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## "Whiteness", Criminality, and the Double- Standards of Deviance/Social Control

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### 'Whiteness,' criminality, and the double standards of deviance/social control

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## ‘Whiteness,’ criminality, and the double standards of deviance/ social control

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White criminality is increasingly defined and controlled via the medical model. This is made possible by the white racial frame, which constructs ‘whiteness’ as normative and white deviance as individual aberration or mental illness. Conversely, the white racial frame constructs Blackness as synonymous with criminality. Media depictions of crime and criminals play a central role in furthering this framing, which provides the underlying legitimation for disparities in social control. The result is double standards of definition and control which medicalize whiteness and criminalize Blackness. This differential framing of whiteness and Blackness provides the foundation for the expansion of both the medical and prison industrial complexes, which are characterized by real racial differences despite comparable patterns of deviance across racial lines.

**Keywords:** white racial frame; Criminal Black Man; medicalization of deviance; prison industrial complex; criminalizing archetypes; racial profiling; normative whiteness; criminalized Blackness

The moment I learned the identity of the shooter behind the Aurora massacre (read white male), I knew how the story would go. James Holmes would immediately be subjected to amateur psychiatric diagnoses – he would be ‘sick,’ ‘insane,’ and ‘sociopathic.’ I imagined headlines just like this – ‘What Does a Killer Think? Is the Colorado shooter delusional, depressed, or psychotic? And how do we stop the next one?’ (Cullen, 2012).

His story would be his lonesome own, no matter that he precisely shared the demographic characteristics of the vast majority of the now 62 other mass murders spree killers, who have shot up schools and malls and workplaces over the past 30 years (Follman, Arensen, & Pan, 2013).

But the true power of this story becomes clear in juxtaposition of competing systems of social control – the medical mitigation of whites vs. the criminalization of Blacks.

A conversation with a colleague (one whom I have had frequent chats with about the construction of the school-to-prison pipeline) brought the point home.

‘You know, I never fully understood what you were talking about until I saw the coverage of Aurora and then thought about what they did to Trayvon Martin’, she said, ‘Five minutes after we knew the shooters identity, he was described as mentally ill and ...’

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‘And Trayvon was criminalized even though he was *the victim*, even though he was the one who was *actually dead*??’, I interjected.

‘Yes’ she replied. ‘There it was.’

More than a year has passed since the shooting at that theater that killed 12 people and wounded 58. In the aftermath, the narrative remains the same. James Holmes has entered a plea of not guilty by reason of insanity, despite evidence of planning and requests for counsel post arrest (Ingold & Stephen, 2013). There have been more mass shootings by white perpetrators, including Adam Lanza who killed his mother, twenty children and six adult staff members at the Sandy Hook Elementary School in Newtown Connecticut, and then himself (Follman et al., 2013). And more criminalization of Blackness, including that of Trayvon Martin, who, even as a victim, was demonized in death, and, in effect, put on trial for his very own murder (Heitzeg, 2013).

This is an old story too, one told and retold in various versions since the end of Reconstruction. It is a story of a white racial frame that largely denies white criminality, and defines it when it must as an ‘aberration’ while often relying on the medical model for definition and control. It is a story too of how this is made possible by the persistent attribution of crime to Blackness, the complicity of media in the framing of crime and criminals, and the reliance on differential sources of social control.

**Whiteness, deviance, and social control**

The labeling of ‘deviants’ offers informal/extralegal, medical, and formal/legal options, all designed, at least in theory, to regulate particular types of rule-breaking (see Figure 1). Informal, medical, and formal systems of social control, all involve varying degrees of discretion or flexibility in decision-making as to who should be

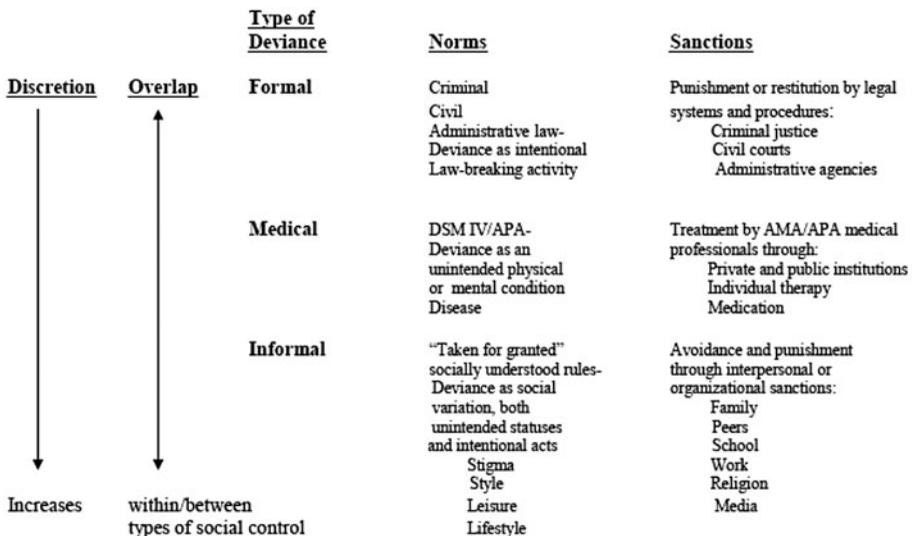


Figure 1. The definition and control of deviance.

Source: Adapted from Heitzeg (1996).

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controlled and how. These models suggest that different types of deviant behavior warrant different types of social control; i.e. minor deviations may be handled via highly discretionary informal social control, deviants who have mental illnesses may best be served by the expert judgment and treatment of the medical model, and intentional violators of the law must be punished via formalized legal systems (Heitzeg, 1996, 2011; Pfohl, 1994; Reiman & Leighton, 2010)

The criminal law – and its corresponding sanctions of imprisonment and sometimes death – represents the harshest set of norms and sanctions available. Criminal justice is designed to punish those who have acted in violation of the law. Criminal labels are often relatively permanent in nature, carrying with them informal stigma, and increasingly, additional legal barriers or ‘collateral consequences’ (Alexander, 2010; Mauer & Chesney-Lind, 2002). In contrast, the medical model emerged in order to offer treatment to those whose status or condition contributed to their deviance. This is a model which views deviants as sick, rather than just bad, and as such, ultimately redeemable (Conrad & Schneider, 1998).

A closer examination of the mechanisms of social control, however, reveals that the type of social control exerted has much less to do with the deviation in question and much more to do with the demographics of the deviant. Far from being mutually exclusive or race and class blind, these systems of control are interdependent and overlapping, and discretion often is shaped by discrimination, (Heitzeg, 1996, 2011; Pfohl, 1994; Reiman & Leighton, 2010; Simon, 2006; Walker, Spohn, & DeLone, 2012; Zuberi & Bonilla-Silva, 2008).

Race, class, and gender are inextricably bound up with the definition and control of deviance to the extent that the privileged and empowered ‘norm’ is white, male, financially well-off, heterosexual, and adult, and people of color, women, the poor, GLBT persons, and the young become ‘the Other,’ the ‘abnormal,’ the ‘deviant’ (Bonilla-Silva, 2001, 2014; Goffman, 1963; Pfohl, 1994; Zuberi & Bonilla-Silva, 2008).

Further, these ‘Others’ have been subject to labeling and social control based on the intersection of race, class, gender, and other differences. The ‘matrix of domination’ (Hill-Collins, 1990) shapes access to systems of social control as well as to social opportunity. And, while there are ‘deviants’ of all classes, all races, all genders, and ages, the models under which they are controlled reflect their relative social status.

The informal markers and associated stigmas of race, class, and gender often provide the foundation for further social control. This allows much for informal mitigation and possible medicalization of the ‘redeemable’ white middle and upper classes and criminalization for the poor and communities of color (Conrad & Schneider, 1998; Davis, 2003; Heitzeg, 1996, 2011).

Central to our analysis here is the role of the white racial frame in constructing storylines for white deviance, while simultaneously constructing a narrative that condemns Blackness.

### **The white racial frame: normative whiteness and criminalized Blackness**

The white racial frame plays a central role in rendering whiteness normative. It is, as Frankenberg (1993, p. 17) notes, ‘the unmarked marker’, unnamed, unexamined, the unspoken standard by which all ‘Other’ races are judged. The white racial frame provides an overarching world view encompassing important racial ideas and

beliefs, terms, images, emotions, inclinations, and interpretations and determining a way of being, perspective on life, and language and explanations that help structure, normalize, and make sense out of society (Feagin, 2013). Central to this frame are notions of whiteness and those who possess it as virtuous, and normative in all senses. In the Post-Civil Rights era, color-blindness is also a key feature of the white racial frame. This is centered on claims that racism is over and allows whites (others too) to equate racism with prejudice, ignoring the institutionalized and systemic racial structures that sustain and reproduce white racial privilege.

A large body of research documents the paradigmatic shift from overt essentialist racist to color-blindness (Bonilla-Silva, 2014; Feagin, 2013). This style of racism relies heavily on ideological frames and linguistic shifts, which allow whites to assert they ‘do not see race’; deny structural racism; claim a level playing field that in fact now victimizes them with ‘reverse discrimination’ and appeals to the ‘race card’; and argue that any discussion of race/racism is in fact racist and only serves to foment divisions, rather than reflect/redress societal realities (Bonilla-Silva, 2014). ‘Color-blind racism’ also creates a set of code terms that implicitly indict people of color without ever mentioning race. One of the key set of color-blind codes involves linking people of color, especially African-Americans to ‘crime.’

In the Post-Civil Rights era, there has been a corresponding shift from *de jure* racism codified explicitly into the law and legal systems to a *de facto* racism, where people of color, especially African-Americans, are subject to unequal protection of the laws, excessive surveillance, extreme segregation, and neo-slave labor via incarceration, all in the name of ‘crime control’ (Alexander, 2010; Davis, 2003). ‘Law and order’ criminal justice policies were all guided by thinly coded appeals to white fears of high-crime neighborhoods, crack epidemics, gang proliferation, juvenile super predators, urban unrest, school violence, and more. In all these cases, the subtext reads clearly fear of brown and especially Black people (Russell-Brown, 2009).

This framework, this cultural lens as it were, provides the backdrop for the mitigation of white deviance and the solidification of stereotypes that link crime to color (Welch, 2007).

### **Mitigation of white criminality**

Whites are responsible for the majority of all crime committed in the USA; this is true for all categories of crime – violent property, victimless, white-collar, and corporate (Bureau of Justice Statistics, 2012; Simon, 2006) Whites also comprise the bulk of some of our most feared criminals; they represent the overwhelming majority of serial killers and mass murders spree killers (Follman et al., 2013). Yet the image of the criminal is hardly one that evokes whiteness.

Certainly one of the prime benefits of white privilege is the right to represent yourself and to do so without fear that your actions will be used to condemn all who look like you or vice versa. In a discussion of the Aurora shooting, DeVega (2012) notes this about James Holmes:

When viewed through the white racial frame, there is nothing in his deeds on last Friday night that reflects upon the behavior of white people, generally, or white men in particular ...

The freedom to kill, maim, commit wanton acts of violence, and to be anti-social (as well as pathological) without having your actions reflect on your own racial group, is one of the ultimate, if not in fact most potent, examples of White Privilege in post-Civil Rights era America. Instead of a national conversation where we reflect on what has gone wrong with young white men in our society – a group which apparently possesses a high propensity for committing acts of mass violence – James Holmes will be framed as an outlier.

But the power of white privilege extends beyond individual vs. collective accountability and representation. The white racial frame also shapes the labels we attach to aberrant white behavior and the systems called upon to control the related deviance.

When confronted with white criminality, several options exist to divorce suspects/offenders from normative whiteness. Media coverage plays a crucial role in managing perceptions (Entman & Gross, 2008; Entman & Rojecki, 2000; Rhymes, 2009). Race is never discussed as a key signifier when crimes are committed by whites. Whiteness is largely absent, as Rhymes (2009) notes:

Let's think about it, when the tragedy at Columbine occurred there were literally hundreds of news stories asking the question: 'Why are our kids becoming so violent?' Not, 'Why are white kids becoming so violent,' but "our" kids. Now let's contrast that with what happens when a black child is killed in a predominantly black community. The newspaper accounts more often than not refer to 'the problem of black-on-black crime' or 'violence amongst black youth.'

There are two scenarios unfolding here: (1) De-emphasizing or minimizing ethnicity. When the crime is perpetrated by whites, color is not the issue; the issue is 'our' children and violence. (2) Emphatic emphasizing and alienation when blacks are deemed the culprits. It is no longer 'our' kids; it is 'black' kids or youth. There's a big difference.

In addition to de-emphasizing race in white crime, there are efforts to exceptionalize the crime/criminal as detached from normative whiteness. Often, the systemic nature of corporate crime is attributed to a few 'bad apples' (Reiman & Leighton, 2010; Simon, 2006). In cases of individual white criminals, media accounts often are sure to present the suspect in everyday photos – as opposed to mugshots – replete with neighbors or family witnesses who express shock, disbelief and attest to the character of the alleged perpetrator or the neighborhood from whence they came. This is often the case in the plethora of 'reality' prison shows too; white inmates have a 'story' that in some ways explains their incarceration, humanizes them, and evokes sympathy in viewers (Entman & Gross, 2008; Welch, 2007). In highly publicized cases of extreme white violence such as mass shootings, there are often immediate appeals to the medical model to explain the deviance as 'sickness.'

Although the most serious of white criminals do indeed face serious criminal charges, it is the medical model that is called on to 'understand' them. They are not totally 'bad' – they are 'sick.' Someone should have or could have helped them before it was too late. Of course, one of the key features of the medical model involves mitigating deviant behavior by attributing it to 'sickness rather than badness' (Conrad, 2005; Conrad & Schneider, 1998) with a particular focus on the condition, rather than the behavior and treatment, as opposed to punishment.

The white racial frame increasingly sees white deviants as sick – and maybe some are – but contrasts this with the framing of both offenders and victims of color. They are irredeemably ‘evil’ – no questions asked, guilt assumed, and punishment – in draconian legal systems not posh private treatment centers – is the corresponding response. The taint of criminalization is so strong that the actually innocent may be easily swept up, wild racial hoaxes furthered without sufficient doubt, and victims, such as Trayvon Martin, reframed via white ‘logic’ as dangerous hoodie-wearing thugs, who ultimately got just what they deserved (Heitzeg, 2013; Russell-Brown, 2009).

### **Criminalization of Blackness**

Since, as Ignatiev (1997) observes, whiteness is essentially an empty marker of privilege, it, as all groups, is most clearly ‘defined by what it is not.’ (Erickson, 2004, p. 25) And, most centrally, it is not criminal and it is not Blackness.

The Black man as dangerous is a lethal idea, ironically, not to those who perpetrate and fear, but to those to whom it is attached. It is also a very old idea, one that has evolved over centuries. The Savage, the Brute, the Defiler of white women – honed and solidified in the Post-Civil Rights era into an archetype that scholars and activists now refer to in aggregate shorthand: The Criminal Black Man (Russell-Brown, 2009). This image is ubiquitous – it is the text and subtext of all crime reporting and ‘reality’ cop/prison programming (Entman & Gross, 2008). It shapes the contours of everyday racism, the school-to-prison pipeline, police patrols, and profiles; it offers the framework for both creating and then perversely justifying the demographics of both the prison industrial complex and the face of death row (Advancement Project, 2012; Alexander, 2010; Davis, 2003; Feagin, 2013; Walker et al., 2012).

As Frederick Douglas observed nearly 150 years ago, there is no escaping ‘the general disposition in this country to impute crime to color’ (Foner, 1955, p. 65). Post slavery, the criminalizing narrative has been a central cultural feature of ongoing efforts at oppression; from convict lease/plantation prison farms to the contemporary prison industrial complex, the control of Black bodies for profit has been furthered by the criminal justice system (Brewer, 2007; Brewer & Heitzeg, 2008; Roberts, 1997, 2004). ‘Slave Codes’ become Black Codes and Black Codes become gang legislation, three-strikes, and the War on Drugs (Davis, 1998, 2003; Marable, 2002). This is an uninterrupted centuries-old project devoted to the Condemnation of Blackness (Muhammad, 2010).

The Criminal-Black-Man archetype is the centerpiece of the Post-Civil Rights era’s reliance on color-blind coding to reconstitute the Old Jim Crow into the New – with The War on Drugs, The War on Gangs, and coming soon to a city near you, The War on Guns (Alexander, 2010). Race need never be explicitly named but ‘high crime neighborhoods,’ ‘gangs,’ ‘thugs,’ ‘ghettos,’ ‘hoods,’ and ‘hoodies,’ all evoke a racialized image (Bonilla-Silva, 2014; Welch, 2007). All people of color – Latino/as and Native American, especially the poor, the queer are targets here too – but it is Blackness that provides the paradigm.

And the Criminal Black Man need not be a literal man – Black women are deemed threatening too, as are Black children. From the Scottsboro Boys to Emmett Till to Trayvon Martin, age has offered no mitigation for the irrational fear triggered in some by the presence of Black (Whitlock & Heitzeg, 2013).

Media plays a key role in perpetuating these informal stereotypes that are then translated into justification for the disproportionate criminalization and incarceration of people of color. A vast body of research has established that the media creates an unrealistic portrait of both crime and criminals (Entman & Gross, 2008; Welch, 2007). In fact, both news and entertainment representations of crime, offenders, victims, and the workings of legal systems are portrayed in a fashion that is diametrically opposed to any semblance of reality. In general, the research, as reviewed by Dorfman and Schiraldi (2001, p. 28), indicates:

... depictions of crime in the news are not reflective of either the crime rate generally, or the proportion of crime which is violent ... The proportion of crime committed by people of color (usually African Americans) is over-reported and Black victims are under-represented ... The problem is not the inaccuracy of individual stories, but that the cumulative choice of what is included- or not included-in the news presents the public with a false picture of higher frequency and severity of crime than is actually the case.

Television news in particular plays a key role in constructing the racialized picture of both crime and offenders. As Davis (1998, p. 62) observes, 'Crime is one of the masquerades behind which "race", with all its menacing ideological complexity, mobilizes old public ears and creates new ones.' Violent crime is dramatically over-represented as is youth crime, and African-American and Latino males are overrepresented as violent offenders. Inter-racial crimes as well as stranger-based crimes are also depicted as the norm, rather than the exception, with whites overrepresented and Blacks underrepresented as victims. When Black victimization is discussed, it is often in the false framework of 'Black on Black crime.' This framing ignores the intra-racial dynamic of all crime – including 'white on white crime – and delegates criminality as a feature of Blackness alone (Hopkinson, 2010; Wilson, 2005).

To complicate matters, African-American offenders of all ages are depicted in a more negative way than their white counterparts. Blacks are mostly likely to be seen on TV news as criminals; they are four times more likely than whites to be seen in a mugshot; twice as likely to be shown in physical restraints; and two times less likely to be identified by name (Entman & Gross, 2008) Black suspects are also depicted as more poorly dressed and were much less likely to speak than white suspects, reinforcing the notion that they were indistinct from non-criminal Blacks (Entman & Rojecki, 2000). Blacks are additionally stereotyped as poor, with both implicit and explicit links between poverty and criminality.

The public's view of crime and criminals shapes their evaluation of juvenile and criminal justice policies and practices. Public acceptance of TV's distorted depiction of crime and criminals leads them to believe that these racial disparities in the criminal justice system are warranted. As Entman and Gross (2008) note:

The implications of this research for public attitudes are troubling. Messages continually associating people of color, especially blacks, with poverty and crime reinforce the updated form of racial prejudice known as symbolic racism, racial resentment, or racial animosity. In the absence of contextual information about discrimination and other forces that produce the poverty, racialized images of poverty reinforce the stereotype that blacks are lazy and therefore deserve their impecuniousness. Racialized crime coverage reinforces the stereotype that blacks are not just lazy, but violent. Both of these stereotypes are important components of this new form of racial prejudice. Moreover, empirical evidence demonstrates associations between racial resentment and whites' support of punitive crime policies and opposition to preventative policies.

Unrealistic fears of Blacks and other people of color leads the public to accept and perhaps applaud racial profiling by the police, racialized sentencing differences, and disproportionate imprisonment for both youth and adults of color (Dorfman & Schiraldi, 2001; Glassner, 1999; Walker et al., 2012; Welch, 2007). Ironically, these criminalizing archetypes are so strong that policy changes that emerge in response to white deviance end up being weighing most heavily on communities of color. The post-Columbine presence of police in schools is a case in point (Addington, 2009; Frymer, 2009).

Media depictions of white criminality as individual aberration and Black criminality as collective identity provides the ideological framework for justifying differential options for social control; the medicalization of whites and the criminalization of Blacks. Indeed, the medical model and criminal justice have operated as parallel systems for comparable deviations but disparate deviants from the outset. The medical model was always a therapeutic alternative for whites, women, and the well-to-do, while crime has long 'been imputed to color' (Conrad & Schneider, 1998; Ehrenreich & English, 1973; Foner, 1955). Analysts have argued that the very foundations of criminal justice are rooted in racism and classism, that in fact our notions of crime and criminal justice have essentially served the primary function of social control of persons of color and the poor (Brewer & Heitzeg, 2008; Davis, 1998, 2003). While these disparities are long-standing, in recent years, two key trajectories have magnified the disparities in these systems of control – the interconnected rise of the prison industrial complex and the medicalization of deviance.

### **Prisonization vs. medicalization**

The framing of white deviance as sickness and Blackness as criminal has concrete implications for social control. The Post-Civil Rights era has brought an expansion of the use of criminal justice as the primary mechanism for defining and controlling communities of color. The War on Drugs, with its attendant harsh sentences and reliance on racial profiling, has been the essential vehicle for reinscribing Jim Crow policies (Alexander, 2010). The result has been an unparalleled explosion in imprisonment, the emergence of the prison industrial complex, and a downward drift in punitive approaches that has created the so-called school-to-prison pipeline as well.

Correspondingly, the medical model has expanded as well, offering an alternative to incarceration for the white and well-to-do. It offers a definition of deviance – be it drug use, other criminal activity, or school misbehavior – that allows treatment, rather than punishment. The expansion of the medical industrial complex coincides exactly with the emergence of the prison industrial complex. This is not mere historical coincidence. The medical model offers a safety valve whereby white middle-class deviants may be diverted from the legal system and offered treatment, escaping both the harsh collective label of criminal and the increasingly punitive treatment associated with our legal system.

### **The prison industrial complex and the school-to-prison pipeline**

The US is the world leader in incarceration, with nearly 2.4 million people currently in prison or jail – a 500% increase over the past 30 years (Jones & Mauer, 2013). The connection of the prison to the profit motive in the prison industrial complex has led to draconian policies that target juveniles as well as

adults via the ‘school to prison pipeline’ and which inhibit re-entry of former inmates with a host of ‘collateral consequences’ that limit access to employment, education, housing, and other benefits upon release.

The increased rate of incarceration can be traced to the War on Drugs and the rise of lengthy mandatory minimum prison sentences for drug crimes and other felonies. These policies have proliferated, not in response to crime rate or any empirical data that indicates their effectiveness, but due to new found sources of profit for prisons (Davis, 2003). As Brewer and Heitzeg (2008) observe:

The prison industrial complex is a self-perpetuating machine where the vast profits (e.g. cheap labor, private and public supply and construction contracts, job creation, continued media profits from exaggerated crime reporting and crime/punishment as entertainment) and perceived political benefits (e.g. reduced unemployment rates, ‘get tough on crime’ and public safety rhetoric, funding increases for police, and criminal justice system agencies and professionals) lead to policies that are additionally designed to insure an endless supply of ‘clients’ for the criminal justice system (e.g. enhanced police presence in poor neighborhoods and communities of color; racial profiling; decreased funding for public education combined with zero-tolerance policies and increased rates of expulsion for students of color; increased rates of adult certification for juvenile offenders; mandatory minimum and ‘three-strikes’ sentencing; draconian conditions of incarceration and a reduction of prison services that contribute to the likelihood of ‘recidivism’; ‘collateral consequences’ – such as felony disenfranchisement, prohibitions on welfare receipt, public housing, gun ownership, voting and political participation, employment- that nearly guarantee continued participation in ‘crime’ and return to the prison industrial complex following initial release.)

And these policies disproportionately affect people of color. This trend towards mass incarceration is marred by racial disparity. While 1 in 35 adults is under correctional supervision and 1 in every 100 adults is in prison, 1 in every 36 Latino adults, one in every 15 Black men, 1 in every 100 Black women, and 1 in 9 Black men ages 20–34 are incarcerated. (PEW Center on the States, 2008). Despite no statistical differences in rates of offending, approximately 50% of all prisoners are Black, 30% are white, and 1/6 Latino; and increasingly women of color (Walker et al., 2012). These disparities are indicative of differential enforcement practices, rather than any differences in criminal participation. This is particularly true of drug crimes, which account for the bulk of the increased prison population. Even though Blacks and whites use and sell drugs at comparable rates, African-Americans are anywhere from 3 to 10 times more likely to be arrested and additionally likely to receive harsher sentences than their white counterparts (American Civil Liberties Union, 2009, 2013).

To complicate matters, punitive policies extend beyond prison time served. ‘Collateral consequences’ are now attached to many felony convictions and include voter disenfranchisement, denial of Federal welfare, medical, housing or educational benefits, accelerated timelines for loss of parental rights, and exclusion from any number of employment opportunities (Mauer & Chesney-Lind, 2002; Roberts, 2004). These collateral consequences further decimate communities of color politically, economically, and socially by reducing the successful reintegration of former inmates and increasing the likelihood of recidivism and return to prison.

A similarly repressive trend has emerged in the juvenile justice system. Again, the racial disparities and risks are greatest for youth of color. Black youth are two times more likely than white youth to be arrested and referred to juvenile court,

and they are three times more likely than white youth to be sentenced to out-of-home residential placement (Walker et al., 2012). Black youth are additionally at risk for out-of-home placement due to the high rates of imprisonment for adults – one in four Black children had a father in prison by age 14; they now account for more than 50% of the children in foster care (Brewer, 2007; Wildeman, 2009).

The risk for youth of color is furthered by current educational practices that increasingly blur the distinction between school and jail. The pattern of tracking students out of educational institutions, primarily via ‘zero tolerance’ policies, and tracking them directly and/or indirectly into the juvenile and adult criminal justice systems has become so pronounced that scholars, child advocates, and activists now refer to it as ‘the school to prison pipeline’ (Advancement Project, 2012). Zero-tolerance policies, which borrow the rhetoric of the War on Drugs, are additionally associated with an increased police presence at school, metal detectors, security cameras, locker and person searches, and all the accoutrements of legal control.). Ironically, enhanced security measures were largely inspired by the school shootings in largely white suburban schools, they have been most readily adopted and enforced in urban schools with low student-to-teacher ratios; high percentages of students of color; and lower test scores. The school-to-prison pipeline disproportionately impacts the poor, students with disabilities, and youth of color, especially African-Americans, who are suspended and expelled at the highest rates, despite comparable rates of infraction (US Department of Education, 2014; Witt, 2007).

This racial disparity may be by design, as Alexander (2010, p. 11) observes in *The New Jim Crow: Mass Incarceration in the Era of Colorblindness*, criminal justice policies that serve to regulate and segregate communities of color in the Post-Civil Rights era:

What has changed since the collapse of Jim Crow has less to do with the basic structure of our society than with the language we use to justify it. In the era of colorblindness, it is no longer socially permissible to use race, explicitly, as a justification for discrimination, exclusion, and social contempt. So we don’t. Rather than rely on race, we use our criminal justice system to label people of color ‘criminals’ and then engage in all the practices we supposedly left behind. Today it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans. Once you’re labeled a felon, the old forms of discrimination – employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of food stamps and other public benefits, and exclusion from jury service – are suddenly legal. As a criminal you have scarcely more rights, and arguably less respect, than a black man living in Alabama at the height of Jim Crow. We have not ended racial caste in America; we have merely redesigned it.

The expansion of the prison industrial complex and the corresponding emergence of the school-to-prison pipeline have come at the expense of communities of color. White violators of drug laws and school-base zero-tolerance policies are far less likely to be ensnared here. This is in large part due to the availability of medicalized alternatives.

### **The medical industrial complex**

Once laden with stigma and images of the publicly funded insane asylum, the treatment of mental illness is now a multi-billion dollar industry, privatized and driven

by the widespread use of pharmaceuticals to treat nearly every major affliction. Let's just call it the Medical Industrial Complex. Access to this model requires insurance or sufficient wealth to accommodate psychiatrists, \$30,000 stays at private treatment facilities, and psychotropic medications. The expansion of the model was initially sparked by the addiction treatment industry for substance use disorders, and now extends far beyond (American Psychological Association (APA), 2006; Center for Behavioral Health Statistics & Quality, 2012; Conrad & Schneider, 1998).

The medical model overlaps significantly with the legal system with regard to both substance use and disruptive behavior disorders, the two issues most immediately connected to the War on Drugs and the school-to-prison pipeline. The medical model focuses on conditions/illnesses, rather than intentional actions, and as such, may offer an alternative to incarceration and/or suspension and expulsion by diverting offenders away from criminal systems/labels and towards treatment (Conrad, 2005). In other words, offenders may be treated for their addictions or attention deficit disorders or punished for their legal violations or disruptive behavior at school. A growing body of research indicates that race and race as it interacts with class plays a significant role in medicalization vs. criminalization of both drug use and school misbehavior (Currie, 2005; Huddleston & Marlowe, 2011; Safer & Malever, 2000)

Racial disparities in drug war incarceration may be partly explained by the availability of diversionary treatment options for whites. This has long been the case with private treatment options that require cash payment or insurance coverage; the option to seek treatment in order to avoid legal consequences has disproportionately been available to middle- and upper class whites (Center for Behavioral Health Statistics & Quality, 2012). Increasingly, substance treatment is mandated in the criminal justice system as a condition of probation or parole. As a result, it is often difficult to disentangle the use of treatment as part of punishment vs. treatment as a diversionary option within criminal justice. Research does indicate that race places a role in whether or not court-ordered treatment is used as diversion from criminal justice or as a condition of completing a criminal sentence.

More than two million are enrolled for substance treatment annually; over 70% of all referrals come from criminal justice (Center for Behavioral Health Statistics & Quality, 2012). Racial disparities in access to treatment disappear when criminal records and socioeconomic status are introduced (Le Cook & Alegria, 2011). In other words, Blacks are most likely to be involved in treatment programs that are court-ordered as a condition of probation and parole. Unlike their white counterparts, for whom medicalization is an alternative to criminalization, the participation of Blacks in substance use treatment programs is most often not an alternative to criminal penalties but as part of a legal sentence.

The growing use of drug court is one area that provides some insight into the racial dynamics of diversion towards the medical model. The primary purpose of drug court is to use a court's authority to reduce crime by changing defendants' substance abuse behavior. In exchange for the possibility of dismissed charges or reduced sentences, eligible defendants who agree to participate are diverted to drug court. These programs are typically offered to defendants as an alternative to probation or short-term incarceration (Gebelein, 2000). Research indicates that nearly two-thirds of all drug court cases involve white defendants, indicating that even within the context of the criminal justice system, there are efforts to divert white

defendants towards treatment. Conversely, African-Americans are underrepresented in drug court, relative to their overrepresentation in drug arrests. As Huddleston and Marlowe (2011, p. 29) report:

Importantly, representation of African-Americans in jails and prisons was nearly twice that of both Drug Courts and probation, and was also substantially higher among all arrestees for drug-related offenses ... systemic differences in plea-bargaining, charging or sentencing practices might be having the practical effect of denying Drug Court and other community-based dispositions to otherwise needy and eligible minority citizens. Further research is needed to determine whether racial or ethnic minority citizens are being denied the opportunity for Drug Court for reasons that may be unrelated to their legitimate clinical needs or legal eligibility.

The medical model of substance use then does offer an alternative to incarceration that plays a role in diverting whites from the prison industrial complex and towards treatment. Similarly, the medical model plays an even clearer role in diverting white youth from the school-to-prison pipeline.

One of the growth sectors of psychiatry is the diagnosis and treatment of Disorders of Infancy, Childhood, or Adolescence (DICA), particularly the Disruptive Behavior Disorders of Attention Deficit Hyperactivity Disorder (ADHD), Oppositional Defiant Disorder, and Conduct Disorder (APA, 2006; Centers for Disease Control & Prevention, 2013; Diller, 1998; Males, 1996). These psychiatric labels perfectly overlap with potential educational and legal labels, and thus offer an alternative mechanism for parents, school officials, and law enforcement to deal with disciplinary infractions. ADHD, in particular, has become the diagnosis of choice for addressing issues at school. Nearly one in five high school-age boys in the US and 11% of school-age children overall have received a medical diagnosis of attention deficit hyperactivity disorder (Centers for Disease Control & Prevention, 2013; Schwarz & Cohen, 2013).

Research indicates that race/ethnicity, class, and insurance coverage are key indicators of who receives an ADHD diagnosis and medication. (Morgan, Staff, Hillemeier, Farkas, & Maczuga, 2013; Safer & Malever, 2000). These factors play a significant role in the labeling of youth in particular; study after study shows racial disparities in the diagnosis and treatment of ADHD as well as other disruptive behavior disorders, with the indication that teachers were most likely to expect and define ADHD as an issue for white boys (Currie, 2005; Safer & Malever, 2000). Since research has found no indication that African youth violate rules at higher rates than other groups (Skiba, 2001), the persistence of stereotypes of young males and 'cultural miscommunication' between students and teachers is oft cited as one key factor. Eighty-three percent of the nation's teaching ranks are filled by whites, mostly women, and stereotypes can shape the decision to suspend or expel. Witt (2007) notes:

Some of the highest rates of racially disproportionate discipline are found in states with the lowest minority populations, where the disconnect between white teachers and black students is potentially the greatest. White teachers feel more threatened by boys of color. They are viewed as disruptive.

As with substance use disorders, ADHD becomes a vehicle for the medicalization of disruptive white students. While there is growing concern about overdiagnosis of ADHD, overmedication, and a growing Black market for ADHD

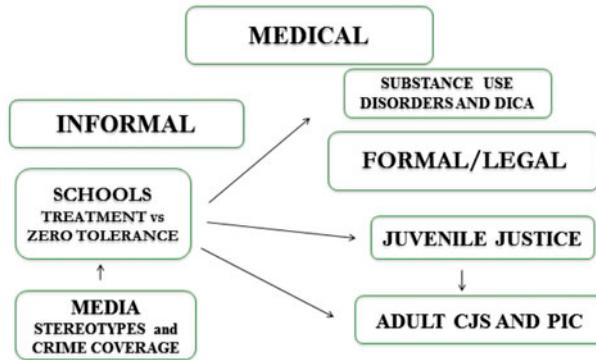


Figure 2. Race, class, and intersecting social control: options for defining deviance.

medications, a medical label is arguably preferable to suspension/expulsion for comparable disruptive behaviors (Graf et al., 2013; Morgan et al., 2013; Schwarz & Cohen, 2013). This diagnosis serves as a barrier to the de facto criminalization experienced by students of color at school, who are suspended, expelled, and /or arrested at school at rates more than three times that of their white classmates (US Department of Education, 2014).

The expansion of the medical model creates new opportunities for the diversion of white and middle-class children and adults from the juvenile and criminal justice systems. Their substance use, their disruptive behavior, their deviance may now be defined as an addiction and a disease, not as a disciplinary infraction or a crime. (see Figure 2). White deviance is mitigated as ‘disease.’ And, as a bonus, the medical industrial complex makes billions pushing prescription drugs to children and their parents and offering them expensive treatment once they are addicted to the same.

The existence of a therapeutic medical alternative also makes the rise of the punitive state of juvenile and adult criminal justice possible. It allows for the harsh mandatory prison terms associated with the War on Drugs aka the New Jim Crow – there is now a safety value for diverting the white, the well-to-do, the celebrity into treatment. It allows for the increasing punitive penalties associated with both educational systems and juvenile justice; it makes the school-to-prison pipeline possible with little fear of ensnaring white middle-class youth. It allows for the mass incarceration of millions of people of color without the concomitant risk of targeting privileged race and class groups. The rise of the medical model creates the context for the escalating risks for youth and adults of color by insuring that their white counterparts may not be caught in the same legal net. And it allows some to say, even in the face of the horrible crimes of Aurora and elsewhere, that a white mass murderer’s actions must be mitigated – not only by the individualistic perks of white privilege – by appeals to mental illness and diminished responsibility.

### Shaking off the white racial frame

Back to where we started – James Holmes and Trayvon Martin. I hope the absurdity is clear, but let me say it plain. What kind of racialized double standards allow

a young white male to purchase thousands of dollars of assault weapons, tactical gear, ammunition, and explosive materials unchecked, unnoticed, while a young Black male is targeted for Walking While Black?? What sort of white denial seeks an immediate medical mitigation for a shooter who kills 12 and wounds 70 while idling avoiding the victimization of a young man executed by a vigilante? Or worse yet, denying it all together by entertaining the notion that it were somehow deserved because he was a ‘gangster’ or wearing a hoodie?

Of course, James Holmes and Trayvon Martin are but two cases, but they illustrate the general trend. People of color are disproportionately, no, overwhelming criminalized via informal media-driven stigma and stereotypes, by racial profiling, by a white racial frame that assumes guilt and demands suspension/expulsion, imprisonment, execution. Conversely, their white counterparts, who use drugs – legal and otherwise – at a comparable rate, commit white on white violence/white on Black violence, organized sexual assaults, and in fact the vast majority of all crime, are exceptionalized, individualized, discussed devoid of social context, and, at least partially, excused by appeals to the medical model (Williams, 2012). Again, DeVega (2012) observes:

In America, folks often ask, ‘what the hell is wrong with black people?’ In the aftermath of the Colorado Movie Massacre, Columbine, and many other incidents, we need to ask, ‘what the hell is wrong with young white men?’

Sadly, that question will not be asked on a national stage. White privilege is blinding. In the case of James Holmes, it also mutes a much needed national conversation about the ties between (white) masculinity and violence.

The solution is not the increased criminalization of white people. Nor is any of this to suggest that the psychiatry does not have a place. But our current systems of social control have failed to make us safer or saner and in fact, both the medical industrial complex and the prison industrial complex are soaking our fears and insecurities, appealing to/upholding white privilege for massive profit (Advancement Project, 2013; Glassner, 1999). That is what they are intended to do – dope us up, lock us up, and divide. We are looking for trouble in all the wrong places, relying on profit-driven systems to regulate our various maladies.

White privilege has its costs as well as benefits, and the racism that underpins it is taking a toll. The white racial frame that insists on defining and controlling white criminality as an individual exception or a medical condition ignores the larger social and structural conditions that contribute to crime. This framing precludes much needed attention to white violence, the high costs of white-collar crime, and the scope of corporate criminality. The reliance on the medical model similarly ignores the role of overdiagnosis, overmedication, and the extent to which many are stymied by possibly unnecessary social control of any sort. So too the corresponding criminalizing narrative, that the white racial frame attached to Blackness leads to an escalation of the machinery of criminal justice and the ongoing devaluation of human lives. This practice contributes to racial profiling and the range of disparate criminal justice outcomes that have decimated communities of color. The notion that we can identify ‘deviants’ by their race, their class, their attire, the notion that we can police or medicate our way to safety and security, this is the real madness.

Years ago, before pseudo-suave serial killer Ted Bundy was to be executed, he was granted a last TV interview (Yes let's talk about white male privilege). He blamed his rape/murder sprees on alcohol and hard core pornography (Rule, 2000). A medicalized mitigation, 'addictions,' he called them. The next day in various classes – didn't matter which classes – students could not stop talking about it. The conversation always went like this – lots of questions about his mental health, discussions about the links between pornography and sexual violence, the role of alcohol and inhibition, lots of anger but even more confusion. And the last comment – barely audible, indeed a whisper – was always this:

'But he seemed so normal.'

And that is the entire point; the racial fog is costing us, killing us all.

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