Transforming Police Surveillance of Kids to the Civic Incorporation of Youth

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ABSTRACT

The standard account of policy feedback scholarship centers on self-reinforcing dynamics of social policies: the provision of resources not only promotes economic security and wellbeing, it also enables the individuals and communities directly affected by the policies to engage more constructively with state actors. Criminal justice policies have typically had the opposite effect: they embolden those with interests in a punitive policy agenda, while disempowering those most affected by the policies. This is of particular concern for children and adolescents, whose first encounters with state actors often come through police contact, and carry adverse social and political consequences at a critical developmental stage. In this article we reimagine youth engagement with the state, not only by substantially reducing police surveillance of young people, but by promoting youth attachment to civic life. We call for an investment in institutions, both state-based and community-based, that reinforce citizenship and civic health.

Keywords: policing, criminal justice, youth, civic engagement, policy feedbacks, community-building, race-class subjugation

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The standard account in policy feedback scholarship centers on progressive policies that often generate self-reinforcing dynamics that help them endure. Social provision not only has the effect of expanding human flourishing by insuring good health and economic security, it also enhances political capacity, confidence in government, and a sense that you are a rights-bearing citizen (Mettler 2002; Campbell 2003). Social provision often generates the groups, ideas, and institutions that help to sustain the policies. This feedback is most effective when the policies and practices in question are visible to the public; as social provision takes place through increasingly indirect expenditures there is a risk that progressive policies submerge the role of government, encouraging Americans to see government as distant and inept, thereby undermining strong progressive coalitions (Mettler 2011). The argument, therefore, is that visible policy feedback is desirable because progressive policies often further strong progressive coalitions and “create favorable political dynamics.”

**Policy feedback in the criminal justice domain does not follow this standard account.**

In this policy domain, strong policy feedback has been the rule until recently (Dagan and Teles 2016). Policy designs also do not submerge the role of government. However, in marked contrast to the citizen-enhancing consequences of some social provision, policing practices and crime policies do the opposite: they deter engagement, cement inequality, and confer adverse legal and political socialization. These policies give rise to pitched asymmetries of power – emboldening groups who do not bear the direct adverse effects of policing and punishment and diminishing the power of those who do. The criminal justice domain, then, is one where we need to disrupt powerful feedbacks or move from adverse feedback dynamics (the policies undermine citizen voice by design) to constructive ones – where the policy activates race-class subjugated
(RCS) communities and gives rise to coalitions that could yield a supportive political environment for reform.

In this brief, we outline avenues of transformation of the ‘policing state’ (Epp 2016), with a focus on approaches to youth. Our current political context, and its bipartisan disavowal of the status quo, is conducive to imagining a different arrangement to punitive responses to social problems. Before we outline our proposals – one focused on limiting contact with state authorities of America’s youth in race-class subjugated (RCS) communities and one focused on fostering their civic attachment— it is important to understand the four key ways that broader criminal justice policies and the feedback dynamics they lead to, affecting both youth and adults, are distinct from the feedbacks from progressive policy designs. We then return to the specific experiences and needs of youth in discussing opportunities for reform.

1. Criminal justice policies have generated runaway feedback that reinforces punitive policy agendas and stimulates the power of police.

   The policies put into place by states and the federal government over the last five decades built an incredibly dense set of institutions dedicated to the oversight of vulnerable Americans. Criminal justice policies created a new political constituency, strengthening police unions, correctional organizations, prosecutors, and companies attached to the business of managing and housing inmates and cementing their coordination with one another (Gottschalk 2015; Page 2011; Weaver 2012). Alongside a “punitive” political ideology that crossed party lines, these policies were incredibly easy to pass and incredibly difficult to undo. As many in the criminal justice field know, “when you build it, they will come.”

   The policies – from federal grants for state prison construction to sentencing policies that would keep those prisons filled – gave rise to an incredibly powerful criminal justice lobby and
set of organizations with interests in solidifying their position at the same time as it diminished the power of opponents and displaced the influence of citizens groups (Gottschalk 2015). This feedback was not - as journalistic accounts would have it – simply about the pecuniary benefits for private prison companies, the bail industry, or companies producing electronic monitoring ankle bracelets and TASER; indeed, state governments and the public sector was the primary beneficiary (Pfaff 2017). In some states, as many as one in seven public sector employees works for the state department of corrections and they receive $30 billion in salary and benefits.

The criminal justice policy environment therefore reflects the interest group terrain formed by policies that invested in punishment and surveillance. Federal crime bills, once a rare occurrence and with few groups showing up to testify, soon attracted hundreds of new criminal justice related associations and agencies supporting further endowments (Weaver 2012). This, combined with institutional obstacles to passing progressive criminal justice policy have meant that punitive politics have governed with little opposition until recently (Miller 2016).

This is particularly apparent in policies related to incarceration, by which the state capacity and physical structures to process, house, and release people created abundant spoils for new political interests, which in turn made later policies to further grow the carceral state more likely (Gottschalk 2006; Weaver 2012). But it is also true of policing, even if scholars have been slower to appreciate the policy feedbacks in the lower reaches of criminal justice.

Police have accrued a “considerable institutional presence” and political relevance over the past half century (Epp 2016). We often think of these as the civil rights decades, but they were also the policing decades. Dramatic changes in policing alongside new revenue streams to police triggered an unbridled expansion in the capacity, scope, and authority of police over the past several decades. This created the context for police to assert themselves as a, if not the,
primary institution able to reduce crime, and singular in its authority to deal with urban problems. The “new policing” consensus took hold amidst other important political developments that would shape feedback dynamics, giving police a uniquely powerful status among other bureaucracies. Most importantly, the rise of police professionalization decoupled police from their prior role as in the service of partisan political machines, a development that ironically served to initiate them as active political forces in their own right (Schrader forthcoming). Police “were able to organize themselves as coherent and semiautonomous political actors with their own interests” (Schrader forthcoming), upending the governing arrangement that long existed between police and elected officials and inspired a new political logic. Instead of police being accountable to and working on behalf of the urban political machines, politicians became accountable to and instruments for police demands (Schrader forthcoming). Police organizations became key players in political life and anticrime policies, transforming their new “independence into self-interest.”

At the same time, the massive federal program created by the 1968 Safe Streets and Crime Control Act created new spoils for police agencies (Weaver 2012). These outlays created an even more organizationally adept set of groups and stimulated demand for greater provision. Once adamantly opposed to federal intervention in crime, groups like the IACP, the National Sheriffs’ Association, and National District Attorneys Association became key beneficiaries of newfound resources and in turn, became key defenders of federal funding (Weaver 2012) and they lobbied, monitored policy proposals, and advocated their own model bills from their policy bank (Schrader forthcoming; Epp 2016). As law enforcement capacity grew, so too did their political leverage and centrality in debates, so much so that they faced little opposition or counterdiscourse; by the 1990s, the stances of the IACP and federal policymakers were “virtually
indistinguishable” (Schrader forthcoming, 24). The $8.8 billion 1994 Clinton crime bill was directly responsive to police interests, creating for the first time a direct infusion of funds to pay for 100,000 new officers. The pattern of the federal government generously subsidizing police continued through the later Byrne and JAG grant programs and by the end of the century, the federal government had lavished billions on local police forces, with few strings attached.

What this meant was that the dramatic expansion in spending on police and manpower occurred without an expansion in oversight or regulation. Police received more funds and more insulation from external review. RCS communities and civil rights advocates “repeatedly failed to gain adoption of a federal law bringing local police practices under federal oversight” (Epp 2016, 14). Coupled with a jurisprudence that was increasingly loathe to regulate police practices or limit their contact with citizens, gave police qualified immunity when they engaged in serious misconduct, and even “lent constitutional support to the proactive police enforcement practices” that developed under broken windows theory, the police enjoyed wide latitude characteristic of almost no other public entity (Epp 2016, 26; Lerman and Weaver 2014). Patrol discretion to stop virtually anyone for the thinnest of reasons became a vaunted legal norm. These two enduring features of the policing landscape meant that police enjoyed a radical expansion in the power to stop citizens, and this power was rarely checked. Police received augmented size and authority.

In due course, these “remarkable investments” in police authority and capacity were seen on the streets and in city budgets. City spending on police surged in both relative and absolute terms, from just $82 per city resident in 1951 (or 11.6 percent of city expenditures) to $286 per resident (in constant dollars) per resident (or 16.1 percent of spending) (Epp 2016). Similarly, police departments across the nation saw dramatic expansions in their manpower – from 1960 to 1980, police forces nationally doubled (Weaver 2012). Police agencies today receive a lion’s
share of municipal funds, which have displaced spending on welfare, housing, hospitals, and civic infrastructure (Epp 2016). Just as many aspects of social provision long relied on by the poor were being scaled back or going “underground” through the tax code and through private provision, police provision was receiving generous public expenditure. The structural context was thus set for the visible slide into a criminal justice approach to RCS communities. “By the 1990s,” one scholar concludes, “a national complex of police-supportive institutions linked together the country’s previously decentralized municipal police departments” (Epp 2016, 26).

Influence did not end at police-directed efforts to further endow police with more capacity. IACP, Sherriff’s associations, the Police Foundation, and groups of law enforcement executives quickly became important actors in legislative debates – providing the coordination mechanism across the nation’s 18,000 law enforcement agencies, securing favorable legislation at the national level, as well as abetting local policy entrepreneurs. Instead of controlling crime, they sought to protect their newfound fiscal capacity and autonomy from oversight, and defend police funding and authority against encroachment.

These feedbacks between revenues and police power and organizational influence was integrated into political learning; in 1960, it would have been unimaginable to think that the sprawling group of unprofessionalized and understaffed local law enforcement agencies would be called upon to handle urban problems or the outcomes of collapsing labor markets for the unskilled. Today, however, police are positioned as the default institution to handle all manner of social problems in an era of austerity governance – discovering truant youth, targeting urban poor who skip out on subway fares or jaywalk, making sure tenants and visitors in public housing are meant to be on the premise and not trespassing, aiding in eviction proceedings or removing homeless, dealing with those who are mentally ill, deputized as local immigration
enforcement agents under “show me your papers” policies, and responding to and managing “surplus” populations who violate sprawling local civil codes (Beckett and Herbert 2009), and on and on. In short, the remit of policing expanded from not just policing crime, but ensuring civility. Police have become a central organizing feature of life in urban neighborhoods and their role has migrated into activities once the province of social workers, school administrators, immigration agents, and other public servants. Poor communities too enlisted the police. With some exaggeration, historian Elizabeth Hinton describes the context poor people faced after the demise of the Great Society, “when law enforcement and criminal justice institutions became the last public agencies standing, the police were the service that could be summoned when help was needed” (2016).

Thus, as policing established itself in new roles of monitoring and regulating public space, policing kids, gentrification projects, carrying out the vast expansion of criminal law, and generating revenue for cash-strapped budgets in a time of fiscal austerity, citizen exposure to police oversight was normalized and institutionalized, crowding out other imperatives and evolving a “policing state” that is historically and cross-nationally unprecedented, and breathtaking in its scope and limited accountability compared to other local bureaucracies. That this occurred even as police have been the primary target of two of the nation’s largest social movements in the last century – the black freedom struggle in the 1960s and Black Lives Matter today -- speaks to how established and autonomous police are as a political force.

2. **Policing policies reinforce structures that disempower race-class subjugated communities and create adverse policy feedbacks for citizen voice and the reproduction of social inequality.**
Criminal justice designs diminish voice and political clout in several overlapping ways. At the broadest level, five decades of investment in the criminal justice arm of government has starved state budgets and soaked up the resources that could have remedied historical oppression and the collapse of the manufacturing sector. At a political level, the consistent investment in a one-size-fits-all approach to crime truncated the array of responses to crime on the political agenda (Miller 2016). Unlike conventional social policy, criminal justice policies redistribute financial resources away from poor families, both by directly extracting resources from justice-involved individuals, and by allocating funds to the organizations and locations where justice-involved individuals are held and processed, rather than those in their communities of origin. Instruments known as ‘legal financial obligations’ lead to a massive financial drain on families who are the “safety net of last resort” of justice-involved people (Katzenstein and Waller 2015; Friedman and Patillo 2019; Harris 2016). Policing of minor infractions and civil code violations have similarly saddled low income residents with fines and fees, a practice exposed by the DOJ’s Ferguson report but that finds expression in cities across the nation (Gordon and Hayward 2016). “Broken windows policing,” one scholar rightly argues, “compels impoverished people to spend money on bail bonds, legal transcripts, appeals, attorneys’ fees, and visits to prisons” (Lipsitz 2016, 124).

The policy feedback of citizen interactions with police and carceral institutions for individuals and communities have been a concern for social scientists over the past decade. The political effects of carceral state policies are nefarious beyond just disguising the role of government (Mettler 2011): arrests and incarceration result in decreased political participation and engenders mistrust in government among individuals and communities (Lerman and Weaver 2014; White 2015; Burch 2013); isolation from important civic, governing, and social
institutions – called system avoidance (Brayne 2014); isolation from social networks (Rios 2011; Stuart 2016); and the segregation of space (Capers 2009). As we discuss more in the pages to come, policing interventions have corrosive effects on core democratic attitudes and legal socialization among youth. In a process she terms “legal estrangement,” Monica Bell argues that people and communities facing aggressive policing who have limited options for remedying harms done are likely to disengage from civic participation more broadly; the voices of communities most affected by aggressive policing therefore don’t get heard (Bell 2018). And because heavily policed places tend to have less community capacity and collective efficacy, key factors in crime prevention, and more jobless men returning from incarceration, they may have more crime in the long run due to criminal justice intervention (Clear 2009). Ironically, this may create a “need” for subsequent criminal justice interventions.

In sum, criminal justice policies kept the civic power of the poor low and distorted the democratic norm of equal voice. By removing people and communities from our political system – informally and formally -- it undermined accountability of leaders and groups to their interests. Together with its reproduction of inequality and the economic devastation wrought from incarceration and policing’s material consequences, this feature continues to limit the capacity of RCS communities to resist punitive policy designs and police-supported initiatives. And because the negative feedbacks are concentrated on those with the least power and mostly invisible to those communities not interfacing with criminal justice routinely, coalitions are difficult to sustain.

3. **Criminal justice policy designs (and resulting institutional arrangements) inhibit reform and aid expansion by distorting who decides policy, who pays for prisons and policing, and who benefits.**
The political and electoral institutions of the United States are heavily implicated in punitive criminal justice policies, the lack of poverty-reducing welfare state, and our responses to extreme rates of serious violence in a cross-national perspective (Miller 2016; Gottschalk 2015; Lacey and Soskice 2013). We have an institutional context and political system that made partisan “punitive bidding wars” or “law and order arms race” more likely and made blocking comprehensive social policy easily accomplished (Murakawa 2014; Miller 2016; Lacey and Soskice 2013). In contrast to other democratic nations, the United States’ “highly fragmented, racialized political system…. Makes it easy to decouple crime and violence from other social conditions” giving rise to “policies aimed narrowly at punishing offenders rather than reducing the likelihood of victimization and other forms of risk” (Miller 2016). These structural constraints and political features have meant that “cleaving” off the most punitive policies from other proposals to deal with social risk occurs again and again in our political system.

Who decides policy is skewed; home-voters in suburbs decide the criminal justice policies that largely affect the cities (Stuntz 2010; Pfaff 2017; Lacey and Soskice 2013). In our federal system, groups that represent the communities most affected are not as well-heeled as groups representing those who stand to gain. Scholars have shown that policy debate at the local level is a more even playing field but a lot of the action happens at the state level where local groups have less access (Miller 2008). And even at the local level where community groups are more visible, police unions have exerted outsized influence in policies related to policing, and opposing measures that stand in the way. They are active in elections, sought out for endorcemnts and donations, and lobby elected chambers for favorable legislation or to impede reform of their practices. Although their influence on election or policy outcomes has been curiously understudied, and scholarly understanding of their clout is limited, police unions are
important to understanding the consolidation of police power, the policy bias toward their interests, and the challenges encountered by those who wish to rethink police authority and its scope (Holgers and Yu, 2019; Kupfer, 2018; Douthat, 2015; Bernd, 2015).

For generations, intellectuals and activists of color have argued that those most failed by police practices must be a central part of the solution. Groups that represent those most affected are often silenced and missing from agenda-setting. They receive little of the federal resources. And they have an entirely different perspective (Miller 2008). For example, subaltern activist groups offer an unheard alternative to traditional framings and bipartisan rhetoric about being “smart on crime”, “risk assessments”, and renewed calls for procedural justice training, claiming instead agendas that were abolitionist and redefining the system one of state predation, New Jim Crow, and neoliberal extraction. Instead of grants for “diversion” programs, they authored “freedom budgets” that would repurpose bounties received by institutions tied to the criminal justice system to investing and spending on better schools and jobs and community infrastructure.

Who pays for the system is also skewed. Decentralization in the US system has important implications for crime policies, generating a ‘pass the costs upstairs’ dynamic (Lacey and Soskice 2013). When police make arrests, local prosecutors file the cases but their local government often does not foot the bill for their decisions – the state does. Which means there is little financial reason not to file as many cases as possible. (It also means that it is cheaper to pursue a felony sentence, than a misdemeanor because, as John Pfaff points out, the latter means a county-funded jail stay while the former means a state-funded prison stay.) While states pay the costs, they get weighty subsidies from the federal level. Given that cities don’t finance incarceration, politically, local office seekers can pursue popular tough on crime policies
benefiting their communities without ever having to see the direct costs (Lacey and Soskice 2013, 13). They get the benefits while not internalizing the costs. Thus, there is a built-in incentive to ramp up. In the youth context, this dynamic is acute; for example, when states like Michigan considered how to reduce adolescent exposure to adult courts and prisons in a package of “raise the age” reforms, they faced the political dilemma of how to pay for it without making counties assume a significant new financial burden (the state pays for adult probation and prison but the counties pay for juvenile justice) and ultimately the legislation failed. And the opposite is also true – there are few cost-based incentives to radically reduce crime control spending because of a “converse feedback blockage.” As Nicola Lacey and David Soskice explain about the implications of decentralization for financial incentives, the “cost-savings produced by an effective crime prevention strategy at the local level will have to be massive before they register with police-makers at the state level” (2013, 10). In other words, passing the cost savings upstairs is just as difficult as passing the costs upstairs is easily accomplished. But this same structure militates against local social provision, explaining why same local voters are less likely to support local policies that invest and goods provision that ameliorates high crime and social risks underlying crime (Lacey and Soskice 2013).

Who pays for the system is also skewed in another key respect. As already mentioned and as documented by new work on the political economy of policing, the families and communities that are the most vulnerable to police surveillance and incarceration increasingly bear the financial burden of these very systems. From asset forfeiture to victim restitution to exhorbitant municipal fines and fees imposed by police to court fees and money bail, arguably the communities least able to pay are the very ones being enlisted to shore up flagging municipal budgets (Katzenstein and Waller 2015; Harris 2016; Gordon and Hayward 2016). After
Ferguson exposed the collusion between city managers and police to generate more revenue for the city, it became clear that many other cities had perfected the practice of directing the assets of poor residents into city coffers: “the top twenty-one ‘collectors’ [in St. Louis county] were municipalities that generated at least one-third of their revenue from court fines and fees, where, on average, 62 percent of the residents were Black and 22 percent lived below the poverty line” (Camp and Hetherton 2016, 30). Other costs, too, were foisted onto the justice-involved, like the $26 payment one pays if police deploy their taser on you in the state of Missouri (Gottschalk 2013) or the many “pay to stay” jails across the country.

4. **Progressive reforms of the criminal justice system often end up expanding it.**

Carceral expansion and positive feedbacks have been a thoroughly bipartisan project. Liberal organizations and political leaders have aided the amplification of police power and state projects to criminalize mundane behavior (Hinton 2016; Gottschalk 2015; Murakawa 2014). From the pursuit of “law and order with justice” in the 1960s to the drug wars of the 1980s, the left jointed the effort to expand federal authority for criminal justice. Liberal reformers often unwittingly enhanced carceral state power, bureaucratic administration, and institutional capacity; time and again, they “actively grow the carceral state in an attempt to regulate it.” Many of the progressive reforms in the 1960s were meant to professionalize the police, regulate abysmal prison conditions, or even fix the worst racial disparities, but ended up justifying expansion and new institutional capacity (Murakawa 2014; Schrader forthcoming). Sometimes, this dynamic is the tragic outcome of a system that ‘selectively hears’ (Hinton, Kohler-Hausmann, and Weaver 2016) and responds to the demands of race-class subjugated communities, as when Black local policymakers sought an urban Marshall plan and greater policing; they got the latter in spades without the former (Forman, Jr. 2017). CompStat, broken
windows, “community policing,” even the first major grant programs to aid state criminal justice reforms all trace their beginnings to liberal organizations and efforts to make the system more procedurally just, “efficient”, or “evidence-based.” School Resource Officers (SROs) and partnerships between school districts and local law enforcement agencies became common in the 1990s not only with the purpose of order and safety, but also to encourage positive interactions between youth and police, and potentially improve police-community relationships (Owens 2017). But in so doing, liberals helped construct one of the most incredible uses of state power in our time (Murakawa 2014) and the dynamic of liberal net-widening continues to be observed in the current reform moment.²

This point is not to harangue elite liberal politics; it is to recognize that the political and economic benefits of carceral expansion were enjoyed across the political spectrum and any effort to pull back the carceral state must grapple with this feature of partisan criminal justice politics. At the local level, progressives have relied heavily on the police to support redevelopment and defend gentrifying neighborhoods, segregate urban spaces and protect business interests, and increase property values (Stuart 2016). And nonelite whites and impoverished white communities almost certainly directly benefit from high, racially concentrated incarceration. The criminalization of black bodies, Paul Butler argues, “is something like an employment stimulus plan for working-class white people, who don’t have to compete for jobs with all the black men who are locked up, or are underground because they have outstanding arrest warrants, or who have criminal records that make obtaining legal employment exceedingly difficult” (2017, 12). Towns in rural America that got a prison had a less sharp economic downturn than those that didn’t (Eason 2017). To dismantle carceral institutions, then, “white people lose – at least in the short term.”
It is also to recognize that problematic policy designs were generated in liberal circles because they often prioritized working within the existing system, adding to it rather than redefining the role of the state. For example, the bipartisan coalition that has supported reforms in recent years based on cost considerations promotes a “government is too large and spends too much” discourse that will threaten the kinds of investment needed to not only redact policing largesse but build real opportunity and power in places without it.

The Need for Reform

In summary, the biggest problem with our criminal justice system is not cost or its inability to enhance public safety. The biggest problem is that those who are most affected have the least political power. Moreover, unlike most progressive policy feedbacks, the feedback generated by criminal justice policies serve to further disenfranchise and displace from political consideration those most directly affected. Youth in particular can’t vote, and in many places, neither can some of the most impacted adults. Others may be able to vote but live around many neighbors who can’t (Burch 2013), when they do, they are selectively heard (Hinton, Kohler-Hausmann, and Weaver 2016); and when they organize against police violence, they are told they are violent. And they live in unremedied structural violence, sometimes across generations (Sharkey 2013) – the lead-filled water, the schools that don’t have heat in winter, and the jobs that don’t pay. Because they don’t enjoy policy agenda access and power at the levels making criminal justice policies, reform efforts have not recognized and may continue to ignore their lived experience and evade the deeper reforms needed.

Although the policy feedback challenges described above largely affect both youth and adults, we argue that young people have unique and understudied experiences that require specialized attention. The punitive consensus has started to give way; however, the policing of
youth consensus has not, even as policing faces a legitimacy crisis among the next generation. In
the many reform platforms being touted, one is hard pressed to find any mention of youth
exposure to police at all, despite the fact that it constitutes much of the exposure Americans have
with police and acts as a force multiplier on social, economic, and political outcomes. It is even
more striking that the more modest endeavor of enhancing civic capacity of disadvantaged youth
in the near term alongside scaling back policing has not been proposed. Depolicing without
actually dealing with the high and racially disproportionate risk of violence in RCS communities
or the chronic disinvestment of resources may reduce police power while “denying the structural
features of the criminal justice system and the political economy that constrain opportunities in
the first place” (Schoenfeld 2018, 228).

Therefore, our approach should combine reducing our reliance on punitive forms to deal
with youth with building citizenship-enhancing civic infrastructure in working class and poor
communities. Such an approach demands that we first see carceral reforms as linked to other
aspects of state failure (Miller 2016)– the places that have endured state failure in schools, jobs,
health, treatment, even water provision– often for generations - are the places enduring
expansive surveillance and punishment. And it demands that we confront distributions of power
head on; the places and people this nation has abandoned, are also the easiest to abuse.

**Possibilities & Concrete Prescriptions**

Much of the conversation related to criminal justice reform has centered decarceration.
The policy space is full with viable and ambitious ideas for overhauling the system at all levels
to reduce our reliance on prisons. Most progressive reform efforts are focused on the tail end of
criminal justice: incarceration or imprisonment or sentencing. Look to the front end, however –
policing, misdemeanor justice, encounters that occur before conviction – and you see the
disappearance of conservatives from the coalition, and the conversation quickly moves to improvements in technology – body cameras – and away from people or investing in the social roots of crime. But the front end, we argue, is even more important, not only because it creates the “sample” for the back end but because it contains a lot more discretion, a lot more innocence, and a lot more kids. Because of this, reform is more plausible, potentially impactful, and more disruptive to the adverse feedbacks we describe above.

**Make Contact with the Criminal Justice System a Last Resort for Minors, using other institutions when necessary**

When we think of criminal justice interventions, we might imagine adults or those at the brink of adulthood. But this isn’t right. **Policing, in America at least, is a childhood intervention.** When we think of police stopping Americans, we should instead conjure up an image of a 14, 12, or even 10 year old. The figure below documents the age distribution at onset of first police contact in a study by Vesla Weaver and Tracey Meares. Most were under 14. And the “dosage” of contact was strong and enduring: of those who were stopped before adulthood, 50.4 percent reported being stopped over 7 times. In Chicago, a team of sociologists did a large survey of 18,000 students; half had been stopped by police upon reaching ninth and tenth grade and a quarter had been searched (Hagen, Shedd, and Payne 2005).

![Figure 1: Age of Onset of Self-Reported Police Encounters, Portals Criminal Dialogues Project](source: Portals Criminal Justice Dialogues Project)

This is consistent with the findings of nationally representative studies. One in *Pediatrics* made headlines, finding that fully one-third of all Americans experienced an arrest by age 23 using the National Longitudinal Survey of Youth (Brame, et al. 2012). A study using the Fragile Families and Child Wellbeing Study year 15 interview of teens found that 19 percent of
youngsters reported being stopped by police (Geller 2019). The average age of their first police encounter was between 12 and 13. These overall percentages grow more extreme once we look at racially subjugated groups of youth. For instance, in the study of Fragile Families, 39 percent of black boys reported being stopped by police by this young age (compared to 19 percent of white kids) (Geller 2019). The findings of a black/white gulf among boys were “robust to controls for peer and family circumstances.” In another, black youth not engaged in offending were more likely to be stopped and searched than white youth who did engage in crime (Sentencing Project). “Black boys are policed like no one else,” one legal scholar argued recently, “not even black men” (Henning 2017, 58).

Police stops are neither momentary nor neutral encounters with street-level bureaucrats, a quick check in to make sure adolescents are not up to illicit behavior. As we discuss in greater detail below, they are moments of humiliation, state force, and racial learning (Shedd 2015; Rios 2011; Brunson and Weitzer 2009; Andersen 1999; Brunson and Miller 2006; Carr, et al. 2007; Butler 2017; Jones 2014). Qualitative accounts underscore that these early encounters give a lasting memory of the state’s potential for violence against your person or community – see sidebar. Devon Carbado describes these moments as a “racial naturalization”; Paul Butler describes that young men experience frisks and searches as a moment of sexual terror (2017); Nikki Jones understands routine searches by police of adolescents as sending “the message that a Black, young, male body is state property” (2014, 45). The quantitative findings above reveal that youth experience of being stopped or arrested by police is widespread across racial groups. But blacks experience qualitatively different treatment during such stops (Brunson and Weitzer 2009); according to an analysis by one of us (Geller 2019), fully 12-14 percent of black boys had their bodies patted down or searched by police and placed in handcuffs, compared to a miniscule
share of whites (see figure 2). Hostile language and racial invectives were often used. Undertones of violence surrounded these encounters.

[FIGURE 2: POLICE STOP EXPERIENCES AMONG BOYS IN THE FRAGILE FAMILIES AND CHILD WELLBEING STUDY Source: Author’s Analysis of Year 15 FFCWS data.]

These prevalence rates are not unique to self-reports in retrospective surveys. Police collected data on officer stops from 2006-2016 in New York documents that police stopped over 700,000 adolescents; to provide a sense of how large that is, it approximates the number of stops of adults in the 25-30 year old group. Most minors approached by police were in the tail end of adolescence (15-17 year age range) but even in the youngest age range of 10-13 year olds, police recorded 27,000 stops. Presented instead as a rate indicates that black 15 year old boys were stopped by police at a rate of over 600 per thousand students in public schools (compared to under 200 for whites) and arrested at an alarming rate of 170 arrests per 1,000 students (compared to 50 per thousand for white boys) in the years 2004-2012 (Legewie and Fagan 2019).

Not all of these stops were by police officers stationed in schools, however. Black and brown kids are much more likely to be arrested in school through the NYPD’s “School Safety Division”. In 2012, black kids made up under a quarter of the student population in New York City but were 63 percent of arrests and summonses in school (Vitale 2016, 168). During these stops, black teens were exposed to more violence than whites of all ages combined, even after controls for their behavior were included (Kramer, et al. 2017). Tamir Rice was not an outlier.

Research by policing expert Jeffrey Fagan (2010) has demonstrated that a large share of these stops are unconstitutional and a miniscule share generate an arrest or summons (indicating that the stop may have been reasonable but lacked an evidentiary basis for a formal charge).
Many of those youth stopped by police were stopped for something that could have been handled without legal intervention.

[FIGURE 3: POLICE STOPS OF YOUTH IN NEW YORK CITY, 2006-2016. SOURCE: AUTHOR’S ANALYSIS OF NYPD DATA. Source: Author’s analysis of NYPD data.]

Evidence from other cities abounds. Chicago police recently made the news when it was revealed that they had placed 33,000 children as young as 10 on a list of gang members. Cincinnati police are being investigated for using a Taser on an 11-year old girl in a store. New York City is under legal scrutiny for routinely seizing and indefinitely storing the DNA of youth who are arrested but not convicted, retaining their genetic material in a growing city database (Joseph, 2019). Police in Riverside County, California were sweeping up “pre-delinquent” and “at risk” youth into a probation program based on violating a non-criminal school code for not obeying “reasonable and proper orders or directions of school authorities”; if they didn’t adhere to strict requirements of the program, they would be referred to the district attorney (Townes, 2018). And in many municipalities, police officers and routines have been increasingly inserted in social service agencies, community institutions, schools and other spaces that do not serve a crime-reduction purpose but increasingly make ordinary spaces into places for surveillance and provide multiple “on ramps” for youth into the criminal justice system (Rios 2011; Stuart 2016).

Experts have known about the policing of youth for some time and have done little to counteract it. In his widely cited 1993 article, Lawrence Sherman describes how young minority males were heavily exposed to “police disrespect and brutality, both vicariously and in person, *prior* to their peak years of first arrest and initial involvements in crime.” We’ve known it since our earliest longitudinal cohort studies started interviewing, finding that 36 percent of those in the 1979 cohort stopped by police were stopped at age 15 or younger, before the rise of broken
windows policing (Bureau of Labor Statistics 2014). And we’ve known it in virtually every national and local commission focused on policing since Kerner – that found that many of the cities went up in flames revolted because of police violence toward a black kid. It was thus fitting that Childish Gambino’s recent viral video “This is America” featured police violence in the backdrop of black kids dancing in school uniforms.

What transpired to catalyze such high rates of youth surveillance? To develop a youth-appropriate policy response that can route the young towards civic-enhancing institutions requires understanding the political forces that amplified youth surveillance in the first place.

The Transformation of Policing of Children

The policing of children was designed by policy, supported by legal institutions, grounded in a theoretical justification, and encouraged by new policing practices. Over time, several important shifts in both schools and policing led to an expansion in the surveillance of youth.

On the heels of one of our nation’s biggest challenges to police power during the resistance of the 1960s, a few pages by two academics in an American literary magazine would utterly transform the logic of policing in our nation and more importantly warrant a vast expansion of state authority into RCS communities. Under the broken windows theory, policing pivoted sharply toward minor violations of order, targeting not serious threats to public safety but rather seeking out the possibility of crime by enforcing codes against disordered people and places (Camp and Hetherton 2016; Wilson and Kelling 1982). Most major cities across the nation rolled out “quality of life”, zero tolerance, or order maintenance policing, shifts affecting adults and youth alike. As a result, high-volume stops and petty arrests and profligate citations
for misdemeanors were weakly correlated with crime but showed a strong connection to race, poverty, and place.

Policing also had a friend in our nation’s highest court landmark policing cases, which have effectively deregulated policing and have encouraged police stops of citizens based on the thinnest of reasons. It was also bolstered by the hundreds of civil ordinances that invite police to make contact with Americans for virtually any or no reason at all, based on the criminalization of ordinary behaviors. Michael Brown of Ferguson was violating a “manner of walking” law, a law making a crime out of gait.

It was also around this time that several prominent policy experts trained their eyes on young people, constructing a new discourse around black young “superpredators” who were “not merely unrecognizable but alien” (DiIulilio 1996). They predicted a coming crisis, with young predators terrorizing the streets, uniquely brutal and “without remorse,” and resistant to rehabilitation. Such sensational public claims never materialized – indeed, violent offending by youth declined sharply since the mid-1990s – but they did ensure a swift increase in attention to youthful offending and gave justification for policies and practices that targeted youth and children for routine behaviors that had previously not elicited police attention. Soon, status offenses became invitation for police rather than school administrators or counselors or parents.

The structural context also helped ensure the superpredator discourse could be implemented as policy. The policies and institutional arrangements discussed in the beginning of this essay were important foundations for police capacity; so when DiIulilio and others advanced the superpredator idea, police were institutionally able to focus on kids.

As the “new policing” was taking shape on the streets in poor and historically oppressed neighborhoods, school environments also embraced a more punitive, surveillant logic. “Zero
tolerance” school discipline policies became di rigeur along with the adoption of “school
resource officers,” or SROs. It used to be that security guards were positioned at schools to keep
the children within safe from external forces; now, SROs were enlisted to police the children
within schools. With substantial funding flowing from the COPS program, over 6000 new SRO
positions were created from 1999-2004 (Owens 2017). Today, just over a quarter of all schools
employ SROs within their buildings and representative samples of youth find that more attend
schools with a police officer in their school than a security guard (Fragile Families data). Indeed,
a new report told of a shocking development: 1.6 million students attended schools without a
single school resource counselor that also had a law enforcement officer patrolling onsite (Blad,
2016). (Many more attended schools with both.)

Given what we know about the racial targeting of school discipline and suspension, the
children who encountered such environments of stripped down services but muscular
surveillance were black and brown. A number of studies have established that while the role of
law enforcement in school has increased across the board, 85 percent of black students attend
schools with harsh disciplinary environments where police surveillance, monitoring, and control
is extensive and normative (Shedd 2015; Bruch and Soss 2018). Discipline follows, not leads,
the use of armed school police. For example, schools with an SRO on staff have “5 times as
many arrests for “disorderly conduct” as those without (cite?). In Los Angeles, which boasts one
of the largest police systems in its unified school district, youth received over 10,000
misdemeanor tickets in a recent year for school-yard fights and other youthful conduct and
almost half were meted out to kids under 15 (Adams, 2013).

Many school environments today are policed, criminalized spaces. In addition to the
10,000 police officers in schools, schools are increasingly initiating juvenile court referrals;
students pass through metal detectors on their way to government or art or band; and sweeps of lockers by drug-sniffing dogs are routine. NYPD employed a police force in schools that is larger than the forces of major European cities. Instead of upholding the Deweyan ideal that schools be “called upon to produce a more competent, engaged citizenry, underwrite a more egalitarian political order, and function as local sites of democratic public engagement,” they have become places that organize more authoritarian than democratic relations, giving students instead experiences of criminal authorities (Bruch and Soss 2018).

The new policing and criminalization of youth in schools began to be reflected in amplified arrest rates among youth net of criminal offending. We examined different cohorts of youth in a national longitudinal survey and found that exposure to police arrest grew substantially; in 1979, 11 percent reported being arrested but among the cohort coming of age two decades later after a period of substantial crime declines, almost a quarter had been arrested. This shift reflects policy changes in policing. Even more important, though, is that the relationship to offending transformed. Arrest exposure is conditioned less on patterns of behavior than in prior generations (Weaver, Papachristos, and Zanger-Tishler 2019). Our system slipped from one where police involvement was a relatively good proxy for offending to one where a bigger share of young Americans experienced arrest even though they reported no illegal acts. This transformation in the relationship between crime and criminal justice contact changed dramatically in one generation. The figure below shows predicted probabilities of arrest at different levels of criminal offending for two generational cohorts on either side of the rise of broken windows policing. It reveals a sharp generational shift between those that came of age before and just after the major shifts in police capacity and practices. Committing few to no crimes in 1979, one has close to a zero probability of arrest in 1979; by 1997, it is a 20 percent
This relationship also became racially inflected over time—blacks had a much higher probability of arrest than both blacks of generations prior and whites of the same generation.

[FIGURE 4: PROBABILITIES OF ARREST AMONG TWO GENERATIONAL COHORTS, BEFORE AND AFTER BROKEN WINDOWS POLICING. Source: Reproduced from Weaver, Papachristos, and Zanger-Tishler, 2019.]

We have hinted at the idea that police contact and arrest in youth is a defining feature of social stratification and adverse political learning. Before we discuss how a transformation in the policing of children might take place, we first describe the uniformly negative outcomes of youthful police contact based on a substantial evidence base across law, sociology, economics, health, and political science. Police encounters have widespread effects but they are “particularly consequential for youth” (Legewie and Fagan 2018, 4). Rather than making them safer, these policies put youth at risk of state violence and worse outcomes.

The Damage of Police Contact On Youth Outcomes

Exposure to young adults to these policing tactics is woven into the developmental landscape of children and adolescence, potentially skewing their socialization to law, legal actors, and underlying social norms—(Geller and Fagan 2019, 28).

Being confronted by armed state authorities does substantial—sometimes irreversible—harm to a child in their most “impressionable years.” It interrupts normal adolescent development. Ample research has now shown that police encounters (even those not leading to arrest) affect the health, mental wellbeing, educational achievement, and economic prospects of the young, not only beyond the encounter itself, but potentially well beyond their adolescence.
Police encounters affect child development. For example, researchers have observed PTSD symptoms among teens who have a police encounter that are “robust to controls for the factors that select the teens into contact with the police” (Geller 2018). Teens reporting police contact also report greater levels of anxiety and depression symptoms than their counterparts with no contact (ibid; see also Sugie and Turney 2017 on how criminal justice interventions act as a stressor that leads to worse mental health).

Police contact has disastrous effects for educational outcomes. Children who experience an arrest are two times as likely to later drop out of school (some schools can use an arrest to expel students) and obtain 1-1.5 less years of education (Kirk and Sampson 2012). Children who lived in a high policing zone saw their test scores drop (Legewie and Fagan 2018). That study used variation in the timing of the rollout of a police surge that encouraged officers to “conduct high volumes of investigative stops” and sent 1,500 more police officers to these areas, many of whom were fresh out of the academy (Operation Impact); in these impact zones stops of pedestrians by police increased by 34 percent for blacks and 15 percent for Latinos. Arrests for minor violations also surged. The very same black male student prior to and after the implementation of the saturation policing program showed a substantial decline in math and reading scores.

Among those who do complete schooling, an arrest record imperils access to higher education or jobs, acting as a strong negative credential. Adolescents and young adults who experience being charged with an offense have 20 percent reduced earnings as adults (Human Impact Partners 2017). For all the attention to “adverse childhood experiences” (ACES) in public health, police encounters do not make the list, but they should. And this is to say nothing of the
effects of incarceration on children, pulled into focus by Kalief Browder’s suicide after waiting for three years in Riker’s to go to trial – he was 16.

Police involvement channels kids into more surveillance and system embeddedness. The criminal stigma of arrest tends to attach to youth and follow them. Police contact with pre-teens and teens makes them more likely to be sought out for police intrusion and oversight later through what sociologists refer to as a labelling mechanism – they are tagged as troublemakers and thus more likely to draw police gaze (Liberman, Kirk, and Kim 2014). Once a kid experiences an initial arrest, they are 7.5 times more likely to be re-arrested; this effect occurs independent of being currently engaged in crime giving rise to a “secondary sanctioning” process (ibid). In other words, the later arrests occur due to the independent effect of being initially labelled by police; those with similar levels of delinquency were less likely to get caught up. Other studies have found a parallel trajectory among youth who experience arrest in their early teens – they are 20 percent more likely to be incarcerated, and 10-12 percent more likely to be arrested in adulthood (cite).

Thus, policing of youth not only reflects inequality, it reproduces it. If the effects remained there, we might design methods of interrupting the vicious cycle of system involvement giving rise to more system involvement. But police contact also has more pernicious effects. It converts existing disadvantage into political marginalization and racial injustice. We refer to the fact that many people who have contact with police are formally cut off from the democratic process; owing to being under supervision or disenfranchised, only one in five young blacks who didn’t finish high school cast a vote in 2008 election (Petitt and Sykes 2012).
Beyond formal disenfranchisement, though, police contact restructures the citizen/state relationship. Police stops are dramatic “occasions for political learning” where youth incorporate lessons about how public institutions operate and position them, lessons that cultivate deep distrust and racialized alienation from the state and erode civic skills. In one of the first empirical studies on the topic, Lerman and Weaver argued that police encounters helped transform the lived experience of citizenship by exposing people to institutions with an anti-democratic character (2014). They empirically demonstrated that contact with criminal justice results in lowered levels of trust in political actors and institutions, a diminished sense of standing and equality of chances, a reduced faith that the state will respond to their needs, and lessened engagement in civic and political life. Even minor contacts with police and arrests is associated with political withdrawal. In a similar vein, Justice and Meares argued that the criminal justice system “educates” its subjects in “anti-citizenry” and endows people with a “hidden curriculum” of how government works (2014). Other studies, too, began to document political withdrawal and “system avoidance,” the idea that residents who have been singled out by police recoil from institutions beyond the police, including medical, labor market, and financial institutions and develop habits of “ducking and dodging” and going underground (Goffman 2014; Brayne 2014).

Criminal justice institutions are also a key site of racial socialization – where what it means to be black is conveyed and learned, mostly involuntarily. Even after accounting for a range of relevant respondent characteristics, blacks who undergo adversarial contact with law enforcement and criminal justice were much more pessimistic about racial equality in America, more likely to perceive widespread discrimination against themselves and their group, and more likely to believe the prospects for their group were severely limited (Lerman and Weaver 2014).
Carla Shedd’s book length study illuminated the narratives and new worldviews surveilled youth develop and the feelings of powerlessness and heightened perceptions of racial injustice (2015).

For example, let us look briefly at dispositions toward government in a study of youth and young adults aged 15-25 (Figure 5). In these data, 64 percent of respondents reported having been stopped by police and 24 percent reported being arrested. We found that youth who had been stopped by police were less likely to believe in equality of opportunity and more likely to believe government cared very little about people like them, and that government treated immigrants better than its own black citizens.

[FIGURE 5: PERCEPTIONS OF GOVERNMENT AND EQUAL OPPORTUNITY.

Source: Author’s analysis of Black Youth Culture Survey. Black and Latino respondents only.]

The early experiences of police can continue to shape ideas about government and civic aspirations into adulthood. Bruch and Soss have documented that experiencing punitiveness early on through school disciplinary practices negatively affects later odds of voting and trusting government and that “young adults may carry their school-based evaluations of authority with them into young adulthood, and generalize them to government as a whole” (2018, 48).

Ethnographic accounts of highly policed neighborhoods, though they do not focus on political alienation per se, show that young men learn lessons about state dominance and arbitrariness, inhabit a criminalized identity, diminish future expectations, and incentivize habits in toxic masculinity, avoidance of people and places, decimation of social networks, and constricted mobility through the neighborhood (Rios 2011; Shedd 2015; Stuart 2016; Goffman 2014). Police stops of youth communicate to these kids that they are not seen as children, that they are “dangerous, feared, worthless, and have no real future” and should be singled out for
surveillance; they confirm expectations that they will end up in the system, that they are regarded
by state authorities as suspicious, deserving of oversight and scorn, and marked as citizen pariahs. In response, they take up elaborate strategies to minimize their encounters with state authorities, habits that trouble the extent of their freedom of association, movement, and right to privacy.

Closely related to political socialization is legal socialization. Legal scholars have documented how police interventions give rise to lower reserves of trust and that aggressive encounters that are perceived as unfair lead people to have less faith in the legitimacy of law enforcement.

In Their Own Words – Childhood Encounters with Police

I've been having problems with them since I was 12. I've ... I will remember this day because it was my first police interaction. They ran past us and the police just came and just grabbed up me and my cousin. We like, we not with them. We don't even know them. ...And I remember this officer. He a real big dude, like, I was scared as shit. I was 12 years old. I thought I was gon’ die. [18 yr old black woman in Milwaukee]

The first time the police stopped me I was 11 years old and they stopped me ‘cause I was playing water balloon fights, with my friends, during the summer. And, um, they handcuffed all of us, they paraded us in front of the community, they had the helicopter on us, and this was like a group of 11 years olds. Like, nobody was older than 13. And, like, they had guns on us, like they pointed a gun to my head, and they threatened our lives. [23 yr old black man, Baltimore]

At a young age, like twelve years old, I, I experienced the police, they come in, into my house, they lookin’ for one person but still they feel the need to put a gun to the head of a twelve-year-old, and I’m, that’s my first time seeing a gun, and it’s like, wow, this is what I’m exposed to, like just predetermined by who knows what, but not me being a young person. ‘Cause, I just, I just hit nineteen, I just finished high school, and I’m, I’m tryin’ my best to be a positive influence on my, my community and really do something big. [19 yr old black man in Milwaukee]

When I was about 14 and 13, I always been a full figured girl. The police would stop me when I was walking outside with my friends at night, “Are you a prostitute?” Ask me questions like that. I’m a 13 year old girl at the time. [18 yr old black woman in Milwaukee]

Eight years old was my first time getting pulled over, nigga for, you know what I’m saying, like walking with a group of other little niggas. We was out in the hood, like, playing around with sticks and we all was wearing like the same colors and shit, you know what I’m saying, just to match each other because we was all friends type shit. But what they put that on? We gang banging, they just called us Vice Lords... we wasn’t doing that shit. [Chicago man]
intrusive stops by police have a corrosive effect on police legitimacy among youth, and lead to legal cynicism and legal estrangement, a relationship that is not explained by youthful offending (Geller and Fagan 2019; Tyler, Fagan, and Geller 2014; Bell 2017). In other words, they are less likely to have respect for the law or believe in the “moral authority and fairness of law.” For example, among those who reported being stopped by police in the Fragile Families year 15 data, 59 percent believed “the police create more problems than they solve” compared to about one-third of those who had not been stopped.

In sum, we are hard pressed to find another policy domain within or beyond criminal justice where the clear and detrimental effects of our approach are so mismatched with the lack of any benefit for the public. These stops have yielded bad safety outcomes while virtually ensuring that these teens have worse future prospects (cf Braga). Youth surveillance is a policy failure.

Moving away from Policing as the Unofficial Childhood Policy of the United States

Police contact in race-class subjugated communities may be considered the unofficial childhood policy in the U.S., rivaling contact with other institutions especially as other social protections and civic infrastructure for kids contract. Yet, this has largely not been a focus among researchers or criminal justice policy experts (with the exception of work cited here). Policies recognizing the prevalence of police contact with youth have sought to limit the damage of such encounters, not radically scale them back. States like Texas and New Jersey adopted bills that require all Kindergarten through 12th grade schools to give formal instruction on how to interact with law enforcement, recognizing the reality that a large share of their student populations will have this early interaction with police and that it was imperative to give them formal curriculum on how to survive the encounter. Many states and localities have developed
programs to divert youth pre-arrest or to develop graduated responses to juvenile offenders. These efforts, while laudable, do not pose a challenge to the underlying phenomenon of high levels of police contact with kids in the first place, like the exceptionally high rate of police stops of kids that may not generate an official arrest or sanction (Fagan 2010).

There is scant evidence that police stops and arrests of youth are protective, better their outcomes or neighborhoods, or help them to desist from crime. Like incarceration, police contact often makes a poor situation worse, as we discussed above. There is no compelling public safety logic to encouraging police to have such frequent contact with children or to commandeer oversight normally entrusted to parents. Police encounters with kids do not separate the bad from the good; they distinguish the kids growing up without resources and in areas of high surveillance from the rest. In studies of police stops, many if not most youth were (unconstitutionally) stopped for being out of place, being too boisterous, being in a group, or just to inquire about where they were going. Police stops facilitate later delinquency, not the reverse. And we’re beginning to find out that stops themselves are criminogenic: boys who were stopped and had not broken the law were much more likely to later commit a crime (del Toro, et al., n.d.; Wiley and Esbensen 2013). Police stops – instead of targeting crime-prone youth – create their own self-fulfilling prophecy. **Thus, one way to disrupt the current criminal justice system and its deleterious feedbacks is to focus on eliminating police contact with children and promote contact with citizenship-building institutions.**

Most experts recognize that police are not the appropriate authority to deal with youthful problems and traumatic childhoods. Yet, this recognition has not translated into practice. While there is growing attention to children among criminal justice scholars, it tends to be a focus on children of incarcerated parents or kids at the more extreme end of criminal justice (life without
parole, juvenile prison conditions, kids shackled while in court). In the policy realm, there are many pre- and post-arrest diversion practices, but very few models to limit contact in the first place. Indeed, diversion practices and policies actually perversely incentivize police making a stop or an arrest because courts, not police, will be reimbursed for diversion. There is substantial attention to maximizing diversion once youth are in the system but little emphasis on minimizing entrance into the system.

To date, only a few local jurisdictions have attempted to draw down police interventions with the young, mostly after successful litigation. In Denver, CO, the public schools and police department brokered a deal to reign in police writing tickets of school-aged kids engaged in minor conduct like cursing and required police in that city to be trained in youth psychology (Henning 2017). The Philadelphia police chief issued a directive to officers to end the practice of youthful arrests for minor possession of marijuana and other minor violations, after recognizing that they constituted a majority of arrests of kids in school in that city (Henning 2017). And in Boston, the MBTA authorities in response to a youth-led lawsuit developed a program to train officers in how to deal with youth; after efforts to improve youth/police contacts, MBTA arrests of youth dropped from 680 in 2001 to 84 after the program (Human Impact Report 2017). Texas Appleseed has initiated a number of policy reforms that have reduced the number of police/youth interactions, especially in the school setting. In addition, some locales have designed programs to put more distance between youth and police. For example, the Training curriculum out of Connecticut, aims to reduce negative outcomes of police/youth interaction (though not necessarily reducing the number of stops altogether) and they have demonstrated a change in attitudes toward the police. The Think About it First Cards by Strategies for Youth are also a good example used in nine states so far. While the
primary purpose is to educate youth on the consequences of entering the juvenile justice system, it also alerts the officer to the consequences of their decision to arrest a minor. The Inner Harbor Project has useful models, notably the Youth Engagement Training that's designed and taught by Baltimore teens to those officers assigned to the Harbor area. Since launching in 2012, youth arrests have decreased 65 percent in the Inner Harbor. They also have the Peace Ambassador program that employs teens on the weekend who are meant to peer police Harbor visitors their age to avoid escalation and law enforcement involvement.

Depolicing of youth has a natural predecessor and model to follow: deinstitutionalization of youth. Similar efforts to eliminate criminal justice interventions in childhood have succeeded, with minimal opposition. Incarceration experts Bruce Western and Vincent Shiraldi successfully argued that the criminal justice system was not developmentally appropriate for those in early adulthood; because their brains were still developing into their 20s, they had reduced ability for impulse control, self-regulation, and future orientation. Youth are more likely to take risks, are more susceptible to negative peer influence, and have reduced capacity for decision-making in highly charged situations. Indeed, “young adults have more psychosocial similarities to children than adults.” Incarceration, they argued, should therefore be used “sparingly.” In a little noticed but radical victory, juvenile correctional institutions have been shuttered almost in every single state, with almost no fanfare or negative fallout. By 2012, there were 970 fewer juvenile prisons than a decade earlier and youth incarceration rates were cut in half overall and by two-thirds in the 5 largest jurisdictions (McCarthy, et al. 2016). Closing these institutions was politically easy and advocates used developmental psychology to make the arguments for community supervision. In the many commentaries on criminal justice reform, the abolition of youth prisons
was barely noticed despite the fact that it cut youth incarceration rates almost overnight (Schiraldi, 2017).

These experts also started using this developmental age logic to argue for raising the age for adjudicating youth as adults. The age when youth brains had fully developed capacity was more akin to the age at which people are able to first rent a car or the age at which they no longer be covered by a parent’s health insurance than the arbitrary age of 18, a holdover from the late 19th century family court. This too is beginning to be successful. Several states have debated and sometimes passed legislation raising the age of juvenile jurisdiction, including California, Connecticut, Massachusetts, Michigan and Vermont, and 19 states have undertaken reforms to reduce youth involvement in the adult system.

This developmental age argument has a strong basis here and internationally, where countries like Sweden and Germany try people up to the age of 21 or 25 as juveniles. Indeed, many protections exist for justice-involved youth and juvenile courts were from their inception in the early 20th Century designed to be clearly distinct from adult adjudication – from the more rehabilitative focus of youth confinement to strict limits on exposing their records to lessened sentences. Later, the United States clearly set out important legal norms surrounding youth based on developmental immaturity: kids could not be killed by the state (death penalty) or confined in perpetuity (life without parole sentences). As the authors of an NIJ initiative argued, “Our jurisprudence fully accepts that adolescents are entitled to a separate system of justice, with separate facilities, confidentiality protections, and more individualized treatment in a more robust network of rehabilitative programming” (Shiraldi, Wester, and Bradner 2015, 8).

Yet, this legal and practical consensus around the “diminished capacity” of youth and the different procedures in the later stages of the criminal justice system that it yielded has not
carried into the earlier stages of criminal justice, moments that are just as critical if not moreso given their greater prevalence in young lives and harmful effects. Police approach children and minors as they would adults. There are no limits to touch, force, and speech acts. There are no special constraints on police conduct given the smaller bodies and emerging cognitive and emotional development of kids. Police in most jurisdictions have no training on dealing with youth. Criminal records of youth are sealed but arrest records are not. If your son or daughter is stopped by police, they are likely to be treated as an adult. But if they are convicted and confined, they will be treated as a kid. The conspicuous absence of youthful protections in police contact is arbitrary.

Ending police/kid contact will not be easy. Police are so thoroughly entrenched in the lives of youth and the institutional fabric of poor neighborhoods, walling them off from surveillance will be difficult. Youthful spaces have become spaces of punitivity, in symbolic and literal ways. Children are escorted home by police in some Chicago neighborhoods, they might play on jail-themed playgrounds in New York, and in many neighborhoods, police substations are the most physically present public infrastructure. While most child development experts would agree that other entities and outlets should oversee youth, police are still often positioned as a first, not last, resort. If designing a system that roped as many adolescents into having arrest profiles and police encounters as possible were the goal, it would be difficult to imagine a system more efficient than our current one.

It’s also the case that police do not see black kids as kids – studies show they evaluate black boys as 4 years older on average than they actually are (Goff, et al. 2014); Epstein, Blake and Gonzalez (2017) suggest that similar dynamics may be at play for black girls (See also Morris, 2016). Political leaders often do not see black youth as having parents capable of
discipline. One of us once sat next to a criminal justice policy expert who designed one of the largest criminal justice interventions to date who unblinkingly told me that we policed black communities more heavily than white ones even though drug offending was similar in both places because “we can’t trust the parents to handle those kids.”

*How to Minimize the Footprint of Police in Youth Lives*

The political and policy shift toward de-policing of youth that we are suggesting could happen a few different ways. Local courts are often reimbursed for the number of kids who are diverted from confinement; policies could be designed to reward police agencies that reduce their youth contact in similar fashion. Policies could instruct separate procedures for police/kid contact, providing agencies with a non-police youth caseworker or street outreach workers so that when contact is made, there is an authority present who is specifically trained in working with kids and in de-escalation and alternatives to arrest. We could pursue policies and practices that limit the reach of police into spaces that deal with youth, like community centers, clinics, and schools, a quarter of which employ uniformed police. Police stationed in hospitals leads people to forgo emergency healthcare (Lara-Millan 2014). Local practices could be developed to position other institutions in the community as the first site of contact for “at risk” youth before police are called; turning to other institutions that understand trauma and adolescent development and are better poised to meet needs would obviate the need for police. More broadly, we might develop a “best practice” that police should only approach youth under certain concrete circumstances where grave harm is imminent (i.e. not for standing on a corner) and always as a last resort when other methods have been used first. If the American Association of Pediatrics can set standards against private discipline (i.e. parents spanking a child) given
adverse outcomes for the brain, why can’t we pursue a similar set of standards regarding public discipline?

Of course, even among minors, some police contact is still necessary. Police should make contact with youth who “pose clear and demonstrable risks to public safety” (McCarthy, et al. 2016, 18). When police contact does happen, we should design ways to mitigate the harms to mental and physical wellbeing and ensure that arrest records of youth do not throw up insurmountable obstacles to jobs and college. Youth who do offend often have serious mental health and substance problems and justice-involved youth have already witnessed a range of traumatic life events. We should recognize that police are ill-suited to provide the necessary interventions to deal with these problems.

We can do this with few negative consequences for public safety. We can reduce youth contact with police and have less youth crime. After a court ordered New York to stop its unconstitutional stop and frisk practices, that city showed a dramatic decline in police stopping youth (see figure 6). Crime complaints remained static. A more striking example is that after closures of youth prisons swept the states – from Virginia to Connecticut to New York and California – youth crime actually went down. For example, as the number of incarcerated youth dropped from over 10,000 to less than 1,000 in California due to closures, violent and property crime and arrests of youth also declined (McCarthy, et al. 2016).

[FIGURE 6: THE DRAMATIC POST-FLOYD DECLINE IN STOPS OF YOUTH BY THE NYPD. Source: Author’s analysis of NYPD data.]

There are several positive political consequences to an approach to youth that minimizes police surveillance. Early police contact is a gateway to system involvement later; if policy
constrains it to a last resort, a key input of the system is starved. If lowered police contact minimizes arrest records, which it most certainly will, later incarceration is less likely given that prior records figure prominently in sentencing decisions in the U.S. But a large share of these kids will avoid involvement with the criminal justice system altogether given that people “age out” of offending and given the studies that find stops themselves amplify deviance, not the reverse. This shift in policy and practice will most positively affect black kids who are more likely to have contact even if they are law-abiding; black kids who experience arrest are less likely to be diverted than white kids (Stevens and Morash 2015) so limiting first contact will likely affect racial disparities later in the pipeline.

Above all, this reform priority is a key step in advancing new relations between citizens in race-class subjugated communities and government (Soss and Weaver 2017). It interrupts a key moment when distrust in government and political alienation is formed. Aggressive policing and school discipline are “formative political experiences” that depresses trust and engagement in political life (Bruch and Soss 2018a). Through policing, these young Americans “receive a crash course in how state power operates and what citizenship entails for those at the lower reaches of the social order” (Bruch and Soss, 2018b)” In the long term, we will ensure this youngest generation learns that the state authorities see them as rights-bearing, not potential assailants deserving of oversight.

Reorient our Nation’s Approach to Youth

Undermining police contact with youth is a backstop. It is a critical first step in preventing youth from a distinctly poor parallel trajectory identified in studies of police involvement. However, to achieve more just outcomes for youth and create feedback loops away from justice involvement, we need to promote attachment to institutions reinforcing citizenship
and civic health. We must reorient our broader approach to youth. It requires not just reducing contact with authoritarian and surveillant institutions but replacing it with greater contact with institutions that promote civic attachment and youth empowerment. Adolescence is a period when paths are not yet hardened into deep grooves, where small decisions might have large consequences for their later trajectory. What if we conceived of these young years as a crucial moment for civic incorporation and growth? What if instead of future wards going through processes of civic ostracism and criminalized identity development we positioned them as civic anchors and active democratic citizens with civic significance?

One way of disrupting negative political socialization from youthful police encounters is to focus on moving youth towards civic-enhancing institutional interactions. Youthful police contact is a bureaucratic encounter that is designed to limit voice and carry few mechanisms for electoral accountability (Lerman and Weaver 2014). These encounters with governing authorities are about control, submission, compliance, and often, lack of dignity, respect, and agency; they do not provide lessons in the state seeing you as rights-bearing, deserving of positive intervention, or as a principal. Instead of modeling care, concern, citizen voice, or deliberation, they model submission, docility, group stigma, and racial hierarchy. Thus, we need to divert kids to institutions with a more democratic character, institutions that enhance civic skills, habits, and positive socialization and affirm worth. Kids should have more opportunities for exposure to institutions that model pro-civic behaviors, not stigmatizing relations with government. What does healthy adolescent political development entail?

We must recognize that youth coming into contact with police have experienced other institutional failures even at a tender age – they attend “cruddy” schools that prioritize discipline over school counselors, they live in areas beset by disinvestment and intergenerational poverty
and segregation, their public institutions have failed to protect them from lead-filled buildings and environmental harms, they live in areas of concentrated violence and negative forms of social capital like gangs and where the drug economy for years has offered more opportunities than the traditional labor market.

Currently, there is a dearth of viable opportunities for young people in communities to become civically engaged (CIQLE; Flanigan and Levine 2010). Over the last two decades, we have seen a sharp decline in institutions focused on civic incorporation of youth (i.e. community centers, after school programs, youth empowerment programs). Thus, the rising penetration of police in public and civic spaces like neighborhood corners and schools has occurred alongside the decline of vital civic infrastructure. To put it crudely, we invested heavily in one kind of public good and infrastructure – policing – while other pro-civic institutions were allowed to languish. One organization calls such communities “civic deserts” – places characterized by a severe lack of civic/religious organizations, cultural institutions, and nonprofits and “there are no physical places where they could address local issues” together (CIQLE). In such places, opportunities for learning about political life and opportunities for meaningful civic engagement are few. Many scholarly experts from a range of fields argue that civic deserts contribute to political alienation, distrust, decline in collective efficacy, frayed community cohesion, and even violence (Putnam; Sampson 2015; Sharkey 2018; Klinenberg 2018). At a broader level, political theorist Bonnie Honig argues that democracy is in dire need of “public things,” places that promote the daily practice of “agonistic democratic citizenship”; otherwise, democratic routines get reduced to “procedures, polling and policing” (2013).

Thriving civic spaces foster the opposite. For example, in his magisterial study of Chicago, Robert Sampson found that neighborhoods with higher collective efficacy (“the
willingness of local residents to intervene for the common good”) was a key indicator of communal public safety, net of race and economic status (2015). It is the processes that activate informal social control in neighborhoods that create the foundation for public safety. His student, Patrick Sharkey, found that flourishing community groups and nonprofit density played a major role in the “great crime decline” of the past decades (2018). In *Palaces for the People*, Eric Klinenberg identified physical structures that promote the development of social cohesion and civic renewal. In studying the devastation of the Chicago heat wave, he found that even in similarly situated neighborhoods, the places that witnessed fewer deaths were those that had public gathering hubs like libraries and community organizations (2018). J. Phillip Thompson calls this “deep pluralism” – the recognition and civic incorporation of all group statuses within a polity.

Youth civic engagement and social networks is a major factor in later success and economic mobility (Chetty; cites). Youth who work together on local problems are more likely to develop civic skills and less likely to drop out of school. Conversely, urban youth who confront few opportunities for engagement in organizations seek alternative forms of collective collaboration that are dangerous and provide negative social capital (i.e. gangs) (cites). According to one study: “Our analysis indicates that youth living in a Civic Desert are generally less experienced in civic and political life and largely disengage from politics; have few, if any, opinions about current affairs; and are less likely to believe that civic engagement like voting and civic institutions – from Congress to local nonprofits – can benefit the community. They were also less likely to help others in informal ways, like helping neighbors and standing up for someone who is being treated unfairly.” (Kawashima-Ginsberg and Sullivan, 2017).
Instead of providing an education in marginality and subjectivity, we should be investing in expanding kids’ opportunities to take action together, make claims on their governing institutions, and to expand youth voice. We should be developing youth as active and engaged citizens, not subjects of surveillance, normalized to the routines of a police pat-down or ‘kissing the pavement.’ And given that civic opportunity gaps are raced and classed, we need to think about how to democratize access to such goods. Several programs to provide meaningful civic opportunities and leadership of community projects to address local problems to youth in race-class subjugated communities have taken shape: YouthBuild USA, Opportunity Nation, and Points of Light Service Works. These opportunities are not only intrinsic goods for youth prospects. They are critical to expanding our nation’s wider democratic knowledge and pointing towards democratic threats in our time. This is nowhere more plain than in the “Black Spring” that activated youth to reimagine policing in the aftermath of police killings of youth in Ferguson, Baltimore, Chicago, and elsewhere. Activist groups led by youth ignited renewed political discourse and enhanced local civic capacity and youth mobilization toward the goal of strengthening black and brown liberation, including We Charge Genocide; Black Lives Matter; Cut 50; Million Hoodies for Justice; Dream Defenders; Malcolm X Grassroots Movement; BYP100; LetUsBreathe Collective. These groups not only heightened attention to policing and expanded the political imagination with newly resonant political frames but led to several youth-mobilized electoral victories, such as the ousting of prominent prosecutors in major cities, the undoing of predatory municipal codes, and the passing of criminal justice reforms. Other less well-known local initiatives to engage youth, amplify their voice, and communicate their civic worth should be seen as models. The Invisible Project conducted conversations with Chicago youth, giving them center stage in telling their narrative. Yes Loitering is a youth-led program
that reimagines public spaces to be more youth-friendly - in order to provide an enriching and safe environment where teens are welcome and can, therefore, avoid police interactions over infractions like loitering and trespassing.

Greater organization and activism of youth can also lend itself towards more accountable public institutions like the police. Neighborhoods with strong community based organizations were able to counteract the demobilizing effects of criminal justice (Owens and Walker 2018).

Today, the nation is beginning to shift course in the decades-long prison expansion. Many have celebrated the dawn of a new era, as our system has been roundly judged unfair, ineffective, and mostly, too expensive. Less stated, is that it is also a system that targets and destroys youth. Changing police tactics must be accompanied by a broader consideration of how government orients itself towards young people. Once we begin to re-establish youth engagement with citizen-building organizations and reorient government’s relationship to young people, we can turn vicious cycles of feedback into virtuous ones.
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Endnotes

1 The DOJ can now initiate oversight of local agencies engaged in a “pattern and practice” of unconstitutional policing. In practice, this oversight occurs only in the most egregious violations.

2 Liberal reformers often couch their proposals to reduce sentences for less serious crimes on the rationale that it will free up resources for longer confinements of the “real bad guys”, a dynamic scholars call bifurcation (Beckett 2018; Schoenfeld 2018). And they sometimes package progressive and draconian reforms together; a quarter of justice reinvestment laws – seen as a progressive reform to incentivize diverting commitments to prison – were enacted in the same legislative session as those that expanded sentences for life without parole (Schoenfeld 2018). Or they design “alternatives to incarceration” that ironically widen the net of who comes into contact with criminal justice or for how long; for example, states may pursue sentencing reforms that divert offenders from prison but put them on probation for 10 years.

3 Based on a sample from communities undergoing moderate to high levels of police surveillance. Portals to Politics project, Principal Investigators Tracey Meares and Vesla Weaver.

4 A more conservative estimate was produced by the police/citizen contact survey conducted by the Bureau of Justice Statistics; just over a quarter percent of youth and young adults aged 16-25 had experienced police (though not all of these were police-initiated involuntary encounters), a higher share than older adults (Hyland 2015).

5 Based on a representative sample of American children born in 20 US cities in the late 1990s and followed to their 15th birthday.

6 One negative outcome, however, was that confinement of white minors dropped faster than it did for black youth, exacerbating already large racial disparities. In 2015, 44 percent of youth detained in juvenile centers, jails, and prisons were black, compared to being 16 percent of the nation’s population. [https://www.sentencingproject.org/publications/black-disparities-youth-incarceration/](https://www.sentencingproject.org/publications/black-disparities-youth-incarceration/)

Figures
Figure 1: Age of onset of self-reported police encounters.

Source: Portals Criminal Justice Dialogues Project.
Figure 2: Police Stop Experiences among Boys in the Fragile Families and Child Wellbeing Study.

*Source:* Author’s analysis of Year 15 FFCWS data. While those identifying as multiracial also have more extreme stop experiences, the N is too low to represent their experiences.

Figure 3: Police Stops of Youth in New York City, 2006-2016.

*Source:* Author’s analysis of NYPD data.
Figure 4: Probabilities of Arrest among Two Generational Cohorts, before and after Broken Windows Policing

*Source:* Reproduced from Weaver, Papachristos, and Zanger-Tishler 2019.
Figure 5: Perceptions of Government and Equal Opportunity.

Source: Author’s analysis of Black Youth Culture Survey. Black and Latino respondents only.

N=1029
Figure 6: The Dramatic Post-Floyd Decline in Stops of Youth by NYPD.  
*Source:* Author’s analysis of NYPD data.