

## Black youth, social media, & criminal justice: What parents don't know might hurt

Written by Nekima Levy-Pounds, Esq.  
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In today's technology-driven society, anybody who is anybody has a profile on one or more social networking sites such as Facebook, My Space, Instagram, LinkedIn or Twitter. Black youth are no exception and may be amongst the most frequent users of social networking sites and the internet. Although social networking sites can be a fun and exciting place to fellowship and network, there are dangers and pitfalls that exist as well.

Some of the dangers exist when young people use social networking sites without regard for the potential consequences that posting certain types of information and photographs may cause. Such information may include the location of a fight or confrontation between rival groups, threats, and boasting of alleged crimes that have been committed.

In addition to the written posts that may appear on a social networking site, a subset of young people routinely post photographs that depict such things as marijuana use, gang signs and affiliations, or other questionable activity. Often, when young people post such photos, their goal is to earn street credibility or to impress their "friends" and may not be the best evidence of a young person's true character. While the social media fame and popularity that flow from such photos may last for a short while, unbeknownst to a young person, the damage and hidden consequences that flow could be long lasting. The information and photos that a young person posts on a social networking site could lead to unintentional involvement with the criminal justice system and a young person's personal information being placed in a gang database by law enforcement.

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This happens because some law enforcement agencies, and specifically gang units within those agencies, routinely scour social networking sites for evidence of criminal activity and gang-related activity and affiliation. Generally speaking, photographs that might depict gang-related activity are then downloaded and placed in either a paper file or an electronic database that stores data on "suspected" gang members. Each jurisdiction operates somewhat differently depending upon the laws that exist regarding gang data collection, but the general premise is usually the same. In some jurisdictions, affiliation with a known or "confirmed" gang member may be sufficient for a young person's data to be entered into a local law enforcement agency's gang database.

Affiliation could include posing in a photograph with other young people who are wearing colors that may symbolize gang involvement or who are flashing supposed gang signs. Once a young person is seen in such a photograph, he or she may be inextricably linked to a gang in the mind of law enforcement. Unfortunately, it may be difficult for law enforcement officers to distinguish between a "wannabe" gang member and an actual gang member in a photograph. When this happens, a "wannabe" who is affiliated with gang members in a photograph is at risk of being mislabeled and placed into a gang database. Once a young person's data has been entered into a gang database, he or she may never be told that such a record is being kept, thus making it difficult, if not impossible, for a young person to contest the information if it is inaccurate or misleading. Further, most state legislation that authorizes law enforcement agencies to collect gang data do not require parental notification, so a parent may never be made aware that confidential data is being kept on a child.

In our work in the State of Minnesota, we saw firsthand the effects of gang data collection and its disproportionate impact on African American males. Beginning in 2009, our office worked collaboratively with the St. Paul Chapter of the NAACP to contest the use of gang databases and the secrecy surrounding their existence. One of the gang databases that we came across, called GangNet, was being maintained by the local sheriff's office and contained over 16,000 names and personal data of individuals such as birth date, race, address, probation status, employer name, school name, criminal history notes, nicknames, diagrams to other suspected gang members and photographs. To be entered into GangNet, a person need only to have met one of ten broadly-written criteria and the data would be stored for up to ten years. Examples of the criteria include: admits gang membership or association, is observed to associate on a regular basis with known gang members, has tattoos indicating gang membership, is in a photograph with known gang members and/or using gang related hand signs, and is identified as a gang member by a reliable source, to name a few. In contesting the use of the ten point criteria, we argued that it is relatively easy for an African American youth who lives in a low income urban community to meet one or more criteria, based upon neighborhood affiliations. Indeed, while African Americans are roughly four percent of the population in Minnesota, they were 45 percent of those whose data was being stored in GangNet. In addition to the racial disproportionality that existed, the criteria failed to distinguish between "wannabes" and genuine gang members.

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In contesting the use of GangNet, we also raised concerns about the lack of parental notification, the lack of due process for individuals who have been mistakenly placed in a gang database, the lack of adequate training of those who had access to the gang database, the lack of transparency that existed within the process of gang data collection, and allegations of racial profiling of African American youth. After a two year battle, the GangNet database was ultimately shut down. What we came to realize however, is that there are several similar gang databases still in existence in Minnesota and around the country. Given the racial stereotypes surrounding gang involvement, coupled with unsavory images being posted on social networking sites, African American youth are prime targets for inclusion in gang databases. The potential risks to unsuspecting youth will only grow worse as more and more law enforcement agencies begin using social media sites as tools to gather criminal intelligence for electronic databases and possibly to assist in criminal prosecutions.

Beyond inclusion in a gang database, the photos and images that young people post on the internet could lead to negative impacts in current and future employment opportunities, as employers are becoming savvier about checking employees' profiles and affiliations on social networking sites. Additionally, some college admissions offices have occasion to review a prospective student's online activities when determining admissions decisions. Even prior to a student's decision to apply for college, increasingly middle school and high school personnel may monitor students' online activity, which sometimes leads to suspensions or expulsions for negative online conduct. Depending upon the severity of the conduct, a student might even be referred to the juvenile justice system by a school resource officer, also known as an SRO, for juvenile prosecution.

In light of the myriad harms that may flow from a young person's decision to post certain information and photographs online, parents must take extra precautions to monitor their children's social networking activity and to warn them about the perils that exist. In order to protect their children, parents must educate them about the importance of making use of privacy settings on sites like Facebook, being careful about whom they select as "friends", thinking carefully about what information they "tweet", being selective about whom they share information and photos with on the web, and to use good judgment about the content of such photos. Each interaction with a social media site creates a cyber footprint that may be difficult to fully erase. Additionally, parents are encouraged to share with their children the notion that what happens in the virtual world may have long lasting effects in the real world and could lead to unintentional involvement with the juvenile or adult criminal justice systems. Given the alarming racial disparities that exist within the criminal justice system, we cannot afford to allow our youth to risk their livelihoods through negative online activity. They are, after all, our future.

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