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Juvenile Crimes, Conviction Rates, and Prosecution: Analysis of Racially Biased Pedagogy

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Introduction and Overview

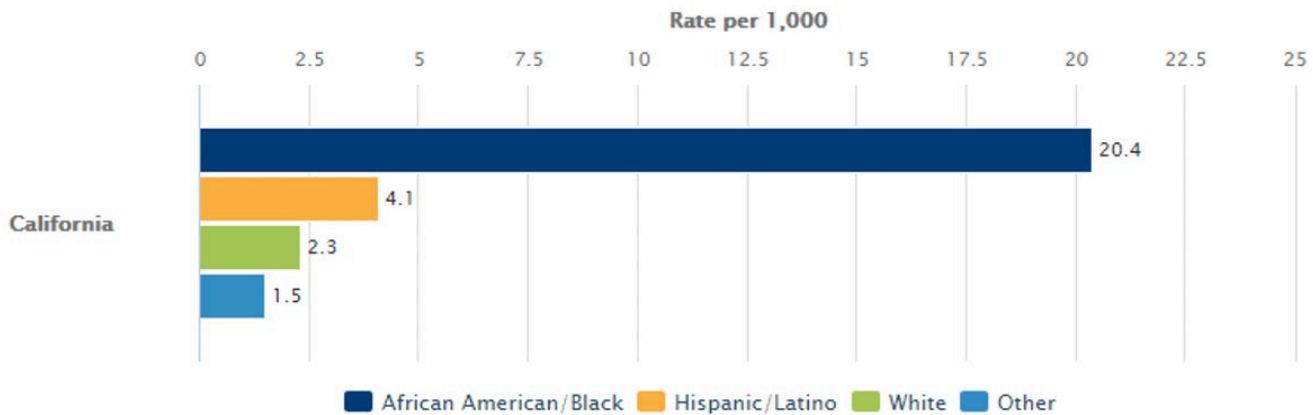
Juvenile justice has been used as a blanket term to categorize crime and offenses committed by underaged youths who often go unrepresented within California's crime statistics. When juvenile crime statistics are examined, in states like California, African American youth are five times more likely to not only be arrested but convicted of a crime as a juvenile than any racial groups according to statistics published in 2018 by The United States Department of Justice and the Office of Justice and Delinquency Prevention. The causes of such skewed racial statistics are centered on factors like income inequality, family dynamics, or social influence and the blame of such racial biases rarely fall on the legal systems. However, the problem goes deeper than these socio-economic factors. Systems of mass incarceration that favor a specific group of people can also be explained through racial pedagogy. Racial pedagogy is defined as a paradigm within critical race theory that explores the persistence and impact of race as it is viewed through life experience, personal views, and more importantly how it is toughed, rationalized, and reformed throughout society. The main issues surrounding Juvenile justice is the lack of representation around the subject of juvenile incarceration. As a result, the juvenile justice systems have devolved into an ineffective and fragmented means of exploitation of young people of color through the criminal industrial complex. A lack of effective representation, dialogue, and study around racialized patterns of juvenile incarceration is a major flaw that reaches all the way down to effective rehabilitation within juvenile detention centers who often serve their time without proper rehabilitation and sentenced without effective knowledge, representation, or awareness of judicial proceedings. Through a unified stance on education, representation, and most importantly strict focus on rehabilitation, the juvenile correction

systems can be revolutionized to better rectify the lives of youths within the criminal industrial complex.

The problem with California’s Conviction Statistics.

In order to effectively tackle the effects racial narratives and use pedagogy to reform, it is important to first analyze crime statistics in regard to their purpose, effectiveness, as well as the reality of what they actually show. According to data published by the Lucile Pack Foundation for Children’s Health conducted through the California Department of Justice Crime Statistics there is very alarming statics revolving around the incarceration rates of African Americans in California.

Juvenile Felony Arrest Rate, by Race/Ethnicity: 2018 (Race/Ethnicity: All)



Definition: Number of felony arrests per 1,000 youth ages 10-17, by race/ethnicity (e.g., in 2018, the felony arrest rate among Hispanic/Latino juveniles in California was 4.1 arrests per 1,000 Hispanic/Latino youth ages 10-17).

Data Source: [As cited on kidsdata.org](#), California Dept. of Justice, Crime Statistics: Arrests; California Dept. of Finance, Population Estimates and Projections (May 2019).

Figure 1. Kidsdata.org A Program of Lucile Packard Foundation for Children’s Health
“California Dept. of Justice, Crime Statistics: Arrests; California Dept. of Finance, Population Estimates and Projections” (May 2019)

Figure 1. shows an overwhelmingly large number of African American youths aged 10 to 18 being convicted of felonies which far outnumber any other race. Statistics like the one published show blind data onto how the juvenile correctional system seems to target people of color. It would be easy to say that the justice system is inherently racist or that these statics can be a result of socio-economic or behavioral issues. However, the problem is much deeper. Data collection like the one showed above is important in regard to public policy and funding. Crime statics are used in many ways to resource allocation, and policing. However, racial based statistics also be used to fuel narratives that are often stereotyped and propogated within society. For example, many incorrect and generalized interoperations of race can be used to justify flawed and prejudicial thinking when looking at the data on Figure 1. However, the data is best used in regards to transformative praxis and evidence on how to affectively transform the criminal industrial system through a topic known as “continued abolition” which is defined as a “dream of futurity vested in insurgent, counter civilization histories and provenance of genealogies of cultural dichotomies” (Rodríguez 3). In his article titled, *Abolition as Praxis of Human Beings*: Dylan Rodriguez enforces his notions of dominant pedagogies corrupting the criminal justice system, these pedagogies are seen to favor aspects like mass incarceration and dependence on cyclical forms of government-centered enforcement of individuals that target ethnic minorities at early ages. These ideas and enforced forms of litigation are set in precedent yet are rarely challenged due to the lack of representation or in this case “continued abolition” surrounding the topic of juvenile conviction.

Identification and Examples of Continued Abolition

The main issues that continued abolition highlights is the perpetual cycles which continue to cause harm or disenfranchise not only youths but people of color for generations. As Figure 1

distinctly shows that there is given spaces for pedagogy to form, there is also space to redefine and properly represent the problems affect people of color by the criminal industrial complex. According to an article funded by the U.S. Department of Justice, titled *The Relationship between Race, Ethnicity, and Sentencing Outcomes: A Meta-Analysis of Sentencing Research*, “African-Americans and Latinos were generally sentenced more harshly than whites. Differences in sentencing outcomes between these groups generally were statistically significant, as analyses indicate that larger estimates of unwarranted sentencing disparity were found in studies that examined drug offenses, imprisonment or discretionary sentencing decisions, and in recent analyses of Federal court data.” (Ojmarh, 2). Evidence in this study proves that there is statistical evidence that proves that historically people of color do experience a significant level of racial and ethnic discrimination in sentencing. With the proof that not only people of color are prosecuted more often, they are also sentenced more harshly for the same crimes. This style of racialized sentencing not only points out racial flaws within our court systems, it also represents the start of the cycles of racial prejudice, which feeds into dominate pedagogies of the law that help fuel racialized patterns of discrimination. However, through forms of continued abolition and proper representation these racialized cycles can effectively be broken. According to Lelila Morsy and Richard Rothstein, in *Mass Incarceration and Children’s Outcomes: Criminal Justice Policy Is Education Policy*. “As many as one in ten African American students has an incarcerated parent and one in four has a parent who is or has been incarcerated. The discriminatory incarceration of African American parents is show to be a cause of their children’s lowered performance, especially in schools where the trauma of parental incarceration is concentrated” (Morsy 2). This piece of evidence shows the direct problem the criminal industrial complex plays on families of color. Due to mass incarcerations of people of color

families form without parental stability and in turn, there is a direct relation to children and lower levels of academic performance in schools. In accordance, “parental incarceration leads to an array of cognitive and noncognitive outcomes, which forms a strong evidence that our criminal justice system makes an important contribution to the racial achievement gap” (Morsy 2) This racial achievement gap directly correlates with juvenile delinquency and incarceration in regard to cognitive disorders among juvenile offenders. According to *Juvenile Felony Arrest Rate, Race/Ethnicity* “many youths enter the juvenile justice system with existing psychological or physical health problems: For example, nearly half (46%) of newly detained youth have urgent health care needs and 70% of incarcerated youth have at least one mental health disorder” ... In addition, “the vast majority of these young people have experienced some form of trauma during childhood and the juvenile justice system involvement can re-traumatize them, creating further challenges for healing and healthy development” (California Dept. of Justice, Crime Statistics). Youth of color are consistently over-represented in arrest and incarceration, and disparate treatment of children of color compared with their white counterparts has been documented widely, yet there is no clear or unified support in actively diagnosing learning disabilities, depression, anxieties, or other forms of cognitive decline of youth of color who are directly and indirectly affected by the criminal industrial complex at a disproportioned rate. It is also necessary to acknowledge that most young people who are arrested are ultimately at a higher rate to get convicted of a crime, but those who are detained are at an enormous risk for mental health issues, decline in school, trouble with future employment, and reoccurring legal trouble legal trouble, According to *The California Dept. of Justice, Crime Statistics: Arrests; California Dept. of Finance, Population Estimates and Projections*, “Research suggests that any length of youth incarceration is independently associated with a higher likelihood of poor physical and mental

health in adulthood” Lasting effects of the juvenile corrections system is just one example of how dominant pedagogies enforced through the judicial system form cycles of disproportionate incarceration rates and increases the chances for racial minorities to be continually affected by the criminal industrial complex. However, one way that continued abolition can affect these dominant pedagogies is through the elimination of disparities in minimum sentences of juvenile offenders. According to *Mass incarceration and Children’s outcomes*, “To improve their students’ outcomes, educators should join forces with criminal justice reformers to eliminate disparities between minimum sentences for possession of crack vs. powder cocaine, repeal mandatory minimum sentences for minor drug offenses and other nonviolent crimes, and encourage politicians to increase the pace of pardons and commutations in the final days of his term increase funding for social, educational, and employment programs for released offenders” (Morsy 4). The stance to unify sentencing around the criminalization and enforcement around drug offenses is one-way continued abolition in conjunction with a reframing of racial pedagogy can detract from the disparities that come with charging minority youth offenders with harsher punishments. As this is just one cog in cycles of racial based incarceration the removal of said cog is one way to help reform criminal justice in California.

Discrepancies in with the law and mental health

As discussed earlier, factors of mental health play into youths affected both directly and indirectly by the criminal industrial system. While psychiatric disorders are common among juveniles in the criminal industrial system, many mental health problems go undocumented within juvenile court cases. A lack of documentation and diagnosis greatly increases the likelihood for persistent difficulties and increased probability of longer sentencing of a youth

offender. Research in criminal justice, health, and economics demonstrates that when parents are incarcerated, children experience far worse cognitive and noncognitive decline. This sort of decline is a factor that plays into harmful pedagogies and narratives around the juvenile justice system as it tends to affect youth of color at a higher rate and is blamed on behavioral differences and broken family dynamics. However, according to *Mental Health Referrals Reduce Recidivism in First-Time Juvenile Offenders, But How Do We Determine Who is Referred?* By Michael P. Zoela, there is a racial discrepancy that is statistically proven in the rate that juvenile offenders are diagnosed and given mental health referrals prior to their sentencing and rehabilitation. Zoela states, “A review over juvenile justice mental health screening would drastically improve detection and treatment. Juvenile criminal records in conjunction with behavioral health screenings were analyzed to determine differences in referrals and recidivism among first time offenders. Recidivism rates were significantly lower and time to recidivism was significantly longer for those referred specifically for mental health services than for those without any referrals, even after adjusting for offense severity” (Zeola 171). According to Zeola’s research

shown below in Figure 2, primary analysis of mental health screenings fails to document mental health issues prior to conviction.

Table 1 Participant characteristics among youths in the juvenile justice system with no prior legal or mental health histories

	Total sample			Primary analysis (AOD excluded)		
	Overall (n, % of 54)	Total MH (n, % of 30)	No MH (n, % of 24)	Overall (n, % of 35)	MH alone (n, % of 17)	No referral (n, % of 18)
Sex						
Male	41 (75.9 %)	22 (73.3 %)	19 (79.2 %)	27 (77.1 %)	12 (70.6 %)	15 (83.3 %)
Female	13 (24.1 %)	8 (26.7 %)	5 (20.8 %)	8 (22.9 %)	5 (29.4 %)	3 (16.7 %)
Race						
Black	37 (68.5 %)	19 (63.3 %)	18 (75.0 %)	21 (60.0 %)	7 (41.2 %)	14 (77.8 %)
White	15 (27.8 %)	10 (33.3 %)	5 (20.8 %)	13 (37.1 %)	9 (52.9 %)	4 (22.2 %)
Unknown	2 (3.7 %)	1 (3.3 %)	1 (4.2 %)	1 (2.9 %)	1 (5.9 %)	0 (0.0 %)
First offense						
Felony	29 (53.7 %)	16 (53.3 %)	13 (54.2 %)	17 (48.6 %)	8 (47.1 %)	9 (50.0 %)
Misdemeanor	21 (38.9 %)	11 (36.7 %)	10 (41.7 %)	16 (45.7 %)	7 (41.2 %)	9 (50.0 %)
Unruly	4 (7.4 %)	3 (10.0 %)	1 (4.2 %)	2 (5.7 %)	2 (11.8 %)	0 (0.0 %)
Second offense						
Felony	6 (11.1 %)	2 (6.7 %)	4 (16.7 %)	4 (11.4 %)	1 (5.9 %)	3 (16.7 %)
Misdemeanor	12 (22.2 %)	5 (16.7 %)	7 (29.2 %)	9 (25.7 %)	3 (17.6 %)	6 (33.3 %)
Unruly	10 (18.5 %)	6 (20.0 %)	4 (16.7 %)	4 (11.4 %)	1 (5.9 %)	3 (16.7 %)
None	26 (48.1 %)	17 (56.7 %)	9 (37.5 %)	18 (51.4 %)	12 (70.6 %)	6 (33.3 %)
Recidivism	28 (51.9 %)	13 (43.3 %)	15 (62.5 %)	17 (48.6 %)	5 (29.4 %)	12 (66.7 %)

AOD alcohol and other drug referral; MH mental health referral

Figure 2 (Table 1) Participant characteristics among youths in the juvenile justice system with no prior legal or mental health histories. Zeola, Michael, et al. “Mental Health Referrals Reduce Recidivism in First-Time Juvenile Offenders, But How Do We Determine Who Is Referred?” *Psychiatric Quarterly*, vol. 88, no. 1, Mar. 2017, pp. 167–83.

It isn’t until total samples are compared does a more complete and accurate data collection show the percentage of black participates that have notable mental health issues. In addition, “White youths were more likely to receive mental health referrals than black youths” (Zeola 174). The lack of representation of these Issues leads to a higher rate of African Americans receiving longer prison sentences. It isn’t until these statistics are properly framed and represented that we

see direct evidence that conjunction with behavioral health screenings, and longer sentences from minorities that have undocumented mental health issues. Zeola's statics offer a space for continued abolition to perform an example of transformative praxis as it is the hope that education surrounding these mental health statistics will not only change policy to help unify length of incarceration sentence, but also help establish better access and treatment of mental health referral amongst all races both prior to sentencing and throughout their rehabilitation process. According to, *Examining Racial Disparities in Juvenile Justice* published in The Journal of The American Academy of Psychiatry and the Law, "Decades of research have focused on understanding and addressing racial disparities that occur at every stage of processing in the juvenile justice system." (Robles-Ramamurthy 1) Leaders in the field have raised concerns about the differential treatment and selection of youth based on race and why these racial disparities are so present. In her article, Barbra Ramamurthy points out that "justice should be administered blindly in criminal matters arguably has no better place than within the juvenile justice system, where a focus on rehabilitation instead of punishment might positively alter the life course of a minor." (Robles-Ramamurthy 1) However, research has documented the existence of racial disparity in the treatment of youth involved in the juvenile justice system for several decades. The main study that Ramamurthy based her research on was the Washington State Juvenile Rehabilitation Administration (JRA). "the study found disproportionate minority contact with the juvenile justice system for all minority groups, which is consistent with previous research and found that African-American youth were seven times more likely to be in JRA custody than Caucasians" In addition, "African-American youth were four times as likely as Caucasian youth to be sentenced and had a higher probability having their sentences intensified with Caucasian youth being half as likely to compared with African-American youth "(Robles-Ramamurthy 3).

Though these statistics, Ramamurthy highlights another account on how African American youth are disreputably affected in regard to lower chances of having their sentence reduced all done through a legal process that is too be blind, uniform, and fair. These discrepancies highlight political, socioeconomic, and pedagogical influences that reaffirm hegemonic adaptations of law that unfairly target and punish underrepresented youths that have little to no access or education with their own defense.

History of the juvenile justice systems and its flaws

One of the most notable flaws with criminal justice reform and legal systems in the United States is the lack of uniformity and cohesiveness of judicial practices on the state level. According to the National Research Council; Commission on Behavioral and Social Sciences and Education's Book titled *Juvenile Justice*, "The United States has at least 51 different juvenile justice systems, not one. Each state and the District of Columbia has its own laws that govern its juvenile justice system. How juvenile courts operate may vary from county to county and municipality to municipality within a state." The Separation of the juvenile justice system was established nearly a hundred years ago with the goal of diverting youthful offenders from punishments of criminal courts in exchange for individual rehabilitation for the juvenile's needs. However, the same proceedings and protections given to adult criminals were vastly different than that of the Juvenile court in a number of ways as "proceedings were often informal, with much discretion left to the juvenile court judge."(National Research Council, 155) This large piece of evidence highlights the three initial problems with Juvenile corrections in the United States. The main problem is the lack of cohesive representation and enforcement of the law with

51 distinct courts deciding their own enforcement of juvenile rehabilitation. The second main flaw is the Separation and distinction of adult criminal Law and that of Juvenile law. As Juvenile Law is claimed to focus more on rehabilitation than correction, it seems as though modern applications of justice affecting the criminal industrial complex are no longer a solution for sociological reform, instead, it is a fulcrum that enables the discrimination of individuals through “legal” racial subjectivity. This act of subjectivity is easily achieved through the last piece of evidence the National Research Council brings up, noting that, “ Court proceedings in juvenile cases were often informal, with much discretion left to the juvenile court judge as Judges are to act in the best interests of the child” the only problem is that "the same procedural safeguards available to adults, such as the right to an attorney in regards to the right to know the charges brought aren't given to juvenile offenders, the right to trial by jury, and the right to confront one's accuser, were thought unnecessary” (National Research Council, 154). Juvenile offenders aren't only cognitively different than adult offenders in regard to their maturity and levels of rationalization, they are also at the mercy of a single judge without proper counsel or representation or means of effective defense granted by the United States Constitution. Juvenile offenders should be guaranteed the correct knowledge and ability to defend themselves with proper counsel and representation and I believe this is the appropriate assertion of pedagogy in regard to criminal justice reform. It should not only be a necessary right but also a universal right for youth offenders to be educated in regard to their trial and their options in regard to the council rather than having their fate being decided by a single appointed judge. Furthermore, the role of racial pedagogy can also come into play not just on the rehabilitation level but in the public-school systems where Juveniles ages 10 to 18 should have the option to have basic knowledge on the legal system and their rights under the law. Especially since in recent years,

"states have undergone legal reforms and policy changes under the get-tough rubric to include more aggressive policing of juveniles, making it easier (or in some cases mandatory) to treat a juvenile who has committed certain offenses as an adult, moving decision making about where to try a juvenile from the judge to the prosecutor or the state legislature (National Research Council, 155). In an article titled, *Sentencing Convicted Juvenile Felony Offenders in the Adult Court: The Direct Effects of Race* "Between 1985 and 1994 the number of juveniles transferred to the adult system increased by 81%, from 7,200 to 13,100 cases during this time period, and even more recently, in 2008, juvenile courts waived 8,900 delinquency cases to the adult system for criminal prosecution" (Howell 783). There shouldn't be any reason that juveniles who are affectively segregated from the criminal court system should be transferred to adult facilities when the main goal of juvenile correction is rehabilitation rather than punishment. The switch to allowing youth offenders to be prosecuted as criminal offenders happened in response to the increase in violent crime in the 1980s. According to the text *Juvenile Crime*, "state legal reforms in juvenile justice, particularly those that deal with serious offenses, have stressed punitiveness, accountability, and a concern for public safety, rejecting traditional concerns for diversion and rehabilitation in favor of a get-tough approach to juvenile crime and punishment. This change in emphasis from a focus on rehabilitating the individual to punishing the act is exemplified by the 17 states that redefined the purpose clause of their juvenile courts to emphasize public safety, certainty of sanctions, and offender accountability: (National Research Council). Discrepancies like these within the judicial systems in the united states have also plagued county and state levels. Outlined in *Minor Offenses* by Windy Davis, "A class action suit regarding the constitutionality of the Riverside County, California, Youth Accountability Team was charged with violating due process rights of alleged juvenile delinquents, the intent of diversion

programs, and alternative solutions” (Davis 2). Many children have fallen prey and suffered the constitutional violations and abuse within the Riverside County's Youth Accountability Program which is supposed to safeguard and protect juvenile rights and oversee rehabilitation through the counties correctional system. In this lawsuit Davis points out that juvenile offenders were treated the same as adult criminals without given the same access to council or legal protections. Davis points out specifically that, “Children were not informed of their rights, including the right to remain silent or to speak with a lawyer, Instead they are led to believe that if they do not agree to enter the YAT program, they may be referred to the district attorney's office, even when they are not accused of a criminal offense.” (Davis 3). These types of tactics should be outlawed and reformed through policy changes on the national level to make sure legal authority imposed by state prosecutors cannot infringe on youth offenders that aren't given the same protections under the court of law.

Lasting effects and the importance of rewriting pedagogy/ Reform through reeducation

As there is an overwhelming amount of evidence to support dominant pedagogies corrupting the criminal justice system in regard to enforcement of laws and judicial conviction that disproportionately target people of color. However, it is also equally as necessary to rewrite these pedagogies to no longer favor narratives in support of the same styles of judicial proceedings that contribute to mass incarceration and dependence on cyclical forms of government-centered enforcement of individuals that target ethnic minorities at early ages. In the same way's pedagogies are used currently in judicial setting to disproportionately target youth of color, a similar type of pedagogy can be transformed through notions of continued abolition. An Article

titled *Mass Incarceration and Children's Outcomes: Criminal Justice Policy Is Education Policy*, calls to attention that “educators have paid too little heed to this criminal justice crisis. Criminal justice reform should be a policy priority for educators who are committed to improving the achievement of African American children. educators can seize opportunities for such advocacy at state and local levels because many more parents are incarcerated in state than in federal prisons (Morsy 3). It is clear that within public schools, education plays little to no role in helping to educate or help children with incarcerated parents. Instead if reform can happen at the public school level to increase funding for students and educators to help promote more stable learning environment, increase the number of councilors that work closely to disadvantaged youth to not only diagnose but continually support children of color as well as educate students on the risks and associates that the criminal industrial complex has on their cognitive health. Through the earliest levels, new pedagogies are able to better represent and educate communities of color in beneficial ways rather than using statics to generalize or incinerate individuals based of flawed racial narratives. An article titled *Race Conscious Pedagogy: Correctional Educators and Creative Resistance inside California Juvenile Detention Facilities*, takes the notion of rewriting of pedagogy further to rehabilitation and detention centers. According to Jerry Flores, “teachers in three juvenile detention facilities in Southern California need to adopt a race conscious pedagogy teaching approach which allows educators to provide incarcerated students with resources unavailable to them in their own communities” (Flores1) Jerry Flores advocates for the replacement of detention centers to a more communal based center for reeducation not only to help reform youth offenders but to also help rebuild communal relationships through semi-structured interviews and participant observation. Flores’s results indicate that teachers find success in are adopting a race conscious pedagogy that allows

them to participate in “creative resistance” inside of institutions of confinement (Flores 22). Breaking cycles of racial incarcerations through continued abolition is an effective way of breaking cycles of racial based incarceration and according to Flores, “the creation of new programs allowed teachers to address the varying needs of their students making them more able provide more resources for their students while in detention. (Flores 24). Even more recently, there has been a major political push to better rehabilitate and reeducate juvenile offenders. California’s state government is currently phasing out the juvenile prisons, arguing that it “will enable youth to remain in their communities and stay close to their families to support rehabilitation.”(Thompson) As Reported by the Associated Press and U.S. News in their article *California Aims To Phase Out State-Operated Youth Prisons*. This is the most recent example of effective transitions away from incarceration and towards focused rehabilitation through education and rebuilding of family dynamics. Counties in California would stop sending juveniles to state lockups after effectively after July of next year and instead would create an “Office of Youth and Community Restoration and send grants to counties to provide custody and supervision. As we’re one of the few states that doesn’t have a state agency that oversees the youth justice system and can effectively work with other youth-serving agencies like child welfare and education providers” (Thompson, 2020). As of September 13, 2020 at the highest Level of Local government, governor Gavin Newsom pledges to “unravel the Division of Juvenile Justice, which has about 750 youths in four facilities, including 70 in a firefighting camp’ (Thompson) California is one of the first states to intact a systemic transformation away from prisons is exactly what needs to happen in order to ensure uniform treatment of juveniles of color. These new reeducation method and government supported policies are all steps to rewrite

pedagogy and better represent racially targeted groups within the juvenile correction system. In all, continued abolition has the power to reshape how society views criminal law and how representation is initiated not just in the courtroom but, in academic communities. Hopefully through continued representation and education surrounding issues of race with our legal system these changes can be outlined through a focus on rehabilitation and better representation of juveniles in accordance with a unified approach to criminal justice by both local and state agencies. In conjunction, these approaches will curv statics favoring specific races in hopes of properly rectifying and shaping the lives of youth caught in California's justice system.

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