



Understanding the System: A History of Prison and the Virginia Juvenile Justice System

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Rationale

The criminal justice system in America is ever expanding. The United States has the highest incarceration rate of any industrialized country in the world. In 1970, there were less than 250,000 prisoners in the United States. Today, there are over 2 million. It is one of America's biggest problems. Prisons are continuing to grow despite crime declining all across the country. 1 in 3 black males will be incarcerated at some point during their lifetime. This is not an accident. Criminal justice policies are rooted in racism and classism.

In Virginia, youth are incarcerated in 24 juvenile detention centers, 18 group homes, and one youth prison—Bon Air Juvenile Correctional Center—all operated or overseen by the state's Department of Juvenile Justice (DJJ). Black youth are overrepresented in Virginia's juvenile justice system and accounted for 71 percent of all admissions to Juvenile Correction Centers in 2016 (Justice 2016). Virginia's public-school system has the highest number of student referrals to the juvenile justice system in the country, with a rate double the national average. This is a system that presents significant problem.

My students are incarcerated in the Richmond Juvenile Detention Center in Virginia. Their life experiences have led to bad choices, which have caused their incarceration. Most are in survival mode 24 hours a day, 7 days a week. The students do not have the vision to understand the juvenile justice system because they are too busy trying to survive the system. This unit will allow the students to step outside of themselves and examine the system and the circumstances that have led to their incarceration and a better understanding of how to avoid future incarceration.

School Demographics

I teach at Virgie Binford Educational Center in Richmond, VA. My school teaches grades 6-12 in Richmond Juvenile Detention Center (RJDC). RJDC is a medium level weapons free security facility that houses children ages 12-19 years old. The children in RJDC are there for a number of reasons. They stay is typically 30, 60, or

90 days, depending on their sentence by the courts. The longest serving students are those being charged as adults for their crimes. Those children can be there for up to 2 years because the circuit court in Richmond moves at a slower pace than the juvenile courts. 90% of the students in RJDC require mental health services. 90% of my students come from a low socioeconomic background and live on public assistance. 75% of the students there are labeled as exceptional education or require services to address learning disabilities. 20% of the students are property of foster care system. These students are in the facility waiting for placement in a group or residential home.

All of the students have been exposed to problems such as crime, lack of parental involvement, poverty, drug and sexual abuse. The majority come from home environments that are not supportive of learning. Therefore, it is important that I make class as exciting and fun as possible to maximize student learning during the 45 minutes the students are in my class.

Unit

The overall objective for my unit is for my students to develop an understanding of the US prison system and how it affects and targets minority students. The students will begin to understand the history of the current American legal system and the Prison Industrial Complex. The students will understand and examine modern police tactics as a part of public policy and be able to put them in a historical context based on race and poverty.

The unit will be taught over 3 weeks. The major text will be *Race to Incarcerate: A Graphic Retelling*. Students will use cloze reading strategies along with review and discussion questions for each chapter. Each day will also include an activity to further their understanding of the prison system.

The unit will follow one basic research question: How can students develop an understanding of the prison system? There are several guiding questions for the lessons as we move through the unit: What is the purpose of prison? What is the history of the prison system in America and VA DJJ? How do modern police policies contribute to the prison industrial complex?

Students will examine the historical roots of America's prison system. The students will also learn and analyze public economic and social policies that lead to the creation of the system and how these policies were born through a system of economic and racial segregation. They will understand the role of the federal government in promoting policies that contribute to the growth of the prison system.

The students will read and analyze selected excerpts from books such as *Slavery by Another Name*, *Race to Incarcerate: A Graphic Retelling*, *Locking Up Our Own* and *Race to Incarcerate*. The students will also examine and study trends in juvenile justice in Virginia by reading the Virginia Department of Juvenile Justice Data Resource guides from 2006-2016. The students will also watch and analyze the movie *13th* by Ava Duvernay and *Slavery by Another Name*. The students will also analyze various poems and hip-hop songs used to describe the prison system in America. Songs will include "America" by Nas, "Reagan" by Killer Mike, "Letter to the Free" by Common, and various other songs that describe the conditions in which they live as young black men in America.

The students will create a visual timeline of the juvenile prison system in Virginia, including major events that contributed to the growth of the prison system in Virginia and America. The student will also complete statistical breakdown of Virginia's current prison population by race and gender by analyzing and studying trends in the prison population and create charts and graphs that predict future trends based on their statistical analysis. The students will also create a journal of diary entries full of advice to distribute to other students to help them avoid the pitfalls that led to incarceration. The journals will be submitted to local newspapers in a special editorial about the school to prison pipeline.

Background Information

Early Prisons

Remember, Christians, Negroes, black as Cain, /May be refin'd and join th' angelic train. -Phyllis Wheatley

America began on the shores of the James River when English explorers settled in Jamestown. The need for stopping crime was immediate as the colony grew and expanded. In the early days of America, prisons were used to hold defendants waiting for trial and for debtors. "After conviction, punishment was usually quick and severe.¹" Other examples of punishment in colonial America included fines and public floggings (whippings). The punishment most common in the early days was excommunication from the colonies.

After the American Revolution and independence from Great Britain, the idea for prison began to reform and reflect religious beliefs of early Americans as described in the book *Race to Incarcerate*. Author Marc Mauer said:

At the turn of the 19th century, Quakers and other reformers developed the penitentiary. It was an experiment in molding human behavior, an innovation befitting the new Democracy of the United States. Based on the concept of penitence, sinners labored in isolation to reflect on the error of their ways.²

These ideas were an attempt to make prisons more humane than the early colonial days when the death penalty was frequently used for smaller crimes such as theft.

Race played an early role in the shaping of the prison system in America just as it does today. The Pennsylvania model had to deal with early issues of race and prisons. Author Marc Mauer said of this about the Pennsylvania model in his book *Race to Incarcerate*:

Ironically and quite tellingly, the first inmate admitted to the Eastern State Penitentiary was a "light-skinned Negro in excellent health," described by an observer as "one who was born of a degraded and depressed race, and had never experienced anything but indifference and harshness." Two centuries later, the confluence of issues of race and class with the prison

*system has become fundamental feature of the national landscape.*³

Early law enforcement in America consisted of a local sheriff who used a method similar to what is today called “community policing”. Sheriffs had a right to deputize citizens when more law patrol was needed. In the Southern states, “many of the first police forces...were founded as slave patrols, explicitly charged with catching, beating, and returning runaway slaves”⁴. Their use of canine patrols began during this period and is still used today by police. This was the early beginnings of the adversarial relationship between the police and the black community.

Reconstruction through Jim Crow Era

Southern leaves, southern trees we hung from

Barren souls, heroic songs unsung

Forgive them father they know this knot is undone

Tied with the rope that my grandmother died

Pride of the pilgrims affect lives of millions

Since slave days separating, fathers from children

Institution ain't just a building

But a method, of having black and brown bodies fill them

We ain't seen as human beings with feelings

Will the U.S. Ever be us? Lord willing!

- Letter to the Free by Common

After the Civil War, the prison system took a dramatic turn because of the emancipation of African American men. Southern democrats needed a way to control newly freed African Americans. The prison system was the perfect way to keep blacks in a state of second class citizenship. African Americans were arrested in high numbers and thrown in jails because of new laws. These laws essentially criminalized being black in America. The stereotypes of the black man as a criminal was greatly exaggerated as they became targets for law enforcement.

The most common law violated was vagrancy laws passed by a number of former confederate states. The Vagrancy Act of 1866, passed by the General Assembly of Virginia on January 15, 1866, forced into employment, for a term of up to three months, any person who appeared to be unemployed or homeless. These laws gave permission to law enforcement to conduct mass arrests of mostly African American men. Most African American men were unemployed after emancipation because slavery limited their work skills to agricultural labor.

Another example of laws designed to subjugate African Americans were the pig laws. Pig laws made small crimes such as the stealing of farm animals a major felony with a long prison sentence. "Theft of a pig worth as little as a dollar could result in 5 years in jail."⁵ African Americans were not allowed to testify in their own defense in most courts in the south. The mere accusation of theft could end with unaffordable fines and harsh prison sentences for African Americans.

Once African Americans were in prisons, they fell victim to another southern problem. There was a need for cheap labor to work the few viable plantations after the Civil War. Also, some southern states began to transform from an agricultural to an industrial economy. The need for labor became a tremendous issue in the south, the midwest, and northern states. To satisfy those labor needs, southern legislatures created a system called convict leasing. Convict leasing provided prisoner labor to private people and companies, such as plantation owners and corporations. The owners of the lease were responsible for feeding, clothing, and housing the prisoners. This created a new system of slavery in American prisons. Slavery had been outlawed by the 13th amendment to the United States Constitution except as punishment for a crime. Legislatures used this loophole in the Constitution to institute the system of convict leasing.

The "humane" conditions of the early 19th century prisons were replaced by the cold hard capitalists' inspirations of business owners who yearned to make a large profit on the backs of these prisoners without any regard for the human condition. Many African Americans were forced to work themselves to death under the convict leasing system. Most of these deaths occurred in the coal mines. As industrial America grew, the need for steel and other natural resources exploded to meet the demand. Historian Doug Blackmon detailed these conditions in his book *Slavery by Another Name* describing the condition of a prisoner by the name of Green Cottingham. He stated:

The lightless catacombs of black rock, packed with hundreds of desperate men slick with sweat and coated in pulverized coal, must have exceeded any vision of hell a born boy in the countryside of Alabama—even a child of slaves—could have ever imagined. Waves of disease ripped through the population. In the month before Cottingham arrived at the prison mine, pneumonia and tuberculosis sickened dozens. Within the first four weeks, six died. Before the year was over, almost sixty men forced into slope 12 were dead of disease, accidents, or homicide.⁶

Prisoners were killed by lease owners and these crimes would go unreported and unpunished because the prison system had turned into a revenue system for governments. "The state of Alabama earned \$14,000 dollars in its first year of convict leasing in 1874. By 1890, revenue was \$164,000. Roughly 4.1 million dollars today"⁷. The profit margin for state governments ensured that the system would continue. Every former state in the confederacy enacted some form of convict leasing due to the financial success created by the state of Alabama. This idea permeated through the former Confederacy but also infiltrated California, New York and other states across the nation.

The first juvenile prisons began to develop in the late 19th century. In "1891, The Prison Association of Virginia opened the first privately-operated, state-subsidized juvenile facility as the Laurel Industrial School for White Boys in Laurel, Virginia."⁸ The purpose of the first juvenile facilities were to treat children differently than adults. Society believed children could be molded into being better adults with less punishment. "The juvenile justice system was created because of the hopeful belief that all children could be rehabilitated into

law abiding, productive citizens.”⁹ The original creators of the juvenile court system were looking out for the best interest of children. The rationale for juvenile courts was stated by Julian Mack of the Harvard Law Review in 1907

Why is it not the duty of the state, instead of asking merely whether a boy or girl has committed a specific offense, to find out what is physically, mentally, morally, and then if it learns that he is treading the path that leads to criminality, to take charge, not so much to punish as to reform, not to degrade but uplift, not to crush but to develop, not to make him a criminal but a worthy citizen.

The children they were referring to were immigrants suffering the social consequences of trying to assimilate into America. Their ideas did not include the horrid conditions of African American youth, especially in the south.

The Virginia Juvenile system was segregated like every other public institution in the south. In 1897, the Virginia Manual Labor School for Colored boys was opened in Hanover County, Va. The Virginia Home and Industrial School for colored Girls opened in 1908. The city of Richmond established its first juvenile court system in 1912. Early juvenile detention facilities operated under the premise of reforming young juveniles into positive adults. These programs often included vocational job training and job placement for youth after their release from the system.

Punishment at the early juvenile correction facilities in Virginia was brutal. Corporal punishment was the most common form of punishment. According the website (www.corpun.com), which keeps track of corporal punishment around the world, the corporal punishment used at the Virginia Manual Labor School for Colored boys was severe. It stated:

Corporal punishment is administered by the supervisor of boys for serious offences such as running away from the school grounds. It is claimed that the state law provides for this, and the assistant superintendent said that even though he does not consider it a desirable form of discipline, he does not know what substitute could be devised to supplant it with the present limited personnel. An ordinary razor strap about 4 inches wide and 14 inches long is used. The boys to be flogged are stripped naked before the entire assembly in the gymnasium, held in a spread eagle position by four other boys, and beaten across their buttocks. Sometimes the maximum of 39 strokes is given, and at other times 15 are considered sufficient, depending upon the offense. The beatings are referred to as a "frailings," a term probably derived from "flailing."¹⁰

As many as 300 young colored boys were the recipient of this punishment every year. This was no different than whipping a disobedient slave. Juvenile delinquents at white facilities did not receive the same punishment as the colored boys.

The state of Virginia required every city and county to have a juvenile court in 1922. In the early half of the 20th century, the juvenile system varied from jurisdiction to jurisdiction. These facilities lacked oversight and frequently closed due to lack of institutional control and financial mismanagement.

The state of Virginia began to take a different approach in 1954 by providing treatment for mental illness in juveniles. The Mobile Psychiatric Clinic was created and originally directed by the Medical College of Virginia and then by the Department of Mental Hygiene and Hospitals. The clinic traveled to facilities holding juveniles committed to state care for the purpose of providing diagnosis, treatment, and staff instruction. The state eliminated the Mobile Psychiatric Clinic and opened the Reception and Diagnostic Center in Bon Air, Virginia.

As a result of the Brown vs Board of Education and the Civil Rights Act of 1964, the state integrated its juvenile facilities. The Natural Bridge Youth Learning Center opened in Natural Bridge, VA and was fully integrated one year later.

Tough on Crime Movement

Mother, mother, everybody thinks we're wrong

Oh, but who are they to judge us

Simply 'cause our hair is long

Oh, you know we've got to find a way

To bring some understanding here today

-What's Going On by Marvin Gaye

The 1960's saw a change in the American Social order. The Supreme Court ruled in Brown vs Board of Education that segregation was a violation of the 14th amendment of the Constitution. African Americans had begun to demand the rights denied to them through the Jim Crow system of segregation. The anti-war movement began to challenge the social structure of America. Mass protests and non-violent civil disobedience were used to protest the social injustices in America. These protests began to change the way America began to think about the prison experiment. Conservatives and liberals both agreed that the prison model of rehabilitation in America was a failure but each had different solutions.

Liberals challenged the idea of reform through a punitive system of incarceration. Author Marc Mauer said:

Liberals asked: How can true personal transformation occur through coercion? Prisoners are a part of an oppressed class. Why else would so many have black and brown skin? Crime is a response to social conditions. To reduce crime, we should uplift the poor with economic and political empowerment.¹¹

This was a combination of ideas expressed in the anti-war movement and the civil rights movement. Economic empowerment was the essential theme of both movements as a solution to most problems in America. Liberal ideas of reform were implemented through the practice of indeterminate sentencing for prisons. This gave judges the option of considering the social history and background of criminals in determining sentences for criminals. Criminals would get sentenced to a range of time in prison. Good behavior and positive

contributions to society while in prison could earn them early release or parole. This would motivate a prisoner to change their behavior to gain their freedom. Parole boards would determine the release date of a prisoner if the prisoner could prove he or she had changed. These parole boards often were ineffective because of racial and class biases by its' members.

Conservatives began to see the problem much differently. They saw a failing system that allowed many criminals back on the street which contributed to a rise in crime during the 1960's. They called for longer prison sentences and tougher laws to clean up the streets. Violent urban unrest in majority African-American cities like Detroit and Compton exaugurated a sense of lawlessness. Groups such as the Black Panther Party were used as propoganda to scare conservative Americans into supporting this tough on crime policy.

Politicians capitalized on these images spread across America through television and newspapers to call for tougher laws and harsher prison sentences. The ideas of black criminality and lawlessness were key points of the 1968 presidential campaign. Author Marc Mauer argued:

Conservatives reacted to rising crime rates, pro-defendant decisions in the Supreme Court, anti-war protests. (Richard) Nixon ran (for president) in 1968 for law and order, sending an unsubstle message to whites concerned with a supposed rise in black criminality. They argued that indeterminate sentencing was letting criminals go free in droves and that rehabilitation was not possible and the function of corrections was to isolate and punish.¹²

Nixon won in a landslide capitalizing on these racial stereotypes. Under his administration began the rise of the prison industrial complex fueled by his war on drugs which specifically targets blacks and anti-war activists. Conservatives found unlikely allies in the Tough on Crime movement in the African American community.

A second Great Migration occurred during mid 1900's increasing urban populations by 5 million people, mainly African Americans. This urban sprawl created limited resources which contributed to a rise in crime similar to the Great Migration of the 1920's. The despair in these communities was exacerbated by the drug heroin. The homicide rate in most cities doubled due to heroin. The homicide rate in the nation's capital Washington DC tripled because of the drug. In 1964, 49% of all arrestees in Washington Dc tested positive for heroin. Urban communities were being held hostage by this new drug epidemic.

There was an 800% rise in number of African Americans in elected government positions in 1970's and 1980's. This was a direct result of the Civil Rights Act of 1964 and more importantly, the Voting Rights Act of 1965. Newly elected African American politicians felt a surge in constituency activism against the problems created by heroin. They received thousands of letters detailing horrible stories of relatives destroying families, children being scared to walk to school because of drug dealers and addicts who had overtaken their neighborhoods. They demanded a solution to the problems.

African American Leaders had no choice but to become tough on crime in order to maintain leadership positions in their community. They began the ideas of mandatory minimum prison sentences for persons convicted of drug offenses. The ideas of mandatory minimums were part of a larger plan to uplift urban communities. Congressmen such as Michigan's John Conyers called for a Marshall Plan for urban America. The Marshall Plan was created by Secretary of State George C Marshall. It was 13 billion dollar economic stimulus plan to rebuild European countries and economies at the end of World War II.

The Marshall Plan for African Americans called for the rebuilding of predominantly African American cities that included several points. The first part was more jobs and job training for urban residents. The second part was a call for more police and tougher drug and gun laws to protect the communities. The third part was for more social services such as rehabilitation and counseling for drug addicts and their families to counteract the destruction caused by the heroin epidemic.

The only idea that resonated with conservative Americans was for more police and tougher drug and gun laws. This led to a sharp rise of prisoners, mainly black and brown in America. The United States prison population which remained around 250,000 for most of the 20th century until 1970 rose to 500,000 for the first time in 1980.

Massive changes took place in the juvenile court system in Virginia as a result of Richard Nixon's War on Drugs which began in the early 1970s. In 1972, The General Assembly established 31 Juvenile & Domestic Relation court districts with full-time judges who were appointed by the General Assembly to six-year terms (Lynn 2017). Local facilities began to become overcrowded as more black youth were arrested as the war on drugs began.

The late 1970's and early 1980's saw the opening of several new juvenile facilities across the state. However, some politicians believed rehabilitation was still possible for youth and sought to create greater distance between the juvenile and adult court systems. "The Department of Youth and Family Services began operations as a separate agency from DOC (Department of Corrections), along with a State Board of Youth and Family Services" and "the Rehabilitative School Authority and the Board of the Rehabilitative School Authority were renamed the Department of Correctional Education and the Board of Correctional Education, respectively, providing a broad array of educational programs to Virginia's state-responsible adult and juvenile populations."¹³

Rise of the Super Predator

They declared the war on drugs like a war on terror But it really did was let the police terrorize whoever But mostly black boys, but they would call us "niggers" And lay us on our belly, while they fingers on they triggers They boots was on our head, they dogs was on our crotches And they would beat us up if we had diamonds on our watches And they would take our drugs and money, as they pick our pockets I guess that that's the privilege of policing for some profit

-Reagan By Killer Mike

Ronald Reagan personified the conservative principles of small government. He remains the conservative idol of small government. He led an all-out assault on social programs in America. He believed in the idea of rugged individuality. This belief was that America rewards its citizens who work hard with more opportunities and prosperity. The phrase "pull yourself up by your own boot straps" was commonly used by the Reagan administration as a justification for the elimination of social programs. The elimination of most social programs to help individuals only led to an increase in societal problems and the only viable solution was prison time.

Besides defense spending, the main area of government spending and expansion under Ronald Reagan was the "justice" system. This was fueled by Reagan's War on Drugs. Heroin of the 1960's had been replaced by

cocaine during the 1970's. The government response in the tough on crime era was tougher and harsher laws with longer prison sentences. "Money flowed into federal drug agencies. 12 new regional drug task forces were staffed by 1,000 new agents and prosecutors. The rise in drug prosecutions was far greater than any rise in drug offenses"¹⁴. These prosecutions were mainly of black and brown citizens even though cocaine was mainly a party drug for white, suburban America.

The War on Drugs was ever expanding when a new drug hit the street in the mid 1980's called crack. Crack was a cooked mixture of cocaine, baking soda, and water into "rocks". Crack rock was a new type of high. It was highly addictive and cheap. Crack was mainly seen as an urban drug used by African Americans which increased the stereotype of black criminality.

Just like the heroin epidemic of the 1960's, conservative leaders found an ally in the war on drugs in the African American community. If heroin epidemic was a storm, then the crack epidemic of the 1980's was a hurricane. African American communities saw sharp increases in the homicides, robberies, and assaults in the community. Once again, African American leaders were forced by constituency activism to crack down on black and brown youth. They called for more arrests and longer sentences for drug dealers and drug users.

African American politicians competed to be tougher on drugs and drug dealers than other leaders. Atlanta mayor Maynard Jackson said "We're going to fight drugs and crime until the drug dealer's teeth rattle."¹⁵ Long time House of Representatives delegate Charles Rangel from New York was called the "Front line General in the War on Drugs" by Ebony magazine, the number one publication for African Americans in 1989. Yale Law Professor James Forman Jr explained the competition best in his book *Locking Up Our Own* when referencing the stance taken in Washington DC. He stated:

*In 1988, in response to D.C.'s exploding homicide rate, council member Nadine Winter asked President Reagan to declare a state of emergency and to deploy the National Guard. Others seconded Winter's request, including council member H.R. Crawford. "We owe those people who live scared immediate relief," he said. We don't need more summits, more meetings, more discussion. If this is really war, let's declare war.*¹⁶

These attitudes led to an increase in police tactics that were a violation of the rights of many young African American young men who were arrested in mass numbers. Police departments across the nation began to militarize their police forces. They received automatic guns and tactical weapons.

The tactics adopted by the police was representative of a true "war" and they armed and operated themselves as if they were a unit of the American military. "In many American cities, the police adopted military style operations to battle drugs and violence" The operations were given (military style) code names such "Operation Hammer (Los Angeles), Operation TNT (New York), Operation Invincible (Memphis) and Operation Clean Sweep (Washington DC)".¹⁷

Major cities began "stop and frisk" programs that harassed mainly black and brown young men. These programs gave police the right to stop and search any person they suspected was involved in illegal activity. Young men who possessed small amounts of drugs were sentenced to long prison sentences because of these illegal searches. Mandatory minimums especially those associated with the possession of crack devastated the African American community and dramatically increased the prison population.

The federal government under Ronald Reagan greatly expanded the prison population with the Anti-Abuse Act of 1986. This law “included mandatory minimum sentences for the distribution of cocaine, including for more severe punishments for distribution of crack-associated with blacks-than powder cocaine, associated with whites”¹⁸ . The disparities in mandatory time were 100-1 for cocaine than crack.

Stop and Frisk policies were made legal by the Supreme Court Case of *Terry vs Ohio*. In this case, a Cleveland, Ohio detective stopped two suspects who were “casing” a store to commit a robbery. He searched the suspects and found a gun. The defendants were charged with carrying a concealed weapon. The defense argued the guns were found during an illegal search and asked the charges to be dropped. The case ended up in the United States Supreme Court which affirmed, “whenever a police officer accosts an individual and restrains his freedom to walk away, he has “seized” that person within the meaning of the Fourth Amendment. The court later added that the weapons found were conducted by a legal search because, “a careful exploration of the outer surfaces of a person's clothing in an attempt to find weapons is a “search” under that (4th) Amendment.”¹⁹ The seizure of the individual is the stop and the exploration of the outer wear for weapons is the frisk.

The major problem with the case was that it did not set a high standard for a reasonable search of a suspect which allows police to generate their own standards for search. Their standards mainly applied to young black men. Author Paul Butler writes in the book *Chokehold* that, “the reasonable suspicion standard that authorizes cops to stop and frisk is quite low. A trivial offense like jaywalking or spitting on the sidewalk, can give the police the authority to stop you.”²⁰ Once stopped, an individual can be frisked and thrown in jail. Over policing in majority African American neighborhoods, backed by the Supreme Court, and supported by laws such mandatory minimums caused the prison population to explode with black and brown individuals.

Although there is no direct evidence that “stop and frisk” policies led to a drop in crime, conservative politicians quickly credited these tactics for the decline in crime. By the end of the 1980’s, America had added another million prisoners to bring the total prison population to 1.5 Million. At the end of the Ronald Reagan/George Bush presidencies (1981-1993), “federal spending on employment and employment training programs had been cut nearly in half” and “spending on corrections had gone up by 521%”.²¹

Liberal leaders found themselves having to prove how tough they were by supporting and adopting very punitive crime measures as well. President Bill Clinton (1993-2001) found himself trying to be tougher than conservatives on crime during his presidency. Although crime began to fall during his presidency, media coverage caused Americans to believe crime was still rising like in the crack epidemic of the 1980’s. Horrific stories of crime involving young black and brown men flooded the media airwaves. Politicians (most notably First lady Hillary Clinton) began to call these young men “**SUPER PREDATORS**”. Compassion and social conditions were no longer factors in punishment. These young men were looked at as irredeemable and needed to be locked away for years. A sharp contrast to the liberal views of prisons in the 1960’s and 70’s.

State governments began to pass more and more punitive laws. In Virginia, Governor George Allen abolished parole for all convicted prisoners eliminating the 1970’s idea of incentivizing prisoner behavior for early release. California passed the infamous three strikes and you’re out law. A person convicted of three violent felonies would automatically be sentenced to life in prison without the possibility of parole. These policies exploded the nation’s prison population creating a new problem of overcrowding in prisons.

The most damaging thing to the lives of black and brown people was the 1994 crime bill written and passed by the Bill Clinton administration despite the objections of his Attorney General Janet Reno. This bill caused

the prison industrial complex to explode in America by monetarily incentivizing state and local governments to lock up more citizens (mainly black and brown). Author Marc Mauer stated:

The 1994 crime bill (included) \$8 billion dollars for prison building, \$8.8 billion for policing, \$1.8 billion for incarcerating “illegal aliens”, expansion of the federal death penalty, no more federal Pell grants for education (and) \$7 billion for prevention programs so its supporters in Congress could call it a balanced approach.²²

State governments created harsher sentences and held prisoners longer because of the financial incentives. Politicians filled these jails with bodies under the premise of rising crime when crime was actually falling in most areas. The juvenile system in Virginia was greatly affected by this bill as well.

The Virginia General Assembly changed numerous laws involving juveniles. It took full advantage of the monetary incentive to lock up youth and create more prisons. The General Assembly lowered the age in which juveniles can be tried for violent crimes from 15 to 14 years old in 1994. Also, in 1994, the General Assembly changed the stipulations for juveniles who can be charged as adults making it easier to commit them for longer sentences in prison.

In 1995, Governor Allen formed the Juvenile Justice Reform Commission, to develop recommendations for overhauling the Juvenile Justice System.²³ In theory, this sounds like a great plan. However, it fit with Governor Allen’s tough on crime approach. He wanted to make it easier to commit juveniles to longer sentences as he believed in the idea of the SUPER PREDATOR. This happened the same year he abolished parole for adult prisoners in Virginia. The plan applied the “balanced approach” suggested in the Clinton Crime Bill but it was mainly punitive.

The Commission created provisions for automatic and prosecutorial certification and stipulated preliminary hearings for certification as an adult. Similar to mandatory minimums, the new provisions for automatic and prosecutorial certification stripped the prosecutor of any discretion in deciding if the case would be tried in juvenile or adult court. The Commission “establishes the Virginia Juvenile Community Crime Control Act (VJCCCA) to provide funding for local programs and services for low-level juvenile offenders, who are before the court or at intake, and provides community-based services for juveniles and their families, holding the juveniles responsible for their actions”.²⁴ It also limited juvenile detainment to 36 months or no later than a prisoners’ 21st birthday. This sounds good in theory but it also allowed judges to give defendants “blended” time which transferred juveniles to the adult Department of Corrections facilities as early as their 18th birthday.

The Commission also changed the name of the oversight division of the juvenile jail system to the Department of Juvenile Justice. The Department of Juvenile Justice mission statement reflected a “balanced approach” to juvenile crime. It stated:

DJJ responds to juvenile offenders through a balanced approach that provides: (1) protection of public safety by control of a juvenile’s liberty through secure confinement and/or community supervision; (2) a structured system of incentives and graduated sanctions in both institutional and community settings to ensure accountability for the juvenile’s actions; and (3) a variety of services and programs that build skills and competencies (e.g., substance abuse treatment,

support for academic and vocational education, anger management classes) to enable the juvenile to become a law-abiding member of the community upon release from DJJ's supervision.²⁵

The new Virginia Department of Juvenile Justice preached a balanced approach but it was mainly about punishment. It expanded the juvenile prison between 1996 and 1999 by expanding three juvenile jails and opening six new facilities. This was reflective of a national trend of expansion as juvenile detention in the United States hit an all-time high in 1997 according to the Office of Juvenile Justice and Delinquency Prevention. The money for these facilities came from the 8 billion dollar 1994 federal crime bill.

The idea of rehabilitation in prison in juvenile and adult prison took a severe hit in the 1994 crime bill as well. The major cause of that was the elimination of federal Pell grants for education in prisons. Community colleges and other programs that allowed prisoners to obtain education during their incarceration were removed. There was no money to continue these programs without Pell grants to pay for them. The conversation for rehabilitation was completely extinct and an idea from the past after the passage of the 1994 crime bill. The prison population exploded to over 2.5 million in the late 1990's.

Change in Philosophy

In 2000, Virginia began to take a new look at juvenile justice and reduced the juvenile prison population. This was due to public pressure as citizens began to turn against the tough on crime policies against juveniles in the late 1990s. The first major change came in 2000 when the Virginia General Assembly raised the criteria for being adjudicated delinquent from two Class 1 misdemeanors to four Class 1 misdemeanors.

The state began to incorporate new plans and work with other state agencies such as the Department of Social Services. Together, they developed mental health plans for prisoners before they are released to the care of their parents. The Detention Assessment Instrument was created to have a mathematical formula to determine if a juvenile is detained after an intake complaint. This formula caused a decrease in juvenile intakes after a formal complaint was filed. The state also implemented its first Community Placement Program (CPP). This program keeps juveniles in correctional facilities close to their home. This allows for an easier transition and promotes rehabilitation by making the students active members of their community.

The new mission of the Virginia Department of Juvenile Justice is DJJ's mission is "to protect the public by preparing court involved youth to be successful citizens. To accomplish this mission, DJJ uses an integrated approach to juvenile justice. It brings together current research and best practices to better understand and modify delinquent behavior; to meet the needs of offenders, victims, and communities; and to manage activities and resources in a responsible and proactive manner."²⁶

Virginia Department of Juvenile Justice closed over 10 facilities between 2003 and 2017. They reduced capacity in specialty centers by over 500 beds allowing for delinquents to stay in local facilities under the premise it makes an easier transition from detention to home. There are currently 24 juvenile detention centers, 18 group homes, and one youth prison—Bon Air Juvenile Correctional Centers—all operated or overseen by the state's Department of Juvenile Justice (DJJ).

In the Fiscal Year 2016, there were 56,668 juvenile intake complaints in the state of Virginia.²⁷ Intake complaints are a request for the processing of a petition to initiate a matter that is alleged to fall within the jurisdiction and venue of a particular Juvenile & Domestic Relations district court. An intake officer decides

whether the complaint will result in no action, diversion, or the filing of a petition initiating formal court action. 80% of juvenile intake complaints were eligible for diversion programs.²⁸ These programs help the juvenile to avoid a criminal record upon completion. If a juvenile does not complete his program then they become property of the Virginia Department of Juvenile Justice.

Recent trends have seen an overall decline in the number of students admitted to direct care of the Virginia Department of Juvenile Justice. The number of juveniles under direct care dropped from 1,164 to 406 between 2003 and 2016, a 65% decline. Also, the number of juveniles under the care of local juvenile detention centers dropped from 1,047 to 643.²⁹ This means less kids are being incarcerated in the state of Virginia. The ten-year trend in all Department of Juvenile Justice categories, intake cases, probations, and detainments have dropped by more than 40% with new probations dropping by more than 56%.³⁰ The most common offenses committed by juveniles are robbery, assault, and burglary.

There is still a major racial disparity in the number of kids being incarcerated in the state. “Black youth make up only 20 percent of Virginia’s youth population but account for 43 percent of juvenile intakes, 56 percent of detainments, and 71 percent of admissions to direct care. Over the past decade, the proportion of Latino youth admitted to youth prisons has nearly doubled”.³¹ 5-year forecasts predict little change in the numbers of kids incarcerated in Virginia.

Virginia could lessen the number of youths incarcerated through more investment in community-based programs. “Djj (Department of Juvenile Justice) spends \$15 on youth incarceration for every \$1 spent on community-based services.”³² Djj has decreased spending overall because of the declines in incarcerated juveniles. “From 2007 to 2016, the Djj’s operating expenditures have decreased 18 percent from \$248.3 million to \$203.2 million, and the portion of operating expenses going to youth prisons has decreased from 40 percent to 30 percent.”³³ The state would be better served if the budget stayed at 2007 levels with the saving being spent on community based and diversion programs to provide the students with the services they need.

Strategies

Graphic organizers

Many of my students are exceptional education and have IEP or 504 education plans. They have difficulty organizing their words and thought. Graphic Organizers are necessary tools to engage the student for several reasons. First, less than 20% of my students score on grade level on STAR reading assessments. Second, my students have never done active research. Third, my students struggle with processing and developing critical thinking skills and graphic organizers that help them scaffold their thoughts to develop a theory or point. Lastly, 75% of the students have been identified as requiring exceptional education services. Research based best educational practices suggests the importance of graphic organizers in increasing student retention. All activities and graphic organizers will lead to several student output projects.

Gallery Walk

The gallery walk is an active learning exercise that allows students to use their own inquiry skills to formulate

theories about images. Students today are 21st century learners meaning they have great visual skills. The students will be given three different color sticky notes. The first note will have students write a specific detail about one of the pictures around the room and place that note on the picture. The second note will have students develop a hypothesis about what is happening in the picture and they will place it on the picture. The third note will have students formulate a question about one of the pictures and place that sticky note on that pictures. In the end, I will discuss each picture with the students and attempt to answer their questions and help them further develop their hypotheses about the picture.

Journaling

Students will write a journal every day after each completed lesson. The journal will allow them to reflect on their experiences with the juvenile prison system. They will compare and contrast the historical issues that have typically led young black men to prison while examining their actions. The students will develop their journals into letters of warning to other young people to help them avoid the prison pipeline.

Lesson Plans

Day 1 - Introduction

- Students will analyze “Letter to the Free” by Common
- Introduction – Students will document their experiences with the criminal justice system in their journals
- Students will do a gallery walk of political cartoons and pictures related to the criminal justice system.

Day 2

Students will read and answer questions from *Race to Incarcerate: A Graphic Retelling*

Ch. 1 – US Prisons from Inception to Export

- What is the purpose of prison?
- Give at least 3 characteristics of early prisons in the United States.
- What are the proactive ways to influence human behavior according to the book?
- Give at least 3 similarities between early prisons and the Richmond Juvenile Detention Center.

Students will answer one discussion question in a one-page journal entry

- What are some ways to influence human behavior positively and negatively?
- Would your current case be different if you had a high-powered lawyer? Explain

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.
- Students will watch video clips from *Slavery by Another Name*
- Students will analyze “Letter to the Free” by Common

Day 3

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

2 - The Rise of the "Tough on Crime" Movement

- Explain indeterminate sentencing.
- How did the George Jackson case illustrate the problems with indeterminate sentencing?
- Explain the racial overtones eyeing Nixon's "law and order" campaign.
- Differentiate between conservative (right) and Liberal (left) approaches to rehabilitation.

Students will answer one discussion question in a one-page journal entry

- Do you agree with this practice of indeterminate sentencing? Explain
- Do you believe the story of what happened in George Jackson's attempted escape? Explain
- Which philosophical approach to rehabilitation fits your beliefs? Explain

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.
- Students will analyze Supreme Court case Terry vs Ohio in relation to the constitutionality of modern police policies.

Day 4

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

3 - The Triumph of the "Tough on Crime" Movement

- Give 3 reasons why crime rose in the 1960's.
- What 2 groups were to blame for a breakdown in law and order?
- Explain "moral malaise".

Students will answer one discussion question in a one-page journal entry

- Do population increases play a role in crime?
- What role did race play in Nixon's "law and order" campaign?

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.

Day 5

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

4 - The Rock Gets Rolling/

- What were the Rockefeller drug laws?
- What was the purpose of state sentencing commissions?
- Does gun control have an effect on crime?

Students will answer one discussion question in a one-page journal entry

- Are sentencing commissions a good idea? Explain

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.
- Students will research politicians committed to reducing the cocaine/crack disparity laws.

Day 6

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

5 - Crime as Politics: The Reagan Bush Years

- Explain Ronald Reagan's philosophy concerning government and social problems.
- What laws were passed as a result of the Len Bias tragedy?
- What were the results of the 1983 study by the Reagan Justice Department?
- How much did spending on prisons increase during the Bush/Reagan years?

Students will answer one discussion question in a one-page journal entry

- Do you believe in rugged individualism?
- Does the media have a responsibility to tell the truth or to make viewers/readers buy their product?

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.
- Students will analyze the song "Reagan" by Killer Mike

Day 7

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

6 - Kemba Smith

- How long did Kemba Smith receive in prison?
- What crimes were she guilty of committing?
- What was the hypocrisy in Bill Clinton commuting her sentence?

Students will answer one discussion question in a one-page journal entry

- Do you think Kemba Smith was implicit in her own demise? Explain
- Do you agree with her sentence? Explain

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.

Day 8

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

7 – Crime as Politics: Clinton Years

- What were the components of President Clinton’s mixed approach to fighting crime?
- Explain the role the media played in passage of the 1994 crime bill?
- What objections did Janet Reno have to the 1994 crime bill?
- What was included in the 1994 crime bill?
- How did state governments benefit from the 1994 crime bill?

Students will answer one discussion question in a one-page journal entry

Should America abolish the death penalty? Explain

- Does the media have a responsibility to tell the truth or to make viewers/readers buy their product?
- Should politicians be judged for their rhetoric or their actions?

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.
- Students will watch and analyze clips from the movie “13th”

Day 9

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

8 – Crime as Politics: George W Bush Years

- Explain “compassionate conservatism”.
- What did Bush propose to Congress?
- Explain the sentencing disparity between crack and cocaine.
- How much did federal prisons grow during the Bush years?

Students will answer one discussion question in a one-page journal entry

- Do you agree with the philosophy of compassionate conservatism?
- Does the Attorney General have too much or too little power in the war on drugs? Explain

Class Activities

- Students will examine the DJJ Historical Timeline and correlate it with national crime debates.

Day 10

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

9 – The Prison/Crime Connection

- How did the rise in prison populations correlate with crime statistics?
- What does the author suggest as factors to a decline in crime?
- List 3 crime reduction stats in New York City in the 1990’s.

- Explain 3 reasons for the reduction in crime in New York City in the 1990's.

Students will answer one discussion question in a one-page journal entry

- Why don't more prisons equal less crime?
- What factors do you believe results in less crime?

Class Activities

- Students will analyze statistics from Virginia Department of Juvenile Justice Reports on Crime and ethnicity in Virginia

Day 11

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

10 - Color Coded Justice

- What percentage of black boys born after 2000 will spend time in prison?
- List 3 immigrant groups and the criminal stereotypes associated with each group.
- Explain convict leasing.
- What is a super predator?
- Explain 3 factors of the criminal justice system that led to more black people being in jail.

Students will answer one discussion question in a one-page journal entry

- What racial stereotypes do you believe? Explain
- Do you think America would give more attention to prison issues if the majority of prisoners were white? Explain

Class Activities

- Students will analyze statistics from Virginia Department of Juvenile Justice Reports on Crime and ethnicity in Virginia. They will compare and contrast the types of crimes committed in 4 different DJJ jurisdictions (Richmond, Norfolk, Fairfax, and Shenandoah).

Day 12

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

11 - The War on Drugs and African Americans

- Explain the correlation between African American population statistics and drug arrest statistics.
- What happens during a drug sweep?
- Explain how mandatory sentences have increased the prison disparity for African Americans.
- How did court jurisdiction increase the prison disparity for African Americans?
- List 3 other life factors are affected by the war of drugs.
- List 4 ways to reduce the prison population due to the War on Drugs.

Students will answer one discussion question in a one-page journal entry

- Are drug sweeps a violation of the 4th amendment?
- Are drug sweeps a violation of the 14th amendment?
- Explain a positive and a negative interaction with a police officer.

Class Activities

- Students will read excerpts from Ch. 5 of Locking Up Our Own “The Worst Think to Hit Us Since Slavery: Crack and the Advent of Warrior Policing”
- Students will read excerpts from Ch 7 of Chokehold, “If You Catch a Case, Act Like You Know”

Day 13

Students will read and answer questions from Race to Incarcerate: A Graphic Retelling

12 - A New Direction

- List 3 alternatives to incarceration.
- Explain community policing.
- Explain how the criminal justice system has disenfranchised African Americans.
- What is restorative justice?

Students will answer one discussion question in a one-page journal entry

- What do you think would be an alternative to prisoning? Explain
- What can police do to improve their relationships with the community?
- What can the community do to improve their relationships with police?

Class Activities

- Students will research hip hop songs about police tactics and prison system and create an oral report on the meaning of the song
- Students will create a letter to their younger self on how to avoid the pitfalls of juvenile prison.

Day 14

Class Activities

- Students will edit their letters to their younger self on how to avoid the pitfalls of juvenile prison

Day 15

Class Activities

- Students will research pictures for a visual timeline to be displayed in Detention Center hallway or in a computer-generated slideshow. The pictures must represent key points in American history that produced an increase in the prison population.

Appendix

Virginia Standard of Learning Skills

Virginia and United States History

VUS.1 The student will demonstrate skills for historical thinking, geographical analysis, economic decision making, and responsible citizenship by

- a) synthesizing evidence from artifacts and primary and secondary sources to obtain information about events in Virginia and United States history;
- b) using geographic information to determine patterns and trends in Virginia and United States history;
- c) interpreting charts, graphs, and pictures to determine characteristics of people, places, or events in Virginia and United States history;
- d) constructing arguments, using evidence from multiple sources;
- e) comparing and contrasting historical, cultural, economic, and political perspectives in Virginia and United States history;
- f) explaining how indirect cause-and-effect relationships impact people, places, and events in Virginia and United States history;
- g) analyzing multiple connections across time and place;
- h) using a decision-making model to analyze and explain the incentives for and consequences of a specific choice made;
- i) identifying the rights and responsibilities of citizenship and ethical use of material and intellectual property; and
- j) investigating and researching to develop products orally and in writing.

Virginia and United States Government

GOVT.1 The student will demonstrate skills for historical thinking, geographical analysis, economic decision making, and responsible citizenship by

- a) planning inquiries by synthesizing information from diverse primary and secondary sources;
- b) analyzing how political and economic trends influence public policy, using demographic information and other data sources;
- c) comparing and contrasting historical, cultural, economic, and political perspectives;
- d) evaluating critically the quality, accuracy, and validity of information to determine misconceptions, fact and opinion, and bias;

- e) constructing informed, analytic arguments, using evidence from multiple sources to introduce and support substantive and significant claims;
- f) explaining how cause-and-effect relationships impact political and economic events;
- g) taking knowledgeable, constructive action, individually and collaboratively, to address school, community, local, state, national, and global issues;
- h) using a decision-making model to analyze the costs and benefits of a specific choice, considering incentives and possible consequences;
- i) applying civic virtues and democratic principles to make collaborative decisions; and
- j) communicating conclusions orally and in writing to a wide range of audiences, using evidence from multiple sources and citing specific sources.

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