exploitation. This also had to do with the labeling theorists of the 1970s, who focused on the societal reaction to behavior deemed "wrong" by moral crusaders who had the power to create and enforce moral codes within society (Boyes-Watson & Gebo, 2017). In recent years, there has been growing recognition of the need to shift from a punitive approach to a victim-centered approach in addressing child exploitation. However, as of 2020, 19 states allow children to be charged with prostitution (Pilcher, 2020). Continuing legal and policy frameworks that provide the foundation for protecting vulnerable populations, such as children, from sexual victimization is the basis of this essay. Legal and policy frameworks define offenses, establish penalties for perpetrators, and outline measures to prevent and respond to such crimes. This paper aims to illuminate how existing laws in the juvenile justice system exacerbate the victimization of children, hinder access to justice, and perpetuate cycles of harm, ultimately advocating for reforms that prioritize victim-centered approaches and address the root causes of exploitation.

## **Historical Context/Literature Review**

According to (Legal Information Institute, 2020). "Prostitution involves engaging, agreeing, or offering to engage in sexual conduct with another person in return for a fee". While the criminalization of sex work and related offenses differ from state to state, "State

and local laws in 49 U.S. states, as well as four Nevada counties, prohibit prostitution" ("Criminal Prostitution Law," 2023). The penalties for these offenses can range from fines and community service to imprisonment, depending on the severity of the offense and the jurisdiction's laws. While these laws were intended to apply to adults, child victims of exploitation are often arrested and prosecuted under these laws despite being victims of coercion, manipulation, and abuse.

Stigmatizing language and stereotypes play a significant role in shaping legal responses to child trafficking and exploitation. McCain (2020) posits that "Describing trafficked and exploited children as prostitutes is a contradiction in terms. 'Child prostitute' suggests consent or agency, when, in this case, there is none". Moreover, the term "child prostitute" implies that the child is voluntarily engaging in commercial sex work when, in reality, they are often coerced, manipulated, or forced into such situations. This normalization can influence legal responses by downplaying the seriousness of the crime and failing to recognize the victimization experienced by the child.

The juvenile justice system's overarching goal is to act "in the child's best interests" and provide rehabilitation and care (Boyes-Watson & Gebo, 2017). This is the core rationale for a juvenile justice system separate from the adult criminal justice system: Children are different from adults and, therefore, are not legally responsible for their actions like adults. The juvenile justice system operates within a separate legal framework from the adult criminal justice system. Depending on the jurisdiction, it typically applies to individuals under a certain age, often 18 or 21. While the main goal

of the juvenile system is rehabilitation, as a state-funded operation, the system often fails due to the lack of funding, resulting in a shortage of necessary resources to provide proper services and care.

The failings of the juvenile justice system are evident in the context of child conviction concerning "prostitution." Every year in the United States, "more than 1,000 children are... arrested for prostitution, even though many of them are not legally old enough to consent to sex." (Saar, 2015). According to "Statutory Rape: A Guide to State Laws and Reporting Requirements" (2004) the age of consent in the U.S. is 16-18, depending on the state. With different parameters when it comes to age difference as well (Statutory Rape, 2004). One of the reasons that child victims are put into the juvenile justice system is that many state prosecutors and others in law enforcement believe that they will lose their power to persuade children to testify in court against their traffickers (Powell, 2014). Forcing child victims into the juvenile justice system solely to secure testimony against their traffickers is morally and ethically unacceptable. Not only does it fail to recognize the trauma and victimization these children have already endured, but it serves to perpetuate their exploitation further and also contradicts the "goals" of the juvenile justice system. This highlights the urgent need for systemic reforms prioritizing protecting and supporting vulnerable children within the justice system. Cyntoia Brown was 16 years old when she was arrested for the first-degree murder of ohnny Allen, handgun possession, aggravated robbery, and criminal impersonation. Her 24-year-old boyfriend and pimp "Kut-Throat" emotionally, physically, and sexually abused her for three weeks and forced her into involuntary prostitution to help pay their bills. That was how Cyntoia met and

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was picked up by Johnny Allen, a 43-year-old real estate agent from Nashville, and taken to his house with the promise of \$150 in exchange for sex (Gajanan, 2020). Once alone at Johnny's house, Cyntoia refused to have sex with him, and when he reached for his bedside table, she feared Allen was reaching for a gun, so she shot him. Cyntoia was charged as an adult and was sentenced to life in prison (Gajanan, 2020). Cyntoia was not eligible for parole until 2055 but was granted clemency by the Tennessee Governor and released in August 2019 (Gajanan, 2020). In the end, Cyntoia spent 15 years in state prison.

Usually, the child who is charged with prostitution and enters the juvenile justice system has been arrested for solicitation. Arresting children who are victims of exploitation leads to retraumatization and the judicial system placing blame on the victim for their exploitation. Unfortunately, there is also a lack of response to the array of issues these children face; for example, according to Pilcher (2020), who interviewed a young woman who had been a victim of sex trafficking at age 11 by her stepfather, she did not get the help she needed within the juvenile justice system. Over seven years, Yvonne became addicted to drugs and was arrested over thirty times for prostitution and drug charges. Even though she was still a minor, Yvonne was taken into the juvenile justice system and was not treated for her drug addiction until after her criminal charges had been cleared, "she says the system prevented her from turning her life around sooner" (Pilcher, 2020). The juvenile justice system's failure to adequately address the needs of child victims of exploitation not only perpetuates retraumatization victim blaming but also hinders their ability to receive the necessary support and interventions to recover and rebuild their lives.

## **Findings**

Intersecting factors such as race and socioeconomic status influence the criminalization of child victims within the legal system. According to the FBI, in 2019, African-American children comprised 50% of all prostitution arrests under the age of 18 in the United States (“Table 43”, 2019). The case studies of Cyntoia Brown and Yvonne, both black women, further demonstrate the experiences of exploitation and victimization faced by marginalized individuals within the justice system. While the two cases are different, both women did not have access to the support they needed. Cyntoia spent 15 years in state prison, and Yvonne did not have access to the programs she needed to get clean. The research and data from the FBI show that African-American children are disproportionately arrested and prosecuted for offenses such as prostitution. These disproportionate arrests lead to disparities in legal outcomes, with marginalized children facing higher rates of incarceration, longer sentences, and harsher penalties compared to their counterparts from other ethnic backgrounds. Children who come from low-income families may also not have access to proper legal representation, which can also lead to disproportionate outcomes in court. The role of institutional bias and systemic failures cannot be ignored in the arrests of child victims.

Criminalizing child victims leads to revictimization by the criminal justice system; for children who have already experienced trauma and exploitation, the process of investigation, prosecution, and court proceedings can be intimidating and re-traumatizing. Criminalizing victims also undermines rehabilitation. Instead of utilizing victim services, criminalization makes it so victims may believe their victimization is their fault. Labeling child victims as criminals can also lead to stigmatization and shame. This societal stigma can compound the trauma they have experienced and negatively impact their mental health, self-esteem, and sense of worth. If child victims are treated as criminals, yet the people who victimized them are not brought to justice, it can also compound their trauma and shame, undermining any efforts to rehabilitate them. In addition, according to the Justice Policy Institute (2024), "the most expensive confinement option for a young person, on average, can cost \$588 a day, or about \$214,000 a year". This staggering financial burden underscores the need for cost-effective and evidence-based alternatives that prioritize rehabilitation and support for child victims of exploitation. Instead of spending money incarcerating these victims, the United States could be investing in programs that address the root causes of exploitation and provide comprehensive support services.

Lastly, as mentioned before, there is a lack of victim-centered approaches that prioritize the prosecution of a perpetrator over the well-being of the victim. Criminalizing victims is not the answer, as it is evident that it leads to more problems than solutions. In order to effectively combat child exploitation and trafficking, it is imperative to prioritize victim-centered approaches that focus on the well-being and protection of vulnerable children over punitive measures.

While there is a failure to address the needs of victims of exploitation within the juvenile justice system, there are rare occurrences where other social services are put in place of criminalization. However, due to limited funding and resource constraints, only some states offer these programs to replace the juvenile justice system. One of these options is diversion programs, which offer an alternative to traditional prosecution and detention, diverting child victims away from the criminal justice system and towards support services and interventions. Many diversion programs take a holistic approach and focus on addressing the needs of child victims, considering factors such as trauma history, mental health, and social support networks. These programs also usually offer counseling, therapy, education, and vocational training tailored to the individual needs of child victims. In addition to diversion programs, there are also rehabilitation centers that focus on trauma-informed care. Rehabilitation options often focus on skill-building and empowerment, helping child victims develop coping strategies, life skills, and positive social connections that can support their reintegration into society. Rehabilitation programs provide support, treatment, and services, whereas diversion programs address the underlying causes of criminal behavior and prevent future offending. Although different, both programs aim to improve the traditional conviction process by prioritizing rehabilitation, addressing root causes of criminal behavior, reducing recidivism, promoting reintegration into society, and embracing restorative justice principles.



There are also barriers to identification, protection, and support for child victims within legal and policy frameworks. These barriers hinder the effective response to child exploitation and trafficking, leaving vulnerable children at risk of continued victimization. One of the key barriers is the inadequate legal framework, which can lead to gaps in support and protection, especially on a state-by-state basis. According to the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime (2023), in 1978, congress authorized \$3-\$4 million annually “to develop effective prevention, treatment, and law enforcement strategies to address CSA”, however, that funding disappeared in the 1980s and has not been returned to the same amount since. There is also according to the Office for Victims of Crime (2023), “a lack of consistent standards, evaluation of what is working” considering legal policies. By allocating resources to fund comprehensive programs and establishing strong legal frameworks, there is a tangible pathway toward fostering resilience, promoting healing, and safeguarding the rights and well-being of child victims. Another barrier is that many legal professionals and law enforcement officers lack the training and knowledge needed to work with child victims. This can lead to a failure to recognize signs of victimization and provide appropriate support and protection to affected children. According to the Office for Victims of Crime (2023), in 2008 Interdiction for the Protection of Children (IPC) Program worked with the Texas Department of Public Safety to train officers in recognizing signs of sex trafficking in child victims. The Office for Victims of Crime (2023) also states that “although some signs are obvious, others are subtler; without training, these indicators can be easily overlooked or explained away by even experienced officers”. Without the needed training and knowledge, law enforcement officers may struggle to effectively communicate

with child victims, identify signs of abuse or trauma, gather admissible evidence, and navigate the complexities of child protection laws, leading to potential gaps in support and protection for these vulnerable individuals.

### **Conclusion**

If the goal of the juvenile justice system is to protect children, then the criminalization of child "prostitution" has to cease. Children being criminalized under prostitution laws, despite being victims of coercion and manipulation, is widespread across states. This is due to the insufficient legal protections that contribute to the criminalization of child victims. In order to reform legal and policy frameworks that prioritize victim-centered approaches, a multitude of steps need to take place. Firstly, a limited amount of research has been done on this topic, meaning a lot of the information and research readily available is outdated. This shows the importance of not only the topic itself but continued research to understand the complexities of child exploitation and trafficking, as well as the impact of legal and policy frameworks on victimization and criminalization. Continued research is essential for informing evidence-based policies and interventions that prioritize the well-being and rights of child victims.

Moreover, ongoing research can shed light on the effectiveness of existing programs and identify improvement areas. It is imperative to take action in advocating for legislative reforms and get states to enact safe harbor laws to protect these child victims. There also needs to be further pressure to promote trauma-informed policies by providing the necessary funding these programs need to thrive.

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This includes increasing funding for victim services. Services such as trauma-informed counseling, housing assistance, legal advocacy, and medical care are essential for supporting the recovery and rehabilitation of child victims and preventing further exploitation. While this paper did demonstrate how existing laws in the juvenile justice system exacerbate the victimization of children, hinder access to justice, perpetuate cycles of harm, and explore the root causes of exploitation, the lack of scholarly research prevents accomplishing the goal of ending the criminalization of child "prostitution."

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Reflective Essay: A Reasonable Purpose

Tyrol Brito

## **Our Purpose**

We, as human beings, are made to engage and interact amongst each other. Personally speaking, oftentimes, there is little will to surround me and most people. There is a lack of authenticity and lack of substance that emerges from most individuals. These thoughts and feelings established towards certain individuals are mostly deflective and self-generated thoughts. I also carry qualities and traits for why being around people can be draining and predictable sometimes. Based on the socialization, within our given settings, we all create bias and categorize other individuals through subjective stereotypical tropes and archetypal personality types. We can grow to become like dark clouds, swelling with abhorrent taste toward others. An individual's engagement with another is tunneled through societal crafted bias, which may lead to high tension, and ultimately, ends with disengagement. This is a problem because the principle of engaging as a human being has been muddled and lost worldwide. Continuous confusion on human interactions becomes more evident, especially from the standpoint of expanded criminalization by judiciaries to exert their power in courts, as well as an American globalized infusion of its patriarchy and hegemonic masculinity.

Upliftment and collaboration amongst one another are key components in sustaining different institutions, of which we all exist and are a part. When creating different sectors for civilization, these are some of the main characteristics that have historically shown how fulfilled and successful we can all be. Pinpointing this issue is significant because increased judgment, extortion, and shaming of individuals, particularly to or from men, diminishes their ability to uphold their life's awaited destiny.

As a man in the criminal justice system, there is constant pressure to pursue a passion and preserve its purpose. Whether you are breaking the law or protecting the law, men on all sides have given themselves a purpose. That is the first part of this excerpt, finding out why it is crucial to identify what drives your existence. When there is little will to engage, there is little purpose. We find the reasons for why we exist through the engagement of others. If you have little to no clue what it is that you want to do in life, then you find it more difficult to feel content with yourself. Though, there is a difference. We find reasons to live by engaging with others, but solely existing around others just to be associated with them should not be the goal.

One main example of this can be seen through gang violence amongst men in lower impoverished communities. The book *The Gang's All Queer* by Vanessa R. Panfil (2017) looks at how men in gangs come to terms and begin to understand both their masculine and gay identities. These particular groups are built on the foundation of current members and members previously deemed lavish and cool. In this case, members of gangs exist to be associated with other gang members of their group. They aren't interacting with one another to build on and find new fulfilling reasons to live. Although navigating the queer identity in general, through all facets of life, is very challenging and complex, the main takeaway from this is how masculinity is constructed for these men. Masculinity tells the men, in this context, that they have to adopt a hegemonic way of thinking and behavior, rather than being allowed to conduct themselves with free will.

Men in these sorts of gangs have had to assimilate to a form of masculinity that has dominated and been established everywhere



throughout. This kind of masculinity is hegemonic masculinity. This term was coined by Antonio Gramsci. It describes the idea that society has agents who are dominated and consent to this authoritative rule without the use of force by a single leader. It's a collective consciousness that is coerced and forced through the consensus of groups. In the early stages of this term, hegemony was solely for referencing capitalistic gain and control. Hegemonic masculinity is a practice and a social identity that subordinates anyone who does not exhibit certain male-attributed traits. The majority of people believe men should be muscular, heterosexual, tough, stoic, and dominant. These are the generalized notions that come to mind when thinking about the entire group that consists of men. Nobody is committing a crime by not acting "like a man." But, in the lens of hegemonic masculinity, behaving in an opposite manner is frowned upon since the majority of people have a consensus of masculinity for men as a hegemonic agent. This term is good for understanding how one society may have dominating ideals that are significant to them as opposed to another place. It's important to distinguish what the dominant ideals of most members of its community are because those will be the hegemonic agents in effect. This term does minimize the exertion and influence individuals can have to make an impact that affects the majority groups in that society. This idea is instilled and forced upon us by the consensus of the dominant group, so any individual who opposes this will not be heard or understood. The term hegemony is derived from Marx's influence, with capitalism being a hegemonic agent. Marx believed that capitalism was a conflict derived from the majority group, who perpetuated capitalism as the main economic way of living.

On a grand scale, there is peer-induced pressure on all men for a variety of reasons, but specifically, within the criminal justice system, there are hegemonic agents in place. The example mentioned above, on men in gangs, shows a social construction of what it means to be defined as a man, meaning made for these men who ensue in violent acts, coming head to head with those who represent and defend the law. Is this part of their main purpose in life? I don't really believe so, but do I believe acts that they do commit are heinous and uncalled for. It's mainly part of proving their worth through acts that characterize their identity. In typical cases, a man finds his purpose in the practices of hegemonic masculinity. These hegemonic practices heavily influence those who are in confrontation with the law. As a judge or lawyer, your duty is to abide by and carry out the laws in place. The laws made are based on a patriarchal model, which is reflected across all our major institutions in the United States. This model dictates that the man, also considered the head of household, is superior to their partner. For those who uphold and protect the law, patriarchy and the hegemonic forces that drive it, are a main indicator that highlights their desire to pursue a purpose. A man has to prove himself in this world and oftentimes, it is hard to do so when any behavior not characterized as hegemonic masculinity is shunned. A judge or a lawyer who defends the law has to do so without any emotional impact or sentimental constraints. An insensitive nature, especially towards plaintiffs and defendants, is depicted as a masculine hegemonic trait.

On the opposite side of this, men who are chased and persecuted by the law enact their behavior within the tropes of hegemonic masculinity. Men who are a part of gangs, embezzlers, thieves, and murderers, are just a few examples of hegemonic agents at play when being identified and labeled as criminals. Defiance is another characteristic of hegemonic masculinity. Men who are defiant to the point of breaking the law and getting exposed for it showcase how impactful hegemonic masculinity is in our country. Many men find their purpose through the embodiment of their assigned gender. All the aforementioned traits of hegemonic masculinity leave little discrepancy to indulge in any behavior that is not considered as such. Finding what drives our purpose in this world through our behaviors should not be confined by the standards and notions of traditional masculinity and the system of patriarchy.

Judicial tenure shows the assimilation of judges in a courtroom, oftentimes by giving lengthier sentences and harsher penalties. Their longevity in the judicial justice system inherits what they would deem a power in the most righteous form. This “power,” possessed by a judge is the most outdated and egocentric form of upholding the law. Strength and power are also characteristics that generalize notions of hegemonic masculinity.

Let’s strip this back a little and look at how we’ve come to be socialized within our respective cultures. We find meaning in life through the interactions we have with each other, especially growing up in our families from infancy to adolescence. Internationally, violence within family dynamics is seen as a recurring problem. Criminalization and punishment for crimes regarding family violence have been held to a higher standard, but the crime themselves never plateau. In the book *Perceptions of*

Family Violence by Esperanza Camargo Bernel (2009), the author assesses a regional area within central Mexico to see if family violence there is influenced by the patriarchal structure in America. If it is not the system of patriarchy, then perhaps it is hegemonic masculinity. Between these inquiries, Camargo (2009) wants to understand if this family violence ensues from the historical economic dependency women have had on men. Her findings showed that more violence among families happens when one parent makes the sole decisions for the family. When both parents had equilibrium in their decision-making, it was less likely to be violent in the household.

Globalization is the spread of information, goods, technology, and jobs across cultures and national borders. If historically, women are deemed to be dependent on men, then globally, every institution and facet of society is infused with men as superior beings. Camargo's (2009) study shows just one national location that is heavily impacted by the patriarchal and masculine hegemonic notions of America. There are countless nations and countries left unmentioned, which mirror the effects places like central Mexico have experienced because of the impact from America.

Strength, defiance, and power are some of the characteristics used to describe this notion of hegemonic masculinity. It is to be mentioned again that even if you are not displaying these traits fully and effectively, there are still ways to find a purpose in living. Whatever that is, it should just be genuine. With this sought-out purpose, you should not hurt yourself or others, and never limit the possibility of finding a new purpose. Some individuals, particularly men, are coerced and molded into patterns of behavior and a system of beliefs that hinder their sought-out individu

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purpose. Some individuals, particularly men, are coerced and molded into patterns of behavior and a system of beliefs that hinder their sought-out individual experiences. Don't limit your abilities to what is deemed acceptable. Surprise people and always make them expect the unexpected. This is a parting of light words to anyone who's ever felt empty without a purpose in life, from one life wanderer to another, we're still here to seek and look around.

Instead of emphasizing the expansion of criminalization for future prospective felons, let's attack it at the source. Look at family dynamics, how children are raised to be from their parents, and how they're socialized in their given settings. There are many generations of families who never acquired the opportunities to excel in their own given lives. Of the many families who have struggled for decades and centuries, gaining capital to propel your next family's generation is often impossible, but very important. In the last fifty years, children from families involved in violence caused a huge turnover rate for the industrial prison complex and its prisoners. The school-to-prison pipeline for kids is just as alarming as ever, with ever-increasing incarceration rates nationwide. My hopes for future legislative reform include a program that cuts this transition of children going from public schools into the prison system. A way for the criminal justice system to be involved is to not only oversee someone's right-to-counsel but also have preventative measures for it. With little will, there is little creation. And with little creation, there is no will to explore the lack thereof.

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A close-up photograph of a person wearing an orange jumpsuit, with their hands cuffed in front of them. The person is looking down, and the background is dark. The word "Incarceration" is overlaid in white serif font.

# Incarceration

Women's Facilities:  
Addressing the Unsanitary Conditions

Michelle Garcia Luna



## **Introduction**

I decided to research the issues in women's facilities and the unsanitary conditions they face behind bars because I want to delve deeper into the series of traumatic events and unsafe conditions that affect the way these women are treated in prisons. Women have faced various obstacles throughout the years because of their sexuality, however, incarcerated women often experience mistreatment and dehumanization within the criminal justice system. In this paper, we will analyze some of the reasons behind the unsanitary conditions that women live in and help the readers understand why the United States prisons are worse than others.

It is very evident that prisons and jails have many ongoing issues that need to be addressed. James Kilgore (2015), author of *Understanding Mass Incarceration*, describes some of these issues as the cause of overcrowding prisons. James Kilgore states that “With only five percent of the world's population, the United States holds twenty-five percent of the world's population” (Kilgore, 2015, Pg. 1). Nonetheless, since 1980, the number of incarcerated women has rapidly increased, growing faster than the number of males (Kennedy, 2019). The significant increase in the number of female inmates raises concerns about the social structures present in these institutions, particularly concerning the unsanitary conditions that disproportionately affect women in prison. Sadly, US prisons have become warehouses for victims of sexual assault and domestic violence, people suffering from mental illness, and individuals struggling with drug addiction, and with no resources available, it has contributed to such horrendous conditions within women's facilities.

Unfortunately, incidents of sexual assault regularly happen in women's facilities, much like they do in communities. Whether initiated by fellow inmates or staff members, it is women who endure the brunt of these distressing incidents. With this being said, the Vera Institute of Justice reports that 86% of inmates who are women have experienced prior sexual assault and 77% have experienced domestic abuse (Booker & Warren, 2017). A significant number of women entering the prison system have previous experiences with sexual assault, which often leads to the development of mental health challenges. When such horrific events continue inside correctional facilities, this is especially intensified. Sadly enough, due to the differences in authority, 60 percent of all assaults go unreported. Oftentimes, women fear the penalties they may receive for trying to speak up which causes the oppressors to not be held accountable. As a result, many women who are imprisoned struggle with persistent physical and psychological safety concerns while they are in custody, and their constitutional rights often aren't sufficiently upheld (Kennedy, 2019). To make matters worse, women in prisons are commonly made to undergo the technique known as strip- searching, which compels them to take off their clothing and engage in humiliating physical acts with private portions of their bodies. Being strip searched can be particularly upsetting for women who have already suffered sexual abuse, but tragically, it is still a common procedure in women's prisons (Hutchison, 2019).

Furthermore, it is clear that sexual assault is only one aspect of their awful situation. Mental illness, substance addiction, the risk of developing sexually transmitted illnesses, and the horrible circumstances in the prison environment all conspire to make these women's lives a nightmare. Unfortunately, the staff at these facilities often lack the necessary training and resources to successfully address these serious issues. As a result, women in jail continue to suffer on a daily basis, trapped in a circle of despair (Booker & Warren, 2017). This unpleasant reality is worsened by the way that our society and legislative structures are built in our nation. Despite their significant impact, these challenges are frequently neglected and under-prioritized, resulting in a serious lack of resources dedicated to effectively addressing such issues.

The practical issue of unpleasant conditions in women's prisons is a concerning display of contemporary inequality, with profound consequences for imprisoned women's life chances and life expectancies. Women already experience inequities in access to diversion programs, which are crucial for rehabilitation and reintegration into society, according to the 2018 Prison Policy Initiative research (Kennedy, 2019). This gender disparity is strongly related to the rise in female incarceration. This rise can be associated with a complex combination of causes like violence, poverty, and gender reintegration into society difficult.

Unacceptable imprisonment environments are a symptom of society's greater gender disparities and socioeconomic injustices (Hutchison, 2019). The lack of sanitary facilities is symbolic of a system that not only fails to safeguard imprisoned women's fundamental human rights but also creates their marginalization. As a result, the effects extend to life expectancy, as the physical and emotional toll of such situations can lead to worsening health and well-being, emphasizing the critical need for social reform and the abolition of these systemic injustices. As we dive deeper into this research, we will have the opportunity to explore in greater detail the underlying factors contributing to unsanitary conditions and the challenges faced by incarcerated women. In addition, we will look for alternative ways to resolve these systemic challenges once and for all.

### **Critical Analysis of Inequality and the Crime Punishment System**

In 1719, the first jail system was established in York, Maine, followed by the establishment of prisons in 1891 through the Three Prison Act. The initial goals of jails and prisons were to rehabilitate criminals in hopes of teaching them how to integrate successfully back into society. The way these systems facilitated work was through penitence. These institutions were designed to isolate offenders and make them feel sorrow for their wrong doings as well as make them regret their actions in hopes of avoiding such offenses in the future. Unfortunately, as new laws were passed such as The Three Strike Law, established in 1994, the jail and prison systems directed their shifts from rehabilitation to punishment which have contributed to the unsanitary conditions women are facing.

## **Systemic Failures**

These new acts and policies became a form of punishment for women behind bars. In the 1970's the Penal Harm movement was introduced to the United States correctional facilities by policy makers. The Penal Harm movement stated that stricter punishments needed to be enforced amongst inmates along with depriving them of their freedom because of their actions.

With this being said, Chelsi Lamberton, writer of *A Legal Analysis of Health Care for Incarcerated Women in the United States*, explains that because of this new act, women's healthcare is at risk in these facilities. As a form of punishment, women are denied access to menstrual hygiene resources as well as access to a doctor which is a basic necessity that is crucial for their well-being. Due to the lack of healthcare, we often find women living with one of the worst illnesses in these facilities. As there are no accessible resources, these diseases end up spreading through the prison facilities causing a violation of the women's Eighth Amendment which states that individuals behind bars must not receive worse or unusual punishments behind bars (Lamberton, 2020).

Nonetheless, prior to the establishment of the Penal Harm movement, the primary responsibilities of correctional officials within the prison system were mostly focused on correcting inmate conduct and keeping order. On the other hand, medical providers, in this pre-Penal Harm era, focused on attending to "prisoner's welfare and treating them with compassion, dignity, and humanity" (Vaughn & Smith, 1999, p.177). At this point, the correctional system acknowledged the significance of providing healthcare with a focus on the well-being and dignity of jailed inmates. However,

once the Penal Harm movement gained popularity, a fundamental transformation in the structures and objectives of the correctional system occurred. As a result of this movement, correctional officers began prioritizing harsher penalties and depriving inmates of some necessities. Consequently, medical providers found themselves compelled to adapt to this new framework, and practice what is known as "penal harm medicine."

Penal harm medicine arose from the shifting roles and competing goals of custodial and medical workers. The colliding distinctions between security-focused custodial workers and compassionate, welfare-oriented medical practitioners produced a difficult situation for both groups. In this changing environment, "nurses and other healthcare personnel had to adjust to a mindset in which the "primacy of security" took priority over prisoner wellness" (Vaughn & Smith, 1999, p.177). In such an environment, medical practitioners found themselves in a difficult situation in which their ethical values to offer compassionate and dignified treatment clashed with the punitive and security-focused attitude. This disparity not only damaged healthcare quality, but also contributed to the generally hostile environment within women's prisons, where inmates' well-being was routinely outweighed by an emphasis on discipline and punishment. The conflicting goals and duties of the Penal Harm movement produced a difficult and frequently harmful atmosphere for both healthcare personnel and imprisoned women, resulting in negative effects on their physical and emotional health.

Furthermore, the logic of "law and order" which came to be in the 1970's led to the criminalization of Latina migrants through the Immigration Reform and Control Act of 1986. RCA played a central role in the militarization of the border

and expanded the War on Drugs to include the border (Escobar, 2022). However, it contributed to the increased migration of women through family reunification policies. As a result, women are being locked up in what is known as solitary confinement spaces. Understanding the Roots of Latina Migrants Captivity by Martha Escobar, the author explains that in these immigration detention centers, women are being deprived of food, sunlight, and medical/hygienic access. Alongside being deprived of essential resources in immigration centers, women in state and federal facilities also experience these horrific living situations. Mandy Conte, a former inmate at the only women's prison in Vermont testified that the showers in these facilities smelled like sewers and provided evidence of maggots and mold found all over the facilities (Heintz, 2022). With no effective cleanliness within prisons and jails, these situations create a hazard amongst women's health.

### **Sexual Abuse and its Effects**

Additionally, Mandy Conte explains how sexual abuse from staff also creates their living situation traumatic and unsanitary. As many experience sexual abuse from officers and other staff members, women often end up contracting and spreading diseases such as STDs (Heintz, 2022). The unsanitary conditions in women's facilities often go beyond dirtiness in cells and bathrooms. Women consist of 7% of the prison population, however, 33% of women are victims of sexual abuse by a staff member (Gilson, 2019). Male correctional officers and staff have engaged in regular verbal degradation and harassment of female prisoners, thus contributing to a custodial environment in the state prisons for women which is often highly sexualized and excessively hostile. In states such as California, Georgia, Illinois, Michigan, New York, and the

District of California prisons can be terrifying for women because of the sexual abuse they encounter with male officers thus creating a pigsty environment.

The Human Rights Watch organization conducted a two-year experiment in these state facilities which showed the different forms of sexual abuse women face in their day-to-day lives along with the negative effects it brought upon them. Studies found that whether it's molestation, rape, or conducted assaults, these women run a high risk of sexually transmitted diseases along with mental and physical illnesses (Humans Rights Watch, 1996). With this being said, women are likely to get pregnant due to the assaults or contract diseases due to the abuse. Without proper care, women are giving birth in spaces where the baby is prone to such diseases, and inmates are often found spreading and contracting sexually transmitted diseases that can lead to death such as HIV (Gormley, et. al, 2020). Sadly, the study's findings also revealed that these women are unable to receive assistance because male officers use their full authority to bribe them and deny them access to goods if they do not comply (Humans Rights Watch, 1996).

### **The Impacts on Health**

As women go through a series of sexual assaults and harsh punishments, incarcerated women greatly suffer from mental issues that worsen their lifestyles in prisons. A study conducted in Sweden prisons found that 61.7 percent of women were found to self-report mental and physical health problems (Augsburger, et.al, 2022).



In the United States, the percentage is much higher, exceeding 80 percent of women who suffer from mental and physical problems in prison systems (Bright, et.al, 2023). As prisons are built through the concept of punishment, prisons do not direct their funding towards resources such as therapy to help these individuals mentally. As these psychiatric conditions are left untreated, it worsens their food choices, physical activities, and substance abuse. This tends to become an unpleasant environment as women do not have access to support groups or medication that will help improve their mental capacity. As women's facilities focus on the consequences for these inmates, this often leads to starvation and suicide attempts that become indigent to these women's stability.

Women's facilities in the United States place less emphasis on women's health, which has a negative impact on how women live and maintain themselves in prison environments. Health issues are more common in women in prison than in the general population, however, little is known about their perspective on the healthcare they receive. When conducting an interview at one of the women's prisons in Arkansas, many former inmates were able to provide possible solutions to such distressed environments. As the interviews were being conducted three important themes were able to rise from the interviews. any women were able to speak up about 1) the poor physical healthcare in prisons, 2) wanting more specialty care in these facilities, and 3) wanting healthcare providers to treat them with dignity and respect (Norris, et. al, 2022).

As incarcerated women have a higher prevalence of childhood trauma, sexual victimization, mental illness, addiction, and sexually-transmitted diseases, interviewees found that a systematic change needs to be made. Some of these changes included greater control over healthcare provided in prison, improved access to prison-based medical specialties along with providing healthcare education on the particular requirements of incarcerated and formerly incarcerated women (Norris, et. al, 2022).

### **Solutions for Systemic Inequality**

The terrible circumstances in which women are imprisoned in the United States deserve immediate attention and support. Comprehensive research into the present legislative framework, as well as the obvious lack of resources that contribute to these awful conditions, has revealed the need for significant solutions. To successfully address these issues, it is important to analyze successful models used in other prison systems across the world and adapt them in the United States prison systems. By using a comparative approach, we may find optimal practices that prioritize the well-being of jailed persons while keeping the required parts of punishment and rehabilitation. This analysis will not only allow us to fix the unclean living circumstances, but it will also provide the groundwork for a more compassionate and functional prison system in the United States, with a specific emphasis on improving the lives of incarcerated women.

## **Legislation Framework**

Considering the conditions that women live with inside the prison systems of the United States, change needs to be made for the well-being of these women. Luckily, not all prisons around the world revolve around the concept of punishment but rather rehabilitation. While the United States focuses on depriving women of their freedom and basic needs by implementing concepts and rules such as the Penal Harm and 'Law and Order,' South Africa's Prisons revolve around the Bangkok Rules. The Bangkok Rules give policy members, authorities, and prison staff the guidance to reduce the incarceration of women and meet their basic necessities in case of imprisonment (Van Hout & Wessels, 2021). South Africa's women prisons have been able to adopt these rules which have resulted in the banning of gender-based discrimination and required facilities to meet women's needs.

As for Norway, its ideology when incarcerating individuals has been focused on what is called "criminal care". Norway ranks number one in having the best prisons in the world. Due to their inclusivity policies, their prisons are designed to rehabilitate their citizens by teaching them necessary skills in order to integrate back into society, rather than keeping them in horrific conditions as punishment. Are Hoiland and Nina Hassen, authors of *The Norwegian Prison System: Halden Prison and Beyond* (2022), explain to us that Norwegian prisons adopt a humanitarian approach, aiming to treat inmates with dignity and respect. The primary goal is creating a rehabilitative rather than a punishing atmosphere (pg. 2). Norway believes that allowing formerly incarcerated individuals access to resources that meet women's needs, such as employment, will help reduce recidivism rates. One can see this success by analyzing their recidivism rates. In Norwegian prisons, women's

needs are successfully met through the accessing employment, thus reintegrating back into society with ease and maintaining recidivisms as low as 25 percent (Skardhamar & Telle, 2012). In the United States, accessing resources is much harder to do than in Norway. The United States is known to be the number one country with one of the highest recidivism rates amounting to 68 percent. If the United States focused on adopting policies like the Bangkok guidelines rather than the Penal Harm or 'Law and Order' acts and shift its focal point to healing, the filthy state in women facilities would improve. Women's prisons in the United States will help focus on the development of recognition, protection, and promotion of human rights of prisoners and the assessment of incarcerated women's situation over time. Therefore, it is important to change some of the policies that have shaped the United States prison systems in order to tackle the root problem of why women are being incarcerated rather than treating them with no dignity.

Furthermore, California enacted the California Public Safety Realignment Act through Assembly Bill 1909. The bill helped to reduce the overcrowding of women in jails. This legislative initiative attempted to address the issue of overpopulation in prison facilities, particularly amongst women. The Realignment Act intentionally transferred management of lower-level criminal offenders from the state prison and parole systems to the county jail and probation systems. This effort resulted in a significant drop in state prison imprisonment rates, with around 27,000 people incarcerated in the year after its adoption (Prindle, et.al, 2022). This successful case study demonstrates the good impact of refocusing attention on alternative systems, with an emphasis on a decentralized approach. The national adoption of regulations similar to California's Public Safety Realignment Act promises to offer women in the criminal

justice system more tailored attention to accommodate their particular needs. The repercussions of reduced jail overcrowding go beyond statistical benefits (Prindle, et. al, 2022). It is evident that women's prison conditions can vary from county to county and are impacted by a variety of circumstances. In many instances, jails are overcrowded, which influence the living circumstances of prisoners, particularly women. Lack of resources can lead to crowded living spaces, limited access to amenities, and strained staff-inmate ratios. However, due to California's Public Safety Realignment Act, Women are being given the option to live in more humane and sanitary circumstances as the burden on jail facilities diminishes and services are being expanded (Turner, et. al, 2015, pg. 13). This change toward healthier and safer living circumstances is critical to creating an atmosphere that promotes recovery and reintegration. As a result, by passing similar legislation across the country, we not only address the immediate issue of overcrowding, but also promote the well-being and dignity of incarcerated women, which contributes to a more fair and efficient criminal justice system.

### **Confronting Abuse**

Fortunately, when looking into Sweden's prison systems, specifically the Hinseberg women's facility, we get to understand ways to help reduce such assaults on the inmates. Though Hinseberg prison facility prioritizes the needs of their inmates, they also focus on the needs of its staff members. As stated in *Prison Cultures and Social Representations*, "Prison officers, often as a consequence of their specific work environment, experience fear, anxiety, frustration...more so than happiness, hope, and satisfaction" (Lindberg, 2005). It's evident that Prison officers carry a load of work which can cause all sorts of emotions. In the United States prison system, not much help goes towards tackling issues

that prison staff encounter. This ultimately leads to staff members exploiting on the inmates causing sexual assault, discrimination, and poor treatment amongst women in these facilities. Hinseberg prison in Sweden, on the other hand, provides counseling and emotional support groups to prison officers that allow them to express their emotions. By doing so, Hinseberg has been able to take stress off staff members which has created a better environment between officers and inmates. Aside from changing policies, the United States women prisons should also focus on providing a support system where prison staff can relieve stress rather than feeling anxious, and fearful.

This will allow staff members to focus more on women's necessities providing them with proper hygienic care, pregnancy-related issues, and reproductive health services thus creating a clean safe space for women (Lamberton, 2020).

To add on, an important change in training approaches is required to build an effective support structure for prison staff and drastically minimize the unsanitary circumstances encountered by incarcerated women. Rather than using a military-style approach, jail institutions must embrace procedural justice as a fundamental premise. Within the criminal judicial system, procedural justice stresses impartiality, openness, and courteous treatment. Training programs for prison employees may be adjusted to highlight communication skills, empathy, and a complete grasp of the specific issues experienced by imprisoned women through the implementation of a procedural justice framework (Cohen & Headley, 2023). This method not only creates a more caring and supportive atmosphere but also improves the general interaction between staff and inmates. When prison officials are given the skills they need to interact with convicts in a fair and polite manner, it creates trust and legitimacy within the prison community.

Furthermore, it is very important to consider reinforcing the Prison Rape Elimination Act (PREA), which was once passed in 2003. Reinforcing the Prison Rape Elimination Act (PREA) in prison systems around the country is a key step in protecting the well-being of incarcerated women and improving the overall environment within correctional facilities. The emphasis on setting standards for the prevention and response to prison rape, along with the zero-tolerance policy for sexual assault, addresses a wide variety of sexually abusive behavior that women in jail frequently experience (Smith, 2020). Prisons may drastically reduce incidents of sexual abuse, harassment, and assault by enacting and following these principles, therefore creating an environment that emphasizes the safety and dignity of female inmates. The benefits of PREA extend beyond the incarcerated population to encompass the well-being of prison staff members. The mandatory education and training components of PREA equip staff with the knowledge and tools to identify, prevent, and appropriately handle incidents of sexual misconduct (Smith, 2020). This not only enhances the safety of women prisoners but also contributes to the creation of a professional and accountable work culture within correctional facilities. Additionally, the centralized reporting system established by PREA ensures swift action against staff members who violate its standards. This mechanism not only holds individuals accountable but also fosters a culture of transparency and responsibility among prison staff, ultimately contributing to a safer and more respectful working environment for everyone involved.

## **Resource Improvements**

The MeToo movement is a great resource that uses the momentum produced by such campaigns to call attention to the unsanitary circumstances that incarcerated women face on a daily basis. These movements establish a platform for change by stressing the interconnectivity of multiple types of abuse, which extends beyond the immediate problems of sexual assault. They serve as a catalyst for addressing the underlying reasons of abuse, such as poor living circumstances, a lack of access to healthcare, and systematic negligence (Codon, 2023). In essence, movements like #MeToo serve as effective advocacy tools, amplifying the voices of jailed women and driving social reforms in perception and policy. By framing the issue as one of power dynamics and racialized gender inequality, these campaigns force a complete reevaluation of the whole prison system, opening the way for significant improvements in the living conditions and treatment of incarcerated women. Moreover, when analyzing Sweden's prisons, Sweden conducted research in the women's prison systems to help analyze solutions to help these women as they believe that it is often forgotten that women suffer greatly from medical issues. In 2017 5.6 percent of women in Sweden were imprisoned for non-violent crimes (Augsburger, et.al, 2022 ). The study showed that more than half of these women were suffering from substance abuse, depression, and stress. When interviewing these women, half of them explained that their symptoms only worsened. Taking this into consideration, medical care such as rehab, therapy, and doctor visits was provided for these women in hopes of improving their poor health and behaviors. In the end, results showed that having access to these types of resources helped improve women's behavior along with their mental and physical state.



Additionally, medical care should not only be given in prisons, however, such resources should also be given in these women's communities. The Affordable Care Act allows up to thirteen million Americans to get health insurance through an expansion of the Medicaid program (Patel et. al, 2014). With this being said, correctional staff members can help inmates sign up for medical programs upon their release to ensure access to help in their communities. Medical treatment is a critical component of effective reintegration into society. It addresses individuals' health requirements and contributes to their general well-being, which is critical for a successful return to the community. Women who have been jailed may have special mental health needs. Access to mental health treatments, such as counseling or therapy, can be facilitated by community-based medical care, assisting in addressing the psychological impact of incarceration and improving mental well-being. Finally, participating in community-based healthcare services enables previously imprisoned women to become active members of their communities. This participation may go beyond healthcare, generating a sense of belonging and positively impacting society as a whole.

### **Conclusion**

In conclusion, this research delves into the extensive issues of unsanitary conditions faced by women in the United States prison facilities. This research sheds light on the series of traumatic incidents and societal failures that contribute to their mistreatment. The dehumanization and insufficient living circumstances suffered by jailed women, particularly in overcrowded jails, are at the center of this investigation. This issue is inseparably related to the criminal justice system, since punitive adaptations in laws and policies, such

as the Penal Harm movement, have resulted in the worsening of women's medical needs and sanitary conditions. The societal cost of this problem is significant since it disproportionately affects women from underprivileged backgrounds, restricting their life opportunities and preventing their reintegration into society. The critical analysis component of this research breaks down the problem into multiple aspects. It starts by looking at the social circumstances within jails, stressing the high rate of sexual assault, mental health issues, and a lack of resources, all of which contribute to the unsanitary living conditions.

The examination of systemic flaws highlights the impact of policy shifts from rehabilitation to punishment, with an emphasis on criminal harm care and the negative effects on healthcare quality. The essay also looks at how immigration policies contribute to the filthy conditions in these facility centers.

The structural solutions section presents numerous ways to approach the challenges. The research proposes a change from punitive tactics to rehabilitation by drawing on international examples such as South Africa's Bangkok Rules and the rehabilitative focus of Norwegian prisons. Legislative frameworks such as the California Public Safety Realignment Act serve as examples, highlighting the favorable influence of decentralization on living circumstances. Furthermore, tackling abuse through the implementation of the Prison Rape Elimination Act and incorporating a procedural justice framework into staff training are critical steps in ensuring a safer and more respectful environment.

To address the issues outlined in the essay regarding the unsanitary conditions and mistreatment of women in U.S. prisons, several

steps that can be taken at an individual, institutional, and societal level. At the individual level, education and awareness are critical. Individuals can join in awareness campaigns, information sharing, and advocacy initiatives to bring attention to the issues of incarcerated women. Supporting groups that strive for jail reform and women's rights can be a beneficial way to help. Individuals might also look for volunteer or internship opportunities with groups focusing on criminal justice reform to obtain personal knowledge and actively contribute to a good change.

At the institutional level, there is a need for policy changes and reforms within the prison system. Advocacy efforts should be aimed at maintaining and increasing the implementation of the Prison Rape Elimination Act (PREA), ensuring that requirements for sexual assault prevention and response are strictly enforced. Furthermore, it is crucial to promote a transition in prison culture away from punitive methods and toward rehabilitation. Supporting projects that focus on mental health treatment, access to healthcare services, and educational programs for jailed women fall under this category.

On a societal level, engaging with and supporting movements like #MeToo could help amplify the voices of incarcerated women while also drawing attention to greater concerns of gender-based inequality within the criminal justice system. Advocating for legislative improvements, such as California's Public Safety Realignment Act, can help to reduce jail overcrowding, resulting in better living circumstances. It is critical to encourage a social shift in mindset toward rehabilitation rather than punishment, which may be accomplished through educational programs, community conversations, and media campaigns.

## **Final Consideration**

Creating change in the treatment of incarcerated women and the conditions they face requires a multifaceted approach. By combining individual efforts, institutional reforms, and societal advocacy, we can work toward a criminal justice system that upholds human rights, dignity, and rehabilitation for all. As an individual, one can contribute by staying informed, participating in relevant initiatives, and advocating for justice and equality in your academic and social circles. By being an informed and engaged member of society, you can play a role in shaping a future that prioritizes the well-being of all individuals, including those within the criminal justice system.

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Why does America Believe in Punishment?

Stella Daniels-Simpson

## **Introduction**

Why does America uphold the concept of punishment? Many researchers, authors, philosophers, and sociologists have considered this subject. However, there is no single definite answer because different views contribute to this complex subject. Some claim that punishment is an effective means of disciplining disobedience, while others argue that, adherence to rules and the pursuit of justice for immoral behavior would waver without punishment. To understand America's belief in punishment, examine the definition of "punishment" and its different forms in the American context. According to Merriam-Webster Dictionary, "punish" includes imposing penalties for faults, offenses, or infractions and inflicting retributive or retaliatory penalties for perpetrating offenses. Understanding this phrase is critical in identifying the most common punishment in America: incarceration enforced by the criminal justice system. In this talk, I will look at the current landscape of punishment in the United States. However, before getting into the complexities, it is critical to investigate the fundamental causes of America's emphasis on punishment. Why is incarceration the foundation of America's punitive policies? Who suffers the burden of this type of punishment, and are there other means of penalization that might be used instead of punitive measures?

Many believe that the desire to punish those who have transgressed is deeply rooted in human nature. Hammurabi's Code, which famously advocates "an eye for an eye," is a perfect example of this concept. Though enacted as legislation under the Babylonian Empire from 1792 to 50 B.C.E., it was primarily used for punishment and the pursuit of justice. Throughout history,

numerous communities have enacted laws and regulations for their citizens to follow, with violations addressed with appropriate consequences. One extreme example of harsh punishment happened during the American slavery era when slaves were dehumanized and regarded as fundamental property, like animals. Attempts to escape captivity were often met with cruel punishment, such as mutilation, execution, or public lashings in front of their family. Fortunately, modern ways of punishment have moved beyond such brutality. According to (Brennan, 2004, p. 369), America's punitive practices stem from Alexander Hamilton's belief that a penalty for noncompliance must accompany a law. The concept of repercussions for defiance permeates many aspects of society. Transgressors are severely punished in the criminal justice system.

Similarly, households frequently implement disciplinary measures, teaching children from a young age that misbehavior has consequences. While some families resort to physical punishment, such as belt or shoe beatings, others prefer softer penalties, such as timeouts or social limitations. In educational environments, detention, grading, and suspension enforce discipline. These examples support Hamilton's view on the relationship between disobedience and punishment, suggesting society's agreement on the importance of repercussions for transgression. People subconsciously embrace this social compact by accepting responsibility for their acts and the requirement to follow governmental regulations.

With over 1 million people currently incarcerated, modern American society has one of the world's highest incarceration rates. According to the Bureau of Justice Statistics, the jailed population increased by 2% between 2021 and 2022. In 2022, significant

demographic split revealed that 32% of those sentenced to state or federal prisons were Black, 31% were White, 23% were Hispanic, 10% were multiracial or of another race, 2% were American Indian or Alaska Native, and 1% were Asian, Native Hawaiian, or Other Pacific Islander. The concept of the panopticon, derived from the legend of Argus Panoptes, a giant with a hundred eyes signifying all-seeing vigilance, served as the foundation for the United States jail system. This architecture consisted of a multi-story circular construction housing cells that encircled a central courtyard and was guarded by an elevated tower with one-way windows. While panopticons were phased out in 2016, their impact can still be felt in modern prisons. However, mass incarceration in America began in the 1970s, spurred by politicians from both the Democratic and Republican parties who used fear and veiled racial rhetoric to advocate for more punitive measures. This movement gained traction under President Nixon's administration, which was marked by the declaration of a "war on drugs" and tough-on-crime rhetoric. Nonetheless, mass incarceration hit all-time highs under President Ronald Reagan's administration. During Reagan's reign, the jail population doubled from 329,000 to 627,000. Intensified punitive measures, led by Reagan, increased incarceration rates, disproportionately affecting black men. The government's deliberate distribution of drugs and firearms in low-income neighborhoods worsened gang violence, drug addiction, killings, robberies, and mental health crises, making marginalized groups more vulnerable to punitive measures.

Despite composing only 13% of the population, African Americans continue to endure disproportionately high rates of incarceration in the United States. According to research, the average number of White people in jail increased by less than 1% between March 2020

and December 2022, compared to an alarming 8% increase for Black people throughout 349 facilities evaluated (Wertheimer, 2023, p.1). While incarceration affects people of all races, it has a disproportionate impact on the Black community. Many black families are forced to become single-parent households because of a parent's incarceration. To add to the inequity, minorities frequently suffer worse punishments than their counterparts, as seen by examples in which Black people face 10-15 years in prison for drug-related charges such as cocaine distribution, while white people face 5-8 years.

Furthermore, examples like the Central Park 5, in which five young men—Korey Wise, Kevin Richardson, Raymond Santana, Antron McCray, and Yusef Salaam—were falsely arrested and charged with raping and assaulting a jogger in Central Park, highlight weaknesses in the prison system. Despite their youth at the time of arrest, ranging from 14 to 16 years old, and their apparent innocence, they experienced years of unlawful imprisonment. One member of the Central Park 5, Korey Wise, served 12 years in prison after being sentenced as an adult at the age of sixteen. Wise was 28 years old when he was released from jail. In prison, Wise was beaten and sexually harassed multiple times by other inmates, placed in solitary confinement, and so much more, all while struggling with hearing issues and having a learning disability. Kevin Richardson, who was only 14 years old, was tried as a juvenile for attempted murder, rape, sodomy, and robbery. Richardson was sentenced to 5-10 years and was released by 23 years old. Raymond Santana was also 14 years old during the Central Park 5 incident. Santana was sentenced to five years as a juvenile and was convicted of rape, assault, robbery, and riot charges. Santana was 19 years old when he was released. Antron

McCray was 15 years old when he was convicted of the exact charges of all four boys. McCray was sentenced to 5-10 years but was released at 21 after serving six. Lastly, Yusef Salaam was 15 years old when he was tried as a juvenile and convicted of rape and assault. Salaam served seven years in prison until he was released at the age of 22. Although all five men endured horrific circumstances while spending so much time away from family members, all while being teenagers, Korey Wise did face the most punishment out of all the boys since he was tried as an adult at only the age of 16. This tragic story highlights the inherent problems and racial biases in the criminal justice system, questioning the concept that incarceration is always an effective means of disciplining immoral behavior.

In my opinion, it is inherent in human nature to occasionally transgress from laws and regulations. Furthermore, the tendency to punish perpetrators stems from a shared desire for equality. However, the current landscape of punishment in the United States is not only excessively harsh but also lacks appropriate rehabilitation techniques. I agree with Michelle Alexander's argument that our jail system resembles the oppressive structures of the New Jim Crow era, with laws and regulations that disproportionately affect minorities—accepting transformative justice tactics as the first step toward reform and embracing restorative justice as the final phase is critical. Transformative justice investigates the root causes of problems before they worsen to bring about change, healing, or transformation from the start. Though punitive justice is prevalent in our society, transformative justice shows potential by encouraging collaborative efforts across communities to assist individuals in need. For example, community involvement in helping struggling adolescents with hunger or abuse issues can prevent escalation into criminal behavior such as theft or

robbery. Advocating for transformative justice within our legal structure and policies is critical, emphasizing nonviolent responses to violence. Prisons continue the cycle of violence by subjecting convicts to additional assault. Restorative justice, like rehabilitation, focuses on assisting convicted people to reintegrate into society once they acknowledge their wrongdoings. Establishing communication between offenders and victims, with the victim's cooperation, could be a beginning step in this process, allowing for accountability and healing. While the criminal justice system frequently relies on removing criminals from society, like school expulsions, this strategy fails to address the underlying causes of criminal behavior. By prioritizing problem-solving and improvement tactics above punitive ones, we have a higher chance of reducing crime and creating a safer society.

In conclusion, America's fundamental belief in punishment originates from societal conditioning that has invaded every aspect of our lives. Originating with the concept of panopticons, which evolved into today's prisons, this cycle of punishment begins in childhood with parental discipline, continues through the educational system, and persists into adulthood as we chastise our children, perpetuating the cycle. It is especially alarming that punishment has become so firmly embedded in our subconscious that we frequently internalize it, believing that we are continuously being watched and deserving of punishment, even when there is no radiating surveillance. The result of America's punitive policy, particularly its emphasis on incarceration, is the phenomenon of mass incarceration, with over 1 million people currently imprisoned, the majority of whom are Black. However, the jail system not only works as a deterrent but also contributes to a cycle of violence in our society. Our government must explore alternative means of dealing with disobedience rather

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than relying solely on punishment. Instead, adopting transformative and restorative justice can lead to healing and reconciliation. Rather than simply imposing punitive measures based on individual situations, we can uncover underlying issues and strive toward restoration and healing by looking at individuals' circumstances and backgrounds on a larger scale.



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The Use of Solitary Confinement and Its Effect On  
Mental Health

Giovana Numa

The United States has one of the highest prison populations in the world, with nearly 21% of the world's prisoners and an incarceration rate of 531 inmates per 100,000 people (Sawyer, 2023). With such a large prison population, disciplinary measures must be implemented to maintain order. Thus, solitary confinement quickly became a favored correction method as it has been an integral disciplinary measure in the United States since its inception in the 1700s. The nation's corrections system incorporates solitary confinement on the city, state, and federal levels. It is often used as a tool for control, behavior modification, and moral reformation, especially in supermax prisons (Shalev, 2013). The initial underlying principle of solitary confinement is that prisoners would have time to reflect on their actions, repent for their behavior, and leave isolation corrected and conditioned. Despite this intention, in practice, solitary confinement creates further conflict in prison as its effects can be highly damaging. Large amounts of time spent in isolation after an episode of misconduct does not address the root issue but acts as a quick fix that creates a deeper problem.

Additionally, solitary confinement can serve as a deterrent for the other inmates. The concept of deterrence suggests that an action will be discouraged if the consequences of said action are inevitable and instill fear or are threatening. A common belief is that if the prisoners saw a fellow inmate thrown into isolation indefinitely, they would resist those same behaviors. According to available research, it is still being determined if solitary confinement works as a practical deterrence function. The psychological component of solitary confinement is highly contested as the nation shifts between attitudes. During the '70s, solitary confinement was heavily used, and despite its harsh nature, the public supported its implantation. The U.S held a "tough on crime" perspective as crime rates rose,

which created a punitive outlook.

Recently, the country has shown a slighter shift towards rehabilitation, so the ethics of solitary are coming back into question. There is research supporting both sides of the argument regarding solitary confinement and its effect on mental health. However, a growing body of data suggests that solitary confinement can be detrimental to an inmate's physical and psychological health, especially if they are a member of a vulnerable population or protected class. Those who spend prolonged time in solitary confinement have a higher chance of developing skin irritation, weight fluctuation, and muscle problems (Henry, 2022). The harm caused could leave lasting effects and be irreparable depending on how long an inmate stayed in isolation and the condition of their stay. The U.S. correctional system needs to be reformed with current psychological research in mind so that solitary confinement can be used as a safety and disciplinary measure rather than a punitive action that leaves inmates with more scars.

Correctional officers can misuse solitary confinement for power and control rather than discipline and safety. This is especially significant among inmates who are of a racial minority, female, LGBTQ+, or have a history of mental illness (Henry, 2022). Generally, the prison population disproportionately comprises marginalized communities, specifically Black men, and this fact remains for those banished to solitary confinement the most often. A random sample in California, a state where solitary confinement is extensive, revealed that 90% of the inmates in isolation were minorities. Black and Latino men were also more likely to receive conduct infractions and write-ups than White inmates (Arrigo,

2008). The disparity between how racial minority inmates are treated versus their counterparts creates significant distrust between them and the correctional officers. Nonwhite inmates are seen as threats and untamed, while White inmates are not considered a significant threat. Consequently, this treatment can result in more incidents between correctional officers and the affected inmates, as the broken relationship causes hostility, poverty, and a more significant power imbalance. In this way, racial minority inmates can be sent to solitary confinement more often due to correctional officers' discrimination and prejudicial disciplining.

Although men are sent to solitary confinement more than women, women experience unique situations when ordered to be isolated. Women are more likely to face sexual harassment and abuse by male correctional officers. Being sent to solitary confinement makes them more vulnerable to this abuse and increases the likelihood of being triggered by violent cell extraction by men from prior trauma (Arrigo, 2008). Additionally, women have higher chances of being sent to solitary for minor infractions than men. Researchers hypothesize that this is due to the patriarchal expectations placed on women. Women must follow a feminine, submissive, and motherly code of conduct, and these expectations do not disappear for incarcerated women. Minor infractions such as a high temperament, ragged appearance, or even homosexual activity can result in women being sent to solitary confinement, especially by male officers (Arrigo, 2008). Furthermore, nonwhite women overrepresent inmates who get sent to solitary. The gender disparity is exacerbated by race and mental illness as the chances for an African American woman who has a mental illness to be sent to solitary is significantly greater (Arrigo, 2008). The gender and racial standards outside prison are also carried on into the prison

setting. The intersectional identity of being a minority and female does not go away when someone becomes an inmate. Instead, the unique experience of having this identity gets compounded by being incarcerated. Incarceration is a new high-stress setting where the social standards of the outside world do not apply anymore, yet the rules of the patriarchy and white supremacy still prevail. This setting is reflected explicitly in how Black women are treated with the use of solitary confinement.

As mentioned, the time spent in solitary confinement can affect its effectiveness as a disciplinary measure. Short stays in solitary confinement can be beneficial to the offender. Research has found that staying in solitude for ten days or less can improve behavior, and offenders can tolerate the conditions. However, when this time surpassed fourteen days, offenders were at a higher risk for mental deterioration (Medrano, 2017). Extensive time spent in solitary confinement can adversely affect mental health and behavior. Solitary confinement cells are tiny and unkempt, devoiding prisoners of sunlight or interaction with others. Prolonged time in isolation in harsh conditions can lead to depression, post-traumatic stress disorder, anxiety, verbal deterioration, suicidal ideation, hypersensitivity, insomnia, psychosis, paranoia, impulse control, distorted cognition, and a loss of identity (James, 2021). The attempt to maintain order and safety fails if these symptoms appear within the inmate following their release from solitary confinement and prison. Creating or exacerbating mental illness in a place where their needs are neglected cannot produce any productive outcomes.

Inmates who struggle with a pre-existing mental illness are more likely to be sent to solitary confinement and leave with more drastic psychological effects. Human beings need social contact to remain



psychologically stable. People must be social to withstand reality testing. What we define as reality is relative to the social context around us, and if we are deprived of that, it can be difficult to distinguish actual events from imagined ones. This effect is especially significant if the individual has pre-existing mental illnesses, specifically a psychotic one. Inmates can become hypersensitive to stigma, extremely combative, and experience exacerbated symptomology of their disorder. Additionally, a cross-sectional study of inmates across the United States revealed that those with mental illness were at a significantly increased risk of being sent to solitary confinement for extended periods than those without mental illness (Henry, 2022). This study linked a history of adverse childhood experiences to being sent to solitary and being identified as the main antagonist during violations. It is possible that this history aided in developing behavioral problems and issues with authority. Correctional officers are often not educated in the field of psychology or methods of de-escalation with those who have mental disorders. These factors can emphasize difficulties that occur with mentally ill inmates and result in re-traumatization. As stated, race, gender, and sexuality can affect the chances of someone being sent to solitary confinement. If an inmate belongs to one or more of those groups while being mentally ill, the chances of being sent to solitary skyrocket. Through this intersectional perspective, it is not a matter of if, but when a Black, gay, or female inmate with a psychotic disorder is sent to solitary, it is only a matter of time. The age of the inmates being sent to

solitary also has a direct impact on their mental health. Minors cannot cope as well as adults with arduous situations, especially those that test mental strength. This diminished resiliency can worsen the psychological effects of solitary confinement. For instance, a review of the correctional system in Iowa asserts that the use of solitary confinement against juvenile offenders is unconstitutional as it violates the Eighth Amendment (Castillo, n.d). The Eighth Amendment proclaims that cruel and unusual punishments are prohibited as it is inhumane to subject inmates to such treatment. Formerly, the court focused on physical maltreatment as the basis for an Eighth Amendment challenge, but psychological factors such as pain and suffering are now weighed as well. The courts created a two-pronged test to determine if solitary confinement challenges the Eighth Amendment. The conditions of confinement need to cause significant damage to the inmates' health, and these damages would violate society's standard of decency. The journal argues that juvenile solitary confinement meets these standards as minors are more susceptible to the dangers of forced isolation as their brains are not yet fully developed. This could impact their future psychological development gravely. Solitary confinement of juveniles can result in mutilation, aggressive personality, and suicide. This is especially true if the juvenile previously suffered from a mental illness.

There have been prolific testaments to the psychological dangers of solitary confinement over the past few decades. The Central Park Five case details the story of how five boys were wrongfully convicted of rape in Central Park, New York during the early 90's. This case exposes the cracks and faults embedded in the criminal justice system. One of the five boys, Korey Wise, had the least amount of circumstantial evidence against him but was in prison

for over a decade. He spent much of this time in solitary confinement in an adult prison. He suffered immense abuse from correctional officers in his time of isolation (Jackman, 2020). The officers would often invite other inmates to attack Wise when he was in confinement. This is an egregious case of systemic abuse of the criminal justice system, especially concerning the abuse of power. Solitary confinement was utilized as a tool of control rather than a brief disciplinary measure, as intended. The case of Kalief Browder is another unfortunate example of the consequences of solitary confinement. Browder was wrongly accused of stealing a backpack in New York during the 2010s. Upon this accusation, he spent the entirety of his time at Rikers Island, where he would be no stranger to solitary confinement. He would be sent there for minor or falsified violations. It was often used by the correctional officers to further abuse Browder. Browder suffered extreme issues with his mental health upon his release which resulted in recidivism and suicide. Not only did Browder suffer inexplicable abuse from fellow inmates, but he also experienced extreme forms of discipline at the hands of the people who were supposed to protect him. The criminal justice did not prepare Browder to be released back into society, especially one that was highly violent. Browder, who wrote a college paper on solitary confinement, was aware of the dangers of it. The psychological effects of his experiences were not considered and had grave consequences. In both cases, the victims of solitary confinement were young Black men who were wrongfully accused, abandoned, and abused by the correction system. The use of solitary confinement has left irreparable scars on the minds of these resilient men.

The damage that solitary confinement creates on offenders' psychological health has led citizens to call for its abolishment. The

risk for developing psychotic symptoms and suicidal ideology is alarmingly high when offenders are exposed to solitary confinement, especially if they are young, black, female, LGBTQ, or have a preexisting mental illness. These populations are vulnerable outside of prison. These factors act as susceptibilities to violence, translating to prison populations. Issues with fellow inmates and behavioral issues are the leading factors to being isolated, but these factors also confound this vulnerable population. When the correction system continues to criminalize this group, there will be an endless vicious cycle of criminality. Solitary confinement acts as a catalyst for this function. Prison and jail are challenging settings to adjust to and assimilate into. The corrections system cannot punish those who naturally have trouble in a rough environment by isolating them. Browder demonstrates that inmates can come from communities that already mimic prison culture. Being placed in prison can seem like rock bottom; however, inmates will soon find that solitary confinement is their new low. Caging inmates like animals will only result in them acting like one once they are released if no proper guidance is given. Solitary confinement does not create this damage on its own. The flaws and missteps of the criminal justice system allow solitary to incur the damage it inflicts. If the corrections system is reformed, more resources will be available to released inmates, and psychological health will be considered. Solitary confinement may be used for beneficence instead of harm.

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Youth Incarceration:  
Components of the Carceral State

Paola Saavedra Ramirez

## **Introduction**

In recent years, the rate of youth incarceration in California has been declining. However, those who are still being incarcerated are disproportionately black, indigenous, children of color (BICOC). What you will see later in the paper is that the U.S. education system is a component that historically has led many BICOC to the carceral state. When thinking about education, common thoughts favor the idea that this system is meant to liberate and free minds to explore and interact with the world; Schools are places for children/youth to grow and learn with the guidance and support of helpful adults. With that in mind, the U.S. public education system was not designed to educate BICOC in this idealistic way. Since its introduction to the lives of BICOC, schools were not designed to help them. Rather than institutions of education, it is more accurate to see public schools as preludes to the carceral state; Where punishment and punitive ways of maneuvering are used to achieve goals. The paper proceeds as follows: First, a primer to the history of BICOC in the education system, we will examine the ways segregation, desegregation, and integration happened for different groups of BICOC throughout history. It focuses on the idea that public schools were not meant to teach these children. Secondly, we will draw connections to the history, using current examinations of the relationship between BICOC and the school system to explain how the history of the two leads to today's relationships. Applying theories and statistics to help paint for you (the reader) an understanding of the realities in school settings for BICOC. Third, we will investigate the resulting experiences of BICOC who are at the receiving end of all the policies. Giving light to how the lack of care for the students creates gaps in their development where alternative lifestyles and influences can fill



instead. Drawing out how this leads many of them to the carceral state and from then on into very damaging cycles.

Throughout U.S. history, the worth of BICOC has been determined through education; their access to it (or lack thereof), the type of education, and the quality of it. In the years 1869 to 1926, 83% of school-age Native American children were put into U.S. boarding schools (Adams 1995). The U.S. educational institution sought their mission to “civilize” the native children. In their process of carving out boarding schools, the U.S. government forcibly removed Native American children from their homes and families. This also included orphans who lost their families to colonialization. The said goal was to “civilize” the children, however, the apparent goal was to prompt erasure of the Native way of living and exploit their children into obedience. The schools were created to educate the children enough on the basic needed functions of the growing U.S. economy. For young boys, their education was centered around, “‘ mental and physical discipline and training as will render useful in future years,’ which would continue to mean for the boys ‘a thorough knowledge of all kinds of farm work’” (Burich 2016). The boys that were 10 or older would work half days working (forcibly) at local farms. During the summertime, when school was not in session, the young Native boys were sold to local farms where they worked all day. As for the girls, their education revolved around housework: “... well trained in a variety of housework, baking, cooking, cleaning, washing, ironing...” (Burich 2016). The girls -- like the boys -- at age 10 were made to knit and sew clothing all year in addition to both being the school's janitors, maintenance, groundskeepers, and lunch people. There is no tangible way the U.S. wanted children who they viewed as “savages” to have access to the same education as white kids.

The Native American child's education was never intended for their well-being and growth; it was a means to exploit their developing minds into submission and subordination.

This form of education continued well into the later development of the nation. In 1915 California, 80% of the school children actively segregated were Latino children. In response, families brought upon grievances to a local school district in Southern California. They claimed that the schools were situated in run-down buildings with teachers who were not qualified and had crowded classrooms compared to the Anglo schools in the same district (Flemming 2001). Anglo children were taught several topics like math, English, science, etc. Whereas Latino children were taught labor skills. The superintendent of the Santa Ana School District in 1915 stated that Latino schools learned "... sewing and mending for the girls, and manual training for the boys, better habits of living for both. The manual training for the boys has taken varied lines of activity, such as carpentry, repairing shoes, basketry, hair cutting, and blacksmithing" (Gonzalez 1985). Not much had changed when it came to the education of BICOC, as we saw with the education of Native children and then the transition to Latino children. The said goal of segregation in schools was to prove a "separate but equal" framework. Unsurprisingly, there was nothing equal about this proposed set up. While white children were taught tangible skills and given chances to advance through the U.S. education system – BICOC under this same system were turned down for this opportunity. This form of discrimination was at the forefront of U.S. education up until *Brown v. Board* "made away" with segregation in U.S. schools. The way in which BICOC were seen/valued in schools, however, did not change. The demeanor towards the children worsened in the public eye.

The famous photo of Elizabeth Eckford, walking to school in Little Rock, Arkansas while being tormented by a mob of angry white people is one of the most telling photographs taken during the desegregation of schools. In the U.S. Eckford, was hailed as an icon in the movement, yet Eckford was only 15 years old at the time of the photograph. I had the pleasure of meeting Miss Eckford in 2017. The cohort that I was with were instructed not to clap for her when she walked into the room as she has immense PTSD from her time spent being tormented for being black in the desegregation of schools. The treatment of a young black girl in the desegregation of U.S. school, was traumatizing enough to scare away the sound of claps well into Ms. Eckford's later years. They allowed and still allow BICOC to sit at the same tables as white children. But this does not mean that BICOC have equal access to education the same way white students do. BICOC historically, have never had the same access to education and care that white students did.

The history of the U.S. education system in relation to BICOC is what the current U.S. education system is built upon. A system that historically has seen BICOC as expendable, and not deserving of quality education. BICOC were never given an opportunity to achieve their potential by equitable means, instead they were recruited for their labor and exploitation or just left to fend for themselves. The creation of schools for Indian children, segregation, and desegregation were choices to not provide available quality education to BICOC.

A recent look into U.S. public schools proves that history is still etched into everyday mechanics. BICOC are still seen as being of lesser value than their white counterparts. An unmistakable piece of evidence lies in how disciplinary measures pertain to BICOC.

School policies like zero tolerance, are a set of strict rules that enforce unwanted behavior. Other policies like exclusions from school communal experiences, such as dances, football games, or even their graduation are examples of the continued segregation in school systems. With the extreme but all too common school expulsion lingering around the corner. All perpetuate the idea that students must earn their freedoms and experiences, while being put into a category of either “good” or “bad.” This, in partnership with zero tolerance, leaves no room for improvement for the youth. School discipline unsurprisingly is disproportionately felt by BICOC It starts as early as preschool, where black students make up 18% of all preschoolers in the U.S., and 48% of preschool expulsions. For reference, preschoolers are ages 3-5. In their high school years, black students make up 16% of all students suspended, compared to 5% of white student suspensions (Department of Education 2014). Dr. Duncan-Andrade states that schools perpetuate “a culture of false caring.” Schools claim to want the best for their students but seem to have a sense of idleness when it comes to providing equitable opportunities for young BICOC. A representation of this is nonexistent programs or poorly funded out of school time activities for BICOC. After school time is crucial, as this is where students have full autonomy for unsupervised, unchecked potentially toxic or dangerous behavior. Learning Across all Settings theory states that learning is more than just in the classroom, and engagement goes far beyond the time window for schools (Banks 2006). Utilizing before or after school time to engage children/youth in programs that help them feel connected to the community; things like sports team, clubs, home ec. classes, after school care, or local community get togethers all teach children important and tangible lessons that can be applied to the child’s development. The education system has opportunities to

use this model to navigate student success and safety in environments that support their belonging and own social/economic mobility. As well as programs and opportunities for them to engage with their communities, as an alternative to potentially deviant activities. However, this model is hardly encouraged or fostered for system impacted youth for one excuse or another. Instead of offering interventions or programs to encourage healthy ways of living/engaging with the world. Schools bring in predatory programs that target low-income BICOC. Military recruiters were stationed at my low-income community high school at least twice a month. My fellow classmates' and I's experience is not an isolated one. The RAND Corporation study tells that nearly 57% of the student recruits at public high schools with these stationed military recruiters relied on the free or reduced lunch program (Goldman & Schewig 2017). The students who are dependent on the free or reduced across the nation are demographically, 38% Latino, 37% Black, 30% Indigenous American, and 23% Pacific Islander. Students holding the lowest amount of eligibility were White students at 7% (National Center for Education Statistics 2023). Comparing the data, there is a targeted approach happening with the recruitment of BICOC students into the military through their school system. The Learning Across all Settings model aims to uplift students in their connections to learning throughout different settings. A space is predatorily held for military recruiters to entice system-impacted youth to enlist with promises of great pay and benefits. BICOC run up against having little to no impactful/meaningful programming throughout their education, instead, they get fed to the U.S. military system or other predatory programs. The practice of seeing BICOC as expendable is adjacent to the history of exploitation that schools embedded in these young people 60+ years ago. This does

not leave much space for BICOC to promote a healthy way of living, especially in after school time frames.

Youth take alternative approaches to finding a sense of belonging as a result of not having that support from schools. Social Development Theory explains that children primarily learn by observing others. Their actions mirror the actions of those around them and will build a sense of understanding for themselves through these actions (How Social Learning Theory Works in Education 2022). One side of this coin is seeing how schools treat BICOC under policies like zero tolerance. The students will gain a better understanding that they are either “good or bad.” If the school's behavior and treatment of them is set on them being a “bad” student, then this is the narrative they will likely believe. The other side of the coin is BICOC youth are more susceptible to associating with fellow students/community members who live this same reality; the so-called “bad” kids. From a criminological understanding: the youth can learn deviant behaviors from this cohort through differential association (Mooney 2020), where the interactions held between deviant social groups connected to the susceptible youth, teach an alternative set of values, motives, and attitudes to dealing with systemic problems. Unfortunately, what we see far too commonly in BICOC who have these lived experience(s) are run ins with the carceral state. Schools foster an unforgiving environment like these justice systems. Touching base again with schools zero tolerance policies through this lens, it mirrors the verbiage used with President Nixon’s war on drugs. A strict “no tolerance,” point of view to disorderly conduct also disproportionately impacted BIPOC in adulthood. Schools not only mirror the justice system’s policies, but also their designs.



(Josphrtz 2014).

Cold industrial designs like the one above mimic prison walls. Throughout teachings of child development, there is an important role that environmental design plays in a child's willingness to engage and participate meaningfully (Widiastuti 2020). If prisons in the U.S. were designed to punish and to reduce quality of life for the prisoners, it is curious to see why schools choose similar designs. School guards additionally mimic the authoritative panopticon prison guards hold over prisoners. The relationship is similar as well, African American children represent about 15% of all students in the U.S., and also represent 31% of students with law enforcement referrals and arrests (Girvan 2019). U.S. schools are early like the prisons and mimic many of the same words and actions as such.

community that values them, many youths turn to delinquency as a form of protest against their assigned values. Leaving them vulnerable to the justice system. In 2021, 2/3 or 67% of the population at juvenile detention centers were BICOC. Of the total 265,600 children arrested, 1 in 3 were Black (Dawson 2023). The majority of crimes committed by youth were misdemeanors, one of the lowest levels of crime. 7% of BICOC arrested were arrested for felony charges. Once the youth have entered the juvenile justice system, they risk being exposed to more dangerous life paths and alliances. The conditions of juvenile detention centers strip their liberties away and cause them to completely believe the “bad kid” narrative that was pushed on them at schools. With the mixture of this and many other elements, BICOC are vulnerable to becoming recidivists. Data collected from 39 states that collect youth recidivism data tells that 84% percent of youth re-offend and end up again in the justice system. An estimated 40% of those who reoffend end up at adult prisons and jails. Their future becomes a lot murkier once they enter the adult justice system.

The U.S. is failing our BICOC. The relationship U.S. education has with BICOC are leading them to being intertwined with the carceral state. Historically, BICOC were never supposed to receive the same educational support and guidance their white counterparts had. The goals schools had for BICOC since the beginning was completely contrary to what the intended purpose of schools is. With this in mind, youth come face to face with the aftermath of all of this; having to deal with a system that is constantly out to get them.



Whether it be through zero tolerance, school conditioning for punitive treatment or military recruitment, BICOC don't feel like they belong. Due to feeling this way, they will reach alternative and unconventional ways of belonging. This grey area, is where youth fall victim to influences and end up being targetted by the carceral state. Either with the aid of schools, or on their own in their community. Schools were not made to include BICOC, and because of that, they are pushed into the carceral state.

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# Police Violence

Lyrics of Dissident Youth Cultures and Police  
Misconduct in the United States

Florian Gries

## **Introduction**

Music is a strong messenger and for many people the best way to express their emotions. Throughout the world, history and culture, music is, and always was, a medium for social criticism and political messaging. It is often used to criticize contemporary problems in our society, during the '60s and '70s, the anti-war movement was accompanied by a powerful expression of political ideals via music (Rodinzky, 2016). A continuation of that revolutionary and confrontational spirit can be seen in punk and rap, yet they're often misunderstood as being disrespectful and antisocial, despite containing meaningful socio-political critiques. People tend to disregard criticisms of artists as complaints by outsiders of society or even by criminals. This results in the loss of two major sources of complaints about the reality of US policing methods. The following analysis collects accusations and descriptions of police misconduct and violence in American punk and rap lyrics and compares them to real life data of problems with policing in order to scrutinize if these genres are useful sources of criticism despite their negative reputation. We will compare the accusations in the songs by five motives: racism, corruption, violence, deadly violence, and sexual violence.

A sample of both music genres is relevant because they each have a different audience. Rap has been popular among Black teenagers while punk attracts a mainly White audience. Both scenes have their origin in working-class and working poor neighborhoods. A downside of these samples is that both music scenes are predominantly male, hence an absolute conclusion for all genders over the last decades can't be drawn.

**Rap** originated in the 1970's in the working-class communities of the Bronx, NYC. At block parties DJs started to use and extend percussion breaks of disco, soul and funk songs. MCs, who were talking to the audience between the songs soon started to talk and rhyme in tone with the music (Dye, 2007). During that same time neoliberal economics started to be implemented, meaning deindustrialization and disinvestment policies came into effect. Under conditions of severe discrimination, exclusion and abandonment, rap gave young POCs a creative outlet to react to impoverishment, racialized social policies, Reaganomics, capitalism and police violence. Rap was conditioned by neoliberal policies of criminalization and over policing of POC youth. Later, in the '80s, rap too emerged on the West Coast. Despite its political origin, popular rap is marked by commodification through capital and social critical sentiments have often been replaced with neoliberal values. (Osuna 2019). Notwithstanding this commodification, there are still many political rap songs written, especially regarding police violence. "(...) Rap (...) challenges hegemonic interpretations of the world and complicate what is often thought of as common sense by providing alternative perspectives" (Osuna 2019).

**Punk rock** emerged first among the white working-class youth in England and NYC during the late '70s. As a subgenre of rock, it is defined by its fast, aggressive sound and confrontational, non-conformist lyrics (The River Street Jazz Café, 2022). Similar to rap, punk was a reaction to restrictive conservative values, police violence, Thatcherism and Reaganomics. During Reagan's presidency, for example, multiple punk bands took part in a series of concerts called 'Rock Against Reagan'. Due to the style typical for punk, the scene was subjected to constant observation and over policing. For many white teenagers, this was the first time they



could at least somewhat grasp the daily experience of POC youth (Billet 2020).

Many people think that punk and rap culture transitions teenagers into outsiders and antagonists of society who see society undesirable, something to revolt against because of the culture. However, the truth is that rap and punk are mostly delinquent and aggressive towards capitalist society as a reaction to its injustice, racism, corruption and police violence. Rap and punk do not make teenagers revolt against society, but rather they are tools for teenagers to use as a reaction to the unjust experiences they have had. Both cultures are the result not the cause; a safe space that offers a counterculture to the dreads of Reaganism, post-Reaganist neoliberal capitalism, and authoritarian use of police forces; a canvas for criticism.

### **Method**

The narratives we see on the news, so called narratives of precision, are constructed by state agents in order to limit the public's sense of social injustice. The narratives of punk and rap lyrics are to be considered as disordered narratives, showing a broader reality, not the version of the media and police (Osuna 2019).

For this paper I analyzed the lyrics of 10 punk songs and 10 rap songs for the accusations they make against policing, police and other law enforcement in the United States. Afterwards I reviewed data by the FBI and the DOJ and other sources regarding police misconduct. The problem with these statistics is that they mostly consist of self-reports from police departments, hence we have to

expect that police misconduct is underreported, with the actual number of cases being much higher than the recorded number. The handling of statistics regarding CompStat is proof that we have to be careful with police-made statistics (Rayman 2013). Finally, I compared the findings of both analyses to draw a conclusion about the validity of the artist’s criticism of police misconduct. Subject-specific literature like the books of Balko, Maher and Vitale helped me to further understand the reality of police misconduct in the US.

The songs I study were recorded between 1974 and 2021, constituting about 47 years of music history. The analyzed sample is relatively small compared to the endless amount of punk and rap songs that criticize the police. However, the aim of this paper is not to present the vast amount of such songs but to compare allegations common to these songs with real life data and assert the validity of these accounts. The accusations analyzed here are separated by five motives: **racism, corruption, violence, deadly violence, and sexual violence.**

Punk	Rap
Anti-Flag – Police State	Body Count – Black Hoody
Dead Kennedys – Police Truck	Frank Ocean – Crack Rock JEPGMAFIA – I just Killed a Cop, Now I’m Horny
Dead Kennedys – I Fought the Law and I Won	KRS One – Sound of da Police
D.O.A. – Police Brutality	Lil Baby – The Bigger Picture
<del>Destructo</del> Disk – Cops/Dogs Government	N.W.A. – <u>Fuck</u> the Police
Warning – Police State Left Over Crack	People Under the Stairs – The Effect of Climate Change on Densely Populated Areas
Gang Control Mischief Brew – Bang-Up	Saba – Busy/Sirens
Policework Poison Idea – The Badge	The Coup – Ride the Fence
Suicidal Tendencies – Fascist Pig	Tupac – Violent

## **Findings**

**Racism:** The topic of racism is significantly more present in rap lyrics, this is not surprising since many rappers are Black, hence more likely to face racial oppression. Punk bands on the other hand, predominantly consist of Whites who are not the victims of racism. This does not mean that punk bands ignore racism - it is a recurring motive - just not as dominant as it is in rap lyrics. Also, some of the punk songs in the sample put themselves into the position of a police officer to criticize the police, hence some of the text displays racism from the perpetrator perspective. The rap songs all take the position of the victim or spectator of police brutality. Furthermore, racism is often only identifiable when we keep in mind that all the rappers in this sample are Black, hence negative attitudes, like unsubstantiated arrest of the protagonist by police delineates racism. Due to systemic racism, Black people are most likely to become victims of racially biased police misconduct.

The songs by KRS One, Lil Baby, N.W.A. and Body Count directly criticize the problem of racism within policing in the US: “A Young ni[...]a got it bad 'cause I'm brown/ And not the other color so police think/ They have the authority to kill a minority.”, “Lights start flashin' behind me/ But they're scared of a ni[...]a so they mace me to blind me” (N.W.A.) and “And now you can kill a motherfucker just because of how he's dressed/ Are you fucking serious/ [...] I didn't have a gun so why am I dead?”. From Eric Garner and George Floyd to Breana Taylor and many more victims, police officers are acting in clearly racially biased ways, might it be because of systematic racism or because they personally are racist. This racism combined with the predominantly violent approach of American policing is responsible for the high death

toll of non-white, mostly Black people by police officers (Nelis 2021). The murder of Tyre Nichols in Memphis shows that racist and violent police attitudes are not necessarily perpetrated by white cops (Cochrane 2023). Black officers trained by the same narrative of ‘dangerous people in deprived areas’, usually Black or Hispanic neighborhoods, learn the violent attitude of their White colleagues. Hence, simply increasing the number of Black officers is doing little to change this problem. This racism, innate to the system of policing, is criticized by The Coup in the lines “They antisocial, pointin’ M16s / Guess I’m anit-the-anti- ni[...]er machine.” Additionally, People Under the Stairs claim “Cops, they tryn’ to function but they takin’ down us brown people at will” The connection of racism and policing in the United States is a major topic of criticism in music, especially in rap due to its ethnic background of mostly Black and Hispanic artists, who come from deprived and over-policed neighborhoods (Osuna 2019).

KRS One’s comparison of police officers in his song “Sound of da Police”, hinting at the origins of American police, is adding a history lesson to the subject; “Take the word overseer, like a sample/ Repeat it very quickly in a crew, for example/ Overseer, overseer, overseer, overseer/ Officer, officer, officer, officer, officer/ Yeah, officer from overseer/ You need a little clarity? Check the similarity/ The overseer rode around the plantation/ The officer is off, patrollin’ all the nation/ The overseer could stop you, "what you're doin'?"/ The officer will pull you over just when he's pursuin’/ The overseer had the right to get ill/ And if you fought back, the overseer had the right to kill/ The officer has the right to arrest/ And if you fight back they put a hole in your chest (woop)/ They both ride horses/ After 400 years, I've got no choices”.

The first police units in New England were founded in order to suppress workers movements, in the South the first departments were born out of slave patrols or from colonialist forces like the Texas Rangers (Vitale 2017). This might have happened more than 100 years ago, but there has never been a significant reform of policing in the US. All changes came slowly, thus there is still similarity in purpose and style of policing. The police are predominantly active in non-white areas, and are extremely aggressive against social movements, whether BLM or environmentalist movements. “Black people still slaves ‘til today” claims KRS One, and he is right; many Black people in this country are serving time in prison where they often work for less than 70ct per hour (Ball 2023; Nelis 2021). Under the 13th Amendment, slavery is only abolished for people who are not convicted of a crime.

Further historical context is given by the Dead Kennedys in their song I fought the Law: “I’m the new folk hero of the Ku Klux Klan/ My cop friends think it’s fine”. During the end of the nadir of race relationship in the United States from 1877 to 1930, the KKK was a very influential group in Southern states, especially Mississippi and Alabama were Klan ruled: Nearly every politician, judge and police officer was appointed by the white supremacist group. But even during the third wave of the Klan, many law enforcement officers in the South have been members of the white supremacist group (Mitchel, 2014; Newton, 2014). The freedom summer murders in Philadelphia, MI, in which three civil rights activists were killed resulted from a cooperation between police and KKK (Mitchel, 2014). Even if the Klan lost its relevance in the right-wing movement, police officers and law enforcement

affiliated with the Klan are still a threat for marginalized groups and their allies. However, alt-right militias like the Oath Keepers or Proud Boys have many members who are army veterans or active law-enforcement (Anti-Defamation League 2022). In the case of Black Panther Fred Hampton, the FBI used the Chicago PD to execute the activist while he was sleeping in his apartment, drugged by an FBI informant (Grace 2022). A connection of police and white supremacy as indicated by the lyrics of the Dead Kennedys is historically accurate.

Looking at this country's history, racism and policing in the United States cannot be seen as separate from each other. While the first police units in New England were formed in order to suppress workers movements, the first police units in the former CSA states were based on former slave patrols and Texas Rangers. The colonialist Rangers used violence to suppress Hispanics and Native Americans to keep white supremacy in place (Vitale 2017; Lineman 2022). Race massacres in the United States, like the countless massacres during the Red Summer of 1919, have often been supported and led by police. In Tulsa and other places, officers handed out guns to white rioters, and they participated as civilians and in uniform. Tulsa Race massacre was planned beforehand - and the police chief, Captain George G. Blaine, was one of the conspirators ("Tulsa Race Massacre of 1921", 2020).

The available data of policing of POCs as a racialized discriminatory practice is repeatedly ignored by the narratives of pro-police voices. In her book "The War on Cops" Heather MacDonald of the Manhattan Institute, a right-wing think tank, repeatedly states the idea that crime among Black communities would decrease if Black fathers wouldn't leave their families,

blithely ignoring the destructive neoliberal policies exhibiting systemic racism: the “war on drugs”; racially biased violence and occupational behavior by police forces; the private prison industry, red lining etc. MacDonald’s book resembles the narrative of many people with pro-police sentiments: Black people are at fault, and, with few exemptions, the police are only doing their job (MacDonald 2016). This generalized targeting of Black people is described by Saba: “Heard that the robber wore a Black mask. /I fit the description, aka ni[...].er, what is the difference?” and by People under the stairs: “Some people call the cops: there’s Black children in the pool.” MacDonalDs conclusion is ignorant and racist.

In summary, Black communities are most likely to experience the failures of policing and this in the most intense ways. 99% of all SWAT raids happen in Black and Latino neighborhoods (LastWeekTonight 2021), one out of 1000 Black males is killed by the police (Edwards 2019) they are twice as likely to be killed by police than White men. Additionally, Black women are 1.4 times more likely to be killed by police than white women (Harris, 2022). Most times, the charges against the suspects are drug related, however, there is no difference in the likelihood of drug use and abuse across race lines, yet it is not white communities that suffer from the ramifications of police failure regarding the war on drugs (Balko 2013).

From the perspective of the US justice apparatus: Black lives don’t matter. To quote Rage Against the Machine:

“Some of those that work forces are the same that burn crosses.”

Corruption: Both genres accuse the police of corrupt behavior. From KRS One, who claims the police are selling crack in Sound of da Police, to the song Police Truck by the Dead Kennedys, which is written from the perspective of a police officer who is using his position solely to commit crimes, all of them have real life connections.

The fact that killings by police officers are seldomly scrutinized is reflected in the lines “You can get away with murder if you've got a badge” and “The law don't mean shit if you've got the right friends/ That's how this country's run [...] I am the law and I won” by the Dead Kennedys, “Cops always protect their own/ When they cover up, the mistrust grows” by D.O.A., “The DA portrayed him as a dirty fucking street crook/ They let the cops off, nobody fucking marched” by Body Count and “Corrupted police been the problem where I'm from” by Lil Baby. One example of this circumstance is the media coverage of the death of George Floyd before the video of his death went viral. His death was mentioned on a side note as a man who died in police custody of “medical distress”, - a few days later the world was about to find out that this ‘medical distress’ was the knee of a police officer, which he used to pinch off Floyd’s trachea for ten minutes until he was dead (How George Floyd Died, and What Happened Next 2022). This is a usual practice: the police report an incident to the press and the press undisputedly distributes the police’s version (Shenkman et al. 2021). It is nearly impossible to be prosecuted for a killing as a police officer, in the few cases in which it actually happened, like the cases of George Floyd’s or Walter Scott, it was only possible because of public pressure and video evidence. I have to emphasize that the footage in these cases was taken by civilians, not police body cams. Police tend to only publish body cam footage if it helps their case. Even



released footage isn't trustworthy since police often only release convenient parts or highly edited versions of the footage. Additionally, studies found that police body cams increase police violence since the officers feel more comfortable to make the case for themselves. (Maher 2022). Footage like in the murder of Floyd was only helpful because it was in civilian hands, it wasn't shot from the police's angle. Justice is only guaranteed in this country if its citizens are actively fighting for it.

“You claim I'm sellin' crack/ but you be doin' that” by KRS One and the lines ‘How much dope can you push to me? /Crooked cop, dead cop /No good for community’ allude to the fact that police officers are involved in drug trade. Taking money from drug dealers in return for protection is not uncommon. A sample of drug related charges against US police officers of March 2015 alone contains eight cases of officers engaging in major crimes like coercing people to cook meth, stealing drugs from the evidence room and the planned execution of rival dealers or the engagement in drug cartel sponsored sex parties. (Vitale 2017).

The aforementioned cited lyrics of “Police Truck” by the Dead Kennedys have a real-life counterpart in several police gangs inside Los Angeles's Sheriff's Department. At least six police gangs are operating in the LASD: they glorify violent behavior, file false police reports, conduct unlawful searches, and endorse on-duty killings and other violent behavior. Some gangs require on-duty killings for membership. Police officers who are not members of these gangs or who dare to criticize them often face repercussions such as abuse or refused support when requested. The connections of these gangs go as far up as to the highest ranks of the LASD (Dickinson 2023). Left Over Crack states this more directly with their line; “Cause the gang in control is the fucking PD.”

But racist practice has always been innate to the police in Los Angeles. In 1990 the LAPD had the biggest police scandal in recent US history: Policing mostly Hispanic neighborhoods, more than 70 police officers of the Rampart's division so-called CRASH (Community Resources Against Street Hoodlums) unit was implicated in perjury, falsification of reports, abuse of force, wrongful imprisonment, theft, planting evidence and murder. As Osuna concludes; "the LAPD has served as a repressive, anti-working-class police force that has upheld white supremacy and capital accumulation" (2019). These findings can be generalized for policing in the US.

Violence: Anti-Flag describe one instance of police brutality in their song 'Police Brutality': "He hides just standing in the crowd there's nowhere he can run/ The cop comes up behind him and cracks him with a gun/ Drags his bloody ass outside and throws him to the ground." In order to understand the violence of US police officers we have to understand the mindset of officers and the ideology underlying their training. That is the ideology of the thin blue line; the police are all that stands between the good people and the evil criminals, between peace and carnage. The general public is not tough enough to do this job, so the police have to be as tough as the 'evil' is. During their training, many police officers read books or attend presentations by people like Dave Grossman, author of books like "On Killing: The Psychological Cost of Learning to Kill in War and Society" and "Warrior Mindset." Grossman and others instruct police officers, who are operating in times of peace, to act like soldiers in a warzone (Lineman 2022).

In order to be a more effective part of the thin blue line, many police officers use steroids to boost masculinity, a trait, so the idea,

which is necessary to fight crime (Hoberman 2017; James 2019). This mix of patriarchal masculinity, anabolic steroids and white knight fantasy leads to a practice in which everything suspicious or different is seen as a potential, evil threat, with horrific repercussions - therefore violence against suspects is often automatically seen as just violence. A satirical critique by the Dead Kennedys; “Pull down your dress, here's a kick in the ass/ Let's beat you blue, 'till you shit your pants.” For many police officers, the rough and violent treatment of suspects is part of the punishment and if the suspect turns out to be innocent, this treatment is seen by some officers as educational: don't break the law or this will happen again. In the world of this ideology, there is only good and evil, friend or foe. This is a reason why some police acted so violently against Black Lives Matters rallies, everyone who is criticizing the police, everyone who is not on their side, has to be an enemy (Lineman 2022). Lil Baby portrays this in his lines “Last night, people protesting in Minneapolis escalated/ As demonstrators were lashed by tear gas and rubber bullets” as did Suicidal Tendencies: “Riot squad/ Bash their heads/ Kick their head until they're dead/ I want to be a fascist pig/ Love to fight/ What a thrill/ We don't stop until we kill”. The militarization of police supports this mindset of eternal emergency by equipping departments with caliber .50 rifles, grenade launchers and armored cars (Vitale 2017, Lineman 2022). The criminal is not a person that made wrong decisions, they are an enemy that needs to be defeated with military grade equipment if necessary. The pictures of warzones like during the illegal invasions of Iraq and Afghanistan became real inside the United States. Dehumanized, the criminal is to be erased.

To quote Vitale:

“The fact that police feel the need to constantly bolster their authority with the threat of lethal violence indicates a fundamental crisis in police legitimacy” Vitale 2017.

The idea that police are the only thing that stands between peace and chaos is resembled in the idea of the so-called ‘blue flu’, a narrative among cops that if all cops would stop going to work, the cities would drown in chaos, crime and carnage (Lineman 2022). A study conducted by the Kansas police department proved this concept to be wrong already 60 years ago. Three neighborhoods were used to scrutinize the effects of police presence: the number of officers patrolling one neighborhood was doubled; a second neighborhood was completely unpatrolled; and a third neighborhood, the control group, was patrolled as usual. The finding was that neither the perceived crime nor the actual crime rate changed in these neighborhoods (Kelling 1974). Chicago is another example that proves the incapability of policing in the US. The city is infamous for its violence problem. It has almost twice as many police officers as Los Angeles but around three times as many murders per capita (Maher 2022). Most important, a meta-analysis of more than 200 studies on ecological predictors of crime by Pratt and Cullen (2005) found that legal system measures like police size, police expenditures and police per capita are only minimally successful. They describe these measures as “substantively unimportant.” Additionally, when the NYPD temporarily reduced its force in 2014 after Mayor Bill de Blasio criticized the failure to indict the police officer who murdered Eric Garner, the crime rate in NYC fell about 6%. By this action, the NYPD involuntarily proved its often propagated “broken

windows” approach as ineffective, even as contributing to an increase in crime (Maher 2022; Kahn 2017). US crime rates are not going to decrease by hiring more police officers, in fact, they are likely to increase even further. The lines “We have a warrant for Eazy-E's arrest/ Get down and put your hands right where I can see 'em!/ Man, what the fuck did I do?!/ Man, what did I do?! Just shut the fuck up and get your motherfucking ass on the floor!/ But I didn't do shit Man/ Just shut the fuck up” from N.W.A.'s song “Fuck the Police” indict police of arbitrary warrants. Scrutinizing data of police/SWAT raids, these allegations turn out to be true. Estimates put the number of police raids up to 50,000 per year, with about 60% of them related to searches for drug offenses but only 7% related to actual emergency situations like active shooters incidents or hostage situations. Many of these raids are issued based on thin evidence such as ‘the smell of cannabis’ or the account of a paid informant. These raids happen nearly exclusively in non-white areas and rarely result in the discovery of any drugs. If they do, it's usually a small amount for personal consumption (LastWeekTonight 2021). However, the costs of these ineffective raids are high: the material and the officers need to get paid, the officers damage private property, kill pets and injure or even kill unarmed suspects and in some cases, they do all this while being in the wrong house or apartment. In one infamous case, a police officer threw a flash-bang grenade into a crib, burning the sleeping infant's face (Sack 2017). According to claim-makers, these practices are in direct violation of the fourth amendment; the right to be secure against unreasonable searches or seizures.

There have been several infamous incidents that ended with many fatalities, like the MOVE bombing or the 1969 raid of the LA HQ

of the Black Panther Party for Self-defense (Grace 2022). These situations could have been solved in ways with less or even without fatalities if law enforcement had been trained in proper conflict solving showing the disadvantages of the ‘warrior mindset’.

Deadly violence: Deadly violence is present in most of the lyrics and a comparison with real life data shows that there is a good reason for that. The killing rate of police is more or less the same as the murder rate of the general population. When excessive force complaints with fatality are counted as murder, though, the murder rate of police is 5 times higher than the murder rate of the general population. (Stinson et al 2016; NPMSRP 2010). Since a complaint does not equal proof of murder, these findings should be considered carefully. Furthermore, the used data was submitted by police departments, thus we have to expect it to be incomplete; many people don’t file complaints against the police since they do not expect any outcome from this and because these complaints must usually be made to the police.

Addressing this issue, JPEGMAFIA sings “Hope the cops don’t shoot my friends, shoot my friends” and Desructo Disk is convinced that “all dogs go to heaven / All cops go to hell / Because mans’ best friend won’t put a bullet in your head/ And a cop fucking will” The previously analyzed SWAT raid data shows how militarized the police are and that policing in the USA is tantamount to violent overreactions. Lil Baby claims in his lyrics “They trainin’ officers to kill us” and Mischief Brew add: “Ever think about becoming a cop? /Bang bang, shoot ‘em up / it’s giving them an easy job.” A closer look at police training and tactics shows that this is not far from true. The police are violence workers who learn that their main tool is violence. We can see it in the

aggressive and unnecessary violent reaction of officers during regular traffic stops or during peaceful protests. We saw it in Ferguson in 2014 and we saw it around the country in 2020 during the BLM protests. We can also see it in the militarization of the police. Officers show up to peaceful rallies equipped for a war zone in military style uniforms and with automatic rifles. Under 1033, the Federal Excess Property Program, police departments are reinforced with old gear from the military, including call .50 rifles, mine proof armored cars, and grenade launchers (Balko 2013).

The statistics show us unambiguously that Black people are significantly more likely to get killed by the police as are white people (Sharara et al. 2021), yet even if we ignore this fact, we see that US police still have a remarkably high annual body count. Police officers are trained to be in a constant state of emergency, with the premise that every situation can turn dangerous within seconds (Lineman 2022). The outcome is best described by Body Count: “The fucking cop shot him, yo a ni[...]a's dead/ [...]They aimed at us, they meant business/ They didn't have to shoot him, he didn't have a gun/ What they're gonna say is ‘Why the fuck he run?’/ We can't be seeing this [...] Woop woop, that's the sound of the police/ \*Gunshot\* \*Gunshot\*/ That's the sound on the streets” and Tupac Shakur is adding “My homie panicked/ ("I'm out")/ he tried to run/ (Freeze n[...]gga!)/ I heard a bullet fire from the cop's gun/ My homie dropped [...]” After a killing, officers often claim they have felt threatened by the person, often supporting their claims by stating that they thought the person was armed. Effectively, if the mere possession of a gun can be applied as a justification to kill someone, the right to keep and bear arms is severely infringed and police directly violate the constitution’s second amendment.

In one case in Los Angeles, nervous LAPD officers fired 103 rounds into a van in which two women were stacking newspapers, misinterpreting the resulting sound as gun fire. The perceived constant state of emergency by police - a result of police training based on works by authors like Dave Grossman - is responsible for many unnecessary deaths. Legal defense tactics in which the “heightened emotional state” (created by the constant state of emergency) of police officers is pointed out, are preventing justice for the victims and their families, as well as necessary changes in policing (Lineman 2022). In fatal shooting cases the police often tend to handcuff the body of their victim (Lineman 2022), a phenomenon inspired by police officer’s constant fear which is mentioned by Body Count; “, I'm like ‘What the fuck?! My man's laying dead, they still cuffing him up.’”

Police and their defenders argue how dangerous their job is but a look at the statistics shows that working in logging or as a food delivery driver is deadlier than the job of a police officer. Additionally, most deaths of police officers on duty are results of car crashes or heart attacks, not violence. In the ‘70s, the NYPD made it necessary for officers to issue a report every time they used their gun. This led to a significant decrease of gun fire by police officers, which resulted in fewer deaths of police because suspects were less likely to fire back. In conclusion, less aggressive approaches to policing prevents unnecessary deaths of suspects and of police officers as well (Umbach 2020).

Another problematic aspect of policing in the US is the treatment of people with mental illness as criticized in the song by D.O.A. “Crazy neighbor down the street/ Not too bad just a little off/ Cops called in, they take a stance/ They gun ‘em down never had a



chance”. About half the people killed by the police have some form of mental disability or severe mental illness (McCarthy 2015). These numbers are not surprising since officers are trained to be skeptical towards unusual behavior and to expect every situation to possibly turn violent or even deadly within seconds. Nevertheless, this reality is still shocking (Maher 2022). This is in essence punishing mental conditions with death.

Because of the warrior mindset and the thin blue line ideology, the police are not looking for peaceful solutions. Real life experience shows that deadly force can be prevented and that many dangerous situations are solvable without fatalities. The police killed Walter Scott while he was running away from a police officer, although he was not a threat. In comparison, police in South London used riot shields and trash cans instead of deadly force to get a man with a machete under their control, a man who was an actual threat to the officers and civilians around them (Vitale 2017).

On the other hand, in situations where force is necessary, the police often stand outside and do little to nothing. Emblematic of this problem was the Uvalde shooting in 2022, where nearly 400 police officers were waiting for more than 40 minutes outside of a school with an active shooter inside. However, Uvalde is not an exception; police did the same during the infamous 1999 Columbine shooting in Colorado or the Las Vegas shooting in 2017 (Manning 2023). After a school shooting in Parkland, Florida, which cost the life of 17 human beings, the parents of the victims sued the sheriff’s department for not interfering for 45 minutes. According to the ruling of a federal court, the sheriff had no “...legal duty to protect

students during the shooting...”(Maher, 2022). In 2005 the Supreme Court ruled that police and other law enforcement are not obliged to serve and protect (Maher, 2022). In conclusion, the police use deadly force fairly often but rarely when it would actually be necessary. As Michael Parenti observed: “while they are shy about confronting killers in night clubs or schools...the police continue to perform fearlessly against unarmed individuals.”

**Sexual Violence:** Sexual violence in lyrics includes the mentioning of sexual engagement with prostitutes since these relationships are based on the power the badge brings in a country where prostitution is mostly illegal. In these cases, prostitutes have sex in order to not get arrested or otherwise punished. This type of sex is an abuse of the power imbalance between law enforcement and sex workers, eliminating the possibility of real consent. These are acts of rape.

Forcing females into sexual acts is described in both the songs *Police Truck* by the Dead Kennedys “Don't move child/ I gotta big black stick/ There's six of us babe/ so suck on my dick” and *The Badge* by Poison Idea “Pick up a hooker and take her for a little ride/ But get sucked off on the side”, “Ran a red light, take her for a little ride/ But get sucked off on the side/ The badge means you suck”. Both bands pose as police officers who are perpetrating the crime of rape. *Government Warning* takes the perspective of the attacked, proclaiming I won't be raped or beaten/ by psychos, all in green.

Comparing this allegation with real world data, we see that the bands are not exaggerating: Sexual misconduct is the second most commonly reported type of police misconduct. Officers are twice as

*Lyrics of Dissident Youth Cultures and Police Misconduct  
in the United States*

likely to commit sexual assault than the general population, with more than half of their victims being underaged. Women of color and those of indigenous descent are most likely to become victims, as well as young, usually underaged, female novice drivers (Stinson et al 2016; NPMSRP 2010). Estimates state that 5% of police officers commit sexual assault during their career, that means about 50,000 sexual predators walk around in this country with a badge, a gun and qualified immunity (Maher 2022). In the last years several police officers across the country have been prosecuted for acting as pimps, hiring or engaging with underaged prostitutes or assaulting and robbing sex workers (Vitale 2017). Police rapists often search the police database to find vulnerable young women, disproportionately many of whom are Black, and use their criminal record to force these women to satisfy their sexual needs (Maher 2022). Sexual assault in general is already highly underreported, and the available data is mostly based on reports made by police departments, so this data is expected to be incomplete. Victims who have the courage to report these crimes are usually confronted with intimidation tactics. Additionally, several self-report studies suggest that about 40% of police officers abuse their spouse and children (Maher 2022). Since these are self-report studies, this data can be expected to be a severe undercount as well, and we have to expect the number of domestically abusing police officers to be far higher.

In conclusion, the accusations made by all three bands in their songs criticize a real-life problem with police in the United States. The songs might be from the last century but today's data shows that nothing has changed. Sexual violence is still a big problem in policing.

## **Discussion**

This is just an exceedingly small sample; there are many more songs criticizing police practices in the United States. A single song represents the experience of a single person or band but the number of songs criticizing the police is massive, especially since these are not the only genres to engage in this kind of criticism. Listening to these songs means to listen to the voices of the victims of policing in this country, whether or not the artists have ever been victims themselves or not, they are making the same allegations against the police statistics and actual victims make. One could argue that members of the rap and punk scene are repeatedly involved in criminal behavior in order to discard the criticism of the songs. However, the data used for this analysis show clearly that these songs are not just an artistic form of revenge for punishment, but they are mirroring reality.

In his book *The Wretched of the Earth*, Franz Fanon describes how colonial powers punish the oppressed people in their colony with sheer violence but when these people rose up, the colonialist nations were perplexed: How could it be that these “uncivilized” people turn so violent? If you treat a population with violence, its members grow up with this violence. It is the same for a community, if you send in the police as an occupying force and let them implement the law with violence, the people will at some point respond with violence. This is the core of the ineffectiveness of policing in the United States: Police violence will always incite violence as a response.

A main difference in the lyrics of the sample is that rap musicians

and groups focus more on deadly, racist violence while the punk texts are more holistic, pointing out other problems like sexual violence. Rap songs are more likely to talk about arming themselves for self-protection while punk bands tend to satirically put themselves in the role of the police officer. To fully understand the differences and commonalities of criticism of police by punk and rap, a bigger sample would be needed.

Appropriate changes are unlikely to happen in the immediate future. They didn't happen the last decades despite the public awareness of problems with policing and because blue interest groups, unions, officers and conservative politicians in both major parties in the US are blocking every progress. One major notable result of the BLM protests in the summer of 2020 was that police departments got \$750 million more for their budget, officially for racial bias training. If funding was actually used that way, is another question (Maher 2022). But the problem is that one can't teach officers during their training how to be a warrior, a part of the thin blue line between good and evil, and, on the other hand, that disproportionate violence is wrong. Police departments that have offered racial bias training are still involved in the killing of innocent people: The officer who killed George Floyd was an instructor in anti-bias training. Since 2009, the Madison Wisconsin PD offers an extensive anti-bias program. However, Tony Robinson, an unarmed Black man, was killed in 2015.

All these songs show that many people see the police as what they often actually are: a dangerous force of corruption, violence, sexual misconduct, oppression and even death. The kind of accusation

these songs make didn't change over the decades, and neither did related news: Rodney King, George Floyd, Laquan McDonald, Eric Garner, Breonna Taylor, Walter Scott, John Crawford III, and many more have been victims of police violence over the years. The songs, protests and riots of the last 50 years and beyond show that the problem of police brutality is neither new nor unknown to the public or to policy makers, yet no significant changes in policing have occurred. Violence is still the usual way for police to solve critical situations at the cost of human wellbeing and lives.

### **Conclusion**

This paper shows that the critiques by rap and punk artists should be taken seriously in accounting for the current situation of policing, racism or police brutality in the United States. They do not have the rigorous approach critical criminologists and other academics have, after all these are songs by artists, not analytical papers by scientists. They are not to be used as some kind of eyewitness testimony for singular acts of police misconduct. They are criticizing the problem as a whole.

Both scenes are predominantly from working class backgrounds but people who listened to these genres in the '90s and '80s are now active in different academic fields, meaning that the problem of police brutality has been known for decades and among all classes and races. I will give the last word in this discussion to the artists and end this paper with a quote by Body Count:

“All these people out here tripping off police brutality  
Like this shit is something new  
Give me a fucking break  
I've been talking about this shit for over 20 years”

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Police Use of Force and the Racial Disparities in  
Policing

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## **Introduction**

The focus of this research paper is police use of force and the racial disparities in policing. What I find interesting about the topic of police use of force and the connection to racial differences in the system of policing is how people are treated differently based on their race or skin color. Society depends on police to enforce the laws and to keep communities safe, however, there are certain individuals who may be targeted and treated in a harsher manner either verbally or physically, thereby creating a divide between those who are protected and those who are policed. I am drawn to studying this topic as in recent years the use of excessive force by police officers has been heavily portrayed in the news and media we consume, but also because the factor of race is often scrutinized in police and civilian encounters. Furthermore, I am drawn to understanding the racial differential treatments in police use of force in how it connects to misconduct in policing, stops, lethal and less-lethal force tactics, and the variety of treatment experiences of African American and Latino communities.

The connection between police use of force and racial disparities in policing may be of interest to others because in understanding this relationship, we can learn about how the system of policing works and subsequently develop positive relationships and safe interactions with police officers. We must acknowledge that police officers are people too but are also tasked with and ultimately responsible for the well-being and safety of all people and communities regardless of race, class, or gender. With previous Black Lives Matter movements that have caused protests and chaos for police in the negative portrayal of their use of force tactics in

the media, it is important to recognize why they originally occurred. These movements started with the purpose of remembering those killed by police and advocating against brutal treatment and racial discrimination African Americans and people of color experience during police encounters. Thus, additional public interest in this topic may also connect to the idea that if some individuals are treated in an unjust manner, it can cause fear and distrust of the system of policing and its officers who are supposed to serve the public and ensure protection. Dismantling possible distrust and ensuring a safe policing system for all communities may be a common interest for others in reducing excessive use of force and racial disparities found in the system.

Drawing upon my knowledge and research regarding police use of force and racial disparities, the criminal justice studies courses I have taken at San Francisco State University have allowed me to intelligently discuss such topics. In my Crime, Data, and Analysis course, I learned about how policing data effectively demonstrates, from a probability standpoint, the racial disparities in the likelihood of who is more likely to be searched and handcuffed when analyzing African American, Latino, and White data. I also learned about the text message scandal in the Antioch, CA police department where certain officers have sent and participated in racist messaging. These racial disparities in policing and the connection to police use of force increased my interest in writing about this topic. Similarly, in the course Criminal Justice: A Cross-Disciplinary Perspective, I learned about police militarization, and how this can systemically affect policing by possibly creating violent policing tactics and creating racial divides in who is put under surveillance and who is protected by the police. I learned that

police militarization can connect to racial disparities and could affect excessive use of force in policing. Additionally, in this class through Orisanmi Burton's work "To Protect and Serve Whiteness", I learned about the history of policing and how it connects to the context of slavery and the control of African Americans. Further, how the concept of Whiteness is connected to being more dominant and superior in racial order, and the concept of Blackness relates to those who are meant to be targeted and policed (Burton, 2015, p. 41). Due to past systemic racial hierarchies, this creates racial profiles that have been identified as needing surveillance or protection. This type of racial ideology is connected to racial prejudice and bias that is seen in society today where racial groups are targeted or possibly categorized as inferior, suspects, criminal, or dangerous. These racial categorizations may be connected to the racial compositions of communities where police cognitive suspicion can result in higher stops in specific minority neighborhoods as assessed in the 2012 scholarly work by Gelman et al. which will be further discussed. Thus, these concepts of Whiteness and Blackness allowed me to recognize the racial hierarchies and disparities in policing today.

Differently, what I know in connection to the topic of police use of force is that law enforcement has the responsibility of enforcing the laws to create order and protection in our communities by managing public safety and protection, through their duty to investigate, arrest, and detain individuals who are possible suspects of criminal offenses (Bureau of Justice Statistics, 2021). However, while police are supposed to provide protections for all, they must detain possible criminals which may lead to situations that escalate to levels of force between an offender and police officers.



Through the Department of Justice Policy on Use of Force, police can use force when there is “. . .no reasonably effective, safe, and feasible alternative appears to exist and may use only the level of force that a reasonable officer on the scene would use under the same or similar circumstances” (U.S. Department of Justice, 2022). While police can use force, data finds that “. . .250 gunshot injuries occur each year during police encounters, and more than half of these (57%) are fatal” (Premkumar et al., 2021). Police officers can legally use force to deescalate potential situations of violence, however, the use of excessive force that can result in fatalities or severe injuries of suspects helps us see the realities of this legal power.

In addition, based on academic literature, an officer’s tone of voice in traffic stops is connected to creating racial disparities. For instance, in a study done by Nicholas Camp, a group of college students and local drivers were asked to assess body cam audio of police officer’s tone of voice and analyze the person they were addressing. The findings suggest that “. . .when officers spoke to Black men at traffic stops, their tone of voice conveyed less warmth, respect, and ease than when they spoke to White men” (Camp, 2021). The way police officers speak to White and African American men varies and it is important to understand how racial stereotypes and bias held by police officers change police actions and level of force. This raises greater questions as to the relationship between civilians and police officers with differential treatment experiences and whether there is a distrust in the system of policing.

Moving forward, this topic is going to be narrowed down through its focus on how police use of force connects to police misconduct

in terms of stops of individuals, understanding the lethal and less-lethal policing tactics, and analyzing the racial differential treatment African American and Latino people experience in their interactions with the police. Therefore, the question and focus of this paper is understanding: How does police use of force connect to racial disparities in policing in police stops of individuals, lethal and less-lethal police tactics, and the racial differential treatment of African Americans and Latinos? Some of the search terms used throughout my research include: “police use of force”, “excessive force”, “police force tactics”, “police bias”, “implicit bias”, “racial disparities in policing”, “racial bias and discrimination”, and “race and policing”. Where I hope to concentrate my efforts is on how the factor of race affects law enforcement’s use of force and if racial discrimination or bias connects to officer misconduct in policing. Lastly, I believe my research will give insight into the topic of police use of force and racial disparities in how law enforcement makes decisions on how to act in certain situations and their policing tactics. This research will also help uncover racial disparities and provide solutions to reducing the need of excessive use of force in policing to create safer communities and the protection for both police and the public.

### **Literature Review**

#### **Prior History and Knowledge of Policing and the Use of Force Continuum**

In discussing police use of force and racial disparities it is important to understand the historical framework of policing and the metrics used when assessing levels of use of force by police. The origins of policing started in South Carolina during the 1700s

when there was a large population of slaves in comparison to the public. Carolina planters in 1704 created the first slave patrol group that included “. . .armed white men who roamed the territory, policing and surveilling the black population — enslaved and free alike” (Burton, 2015, p. 43). This group created racial divides with the purpose of ending resistance of slaves against the practice of slavery. Similarly, during the post-reconstruction era, Black Codes were instilled and created surveillance of the African American population and were focused “. . .against mundane acts of vagrancy, unemployment, loitering, and public drunkenness” (Burton, 2015, p. 43). The black codes created restrictions in the lives of African Americans and most importantly caused racial discrimination in society. The increased targeting of African Americans forced “. . .former slaves back into an exploitative labor system that resembled the plantation regime in all but name” (Hinton et al. 2018, p. 2). With this brief history of the 1704 law and the black codes we learn of the racial differential treatment in history and the racial prejudice experienced —composed of negative attitudes of a group of people based on the characteristic of their skin color (Nogueira, 2006 as cited in Carvalho et al., 2021).

However, understanding the racial hierarchies reflected in olden day society helps us understand the origins of policing to assess racial disparities and the use of force practices in law enforcement today.

Police or law enforcement officials are supposed to enforce laws, create order and safety in communities, and have the duty of investigating, arresting, and detaining offenders (Bureau of

Justice Statistics, 2021). Police have various responsibilities in the protection of the people, although their appropriate use of force was determined by the *Graham v. Connor* case of 1989. The use of force policy police follow is by the United States Department of Justice, and states that police officers are allowed to use force in objective reason (based on an officer's perception) to create safety for everyone involved (The United States Department of Justice, 2022). The objective reasoning by an officer, granted through this policy and the decision of *Graham v. Connor* grants police the power to act in a manner they see fit for the situation they assess. This includes police officer's need to make split-second decisions which may cause fear for an officer, increased heart rate or distorted ability later discussed in Baldwin's (2022) study, or perceived dangerousness of encounters with suspects. An officer's decision-making may connect to their use of force levels, however, their approach towards a situation that may escalate and put the safety of the officer or community at risk connects to the Use of Force Continuum.

Important to analyzing policing and use of force is the Use of Force Continuum which according to the National Institute of Justice (NIJ) has many levels in which an officer is allowed to assess the level of force needed to handle a situation, but officers may also jump from one level to the next in a short amount of time dependent on the situation (NIJ, 2009). The NIJ's example of this use of force model categorizes the continuum into five different categories. Officer's presence is used (presence of an officer should reduce crime in a non-threatening manner), verbalization (officer commands with no physical force), empty-hand control (bodily force in attempt to restrain an offender),

less-lethal methods (impact, conducted energy devices (CEDs), or chemicals), and lastly lethal force (use of a weapon to gain control in a threatful situation or offender) (NIJ, 2009). The Use of Force Continuum is a model that allows police officers to use levels of force that escalate into more severe means of addressing a situation, however, while this model has separate levels, its application varies by agency. For instance, Terrill and Paoline's (2013) study focused on examining 1,083 policing agencies in connection to the Use of Force Continuum and less-lethal force practices. What they found was that 80% of policing agencies use the force continuum model, the linear design was most used in police agencies (design uses de-escalation tactics in police force during resistance), and 86% of police agencies put officer verbalization and police presence on separate levels as tactic options with 97.8% place use of deadly force its own level (Terrill & Paoline, 2013, p.45, 57, 48). This suggests that there are multiple applications of the Use of Force Continuum in policing agencies. Thus, the use of force model provides different levels of force for the purpose of de-escalation measures to be applied in the system of policing. The force levels in police agencies, creates public awareness as to the guidelines police need to follow before resorting to deadly force levels during an encounter. However, the reality of this truth is that it is difficult to regulate the continuum's enforcement as "Departments pick and chose. . .with little to no empirical evidence as to which approach is best or even better than another" (Terrill & Paoline, 2013, p.58). This study fills in this gap in research through explanation of force tactics in police agencies and further shows how the continuum serves as a guideline in controlling police use of force tactics. Similarly, the author's approach demonstrates its controversial assessment that may cause police misconduct and excessive force.

## **Police Misconduct and Racial Bias in Stops**

Police misconduct connects to incidents where the actions of an officer are considered out of line with the code of conduct and may not be connected to the use of force used in a situation (Premkumar et al., 2021). However, misconduct of an officer may even connect to their racial prejudice in having negative attitudes or bias against certain groups of people and if this occurs it can be reflected in the stop data and the perceptions of the public. For instance, Gelman et al. (2012) analyzed New York Police Department pedestrian data to identify the relationship between race and crime data. They believed that police might substitute the racial characteristics of individuals for the racial composition of communities, and police cognitive suspicion would result in higher stops in specific minority neighborhoods (Gelman et al., 2012, p.814). The findings of this study found that Black (23%) and Hispanic (39%) of individuals were stopped more often than white individuals in which Hispanics had the highest stop rate, (Gelman et al., 2012, p. 817), which is different from other studies (Kramer & Remster, 2018). In these findings we see racial bias in police stop data with minorities being the most affected. However, in further expanding on the possible social implications of these findings we can understand how different neighborhood environments are policed in society and the likelihood of police stopping minority individuals. Police pedestrian stops and racial bias connect to the concept of order maintenance, which is a “. . .pervasive policing philosophy that prioritizes low-level ‘quality of life’ violations over violent crimes. . .” (Burton, 2015, p. 38). Order maintenance policing may be an underlying factor that harms people in the lower economic class or those who are experiencing poverty. These neighborhoods may be heavily

policed which has the potential to harm the trust in policing systems in minority communities composed of people of color, due to over-policing and surveillance in these areas. This may call for additional areas of research to investigate the possible societal influences in neighborhood perceived criminality and racial bias in police use of force and stop disparities.

Differently, connecting to the theme of racial bias in policing, Kramer & Remster (2018) also analyzed New York police stop data from the years 2007-2014 to understand the relationship between police force and an individual's age and race. An important concept that is highlighted is the idea of a productive stop—where a police officer arrests a person due to their possession of a contraband or a weapon— but if possession of these items is found this may lead to resistance and force used by the officer (Kramer & Remster, 2018, p.965). In stops done by the police there are racial differences and biases present in the data similar to Gelman et al. (2012). Kramer and Remster (2018) found that African American civilians have a 27% higher likelihood of experiencing force than White Americans and were 28% more likely for police to draw a gun on them. Additionally, if there was a 10% increase in Latino or Black residents in a community this results in a 4.2% higher risk that police would use a gun. Young black civilians also have a 0.82% higher chance of experiencing force than an adult who is 50 or higher (Kramer & Remster, 2018). Thus, in comparison to Gelman et al. (2012), Kramer found more factors of racial bias in police stops and force used on African Americans and Latinos. However, these studies have a similar approach on identifying police stops in neighborhoods which highlights that minority communities are more policed and under surveillance like the targeting of Carolina

Planters in 1704 on African Americans during the time of slavery (Burton, 2015, p. 43). The racial bias seen in police stop data emphasizes certain racial groups are more targeted by police. However, the perception of the public in terms of the use of force and stops is important to understand, as if certain racial groups are potentially targeted more than others this can lead to different perceptions of police actions by racial groups. This idea is supported by Carvalho et al. (2021) whose perspective is that use of force can lead to distinct attitudes towards the role of police where “. . . Whites could be more prone to see the police force as a positive and necessary group in society, Blacks and other underrepresented groups could be more likely to associate the police force with negative attributes” (Carvalho et al. 2021 p.1214). This is proven to be true as Black Americans are 35% less likely to support the idea that the police treat racial and ethnic groups equally in comparison to White Americans and like this sentiment Black adults are five times more likely than Whites to feel that they were stopped by a police officer unfairly (Desilver, 2020). Thus, we see that public experiences and perceptions of police affirm the racial bias in data that minorities are more often stopped by police which justifies the sentiment of the unfair treatment African Americans perceive from police. In the next section, I will discuss how police use of force varies on the type of force tactics used by police.



## **Lethal and Less-lethal Use of Force Tactics in Policing**

While the Use of Force Continuum is a model used by police agencies and officers to assess the level of force required to address a situation (NIJ, 2009), the lethal and less-lethal means of force is controversial amongst the police and public perceptions. One form of lethal or deadly force is through shooting a firearm. Although, the amount of deadly force an officer may use is dependent on their surrounding environment and the level of risk in connection to the jurisdiction the officer is working in (Premkumar, 2021). Police use force in situations that may escalate, but in considering injury and fatality consequences of this force demonstrates racial disparities. For instance, fatalities of civilians shot by a police officer reveal that Latinos represent 45% of deaths, Black Americans are 16-19%, and White Americans are less with 1/3 of fatalities during police use of force encounters (Premkumar, 2021). In police use of deadly force those who are most affected are minorities (Black and Latinos). However, an alternative to lethal force is less-lethal force tactics with conducted energy devices (CEDs), use of chemicals, batons, and verbal talk downs which will be further reviewed after analyzing police stress.

In understanding less-lethal force measures it is important to identify police officer's experiences in using less-lethal tactics. Baldwin et al. (2022) analyze use of force in police to examine police behavior through a lethal force scenario designed with an armed offender to identify the actions of police. Their findings suggest a self-report by a police officer revealed when use of force was applied, distortions of perception and cognitive thinking were negatively impacted.

For example, 70% of police officers experienced decreased visual clarity and diminished sound (a form of hearing) during the scenario. While under stress, more than a quarter of police officers are likely to commit fact (16%) and decision-making errors (7%) (Baldwin, 2022, p.12 & 14). This demonstrates that police experience physical effects that challenge their ability to act and make decisions which can cause error. However, despite the error and stress police may feel, officers believe that less-lethal force weapons like tasers are safe. For instance, De Angelis & Wolf (2013), discuss police taser use and community perceptions of CED weapons through a qualitative approach to this controversy. The authors found that police officers are shocked by the taser through their training to experience firsthand the power of these devices, CEDs were seen as safe devices by police and that related deaths of tasers are due to other factors (ex. drugs or medical problems), and that public misunderstandings of tasers is influenced by the media and their negative portrayal of the events (De Angelis & Wolf, 2013, p. 6 & 15). Police perceptions of public opinions being skewed by the media lead to misinformation in CED force, thus, the use of CED's by police must be understood through policy and its administration.

For instance, frequent use of tasers and policies are dependent on its enforcement and guidelines followed by separate policing agencies. Terrill & Paoline (2017) analyzed use of force incidents in different police departments and found that Albuquerque officers used tasers 6 times more often and Colorado Springs officers were 23 times more likely to use tasers which connect to their lower restrictive policies in less-lethal force (Terrill & Paoline, 2017, p.209). Thus, the likelihood of police use of force tactics that use

tasers as a less-lethal force is affected by administrative policy. Similarly, this may be dependent on the situation an officer is placed in where these authors found that higher levels of resistance against police resulted in their use of higher levels of police force, especially when there was clear possession of a weapon, male, and officers used tasers more often on Black suspects in comparison to White individuals (Terrill & Paoline, 2017, p.206 & 209). Differently, a critique in research is the need for national regulation use of tasers and less-lethal force weapons in policing as Ciavaglia (2021), described that “No federal agency tracks how many people are killed or seriously injured after Taser use by law enforcement officers, nor how many departments are equipped with the devices.” This shows a gap in research for the need of restrictive force policies at the federal level to decrease levels of police misconduct in their use of lethal vs. less-lethal use of force.

A different perspective is that police are not prepared to handle situations and weapons that control situations like protests. For instance, in the Black Lives Matter movements in George Floyd protests in Philadelphia police used tear gas chemicals on crowds of protesters which caused difficulty in breathing, and in Los Angeles police controlled protests with highly technical foam-projectile launchers to control the crowd with only having two hours of training on how to use this weapon (Barker et al., 2021). The critique of this situation is that police are not adequately trained and instead resort to being reactive in assessing crowd controls instead of proactive (Barker et al., 2021). However, we must keep in mind the reality that police officers are human and as stated above may commit fact and decision-making errors (Baldwin, 2022, p. 14) and may lean towards the use of deadly force dependent on their

surrounding risk and environment (Premkumar, 2021). This approach to criticizing the unpreparedness of police officers in using less-lethal force tactics demonstrates the need for increased training in how to use less-lethal weapons in stressful situations that cause less harm to both the public and police. Lastly, in further understanding the public perceptions of police use of force with less-lethal tactics and the public's trust and legitimacy towards police, Kypriandies et al. (2021) found that police using a weapon (taser or baton) was less acceptable by participants and that handcuffing and talking down to a person through physically restraining them was more acceptable, actual force used by police was less acceptable than threats of force by police, and that participants who trusted police did not reduce their trust and accepted police actions of force (Kypriandies et al., 2021, p. 182). In comparison to police officer's perspectives that CEDs are a safe form of lethal force (De Angelis & Wolf, 2013, p. 15), the public disagrees with the use of lethal weapons like tasers, batons, and sprays, this may call for change in police taser use to adjust to public opinion.

### **Racial Disparities in Police Treatment of African Americans and Latinos**

To analyze the racial disparities in policing it is important to understand the amount of force inequalities individuals receive due to higher risk and the differential treatment specific racial groups experience from police. For instance, Edwards et al. (2019) conducted a study focused on analyzing the lifetime risk in social groups of racial/ethnic and sex groups in being killed by police violence and use of force in the United States.

This study found differences in racial and sex group lifetime risk of death by police violence where Black men (2.5) and Latino men (1.3-1.4) times more likely to be killed by police when compared to White men. Black women are (1.4) times more likely to be killed. Latina women are less likely (12-23%) to be killed by police in comparison to White women. Thus, there are vast differences where men are at a higher risk than women and minority racial groups are at a higher risk of being killed by police. These findings highlight the need to treat police violence as a public health issue to identify racial factors in policing, but also describes the gap for future studies to assess social groups in an intersectional lens to identify how officer's perceive people's identity and its connections to dangerousness and criminality (Edwards et al, 2019, p. 16796). Regardless of lethal and less-lethal force, these statistics emphasize the racial disparities of who is at an increased risk of being killed by police and adds to the need for understanding how policing fails due to police violence against specific racial groups.

While African American deaths to police force are more often seen in the media, it's important to also consider Latino's experiences in excessive use of force by police that have led to the death of a victim. For instance, in 2013, Andy Lopez was shot 7 times and killed by police due to carrying a toy gun. In 2014, Alex Nieto was killed and shot 23 times by police due eating a burrito at a public park was perceived as suspicious by a passerby who called the police (Arce, 2020). It was found by the Unidos US group, which collected data from activists who were family members of victims killed by police and found that since the year 2014 "more than 2,600 Latinos were killed by police or died in custody" (Foster-Frau, 2021). However, the data reported may be lower than it

should since Latinos are “. . . often undercounted in criminal-justice data since many states report race but not ethnicity” (Arce, 2020). Thus, Latinos are categorized as a different race (e.g., White), which identifies a needed change in categorizing statistics of police killings in terms of race and ethnicity to gain clarity as the true number of Latinos being killed at the hands of police.

Differently, racial differential treatment of police officers can also be seen during stops and frisks due to the perceived size of a suspect. For example, Milner et al. (2016) focused on a suspect's race, size, and treatment of police to understand their interconnected relations. The findings in this study suggest that Hispanics and Blacks had a higher risk of being stopped than White individuals. In comparison to White medium-sized (66-72”, 141-205 lb.) suspects, Blacks had a 9.5% risk increase and Hispanics had 9.8% increase of having a police officer use force on them. For large-sized (73” and taller, over 250 lb.) suspects, Blacks and Whites had experienced higher risk and Hispanics had a lower risk. Thus, this demonstrates a problem of racial prejudice in police force on minorities that are medium-large sized but, also reinforces the idea of officer’s perspective on a person’s racial identity connects to a suspect’s dangerousness and criminality (Edwards et al, 2019, p. 16796) which causes force. Further, in police use of force, the years of service an officer has may affect an officer’s suspicion of criminality due to their racial identity. A study by Wright & Headley (2020) found Latino (1.27) and White (1.28) officers are more likely to use higher force on Black civilians. White officers use 1.15 times more force on Black civilians than White civilians. Furthermore, as officer years of service increased for White and Black officers there was an increase in police use of force

against both female and male civilians.

Lastly, when connecting to public perceptions of police officer's, forceful tone of voice towards civilians during traffic stops the public's trust can vary based on interaction. For example, Camp et al. (2021) blinded participants to analyze body camera audio recordings retrieved through body camera footage to assess officer's tone and found that participants exposed to positive tones and interactions created more trust in representations than negative police tones, and police "communicated more respect, ease, and warmth toward the White men they stopped than they did toward Black men" (Camp et al. 2021, p.7 & 9). Through public perception, police had more negative tones towards Black individuals thereby creating unfairness and racial differences in treatment. The problem of public trust in police can be explained by procedural justice theory —where negative or positive encounters individuals have with police affect perceptions of police (Camp et al., 2021, p.9) — but this may connect to the need of procedural justice training by police as a possible solution a possible solution.

Through this review I have discussed police use of force and the racial disparities in policing to focus on the question: How does police use of force connect to racial disparities in policing in police stops of individuals, lethal and less-lethal police tactics, and the racial differential treatment of African Americans and Latinos? Furthermore, the study of police use of force and racial disparities in policing with focus on history, police misconduct through racial bias during stops, lethal and less-lethal force tactics, and the racial differential treatment of African Americans and Latinos all serve to

serve to understand the problems in policing. However, this also allows us to analyze potential approaches in reduction strategies of police use of force so we can gain a greater perspective as to the changes needed through policy, force, and training by police to address the racial disparities in policing.

### **Topic Analysis** **Intervention for Racial Disparities in Policing**

Through previous review, I have discussed police use of force, and the racial disparities present in policing today, however, have not addressed possible strategies or solutions to reducing police force and racial bias. The idea of implicit bias in society may be a way to address racial disparities in policing, as implicit bias involves the “automatic positive or negative preference for a group, based on one’s subconscious thoughts,” which can produce discriminatory behavior even if individuals are unaware that such biases form the bases of their decisions” (Hinton et al. 2018, p. 7).

Implicit bias can be held by any individual and be manifested in preferences or different treatment where bias may not be explicitly shown or aware to a person which creates major problems in policing. For instance, when police officers use force we have learned that there is racial bias where Blacks and Hispanics are more likely to experience force from an officer due to their larger size (Milner et al., 2016), police use a friendly tone towards White individuals than Blacks during stops (Camp et al. 2021), Blacks and Hispanics are more often stopped by police officers than Whites (Gelman et al., 2012), and tasers are more often used on Black suspects in comparison to White suspects (Terrill & Paoline, 2017). Thus, implicit racial bias perceived by an officer may be the cause of these racial disparities in policing which must be further studied, as



in society people feel judged due to their race. For instance, 34% of Hispanics and 65% of Black adults state that they have been in situations where other people believe they were suspicious, due to their race or ethnicity and in comparison, to White adults one quarter believed this happened to them (Desilver, 2020). Implicit bias training of police may be an intervention to help reduce this perception people feel of themselves and can help address potential bias and racial prejudice police hold to eliminate the targeting of individuals based on the color of their skin. However, some may view and assume implicit bias training of police as not doing much in changing “. . . behaviors and reduce violent conduct against people of color, said Smith, who cites studies suggesting a majority of Americans hold negative biases against Black and brown people, and that unconscious prejudices and stereotypes are difficult to erase” (Walsh, 2021).

Not attempting to address officer’s unconscious stereotypes and bias can interfere with the “. . . population’s trust in the alleged aims of the police—that is, safety and order—especially that of people of color and other underrepresented individuals” (Carvalho et al., 2021, p. 1218). Thus, while it is true that negative bias against people of color exists in society and in the system of policing, acknowledgement of the bias and implicit bias training is an important intervention to teaching officers to be aware of their personal bias. Eliminating racial prejudice and bias by police would serve to attempt to reduce racial disparities found in policing and can help ensure that police officer’s conduct and behavior are equitable and impartial during their interactions with civilians.

## **Reduction Strategies in Police Use of Force**

To reduce use of excessive force the implementation of de-escalation training may be a solution for police behavior and actions. De-escalation involves the use of “. . . techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning” (White et al., 2021, p.420). Police training in these techniques allows officers to have multiple options to assess and react in a situation rather than resorting to violent force as a first response. White et al. (2021) analyzed the de-escalation tactics used by police in the Tempe, Arizona police department and found that 91.5-100% of police officers were willing to participate in de-escalation training and officers who received the training used more of the 10 de-escalation tactics including communication, use of appropriate words and language, compromise (the highest tactic used), knowing when to walk away, and maintaining decrease civilian injuries or distrust in police. Thus, as a officer safety were the last three most used de-escalation tactics (White et al., 2021, p.426 & 431). These findings provide a solution or alternative to helping police reduce or avoid the use of force to ensure both police and civilian safety. This method may allow less excessive use of force incidents if applied in multiple policing departments, as police use of these tactics allow for less violent options that can solution to police use of force, de-escalation tactics are an important part in regulating police behavior and their course of action based on a particular situation they are assessing. Common de-escalation tactics and policy across various policing agencies could also help keep track of police use of force data and the impact of less-lethal tactics used by police.

De-escalation training in police is important to reduce excessive force during police actions. An example of a situation where this type of training can be helpful is during civilian protests in cities, as these protests sometimes lead to chaotic events that may cause police to resort to using force and less-lethal weapons for controlling a crowd. An intervention strategy would call for improvements in police department planning in how police need to deal with organized protests in the community. Police departments may also need to create protest-management policies, participate in longer trainings in the use of less-lethal weapons like tear gas for supervision and crowd control, but also officers can receive “. . . training to manage their emotions and aggressions as part of de-escalation strategies” (Barker et al., 2021). Together with previous de-escalation tactics described by White et al. (2021) and emotional regulation training by police in protest can help police keep calm in these situations. Protests and activism can cause emotional triggers for all involved including police, where these interventions can help reduce potential violence and confrontations.

Similar to reducing police force through de-escalation training and less-lethal tactics demonstrated by White et al. (2021), this is also supported by Wood et al. (2020) who studied if training of police could change officer’s treatment towards civilians. A potential solution to police use of force is through the study’s focus on procedural justice training of police which emphasizes “. . . transparency, explaining policing actions, and responding to community concerns, has been identified as a strategy for decreasing the number of interactions in which civilians experience disrespectful treatment or the unjustified use of force” (Wood et al., 2020, p.9815).

Procedural justice training of police would allow for officers to be more involved with the communities they are serving and help both the public and police become informed of new policies, procedures, or practices performed. The findings of this study indicates that procedural justice training resulted in a 6.4% decrease in police use of force and police use of weapons, 10% reduction of civilian complaints against officers' misconduct, and that police who had earlier procedural justice training (12-24 months) had a more pronounced effect on police officers' de-escalation tactics (Wood et al, 2020, p.9817 & 9819). The findings of the authors connect procedural justice and de-escalation training through an emphasis on police encounters with the public like Camp et al. (2021) as a form for reducing police use of force.

As part of an implication of procedural justice training by police, this connects to procedural justice theory, described as public trust in police being formed due to the negative or positive encounters individuals have with police can affect their perceptions of police (Camp et al. 2021, p.9). This solution would be feasible under the circumstances where police departments —instead of creating strict distinctive roles of police and civilians in society that limits communication—end this communication disconnect through a positive police-community relationship. As a society, we could respond to the issue of police use of force by not only creating engagement between the police and community members, but also instilling a relationship of dependency, participation, and trust, where both are informed of their rights, changes, and procedures during interactions that foster respect.

Lastly, the control-command model in policing is most dominant in

Lastly, the control-command model in policing is most dominant in American police and is connected to creating compliance using dominance and threat (Wood et al, 2020, p.9819).

An alternative to reducing excessive police force, may be the change in focus of policing into a less dominant stance at the community level. Instead, the system of policing should focus on “trying to help reweave some of the threads of community, a system that is more focused on healing than just on stopping harm” (Rachel Viscomi, as cited in Walsh, 2021). We recognize the responsibility of police to enforce the laws to maintain protection and order in our communities through their duty to investigate, arrest, and detain criminal suspects (Bureau of Justice Statistics, 2021), but this method as reviewed through the literature has created damaging effects in communities through public distrust and police violence in excessive use of force. While Walsh (2021) does not explicitly state the term “community policing”, their implication of a more healing focused form of policing allows for officers to be conscious of their actions, communicate, and engage with the community. Reconnecting with members of communities is key for police to understand those they serve and work with civilians in encouraging transparency and partnership between both parties. This can further allow for racial bias or assumptions of certain racial groups perceived as dangerous or criminal held by police to become disproved and allow for a reduction in force against minority communities and can potentially fix the relationship and trust of civilians and police. Thus, in researching police use of force and racial disparities in policing some of the interventions and reduction strategies to address this issue are through implicit bias training for police officers, de-escalation training for reducing

excessive force performed by police, procedural justice training to build police-civilian relationships and transparency, and changing the focus of policing's command and control model to emphasize community policing that heals civilian trust in police. Through recognizing not only the problems in police use of force and racial disparities in policing, but also the possible interventions and strategies for reducing and eliminating these inequalities allows us to create new approaches of reforming the system of policing into one that aims to eliminate racial injustice. Further, it allows police to maintain their duty of protecting and serving the community in the best manner that does not target specific groups, but rather provides protection and safety for all.

### **Conclusion**

To conclude, the issue of police use of force and its connection to racial disparities in policing needs to be further studied and addressed to make necessary changes that not only limit excessive force tactics from police, but also eliminate racial bias in the system. Analyzing police officer's behaviors and misconduct during stops and the lethal and less-lethal force tactics that are available to police is important in understanding the levels of force or use of force continuums that policing departments follow. This is where changes in policy and policing practices like de-escalation and procedural justice training can be key in reducing use of force problems in policing that is increasingly seen in the media we consume.

Similarly, when understanding the connection between police use of force and racial disparities we have come to learn the vulnerability

of minority groups (African Americans and Hispanics/Latinos) in being targeted through being overrepresented in stop, injury, and use of force data. This data also reflects the public sentiment of being judged and experiencing racial differential treatment of these racial groups which must change through implicit bias training and community centered policing to reconstruct police-civilian trust. Reform in policing and use of force is much needed to address racial disparities and differential treatment minorities experience during their interactions with police. Fixing this relationship between civilians and police will have a long-lasting impact that is essential to improving the system of policing into one that inspires equity, safety, and trust.

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Digging Up the Root:  
The Radical Belief of Reallocation

Josie-Grace Valerius

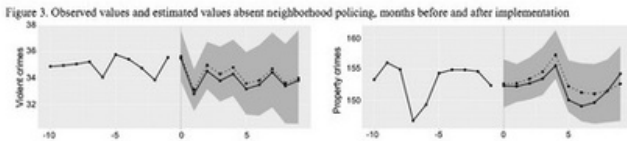
In March of 2020, the world had a front row seat to a view of police brutality and corruption. As protests and calls to defund the institution of the police arose around the country, people began to finally question the validity of the policing system as something that can truly control crime and perpetuate safety. Though 2020 may have been the mark of most of the populations turning against the policing institution and acknowledging their general ineffectively, the knowledge that police have virtually no effect on crime rate has been the result of studies for a very long time. The theoretical implementation of this policy plan focuses mainly on the state of New York, and so, in coalition with that the NYPD and recent experiments done with the dispatching of its patrolling officers will be cited as evidence and example. The NYPD's budget is supported by a combination of city, federal and state funding. However, the city alone pays 95.3 percent of the total funding allocated to the NYPD. In total, the department obtains a budget of \$5.44 billion for the current fiscal year, which means New York City alone funds \$5.18 billion of that (New York City Council, 2023). But if the police are ineffective, could this money be better spent elsewhere?

In order to best prove the ineffective nature of policing in relation to crime rates, one must look no further than the recent implementation of the NYPD's Neighborhood Policing Program. This program increased neighborhood patrols by more than double, and hired hundreds more on-ground officers. In various papers and press conferences, the NYPD officials expressed that their first priority with this program was to reduce crime. However, during the years of the program implementation it was determined that there was no impact on crime whatsoever. Neighborhood

policing did not influence either violent or property crime at a statistically significant level at any time point observed. **Figure 1** below exemplifies this. Because the estimated values' confidence intervals contain the observed values at each point, statistically speaking the original hypothesis of the observational study stands: that neighborhood policing does not affect these outcomes. It is important to note that crime did in fact fluctuate, but not at any rate that largely disagrees with normal seasonal fluctuation. **Figure 2** below shows that the change from time of implementation (2015-2018) follows the same relative pattern as years prior. This fluctuation is caused by change in season: higher rates in the summer, lower rates in the winter. Simultaneously, reports of police misconduct increased, spiking within the first few months of implementation and increasing 35% overall, shown in **Figure 3** below (Beck, et.al, 2022). So once again, the question begs to be asked, why are we spending billions of dollars on an institution that does not work effectively, and creates more disserve to the population than mitigation of anything else? The answer is, we do not have to, and at this point we should not continue to. There are viable avenues that if funded would pose as effective and efficient options to lower crime. In this paper, three specific options are presented, and these include subcategories that pose as options for specific funding endeavors. **The three main funding avenues would be reallocation in community centers, reallocation in city education programs and staffing, and reallocation into productive forms of recidivism reduction.** These options not only would significantly lower crime but fix sociological pressures that contribute to crime rates providing long-term solutions, while simultaneously contributing to economic growth. The avenues aim to improve mobility rates, especially in impoverished communities that have

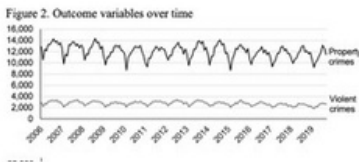
been systematically stunted due to targeted and biased policies, and allow for correction of classist systems and processes entrenched in the criminal justice system. However, these avenues will also boost economic growth in the long-run, aligning with macroeconomic concepts, and Keynesian theory. Explicitly identified in the following paragraphs, these avenues will pose huge reductions in crime by addressing the root-cause of what actually factors into criminal behavior and providing solutions for those causes on a broad and productive scale. Because the policing institution is obviously not effective at doing this, my proposal is that we utilize the funds usually spent on this department and reallocate this resource into the 3 avenues identified in this research. With the reallocation of the NYPD funds to these avenues there will be a betterment of society as a whole, socially and economically, and a revitalization of our people.

FIGURE ONE



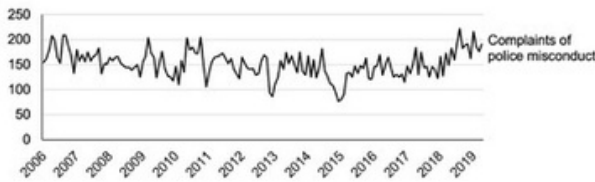
(Beck et.al, 2022)

FIGURE TWO



(Beck et.al, 2022)

**FIGURE THREE**



(Beck et.al, 2022)

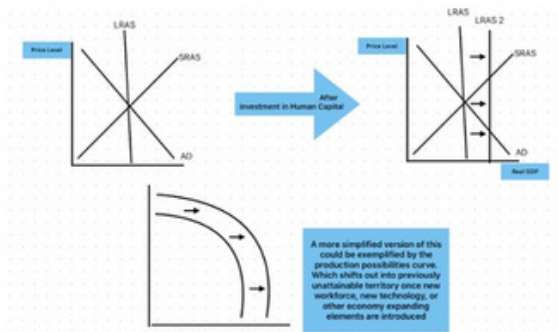
What would economic growth look like, and how would it happen through these avenues of reallocation?

In macroeconomics there is a graph that details aggregate demand, short-run aggregate supply, and long-run aggregate supply. This research will focus on the shifting of LRAS rightward, which demonstrates long-run economic growth. Though many factors shift aggregate demand, which demonstrates short-run growth in the economy, there are only few things that shift LRAS. One shifter would be investment in human capital. Human capital consists of the knowledge, education, experience and skills a population has. These factors help enable them to be productive members of the economy. An example of investment in human capital would be allowing people to go to college for free. This would naturally result in a more educated workforce, additionally a more diverse and representative workforce, but it would also shift the LRAS because there is now more efficiency and productivity throughout the economy. Another shifter of LRAS would be government investment in infrastructure. Unlike plain government spending, which only shifts AD, government investment in infrastructure shifts LRAS because of the addition to the productive capacity of the economy and because infrastructure has a strong multiplier effect (Ciuriak, 2011). A visual description of this shift is shown in **Figure 4** below. The investment in human capital and government



investment in infrastructure are two shifters that will be of primary focus during this work. Though the main goal is to reduce crime, it is important to note that by reallocating these funds the economy will be stimulated in positive ways, making reallocation an even more attractive solution.

FIGURE FOUR



### **Community Centers**

The first avenue of reallocation should be from the police force into community centers. This could either be constructing infrastructure in impoverished neighborhoods, or funding the centers that already exist. Examples of community centers could be libraries, parks, recreation centers, or even one set infrastructure building that houses various stands of outreach organizations to provide service to the community. These centers foster community engagement, provide resources and accessibility, while simultaneously impacting the well-being and health of the community's people.

In specifically New York City, the most impactful form of community center seems to be libraries, with 95% of New Yorkers

saying that they believe their communities would be impacted if the local library were to close. This is not only because of the decline in knowledge accessibility that would take place, but also because 65% of impoverished communities would no longer have access to the internet, and 73% say that children and teens in those communities would have few or no alternative free out-of-school programs (MAHER, 2022). Libraries play a crucial role in supporting peoples' access to all kinds of resources and provide avenues of career exploration and training, connections to social services and material support, which is especially essential in impoverished communities. In Washington Heights for example, the assembly members office sees about an average of 500-550 constituents a month, most of whom are only looking for help to fill out social service or welfare applications. A lot of the politician offices are understaffed in constituent service representatives, and truly the community would be better served if there was a library that provided this service to them, without the 3 hours wait and with individuals who had the time to explain to them what the exact process was. This would help impoverished communities be uplifted and would provide more understanding of the process' and systems, connecting these individuals more to the community, and potentially lowering crime rates if given the opportunity to have stability provided by a social safety net. Recreation centers and libraries with more funding can also utilize their space to provide activities for youth. The hours of 3pm-6pm during the weekdays are the hours of which violent crimes committed by youth are the highest. This is in line with the ending of the school day, and because a lot of poorer school districts do not have clubs, sports, or affluent afternoon programs, an activity hour hosted by the local recreational center or library could be the perfect

solution. Though recent data has shown that the police force may have no effect on violent crime, these institutions within the community can. Funded community centers can provide spaces of distraction, safety, and foster a sense of purpose in especially the youth. All of this is done by providing career resources, workshops, homework help, or even just free meals and a safe space to hang out. This is not solely theory either, research has repetitively shown that opportunities for learning and skill development are huge proponents of reducing crime rates because they provide economic opportunity, which is exactly what is needed in impoverished communities as a whole, but especially in their youth (MAHER, 2022). Libraries are a huge proponent of this sort of socialization and community resourcing. Yet, instead of increasing their funding, NYC has just made a \$50 million budget cut to all public libraries. The recent budget cuts made by current NYC Mayor, Eric Adams, have already started to pose major consequences for these institutions including an announcement of closures and a loss of weekend service (STARTMAN, 2023). This will also affect their ability to host free programs and development workshops, provide space for the community, and allow for community success; this is especially detrimental in already struggling neighborhood libraries, and definitely detrimental to the neighborhoods that do not have easy access to libraries already. The police agency could absorb this cut much easier, having just spent \$500 million on upgrading radios so that the public can no longer tune in (MARCIUS, 2023). These budget cuts are an exact example of what should not be happening. The police are not effective at controlling crime, and they are certainly not effective at building community morale and allowing for mobility and economic opportunity; the budget cuts should have been made to this agency instead of the library system.

Reallocation away from the police force back into the libraries would address the root causes of crime, which is lack of involvement, lack of resources and lack of mobility. By funding this type of institution, we would be opening up new ways of integrating members with their surroundings, hosting safe spaces, and uplifting impoverished communities that have been plagued by systematic inequality. Though it may seem more obvious that this would have economic benefit, the mechanics of it are still blatantly telling. Allowing for free training and skill development are important factors in fostering a healthier, more productive workforce. This is the exact definition of investment in human capital. Not only would funding libraries, and recreational centers in impoverished communities be spheres of safe social distraction and areas of minimizing the wealth gap, but they would boost economic growth in the long-run for everyone. Investment in human capital shifts the LRAS to the right, and would continue to break people out of the poverty cycle and perpetuated systematic inequality our society has pushed them into. This allows for their mobility, and a great reduction in their chances of interacting with the criminal system, but also benefits the economy and growth on a macro level.

### **City- Education Programs/System**

The second form of reallocation would be improvements to the city education system. This would be laid out in two particular ways that I believe would pose more opportunity to students and social safety nets. One would be increasing the trade learning opportunities, such as Career and Technical Education (CTE) programs in New York City public schools, and creating similar programs throughout the community. The second would be

investing in school counselor recruitment, mental health professional resources, and overall, helping impoverished school districts have a productive ratio between students and counselors.

The reality is, academia is not for everyone, and while it might seem reasonable to say that if we funded academic resources these students would automatically take interest and be enriched through the opportunity, it is not true for all types of students. For the individuals who truly do not bode well with academia, there has to be some alternative option for their empowerment and skill development. This is where CTE programs and trade learning spheres come in. CTE programs integrate academic learning with hands-on training that allows students to explore specific career paths and gain relevant skills. Many of these CTE programs provide opportunities for students to earn industry-recognized certifications. These certifications can significantly enhance their employability, and oftentimes can put students directly into the workforce giving them more independence, mobility, and stability. Students may find these particular opportunities presented by the CTE trainings and programs to be more compelling than regular academic performance. Rather than drop-out of school, these students are presented with an opportunity to enter the productive workforce. By providing students with practical skills and industry-specific certifications, graduates of these programs are more likely to secure employment within a fruitful trade related firm or business. This entrance reduces the economic desperation that can lead to criminal activity in impoverished communities. This social distraction, or element of socialization, provides empowerment and a sense of purpose that is contrary to the overwhelming sense of hopelessness these types of students usually feel; a feeling that has a

high probability of leading to criminal behavior. There is also a lot of community mentorship within these programs. This is oftentimes involving community partnerships with positive influences and community leaders. This does two things: firstly, it helps to guide youth away from negative influences, and secondly, provides support for students who may not have that support at home. This fosters connection, which is imperative for developing youth. Also, most of these mentors and partnerships would involve collaboration between the student and local businesses and community organizations, which helps create emotions of community responsibility. The most obvious benefit to funding programs like this, is that now these individuals are enabled to break out of the cycle of poverty their community has been systematically pushed into. As individuals from impoverished communities gain financial stability, this cycle is interrupted, which would drastically reduce the socioeconomic factors that often contribute to crime. Though there is already a CTE program in high schools, it needs to be funded better in order to provide equal opportunity for districts across the city. As of right now roughly 100 high schools across the city are getting money through the newly developed “FutureReadyNYC” initiative that helps implement career and technical education courses (Elsen-Rooney, 2023). The funding for these schools was a total of \$18 million dollars, but with recent city budget cuts made to education programs by Mayor Eric Adams, these new initiatives are the first to go (Zimmerman, 2023). In a city where 30% of students are looking to pursue careers that do not require a college degree, these programs need to be more plentiful and better funded instead of defunded. At this same time, a government investment in the trades is imperative to lift up that declining field, but also because a lot

of ethnic minorities rely on this sort of labor force to survive. With free training available these communities will be able to grow in skill development, setting them up for lasting careers. Trade programs that are funded throughout impoverished communities pose a very real solution for individuals with language barriers, and additionally those who may not be able to thrive in a traditional academic setting. This also would potentially open up the door of opportunity to individuals who dropped out of school previously, who are working minimum wage jobs but are in need of more income, and so many others. This type of program can be held not only in schools but in recreational centers, or any type of central community location that provides access for individuals to participate. This could also present employment opportunities for others in the community, those who know trade skills already could help facilitate workshops with the funds helping to provide them with payment. This loops back to fostering community involvement and connection, producing pride and community responsibility. I understand that trade skill development and crime may seem as if they have no connection, but just like traditional academic opportunity, this creates employability and even entrepreneurial opportunities; both of these things help to address poverty which is crucial for crime reduction as it diminishes some of the root causes of criminal behavior. Contrary to the policing system, which solely poses punitive measures that neglect the radical causes.

### **Staffing School Counselors: A Healthy Ratio**

The recommended student to counselor ratio is 250 students per counselor, but the New York State average is about 350 students per counselor which is well above. An audit by the state comptroller found that NYC's schools are especially in a dire

shortage. The audit found that more than 400 of the system's schools lacked a single social worker, and of the schools that did have one, 80% failed to meet the recommended ratio. Additionally, while most city schools have at least one guidance counselor, 64% failed to meet the same ratio (DiNapoli, 2022). Though the DOE has pretty consistently denied this report -- along with the numerous others that have all come out after the 2020 investigations into mental health support in city schools -- the reality is, a lot of city school children do not have the ability to turn to a social worker, trained mental health professional, or adequate guidance counselor in times of distress or inquiry. The detriments of this are huge. Obviously, there is an intersection between mental health and crime, and when intervention happens very early on there can be very helpful solutions, coping mechanisms, and aid provided to the individual. During the development stage, children's brains are even more susceptible to mental illnesses which can collide with dangerous activity that can lead to criminal behavior. This introduces these youths into the criminal justice system very early on, and if they are lower-class and/or a minority the probability of them being sentenced is extremely high. If a professional is able to intervene at an early stage after seeing signs of emotional and behavioral issues in students, they can potentially prevent the escalation of the mental illness that may lead to criminal behavior later on. Crisis intervention and trauma response is also imperative to addressing the root causes of why an individual would commit a crime, especially when it comes to violent crime. Mental health professionals are trained to provide coping mechanisms and help students acknowledge the underlying factors of their behavior and disorder. This also fosters a social emotional learning skill set within the student, and with



professional help students can thrive in an academic setting without disruptive behaviors. A lot of trauma markers and habitual behavior starts when someone is very young, and when their brains are still developing. By having a healthy amount of mental health professionals and social workers within the schools, the government is performing a preventative measure by addressing some of the root causes of criminal behavior right when they start. This significantly reduces the chances of an individual actually committing the crime. Some schools in NYC that do not have mental professionals on staff have a police officer that polices inside the school building. This tends to escalate conflicts that might have been resolved had a mental health professional been present and been able to provide conflict resolution tactics and mediation. This teaches students a valuable lesson of peaceful resolution, rather than a violent and punitive end. Secondly, we need to put more funding into hiring guidance counselors for NYC public schools. It is utterly ridiculous that one child in NYC can go to Regis high school and have a private pre-college advisor, while someone in the public school system is completely on their own for the college process. This results in students who have no idea how to fill out forms, have no idea when deadlines are, and miss opportunities that they could have succeeded in. Not only that, but this severely impacts our resulting workforce and collegiate bodies, with people of certain demographics being completely left out of the equation. Guidance counselors also help to encourage academic reliability, this empowers students and results in higher performance levels. This leads to greater employability, more collegiate acceptances, and greater mobility overall. If the impoverished community districts do not have access to this kind of assistance when it comes to this sort of life-altering information and

and process, then society is missing out on hearing their stories, and benefitting from them in the workforce. This also results in a greater push into the poverty cycle. Without the ability to move upwards in education or in job preparation, these individuals will be more susceptible to poverty and desperation; not because of their own doing, but because the system failed them.

Both of these methods largely have to do with the education system, which just took a \$550 million budget cut. Instead of hiring mental health professionals and more guidance counselors NYC schools are now in a hiring freeze. Additionally, cuts are expected in January and again in the spring of 2024, which means that the Education Department could face up to \$2.1 billion in cuts (Elsen-Rooney & Zimmerman, 2023). With this sort of austerity happening crime is going to increase, rather than decrease. Root issues will continue to be overlooked, and the students will lose the ability to either benefit from career and technical trainings, or have someone to turn to when in times of distress. To reiterate the overwhelming point: impoverished communities will face the largest effects of this. This type of austerity will stunt growth by not investing in human capital, and will also continue to perpetuate disparity and inequality which is shoving students and their families back into the systemic poverty their own government created. The NYPD's recent upgrades to their radios, something frivolously unneeded, totaled \$500 million. That money, if reallocated, could have helped our students, our safety, and our economy as a whole.

## **Accounting for Recidivism**

The third avenue of reallocation focuses more on the ever-rising recidivism rate, rather than the preventative measures that were detailed in the first two methods. It is important to detail the failures of our criminal “justice” system, which is the fact that it is classist, racist, and overtly not ethical nor just in current function. Also, that it fails to truly rehabilitate and prevent re-offense. This is because once an individual is incarcerated there is little to no programming that truly helps them develop and successfully aid them in reintegrating into society. Coupled with that is the bleak future of someone who is convicted of a crime and holds a record. There is a huge lack of ability to get a job, ability to partake in training programs, be eligible for aid and resources, and the added attentive scrutiny of law enforcement through probation. Instead of continuing to allocate funding towards an institution that does not solve or rehabilitate, funds should be reallocated into supporting programs that exist and help address root causes of habitual criminal behavior and ultimately reduce the recidivism rate.

### ***Subsidizing Employers who hire Previous Convicted Peoples***

Individuals with a criminal record often face significant stigma and discrimination when seeking employment, especially if they are POC. Subsidizing employers can incentivize them to look beyond the criminal record and give these individuals the ability to enter the labor force. Researchers have found multiple times that in the plethora of elements that factor into a re-offense, social stigmatization and inadequate employment or stability were among the most influential. The logic of this undoubtedly checks out: if an

individual cannot support themselves after release, they are potentially thrust into an even worse situation than they were in before, leaving them desperate and among the sociological pressures that led them to crime in the first place. Unemployment rates for “reentrants” is significantly high, last recorded at 27% in 2018, and is continuously rising in post-pandemic times (A Second Chance: The Impact of Unsuccessful Reentry and the Need for Reintegration Resources in Communities). There have been many attempts at subsidizing employers that allow these individuals to work, however, once the subsidy is pulled the employee is usually fired. With more funding not only would this not happen, but more reentrants would be able to find employment options. This would foster skill development and career advancement, but also assist with community reintegration and social responsibility which hinder potential criminal behavior while simultaneously reducing economic desperation.

### ***Pathways to Education and Technical Training***

Besides not being able to find a job, a lot of previous incarcerated people struggle to obtain needed skills for more substantial careers. After losing so much time because of the criminal justice system's harsh penal severity, those released are at a huge developmental disadvantage. One way of correcting this would be to offer more education opportunity outreach for those recently released. There are only few colleges across the US that participate in programs that help to support those recently released from incarceration, by providing resource referrals, educational and career counseling, hands-on training, and ability to enroll in classes once released.

This should be a much larger project than it is now, and should be a primary focus of many of our leading institutions, but especially our city university system. In order to continue to do this, those schools need more funding, and part of productive reallocation would be to provide delegated funds to these institutions that help uplift this vulnerable community. This does not have to only take place outside of incarceration either. In San Francisco, a program called “The Last Mile” offers technical and trade skill training during incarceration for individuals who want to learn. This includes even software development curriculum and has proven to be extremely successful at providing technological skills, building resume and portfolio, and allowing these individuals to be released with some sort of access to technological career pathways that help reintegrate them into the community. In fact, though the national average of recidivism lies within 67% within the first 10 years, TLM graduates have a less than 1% re-offense rate. TLM reentrants also have an 82% employment rate, breeding success and stability for those released (A Second Chance: The Impact of Unsuccessful Reentry and the Need for Reintegration Resources in Communities). Opening a TLM chapter, or implementing a similar program would greatly benefit those in NYC jails and prisons, especially in a society that is so technologically advanced and dependent. The city spends an extreme amount of money on each incarcerated individual, and if the overall recidivism rate decreased, the number of inmates going into the prisons and jails would substantially decrease as a result. Thus, leading to an opening of even more funding for programs that can effectively prevent crime altogether by addressing key sociological pressure points.

### ***Therapeutic Intervention and Support***

The fact that mental health services and mandatory therapeutic treatment is not a fixture in our criminal justice system is a telling sign of its far-from-rehabilitating nature. As of right now, there are still legal fights going on that are advocating for access to mental health care for those with previously diagnosed mental illnesses. Though this is needed, a better step would be to fight for active mental health programs and therapy sessions within incarceration facilities. By funding this sort of fixture within the prison and jail system, individuals would be able to go through a series of psychological evaluations, discussions, and get truly rehabilitating help. By enabling those incarcerated to talk to a trained professional, the system is opening up the opportunity for them to identify the true cause for their criminal behavior and help them work to find effective and healthy coping mechanisms. Also, these professionals could point inmates in the direction of resources that are housed within the facility or outside of it. A program like this would drastically improve the mental space of those released and enable them to be more successful and stable members of society. Obviously giving people jobs and training a new workforce would increase economic growth in more obvious ways, but there is also something to be said about investing in the betterment of society's mental health as a whole and the economic and social value of that. The people incarcerated are oftentimes society's most mentally vulnerable, and providing them mental health care and support would uplift the entire society and result in not only lower recidivism, but increased safety and production.

### Why the Police Force?

Though hesitance can be understood to a certain degree, after looking at solidified facts and blatant statistics that reference the striking ineffectively of the police, it becomes increasingly obvious that this is the fund to reallocate from. The policing institution's main function is to prevent, stop, and report crime, yet repeatedly our society sees them fail at this --especially on the preventative end. However, it is also obvious that the police will never be able to truly prevent crime anyway. Rather, it is the systematic errors and discrepancies that factor into criminal behavior and it is truly our government's fault that those concerns and contributors have gone unaddressed, even as the nation continues to suffer from them. Of course, the great sociological pressures can be directly attributed to neoliberal policy largely implemented by the Reagan administration, which not only caused the upward spike in incarceration rates through the War on Crime and the War on Drugs, but also contributed heavily to deregulation of industry, the bifurcation of America's class system, and the lack of resources to help pull individuals and families out of the poverty cycle. Yet, with all these factors at hand, we continue to pump excessive funding into an institution that does not even productively use it. NYPD upgrades, their extremely flexible 'pass-down' pensions, and over-policing of impoverished communities and targeted police initiatives are just some of the instances of when the funding has gone to excessive or harmful avenues throughout the institution's history. The fact of the matter is, if the goal is to reduce crime and increase safety, then the police are not the way to do that. Rather allowing for mobility, increasing accessibility, uplifting communities, addressing root causes that factor into criminal behavior, providing education opportunity, and focusing energy on

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controlling the recidivism rate in ethical ways are more conducive to that end goal. Though this may be highly theoretical, we are at a point in society where it is not only plausible, but imperative.



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Media Representation of the Central Park Five  
in New York City

Ashli Hamilton

## **Introduction**

When most recall the infamous case of the Central Park Five, we think of the injustices these individuals faced. The wrongfully convicted individuals were, Antron McCray, Kevin Richardson, Yusef Salaam, Raymond Santana, and Korey Wise. The teens were accused of rape and assault in April of 1989. Wise, who was only 16 at the time, was tried as an adult and faced 12 years in jail. Salaam, Richardson, McCray, and Santana faced 5-7 years in jail. In 2002 DNA testing proved they were innocent and not connected to the crime which resulted in their exoneration. No one can replace the years of childhood these youth lost for simply hanging out with their friends in Central Park. So how did this even happen, and why did they plead guilty when they knew they did not commit this heinous crime?

The young men confessed to this crime due to strong coercion from the New York Police Department. False confessions are a huge issue within the juvenile justice field as they do not understand and recognize their rights. Various issues went wrong in this case, but this essay will focus on how the media represented them. I believe that The Central Park 5 case drew a lot of media attention and allowed authoritative figures to continue pushing the false narrative portraying Black Americans as perpetrators of crime. These individuals wanted more policing in New York City, and thus, the story they pushed supported their agenda. Therefore my research will view media representations from the beginning of the conviction to the present. There was a lot of racial tension during the conviction period of the Central Park Five, and it would be interesting to see how this case was portrayed over time. The

treatment of minority youth and the justice system has always been terrible due to the historic racism and discrimination of these groups. This research will allow us to understand the power of media representation and its impact on court cases.

### **Current Research on Media Representation and the Central Park Five**

The article, “Transforming the Central Park Jogger into the Central Park Five: Shifting Narratives of Innocence and changing media discourse in the Attack on the Central Park Jogger, 1989–2014” by Greg Stratton finds six stages of media discourses. The stages are, initial crime reporting, first contact with the justice system, finalizing criminality, contesting the system, and narrative of innocence. I find establishing stages helpful in understanding how the media discussed this case. Stanton continues his theory by discussing the evolution of media he claims that, “A diversified media landscape and the emergence of social media have the potential to develop competing and parallel narratives. Social media, like the digitization of the newspapers, offer further opportunities to explore the development of narratives and the public response towards the wrongfully convicted” (Stratton, 2015). i Social media has progressed to being a popular news source for most individuals. Today popularized media is represented digitally removing the reliance of printed newspapers. Current research has made it clear that media does have the strength to alter public perceptions regarding a case. The evolution of social media has revolutionized this analysis as individuals can receive news faster as it is more advanced. The current research lacks information on how the unique case of the exonerated five was represented in the media

and how changing narratives can impact public perceptions.

### **Black Journalism**

An alternate study focuses on the New York Amsterdam News and its portrayal of the Central Park Jogger case. The Amsterdam is a Black-owned newspaper with the purpose of protecting civil rights within the Black community. This study found that prior mainstream research has not accurately reported the tragic series of events and created a racist worldview and a false narrative of the victim, heroes, and villains (Beardsley and Teresa, 2017). I agree with this research as these minority youths were spoken of negatively in the media due to societal attitudes, perceptions, and biases surrounding race during the time. The recency of this research displays how racism in the United States has evolved. It also reveals that this research is developing and essential to the framework of media portrayal. This study also promotes that the incorporation of Black journalism when analyzing mainstream American journalism in the future is important to fully interpret a case (Beardsley and Teresa, 2017). I believe the research done after this case did not focus on the Black Journalism perspective on purpose. The persuaded public thought that these children were criminals due to the color of their skin, severe crime, and arrest. The case did not have proper proof to convict these children, and the false confessions made did not assist their case. The New Amsterdam referred to this event as a “legal lynching”, and this is something that many other platforms refrained from admitting.

## **Findings**

I began my research by observing recent media discussions on the Central Park Five. The

New York Amsterdam News has an article from 2013 titled, “Ken Burns: De Blasio will settle ‘Central Park Five’ case”, by Stephon Johnson. It discusses the impact of the Central Park Five on our society and Ken Burns’ role in the case. Burns created a documentary surrounding the case and sparked an uproar in social media responses regarding justice for these people. The article also discusses the need for criminal justice reform and the effects of racial bias. The article also discussed important information regarding the fame of their case that I was unaware of. Yuseef Saalam discusses how Mayor Bloomberg had worked at the same company as the Central Park Jogger and how this impacted their settlement. Salaam says, “He was trying to drag this out, hoping something would happen to us. But the whole city saw, and what he failed to realize was that the more he held out, the more positive history continues to be written” (Johnson, 2013). It took the Mayor elect-Bill de Blasio to say that he would settle this case (Johnson, 2013).

In opposition, another article from the New York Times entitled, “Youths Rape and Beat Central Park Jogger” from 1989 discusses the details of this incident and those involved. The author provides a detailed description of the crime scene and the incident itself. Chief of Detectives, Robert Colangelo gave the Times a few comments concerning this article. He believed, “‘It would be wrong to characterize the group as a gang,’ Chief Colangelo said. ‘But, he added, it is likely the youths know one another’” (Wolff, 1989). He

added, "They went into the park to do some mischief, and this mischief led to this tragedy," he said. "It's safe to jog in the park. Certainly, there are precautions that should be taken" (Wolff, 1989).

More recently in 2019 a newspaper article titled, "Trump Will Not Apologize for Calling for Death Penalty Over Central Park Five" discusses the former President's comments in 1989. When asked about his comments in 2019, "President Trump said on Tuesday that he would not apologize for his harsh comments in 1989 about the Central Park Five, the five black and Latino men who as teenagers were wrongly convicted of the brutal rape of a jogger in New York City" (Ransom, 2019). He added to this by saying that former prosecutor Linda Fairstein who ran the sex crimes unit and others believed that the case should not have been settled" (Ransom, 2019). His comments were made when the incident first happened and the teens were arrested while the victim was still in a coma. Trump said, "I want to hate these murderers and I always will," Mr. Trump wrote in the May 1989 ad. "I am not looking to psychoanalyze or understand them, I am looking to punish them" (Ransom, 2019). He also expressed that he wanted these youths to face the death penalty (Ransom, 2019). Barry Scheck who is a founder of the Innocence Project and worked on assisting the youths wrongfully charged shared his thoughts about Trump's statement. "'It's shocking and deeply troubling that after all of these years, he would not have recognized that by calling for the reinstatement of the death penalty, it contributed to an atmosphere that deprived these men of a fair trial,' Mr. Scheck said" (Ransom, 2019).



The final article I looked at came from 1990 and is titled, “Judge Rejects Defense Claim In Central Park Jogger Case”. The article discusses how the judge permitted Santana, McCray, and Saalam to receive interrogations without a parent in the room and the judge argued that the law does not exactly require parents to be present for the questioning of the three youthful defendants (Sullivan, 1990). The author goes further by describing, “The ruling could damage the case of Raymond Santana, whose lawyer had repeatedly challenged the incriminating statements made by his client on the ground that his father was not present when detectives first questioned him” (Sullivan, 1990). Santana’s lawyer Peter Rivera, claimed that once Santana’s father went to get pizza is when he admitted to being a part of the attack on the Central Park Jogger (Sullivan, 1990). Rivera also strongly argued that Santana was questioned for hours with his grandmother in the room who did not speak English (Sullivan, 1990). Judge Justice Galligan described to the jury that “You may consider the age and the maturity of the defendants, and the time and length of their questioning or any promises made. The fact that a parent was not present during the questioning of a juvenile does not automatically mean that a statement was involuntary” (Sullivan, 1990). In response to this, a spokesperson to the district attorney claimed that “The law is whatever Justice Galligan says it is” (Sullivan, 1990). Manhattan prosecutors uphold that the policy of the police is to make all efforts to have parents present during questioning to ensure that the charges are upheld in court (Sullivan, 1990). “They also said that in recent years, with an increase in juveniles accused of violent crimes like murder and rape, the courts have allowed more leeway in their interpretation of the laws on handling youths” (Sullivan, 1990). The article also mentions that Santana and

McCray admitted to taking part in the attack and rape of the jogger via video statement (Sullivan, 1990). In addition, “In a statement that the police said Mr. Salaam had given but never signed, he admitted striking the woman twice with a pipe and grabbing her breasts” (Sullivan, 1990).

## **Discussion**

After reviewing present and past literature it is clear that the media was used to coerce public interpretation of this case. Beginning with the article, “Ken Burns: De Blasio will settle ‘Central Park Five’ case” New York Amsterdam News does a great job of explaining the case. This article also pushed for criminal justice reform which was lacking in other ‘mainstream’ articles regarding this case. When I refer to mainstream articles I think of the New York Times, as a large population received their news from this newspaper. Amsterdam is important to mention as it relates to New York’s Black population which is smaller than the population of those that read the New York Times.

## **Politics**

My research also made it evident that politics also played a large role in this case. I was especially surprised to learn in this article that Bloomberg, the mayor at the time of this incident, did not want to settle this case. Bloomberg mainly did not want to settle as he worked in the same company as the jogger. Most likely the former mayor did not want to sever any bridges with his old workplace and felt forced to go as far as not providing justice to the wrongfully accused.

It took the actions of the mayor-elect (at the time), Bill De Blasio to say that he would seek to settle the case and publicly recognize this injustice. Politics should not even play such a large role when discussing a case of injustice as it involves morals and not government decisions. Political agendas have the power to dangerously affect the outcomes of a case. This article displays how the opinion of these authoritative figures can sway the public, as the mayor-elect could have made this claim to improve his ratings in certain areas of the city. I noticed that the articles written after the public became aware of the incident due to documentaries like Ken Burns' film about the injustices of this case, the media began to side with the individuals. It is interesting to view this medial switch from 1989 when the incident first occurred as most believed that the minority children were guilty.

Politics is also discussed in the article, "Trump Will Not Apologize for Calling for Death Penalty Over Central Park Five". This was an alarming read as the former President, Donald Trump directly stated that this case should not have been settled and said, "I want to hate these murderers and I always will" (Ransom, 2019). For Trump to hold such a high authority and state this claim is very damaging to the case. Many believe a lot of what certain politicians claim to be true, so this statement can change the public perception regarding these individuals. It is purely factual that the justice system has failed them and to publicly not agree allows others to believe an unjust reality. The media using politics to discuss important cases shows the influence it can have on readers. It is unfortunate that only ten years ago, individuals believed that the Central Park Five should be charged despite their proven innocence. I found that most recent articles discuss the injustices of this case, but the older articles around the time of the conviction

did not.

### **The Corrupt Criminal Justice System**

While observing one of the older articles, “Youths Rape and Beat Central Park Jogger” from 1989 described the case from the police's perspective. It provided a detailed timeline of events regarding the attack and rape of the jogger. The comments made by the chief were particularly concerning as he indirectly refers to the group as friends. Most likely because these black and brown children were “in the same area” as the crime. It was also recognizable that he referred to these children as creating mischief. Again, just because these youth happen to have been in a large park around the same time as an attack does not mean they are up to mischief. It reminds me of false claims created by white women during slavery that were inaccurate and led to the deaths of many black slaves. This form of media displays how young minorities were treated and thought of during this time. The comments from the chief were subjective and intertwined these children into the crime that was underhanded by the New York City Police Department.

Finally, the article, “Judge Rejects Defense Claim In Central Park Jogger Case” reveals the legal injustices these children underwent. Beginning with the title, it is straightforward and eye-catching in the sense that most are looking for updates regarding this case. Many are under the impression that the Central Park Five was guilty so glancing at this title would intrigue these readers. The article discusses that the Judge did not remotely care that Santana was questioned without a parent and promoted to the Jury that it was not a part of the law. I found it interesting that the New York Times also added a quote claiming that whatever the Judge says is

final, from a spokesperson of the Manhattan Attorney General. It persuades the audience to believe that this interrogation was okay and because these children admitted to the crime, it did not matter anyway.

### **Reflections**

Overall, these findings reveal the details of injustice faced by, Antron McCray, Kevin Richardson, Yusef Salaam, Raymond Santana, and Korey Wise. As the media shifted the focus of this case from politicians to the New York Justice system, it is clear that the media has misrepresented this case. In a perfect world these articles would have spoken about the wrongdoings of the police department and politicians within this period and now, but instead of just focusing on receiving justice for these youths the perspective was constantly shifted. This shift could have allowed readers to misinterpret the case as a whole and created a general lack of understanding and sympathy for these wrongly convicted individuals.

### **Conclusion**

Although justice was received by the Central Park Five this research provides an analysis of the media representation of their case. This research revealed that there are stereotypes are imbedded in all forms of media, this fact displays the dire need for criminal justice reform and juvenile justice. Future research should look into media representations of other noteworthy cases like Emmett Till where his guilty accusation led to his brutal murder. The justice system was created to serve and protect individuals but has failed for those who were proven innocent after the initial verdict. Also,

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researchers should observe how the media can control public perception and the downsides to this. In regards to the Central Park Five, more research should be done on how the youth interrogation process needs to be improved to avoid false confessions. The media has misrepresented this case, and proper representation could have led to a quicker justice process, but instead played into the narrative that minority youths created mischief and committed a crime while not even being within the same area of Central Park.

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Make Us Proud:  
The Meek, The Bold, And The Undefined

Cynthia Thomas



“Make Us Proud” was my father’s statement as we left our bustling, colorful home in India. This house was my home, it was my sanctuary, this is where everything began and this is all I know. My appachan (grandfather) and my ammachi (grandmother) played and laughed with me until I couldn’t breathe, it’s still one of the best memories I have. My little cousins and I would play on our carrom boards, a huge game board with different colored checkers sprawled all across it, with everyone trying to get in each other's goals and boast their winnings. We used to dress up in our little lehengas and have make-believe weddings. My aunts and uncles hosted grand, beautiful parties, and we all felt whole and connected. The neighborhood kids always played badminton and had water fights with us. The chai man across the street always greeted us lovingly and ensured we were okay. An oasis of tall jackfruit trees and lush green meadows surrounded us. “This is to ensure your future” was the last thing I heard when we left my home.

I have warm brown skin, that my ammachi would always embrace and say was the color of deep amber, almost like rich honey. Coming here, the stares were immediate, as if I was an alien or had a tail on my back. I was the only “me” I saw. I was the only person with brown skin around. That feeling of being a shadow in a crowd of people is something you don’t forget when all you ask for is respect for who you are. My silence was deafening, and my presence was almost non-existent if it wasn’t for the name tag on my desk. “Go back to your country” was a phrase that was often said to me. People would ask if I ate cow or pig, if I prayed to an elephant, why I have such a weird accent, or If I knew Osama Bin Laden. People placed bets on whether I was Hindu or Muslim and

then placed stereotypes about me on me, when they never spoke a single word to me. I was raised as a Christian, but it doesn't matter, they stuck to what they assumed and these rumors were simply unbearable. Does seeing a brown person automatically scream "I'm Hindu!" or "I'm Muslim!" to people? How does my skin tell you who I am? I realized my skin was the only thing I was here. It wasn't my brains, it wasn't my hobbies, it wasn't what type of music I liked or who I was whatsoever, they saw brown and that's all they needed to know. The weird stares became laughs, then shoves, kicks, and eventually bruises. My parents said, "It's just a phase, just keep pushing through. Don't care about them, you have a future ahead of you that you need to focus on.". I was a voice in the wilderness, no echo, no callback, just the sprawling wilderness.

Days turned into weeks, months, and years of feeling confined in my skin. My ammach's embrace seems so far away now, I try to find her warmth but it feels cold here. Is my skin as beautiful as she said it was? Her words seem like a far-off echo. "I want the strength to make a difference" is all I could think of. I wanted the power to defend myself without scars and bruises piercing my brown skin, to be able to speak without being slapped for my truth, to be able to fly without my wings getting clipped by my persecutors. I used to stay up and watch late-night cop shows, they always seemed to have such a strong presence of authority. In my eyes, having this title meant having a sense of power. I thought maybe if I was a cop, I'd be strong enough to make an actual difference out there. Maybe then it would be worth my parent's struggles that we moved here for a better life.

I have the honor and praise that this badge holds now, but this

doesn't seem like how it was on TV. I have this guilt that comes in waves. Guilt toward my community, my country, and my people. I have the authority, I have the respect I wanted, but what makes me so different from them? "You're one of the good ones" was a term a lot of my coworkers used to joke about. In my department, we had a few other brown-skinned people like me as well, but I always seemed to have a different perspective on things from them. When situations came up where a person who looked just like us was apprehended, they seemed to lack sympathy toward them. As if they weren't a person, just another statistic or quota to fulfill. It was as if they were turning this motive to protect into a discreet abuse of power. I saw my people, but I didn't feel like I was with my people. How is it that I'm working with people who look like me, but we have polar opposite mindsets on what justice, equality, and rights are? Does this uniform mask my heritage? Does it strip me of who I am as a person?

"You're not one of us" was something that pierced my ears one day on a run. I see myself in the people we take in. It's looking into a child's eyes every day and seeing just how much hope and pain they carry simultaneously. These are people who just wanted power, who just wanted safety. Who just wanted a figure to understand their needs, to protect their families, children, and elderly. Yet, we discriminate and use force against our blood just to prove a quota. To continuously be ignorant and blind to the voices of minorities, yet attentive towards the wealthy.

I am becoming the oppressor that always oppressed me. The overuse of excessive force as well as obvious abuses of power and authority, makes me no different. These minuscule tasks make

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them uncomfortable, my people uncomfortable. Seeing the ones I'm supposed to protect view me as the enemy leaves me feeling gutted.

The only difference between us is the badge I hold. How did I go from wanting justice to persecuting my people? I came here for a better life. For a chance to strive for change, and to make an impact with my presence. What kind of impact would it have if all my presence does is incite fear? Is that really the change we need, more fear? Is this what the dream was? To make my people fear me? To not be seen as a person of color but just as another racist in a uniform? All of these trials and tribulations just to “Make Us Proud”.

# Law, Policy, and Institutions



Juvenile Discrepancies and Community Reformation

Adrienne Amandazi

## **Introduction to Juvenile**

Pressure to be seen and heard will always be the most challenging inner conflict for an individual, and imagine for a child? The weight of social and environmental expectations consumes the “physiologically immature or underdeveloped” mind of a juvenile. Juveniles are impressionable beings leading them to mischief, roughhousing, and overall immature behavior that can also be identified as “juvenile delinquency.” Juvenile delinquency is the violation of a law of the United States committed by a person before his or her eighteenth birthday which would have been a crime if committed by an adult. These juveniles commit miscellaneous crimes as a product of their jaundiced environment, their main source of disobedience. There is always been a war on crime but what happens when the war is on children? The cycle of juveniles funneling through their communities and heading directly into incarceration has massively increased. Between lack of guidance and overload in violence filling the neighborhoods, it becomes impossible to break the rising trend in juvenile delinquency. In the research conducted, we will analyze the crime reports in neighborhoods of juvenile-filled areas, specifically their zoned school. In most states, juveniles are required to attend their zoned schools (i.e. community “zoned” schools). We will see that if the environment of a juvenile has been threatened and/or compromised then they will fall victim to miscellaneous or higher crime because of their lack of self-consciousness.

## **How the Community Shapes a Juvenile's Environment**

A community is meant to protect, provide, and preside for its people, the same communities and environments that we are meant to grow and build are met with intersectionality, over-policing, and violence. “You are what you eat,” “You are the product of your environment,” and “Charity begins at home” are all idioms people of society have created and chosen to live by when it comes to their environment. How one presents oneself reflects one’s home and is a product of one’s community. Ultimately, finding yourself living in a routinized environment that only produces crime and systematic issues for a minority community with a pejorative atmosphere of your society’s inhabitable vices has been normalized. Because juveniles do not know any better, they are exposed to the vices of minority communities (i.e.; gang activity, larceny, gun violence, poverty, and drugs). According to the “Community Justice: Concepts and Strategies” by the American Probation and Parole Association, “It involves everyone in the community, focuses community energies in positive ways, builds partnerships, reduce crime and fear, and makes community more vital” (Barajas, 1998, p. 27). The ideal community is charged with the mission of protecting, providing, and presiding for its people in place of a reproductive environment they are meant with a deviant culture.

## **The Short Road Trip from Education to Crime**

Most of these issues occur in minority communities suffering from institutionalization. The discrepancies that one in the minority category may experience on a day-to-day basis are not the same as one who is categorized as the majority by society. Schooling and



education are large outlets for most juveniles to segway into their lifelong goals, express themselves, and escape the reality of their homes. Our school system shows early stages with a lack of accountability in their role of being in the majority, they will never understand and that is all that is embedded into our system. Minorities are not the first choices to be painted as the successor due to their lack of representation and due to trauma from marginalization. Instead, juveniles are met with the narrative of disciplinary action (i.e.; zero tolerance rule, in-house suspension, out-of-school suspension, metal detectors, & detention high schools.) within their schools. Professor Rodriguez A. Luis of New York University makes a statement:

A large body of research exists that documents the school-to-prison pipeline, and much of it says that students who experience exclusionary discipline like suspension or expulsion are more likely to make their way to the criminal justice process. Often, they aren't having their specific needs met within the school system and end up being marginalized, and this can result in them taking on behaviors that lead them down a criminal path (Irsheid, 2023).

Without even questioning the behavioral outburst of one's child, minorities are not the first choices to be painted as the successor due to their lack of representation and rehabilitation initiatives. Between the lack of representation in our system of their environment or intellectual perspective, negligence of this type of environment is why the system's rehabilitation initiative has not progressed. With already being a minority you are subjected to an image that society has created based upon ethnicity.

Minorities suffer from plenty of imprisonment issues, jail displacement, rehabilitation, and mental stability. Juveniles tend to be put into prison, depending on their crime, awaiting trial or juvenile detention. The conditions and treatments one can go through in these detention centers and imprisonment are unimaginable; the layers to the system that these juvenile delinquents are subjected to have been formed to make them fall to their lowest. But everything can not happen all at once. It is a domino effect once so one initiation takes place the rest will all fall in line.

In recent years the innocence school and education once had is now tainted by low-performing students and violence. The measurement of crime and how effective these schools are at monitoring the environment around juveniles is significant. We'll measure key areas outside of school zones where most juveniles have the day-to-day outside of their homes, keep in mind these are the areas your children likely hang around when school has concluded.

### **Data & Method**

The research presented will give us an overview of one of the neighborhoods in New York, Central Harlem. The map focuses on zoned school areas where there have been reportings of a crime within 1,000ft of a school. Specifically, the crime analysis presented is Criminal Possession Weapon (CPW) based crimes. The idea is to evaluate the amount of heinous crimes juveniles have been forced to accept and subject themselves to. Instead of these crimes happening on their doorsteps, it is also taking place at the one place that is supposed to help them escape their environment, school.

### Step-By-Step Procedure

- Provide an outside software, the software provided through CUNY: <https://cuny.apporto.com/>
- Log in or create an Open Data Account: <https://opendata.cityofnewyork.us/>
- In the search window, type in NYPD Complaint Data Current
- Click on the link that says NYPD Complaint Data Current (Year To Date).

From here you are free to analyze, download, and observe crime analysis data in New York City anything from Criminal mischief, Felony Assault, and Grand Larceny to Robbery, Arson, Murder, and Manslaughter. The data can also be personalized through filters and various datasets to focus on a specific year, percent, day, and neighborhood.

### **Analysis** **Analytical Terms and Methods**

In the map (see figure below), the highlighted blue area represents the area or “hot spot” where CPW crime-based reports happen. The star represents each crime that has taken place, which is every time a report was made on an act committed of a Criminal Possession Weapon within 1,000ft. The child seesaw icon represents the schools that were within a 1,000ft radius of the criminal acts that had taken place. “Hot Spots” are the measures of criminal activity. When initially creating a crime map you will see the hot spots within that area. You can narrow down the search based on the neighborhood, where we find ourselves in “Select by Attributes.” This allows us to narrow our crime search not only by the neighborhood but also based on the variables you selected. What we are faced with here can highly be seen as Rational Choice

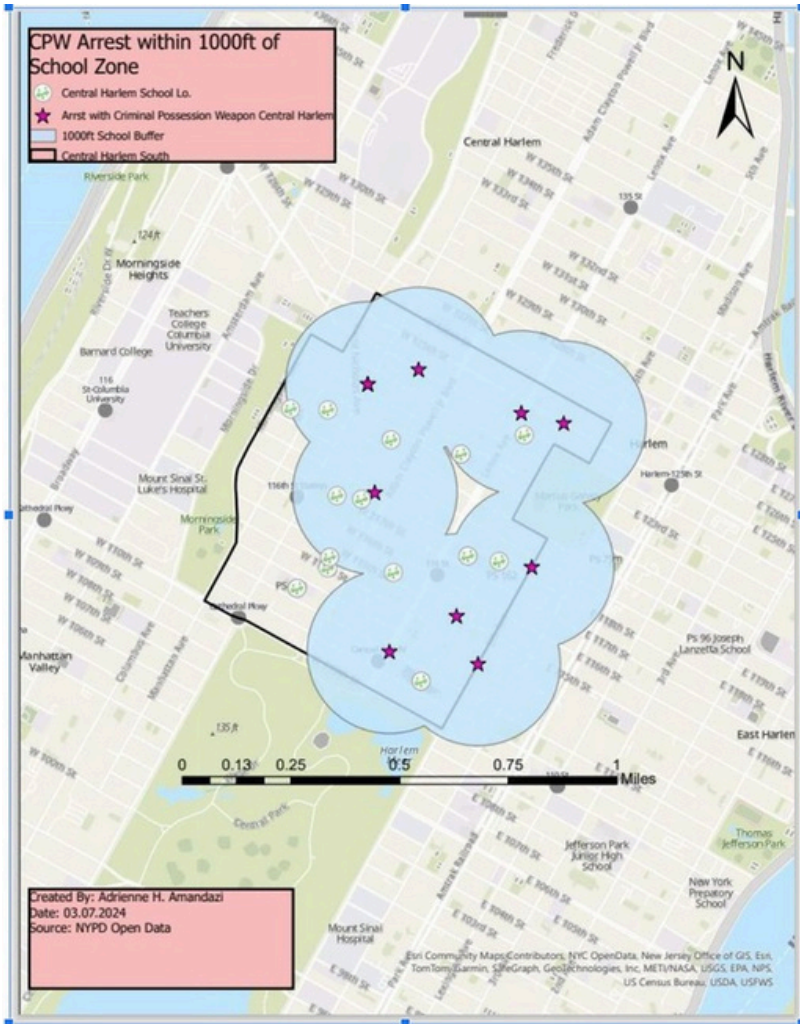
Theory. This is the theory that those committing the crimes (i.e. perpetrator) are committing based on the fact that the consequences are low risk but the reward for committing the crime is high. Let's not only see this as a transactional crime where I rob you and get a high cash grab but can also be viewed in a way of status where "if I commit this crime, the reward is status in my area and gaining respect."

### **My Findings**

The rise in crime rates in New York, as a whole, has alone transformed massively. according to the NY Post, "last month 12.7% of identified shooters in the five boroughs through the first nine months of last year were under 18 — up from the 9.2% figure from 2017" (Moore et al., 2023). This was just a year after the COVID-19 pandemic. To be a juvenile surrounded by such vulgar behavior at a young impressionable age can lead to nothing else than what you see right in front of you because eventually, you will become a product of your environment. Take into effect that these criminal activities can very well be committed by the same children that attend these very schools. The majority of Harlem is filled with people of color, from Hispanics to Black African Americans. Pressure due to their families' income and the demographics of their neighborhoods, half being gentrified and the other half being seen as "poor middle class," they suffer from the outer customs of society and their environment is not making it any better. In Central Harlem alone rent has increased by 42.9% resulting in a 5.1% rental vacancy in Central Harlem as of 2021 ("Central Harlem," n.d.). Despite Central Harlem being accompanied by various institutions, organizations, and attractions, their

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environment pays a significant cost.



## **Conclusion**

To solve these repressing issues one must be addressed at a time to acknowledge each matter of contention within the community and identify their target area. Compartmentalization means separating into isolated compartments (Merriam-Webster, 2024); this idea is core and essential to addressing the issues in our communities, starting small and being strategic to attack a much larger picture. The 4 set goals from “Community Justice: Concept and Strategies” are as follows: Admit: Acknowledging you community has a crime issue; Take Responsibility: Taking accountability and solving these problems not enabling them; Set Priorities: Addressing the crime problems finding the root; Identify: Resources available to tackle these problems; and Work Together: Solve and/or reduce the impact of these problems (Barajas, 1998). When taking the initiative and accounting for every factor, the common denominator remains the same, we need better functioning communities. Addressing the shortcomings and strengths of our environments is imperative to rewrite history as we must first learn the facts. While holding our communities responsible, lack of resources and government urgency play a major role in juvenile delinquency. The importance of juvenile delinquency packs a heavyweight because these will be our future local and administrative officials. Juveniles often lead themselves to delinquent acts due to a lack of rehabilitation and aspects of their environment that have contributed to their mental state. We can not overlook juveniles due to their immaturity and expect them to rehabilitate or adjust their behavior themselves.

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Professional Athletes Above the Law

Tausifa Haque

## **Introduction**

Professional athletes are one of the most elite groups in the world. Children and adults all around the globe idolize them. However, what happens when these revered individuals do something wrong? These white collar criminals who commit blue collar crimes face white collar consequences. White collar crimes are typically financially motivated and non-violent, while blue collar crimes are “street crimes” and more violent in nature. In this case, the “white collar criminals” are professional male athletes who are continuously held to a higher standard and rarely face fair consequences for their crimes. Existing research suggests that male professional athletes receive preferential treatment, and in this paper I hope to fill the gaps by understanding the causes, social implications, and potential solutions. This essay will analyze various types of literature including reports, studies, journals, and newspaper articles to explore systemic issues that contribute to the preferential treatment of male athletes. Analyzing the causes of crime among male athletes, judicial instances of favoritism, and proposing solutions and new systems for high-profile cases will shed light on the systemic issues that contribute to the preferential treatment of male athletes that starts from a young age.

### **It's All Systemic**

It is crucial to recognize the significance of this issue within the broader context of societal dynamics. The preferential treatment afforded to male athletes underscores a pervasive form of social stratification prevalent in global society, rooted in status and class. Athletes, by virtue of their elevated position in society, enjoy

privileges that shield them from the full weight of legal consequences. Their fame, wealth, and success serve as a protective shield, allowing them to evade responsibility for their actions and even receive reduced penalties. This phenomenon is emblematic of the broader societal trend where individuals with elevated social standing are granted leniency or impunity, while those lacking such privilege and preference face harsher repercussions for similar offenses. “Don’t Hate the Player, Hate the Game” by Jenny M. Stuber claims that “social inequalities are produced and perpetuated at the macro-level” (Stuber 311). The individual experiences of inequality that many may experience are in reality apart of a “macro-level phenomena” (Stuber 311). The preferential treatment of upper-class men and athletes within the criminal justice system is not an isolated phenomenon, but rather a reflection of entrenched societal norms and power structures that disproportionately criminalize and penalize individuals from lower to middle socioeconomic identities. This treatment serves as an illustration of the broader societal inequalities perpetuated by class-based distinctions. By critically examining these dynamics, the systemic injustices that perpetuate disparities in legal proceedings become apparent.

### **Mason Greenwood**

The case of Mason Greenwood serves as a poignant example of how privilege and status can shield professional male athletes from being brought to justice. Greenwood was a center forward for the renowned club, Manchester United. He was “arrested and later charged with attempted rape after an investigation launched in January 2022” (Halliday 2023). The Crown Prosecution Service

(CPS) became aware of “graphic images and videos circulating online” where a man said to be Greenwood is “heard shouting at the alleged victim” (Whitwell and Crafton 2023). CPS later dropped the case. Greenwood is now a center forward for Getafe CF. This outcome raises troubling questions about the efficacy and fairness of the criminal justice system, particularly in cases involving men of wealth and influence. Greenwood’s case was merely a road bump, as he was able to swiftly resume his professional pursuits on another team. Furthermore, his continued success and popularity, visible through his substantial following on social media platforms such as Instagram, highlight the enduring support and admiration he receives from fans and followers. Despite facing serious criminal allegations and the evidence against him, Greenwood remains a celebrated figure within the realm of professional sports. While for some, allegations of attempted rape could result in severe repercussions and irreparable damage to their reputation, for Greenwood it appears to have only been a minor setback.

### **Intersection of Athletic Fame and Male Privilege**

The intersectionality of gender and athletic privilege further complicates the dynamics at play within the criminal justice system. Male athletes not only benefit from their athletic status and fame, but from the broader societal advantages conferred by male privilege. Lynn Weber’s analysis in “Defining Contested Concepts” underscores the systemic imbalance of power that favors men, particularly in the contexts of family and the criminal justice system. Weber writes, “the public power of men (including their

greater economic power) gives them power in the family, making it especially difficult for women and children to successfully challenge the abuse of that power either in the family or in the criminal justice system” (Weber 16). According to Weber, the public power wielded by men affords them a dominant position within the family structure, making it exceedingly challenging for children and women-identifying victims to challenge male misconduct. This suggests that male athletes occupy positions of power both on and off the field. Consequently, victims may feel intimidated or powerless to speak out against instances of abuse or misconduct perpetrated by male athletes, fearing repercussions or potential doubt in their stories. The combination of athletic privilege, male privilege, and financial privilege creates a formidable barrier to justice for victims. This systemic imbalance enables cycles of abuse and exploitation while also undermining the integrity and effectiveness of the criminal justice system in addressing crimes committed by male athletes.

### **Causes of Crime**

The prevalence of crime among male athletes is a multifaceted issue with roots in both societal and institutional factors. One significant influence is the sense of entitlement that accompanies the status of being a professional athlete, as well as the cultural norms of sports. In an in-depth comment on high profile criminal cases, Laurie Nicole Robinson identifies the feeling of entitlement “as the belief that one is entitled to have whatever one wants, whenever one wants it. When one has a sense of entitlement, one feels that the rules and laws that apply to the rest of society do not apply to him,”

(Robinson 1318). This sense of entitlement takes flight early on, typically beginning in high school or college, where student-athletes receive preferential treatment in their classrooms. Differentiation is reinforced by teachers, professors, and coaches, leading to a mindset wherein athletes come to believe that they are above the rules that others must follow. An example of this occurred with Dexter Manley, a college athlete who passed through the educational system but was later found to be unable to read or write (Robinson 1318). This demonstrates the systemic failures of educational institutions to hold student-athletes to the same standards as their non-athlete counterparts, further fueling their sense of entitlement and detachment from guidelines. In college especially, student athletes develop disrespect for the rules and regulations set by the National Collegiate Athletic Association (NCAA). “The NCAA has specific guidelines that prohibit student-athletes from accepting monetary compensation or contacting with sports agents during their matriculation at a university” (Robinson 1319). However, to secure future clients, sports agents attempt to woo and bribe student athletes. The athletes accept these perks, including but not limited to dinner, cars, concert tickets, clothes, and jewelry (Robinson 1319). Their sense of entitlement is further perpetuated by the institution’s efforts to sweep their misconduct under the rug “because many student-athletes play an integral role in generating economic benefits for universities” (Robinson 1319). University officials take any means necessary to safeguard the school’s ticket to financial rewards, often excusing student-athletes from repercussions a non-athlete student would face. As early as high school, athletes receive preferential treatment that is further perpetuated when they gain stardom.

The analyses provided by Michael O’Hear and Laurie Nicole Robinson delves into the complex interplay between athletic culture, masculinity, and violence, shedding light on the pressures that contribute to the commission of crimes by male athletes. “Blue-Collar Crimes/White-Collar Criminals: Sentencing Elite Athletes Who Commit Violent Crimes” notes that “stardom, by nature, dulls adherence to social norms” (O’Hear 430). Furthermore, “athletes are taught to be violent and aggressive and that it is difficult for them to ‘turn it off’ when they interact with people in social settings (O’Hear 430). This is all apart of the “macho sub-culture” that sports cultivate, equating masculinity with violence (O’Hear 430). Robinson writes that this culture “can best be characterized as an all-male segregated group that prides itself on being dominant, aggressive, and in control” (Robinson 1321). In any case that an athlete fails to demonstrate “masculinity” in a way that satisfies his coach and team on the field, “he runs the risk of having his manhood challenged” and his “teammates may refer to him as a ‘p\*ssy’ or ‘wuss’” (Robinson 1321). Additionally, “Criminal Athletes: An Analysis of Charges, Reduced Charges and Sentences” by Kadence A. Otto reviewed professional and collegiate criminal athlete convictions presented in the media. Otto demonstrates that “men in sex-segregated groups (i.e., sports teams) are more likely to engage in group sexual offenses” (Otto 69). This sheds light on the significant influence of sports culture in shaping attitudes and behaviors among young men. Such results are troubling seeing that hundreds of thousands of young men are socialized through sports each year, developing a “peripheral understanding” regarding ‘acceptable’ and ‘unacceptable’ behaviors (Otto 69). David Grazian further illustrates the collective rituals of homosociality to perform

heterosexual competence and masculine identity in “The Girl Hunt: Urban Nightlife and the Performance of Masculinity as Collective Activity” (Grazian 224). Grazian argues that “the peer group,” or a sports team in this case, “provides a readily available audience that can provide emotional comfort...as well as bear witness to any individual successes that might occur” (Grazian 235). Within this culture and peer group, it is more likely for men and athletes to commit crimes and receive validation from their peers in the group. This dynamic not only reinforces toxic masculinity within the group but also perpetuates a cycle of misconduct where group members may feel compelled to act in accordance with group norms, even if it means committing heinous crimes.

### **Instances of Favoritism**

There are numerous instances where athletes have been shown favoritism due of their fame. Colorado Rockies player Marcus Moore was charged with raping and sexually assaulting his girlfriend. The jury voted to acquit him, one of the jurors later stating that they decided to do so based on Moore’s “status as a ballplayer” (Robinson 1331). This shows how fame and status can sway judicial decisions, with jurors openly admitting to acquitting Moore based on his identity rather than the merits of the case. Furthermore, the disparity in treatment between athletes and non-athletes during the period of incarceration illustrates the unequal application of the law. In the case of O.J. Simpson, “he received a hot shower every day, was given unlimited visitation privileges, hot dinners, extra time out of his cell to stretch his legs, more access to his telephone, private no-contact visits with his girlfriend and children, and visitors on Christmas Day,” all of which were not



privileges afforded to other inmates” (Robinson 1332). This undermines the principle of equality, but also suggests the perception that athletes are above the rules, and entitles to special treatment.

The scheduling of sentences to accommodate athletes’ playing seasons highlights the prioritization of sports and the athlete’s role in the sport over repercussions for the harm they have caused. In 1997, when NBA star Charles Barkley faced accusations of throwing a bar patron through a window, the presiding judge delayed the trial to accommodate Barkley’s playing schedule (Robinson 1331). Similarly, Philadelphia Eagle James Darling’s case reflects leniency, with the judge opting for a shortened incarceration period to allow Darling to participate in the upcoming NFL season (Robinson 1333). Each and every instance listed above reveals that the preferential treatment male athletes have received perpetuates a cycle of entitlement.

### **High Profile Courts**

The issue of biased judges and jurors presents as a significant challenge within the criminal justice system. Although ensuring unbiased jurors may be slightly more difficult, the conflict of biased judges may potentially be resolved. Laurie Robinson suggests the need for “high profile courts.” Judges presiding over high-profile cases should not only possess neutrality and experience, but be required to go through specialized training to effectively handle the complexities present in cases such as these. This training, Robinson suggests, can be implemented through a national program led by state bar associations, focusing on criteria such as disposition rates, court backlog, appellate reversal rate, forced recusal, and the number of party and witness complaints received (Robinson 1340).

Robinson advocates for the careful selection of high-profile judges based on their prior experience and qualifications. While some argue that lifetime appointed judges are often disconnected from modern values, they are not subject to partisan politics. Therefore, the author argues that they are better suited to judge these cases. She also suggests lifetime appointments for each of these judges to ensure they are not subject to partisan politics. Robinson emphasizes the importance of training judges to manage the unique ambiance of a high-profile courtroom, including the presence of media and influential individuals. This training and preparation is vital to maintain the integrity and impartiality of the judicial process, particularly in cases involving professional athletes where biases are present. Addressing the issue of biased judges and jurors is imperative to uphold the principles of fairness and equality within the criminal justice system. Implementing measures such as high-profile courts and specialized training for judges mitigates the risk of bias and ensures that all individuals, regardless of their fame or social status, are held accountable under the law. It is essential to address these challenges promptly to rectify the longstanding issue of special treatment for professional athletes and celebrities, thereby restoring public trust in the judicial system and promoting true justice for all.

### **Next Steps**

For far too long, society has granted male professional athletes preferential treatment, and it is time to hold them accountable and bring them to justice. The phenomenon of professional athletes receiving special treatment within the criminal justice system presents a complex and deeply ingrained issue that warrants

further examination and action. This essay has illuminated the systemic biases and privileges that contribute to the preferential treatment of male athletes, highlighting the intersections of athletic fame, male privilege, and societal inequalities. The analysis has underscored the need for systemic changes, including the establishment of high-profile courts and specialized training for judges to mitigate bias and ensure fair treatment in high-profile cases involving athletes. Moving forward, there are several avenues for future research on this topic. First, studies could explore the long-term societal impacts of preferential treatment for athletes, including its effects on perceptions of justice and equality. Additionally, research could delve deeper into the underlying causes of crime among athletes, examining the role of entitlement, toxic masculinity, and institutional pressures. Furthermore, investigations into the efficacy of proposed solutions, such as high-profile courts, could provide valuable insights into their effectiveness in addressing systemic biases within the criminal justice system. Finally, studies could examine the experiences of victims and survivors within sports culture, shedding light on the challenges they face in seeking justice and accountability. By further exploring these avenues of research, we can work towards a more equitable and just society where all individuals, regardless of their status or occupation, are held accountable under the law.

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A Country Soiled in Blood: The Genocide of Innocent  
Native Americans

Yadira Carrillo

## **Is Ethnic cleansing and Genocide truly understood within the United States?**

Genocide is an international crime, and any atrocities committed on a larger scale fall short of the legal definition. Violent crimes, for instance, crimes against humanity, war crimes, ethnic cleansing, and mass killing may be accounted as partisans of genocides. Before 1944, the term genocide did not even exist. Raphael Lemkin, a Jewish lawyer, used the term to characterize the Nazis' systematic extermination of European Jews during the Holocaust. On December 9, 1948, the United Nations General Assembly passed a resolution called the Convention on the Prevention and Punishment of the Crime of Genocide. By signing this document, each country commits to preventing and punishing genocide. Avoiding genocide, the treaty's second most crucial commitment is challenging for governments, institutions, and people.

Since then several genocides have occurred globally and have been documented. For instance, after declaring independence in 1776, the U.S. Department of War forcibly removed approximately 17,000 Cherokee to Indian Territory (which is now known as Oklahoma). Cherokee authorities estimate that 6,000 men, women, and children died on the 1,200-mile march called the Trail of Tears. Even after that time, thousands of Native Americans were killed, their land taken, and other atrocities committed. This goes to show, that ethnic cleansing and genocide are not truly understood in the United States because of the lack of discussion of innocent Victims, Discrimination, and Minority Rights. Innocent victims have no role in the chain of circumstances that resulted in their suffering (Haas, 2008, p. 122). We can clearly see this with the Trail of Tears, where

an innocent group of people had no choice but to leave their homes behind, all because of their ethnicity. Discrimination is treating people differently and unjustly because of who they are or their appearance (Oxford, 2022). Minority rights are considered to protect all individuals equally, regardless of whether they are a part of the majority or the minority (Haas, 2008, p. 125).

Mass killings, genocides, and other human rights violations rank high on the list of the most perplexing and sad events in recent history. Documentations and accounts show that genocides, ethnic cleansing, and other forms of mass crime are being committed in numerous parts of the world. The innocent victim often suffers the consequences of someone else's actions or decisions (Haas, 2008, p. 122). During the Holocaust (1939–1945), history's most notorious and well-recorded killing, Hitler intended to eliminate all 'undesirables' from his Third Reich, which around thirty-five European nations fought against in World War II. Over six million Jews, Roma, Slavs, homosexuals, disabled, and religious dissidents suffered because of the Holocaust. As a result of ethnically motivated mass atrocities, opponents suffered a tremendous degree of death and damage, including the slaughter of innocent civilian noncombatants. Haas argues that an army commits crimes against living people, through genocide, slavery, exile, and murder, to profit off their bodies after their deaths (Haas, 2008, p. 135). This is evident with Indigenous people who were pushed out by colonial powers for resources. However, many individuals could not get their heads around what had happened because many innocent people were killed only because of who they were.

Disciplinary regimes have steadily degraded human rights in several nations throughout history (Haas, 2008, p. 127).



Genocide has a close association with discrimination. An example of cultural genocide fueled by prejudice is the closing of boarding schools and the elimination of Greek minority students' access to education in Albania in 1933 (Haas, 2008, p. 144). Discrimination occurs when people's identities are seen to be distinct from those of the majority (Haas, 2008, p. 123). According to Louis Edgar Esparza, several groups and people in the United States may collaborate to rescue their fellow residents (Esparza, 2010, p. 54). However, are they protected by human rights? In what ways does the justice system counter their democratic rights? The law considers genocide to be the worst possible crime. There are good grounds for classifying genocides as an aggravated crime against humanity.

Human rights violations against civilians caused by repressive regimes include, for instance, the mass killings of Filipinos by American troops during their brutal occupation of the Philippines at the turn of the 20th century, the starvation deaths of civilians during the British blockade, the rape and murder of defenseless Chinese in and around Peking in 1900, and the atrocities committed by Americans in Vietnam. These atrocities reveal lapses. The statement, "The family is a natural and important aspect of society that must be preserved by society and the state" is included in Article 18 of the Universal Declaration of Human Rights (UDHR, 2). However, human rights have been grossly abused, and genocides have been committed in the aforementioned situations. In particular, many kinds of intolerance of innocent victims can lead to ethnic cleansing, which can cause innocent people to be killed because of discrimination.

Additionally, genocides occur when a revolutionary government exterminates all or part of a human group to create a new social order. Discrimination occurs when individuals from a certain group are treated differently or denied opportunities because of their membership (Gellately & Kiernan, 2010, p. 15). If discrimination is the core cause of all genocides, the question should be how the community can solve its impending danger. Gellately & Kiernan (2010) look at how revolutionary methods require the creation of new men and women for mass population politics to work (p. 59). The United States is not immune to revolutionaries. As a result of the recent murders in the U.S., leading to the deaths of Floyd and Taylor, the Black Lives Matter (BLM) movement once again began receiving attention throughout the globe. BLM is bringing awareness that systematic anti-Black racism still exists in the United States. It is a terrible violation of human rights made all the more obvious by the disproportionate mortality rates among Black and other colored individuals. From what we know about the past, it is clear that these kinds of discriminatory policies led to the end of marginalized groups. Article 7 of the UDHR guarantees everyone protection under the law. Yet, ongoing injustices cast doubt on the legitimacy of human rights and the efficacy of the judicial system. This discrimination calls for a review of how minority rights can counter-help to stabilize the situation.

It is still debatable why the United States waited so long to ratify the treaty to protect people against genocide and other human rights violations. Still, there is disagreement about whether the US has been able to stop genocides and other forms of ethnic cleansing. The concept of minority rights has not adequately safeguarded minority populations. Minority rights make sure that members of a

linguistic, national, or ethnic minority can openly participate in culture, speak their native language, and practice religious activities unique to their group (Haas, 2008, p. 125). States' efforts to manage diversity and assure nondiscrimination, as well as minorities' pursuit of equality and participation, are all guided by UDHR (Frezzo, 2010, p. 32). Pursuant to Article 1 of the UDHR, the government must ensure and promote the national, ethnic, cultural, religious, and linguistic identities of minorities within their boundaries (UDHR, 2). Representation of minorities has failed. For instance, throughout American cultural history, the image of the "Vanishing Indian" has been prevalent. This figure represents an Indigenous erasure in which the existence of indigenous people, cultures, and polities is minimized or eradicated by colonial civilizations.

It should be noted that the colonizers' goal was to diminish the number of indigenous people in the Americas so that they could more easily control the territory and exploit its resources (Gellately & Kiernan, 2010, p. 120). This hypothetical situation demonstrates the eroding support for further resources and self-governing privileges among indigenous Americans, the oppressed minority group. Racism is the primary motivating factor in all genocides. In this line, the colonial invasion unquestionably caused much carnage and suffering. The Genocide Convention's wide proposition includes ethnic cleansing and cultural genocide, along with the international community's responsibilities in response to these atrocities (Gellately & Kiernan, 2010, p. 139). When the subject turns to indigenous people, as a marginalized minority group, historical events are brought up. People in the United States pay more attention to victims and their pain. This makes it less useful to

focus on the heroic parts of an event. However, minorities still experience discrimination and exclusion despite having unquestioned citizenship.

In the end, writing about genocide is important because it shifts the focus to teach readers about how the colonial process was focused on exploiting and colonizing newly discovered places by killing the people who lived there first. Many authors, like Esparza (2010), Haas (2008), Frezzo (2010), and Gellately & Kiernan (2010), whose works are mentioned in this essay, have different ideas about how society is falling apart and human rights are being violated. Using the BLM as an example, the U.S. government needs to stop acting hypocritically and with two different sets of rules regarding human rights issues and start taking the huge racial problems and crimes in its country seriously.

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Examining Counter-Colonial Criminology's Impact on  
the Israel-Hamas War:  
An Analysis of the Legal Framework of International  
Humanitarian Law.

Marbel Diderik



## **Introduction**

On the morning of October 7th, 2023, Hamas launched a series of unprecedented attacks on Israel. With thousands of rockets launched and hundreds of militants breaching the Israeli border, the scene reveals an absolute bloodbath. Hamas invaded the streets of several border towns, raped, sexually abused, mutilated, and murdered Israeli civilians. With its offensive, it also took hundreds of people hostage (Schifrin et al., 2023). At least 1,200 people were killed, and around 5,400 had injuries due to the attack (Statista Research Department, 2024). Those killed included children, elderly civilians, and 364 young people who were attending a music festival. Hamas and its militants took around 250 people into Gaza, using them as hostages (BBC News, 2024).

Following the surprise attack, Prime Minister Netanyahu of Israel declared war on Hamas. “The enemy will pay an unprecedented price,” promising that Israel would “return fire of a magnitude that the enemy has not known,” is what he said in a televised address (Federman & Adwam, 2023). What followed was a campaign of destruction from the Israeli side. Eighty-five percent of Gaza’s population, which is 1.9 million people, have been internally displaced, with the majority now living in Rafah, the South of Gaza (Hardman, 2023). The intense Israeli bombardment and hostilities between Israeli military forces and Palestinian armed groups are resulting in an immense number of civilian casualties and the destruction of civilian infrastructure, including hospitals, residential areas, and places of education and worship. On April 7th, 2024, the death toll

was at least 33,137 people, including more than 13,000 children and 8,400 women. There is also a reported number of 75,815 injured people, and at least 8,000 people are missing (AJLabs, 2024).

Whereas following the Hamas-led attack, the initial response of Western countries was to Support Israel fully, this has changed over time. The US, a longstanding ally of Israel, has vetoed three cease-fire proposals from the United Nations Security Council (Al Jazeera, 2024) but has abstained from voting on the latest one. The US has been a lobbyist for the release of hostages but also has supplied a lot of weapons to Israel to defeat Hamas. With presidential elections coming up, the democratic voters have not been pleased with Biden's stance on Israel and have, in general, a much more pro-Palestine standpoint. The growing turmoil among democrats and the immense amount of civilian casualties that Israel is making to defeat Hamas is creating a rift between Biden and Netanyahu (Tharoor, 2024). The European Union was, from the start, more divided in its unconditional support towards Israel.

One of the EU member states, Germany, feels responsibility for Jewish lives. Due to its own dark history, it feels the historical and moral obligation and responsibility to stay on the side of Israel.

On the other hand, Ireland recognizes itself as suffering under an occupier. Almost immediately after the attack, attention was paid to the context in which the attack happened (Zwart & Launspach, 2023). Overall, there remains a considerable concern regarding the

question of proportionality and the humanitarian crisis happening right in front of us.

The contrast between how countries in the Global South and Western nations view this conflict is significant. These countries in Asia, Africa, and Latin America have generally much greater solidarity with Palestinians. For example, the Ministry of Foreign Affairs in Qatar holds Israel solely responsible for the ongoing escalation due to its ongoing violations of the human rights of the Palestinian people. China and Russia call for an independent Palestinian side along the 1967 borders (Waldo et al., 2023). Brazillian President Lula da Silva has accused Israel of committing genocide against Palestinians in the Gaza Strip (Meyerfeld, 2024).

Overall, the signs of polarization are all over the world. It underscores the delicate and complex nature of the global dynamics in this conflict. Foreign policies and international institutions are put to the test. The Western narrative around the War seems to change as the humanitarian crisis worsens. The immense number of casualties, the national trauma on both sides, the hostages being held for over six months, the looming starvation of especially children, the lack of humanitarian aid, and damaged infrastructure. Everything and no sight of a sustainable ceasefire in the Gaza Strip.

As the introductory section draws close, the forthcoming discussion will first address the history between Israel and Palestine. This is so we can establish a historical framework to discuss counter-colonial concepts. Secondly, I will discuss where the war is currently

standing. However, the Hamas-Israel conflict continues to unfold with ongoing developments and implications for the future. Therefore, recent activities that might not be relevant today can be very much so in the future. The third topic of this paper will be an analysis of international war and humanitarian law. Grounded in a profound belief in the core principles of democracy and human rights, I find this part a foundational part of this research. Respect for human dignity, the rule of law, and the notion that all men and women are created equal regardless of race and have the same rights are hugely important to me. The fourth topic of this research is the role of international institutions and the media.

### **1. History of Israel and Palestine**

The Israel-Palestine conflict has deep historical roots. The Israeli-Palestinian “territorial arena” witnessed continuous transformations during the twentieth century. It started with the breakup of the Ottoman Empire, the creation of the Kingdom of Trans-Jordan by the British Mandate in 1921, the partition of Palestine, and the creation of Israel and the West Bank/Gaza in 1947-9 (Yacobi & Newman, 2008). For centuries, Palestine was an Ottoman province with no clear boundaries. Muslims were the majority, living alongside small Christian and Jewish communities. The relationship among Muslims, Christians, and Jews began to shift at the beginning of the 20th century as a group of revolutionaries, including the founders of the future state of Israel, immigrated from Russia and Europe. They believed that the only answer to the global affliction of antisemitism was Zionism – the vision of a Jewish home in the land of the Hebrew Bible (Bazelon, 2024).

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The allied powers of the West defeated the Ottomans during WW1, granting Britain the mandate to govern Palestine and Iraq, a form of colonialism and occupation of a Western country on non-Western soil. In 1920, the British mandate for Palestine was established, a national home for the Jewish people (The Avalon Project : The Palestine Mandate, n.d.). The British mandate was crucial in laying the framework for creating the state of Israel. The mandate recognized Zionist organizations as representative of the Jewish population and a self-governing institution. According to the Balfour Declaration of the British in 1917, they would “view with favor” establishing a national home for Jews in Palestine (The Editors of Encyclopaedia Britannica, 2024). What followed were years full of violence, especially from Palestinians against the Jews; the primary source of tension was the mandate policies that allowed for increasing numbers of immigration and land purchases in Palestine.

As the World headed to World War 2, the British government issued a White Paper in 1939. It severely restricted Jewish immigration into Palestine for the next five years (Cohen, 1973). The Holocaust justified the creation of Israel. The whole purpose of Zionism was to establish a place for Jews, who are now refugees who were prosecuted away from Europe. In the years after WW2, there was a lot of violence in the region. Zionists were extremely violent against the British, and therefore, the British were planning on leaving Palestine (Palestine | History, People, Conflict, & Religion, n.d.). The British asked the United Nations to look at their partition plan with two states, one Jewish and one Palestinian. In November 1947, the UN General Assembly passed this

resolution, with Jerusalem under UN Administration—the boundaries of this partition allocated to the Jews about 50 percent of Palestine. The Arab world rejected the resolution, arguing it was unfair and violated the UN Charter. However, the West did like this idea of the creation of a Jewish state. It can be argued that Europe owed Israel their own state, and it was morally right to give it to them. The Jews were not safe in Europe; the Holocaust, an absolute massacre committed by Europeans themselves, showed that Jews needed their own country. The United Nations scheduled the partition to take effect in September 1948. The British government, during the intervening period, announced its decision to withdraw from Palestine on May 14, 1948, to allow Jews and Arabs to go native in the Holy Land. On that same day, the Jewish settlers and militias launched a series of attacks on Palestinian villages, proclaiming Israel as an independent country and forcing thousands of people to flee their homes (Rowley & Taylor, 2006). Plan Dalet was a military plan that mentioned the expelling of the Palestinian population in towns and villages to defend its borders. It included the isolation and occupation of several areas, including Tel Aviv, and the disruption of food and other vital services to Palestinian areas (Jewish Virtual Library, n.d.).

With Israel's declaration of a state, the war between Arabs, Egypt, Lebanon, Iraq and Israel started. A war termed by Israelis as the War of Independence and by Palestinians as Al Nakba, meaning catastrophe. Units of the Haganah and Irgun formed the core of a hostile, mobilized Israeli army with the intent to seize the whole of Palestine. The combined Arab forces invaded Palestine to drive the Israelis into the Mediterranean Sea. By the end of 1948, the Israeli army had established military hegemony in Palestine (Johnson,

1987, p. 527). Under this occupation, Israel expanded its borders to encompass 80 percent of Palestine. Samaria and the northern part of Judea (later referred to as the West Bank) were in Jordanian hands, while Egypt controlled the Gaza Strip. According to the United Nations, Al Nakba refers to the mass displacement and dispossession of Palestinians during the 1948-9 war. The result of the war was a permanent displacement of over 750,000 Palestinians (United Nations, 2023). The 1949 armistice boundaries essentially held, although the Arab nations consistently withheld recognition from the Jewish state. On June 5, Israel preempted the war, striking targets in Egypt, Jordan, and Syria. Within six days, Israel had once again seized the West Bank, captured all of Jerusalem, and occupied the Golan Heights.

At this stage, all parties accepted a United Nations Security Council ceasefire (United Nations, n.d.).

The first Intifada was a Palestinian mass resistance movement that lasted from the 9th of December 1989 until the 13th of September 1993. After an Israeli jeep ran over four Palestinian men outside of Jabalya refugee camp in Gaza, grassroots protests of twenty years of Israeli occupation and subjugation of Palestinians broke out in refugee camps. They spread across the Occupied Palestinian Territory (OPT). Illegal Jewish settler-colonialists launched regular attacks against Palestinians (Hussain, 2017). By the end of the Intifada, 1500 Palestinians were killed and 130,000 were injured (PBS, 2019). On the Israeli side, 185 people were killed. The hugely disproportionate violence and casualties on the Palestinians' side provoked widespread international condemnation, which led to UN draft resolutions 607 and 608 (Hussain, 2017). The First

Intifada ended with the signing of the Oslo Accords. Representatives of the Palestinian Liberation Organization (PLO) and Israel made the agreement that Israel would withdraw from territories it occupied during the Six-Day War in 1967. It also provided the Palestinian Liberation Organization with self-government, which was intended to establish an independent Palestinian state (Newman, 2002). Hamas rejected the Oslo Accords and, to scuttle peace talks initiated a series of suicide attacks against Israeli targets. Meanwhile, Israel continued to build settlements in occupied territories, which violated the recently signed Oslo Accords (Araj & Brym, 2024).

The second Intifada, starting in 2000, is characterized by a sharp increase in Palestinian suicide bombings against Israel (Diez & Pace, 2011). The action of far-right Israeli Prime Minister Sharon, visiting the holy site for Muslims, the Al Aksa Mosque (Goldenberg, 2000), was provocative and led to a lot of violence. The construction of the fence between the Gaza Strip and Israel is the most tangible expression of this volatile period. Israeli settlement activity in the West Bank continued, and tight controls were placed on the movement of Palestinian goods and people. On 25 January 2006, the Islamic Resistance Movement (Hamas) won the Palestinian Authority's election. For the first time since taking over the reins of the Palestinian Liberation Organization (PLO) in 1968, the nationalist Fatah movement was replaced as the dominant force in Palestinian politics (Usher, 2006). The two parties, Hamas, who favored armed resistance, and Fatah, who preferred to negotiate, could not work together. In 2007, that led to an armed conflict that would end with Hamas in charge of Gaza while Fatah held the West Bank (Hawaleshka, 2023).



Now that the history behind this conflict is familiar, we will examine the current conflict within the region. The primary aim is to scrutinize the ongoing conflict through counter-colonial concepts. This examination will encompass an assessment of the ramifications of military occupation in the West Bank, the possibility of genocide, and the legitimization of actions by both Hamas and Israel. The focal point of this research paper will predominantly revolve around examining human rights violations, emphasizing the role of International Humanitarian Law (IHL).

## **2. Theoretical Framework**

To understand criminal actions, modern criminology has often looked exclusively upon the actions of lawbreaking individuals while turning a blind eye to mass terrorism imposed upon innocent people by slavery, colonialism, and their continuing legacies. Counter-colonial criminology is a transdisciplinary theory that balances the political implications of criminology as a modality of knowledge and power (Pfohl, 2015). It can be argued that the relationship between Israel and Palestine is a form of settler colonialism. Zionism is an ideology and political movement that subjects Palestine and Palestinians to a structural and violent form of dispossession and land appropriation in the pursuit of a Jewish state (Salamanca et al., 2012). Both colonialism and settler colonialism include the permanent movement and reproduction of communities and the dominance of an exogenous agency over the native inhabitants (Veracini, 2010).

Due to its complicated past with Western countries, Israel has been

granted unlimited support in all its actions towards Palestinians. The creation of the State of Israel is a double result of the genocide committed against the Jews by Nazis in Germany and European Colonialism. For Jews, the Holocaust is an argument to justify its territorial expansion and suppression of Palestinians. The argument that they are not safe comes from their history as Europeans. It is now a justification for aggression, murder, and torture as a legitimate act of self-defense against Palestinians (Stannard, 1996). There is, justifiably, a lot of historical guilt towards Jewish people. The murder of millions during the Holocaust and the prosecution of Jews out of Europe brings a lot of shame to it. However, these ongoing reparations have been over the backs of Palestinians. The history of Israelis humiliating Palestinians, displacing them so that they are living in refugee camps for the sake of illegal Israeli settlements, seems not to be on the forefront of Breaking the UN Convention or Oslo Accords has never received severe backlash from Western countries.

The building of a fence underscores the persistent power imbalance of a colonial power following the era of colonial domination. It highlights the concept of imperialistic control and underscores the impact of legal structures (Domínguez & Luoma, 2020). Unilaterally building a fence and altering territorial boundaries reflects imperialistic tendencies, wherein the dominant power asserts control of geopolitical landscapes. At the time, it had the support of the Bush Administration (Diez & Pace, 2011). Borders serve to differentiate the “deserving” from the “undeserving” within the state to maintain the clear boundaries of an idealized moral community (Garland, 2002). The Zionist movement and its policy have resulted in the displacement of 1.5 million people who lost

their homes and live in refugee camps in Gaza (UNRWA, n.d.). It is, however, interesting to see that the same amount of historical guilt is not felt when it comes to slavery, apartheid, or Europe's colonial past towards non-white people. There is an argument for European Colonialism. Israel is created because of the British mandate in Palestine. Colonialism is born out of an idea of moral superiority by Western Countries. They have the moral right to divide and claim Arab/African countries. From inferior importance, the native residents also have hopes and wishes.

In the process of colonialism, there is a tendency to see people as different or other than ourselves. The main consequence of othering is that a person becomes interpreted and constructed as problematically different (Al-Hindi, 2023). A result of othering is to exclude individuals or social groups who do not fit into the desired norm. Moral superiority leads to justifiable domination over the other group (Agozino, 2025; p. 347). Dehumanization and othering of Palestinian people can be seen as an essential step for the Zionist movement in Israel. The idea that Muslims are a violent threat and, per definition, terrorists is an idea that lives in both the Western and the Israeli world. There is a fear that Muslims will take over the world through Jihad (Clifford, 1980), making Muslim hate or violence against Muslims justifiable. Following the 9/11 attack, threat perception from Western countries converged, launching the War on Terror (Pogodda, 2012, p.541). Far-Right ideologies, which in Europe and America are becoming increasingly more popular, glorify violence against the common enemy: Muslims. Members of the Israeli Parliament, Netanyahu, and Smotrich deny the existence of a Palestinian nation, history, or language (Kellman, 2023). This

is a typical example of the narrative a settler occupier has. Not only the violent dispossession of indigenous/native people from their land but also the structurally erasing of their historical narrative. It normalizes settler occupation and the exploitation of land and resources (Cox, 2017). Zionist leaders such as Theodore Herzl and Zeev Jabotinsky, respectively, advocated ‘the Jewish nation as a wall of defense for Europe in Asia, an outpost of civilization against barbarism’ ‘in defiance of the will of the native population’ (Tariq & Jarbawi, 2017). Settler colonialism creates a form of oppression and racism.

Palestinians have been seen as inferior to Jews for decades. According to Amnesty International (Amnesty International, n.d.), there has been ruthless military interference in the daily lives of citizens of the Occupied Palestinian Territories (OPT). Israel has primary control over borders, airspace, the movement of people and goods, security, and the registry of the entire population, which in turn dictates matters such as legal status (Shakir, 2023). There is daily humiliation, fear, and oppression for Palestinians who live there. Israel has a policy of constructing and expanding illegal settlements on occupied Palestinian land. This is one of the leading forces behind the mass human rights violations in occupied territory. The United Nations Special Rapporteur on Human Rights determined that the “political system of entrenched rule” in the occupied West Bank and Gaza Strip “satisfied the prevailing evidentiary standard for the existence of apartheid” (Amnesty International, 2022). This is one of the highest organizations in the world, saying there are incredible human rights violations, but nothing has been done about it.

Where there is oppression, there is a struggle to be free and liberate oneself from the oppressor. Whereas Western countries see Hamas as a terrorist organization, countries such as Egypt or Iran see Hamas as a liberation movement. There is no true freedom or democracy in Palestine; people are living under surveillance in hostile conditions. Agozino (University of Auckland, 2019) introduced liberation criminology. This approach is based on the idea that, as long as there is oppression, there will be a form of resistance and a struggle for freedom. Oppression, violent disinhibition, and the mediation of ideological indoctrination (Trujilio & Moyano, 2018) legitimize the use of violence in the case of asymmetric power and oppression. The charter published by Hamas (1988) called for the destruction of Israel and the establishment of an Islamic society in historic Palestine. Nationalistic organizations such as Hamas often emerge in the context of those liberation struggles. Oppression of a community or nation can lead to the formation of groups that resort to violent means to achieve political or ideological goals (Lobato et al., 2018). In an interview with *The New York Times* (Hubberart & Abi-Habib, 2023), Khalil al-Hayya, a member of Hamas's top leadership, said they orchestrated the attack "to put the Palestinian table". There are several reasons why Hamas has decided to attack now. For example, Israeli settlers attacking Palestinians in the West Bank and the normalization of ties with Saudi Arabia (Nissenbaum, 2022). While Western and primarily American diplomacy has shifted away from the Middle East towards China, there has never been a genuinely calm situation in Israel and Gaza.

For years, there has been violence from both Hamas and Israel. or

example, in 2021, when Hamas launched a war to protest Israeli efforts to evict Palestinians from their homes in East Jerusalem and police raids in the Aqsa Mosque. For Hamas, Israel's occupation of the West Bank during the 1967 Six-Day War was a historical wrong that had to be righted with force. The situation for Palestinians had to be dramatically turned around; they had to take a stance toward their occupier, Israel.

As we transition from the theoretical underpinnings of counter-colonial criminology, the impact of historic guilt towards Israel, the power imbalance created by settler colonialism, human rights violations, and the result of oppression, the focus shifts towards the current Israel-Hamas War. There are many questions surrounding the possibility of war crimes and crimes against humanity. Transnational criminal law plays a significant role in assessing these violations. The offenses covered by transnational criminal law include terrorism. International criminal law, for example, war crimes, crimes against humanity, and genocide, are all defined by international instruments and can be held to trial at the International Criminal Court in The Hague. National courts must cooperate with international investigations and prosecution (Scott & Sim, 2023). The discussion now goes back to the current reality of the Israel-Hamas War. The following sections will examine specific events, policies, and actions unfolding in the war. Crimes against humanity, violations of international humanitarian law, and the humanitarian situation will be the focus point.

### **3. International Humanitarian Law**

In international law, crimes against humanity can be regarded as an umbrella category of international crimes. International crimes also include genocide, war crimes, and acts of aggression. Crimes against humanity refer to specific crimes committed as part of a widespread or systematic attack directed against the civilian population. Crimes against humanity can also be committed during peacetime and, contrary to genocide, are not necessarily committed against a specific national, ethnic, racial, or religious group. War crimes include torture, mutilation, hostage-taking, and acts of terrorism. They must be committed during times of war.

Internationally accepted rules of armed conflict emerged from the 1949 Geneva Conventions (Deutsch & Van Den Berg, 2023). The Geneva Conventions and their additional protocols are the core of international humanitarian law, which regulates the conduct of armed conflicts (ICRC, 2010). The Geneva Conventions are aimed at protecting people who do not actively participate in the hostilities (civilians, medics, aid workers) and those who can no longer fight. The first three conventions are mainly focused on military personnel on land (1), sea (2), and prisoners of war (3). The Fourth Geneva Convention is there to protect civilians, including those in occupied territories. The Rome Statute of the International Criminal Court (1988) includes regulations against (a) genocide, (b) crimes against humanity, (c) war crimes, and (d) crimes of aggression. The jurisdiction of this court is limited to the most severe crimes concerning the international community as a whole. In the following part, we look at several events that occurred during the Israel-Hamas War to see if one or both breached regulations regarding international war and humanitarian law.

## ***Hamas***

There is a continuous debate regarding the question of whether Hamas, as a nonstate actor, can be held accountable by international human rights standards. For this research, the assumption is made that it is possible to bring them to trial. Hamas, when launching its attack on Israeli civilians, committed a crime against humanity and war crimes. The widespread attack, including the usage of indiscriminate rockets, murder, torture, and sexual violence, is a crime against humanity (Article 7, Rome Statute of the International Criminal Court). In the following section, we look at 2 cases by Hamas: the taking of hostages and sexual violence against women.

### ***Captive Taking***

Captive-taking is a general word to describe the crimes of kidnapping, hostage-taking, and barricaded captive-taking events (Daniels & Page, 2012). Two main captive-taker motives have been described as instrumental and expressive. The primitive motive in instrumental captive-taking is a gain of government concessions. Hostage-taking is a serious crime because it deprives individuals of their freedom.

In its attack on October 7th, Hamas took approximately 240 hostages, including approximately 33 children. The hostages were seized, abused, and captured from their homes in town along the Israeli border, as well as from military bases and a large outdoor festival (Vinograd & Kershner, 2023). Following negotiations in the



initial stages of the war involving Qatar, Israel, and Hamas, there has been a release of around 100 hostages, mainly women, the elderly, and children. Half a year later, individuals remained in captivity, which is still around 130. Unclear if they are dead or alive (Williams & Al-Mughrabi, 2024). The psychological and physical wounds that hostages will endure for the rest of their lives are immense. According to Borger (2024), there is evidence that Hamas has continued its campaign of abuse and rape towards the hostages while they remained in captivity. The UN special envoy on sexual violence has convincing information that some women and children hostages held by Hamas had been subjected to ongoing rape and sexualized torture. For Hamas, the hostages are an essential part of their operation. It puts pressure on Israel, which now has to negotiate with Hamas. The hostages are a form of insurance for Hamas, and they send a message of the lack of power Israel has in this conflict. Israel is left with immense national trauma.

Taking hostages is prohibited under international law, as outlined by the Geneva Convention. Common Article 4 (vol. II, Ch 32, § 2046) explicitly prohibits the taking of hostages, and such prohibition is further reinforced by the Fourth Geneva Convention (Article 34, (ibid., § 2047) and Article 147 (ibid., § 2048) and is considered a grave breach. Moreover, the Statute of the International Criminal Court (ICC Statute, Article 8(2)(a) (viii) and (c)(iii) (ibid., § 2054), explicitly classifies the “taking of hostages” as a war crime in both international and non-international armed conflicts.

### ***Sexual Violence Against Women***

Sexual violence, especially in wartime, is an extreme atrocity. Unfortunately, in many contexts, sexual violence is a deliberate tactic of warfare. Sexual violence, including rape, when widespread and systematic, is recognized as a crime against humanity and a war crime. In June 2008, the UN Security Council adopted the landmark Resolution 1820, confirming that sexual violence during conflicts is a threat to international peace and security. Sexual violence includes sexual insults, unallowed touching of parts of the body, unwanted showing and sending of sexual and pornographic images, forced participation in sexual and/or pornographic activity, rape, sexual torture, female genital cutting, sexual exploitation/enslavement, and forced prostitution (CARA, n.d.).

On December 28, 2023, The New York Times (Gettleman et al.; 2023) published an article showing a pattern of rape, mutilation, and extreme brutality against women in the attacks on Israel. Relying on video footage, photographs, GPS data, and interviews of witnesses, the NYT could reproduce the sexual violence against women. Women were seen raped, there were signs of abuse in genital areas, women were being shot in their vaginas, and breasts being sliced off are only a few of the horrendous examples of sexual mutilation that occurred during the attack. Sexual violence is the ultimate horror show that demonstrates the power of equality between men and women. Besides the physical violence that is done to the women, the mental repercussions are also severe. It comes with negative feelings such as embarrassment, guilt, problems with trust (in men), and self-esteem. There is an incredible amount of social stigma around sexual violence, and it is incredibly traumatic.

It is both a health and a social concern with patriarchal, misogynist, and gender-shaming undertones (Kalra & Bhugra, 2013).

Rape and other forms of sexual violence are prohibited under international humanitarian law (IHL) in international and non-international armed conflict. The Statute of the International Criminal Court includes rape and some other forms of sexual violence in the list of war crimes. It is the list of acts that constitute crimes against humanity when committed as part of a widespread or systematic attack directed at any civilian population. Rape and other forms of sexual violence may also constitute other international crimes when committed under specific circumstances, for instance, the crime of torture or a constitutive act of genocide (International Committee of the Red Cross, 2022).

The legislative nature of sexual violations and torture is included in the Rome Statute of the International Criminal Court of 1998. Under Article 7(1)(f) and Article 7(1)(g). These laws encompass (f) torture and (g), among others, rape, enforced prostitution, or any other form of sexual violence of comparable gravity. Article 7(1)(k) states that other inhumane acts of a similar character intentionally causing great suffering or serious injury to the body or mental or physical health are prohibited.

Based on evidence reviewed by the New York Times, it can be established that during the terrorist attack on October 7th, there have once again been grave breaches of international humanitarian rights by Hamas. The violation of women's self-determination,

rape, and sexual exploitation has to be investigated, as well as the conditions all of the hostages were in. This is obviously besides the murder and abuse of thousands of Israelis during the October 7th attack itself.

### ***Israel***

#### ***Targeting of Health Infrastructure, including Hospital and Medical Personnel***

The World Health Organization reported nearly 600 verified attacks on health infrastructure in Gaza as of January 5th, 2024 (World Health Organization, 2024). This has resulted in not only hundreds of deaths of civilians and healthcare workers but also a severe depletion of essential services, a lack of medical supplies, and an overwhelmingly under-resourced health system (World Health Organization, 2024). On April 1st, 2024, the Israeli military withdrew from Al-Shifa Hospital, leaving an absolute rampage scene behind. Israel justified the attack by saying it was targeting Hamas militants who were using the hospital for their military campaign (Al Jazeera, 2024b).

Several relevant international frameworks exist in the realm of the targeting of health infrastructure. The Fourth Geneva Convention - Relative to the Protection of Civilian Persons in Time of War (1949) specifically addresses the protection of civilian hospitals. Article 18 (GHC, IV) stipulates that civilian hospitals (...) may in no circumstances be the object of attack and shall at all times be respected and protected by the parties of the conflict. Israel justifies the attacks by the presence of Hamas. However, Canadian lawyer Carolynn Edgerton, who worked for the ICC, stressed that the

jurisprudence balances the principles between military necessities and humanity. “Attacking hospitals and other medical units is prohibited under the First Geneva Convention, and that protection extends to the wounded and sick, staff of medical establishments, and ambulances. That protection does not end unless those establishments are used by a party in the conflict to commit an act harmful to the enemy” (Deutsch & van den Berg, 2023b). This is also mentioned by Article 19 (GHV, IV), which mentions that there is no protection when it is used as something other than a hospital. However, the presence of small arms and ammunition taken from such combatants shall not be considered a harmful act to the enemy. Therefore, even when Hamas militants are present inside a hospital, it is not necessarily a justifiable attack in international law. If it is proven to violate humanitarian law, it violates the articles described above and Article 51(GHV, IV). This article stipulates that an attack on the civilian population, who should enjoy general protection against dangers arising from the military, should not be an object of attack. According to article 51.5 (b), an attack on militants may be expected to cause incidental loss of civilian life, injuries, or damage to civilian objects, but it can't be excessive. Any determination that a medical establishment has become a military target can be made. However, the foreseeable collateral damage can be seen as excessive to the military advantage, following the principles of proportionality of collateral damage. Attacks on health infrastructure, including attacks on ambulances, should be investigated as war crimes.

## **Genocide**

On 29 December 2023, South Africa filed a case against Israel at the International Court of Justice, accusing Israel of committing genocide. The case has been supported by countries such as Brazil, Egypt, and Turkey. In South Africa's complaint at the International Court of Justice, they describe the following: "The acts and omissions by Israel...are genocidal in character, as they are committed with the requisite specific intent... to destroy Palestinians in Gaza as part of the broader Palestinian national, racial and ethnical group". South Africa states "Israel, since 7 October 2023 in particular, has failed to prevent genocide and has failed the direct and public incitement to genocide"(International Court of Justice, 2023).

After public hearings on Thursday 11 and Friday 12 January, the international court has indicated several provisional measures, all within the scope of the Convention on the Prevention and Punishment of the Crime of Genocide (ICJ, 2024):

1. Take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention.
2. Take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip.

The UN Convention on the Prevention and Punishment of the Crime of Genocide defines genocide ( Article II) as "any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such; (a) killing members of the group, (b) causing serious bodily or mental

harm to members of the group, (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group. Genocide cannot be justified under any circumstances, including purported self-defense (Schabas, 1997). To establish if Israel is committing genocide, we have to look at two factors: the acts committed and (2) the intent of Israel. Specific intent, which is the hardest to determine, can be established by statements from high commanders in military and politics, official documents, or inferred from patterns of conduct.

When we go over the conditions to establish genocide, we can conclude that Israel shows signs that it is committing genocide. First, in 6 months, Israel has killed over 30,000 Palestinians, of whom 70% are women and children. There is no proof that the remaining 30% of deaths are active Hamas combatants. In the first month, it dropped the equivalent of two nuclear bombs on Gaza to destroy residential areas, universities, mosques, and so on. (Euro-Med Human Rights Monitor, 2023). These “dumb bombs” as it turned out, have been enabled by using Artificial Intelligence (Reiff, 2023). It also includes deliberate starvation imposed on Palestinians. According to a study by the Integrated Food Security Phase Classification (IPC), half of Gaza is experiencing catastrophic food insecurity, putting 1.1 million people at severe risk (Bowen, 2024).

The second part, causing serious bodily or mental harm to members of the group, is also met. Physically, 30000 people are

dead, many more are injured and are now deprived of food. Mentally, the scenes people must have seen, bodies that are lying dead on the road, people being trapped under the rubble, and families, including children murdered, are creating an immense amount of trauma for the rest of their lives.

Third, deliberately inflicting on the group conditions of life include starvation, dehydration, forcible transfers, reducing essential medical services, deprivation of housing, etc. Health and telecommunication infrastructure, including roads, homes, and educational facilities, are being destroyed. At the start of Israel's campaign in Gaza, Defense Minister Yoav Gallant announced a "complete siege (...) no electricity, no food, no water, no fuel", and "we are fighting human animals" (No Comment TV, 2023). This shows the intent to inflict harmful conditions on human life in Gaza deliberately.

As mentioned before, the intent to kill a part or an entire population is the most challenging requirement of genocide. Proof of indirect intent can include the scale and systematic targeting of victims based on their affiliation with the group. Direct evidence is, for example, words of state authorities, including dehumanizing language in combination with the acts mentioned above. The United Nations Report on the possibility of Genocide (2024) there was stated the following quotes from high-placed officials: Prime Minister Benjamin Netanyahu referred to Palestinians as "Amalek"<sup>152</sup> (IsraeliPM, 2023) and "monsters"(Christmas Message From PM Netanyahu, 2023). The Amalek reference is to a biblical passage in which God commands Saul, "Now go and smite Amalek, and utterly destroy all that they have, and spare them not;



but slay both man and woman, infant and suckling, ox and sheep, camel and ass” (The Holy Bible, n.d.). Minister of Heritage Amihai Eliyahu called for striking Gaza with “nuclear bombs” (Times of Israel, 2023). This shows the way Israeli officials dehumanize Palestinians.

Given the conditions that are met above, there is enough evidence that Israel is committing a Genocide on Palestinians in Gaza. Genocide cannot be justified, even when it is in self-defense. The scale on which Israel is busy doing an absolute destructive rampage campaign through Gaza is devastating. Thousands of Palestinians have been killed, thousands have been traumatized and hurt, and millions are deprived of food. Following the statements of high-ranked officials such as Netanyahu, Eliyahu, and many more, it can be determined that Israel intends to destroy at least a part, if not the whole, of Palestinians in the Gaza Strip.

### ***Conclusion International Law***

Both actors are stating their willingness to destroy either Israel or Palestine/Hamas despite the incredible toll on human life. When we look at the framework of international law, documents, pictures, and videos, as well as interviews, we can witness live the starvation of millions of Palestinians, the terrorist attack of Hamas and its allies, and Israel’s genocidal campaign that followed.

Hamas, a non-state actor, a terrorist organization labeled by several countries, including the UK, the US, and the EU, has violated international humanitarian law in at least three instances.

The over 200 hostages that have been taken, as well as the horrific scenes of sexually abused women, are prohibited by international law. The indiscriminate firing of rockets and the killing of over 1,200 civilians with it is another serious breach of international humanitarian and war law. Using civilians as human shields is also a breach of international law. When we look at Israel, you can say the same. Indiscriminate bombing of Palestinians is a war crime; the genocidal campaign that Israel is committing in Gaza is a war crime. The deliberate targeting of hospitals in 99% of the cases is prohibited by international law. Besides that, you can argue that the lack of aid that is coming into Gaza is a deliberate action from Israel and, therefore, also a violation of international law.

#### **4. Role of International Institutions**

In this conflict, the role of international organizations such as UNWRA, World Central Kitchen, Red Cross, the United Nations, and countries such as Qatar, Egypt, and the US are crucial. Both in the way diplomatic endeavors unfold and humanitarian assistance is provided. Qatar and Egypt have been putting in tremendous effort to provide opportunities for a cease-fire. There have been a lot of talks regarding the negotiations concerning the hostages and humanitarian aid that has to come into Gaza. First, we will look into US foreign policy and its position towards Israel to see what Biden has done “right” and the possible vulnerabilities in his policy. Over the past few years, Americans have shifted their focus from foreign policy to Russia and China. The US administration signaled to move away from the Middle East and devote more attention to China's increasing tensions and power play (Vakil, 2024). In the initial days after the Hamas attack, the Biden

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administration moved two carrier strike groups and a nuclear-powered submarine to the Middle East. Biden stood firmly behind Netanyahu and declared full-blown solidarity with Israel. Biden's was to ensure that a broader escalation in the Middle East, with Iran or its proxies, would not happen. The US would give Israel the time, space, and support to do what it needed to do against Hamas (Simon & Miller, 2023). Now, six months into the war, the US has isolated itself in its stance with Israel. Hamas has not been defeated yet. 32,000+ Palestinians have been killed, and even more are starving from hunger. After the US vetoed the UN resolution three times, it decided to withhold from voting the 4th time. Whereas the world is calling for an immediate cease-fire, humanitarian aid, and a release of the hostages, the US is still delivering millions worth of heavy military equipment to Israel. In a way, it is cynical that the murder of 7 non-Palestinian World Kitchen aid workers has caused Biden to take more action than thousands of Palestinians over the past months. The attack showed the contradictions in Biden's policy towards Israel.

The Administration has air-dropped aid into Gaza but also provided Israel with the bombs, rockets, and F-15 jets to go after Hamas. Hamas is mainly centered in Rafah, but for Biden, an invasion of Rafah is the "red line." With elections coming up this year, Biden seems to have changed his tone to adhere to its democratic voters. The two-state solution that Biden advocated seems further away than ever. With both parties vowing for the destruction of one another, it looks pretty unrealistic. US credibility is declining, and it does not have decisive power in the Middle East. Not to mention the deteriorating relationship between

the US and the countries in the Global South. The United States has to take a firmer stance against Israel. Understandably, the initial focus went on Hamas' assault on Israel. However, the humanitarian situation, which, due to its supplies of weapons, America might be partly responsible for, is too alarming not to take more action.

Regarding humanitarian aid, several international organizations, such as the UNRWA and the Red Cross, provide humanitarian assistance both inside the conflict region of Gaza and outside at the crosspoint and border with Egypt. Both institutions repeatedly call for a cease-fire to provide medical aid and relieve humanitarian assistance. Since the situation is not safe for healthcare or aid workers, many organizations that were able to help Palestinians in Gaza are putting their aid on hold. Healthcare and aid workers have repeatedly been attacked by the Israeli military while doing their job. The attack on Western aid workers of World Central Kitchen caused a lot of turmoil around Western countries, demanding a full-blown investigation.

### *Media*

The last part of this research is the role of the media in covering the Israel-Hamas War. Because the media plays such a key role in shaping how we view the situation, this plays a huge role. There are conscious or unconscious decisions that media and journalists make that affect how the aggressor or victim is portrayed. It can make or break how we see Israeli or Palestinian suffering. The harsh truth is that Western coverage of the War is extremely pro-Israel. In talk shows and media, there is the narrative that all men

in Gaza are members of Hamas or any other terrorist group and, therefore, are the enemy. The suffering of Israelis has gotten much more attention than the suffering of Palestinians. The history between Israel and Palestine, the role of Great Britain, and the role of settler colonialism is not or little covered. It creates a false narrative because the whole story is not told.

Western people are preconditioned to disregard Palestinian humanity due to Islamophobia and colonialism and because they are simply non-white people. Seeing humans as less than others contributes to dehumanization and makes it justifiable or more accessible to kill them. For example, Palestinians “die” while Israelis are “killed”(The New Humanitarian, 2023). This subtle difference in wording is hugely significant. People who are pro-Palestine are being depicted as antisemitic. Anti-semitism is racism and is in no situation justifiable. But being pro-human rights for Palestinians does not mean someone is antisemitic. They can exist next to each other. As a society, we must condemn the horrific attack on Israel, but we must not forget the humanitarian catastrophe that Palestinians are going through.

### **Conclusion**

In conclusion, this essay provides an extensive analysis of the Israel-Hamas War, synthesizing historical dimensions such as the war in 1947-9, which created the creation of Israel and the West Bank/Gaza Strip, and the Six Day War in 1967. What is known is a very long history of tensions within the region, which eventually erupted on Oct. 7. 2023. Besides a part of the history, the

contemporary events of the war are still unfolding, and analysis provided a nuanced understanding of the struggle that has been going on for decades. In this research, I have examined specific incidents by Israel and Hamas. The assault on Israeli civilians, hostages, and sexual violence by Hamas. On the Israeli side, the attack on health infrastructure, including hospitals, and the genocide that Israel is committing. All of this is within the scope of international humanitarian law. It raises an incredible amount of questions regarding war crimes and crimes against humanity.

The abduction of approximately 240 hostages by Hamas represents a violation of established international legal norms, as stipulated by the Geneva Conventions and the Rome Statute of the International Criminal Court. Sexual violence against women is a war crime as well. These acts underscore the urgency for international accountability.

On the other hand, the 600 verified attacks on health infrastructure, particularly the strike near the Al Shifa hospitals, illuminate potential violations of the Fourth Geneva Convention. It challenges the principles of proportionality and the mandate of international law. The intent to destroy a whole ethnic group and thereby commit genocide has been the most vigorous violation of human rights law. The use of “dumb bombs,” the killing of 33000+ Palestinians, and the potential assault on Rafah are things Israel can be sued for.

We have to look critically at the role of the US and its unconditional support of Israel, which brings questions about its complicity in war crimes. Its diplomatic efforts in getting all of the

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hostages home, as well as a sustainable ceasefire, have so far been insufficient. The role that the US once played on the world stage is not the role the US has now. In terms of post-Gaza period, the only diplomatic option would be a two-state solution with an Israeli and Palestinian State. However, with Netanyahu's extreme right, nationalistic government, this seems impossible to achieve.

An immense humanitarian crisis is unfolding in Gaza. Children are dying from hunger, and civilian infrastructure, including hospitals and houses, is destroyed. The West seems to be paralyzed in its actions towards Israel. Historical guilt, rooted in the Holocaust, is making the debate sensitive. The Israeli government, traumatized by the terrorist attack, has made its goal to erase Hamas from the earth. In their eyes, the "collateral damage" does not matter, as it serves its purpose to eradicate Hamas. But this approach might work counterintuitive. As the anger grows among Palestinians, it is a growing site for new members of Hamas. For Palestinians, who have been living under an occupier for decades, the war has turned out to be a humanitarian disaster. Thousands and thousands of people died over six months—women who, due to famine, were not able to breastfeed their children anymore. Children who have lost their entire families due to the indiscriminate bombings.

As I've written this research paper, I realize it can create much discussion and polarization. It is an incredibly sensitive topic all over the globe due to its history and how the war is unfolding. I urge everyone to read about the history of the region and to look at the stories of both Israelis and Palestinians. See the immense destruction on both sides with your own eyes and make your own

*Marbel Diderik*

informed opinion. I condemn, in the strongest words possible, the terrorist attack on Israeli citizens. However, I also have eyes for the situation of apartheid, dehumanization, oppression, and tight control Palestinians have been living in for decades.

With no ceasefire in sight, we cannot forget that every human that has been killed, either on the Israeli or Palestinian side, was someone with hopes and dreams. Someone with ambitions and friends and family who cared about them. I hope that even in dark times like this, there is hope. Hope for a better future for both Palestinians and Israelis. Israeli citizens don't ever have to fear that terrorist from Gaza will destroy their lives. That citizens in Gaza and the West Bank finally have the self-determination they have been striving for. Violence should not be the only option to bring the Palestinian issue back on the table. I hope that every mosque, house, and hospital can be rebuilt for Palestinians to live in Gaza. But also that Israel can heal from its collective trauma. I wish that, as the human race, we would still believe in the humanity in one another. We must respect the rules of human life and dignity. The notion that all men are created equal can't just be an empty sentence. We must protect human rights because they are no longer a given right.



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## About the Contributors

**Adrienne Amandazi** is a John Jay/CUSP Senior who's majoring in Criminal Justice, minoring in Law. Her paper is entitled "Juvenile Discrepancies and Community Reformation." Her paper was motivated to move beyond explanations to solutions. She is intrigued by the challenge of having to find those missing puzzle pieces as to why our society just can't seem to get things right. She forces herself outside of her comfort zone to push those boundaries not only for herself but for those coming in as the next generation.

**Tyrol Brito** is a Sociology Major at John Jay College. His paper, "A Reasonable Purpose" was motivated by his interest in the performative aspects of individuals in society. He was driven to find a topic that could resonate with most people, yet also delve into areas that are often unexplored. The challenge of intertwining the concept of finding a purpose, the hegemonic forces of masculinity, and a critique of the criminal justice system was daunting, but well worth it, as it breaks down these complex ideas into more digestible concepts for the average reader. His aspiration with this piece is for it to have a lasting impact, where future generations can reference or even relate to it.

**Yadira Carrillo Mejia** is a senior sociology major at John Jay College. "A Country Soiled in Blood: Is Ethnic cleansing and Genocide truly understood within the United States?" is a paper that discusses the United States failure to acknowledge their twisted history and participation within genocide. Human rights has always been something she has strongly cared about, and as a result, it inspired the topic of this paper.

**Stella Daniels-Simpson** is a John Jay College of Criminal Justice senior. She majored in sociology with a minor in law. She is also a part of the SEEK program at John Jay. Her hobbies include painting, drawing, creating unique crafts, and participating in basketball, soccer, and baseball. Her motivation for writing "Why Does America Believe in Punishment?" originates from a discussion in her Contemporary Sociological Theories class regarding Foucault's ideas of power and surveillance. She was fascinated by the panopticon and Simone Brown's competing notion that slavery was the earliest form of jail, as slave ships served as panoptic prisons. She also learned about transformative and restorative justice while working on her final thesis based on actual criminal cases. After learning about punishment and panopticon, this paper began in a Criminal Law course.

**Marbel Diderik** is a senior studying Business Administration/Finance at the University of Amsterdam. During the Fall 2023 semester, Diderik attended San Francisco State University, where she delved into international relations and criminology courses. Her publication, "Examining Counter-Colonial Criminology's Impact on the Israel-Hamas War: An Analysis of the legal framework of international humanitarian law," stems from her belief that even in times of war, humanity must prevail, with human rights principles at the forefront. Diderik sees her work as contributing to the debate on justice, human rights, democracy, and geopolitical challenges.

**Michelle Garcia Luna** is a recent graduate from San Francisco State University where she received her BA in Criminal Justice and Sociology. Her publication is entitled "Women's Facilities: Addressing the Unsanitary Conditions". The unsanitary conditions in women's prisons goes far beyond our knowledge involving cleanliness. She wrote this paper for the sole purpose of raising awareness in hopes of helping oppressed women uphold their basic human rights and create a difference within these facilities. Garcia Luna wants to advocate for women who face adversity and have been deprived of their fundamental rights.

**Florian Griese** (aka Flo; she/her/he/him) is a criminology and forensic psychology major. She wrote the paper ‘Lyrics of Dissident Youth Cultures and Police Misconduct in the United States’ during most of her sophomore year. The initial motivation for her to write this paper was to combine the music she listens to everyday with the issue of police misconduct (and to get extra credit for her SOC 101 class). While this paper developed, however, she realized how we socially silence musicians from certain, social critical genres like punk and rap. The main purpose of her paper is to make clear that these voices are valuable and offer valid criticism.

**Ashli Hamilton** is an undergraduate Honors student and Ronald E. McNair fellow at the John Jay College of Criminal Justice studying Forensic Psychology with a minor in Sociology. Ashli’s submission to the Annual Review of Criminal Justice Studies is titled “Media Representations of the Central Park Five”. Her research argues that the media had a negative impact on public opinion regarding this case. Ashli conducted this research to further her interests in juvenile justice and criminal justice reform. She believes that the continued discussion and awareness of the wrongfully convicted will create change within legal systems.

**Tausifa Haque** is a junior at CUNY John Jay College of Criminal Justice. She is majoring in Sociology, minoring in Interdisciplinary Studies, and pursuing the Dispute Resolution Certificate. “Professional Athletes Above the Law” was inspired by a conversation with someone very important to her, who is a big soccer fan. As someone passionate about systemic issues herself, she was eager to analyze the intersection between sports and the criminal justice system. This piece delves into the societal implications of crime amongst professional male athletes, and how it is handled by the criminal justice system.

**Gisselle Marroquin** is currently a Senior double majoring in Criminal Justice Studies and Child and Adolescent Development at San Francisco State University. Her publication is titled “Police Use of Force and the Racial Disparities in Policing”. Marroquin’s motivation behind writing this paper connects to how excessive force by police officers has been frequently reported in the media, with race often highlighted in police encounters. The purpose of the article is to deepen our understanding of policing’s force tactics to uncover racial differential treatment and explore solutions to reforming the system, which ensures protection for all and improves police-civilian relationships.

**Daniella Krynsky** is currently a sophomore majoring in Criminal Justice Studies at San Francisco State University. Her publication is titled “How Political Interest Overruled the Common Good” with a concentration in topics regarding Women’s Rights and the Abortion Argument. Krynsky wrote this to voice my frustrations with the inequalities women are faced with in today’s America. Growing up, she would constantly hear and read about the oppression women would face. Now, as an adult, she sees herself focusing her writings and studies into women’s rights and equality.

**Giovana Numa** is a Senior in the BA/MA Forensic Psychology program at John Jay College. Her paper is entitled “The Use of Solitary Confinement and Its Effect on Mental Health.” Solitary Confinement is a tremendous problem that often goes unnoticed in prisons until a tragic or fatal event gets publicized. Vulnerable populations such as women, minorities, and members of the LGBTQ+ are disproportionately affected by the abuse of solitary confinement. She focused her paper on this topic as there needs to be more exposure to the severity of this issue in our corrections system and contribute to the research on which reform is often founded.

**Paola Saavedra Ramirez** is a graduating senior majoring in Criminal Justice and Child Development at San Francisco State University. Her publication is titled “Youth Incarceration: Components of the Carceral State”. Saavedra Ramirez wrote this as an explanation for advocates of system-impacted youth and the youth themselves. She did this to build a baseline understanding of the historical relationships between Black, Indigenous, children of color (BICOC) and schools. Her goal is to have readers understand that school push-out is real and it did not just come from nowhere, it stems from years and years of denial of educational rights to BICOC.



**Hosana Seyoum** is a Forensic Psychology Major in her Senior year at John Jay. Her paper “Speak for Yourself, Don’t Speak for Me: Democratizing Discourse and Sex Work Reform” was motivated by an interest in political philosophy, the viability of decriminalizing sex work, and learning about the discourse that drives policy reform.

**Haya Shahzad** is a first-generation Pakistani-American Muslim woman majoring in sociology at John Jay College. Trauma was the catalyst for many forms of art she creates, with poetry being the main source of release. Poetry is so dense on a heavy heart but is so gentle, like a loving hand. Poetry has been her savior in the dark; It helped her shine as bright as she does. Her beautiful culture, her gracious religion, her gender identity, her brown skin and ethnic features, and her childhood all play a part in how technicolor her poetry can be. She grew up very “black and white,” always doubting the words that she scribed on my paper; she never thought she was good enough or she ever would be good enough. She learned that her kindness and empathy can guide not only others but also to Haya, her true self. Her people have been her biggest motivation. In Islam, we believe the Ummah—the Muslim community—is a body; If one part of the body hurts, the rest is also in pain. Palestine has been her biggest reflector, her biggest motivator, and her heaviest pain. Haya learned to trust herself and know that her writing can do more than she ever assumed it can; It is bigger than she is. Her only desire is to make Palestine immortal with her writing. We all are Palestinian, and we will wear their names with pride. They will not be the forgotten people. The world tried to bury them, unaware that they were the seeds of resilience. Haya hopes she is present to witness a free Palestine, Inshallah.

Lauren Sulaiman is an Honors student and senior at John Jay College of Criminal Justice, as well as a fellow of the Jeannette K. Watson Fellowship. She majors in political science with a minor in gender studies. Her passions lie in advocating for gender justice and women’s rights, which are reflected in her research paper titled, “Intersections between Incarceration and Reproductive Health: Lack of Access for Incarcerated Pregnant Women in the United States.” In this research paper, she aims to raise awareness of the gender and health disparities that exist within the criminal justice systems in the United States.

**Cynthia Thomas** is currently a Junior majoring in Forensic Psychology at John Jay. Her publication is entitled “The Meek, The Bold, and The Undefined”. She wrote this as a voice for the South Asian community, to give perspective on Imposter Syndrome specifically. She wants my community to feel heard, to feel the complexity of these emotions we feel on an everyday basis, our voices deserve to be heard.

**Josie-Grace Valerius** is completing her first year in the Macaulay Honors College of CUNY at John Jay College. Similar to her research in “Digging Up the Root: Radical Belief in Reallocation,” her academic majors also tie into socio-legal studies and economic policy with a double major in Law & Society and Economics.

**Maggie Wheeler** is a senior at John Jay College of Criminal Justice majoring in Forensic Psychology with a minor in Criminology. Her paper, “Child “Prostitution”: Legal and Policy Frameworks: Examining the Criminalization of Child Victims,” was inspired by the lack of research and papers on the topic of criminalization of children, but also because she is continuing her studies at NYU Silver School of Social Work focusing on Forensic Social Work with the future goal to be a victim advocate.

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