

# **NO! Against Adult Supremacy Vol. 6**

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## Confession and Execution, by Corey Hutchins

A few miles off I-95, past acres of brown-and-white fields where blackbirds circle overhead, this small town in the heart of Deep South cotton country isn't known for much. It has a post office and a few churches, some abandoned houses and some nicer ones, ram-shackle trailers and cotton fields. After church on a recent Sunday there, George Frierson was scuffing a shiny black dress shoe across some gravel at a railroad crossing. Back when he was a kid the rail line split this tiny, rural town along racial lines. But for blacks like him growing up in Alcolu, the train tracks signified something even more sinister than segregation.

Frierson is a local historian and community activist who works at the nearby Oak Grove Missionary Baptist Church and serves on the county school board. The general area he was marking with his shoe was the scene of a double murder in 1944. Two young white girls out picking flowers had their skulls bashed in and were found in a nearby water-filled ditch. Police said their killer used a railroad spike, and for the culprit they fingered a 14-year-old black boy named George Stinney Jr., whom a witness said had been seen talking to the girls earlier that day. The sheriff's deputies who snatched Stinney up said he confessed to the crime when they took him in for questioning. The boy's parents, who lived in a company house, were run out of town the day he was arrested and didn't see their son until his trial. An all-white jury sentenced the teenager to death after 10 minutes of deliberation. The trial lasted two and a half hours in the Clarendon County courthouse where a local tax commissioner preparing for a State House run in an election year was appointed to represent him. No witnesses spoke in his defense. That summer, fewer than 90 days after the girls were killed, the State of South Carolina shocked George Stinney Jr. to death in an electric chair that could barely fit his small frame. He was the youngest person executed in 20<sup>th</sup> century America.

About four years ago, a white local attorney named Steve McKenzie read a newspaper account about the execution. No written record of a confession has even been produced, according to McKenzie and others who have researched the case, and nearly all the transcripts, files and records related to the prosecution have vanished except for some handwritten notes. Part of the new petition to re-open the case also hinges on that alleged confession between a black teenager, alone in a room with multiple white sheriff's deputies in the Deep South, pre-Miranda rights era of 1944.

"The only thing that we are aware of is an oral confession," McKenzie says. "To me, any time you put a 14-year-old in that situation and you put it in that era, then the chances of this confession either being coerced or the person being manipulated by the people who were actually doing the interrogation would be very, very high. You're talking about white men in the Jim Crow South with a 14-year-old boy. It wasn't even close to being an even playing field."

Obviously no can say for sure what happened in the room where the deputies questioned George Stinney Jr. 70 years ago. The officers are dead, and Stinney is dead. But one thing can be said about the circumstances in which the teenager's alleged confession was used in the swift trial that led to his execution. In 1944, there was no body of scientific evidence, research or psychology to suggest that people would ever confess to a crime they didn't commit. Now, there's plenty.

These days, no murder trial in the United States could ever take just two and a half hours, as Stinney's trial did in 1944. And when it comes to the confession part of it, modern defense attorneys have a bench of experts at their disposal, some of whom have devoted their life's work researching it. One of those is Kassin. In 1985, he wrote a landmark article that laid out three

categories of false confessions and why someone would ever admit to a crime they didn't commit. One category is a voluntary confession, typically given by someone looking for attention. Another is an internalized confession, when interrogation tactics lead someone to believe they might have actually committed an act they haven't.

The third is called a coerced compliant false confession. "These are cases where innocent people who know they're innocent are in a situation of interrogation that is so stressful, they've been there so long and they're sleep deprived and they're so tired and they are being yelled at and being called a liar and there may have been threats or promises that have been made or implied, and basically, in a nutshell, the situation has become so bad ... that they use confession as the only way to get out."

Oftentimes, Kassin says, a part of it is something known as myopic decision making: when someone is under duress, he or she will do what's expedient to get out of a bad situation with little or no regard for future consequences. "Innocent people trust that their innocence will ultimately work them out," he says, adding that someone who knows they've done nothing wrong can sometimes believe that once the interrogation is over, the crime is fully examined and investigated, the police will see the evidence clearly points in another direction, and everything will be OK once they get a lawyer."

That, and myopic decision making, is much worse with young people than adults, Kassin says. They'll ask if they can call their mom and are told they can when the interrogation is over. Getting out becomes the urgent problem they need to solve and so they say whatever it might take to get them out of the situation. It certainly isn't beyond the realm of possibilities that Stinney was up against the same or similar circumstances and psychology in 1944. "Research couldn't be clearer: kids are much more shortsighted in their decision making than they are focused on longterm consequences," Kassin says. "A 14-year-old fits perfectly into that model."

Just as no one can know how Stinney's alleged 1944 confession to the sheriff's deputies came about, or if it even did, the same could be said for what the jurors in the case were thinking when they reached their verdict, sentencing a black teenager to death for the killing of two white girls in a segregated Deep South town that wanted revenge. Steve McKenzie, the lead lawyer working to have the Stinney case re-heard, in order to right what he sees as a moral wrong, had a rather shocking confession himself when asked about that specific aspect of the trial. "If I would have been sitting on that jury I probably would have convicted him too," he told me. "I'll tell you why: It's simply because the white community was expecting justice and they had what they thought was a confession. So why doubt what the police officers were saying? You had two sheriff's deputies that said he confessed. For the white community, as far as they were concerned it was done, the girls were dead and let's execute the murderer and move on. And that's what they did."

"I was born in Alcolu, and all young black males knew about this story from our youth," Frier-son said outside the church as he looked out over a cotton field across the highway. "I wasn't born at the time of this incident, I'm not that old. But I'm considered a historian, so I started out on this juncture to see the facts of this case, not as an advocacy or activism point of view. And then it evolved into the activism. When I started out I just wanted to be sure that the facts that I heard all my life are correct." It turned out that facts were funny things. People believed the ones they wanted to believe. "I won't say that the white community doesn't know, but they won't admit to what they do know." He doesn't think Stinney killed anybody. At around 95 pounds, there was just no way the skinny 14-year-old could have beaten those girls to death, he believes, and then hauled them several hundred feet from the murder site and dumped them in a ditch. "There

has never been any statements about any blood attributed to Mr. Stinney in this case,” Frierson says. “It never, ever was alleged that there was any bloody clothes, blood on him or whatever.” But Frierson is also keeping his own secrets about the case. “There are some things that are not reported anywhere that I know to be facts that I am not at liberty to speak of, like who the real perpetrator was,” he said at one point. “I think they call that defamation of character or slander.”

## **Criminalizing Gender Nonconforming Youth, by Jerome Hunt and Aisha C. Moodie-Mills**

Gay, transgender, and gender nonconforming youth are significantly over-represented in the juvenile justice system—approximately 300,000 gay and transgender youth are arrested and/or detained each year, of which more than 60 percent are black or Latino. Though gay and transgender youth represent just 5 percent to 7 percent of the nation’s overall youth population, they compose 13 percent to 15 percent of those currently in the juvenile justice system.

These high rates of involvement in the juvenile justice system are a result of gay and transgender youth abandonment by their families and communities, and victimization in their schools—sad realities that place this group of young people at a heightened risk of entering the school-to-prison pipeline. Despite the disproportionately high rates of gay and transgender youth entering the juvenile justice system, our nation’s schools, law enforcement officers, district attorneys, judges, and juvenile defenders are not equipped to manage the unique experiences and challenges that these young people face. As a consequence, the system often does more harm by unfairly criminalizing these youth—imposing harsh school sanctions, labeling them as sex offenders, or detaining them for minor offenses—in addition to subjecting them to discriminatory and harmful treatment that deprives them of their basic civil rights. Angela Irvine of the National Council on Crime and Delinquency in conjunction with the Equity Project, which works to ensure gay and transgender youth in the juvenile justice system are treated with fairness and respect, have both generated groundbreaking research on the experiences of these youth in the system over the past few years. This issue brief offers a high-level summary of some of their findings, as well as others, to explain the disproportionate pipelining of gay and transgender youth into the juvenile justice system, the bias and discrimination they face once within the system, and the steps that the federal government and state and local juvenile courts can take to ensure that gay and transgender youth are treated with dignity and respect.

### **Family rejection, homelessness, and failed safety nets**

Research shows that gay and transgender youth entering into the juvenile justice system are twice as likely to have experienced family conflict, child abuse, and homelessness as other youth. This trend is partly due to the fact that youth today “come out” at younger ages, often to families that may not accept gay and transgender people. Since these youth still depend on their families to meet their material needs, family rejection can leave them emotionally and physically vulnerable, particularly if they find themselves cast onto the streets with nowhere to turn for support.

Many gay and transgender youth leave their homes of their own accord to escape the conflict and emotional or physical abuse that can ensue—26 percent report leaving their homes at some

point— but more often, they are pushed out and into the juvenile justice system by their own families. Interfamily conflicts stemming from parents’ refusal to accept a child’s sexual orientation or gender identity often result in the first contact these young people have with the justice system. According to the Equity Project, prosecutors frequently file charges against these youth for being “incorrigible” or beyond the control of their parents or guardians, based largely on the parent’s objections to their sexual orientation. This practice unfairly criminalizes gay and transgender youth because of their identity rather than because of their behavior.

Further, family discord that casts these youth from their homes can send them cascading through social safety nets not adequately equipped to support them. Programs designed to keep children and youth off the streets, such as foster care, health centers, and other youth-serving institutions, are often ill-prepared or unsafe for gay and transgender youth due to institutional prejudice, lack of provider and foster-parent training, and discrimination against gay and transgender youth by adults and peers. As a result, many youth run away from these placements, actions that could also land them in the custody of the juvenile justice system.

Gay and transgender youth who flee hostility and abuse at home and in temporary placements are most likely to end up homeless, which is the greatest predictor of involvement with the juvenile justice system. Gay and transgender youth represent up to 40 percent of the homeless youth population even though they only compose 5 percent to 7 percent of the youth population overall, and 39 percent of homeless gay and transgender youth report being involved in the juvenile justice system at some level.

Out of despair and a need for survival, homeless gay and transgender youth are more likely to resort to criminal behaviors, such as drug sales, theft, or “survival sex,” which put them at risk of arrest and detainment. These youth are also at an increased risk of detainment for committing crimes related to homelessness, such as violating youth curfew laws and sleeping in public spaces. Family rejection, which sets off a tragic chain of events for many gay and transgender youth, is at the core of these issues. Caitlin Ryan of the Family Acceptance Project at San Francisco State University, whose research has brought to light the negative impacts that family rejection can have on gay and transgender youth, emphasizes the need to provide opportunities to help support and strengthen families in order to promote nurturing environments for gay and transgender children. Early intervention can help families and caregivers reduce the risk of these youth entering the juvenile justice system. It is important that law enforcement officials, district attorneys, judges, and juvenile defenders seek ways to keep gay and transgender youth and their families together, rather than pushing for incarceration.

### **Biased school discipline policies**

Unfortunately, schools do not always provide a reprieve for youth experiencing family rejection. According to the Gay Lesbian and Straight Education Network’s School Climate Survey, 84 percent of gay and transgender students report being verbally harassed, 40 percent physically harassed, and 19 percent physically assaulted.

What’s more, gay and transgender students report astonishingly low levels of confidence in their school administrators and often do not report incidents because they expect the situation will not improve or fear it might even become worse. This is not surprising considering that one-third of bullied gay and transgender students who reported bullying to school officials said the administrators did nothing to address the issue. In fact, school officials in many ways exacerbate

these problems and place further stress and burden on gay and transgender youth by disproportionately doling out harsh school sanctions against them for minor disciplinary infractions. The school and juvenile justice systems have become inextricably linked in recent years with schools relying heavily on law enforcement to manage what in the past were school discipline issues. The consequence of this conflated discipline system is that it unduly criminalizes youth of color and gay and transgender youth.

School discipline policies across the United States are under heightened scrutiny because of the disparate impact they have on youth of color, particularly black boys. Data released this spring from the U.S. Department of Education's Office of Civil Rights show that harsh school sanctions—such as zero-tolerance policies, which lead to suspensions and expulsions of students for even the most minor offenses—perpetuate a school-to-prison pipeline that disproportionately criminalizes youth of color.

Hidden among these school discipline data are thousands of gay and transgender youth who bear a double burden of disparate impact. A groundbreaking study published in 2010 in the medical journal *Pediatrics* revealed that gay and transgender youth, particularly gender nonconforming girls, are up to three times more likely to experience harsh disciplinary treatment by school administrators than their heterosexual counterparts. As with the racial disparities in school suspensions and expulsions, these higher rates of punishment do not correlate to higher rates of misbehavior among gay and transgender youth. What the research suggests is that gay and transgender youth actually face harsher sanctions by school administrators even when committing similar offenses.

Surely bias and discrimination among teachers, staff, and administrators contributes to the unfair treatment of gay and transgender youth in schools. Adults in schools often draw assumptions of guilt based on a student's physical characteristics, demeanor, dress, or mannerisms, deeming those deviating from an accepted gender norm to be agitators. Such assumptions are not only misguided, but biased against gay and transgender students who do not fall within rigid stereotypes of expression. Moreover, studies reveal that gay and transgender youth are often the victims, rather than the aggressors in school conflicts, which stem from bullying and harassment. Consider, for example, a gender nonconforming girl exhibiting masculine traits, who is disciplined for fighting but may be defending herself from peers' taunts. Yet more often than not, school administrators will consider her the aggressor based solely on her physical demeanor and will suspend or expel her despite the defensive nature of her actions.

For many students, suspension and expulsion are the first steps toward time behind bars. This is equally true for gay and transgender youth. Black boys and gender nonconforming girls similarly experience disproportionately harsh punishments and juvenile justice system referrals in schools, but the latter are rendered all but invisible because sexual orientation and gender identity are not included in the federal school discipline data cited earlier in this report. A first step in addressing the unfair punishment of gay and transgender youth in schools is to expand the research and collection of school discipline data to include gay and transgender youth, which will help policymakers and practitioners alike better understand the problem and formulate more supportive school discipline policies.

## **Unfair criminalization by the system**

Once in the juvenile justice system, gay and transgender youth are too often denied basic civil rights, wrongly categorized as sexually deviant simply because of their sexual orientation, gender identity, or gender nonconformity, and even labeled as sex offenders. They are also subjected to the biases and discrimination of law enforcement agents, judges, and other justice system officials that leave them vulnerable to abuse and neglect.

## **Classification as sex offenders**

Gay and transgender youth who end up in the justice system are at-risk of being labeled as sex offenders, regardless of whether they have actually committed a sexual crime. Gay and transgender youth “are more likely to be prosecuted for age-appropriate consensual sexual activity” than their heterosexual counterparts—a lopsided application of the law, which has devastating consequences for gay and transgender youth who would be required to register as a sex offenders in 29 states if convicted. The stigma of being a registered sex offender could haunt them for the rest of their lives, negatively impacting their future employment and life opportunities and causing significant psychological distress. Many gay and transgender youth charged with nonsexual offenses are also unfairly treated as sex offenders and ordered by the court to undergo sex offender treatment programs or sex offense risk assessments simply because of their sexual orientation or gender identity. This misguided categorization by the courts has led gay and transgender youth, innocent of violent crimes or sex offenses, to be placed in restrictive punitive settings for high-risk youth and to be given longer stays in out-of-home placements. These restrictive settings not only hinder rehabilitation efforts, they perpetuate the stigma that being gay or transgender is wrong. Additionally, extended stays in out-of-home placements prevent gay and transgender youth from reconnecting with their families, a critical step proven to stabilize their lives and reduce their risk of returning to the system. These unfair practices make gay and transgender youth susceptible to discrimination and harmful treatment while in the system.

## **Detention as a default**

In most incidences juveniles who have been arrested or detained will only be released from custody under the supervision of a parent or guardian. Without someone to claim them, youth can be left to languish in detention centers with youth convicted of crimes, even if they have not been. Gay and transgender youth are most at-risk of detainment by default by the juvenile justice system as they are more likely to be estranged from their families and lack parental support, which leaves them to fend for themselves. As a consequence, these youth are subjected to criminal incarceration while they await foster or group home placements.

## **Segregation and isolation of gay and transgender youth**

From the moment gay and transgender youth enter a detention facility they are at risk of being inappropriately classified and housed. Transgender youth, for example, are often placed according to their birth sex rather than by their gender identity in an effort to force transgender youth to conform to societal norms. Doing so can be psychologically devastating and leave them vulnerable to physical and sexual abuse. Additionally, youth facility staff often view them



as threatening or sexually predatory, harmful stereotypes that taint placement decisions and influence the treatment of transgender youth.

Some facilities will automatically segregate gay and transgender youth or place them in solitary confinement for their “own safety,” but this isolation perpetuates the stigmatization of gay and transgender youth, casts them as sexually deviant, and signals that they might be of threat to other youth.

According to the American Psychiatric Association, isolation “is a form of punishment and is likely to produce lasting psychiatric symptoms.” Unwarranted segregation deprives gay and transgender youth of educational, recreational, and programming opportunities that they are otherwise entitled to receive, punishing them unfairly and at a particularly vulnerable time in their adolescent development.

### **Physical, sexual, and emotional abuse**

A 2007 study funded by the California Department of Corrections and Rehabilitation found an astounding 67 percent of gay or transgender men have been sexually assaulted by another inmate—a rate 15 times higher than the overall inmate population. Another study found that sexual assaults that occur are not just isolated events, but that 30 percent of all inmates have endured six or more sexual assaults.

Gay and transgender youth are particularly at risk for physical, sexual, and emotional abuse while in detention, by both staff and other youth. Eighty percent of those surveyed by the Equity Project believed a lack of safety in detention was a serious problem. Some reports suggest that staff have turned a blind eye to incidents of rape and abuse against gay and transgender youth, confusing gay and transgender identity as an invitation for sex. Gay and transgender youth are not only subjected to abuse by their peers but by staff as well, particularly in the facilities that lack training and policies that promote inclusiveness and rely on biases rather than on best practices in treatment and placement decisions. This type of environment allows physical, sexual, and emotional abuse toward gay and transgender youth to happen without so much as a second thought and leaves them with nowhere to turn for help.

### **Unsafe reparative or conversion therapy**

Gay and transgender youth have been subjected to reparative or conversion therapy to change their sexual orientation by both social workers and the courts, even though so-called reparative or conversion therapy has been condemned by every major health organization, including the American Medical Association, American Psychological Association, and the American Academy of Child and Adolescent Psychiatry.

Sadly, the juvenile justice system is rife with examples of misguided interventions. One judge hospitalized a gay youth to stop his same-sex attraction, while another judge with the parent’s approval, had a young lesbian who was caught in a sexual act with another girl placed in a private hospital to be “treated and diagnosed for this behavior.” These examples may be the extreme, but instances such as a 15-year-old boy being given a women’s lingerie catalogue with the purpose of teaching him “appropriate” sexual desires and a male-to-female transgender youth, who was detained in a boy’s facility, being placed on “treatment plan” to “help with gender confusion and appropriate gender identity,” are more common examples of unsafe reparative therapy.

The inclination to change a youth's sexual orientation or gender identity or force him or her to conform to "social norms" hinders general mental health and causes severe psychological distress. This type of "counseling and other services are virtually worthless [for gay and transgender youth] because they either ignore or criminalize the youth's sexuality."

## **Conclusion**

Gay and transgender youth are pipelined into the juvenile justice system at disproportionate rates, often stripped of their basic dignity and civil rights, and treated in a harmful and discriminatory manner once in the system. The current policies and practices of schools and the juvenile justice system overlook gay and transgender youth and perpetuate stigma and bias that can lead to their unwarranted criminalization and unfair treatment.

## ***Excerpts from Helping Kids in Bad Situations, by Rachel Coleman***

*If you grew up in a bad or less-than-ideal family and/or homeschooling environment, what are things that people around you could have done to help you and make your life better, more tolerable, etc.?*

**Compliment the child to the parents in front of the child.** Even if the parents shoot down the compliment, it might be one of the kindest things the child has heard about themselves in years.

**Let them overhear you offer to include them in your own family events/outings.** Even if the parents refuse, it might offer the child hope for the future and give them a self-esteem boost.

**Give them opportunities, however small, to express their own feelings or thoughts.** Tell them it's ok to have feelings and thoughts, especially if they're super repressed.

**Encourage them to dream of careers.** Encourage them to dream of careers beyond gender role ideals by remarking on what they're good at. They'll remember it for years and years.

**Attribute their successes and their great personality traits to them, and them alone.** None of this "your parents must have raised you right!" or "you must have great parents" or "parents did a good job on this one!" Let the kids know they deserve praise for their own accomplishments. They are not their parents' puppets or pet dogs.

**If a parent tells you they're being harsh or strict with their children, don't praise them for doing so.** You don't necessarily need to assume they're wrong but you should always keep in mind that the parent you're talking to is a potential abuser.

**If they are stressed out about family, do your psychoanalyzing silently.** It is very likely they're being gaslighted at home and otherwise mentally/emotionally abused. Process in your own head. If you suspect something, ask around how to appropriately intervene.

**Let them know it's never wrong to question.** Truth will stand up under scrutiny. Question down to the foundations, and when you get to a wall of assumptions or tenets or axioms you can't get past, ask yourself why. Question your beliefs and question the reasons for your beliefs. Question authority. That's not a statement of rebellion, it's a search for truth. Truth will always prevail, and if/when your beliefs come out whole on the other side, you'll be that much stronger in holding them, because the hard questions are behind you.

**Accept them.** Even if they are different, even if they seem a bit odd, shower them with acceptance. They need acceptance, not judgement.

**Love them.** Listen to them like they matter because they might not get much of that. Simple little gestures like telling them it's okay to be sad or saying 'you can do it!' 'I believe in you' or 'I am proud of you' can stick in their mind for years.

**Remember to distinguish between the children and their parents.** Strive to distinguish between religious homeschooling parents and religiously homeschooled kids, rather than negatively lumping them all together as "religious homeschoolers."

**Challenge them.** They'll probably disagree with you, but it opens you up as someone who they might be able to ask questions they don't already know the right answers for. It gives them permission to consider alternative view points, just knowing that someone they respect can have good reasons to think in a different way than the conservative noise machine.

**Encourage them, period. Let them know it gets better.** I wish someone had told me that I would be able to make it on my own both mentally and physically because I was strong and capable. Give them hope that there is life beyond the prison they are in and that with enough determination and planning you are fully capable of escaping. Let them know that the life they have outside of their parents' home is so much more beautiful and amazing than they can imagine and that although the road is hard it is worth every effort it takes to get there so don't stop trying.

**When appropriate and welcomed, show them safe physical affection.** If they aren't uncomfortable with it (always ask first) give them hugs and pats on the back and warmth.

**Teach them about consent.** It would be really helpful if you discussed things like consent and that it really is ok if you say no.

**Teach how to establish boundaries.** Encourage them to be careful of mentors who try to treat you like their child. We have broken relationships with our parents, so we crave these bonds, but it's often the first red flag for someone who will try to control and spiritually abuse you.

**Help them with resources to succeed.** Help or show them how to find the right resources and make good choices in housing, employment, and whatever else might be necessary to get out.

**Stand up for them against their family.** One thing I wish someone had done was stand up for me.

**If you're going to help them in a drastic way, actually be prepared.** If you offer a way out, be sure you have all the ducks in a row, because they likely have very little resources at their fingertips and cannot truly function as an adult "outside". Think of them as being raised in "The Village" and finally being outside for the first time. They are going to need a safety net.

**Don't give up on them.** Stick around. If you sense that anything might be wrong, stick around and find out what it is and what you can do. Even if the family situation makes you uncomfortable, even if the parents hate you and creep you out. Stay in the child's life. It will take a long time for them to come to trust you, but once they do you can be an invaluable lifeline.

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