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13th and Locking Up Our Own: Argument, Voice, and Perspective in Two Modern Meditations on Mass Incarceration

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Introduction and Background

Dedication: A Hope and a Reason

> "This is America.” -Donald Glover a.k.a" - Childish Gambino”

I’m writing this in 2018 in dedication to a hope. The hope is that this song lyric, this sentiment, won’t mean the same thing to teachers reading this in 2038 as it does in its current reference to the popular song of the same name. “This” describes an America of multiple school shootings per year, some with double digit victims. It describes an America where black and brown boys and men are targeted disproportionately by police to the point where trust by many citizens in those sworn to serve and protect has become jaded or worse. “This” is an America where immigrant children are taken from their families, scientific data is questioned or flat out denied, and where we live in a society where people of color are incarcerated at a rate of 1 in 3. It’s this final consideration that this unit is intended to address. Through two modern, seminal texts on mass incarceration, we will explore the modern criminal justice system. With a skills emphasis on the rhetorical concepts of voice, perspective and argument, we will analyze Ava Duvernay's popular documentary *13th*, comparing and contrasting it with James Forman, Jr.’s Pulitzer Prize winning book *Locking Up Our Own: Crime and Punishment in Black America*. The former a film, the latter a book; the former a meditation on the history of American racism and the assertion that slavery still actually exists simply under different auspices, the latter a narrative exploration of black Americans’ roles and contribution to the modern state of unbalanced criminal justice. These texts both explore modern criminal justice, its history, causes, and rippling consequences. They both exude hope through a call to action by shining a bright, at times blinding, uncomfortable light on how criminal justice veered into a path ending in the prison-industrial complex: turning the concept of justice itself into a business; denying young people – mostly of color, mostly of meager means – the ability to reach their potential.

A Teacher’s Jaded, Stubborn Ideals

It can be a frustrating, even desperate practice to teach kids you know may be locked up because of the color

of their skin. They are in your direct care for at least a year – you check in to make sure they're eating right and sleeping well, studying hard and chasing their goals. You stress the importance of this to them so vehemently, with so much passion sometimes that they tell you to take it easy. No, you say. You will not take it easy when you know how much each decision can impact their future, and it is your job to ensure they're armed with all the knowledge you can give them about the right paths and the best perspectives and to *learn* from what they read and advice they're given. It's an emotional profession, teaching, and near impossible for us not to suffer for our charges, our students, our kids. Time spent planning and grading is one thing, not everyone knows how much emotional energy we spend worrying about them and thinking about where they will end up when they leave us, or before. Not many think, especially for those of us in urban education, of the fact that every so often we need to cope with a student getting arrested or worse.

There are so many ways to not make it, as it were. So many ways for our students to get caught up in a system larger than they can even imagine, when everything in their own world is so close. We'd like to think that students everywhere and of every race, color, and creed would get a second chance and a third and a fourth for making the mistakes common in human growth. Getting into fights, experimenting with drugs, and other small crimes are common even among young people *without* tumultuous home lives. Everyone – and I think I can say this without worrying about too large a margin of error – *everyone* makes mistakes as they grow, learn, and begin to connect the dots of the world and of their potential.

But we live in an American society that does not afford all its citizens fourth chances; and for some, not even second chances or, taking into account poverty, gaps in opportunity, and systemic racism, not even first chances. We live in a society founded on the backs of black and brown people in chains. Our early society flourished in a rich economy void of the burden of having to pay for its labor. This country, for all its booming rhetoric of freedom, would not be powerful enough to assert such rhetoric if not for its inaugural labor force: Africans, in bonds, unfree, enslaved. Some would argue that these bonds were never broken, simply shifted to a different place. Some would argue that bonds morphed into de facto prohibitions through laws of the Jim Crow South. Some would argue that those bonds were recast as bars in the early 20th century and remain so today.

The Hope and Promise of These Texts

This curricular unit is meant to educate students about those who make said arguments. Those who propose that there is something rotten in America; a festering wound of indignity, injustice, and dehumanization that is re-opened again and again the more laws and institutions are designed and sustained to target certain citizens and not others.

This unit will spotlight the Ava Duvernay film *13th*, which argues that slavery was never abolished, simply redesigned over time, through Jim Crow, and now into modern mass incarceration which to this day relegates people of color in this country in far too large a number to continued unpaid servitude and bondage. Particular rhetorical value for teaching is found through testimonies of prominent scholars and activists, with opposing viewpoints from lobbyists and politicians.

This unit will spotlight the book *Locking Up Our Own: Crime and Punishment in Black America* by James Forman, Jr. of Yale University, upon which the Pulitzer Prize in General Nonfiction was recently bestowed. Using our nation's capital as a backdrop, Forman explores the history of crime in a largely black populated city along with the responses by prominent black and white police and politicians. This insider's view of the evolution of criminal justice to its current state also offers unique perspectives, arguments, and exposition.

The rhetorical aspects of these texts are fascinating and rife for exploration, filled with opposing viewpoints and differing perspectives – however they both do it differently. Duvernay's is an oral history, using testimonies of prominent figures in modern politics, scholarship, and activism (highlighted in subsequent sections). Forman's is a narrative history, exploring the actions, decisions, and often insight into the possible, probable, and actual thought processes and motivations of both black and white leaders, citizens, and police. Using different, yet not uncomplimentary narrative styles, the texts are powerful for students to use in tandem, with the challenge of grasping what devices and strategies the author/filmmaker used to get a point across. The term "point" itself seems too soft for the sweeping conceptual framework that is the ambition of both sources to express, and indeed that is exactly what makes them so apt for study. This concept is heavy, important, and seems to be just achieving legs in the modern American psyche. That fact alone – that not enough people know or care about this – is worth studying. And while we do it, why not use its study to do a little better on our English and history papers as well?

This unit is intended for students in an urban public school in grades 11 and 12, preferably with backgrounds (already taken classes) in both American history, American literature, or the like, as it will involve understandings of modern and historic America that should be part of those prerequisites. Again, it's a hope. Hope is present throughout this curricular unit, as it was during my research for it. Oftentimes during said research my hope was tested, as it can be when I hear news of one of my students being arrested (which happens not frequently, but often enough to be of significant concern). But still I persist with a hope like that described regarding Michelle Alexander in an interview with onbeing.org: "a fierce hope and belief in our collective capacity to engender the transformation to which this moment is calling."[1] The "moment" we will dwell on in this unit is now – an era of advocacy and scholarly scrutiny of mass incarceration, a time of Black Lives Matter and #metoo, when human rights, while nothing new this or last millennium, are a constant focus and awareness is available on so many screens through so many platforms and media. With the knowledge and perspective that can be gained from this material, taking into account the prohibitive nature of modern media, niching factions into confirmation bias, and with those in power persisting in oppressing people for their own gain, the time is *now* more than it's ever been in modern America for real change to happen.

Rationale and Objectives

Since seeing the film "13th," I knew I wanted to form a curriculum unit surrounding the concept of mass-incarceration and its effects on all parts of American society. What sources can students look at to further study the cases some of the interviewees of the film make? What statistics, or other theoretical or actual considerations should we take into account when studying this ever-affecting aspect of the modern American condition? Why are we just now making revelations like the film makes (some of my students gasp at some of the "revelations" of the film)? Things like: fully a third of men of color in this country end up involved in the criminal justice system. And while fully two thirds of my students are people of color, this statistic affects everyone, everywhere, and should be taught to everyone, everywhere. This represents a lingering and dangerous gap in humanities curricula, perhaps everywhere, particularly in New Haven. Imperative instructional considerations include the reasons behind mass incarceration, and how we might act and teach and live to improve it, including ruminating on the important distinction between a political issue and a moral issue, and the societal clouding of that distinction, including in the age of the current presidential administration and indeed past administrations.

It is essential for Americans to be aware of what their tax dollars pay for. The success of prisons as a business in America makes evident the tacit faith of the populous in said prisons' effectiveness in keeping our society in order. But does the average American student, for example, have the full range of information regarding what happens inside our justice system, how, and to whom? This curricular unit will work to educate my students – and any students of a teacher who decides to utilize it – with the awareness and information needed to judge for themselves the truth about how our justice system works, or doesn't work.

This is a multi-discipline (both social studies and English) humanities unit, and it will be multi-media (at very least, both film and book sources will be drawn upon). It will be important to incorporate the film and book, but also the wisdom of black artists and leaders in the study of this national condition that affects predominantly men of color. The perspective that philosophers, attorneys, politicians, teachers, musicians, writers – doers – have always had a bead on it and continue to, will therefore be a prominent theme. When during the course of our lives do we have these epiphanies, these awakenings? For our nation, the awakening is happening far too late for many men of color, especially those already caught up a system that consumes them. This unit will be intended as a foundation from which to hopefully come to it sooner for my students – whether they be a target of it, or have a friend, loved one, or simply a fellow human, known or unknown, who is.

I believe Duvernay's film is poised to be a seminal modern source for not only these themes, but as an exemplar of opposing viewpoints. She includes testimony of experts in many fields: academia, politics, law, activism and formerly incarcerated. She includes the opposing political viewpoints, even exploring that of a representative for a big-business lobbyist. However, she does all this in a way that these testimonies seem to complement each other: i.e., the interviewees at times seem to be "arguing" with each other about particular points and topics, a very interesting style that is worth scrutiny by students.

I believe Forman's book is poised to be a seminal source for modern black thought and perspective. It forces a culture, nay, cultures – both African-American and indeed American, still differentiable yet also not, and not necessarily opposing – to look inward and evaluate. Reflection and perspective on historical experience is constant, evaluating and re-evaluating legal decisions, cultural tensions and the reasons behind them, and prompting the reader to judge said actions, decisions, policies, and mistakes. One thing I hope to accomplish in this unit is to focus closely on the concept of tension, and the need as modern Americans to force ourselves to look hard at the hard things to look at. In his book, Forman does this and brings the reader along with him, matching meaning to form.

Both sources used in tandem are meant to simultaneously guide students through different narrative, rhetorical styles while teaching them, roots to impact, the tale of modern criminal injustice.

My time at Yale with Professor Forman and other teacher-scholars has imbued me with even more vigor and enthusiasm for the topic. It is therefore my goal to extend not only the knowledge, but also this enthusiasm to students. I have shown the film before to mixed reviews but most students at very least are moved by it, as has been gleaned through testimony, class discussion, and response projects. While studying African-American History and Literature, a focus on the history and current state of mass incarceration will bring a lot of it together in a hopeful push towards at very least awareness. There will not be beauty without pain. There will not be accomplishment without struggle. Much like the experience of the African-American.

Teaching Strategies Part 1: Overview for Teaching the Film *13th*

> "There is no 13th Amendment." -Sean Means, Fellow, Yale National Initiative seminar on Race, Class and Punishment, 2018

Sean, a fellow Fellow of mine in the seminar that produced this curricular unit, was talking about buy-in from all sides, all stakeholders. When the 13th amendment was drafted, it was drafted as such:

> "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."[2]

We cannot tell from simply the text whether its writers had specifically in mind the continued enslavement of peoples once convicted of a crime, or a warning not to commit crimes to America's citizens, but it's clear that the perceived end of slavery was not an all-out abolition. In fact, it states quite clearly that there still certainly will be slavery or involuntary servitude for those convicted of a crime. It's as weighty a part of the amendment as the other. There was not buy-in from all stakeholders. There were those that saw it as a maneuverable amendment, manipulable toward keeping slavery in place, if by another name. This is explored in detail in Ava Duvernay's film *13th*, produced by and available on Netflix.

The film traces the history of American slavery in all its forms, from literal human bondage to modern incarceration where inmates continue to labor for low or no pay, focusing also on interviews with modern scholars, educators, activists, politicians and others both corroborating and refuting the films claims, exploring many viewpoints but mostly that of its main thrust: that slavery never ended. Immediately after the passing of the 13th amendment, according to the film, the loophole was exploited to gain the labor back that was lost due to abolition after the Civil War. The southern economy had always been dependent upon free labor and thereby needed to be rebuilt. This led to a national push towards painting blacks as criminals, so that they'd be arrested, incarcerated, and would therefore lose their right to the 13th amendment and would be in effect slaves once again.[3]

The white nationalists – specifically politicians like president Woodrow Wilson and filmmaker D.W. Griffith, through their making and proliferating the racist (and at the time *wildly* successful and popular) propaganda film *Birth of a Nation* – played upon that growing national perception of black criminality. Blacks were largely perceived, and intentionally so, as rapists and murderers, dangerous and wild, uncontrollable, like animals. This led to rampant terrorism. Blacks were harassed, beaten, lynched in the South. This led to a mass exodus of blacks from the South westward and northward into large cities where open terrorism shifted to a more legal condition, known as segregation.[4]

If emancipation was the first major movement towards black social equity and Reconstruction the second, Jim Crow segregation led to the third and arguably most effective: the American Civil Rights movement. Civil Rights leaders are spotlighted, quoted, and even interviewed in the film. Angela Davis reflects upon her experience being arrested as a Public Enemy and winning her court case. Other Civil Rights leaders were not

so fortunate and ended up fleeing the country at best, being murdered in their homes at worst, as was the case for Black Panther leader Fred Hampton. Thereby, the film argues, Civil Rights leaders were systematically disposed of by political leaders like Richard Nixon and J. Edgar Hoover as public enemies. This loss of leadership in the Black political campaign for equality opened a flood gate of sorts which allowed Nixon, and after him Reagan and continuing on to Clinton, to slowly and quite surely build a national prison system so large and so powerful, that it, as one interviewee puts it "eats Black and Latino people for breakfast, lunch, and dinner."[5]

At the same time the Civil Rights movement amped up, however, so did drug use and crime, and Nixon and those after him were able to parlay that into popularity for policies cracking down on said crime, perceived by the populous to coincide with being black in America. This is the beginning of the War on Drugs, which is further explored in the next section on *Locking Up Our Own*. This is when drug addiction and proliferation diverged from being a public health issue to a criminal justice issue, and it has never really come back from that. This continued with Reagan's literal war on drugs, sending more and more heavily armed and armored police into ghettos to sweep up black people even on suspicion. The film fast forwards to Bill Clinton and his campaigning for president on the promise to be tough on crime. Eventually we see a federal crime bill of $30 billion passed in 1994, which was heavily loaded towards law enforcement and incarceration.

It is important to consider that this film makes a good case example of opposing viewpoints. Grover Norquist is interviewed several times attempting to discredit certain things that other interviewees say about the process and growth of mass incarceration. Newt Gingrich is also interviewed, although this is a unique third perspective (also offered in the film by congressman Charles Rangel) of a person who once believed one way, and has since seen things differently. Gingrich corroborates much of the film's testimony, admitting specifically and one point: "virtually no one who is white understands the challenge of being black in America."[6] This poignant admission from the conservative encapsulates the films pathos. The condition of mass incarceration, or modern slavery as the film would assert, is very heavily felt by the interviewees and imbues the viewer with such emotion, perhaps even anger. More on these perspective and argument considerations are found below in the "Classroom Activities" section. The film is meant in no small way to inspire action, and Ava did her homework. Interviewees worth scrutiny and even research by students include:

Van Jones: CNN anchor, political commentator and founder of Dream Corps, which works to improve opportunities and close prisons. He's a graduate of Yale, an attorney and author.[7]

Angela Davis: Civil Rights leader, scholar, activist, author and teacher, Davis has historically advocated for gender and race equity, and is a prominent part of the film as both an interviewee and subject.[8]

Dr. Khalil Gibran Muhammed: An educator, scholar, writer and historian, Muhammed is executive director of the Schomburg Center for Research in Black Culture.[9]

Michelle Alexander: A civil rights attorney, scholar and writer, Alexander is a leading modern voice for civil rights and incarceration advocacy through her work and book, *The New Jim Crow*.[10]

Dr. Henry Louis Gates, Jr.: Award winning filmmaker, writer, journalist, critic and scholar, Dr. Gates is a prolific historian and a Harvard professor.[11]

These folks are, to boot, inspiring African-American role models and worth spotlighting in this or any lesson on contemporary American history.

Through extensive and engaging interviews with these and others, the film ultimately concludes that prisons are big business in America, and therefore must be kept full. From prison builders, to monitoring-technology firms, to prisoner services like communication and insurance, to things we may not even consider like exactly how big the business is of supplying America's millions of prisoners with food, it is very important to all these contractors for their product – the American prison inmate – to remain common. And is it the continuing American condition of slavery that keeps these prisons full, through laws, policies and procedures that make the exact right crimes the exact right impetus to land the exact right people in jail. One out of three men of color are associated with the American criminal justice system, and it's no accident. It's not new. "The difference now," Van Jones attests, "is somebody can hold up [a phone]. . .put it on youtube, and the whole world has to deal with it. That's what's new: it's not the protest, it's not the brutality, it's the fact that we can force a conversation about it."[12]

The system and process that led to the current state of mass incarceration is explored in more detail, with further examples in the book *Locking Up Our Own: Crime and Punishment in Black America* by James Forman, Jr., explored in the next section.

Teaching Strategies Part 2: Overview for Teaching *Locking Up Our Own: Crime and Punishment in Black America*

The problem is systemic. Slavery ended but created a black underclass that whites were unwilling to allow to change, hence the rise of Jim Crow. Segregation then legally ended but this country still will not let go. When Civil Rights amped up, as Alexander points out in *13th*, a drug and crime epidemic was amping up that would change the face of incarceration in this country that pervades to present day.[13] This is where we will further scrutinize the conditions in America and actions of leaders that built the modern prison system. Often struggle, desperation and fear were involved in decisions over policies that would not result in less crime, but still impact the African American experience in this country gravely.

Professor Forman opens his book with a simple yet devastating story. After working to become a defense attorney (he saw the modern civil rights battle as being in the courtroom), he watched a black judge summon Martin Luther King, Jr. in a lecture to a young black boy he was about to lock up. Major civil rights leaders were the reason Forman was in that room as well, but to keep young black boys with bright futures from being locked up for too small offenses with too few chances at rehabilitating, without the hopelessness of a jail sentence.[14]

The history and implications of police and the dynamics of black society in America are key factors in the story of how these two entities became opposing forces. While the black community is greatly affected, there is a class structure within it and most harsh modern policing and incarceration policies affect disproportionally those with the least amount of education, and the poorest.[15] This is astonishing but not surprising, as we continue a human tradition of marginalizing the poor instead of helping them. This again is not a new or sudden phenomenon. "Mass incarceration is the result of small, distinct steps, each of whose significance becomes more apparent over time."[16] We will start with a study of the history of policing.

Policing and Black America

The earliest experiences African Americans had with police in America was not a positive harbinger for the future. A good number of the first police forces in the south were slave patrols, charged with capturing and returning slaves who'd escaped, and treatment once caught was anything but humane. After emancipation, police continued yet in this vain, enforcing Jim Crow segregation policies, and even working with the Ku Klux Klan, looking the other way, or hiding underneath sheets while lynching people.[17] After a time, folks got fed up with all-white police forces and wanted a stake in law enforcement, presumably to even the playing field with at least modest representation. A protester in Atlanta in 1946 would don a sign demanding: "105,000 Negro Citizens Rate at Least 1 Negro Police."[18] Folks depended on the hope that integrating the police departments would allow justice to be carried out with less violence, and in turn inspire more faith in law enforcement professionals by the black community. They worried that if there was not enough representation on the force, the police would continue to fail to be regarded as peace-keepers, and simply keepers of the status quo in holding down blacks as an underclass.[19] However once police forces started integrating, not much changed. The officers themselves did not by and large see themselves as the solution that was sought after. Many did not become police officers for social change, they just wanted a good, dependable job with good, dependable benefits. Overall, and as we look back into history, it's easy to think many early black police officers would have been warriors for social justice. But taken individually, just like anybody, many just wanted a decent living. And to boot, many looked down upon the poor who would commit crimes just the same as any white officer. "A significant minority of black officers still expressed antiblack attitudes. . .Expecting them to change how police fought crime was like expecting black firefighters to change how the fire department fought fire."[20]

The War on Drugs: How a Public Health Issue became a Criminal Justice Issue

Integrating police forces didn't change lopsided criminal justice, and, particularly in Washington, D.C., when crack began to decimate the city, this heralded in an era of mass arrests and harsh sentencing. From crack in D.C. to PCP in LA, communities started to degenerate into highly dangerous crime zones, seeing unprecedented assault, drug-dealing, murder. Community members and policymakers alike were swept up in a wave of fear and desperation, and the only way most of them could see solving it was more policing and harsher sentencing. There was early advocacy for focusing on the root causes of the epidemic – addiction, poverty, and social programs to address each, as opposed to the harsher policing. Jerome Page, president of D.C's Urban League at the time, argued that these policies would not solve the problem, and in fact things like mandatory minimums would only serve to further flood an already over-crowded criminal justice system. If we did not work to alleviate root causes, he proposed, crime would only worsen.[21]

The policies didn't change, and worsen it did. Policymakers kept dedicating more and more resources to heavy policing and treatment centers remained understaffed with too few beds for the city's, and the nation's, drug rehabilitation efforts. Furthermore, instead of being assigned to those beds, both drug dealers and users were assigned jail time. Citizens would write letters en-masse to the city's officials, which would be referred then to the police, not to the departments of public health where those root causes may have been addressed. Amid all the fear and desperation, there might be some explanations found as to why no one thought to do that, but generally it "speaks volumes about the ways in which we as a society categorize drug use."[22] We have been unwilling or unable to give people a chance to redeem themselves after making a mistake, or being in a point in our lives that we're too weak to say no, or find our own help. Instead of helping each other, we judge each other's weakness, and have, to this point far too often, looked the other way when our fellow citizens are locked up for offenses for which they should be assigned treatment instead. And here

we are, a nation containing 5% of the world's population, while housing 25% of its prisoners.[23]

And it didn't work. For all their efforts, crime did not waver in the wake of mandatory minimums and other stiffer punishments. In the decades since, rampant drugs and crime have subsided to a point, but the machine of harsh criminal justice built in the 1970's and 80's pervades to this day.

Black communities have suffered from job outsourcing, and continue to reel from too-often mishandled crime. The school-to-prison pipeline is real and pervading, and impacts students from rough neighborhoods who need so much more, and better. Forman states: "In neighborhoods wracked by violence, young people must devote immense psychological resources to their day-to-day survival."[24]

And therefore it falls to…whom, to better it? Politicians, lawyers, educators…American citizens of all walks? This curricular unit leaves that decision up to the student. What follows enlightenment? Activism? And then, what does activism look like? Is teaching this material a form of activism? Is learning it? At least within my classroom, my kids will have the freedom to decide. I encourage educators to incorporate as many different perspectives as they can: other textual sources, field trips, guest speakers, student opinions. The more voices, the better. And so we continue with the use of voice, perspective, and argument in these texts, in order to further empower said students with said skills.

Classroom Activities: Rhetorical Strategies and Comparing and Contrasting Narrative Voice

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Perspective and Opposing Viewpoints

Perspective can a tough concept to teach, because it can be both over and under thought. It should be easy – point of view. What is your point of view? What are those of others? Easy. However, it then can be exceptionally difficult for a young (or old) person to *actually* try and see something from someone else's point of view. This is why reading is so powerful; this is also why documentary film can be so powerful – neither can be experienced, watched, read, without jumping into someone else's goggles and taking a look at the world from their view. To teach this to younger grades, I often use the account of Columbus discovering America. The *Encyclopedia Britannica* entry on the topic is *drastically* different than that of Howard Zinn in *A People's History of the United States*. For juniors and seniors, I will demand an even more complex challenge on perspective:

1. To analyze and interpret the different voices in *13th*. They will look in detail at, for example, Van Jones' take on the Black Lives Matter movement as opposed to that of Grover Norquist. More importantly than the difference in perspective, what do they (the students) think it indicates? Is one more right than the other? This can be accomplished through written analysis, class discussion or even debate, and can utilize multiple aspects and interviews from the film.

Another great example is Lisa Graves, who testifies in opposition of ALEC (the corporate lobbyist influencing political policy in favor of gun sales and the Prison-Industrial Complex), and Michael Hough representing ALEC. These two – both white, one a clearly progressive activist and the other a stereotypical republican elitist – are almost comically juxtaposed, as are their opposing viewpoints on the topic, to spotlight the evildoings of such a large, influential group that I'd argue most Americans aren't even aware exists. The cinematic back and

forth puts the viewer in both individuals' shoes for a moment, allowing us to see that there really are opposing viewpoints on whether or not big business is affecting peoples' lives through the criminal justice system.

2. To analyze and interpret the overall narrative voice in *Locking Up Our Own*. There is certainly an imperative, but can you (the student) find anything more in Forman's voice? Is there anger, as there is for some interviewees in *13th*? No? Are there aspects of the book, particularly chapter 5, that leave anything open for an opposing viewpoint? Forman tells the tale of his students in D.C. being implicated by both black and white police, harassed for merely standing on the street corner outside of their school. According to the account, students are thrown up against the wall by officers on mere suspicion, their belongings – makeup, combs, pencils – spilled to the ground. Forman uses this as an example of the state of our nation: this mistreatment… morale defeated, ambitions frustrated, promises by other adults broken. We tell them they can "make it" if they try hard and stay on the right path, while outside of our classrooms and homes they *see* and are *shown* the opposite, when police treat them like this on nothing but a suspicion. One student attests: "How can you tell us we can be anything if they treat us like we're nothing?"[25] This is an exceptional account for student scrutiny. Do any students feel the same? Do they agree with this student, or do they have a more hopeful outlook? What does it represent for this student to be so definitive about it?

Chapter 5 includes another story – that of a town hall-style meeting between Forman's students and several D.C. police during which both parties are at first able to openly and safely vent their frustrations. The students tell the police how they feel about being mistreated, profiled. The police vent about how tough it is in a city where crime is so frequent and ubiquitous to differentiate in bad neighborhoods between criminal and innocent. Finally, the police suggest students wear large, viewable ID's so the cops can differentiate. "This suggestion, to put it mildly, did not go over well."[26]

To students: Do you agree with the actions and outrage of the students spotlighted therein? Can you relate? Thinking about it from the perspective of both the students and the police, including their backgrounds, who has more of a right to be upset?

Talking about perspective with students, again, seems easy in theory. But it is very hard to inspire people to actually step outside of their own perspective. Using these texts with such heavily-weighted, compellingly important themes, I am hopeful, will succeed in accomplishing that in many cases.

Argument

Another challenge for students will be to differentiate between argument and perspective. Can we have one without the other? If someone is not actively making an argument (a point), can we glean their perspective? The two invariably go hand in hand, yet we will in this unit attempt to differentiate between perspective and argument through analysis of the two main texts.

In *13th*, essentially different interviewees are arguing: 1. For the main thrust of the film (that mass incarceration is the modern form of slavery); 2. Against one another about different building points to that end. The overarching voice over of the film, the narrator, simply fills in information as the film progresses, not making any arguments himself; the interviewees do that. It will be interesting to have the students analyze this – what do they think of this argument style as opposed to Forman's, which is described next.

In *Locking Up Our Own*, Forman gives a narrative history with examples, opinions, and flash forwards to his own experience as a public defender and charter school founder and teacher. Tackling similar ground in criminal justice, there is certainly a fertile opportunity for comparison of argument. The film contains the

argument of many, while the book is more complex. It could be said that it the argument of one – the author. However, the arguments made by Forman are based on an amalgam of history, actions, decisions, opinions and accounts.

As Forman describes them, "small, distinct steps" led to the state of modern mass incarceration today. There were decisions by policy makers and decision makers in D.C. surrounding cataclysmic drug epidemics and growing tensions in black communities dealing with racism. Black judges and even Mayor Marion Barry would make decisions that would adversely impact the black community and influence its history. Folks refused to explore root causes and indicted drug addicts as criminals instead of people who needed treatment, filling prisons and paving the way for more and harsher penal measures, instead of more and better beds in treatment facilities. If drugs are a policing issue instead of a public health issue, Forman argues, then we end up exactly where we are: in a country unbalanced in criminal justice. Students should insert their own perspective into these arguments, and be able to use the texts to provide evidence.

Providing Evidence

I often tell my students that no one believes them. Right up front, anyway, and why should they? No one *really* knows if we are telling the truth, about anything. No one can see inside another's head and *know* they are speaking the truth. So in a world where they need to prove they are the dependable person, the go-to guy or gal, when a job or spot at a college or even a social relationship is at stake, they need to be the one who can prove what they are saying is right. To do this, they need to have the evidence. This is how we start a conversation about research. In order to do this, they must always check at least several sources so they know they're right before they represent anything as their own information, and the facts and ideas from this unit and these text add another dimension to that. They can obviously refer to these texts for evidence on mass incarceration, and all of these skills and themes can be hunted for in them. Another interesting source I found while researching some of these statistics is the *Washington Post's* fact checking on the statistic that America represents 5% of the world's population and 25% of its prisoners. The numbers generally add up, but can be argued against even so, as some countries are thought to underrepresent in their statistics, amongst other factors.[27] A link to this article can be found in the notes and bibliography.

Student Activity: "Chances"

An opportunity for students to practice argument is also rife for evidence from these texts. Regarding the first, second, third chances discussed in the Teaching Strategies section – to students: what do you perceive to be the different amount and types of chances different types of students get – think about the homes they come from, the neighborhoods they live in, the color of their skin, etc. Why do some get chances that others do not? Students will need to use evidence from the text to support this.

A Political or a Moral Issue?

I would like to hope that this unit would be able to be used in any upperclassmen classroom in any high school setting. But I have my doubts, as these themes will corroborate, that all Americans are of the optimal demeanor to have this be of importance to them and their children. The reason this all needs to be taught is because there are still plenty of people who may not be ready and able to hear these things because they politically may not accept them as truths. This requires us to decide whether mass incarceration is really a political or a moral issue. Students can decide, based on these texts and any others from which they wish to draw.

Voice

This rhetorical concept in juxtaposition with voice as a social and even existential concept will be the final literary focus of our study. The reason we are using these texts to study narrative voice is largely because they are the stories of people whose voices have been silenced, and I want the irony or poetic justice (depending on one's *perspective*) of that to be palpable. To that end, students will consider the following from either or both texts (these are all good journal writes):

- Whose voices are featured in these texts, either individual or cultural? Why throughout history have some voices been silenced, and how?
- Voices of the interviewees (listed in the Teaching Strategies section). Analyze – both literally, and their actual voices: who do they represent?
- Is it even a human imperative to ensure *no voices are silenced*? Explain.
- The class structure of black America from Forman's book. ---- take for example that when people hold black police officers to bear they do not consider the history – early black police officers just wanted a decent job! Who is to say it's not so today?
- How do these questions relate to the narrative voice in these texts?

Conclusion: Meditations on the Current State

What conclusions are students to ultimately draw from all this? The need for change, to be sure. But first, they must consider all the factors, mainly the following.

Part 1: How We Got Here

The condition of modern mass incarceration resulted from gradual acts and decisions that grew over decades. It will be worth asking of students whether we will need decades more to improve it to a more humane state.

We know that people majorly benefit from the system as it is so it will be worth exploring who exactly benefits and what it would take to lobby for change. Is it even possible?

Their own experience: students will need ample time and space to share their own stories. Many of my students, I know from dialogue, have experienced discrimination by police and even been involved in the criminal justice system. Through this study, we will have to establish norms of respect, peace and space for these stories to be shared, through journal writing, class discussion and other activities.

Part 2: Why We Tolerate It

The short answer is, we don't. The long and storied answer is, because we are forced to. Through study of these texts, we'll be able to come to conclusions about who the major players are, and which major actions, policies or laws were created to bring us to our current state.

Part 3: What's Being Done

Lots. All that's been said here, all that are in these texts and many more – awareness is the first sweeping step, and it is catching. The concept of tension with regard to Civil Rights was touted by Martin Luther King, Jr. in his *Letter from Birmingham Jail*. It is *good* when it forces us to communicate and to illuminate the social conscious of national ills. Tension and awareness guide dialogue, then action. Who knows what these students will do with our future, whether they will become active participants in national issues. But learning about it, dwelling on it, scrutinizing and analyzing these themes and concepts will at least arm them with the voice they deserve.

Resources for Students and Teachers

Additional Complementary Sources

The New Jim Crow by Michelle Alexander

How Children Succeed by Paul Tough

13th : A Conversation with Oprah Winfrey and Ava Duvernay

Music: *Letter to the Free* by Common, featuring Bilal; *Sound of da Police* by KRS-One; *Neighbors* by J. Cole

Web video: Jay-Z on why the War on Drugs is an epic fail:
https://www.nytimes.com/2016/09/15/opinion/jay-z-the-war-on-drugs-is-an-epic-fail.html

Annotated Bibliography

Alexander, Michelle. "About the Author." The New Jim Crow. Accessed July, 2018. http://newjimcrow.com/about-the-author. Profile of Michelle Alexander.

Alexander, Michelle. "Who We Want to Become: Beyond the New Jim Crow." On Being. accessed July, 2018. https://onbeing.org/programs/michelle-alexander-who-we-want-to-become-beyond-the-new-jim-crow/. Important for relevant opinions in an interview with Michelle Alexander, as an interviewee in *13th* .

Davis, Angela. "Biography." Biography. Accessed July, 2018. https://www.biography.com/people/angela-davis-9267589. Profile of Angela Davis.

Duvernay, Ava. *13th* . Directed by Ava Duvernay. 2016: Netflix, documentary film. One of the two texts used as a basis for this unit.

Forman, James, Jr. *Locking Up Our Own: Crime and Punishment in Black America*. New York: Farrar, Straus and Giroux, 2017. One of the two texts used as a basis for this unit.

Gates, Henry Louis, Jr. “Department of African and African-American Studies.” Harvard University. Accessed July, 2018. https://aaas.fas.harvard.edu/people/henry-louis-gates-jr. Profile of Henry Louis Gates, Jr.

Jones, Van. “CNN Profile.” CNN. Accessed July, 2018. https://www.cnn.com/profiles/van-jones#about. Profile of Van Jones.

Muhammad, Khalil Gibran. “Biography.” Biography. Accessed July, 2018. https://www.biography.com/people/khalil-gibran-muhammad-21116667. Profile of Khalil Gibran Muhammad.

Ye Hee Lee, Michelle. “Does the United States really have 5 percent of the world’s population and one quarter of the world’s prisoners?” Washington Post. Accessed August, 2018. https://www.washingtonpost.com/news/fact-checker/wp/2015/04/30/does-the-united-states-really-have-five-percent-of-worlds-population-and-one-quarter-of-the-worlds-prisoners/?noredirect=on&utm_term=.225a4ee8b314. Valuable fact check for the statistic itself and also to teach students about checking sources.

“13th Amendment to the U.S. Constitution.” Library of Congress, accessed July, 2018. https://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html. Text of the 13th amendment.

Appendix – Teaching Standards

CCSS.ELA-LITERACY.RH.11-12.7

Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, as well as in words) in order to address a question or solve a problem).

Students will be focusing in on very different media and very different sources of information to attempt coming to similar conclusions.

CCSS.ELA-LITERACY.W.11-12.1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

Argument and evidence are primary concerns of this curricular unit.

CCSS.ELA-LITERACY.W.11-12.1.B Develop claim(s) and counterclaims fairly and thoroughly, supplying the most relevant evidence for each while pointing out the strengths and limitations of both in a manner that anticipates the audience's knowledge level, concerns, values, and possible biases.

Not only will we be analyzing opposing viewpoints, but contriving our own. Working with counterclaims and arguments is essential to this curricular unit, and essential to writing.

Notes

1. Alexander, Michelle. “Who We Want to Become: Beyond the New Jim Crow,” On Being, accessed July, 2018, https://onbeing.org/programs/michelle-alexander-who-we-want-to-become-beyond-the-new-jim-crow/.
2. “13th Ammedment to the U.S. Constitution,” Library of Congress, accessed July, 2018, https://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html.
3. Duvernay, Ava. *13th* , directed by Ava Duvernay, 2016: Netflix, documentary film.
4. Ibid
5. Ibid
6. Ibid
7. Jones, Van, “CNN Profile,” CNN, accessed July, 2018, https://www.cnn.com/profiles/van-jones#about.
8. Davis, Angela, “Biography,” Biography, accessed July, 2018, https://www.biography.com/people/angela-davis-9267589.
9. Muhammad, Khalil Gibran, “Biography,” Biography, accessed July, 2018, https://www.biography.com/people/khalil-gibran-muhammad-21116667.
10. Alexander, Michelle, “About the Author,” The New Jim Crow, accessed July, 2018, http://newjimcrow.com/about-the-author.
11. Gates, Henry Louis, Jr., “Department of African and African-American Studies,” Harvard University, accessed July, 2018, https://aaas.fas.harvard.edu/people/henry-louis-gates-jr.
12. *13th*film
13. Ibid
14. Forman, James, Jr., *Locking Up Our Own: Crime and Punishment in Black America* (New York: Farrar, Straus and Giroux, 2017). Page 4.
15. Ibid, 13
16. Ibid, 45
17. Ibid, 81
18. Ibid, 83
19. Ibid, 84, 104
20. Ibid, 108
21. Ibid, 132
22. Ibid, 147
23. Ye Hee Lee, Michelle, “Does the United States really have 5 percent of the world’s population and one quarter of the world’s prisoners?” Washington Post, accessed August, 2018, https://www.washingtonpost.com/news/fact-checker/wp/2015/04/30/does-the-united-states-really-have-five-percent-of-worlds-population-and-one-quarter-of-the-worlds-prisoners/?noredirect=on&utm_term=.225a4ee8b314.
24. *Locking Up Our Own*, 162
25. Ibid, 179
26. Ibid, 181
27. “Does the United States really have 5 percent of the world’s population and one quarter of the world’s prisoners?”