

## **Breaking the Cycle of Incarceration: A Young Black Male's Journey from Probation to Self-Advocacy**

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**ABSTRACT:** The prison-industrial complex penetrates the public sphere through enhanced and militarized police presence in poor neighborhoods, thereby playing a key role in mass incarceration, and intersects with public schools via zero-tolerance policies that push students out. The purpose of this article is to examine how the Juvenile Justice System (JJS) impacts the educational experiences of Black males. Specifically, we present a case study of Malcolm, a multiracial (Black, Latino, and Native American) male who had been part of the JJS for the last five years. We articulate Malcolm's schooling and JJS experiences to discuss how the prison industrial complex and school-to-prison pipeline intersect to push marginalized youth of color out of schools. We conclude by listing a set of recommendations in which Malcolm provides key strategies to reform the JJS and school-to-prison pipeline.

*Keywords:* juvenile justice; Black males; advocacy; empowerment; school-to-prison pipeline

### **Introduction: A System Designed to Dehumanize 3834**

Brewer and Heitzeg (2008) describe the prison-industrial complex as “a self-perpetuating machine” where vast profits and “perceived political benefits” lead to designing policies that “ensure an endless supply of clients for the criminal justice system” (p. 637). This system penetrates the public sphere through enhanced and militarized police presence in poor neighborhoods, which plays a critical role in mass incarceration. Additionally, the war on drugs, along with stop-and-frisk and civil gang injunctions, racially profile and target poor youth of color by marking their bodies and the spaces they occupy as criminal and dangerous (Fasching-Varner, Mitchell, Martin, & Bennett-Haron, 2014). As a result, Black youth are four times more likely to be incarcerated over their white peers (Burns Institute, 2016).

Thus, the purpose of this article is to examine the following question: How does the Juvenile Justice System (JJS) impact the educational and life experiences of Black males? Specifically, we present a case study of Malcolm, a multiracial (Black, Latino, and Native American) male who had been a part of the JJS for the last five years. In the next section, we discuss the school-to-prison pipeline and how it contributes to the criminalization of the Black male body. In our findings, we articulate Malcolm's schooling and JJS experiences to raise awareness of the difficulties facing marginalized Black males. We conclude the article by listing a set of recommendations in which Malcolm articulates how to reform the JJS and school-to-prison pipeline. The article utilizes educational and penal realism (Fasching-Varner et al., 2014), which builds on Bell's (1992) racial realism, as our framework.

### **School-to-Prison Pipeline**

Regardless of age or grade level, Black students have been disproportionately impacted as it relates to school arrests, suspensions/expulsions, and office referrals, which pushes Black males in particular out of the education system and into the criminal justice system (Alexander, 2011; Allen & White-Smith, 2014; Dancy, 2014; Gregory, Skiba, & Noguera, 2010; Howard,

2013; Skiba, Arredondo, & Williams, 2014; Stevenson, 2014). This school-to-prison pipeline (STPP) is based on the myth that Black males are naturally violent and must be controlled. The proliferation of zero-tolerance policies, school resource officers (SROs), and an over-reliance on school expulsions and suspensions has transformed many urban schools from institutions of learning and hope, to prison cells that are adorned with metal detectors, drug sniffing dogs, and heavy police presence (Allen & White-Smith, 2014; Dancy, 2014). The end result is that the STPP negatively impacts school climate, engagement, academic achievement, and increases dropout rates by criminalizing benign infractions such as dress code violations and placing the Black body under constant surveillance.

### **Theoretical Framework**

The prison-industrial complex and STPP bring to light what legal scholar Derrick Bell (1992) calls racial realism, which articulates how the subjugation of Blacks is entrenched into the fabric of our society. To buttress this point, Bell (1992) explains, “[M]any of the black people we sought to lift through law from a subordinate status to equal opportunity, are more deeply mired in poverty and despair than they were during the ‘separate but equal’ era, a reality confirmed not only through abysmal public schooling but also through the prison industrial complex” (p. 374). Moreover, Bell conceded that regardless of the herculean efforts to obtain racial equality, they were only short-lived victories due to the preservation of White dominance and racist mechanisms.

Building on this concept, Fasching-Varner et al. (2014) present what they call educational and penal realism to describe how there are built-in advantages that help to support and maintain the current flawed system, which results in blocking potentially beneficial education and prison reforms. The intersections of STPP and the prison industrial complex are too glaring and intentional because failing urban schools lead to a healthy and constant influx of new inmates. They explain concisely, “[W]ithout school failure there is no opportunity for an educational reform-industrial complex, and without people to punish, similarly, there is no need for the prison-industrial complex” (p.411). While they present seven tenets, we concentrate only on two, due to space, because these two tenets highlight how STPP and the prison-industrial complex converge to marginalize communities of color.

The first tenet states that there is “no crisis in schools or prisons—each institution is functioning per their design and the demands of the society” (Fasching-Varner et al., 2014, p. 420). As stated earlier, the role of the criminal justice system has deep historical roots within policing, prosecuting, imprisoning, and executing people of color (Alexander, 2011; Brewer & Heitzeg, 2008). This tenet articulates why we continue to have an achievement gap and why the U.S. prison population is the highest in the world even though crime rates are near an all-time low.

A second key tenet is “neither schools nor prisons will ever represent, serve, or address the interests of the most marginalized and underrepresented of society” (p. 421). This tenet plays out in education in terms of the long fought battle to desegregate our schools. From magnet programs to AP classes, there is a continuous underrepresentation of youth of color within these programs. Within the criminal justice system, this tenet is observed through three-strikes legislation, mandatory minimum sentencing guidelines, the war on drugs, and the discrepancies between crack-cocaine vs. powdered-cocaine sentencing.

The intersection between schools and prisons takes the form of the STPP in that as early as preschool and kindergarten, Black youth are suspended and expelled. As Noguera (2003)

articulates, “disciplinary practices in schools often bear a striking similarity to the strategies used to punish adults in society. Typically, schools rely on some form of exclusion or ostracism to control the behavior of students” (p. 342). In sum, educational and penal realism has the potential to help us critically analyze “the absurdity of the manufactured crisis” (Fasching-Varner et al., 2014) that is public education reform and the prison-industrial-complex. It also illustrates how these two seemingly disparate factors actually converge to hurt and damage marginalized and oppressed populations.

### **Methodology**

A case study is a type of empirical inquiry with the purpose of investigating a bounded case, which can be a situation, instance, or person, narrowed in scope and focus that will examine real life context for contemporary phenomenon (Savin-Baden & Major, 2012). Even though Malcolm is a multi-racial male, he strongly identifies as being Black because he was raised immersed in Black culture. During his interview, Malcolm stated that he was Black on his dad’s side and his mom was mixed with Mexican American and Native American.

He is a member of Leaders Organizing 2 Unite & Decriminalize (LOUD), which was created as a partnership between a grassroots community organization and a county JJS in the Southwest. As a juvenile justice youth council, LOUD has had direct impact on juvenile justice policies. For the purposes of this article, we focus specifically on data collected on Malcolm since his story speaks to the intersectionality of the JJS, STPP, and the overrepresentation of Black males in the prison system. He is 17 years old with twists and has a solid build. Malcolm is extremely bright and adores his two younger sisters and is being raised by a single-parent mom. He loves to rap and joined LOUD because wanted his voice to be heard. He is an active member of LOUD who speaks passionately on issues of social justice because he knows firsthand how severe poverty and food insecurity impact families. Malcolm has been out of school for four years since becoming system-involved and is trying to navigate his way back.

Data was collected during the 2015-2016 academic year and included field notes, individual interviews, and transcripts from the usually two-hour weekly meetings. All data sources were examined through naturalistic evaluation (Savin-Badem & Major, 2012), which “attempts to present a ‘slice of life’ episodes documented through natural language and representing as closely as possible how people feel, what they know, and what their concerns, beliefs, perceptions, and understandings are” (p. 278). The data was then uploaded to the Dedoose data analysis software for additional thematic coding. Themes were organized into 14 main categories such as the following: gender, education, JJS, voice, and advocacy. The data was organized using these categories and aided in the creation of thematic memos that were used for analysis.

### **Results and Discussion**

The findings section is broken into three main parts: 1) involvement with JJS, 2) schooling, and 3) empowerment, to illustrate how educational and penal realism impacted Malcolm.

#### **Involvement with JJS**

At age 12, his life changed dramatically forever due to a domestic dispute that ultimately ended up tying his fate to the JJS for the next five years. While we do not condone drinking, Malcolm was heavily intoxicated the day he was arrested. He was involved in a small physical altercation with his mother where Malcolm pushed her aside when she hit him. The police were

called to frighten Malcolm, but not to arrest him. Malcolm's charges were initially intoxication of a minor, domestic battery, and criminal destruction of property, but all charges were later dropped to criminal destruction of property. By involving the police, a case of parental discipline ended with a child being charged with a crime. We maintain that this situation would have been handled drastically different if Malcolm was not racialized as a Black male, or if he had access to monetary resources.

Malcolm's mother did not intend for the cops to arrest him, but to only scare him so he would shape up. Moreover, she and Malcolm only conceded to the conditions of his probation because they "were very new to the system and [they] really didn't understand what was going on...[T]hey felt that [they] didn't have a choice." Lastly, their public defender did not properly advocate for them or explain all of their options.

A simple dispute started a five-year ordeal in which Malcolm was periodically placed in treatment and detention centers and, ultimately, was assigned to Drug Court. During this period, Malcolm noted that his mom "didn't have the resources to really do Drug Court" because of a lack of transportation, funds, and "medical issues" of her own. When they tried to inform Drug Court of these issues and advocate for themselves, Malcolm's probation officer (PO) responded punitively by stating that his mom was a "bad influence", "toxic", and that "[The PO] didn't want [Malcolm] to be in contact with [his mom]." Furthermore, the PO tried to force compliance with threats of more probation and/or a call to the Children, Youth, and Family Department (CYFD) to report them.

Eventually, CYFD did open an investigation, which caused trauma because Malcolm and his sisters were placed in foster care. He had no contact with his family for several months. During this time, he stated you "constantly fee[l] like you can't do something good, constantly fee[l] like there is no hope[.] You feel powerless because you have no control over yourself or your situation." This ordeal caused unnecessary stress and made him want to go on the "run" (i.e., abscond) so that he could be with his family. Subsequently, the investigation was dropped. However, this situation demonstrates the power POs have to force families to comply, despite causing overwhelming economic, emotional, and mental stress without understanding the socioeconomic and racialized inequalities of their lived realities.

### **Schooling and the Criminalization of Black Bodies**

Within public education, Black males are one of the most socially and academically marginalized groups since they are disproportionately targeted in terms of suspensions, expulsions, and school arrests (Dancy, 2014; Howard, 2013; Noguera, 2003; Skiba et al., 2014). Moreover, 35% of young Black men who were incarcerated were unable to complete high school (Western & Pettit, 2010). Malcolm reflected on how racialized Black bodies are associated with criminality and fear:

A lot of [people of color] are struggling...And I think that gets misconstrued as violence...People carry themselves a certain way and that can be seen as intimidating or aggressive...So, I think that's why [youth of color] are looked at as criminal youth. You don't think of criminal youth, and think of a bunch of little white kids, honestly, usually-a dark boy—it's mostly a Black kid....

Here Malcolm articulated the very essence of educational and penal realism. He comprehended how Black bodies are unfairly misconstrued as aggressive, violent, and criminal. More importantly, he discussed the prevailing stereotype of criminality as Black youth.

By the age of 12, he felt teachers and school administrators were unfairly targeting him. Malcolm explained:

[A]fter I got put on paper [probation], now they have an excuse to send me out and to do certain things that might not be too fair...because I am on the ankle bracelet...because they feel unsafe because of my size. That's how they had an excuse to kick me out of class or to write me up for little things. Or even shout at me a few times. They would single me out in front of an entire classroom of people just because I said something. I am not one to pull the race card [b]ut I feel it was because of my race, my ethnicity...my size again.

Additionally, he pointed out that constant visits from POs marked him as a threat, as much as his ankle bracelet. In essence, Malcolm describes the adultification of Black boys in schools, which refers to the ways that acts of childhood transgressions are interpreted as sinister and stripped of any innocence that people generally ascribe to children (Dancy & Brown, 2012). Likewise, Malcolm affirms what Fine & Ruglis (2009) describe as disciplinary practices, especially in urban public schools, that act to physically move and target young people of color from schools into juvenile detention facilities. These experiences illustrate how schools criminalize, racially profile, punitively target, and overpolice Black bodies, manifested through educational and penal realism.

To complicate this situation further, Malcolm became increasingly disengaged with school. He stated, "I didn't like school. I always felt like I was behind everybody else. I didn't really understand everything that was going on. I just didn't feel engaged." It is not surprising Malcolm would have such attitudes because his schooling was constantly interrupted by multiple placements in various treatment and detention facilities. In addition, when teachers and administrators targeted him through punitive means, these actions marginalized him and made him disengaged from school even more.

Students like Malcolm are ostracized, not only because of race and class, but also because of being incarcerated. They experience negative interactions with teachers and administrators routinely in schools. Rather than educators supporting and nurturing his growth and development, they actively tried to push him out of school by driving him away until he felt that he did not belong. As a result, Malcolm has been out of school for the last few years. One of the authors took him to a community college to pursue a GED program where he was tested in both reading and math. Remarkably, Malcolm tested at a 12th grade math level and at college level for reading; this demonstrates how his academic potential was completely ignored due to the biases of his previous teachers and administrators. The important lesson here is that schools must address these shortcomings and find solutions and more productive ways to engage incarcerated students without labeling them as threats.

### **Empowerment**

Malcolm described the reasons he likes being in LOUD:

[i]t feels good to be heard and feel that somebody is actually going to listen to you and feel that somebody cares about what you think is wrong... I feel like LOUD genuinely opens their ears and they listen to what we have to say.... I feel in LOUD a lot of real issues and real problems get addressed and that alone, whether we make changes or not, helps the wellbeing of youth.

This quotation explains how, through LOUD, Malcolm was able to find his voice and fight back against the system. More importantly, Malcolm discussed how LOUD attempts to help youth address their "real issues and real problems" so that they can successfully complete the conditions of their probation agreements and eventually exit out of the JJS.

After five years of being system-involved, Malcolm stated that he was frustrated because

someone else had made every decision for him and he felt powerless. He felt that some of his peers with more serious offenses were getting off probation more quickly and the technicalities that prevented his progress were unnecessarily punitive. He realized that Drug Court was not benefiting him, but rather causing him more harm. Therefore, he worked with his public defender and LOUD facilitators who helped him to navigate the formal court system and learn how to negotiate his own plea agreement by representing himself in court. Malcolm recalled the steps he took in order to empower himself to change his own situation:

I decided that I need to write down how long I was on probation, how long I spent in jail, spent in treatment, how many probation officers I had and things like that...[A]t the termination hearing, I requested to be taken off of Drug Court. I don't feel that I would have been taken off of Drug Court if I hadn't asked for it...At that point I was placed on regular probation.

This was an unprecedented move because he was one of the first youth to represent himself in court and ask for a change of terms in his probation. After this initial success, Malcolm went on to work out an agreement with the judge for his next hearing where he represented himself again and petitioned the judge to be placed at a residential treatment center with the understanding that if he successfully completed his stay that he would be released from probation. The judge agreed. After completing his stay, Malcolm had his final hearing where the judge complimented him on his successful completion of the program, remarked multiple times how proud she was of him, and said she saw him as a remarkable young man who has tremendous potential.

Malcolm is an exceptional example of what marginalized youth can accomplish when given the proper support and tools to help achieve their own successes. With the help of knowledgeable adults, other youth can learn how to represent themselves in court and advocate for their own interests. Ultimately, Malcolm's example showcases the power of youth finding their voice.

### **Implications and Conclusion**

This article has focused on profiling Malcolm's experience with incarceration and STPP, as well as how he fundamentally advocated for himself. Through his case study, we illustrate the reality of educational and penal realism that marginalized youth encounter once they are system-involved and how it converges with the STPP. In other words, this case study provides a powerful narrative on how schools further oppress and target system-involved youth through school discipline.

We conclude here by discussing how youth activists, such as Malcolm, have key solutions to help improve the JJS. When asked about what types of reforms should be implemented in order to improve his experiences with the JJS, Malcolm provided four main suggestions: improving the quality of staff; individualizing and tailoring therapy programs to each youth's unique situation; raising awareness of the causes and realities behind the youths' lived experiences; and remembering that these youth are not hardened criminals to be dismissed but are children that make mistakes.

Having more caring, involved and supportive probation officers could make a huge difference in the lives of incarcerated youth. Malcolm stated, "[I]f the probation officer cares in the first place, it is like a big deal. Cause if they don't care about your situation at all then there is no real good that they can do." He further explained that probation officers can make a big difference by being more compassionate like asking their clients, "What is going on at home?" and how they can assist them in addressing these issues. Otherwise, too many incarcerated youth

“fall under the radar” because they are not receiving the proper support and fall “by the wayside” because probation officers are not helping them and their families deal with pertinent issues, such as poverty and schooling. The JJS needs to tailor their programs so they are geared toward addressing the needs of youth and their families, rather than focusing on compliance and rules that do not address the core issues that enable them to heal and grow.

A second key recommendation Malcolm had was to focus on “genuine therapy” that was not only “geared towards getting off the program” and “working through the rules of Drug Court.” He suggested it should also focus on the “well-being of the youth” so they can succeed even after they complete Drug Court. Malcolm powerfully articulated, “[Drug Court] is like cattle, getting you in and getting you out. Moving people in and getting them out.” We contend that such an approach caused Malcolm to be unable to complete Drug Court and consistently fail.

This leads to the last point: we must change the language of accountability. Most probation officers would state that Malcolm was trying to escape accountability by absconding and violating his probation terms instead of recognizing that he was on probation for five years. Malcolm realized that he did make many mistakes; however, he also wanted the system to acknowledge that this failure of compliance was due to poverty, which directly impacted having access to adequate food, housing, and clothing. Furthermore, he was racially profiled and treated unfairly due to the over-policing of his Black body in his schools and in the community. Therefore, Malcolm is not advocating for a free pass, but rather a plea for more understanding and empathy. Lastly, JJS personnel, educators, and school administrators need to be reminded to stop criminalizing normal teenage behavior. As Malcolm stated poignantly, “[Y]ou can’t punish somebody and expect them to learn something if it is just going to be more stressful, more traumatic for them.” We need to remember that children, many of whom have experienced traumatic events at an early age and are racialized, classed, and gendered, can act out in normal teenage angst due to this trauma.

As educators and researchers, we urge other adults who work with these populations to be critically conscious, aware, and sensitive to the biases, stereotypes, and labels that can negatively affect the educational experience of these youth. The recommendations that were given by Malcolm can be applied to educators and administrators, as well. Hiring caring and supportive staff, teachers, and administrators who tailor educational plans that aid in the support and success of marginalized students will greatly increase student engagement and academic success. By recognizing their lived experiences, schools serve as institutions of learning for all their students. Overall, this study demonstrates how we can empower youth to create systemic change in institutions that are not always designed to ensure their success by helping to support youth, instead of imprisoning them so they feel trapped without voice or power.

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