Alabama Law Scholarly Commons

Working Papers

Faculty Scholarship

2-1-2017

Black Power in a Prison Library

Alfred L. Brophy

University of Alabama - School of Law, abrophy@law.ua.edu

Follow this and additional works at: https://scholarship.law.ua.edu/fac_working_papers

Recommended Citation

Alfred L. Brophy, *Black Power in a Prison Library*, (2017).

Available at: https://scholarship.law.ua.edu/fac_working_papers/381

This Working Paper is brought to you for free and open access by the Faculty Scholarship at Alabama Law Scholarly Commons. It has been accepted for inclusion in Working Papers by an authorized administrator of Alabama Law Scholarly Commons.

Black Power in a Prison Library

forthcoming HOWARD LAW JOURNAL

Alfred L. Brophy¹

Abstract

"Black Power in a Prison Library" focuses on a list of 90 books on the black experience in America that were ordered added to the Marion, Ohio Correctional Institution in 1972. It uses the list as a way of gauging what books the plaintiffs (and thus the court) thought were essential to telling the African American experience. And in that way, we can use the list to reconstruct the contours of the bibliographic world of the African American experience in the early 1970s. The list reflects an interest in history of slavery, Reconstruction and Jim Crow, the literature of the Harlem Renaissance, the 1960s Civil Rights Movement, and contemporary works on Black Power. Notably thin is prison literature. Together the books help form a picture of the critique of law made by Black Power writers and the ways those claims built on historical, sociological, and civil rights literature. The book list, thus, suggests some of the ways that books propagated and gave definition to Black Power claims.

¹ Judge John J. Parker Distinguished Professor of Law, University of North Carolina. Contact the author at abrophy@email.unc.edu or 919.962.4128.

I would like to thank my favorite librarian, Barbara F. Thompson, for her help and inspiration. I would also like to thank Adjoa Aiyoetoro, Autumn Barrett, Adrienne Davis, Damon Freeman, David Garrow, Anne Klinefelter, Utz McKnight, and Donald Tibbs for comments and advice on the primary and secondary literature; Donna Nixon for her help with archival sources, as always; Niki Schwartz, Vincent Nathan, and Rhoda L. Berkowitz for sharing their recollections about *Taylor v. Perini*, and the research assistance of Kellie Corbett and Jason Ilieve.

Table of Contents

1. A Prison Library and Prison Litigation Reform	4
2. Categorizing the Books on the “Black Experience, Culture, History and Art”	7
A. Harlem Renaissance	7
B. Histories	8
C. Civil Rights Literature	8
D. Sociology and Contemporary Black Culture	9
E. Theory of Disillusionment	9
F. Black Power	10
G. What is Missing	11
3. The Prison Administration’s Response	12
A. An Alternative List of Books	12
B. Banning Books	13
4. Black Power Books in the Prison Library	15
A. The Book-Made Radical and the Experiential Radical	16
B. Books, Ideas, and the Origins of Black Power	18
C. Black Power’s Agenda in Books: The Critique of Property, Constitution, and Law	21
5. The Bibliographic Origins of Black Power?	26
Conclusion	28
Appendix 1: List of Books on Court Order, 1972	30
Appendix 2: Other Black Experience Materials in Prison Library	34

Prison officials in the 1960s, apparently concerned with the growth of black power, sought to limit the access of prisoners to those ideas.² That action demonstrates yet again that books are both important ways of transmitting ideas and important signifiers of the ideas readers find

² See, e.g., Etheridge Knight, *The Day the Young Blacks Came*, in *BLACK VOICES FROM PRISON* 161, 161 (Etheridge Knight ed. 1970) (“A few months ago, several blacks, ... were placed in isolation for reading literature written by black authors.”).

important.³ It is not just law enforcement, however, that is interested in reading habits.

Historians are turning to the project of “the history of the Book” to understand the role of books as vehicles of change: how do books contribute to changes in society, how do they help to create and sustain identity.⁴ Often historians turn to books to measure a culture. They ask questions like how did W.E.B. DuBois’ critique of Jim Crow affect the development of the idea of equality over the course of the twentieth century?⁵ And what did Ralph Ellison’s *Invisible Man* say about the culture of the United States on the eve of *Brown*?⁶

At other times, historians draw inferences about readers from their libraries.⁷ We use the books lawyers cite to measure their intellectual horizons.⁸ Similarly, the books in a school’s library can also tell us about intellectual horizons, though there are wide confidence intervals for

³ HERBERT N. FOERSTAL, SURVEILLANCE IN THE STACKS: THE FBI’S LIBRARY AWARENESS PROGRAM (1991); WILLIAM J. MAXWEL, F.B. EYES: HOW J. EDGAR HOOVER’S GHOSTREADERS FRAMED AFRICAN AMERICAN LITERATURE (2015).

⁴ Robert Darnton, *What is the History of Books?*, 111 DAEDALUS 65-83 (1982); Alfred L. Brophy, *The Law Book in Colonial America*, 51 BUFFALO L. REV. 1119-1143 (2003) (reviewing A HISTORY OF THE BOOK IN AMERICA: THE COLONIAL BOOK IN THE ATLANTIC WORLD (David Hall and Hugh Amory eds., 2001)); Jane Rhodes, *The Black Press and Racial Print Culture*, in THE ENDURING BOOK: PRINT CULTURE IN POSTWAR AMERICA 285 (David Paul Nord et al. eds., 2009).

⁵ DAVID LEVERING LEWIS, W. E. B. DU BOIS: BIOGRAPHY OF A RACE, 1868–1919 (1993).

⁶ Alfred L. Brophy, *Invisible Man as Literary Analog to Brown v. Board of Education*, in RALPH ELLISON AND THE RAFT OF HOPE: A POLITICAL COMPANION TO *INVISIBLE MAN* 119-33 (Lucas Morel ed. 2004).

⁷ See, e.g., KEVIN J. HANYES, THE ROAD TO MONTICELLO: THE LIFE AND MIND OF THOMAS JEFFERSON (2008); DAVID D. HALL, CULTURES OF PRINT: ESSAYS IN THE HISTORY OF THE BOOK (1996).

⁸ See, e.g., John Langbein, *Chancellor Kent and the History of Legal Literature*, 93 COLUM. L. REV. 547 (1993); Mary Sarah Bilder, *The Lost Lawyers: Early American Legal Literates and Transatlantic Legal Culture*, 11 YALE J. LAW & HUM. 47 (1999).

such speculation.⁹ A central question of the history of the book is how the content of books can be used to reconstruct culture from what people are reading – or seeking to read. And while often the history of the book project looks to elite culture,¹⁰ the questions can be asked of all sorts of libraries and all sorts of readers.

1. A Prison Library and Prison Litigation Reform

Books in a prison library invite a particular set of questions related to the history of the book.¹¹

How does the book in prison help sustain a culture and in some cases build towards a different future. For prisoners, as for so many of us, books are their only way to travel and are a primary way to expand their minds. This essay returns to a list of books on “black experience, culture, history, and art”¹² that United States District Judge Don Young ordered placed into the Marion, Ohio prison library in 1972.¹³ The case began with the complaint of inmate J.B. Taylor that his

⁹ See, e.g., Guy Hubbs, *The First University of Alabama Library, 1831–1865*, 27 LIBRARIES AND CULTURE 20-35 (1992) (discussing content of the University of Alabama's pre-Civil War library based on two published catalogs).

¹⁰ See, e.g., 1 MICHAEL O'BRIEN, CONJECTURES OF ORDER: INTELLECTUAL LIFE AND THE AMERICAN SOUTH, 1810-1860 457 (2005) (discussing library catalogs from the slave-owning south). See also ALFRED L. BROPHY, UNIVERSITY, COURT, AND SLAVE: PROSLAVERY THOUGHT IN SOUTHERN COLLEGES AND COURTS AND THE COMING OF CIVIL WAR __ (2016) (discussing university libraries before the Civil War)

¹¹ MARGARET SWEENEY, READING IS MY WINDOW: BOOKS AND THE ART OF READING IN WOMEN'S PRISONS (2010); JANET FYFE, BOOKS BEHIND BARS: THE ROLE OF BOOKS, READING, AND LIBRARIES IN BRITISH PRISON REFORM, 1701-1911 (1992); SHEILA CLARK & ERICA MACCREAIGH, LIBRARY SERVICES TO THE INCARCERATED: APPLYING THE PUBLIC LIBRARY MODEL IN CORRECTIONAL FACILITY LIBRARIES (2006).

¹² 413 F. Supp. 189, 215 (D.C. Ohio 1976).

¹³ Order of September 12, 1972, in 413 F.Supp. 194, at 195 para. 5 (ordering books on the “Black experience” added to law library).

mail was being opened. When Taylor's lawyer, Niki Schwartz, began to investigate he found other issues that resulted in three years of discovery.¹⁴ The order sought to improve conditions across a broad spectrum, including adding law and other books to the prison library and to govern the printed material that prison officials took away from inmates.¹⁵ Four years later, in 1976 Judge Young issued another opinion in *Taylor v. Perini* that dealt with the Marion prison's compliance (or non-compliance) with his 1972 order.¹⁶ Special master Vincent Nathan, a professor at the University of Toledo's school of law, had been appointed in December 1975 to review and report on the prison's compliance.¹⁷ Nathan's report, which was published as an appendix to one of the *Taylor* opinions, includes the list of 90 books that Judge Young had ordered added to the a prison dormitory's library.¹⁸ At that point the library had only 28 of the books on Judge Young's order.¹⁹

¹⁴ Patrick Crowley, *Against All Odds*, ABA JOURNAL 66, 68 (December 1993).

¹⁵ Order of September 12, 1972, in 413 F.Supp. 194, at 195 The appeal for books on the black experience was part of a larger movement, as detailed by Lorenzo Kom'boa Ervin, *Back From Hell: Black Power And Treason To Whiteness Inside Prison Walls*, available at (last visited April 16, 2017): <https://theanarchistlibrary.org/library/lorenzo-kom-bo-er-evin-back-from-hell-black-power-and-tre-ason-to-whiteness-inside-prison-walls>

¹⁶ 413 F.Supp. 189, Appendix B, Vincent B. Nathan, First Report of the Special Master on the Defendants' State of Compliance, at 198, 215-19.

¹⁷ *Id.* at 198 (discussing Nathan's appointment as special master). Nathan is a leading figure in prison reform. See, e.g., BEN M. CROUCH & JAMES R. MARQUAT, AN APPEAL TO JUSTICE: LITIGATED REFORM OF TEXAS PRISONS 128 (2014); Vincent M. Nathan, *Have the Courts Made a Difference in the Quality of Prison Conditions? What Have We Accomplished to Date?*, 24 PACE L. REV. 419, 426 (2004); Vincent M. Nathan, *Law, Order, and the Consent Defense*, 12 ST. LOUIS U. PUB. L. REV. 477, 503 (1993); Vincent M. Nathan, *The Role of Masters in Court Ordered Institutional Reform*, 34 BAYLOR L. REV. 581, 603 (1982).

¹⁸ 413 F.Supp. at 215-19. The special master ordered 117 volumes added to the library, but some were ordered added in duplicate or triplicate. There were only 90 unique titles. The list indicates that there were 91 unique titles, but it appears that two books were listed twice, so

In 1976, the library was still ordering many of the books, using money from a federal grant.²⁰

Soon, however, Nathan found the prison in compliance.²¹

As with any library list, a key issue is who composed the list. Niki Schwartz, the plaintiff's lawyer, believes that it came from a bibliography.²² The list of books can map the intellectual

that the actual count is 90 unique titles. *Id.*

¹⁹ 413 F.Supp. at 219.

²⁰ *Id.* at 221.

²¹ 421 F. Supp. at 740, 750-51 (special master finds compliance with the order regarding books when 87 volumes were on the institution's library).

²² He suggested that the bibliography was Vivian R. Johnson's *A Selected Bibliography of the Black Experience* (1971). Phone interview of December 15, 2015. Although it is also possible that the source was a bibliography with a similar title to Johnson's, which was compiled by University of Toledo librarian Philip Podlish. See PHILIP PODLISH, *THE BLACK EXPERIENCE: THE NEGRO IN AMERICA, AFRICA, AND THE WORLD; A COMPREHENSIVE, ANNOTATED, SUBJECT BIBLIOGRAPHY OF WORKS IN THE UNIVERSITY OF TOLEDO LIBRARIES* (1969), available at: <http://eric.ed.gov/?id=ED101724>

The special master in *Taylor v. Perini*, Vincent Nathan, was kind enough to correspond with me about how the list of books was assembled. He remembers that it came from a group of law librarians. Email of November 9, 2006. Rhoda L. Berkowitz, of the University of Toledo Law Library had an important role in reviewing compliance. See *Taylor v. Perini*, 477 F.Supp. at 1295. See also *Taylor v. Perini*, 446 F.Supp. at 1207 (mentioning Rhoda L. Berkowitz' suggestions for additions to the prison library). Both Nathan and Berkowitz may have been referring to lists of law books, which were also part of later litigation in the case.

Nevertheless, the list may say more about the intellectual interests of librarians than about the needs or attitudes of the plaintiff class. One hope it springs from the desires of the inmates. Berkowitz believed that the inmates were likely involved and helpful in the composition of the list. Phone Interview of December 8, 2015. That it is as comprehensive as it is, suggests that the court took seriously the demand for books. From those books – and a few other key works in Black Power that were not on the list we can construct a picture of the Black Power critique of law. Therefore, it is worth thinking about the list as one way that inmate-plaintiffs who sought more literature on the black experience. And it gives us a good sense of the bibliography of Black Power and reading the books on that list reveals how Black Power built on the foundation of other works in African American history, sociology, and culture – and how it moved beyond that literature.

terrain of the black experience and show what some people thought were some of the core works.

Collectively that list helps fill out a key issue of the relationship of black power ideology to the civil rights movement and it suggests how black power emerged from the literature of civil rights and African American literature. Thus, the books help link the evolution of ideas in the African American community. The list is particularly important when put in juxtaposition with an alternative list that prison officials provided of books already in their library on the black experience.²³ And it should also be used in conjunction with the smaller list of books (and other printed material) that prison officials banned. I believe that the list, which is reprinted in appendix 1 of this essay, can help map the sources of black identity in the late 1960s and early 1970s.

2. Categorizing The Books on the “Black Experience, Culture, History and Art”

One initial way of dealing assessing the list is to divide them into broad categories, such as histories, fictional literature; analysis of contemporary black culture; the contemporary civil rights movement and its possibilities; and the black power movement.

A. Harlem Renaissance

The Harlem renaissance and its leaders are well-represented. There are Richard Wright's *Native Son* (1940) and *Uncle Tom's Children* (1938); James Weldon Johnson's *Autobiography of an Ex-Colored Man* (1912); Claude McKay's *Home to Harlem* (1928) along with some other Renaissance-era literature, like Rudolph Fisher's *Conjure Man Dies: A Mystery Tale of Harlem* (1932) and *Walls of Jericho* (1928). Other work that collects culture are Miles Mark Fisher, *Negro Slave Song* (1953) and Arna Wendell Bontemps, *American Negro Poetry* (1963). Situated between the renaissance and the 1960s are *Invisible Man* (1952) and Julian Mayfield's 1957 novel

²³ 413 F. Supp. at 219-21 (listing books already in the prison library).

The Hit, which explores a subset of the ideas in *Invisible Man*: that African Americans continue to cling to the dreams of equality and freedom in the United States, even as they are repeatedly shown the emptiness of that hope. Yet, books from the 1950s, other than histories, which appear separately in the next section, are remarkably scarce in the list.

B. Histories

There are a lot of histories. They are W.E.B. DuBois' *Black Reconstruction* (1935); John Hope Franklin's *From Slavery to Freedom* and Franklin's *Reconstruction, Emancipation Proclamation*; Franklin Frazier's *Negro Family in the United States* (1968); Frederick Broderick's *W.E.B. DuBois: Negro Leader in a Time of Crisis* (1959); Edward Cronon, *Black Moses: Marcus Garvey* (1960); David Levering Lewis' *King: A Critical Biography* (1970); Benjamin Quarels' *Black Abolitionists* (1969), *Mr. Lincoln and the Negroes* (1962); and *The Negro in the Civil War* (1953); Kenneth Stampp's *The Peculiar Institution* (1956); C. Vann Woodward's *The Strange Career of Jim Crow* (1955); Arthur I. Waskow, *From Race Riot to Sit-In* (1966); Herbert Aptheker's *Negro Slave Revolts* (1943); John Spears *The American Slave Trade* (1900); and Marshall Stearns, *The Story of Jazz* (1956).

C. Civil Rights Literature

There is the 1960s literature that captured the possibilities of the Civil Rights movement or that asked for the possibilities to be realized: Claude Brown, *Manchild in the Promised Land* (1965); Maya Angelou's *I Know Why the Caged Bird Sings* (1969); King's *Where Do We Go From Here* (1968), *The Trumpet of Conscience* (1968), *Stride Toward Freedom* (1958), and *Why We Can't Wait* (1964); Merrill Proudfoot, *Diary of a Sit-In* (1962); Sally Belfrage, *Freedom Summer* (1965); Elizabeth Sutherland's *Letters from Mississippi* (1965); Alan Westin's edited

collection *Freedom Now! The Civil-Rights Struggle in America* (1964); and Howard Zinn's *SNCC: The New Abolitionists* (1968).

The order included the fictional literature that goes along with the civil rights movement, such as John Killen's *And Then We Heard Thunder* (1964), James Baldwin's *Tell Me How Long the Train's Been Gone* (1968); John Alfred Williams' *The Man Who Cried I Am* (1967), Ed Bullins' *Five Plays* (1968), and Louise Meriwether's *Daddy was a Numbers Runner* (1970) in that category. They are situated in a place between the optimism of the Civil Rights era and the later separatism. They ask, with King, what now?

D. Sociology and Contemporary Black Culture

Along with the histories are other scholarly work that describe and analyze black culture, such as the foundational text W.E.B. DuBois' *Souls of Black Folk*; as well as more recent works like C. Eric Lincoln's *Black Muslims in America* (1961); Harry A. Ploski's *Afro USA* (1971); and Joseph R. Washington, *Black Religion* (1964).

Along those lines, is literature that provides a popular, sociological critique of 1960s society, like Charles Silberman, *Crisis in Black and White* (1963) and James Silver's *Mississippi: The Closed Society* (1964). And there's the literature that continued in the late 1960s and early 1970s to seek an answer in more traditional places, like Kenneth Clark's *Dark Ghetto* (1965) and Whitney Young's *Beyond Racism: Building an Open Society* (1969).

E. Theory of Disillusionment

One might break out a separate group of sociology works that provide a theoretical treatment of disillusionment. Then there are books that anticipate and announce the transition to black power, as well as disillusionment with the Civil Rights movement or western society more

generally, such as Franz Fanon's *Wretched of the Earth* (1961) and *White Skin, Black Mask* (1952); Tom Hayden, *Rebellion in Newark* (1967); Louis H. Masotti and Don Bowen, *Riots and Rebellion: Civil Violence in the Urban Communities* (1968); Benjamin Muse, *American Negro Revolution: From Non-Violence to Black Power, 1963-1967* (1968); Chuck Stone, *Black Political Power in America* (1970); Harold Cruse, *Crisis of the Negro Intellectual* (1967).

F. Black Power

As one would expect, there are some books on black power in the *Taylor v. Perini* order, including Eldridge Cleaver's *Soul on Ice* (1968); *Autobiography of Malcolm X* (1965); H. Rap Brown, *Die N-r Die! A Political Autobiography* (1969); Lester Julius, *Look Out Whitey! Black Power's Gon Get Your Mama* (1968); Bobby Seale, *Seize the Time: The Story of the Black Panther Party and Huey P. Newton* (1970). One might put Angela Davis, *If They Come in the Morning* (1971), Amiri Baraka, *Home: Social Essays* (1966), and perhaps Cecil Brown, *Lives and Loves of Mr. Jive-Ass N-r* (1968) in this category, too. There is also some of the secondary literature that studies the emerging black power movement, such as Arthur L. Smith's [Molefi Asante's] *Rhetoric of Black Revolution* (1969). And there are works that deal with the fore-runners of black power, such as E.U. Essien-Udom's *Black Nationalism* (1962).

There is only a small amount of prison literature in this collection. The most prominent work of prison literature on the list is Eldridge Cleaver's *Soul on Ice*, which is about his experience in prison and his transformation from prison inmate to black power advocate. It had the potential to draw the attention of many readers at Marion Ohio library. The other explicitly prison literature is George L. Jackson's *Blood in My Eye* (1972) and Angela Davis' edited collection of prison writings, *If They Come in the Morning* (1971) and Robert J. Minton's edited

volume, *Inside: Prison American Style* (1971).

G. What is Missing?

The list is rich and comprehensive, although there are some surprising omissions. For instance, missing are James Baldwin's *The Fire Next Time* (1963), Richard Wright's *Black Power: A Record of Reactions in a Land of Pathos* (1954), Richard Wright, *White Men, Listen!* (1951), and other literature and literary criticism, such as Ralph Ellison's *Shadow and Act* (1963).

Among the histories that are missing are Winthrop Jordan's *Black Over White*. The sociology that one might expect to see here includes Kerner Commission Report, Harold Cruse, *Rebellion or Revolution?*, James A. Geschwender, *The Black Revolt: The Civil Rights Movement, Ghetto Uprisings, and Separatism* (1971), Paul Jacobs, *Prelude to a Riot: View of Urban America from Bottom* (1968), and Sara Blackburn's edited *White Justice: Black Experience Today in America's Courtrooms* (1971).

There is other literature from the leaders of the Black Power movement that is conspicuously absent, including *Malcolm X Speaks* (1965), Stokely Carmichael, *Stockley Speaks* (1971), Eldridge Cleaver, *Post-Prison Writings* (1969), Huey Newton, *To Die for the People* (1972),²⁴ especially Robert F. Williams, *Negroes with Guns* (1962),²⁵ and George Jackson,

²⁴ Erik H. Ericson and Huey Newton, *On Common Ground: Conversations with Erik H. Ericson and Huey P. Newton* (1973) and Huey Newton's *Revolutionary Suicide* (1973) appeared the year after the list was compiled.

²⁵ See TIMOTHY TYSON, RADIO FREE DIXIE: ROBERT F. WILLIAMS AND THE ROOTS OF BLACK POWER (2001); cf. Simon Wendt, *The Roots of Black Power? Armed Resistance and the Radicalization of the Civil Rights Movement*, in THE BLACK POWER MOVEMENT: RETHINKING THE CIVIL RIGHTS-BLACK POWER ERA 145 (Peniel E. Joseph ed., 2006) (asking about relationship between armed resistance during early 1960s Civil Rights movement and later Black Power).

Soledad Brother (1970). There is secondary literature on Black Power that might reasonably have been included, such as Haig Bosmajian and Hamida Bosmajian, *The Rhetoric of the Civil Rights Movement* (1969), Robert Scott and Wayne Brockriede, *The Rhetoric of Black Power* (1969), especially Floyd Barbour's *The Black Power Revolt* (1968) and Floyd B. Barbour's *The Black Seventies* (1970), Ernest G. Bormann's *Forerunners of Black Power: The Rhetoric of Abolition* (1971).

3. The Prison Responds

A. The Administration's Alternative List of the Black Experience

Prison officials faced with the charge that they had not done enough responded that they already had a lot of literature on the black experience in America in their collection. In 1976 they provided a list of 58 titles on the black experience that were already in the prison library.²⁶ It appears in appendix 2. The special master cited the list as evidence of the prison's good faith.²⁷

A comparison of the lists is instructive, for it suggests that the prison administration had a different image of the literature that prisoners should be reading – and of what the prison administration thought represented the black experience. Perhaps most notably, Booker T. Washington's *Up From Slavery* appears on the prison's list. Washington, whose message was to go along in place and do not directly challenge the Jim Crow system of segregation, was embraced by the white community in the early twentieth century for that message. And by the white community for decades afterwards.²⁸

²⁶ 413 F.Supp. at 219-21.

²⁷ *Id.* at 219.

²⁸ ROBERT NORELL, *UP FROM HISTORY: THE LIFE OF BOOKER T. WASHINGTON* (2011).

Nothing like Washington's *Up from Slavery* is found on the court's list of books to be added. Instead, there are Washington's chief critic in the African American community in the early twentieth century, W.E.B. DuBois. The Prison Administration list also contained books on sports heroes, such as Joe Lewis, and on African American cowboys.

There were books on the library's list that might have appeared on the court's ordered list. Those include works of fiction, such as James Baldwin's *Blues for Mister Charlie* and *If Beale Street Could Talk*, Langston Hughes, *An African Treasury*, Richard Wright's *The Outsider*; and Nikki Giovanni's *The Women and the Men*; histories, such as August Meier and Elliott Rudwick, *CORE: A Study in the Civil Rights Movement* and Charles Duncan Rice, *The Rise and Fall of Black Slavery*; work on contemporary sociology, such as Allen Ballare's *The Education of Black Folk: The Afro-American Struggle for Knowledge in White America* (1973), on African American politics and law, such as Carl Rowan's *South of Freedom* (1952); and a number of books on Africa, such as Peter Ritner's *The Death of Africa* and Mark Ross, *Grass Roots in an African City: Political Behavior in Nairobi*.

B. Banning Books

We can tell some of the books that prisoners most clearly wanted to read by looking at the Prison Administration's list of banned books. as inflammatory.²⁹ That list shows what some prisoners wanted to read. From the very first published opinion in *Taylor v. Perini* there was

²⁹ "Fourth Report of Special Master," 446 F.Supp. 1186, 1206. The special master listed books that were banned because they posed a "clear and present danger," including Knight's *Black Voices from Prison*; *Malcolm X Talks with Young People*; *Revolutionary Dynamics of Women's Liberation* and *Why Women Need the Equal Rights Amendment*. The special master found, however, that they "clearly fall within the scope of legitimate political expression." *Id.* at 1206.

controversy over banned books. They didn't want radical books in the prison, especially those about prisons. The books on the list included Newsletter of National Political Prisoners, *Free Martin Sostre*, and *We are Aware*.³⁰ The works there were explicitly permitted included Jailhouse Lawyers Manual, Prison Letters of George Jackson, Socialist Revolution, Akwesane Notes.³¹

The books that were banned are Knight's *Black Voices from Prison*; *Malcolm X Talks with Young People*; *Revolutionary Dynamics of Women's Liberation* and *Why Women Need the Equal Rights Amendment*. A few years later Knight and *Malcolm X Talks with Young People* were still banned and still the subject of controversy. Another radical book, *Lesbianism and the Women's Movement*, had been banned.³² This may suggest where the real interest was – what's banned and what's permitted.

Prison officials also did not want books they deemed obscene. And there were a lot of those, which they banned as well.³³ Eldridge Cleaver's *Soul on Ice* reflects some of this.³⁴

³⁰ Special Master Report in *Taylor v. Perini*, 413 F.Supp. at 277-78, Appendix E (publications not permitted).

³¹ *Id.* at 273-76 (publications permitted). *See also* 446 F.Supp. at 1225 (listing "additional recommended purchases" to prison library, compiled by University of Toledo Law Librarian Rhoda L. Berkowitz).

³² Issues of prohibition of publications continued to arise until the final opinion. *Taylor v. Perini*, 477 F.Supp. at 1298. The Ohio Prison System's Director of Social Services, who serves as chair of the department's Publication Screening Committee, distributed a list of "not permitted" books, which included Knight's *Black Voices from Prison*, the Social Workers Party's *Freedom Now*, *Malcolm X Talks with Young People*, and *Lesbianism and the Women's Movement*. That not permitted list was found inconsistent with a previous order and was to be destroyed on arrival in the Marion Correctional Institution. 477 F.Supp. at 1299. The special master found this a "fitting if somewhat ironic denouement." 477 F. Supp. at 1299. The final order included a form for notification and waiver of rights of inmates for publications that had been screened as they arrived in the mail. *Id.* at 1392.

³³ 446 F.Supp. at 1206-07 (discussing bans due to obscenity, including *Adam*,

Cleaver talks about prison library – “The warden says ‘no sex’.” “You can have Reader’s Digest but Playboy? – not a chance. I have long wanted to file suit in Federal Court for the right to receive Playboy magazine. Do you think Hugh Hefner would finance such an action? I think some very nice ideas would be liberated.”³⁵ There was another list of materials that were specifically allowed.³⁶

4. Black Power Books in the Prison Library

The list reminds us how rich the literature developed by African Americans (and about African American history and culture) was. A lot of times histories by black people reverses course from the interpretation dominant in white cultures. The best example of this is W.E.B. DuBois’ *Black Reconstruction*. DuBois’ *Black Reconstruction* presented a counter-history to Reconstruction (then often referred to as the period of “Redemption”) that was dominant among white historians, who saw Reconstruction as a period when corrupt Yankees and recently freed slaves controlled southern governments.³⁷ There are books on Reconstruction by and for white people³⁸ and books on Reconstruction by and for black people.³⁹ Jim Crow separated people

Penthouse, Playgirl, and Playgirl Advisor).

³⁴ ELDRIDGE CLEAVER, SOUL ON ICE 47-49 (1970).

³⁵ *Id.* at 48.

³⁶ 413 F.Supp. at 273-76.

³⁷ Randall Kennedy, *Reconstruction and the Politics of Scholarship*, 98 YALE L. J. 524, 525 (1989) (reviewing Eric Foner, *Reconstruction: America’s Unfinished Business* (1988)).

³⁸ See, e.g., CLAUDE BOWERS, THE TRAGIC ERA: THE REVOLUTION AFTER LINCOLN (1929).

³⁹ W.E.B. DUBOIS, BLACK RECONSTRUCTION (1935).

intellectually, as well as physically and socially. There are also compelling, popular sociology by white authors, such as Tom Hayden's *Rebellion in Newark* and Charles Silberman's *Crisis in Black and White*. There are several histories by white people on this list—Herbert Aptheker, Kenneth Stampp, Arthur Waskow, C. Vann Woodward, and Howard Zinn.

Those books invite some speculation on how books might be used to shape and sustain a sense of black identity – and in particular how those books might be helpful in a prison.⁴⁰ The identity is of a rich fictional literature that suggests the ways that African Americans created a life independent of the constraints of segregation; and it focuses on the brutality as well as triumphs of the enslaved. Then when it switches to the Civil Rights era, there is a large focus on the claims made by the movement and the obstacles the movement faced from American society. The limits of the civil rights movement and the bold, sometimes violent response of the black power movement⁴¹ provide the capstone to the identity that emerges from those ninety books.

A. The Book-Made Radical and The Experiential Radical

Black Power writers often explain the origins of ideas in experience. Bobby Seal discusses learning through experience versus scholarship and found that experience was the better teacher. Some of the literature was concerned with books and the way that books might propagate black identity—or failed to. H. Rap Brown thought that books were relatively unimportant:

⁴⁰ See generally ERIC CUMMINS, *THE RISE AND FALL OF CALIFORNIA'S RADICAL PRISON MOVEMENT* (1994); Roberta Ann Johnson, *The Prison Birth of Black Power*, 5 J. BLACK STUDIES 395-414 (1975); LISA M. CORRIGAN, *PRISON POWER: HOW PRISON INFLUENCED THE MOVEMENT FOR BLACK LIBERATION* (2016).

⁴¹ See, e.g., James T. Campbell, *The Panthers and Local History*, in *IN SEARCH OF THE BLACK PANTHER PARTY: NEW PERSPECTIVES ON A REVOLUTIONARY MOVEMENT* 97, 101 (Jama Lazerow & Yohuru Williams, eds. 2006); David Garrow, *Picking Up the Books: The New Historiography of the Black Panther Party*, 35 REV. AM. HIST. 650-70 (2007).

Books don't make revolutionaries. I contend that the people who burned down Watts and Detroit don't have to read. These cats have lived more than the intellectual has read. So they are political by having learned from their existence. Oppression made these cats political.⁴²

Brown saw complicity between such radicals and white society.⁴³

This is reminiscent of Ralph Waldo Emerson's "American Scholar," who urged scholars to learn from experience rather than from reading about other people's experience in books.⁴⁴

Where government and academics studied the discontent and problems, the critique of books and scholarship was widespread in Black Power. Julius Lester telling observed that President Johnson spent money to find out what any black person sleeping in LaFayette park across from the White House could tell him: that there was a lack of justice.⁴⁵ H. Rap Brown and Lester Julius were certainly correct that much of Black Power was born in the experience of injustice and it was worked out through active politics, often in the street, rather than literature. And action in the streets taught lessons that books could not. "The violence" of riots "did what all the books, speeches, petitions, and nonviolent demonstrations had been unable to do."⁴⁶ It made the ghetto visible. Though there was a substantial literature on black power promulgated through

⁴² H. RAP BROWN, *DIE, NIGGER, DIE* 104 (1969).

⁴³ *Id.* ("The militants spend all their time trying to program white people into giving them some money.").

⁴⁴ Ralph Waldo Emerson, *The American Scholar*, in RALPH WALDO EMERSON: ESSAYS & LECTURES 51, 64 (Joel Porte ed., 1983) (1837).

⁴⁵ LESTER JULIUS, *LOOK OUT WHITEY: BLACK POWER'S GON GET YOUR MOMMA* 115 (1969).

⁴⁶ *Id.* at 113.

the schools.⁴⁷

Peniel Joseph, a leading historian of Black Power, has phrased Black Power's relationship to action in discussion of H. Rap Brown, as "when black power came to town, so did trouble."⁴⁸ Or, as Stokely Carmichael said, black power seized tactics from spitting to killing.⁴⁹ And maybe most illuminating is that profits from the sale of books in Berkeley were spent investing in guns.⁵⁰ As Bobby Seale memorably phrased it, "all I could think of was books, dollars, then guns for us motherfuckers."⁵¹

B. Books, Ideas, and the Origins of Black Power

Despite H. Rap Brown's skepticism of them, books – and libraries – often appear in the literature of Black Power. Yet books find their way into a surprising amount of the Black Power literature. Books were central to the genesis and propagation of Black Power. For books were an

⁴⁷ See, e.g., MARTHA BIONDI, *THE BLACK REVOLUTION ON CAMPUS* (2012); RACE AND HEGEMONIC STRUGGLE IN THE UNITED STATES: POP CULTURE, POLITICS, AND PROTEST (2014); FABIO ROJAS, *FROM BLACK POWER TO BLACK STUDIES: HOW A RADICAL SOCIAL MOVEMENT BECAME AN ACADEMIC DISCIPLINE* (2010).

⁴⁸ PENIEL E. JOSEPH, *WAITING TIL THE MIDNIGHT HOUR: A NARRATIVE HISTORY OF BLACK POWER* 188 (2006).

⁴⁹ JOSEPH, *supra* note 48, at 240 (quoting Carmichael). See also Stokely Carmichael, *What We Want*, N.Y. REV. B (September 22, 1966). Carmichael's essay was widely reprinted. See Stokely Carmichael, *Power and Racism*, in *THE BLACK POWER REVOLT* 62-71 (1968); Stokely Carmichael, *Power and Racism*, in *JUSTICE DENIED: THE BLACK MAN IN WHITE AMERICA* 501-10 (William Chace & Peter Collier eds. 1970).

⁵⁰ BOBBY SEALE, *SEIZE THE TIME* 79-85 (1968) (discussing in chapter called "Red Books for Guns," sale of Chairman Mao's Little Red Book to students at Berkeley to raise money to purchase guns). See also JOSEPH, *supra* note 48, at 176.

⁵¹ SEALE, *supra* note 50, at 84.

important source of ideas of liberation and vehicles for the propagation of those ideas.⁵² *The Autobiography of Malcolm X* is the best example of this. Malcolm X, one ought to recall, told a British reporter his alma mater was “books.”⁵³ X writes of how he read widely in the enormous library of the Norfolk Prison Library.⁵⁴ His readings, often in history, convinced X that the “teachings of Mr. Muhammad stressed how history had been “whitened”-when white men had written history books, the black man simply had been left out.”⁵⁵ X read a number of histories, including Will Durant's *Story of Civilization*, H. G. Wells' *Outline of History*, DuBois' *Souls Of Black Folk*, Carter Woodson's *Negro History*, and J. A. Rogers' *Sex and Race*.⁵⁶ “Book after book,” X wrote, “showed me how the white man had brought upon the world's black, brown, red, and yellow peoples every variety of the sufferings of exploitation. I saw how since the sixteenth century, the so-called “Christian trader” white man began to ply the seas in his lust for Asian and African empires, and plunder, and power. I read, I saw, how the white man never has gone among the non-white peoples bearing the Cross in the true manner and spirit of Christ's teachings-meek, humble, and Christ-like.”⁵⁷ X extracted from the books he read evidence that fit with his theses about how white people had distorted or erased the history of Africa and people of African ancestry. This confirmed in his mind the slogan he used to recruit converts, that the white man is

⁵² See Ernest Kaiser, *The Crisis of the Negro Intellectual*, 9 FREEDOMWAYS 24-41 (1969).

⁵³ MALCOLM X, *AUTOBIOGRAPHY OF MALCOLM X*, at chapter 11 (1965).

⁵⁴ *Id.*

⁵⁵ *Id.* at 189.

⁵⁶ *Id.* at 190.

⁵⁷ *Id.* at 192.

the devil.

Books were vehicles of liberation for many Black Power writers. “Whenever I had liberated enough cash to give me a stretch of free time,” wrote Huey Newton, “I stayed home reading books like ... Franz Kafka’s *The Trial* and Thomas Wolfe, *Look Homeward Angel*.”⁵⁸ Jean Genet’s introduction to George Jackson’s *Soledad Brother* made the point that “here is a book, tough and sure, both a weapon of liberation and a love poem.”⁵⁹ Law books in particular contained power. Huey Newton’s autobiography tells how he learned the law as a way of beating a rap. But later it empowered him and other African Americans in Oakland in other ways. Sometimes Newton stood close to where police were stopping African Americans and read from the California penal code, as a way of alerting both the police and those they had stopped about their duties and rights.⁶⁰

C. Black Power’s Agenda in Books: The Critique of Property, Constitution, and

⁵⁸ HUEY NEWTON, *REVOLUTIONARY SUICIDE* 82 (1973) (Penguin 2009).

⁵⁹ Jean Genet, *Introduction*, in *SOLEDAD BROTHER: THE PRISON LETTERS OF GEORGE JACKSON* (1970). The *New York Review of Books* also offered a critique of Black Power by the white historian Christopher Lasch. See Christopher Lasch, *The Trouble with Black Power*, *NY REV. BOOKS* (Feb. 29, 1968) (commenting, among other things, that “Violent hatred fills the vacuum left by the lack of an ideology and a program.”).

⁶⁰ NEWTON, *REVOLUTIONARY SUICIDE*, *supra* note 58, at 120-21 (discussing Huey Newton giving legal advice). *Id.* at 128:

I always carried lawbooks in my car. Sometimes, when a policeman was harassing a citizen, I would stand off a little and read the relevant portions of the penal code in a loud voice to all within hearing distance. In doing this, we were helping to educate those who gathered to observe these incidents. ... we were, proud Black men, armed with guns and knowledge of the law.

See also JOSEPH, *supra* note 48, at 211 (discussing Newton’s reading statutes).

Law

But what were the ideas that the Black Power literature sought to propagate? The literature of black power – much of which was published by major trade presses – sought to indict the system, to demystify the power behind the curtain, and to help clear the way for a redistribution of political power.⁶¹ One might take the Black Panther Party's Ten-Point Program as further evidence of the agenda of Black Power. Much was about power – and self-determination – such as having blacks freed from prison, increased employment, and an end to police brutality. However, one part was about education, which could be continued – or at least started – in the prison library. “We want education for our people that expose the true nature of this decadent American society. We want education that teaches us our true history and our police in the present day society.”⁶² There was a wide variety of critiques in the Black Power literature – some was that United States owed Blacks, others that the United States hadn't followed its own laws – others sought to critique law and suggest what law should look like.

Black Power literature had a lot to say about property, the Constitution, and the law, as have reformers throughout American history. Just as H. Rap Brown sounded like Ralph Waldo Emerson's “American Scholar,” other black power writers also paralleled Emerson's work, perhaps because both Emerson and the Transcendentalists and the Black Power movement had

⁶¹ Recent literature reveals just how many different directions Black Power thought pointed, including toward ownership and development of agricultural land. See Russell Rickford, *“We Can't Grow Food on All This Concrete”: The Land Question, Agrarianism, and Black Nationalist Thought in the Late 1960s and 1970s*, 103 J. AM. HIST. 956 (2017); Brian D. Goldstein, *The Search for New Forms: Black Power and the Making of the Postmodern City*, 103 J. AM. HIST. 375 (2016).

⁶² *Ten Point Plan*, in HUEY NEWTON, *TO DIE FOR THE PEOPLE* 3, 4 (1966).

similar techniques to challenge the status quo. They both were skeptical of private property and of authority based on tradition rather than reason. Eldridge Cleaver's *Soul on Ice* shared a skepticism with Emerson of private property. Where Emerson said in his lecture on the times that he could not occupy the bleakest craig of the white mountains without someone – or some corporation – stepping up to claim ownership, Cleaver had a similar if more modern formulation of the same principle. "Everything is held as private property. Someone has a brand on everything. There is nothing left over," he wrote. Cleaver noted the explicitly racial aspects of property. "Until recently, the blacks themselves were counted as part of somebody's private property, along with the chickens and goats. The blacks have not forgotten this, principally because they are still treated as if there are part of someone's inventory of assets – or perhaps, in this day of rage against the costs of welfare, blacks are listed among the nation's liabilities."⁶³

There was one other way that Cleaver paralleled Emerson. They both called the institution of property into question and they did it by questioning whether there was some natural right to property. "The mystique of the deed of ownership is melting away," Cleaver wrote. "In other parts of the world, peasants rise up and expropriate the land from the former owners. Blacks in America see that the deed is not eternal, that it is not signed by God, and that new deeds, making blacks the owners, can be drawn up."⁶⁴ Other Black Power literature critiqued property in similar terms. Huey Newton recalled in *Revolutionary Suicide* that "the laws exist to defend those who possess property. They protect the possessors who should share but do not."⁶⁵ Charles Hamilton, a

⁶³ CLEAVER, *SOUL ON ICE*, *supra* note 33, at 134.

⁶⁴ *Id.* at 135.

⁶⁵ NEWTON, *REVOLUTIONARY SUICIDE*, *supra* note 58, at 83 (1973). *See also* DAVID RAY

political science professor, explained in 1970 Black Power's attack on property rights and law more generally.

The entire value structure which supports property rights over human rights, which *sanctions* the intolerable conditions in which black people have been *forced* to live is questioned. They are revolts because the black people are saying that they no longer intend to abide by an oppressive notion of "law and order." That law and that order meant the perpetuation of an *intolerable* status quo.⁶⁶

The agenda was not just a critique of property rights; the critique was of law and Constitution more generally and that linked and the books reveal wide-ranging critique of white society and skepticism of the motives of whites. Lester Julius's 1968 book, *Look Out Whitey! Black Power's Gon' Get Your Mama*, provided an early formulation of what Derrick Bell has made a foundational principle of Critical Race theory: "White folks do nothing that they think is not to their advantage."⁶⁷ This has come to be known as the interest-convergence theory, that white people will only act in their perceived best interest.⁶⁸

Even more critically, Julius offered a broad critique of American society about the division between the rhetoric of equality and the reality of exclusion. "America has the rhetoric of freedom and the reality of slavery. It talks of peace, while dropping bombs. It speaks of self-determination

PAPKE, HERETICS IN THE TEMPLE: AMERICANS WHO REJECT THE NATION'S LEGAL FAITH 124 (1998).

⁶⁶ Charles Hamilton, *Riots, Revolts, and Reluctant Response*, in *THE BLACK POWER REVOLT* 174 (1970).

⁶⁷ JULIUS, *supra* note 45, at 57; Derrick Bell, *Brown v. Board of Education and The Interest Convergence Dilemma*, 93 HARV. L. REV. 518 (1979).

⁶⁸ Derrick Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980) ("The interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites.").

for all people while moving to control the means of production in which self-determination depends. It passes civil rights bills for black people, ostensibly, and does nothing to enforce such bills. ... Power maintains itself through rhetoric and force.”⁶⁹

Frequently Black Power writers had no confidence in white government.⁷⁰ And they critiqued the Constitution in particular.⁷¹ Harold Cruse's *The Crisis of the Negro Intellectual* explained the problems with the Constitution, which so frequently protected property rather than equality. The opposition to the Civil Rights Act of 1964, which was then recent history, was one of Cruse's examples of how the Constitution's protection for property stood in the way of African American equality.

Whatever the case, it has to be noted that the most vocal opponents of the Civil Rights Act of 1964 *cite* the American Constitution and object to measures aimed at enforcing the Fourteenth and Fifteenth Amendments as violations of the rights of individuals and private property – privileges which are guaranteed by the same Constitution. This emotional and legal conflict over the interpretation of the Constitution, in the slow and painfully bitter struggle towards the enforcement of the constitutional guarantees of racial equality, points up a very real dilemma inherent in the Negro's position in America.⁷²

There is a tension in law and African American equality – so much of our nation's stride

⁶⁹ JULIUS, *supra* note 45, at 120.

⁷⁰ ANDRE L. SMITH, RHETORIC OF BLACK REVOLUTION at 54, 56-57 (1970).

⁷¹ HAROLD CRUSE, THE CRISIS OF THE NEGRO INTELLECTUAL at 7, 394 (1965) (on limits of the US Constitution). Here I am eliding some of the differences between Cruse and the most radical Black Power writers, such as Malcolm X. See AUTOBIOGRAPHY OF MALCOLM X, *supra* note 53, at 196 (criticizing “negro ‘intellectuals’” like Cruse for focusing on irrelevant issues); cf. Peniel Joseph, *Harold Cruse, Black Nationalism, and the Black Power Movement*, in HAROLD CRUSE'S *THE CRISIS OF THE NEGRO INTELLECTUAL* REVISITED 241-62 (Jerry Watts ed. 2004).

⁷² CRUSE, *supra* note 71, at 7.

towards equality is at its core about the fourteenth amendment's equal protection principle.⁷³ But the law has also been so much at the center of the denial of African American rights and justice. So just as African Americans are appealing to law – and justice – they are writing about the law's abandonment of them. Complaints about basic issues of justice, which were central to the black experience and that were felt as well as read about. That issue was that law and order has meant only oppression for African Americans.⁷⁴ Law, to so many, meant the deprivation of rights.

While much of Black Power critiqued law, there was a constructive aspect to this as well, Black Power writers had a different sense of what the rule of law meant. Justice meant to them getting some property (Cleaver);⁷⁵ alleviation of poverty (Kenneth Clark);⁷⁶ release from prison (Cleaver); and an end to imperialism (Cleaver).⁷⁷ For Eldridge Cleaver saw the United States' engagement abroad as a parallel exploitation of racial minorities. At their core, these separate claims for justice were about self-determination.

5. The Bibliographic Origins of Black Power?

⁷³ Alfred L. Brophy, *The Great Constitutional Dreambook*, 2 ENCYCLOPEDIA OF THE SUPREME COURT 360-63 (David Tanenhaus ed. 2008).

⁷⁴ JULIUS, *supra* note 45, at 23.

⁷⁵ SOUL ON ICE, *supra* note 33, at 134 (“On any account, however, blacks are in no position to respect or help maintain the institution of private property. What they want is to figure out a way to get some of that property for themselves, to divert it to their own needs. This is what it is all about, and this is the real brutality involved. This is the source of all brutality.”).

⁷⁶ Tommie Shelby, *Justice, Deviance, and Dark Ghetto*, 35 PHILOSOPHY AND PUBLIC AFFAIRS 126 (2007); TOMMIE SHELBY, *WE WHO ARE DARK: THE PHILOSOPHICAL FOUNDATIONS OF BLACK SOLIDARITY* (2005).

⁷⁷ *Domestic Law and International Order*, in SOUL ON ICE, *supra* note 33, at 128-37.

The recent literature on the origins of Black Power often locates it in the claims of the civil rights movement and the increasing black consciousness. This is about black peoples' control of their own destiny.⁷⁸ "Black consciousness is an essential part of speaking we define for ourselves. It is the foundation of Black Power."⁷⁹ There was a turn to history and to African American literature, so that black people have a new understanding of history; black consciousness.⁸⁰ Is this part of the natural evolution from the Civil Rights movement, as Julius says,⁸¹ or the result of frustration at the lack of concrete action following the Civil Rights movement.⁸²

Many recent histories of Black Power focus on the experience of Black Power advocates at the local level.⁸³ Peniel Joseph's *Waiting Til the Midnight Hour*, which focuses on key players and their ideas and actions from the 1940s to the early 1970s, is styled a narrative history of Black

⁷⁸ Stokely Carmichael, *Racism and Power*, in JUSTICE DENIED, *supra* note 48, at 501, 509.

⁷⁹ JULIUS, *supra* note 45, at 93. *Id.* at 91 "Blacks are happy to study their part, to learn those parts which have been lost, to re-erect what the white man destroyed in them, and to destroy that which the white man ...".

⁸⁰ JULIUS, *supra* note 45, at 30.

⁸¹ *Id.* ("Black Power was merely the next step in a logical progression, not the outpouring of frustration that the press tried to make us believe when they couldn't explain it away. It was new in the context of the 'the movement' of the 1960s. It was not new in the context of the lives of black people.").

⁸² DAVID GARROW, BEARING THE CROSS (1986) (arguing that Black Power emerged from frustration over lack of progress on Civil Rights); HETTIE V. WILLIAMS, WE SHALL OVERCOME TO WE SHALL OVERRUN: THE COLLAPSE OF THE CIVIL RIGHTS MOVEMENT AND THE BLACK POWER REVOLT (1962-1968) (2008).

⁸³ See, e.g., YOHURU WILLIAMS, BLACK POLITICS/WHITE POWER: CIVIL RIGHTS, BLACK POWER, AND THE BLACK PANTHERS IN NEW HAVEN (2000); MATTHEW J. COUNTRYMAN, UP SOUTH: CIVIL RIGHTS AND BLACK POWER IN PHILADELPHIA (2007).

Power.”⁸⁴ Alternatively, the list of books on the black experience for the Marion Correctional Institute presents a bibliographic history of Black Power. The bibliographic history tells us that Black Power is about consciousness, as supported by history and literature, and a special vision of how blacks had been treated by law. The bibliographic history tells, in some ways, a different story from the narrative history. For while a narrative history focuses on black power’s talk about separatism and talk of violence,⁸⁵ and actual violence of course,⁸⁶ the bibliographic history can focus on the aspirations. For black power was in its ideal form also about self-determination and liberation in addition to violence. The bibliographic history can see Black Power in context of other ideas such as Black Arts, and civil rights. This movement was about liberation through education – history, art, literature, and political power.⁸⁷ The library catalog reveals the context of black power – it shows that ways that history, art, and literature combined with ideas about separatism and liberation and how they fit together.

The books provided a picture of African American history and consciousness that linked black power’s claims to the civil rights movement. This shows that agenda of black power and how it critiqued the exclusion of African Americans and brutality of history in the United States. It provided an intellectual underpinning to what seemed obvious and also critiqued the meaning of

⁸⁴ See JOSEPH, *supra* note 48.

⁸⁵ See, e.g., PEARSON, *THE SHADOW OF THE PANTHER* (1994) (revealing violence of Black Panthers); CLEAVER, *SOUL ON ICE*, *supra* note 33, at 14 (writing about rape of white women as “a revolutionary act”).

⁸⁶ Campbell, *supra* note 40.

⁸⁷ Cf. Peniel E. Joseph, *Black Studies, Student Activism, and the Black Power Movement*, in *THE BLACK POWER MOVEMENT*, *supra* note 24, at 251 (interpreting Black Studies as a dependent variable and an outgrowth of Black Power).

“law and order.”

To be sure the book culture helped give it shape and to propagate the ideas of black power.⁸⁸ There were more connections between black power and mainstream politics than we sometimes realize, as historians are increasingly telling us.⁸⁹ The claims made by adherents of the Civil Rights Movement and the Black Power movement were often not very distinct. This was true about books on the rhetoric of civil rights and black power as well.⁹⁰

Conclusion

Books that contained the ideas of liberation, that indicted capitalism and sought to de-legitimize prisons were in circulation in the Marion Correctional Institution. Whether they found receptive readers is tough to tell. Although some evidence from other prisons suggests that the ideas of black power were put into practice, for prisons were the places that black power ideas were developed and disseminated.⁹¹

⁸⁸ JOSPEH, *supra* note 48, at 209 (discussing Huey Newton's reading in Revolutionary canon, such as Franz Fanon); WILLIAM L. VAN DEBURG, *NEW DAY IN BABYLON: THE BLACK POWER MOVEMENT AND AMERICAN CULTURE, 1965-1975* (1992).

⁸⁹ *See, e.g.*, DEVIN FERGUS, *LIBERALISM, BLACK POWER, AND THE MAKING OF AMERICAN POLITICS, 1965-1980* (2009); COUNTRYMAN, *supra* note 83.

⁹⁰ *See* HAIG BOSMAJIAN AND HAMIDA BOSMAJAIN, *THE RHETORIC OF THE CIVIL RIGHTS MOVEMENT* (1969) (providing civil rights and black power speeches in same book); ROBERT SCOTT AND WAYNE BROCKRIEDE, *THE RHETORIC OF BLACK POWER* (1969) (same). *See also* Keith Gilyard, *Aspects of African American Rhetoric as a Field*, in *AFRICAN AMERICAN RHETORIC(S): INTERDISCIPLINARY PERSPECTIVES* 1, 8 (2007) (making the point that black power and civil rights rhetoric were connected).

⁹¹ *See, e.g.*, KNIGHT, *supra* note 2.

Appendix 1 – Titles on Court Order

Source: Taylor v. Perini, 413 F.Supp. 189 (D.C. Ohio 1976). The list is repeated at Taylor v. Perini, 421 F.Supp. 740, 754-57 (D.C. Ohio DATE).

1. African Affairs. (1961-). London: Chatto & Windus.
2. Ploski, Harry A., & Kaiser, Ernest eds. (1971). Afro USA: A Reference Work on the Black Experience. New York: Bellwether Publishing Co.
3. Angelou, Maya (1969). I Know Why the Caged Bird Sings. New York: Random House.
4. Aptheker, Herbert (1939). Negro Slave Revolts in the United States, 1526-1860. New York: International Publishers.
5. Baldwin, James (1953). Go Tell It on the Mountain. New York: Alfred A. Knopf.
6. Baldwin, James (1968). Tell Me How Long the Train's Been Gone: A Novel. New York: Dial Press.
7. Belgrave, Sally (1965). Freedom Summer. Charlottesville: University Press of Virginia.
8. Bennett, Lerone (1968). What Manner of Man: A Biography of Martin Luther King, Jr. Chicago: Johnson Pub. Co.
9. Black Scholar. (1969-). San Francisco, CA: Black World Foundation
10. Black World. (1970-1976). Chicago: Johnson Pub. Co.
11. Bontemps, Arna (1963). American Negro Poetry. New York: Hill and Wang.
12. Broderick, Francis L. (1959). W.E.B. Du Bois, Negro Leader in a Time of Crisis. Stanford, CA: Stanford University Press.
13. Brown, Cecil (1969). The Life and Loves of Mr. Jiveass Nigger: A Novel. New York: Farrar, Straus & Giroux.
14. Brown, Claude (1965). Manchild in the Promised Land. New York: Macmillan.
15. Brown, H. Rap (1969). Die, Nigger, Die! New York: Dial Press.
16. Bullins, Ed (1969). Five Plays. Indianapolis: Bobbs-Merrill.
17. Carmichael, Stokely & Hamilton, Charles V. (1967). Black Power: The Politics of Liberation in America. New York: Random House.
18. Clarke, John Henrik, Bailey, A. Peter, & Grant, Earl (1969). Malcolm X: The Man and His Times. New York: Macmillan.
- 21 Chace, William M. and Peter Collier eds., (1970). Justice Denied: The Black Man in White America. New York: Harcourt, Brace & World.
19. Clark, Kenneth B. (1965). Dark Ghetto: Dilemmas of Social Power. New York: Harper & Row.
20. Cleaver, Eldridge (1967). Soul on Ice. New York: McGraw-Hill.
23. Cone, James H. (1969). Black Theology and Black Power. New York: Seabury Press.
22. Conot, Robert E. (1967). Rivers of Blood, Years of Darkness: The Unforgettable Classic Account of the Watts Riot. New York: Bantam Books.
24. Cronon, E. David (1955). Black Moses: The Story of Marcus Garvey and the Universal Negro Improvement Association. Madison: Wisconsin University Press.
25. Cruse, Harold (1967). The Crisis of the Negro Intellectual. New York: Morrow.
26. John Randolph Spears, *The American Slave Trade: An Account of Its Origin, Growth and*

Suppression (New York: C. Scribner's Sons 1900).⁹²

27. Davis, Angela Y. (1971). *If They Come in the Morning: Voices of Resistance*. New York: Okpaku Pub. Co.
28. DuBois, William Edward Burghardt (1935). *Black Reconstruction: An Essay Toward the History of the Part Which Black Folk Played in America, 1860-1880*. New York: Russel & Russel.
29. DuBois, William Edward Burghardt. (1903). *The Souls of Black Folk: Essays and Sketches*. Chicago: A.C. McClurg.
30. Ellison, Ralph (1952). *Invisible Man*. New York: Random House.
31. Essien-Udom, E. U. (1962). *Black Nationalism: A Search for an Identity in America*. Chicago: University of Chicago Press.
32. Fanon, Frantz (1967). *Black Skin, White Masks*. New York: Grove Press.
33. Fanon, Frantz (1963). *The Wretched of the Earth*. New York: Grove Press.
34. Fisher, Miles Mark (1953). *Negro Slave Songs in the United States*. Ithaca: Cornell University Press for the American Historical Association.
35. Seems to be a repeat of 34. *Negro Slave and Protest Songs*.
36. Fisher, Rudolph (1960, c1932). *The Conjure-Man Dies*. Salem, NH: Ayer Co., Publishers.
37. Fisher, Rudolph (1928). *The Walls of Jericho*. New York A.A. Knopf.
38. Franklin, John Hope (1963). *The Emancipation Proclamation*. Garden City, NY: Doubleday.
39. Franklin, John Hope (1947). *From Slavery to Freedom: A History of American Negroes*. New York: A.A. Knopf.
40. Franklin, John Hope (1961). *Reconstruction: After the Civil War*. Chicago: University of Chicago Press.
41. Frazier, E. Franklin (1939). *The Negro Family in the United States*. Chicago: University of Chicago Press.
42. *Freedomways* (journal).
43. Giovanni, Nikki (1970). *Black Feeling, Black Talk, Black Judgement*. New York: William Morrow.
44. Hayden, Tom (1967). *Rebellion in Newark: Official Violence and Ghetto Response*. New York: Vintage Books.
45. Jackson, George L. (1972). *Blood in My Eye*. New York: Random House.
46. Johnson, James Weldon (1912). *The Autobiography of an Ex-Colored Man*. New York: Sherman, French & Co.
47. Jones, LeRoi (1963). *Blues People: Negro Music in White America*. New York: William Morrow.
48. Jones, LeRoi (1964). *The Dutchman and the Slave: Two Plays*. New York: Morrow.
49. Jones, LeRoi, Home (1966), *Home: Social Essays*. New York: William Morrow
50. *Journal of Negro History*.

⁹² Spears' book is out of place in here, because the books are usually listed in alphabetical order according to author's last name. It is possible that the book is W.E.B. DuBois (1896). *The Suppression of the African Slave Trade to the United States of America, 1638-1870*. New York: Longman, Greens, and Co.

51. Killens, John Oliver (1963). *And Then We Heard The Thunder*. New York: Knopf.
52. King, Martin Luther (1958). *Stride Toward Freedom: The Montgomery Story*. New York: Harper.
53. King, Martin Luther (1968). *The Trumpet of Conscience*. New York: Harper & Row.
54. King, Martin Luther (1967). *Where Do We Go From Here: Chaos or Community?* New York: Harper & Row.
55. King, Martin Luther (1964). *Why We Can't Wait*. New York: Harper & Row.
57. Lester, Julius (1969). *Black Folktales*. New York: R. W. Baron.
58. Lester, Julius (1968). *Look Out, Whitey: Black Power's Gon' Get Your Mama*. New York: Dial Press.
56. Lewis, David L. (1970). *King: A Critical Biography*. New York: Praeger.
59. Lincoln, C. Eric (1961). *The Black Muslims in America*. Boston: Beacon Press.
60. Little, Malcolm [Malcolm X] (1965). *Autobiography of Malcolm X*. New York: Grove Press.
61. Masotti, Louis H., & Bowen, Don R. (1968). *Riots and Rebellion: Civil Violence in the Urban Community*. Beverly Hills, CA: Sage Publications.
62. Mayfield, Julian (1957). *The Hit: A Novel*. New York: Vanguard Press.
63. McKay, Claude (1929). *Banjo: A Story Without a Plot*. New York; London: Harper & Brothers.
64. McKay, Claude (1928). *Home to Harlem*. New York; London: Harper & Brothers.
65. Meriwether, Louise (1970). *Daddy Was a Number Runner*. Englewood Cliffs, NJ: Prentice-Hall.
66. Minton, Robert J. (1971). *Inside: Prison American Style*. New York: Random House.
67. Muse, Benjamin (1968). *American Negro Revolution: From Nonviolence to Black Power, 1963-1967*. Bloomington: Indiana University Press.
68. Parrinder, Geoffrey (1954). *African Traditional Religion*. London: Hutchinson's University Library.
69. Proudfoot, Merrill (1962). *Diary of a Sit-in*. Chapel Hill.: University of North Carolina Press.
70. Quarles, Benjamin (1969). *Black Abolitionists*. New York: Oxford University Press.
71. Quarles, Benjamin (1962). *Lincoln and the Negro*. New York: Oxford University Press.
72. Quarles, Benjamin (1953). *The Negro in the Civil War*. Boston: Little, Brown.
73. Resh, Richard (1969). *Black America: Accommodation and Confrontation in the Twentieth Century*. Lexington, MA.: D.C. Heath.
74. Seale, Bobby (1970). *Seize the Time: The Story of the Black Panther Party and Huey P. Newton*. New York: Random House.
75. Silberman, Charles E. (1964). *Crisis in Black and White*. New York: Random House.
76. Silver, James Wesley (1964). *Mississippi: The Closed Society*. New York: Harcourt, Brace & World.
77. Smith, Arthur L. [Molife Asante] (1969). *Rhetoric of Black Revolution*. Boston: Allyn and Bacon.
78. Stamp, Kenneth M. (1956). *The Peculiar Institution: Slavery in the Ante-bellum South*. New York: Vintage.
79. Stearns, Marshall Winslow (1956). *The Story of Jazz*. New York: Oxford University Press.

80. Stone, Chuck (1968). *Black Political Power in America*. Indianapolis: Bobbs Merrill.
81. Sutherland, Elizabeth (1965). *Letters from Mississippi*. New York: McGraw-Hill.
82. Washington, Joseph R. (1964). *Black Religion: The Negro and Christianity in the United States*. Boston: Beacon Press.
83. Waskow, Arthur Ocean (1966). *From Race Riot to Sit-in, 1919 and the 1960s: a Study in the Connections Between Conflict and Violence*. Garden City, NY: Doubleday.
84. Westin, Alan F. (1964). *Freedom Now! The Civil Rights Struggle in America*. New York: Basic Books.
85. Williams, John Alfred (1967). *The Man Who Cried I Am: A Novel*. Boston: Little, Brown.
86. Woodward, C. Vann (1955). *The Strange Career of Jim Crow*. New York: Oxford University Press.
87. Wright, Richard (1940). *Native Son*. New York: Harper & Row.
88. Wright, Richard (1938). *Uncle Tom's Children: Four Novellas*. New York; London: Harper & Brothers.
89. Yette, Samuel F. (1971). *The Choice: The Issue of Black Survival in America*. New York: Putnam.
90. Young, Whitney M. (1969). *Beyond Racism: Building an Open Society*. New York: McGraw Hill.
91. Zinn, Howard (1964). *SNCC, The New Abolitionists*. Boston: Beacon Press.

Appendix 2: Other Black Experience Materials in Prison Library

The court characterized the following list as “evidences the bona fide interest of the institution in purchasing materials which will be interest to Black inmates.” 413 F. Supp. at 219-21. This *bona fide* interest was subsequently used as evidence that the prison did not need to replace lost materials. 455 F.Supp. 1241, 1258 (1978).

Ali, Muhammad & Durham, Richard (1975). *The Greatest, My Own Story*. New York: Random House.

Astor, Gerald (1974). *And a Credit to His Race: The Life and Hard Times of Joseph Louis Barrow, a.k.a. Joe Louis*. New York: Saturday Review Press.

Baker, J. E. (1974). *The Right to Participate: Inmate Involvement in Prison Administration*. Metuchen, NJ: Scarecrow Press.

Baldwin, James (1964). *Blues for Mister Charlie, A Play*. New York: Dial Press.

Baldwin, James (1974). *If Beale Street Could Talk*. New York: Dial Press.

Ballard, Allen B. (1973). *The Education of Black Folk: The Afro-American Struggle for Knowledge in White America*. New York: Harper & Row.

Becker, Carl Lotus (1922). *The Declaration of Independence: A Study in the History of Political Ideas*. New York: Harcourt, Brace & World.

Blakely, Henry (1974). *Windy Place*. Detroit: Broadside Press.

Boyle, Sarah-Patton (1962). *The Desegregated Heart: A Virginian's Stand in Time of Transition*. New York: Morrow.

Cross, George Lynn (1975). *Blacks in White Colleges: Oklahoma's Landmark Cases*. Norman.: University of Oklahoma Press.

Davies, Peter (1973). *The Truth About Kent State: A Challenge to the American Conscience*. New York: Farrar, Straus, Giroux.

Davis, Arthur Paul, & Peplow, Michael W. (1975). *The New Negro Renaissance: An Anthology*. New York: Holt, Rinehart and Winston.

Delman, David. (1975). *One Man's Murder*. Philadelphia: David McKay.

Dorman, Michael (1965). *We Shall Overcome*. New York: Dell Pub. Co.

Durham, Philip, & Jones, Everett L. (1969). *The Adventures of the Negro Cowboy*. New York: Pathfinder Press.

Ebony (Ed.). (1971). *Ebony Pictorial History of Black America Vol. 1, 2, 3*. Chicago: Johnson Pub. Co.

Ebony (Ed.). (1973). *1000 Successful Blacks Vol. 1*. Chicago: Johnson Pub. Co.

Ebony (Ed.). (1973). *Career Guide Vol. 3: Opportunities and Resources for You*. Chicago: Johnson Pub. Co.

Ebony (Ed.). (1973). *Famous Blacks Give Secrets of Success Vol. 2*. Chicago: Johnson Pub. Co.

Ebony (Ed.). (1973). *Pictorial History: Black America*. Chicago: Johnson Pub. Co.

Ebony (Ed.). (1974). *The Ebony Handbook*. Chicago: Johnson Pub. Co.

Franklin, John Hope (1963). *The Emancipation Proclamation*. Garden City, N. Y.: Doubleday.

Franklin, John Hope (1967). *The Negro in 20th Century America: A Reader on the Struggle for Civil Rights*. New York: Vintage Books.

Fry, Gladys-Marie. (1975). *Night Riders In Black Folk History*. Knoxville, T. N.: University of Tennessee Press.

Giovanni, Nikki (1975). *The Women and the Men*. New York: Morrow.

Greene, Robert E. (1974). *Black Defenders of America: 1775-1973*. Chicago: Johnson Pub. Co.

Harris, Janet (1967). *The Long Freedom Road: The Civil Rights Story*. New York: McGraw-Hill.

Heath, Jim F. (1975). *Decade of Disillusionment: The Kennedy-Johnson Years*. Bloomington: Indiana University Press.

Himes, Chester (1973). *Black on Black: Baby Sister and Selected Writings*. Garden City, NY: Double Day.

Hoff, Rhoda (1967). *America's Immigrants: Adventures in Eyewitness History*. New York: H.Z. Walck.

Hughes, Langston (1960). *An African Treasury: Articles, Essays, Stories, Poems*. New York: Crown Publishers.

Jeffers, Lance (1974). *When I Know the Power of My Black Hand*. Detroit: Broadside.

Jones, Major J. (1974). *Christian Ethics for Black Theology: The Politics of Liberation*. Nashville, TN: Abingdon Press.

July, Robert William (1975). *Precolonial Africa: An Economic and Social History*. New York: Scribner's.

Kichak, Francis Joseph (1975). *The Serpent and the Dove*. Lafayette, LA: Exposition Press.

Leab, Daniel J. (1975). *From Sambo to Superspade: The Black Experience in Motion Pictures*. Boston: Houghton Mifflin.

Levitt, Leonard (1967). *An African Season*. New York: Simon & Schuster.

Mbiti, John S. (1975). *Introduction to African Religion*. London: Heinemann Educational.

Meier, August, & Rudwick, Elliott (1973). *CORE: A Study in the Civil Rights Movement*. New York: Oxford University Press.

Parish, Peter J. (1974). *The American Civil War*. New York: Holmes & Meier.

Ploski, Harry A., & Kaiser, Ernest (1962). *The Negro Almanac*. New York: Bellwether Publishing Co.

Reitman, Alan (1975). *The Pulse of Freedom: American Liberties 1920-1970s*. New York: Norton.

Rice, Charles Duncan (1975). *The Rise and Fall of Black Slavery*. New York: Harper & Row.

Ritner, Peter (1960). *The Death of Africa*. New York: Macmillan.

Ross, Marc Howard (1975). *Grass Roots in an African City: Political Behavior in Nairobi*. Cambridge: MIT Press.

Rowan, Carl T. (1952). *South of Freedom*. New York: Knopf.

Rubin, Jerry (1970). *Do It: Scenarios of the Revolution*. New York: Simon & Schuster.

Skinner, Elliott P. (1973). *People and Cultures of Africa: An Anthropological Reader*. Garden City, NY: Natural History Press.

Soyinka, Wole (1975). *Poems of Black Africa*. Portsmouth, NH: Heinemann International Literature.

Sykes, Gresham M. (1971). *Social Problems in America*. Glenview, IL: Scott, Foresman.

Turner, Darwin T. (1970). *Black American Literature: Essays, Poetry, Fiction, Drama*. Columbus, OH: Merrill.

Wallerstein, Immanuel (1967). *Africa: The Politics of Unity: An Analysis of a Contemporary Social Movement*. New York: Random House.

Washington, Booker T. (1901). *Up From Slavery: An Autobiography*. New York: Doubleday, Page & Co.

Weisbord, Robert G. (1975). *Genocide?: Birth Control and the Black American*.

Widder, Arthur (1962). *Adventures in Black*. New York: Harper & Row.

Wright, Richard (1953). *The Outsider*. New York: Harper and Brothers.

Young, Margaret B. (1968). *Martin Luther King Jr.* Danbury, CT: Franklin Watts.