



SUSPENDED EMPATHY:

**HOW THE MYTH HEARD ROUND THE WORLD FUNNELED BLACK
AND BROWN YOUTH INTO THE ADULT COURT SYSTEM**

Juvenile Law Center

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Juvenile Law Center

Fighting for the rights
and well-being of youth

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We strive to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

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INTRODUCTION

In the 1980s and 1990s as youth violent crime rates rose, headlines emerged depicting Black and Brown youth as “hedonistic . . . youngsters from badland neighborhoods who murder, assault, rape, rob, burglarize, deal [. . .] drugs, join [. . .] gangs and create [. . .] disorder.”¹ Youth criminal conduct was characterized as “violent, morally deficient, and of color.”² While “the most famous youthful offenders of the 90s” came from “mostly white communities of nice houses,”³ white youth were underrepresented in media coverage, while “African Americans and Latinos were overrepresented in depictions of perpetrators of violent crime.”⁴ Animal imagery, including terms like “wilding” and “wolf pack,” was introduced into the national vocabulary to describe Black and Brown youth. This threat, attributed to “deficient personal traits—immorality, inherent proclivity to violence, and remorselessness,” made the public believe that youth crime had become a major problem, and that Black and Brown youth posed a higher threat of violent crime.⁵

In 1995, political scientist and professor John Dilulio, Jr. of Princeton University, warned that America was sitting on a “demographic crime bomb.”⁶ Using data produced by Dr. James A. Fox, professor of Northeastern University, Dilulio predicted that by the year 2000, there would be a “sharp increase in the number of super crime-prone young males.”⁷ This surge would include male predators from “black inner-city neighborhoods” that “will make even the leaders of the Bloods and Crips...look tame by comparison.”⁸ These “super-predators,” the products of moral poverty,⁹ were predicted to commit the most heinous acts of violence for trivial reasons—“to murder, rape, rob, assault, burglarize, deal deadly drugs, and get high.”¹⁰



Media coverage functioned as a primary source of information on youth crime. Skewed reporting of youth violent crime led the public to infer that the world was more dangerous than it was. “The super[-]predator language began a process of allowing us to suspend our feelings of empathy towards young people of color.”¹¹

FALSE PREDICTIONS

The predicted upward trend in youth violence never materialized. Youth arrest rates for violent crimes dropped by almost half between 1994 and 2009.¹² Youth arrested for murder and non-negligent manslaughter dropped from 12.3 per 100,000 youth in 1994 to 3.5 per 100,000 youth in 2009.¹³ In other words, Dilulio's predicted "army of young male predatory street criminals" did not come to fruition. Increased rates of assault by youth at the time were more appropriately attributed to changes in police arrest discretion and re-classification.¹⁴ Similarly, increased rates of gun-related crimes, which contributed to overall rates of fatal and violent crime, were linked to the increased availability of firearms and their use in the crack-cocaine trade,¹⁵ not due to the alleged and materially false "natural propensity" among Black men and boys to commit violent crimes. By 2001, former Surgeon General David Satcher reported:

There is no evidence that young people involved in violence during the peak years of the early 1990s were more frequent or more vicious offenders than youths in earlier years. The increased lethality resulted from gun use, which has since decreased dramatically. There is no scientific evidence to document the claim of increased seriousness or callousness.¹⁶

In the end, the super-predator theory was deemed "utter madness."¹⁷ In fact, in 1996 Dilulio recanted "to put the brakes on the super[-]predator theory."¹⁸ He apologized for how the term took off, its lasting effects and stated that he "wished he had never become the 1990's intellectual pillar for putting violent juveniles in prison and condemning them as 'super[-]predators.'"¹⁹ Yet, the impact of this characterization would have a lasting effect on legislation affecting children for decades to follow.

THE LEGISLATIVE RESPONSE

The racialized panic over crime and violence-prone Black and Brown youth, and the dehumanizing language used to describe them, led to sweeping legislative changes throughout the 1980s and 1990s that disproportionately impacted Black and Brown youth. Before the onset of the youth crime wave, and the media attention surrounding the “super-predator,” many states allowed youth to be prosecuted in adult court under limited circumstances. However, between 1992 and 1997 almost all states made it easier to transfer youth to adult court, subjecting them to harsher penalties, including the death penalty and life without parole sentences, while 47 states plus the District of Columbia broadened juvenile jurisdiction and increased sentences.²⁰ “From 1992 to 1995...11 states lowered the age limit for 1 or more offenses, 10 states added crimes, and 2 states added prior record provisions.”²¹ By December 1995, all but four states instituted discretionary transfer (also known as judicial waiver) provisions.²² In 1992 nine states enacted presumptive waiver provisions, requiring transfer unless the youth could prove that they were better “suited for juvenile rehabilitation,” increasing the total number of states with such provisions to thirteen.²³ Additionally, between 1992 and 1995, legislatures increased the number of youth excluded from juvenile court jurisdiction, automatically subjecting them to adult court:

24 states added crimes; 6 states lowered the age limit on some or all excluded offenses; 1 state added lesser included offenses, allowing criminal court jurisdiction to continue with a finding of guilt on an offense other than the original excluding offense; and 1 state added habitual juvenile offender procedures.²⁴

Advocates for these changes argued that “rehabilitation is ineffective” and that the juvenile justice system was not punitive enough to protect society or hold youth accountable.²⁵ This resulted in more youth being charged, tried, detained and incarcerated as adults in the adult criminal system than ever before in the history of the nation.²⁶ It is estimated that 250,000 youth were exposed to adult criminal charges in the mid-1990s.²⁷ A 2016 report published by The Sentencing Project estimated that eighty-five percent of young people tried in the adult system were charged “via prosecutorial discretion, statutory exclusions and jurisdictional boundaries.”²⁸ The remaining youth were waived to adult court through “traditional” transfer mechanisms such as mandatory and discretionary transfer statutes: in 1990, approximately 7,600 youth were transferred to adult court. Black youth made up approximately 3,600, or 47.4%, of youth transferred.²⁹

However, based on the 1990 census, Black youth under 18 only made up approximately 3.8 percent of the population.³⁰ By 1996, the number of youth waived to adult court jumped to approximately 11,800 youth, with 5,100, or 42.2% being Black.³¹ While the percentage of Black youth transferred decreased between 1990 and 1996, Black youth still represented a disproportionate number of youth transferred as compared to the percentage of Black youth in the population.

THE FEDERAL RESPONSE

In 1992, both Senator Bob Dole and then Governor Bill Clinton ran on “tough on crime” platforms in response to rising crime rates. Dole used super-predator verbiage stating “today’s newborns will become tomorrow’s super-predators—merciless criminals capable of committing the most vicious of acts for the most trivial reasons.”³² He vowed to sponsor legislation to ensure youth who commit violent felonies would be prosecuted as adults, and to release youth criminal records to schools, courts and employers even after becoming adults.³³ Bill Clinton, who ultimately won the presidency, championed the Violent Crime Control and Law Enforcement Act of 1994, known more commonly as the Crime Bill to “do something about this terrible scourge of violence that is especially gripping our children and robbing them of their future.”³⁴ This racially-motivated legislation “remains the most extensive federal crime legislation ever passed.”³⁵ Clinton justified its passage, reasoning that “gangs and drugs have taken over our streets and undermined our schools,”³⁶ and that “for the last 6 years, children have become the most likely victims of violent crime and its most likely perpetrators.”³⁷ In signing the Crime Bill he thought he was bringing the “laws of our land back into line” and restoring “the line between right and wrong.”³⁸

The Crime Bill amended the federal criminal code to permit the prosecution of youth as young as 13 as adults for specified crimes.³⁹ The Bill further gave states permission to pass more punitive laws through incentive grants to build more prisons, to implement “truth in sentencing laws” (requiring individuals to serve no less than 85% of their sentences), and to increase police presence in communities.⁴⁰ The Bill authorized the death penalty for new and existing federal crimes, mandated life in prison for specified offenses, implemented mandatory minimum sentences, implemented “three strike” laws, banned semiautomatic assault weapons, and increased sentences for offenses such as gang related violence.⁴¹ As one article noted, the funding incentives “encouraged states and cities to increase arrests, prosecutions and incarceration, playing a tremendously powerful part in growing the size and scope of our correctional system.”⁴²

LEGISLATIVE IMPACT

It has been thirty years since John Dilulio falsely predicted the emergence of the super-predator. Fueled by the moral panic he set in motion, and the federal incentives established by the Crime Bill, every state enacted legislative changes to make it easier to transfer youth to the adult system. As illustrated below, states used the super-predator narrative to push forward harmful legislation. Although many states relied on the narrative to make changes to their legislation affecting youth, Pennsylvania made a comprehensive shift in 1995 that was undoubtedly influenced by the media narrative around youth crime at the time.

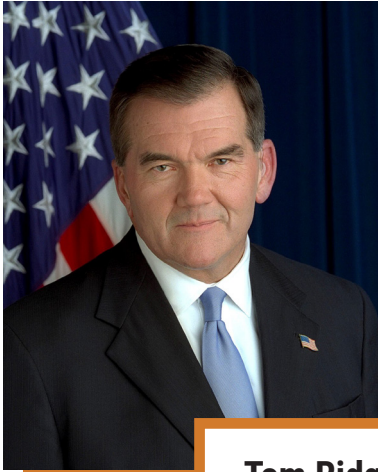
PENNSYLVANIA:

A COMPREHENSIVE ILLUSTRATION OF THE SUPER-PREDATOR MYTH'S IMPACT

In 1995, mirroring language used by Dole and Clinton at the federal level, then Gubernatorial candidate Tom Ridge promised tough-on-crime legislation to address the rise in violent crime. Before his election, he criticized how Pennsylvania handled crime, and vowed, if elected, to hold a special session early in his term “to deal with the entire issue of crime.”⁴³ He pledged to act in a new way to address sentence reform and prison reform— especially in the juvenile justice system. While his platform called for prison alternatives, and considering mitigating circumstance in mandatory minimums, his rhetoric towards youth was clear. He specified that “young people in Pennsylvania need to know that youth is not an excuse,” and that “if they commit an adult crime, they’re gonna do adult time.”⁴⁴ He further stated “[w]e just have to send a signal out to these young people that you are personally accountable for your conduct...”⁴⁵

Within days of his 1995 election, Tom Ridge made good on his promise and called a Special Session of the Pennsylvania Legislature on crime.⁴⁶ At the opening of the special session, Governor Ridge declared that the most difficult challenge was that youth were committing violent acts “without regard for society or even self.”⁴⁷ Ridge declared that youth was no longer an excuse, and he asked the legislature to “treat the worst violent juvenile offenders like the criminals they are.”⁴⁸

During the special legislative session, SB 100 was introduced, which amended the definition of “delinquent act” to exclude “certain criminal offenses.”⁴⁹ The debate on the legislative floor focused on the rise in youth violence and the legislators’ commentary echoed the harmful super-predator rhetoric:



Tom Ridge

...this is, I believe, one of the most important bills that we have considered in this Special Session. It is a bill that basically says to young thugs across this Commonwealth that if you commit adult crimes, you are going to do adult time.... [W]hat we are finding today is the rise in crime in Pennsylvania has been caused as a result of the rise in violent crime among juveniles.⁵⁰

Senator Michael O’Pake also shared concern about the safety of society:



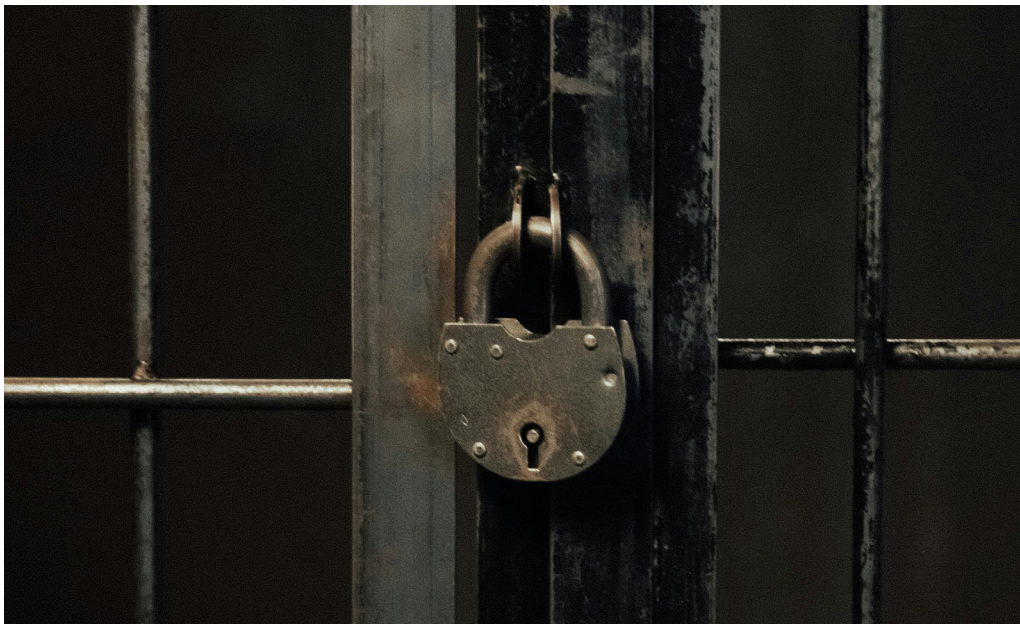
Michael O’Pake

This protects innocent members of society and recognizes that when you are the victim of a violent crime, it does not matter to you whether the rapist or the armed robber or the murderer is 15 or 55. There is usually a weapon involved. They are gun-toting, knife-wielding hoodlums, and they have to be dealt with and they have to be sent a message that in Pennsylvania, we have had enough of that. The fastest growing crime rate in this country is not adult crime but rather it is juvenile crime, and there are statistics all over the place as to how bad that is.⁵¹

Legislators also voted to reinforce the death penalty and to expand maximum sentences for offenses including third-degree murder, sending the message that they were getting “tough” on crime.⁵² The Special Session ultimately led to the modification of the Juvenile Act: by amending the definition of “delinquent act” to exclude additional offenses committed by youth 15 or older, those cases could be “direct-filed” in adult court.⁵³ By the end of the legislative sessions, Governor Ridge stated “violent youthful offenders will [now] be held accountable.”⁵⁴

When young people are more likely to be tried in adult court, they are also more likely to be subject to lengthy and life sentences. When *Miller v. Alabama* (2012) was decided, Pennsylvania had 520 youth serving life without parole, the largest population in the nation.⁵⁵ Today, Pennsylvania is still amongst the top ten states with the largest Juvenile Life Without Parole (JLWOP) population.⁵⁶

Pennsylvania’s direct-file law is still in place and the racial disparity is clear. Recent data showed that Black non-Hispanic youth made up 14% of the statewide youth population but 62% of youth charged as adults under Pennsylvania’s direct file scheme.⁵⁷ By contrast, white non-Hispanic youth constitute only 22% of youth charged as adults through direct file.⁵⁸ Overall, Black male youth are only 7% of the state’s youth population, but 56% of youth prosecuted and convicted as adults.⁵⁹



THEMES ACROSS THE COUNTRY

RACIAL UNDERTONES

As demonstrated by the language used in Pennsylvania and by the presidential candidates in the 1990s, racially-fueled rhetoric was a driving force for legislative change during the super-predator era. Depictions of Black and Brown youth as “lawless, predatory and dangerous” created stereotypes that are “so potent visually that they resonate as pictures in our heads.”⁶⁰ Such language and pictures were used to justify the push towards tough on crime measures across the country. For example, New York famously used animal imagery to characterize Black and Brown youth.

The “Central Park Jogger” case, which garnered widespread media attention, involved five Black and Latino teenage boys ranging in age from 14 to 16 who were falsely accused of the rape, assault, and attempted murder of a white female jogger in Central Park in 1989.⁶¹ Detectives referred to the youths’ behavior as “wilding.”⁶² The term would come to be known in the news and media to describe the “wolf pack” of teens who allegedly committed the crime.⁶³ While the “Central Park Five,” as they would come to be known, were exonerated in 2002, the term “wilding,” and the fear of violent crimes attributed to Black and Brown youth continued to be used to “describe the criminal behavior of African-Americans and Latinos.”⁶⁴ Without a true understanding of its meaning, the news and media ran with the term.⁶⁵ The case became a “spectacle due to the word wilding and the connotations of savagery it carried.”⁶⁶ The term appeared 156 times in articles in New York newspapers for eight years following the Central Park case.⁶⁷ In every article, the perpetrator was a Black or Latino Male, while the victim was a white female in all except a single incident.⁶⁸ Such depictions of youth not only connected crime to color but also disassociated youth of color from their most influential attribute—their youth.⁶⁹

In 1982, Illinois lawmakers also used racially-charged language and youth gang violence—imagery typically associated with Black and Brown youth, in adopting its first automatic transfer statute. Representative Raymond Ewell stated: “It is true that my district and a number of other districts are overrun by young juvenile thugs.”⁷⁰ Similarly, Representative Ronald Stearney described “virtual anarchy in the streets” of Chicago, and that he came from “the inner city” where “gangs practically run the

entire area,” terrorizing citizens making them fearful to leave their homes.⁷¹ Stearney went on to say: “... I know of cases that took place in 900 Northwestern – that’s a Mexican-Puerto Rican neighborhood - people came into a grocery store and in the commission of an armed robbery shot the owner of the store simply to see how many bullets he could take in the heart before he fell over.”⁷² Stearney used this and other anecdotes to illustrate his point that that youth have no value for life, and that “[i]f we’re going to have a semblance of organized society in the large metropolitan areas of this state, we’ve got to remove the juvenile offender....”⁷³

CONCERNS WITH PUBLIC SAFETY & THE RISE IN YOUTH CRIME

Lawmakers also argued that the effect on public safety, the rise in youth crime, and the failure of juvenile justice systems justified treating youth – particularly Black and Brown youth – as adults. In 1982, New Jersey enacted the New Jersey Code of Juvenile Justice which gave prosecutors the power to waive youth 14 or older to adult court. Bill sponsors testified that “the public welfare and the best interests of juveniles can be served most effectively through an approach which provides for harsher penalties for juveniles who commit serious acts...”⁷⁴ Then Governor Thomas Kean stated “the rapid and tragic upward surge in juvenile crime has been of deepening concern and demands that government deal with it.”⁷⁵ As a result, the objective of the Code was to “deal swiftly and sternly with violent young criminals,” which Governor Kean saw as the “most appropriate response to the problem.”⁷⁶

Similarly in 1994 Alaska passed SB 54 which required minors 16 or older to be “charged, prosecuted, and sentenced” as an adult for “an unclassified felony or a class A felony and the felony is a crime against a person” or “arson in the first degree.”⁷⁷ During Committee meetings discussing the bills, concerns were raised about youth violence and public safety. At a Finance Committee meeting on January 14, 1994, Representative Martin “observed the need to provide for rehabilitation while assuring the public that dangerous youth offenders are not on the streets.”⁷⁸ Similarly, during a February meeting District Attorney Edward McNally urged committee members to “take prompt action” on the legislation as “the serious crimes committed by juveniles are continuing to occur.”⁷⁹ Co-chair person

Larson read off a list of youth crime victims who “could not testify on their behalf,” furthering the narrative of public safety. In 2015, the Alaska Court of Appeals confirmed these concerns in observing that the legislative history showed that “the legislature was concerned by the number of violent crimes committed by juveniles and the apparent failure of the existing juvenile delinquency procedures ‘to provide the convincing threat of punishment necessary to deter juvenile [offenders] from evolving into hardened criminals.’”⁸⁰

In 1994 California lowered the age of youth transfer from 16 to 14.⁸¹ A statement attached to the Senate Bill analysis stated:

The public is legitimately concerned that crimes of violence committed by juveniles are increasing in number and in terms of the level of violence.... AB 560 is a rational response to the legitimate public desire to address what is a serious problem.... AB 560 attempts to protect the public and those youngsters who we can save....⁸²

Similarly, in 1994, Washington passed the Youth Violence Reduction Act which automatically sent youth 16 and 17 years old charged with certain felonies to adult court.⁸³ In the intent section of the act, the legislature commented:

The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade. The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated.⁸⁴

FROM BAD TO WORSE: NEW YORK, CONNECTICUT, AND NORTH CAROLINA

While the harm caused by the super-predator rhetoric was felt in most states in the 1990s, some states failed to protect youth well before Dilulio’s predictions. The widespread myth of the super-predator simply gave these states permission to sweep more youth into the adult criminal system.

The Case of Willie Bosket

Years before the term super-predator was coined, 15-year-old Willie Bosket was charged with killing two men and shooting another on a New York subway. Under law at the time, Bosket, who had been in and out of the system since age nine, was charged and convicted in juvenile court to five years in a juvenile facility, which was the maximum penalty at the time.

Tabloids named him “the baby-faced Butcher” and attacked the state and politicians for not punishing Bosket more harshly and sooner.

This case prompted then Governor, Hugh Carey, to call an emergency legislative session, which resulted in passage of the Juvenile Offender Act of 1978. This act lowered the age of criminal responsibility for NY youth and extended automatic waiver to adult court to youth aged 13-15. This decision reversed 150 years of American history and was coined the “first break with the progressive tradition of treating children separately from adults.”

Prior to widespread acceptance of the super-predator myth, three states – New York, Connecticut and North Carolina – set the maximum age of juvenile court jurisdiction at 15, meaning all youth aged 16 and 17 were automatically treated as adults.⁸⁵

In the 1800s New York reformers recognized that children are children, and believed that the state should “provide for the treatment and rehabilitation of the juvenile.”⁸⁶ However, by the early 1900s, criminal courts were given the discretion to prosecute youth under 14 accused of non-capital offenses as a misdemeanor.⁸⁷ By 1904, New York automatically treated youth 16 and 17 as adults.⁸⁸ New York continued expanding criminal responsibility and dismantled protections for youth.⁸⁹ For instance, in 1978, in response to the widely publicized Willie Bosket case, then Governor Hugh Carey reversed his long-standing opposition to trying youth as adults and declared that Bosket, a 15 year old child, would “never walk the streets again.”⁹⁰ Carey called an emergency legislative session and passed the Juvenile Offender Act of 1978.⁹¹ The Act lowered the age of criminal responsibility and extended automatic

transfer to youth as young as 13 for specifically delineated offenses, subjecting an even broader group of youth to prosecution in the adult system.⁹²

The super-predator era simply added ammunition to New York's tough on crime approach to youth crime. In fact, highly publicized crimes, including the Central Park Five case mentioned above, added to the racial undertones associated with the super-predator era, pushing tough on crime reforms. Motivated by terms like "wilding" and its associated animal imagery, between 1995 and 1996 New York passed additional legislation targeting and/or impacting youth:

1995

- **The Sentencing Reform Act of 1995 imposed longer sentences for violent felonies, eliminated parole for repeat offenders, required first time offenders to serve one half the maximum sentence before being eligible for parole (previously required one third of the maximum sentence), required determinate sentences for second time offenders, and doubled the minimum sentences for third time offenders.⁹³**
- **Carjacking added as a violent felony and increased the maximum penalty from 7 to 15 years.⁹⁴**

1996

- **Added five years to the minimum indeterminate sentence for an offense committed while displaying a firearm.⁹⁵**
- **Raised the penalty for first-degree assaults and increased the maximum sentenced from 15 to 25 years in prison.⁹⁶**
- **Added first and second-degree gang assault as a new crime punishable up to 25 years in prison.⁹⁷**
- **Passed "Zero Tolerance Saves Young Lives" legislation which suspends the license of youth under age 21 for the consumption of a small amount of alcohol.⁹⁸**
- **Required youth aged 13 or older charged with a felony to be fingerprinted when arrested.⁹⁹**

In a memorandum accompanying S. 7931, making first- and second-degree gang assault a crime punishable by up to 25 years in prison, law makers stated:

For the victims, gang assaults are particularly harrowing crimes. There are, moreover, other compelling reasons for defining new offenses that treat gang assaults with appropriate severity. As criminologists have reported, the incidence of gang assault – particularly gang assaults committed by youths – has been increasing in recent years. Tragically, the term ‘wilding’ has become common parlance....¹⁰⁰

The memorandum found that the fear of assaults committed with the aid of others was tantamount to committing an assault with a deadly weapon.¹⁰¹ As a result, lawmakers believed that gang assaults must be deterred with severe punishment.¹⁰² Similarly, in a letter supporting S.7937, a bill requiring youth fingerprinting, Mayor Rudolph Giuliani declared that the nature of criminal acts committed by young people has changed, and that youth are no longer “solely committing petty thefts or acts of vandalism, but rather are increasingly committing violent crimes, such as armed robbery, assault and even murder.”¹⁰³ He felt that the existing law overlooked serious crime committed by youth, and that it was time for the juvenile justice system to undergo change.

Connecticut’s treatment of youth 16- and 17-year-olds as adults dates back to 1971,¹⁰⁴ while North Carolina’s dates back to 1919.¹⁰⁵ Both states also expanded youth exposure to the adult system during the super-predator era. Connecticut reformed its juvenile justice system in 1995 through the passage of Public Act 95-225. The stated purpose of the act was to “make it easier to transfer” youth 14 or older accused of a felony to the adult criminal court, and to hold youth accountable for their behavior.¹⁰⁶ Similarly, in North Carolina, in addition to the exclusion of youth 16 and 17 from the jurisdiction of the juvenile court, transfer was expanded to youth 14 or older in 1979 through House Bill 474.¹⁰⁷ During the super-predator era, however, North Carolina law makers again lowered the age of transfer, allowing youth as young as 13 to be transferred to adult court.¹⁰⁸

In each of these states, while legislation already was tough on youth crime, the super-predator era allowed lawmakers to further tout the false narrative that Black and Brown children as young as 13 were not simply children, but violent animals deserving of adult treatment.

WHERE DO WE GO FROM HERE?

As crime waves ebb and flow, lawmakers respond out of fear, ignoring logic and the science behind adolescent development and youth brain development. The super-predator era pushed Black and Brown youth into the adult prison system based on false predictions. By 2000, when the surge was to be at its peak, youth crime rates had already dropped by half. However, the responsive tough on crime laws remained in place, funneling more youth into the adult system for decades.

In many states, laws passed during the super-predator era remained in place for decades. In Pennsylvania, youth are still subject to a direct-file law birthed out of the whirlwind accompanying the false predictions of the super-predator. In other states, the changes passed in the wake of the super-predator myth of the 1990s have rolled back. For instance, in 2018 California passed SB1391 which eliminated transfer of youth 14 and 15.¹⁰⁹

Today, history is again repeating itself. Beginning in 2020, the nation saw crime spikes for certain offenses following the end of a global pandemic. While these spikes did not come close to the crime rates in the early 1990s,¹¹⁰ they again contributed to a narrative that crime is out of control.¹¹¹ Policy makers have been quick to attribute this increase to bail reforms and progressive prosecutors who refuse to prosecute nonviolent offenses or seek pretrial detention,¹¹² while ignoring factors such as the role of guns and a spike in gun purchases, as well as socioeconomic and mental health hardships during the pandemic and the months that followed.¹¹³

In response, rather than learning from history, states are again introducing measures to repeal the measures put in place to protect youth. Tennessee recently passed a mandatory transfer provision requiring the transfer of youth 16 or older for specified crimes.¹¹⁴ Additionally, in April 2024, Louisiana repealed its "Raise the Age" legislation. As a result, youth age 17 and older are once again automatically prosecuted as adults.¹¹⁵ Also, though rejected by voters, the Louisiana legislature introduced a constitutional amendment to try more children as adults.¹¹⁶

History is prone to repeat itself if lawmakers continue to swiftly respond to insignificant, time-limited crime spikes without proper research or an understanding of why crime trends have shifted. History has already shown us the harm and failure of

responses that result in punitive sentencing practices and more youth prosecuted as adults. We have witnessed the devastation and disproportionate impact on Black and Brown families, higher suicide rates and higher risk of physical and sexual assault for youth in adult facilities. We have also seen how lengthy sentences strip youth of the opportunity for rehabilitation and contribute to higher recidivism rates for youth transferred to the adult court, debunking the notion that transfer protects and deters crime.

What we have now, that we did not have in the 1980s and 1990s when the super-predator myth took hold, is widespread recognition that children have diminished culpability for offenses they commit—no matter how serious the offense—and have greater prospects for reform.¹¹⁷ We now also have the perspective of hindsight that illustrates the failure of past reforms based on a false narrative. It is time for us to learn from history and push forward enlightened reform reflective of the lessons of the past. Without reform, youth—especially Black and Brown youth—will continue to be unjustly funneled into a broken and severely punitive system.



Endnotes

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7. *Id.* at 24; see also Jackson-Cruz, *supra* note 1, at 1.
8. Dilulio, Jr., *supra* note 6, at 25.
9. *Id.* (Defining moral poverty as “the poverty of being without loving, capable, responsible adults who teach you from wrong...growing up in the virtual absences of people who teach morality by their own everyday example and who insist that you follow suit.” In extreme cases “moral poverty is the poverty of growing up surrounded by deviant, delinquent, and criminal adults in abusive, violence-ridden, fatherless, Godless, and jobless settings.” He further reasoned that kids who are morally deprived are most likely to become criminally deprived).
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