

BLACKBOARD JUNGLE:  
DELINQUENCY, PSYCHIATRY, AND THE BIO-POLITICS OF *BROWN*

ANDERS WALKER

ABSTRACT

In 1955, Metro-Goldwyn-Mayer released a controversial film about juvenile delinquency entitled *Blackboard Jungle*. Georgia Governor Ernest Vandiver subsequently used the film as a metaphor for what would happen to southern schools were *Brown* enforced, marking the beginnings of a much larger campaign to articulate southern resistance to integration in popular terms. Taking *Blackboard Jungle* as a starting point, this article recovers the intersection between discourses of delinquency and desegregation at mid-century, showing how civil rights groups and segregationists alike both drew from mass culture and social psychiatry to advance their constitutional agendas. It concludes by showing that even as civil rights activists and white extremists used delinquency discursively, southern moderates channeled concerns over delinquency and desegregation into legal reform.

TABLE OF CONTENTS

Introduction .....	1
I. Wild Ones: Discourses of Delinquency.....	7
II. The NAACP Taps Wertham.....	15
III. The Extremist Response.....	20
IV. The Moderate Response.....	35
Conclusion.....	47

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INTRODUCTION

In 1955, Metro-Goldwyn-Mayer released a controversial film about juvenile delinquency entitled *Blackboard Jungle*.<sup>1</sup> Set in an integrated slum high school, the picture told the story of Jack Didier, a returning World War II veteran assigned the task of transforming a band of unruly, knife-wielding teenagers into model students.<sup>2</sup> Though Didier succeeds with the help of a young Sidney Poitier, Georgia Governor Ernest Vandiver used the movie as a negative symbol of what integrated schools would become in a speech to state legislators in 1960, arguing that if *Brown* were upheld “an environment of switchblade knives, marijuana, stabbings, rapes, violence and blackboard jungles” would emerge across the South.<sup>3</sup> Interested in proving this to be true, future Mississippi Governor and United States Representative John Bell Williams organized a

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<sup>1</sup> *Blackboard Jungle*, Metro-Goldwyn Mayer, 1955.

<sup>2</sup> *Jungle* was the first film to include rock and roll in its soundtrack, JAMES GILBERT, *A CYCLE OF OUTRAGE: AMERICA'S REACTION TO THE JUVENILE DELINQUENT IN THE 1950S* (1986), 183.

<sup>3</sup> *Vandiver Vows to Stop Atlanta 'Surrender' as 2,000 Cheer at Rally*, ATLANTA CONST., Feb. 9, 1960, 11.

formal inquiry into delinquency in desegregated schools in Washington D.C., concluding that integration heightened racial tension and accelerated juvenile crime.<sup>4</sup>

Though historians have documented the moral panic surrounding juvenile delinquency in the 1950s, few have chosen to look at the intersection between discourses of delinquency and desegregation at mid-century.<sup>5</sup> Yet, both discourses drew from a surge in the popularity of clinical psychiatry after World War II, not to mention an explosion of cultural representations of delinquency in music and film.<sup>6</sup> Though such portrayals appeared to have little to do with law, they were consciously manipulated by civil rights activists and segregationists alike. To show how such manipulations played out, this article will proceed in four parts. Part I will recover the moral panic over delinquency in the 1950s, describing how it manifested itself in popular culture and social science. Part II

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<sup>4</sup> "Investigation of Public School Conditions," Report of the Subcommittee to Investigate Public School Standards and Conditions and Juvenile Delinquency in the District of Columbia of the Committee on the District of Columbia, House of Representatives, 84<sup>th</sup> Congress, Second Session, (Washington: United States Government Printing Office, 1957), 45. Call number: H1388.

<sup>5</sup> For representative works on delinquency, see GILBERT, OUTRAGE and GRACE PALLADINO, TEENAGERS: AN AMERICAN HISTORY (1996). See also, GRACE & FRED M. HECHINGER, TEEN-AGE TYRANNY (1963); HARRISON SALISBURY, THE SHOOK-UP GENERATION (1958). Scholars who mention intersections between delinquency and desegregation in passing include PETE DANIEL, LOST REVOLUTIONS: THE SOUTH IN THE 1950s (2000) and ALLISON GRAHAM, FRAMING THE SOUTH: HOLLYWOOD, TELEVISION, AND RACE DURING THE CIVIL RIGHTS STRUGGLE (2001). Perhaps the foremost authority on massive resistance to integration makes no mention of delinquency. See NUMAN V. BARTLEY, THE RISE OF MASSIVE RESISTANCE: RACE AND POLITICS IN THE 1950S SOUTH (1969). Nor does Michael J. Klarman discuss delinquency in his magisterial FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY (2004).

<sup>6</sup> For portrayals of delinquency in film, see *The Wild One*, Columbia Pictures, 1954, *Blackboard Jungle*, Metro-Goldwyn Mayer, 1955, *Rebel Without A Cause*, Warner Brothers, 1956; *Rock, Rock, Rock*, Warner Brothers 1956. For portrayals of juvenile delinquency and crime generally in music, see e.g. Johnny Lydon and the Teenagers, *I'm not a Juvenile Delinquent* (1956); Elvis Presley, *Jailhouse Rock* (1955). See also, MARK THOMAS MCGEE AND R.J. ROBERTSON, THE J.D. FILMS: JUVENILE DELINQUENCY IN THE MOVIES (1982). While psychiatry had existed in Europe since the 1890s, it did not truly gain popularity in the United States until after World War II. See e.g., BART BEATY, FREDRIC WERTHAM AND THE CRITIQUE OF MASS CULTURE (2005), 28.

will discuss the manner in which the NAACP sought to harness popular concerns over delinquency in its campaign against Jim Crow. Part III will show how southern extremists countered the NAACP by using cultural portrayals and scientific studies of delinquency as a modality for combating the moral claims of civil rights groups. Part IV will discuss the legislative impact that the delinquency scare had on the South, focusing on efforts by moderates to expand and improve state services to children.

Out of this study will come two at least two new claims. First, though constitutional scholars have lamented *Brown's* reliance on social science, the NAACP's decision to frame its equal protection claim in terms of child psychiatry makes sense given an explosion of interest in the impact of social conditions on psychological development in the 1950s; an interest pioneered by mass culture critics like Theodor Adorno, Max Horkheimer, and Fredric Wertham.<sup>7</sup> Though Wertham differed from Adorno and Horkheimer in that he was a clinical psychiatrist; he joined them in rejecting Freud's traditional emphasis on individual, family-specific sources of neurosis, arguing instead that popular culture could influence psychological development at a mass level. Convinced that mass culture held the potential to produce racist, even authoritarian personalities, Wertham agreed with Adorno that psychiatry should broaden its traditional emphasis on individual psychoanalysis and begin to study the impact

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<sup>7</sup> Perhaps the best known critique of *Brown's* reasoning is Herbert Wechsler's, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1, 34 (1959). See also JACK M. BALKIN, WHAT *BROWN V. BOARD OF EDUCATION* SHOULD HAVE SAID (2001).

that macro-forces had on groups, something that Wertham called “social psychiatry.”<sup>8</sup>

Wertham’s interest in social psychiatry attracted the attention of civil rights lawyers, not least of them NAACP attorney Jack Greenberg who wanted a “prominent clinical psychiatrist” to bolster the claim that segregation harmed the psychological development of black children.<sup>9</sup> Though the NAACP had already recruited the services of sociologists like Kenneth B. Clark and Gunnar Myrdal, Wertham’s testimony in the Delaware portion of *Brown v. Board of Education* provided medical heft to Thurgood Marshall’s position that segregation harmed black children.<sup>10</sup> However, even Wertham proved unable to change the fact that mass culture in the United States was at best ambivalent about the effects of integration on children, and at worst tended to present integration as negative. This leads to the second claim advanced in this piece, namely that sensationalized portrayals of integrated settings like *Blackboard Jungle* opened the door for southern segregationists to appropriate the discourse of delinquency for their own ends, using it to claim that integration would harm white children.

Justifications for white resistance rooted in harm, this article maintains, are worth recovering for at least three reasons. One, they provided segregationists with a rhetorical bridge to the rest of the country, a means of rearticulating resistance to *Brown* in terms that most Americans could understand, and would continue to understand, for the remainder of the Twentieth Century. Two,

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<sup>8</sup> BEATY, WERTHAM, 45.

<sup>9</sup> RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA’S STRUGGLE FOR EQUALITY* (1977), 440.

<sup>10</sup> JACK GREENBERG, *CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION* (1994), 137.

precisely because fears of delinquency translated nationally, so do they enable us to cast new light on southern thinking regionally. According to prevailing accounts by historians like Numan V. Bartley, Michael J. Klarman, Jane Dailey, and others, white southerners resisted *Brown* out of an adherence to tradition, a commitment to preserving white supremacy, and segregationist interpretations of the Bible.<sup>11</sup>

While all may be true, southern fears of delinquency suggest a more complex story. Rather than a legal system aimed simply at subordinating blacks or tracking scripture, delinquency concerns suggest that Jim Crow was also a medico-legal bulwark aimed at protecting, preserving, and policing whites. Implicit in delinquency discourse, in other words, were the twin notions that white children would both be harmed by integration and, perhaps ironically, freed by it. Fears that black behavior might return white children to a primordial “jungle” coincided closely with national fears that if left to their own devices, teenagers would begin to create their own counter-cultural worlds, worlds in which blacks inhabited a special, imagined place as agents of sexual, moral, and physical liberation.<sup>12</sup>

That whites might have feared the influence African Americans would have on their children recasts resistance to *Brown* in terms not simply of white

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<sup>11</sup> NUMAN V. BARTLEY, *THE RISE OF MASSIVE RESISTANCE: RACE AND POLITICS IN THE 1950S SOUTH* 191 (1969); MICHAEL J. KLARMAN, *FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY* 350 (2004); Jane Dailey makes the argument that segregationists were motivated by theology in Jane Dailey, *Sex, Segregation, and the Sacred after Brown*, 91 *JOURNAL OF AMERICAN HISTORY* 119 (2004); and Jane Dailey, “The Theology of Massive Resistance,” in *MASSIVE RESISTANCE*, Clive Webb, ed. (2005). David L. Chappell disagrees, arguing that the religious faith of white southerners actually undermined their commitment to white supremacy. See DAVID L. CHAPPELL, *A STONE OF HOPE: PROPHETIC RELIGION AND THE DEATH OF JIM CROW* (2004).

<sup>12</sup> See e.g., Norman Mailer, *The White Negro*, *DISSENT* 1957.

supremacy, but of what Michel Foucault has called bio-politics, or “bio-power.”<sup>13</sup> According to Foucault, bio-power describes the manner in which repressive medico-legal measures are invoked not simply to further subordination of minority groups, but also to discipline and protect dominant groups.<sup>14</sup> Rather than simply a “projection of the sovereign’s great power” over blacks, in other words, southern fears about desegregation might have signified a deeper need to protect and ultimately control their own.<sup>15</sup>

Evidence that bio-politics animated at least some of the resistance to *Brown* in the South emerges in myriad places. Extremist turns to statistics of black shortcomings, as we shall see, reinforced the notion that blacks would harm whites. Further, moderate interest in state legislation instituting psychiatric programs, detention centers, and home welfare services, all of which transformed the contours of the southern state, also indicate a bio-political view of Jim Crow. Perhaps no one exemplifies this better than Virginia legislator Kathryn Stone, the focus of Section III, who came face to face with charges of black delinquency in DC schools and responded to them by endorsing a series of far-reaching programs aimed at treating delinquent youth in Virginia.

Though re-casting segregation as a mode of protection rather than repression may seem like an odd move, it helps explain why southern and perhaps even northern whites continued to resist integration long after massive resistance collapsed. In fact, it builds on recent work by historians Kevin M. Kruse,

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<sup>13</sup> MICHEL FOUCAULT, *POWER/KNOWLEDGE: SELECTED INTERVIEWS & OTHER WRITINGS, 1972-1977*, (Colin Gordon, ed., New York: Pantheon, 1980), 142.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* 187.

Matthew Lassiter and Thomas J. Sugrue, all three of whom indicate that whites resisted black encroachments not simply out of an irrational, reflexive commitment to white supremacy, but a desire to preserve property values, promote “quality of education,” and “protect” their quality of life.<sup>16</sup> Fears that white children might be harmed, corrupted, or culturally co-opted by their black counterparts only sharpened this resolve. Though certain extremists certainly did maintain a stated interest in maintaining dominance over blacks, most proponents of segregation, whether *de facto* or *de jure*, articulated resistance in preservationist, bio-political terms.

#### I: WILD ONES, DISCOURSES OF DELINQUENCY AT MID-CENTURY

Concerns over juvenile delinquency and crime did not begin in the 1950s. As early as the 1920s, parents worried about America’s “flaming youth” being corrupted by jazz, liberal attitudes towards sex, and illegal alcohol.<sup>17</sup> While such fears continued into the 1930s, a constellation of forces aligned to elevate concerns over delinquency in the 1950s. First of these was an actual increase in the rate of juvenile crime. To take just one example, the Federal Bureau of Investigation reported that juvenile delinquency rose 55 percent between 1952 and 1957.<sup>18</sup> Though this jump coincided with a spike in births following the War,

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<sup>16</sup> KEVIN M. KRUSE, *WHITE FLIGHT: ATLANTA AND THE MAKING OF MODERN CONSERVATISM* 59 (2005); MATTHEW D. LASSITER, *THE SILENT MAJORITY: SUBURBAN POLITICS AND THE SUNBELT SOUTH* 153 (2006); THOMAS J. SUGRUE, *THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT* (1996).

<sup>17</sup> GILBERT, *OUTRAGE*, 3.

<sup>18</sup> PALLADINO, *TEENAGERS*, 161.

they still caused considerable alarm. However, that alarm probably would not have reached the level that it did were it not for a convergence of other forces.

Perhaps ironically, many of these forces were positive. Post-war jobs, the G.I. Bill and unprecedented prosperity vaulted hundreds of thousands of once-poor families into the middle class. Yet, with middle class status came middle class concerns, in particular the need to keep children in school, prepare them for college, and postpone sex and marriage until sufficient career preparations could be made to prevent a slide back into poverty and the working class.<sup>19</sup> Complicating this need for parental control were other factors, including the rise of television, the increased accessibility of the automobile, and the creation of teenage markets geared towards the production of youth-oriented mass culture.<sup>20</sup> Such markets fueled sales in music, literature and film, launching the careers of teenage celebrities like Chuck Berry, Elvis Presley, Alan Freed, and James Dean; many of whom flaunted traditional mores in order to cash-in on teen rebellion.

Enter the delinquent. Though statistical studies indicate that rates of youth crime rose only moderately in the 1950s, a number easily explainable by the fact that baby boomers were entering adolescence, the surge in popular concern over delinquency coincided closely with mass media portrayals of teen rebellion.<sup>21</sup> To take just a few examples, in 1953 Columbia Pictures released a picture entitled *The Wild One* based on the true story of a motorcycle gang's visit to the small

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<sup>19</sup> Reuel Denney, *American Youth Today: A Bigger Cast, a Wider Screen* 91 DAEDELUS 124 (1962).

<sup>20</sup> See e.g., PALLADINO, TEENAGERS, 10-17.

<sup>21</sup> For example, while the FBI reported that juvenile delinquency rose 55 percent between 1952 and 1957, the majority of reported crimes were vaguely described as incorrigible behavior, disorderly conduct and violation of curfew. PALLADINO, TEENAGERS, 161.

California town of Hollister. Starring a black-jacketed Marlon Brando, the picture depicted outright confrontations between teenage bikers and adults – including menacing shots of gang members roaring through quiet streets on their motorcycles. To explain such behavior, the film offered little more than a disturbing nod to nihilism and ennui. “What are you rebelling against,” asks a teenage girl of Brando at one point in the film. “What’ve you got?” Brando replies.

A wave of delinquency films ensued, matched by concomitant trends in popular literature. In fact, one year after Brando roared across the big screen, Americans read about a band of uncivilized British schoolboys in a popular novel entitled *The Lord of the Flies*.<sup>22</sup> Left alone on a tropical island after a plane crash kills their adult supervisors, the boys attempt to recreate the middle class world of their parents only to find themselves devolving into savages. Clad in the remnants of their school uniforms, they begin worshipping a pig’s head and eventually turn on their leader, Ralph, who they chase across the island and attempt to skewer with a stick pointed at both ends.

Although written by British author William Golding, *The Lord of the Flies* became a bestseller in the United States. Indeed, many read the work not only as fiction but a neo-philosophical exposition of the latent savagery of children. It bolstered already rampant fears of juvenile delinquency in the United States, many of which revolved around the question of the socialization and psychological development of youth. One year after the publication of *Flies*, for example, sociologist Benjamin Fine published a book entitled *1,000,000*

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<sup>22</sup> WILLIAM GOLDING, *LORD OF THE FLIES* (1954).

*Delinquents*, the number that he predicted would emerge in the United States by 1956. That same year, *Time* magazine dedicated a special issue to the problem, provocatively entitling it *Teenagers on the Rampage*.<sup>23</sup> In 1957, *Cosmopolitan* released an entire issue dedicated to adolescence replete with articles like, “Are You Afraid of Your Teenager?”<sup>24</sup>

As interest spiked, Hollywood responded. Drawing from the same discourses of savagery and primitivism that had animated *The Lord of the Flies* and *The Wild One*, MGM released *Blackboard Jungle* in 1955. One year later MGM released *Rock, Rock, Rock*, a rambunctious movie about high school life featuring a tongue-in-cheek performance by a young Frankie Lyman singing “I’m not a Juvenile Delinquent.” That same year, Warner Brothers issued a full-color film about a disenchanting teenager who rejects his middle class parents in favor of his delinquent teenage friends, one of whom shoots another teenager not long after the protagonist accidentally causes the death of a rival in a motorized game of chicken. Named for a 1944 study of juvenile delinquency called *Rebel without a Cause: The Hypnoanalysis of a Criminal Psychopath*, the movie starred Yale Drama graduate James Dean and became an instant hit.<sup>25</sup>

Juvenile responses to media portrayals of delinquent culture like *Rebel* proved troubling to many. In one of the worst examples, a teenager in a high school in Indiana, Pennsylvania copied the shooting portrayed in *Rebel*, resulting

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<sup>23</sup> *Teenagers on the Rampage*, TIME, March 1, 1956.

<sup>24</sup> *Are You Afraid of your Teenager?* COSMOPOLITAN, Vol. 143 (November 1957).

<sup>25</sup> ROBERT M. LINDNER, *REBEL WITHOUT A CAUSE: THE HYPNOANALYSIS OF A CRIMINAL PSYCHOPATH* (1944).

in the death of a classmate in 1956.<sup>26</sup> Though such crimes were rare, it became common for teenagers to act out in movie theaters, cheering delinquents on screen or dancing in the aisles to rock ‘n’ roll soundtracks by artists like Bill Haley and Chuck Berry.<sup>27</sup> The National Congress of Parents and Teachers, the Girl Scouts and the Daughters of the American Revolution all denounced *Blackboard Jungle*. In fact, Clare Booth Luce, America’s ambassador to Italy became so afraid that *Blackboard* might compromise America’s cold war image that she had it withdrawn from the Venice Film Festival in 1956.<sup>28</sup>

As Americans recoiled from cinematic portrayals of wild ones and blackboard jungles, many struggled to understand what was causing children to revolt. In 1953, this led to the creation of a Senate Subcommittee assigned to Investigate Juvenile Delinquency. Led by Tennessee Senator Estes Kefauver, the committee issued a report identifying mass culture, including pornography, as well as drugs to be causes of delinquency. “In New York,” asserted the report, “we were informed by those who chart the course of juvenile misbehavior that after World War II there was a decidedly discernible trend to the use of marihuana. This was followed by progression to the use of heroin but in the last 3 or 4 years, sexual excesses and perversion have moved to the fore as the complex evil with which the authorities must cope. Lamentably there are all too many sex

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<sup>26</sup> GILBERT, *OUTRAGE*, 188.

<sup>27</sup> For a description of *Blackboard Jungle* and its impact on audiences around the country, see GILBERT, *OUTRAGE*, 183-9 and PALLADINO, *TEENAGERS*, 126-7, 160.

<sup>28</sup> These reactions are all documented by James Gilbert in *CYCLE OF OUTRAGE*, 185.

orgies involving teen-agers and this trend to perversion coincides definitely with the tremendous output of pornography.”<sup>29</sup>

Sex orgies, and sexual deviance in general, became a focal point of the committee’s hearings in 1956. Of particular interest were the paths down which children could be led to delinquency. “Doctor, could you tell us, is there a growing tendency today toward sex deviations?” asked Kefauver, directing his question to Dr. George W. Henry, professor of clinical psychiatry at Cornell University. “That is my impression,” responded Henry. “From your experience can you tell us what age group is most susceptible to deviation?” continued the Tennessee Senator. “Adolescence,” responded Dr. Henry.<sup>30</sup> “Are people born with such perversion bred in them,” asked Kefauver, “or must they be taught and educated along this line?”<sup>31</sup> “I could scarcely imagine that anyone was born with these tendencies,” replied the Cornell psychiatrist, “There may be certain potentialities that can be trained, but I don’t believe anybody would arrive at these various deviations unless they had some training.”<sup>32</sup>

The Committee’s interest in training, and in particular the idea that children could be trained into deviance, reflected a larger belief in the fragile psychology of children at the time, and in particular the idea that children could be profoundly influenced by their surroundings. As Dr. Benjamin Karpman, chief psychotherapist at St. Elizabeths Hospital in Washington, D.C. told the

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<sup>29</sup> “Obscene and Pornographic Literature and Juvenile Delinquency,” Interim Report of the Committee on the Judiciary made by its Subcommittee to Investigate Juvenile Delinquency, June 28, 1956, (Washington DC, U.S. Government Printing Office, 1956), p. 8.

<sup>30</sup> Id. , p. 9.

<sup>31</sup> Id.

<sup>32</sup> Id.

subcommittee, “you can take a perfectly healthy boy or girl and by exposing them to abnormalities you can virtually crystallize and settle their habits for the rest of their lives. If they are not exposed to that they may develop to perfectly healthy, normal citizens.”<sup>33</sup>

Developmental psychology coincided nicely with the concerns of middle class parents. In fact, medical authorities taught parents to be on the alert not only for adult subjects like pornography but other media that might taint children. Among these were television programs, children’s movies, and, perhaps most significant, comic books. One social scientist in particular, a psychiatrist named Fredric Wertham, transformed concerns over comics into nothing less than a national scandal.

A German émigré, Wertham possessed a profound mistrust of the effects that mass culture had on everyday people. Although he had left Germany long before the rise of the Nazis, Wertham joined other German émigrés like Theodor Adorno and Max Horkheimer in a shared alarm at the way in which National Socialists employed mass culture to indoctrinate average German people. The Nazis’ decision to use graphic art, the media, and public drama to bring Germans to a frenzy of genocidal nationalism led the scientists to be suspicious of the effects of mass culture on Americans as well.<sup>34</sup> Consequently, as fears of juvenile delinquency began to surge in the 1950s, Wertham focused his attention on a genre of illustrated serial known as the crime comic. Crime comics, with titles

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<sup>33</sup> Id. , p. 12.

<sup>34</sup> For a classic example of Max Horkheimer and Theodore Adorno’s critique of mass culture see their essay *The Culture Industry: Enlightenment as Mass Deception*, reprinted in *MEDIA AND CULTURAL STUDIES: KEYWORKS*, Meenakshi Gigi Durham and Douglas M. Kellner, eds., (2001), 71-101.

like *Tales from the Crypt*, *Reform School Girl* and *Crime Detective* presented children with sexually charged accounts of murder, rape and torture. In 1954, they constituted a major portion of a 60,000,000 comic book per month market. leading Wertham to publish a book on the subject entitled *Seduction of the Innocent*. “Even more than crime,” wrote Wertham, “juvenile delinquency reflects the social values current in a society. Both adults and children absorb these social values in their daily lives, at home, in school, at work, and also in all the communications imparted as entertainment, instruction or propaganda through the mass media, from the printed word to television.”<sup>35</sup>

In part due to its emphasis on mass conditioning, *The Seduction of the Innocent* received widespread acclaim and transformed Wertham into a popular authority not only on comic books, but the social psychiatry of children in general.<sup>36</sup> For a nation seized by concern over errant youth, Wertham gave structure to popular fears by rooting delinquency not in nebulous forces, but distinct, controllable causes. As he summarized in *Seduction*, “You cannot understand or remedy a social phenomenon like delinquency by redefining it simply as an individual emotional disorder. It is on the basis of such an approach, however, that important mass influences on the child’s mind have for years been completely overlooked.”<sup>37</sup>

Because of his interest in the effect that “mass influences” had on children’s minds, Wertham attracted the attention of civil rights advocates.

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<sup>35</sup> FREDERIC WERTHAM, *THE SEDUCTION OF THE INNOCENT*, (1954), 149.

<sup>36</sup> For a description of the popularity and influence of Wertham’s work, see James GILBERT, *OUTRAGE*, 103-4.

<sup>37</sup> WERTHAM, *SEDUCTION*, 156-7.

Indeed, as the next section will show, Wertham's work garnered him an invitation from NAACP lawyer Jack Greenberg who hoped that he might be able to testify in the Delaware portion of *Brown v. Board of Education*. The legal system known as Jim Crow, believed Greenberg, had negative mass psychological effects.

## II: THE NAACP TAPS WERTHAM

The importance of mass influences on the minds of children, a core component of Frederic Wertham's social psychiatry, was of interest not only to parents worried about the effects that comic books had on children, but African Americans fighting segregation. In 1896, the Supreme Court had ruled that segregation, as long as it was equal, did not injure either blacks or whites.<sup>38</sup> As early as the 1930s, scientific evidence began to suggest that this was in fact not the case.<sup>39</sup> By the 1950s, this evidence was beginning to gain increasing credibility in the field of clinical psychiatry, partly due to Wertham's own work in New York. Thanks to the support of black writers Richard Wright and Ralph Ellison, Wertham opened a psychiatric clinic in Harlem designed to provide free psychiatric services to African Americans in 1946.<sup>40</sup>

Called the Lafargue Clinic after Paul Lafargue, a black, Cuban-born physician who married Karl Marx's daughter, Wertham joined fourteen other

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<sup>38</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>39</sup> See DARYL SCOTT, *CONTEMPT AND PITY: SOCIAL POLICY AND THE IMAGE OF THE DAMAGED BLACK PSYCHE 1880-1996* (1997), 57-8.

<sup>40</sup> BEATY, WERTHAM, 89.

volunteer psychiatrists as well as twelve social workers in the basement of St. Philips Parish House on West 133<sup>rd</sup> Street.<sup>41</sup> They charged twenty-five cents per consultation, but only for those patients who could pay. For those who could not, it was free.<sup>42</sup> In 1951, NAACP lawyer Jack Greenberg contacted Wertham to see if he might bring black school children from Delaware to be examined at the clinic. Greenberg's request derived from a larger theory developed by Thurgood Marshall that the best way to attack segregation was to argue that it caused psychological harm to black children. "I told the staff that we had to try this case just like any other one in which you would try to prove damages to your client," explained Marshall, "[i]f your car ran over my client, you'd have to pay up, and my function as an attorney would be to put experts on the stand to testify to how much damages was done. We needed exactly that kind of evidence in the school cases."<sup>43</sup>

To support the theory that segregation damaged black youth, the NAACP not only sent black children to be examined in New York, but invited Wertham down to serve as an expert witness in Delaware. Wertham testified in *Belton v. Gebhart*, the Delaware portion of the series of cases that would eventually be consolidated into *Brown v. Board of Education*.<sup>44</sup> In his testimony, Wertham contended that although "the physical differences" between black and white schools in Delaware was "not at all really material" it was nevertheless true that

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<sup>41</sup> BEATY, WERTHAM, 17, 89.

<sup>42</sup> *Id.*

<sup>43</sup> Richard Kluger interview with Thurgood Marshall, reprinted in SIMPLE JUSTICE, 316.

<sup>44</sup> *Belton v. Gebhart*, 87 A2d 862, *Brown v. Board of Education*, *Topeka*, 347 U.S. 483.

“segregation in general” was “anti-educational.”<sup>45</sup> By this he meant that “most of the children” that he examined “interpret segregation in one way and only one way – and that is they interpret it as punishment.”<sup>46</sup> Whether the state of Delaware wanted to punish black children or not, continued Wertham, had “nothing to do with it.”<sup>47</sup> What he was interested in was “what is in the minds of children.”<sup>48</sup>

Though Wertham’s testimony stemmed from examinations that he had conducted on black children at Lafargue, he incorporated his critique of mass culture and comic books into his testimony. Legal segregation, argued Wertham, acted like comic books in the sense that it was an exterior factor that influenced the minds of children on a mass level. Further, many comics, continued Wertham, actually included racist themes, a claim he supported by submitting several crime comics depicting blacks as savages into evidence.<sup>49</sup>

Though Jack Greenberg later recalled that Wertham “captivated” the courtroom, his testimony became overshadowed by that of Columbia sociologist Kenneth B. Clark.<sup>50</sup> Clark, along with his wife Mamie, gained notoriety by employing colored dolls to also gauge the effects of racism on black children. Specifically, Clark presented black children with different colored dolls and ask them which was more attractive. Frequently, black children would select the

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<sup>45</sup> Frederic Wertham, testimony, *Belton v. Gebhart*, 32 Del. Ch. 343, trial transcript.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> For more on Wertham’s work at Lafargue see Gilbert, *CYCLE OF OUTRAGE: AMERICA’S RESPONSE TO THE JUVENILE DELINQUENT IN THE 1950S*, 95-97; and Kluger, *SIMPLE JUSTICE*, 442.

<sup>50</sup> GREENBERG, *CRUSADERS*, 137.

white doll, indicating that even though they were black, they had been socialized to think that white was aesthetically superior.<sup>51</sup>

Rather than dismiss the sociological evidence presented by the NAACP, the Supreme Court of the United States relied on it in *Brown*.<sup>52</sup> “Segregation of white and colored children in public schools,” asserted Chief Justice Earl Warren, two years after Wertham testified in Delaware, “has a detrimental effect upon the colored children.”<sup>53</sup> This effect was “greater,” argued Wertham, when it had “the sanction of the law” because such sanction tended to denote “the inferiority of the Negro group” and therefore had a tendency to “retard the educational and mental

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<sup>51</sup> It is important to note here that this constituted, in certain ways, a return of the social sciences into the realm of politics. During the interwar years, as Daryl Scott observes, many social scientists retreated from progressive era notions that academic work should be directly linked to political action. See SCOTT, CONTEMPT, 57-8. This retreat coincided with the Depression and the concomitant class-based politics of the New Deal. For a brief moment that was uncharacteristic of its laissez-faire, pro-corporate traditions, in other words, America substituted Marx for Freud and looked critically at the nation’s economic apparatus. Jonathan Holloway shows how this coincided with the rise of three social scientists who did not retreat from politics, Ralph Bunche, E. Franklin Frazier and Abram Harris, all of whom emphasized the centrality of class to understanding society. See JONATHAN HOLLOWAY, CONFRONTING THE VEIL: ABRAM HARRIS, JR., E. FRANKLIN FRAZIER, AND RALPH BUNCHE, 1919-1941 (2002). Perhaps not surprisingly, the work of these social scientists, in particular Frazier, was misappropriated and distorted in the post-War, Civil Rights Era, as America, in a Cold War frenzy, abandoned Marx and returned to Freud. The fact that the NAACP participated in this trend by turning to child psychology reveals the extent to which it understood Cold War politics and sought consistently to remain politically viable by framing its own agendas in the larger political, discursive context of the time. Penny Von Eschen discusses this shift in NAACP strategies directly in RACE AGAINST EMPIRE: BLACK AMERICANS AND ANTICOLONIALISM, 1937-1957 (1997), 109-10.

<sup>52</sup> Daryl Scott provides an excellent discussion of just how unconvincing much of the social science evidence presented in *Brown* really was. See SCOTT, CONTEMPT, 121-130. Given the indeterminacy of the evidence, Scott goes on to argue convincingly that the Court’s turn to social psychology constituted a shrewd political move made by a consummately political court. It sought to walk a tightrope between growing national and international calls to end Jim Crow, while at the same time seeking to minimize white resistance in the South. By introducing the psychological development of black children into the Court’s rationale, in other words, Chief Justice and former Governor of California Earl Warren sought both to invoke sympathy for black children as well as to avoid blasting southern whites. Under *Brown*, white southerners were not morally wrong to support segregation, they were simply scientifically incorrect. Daryl Scott makes a convincing case for the argument that Warren relied on theories of psychological damage at least in part to reduce resistance by southern whites in CONTEMPT, 133.

<sup>53</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954).

development of Negro children.”<sup>54</sup> “Whatever may have been the extent of psychological knowledge of the time of *Plessy v. Ferguson*,” continued Warren, “this finding is amply supported by modern authority.” To support its assertion, the Court cited a string of sociological studies, gathering them in footnote eleven of its ruling.<sup>55</sup>

Footnote eleven proved critical to *Brown*'s holding. This was because the NAACP had chosen to argue that the disparate impact of segregation on white and black children violated their right to equal protection under the law, as set forth in the Fourteenth Amendment. Without some kind of evidence that this was true, the NAACP's constitutional claim might have collapsed. And, although the NAACP could have argued that school facilities were unequal, they chose not to out of fear that the South would simply funnel money into improving black schools, preserving segregation in the process. By turning to psychiatric testimony like Wertham's, the NAACP could argue that segregation harmed black children regardless of whether their facilities were inferior or not.

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<sup>54</sup> Id.

<sup>55</sup> The footnote specifically cited “Kenneth B. Clark, *Effects of Prejudice and Discrimination on Personality Development* (Midcentury White House Conference on Children and Youth, 1950); HELEN LELAND WITMER AND RUTH KOTINSKY, PERSONALITY IN THE MAKING, THE FACT-FINDING REPORT OF THE MIDCENTURY WHITE HOUSE CONFERENCE ON YOUTH AND CHILDREN (1952), 135-58; Max Deutscher and Isidor Chein, *The Psychological Effects of Enforced Segregation: A Survey of Social Science Opinion*, JOURNAL OF PSYCHOLOGY, XXVI (October 1948), 259-87; Isidor Chein, *What Are the Psychological Effects of Segregation Under Conditions of Equal Facilities?* INTERNATIONAL JOURNAL OF OPINION AND ATTITUDE RESEARCH, III (1949), 229-34; Theodore Brameld, “Educational Costs,” in DISCRIMINATION AND NATIONAL WELFARE (1949), ed. Robert M. MacIver, 44-48; E. FRANKLIN FRAZIER, THE NEGRO IN THE UNITED STATES (1949), 647-781s. And see generally GUNNAR MYRDAL, AN AMERICAN DILEMMA (1944).” The Court did not cite Frederic Wertham, perhaps because it did not want to confuse the debate over segregation with larger debates over mass culture at the time. Wertham's larger work, because it focused so extensively on comic books, may have threatened to introduce issues of censorship and the First Amendment into what was otherwise a decision on race. If segregation harmed black children and therefore should be abolished, for example, then why shouldn't comic books, which did the same thing, be banned?

### III: THE EXTREMIST RESPONSE

Upon reading Earl Warren's reference to social science in footnote eleven, many white southerners balked.<sup>56</sup> "I submit that white children also have rights," proclaimed Mississippi Senator James O. Eastland only weeks after *Brown* was handed down.<sup>57</sup> "[T]ensions and frictions generally found in an interracial school," continued Eastland, "certainly will have a bad effect on a white child, and in my judgment will interfere with the white child's ability to learn."<sup>58</sup> South Carolina journalist William D. Workman echoed Eastland's concerns in a book that earned him region-wide acclaim. "[T]he integrationists, who cry for racial admixture in the cause of bolstering the personality development of a Negro minority," complained Workman, "do not hesitate to compel the mingling of a white minority with a black majority without any consideration of the inevitable psychological impact upon the personalities of the *white* children. Indeed, there has been monumental indifference on the part of the race-mixers concerning the likelihood of adverse psychological effects upon *white* children."<sup>59</sup>

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<sup>56</sup> Daryl Scott suggests that southern whites were, to some extent, right in believing that the social science evidence in *Brown* was politically motivated. He shows, for example, how many of the social psychologists enlisted by the NAACP, and indeed much of the field at the time, were driven by left-wing politics. "If the case had to be based on the social science literature alone," observes Scott, "the shortcomings would probably have forced the NAACP to reject the intangible strategy. Yet social science existed not simply as a body of literature but also as a socially identifiable community whose members were part of the larger political culture. Much to the good fortune of the integrationists and to the detriment of the segregationists, postwar social science was virtually a one-party state in favor of the racial liberals' goal of desegregation." Scott, CONTEMPT AND PRITY, 125.

<sup>57</sup> James O. Eastland, CONGRESSIONAL RECORD – SENATE, July 23, 1954, 11523.

<sup>58</sup> Id.

<sup>59</sup> William D. Workman, THE CASE FOR THE SOUTH (1960), 241.

Southern leaders became particularly enraged at the Court's use of developmental psychology in overturning a legal system of social organization that had been in place for half a century.<sup>60</sup> Georgia Attorney General Eugene Cook, speaking at a segregationist rally of 8,000 people in New Orleans in 1956, lamented the fact that, in his view, "the justices based their decision not upon any premise or tenet of law, but solely upon sociological and psychological theories."<sup>61</sup> South Carolina Senator Olin D. Johnston reiterated this sentiment. "When I became a United States Senator," declared Johnston, "I took an oath to support and defend the Constitution of the United States" but this did not include supporting "sociological pronouncements of a Supreme Court" that replaced law with arbitrary "judicial dictatorship."<sup>62</sup>

Outrage at the Court's reliance on social psychiatry joined with other contentions, among them the idea that the Court had overstepped its bounds and transgressed states' rights. The end result of this anger was nothing less than a region-wide political backlash that culminated in a political program of massive

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<sup>60</sup> Even northern sources commented on the Court's reliance on social psychology. "Relying more on the social scientists than on legal precedents – a procedure often in controversy in the past," noted *The New York Times*, "the court insisted on equality of the mind and heart rather than on equal school facilities." "The court's opinion read more like an expert paper on sociology than a Supreme Court opinion," continued the *Times*, "it sustained the argument of experts in education, sociology, psychology, psychiatry and anthropology." James Reston, "A Sociological Decision: Court Founded Its Segregation Ruling on Hearts and Minds Rather Than Laws," *The New York Times*, May 18, 1954, p. 14-L.

<sup>61</sup> "53 NAACP Heads Reds, Says Cook: Georgia Attorney General Talks at N.O. Rally," *Times-Picayune* (New Orleans), March 21, 1956, p. 3.

<sup>62</sup> "Centralization Hit by SC Solons: Lawmakers Issue Warnings In Both Senate, House," *The State* (Columbia, SC), March 2, 1956, p. 1. Even moderate Florida protested. According to the Florida legislature, the Supreme Court had "cited as authority for the assumed and asserted facts the unsworn writings of men, one of whom was the hireling of an active participant in the litigation. Others were affiliated with organizations declared by the attorney general of the United States to be subversive, and one of whom, in the same writing which the court cited as authority for its decision stated that the Constitution of the United States is 'impractical and unsuited to modern conditions.'" *The Laws of Florida*, 1956.

resistance.<sup>63</sup> Coined by Virginia Senator Harry Flood Byrd, massive resistance referred to a policy of total defiance of the Court. Its center-piece was interposition, a theory devised by Virginian James Jackson Kilpatrick that declared *Brown* invalid on constitutional grounds.<sup>64</sup>

While outrage at the Court's reliance on social science contributed to massive resistance, it also triggered a more discursive move aimed at articulating why, precisely, southerners opposed integration. This move, pioneered by moderates and conservatives alike, borrowed from the NAACP's own strategies in *Brown* and attempted to reach white Americans outside the South. "Our only hope at present," announced Emory Rogers, one of the attorneys who had represented South Carolina in *Brown*, "lies not in the carrying on of the battle in the courts" but rather in taking "the battle to the people and using the same psychological and sociological warfare that has been so successfully carried on against us, i.e., the principles of mass psychology expressed through organized public opinion."<sup>65</sup>

Undergirding Rogers's call for mass psychology was a presumption that if white people around the country only knew the truth about racial disparities, then they would join the South in resisting integration. "We have to go into the north," asserted Mississippi Senator Jim Eastland, "and carry the fight into every section of the United States. What divides the two areas of our country is that in each

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<sup>63</sup> For a detailed account of massive resistance read Numen V. Bartley's now classic *THE RISE OF MASSIVE RESISTANCE: RACE AND POLITICS IN THE SOUTH DURING THE 1950'S* (Baton Rouge: LSU Press, 1997). See also Francis Wilhoit, *THE POLITICS OF MASSIVE RESISTANCE* (New York: George Braziller, 1973).

<sup>64</sup> See e.g., KLARMAN, *JIM CROW*.

<sup>65</sup> Statement by S. Emory Rogers, reprinted in *Charleston News & Courier*, August 23, 1955.

area the people think that those in the other area do not think as they do, when in reality we all think alike.”<sup>66</sup> Others agreed. “For long enough now the South has been on the receiving end of unwarranted, uncharitable and basically a uniformed barrage of political, economic, social and educational propaganda,” wrote William D. Workman in 1955, “The time is at hand for a counter-attack.”<sup>67</sup>

A growing, and indeed prescient belief that whites outside the South shared no deep sympathy for civil rights and could therefore be recruited to the Southern cause, inspired action. Indeed, rather than wait for other strategies of massive resistance to play themselves out, segregationists began rearticulating the basis for their racism immediately, bolstering it not with vitriolic rhetoric but rational resuscitations of statistics and direct references to juvenile delinquency.<sup>68</sup> One of the most skillful proponents of this approach was United States Representative from Mississippi, John Bell Williams.

Born in Hinds County, Mississippi, Williams entered five articles from the *Jackson Daily News* into the *Congressional Record* in January 1956. Each article described a different horror story stemming from racial conflicts in Washington DC, all under the heading “The Sordid Picture of Integration in the Nation’s Capital.”<sup>69</sup> Williams’s focus on DC stemmed from the fact that the District of Columbia had begun to desegregate in 1954, long before any southern state. President Eisenhower, somewhat optimistically, had claimed that DC would be a

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<sup>66</sup> James O. Eastland, *Congressional Record – Senate*, July 23, 1954, 11523.

<sup>67</sup> “South Carolina Editor Calls for ‘Counter-Attack,’” *The Palmetto Leader*, July 30, 1955, 3.

<sup>68</sup> Numen V. Bartley although he does not discuss this discourse per se, does recognize in his chapter entitled “Propaganda” that massive resistance possessed an ideological component. See *The Rise of Massive Resistance: Race and Politics in the South During the 1950’s* (Baton Rouge, LSU Press, 1997), 170-189.

<sup>69</sup> *Congressional Record*, January 19, 1956, A568.

model for integration across the country, an assertion that invited scrutiny from southern whites, particularly those interested in conveying to the rest of America the social implications of sending white children to black schools. “The records show that around 75 percent of Washington crime is committed by Negroes,” asserted one of the pieces submitted by Williams, “Negroes commit about 5 murders to every 1 for the whites. Rape cases of record show Negroes leading at the rate of about 7 to 1. This does not include the unreported rape cases which white victims – mostly school students – decided to remain quiet rather than subject themselves to the public disgrace they would have to bear through no fault of their own.”<sup>70</sup> Two months later, Williams went into more depth, openly blasting the Court for not acknowledging racial difference. “Those who are farthest removed from the segregation problem,” asserted Williams in a speech entitled “Where is the Reign of Terror?” “are the first to come forward with solutions to it, none of which suggest that those who must live with the problem should be consulted . . . The time has come for the light of truth to penetrate the iron curtain that has been thrown around the facts regarding racial differences and distinctions.”<sup>71</sup>

Such facts, continued Williams, had been obfuscated by the northern press, intent on excoriating the South for wrong-doing, yet could be found in the official records of the United States Department of Justice and in particular the Annual Report of the Federal Bureau of Prisons. According to these publications, Williams asserted, “Negroes comprise 10 percent of the total population of the

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<sup>70</sup> “The Sordid Picture of Integration in the Nation’s Capital, Part I, *Congressional Record*, January 19, 1956, A568.

<sup>71</sup> “Where is the Reign of Terror?” *Congressional Record*, March 27, 1956, 5690.

United States. Yet, as the above table shows, Negroes committed more than half the homicides, both murder and manslaughter, in our country in 1950. This 10 percent of our population is also responsible as this table shows, for a disproportionate share of crimes committed.”<sup>72</sup>

Black crime rates, which *were* higher than white crime rates, served Williams well. They gave him something concrete to hang a rationale for resistance on, not to mention a statistical spear on which to skewer the Supreme Court. “[I]n spite of the Supreme Court’s high-phrased sociological findings,” argued Williams, “the fact remains that there exist ethnic differences between the Caucasian and the Negro race which cannot be changed by the hand of man.”<sup>73</sup> Implicit in Williams’s remarks lurked a sleight of hand. By citing statistics, he sought to bolster the South’s position with the rational discourse of social science. He sought, in essence, to prove that white southerners adhered to the policies that they did because of scientifically supportable differences in black behavior. This move, which reframed southern racism in terms of rational choice rather than irrational prejudice, carefully avoided exploring the possibility that black crime and illegitimacy rates may have been symptomatic of factors other than race. That they were more linked to institutional racism, structural inequality, or economic class, rather than genetics, was not something that Williams mentioned.

To further impress upon America the dangers that integration might have on white children, Williams initiated a study of integrated schools in Washington DC. This study, sponsored by the House Subcommittee to Investigate Public

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<sup>72</sup> Id.

<sup>73</sup> John Bell Williams, *Congressional Record – House*, July 5, 1956, 11899.

School Standards and Conditions and Juvenile Delinquency in DC, was authored by Williams and three other white southern congressmen: Joel T. Broyhill of Virginia, Woodrow Jones of North Carolina, and James C. Davis of Georgia. Two other congressmen, DeWitt Hyde from Maryland and A.L. Miller of Nebraska, also belonged to the committee, but refused to sign the report.

The subcommittee's report documented rampant delinquency among black students, some of it violent and most of it sexual. "Discipline problems and delinquency resulting from the integration of the schools have been appalling," asserted the report.<sup>74</sup> "Prior to the integration of the schools in the District of Columbia there were very few unusual disciplinary problems in either of the school systems," continued the subcommittee, "[s]ince the integration of the schools there have been very few unusual disciplinary problems in the predominately segregated schools. Disciplinary problems in the predominately integrated schools," by contrast, "have been described as appalling, demoralizing, intolerable, and disgraceful."<sup>75</sup>

Among the problems cited in the report were "fighting, lying, stealing, vandalism, obscene writing, vulgar talking, absenteeism, tardiness, and truancy," as well as more serious offenses.<sup>76</sup> Of particular concern were offenses revolving around sex. "[S]ex problems in the predominately integrated schools have become a matter of vital concern to the parents," announced the report, suddenly

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<sup>74</sup> "Investigation of Public School Conditions," Report of the Subcommittee to Investigate Public School Standards and Conditions and Juvenile Delinquency in the District of Columbia of the Committee on the District of Columbia, House of Representatives, 84<sup>th</sup> Congress, Second Session, (Washington: United States Government Printing Office, 1957), 45. Call number: H1388.

<sup>75</sup> Id. 24.

<sup>76</sup> Id.

turning to statistics, “[o]ne out of every four Negro children born in the District of Columbia is illegitimate. The number of cases of venereal disease among Negroes of school age has been found to be astounding and tragic. The Negro has demonstrated a sex attitude from the primary to high school grades that has greatly alarmed white parents and is a contributing cause of the exodus of the white residents of the District of Columbia.”<sup>77</sup> “The evidence, taken as a whole,” continued the report, now citing statistics on black arrest records, test scores, venereal disease rates, etc, “points to a definite impairment of educational opportunities for members of both white and Negro races as a result of integration, with little prospect for remedy in the future. Therefore, we recommend that racially separate public schools be reestablished for the education of white and Negro pupils in the District of Columbia, and that such schools be maintained on a completely separate and equal basis.”<sup>78</sup>

DeWitt Hyde and A.L. Miller, both of whom refused to sign the final report, disagreed. “Since we have not signed the majority report submitted by the staff of the subcommittee,” noted the two non-southerners in an addendum, “we desire to offer the following observations.”<sup>79</sup> “We have carefully read the hearings, report, and the recommendations made by the staff and the subcommittee,” they asserted, and yet “[w]e have a feeling that a more objective approach would uncover some good things in the educational and social life of the District schools.”<sup>80</sup> Although acknowledging that the statistics cited in the report

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<sup>77</sup> Id., 45.

<sup>78</sup> Id. at 47.

<sup>79</sup> Id. at 48.

<sup>80</sup> Id.

were true, both representatives questioned the underlying motivations of their southern counterparts. “The report seems to blame all of the educational deficiencies in our school system entirely on the efforts toward integration,” they lamented, “We cannot believe that everything that is wrong with the educational system can be blamed on integration.” Further, “[I]n a close reading of the hearings, we must come to the conclusion that the technical staff presented leading questions to a selected group of witnesses. While we do not doubt the honesty or sincerity of the witnesses who testified, the testimony does not appear to be well-balanced, or objective, since persons with views not in accord with those of the counsel were not given full and fair opportunity to testify.”<sup>81</sup>

Despite the caveat provided by Hyde and Miller, the 1957 report on integrated schools in DC represented one of the most sophisticated attempts to rearticulate the South’s position on integration yet devised. John Bell Williams, the instigator of the study, effectively linked the South’s fight against integration with concerns over health and morals that could be understood by white parents nationwide. One of these concerns was that white children would be harmed if enrolled in school with blacks. Another was that contact with black children would weaken the moral resolve of white youth, convincing them to become sexually active, even pregnant, at a younger age.

Insinuations that black culture might seduce white teenagers found reinforcement in, of all things, popular culture. The same year that Williams’s study was released, New York writer Jack Kerouac published a popular novel about disaffected white youth, passages of which presented a stylized, romantic

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<sup>81</sup> Id.

portrayal of black culture as an exhilarating counterpoint to dull, confining white society. “At lilac evening I walked with every muscle aching among the lights of the 27<sup>th</sup> and Welton in the Denver colored section,” wrote Kerouac in his 1957 classic *On The Road*, “wishing I were a Negro, feeling that the best the white world had offered was not enough ecstasy for me, not enough life, joy, kicks, darkness, music, not enough night.”<sup>82</sup> Although few white teens expressed a desire for contrived notions of black essentialism as eloquently as Kerouac, *On The Road* nevertheless reflected a larger sentiment that black culture represented a liberating, if dangerous, alternative to white norms.

Further evidence of this emerged in popular music. The same year that Williams released his delinquency study, a young white musician from Tupelo, Mississippi named Elvis Presley released a song entitled “Jailhouse Rock,” that referenced known criminals, alluded to homosexual prison sex, and drew heavily from black rhythm and blues stylings.<sup>83</sup> Only six months before, Presley appeared on a black radio program with B.B. King, Ray Charles, and others, openly acknowledging his debt to black music.<sup>84</sup> White critics saw what they believed to be evidence of both delinquency and racial decline.<sup>85</sup> Alabama segregationist Asa E. Carter publicly derided Presley for his “degenerate, animalistic beats and rhythms.”<sup>86</sup> New York *Journal-American* reporter Jack

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<sup>82</sup> JACK KEROUAC, *ON THE ROAD* (New York: Viking, 1957).

<sup>83</sup> PETER GURALNICK, *LAST TRAIN TO MEMPHIS: THE RISE OF ELVIS PRESLEY* 408 (1994).

<sup>84</sup> GURALNICK, *TRAIN*, 337-8.

<sup>85</sup> For more on white reactions to Elvis personally and rock ‘n’ roll generally, see MICHAEL T. BERTRAND, *RACE, ROCK AND ELVIS* 114-15, 186-88 (2000).

<sup>86</sup> As cited in PETE DANIEL, *LOST REVOLUTIONS: THE SOUTH IN THE 1950S* (2000).

O'Brian agreed, noting that Presley's sound reflected "a terrible twist on darkest Africa's fertility tom-tom displays."<sup>87</sup>

Fears that black music, and to some extent black culture generally promised to both seduce and damage white youth were captured eloquently by Norman Mailer in 1956. "[I]t is no accident that the source of Hip is the Negro," wrote Mailer in an essay on the attractive yet dangerous qualities of black culture for white youth. "For Hip is the sophistication of the wise primitive in a giant jungle."<sup>88</sup> In fact, for Mailer, white teenagers who embraced counter-culture and delinquency were not only wise primitives, they were "white Negroes."<sup>89</sup>

Undergirding Mailer's notion of white Negroes lurked a latent racism that southern segregationists would, over the course of the 50s and 60s, seek to exploit. "Knowing in the cells of his existence that life is war, nothing but war," wrote Mailer in a purple passage, "the Negro could rarely afford the sophisticated inhibitions of civilization, and so he kept for his survival the art of the primitive, he lived in the enormous present, he subsisted for his Saturday night kicks, relinquishing the pleasures of the mind for the more obligatory pleasures of the body."<sup>90</sup> "[T]he Negro," Mailer continued, "not being privileged to gratify his self-esteem with the heady satisfactions of categorical condemnation, chose to move instead in that other direction where all situations are equally valid, and in the worst of perversion, promiscuity, pimpery, drug addiction, rape, razor-slash,

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<sup>87</sup> GURALNICK, TRAIN 437.

<sup>88</sup> Norman Mailer, "The White Negro," *Dissent*, 1957.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

bottle-break, what-have-you, the Negro discovered and elaborated a morality of the bottom.”<sup>91</sup>

Notions that blacks inhabited a morality of the bottom resonated nicely with claims by men like John Bell Williams that the races were in fact culturally different and that integration, consequently, would be a disaster. This, of course, was an old white southern conviction. And yet, John Bell Williams helped reframe this conviction in the modern discourses of social science, developmental psychology, and juvenile delinquency.

Not surprisingly, segregationist organizations like the Mississippi Citizens' Councils proceeded to adopt Williams's report on DC schools as evidence bolstering the ideological platform of massive resistance. In 1956, the monthly *Citizens' Council* cited the hearings conducted in the House of Representatives. “[T]he facts about the mess in Washington's schools are on the record, and here are some of them,” lamented the paper, proceeding to cite the testimony of public school principle John Paul Collins. “The problem of discipline was tremendous. Colored girls used language worse than any I ever heard in the Marine Corps. Knifings became more or less commonplace, and many sex problems were reported during the first year following integration.”<sup>92</sup>

One year later, Mississippi Judge and Citizens' Council leader Tom Brady used some of Williams's statistics when he traveled to California to make the South's case to an influential group of conservatives in San Francisco. “An exhaustive study of the program and results of integration in the schools of

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<sup>91</sup> Norman Mailer, “The White Negro,” *Dissent*, 1957.

<sup>92</sup> “Sordid Facts Revealed by D.C. Probe,” *The Citizens' Council*, October 1956, p. 3.

Washington, D.C. which the NAACP and other left wing groups fostering integration said would be a model for the rest of the United States to follow,” explained Brady to the prestigious Commonwealth Club in San Francisco, “clearly reveals that the average white student who was integrated in the class room with the Negro has been retarded two to three years in his educational progress.”<sup>93</sup> Appropriating the neutral tone of the sociologist, Brady asserted that “it is not to the best interest of America that the white children, particularly in certain congested sections, be retarded three years in their educational advancement. Never forget that the left-wing socialist groups are forever grading down, never grading up the intelligence, the industry and the genius of this country! They wish to equalize, thereby reducing to a low minimum the intelligence of America.”<sup>94</sup>

Fear that integration would lead to a lowering of intelligence was not the only factor, according to Brady, that compelled white southerners to resist *Brown*. Morality mattered too. “The main objection to social integration of the races in our schools or elsewhere by Southerners,” asserted Brady, citing one of John Bell Williams’s many excoriations of DC schools, “is for moral reasons . . . In a remarkable treatise, “Where is the Reign of Terror?” by Representative John Bell Williams of Mississippi, published in the *Congressional Record* on school integration in Washington, it is succinctly shown that the white boys and girls of

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<sup>93</sup> Tom P. Brady, “Segregation and the South,” Address delivered to the Commonwealth Club of California at San Francisco, October 4, 1957. Governor Luther Hodges Papers, Box 312, Folder: Segregation: Miscellaneous, North Carolina State Archives, Raleigh, North Carolina. p. 6-7.

<sup>94</sup> Tom P. Brady, “Segregation and the South,” Address delivered to the Commonwealth Club of California at San Francisco, October 4, 1957. Printed and distributed by the Association of Citizens’ Councils, Greenwood, Mississippi. Governor Luther Hodges Papers, Box 312, Folder: Segregation: Miscellaneous, North Carolina State Archives, Raleigh, North Carolina. p. 7.

Washington were subjected to unspeakable vulgarity, immorality and filth. The truth is often brutal, but I must speak it! As revealed in this exhaustive study, objectively made, the white children of Washington D.C. were retarded two to three years in their educational advancement. The obscenity, vulgarity, immorality and brutality which came about requires the constant maintenance of policemen in the halls and corridors of many of the schools.”<sup>95</sup>

After reiterating the conclusions of Williams’s report, Brady emphasized links between sexual immorality and race. “The Negro, in so far as sex is concerned, is not immoral, he is simply non-moral,” asserted Brady, “[h]e merely follows his natural instincts. The pregnancies and illegitimate births which have occurred in schools in Washington are not abnormal, they are merely astounding! . . . [w]e cannot count for naught the natural indolence and indifference of the Negro’s nature. We cannot disregard his utter disregard for the laws relating to theft. We cannot overlook his proclivity for drunkenness and dope addiction. We cannot overlook his natural tendency to immorality and violence. And subject our children to the terrible consequences resulting from such traits through integration.”<sup>96</sup> Brady’s address painted a disturbing portrait, but not a new one. Notions that African Americans were naturally amoral, had different marriage patterns, and followed their instincts were all ideas that could be dated back to the Nineteenth Century.<sup>97</sup>

But that wasn’t the only parallel to the past in Brady’s speech. In his conclusion, he invoked the rural alliance between the South and West that had

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<sup>95</sup> Id.

<sup>96</sup> Id. 8-9.

<sup>97</sup> WILLIAMSON, CRUCIBLE, 306-10; JORDAN, WHITE OVER BLACK, 136-66.

resisted Al Smith's liberalism in the 1920s. "If this country is to be saved from Communism," admonished Brady, in closing, "It must be saved by the white people of the South and West. We did not ask for this burden, but we will bear it. Our Yankee friends to the North and East may not want to be saved, but they should be saved too."<sup>98</sup>

Though Brady did not know it, at least some Yankees in the North agreed. The same month that Brady delivered his San Francisco speech, white parents in Brooklyn resisted an attempt by the NAACP to have a school district in Bedford Stuyvesant, a predominantly black neighborhood, rezoned to incorporate white students.<sup>99</sup> Part of the hesitation resulted from increasing violence at integrated schools in the Bedford-Stuyvesant and Bushwick neighborhoods. In November 1957, a special grand jury called to investigate violence in New York City's public schools called for the assignment of police officers to patrol hallways after reports of fights between students during class time.<sup>100</sup> In January 1958, the principal of John Marshall Junior High School, an integrated Brooklyn school that had become the site of increasing disorder, including the rape of a female student in the school's basement, committed suicide by jumping off the roof of his apartment building before being scheduled to testify before a King's County grand jury investigating school violence.<sup>101</sup>

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<sup>98</sup> Tom P. Brady, "Segregation and the South," Address delivered to the Commonwealth Club of California at San Francisco, October 4, 1957. Printed and distributed by the Association of Citizens' Councils, Greenwood, Mississippi. Governor Luther Hodges Papers, Box 312, Folder: Segregation: Miscellaneous, North Carolina State Archives, Raleigh, North Carolina. 15.

<sup>99</sup> *City to Spur Integration by Building of 60 Schools*, N.Y. TIMES, Oct. 31, 1957, at 1.

<sup>100</sup> *Policeman for Each City School Urged by Brooklyn Grand Jury*, N.Y. TIMES, Nov. 26, 1957, at 1.

<sup>101</sup> *Head of School Beset by Crime Leaps to Death*, N.Y. TIMES, Jan. 29, 1958, at 1.

Southern voices were quick to point to New York's problems as a sign that integration was poor policy. "I 'would hate to think what the metropolitan press would have done to us'" exclaimed Arkansas Governor Orval Faubus, "if the Brooklyn school violence had happened in Little Rock . . . people are not being told one tenth of the trouble about racial problems outside the South."<sup>102</sup> On February 5, 1958, Georgia Governor Herman Talmadge announced that the citizens of Georgia were "deeply sympathetic with the citizens of Brooklyn in the difficulties they are experiencing in maintaining the independence and integrity of their public schools."<sup>103</sup> Talmadge even went so far as to suggest that "the President of the United States send Federal troops to Brooklyn to preserve order in the public schools there in the same manner that he did to force a new social order upon the public schools of Little Rock, Arkansas."<sup>104</sup> Though Talmadge's sarcasm was palpable, racial tensions in the urban north gave southerners like him hope that national opinion, if handled correctly, could be brought around.<sup>105</sup>

#### IV: THE MODERATE RESPONSE

While proponents of massive resistance like Talmadge, Brady and Eastland adopted aspects of delinquency discourse – thereby indicating a latent bio-political strain in massive resistance thought – they failed to mount a successful legal challenge to *Brown*. This raises a question; to what extent did talk

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<sup>102</sup> *Faubus Scores School Violence*, N.Y. TIMES, Feb. 1, 1958, at 10.

<sup>103</sup> *2 Senators Clash on City's Schools*, N.Y. TIMES, Feb. 5, 1958, at 16.

<sup>104</sup> *Id.*

<sup>105</sup> James O. Eastland, *Congressional Record – Senate*, July 23, 1954, 11523.

of delinquency actually impact law? Was it simply a duplicitous, discursive move? Or did it ultimately engender legal change?

Virginia provides an example. The birthplace of massive resistance, Virginia also produced legal reformers interested in bridging the gap between outright defiance and compliance. To them, questions about child psychology and juvenile delinquency were not simply propaganda tools, but substantive considerations to be taken into account. Indeed, moderate leaders who did not endorse massive resistance took an even more concerted interest in juvenile crime than many extremists, proposing a variety of state programs aimed at addressing troubled youth. In 1954, for example, Governor Thomas Stanley appointed Kathryn Stone, Arlington County's Delegate to the General Assembly as Chairman of the Governor's Commission on Juvenile Delinquency. Stone was one of Virginia's most moderate, perhaps even progressive leaders. She voted against Harry F. Byrd's program of massive resistance and was one of four plaintiffs in a case suing for fair reapportionment in Virginia.<sup>106</sup> Following the Supreme Court's decision *Baker v. Carr* in 1962, she urged citizens and legislators to take action with regard to the malapportionment of Virginia's legislature, arguing that northern counties with greater populations should have a greater voice in the legislature than the less populated Southside counties. Stone was also active in the League of Women's voters, served as Chairman of the Governor's Committee for Youth in Virginia, and belonged to the Virginia

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<sup>106</sup> Elsie Carper, "A Lonely Voice at Richmond," *The Washington Post*, Aug. 8, 1965. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95. Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

Advisory Committee to the U.S. Civil Rights Commission.<sup>107</sup> During the height of civil rights unrest, Stone extended her work to mental health, serving as a member of a state Study Commission for Mental Health created in 1962, and joining a Citizens Committee to implement recommendations of the recently published Mental Health Planning Study.

Stone's moderation stemmed from the political leanings of her constituents, affluent, cosmopolitan denizens of Arlington, a wealthy suburb of Washington DC. Unlike Virginia's rural southern "Southside" counties, Arlington boasted a relatively cosmopolitan population, many drawn from other parts of the country. At the same time, Arlington also bordered the D.C. school system, one of the first in the country to be publicized by segregationists intent on stopping *Brown*.

In the 1955 race for Arlington county school board, echoes of concerns voiced in the Deep South emerged in metropolitan Virginia. Therman M. Lloyd, in a letter dated November 1, 1955 encouraged voters to elect L. H. Blevins, Willis F. Kern and Susan O'Hara to the Arlington County School Board, warning that "[y]our child's future welfare can be undermined by close association with children of the opposite color. At an age of unawareness of racial and social differences, unwise attachments can be and often are formed during school years that can result in mixed marriages or worse. Is this risk fair to your child? People of both races are concerned."<sup>108</sup>

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<sup>107</sup> Isabelle Shelton, "Two Women Brighten Virginia Politics," *The Sunday Star* (Washington, D.C.), October 4, 1953, D-4.

<sup>108</sup> Fears of the effect that black children would have on white students led to extensive looks at the academic performance rates of blacks, illegitimate birth rates, as well as crime statistics and

When Kathryn Stone appeared before the Governor's Commission on Public Education on November 15, 1954, she articulated a rationale for resistance slightly softer than extremist diatribes against the integration of D.C. schools. "I believe that there is a possibility, as there must always be in the affairs of men," Stone began, "for a thoughtful and temperate education of the mind and heart, in the best tradition of a Christian and liberty-loving people whose basic tenet is respect for the individual person."<sup>109</sup> Stone's emphasis on the education of the mind and the heart was not a call for blind acceptance of integration, but a plea for non-divisive thinking about cultural and educational gaps between white and black youth. "There is room for education of those proponents of integration," she continued, critiquing civil rights activists, "who have never lived in a community with large numbers of Negroes, many of whom still lack the cultural background needed to make immediate and complete integration practical."<sup>110</sup> Conversely, she maintained, "there is room for education of those opponents of the principle of integration who have not lived in a community with smaller numbers of Negroes, many of whom have attained professional and cultural standing."<sup>111</sup> By contrasting African Americans of "professional and cultural

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juvenile delinquency statistics in D.C. In a speech entitled "Where is the Reign of Terror?" delivered before the U.S. House of Representatives on March 27, 1956, Representative John Bell Williams of Mississippi cited statistics on Washington's crime, illegitimacy and venereal disease rates. This followed the institution of a Congressional Committee to study D.C. schools, sponsored by Williams, James Byrne of South Carolina and James Davis of Georgia.

<sup>109</sup> "Statement of Kathryn H. Stone, Delegate from Arlington, Before the Governor's Commission on Public Education, November 15, 1954." Papers of Kathryn H. Stone, Series 10555-b, Box 1, Folder, Biographical Sketches of Kathryn Stone and Harold Stone, 1906-1992.

<sup>110</sup> "Statement of Kathryn H. Stone, Delegate from Arlington, Before the Governor's Commission on Public Education, November 15, 1954." Papers of Kathryn H. Stone, Series 10555-b, Box 1, Folder, Biographical Sketches of Kathryn Stone and Harold Stone, 1906-1992.

<sup>111</sup> "Statement of Kathryn H. Stone, Delegate from Arlington, Before the Governor's Commission on Public Education, November 15, 1954." Papers of Kathryn H. Stone, Series 10555-b, Box 1, Folder, Biographical Sketches of Kathryn Stone and Harold Stone, 1906-1992.

standing” to those who “lack” cultural background, Stone brought to the fore a factor that few segregationists proved willing to consider: class. That class might explain behavioral differences better than race became a recurring theme in Stone’s politics, providing her with a justification for state programs aimed at addressing the problems of disadvantaged and delinquent youth.

Unlike John Bell Williams, who used D.C. schools to discredit integration, Stone used problems in D.C. schools to lobby for state services. Her campaign gained momentum in the wake of a 1955 report issued by the National Council of Churches of Christ positing that integration in D.C. schools was “uncovering health and welfare problems, ‘half-concealed behind the curtain of segregation.’”<sup>112</sup> Aware that the hopes of extremists were coming true and that D.C. was becoming a topic of national interest, Stone publicly opposed essentialist arguments that delinquency was a factor of race and that parents of delinquent children should be blamed for their plight. “There are social and cultural factors working on children,” noted Stone during a talk to a group of parents at Richmond’s Ginter Park Elementary School, “that parents cannot control.”<sup>113</sup> To aid struggling parents, Stone endorsed the “establishment of a State Mobile Psychiatric Clinic for youth,” as well as “a State-wide system of juvenile detention homes”<sup>114</sup>

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<sup>112</sup> “Integration in Washington Schools, *Information Service*, Central Department of Research and Survey, National Council of Churches of Christ in the United States of America, Saturday, January 29, 1955. Papers of Kathryn H. Stone, Series 10555-A, Box 8, Folder: 1954-1955 Gray Commission.

<sup>113</sup> “Mrs. Stone Offers Defense of Parents,” Feb. 13, 1955, Papers of Kathryn H. Stone, Series 10555-b, Box 1, Folder, Biographical Sketches of Kathryn Stone and Harold Stone, 1906-1992.

<sup>114</sup> “Mrs. Kathryn H. Stone, Candidate for Re-election to the House of Delegates, November 7, 1961,” Papers of Kathryn H. Stone, Series 10555-b, Box 1, Folder, Biographical Sketches of Kathryn Stone and Harold Stone, 1906-1992.

Other recommendations issued by Stone's Commission included improving the facilities at Virginia's four state trainings schools for delinquent youths, including detention facilities and facilities for the treatment of maladjusted children.<sup>115</sup> The Commission also recommended measures that impacted all children, including increased vocational training, and kindergarten.<sup>116</sup> "Considerable evidence was presented," asserted a Commission report, "which indicates that delinquency arises most easily among children of low grade intelligence. These children find regular academic curricula too difficult, and their constant failure frustrating."<sup>117</sup> To help such children, the Commission recommended mental health programs in schools, "a modified academic program, and trade or vocational training in grades seven, eight, and nine."<sup>118</sup>

The Commission also declared that something be done about comic books. "The Commission believes that the General Assembly should consider strengthening the statute controlling salacious literature to provide more stringent penalties which would specifically control the sale of crime and horror comic books to minors. It should also consider whether to provide a stronger statute

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<sup>115</sup> Democratic Flyer for 1955 Election, Papers of Kathryn H. Stone, Series 10555-b, Box 3, Folder: Virginia Statute and Local Campaigns and Elections, 1951-1956.

<sup>116</sup> "A Study of Juvenile Delinquency Report of the Commission to Study Juvenile Delinquency to the Governor and the General Assembly of Virginia." 1955. Series 10555-a, Box 9, Folder: Juveniles, 1955-1964.

<sup>117</sup> Kathryn Stone, "Summary of the Commission on Juvenile Delinquency," *The University of Virginia Newsletter*, January 15, 1956, Folder: Juveniles, 1955-1964, Box 9, #10555-A.

<sup>118</sup> Kathryn Stone, "Summary of the Commission on Juvenile Delinquency," *The University of Virginia Newsletter*, January 15, 1956, Folder: Juveniles, 1955-1964, Box 9, #10555-A. Kathryn Stone Papers, University of Virginia Special Collections, Charlottesville, Virginia.

against the dissemination of pornographic literature and pictures.”<sup>119</sup> Other laws recommended by the Commission included providing for the development of regional detention facilities, improving standards for kindergartens and nursery schools, and providing for issuance of provisional employment licenses.<sup>120</sup>

The Virginia Assembly followed much of the Commission’s advice. In 1958, it enacted a law controlling comic books, making it “[a] misdemeanor penalty” for “disseminating comic books or other printed matter of an obscene nature or tending to incite juveniles to crime.”<sup>121</sup> Virginia also enacted legislation to control the presence of weapons in schools. “Switch-blade knives are now included among weapons whose possession, use and sale are prohibited,” asserted the legislature in 1958.<sup>122</sup> According to Alexandria legislator Armistead Booth, the switchblade law was “perhaps desirable for protection of our white brothers in view of the threatened breakdown in the segregation pattern.”<sup>123</sup>

While switchblade knives were probably a minor concern, the state tackled larger problems of juvenile delinquency and youth crime. Indeed, state concern over juvenile offenses was reflected in several pieces of legislation, among them a law designed “to make parents liable for actively contributing to the delinquency of their children,” and a statute “to allow juvenile judges to make

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<sup>119</sup> A Study of Juvenile Delinquency: “Report of the Commission to Study Juvenile Delinquency to the Governor and the General Assembly of Virginia.” House Document No. 16, October 4, 1955. Folder: Women and Youth Issues, 1947-1981, Box 1, Acc #10555-c, Papers of Kathryn Stone, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>120</sup> A Study of Juvenile Delinquency: “Report of the Commission to Study Juvenile Delinquency to the Governor and the General Assembly of Virginia.” House Document No. 16, October 4, 1955. Folder: Women and Youth Issues, 1947-1981, Box 1, Acc #10555-c, Papers of Kathryn Stone, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>121</sup> Virginia Session Laws, 1958 (18-113.1) (p.19).

<sup>122</sup> Id.

<sup>123</sup> Armistead Booth, handwritten note on Virginia Session Laws, 1958 (18-113.1) (p.19), Armistead Booth Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

public the names, offenses and parents of juvenile offenders.”<sup>124</sup> In addition to targeting parents, Virginia also moved “to require juvenile social workers to report all knowledge of law violations they obtain in their confidential investigations; and to allow a juvenile to be jailed overnight on a warrant signed by a justice of the peace, subject to being placed in the custody of the juvenile court the following morning.”<sup>125</sup> Another bill gave legislative sanction to corporal punishment in the public schools. Though teachers possessed the authority to administer corporal punishment already, “legislators felt the enactment of a bill specifically permitting it would have a healthful effect.”<sup>126</sup>

In May 1959, a symposium was held in Richmond on welfare, education, and illegitimacy.<sup>127</sup> That same year, the Virginia Assembly considered a bill “[d]irecting the Virginia Advisory Legislative Council to make a study relating to problems concerning providing protective services and day-care facilities for children.”<sup>128</sup> On her copy of the bill, Kathryn Stone penciled a note indicating that services provided directly to children in their homes might be particularly effective. “[T]he providing of skilled and adequate protective services to children in their own homes before coming into the juvenile court,” she observed, “can be

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<sup>124</sup> Papers of Kathryn H. Stone, Series 10555-A, Box 8, Folder: Summary of Legislative Activity in Spring of 1958.

<sup>125</sup> Papers of Kathryn H. Stone, Series 10555-A, Box 8, Folder: Summary of Legislative Activity in Spring of 1958.

<sup>126</sup> Papers of Kathryn H. Stone, Series 10555-A, Box 8, Folder: Summary of Legislative Activity in Spring of 1958.

<sup>127</sup> “Past, present and future needs of public welfare and health in Virginia will be scrutinized by a host of speakers during a three-day symposium here Thursday through Saturday. Panels will cover: Illegitimacy, Welfare, Institutions, Public Health and Education. “Legislative Symposium Speakers are Announced,” *Richmond Times-Dispatch*, May 17, 1959; Folder: Virginia Council on State Legislation, 1959, Papers of Kathryn Stone, UVA.

<sup>128</sup> Bill Directing the Virginia Advisory Legislative Council to Make a Study Relating to Problems Concerning Providing Protective Services and Day-Care Facilities for Children Folder: Primary 1959, Box 12 #10555-A, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

a means of restoring and preserving wholesome family life,” thereby linking the day care of children to juvenile delinquency.<sup>129</sup>

Just as Stone supported increased outreach, so too did she endorse improvements in state facilities for youth who had to be removed from their homes. One of her most ambitious projects was a state-of-the-art juvenile detention center near Arlington. To her mind, the center was not “a catch-all solution to the problems of juvenile delinquency” but rather “a link” in a much larger “chain of community services designed to cope with juvenile problems.”<sup>130</sup>

At a ceremony commemorating the center’s completion, Governor Lindsay Almond attributed the facility to Stone’s hard work. “It is to Delegate Kathryn Stone of Northern Virginia,” Almond announced, “that the entire state owes a great debt for her creative idea for this facility and for her superb leadership in making it a reality.”<sup>131</sup> Recognizing the difficulty involved in pushing new programs through the state legislature, Almond noted that talk of such a facility had begun “in the ‘40’s,” but nothing was actually done about it until 1955, “when Del. Kathryn Stone, Chairman of the Commission on Juvenile Delinquency, made it a recommendation in her report.”<sup>132</sup>

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<sup>129</sup> Bill Directing the Virginia Advisory Legislative Council to Make a Study Relating to Problems Concerning Providing Protective Services and Day-Care Facilities for Children Folder: Primary 1959, Box 12 #10555-A, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>130</sup> “N. Va. Detention Center Dedicated: hope for Troubled youth, *Northern Virginia Sun*, March 30, 1961. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95. Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>131</sup> Note transcribing address by Governor J. Lindsay Almond, Jr. at the dedication of the Virginia Treatment Center for Children, dated Dec. 6, 1961, Folder: Women and Youth Issues, 1947-1981, Papers of Kathryn Stone, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>132</sup> Note transcribing address by Governor J. Lindsay Almond, Jr. at the dedication of the Virginia Treatment Center for Children, dated Dec. 6, 1961, Folder: Women and Youth Issues, 1947-1981, Papers of Kathryn Stone, Special Collections, University of Virginia, Charlottesville, Virginia.

Despite her success in expanding Virginia's social safety net, Stone was not able to stop a reactionary movement based in the rural, southern counties of the state that called for massive resistance to the Supreme Court. In 1956, for example, a special commission boasting "heavy representation" from "Southside areas – particularly the Fourth, Fifth and First congressional districts – where Negro populations are relatively heavy," succeeded in thwarting moderate plans to end segregation by race and impose pupil placement, or assignment plans.<sup>133</sup> Opponents of this plan were quick to note that most of the commission's support came from "Tidewater, Southside, or near Southside counties."<sup>134</sup>

By 1962, however, Stone and other "[u]rban representatives" were able to overcome rural-based bills that "[m]ade sterilization of mothers of illegitimate children mandatory," and "[e]mpowered juvenile authorities to transfer delinquent children to adult prisons at their administrative discretion."<sup>135</sup> This marked a larger shift in the nexus of political power in Virginia, out of sparsely populated rural communities and towards more populated urban ones.

That same year, Stone emphasized the development of higher education, particularly community colleges.<sup>136</sup> "The development of higher education will

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<sup>133</sup> *Stanley's Fund Plan Backed by Gray Group: Unit Votes, 19-12, to Drop Pupil Assignment Formula*, RICHMOND TIMES-DISPATCH, Aug. 23, 1956, p. 1, Folder: Women and Youth Issues, 1947-1981, Box 1, Acc #10555-c, Papers of Kathryn Stone, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>134</sup> *Id.*

<sup>135</sup> John Barron, *Virginia Assembly Seen Slighting Urban Areas*, THE EVENING STAR, March 10, 1962.

<sup>136</sup> "Homey Chores Occupy Lone Distaff Delegate," *Richmond News-Leader*, 1/11/62. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95. Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

be the most important issue we'll handle," announced Stone.<sup>137</sup> But, she warned, the state would no longer pursue "education for education's sake," but would work instead "to develop technical education," a necessary goal if the Old Dominion wanted "to attract more developing industries to the state."<sup>138</sup> The way to attain that end, according to Mrs. Stone, was to (1) strengthen the public schools, (2) offer technical training at a post-high school level and (3) expand the community college program.<sup>139</sup> "We need to keep youngsters in school longer, anyway," she asserted, noting that "[w]e must start right now to develop a full youth program. For example, hundred of boys between ages 16 and 21 are out of school and out of work."<sup>140</sup>

For idle children who got in trouble with the law, the Virginia legislature approved "more than \$1,000,000," for the operation of a new Virginia Treatment Center for Children at Richmond.<sup>141</sup> The Center had an in-patient capacity of 40 and was able to handle a heavy out-patient service for "emotionally disturbed children."<sup>142</sup> That same year, "A Committee for Youth was established by

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<sup>137</sup> "Homey Chores Occupy Lone Distaff Delegate," *Richmond News-Leader*, 1/11/62. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95. Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>138</sup> "Homey Chores Occupy Lone Distaff Delegate," *Richmond News-Leader*, 1/11/62. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>139</sup> "Homey Chores Occupy Lone Distaff Delegate," *Richmond News-Leader*, 1/11/62. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>140</sup> "Homey Chores Occupy Lone Distaff Delegate," *Richmond News-Leader*, 1/11/62. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

<sup>141</sup> "Papers Relating to Senate Sessions Summary of 1962 Legislative Session sent out by Carter Lowance from the Governor's Office on March 12, 1962," Joseph C. Hutcheson Papers: Box 8: Folder: 1959-1967.

<sup>142</sup> "Papers Relating to Senate Sessions Summary of 1962 Legislative Session sent out by Carter Lowance from the Governor's Office on March 12, 1962," Joseph C. Hutcheson Papers: Box 8: Folder: 1959-1967.

resolution to contribute to the coordination, strengthening and extension of present state services for youth and to encourage programs locally that contribute to the prevention of crime and delinquency.”<sup>143</sup>

One policy idea was to lower the legal age at which children could begin working, and remove the state’s minimum wage law to provide employers with incentives to hire children. Unfortunately for Stone, however, both her minimum wage ban as well as a bill which “would have permitted children to work in public recreation facilities, outside school hours, with the consent of their parents” were killed. Opponents rejected the argument that the bills would “help reduce juvenile delinquency and be economically helpful to many families.”<sup>144</sup>

Despite such setbacks, Kathryn Stone nevertheless boasted considerable achievements in Virginia during her tenure. Among her greatest achievements were laws that established a mobile psychiatric clinic, a state system of regional detention homes and a treatment center for emotionally disturbed youths. Another success was the creation of a Governor’s Committee for Youth to study how young people were being educated and trained for the changing job market. She also campaigned for a mental hospital in Northern Virginia, the Northern Virginia Technical College and for expansion of state colleges and universities.<sup>145</sup>

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<sup>143</sup> Papers Relating to Senate Sessions Summary of 1962 Legislative Session sent out by Carter Lowance from the Governor’s Office on March 12, 1962, Joseph C. Hutcheson Papers: Box 8: Folder: 1959-1967.

<sup>144</sup> Papers Relating to Senate Sessions Summary of 1962 Legislative Session sent out by Carter Lowance from the Governor’s Office on March 12, 1962, Joseph C. Hutcheson Papers: Box 8: Folder: 1959-1967.

<sup>145</sup> “A Lonely Voice at Richmond,” *The Washington Post*, Aug. 8, 1965. Folder: Newspaper Articles Chiefly Re: Kathryn Stone and Political Issues, 1941-95, Kathryn Stone Papers, Special Collections, University of Virginia, Charlottesville, Virginia.

Upon her retirement in 1965, Stone promised to continue working on juvenile issues.<sup>146</sup> “I’m particularly interested in the child abuse bill that Del. Levin has been working on,” she said.<sup>147</sup> “I hope the next assembly will embrace kindergarten education for the first time,” she continued.<sup>148</sup> That year, the Governor’s Committee for Youth recommended an increased emphasis on technical and vocational training.<sup>149</sup>

## CONCLUSION

As Kathryn Stone’s story indicates, concerns over the intersection of desegregation and juvenile delinquency spurred a significant increase in state power in Virginia, both over the local handling of children in schools and over private life. This aspect of the legal battle over *Brown* in the South has gone largely unnoticed, yet emerges in plain view once we excavate popular concerns over juvenile delinquency in the 1950s.

For constitutional historians interested in legal change, recovering the relationship between delinquency and desegregation informs prevailing accounts of popular constitutionalism, suggesting not only that scholars like Larry Kramer, Reva Siegel and William Eskridge are right to locate the nexus of constitutional

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<sup>146</sup> “General Assembly Special Session is Final One for Woman Delegate,” *Richmond News Leader*, Aug. 31, 1965.

<sup>147</sup> “General Assembly Special Session is Final One for Woman Delegate,” *Richmond News Leader*, Aug. 31, 1965.

<sup>148</sup> “General Assembly Special Session is Final One for Woman Delegate,” *Richmond News Leader*, Aug. 31, 1965.

<sup>149</sup> “Report of the Governor’s Committee for Youth to the Governor of Virginia,” 1965. Papers of Kathryn H. Stone, Series 10555-b, Box 3, Folder: Youth Issues: Printed, 1959-1989, Kathryn Stone Papers, University of Virginia Special Collections, Charlottesville, Virginia.

change outside the Courts, but that mass culture itself warrants greater inclusion in constitutional theory.<sup>150</sup> In the 1950s, as this article shows, black rights claims became complicated, and to some extent contingent on popular perceptions of black culture, as read through the lens of white fears of juvenile crime.

Just as delinquency politics might tell us something new about constitutional law, so too might intersections of delinquency and desegregation inform histories of the American state. Though William Novak, Owen Fiss, and Stephen Skowronek all cast important light on the interplay between historical forces and state formation in the Nineteenth and early Twentieth Centuries, few historians have bothered to analyze southern state formation during the *Brown* era.<sup>151</sup> Yet, doing so raises questions not only about *Brown*, but also about the role that racial segregation played in southern law and society. As Kathryn Stone's scramble to construct a safety net in Virginia indicates, Jim Crow appears to have served not only as a system of repression, but also a proxy for costly state expenditures on the southern public.

New insight into the elaborate legal system known euphemistically as Jim Crow is perhaps the last reason to recover discourses of desegregation and delinquency at mid-century. Generally framed as a mechanism designed to

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<sup>150</sup> See e.g. LARRY KRAMER, *THE PEOPLE THEMSELVES: POPULAR CONSTITUTIONALISM AND JUDICIAL REVIEW* (2004); Reva Siegel, *Equality Talk: Antisubordination and Anticlassification Values in Constitutional Struggles Over Brown*, 117 HARV. L. REV. 1470 (2004); William Eskridge, *Some Effects of Identity-Based Social Movements on Constitutional Law in the Twentieth Century* 100 MICH. L. REV. 2062 (2002).

<sup>151</sup> WILLIAM J. NOVAK, *THE PEOPLE'S WELFARE: LAW & REGULATION IN NINETEENTH-CENTURY AMERICA* (1996); STEPHEN SKOWRONEK, *BUILDING A NEW AMERICAN STATE: THE EXPANSION OF NATIONAL ADMINISTRATIVE CAPACITIES, 1877-1920* (1982); OWEN FISS, *THE TROUBLED BEGINNINGS OF THE MODERN STATE, 1888-1910* (1993). For a discussion of *Brown*'s impact on southern law enforcement and family law, see ANDERS WALKER, *THE GHOST OF JIM CROW: HOW SOUTHERN MODERATES USED BROWN V. BOARD OF EDUCATION TO STALL CIVIL RIGHTS* (2009).

further racial repression, Jim Crow appears to have served as a modality for the protection, preservation, and discipline of whites as well. This explains white fears that integration would compromise their children, either by exposing them to delinquency, or transforming them into delinquents. It also reinforces what historians of the post-*Brown* “Sunbelt South” like Matthew Lassiter and Kevin Kruse have already found, namely that white southerners left urban centers for reasons other than irrational race prejudice. As they perceived it, white southerners were engaged in a calculus of aspiration, a bio-political campaign to preserve their status, police their children, and improve their lives.