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TEACHING SOCIAL JUSTICE THROUGH "HIP HOP AND THE LAW"

andré douglas pond cummings*

INTRODUCTION

This article queries whether it is possible to teach law students about social justice through a course on hip hop and its connection to and critique of the law. We argue, in these dedicated pages of the North Carolina Central Law Review, that yes, hip hop and the law offer an excellent opportunity to teach law students about social justice. But, why publish an article advocating that national law schools offer a legal education course on Hip Hop and the Law, or more specifically, Hip Hop & the American Constitution? Of what benefit might a course be that explores hip hop lyrics and hip hop artists' critique of United States law and policy? In an era where bar passage rates are slipping across the nation¹ and law schools are struggling to attract students to their hallways and classrooms,² is there space and time in a law school curriculum to offer a class on hip hop and its critique of the law? I argue here that time and space *must* be created to offer law

* Associate Professor of Law, University of Arkansas at Little Rock William H. Bowen School of Law. J.D., Howard University School of Law. I am grateful to Todd Clark for his passion, intellect and for our many collaborations, particularly on this North Carolina Central Law Review project. I am grateful to Donald Tibbs for conceptualizing the first ever course in Hip Hop & the American Constitution with me and to Tibbs and Pamela Bridgewater (RIP) for creating the anthology *Hip Hop and the Law* with me. I am and will be forever proud of this collaboration and project. I am grateful to my Spring 2018 John Marshall Law School students who took Hip Hop & the American Constitution. The class was truly inspiring to me and several of those students are publishing their articles from that class in this North Carolina Central Law Review volume, including Alexandria Johnson, Bria Riley and Trey Murphy. I am grateful to all of those student participants and to JMLS for offering the course. I acknowledge the excellent work of the editors of the North Carolina Central Law Review, particularly former Editor in Chief Kirsten Evans, hip hop symposium editor Ian Hood, and current articles editors Joshua Richardson and Marcea DiGabriele. Thanks also to Professors Yvette Lindgren, Donald Tibbs, and Todd Clark for reviewing and providing comments on early drafts of this piece. I am grateful to Dylan Treadwell (University of Arkansas at Little Rock William H. Bowen School of Law, class of 2020) for his excellent research assistance. Further, the drafting of this paper was supported by a writing grant funded by the University of Arkansas at Little Rock William H. Bowen School of Law. Finally, I acknowledge my own little crew, Lavinia, Cole, Malia and Maxwell, for allowing me to see true joy in life despite all of the crushing difficulties and inequalities that my daily work seeks to resolve. As always, any errors within are solely my responsibility.

1. See Debra Cassens Weiss, *Multistate Bar Exam Scores Drop to Lowest Point Ever; Is There a Link to Low-End LSAT Scores?*, A.B.A. J. (Apr. 12, 2017, 7:00 AM), http://www.abajournal.com/news/article/multistate_bar_exam_scores_drop_to_lowest_point_ever_are_low_end_lsats_score; see also Stephanie Francis Ward, *Lowest Bar Pass Rate for California in 67 Years; Other States See Drop, Too*, A.B.A. J. (Nov. 19, 2018, 9:23 AM), http://www.abajournal.com/news/article/lowest_bar_pass_rate_for_california_in_67_years_other_states_see_drop_too?

2. *Law School Enrollment*, L. SCH. TRANSPARENCY, <https://data.lawschooltransparency.com/enrollment/all/> (last visited Jan. 29, 2020); see also Emma Whitford, *How Undergrads Think About Law School*, INSIDE HIGHER ED (Sept. 20, 2018), <https://www.insidehighered.com/news/2018/09/20/students-want-pursue-law-give-back-are-discouraged-high-costs> ("Undergraduates considering law school cited high costs/potential debt and work-life balance as the greatest deterrents.")

students an opportunity to embrace hip hop's critique of the U.S. Constitution and its critique of the laws and policies that have always been developed, since the nation's founding, from the top down—that is to say, developed from an elite, straight, wealthy white male perspective. Here is why:

Hip hop music and culture have conquered the world.³ Born in New York City (the Bronx),⁴ this quintessential American cultural phenomenon has captured the hearts and minds of two generations of U.S. residents as well as enthusiasts across the globe.⁵ This hip hop takeover, *né* revolution, is so recognized in literature and culture, that it bears no further explanation. Suffice it to say, that today, the U.S. law professoriate is infused with a stirring population of hip hop aficionados.⁶ Further, current law students are overwhelmingly individuals that know, love, and are deeply impacted by hip hop music, art, and culture.⁷

Additionally, hip hop music, at its core, offers a provocative critique of United States law, particularly the criminal justice system. This critique, offered from the bottom up—that is to say, from the perspective of those that have been historically oppressed and voiceless—presents a knowing appraisal of how the law as promulgated, practiced, and enforced in the United States harshly impacts and does positive injury to communities of color and people living in poverty in the United States. Today, more than ever, those that teach, enforce, and practice the law should be paying attention to the critique emanating from faces at the bottom of the well, particularly from hip hop faces.⁸

3. andré douglas pond cummings, *Thug Life: Hip-Hop's Curious Relationships with Criminal Justice*, 50 SANTA CLARA L. REV. 515, 517 (2010).

4. *Id.*

5. Neil Shah, *Hip-Hop's Generation Gap: 'Emo' vs. 'Dad' Rap*, WALL ST. J., <https://www.wsj.com/articles/hip-hops-generation-gap-emo-vs-dad-rap-1516118193> (last updated Jan. 16, 2018, 3:45 PM); see also Stereo Williams, *How Hip-Hop's Generation Gap Became a War for Its Soul*, DAILY BEAST (Jan. 20, 2018, 8:35 AM), <https://www.thedailybeast.com/how-hip-hops-generation-gap-became-a-war-for-its-soul-6>.

6. See generally HIP HOP AND THE LAW (Pamela Bridgewater, andré douglas pond cummings & Donald F. Tibbs eds. 2015).

7. See Debra Cassens Weiss, *Rapper Goes to Law School in Search of Stability*, (Aug. 26, 2016, 8:00 AM), http://www.abajournal.com/news/article/rapper_goes_to_law_school_in_pursuit_of_stability; see also Jenny B. Davis, *10 Questions for Rap and Hip-Hop Artists, LA Lawyer Julian Petty Represents*, A.B.A. J., (Apr. 1, 2017, 3:50 AM), http://www.abajournal.com/magazine/article/10_questions_julian_petty_entertainment_law_rap.

8. See DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1993) (“Black people are the magical faces at the bottom of society’s well. Even the poorest whites, those who must live their lives only a few levels above, gain their self-esteem by gazing down on us. Surely, they must know that their deliverance depends on letting down their ropes. Only by working together is escape possible. Over time, many reach out, but most simply watch, mesmerized into maintaining their unspoken commitment to keeping us where we are, at whatever cost to them or to us.”).

Further, this article seeks to contribute meaningfully to the existing literature and debate that considers and addresses the inclusion of race and inequality within the legal education landscape and law school curriculum.⁹

To begin contextualizing the gravity and influence of hip hop and why its critique of the law should be taught in law schools across the country, I offer my own experience in being shaped and guided by this genre and culture, including why I eventually came to believe that such a course should be created. Hip hop's critique of the law first meaningfully influenced me as a young teenager growing up in Los Angeles, California ("L.A."). I was

9. See generally PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabrielle Gutiérrez y Muhs et al. eds. 2012) (describing the daunting challenges faced by academic women of color as they navigate the often hostile terrain of higher education, particularly legal academia, including hiring, promotion, tenure, and relations with students, colleagues, and administrators based on race and class); Alexi Nunn Freeman & Lindsey Webb, *Positive Disruption: Addressing Race in a Time of Social Change Through a Team-Taught, Reflection-Based, Outward-Looking Law School Seminar*, 21 U. PA. J.L. & SOC. CHANGE 121 (2018) (surveying the legal academy landscape in connection with teaching race in the law school classroom and describing the University of Denver Law School's innovative Critical Race Reading Seminar course); Margalynne J. Armstrong & Stephanie M. Wildman, *A Tribute to Professor John O. Calmore: Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight*, 86 N.C. L. REV. 635, 638–39 (2008) ("[W]hiteness often remains invisible during discussions of race [L]egal educators must develop an understanding of the role of whiteness in the construction of equality and teach future lawyers to do so as well."); Marjorie A. Silver, *Emotional Competence, Multicultural Lawyering and Race*, 3 FLA. COASTAL L.J. 219, 220 (2002) ("[M]ost American lawyers are oblivious to the impact of race on the practice of law. Most lawyers are white, and most white people tend not to think about race unless it arises in the context of discrimination claims or other explicit race-related conflicts."); Rhonda V. Magee, *Competing Narratives, Competing Jurisprudences: Are Law Schools Racist? And the Case for an Integral Critical Approach to Thinking, Talking, Writing, and Teaching About Race*, 43 U. S.F. L. REV. 777, 780–81 (2009) ("That law schools can and do perpetuate the privileges of 'Whiteness' and disadvantages of 'Blackness' and 'Coloredness' embedded in our culture since the founding—i.e., that law schools inevitably manifest institutionalized racism against people of color—should by now be beyond cavil."); Chris K. Iijima, *Separating Support from Betrayal: Examining the Intersections of Racialized Legal Pedagogy, Academic Support, and Subordination*, 33 IND. L. REV. 737, 754–56 (2000) ("[T]here is agreement among many legal educators that law schools have failed . . . 'to engage and educate diverse students democratically and critically about the practices and possibilities of law for all people' . . . [but,] for students to be engaged, a supportive atmosphere and the contributions of students from different socioeconomic and cultural backgrounds must be encouraged."); Ellen Yaroshesky, *Waiting for the Elevator: Talking About Race*, 27 GEO. J. LEGAL ETHICS 1203, 1203 (2014) ("Law schools . . . acknowledge the need to teach cultural competency It is a difficult undertaking for students and faculty alike. Most law faculty are not practiced in how to approach the issues."); Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CAL. L. REV. 1511 (1991); Okianer Christian Dark, *Incorporating Issues of Race, Gender, Class, Sexual Orientation, and Disability into Law School Teaching*, 32 WILLAMETTE L. REV. 541 (1996); Gerald P. López, *Training Future Lawyers to Work with the Politically and Socially Subordinated: Anti-Generic Legal Education*, 91 W. VA. L. REV. 305 (1988); see also Shin Imai, *A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering*, 9 CLINICAL L. REV. 195, 200–27 (2002) ("[There are] three core skills necessary for community lawyering—collaborating with a community . . . , recognizing individuality . . . and taking a community perspective [C]linical courses should utilize a counter-pedagogy that allows [for] . . . the recognition of personal identity and race By doing so, we will be preparing future lawyers to play a positive role in the work for social justice.").

raised in an area of L.A. called the “Los Angeles Strip” or the “Shoestring Strip” (the strip of land annexed by Los Angeles running from L.A. south to San Pedro, Wilmington, and the L.A. Harbor),¹⁰ my community was flanked on the east by Carson, Compton and Long Beach and on the west by Torrance, Redondo Beach and Palos Verdes. My experience as a youngster included friendships with those that would become Crips and Bloods and those that would become surfers. As one might expect, the young kids that became gangstas were primarily African American, Polynesian and Latino (from Carson, Compton and Long Beach), and the young kids that became surfers were overwhelmingly white (from Torrance, Redondo Beach and Palos Verdes). I enjoyed a comraderie with both groups of friends, but as we became older, the groups diverged and eventually spent little to no time with each other. I prized both groups of friends and remained connected to both. I learned as a very young man that the Los Angeles Police Department (“LAPD”) treated these groups of boys drastically different. The young men of color were stopped and harassed repeatedly by the police, essentially for existing. The young white men never encountered the police in a similar scenario as the young men of color. Ever.

Thereafter, as a teenager, when I was hanging with my friends of color, we were constantly stopped by the police, then pushed up against walls and frisked; we were laid out on the ground and searched; our cars were seized and searched, with seats removed and glovebox contents strewn everywhere. We were menaced and tussled, and we were never beyond the reach and view of law enforcement (helicopters would circle our neighborhood shining spotlights into our yards night after night). When I was hanging with my surfer friends, we lived and traveled unencumbered and freely, nary a police officer in sight. We were never, ever pushed up against walls and frisked, never laid out in the street and searched, never menaced or tussled, and our car seats were never removed and the contents of our glove boxes never strewn across the streets. Law enforcement was simply not a part of the surfer’s experience, despite being situated less than two miles from the lives of the minority youth (to the west toward the beach). In the face of the relentless press of the police into the lives and space of the young men of color, there was never one time, that I can recall, that the police recovered drugs, weapons, or anything illegal. On the other hand, some of the surfers were routinely carrying marijuana and, in several instances, weapons, but there was no thought that the surfers would ever be confronted by law enforcement. As white surfers, we carried “Get Out of Jail Free” cards, based

10. See generally Glen Creason, *CityDig: How Los Angeles Annexed the Port on a Shoestring*, L.A. MAG. (Sept. 23, 2015), <https://www.lamag.com/citythinkblog/citydig-how-los-angeles-annexed-the-port-on-a-shoestring>; mdrakereitan, *The Shoestring Strip: Los Angeles Goes Out on a Limb*, LAVENUES PROJECT (Feb. 1, 2015), <https://lavenuesproject.com/2015/02/01/the-shoestring-strip-los-angeles-goes-out-on-a-limb>.

simply on our circumstance and area code. I recognized at quite a formidable stage in my life that law enforcement treated people differently based on their skin tone and their area code, despite “bad” and “good” existing in both places fairly equally.

Therefore, when N.W.A dropped “Fuck tha Police” in 1989, that cut resonated with the teenage gangstas like nothing else before it.¹¹ I remember us rapping loudly along with Ice Cube, MC Ren and Eazy-E, as if truth was finally being acknowledged in our neighborhood. N.W.A harshly criticized law enforcement and established for us a voice that named police brutality, police killing of black men and boys, and racial profiling that we had witnessed first-hand. At that moment we heard, “Fuck tha police coming straight from the underground; Young n***a got it bad ‘cause I’m brown; I’m not the other color, so police think; They have the authority to kill a minority; Fuck that shit ‘cause I ain’t the one; For a punk motherfucker with a badge and a gun to be beatin’ on; and thrown in jail; I can go toe to toe in the middle of the cell . . . ,”¹² we felt heard; we felt understood; and we felt empowered in a very affecting way.

Of course, not long after the release of (and backlash to¹³) “Fuck tha Police,” the LAPD beat down Rodney King;¹⁴ the offending police were then acquitted in Simi Valley, California;¹⁵ and the streets of L.A. burned.¹⁶ I had departed for college between N.W.A releasing *Straight Outta Compton* and

11. See N.W.A, *Fuck Tha Police*, on *STRAIGHT OUTTA COMPTON* (Priority 1988).

12. *Id.*

13. Steve Hochman, *Compton Rappers Versus the Letter of the Law: FBI Claims Song by N.W.A. Advocates Violence on Police*, L.A. TIMES (Oct. 5, 1989), http://articles.latimes.com/1989-10-05/entertainment/ca-1046_1_law-enforcement.

14. See Seth Mydans, *Tape of Beating by Police Revives Charges of Racism*, N.Y. TIMES, (Mar. 7, 1991), <https://www.nytimes.com/1991/03/07/us/tape-of-beating-by-police-revives-charges-of-racism.html> (“A two-minute amateur videotape of the beating of a black motorist by a group of police officers has jarred Los Angeles and revived charges that the police department has failed to confront an alleged pattern of police brutality and official abuse of minorities among its officers. The videotape, which shows officers taking turns swinging their nightsticks like baseball bats at the man and kicking him in the head as he lay on the ground early Sunday, also brought renewed criticism of Police Chief Daryl F. Gates The victim of the beating, Rodney Glen King, 25 years old, was released this evening with no charges filed against him. Looking bruised and battered, he described the incident to reporters, saying, ‘I’m just glad I’m not dead.’”).

15. Seth Mydans, *THE POLICE VERDICT: Los Angeles Policemen Acquitted in Taped Beating*, N.Y. TIMES, (Apr. 30, 1992), <https://www.nytimes.com/1992/04/30/us/the-police-verdict-los-angeles-policemen-acquitted-in-taped-beating.html> (“Four Los Angeles police officers were acquitted of assault today in the videotaped beating of a black motorist that stunned the nation. The verdicts immediately touched off a storm of anger and scattered violence in the city.”).

16. See Tom Jennings, *When Los Angeles Burned: Remembering the LA Riots 25 Years Later*, DAILY BEAST (Apr. 23, 2017, 12:51 AM), <https://www.thedailybeast.com/when-los-angeles-burned-remembering-the-la-riots-25-years-later> (“‘Not guilty . . . not guilty . . . not guilty.’ And it kept coming. With those words, we all knew something terrible was about to happen. And it did. The city went up in flames. More than [sixty] people were killed. The veneer that all was right with the world in the land of endless summer was laid bare for the world to see. Klieg lights were replaced by the blinding beams of police helicopters.”).

the Rodney King beating, but came home to L.A. for the summer just as it was announced that the police were acquitted, despite the beating being captured on video.¹⁷ Vivid in my memory is driving through a smoldering Los Angeles and again, witnessing first-hand the aftermath of police brutality and a furious black community's response. What I will never forget, and I see now that it would prove to be a signal for my future career as a lawyer and law professor, were the words "Fuck tha Police" scrawled *everywhere*, across walls, buildings, bridges and billboards. N.W.A's anthem had become a rallying cry for those who felt disenfranchised and invisible after a jury found that the officers who beat Rodney King on video were innocent of criminal culpability. Hip hop had become the voice of a generation and N.W.A had become both a lightning rod and an inspiration for minority youth across the country and eventually the world.¹⁸

Fast-forward seven or eight years from the smoldering and smoky streets of a burning Los Angeles, and I am now a young lawyer in Chicago having recently graduated from Howard Law School. While working at a large corporate law firm, I spent dozens of hours each month volunteering as a Big Brother on Chicago's West and South Sides and eventually assisted in originating an after-school homework program for a group of middle and high school students of color who would retreat to a local church for homework and tutoring several nights a week. I would routinely leave the firm in downtown Chicago at 7:00 pm, drive my small sports car to the West Side, fill the car up with a half dozen high school and middle school kids, drive them to a church in Logan Square, and then tutor several of them for a couple of hours. Around 9:00 pm I would drop off the carload of kids to the West Side, then return to the firm downtown to work several more hours. During the trip to and from Logan Square, I would often turn on my CD player and the kids would plead with me to blast their favorite hip hop artists, and at the time, it was DMX that resonated most with the kids. As I played DMX as loud as my system could handle, I was at first startled to see that every kid in the car, boys and girls alike, rapped along to every cut on the CD, knowing every single lyric of the record by heart, including every growl.¹⁹ I was especially amazed to see the young girls loudly joining in as DMX rapped "What you b*tches want from a n***a?" and at that moment

17. See Richard A. Serrano & Tracy Wilkinson, *All 4 in King Beating Acquitted: Violence Follows Verdicts; Guard Called Out*, L.A. TIMES (Apr. 30, 1992), <https://www.latimes.com/archives/la-xpm-1992-04-30-mn-1891-story.html> ("Hours after the verdicts were announced, angry demonstrators torched buildings, looted stores and assaulted passersby as civic leaders pleaded for calm. Gov. Pete Wilson deployed the National Guard at the request of Mayor Tom Bradley, who warned residents to 'stay off the streets.'"); see also *Video of Rodney King Beaten by Police Released*, ABC NEWS (Mar. 7, 1991), <https://abcnews.go.com/Archives/video/march-1991-rodney-king-videotape-9758031>.

18. STRAIGHT OUTTA COMPTON (Legendary Entertainment/Universal Pictures 2015).

19. See DMX, FLESH OF MY FLESH, BLOOD OF MY BLOOD (Ruff Ryders 1998).

realized that hip hop was not just giving voice to a generation, but that it was deeply (and sometimes darkly) becoming a literal piece of the lives of these young students in the “hood.” Hip hop was becoming a lifestyle, an influence, one that impacted the core of these young teenagers. Hip hop was having a profound impact.

With these connections and understandings, and my own life being intellectually and culturally influenced by hip hop and its many political critiques, I began formulating an article that I would eventually publish as a young law professor entitled “Thug Life: Hip Hop’s Curious Relationship with Criminal Justice.”²⁰ I would follow-up that article shortly thereafter with “A Furious Kinship: Critical Race Theory and the Hip Hop Nation.”²¹ Both of these articles would influence my writing of ““All Eyez On Me”: America’s War on Drugs and the Prison Industrial Complex.”²² As these articles were being drafted, Professor Paul Butler led off the hip hop legal academic exploration with his *Stanford Law Review* piece, “Much Respect: Toward a Hip Hop Theory of Punishment,”²³ and before long, Donald Tibbs, Akilah Folami, Kim Chanbonpin, Andre Smith, Imani Perry, Andrea Dennis, and many others began publishing hip hop legal scholarship.²⁴ The hip hop generation was coming of age, becoming professionals, including lawyers, law professors, teachers, doctors, politicians, and laborers, and it was clear that this influential cultural phenomenon deserved a close examination in the law school classroom.²⁵ Hence, *Hip Hop & the American Constitution*, as a for-credit law school course, was inspired.

With that background, this article will proceed as follows: Part I describes the founding and implementation of the first-ever Hip Hop & the American Constitution course offered in a law school classroom. Part II reviews the course content of a Hip Hop and the Law class and defines its pedagogical goals, philosophy, and assessment mechanisms. Part III examines whether this Hip Hop and the Law class meets its pedagogical goals and philosophy by illustrating in great specificity the experienced student outcomes from such a course. Part IV then seeks to answer the question posed at the top of this article, “Why Teach a Course in Hip Hop and the Law?” Part V details how teaching social justice principles is

20. See cummings, *supra* note 3.

21. See andré douglas pond cummings, *A Furious Kinship: Critical Race Theory and the Hip-Hop Nation*, 48 U. LOUISVILLE L. REV. 499 (2010).

22. See andré douglas pond cummings, “All Eyez on Me”: America’s War on Drugs and the Prison-Industrial Complex, 15 J. GENDER RACE & JUST. 417 (2012).

23. Paul Butler, *Much Respect: Toward a Hip-Hop Theory of Punishment*, 56 STAN. L. REV. 983 (2004).

24. See Tibbs, *infra* note 28; Folami, *infra* note 39; Chanbonpin, *infra* note 39; PERRY, *infra* note 33; Smith, *infra* note 41; Andrea Dennis, *Poetic (In)justice? Rap Music Lyrics as Art, Life, and Criminal Evidence*, in *HIP HOP AND THE LAW*, *supra* note 6, at 61.

25. See *id.*

possible within a Hip Hop and the Law course, providing interested law school faculty members guidance in replicating the experience as described herein. Thereafter, the Article concludes.

I. FOUNDING OF THE COURSE

Professor Donald Tibbs and I began discussing what it might look like to teach a course on hip hop and the American Constitution while we sat together at a restaurant in Iowa City, Iowa, in 2011. We had just concluded our participation in the Iowa Journal of Gender, Race and Justice's annual symposium examining the "War on . . . " paradigm, styled "War On . . . The Fallout of Declaring War on Social Issues."²⁶ We were energized by the topics of the day, particularly the presentations on the failed War on Drugs, including our own talks where we had both introduced hip hop artists' critiques of the War on Drugs during our presentations. The articles that we both published coming out of that symposium were entitled "'All Eyez on Me': America's War on Drugs and the Prison Industrial Complex" (cummings)²⁷ and "From Black Power to Hip Hop: Discussing Race, Policing, and the Fourth Amendment Through the 'War On' Paradigm" (Tibbs).²⁸ We were both thinking about hip hop's role in critiquing the evolution of Fourth Amendment jurisprudence, and we believed that a class examining hip hop and its critique of the Constitution might allow for a very different kind of classroom interaction when discussing issues of constitutional import.

As originally conceptualized by Professor Tibbs at Drexel University's Thomas R. Kline School of Law ("Drexel Law") and co-founded by me, during my time at the West Virginia University College of Law ("WVU Law"), the first ever law school course of its kind, Hip Hop & the American Constitution, was originally offered for credit as a lecture series course in Spring 2012.²⁹ The course was highlighted in the A.B.A. Journal³⁰ and saw more than forty students sign up for the class at Drexel Law and more than twenty students sign up at WVU Law. As approved by both law schools' curriculum committees, the course featured a weekly series of readings anchored by one scholar's article or book linking hip hop and the law. Each

26. Symposium, *War On . . . The Fallout of Declaring War on Social Issues*, 15 J. GENDER RACE & JUST. i (2012).

27. cummings, *supra* note 22.

28. Donald F. Tibbs, *From Black Power to Hip Hop: Discussing Race, Policing, and the Fourth Amendment Through the "War On" Paradigm*, 15 J. GENDER RACE & JUST. 47 (2012).

29. *Hip Hop and the American Constitution Lecture Series*, DREXEL U. THOMAS R. KLINE SCH. L.: DOCKET NEWSL. (Dec. 2011), <https://drexel.edu/law/docket/Archive/Articles/2011/December/Hip%20Hop%20and%20the%20American%20Constitution%20Lecture%20Series>.

30. L.J. Jackson, *Hip-Hop at Law: Course Samples Hip-Hop's Bottom-Up Critique of Law*, A.B.A. J. (Sept. 1, 2012, 9:40 AM), http://www.abajournal.com/magazine/article/hip-hop_at_law_course_samples_hip-hops_bottom-up_critique_of_the_law.

week, the author of that week's anchoring article would fly to Philadelphia and present the reading material for that day, focusing on her or his anchor article and lecturing to the students gathered at Drexel Law, while being live streamed to the students gathered at WVU Law. For example, the course would offer as its weekly reading Paul Butler's book *Let's Get Free: A Hip Hop Theory of Justice*,³¹ and then Professor Butler would come to Drexel and teach that week's course based on his book and other assigned reading like his *Stanford Law Review* article, "Much Respect: Toward a Hip Hop Theory of Punishment."³² Following the interactive lecture each week, the students would have an opportunity to meet with the guest lecturing professor in a reception setting where further conversations would unfold between students and professor in connection with that week's subject matter.

As originally offered, the following professors and scholars participated in the inaugural Hip Hop & the American Constitution lecture series: Professor Imani Perry (Princeton University), discussing her book *Prophets of the Hood: Politics and Poetics in Hip Hop*;³³ Professor Paul Butler, (Georgetown Law Center), lecturing on his work as described above;³⁴ the late Professor Pamela Bridgewater (American University Law School), lecturing on her article "Is Hip Hop Dead? Is Feminism Dead? Tales of Twenty-First Century Pop Culture Resurrections;"³⁵ Professor Bret Asbury (Drexel University School of Law), discussing his article "Same Script, Different Cast: Stop Snitching, Law, and Hip Hop,"³⁶ Professor Kim Chanbonpin (The John Marshall Law School), discussing her article "Legal Writing, the Remix: Plagiarism and Hip Hop Ethics,"³⁷ Professor Anthony Farley (Albany Law School), lecturing on his article "Sarah Palin – The Last Black President,"³⁸ Professor Akilah Folami (Hofstra Law School), discussing her article "Hip Hop, the Law, and the Commodified Gangsta,"³⁹ Professor Tryon Woods (UMass Dartmouth), discussing his article "Sexual

31. PAUL BUTLER, *LET'S GET FREE: A HIP-HOP THEORY OF JUSTICE* (2009).

32. Butler, *supra* note 23.

33. IMANI PERRY, *PROPHETS OF THE HOOD: POLITICS AND POETICS IN HIP HOP* (2004).

34. Butler, *supra* note 23; BUTLER, *supra* note 31.

35. Pamela Bridgewater, *Is Hip Hop Dead? Is Feminism Dead? Tales of Twenty-First Century Pop Culture Resurrection*, in *HIP HOP AND THE LAW*, *supra* note 6, at 203.

36. Bret D. Asbury, *Same Script, Different Cast: Stop Snitching, Law, and Hip Hop*, in *HIP HOP AND THE LAW*, *supra* note 6, at 15.

37. Kim D. Chanbonpin, *Legal Writing, The Remix: Plagiarism and Hip Hop Ethics*, 63 *MERCER L. REV.* 597 (2012).

38. Anthony Paul Farley, *Sarah Palin – The Last Black President*, in *HIP HOP AND THE LAW*, *supra* note 6, at 183.

39. Akilah N. Folami, *Hip Hop, the Law, and the Commodified Gangsta*, in *HIP HOP AND THE LAW*, *supra* note 6, at 143.

Poetic Justice’: Hip Hop, Antiblack Desire, and Legal Narratives;”⁴⁰ Professor Andre Smith (Widener University Delaware Law School), discussing his article “Other People’s Property: Hip Hop’s Inherent Clashes with Property Laws and Its Ascendance as Global Counter Culture;”⁴¹ and we, Professor Tibbs and myself, presented lectures during the course in connection with our work linking hip hop and the law.⁴² Finally, the concluding keynote speaker of the lecture series was Chuck D, of the hip hop supergroup Public Enemy, whose speech cemented the intellectual gravity of the semester-long course.⁴³

As the course unfolded over the Spring 2012 semester, the subject matter covered, classroom conversations, and interactions between the lecturing professors and students were breathtaking. Students and professors together imagined a fair and just criminal justice system inspired by hip hop’s critique of the same.⁴⁴ Since the inaugural offering of *Hip Hop & the American Constitution*, the course has been offered numerous times at several different law schools across the country.⁴⁵

Back to Iowa City in 2011 and the originating conversation—as Dr. Tibbs and I discussed the mechanics of offering this course as a lecture series and through live streaming between our law schools, Drexel Law and WVU Law, I suddenly stopped our conversation in its tracks and mentioned to Professor Tibbs that he was not yet tenured as a law professor at Drexel Law. I viewed offering a class like *Hip Hop & the American Constitution*—the first of its kind in the history of United States’ law schools and one that would likely be controversial in its presentation—to be a risky move for a junior faculty member like Professor Tibbs at that time. When I suggested that maybe we table the idea for a couple of years, until he had successfully been

40. Tryon J. Woods, “*Sexual Poetic Justice*”: *Hip Hop, Antiblack Desire, and Legal Narratives*, in *HIP HOP AND THE LAW*, *supra* note 6, at 125.

41. Andre L. Smith, *Other People’s Property: Hip Hop’s Inherent Clashes with Property Laws and Its Ascendance as Global Counter Culture*, 7 VA. SPORTS & ENT. L.J. 59 (2007).

42. See *cummings*, *supra* note 20; Tibbs, *supra* note 28.

43. See *Rapper Chuck D Closes Lecture Series on Hip Hop and the American Constitution*, DREXEL U. THOMAS R. KLINE SCH. L. (April 17, 2012), <http://drexel.edu/law/about/news/articles/overview/2012/April/ChuckD-HipHop-04122012> (“Legendary hip-hop artist and Public Enemy founder Chuck D presented his thoughts on ‘Rap, Race, Reality and Technology’ at the law school on April 12. D was the final keynote speaker for the law school’s groundbreaking course and lecture series on hip-hop and the American Constitution launched by Professor Donald Tibbs.”); see also Damon C. Williams, *Rapper Chuck D Lectures at Drexel Law*, PHILA. TRIB. (Nov. 13, 2012), http://www.phillytrib.com/news/rapper-chuck-d-lectures-at-drexel-law/article_51dc8a74-7c6d-5827-8ae0-fc25b8ee7a61.html.

44. Jackson, *supra* note 30 (“There were groundbreaking discussions in the classroom where we tried to imagine a different kind of prison system, a different kind of criminal justice system, one that doesn’t discriminate and one that doesn’t profile,” [cummings] adds.”).

45. To my knowledge, the course has been offered at Drexel University Klein Law School, The John Marshall Law School, WVU Law, University of Arkansas at Little Rock William H. Bowen School of Law and the North Carolina Central University School of Law.

awarded tenure at Drexel, before offering this type of course, I will never forget Professor Tibbs' response: "I do not have time to wait to teach this course. Young black men are dying in the streets. The War on Drugs is destroying our communities. There is urgency to getting this material in front of our students. I cannot and will not wait."⁴⁶ I was moved by this pronouncement and by Professor Tibbs' subsequent comment: "Hell, I am an attorney. I can make a fine living as a practicing lawyer if they decide to withhold tenure because of this class." At that moment, Hip Hop & the American Constitution was born.

Meanwhile, Professor Todd Clark was planning to introduce his own version of Hip Hop and the Law to the students at North Carolina Central University School of Law ("NCCU Law").⁴⁷

In addition, because a lecture series would be unsustainable going forward as a model for teaching a class in Hip Hop & the American Constitution, primarily due to the prohibitive cost of flying all contributing lecturers to a specific city, Dr. Tibbs and I knew that we needed to create a follow-up anthology, one that not only captured all of the fantastic articles that had already been written and presented during the lecture series, but also memorialized the lectures presented during the series that had not yet been published. Following the conclusion of the inaugural Spring 2012 course in Hip Hop & the American Constitution, Dr. Tibbs, Professor Bridgewater, and I set about creating the anthology that would become the coursebook *Hip Hop and the Law*, published by the Carolina Academic Press in 2015.⁴⁸ While the lecture series at Drexel Law and WVU Law inspired the anthology, Professors Bridgewater, Dr. Tibbs, and I conducted an exhaustive international search for material that had been published to that point (2013 or so) that explored hip hop and its connection to the law and invited many of those authors to contribute their work to the anthology. In addition, many legal scholars heard about our efforts to publish *Hip Hop and the Law* and sent us chapter contribution proposals, many of whom we invited into the anthology. When the book went to press in late 2014, not only did it include the foundational articles published in the beginning of the Hip Hop and the Law movement (that were included in the lecture series), the book also included many never-before-published articles on wide-ranging topics of constitutional and legal importance as proposed to us by numerous terrific

46. To the reader that may be wondering what Hip Hop & the American Constitution has to do with young black men dying in the streets and an urgency to get this material in front of law students, please read on to see the kind of impact that this course can have on proposing solutions to the "endangered species," as Ice Cube famously referred to young black men in America. ICE CUBE, *Endangered Species (Tales from the Darkside)*, on AMERIKKKA'S MOST WANTED (Priority Records 1990).

47. See Todd J. Clark, *The Takeover: Hip Hop's Evolution and Influence in the Law School Classroom*, 42 N.C. CENT. L. REV. 51 (2019).

48. See HIP HOP AND THE LAW, *supra* note 6.

scholars. In September 2015, the anthology *Hip Hop and the Law* was released.⁴⁹

Since the inception of a Hip Hop & the American Constitution course in 2012, and publication of the *Hip Hop and the Law* coursebook in 2015, several law schools have approved the course for instruction and it has been taught numerous times since.⁵⁰ Next, an overview of a Hip Hop & the American Constitution course is provided together with pedagogical goals and assessment mechanisms.

II. TEACHING HIP HOP AND THE LAW

To law school faculty interested in offering a course on Hip Hop and the Law, this section begins with a description of course content and structure. Thereafter, pedagogical goals, course philosophy and student assessment mechanisms are provided for those interested in potentially replicating this type of course at their institution.

A. COURSE CONTENT

While the inaugural course in 2012 was a lecture series, subsequent offerings of the course have been presented in a more traditional classroom setting with the anthology *Hip Hop and the Law* as the typical required reading for the class. The anthology is organized in a way that lends itself to a logical construction and flow of the course. The course typically begins with several weeks of reading on Race, Crime, Punishment and Mass Incarceration (encompassing Parts I and II of the anthology).⁵¹ Thereafter, the course takes several weeks to focus on Hip Hop and Legal Consciousness, examining hip hop's interrogation of the law in connection with sexual violence, homophobia, rhetorical resistance, plagiarism, and the corporatization and commodification of the genre (encompassing Part III of the anthology).⁵² Next, class readings examine hip hop's intersection with electoral politics, gender discrimination and misogyny, family and domestic violence law, and corporate law (encompassing Part IV of the anthology).⁵³ Finally, the course interrogates property law, specifically the difficult relationship between hip hop and intellectual property ("IP") law as interpreted by United States courts (encompassing Part V of the anthology).⁵⁴

The initial section, Race, Crime, Punishment, and Mass Incarceration, presents the opportunity to deconstruct the police killing of unarmed black

49. See andré douglas pond cummings, "*Hip Hop and the Law*" Just Published, CORP. JUST. BLOG (Sept. 1, 2015, 1:37 PM), <https://corporatejusticeblog.blogspot.com/search?q=Hip+Hop>.

50. See *supra* note 45.

51. See HIP HOP AND THE LAW, *supra* note 6, at 5-116.

52. See *id.* at 117-82.

53. See *id.* at 183-264.

54. See *id.* at 265-372.

men, an issue that appears constantly in the news of today.⁵⁵ Police brutality, racially disproportionate mass incarceration, private for-profit prisons, and a host of other pressing racial and justice issues allow a class to imagine a better and fairer criminal justice system after analyzing the chapters in that section. Students respond to the readings through examination of how the law developed and what can and should be done to change the law to make it fairer and more just. Can the United States criminal justice system imprison less frequently, without racial discrimination, and in a way that punishes crimes that truly merit imprisonment? These questions are honestly addressed and the students' insights are often inspiring and measured.

When covering the next section, Hip Hop and Legal Consciousness, the antiblack culture in United States law enforcement and sexual violence is discussed as the readings focus historically on racism and discrimination in the United States. Students are given the opportunity to imagine a system of policing and sexual violence protections free from race and historical discrimination. A bottom-up approach to legislation is probed once students recognize that the legislation and culture prominent in the United States has been enacted from a top-down approach, always developed by the wealthy white straight male elite. In addition, this portion of the class examines issues like homophobia in the Caribbean and the United States, the commodified gangsta, rhetorical resistance through both jazz and hip hop, and plagiarism and the hip hop ethos of biting.

When covering the next section, Hip Hop and Critical Intersections, the racially charged realities of electoral politics are interrogated,⁵⁶ as is the historical activism that inspired hip hop artists, such as Tupac Shakur.⁵⁷ As discussed below, these two simple topics provide an incredible platform for examining the role of lawyers in politics and deliberating upon social justice through activism.⁵⁸ This section of the course also provides an opportunity to confront misogyny in hip hop music and the responsibility of artists and record labels in perpetuating stereotypes and hateful rhetoric. Family law is also critiqued through the lens of hip hop, particularly in looking at Eminem and Rihanna's collaboration revolving around domestic violence in "Love the Way you Lie."⁵⁹ Finally, this portion of the course concludes with the intersection of hip hop with corporate law, specifically addressing the hip

55. andré douglas pond cummings, "Lord Forgive Me, But He Tried to Kill Me": *Proposing Solutions to the United States' Most Vexing Racial Challenges*, 23 WASH. & LEE J. CIVIL RTS. & SOC. JUST. 3, 8-13 (2016) (describing the police killings of Tamir Rice, Philando Castile, and Michael Brown).

56. See *infra* notes 86-88 and accompanying text.

57. See *infra* notes 89 and accompanying text.

58. See *infra* Part IV.

59. EMINEM, featuring Rihanna, *Love the Way You Lie*, on RECOVERY (Aftermath 2010); see also Eminem, *Eminem- Love the Way You Lie ft. Rihanna*, YOUTUBE (Aug. 5, 2010), https://youtu.be/uelHwf8o7_U.

hop ethic of “hustle hard”⁶⁰ and the power of the boycott in the hip hop community against offending corporations that denigrate or take for granted the black consumer.

Lastly, when covering the final section of the course, the material moves strongly into property law, particularly intellectual property (“IP”) law and its continuing struggle to control hip hop, namely through copyright law and the hip hop practices of sampling, mashing, and looping. The chapters in this section provide a sound introduction to copyright law, while at the same time decisively tracking the course-long thread of the antiblack evolution of the law since inception, even in the context of intellectual property protections. Students are able to see how copyright laws have historically protected the interests of white artists, but have failed to protect black artists and have even taken a hostile turn when confronted with hip hop’s practice of sampling.⁶¹ Also, this final section grapples with real property law in the context of housing laws and hip hop’s historical disrespect for real property laws, as exemplified by graffiti, house parties, and sampling. Students have the opportunity to consider how IP laws have historically injured black musicians and artists and how this trend continues in the way hip hop is treated under current copyright laws.

While a typical Hip Hop and the Law course could follow the path as outlined above, the anthology provides fluidity and flexibility that allows an instructor to develop her or his own course focusing on the issues that most impacts the students and community in which the law school is situated. Perhaps most importantly, the anthology and course allow for honest exploration and classroom conversations about the racial and social justice issues that continue to vex the United States and the world.

B. PEDAGOGY, PHILOSOPHY AND ASSESSMENT

When Dr. Tibbs and I originally conceptualized Hip Hop & the American Constitution in 2011, we believed that the course could not only inspire our students to understand and proffer solutions to the racial inequities that continue to plague our nation, but that it would also provide an opportunity to address many of the other ills that afflict legal education. Namely, we felt that this course could address the lack of race, gender, and

60. See ACE HOOD, *Hustle Hard*, on BLOOD, SWEAT AND TEARS (We The Best 2011); see also Ace Hood, *Ace Hood - Hustle Hard*, YOUTUBE (Mar. 21, 2011), https://youtu.be/r_dh16HQkqQ.

61. Andre L. Smith, *If Hip Hop Is Dead, Did the Law Kill It? How Over-Restrictive Interpretations of Copyright Law Promote Sex and Violence in Hip Hop Music*, in HIP HOP AND THE LAW, *supra* note 6, at 307 (describing the Biz Markie case and the judge opening his opinion finding a copyright violation by stating “Thou Shalt Not Steal” and referring Biz Markie to the District Attorney for possible criminal charges for sampling a song without licensing it).

social justice conversations in many law school classrooms,⁶² provide experiential hands-on education lacking at many legal academy institutions,⁶³ deliver multiple assessment opportunities, both formative and summative,⁶⁴ and engage the students with material uniquely familiar to them at this juncture in their lives, specifically popular culture, social media, and the law.

At the outset, our classroom goals included providing: (a) a collaborative faculty and multiple lecturing experts approach,⁶⁵ (b) numerous

62. See Freeman & Webb, *supra* note 9, at 122-25 (describing the relative absence of race-based programming and discussion in law school curricula and classrooms).

63. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 187-202 (2007). The Carnegie Report on Educating Lawyers described the need for legal education to become more experiential, more reality based, and more accessible as follows:

The integrative strategy imagined here would, from the outset, link the learning of legal reasoning more directly with consideration of the historical, social, and philosophical dimensions of law and the legal profession Such a rich intellectual matrix would provide a context within which students could pursue a fuller “theorizing of legal practice,” including their own future roles and responsibilities When thinking of the law school curriculum as a three-part model, . . . those elements are . . . [t]he teaching of legal doctrine and analysis . . . [,] [i]ntroduction to the several facets of practice . . . [,] and a] theoretical and practical emphasis on inculcation of the identity, values, and dispositions consonant with the fundamental purposes of the legal profession.

Id. at 194 (footnote omitted). The report further found that “[t]he goal of greater integration means that the common core of legal education needs to be expanded in qualitative terms to encompass substantial experience with practice, as well as opportunities to wrestle with the issues of professionalism.” *Id.* at 194-95.

64. See A.B.A. STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS (2018-19), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-rules-approval-law-schools-final.pdf (last visited May 24, 2019). Below are Standards 314 and 315 as required by the American Bar Association for law school accreditation:

Standard 314. ASSESSMENT OF STUDENT LEARNING: A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.

Standard 315. EVALUATION OF PROGRAM OF LEGAL EDUCATION, LEARNING OUTCOMES, AND ASSESSMENT METHODS: The dean and the faculty of a law school shall conduct ongoing evaluation of the law school’s program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.

Id. at 23.

65. See Freeman & Webb, *supra* note 9, at 135 (“[T]he collaborative teaching model . . . can provide a range of benefits . . . includ[ing] broader coverage of course material due to the expanded expertise of the teachers; exposure to different teaching styles which may keep students more engaged by avoiding monotony, increasing creativity in the classroom, and appealing to different ways of learning; and giving students an opportunity to engage with professors with differing vantage points, thus promoting engagement with more than one side of or perspective on an issue.”).

assessment opportunities;⁶⁶ (c) legal academic scholarship rather than appellate cases as the anchoring device for the class,⁶⁷ i.e., a coursebook containing edited law review articles rather than a casebook; and (d) intense use of technology via music videos and lyrics as the centering mechanism for each class session. In seeking to meet such wide-ranging pedagogical goals, we hoped to reach all student learning types, to provide positive disruption to the traditional law training classroom,⁶⁸ and, more than any other goal, to provide a laboratory for theoretical experimentation and opportunities for students to exercise their social justice yearnings in discussing, debating, examining, and implementing social change strategies. Lofty goals for sure, but goals we believed were important for our students and perhaps even more important for the communities, states, and nation within which we all live. The material that follows in Part III of this article will address whether we have been able to meet these aspirations.

1. Pedagogy and Philosophy

As described in Part I, we began in 2012 by first offering the course as a lecture series, and while it was cost prohibitive to continue in the vein of a lecture series, we have stayed true to the original conception of tag-team lecturing by including multiple opportunities for guest speakers to run the classroom in subsequent offerings of the class at Drexel Law, the John Marshall Law School, the University of Arkansas at Little Rock William H. Bowen School of Law, and NCCU Law. With the advent of video communication applications like Zoom and Skype, the tag-team lecturing has become advantageous and effective as a learning instrument. Each semester that the course has been offered at multiple law schools, the instructors have used guest lecturers to appear live or via technology on the date that the professor/author's subject matter was analyzed in class. In the past offerings of the class, the following anthology contributors and

66. See *infra* Part II.B.2.

67. See *supra* footnotes 47-48 and accompanying text.

68. See Freeman & Webb, *supra* note 9, at 123-24. Professors Freeman and Webb discuss how they seek "positive disruption" in the law school classroom through the Critical Race Reading course at Denver Law:

The [Critical Race Reading Seminar] is designed to be a source of positive disruption in the legal academy . . . centraliz[ing] race as its primary focus . . . upend[ing] the hierarchical nature of law school classrooms and faculties by modeling collaboration and a shared commitment to the study of race and the law . . . in order to challenge the conviction that . . . every problem can and should be solved with a legal solution[.] [T]he course often incorporates experts from other disciplines and requires students to engage in the larger community that is addressing the issues we discuss in class . . . [Thus,] providing a view of the law that differs from the appellate case study to which most students are accustomed.

Id.

professors have guest lectured in *Hip Hop & the American Constitution*: Kim Chanbonpin,⁶⁹ andré cummings,⁷⁰ Todd Clark,⁷¹ Atiba Ellis,⁷² Donald Tibbs,⁷³ and Nick Sciullo.⁷⁴ Not only do guest lecturers provide students with an opportunity to hear from multiple experts on the involved subject matter,⁷⁵ but they also introduce students to numerous, dynamic professors of color, which remains a difficult construct at most law schools.⁷⁶ One student summed up their feelings on this matter as follows:

To be able to read from so many legal scholars who study and hypothesize about hip hop was amazing. What was even more amazing was being exposed to so many legal scholars of color. I feel like this was one of the few classes (if not the only class) where we discussed the ideas and theories of minority legal scholars. I was so affected by it that I started considering writing my own pieces to contribute to the lexicon of knowledge that is out there.⁷⁷

Further, in assigning readings authored primarily by minority law faculty that specifically address issues of inequality, race, and social justice, and then by inviting these authors as guest lecturers into the classroom, issues of race, gender, and inequality are focused upon in laser-like fashion. The students are confronted in every class session by issues of racial inequality, social injustice, and gender and race discrimination, such that

69. See Faculty Page of Kim D. Chanbonpin, J. MARSHALL L. SCH., https://works.bepress.com/kim_chanbonpin/ (last visited Dec. 10, 2018).

70. See Faculty Page of andré douglas pond cummings, U. ARK. LITTLE ROCK WILLIAM H. BOWEN SCH. L., <https://ualr.edu/law/faculty/faculty-members/andre-douglas-pond-cummings/> (last visited Jan. 9, 2019).

71. See Directory Page of Todd J. Clark, N.C. CENT. U. SCH. L., <http://law.nccu.edu/directory/todd-clark/> (last visited Dec. 10, 2018).

72. See Faculty Page of Atiba Ellis, MARQ. L. SCH., <https://law.marquette.edu/faculty-and-staff-directory/detail/6143010> (last visited Dec. 10, 2018).

73. See *Donald F. Tibbs*, ST. THOMAS SCH. L., <https://www.stu.edu/law/faculty-staff/faculty/donald-tibbs> (last visited Dec. 10, 2018).

74. See *Nick Sciullo*, ACADEMIA, <http://tamuk.academia.edu/NickJSciullo> (last visited May 28, 2019).

75. See Freeman & Webb, *supra* note 9, at 135–36 (“[The collaborative teaching model] provided [students] with a better overall picture of the issues and a better idea about the many ways in which [they] might be able to contribute [their] efforts to changing the status quo . . . [and students] appreciated the ways in which free thought and expression [were supported] . . . [in a way students had never] experienced elsewhere at the law school.”) (sixth alteration in original) (footnote omitted).

76. See Kevin R. Johnson, *How and Why We Built a Majority-Minority Faculty*, CHRON. HIGHER EDUC. (July 24, 2016), <https://www.chronicle.com/article/HowWhy-We-Built-a/237213> (describing how most law schools struggle to employ diverse law faculties and how UC Davis Law School has through affirmative and guided effort, managed to be one of the only law schools in the country with a majority-minority faculty); see also Beverly I. Moran, *Disappearing Act: The Lack of Values Training in Legal Education – A Case for Cultural Competency*, 38 S.U. L. REV. 1, 40 (2010).

77. Third Student Response to “Additional Comments,” *infra* Appendix A, at 4.

students eventually expect to and become comfortable with tackling thorny issues that are often ignored in traditional law school courses.

Additionally, as described in detail below,⁷⁸ we freely use technology in the classroom, including YouTube, Zoom, Skype, Twitter, and Instagram, in ways that twenty-first century law students are familiar with and that augments classroom learning. We typically begin each class with an anchoring hip hop video that introduces the topic(s) that we will cover that day. Following viewing of such video, the instructor queries the students to connect the images and lyrics in the video to the classroom content for that day, focusing on the hip hop artist's critique of the law and Constitution. Pedagogically, visual learners are able to use the hip hop video critique of the law to underscore their understanding of the assigned readings for that session.

2. Student Assessment

As our goal at the outset was to provide multiple student assessments, both formative and summative, we determined that students in a Hip Hop & the American Constitution course would be assessed in three distinct ways. The first is through well-defined short reflection journal papers. The second assessment is through a final paper of publishable quality. The third is by classroom participation. The capstone requirement of the course is the final paper of publishable quality, but significant relevance is placed on the reflection journals and classroom participation.

Recent scholarship indicates that reflection and journaling can be effective tools in assisting students in putting theory into practice and in processing complex legal topics.⁷⁹ In a Hip Hop and the Law course, the reflections can cover a vast number of topics and constructs. When I teach it, I prefer to link the reflection journals to the assigned classroom readings, as described above. Over the course of a semester, I assign three reflection journals and refer to the journaling as similar to the "lyrics notebook" that many hip hop artists carry with them so as to jot down and craft their lyrics as they encounter inspiration in life.⁸⁰ In directing the reflection journal topics, a professor can be specific as to the type of content they are hoping to challenge the students to ruminate upon. As examples, the reflection

78. See *infra* Part III (describing a typical classroom session that begins with a video viewing, in this case "If I Was President" by Wyclef Jean, and the classroom discussion that ensues).

79. See Freeman & Webb, *supra* note 9, at 141-42 (summarizing recent legal scholarship on reflective learning denoting the positive impacts that directed reflection can have on law students such as training in cross-cultural competency, reducing biases, effective decision making, learning from past action, and gaining a deeper sense of one's own values as an attorney and person).

80. See generally TUPAC SHAKUR, THE ROSE THAT GREW FROM CONCRETE (1999); see also JAY-Z, DECODED (2010).

journal topics as assigned in both Dr. Tibbs' and my classes appear in our syllabi as follows:

Journal Entry Number #1: Due Friday, February 9, 2018, before 11.59 pm

What is Hip Hop? How do you feel about this music and how much do you know about its history? What does it mean to be "Straight Outta Compton"? Please comment on the following: Three (3) of the quotes that begin the Goals and Expectations portion of this syllabus: translate what the speaker may have meant with their words; also, how do the first six chapter readings critique and comment on the U.S. Constitution?

Journal Entry Number #2: Due Friday, March 9, 2018, before 11.59 pm

POLITICAL RAP - Why do you think that there is not more political rap today? If your answer is that consciousness doesn't sell, then explain what has changed since groups like Public Enemy were wildly successful in the early 1990s. **GANGSTA RAP** - Do you think that Gangsta Rap represents the black public sphere or are artists hyper-representing ghetto life for the sake of capitalism? Do you think the government should be able to censor/ban music because of its violent, offensive, or obscene lyrics implicating First Amendment issues? **BLACK SEXUAL POLITICS** - If it is true that "sex sells" in every other industry, then what is it about the politics of black sexuality that makes it so criticized in the context of Hip Hop?

Journal Entry Number #3: Due Friday, April 13, 2018, before 11.59 pm

What do you think about the intersections between feminism, feminist culture and Hip Hop? Are women, particularly black women, marginalized by Hip Hop culture? What role does capitalism play in producing and maintaining systems of white privilege through claims of property ownership? Has Intellectual Property law evolved in a way that has harmed the creativity of Hip Hop? What landmark IP cases have impacted Hip Hop and artist's ability to sample, borrow, and create? Identify the lyrics from five (5) Hip Hop songs that speak to these themes of feminism, ownership, and capitalism.

In each of the above reflection assignments, students are challenged to consider the assigned material intellectually and to develop their own thinking in connection with the critiques they are reading and their personal experiences with hip hop, popular culture, and the way that the law intersects

with each.⁸¹ Often, the students are given the option to write about each assigned question or can choose two or three prompts to develop a deeper analysis for each chosen topic. For assessment purposes, these reflections constitute thirty percent of the final grade in the course (ten percent for each reflection journal).

The final paper, of publishable quality, provides the students an opportunity to critically engage the material by selecting a topic, most likely a hip hop critique of the Constitution or a federal statute, and then research deeply and write about the area in an article that would satisfy any law school's upper level writing requirement. As described in detail below, these papers are often incredibly creative and provide solutions to problems that exist in the law currently.⁸² The students are entirely on their own to develop their topic of research and exploration. Many students find this exercise exhilarating, as they have experienced more than half of the course readings by the time they are required to decide upon a paper topic. Several examples of final papers, of publishable quality, are being presented in this volume of the North Carolina Central Law Review as drafted in Hip Hop & the American Constitution at John Marshall Law School in 2018. For assessment purposes, the final paper constitutes fifty percent of the final grade for the course.

Finally, classroom participation counts for twenty percent of a student's grade, placing a quality assessment on engagement and participation. This strong grade indicator often allows and inspires students to assess their comprehension of the reading material assigned, to float and receive feedback on their social justice theories, to hear the thoughts and experiences of their classmates, and to experiment with social justice lawyering by proposing legislative solutions to inequality, including race and gender discrimination. Often, we find students reticent to engage freely and honestly in the first few weeks of the course, simply because the subject matter is so charged and because the students have typically been given very little opportunity to talk openly about race, gender, social inequality, and discrimination previously in a law school classroom. After several weeks of discussion on race, crime, punishment, mass incarceration, and police killings of unarmed black men, as well as the instructor providing a welcoming and safe environment for perspective sharing, we find the students open up markedly and begin relishing the opportunity to talk about race, social justice, and solutions to the discriminations that continue to exist

81. Often these Reflection Journal assignments are deeply intellectual. Other times they are practical and personally reflective. For an example of one deeply intellectual Reflection Journal Assignment, see Hannah Jez Nguyen, *Hip Hop & the American Constitution Journal Entry #3* (2018) (unpublished student reflection), *infra* Appendix B.

82. See *infra* Part III.B (describing the titles of many of the student papers submitted for credit in Hip Hop & the American Constitution at The John Marshall Law School).

in society. One student shared the following in connection with this classroom experience:

I . . . loved that the atmosphere . . . created in our class[] was like a safe space. Everyone was free to share their own opinions and thoughts about the chapters we were reading. Even if an unpopular opinion was shared, that person wasn't silenced or shunned by the class. Instead we would discuss it as a class in a respectful way. In today's political climate this does not happen very often at all. But I'm glad I was able to be a part of a class that functioned this way and made it easy for anyone to feel comfortable speaking their mind.⁸³

Thus, the course's multiple assessments provided for formative assessment (the reflection journals, which were graded with instructor comments), summative assessment (the final paper, which was given a letter grade), and weekly participation through classroom interaction and engagement.

What follows is a description of the ways that students react to the issues presented in a Hip Hop and the Law course. Included are real time examples of students responding to the very difficult topics presented and examples of how these topics are introduced and debated. In other words, the next section reviews outcomes and summarizes whether the course meets its pedagogical goals as described above.

III. OUTCOMES

The classroom conversations that occur during a semester in Hip Hop & the American Constitution can be truly astonishing. Students deconstruct the criminal justice system as it currently exists and propose solutions from the bottom up, just as hip hop artists do, suggesting a fairer, more just, and saner system of crime and punishment in the United States. The poignant moments are constant, nearly every class session, as the subject matter flows from criminal justice and mass incarceration to electoral politics, family law, business law, and property law, both intellectual and real. Class typically begins with a hip hop video related to the day's subject matter, then the anthology readings are discussed and analyzed, and thereafter the students engage in social engineering conversations that revolve around real reform, proposing changes to legislation, policies, and culture.

A typical class session would unfold as follows: on the day that we cover Section IV.A, Electoral Politics and Historical Activism, focusing particularly on Professor Anthony Farley's chapter, "Sarah Palin – The Last Black President,"⁸⁴ and Melissa Leal's chapter, "Tupac and Native American Studies: Creating Connections through Linguistics, Historical Activism, and

83. Third Student Response, *supra* note 77, Appendix A, at 4.

84. Farley, *supra* note 38, at 183.

Photography,”⁸⁵ class would begin with a viewing of Wyclef Jean’s classic “If I was President.”⁸⁶ Following the video viewing, the professor begins by querying the students as to what United States’ law would look like if indeed Wyclef Jean (“Wyclef”) were President, based on his lyrics and critique. Wyclef straightforwardly states in the song:

Instead of spending billions on the War;
I can use that money, so I can feed the poor;
‘Cause I know some so poor;
When it rains that’s when they shower;
Screamin’ fight the power;
That’s when the vulture devours; . . .

I know some soldiers, that sleep but they can’t dream
Wake up with screams;
Sounds of M16’s;
So take this Medal of Honor;
For your bravery;
I wish you the best care;
For you and your family; . . .

If I was President;
All blacks would have reparations, no segregation;
Feed the nation, so there’s no famine;
Muslims, Jews, Christians, would all hold hands;
Every week on the beach, party by the sand; . . .
Better schools in the hood, better teachers for the classes;
Making money, paying no taxes;
Find the best scientists, tell them come up with the answer;
I want the cure for AIDS and cancer; . . .

If I was president, I’d get elected on Friday;
Assassinated on Saturday;
Buried on Sunday;
They go back to work on Monday;

85. Melissa Leal, *Tupac and Native American Studies: Creating Connections through Linguistics, Historical Activism, and Photography*, in *HIP HOP AND THE LAW*, *supra* note 6, at 193.

86. WYCLEF JEAN, *If I was President*, on *IF I WERE PRESIDENT: MY HAITIAN EXPERIENCE* (Columbia 2010); *see also* Wyclef Jean, *If I Was President- Wyclef Jean*, YOUTUBE (Aug. 9, 2008), https://youtu.be/t_wPMIP6scE.

If I was President.⁸⁷

Student responses to Wyclef's lyrics allow for a robust classroom conversation revolving around homelessness and poverty law in the U.S., the care of military veterans and their mental wellbeing (and the state of the law for vets), the status of reparations for black citizens, education law, national merit testing in schools, U.S. tax law and whom it favors, as well as the state of disease research, including AIDS and cancer. Again, this discussion allows students to examine the law from the bottom up, rather than from the top down, and they imagine what U.S. law and culture might reflect if Wyclef, Tupac, Dr. Dre, Queen Latifah, or Kendrick Lamar were President. Indeed, it allows the students to imagine themselves as political players (some already are) and what it would take to legislate in a socially just way in the areas of poverty law, education law, military veteran care laws, reparations law, tax law, and so much more. The discussions are often creative, forward-thinking, and exciting.

Thereafter, the class turns its attention to the assigned reading for that class, in this case, the Farley, "Sarah Palin – The Last Black President," and the Leal, "Tupac and Native American Studies," chapters. The professor leads discussion by asking the students to dig deeply into the intellectual points that the authors make in their chapters, particularly seeking a link to the opening Wyclef video, the bottom-up approach to legislating, and the impact of historical activism in social justice movements. Professor Farley makes many philosophical points in his chapter, the most affecting of which include his drawing a line from the sorrow songs of the Middle Passage to rap music, the claims of black authenticity by Eazy-E in his dispute with Dr. Dre, when Dre left Ruthless Records to sign with Death Row records, and finally, the space that Sarah Palin opened for Barack Obama to become President.⁸⁸ At base, Farley argues that Obama's blackness, which ordinarily would have been attacked in the 2008 election cycle, was ignored in some respects because of the media's focus on Palin's "gangsta-like" characteristics, including suspect education (five institutions until the eventual degree); pitbulls, beloved by rappers (Palin claimed she *was* a pitbull—albeit with lipstick); basketball (Palin played on the state championship team in high school); and, among others, teen pregnancy (Palin's teenage daughter was pregnant during the 2008 campaign—out of wedlock).⁸⁹ Per Farley, "Palin's professional and family life, her body of work, paints a portrait that comes closer than any public figure in memory to

87. JEAN, *supra* note 84; see also *If I was President Lyrics*, GENIUS, <https://genius.com/Wyclef-jean-if-i-was-president-lyrics> (last visited Jan. 30, 2020).

88. Farley, *supra* note 38, at 184-90.

89. *Id.* at 187.

the alleged ghetto realism of Eazy-E. And it passed by almost without comment in 2008.”⁹⁰

Of course, this provocative line of reasoning gives space to the students to explore classism and racism in electoral politics, while making connections to the current political atmosphere, and to consider better ways forward. In thinking about better ways forward, Melissa Leal presents in her “Tupac and Native American Studies” chapter just how profoundly influenced she was by Tupac’s music and lyrics and how Tupac’s social conscience was developed in and by Native American influences.⁹¹ The difference that Tupac made in Leal’s life, and the difference that Leal has made in her student’s and client’s lives, highlights the difference that the students can make in the lives of others, particularly once empowered with a law degree and a concomitant social conscience.

So armed, the last portion of class focuses in on how the law should be changed in connection with the issues addressed in class. Thereafter, the class imagines how this change could in a literal sense be affected. What would legislation that cares better for the homeless or those living in poverty look like? How should legislation be crafted that cares better for military veterans? What can be done culturally to eliminate racism and classism in politics and media reporting? Can the students become a part of politically activating “better schools in the ‘hood” and “reparations, not segregation?” These conversations and imaginings lead to deeply poignant moments in the law school classroom.

A. ON POIGNANT MOMENTS

One such poignant moment occurred in March 2018 during a Hip Hop & the American Constitution class at The John Marshall Law School in Chicago, as we were reading on Fourth Amendment protection deterioration and the antiblack orientation of law enforcement agencies across the United States.⁹² We had just finished discussing Professor Tryon Woods’ chapter, “Sexual Poetic Justice,” particularly his powerful statement therein:

In other words, it’s not that black people or black culture is pathologically violent; rather, the world has been pathologically violent towards blacks for over six centuries, and it is therefore

90. *Id.*

91. Leal, *supra* note 85, at 194-98. Melissa Leal concludes:
I know that if it wasn’t for the era that I grew up in and the influence on me that Tupac had, I would be a different person than I am today. Tupac sparked my creative imagination and passion to speak out against injustice and discrimination . . . And his essence connects him to the little Esselen girl from California who believed she could change the world.
Id. at 198.

92. See generally andré douglas pond cummings, *Reforming Policing*, 10 DREXEL L. REV. 573 (2018).

unethical to issue *prima facie* indictments of black culture's articulations of violence. Such expressions are properly understood in a historical sense as "counter-violence." . . .

Whether the rebellious slave, the Black Panther party armed for self-defense, the hip hop artist throwing sonic and metaphorical bombs, or the counter violence of sexual poetic justice, lyrical or actual—the main reason why counter violence by black people is profoundly destabilizing to civil society is what it calls into question: the gratuitous antiblack violence of police power necessary for the coherence of our society.⁹³

As the class considered that last sentence by Professor Woods, that counter violence by African American citizens is profoundly destabilizing to U.S. society because it challenges the fact that "gratuitous antiblack violence of police power" is *necessary* for a coherent America,⁹⁴ the students were astounded, even dumbfounded, to see this sentiment stated so openly and candidly in a law school coursebook and classroom. The black students in the classroom nodded silently. One African American female student then stated the following (paraphrasing):

I have a cousin named Peanut. Every time Peanut comes over to our house, he steals something. Whenever Peanut leaves, my mom and I go through our house to see what is missing, so that we know what Peanut has stolen. Because he is family, we always include him for family gatherings at our place, but we know that whenever he leaves, something of value will be missing. Peanut probably sells it or keeps it, but it never fails that Peanut steals something whenever he comes over.

In considering the gratuitous antiblack violence of U.S. police power, I know that I would rather invite Peanut into my home one hundred times out of a hundred before I would invite police into my home. I would always much rather risk something being stolen from my home by Peanut, than risk myself or my mother or other family members being beaten, raped, terrorized, or killed by the police. My *fundamental expectation* of the police is that they will do me harm if only given the chance.⁹⁵

This statement stunned a few of the students in the class, while many others sadly acknowledged this anecdotal truism. This lived experience of one of our African American female students from Chicago, while familiar to many of the students in class, was completely foreign and shocking to

93. Woods, *supra* note 40, at 128.

94. *Id.*

95. Student Participant, 3L student at The John Marshall Law School, Hip Hop & the American Constitution course class discussion (March 2018).

others. To wit, in the very next week's class, one of my non-black male students in very honest and raw fashion, stated the following in his reflection journal and again during classroom conversation, speaking directly to the African American female student who had shared about Peanut (paraphrasing):

I am so sorry, [student's name], to hear about your experience with police in America. I had no idea that individuals in the United States lived in terror and fear of law enforcement officers. I have always been taught and have always believed that police protect us, not terrorize us.

[Non-black male student begins to weep.] I wish so much that this was not your experience in the United States. I am so sorry. I am sorry for the racism in U.S. policing. I am sorry for the antiblack culture in law enforcement. I am sorry that you feel like your life is in danger every time that you encounter police in America. I am sorry that you would rather be stolen from instead of inviting the police into your home. I am just so sorry.⁹⁶

What is profound and momentous about this classroom exchange is the perspective sharing that was experienced between students with completely opposite lived familiarities. The non-black male student had never before considered the construct that law enforcement could threaten the life and well-being of a U.S. resident and when confronted with that knowledge, he was heartbroken. The African-American female student was surprised that the non-black male student was unaware of the very real tension, lack of trust, and even fear, that commonly exists between the black community and police. Both students experienced a perspective shift that left them both thunderstruck.

Perhaps more importantly, after this heartfelt exchange in class, the next hour of classroom conversation focused on why trust has been broken between law enforcement and urban American communities and how that trust could be repaired through law and policy. The students discussed changing the hiring, training, and retention of police officers. They described ways that the law of deadly force could be changed, leading to fewer officer shooting deaths of African American residents. The discussion focused on how formulating the law from the bottom up could fundamentally alter the way that law enforcement is legislated. The students discussed becoming more politically active in order to influence this need for reformed legislation, even suggesting that some of them run for political office, while ensuring that they vote in every possible election. As a professor witnessing this discussion unfold, I was taken aback by its beauty and simplicity. I was

96. Student Participant, 3L student at The John Marshall Law School, Hip Hop & the American Constitution course class discussion (March 2018).

encouraged that something could be done to reform policing and end mass incarceration in the United States.

Another poignant Hip Hop and the Law moment occurred at NCCU Law in May 2018. During class, when discussing policing in the United States, one of our African American female students off-handedly remarked that she does not allow her young black son to play outdoors with a water pistol in Durham, North Carolina. Incredulous, one of our non-black male students rejoined with, "Why not?" This black mother responded (paraphrasing):

The police in North Carolina will see a water gun in the hand of a young black boy and will shoot him dead with no questions asked. I do not want my son becoming the target of an errant police officer who will not stop for even a second to determine whether the water gun is a toy.⁹⁷

We took this opportunity to discuss the same point made by Nas in 2017 where he rapped the following verse on "Good Man," remixed by DJ Forgotten:

Man it hurts to see a cop kill a black man;
Alert, news flash, police shoot blacks, distort facts;
. . . Unarmed men, murdered them; It's captured on cell phone video;
And they still let 'em go;
When will they stop killin' 'em? Ask 'em why is they killing for?;
White man with a gun – apprehended, he's still alive;
Black man with a gun – he has no chance to survive;
They gonna shoot him dead as soon as they see the brown of his eyes;
And they ask me why you ain't smiling Nas;
'Cause I have a son and I die inside;
When I gotta tell him what was told to me; "Can't play with your water
gun son;
'Cause the police see a seven-year old as a threat";
They think it's right to kill a seven-year old on sight;
'Cause he ain't white.⁹⁸

97. Student Participant, rising 3L student at North Carolina Central University School of Law, Corporate Justice course class discussion (May 2018).

98. DJ Forgotten remix of DJ Khaled's *Good Man*, featuring Nas, Kendrick Lamar, Jadakiss, and Pusha T (unreleased 2017); see also Forgotten, *DJ Forgotten Mashup - Good Man ft. Kendrick Lamar, Nas, Jadakiss, Pusha T*, YOUTUBE (June 26, 2017), <https://www.youtube.com/watch?v=mW5alppyLT0>.

Our female African American mother responded that Nas captured exactly why she will not allow her young son or his black friends to play outside with toy guns. For her, and those boys, the threat posed by local U.S. law enforcement to the lives of their children was simply too risky and too dangerous. Thereafter, our formerly incredulous non-black male student replied (paraphrasing):

I played outside with toy guns all of the time when I was a boy. I have never before considered or thought that playing outside with toy guns could be dangerous to the lives of those young boys that play “cops and robbers” and other games with toy cap or water guns. Today, when my son goes outside to play, I never, *ever* fear that he will lose his life, certainly, not at the hands of the police. I am stunned that anyone in America feels this way. It is crushing to hear this.⁹⁹

Once again, perhaps what is most poignant about this classroom exchange is the way that two students honestly shared completely opposite lived experiences in a way that left all enlightened. The non-black male student had never before considered the reality that black families are all too familiar with, that a young black boy playing with a toy gun would be viewed as a threat and without question, could be shot dead within moments of encountering the police, exactly as happened to Tamir Rice in Cleveland.¹⁰⁰ The African-American mother was startled that the non-black male student was unaware of the very real danger faced by young black children when they play outside with toy guns. Both students experienced a perspective shift that left them both aware and enlightened.

B. PUBLISHING TRANSFORMATIVE SCHOLARSHIP

Another important outcome of a Hip Hop & the American Constitution course is that, as discussed previously, a final paper of publishable quality is required as the primary credit earning mechanism. Students are tasked with pondering the many constitutional issues discussed during the course of the class and after the eighth week or so, they develop a topic and outline for their paper that connects a hip hop critique of the law or Constitution. Having taught this course four times now, I am continually impressed with the breadth and scope of subject matter that the students undertake in their final papers. In spring 2018 at the John Marshall Law School, some of the titles of the student papers submitted included:

“Remixing Riverside: Environmental Racism, the Law, and Hip Hop as a Mirror of Society”

99. Student Participant, rising 2L student at North Carolina Central University School of Law, Corporate Justice course class discussion (May 2018).

100. cummings, *supra* note 92, at 583-86 (detailing the police killing of Tamir Rice).

“We Deserve Better: How Hip Hop Perpetuates the Rape Culture of Black Women”

“Protecting the Integrity of Hip-Hop” (on the First Amendment)

“Hip-Hop-crisis: Hip Hop’s Changing Perspective on Gun Control”

“Got to Give It Up: Tearing Down Economic Barriers in Hip-hop Copyright Infringement Thru Blurred Lines”

“Real Recognizes Real: Bringing Real Representatives Back to the Republic” (on Voting Rights)

“Hamilton: A Hip Hop Play to Educate the Masses”

“Millennial Gangsta Rap: Childish Gambino’s ‘This is America’ Addresses the Same Urges for Social Reconstruction that 1990s Gangsta Rap Artists Asked For Almost Thirty Years Prior”

“‘Long live, Tookie:’ A Lesson in Black-Asian Solidarity through Bambu”

“America’s Mass Shooting Problem: The History, Myths, and Hip-Hop’s Invaluable Contribution to Mass Shooting Prevention”

“Leaders of the ‘Free World’: Racial Oppression, Accountability, and Hip Hop’s Role in Reflecting the History of American Politics”

The subject matter identified in the final papers above is creative, bold, and in many instances deeply affecting. Students attempt to draft scholarship that is potentially transformative, in that they recommend progressive changes to the law as it currently exists. The students selected areas of the law that they believe were in need of reform, and proceeded to critique those laws through a hip hop lens, offering solutions to these legal issues from a bottom-up perspective. Simply, if they, as members of the hip hop generation, become legislators or politicians, then this proposed legislation is coming in many instances from the perspective of the oppressed. These papers had a significant impact on me as a professor because the students were exercising their social engineering chops, not just discussing the

problems that impact minority communities, but imagining how the law might correct these injustices.

To provide support and context for the impact of these student papers, the North Carolina Central Law Review is proudly publishing three papers from the list above, as drafted for credit in the spring 2018 Hip Hop & the American Constitution course offered at the John Marshall Law School: “Remixing Riverside: Environmental Racism, the Law, and Hip Hop as a Mirror of Society;”¹⁰¹ “We Deserve Better: How Hip Hop Perpetuates the Rape Culture of Black Women;”¹⁰² and “America’s Mass Shooting Problem: The History, Myths, and Hip-Hop’s Invaluable Contribution to Mass Shooting Prevention.”¹⁰³ The themes and solutions proffered in these papers demonstrate the importance of and need for offering a course in Hip Hop & the American Constitution to current law students—it provides an opportunity for them to engage in social justice lawyering and explore legal reforms in crucial areas.

As the above section demonstrates, student reactions to a course in Hip Hop and the Law are strong, real, and raw. Students are exposed to material that is rarely available in a law school setting. They are given the opportunity to exercise the problem solving and critical thinking skills that have been learned during their legal education to that point. Above all, to those students that wish for an opportunity to engage in social justice lawyering or to conceptualize ways to give voice to the oppressed, Hip Hop and the Law provides a way forward. The next section instrumentalizes this way forward.

IV. WHY TEACH HIP HOP AND THE LAW?

As queried at the top of this piece, why offer and teach Hip Hop and the Law in a legal education curriculum? A 2018 study and report by the Association of American Law Schools (“AALS”) found that a large percentage of law students enter law school with an intent to serve the public interest, including a strong interest in representing those who have been historically oppressed or underserved.¹⁰⁴ After students enter with this clear

101. Charles E. Murphy, *Remixing Riverside: Environmental Racism, the Law, and Hip Hop as a Mirror of Society*, 42 N.C. CENT. L. REV. 97 (2019).

102. Alexandria Johnson, *We Deserve Better: How Hip Hop Perpetuates the Rape Culture of Black Women*, 42 N.C. CENT. L. REV. 137 (2019).

103. Bria C. Riley, *America’s Mass Shooting Problem: The History, Myths, and Hip-Hop’s Invaluable Contribution to Mass Shooting Prevention*, 42 N.C. CENT. L. REV. 119 (2019).

104. See ASS’N OF AM. LAW SCH., HIGHLIGHTS FROM BEFORE THE JD: UNDERGRADUATE VIEWS ON LAW SCHOOL 3 (2018), <https://www.aals.org/wp-content/uploads/2018/09/BJDReportsHighlights.pdf>; see also Whitford, *supra* note 2 (“When asked why they wanted to pursue a law degree, undergraduate students most often reported that law school would be a ‘pathway for a career in politics, government or public service,’ that they had ‘a passion for or high interest in the type of work,’ that a law degree would provide ‘opportunities to help others or to be useful to society’ and that they wanted to ‘advocate for social change.’”).

desire to serve, the first year experience of law school often dampens or suffocates this spirit of public service, based on the difficult nature of the 1L schedule, the competitive nature of class rankings, and the competition for 1L and 2L summer jobs with local, regional, and perhaps national firms that interview on campus.¹⁰⁵ Simply stated, the first year of law school, indeed law school generally, does little to inspire or teach public interest law or empower students with the necessary skill sets to practice social justice lawyering.¹⁰⁶ Hip Hop & the American Constitution is a class that provides the space and opportunity for students to return to their original conceptualizations of service and social justice pursuits. Based on the classroom outcomes described above, students often find their lost voices in Hip Hop & the American Constitution and in fact, have their desire to serve the public interest and represent the oppressed and underrepresented "reignited."¹⁰⁷

Indeed, this reality is clearly evident when reviewing the student comments from course evaluations at the John Marshall Law School, recorded in May 2018:

This class was a breath of fresh air. It reminded me why I came to law school. It made me a better writer, student, and potential attorney. Using critical race theory to understand the laws is . . . integral and invaluable.¹⁰⁸

This course reignited my passion for law and reminded me why I went to law school in the first place. I cannot emphasize enough how important this class is and how much I enjoyed it.¹⁰⁹

105. See generally John Bliss, *From Idealist to Hired Guns? An Empirical Analysis Of "Public Interest Drift" In Law School*, 51 U.C. DAVIS L. REV. 1973 (2018).

106. See generally David Segal, *Law School Economics: Ka-Ching*, N.Y. TIMES (July 16, 2011), <https://www.nytimes.com/2011/07/17/business/law-school-economics-job-market-weakens-tuition-rises.html> ("Among the unsatisfied is Katherine Greenier, of N.Y.L.S.'s class of 2010. As she neared graduation, she organized an informational meeting for students interested in public-interest law, the kind of get-together she thought the career services office should have offered. To her amazement, a rep from that office showed up, took a seat and asked questions. 'She was asking about the process, like how you go about applying for public-interest fellowships,' Ms. Greenier says. 'Things that you would have hoped she already knew.' Ms. Greenier, who wound up with a job at the American Civil Liberties Union in Richmond, Va., ultimately decided that the school had what she called a 'factory feel.'").

107. See Fifth Student Response to "Additional Comments," *infra* Appendix A, at 4.

108. Second Student Response to "Comments Professor Noted Current Developments," *infra* Appendix A, at 3.

109. Fifth Student Response, *supra* note 107, *infra* Appendix A, at 4.

The book utilized articles that were well written and related constitutional law to hip hop. The book was the first textbook I have used in [law] school that allowed me to see how I can make an impact [on] social justice in America as an attorney.¹¹⁰

I was . . . astonished by the sheer number of topics that hip hop connects to. Coming into the class I was expecting to hear about criminal law, IP, and maybe some [F]irst [A]mendment issues. But . . . we discussed so much more including family law, corporate law, and even statutes like the [T]elecommunications [A]ct. This class broadened my way of thinking like no other class has. I feel like a lot of law school classes are very formulaic and dull, but this was like a breath of fresh air. The subject matter . . . inspired me to think in new and creative ways[,] which I think will be helpful in all areas of my life. I am so glad I decided to take the class and I hope that other students are given the same opportunity.¹¹¹

This [class] was the reason I didn't leave law school. [It] renewed [my] passion for my place in the movement. Every day is a new day to make a difference.¹¹²

As the student comments illustrate, offering and teaching a course in Hip Hop and the Law provides curricular opportunity to teach students what social justice lawyering can look like and how students can use their legal education to effect social change. Many students entering law school do so for the purpose of public service.¹¹³ For those students thirsting for opportunities to use their law degrees to protect the unprotected and give voice to the voiceless, Hip Hop and the Law opens space for willing instructors to challenge their students to envision how the law can and should change and to begin drafting legislation or contacting politicians and activists that can assist in implementing such change.

One example of this occurred at WVU Law in 2012, during the inaugural course offering of Hip Hop & the American Constitution. As we were reading and studying Professor Butler's *Let's Get Free: A Hip Hop Theory of Justice*,¹¹⁴ the West Virginia legislature began floating plans to

110. Sixth Student Response to "Comments Materials and Textbook were Helpful," *infra* Appendix A, at 2.

111. Third Student Response, *supra* note 77, *infra* Appendix A, at 4.

112. Eighth Student Response to "Additional Comments," *infra* Appendix A, at 4.

113. ASS'N OF AM. LAW SCH., *supra* note 104, at 3.

114. BUTLER, *supra* note 31.

build yet another prison in West Virginia based on a new prisoner forecast report.¹¹⁵ While we discussed and ruminated on mass incarceration and the budgeting priorities of many states that increased budget dollars for prisons, while decreasing funding of public education, and while analyzing Butler's *Let's Get Free* and the myriad ways that U.S. society would be better served with far less human beings in prison, the WVU Law students began weighing what it might look like to take a strong stand against construction of the new prison in West Virginia. Armed with budget numbers and data on better uses for the West Virginia taxpayers' tax dollars, where the money was not allocated to the enormous costs of prison construction, the Hip Hop & the American Constitution students formed a student group at WVU Law, entitled something like "Law Students for Education Not Prisons."¹¹⁶ Those students then began organizing telephone banks and legislator telephone calling campaigns to allow law students and community members opposed to spending budget dollars on prison construction to weigh in and lobby their state representatives to oppose construction of a new prison and to instead support greater funding for public education. As the instructor of the course, I was amazed at the rapidity with which these students took up the opposition to additional prison construction and organized an opposition that ultimately succeeded. This student group organized a caravan to the state capital of Charleston and met personally with several legislatures arguing against a new prison. As a result, no new prison was constructed in West Virginia, due in part to the calling and lobbying efforts of the student organizers and class members of Hip Hop & the American Constitution.

In further considering the propriety of teaching a course in Hip Hop and the Law, the class provides a dynamic opportunity to discuss race and inequality in the law school classroom, as described above. An emerging nationwide effort to address the failure of race discussion in legal education is materializing, and this effort includes contributions to the body of scholarship that has long criticized legal education for its effort to sanitize the law by teaching it from a race neutral perspective.¹¹⁷ Law teachers and

115. See SIMON BAUER-LEFFLER & STEPHEN M. HAAS, OFFICE OF RESEARCH AND STRATEGIC PLANNING, WEST VIRGINIA CORRECTIONAL POPULATION FORECAST, 2010-2020 (Feb. 2011), https://djcs.wv.gov/ORSP/SAC/Documents/ORSP_2010-2020_Correctional_Population_Forecast-FINAL.pdf.

116. See generally andré douglas pond cummings, *Hip Hop and the Prison Industrial Complex*, CONCURRING OPINIONS (Mar. 1, 2012), <https://concurringopinions.com/archives/2012/03/hip-hop-and-the-prison-industrial-complex.html> ("With the prison population increasing more than 335% over the past twenty-five years, more of our students are going to be personally or tangentially affected by this increase. From these discussions, student groups have been formed to lobby against new prison construction in West Virginia and creative solutions are being sought to prison overcrowding in both WV and Pennsylvania.").

117. See Freeman & Webb, *supra* note 9, at 122 ("Although legal scholars, practitioners, and students – along with studies of legal education – have long advocated for law schools to address the ways that race is deeply embedded in the law and its practice, discussions of race in the legal

scholars have been writing about changing legal education to reflect race, inequality, and social justice for decades. These teachers and scholars have begun offering courses that place race and social justice at the forefront of the classroom learning experience. However, while forward-thinking and important, most innovative courses that centralize race and inequality are elective and often pushed to the margins of law school curricula. In 2018, Professors Alexi Freeman and Lindsey Webb wrote:

Critics have argued that when a legal curriculum lacks a sustained and thoughtful analysis of race and the law, law students of color can feel marginalized or worse; white students are not required to examine legal issues from other perspectives or examine the role of race in their own lives; and all students are deprived of a full understanding of legal history, our legal system, and cultural and interpersonal skills that will benefit their clients and their practice. Add to these concerns the fact that the legal profession remains among the least diverse vocations in the U.S., and it can seem that, despite multiple innovations in the legal curriculum, the decades-long discussion regarding racial inclusion in law schools has led us to the same, largely race-avoidant, place.¹¹⁸

If race, inequality and social justice are avoided in the law school curriculum as argued, then law students continue to learn the law with a colossal blind-spot that can prove injurious to them as practicing lawyers and professionals. Therefore, classes like Human Rights, Race & Mass Incarceration,¹¹⁹ the Critical Race Reading Seminar,¹²⁰ Critical Race Theory,¹²¹ Race & the Law,¹²² and Hip Hop & the American Constitution, are crucial offerings in a law school curriculum that seeks to eliminate this racial blind-spot that has

academy often occur sporadically or in a subset of courses. While many law professors understand that the study and practice of law cannot be neatly separated from its racial history and implications, a variety of pressures and fears can push a focus on race to the margins of the course or out of the classroom altogether.”)

118. *Id.* (footnotes omitted).

119. See Course Catalog Page of Human Rights, Race and Mass Incarceration, J. MARSHALL L. SCH., <https://courses.jmls.edu/Lists/Courses/CustomDispForm.aspx?ID=563&InitialTabId=Ribbon.Read> (last visited Nov. 28, 2018).

120. See Sponsored Activities Page of Critical Race Reading Seminar, U. DENVER STRUM C.L., <https://www.law.du.edu/rocky-mountain-collective-on-race-place/sponsored-activities/critical-race-reading-seminar> (last visited Nov. 28, 2018).

121. A non-exhaustive list of law schools that offer a course in “Critical Race Theory” include: Harvard Law School, Stanford Law School, UCLA School of Law, Duke University School of Law, UNC School of Law, University of Southern California Gould School of Law, Columbia Law School, University of Washington School of Law, University of Virginia School of Law, Cornell Law School, UC Davis School of Law, University of Arkansas at Little Rock William H. Bowen School of Law.

122. A non-exhaustive list of law schools that offer a course in “Race and the Law” include: University of Michigan Law, NYU School of Law, Fordham University School of Law, North Carolina Central University School of Law, FAMU College of Law, Stanford Law School, Vanderbilt Law School, UCI Law, West Virginia University College of Law.

continued to persist in U.S. legal education for centuries.¹²³ Hip Hop and the Law adds a new opportunity to this movement placing race, inequality, and social justice front and center in the law school classroom.

V. TEACHING SOCIAL JUSTICE THROUGH HIP HOP AND THE LAW

Teaching race and inequality in the law school curriculum is important, as described above. I view teaching social justice as another matter altogether. By my view, teaching social justice includes presenting legal strategies and teaching skills that will allow law students and future legal practitioners to create social change, either through legislative enactment or social activism. Surely innovative legal clinics can and do engage this type of work effectively,¹²⁴ but Hip Hop and the Law allows yet another opportunity to theorize, strategize, and activate toward a social engineering construct, meeting the aims of students who indeed attend law school interested in engaging in public service and representation of the voiceless and oppressed. As described above,¹²⁵ Hip Hop and the Law energizes social activism in students and can lead to not just the theory, but the practice of engaging social change. The course allows students to see themselves as social engineers.

A. STUDENT EVALUATIONS

If the goal of an instructor is to provide opportunities for their students to learn the law, explore the role that students will play as attorneys, and contemplate whether they will use their law degree to do good in the world, regardless of political affiliation, then offering a class in Hip Hop and the Law could very well provide an opportunity like no other. In assessing learning outcomes, it is critical to evaluate whether the students attained the course learning goals. Student evaluations can play an informative role in assessing outcomes, as well as the final written work product of the students. Here, we present both student evaluations (annexed as Appendix A and quoted within) and three of the final written products that students delivered for the spring 2018 John Marshall Law School course, being published in this volume of the North Carolina Central Law Review.¹²⁶ The reader can determine for her or himself, whether the value of teaching a course in Hip Hop and the Law can be realized, by considering both the student comments above and below, as well as the quality of the final papers as published

123. See Freeman & Webb, *supra* note 9, at 122-25 and accompany footnotes (citing to legal scholars that have been advocating for race conversation and debate in law school classrooms).

124. A few examples include: Yale Law School: Challenging Mass Incarceration Clinic; Berkeley Law: Death Penalty Clinic; Harvard Law School: Capital Punish Clinic; Loyola Law School: Juvenile Justice Clinic; The Innocence Project at dozens of law school.

125. See *supra* Part III; see also *supra* Part IV.

126. See *supra* notes 101-103 and accompanying text.

herein. Several students wrote that this course was “empowering,” “amazing,” and even “inspiring”:

This was my favorite class that I took in all of my [three] years at [John Marshall Law School]. This course is not only extremely interesting and . . . the highlight of my week every single week, but it is extremely valuable to students who struggle either [with] fitting into the law school community or with learning complex legal subjects/topics. Learning about different legal topics through the lens of hip hop law was empowering and . . . enabled me to learn about difficult concepts that I never would have . . . otherwise, such as IP and trademark law. I also learned about the law from a completely different perspective than I had . . . in other courses throughout my law school career.¹²⁷

I definitely think that [John Marshall Law School] should offer this course again. It was so informative and it was inspiring. I also loved [] the atmosphere . . . created in our class.¹²⁸

This class was amazing! Every student could benefit from . . . taking a course such as Hip Hop & the Law.¹²⁹

Student evaluations are uniformly excellent for Hip Hop & the American Constitution as evidenced by the comments quoted above and as reported from other professors that have offered Hip Hop and the Law courses at their respective law schools.

B. SOCIAL ACTIVISM

Instances for student engagement in social activism abound when teaching a Hip Hop and the Law course. Because the discussions regularly occur as described above, issues of race, social justice, and engagement are top of mind when the students analyze mass incarceration, hyperpolicing, prison reform, progressive legislation, and student activism. Recall, that the students at WVU Law began the “Law Students for Education Not Prisons” organization after considering Paul Butler’s *Let’s Get Free: A Hip Hop Theory of Justice*, and that these students were successful in leading a state-wide movement against the construction of a new prison in West Virginia.¹³⁰

127. Fifth Student Response, *supra* note 107, *infra* Appendix A, at 4.

128. Third Student Response, *supra* note 77, *infra* Appendix A, at 4.

129. Seventh Student Response to “Comments Take Another Class From Professor,” *infra* Appendix A at 3.

130. See *supra* notes 115-16 and accompanying text.

Repeatedly, during and after class, students discuss becoming more politically active in voting and campaigning, and in some instances declare intentions to run for political office in order to effectuate real social and political change.

In light of this aggressively progressive political stance that students take, Alexandria Ocasio-Cortez and her unapologetic campaign for progressive racial and social justice politics come into conversation.¹³¹ Students recognize the relative youth of and unapologetic progressive politics of Ocasio-Cortez, Anthony Delgado,¹³² Rashida Tlaib,¹³³ Sharice Davids,¹³⁴ Deb Haaland,¹³⁵ and so many others. In visualizing social justice lawyering, the students consider both the politics of those above, as well as

131. *Alexandria Ocasio-Cortez's Platform*, OCASIO2018, <https://ocasio2018.com/issues> (last visited Nov. 28, 2018) ("Alexandria believes in ending mass incarceration and the war on drugs and closing the school-to-prison pipeline Comprehensive criminal justice reform is part of the work that must be done to heal our past and pursue racial justice in the United States.").

132. *Where Antonio Stands . . .*, DELGADO FOR CONGRESS, <https://delgadoforcongress.com/issues-list/> (last visited Nov. 28, 2018) ("As a lawyer who has donated countless hours of pro-bono services to people and communities of need, [Delgado] recognize[s] criminal justice reform as one of the most pressing issues of our time. It is time that we face this crisis head on, with empathy, not animus; with ideas, not impulse; and with courage, not politics."); see also Lisa W. Foderaro, *He's a Rhodes Scholar. The G.O.P. Keeps Calling Him a 'Big City Rapper'*, N.Y. TIMES (Oct. 1, 2018), <https://www.nytimes.com/2018/10/01/nyregion/antonio-delgado-rapper.html> ("When asked whether there were any lyrics he regretted, Mr. Delgado made no apology. 'It's art I'm very committed to the themes that I was concerned about then, chief among them people on the margins,' he said. 'So for me to apologize, I would in essence be apologizing for what I am doing today.'"); see also Marisa Schultz & Nikki Schwab, *Rapping Democrat Frames Old Lyrics in Congressional Office*, N.Y. POST (Jan. 7, 2019), <https://nypost.com/2019/01/07/rapping-democrat-frames-old-lyrics-in-congressional-office/> ("Rep. Antonio Delgado, whose career as a rapper more than a decade ago became an issue in his election campaign last year, had the last word as he settled into his Capitol Hill office. The newly minted New York Democrat framed an image of his own lyrics for his new workplace. 'All the pain and the poverty. Hypocrisy fuels my truth. Ain't no stopping me. #oneofus,' it reads.").

133. *Justice for All Civil Rights Act*, RASHIDA FOR CONGRESS, <https://www.rashidaforcongress.com/justice-for-all> (last visited Nov. 28, 2018) ("Rashida will propose legislation to drastically expand U.S. civil rights protections to cover discriminatory impacts . . . [e]nd [r]edlining [p]ractices . . . [and] [c]hallenge [u]nfair [l]aw [e]nforcement and [c]riminal [j]ustice [p]olicies that [d]isproportionately [i]mpact [p]eople of [c]olor This is important to getting to the real promise of opportunity and freedom that Dr. Martin Luther King spoke of in 1963").

134. See SHARICE FOR CONGRESS, <https://www.shariceforcongress.com/> (last visited Nov. 28, 2018); see also Lindsay Wise, *Kansan Sharice Davids Gets Boost From Democratic 'Red to Blue' Program*, THE KANSAS CITY STAR (Aug. 10, 2018), <https://www.kansascity.com/news/politics-government/article216296940.html> ("[Davids has] built [her] campaign on the belief that everyone already has their own voice We need a representative who cares about the voices who have already been speaking up and crying out — but being ignored — for so long.").

135. *Racial Justice and Civil Rights*, DEB FOR CONGRESS, <https://debforcongress.com/racial-justice-and-civil-rights/> (last visited Nov. 28, 2018) ("I will fight for justice, dignity, and safety for marginalized communities . . . ensuring that we support the Department of Justice in investigating and prosecuting hate crimes and police violence that local jurisdictions ignore, and fighting discrimination at the national level wherever possible.").

the amazing work and impact that a single lawyer can have, like that of Bryan Stevenson and his Equal Justice Initiative.¹³⁶

Not to be forgotten in the context of social activism is the importance of scholarship and writing about issues of social justice and inequality. The paper requirement in a Hip Hop and the Law course provides students the opportunity to theorize, strategize, and write about issues of race and social justice in meaningful ways. These students may even seek publication of their works, providing them an opportunity to contribute to the scholarship and literature surrounding race and inequality as students (or seek to write about such subject matter for their law review case notes). As mentioned above, three such articles are included in these North Carolina Central Law Review pages.¹³⁷

A Hip Hop and the Law course provides meaningful opportunities for law students to engage in social justice theorizing and lawyering, enabling students who come to law school intent on a career of public service to actually learn how to do that meaningful work.

C. RESPONDING TO CRITICS

Critics will likely argue that the proliferation of “Law and . . .” courses are nothing more than vanity projects for a professor and/or add little to a law student’s grounding in critical thinking or preparation for law practice. Other critics may argue that Hip Hop and the Law is not a bar-tested subject, and therefore, might work to harm students who should instead be taking courses that will assist them in passing a bar exam. Still others might argue that hip hop, or popular culture for that matter, are not worthy of law school classroom examination (as one faculty friend and critic put it, “Why don’t I just teach a course in Bob Dylan and the Law?”). All fair points.

However, as demonstrated above, Hip Hop and the Law is far from a vanity project. The course provides students an opportunity to learn and engage in critical soft skills and introduces students, sometimes for the first time in law school, to difficult conversations on equality, race, class, and discrimination. In addition, as argued directly above, Hip Hop and the Law

136. See BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* (2014); see also Bryan Stevenson, *EQUAL JUSTICE INITIATIVE*, <https://eji.org/bryan-stevenson> (last visited Nov. 28, 2018) (“Under [Stevenson’s] leadership, EJI has won major legal challenges eliminating excessive and unfair sentencing, exonerating innocent death row prisoners, confronting abuse of the incarcerated and the mentally ill[,] and aiding children prosecuted as adults . . . Mr. Stevenson has successfully argued several cases in the United States Supreme Court and recently won an historic ruling that mandatory life-without-parole sentences for all children [age seventeen] or younger are unconstitutional . . . [He] initiated major new anti-poverty and anti-discrimination efforts that challenge the legacy of racial inequality in America, including major projects to educate communities about slavery, lynching and racial segregation.”); *JUST MERCY* (Warner Bros. Pictures 2019).

137. See *supra* notes 99-101 and accompanying text.

opens up a space for students to visualize, theorize, and concretize social justice lawyering. In many instances, *Hip Hop and the Law* speaks to current law students in a language that they feel and understand, leading some to proclaim “[*Hip Hop and the Law*] is extremely valuable to students who struggle either [with] fitting into the law school community or with learning complex legal subjects/topics.”¹³⁸ One student exclaimed after reading Professor Chanbonpin’s “Legal Writing, the Remix: Plagiarism and Hip Hop Ethics” chapter, “This article was like the Bible to me! I never clearly understood plagiarism until reading this.”¹³⁹

Furthermore, far from taking away from important bar exam learning, the *Hip Hop and the Law* coursebook drills down deeply into several critical constitutional subjects, including Fourth Amendment and First Amendment law. Additionally, a large section of the anthology, and a significant portion of the class, is focused on constitutional and intellectual property protections, including copyright and trademark law. Instead of taking away from important bar tested and practice-important subject matter, *Hip Hop and the Law* augments law school learning in subjects as far ranging as family law, corporate law, IP law, property law, and constitutional law. Doctrinal learning, indeed the kind of learning that will assist in comprehending bar exam-tested subjects, is combined with social justice learning in a well organized *Hip Hop and the Law* class.

Finally, to those that suppose that combining a popular culture phenomenon like hip hop with a serious examination of the law cannot be effectively accomplished, I would argue that twenty-first century law students are particularly receptive to a class in *Hip Hop and the Law*. Not only does the course focus on a genre of music that most students know, internalize, and love, but the genesis of hip hop has always included a robust critique of the state, including critiquing the criminal justice system and examining the law from a bottom-up perspective. Hip hop is intimately connected to the law because from inception through today, hip hop artists, due to their race and class, have been the subject of racial profiling, discriminatory imprisonment, hyper-policing, and a myriad of inequities that the law is supposed to prevent. Hip hop speaks to millennials as it spoke to the hip hop generation that preceded them.

To the unvarnished critic of a law school course in *Hip Hop and the Law*, those of us who have taught the course or written legal scholarship in the area simply invite you to give it a whirl. Begin by getting the course approved by your curriculum committee, then offer the class (and watch the sign-up list soar during registration); use the anthology *Hip Hop & the Law*

138. Fifth Student Response, *supra* note 107, *infra* Appendix A, at 4.

139. Student Participant, 3L student at The John Marshall Law School, *Hip Hop & the American Constitution* course class discussion (Feb. 2018).

for the course and witness for yourself the kind of indescribable connectedness between student, professor, social justice engagement, and innovative and empowering learning that can occur in the law school classroom.

CONCLUSION

Teaching a course in Hip Hop and the Law can be a transformative experience for both law student and law professor alike. Our experience has taught that perhaps the most important takeaways from a course in Hip Hop and the Law is that students are given an opportunity to: (1) openly and freely discuss issues of race and inequality in a law school classroom, which is not often the case in the traditional law school curriculum; and (2) learn about and engage in social justice theory and practice. As described above, the themes of the coursebook and class lend to not only discussing difficult issues of inequality, discrimination, and social injustice, but the readings, classroom discussion, reflection journal assignments, and final paper invite students to propose solutions, either legislative, judicial, or cultural, to the racial and social justice ills that continue to plague the United States.

APPENDIX A

Student Evaluations of Hip Hop & the American Constitution¹⁴⁰

The John Marshall Law School



Spring 2018, JD JD-287HC Hip Hop & the Amer. Const. Section 1
 Instructor: cummings, andré (Primary)

There were: 15 possible respondents.

	Question Text	N	Top Two	Avg	SD	Str Agree	Agree	Neutral	Disagree	Str Disagree
1	I was consistently prepared for each class by doing all assignments. (e.g. reading, briefing cases, summarizing material, doing problems, etc). (cummings)	12	100%	4.8	0.4	83%	17%	0%	0%	0%
2	I took every possible step to improve my knowledge and understanding in this course. (cummings)	12	100%	4.8	0.4	83%	17%	0%	0%	0%
3	I regularly participated in class discussions. (cummings)	12	100%	4.8	0.4	83%	17%	0%	0%	0%
4	I was prepared for my meetings and conferences with my professor and took advantage of the professor's office hours. (cummings)	12	67%	4	0.9	33%	33%	33%	0%	0%
5	The professor posted a syllabus (cummings)	12	100%	4.9	0.3	92%	8%	0%	0%	0%
7	The professor covered the syllabus. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
9	The professor was consistently prepared. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
11	The professor started and ended classes on time. (cummings)	12	92%	4.8	0.6	83%	8%	8%	0%	0%
13	The professor covered the topics outlined in the Course Catalogue. (cummings)	11	100%	4.9	0.3	91%	9%	0%	0%	0%
15	The professor treated the students in a professional manner. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
17	The professor had office hours and was available to meet during these hours. Does not apply to Adjunct Faculty. (cummings)	11	91%	4.5	0.7	64%	27%	9%	0%	0%
19	The materials, including the textbook, used by the professor were helpful. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
21	The professor effectively communicated the course concepts. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
23	The professor rescheduled canceled classes. (Do not answer if no classes were canceled) (cummings)	3	67%	4.3	1.2	67%	0%	33%	0%	0%
25	The professor provided instructional time commensurate with the credit hours awarded. (cummings)	12	100%	4.9	0.3	92%	8%	0%	0%	0%
27	The professor routinely noted current legal developments. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%
29	The professor provided multiple assessments (graded or ungraded) throughout the course so that students could measure their progress (e.g. midterms, quizzes, practice exercises, flowcharts, mind maps, etc.). (cummings)	12	100%	4.8	0.5	75%	25%	0%	0%	0%
31	The Professor was an effective teacher, and I would take another course from this professor. (cummings)	12	100%	5	0	100%	0%	0%	0%	0%

140. Student Evaluations of Hip Hop & the American Constitution at the John Marshall Law School (Spring 2018) (unpublished evaluation report) (on file with author).

Instructor	Text Responses
	Question: Comment Professor posted syllabus
cummings	Great material for the class with a manageable reading a writing schedule.
	Question: Professor covered syllabus
cummings	Even though some classes our discussion would run long and not allow us to cover all the assigned chapters, Professor cummings always made sure to fit them into the next class period.
	Question: Comment Professor prepared
cummings	It was evident that Professor Cummings was passionate and knowledgeable about the topic.
cummings	Professor cummings was always prepared for class. He knew the material very well and let the class apply hip hop and law to real world issues.
	Question: Comment Professor's class was on time
cummings	Professor would often start class right on time, but then would keep us past the time of class ending.
	Question: Comment Professor treated the students in a professional manner
cummings	Even when a student didn't necessarily agree with his point of view, you could tell that when he asked them questions it was genuinely to understand their side and not to criticize them.
cummings	cummings treated us all like our comments were important . Our thoughts and opinions were not taken for granted. And he allowed us time to reflect and opine about today's society
cummings	Professor . . . viewed students as future colleagues and encourage students to use our law degrees to have a positive impact in society.
	Question: Comment Professor available
cummings	Professor cummings regularly gave feedback on our journals and helped students with our research papers.
	Question: Comments Materials and textbook were helpful
cummings	I loved the textbook. All of the chapters we read exposed me to new ideas and ways of analyzing hip hop through a legal lens. I was amazed that there were so many scholars writing about hip hop in an intellectual capacity.
cummings	The class book was amazing and directly relative to the course lectures. Additionally, I learned a lot more than I was expecting to learn in this class about examining the law from the perspective of a Hip Hop generation.
cummings	The textbook was extremely helpful and also interesting. I read it in my free time for fun!!
cummings	The textbook was great! In the future, I would suggest that the professor provides the whole text of the covered excerpted articles [as optional reading], as well as other supplemental material . . .
cummings	The book was wonderful smaller articles that added to a larger theme. Multiple times during the semester we were able to meet or talk to the contributors to ask questions - it was phenomenal.
cummings	The book utilized articles that were well written and related constitutional law to hip hop. The book was the first textbook, I have used in school that allowed me to see how I can make an impact in social justice in America as an attorney.
	Question: Comments Professor communicated effectively
cummings	Not only did Professor Cummings effectively communicate course concepts, but he asked directly relative discussion questions.
	Question: Comments Professor rescheduled classes
cummings	No canceled classes
cummings	No classes were cancelled.
	Question: Comments Professor noted current developments
cummings	During our discussions we constantly talked about the current legal landscape as it applies to hip hop.
cummings	This class was a breath of fresh air. It reminded me why I came to law school. It made me a better writer, student, and potential attorney. Using critical race theory to understand the laws is a is integral and invaluable.
cummings	Professor cummings always related the topics we covered to real applications in America today.
	Question: Comments Professor provided multiple assessments
cummings	I wouldn't call them assessments but we did have journals that we wrote throughout the semester about the topics we were reading about.
cummings	We had to turn in four journal entries throughout the course of the semester and one paragraph about our favorite chapter in the class book. Finally, our last assignment was a final thesis paper.
cummings	The journals that we wrote throughout the year challenged us to think about the topics and give our opinions on it based on our own knowledge.
	Question: Comments Take another class from professor
cummings	Absolutely fantastic experience.
cummings	This class was amazing! Every student could benefit from . . . taking a course such as Hip Hop & the Law.
	Question: Additional comments
cummings	This was the best class that I have taken at John Marshall. Please consider offering it again in the future.
cummings	This was by far one of my favorite classes I have taken at JMLS. I love how Professor Cummings was able to take a genre of music, incorporate the law into it, and then make it into a class. This course should be offered again, and I highly recommend every student take it. Learning should always be fun, and Professor Cummings made the class fun as well as informative.

I definitely think that JMLS should offer this course again. It was so informative and it was inspiring. To be able to read from so many legal scholars who study and hypothesize about hip hop was amazing. What was even more amazing was being exposed to so many legal scholars of color. I feel like this was one of the few classes (if not the only class) where we discussed the ideas and theories of minority legal scholars. I was so affected by it that I started considering writing my own pieces to contribute to the lexicon of knowledge that is out there. I also loved that the atmosphere Professor Cummings created in our class was like a safe space. Everyone was free to share their own opinions and thoughts about the chapters we were reading. Even if an unpopular opinion was shared, that person wasn't silenced or shunned by the class. Instead we would discuss it as a class in a respectful way. In today's political climate this does not happen very often at all. But I'm glad I was able to be a part of a class that functioned this way and made it easy for anyone to feel comfortable speaking their mind. I was also astonished by the sheer number of topics that hip hop connects to. Coming into the class I was expecting to hear about criminal law, IP, and maybe some first amendment issues. But instead, we discussed so much more including family law, corporate law, and even statutes like the telecommunications act. This class broadened my way of thinking like no other class has. I feel like a lot of law school classes are very formulaic and dull, but this was like a breath of fresh air. The subject matter and the professor inspired me to think in new and creative ways which I think will be helpful in all areas of my life. I am so glad I decided to take the class and I hope that other students are given the same opportunity.

Cummings Although Professor Cummings will sadly be departing from JMLS at the end of this semester, it is my hope that this class is retaught by someone else, perhaps Professor Kim Chanbonpin, who came to give us a lecture in one of our class periods about the article she wrote in our class book. I enjoyed this class so much that I would highly recommend it stay part of next year's curriculum.

cummings This was my favorite class that I took in all of my 3 years at JMLS. This course is not only extremely interesting and was the highlight of my week every single week, but it is extremely valuable to students who struggle either fitting into the law school community or with learning complex legal subjects/topics. Learning about different legal topics through the lens of hip hop law was empowering and it enabled me to learn about difficult concepts that I never would have learned about otherwise, such as IP and trademark law. I also learned about the law from a completely different perspective than I had learned about it in other courses throughout my law school career. This course reignited my passion for law and reminded me why I went to law school in the first place. I cannot emphasize enough how important this class is and how much I enjoyed it.

cummings Hip Hop and the American Constitution is an important class that JMLS needs [to keep]. Our legal curriculum should incorporate more critical legal studies courses like it. It was easily one of my favorite electives that I've had. (I also appreciate the physical/roundtable format of the class; it allowed for better discussion.)

cummings This course should be offered again to students. It was my favorite class of law school and I have nothing negative to say about it.

cummings This was the reason I didn't leave law school. A renewed passion for my place in the movement. Everyday is a new day to make a difference. Thank you prof Cummings

cummings Great course! This course provided a lot of insight, knowledge, and perspective into my career objectives as a lawyer. Please continue this course for students in the future.

cummings I have no critiques, only praise. Professor Cummings . . . [] made sure that every student was engaged in class without doing so in a malicious way. He made students want to participate and engage in discussion. He made boring parts of the law interesting through the assigned readings and videos. He brought in amazing speakers and was truly dedicated to his students.

cummings Please bring back . . . [] Hip Hop & the Law!

APPENDIX B

Example of Student Reflection Journal*

INTRODUCTION

In the early 1980's, poet and activist Alice Walker coined the term "womanist." Walker defined a womanist as "[a] black feminist or feminist of color."¹⁴¹ The term had three possible meanings, which one could view separately from another or through an intra-relationship. The first possibility was derived from "womanish" and "usually refer[ed] to [one who employed] outrageous, audacious, courageous or *willful* behavior."¹⁴² The second referred to "[a] woman who loves other women," who: "[a]ppreciates and prefers women's culture, women's emotional flexibility . . . and women's strength"; is "committed to survival and wholeness of entire people"; is "[n]ot a separatist, except periodically for health;" is traditionally universalist; and is traditionally capable.¹⁴³ The third refers to a woman who: "Loves music. Loves dance. Loves the moon. Loves the Spirit. Loves love and food and roundness. Loves struggle. Loves the Folk. Loves herself. *Regardless*."¹⁴⁴ Most importantly, "[w]omanis[m] is to [white-centered] feminis[m] as purple to lavender."¹⁴⁵ In hip hop, there are many female artists who integrate womanist ideologies into their work. Below are some lyrics that illustrate womanist principles through a hip hop lens.

I. WOMANISH HIP HOP¹⁴⁶ [INSPIRATIONS]

Womanist work is *womanish* when it is "talking back to the text, challenging it, questioning it, interrogating it, unafraid of the power and authority of the text, just as girl-growing-into-a-woman talks back to her elders, questioning the world around her in order to learn how to understand

* Hannah Jez Nguyen, Journal Entry #3 (Apr. 13, 2018) (unpublished reflection journal for Hip Hop & the American Constitution at the John Marshall Law School) (on file with author).

141. Alice Walker, *In Search of Our Mothers' Gardens: Prose* (Harcourt, 1983) (hereinafter "Walker, *In Search of Our Mothers' Gardens*").

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. In this section, I do not focus on a hip hop song. Rather, I use two Jamila Woods' songs because she draws from hip-hop [as well as Black folktales, R&B, and soul] in her music.

and navigate it.”¹⁴⁷ In Donnie Trumpet & The Social Experiment’s¹⁴⁸ “Questions,” Jamila Woods¹⁴⁹ sings:

Rain so hot in the neighborhood
 My love don’t call when she said she would
 Friends who come don’t stay for good, no, no, no
 Why?
 Pigs want take black mama’s kids
 Bible say we all from the same rib
 But some of us go to heaven too soon
 Why some of us get to heaven too soon

Jamila sings the song from the perspective of the child, directing the questions to her parents. While a child asking questions may come off as *girlish*¹⁵⁰, the song is *womanish*. Not only does it illustrate how children acquire knowledge from their parents, it illustrates a child “‘acting womanish,’ i.e., like a woman”—she wants to “know more and in greater depth than is considered ‘good’ for one.”¹⁵¹

In “blk girl soldier,” Woods makes more strides in *womanish* interventions; in the first verse, she sings:

We go missing by the hundreds
 Ain’t nobody checkin’ for us
 Ain’t nobody checkin’ for us
 The camera loves us, Oscar doesn’t
 Ain’t nobody checkin for us
 Ain’t nobody checkin for us
 They want us in the kitchen
 Kill our sons with lynchings
 We get loud about it
 Oh, now, we’re the bitches

Here, Woods does not question as to why Black deaths are left unchecked. Rather, she draws attention to the silence. In doing so, critics call her and

147. Wilda C. Gafney, *Womanist Midrash: A Reintroduction to the Women of the Torah and the Throne*, 9 (Westminster John Knox Press, 2017) (hereinafter “Gafney, *Womanist Midrash*”).

148. Donnie Trumpet & The Social Experiment album is composed of: Donnie Trumpet [of hip hop collective SaveMoney]; Chance the Rapper; and producers Peter Cottontale, Greg Landfair Jr., and Nate Fox.

149. Jamila Woods is a Chicago-based poet and vocalist, who sings on many hip hop tracks

150. Walker, *In Search of Our Mothers’ Gardens* (defining womanish in opposition to girlish).

151. *Id.*

other black women “bitches.” But such work is “outrageous, audacious, courageous . . . *willful* behavior”¹⁵²—similar to the work of Rosa Parks, Ella Baker, Audre Lorde, Angela Davis, Sojourner Truth, and Assata Shakur, who Woods references in closing. For listeners, “blk girl soldier” is a “freedom fighter anthem,”¹⁵³ an inherently womanist one.

II. TRADITIONAL UNIVERSALISM AND CAPABILITY IN HIP HOP [AND HIP HOP THAT LOVES *REGARDLESS*]

In “La Diaspora,” featuring Zap Mama, Afro-Puerto Rican Brooklynite Nitty Scott references the womanist principles of traditional universalism and traditional capability in her second verse:

Freed all my people, from here to Montego
Dale morena, like this Puerto Rico
We go, when we make it rain like El Nino
Got that sofrito, that primo, that negro
None of the hitters is fucking with me though
We so cool, we ride off in El Camino
We gon’ be seen, yo, no need no Nat Geo
Got so much juice, they just call me Tampico

In defining traditionally universalism, Walker stated that “the colored race is just like a flower garden, with every color flower represented.”¹⁵⁴ In the song, Nitty Scott is telling dark-haired girls, who are not as socially revered as blondes, to celebrate, to “*Go ahead*, like this [is] Puerto Rico.” She then lists all the elements needed for a celebration: food, family, and blackness. The last element is most important; the verse opens with a reference to self-determination of how slaves freed themselves.¹⁵⁵ And it ends stating that Black people are going to be recognized through their own terms, not through National Geographic, which is known for its racist fetishist, Orientalist [white-]gaze of people of color. Through celebrating Black

152. *Id.*

153. Kara Brown, Chicago’s Jamila Woods Debuts Freedom Fighter Anthem ‘blk girl soldier’, *The Muse* (January 19, 2016, 1:35 PM), <https://themuse.jezebel.com/chicagos-jamila-woods-debuts-freedom-fighter-anthem-blk-1753788266>.

154. Walker, *In Search of Our Mothers’ Gardens*.

155. *Id.* (where Walker defines a womanist as traditionally capable, as in: “‘Mama, I’m walking to Canada and I’m taking you and a bunch of other slaves with me.’ Reply: ‘It wouldn’t be the first time.’”); See also Gafney, *Womanist Midrash*, xvi (analyzing the definition: “A daughter’s plan for a group escape from slavery is not met with surprise but with an unimpressed acceptance by her mother. For Walker, womanism does not simply distinguish women by race; it emphasizes differences in the expectations of those women. Thus, the African American mother does not bat an eyelash when confronted with her audacious plan because the mother expects such bravery and competence”).

Latinxs—Nitty Scott illustrates her appreciation of women of color and blackness, female strength, the commitment to the survival and wholeness of her people, anti-ethnic-and-racial-separatism, traditional universalism, and traditional capability—cementing “La Diaspora” in the womanist canon.

III. HIP HOP THAT LOVES *REGARDLESS*

In Chicagoan noname’s “Diddy Bop,” she opens the verse and bridge with:

This sound like Mississippi sippy cup, daddy turn bibby up Henny
 invented the catalyst for happiness in my cup
 This sound like kiddies on the playground when mama was running
 up
 Ooooooh, you about to get your ass beat
 This sound like niggas complaining when their bitches like Raz-B
 B2K in the stereo, we juke in the back seat
 Or juke in the basement, in love with my KSWISS’s
 This feel like jumping in a pool and I’m knowing I can’t swim
 Ooooooh, you about to get your ass beat
 For stealing that twenty dollars like “baby, just ask me”
 Mama say she love, love, loved us
 When the lights was off we had to stay with cousins
 Granny at the BBQ with petty ass husband
 Summertime, city life, Chi-town, my town, my town
 After school matters like I’m needing that stipend right now
 Kennicott parking lot got caught with the blunt like “wow wow”
 Run, run, run, mama say come home before the streetlights do
 Ice cream on my front porch in my new FUBU and my A1’s too
 Watching my happy block my whole neighborhood hit the diddy bop

The song is a celebration of Chicago and noname’s neighborhood, despite witnessing “ass beat[ings],” the City shutting down her utilities, and not liking some of her relatives. For noname, there is nothing that can make her *not* love “music . . . dance . . . the moon . . . the spirit . . . love and food and roundness . . . struggle . . . the Folk . . . herself.”¹⁵⁶ She “Loves. *Regardless.*”¹⁵⁷ In becoming a carefree Black girl, in a world that demands so much of Black womxn, noname subverts white feminist expectations, as do all the aforementioned songs.

156. *Id.*

157. *Id.*

