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The Social Organization of Jim Crow Justice

Having described general dimensions of racial inequality in American juvenile justice over the nineteenth century and the early twentieth, I focus in this chapter on the societal mechanisms and implications of Jim Crow juvenile justice. This sociological interpretation helps account for the formation and endurance of this peculiar institution while also providing context for the *oppositional* racial project it inspired—the black child-saving movement—which is the focus of the second part of the book. My basic argument here is that Jim Crow juvenile justice was a racially oppressive social system that grew and flourished amid the racial group power imbalance created by denials of black representation. Without reciprocal black authority, white supremacist notions of child and social welfare situated black youths, families, and constituencies outside the moral universe of human and civic obligation. An ethic of care concerning black dependents and delinquents existed but was marginalized in Jim Crow juvenile court communities. As the early Boston, New York, and Chicago juvenile court communities demonstrate, the well-being of black youths was considered, but it was not a priority of the white-dominated parental state. Black Americans showed tremendous concern for black youth protection, in the interest of youth and community welfare, yet white domination of the public sphere led to monopolization of child-welfare resources and authority. Thus, Jim Crow juvenile justice was defined by a dynamic of underdevelopment, a systematic attempt to deny black youth (and, therefore, community) development, or self-realization, through the racially selective provision of parental state resources.¹ In the urban North, this oppression typically manifested as institutionalized neglect or subtle exploitation, while the oppression of black youths and communities in the South often took more explicit, violent, and politically expressive forms.

Denial of participatory parity or equal racial group influence in the administration of justice was the most prominent organizational feature.² Until the second half of the twentieth century, white adult authority was nearly absolute, with black adults excluded from the deliberative legal and legislative milieus of juvenile justice. Few black authorities worked in juvenile court communities, especially outside marginal service roles, and the wider power structure—which denied voting rights, quality education, and labor market opportunity—severely limited the collective capacity of the black community to express and protect group interests in juvenile justice policy and practice. Early attempts to diversify the legal domain generally occurred under the pretense of maintaining racial hierarchy. Black juvenile probation officers and other service workers were sought as specialists to serve in black communities, but they were underpaid and underresourced and possessed little authority. The most fundamental characteristic was the absence of democratic control since this was the *key mechanism* rather than an outcome of Jim Crow juvenile justice. These relations of racial oppression and domination, which defined Jim Crow juvenile justice systems, became the main target of oppositional movements to transform the racial structure of American juvenile justice.³

Loving the White Delinquent: Regional Patterns

Nationwide, domination and oppression were characteristic of Jim Crow juvenile justice during the first half of the twentieth century. These relations were dynamic and variable across time and social context. Most acute and dramatic in the American South, where most blacks lived until World War II, they were also realities in places such as Chicago, New York, and Los Angeles, where black adult influence and youth opportunity were more subtly denied. Contact of black youths with the juvenile courts became more common, but black adults enjoyed little recognition or influence in terms of the authority of the parental state. Before the post-1960 civil rights reforms, black youths were typically denied equal access to rehabilitative court resources.

Black migration patterns and population characteristics are reflected in regional variations in Jim Crow juvenile justice in the American South and urban North (see table 4.1). Until the late 1920s, over eight of ten black Americans lived in the South. In the first wave of the Great Migration (1910–40), over one million southern blacks moved to midwestern and northeastern cities. Far fewer made it to the American West. Several million more seeking equal protection and opportunity joined a second wave of

Table 4.1 Regional concentrations and proportions of the black population in the United States, 1880–1970

Year	Black population (% of U.S.)	Concentration of black population (%)				Year	Black proportion of population (%)			
		South	Northeast	Midwest	West		South	Northeast	Midwest	West
1880	6.581 (13.1) 7.470	90.5	3.5	5.9	.2	1880	36.0	1.6	2.2	.7
1890	(11.9) 8.834	90.3	3.6	5.8	.4	1890	34.0	1.6	1.9	.9
1900	(11.6) 9.828	89.7	4.4	5.6	.3	1900	32.3	1.8	1.9	.7
1910	(10.7) 10.463	89.0	4.9	5.5	.5	1910	29.8	1.9	1.8	.7
1920	(9.9) 11.891	85.2	6.5	7.6	.8	1920	26.9	2.3	2.3	.9
1930	(9.6) 12.865	78.7	9.6	10.6	1.0	1930	24.7	3.3	3.3	1.0
1940	(9.8) 15.042	77.0	10.6	11.0	1.3	1940	23.8	3.8	3.5	1.2
1950	(10.0) 18.860	68.0	13.4	14.8	3.8	1950	21.7	5.1	5.0	2.9
1960	(10.6) 22.580	59.9	16.0	18.3	5.8	1960	20.6	6.8	6.7	3.9
1970	(11.1)	53.0	19.2	20.2	7.5	1970	19.1	8.9	8.1	4.9

Source: Campbell Gibson and Kay Jung, *Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States*, Population Division Working Paper no. 56 (Washington, DC: U.S. Census Bureau, 2002).

Note: Population is given in millions (rounded to tens of thousands).

migration (1940–70) to the urban North and West. Most blacks going west moved to California, settling especially in Los Angeles and San Francisco.⁴

Before 1950, juvenile court communities out west were anomalous given the relative absence of black youths and families. The topic merits study, but, since this book focuses on the South, Northeast, and Midwest, where black Americans were overwhelmingly concentrated, I draw on existing research for the social organization of Jim Crow juvenile justice in the western United States.⁵

Despite the realities of oppression and domination in the West, the region afforded black youths greater access to juvenile justice resources than was common elsewhere.⁶ Given the West's smaller black populations, white-dominated juvenile courts were more willing and able to provide reformatory access to black dependents and delinquents. Black populations were less threatening to white social, economic, and political interests. Absent were key elements of white opposition to black child- and social-welfare initiatives elsewhere: black youths could be accommodated without jeopardizing access for white youths and without the need for substantial investments of public funds in separate services.⁷ Thus, institutionalized black youths in early western juvenile court communities were as likely to be committed to reformatories as their white counterparts were. In 1910, 78 percent of black youths and 72 percent of white youths were committed to juvenile institutions (fifty-six black youths vs. nearly one thousand white youths).⁸

Black populations in some western jurisdictions voluntarily relied more often on juvenile court services owing to perceived opportunities for relatively equitable treatment and the lack of community-based alternatives, such as the mutual aid North Carolina's black communities developed during the 1920s and 1930s to shield youths from oppressive justice systems. Black parents in Los Angeles, and particularly single mothers, sought assistance from the court in disciplining their children. The interactive nature of systems of social control highlights how structure and agency combine to shape these processes and influences efforts to reorganize the racial structure of American juvenile justice.⁹ In the interim, small black populations in the West lacked alternatives besides appealing to the court for support. Compared to white and Latino youths, black youths were less prone to escape from a southern California reform school, and they had smaller support networks to turn to in less entrenched black communities.¹⁰

In some western jurisdictions, black youths had better access to juvenile institutions, and some parents were inclined to use it. Ongoing white domination of justice administration concerned black leaders in the West,

In 1916, the governor of Texas signed legislation creating the Gainesville State School for Girls, a 161-acre facility just outside a town founded in 1850 on the California Trail. Its “ideal plan” reserved the reformatory for white girls. Although the reformatory was partially supported by public funds, black girls were unwelcome. A decade later, the 1927 Texas legislature established a reformatory for black girls. Since no funds were appropriated, no institution was established.¹⁶ Not until 1947 did Texas establish an

institution open to black girls. The new reformatory was located at a shuttered federal internment camp in a remote area near Brady. The town was in the middle of the state and over two hundred miles from the nearest black metropolis in Dallas. Use of the internment camp conveyed an aversion to the idea of black citizen building and was akin to nineteenth-century plans at the Philadelphia House of Refuge to send black youths to Liberia and to frequent juvenile court characterizations of *colored* as a foreign nationality rather than a category of U.S. citizens. Black delinquents and dependents remained prisoners of yet unresolved civil wars over the boundaries of American democracy. Long before they were born, girls confined at Brady had been defined as the “extravasated blood” of the nation—alien and expendable—so it would seem appropriate within the racial logic of the white parental state to commit black youths (and adult workers) to a disused prison for outsiders.¹⁷

The Brady State School for Negro Girls was doomed to fail. Led by a black woman superintendent, as was not uncommon by the 1940s, it struggled to recruit and retain a qualified staff owing to its low salaries and undesirable location. After barely three years, the school was closed, relocated, and renamed. It reopened as the Colored Girls Training School in the east Texas town of Crockett. The site was chosen because over 80 percent of black Texans lived in segregated communities within one hundred miles in every direction. Twenty-nine black girls were transferred from Brady to Crockett in 1950. In 1954, the *Brown v. Board Education* decision threatened to break up the historically black Crockett School, yet the separate and unequal institution lasted for more than another decade while desegregation was contested. In 1966, *colored* was finally dropped from the school’s name.¹⁸

Institutionalized Neglect: Jim Crow Juvenile Justice in the Urban North

Black youths and communities in the urban North encountered less violent and often more benign forms of neglect at the hands of a white-dominated parental state during the first half of the twentieth century. White civic leaders, who exclusively controlled the parental state until the mid-twentieth century, often expressed concern for the well-being of black children and families. Nonetheless, black community influence remained marginal to citizen-building efforts and to access to resources. In Chicago’s early juvenile court community, black youths remained in detention homes for extended periods. These facilities were intended for short-term confinement and offered few rehabilitative services. Secular and religious organizations generally refused to serve nonwhite dependents and delinquents. Black

youths were sent to any institution that would take them, regardless of individualized needs or whether they were dependency or delinquency cases. Outcomes were better than in the South, where racial status was also the primary criterion, but the absence of a service continuum for black youths in northern contexts similarly restricted access to rehabilitative ideals and services.

Indifference was not necessarily the issue. Hull House leader Louise deKoven Bowen, who served as a trustee, the treasurer, and the board president of the Chicago settlement house, wrote in 1913 of the organization's involvement with the city's growing black population. The Hull House-based Juvenile Protective Association of Chicago, of which Bowen was president, studied boys in the county jail. The association was "startled" to find black boys and young men so disproportionately represented. "Although the colored people of Chicago approximate one-fortieth of the entire population," its study reported, "one-eighth of the boys and young men, and nearly one-third of the girls and young women, who had been confined in the jail during the year, were Negroes." The association learned that employment agencies were sending young black women to work as maids in houses of prostitution. Such referrals would never be made for white girls, it complained, given their protected "moral fragility" and the probability of pandering charges.¹⁹

Neither Hull House nor the Chicago juvenile court intervened to reduce these disparities, probably because black community needs were a low priority. "More than most of their generation," one study concludes, "Hull House residents were troubled by the unequal lot of the Negro, and certainly more than most, they tried to do something about it. But because there were not many Negroes in their neighborhood, because there were so many other problems, and because of the racist attitudes of their day, Hull House residents, in the period before World War I, devoted a rather small amount of time to the situation of black people." The Juvenile Protective Association expressed alarm but left it to black clubwomen to create their own employment referrals, safe homes, and other services for black girls and young women migrating to the city.²⁰

Immediately following the founding of the juvenile court in Boston in 1906, court social workers recognized that court services for black children were inadequate. Boston settlement house leaders responded in 1908 by establishing the Robert Gould Shaw House as an auxiliary to the white South End Settlement House. Named for the white commanding officer of the first all-black regiment to enter the Civil War, Shaw House was described by its directors as "unique among Boston's neighborhood houses in that it alone

studies, and, to the limits of its power and resources, deals constructively with America's most pressing problem—the race question.” Boston's South End was the “most densely populated Negro section,” and Shaw House was meant to respond to the discrimination faced by the city's rapidly growing black population. Noting how the “bias of the Whites in settlement clubs and classes acts practically to close settlement opportunity to the Colored people,” Shaw House declared itself “dedicated to ideals of fair play and equal opportunity.” It gave black families and youths in the South End “first claim” to its services but did not deny access to whites: “The House stands for cooperation, looking to a finer citizenship for both races.”²¹

Shaw House's focus on race-related investigations and interventions owes much to the inspirations and experiences of its head social worker, Isabel Eaton. Her father was a Union general who assisted slave “contraband” during the Civil War and later became a southern superintendent of education during Reconstruction. In 1898, the black scholar-activist W. E. B. DuBois closely supervised her master's in social work thesis, from which she prepared the “Special Report on Negro Domestic Service” to accompany DuBois's *The Philadelphia Negro* (1899). Having been introduced to “community-based social work” by Jane Addams and honed her social work experience in Philadelphia and New York City's East Side, Eaton applied her passion for racial justice to the organization and programming of Shaw House in Boston. With DuBois, Addams, and other civic leaders, she was a founder of the NAACP in 1910.²²

Shaw House offered an array of social clubs, courses in the trades, arts, and etiquette, a Saturday morning kindergarten, and study halls. Given the paucity of services for black youths offered by Boston's juvenile court, Shaw House oversaw black boys put under probation by the juvenile court. The settlement served as a community-based black juvenile probation department in Boston's South End. Of the 170 children enrolled in Shaw House clubs and classes in 1908, only 15 were white. No record exists of the probation caseload or the services probationers received. Shaw House initially featured white leadership but relied on a largely black, volunteer workforce and included black Bostonians in management. Despite overcrowding and inadequate resources, it was a unique early venture to address the needs and interests of black youths and communities. Its holistic approach incorporated education, job training, and public health to facilitate youth and community development. The institution's racial inclusiveness was unique in terms of participatory parity, which contributed to its vision and community impact. Credit for these distinctions goes to the local leaders who developed and supported Shaw House and to the relatively small size

of Boston's black population. During the Great Migration, Boston's black population grew five times less than New York City's and eight times less than Chicago's.²³

New York City's rapidly growing black population struggled to gain recognition in justice administration. In 1925, a team led by Charles S. Johnson, the National Urban League's director of research, conducted a study of racial inequality in New York's juvenile court. It found that black youths were overrepresented in the juvenile court and detention and that black children were in court for less serious offenses than nonblack youths were. Overrepresentation was attributed to inadequate informal social controls, such as social work services and recreational opportunities in black communities. To a lesser extent, black parents relied too heavily on the court, "doubtless due to the lack of intermediary agencies for them."²⁴ As in Los Angeles and, likely, in most midwestern and northeastern cities, New York City's black parents looked to the court as a resource but found few services that met their growing community's needs.

Of primary concern to the Urban League committee was the overt neglect of black community interests through denial of juvenile court services to black dependents and delinquents. The presiding judge of Manhattan's Children's Court agreed with the Urban League complaint, acknowledging in the introduction to its team's report: "The Children's Court is confronted almost daily with its inability to deal constructively with colored children under sixteen years of age who are in need of custodial care by reason of the scarcity of institutions willing to accept such children." Low rates of institutionalization among black court-involved girls and boys were, not an indication of the lack of black dependency or delinquency cases, but rather "an index to certain institutional inadequacies."²⁵

Racial discrimination by New York's juvenile court service providers led to prolonged confinement of black girls and boys in shelters and detention facilities that were intended for short-term custody and offered few developmental services. The Manhattan and Brooklyn Societies for the Prevention of Cruelty to Children, which ran city shelters, complained of the "serious lack of adequate institutional provision, public or private, for colored children, [and] particularly girls." The black population of New York City had increased by some seventy-five thousand between 1915 and 1925. No commensurate increase took place in juvenile court provisions for black youths, "the result [being] that in certain classes of cases, particularly those of girls, where the Children's Court has made commitments and there no vacancies in institutions . . . children are often left in the Society's shelter for longer periods."²⁶

According to Urban League calculations, average periods of delay ranged from a few days to several months for black youths. Shelters were meant to give temporary care, and this time was wasted “since they are not being given the sort of training which they need and should get.” White children seldom remained in shelters for more than twenty-four hours. “To an extent evidenced by probably no other group in the city,” the report concluded, “the Negro finds himself with inadequate facilities in the recreation field and in the field of care of dependent and delinquent children.” Black service providers would not fill this void, the committee of mainly black civic leaders concluded, because “unlike certain other racial groups the Negro has not accumulated sufficient wealth as yet to make it possible for him to do much toward meeting the problems of his own people.”²⁷ Another decade passed before black civic leaders, service providers, and their allies in New York City—including the nation’s first black woman judge—began to defy this assessment of black collective efficacy.

The Expressive Violence of Southern Jim Crow Juvenile Justice

Jim Crow juvenile justice was unequal in a social, organizational sense. It communicated racial status distinctions and reproduced racial group inequality across generations. This was especially apparent in the South, where often violent denials of self-development for black youths and participatory parity for black adults were most overt and commonplace. The oppression of southern Jim Crow juvenile justice was also more expressive, or intended to convey normative moral and political orientations. For example, when pressed to provide rehabilitative services for black delinquents in 1905, Arkansas governor Jeff Davis proposed that the state build a reform school “where white boys might be taught some useful occupation and the negro boys compelled to work and support the institution while it is being done.” “This would prove a blessing,” he assured the all-white House of Representatives, “not only to the white boy, but to the negro boy as well.”²⁸ Lacking provisions for black youths in the state, and given the more extreme violence that black youths suffered in adult penal systems, Davis’s claim that his exploitative model marked progress was somewhat truthful. Yet the compromise illustrates how oppression and domination were openly endorsed as means of institutionalizing white youth and community advantages within juvenile justice and the larger society.

Whippings, a sanction deeply rooted in American racial history, further illustrate the expressive racial violence characteristic of southern Jim Crow juvenile justice. Researchers in North Carolina deemed whippings “the most

unnecessary and brutalizing type of disposition" employed by the juvenile court in the first few decades of the twentieth century. The data suggest that whipping was reserved almost exclusively for black children and youths in North Carolina's courts. One hundred fifty-nine children were punished in this way in 1933 alone, with black children receiving all but twenty-five (over 80 percent) of the beatings.

White officials subscribed to "a widespread feeling among county juvenile court judges that whipping is the most effective way of handling delinquent Negro boys." An official from one of the larger cities admitted that he preferred to send "delinquent Negro boys downstairs with a big police officer and have them flogged." White children were whipped in just seven of North Carolina's one hundred counties between 1919 and 1929, while black children were whipped in twenty-two of them. Girls, especially white girls, were whipped relatively rarely. Fifty black girls, but only three white girls, were officially whipped between 1919 and 1929. No record of the intensity or other qualitative dimensions of these physical punishments exists.²⁹

Social control through whippings of black women and men was common during chattel slavery. Following Abolition, North Carolina forbade the whipping of criminal offenders. Reconstruction Era state constitutional amendments from 1868 made corporal punishment of adult criminals illegal, and rulings as recent as 1921 and 1923 held that the restriction also applied to juvenile offenders. Objections to juvenile whippings were based on equal protection arguments and the fact that they ran counter to perception and law regarding the "best interests" of youths, especially as defined by the juvenile court movement. "Whipping of delinquents has no place in our civilization," a North Carolina researcher admonished, since "it is wholly contrary to the spirit of the juvenile court law, which has for its aim the protection of children, and not their punishment." Given over one hundred documented whippings of youths in over twenty counties, the law and the rehabilitative ideal were flouted, particularly in the sanctioning of black youths. Researchers protested that "to whip delinquent Negro boys, but not the white, is racial discrimination of the greatest kind" but overlooked current realities when adding that "to whip girls of either race is a relic of our barbaric past when we branded felons with a red hot iron, and nailed their ears to a pillory."³⁰

Well into the twentieth century, juvenile court communities nationwide and especially in the South subjected black youths to far more severe sanctions. Hundreds of black youths were lynched across the South, often with the cooperation of legal officials.³¹ Juvenile executions represent the official killing of embryonic citizens. They became more common and limited to

black youths as the twentieth century progressed. American juvenile justice has always stressed that age limits the maturity and culpability of a person accused of violating the law. For young offenders, diminished criminal capacity has been held to warrant lenience in sanctioning and optimism about reform through rehabilitative intervention. Executions of black youths and the degree of racial disparity increased after Progressive Era juvenile court communities were established. This illustrates the limitations of liberal principles of juvenile social control when black youths are concerned. Most black youth executions occurred in the South, primarily owing to the disregard of black child and social welfare among the dominant group and the lack of participatory racial parity in the administration of justice.³²

Between 1900 and 1959, at least 162 persons eighteen years of age or under were executed.³³ Compared to all those subjected to court sanctions during that period, the number is small. However, those executions offer insight into Jim Crow juvenile justice. Patterns of execution by racial group reveal the relation between race, youth execution, and Jim Crow juvenile social control (see table 4.2). Four historical periods related to the general and racial history of American juvenile justice are distinguished: the antebellum period (pre-1865), the period between Emancipation and the establishment of the first juvenile court (1865–99), the period of early juvenile court diffusion (1900–1930), and the period in which juvenile justice reform became nationally established (1931–59).

Several patterns are noteworthy. Youth executions increased significantly following Emancipation and through the first half of the twentieth century. Over one-third of *all* recorded youth executions occurred between 1931 and 1959, when juvenile justice reform was well established. Improved age-data collection over time skews the statistics. Youth executions by race, however, are dramatically uneven in each period and more so over time, notwithstanding the far greater problem of missing age data for black executions.³⁴

Nearly 70 percent of all documented youth executions involved blacks. The number and relative proportion of white youth executions declined consistently across historical periods. As Emancipation, Reconstruction, and the juvenile court movement proceeded, the number and group proportion of black youths among those executed increased.³⁵ The proportion of executed youths who were black rose from 42 percent in the earliest period (through 1865) to 82 percent in the latest (1931–59). Over 70 percent of black youth executions recorded in the Espy data occurred *after* the birth of the juvenile court, contradicting the apparent advance of enlightened juvenile social control.

This paradox illustrates the dynamic racial politics of Jim Crow juvenile

Table 4.2 Race and youth executions by juvenile justice periods

Racial groups	Period				Total
	Pre-1865	1866–99	1900–1930	1931–59	
Black:					
Count	17.0	45.0	65.0	97.0	224.0
% by group	7.6	20.1	29.0	43.3	100.0
% by period	41.5	54.9	72.2	82.2	67.7
White:					
Count	18.0	28.0	21.0	17.0	84.0
% by group	21.4	33.3	25.0	20.2	100.0
% by period	43.9	34.2	23.3	14.4	25.4
Other:					
Count	6.0	9.0	4.0	4.0	23.0
% by group	26.1	39.1	17.4	17.4	100.0
% by period	14.6	11.0	4.4	3.4	6.9
Total:					
Count	41.0	82.0	90.0	118.0	331.0
% by group	100.0	100.0	100.0	100.0	100.0
% by period	13.0	25.0	27.2	35.7	100.0

Source: M. Watt Espy and John Ortiz Smykla, *Executions in the United States, 1608–2002* [computer file] (Ann Arbor, MI: Inter-University Consortium for Political and Social Research, 2004).

Note: Tabulations include all known executions of youths (persons aged eighteen or under at the time of execution) for which race/ethnicity is also reported ($N = 331$). Sixty-eight percent of these cases involved black youths. The earliest reported youth execution in these data was in 1642, and the last known one occurred in April 1959. Reported cases of Native American ($N = 10$), Latino ($N = 9$), and Asian ($N = 4$) youth execution are combined in the category "Other." Percentage totals may not equal 100 owing to rounding.

justice. In the Espy data, 24 of the 224 recorded black youth executions occurred outside the South. Georgia accounts for nearly one-fifth of all black youth executions (44), and over 60 percent of these occurred after 1930. In Georgia, of the 47 recorded youth executions, only 3 were not black. Most prominent among killing parental states after Georgia were Virginia (26), Alabama (20), and North Carolina (19). All but one of these executions involved black youths. South Carolina (15), Texas (13), Mississippi (11), Maryland (10), and Louisiana (5) report only nonwhite youth executions, with most occurring after 1930.³⁶

The growing frequency and racial disparity of youth executions was related to the intensifying struggle for equal rights. When whites sensed an increased threat, they responded with racial violence. John Dittmer's historical research on the Mississippi civil rights movement shows that racial violence increased in the World War II era owing to growing concerns in

the white community over emboldened black militancy and potential civil rights agitation. Black soldiers had called for “Double Victory”—liberty at home and abroad—provoking fears among whites that militarism offered the *means* to genuinely challenge Jim Crow segregation. Experiencing “fear and uncertainty,” Dittmer suggests, white Mississippians employed racial violence to defend the status quo. “Lynching had always been the ultimate form of social control,” he continues, “and neither youth, old age, nor social class offered protection for Negroes who did not stay in their place.”³⁷ Two of the many victims of white reactionary violence were Charlie Lang and Ernest Green. These boys were fourteen years old when, in October 1942, a passing white motorist spotted them chasing a young white female playmate and reported the “incident” to police. After their arrest on suspicion of attempted assault, a white mob entered the local jail, took the boys, and hung them from a bridge.³⁸

The rise of the black freedom movement and the denial of black authority within the parental state made black youths susceptible to the racial vengeance of Jim Crow juvenile justice systems. As white perceptions of racial group power threats became heightened, youthful indiscretions by blacks drew more severe sanctions from a racial state committed to the status quo, for black and white citizens alike. One execution involved fourteen-year-old George Stinney (fig. 4.1). He was accused of murdering a young white girl in South Carolina in 1941. In a grotesque spectacle, South Carolina officials struggled to fit the adult electric chair to Stinney’s little body. After several botched attempts, he was finally dead.³⁹

The “substitution thesis” attempts to explain the increased executions of black youths during the middle third of the twentieth century. In this notion, “legitimate” state executions replaced extralegal lynching.⁴⁰ News accounts of these executions support this thesis, observing the presence of white mobs within the court or otherwise pressuring legal officials, and blurring legal and extralegal distinctions of racial violence in the period.⁴¹

Despite Espy’s data on official offenses behind juvenile executions, legal variables are insufficient explanations for black youth executions. Many involved racial taboos on black self-defense and sexual involvement with whites, activities that invited mob violence and charges of assault, murder, and rape, with the severe sanctions associated with these crimes.⁴² A disputed case in 1946 centered on James Lewis and Charles Trudell, ages fifteen and sixteen. An attempted robbery of their employer, a white farmer, ended with all of them dead, the farmer from gunshots allegedly fired by these youths and the youths at the hands of the state. The only evidence was their forced confessions. In a trial that their NAACP federal appeal lawyer,



Figure 4.1. George Stinney, electrocuted in 1941 at age fourteen by South Carolina.

Thurgood Marshall, likened to Scottsboro, an all-white jury found Trudell and Lewis guilty. They were sentenced to death and executed in July 1947. A decade before Emmett Till was lynched in Money, Mississippi, the Trudell and Lewis case provoked a global outcry against “juvenile murder” and “white justice” in the United States. Protests came from far and wide, including London’s League of Colored People, the West African Student Union, and the government of India. The U.S. embassy in London received over three hundred communications protesting the death sentences, including forty-eight petitions containing hundreds of signatures. Three members of the British House of Commons sent a telegram to President Truman urging him to “protect basic human rights by intervening” to stop the executions.⁴³ Shunning this opposition, Mississippi’s governor and courts, and eventually the U.S. Supreme Court, rejected calls for clemency and to review the capital sentences. This conveyed a resolve to defend white democracy, or, at least, the sovereignty of white supremacist Mississippi.⁴⁴

The *Chicago Defender*’s close coverage of the case presented it as clear proof that the absence of black power in government would continue to facilitate domination and oppression under the law. “Not until Negroes have equal

representation in the courts and all law enforcement agencies," the newspaper reported, "can Negroes expect equality."⁴⁵ Appeals exhausted, and execution day approaching, Lewis and Trudell's local NAACP lawyer suggested that the boys would be too short to fit in Mississippi's portable electric chair. Several big books would be needed to "raise the boys so that their heads can reach the lethal cap." The writer recommended using the Bible, the U.S. Constitution, the *Age of Reason*, and *The Rise of Democracy* "so that Mississippi can destroy them all at the same time." On the day of the execution, a small crowd of white spectators gathered to celebrate the killing outside the jail. This scene helped blur the distinction between extralegal mob violence and death at the hands of a white-dominated parental state.⁴⁶

The Interaction of Oppression and Domination in Jim Crow Juvenile Justice

Racial domination in Jim Crow juvenile justice is rooted in the late-nineteenth-century collapse of radical Reconstruction and efforts of white redeemers to eliminate black representation in government. By resurrecting laws that criminalized black racial status and poverty and passing legislation that excluded black workers and professionals from legal and law enforcement positions, redeemers subjected blacks to greater control and placed lawmaking, law enforcement, and justice administration under the control of white civil society.⁴⁷ This served symbolic and practical purposes. As the historian Leon Litwack explains: "To extinguish the memories of black jurors, judges, police and legislators during Reconstruction was to make clear the undisputed and permanent authority of whites. To impress upon the first generations of freeborn blacks the constraints and discipline once associated with slavery was to remind them constantly of their circumscribed place in southern society. The entire machinery of justice—the lawyers, the judges, the juries, the legal profession, the police—was assigned a pivotal role in enforcing these imperatives . . . underscoring in every possible way the subordination of black men and women of all classes and ages."⁴⁸

A 1909 dispatch from Atlanta University highlighted the practical role of white domination in justice administration. "In the South, especially the lower South," W. E. B. DuBois wrote, "the colored people are almost helpless. They have few or no representatives on the police force; no influence in the police or courts; [and] no control over jail or methods of punishment." "Personal influence may do something," he protested, "but for the most part [blacks] have to sit by and see children punished unintelligently and men and women unjustly."⁴⁹

In 1913, DuBois again protested the lack of black representation in sys-

Black child-savers pressed for greater professional representation in a wide range of juvenile justice-related occupations beginning in the 1920s. They made important inroads in the 1930s and 1940s. Not until the 1950s, however, did black Americans gain significant representation among legal and law enforcement authorities. Today, black representation at executive, professional, and administrative levels remains relatively limited. Diversification of justice-related occupations before the civil rights period was concentrated in the urban North and in lower service roles, such as segregated police units, segregated probation departments, and the staffing of black reformatories.⁵¹ Meanwhile, the dearth of black representation among law enforcement officials and court authorities, in local, state, and federal government, and in academic and policy circles made for negligible participation in juvenile justice policymaking, funding decisions, and delinquency prevention and intervention efforts. This was the bureaucratic foundation of Jim Crow juvenile justice.

Early efforts to racially diversify caseworkers in North Carolina illustrate this point. In the 1940s, the State Eugenics Board and State Board of Public

Welfare sought to determine how often state institutions used sterilization procedures and how to increase their use. The agencies commissioned the British psychiatric social worker Moya Woodside as a research assistant at the University of North Carolina to evaluate the state's program of eugenic sterilization. Woodside proposed that increased black representation among social workers would boost access to black communities, where more sterilizations could be performed.

To her credit, Woodside rejected typical white supremacist explanations for the vast differences in life circumstance and life chances dividing white and black America, giving little credence to racist assertions of black inhumanity. Woodside traced black "deviant marital behavior," sexuality, morbidity, juvenile delinquency, and other apparent pathologies of interest to eugenicists to the social and institutional history of southern race relations. "It is not so long since Negroes were white men's slaves," she wrote in 1950, "subject to direction in almost every detail of their lives, and considered . . . inferior beings to whom the ordinary human rights did not apply. Although the plantation system has almost disappeared and Negroes have been accorded a varying measure of education and equality, tradition and custom of former days still influence the behavior of the more ignorant people of the South." The result: "Negroes are not assimilated: they live side by side with whites but in a separate social world of their own." Only a relatively small proportion, she added, have "middle and upper class status, and the mass of the Negro people [are living] under conditions of poverty, neglect, and rural isolation."⁵³

For the Eugenics Board and State Board of Public Welfare, the most pressing question regarding segregation was how to extend eugenic sterilization to isolated black communities. The centerpiece of this inquiry was a survey submitted to county departments of public welfare in North Carolina in November 1947. Ninety-five of one hundred surveyed departments replied. This high response rate fed a delusion that the study captured a representative impression of interests and experiences in the state. "No one could be better qualified to speak, since these administrators, both men and women, are representative of the general population, know local problems, and work directly with people," Woodside opined, ignoring the problem that blacks—who made up one-quarter of the state population—were not among the heads of county public-welfare departments.⁵⁴

The survey uncovered evidence that blacks, particularly poor ones, were skeptical of eugenic sterilization. Enlisting black social workers to promote such control measures might overcome the ignorance, fear, and superstition behind the skepticism. The conclusion was odd since the all-black staff run-

ning the state's only institution then serving black girls, the State Training School for Negro Girls, had expressed little interest in sterilization and no procedures had been performed there. The school (Dobbs Farms) had been established in 1944. When Woodside visited it in 1947, the black superintendent with whom she met had "little experience with sterilization." She had little interest in pursuing it since the school lacked the authority, funds, or facilities for such measures. "It was agreed," Woodside recalled, "that sterilization could be one resource for wise planning for a girl's welfare in some cases."⁵⁵

Setting aside black community interests, the study recommended training more black social workers to attain higher black sterilization rates. "The employment of more Negro social workers is likely a way in which the acceptance of sterilization could be speeded among lower-class Negro groups," Woodside writes, "since they have better understanding of Negro habits and attitudes and their advice would often command a confidence not always accorded white people." As Woodside realized, in the 1940s, this was an untenable solution, given denials of educational and other opportunities in the Jim Crow South. "At present there is an increasing demand for trained Negro [social] workers, from both public and private agencies which have large Negro caseloads," she noted, "but too few candidates are locally available. In North Carolina, there is at present no school for educating Negroes in social work, and all Negroes interested in such training have to go outside the State from whence they may feel no obligation to return."⁵⁶

Black civic leaders had their own views on the importance of increasing black representation in social work, probation, policing, the courts, and other contexts of authority, eyeing this participatory parity as way to express and protect black community interests in the (re)organization of social control. Young black professionals trained elsewhere would not likely return to the Jim Crow South. Even with credentials, as the Woodside plan suggests, their own professional visions and voice—their agency—had no place. For coming generations of black social workers and other professionals, eradicating poverty and racism and the resulting injuries to black well-being were higher priorities than sterilizing the black poor.

The Social Organization of Jim Crow Juvenile Justice: Summary and Conclusion

The first section of this book has explored the oppression and domination that characterized the racial history of American juvenile justice. Youth advantages and disadvantages were distributed along socially constructed

Emerging black community leaders were quick to identify Jim Crow juvenile justice as a unique problem of structural violence targeting youths but also disempowering the whole group.⁵⁷ By the 1890s, black civic leaders had begun to express concerns that Jim Crow juvenile justice systems institutionalized social, economic, and political deprivation, broadly or collectively injurious to black community development and social standing. To the extent that liberal juvenile justice could secure the fates of salvageable citizens and define the color of American democracy—a belief held by white and black contemporaries—the white-dominated parental state threatened quests for black freedom and equality. The emerging black freedom movement therefore prioritized juvenile justice reform, aspiring to remake American juvenile justice into a symbol and substantive resource of multiracial democratic inclusion. The struggle began modestly, with marginalized black women and men mobilizing meager resources to create semblances of black juvenile justice systems where there had been none before.