

Richard Delgado and Ice Cube: Brothers in Arms

andré douglas pond cummings†

I. Introduction

Critical Race Theory as a movement is best understood through the lens of founding voice Richard Delgado. Delgado's prolific and fearless writings have inspired thousands and launched theories that have literally changed the course of race law in the United States. In fact, two explosive movements were born in the United States in the 1970s. While the founding of both movements was humble and lightly noticed, both grew to become global phenomena that have profoundly changed the world. Founded by prescient agitators, these two movements were borne of disaffect, disappointment, and near desperation—a desperate need to give voice to oppressed and dispossessed peoples. America in the 1970s bore witness to the founding of two furious movements: Critical Race Theory and hip-hop.

Critical Race Theory (or CRT) was founded as a response to what had been deemed a sputtering civil rights agenda in the U.S.¹ Driven primarily by law professors of color, it targeted the law by exposing the racial inequities supported by U.S. law and policy.²

†. Vice Dean and Professor of Law, Indiana Tech Law School; J.D., Howard University School of Law. Portions of this tribute Essay were first published in andré douglas pond cummings, *A Furious Kinship: Critical Race Theory and the Hip Hop Nation*, 48 U. LOUISVILLE L. REV. 499 (2010) and in andré douglas pond cummings, *Derrick Bell: Godfather Provocateur*, 28 HARV. J. ON RACIAL & ETHNIC JUST. 51 (2012). I am grateful to Prosper Batinge, Indiana Tech Law School Class of 2016, for his excellent research assistance. Further gratitude is expressed to the excellent leadership of Minnesota's *Law and Inequality: A Journal of Theory and Practice* for hosting this tribute and issue honoring the seminal work of Richard Delgado. I respectfully offer this tribute to Professor Richard Delgado as my humble acknowledgment of the incredible influence he has had in the legal academy, on U.S. legal discourse, and in my own personal life and intellectual pursuits. Of course, as usual, the politics and errata of this Essay belong exclusively to me.

1. CRITICAL RACE THEORY: THE CUTTING EDGE xvi (Richard Delgado & Jean Stefancic eds., 2d ed. 2000) [hereinafter THE CUTTING EDGE] (stating that "Critical Race Theory sprang up in the mid-1970s with the early work of Derrick Bell (an African American) and Alan Freeman (a White), both of whom were deeply distressed over the slow pace of racial reform in the United States").

2. See William F. Tate IV, *Critical Race Theory and Education: History, Theory, and Implications*, 22 REV. RES. EDUC. 195 (1997), available at <http://www>.

Hip-hop, on the other hand, was founded by emerging artists, musicians, and agitators in the South Bronx neighborhoods of New York City, primarily driven by young African American disaffected youth, as a response to a faltering music industry and abject poverty.³ While these two movements, Critical Race Theory and hip-hop, seem significantly separated by presentation, content, and point of origin, they share startling similarities. Among the many similarities between Critical Race Theory and hip-hop, the closest link is the use of narrative in response to racism and injustice in a post-civil rights era.⁴ Further, Critical Race Theory and hip-hop share a fundamental desire to give voice to a discontent brewed by silence,⁵ and a dedication to the continuing struggle for race equality in the United States.⁶ Both Critical Race Theory and hip-hop strive toward their mutual goals of radical realignment and societal recognition and change of race and law in America.⁷

Both Critical Race Theory and hip-hop found a post-civil rights era voice and used this voice to express fiery and furious critiques of a system that was, and still is, fundamentally unfair. Both movements found audiences that were yearning for a vehicle to speak truth to power; indeed, they had been waiting for a representative voice to expose a reality known by so many of the oppressed and voiceless.⁸ Hip-hop was a source of validation and acknowledgment for a generation that had been shut out and shut

jstor.org/stable/1167376; see also THE CUTTING EDGE, *supra* note 1, at xv–xix; Laurence Parker, *Critical Race Theory and Africana Studies: Making Connections to Education* 2–3 (The Cavehill Philosophy Symposium, Working Paper, 2008), available at <http://www.cavehill.uwi.edu/the/histphil/chips/archives/2008/docs/parker2008.aspx>.

3. See JEFF CHANG, CAN'T STOP WON'T STOP: A HISTORY OF THE HIP-HOP GENERATION 58–65 (2005); see also Melissa Castillo-Garstow, *Latinos in Hip Hop to Reggaeton*, LATIN BEAT MAG., Mar. 2005, at 24, available at <http://www.brownpride.com/latinrap/latinrap.asp?a=hiphoptoreggaeton/index> (“From the earliest days, hip hop has not just been about music, but also included other cultural expressions of the neighborhoods of origin such as graffiti art, break dance, and the DJ mix tape scene. Those early stages of development took place primarily within the Puerto Rican and African American communities of the South Bronx, where those two cultures lived and worked together.”).

4. See Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2411–16 (1989); see also Davey D, *The History of Hip Hop*, DAVEY D'S HIP HOP CORNER, <http://www.daveyd.com/rapphist3.html> (last visited Apr. 16, 2015) [hereinafter *History of Hip Hop*].

5. See Isaura Pulido, “*Music Fit for Us Minorities*”: *Latinas/os' Use of Hip Hop as Pedagogy and Interpretive Framework to Negotiate and Challenge Racism*, 42 EQUITY & EXCELLENCE IN EDUC. 67, 67 (2009).

6. *Id.*

7. *Id.*

8. *Id.* at 67–68.

down.⁹ CRT served a similar function for a professional movement that had become frustrated with the failure of America to live up to its promise of equality and social justice.¹⁰ Together, these two movements converged in extraordinary ways.

One of the most important voices in the nascent days of the CRT movement was founding voice Richard Delgado, who along with Derrick Bell, introduced the world to CRT. Delgado published the explosive articles *The Imperial Scholar*¹¹ and *A Plea for Narrative*.¹² Delgado's early CRT publications represented an effort to educate and enlighten the civil-rights generation, emerging scholars of color, and the rest of the legal world to the inequities and discrimination inherent in a legal system that systematically disadvantages minority citizens in the U.S.¹³ Delgado's voice was so important during the founding of CRT that he is revered today as a true pioneer in race jurisprudence in the United States.

II. Sharing a Parallel Universe¹⁴

A. Launch

When many of the founding members of Critical Race Theory met in 1989 at a workshop at the St. Benedict Center in Madison, Wisconsin,¹⁵ launching a global academic movement was likely not at the forefront of their minds. Meeting together as law professors of color was more about support and survival within the White male-dominated legal academy than about spawning a movement that would change the debate of race in America.¹⁶ Similarly,

9. See S.H. Fernando, Jr., *Back in the Day: 1975-1979*, in *THE VIBE HISTORY OF HIP HOP* 13–20 (Alan Light ed., 1999).

10. See *THE CUTTING EDGE*, *supra* note 1.

11. Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984).

12. Delgado, *supra* note 4.

13. See Bryan K. Fair, *A Constitutional Law Casebook for the 21st Century: A Critical Essay on Cohen and Varat*, 21 SEATTLE U. L. REV. 859, 884 (1998) (reviewing WILLIAM COHEN & JONATHAN D. VARAT, *CONSTITUTIONAL LAW, CASES AND MATERIALS* (1997)) (discussing how “Richard Delgado and Jean Stefancic have . . . [produced] literally hundreds of articles, book reviews, and books about law’s victims and law’s power”).

14. Portions of this Section originally appeared in andré douglas pond cummings, *A Furious Kinship: Critical Race Theory and the Hip Hop Nation*, 48 U. LOUISVILLE L. REV. 499 (2010) and in andré douglas pond cummings, *Derrick Bell: Godfather Provocateur*, 28 HARV. J. ON RACIAL & ETHNIC JUST. 51 (2012).

15. See Angela Harris, *Foreword* to RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* xvii, xix (2001).

16. *Id.*

when DJ Kool Herc and Africa Bambaataa began spinning records on turntables in the parks of the South Bronx and rhyming over the instrumental hooks, launching a global cultural and musical movement was likely not their objective.¹⁷ The roots of both launches were humble, unassuming, and sparsely witnessed.¹⁸ Truly, the beginning of CRT and the origination of hip-hop both sprang from the creative and aggressive minds of a few forward-thinking progressives that simply *had* to find a forum by which to express very different ways of communicating, thinking, writing, and philosophizing.¹⁹

From the movement's inception, Critical Race theorists championed storytelling and narrative as valuable empirical proof of reality and the human experience, while rejecting traditional forms of legal studies, pedagogy, and various forms of civil rights leadership.²⁰ Similarly, hip-hop, at its root, is narrative in form; the best, most recognizable hip-hop artists use storytelling as their most fundamental communicative method.²¹ Further, early hip-hop culture and rap music rejected the traditional legal, judicial, and educational systems, decrying—often in journalistic fashion—the status-quo system established by the White majority.²² In the same vein, Critical Race theorists rejected the straight-White-male perspective and privilege then (and still) pervasive throughout the legal academy, proposing instead a much different approach to teaching, writing, legal learning, and perspective-

17. Andre L. Smith, *Other People's Property: Hip-Hop's Inherent Clashes with Property Laws and Its Ascendance as Global Counter Culture*, 7 VA. SPORTS & ENT. L.J. 59, 63 (2007–2008) (explaining that “DJ Kool Herc is widely acknowledged as the father of hip-hop” and that Africa Bambaataa is an early hip-hop group that was at the forefront of the breakdancing and digital music craze within hip-hop in the Eighties).

18. See *supra* notes 4 and 15.

19. *Id.*

20. See John Calmore, *Airing Dirty Laundry: Disputes Among Privileged Blacks—From Clarence Thomas to “The Law School Five,”* 46 HOW. L.J. 175, 179 (2003) (citing Cornel West, *Foreword to CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* (Kimberlé Crenshaw et al. eds., 1995)).

21. See *History of Hip Hop*, *supra* note 4; see also Fernando, Jr., *supra* note 9, at 13–20, 43–50.

22. See RUSSELL A. POTTER, *SPECTACULAR VERNACULARS: HIP-HOP AND THE POLITICS OF POSTMODERNISM* 95 (1995) (“In 1994, the reaction against this particular genre reached a crisis point in the form of congressional hearings instigated by Dr. C. Delores Tucker. Dr. Tucker . . . took offense to ‘gangsta rap’ lyrics, and organized a series of protests in the Washington, D.C. area . . . Unlike Tipper Gore and her dormant Parents’ Music Resource Center, Tucker wanted more than warning labels; she demanded an outright ban on ‘gangsta’ rap records.”); see also PAUL BUTLER, *LET’S GET FREE: A HIP-HOP THEORY OF JUSTICE* 124 (2009); andré douglas pond cummings, *Thug Life: Hip Hop’s Curious Relationship with Criminal Justice*, 50 SANTA CLARA L. REV. 515, 538–40 (2010).

sharing within the law-school classroom.²³ Hip-hop artists have advocated for more than thirty-five years that which is perhaps most startling for traditional society: a thorough disrespect for, and disregard of, the rule of law, particularly in connection with criminal law and punishment.²⁴ As studies have shown:

[Y]outh utilize hip hop music in multiple and overlapping ways, engaging hip hop music as both a pedagogy that centers the perspectives of color and a framework to examine daily life. Specifically, youth use[] hip hop discourse to make sense of the ways race operates in their daily lives; to more broadly understand their position in the U.S. racial/ethnic hierarchy; and to critique traditional schooling for failing to critically incorporate their racialized ethnic/cultural identities within official school dialogues and curricula in empowering ways.²⁵

The striking similarities between CRT and hip-hop begin with the intellectual underpinnings of both movements. Both CRT and hip-hop serve the dual purpose of providing a race-based interdisciplinary theoretical framework for analyzing laws, policies, and administrative procedures that have a deleterious impact on racial minorities.²⁶

Hip-hop reinforces the basic insights of Critical Race Theory, including the notion that racism is a normal and relentless fact of daily life.²⁷ In addition, personal experience and narrative storytelling are used extensively and creatively to challenge the existing social construction of race.²⁸ Both CRT and hip-hop recognize that White elites will tolerate or encourage racial advances for Blacks only when such advances promote White self-interest.²⁹ In response to the inevitable result of cultural marginalization, African Americans have utilized hip-hop lyrics to disempower the White cultural elite.³⁰ Hip-hop serves as White America's introduction to the rest of minority society, exposing

23. See andré douglas pond cummings, "Lions and Tigers and Bears, Oh My" or "Redskins and Braves and Indians, Oh Why": Ruminations on McBride v. Utah State Tax Commission, *Political Correctness, and the Reasonable Person*, 36 CAL. W. L. REV. 11, 27–28, 30 (1999) (detailing the White male perspective that pervades judicial decision-making in the United States).

24. See cummings, *supra* note 22, at 515–16.

25. See Pulido, *supra* note 5.

26. *Id.*

27. See Tate IV, *supra* note 2; see also THE CUTTING EDGE, *supra* note 1, at xv–xix; Parker, *supra* note 2, at 2–3.

28. See Delgado, *supra* note 4.

29. Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 522 (1980), reprinted in CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT 20 (Kimberlé Crenshaw et al. eds., The New Press 1995).

30. See Pulido, *supra* note 5.

traditional America to life in the inner-city.³¹ Both KRS-One and Chuck D began using their voices in hip-hop as a revolutionary mechanism to politicize youth; a tool for consciousness, education, and awareness of the common stereotypes of the day.³² Due to hip-hop's bold and unapologetic representation of the culture of inner-city youth to mainstream America, the public eventually had no choice but to listen and accept a different reality.³³

Critical Race theorists believe that a principal obstacle to genuine racial reform in the U.S. is the majoritarian mindset: an experientially limited bundle of presuppositions, received wisdoms, and shared cultural understandings that persons in the majority bring to discussions of race.³⁴ To analyze and challenge these power-laden beliefs, many CRT pioneers employed counterstories, parables, chronicles, and anecdotes aimed at revealing the contingency, cruelty, and self-serving nature of majoritarian rule.³⁵ Similarly, hip-hop revolves around storytelling. In educating the hip-hop generation, Grandmaster Flash and the Furious Five recorded *The Message*; Public Enemy famously recorded *Fight the Power, Don't Believe the Hype*, *Black Steel in the Hour of Chaos*, and *911 Is a Joke*;³⁶ N.W.A. notoriously

31. *Id.*

32. See Jon Christopher Wolfe, *Sex, Violence, and Profanity: Rap Music and the First Amendment*, 44 MERCER L. REV. 667, 672-73 (1993) (discussing KRS-One and Public Enemy, the rap group that Chuck D belonged to, as political actors advocating "action against the present power structure").

33. See Glenn Collins, *Rap Music, Brash and Swaggering, Enters Mainstream*, N.Y. TIMES, Aug. 29, 1988, at C15, available at <http://www.nytimes.com/1988/08/29/arts/rap-music-brash-and-swaggering-enters-mainstream.html> ("Hip-hop, as the culture of rap is called, originated among young blacks in the Bronx in the 1970's. Instead of fading like many previous fads, rap's energy has become increasingly irresistible to an international audience of teen-agers and pre-teen-agers. As in other subcultural trends that have matured into mass phenomena, rap language and style are entering older, more racially diverse, middle-class and suburban communities . . . Hip-hop words from what was once an underclass subculture are now common parlance among America's youth . . . 'The mainstream always hoped it would be a fad that would die,' Mr. Bambaataa said. But instead, he maintained, the distinctive hip-hop vocabulary, clothes and culture has been important in empowering and giving status to an impoverished and isolated generation of urban young people that society found threatening.")

34. See THE CUTTING EDGE, *supra* note 1, at xvii.

35. See *id.*

36. GRANDMASTER FLASH AND THE FURIOUS FIVE, *The Message*, on THE MESSAGE (Sugar Hill Records 1982); PUBLIC ENEMY, *Fight the Power*, on FEAR OF A BLACK PLANET (Def Jam Recordings 1990); PUBLIC ENEMY, *Don't Believe the Hype*, on IT TAKES A NATION OF MILLIONS TO HOLD US BACK (Def Jam Recordings 1988); PUBLIC ENEMY, *Black Steel in the Hour of Chaos*, on IT TAKES A NATION OF MILLIONS TO HOLD US BACK (Def Jam Recordings 1988); PUBLIC ENEMY, *911 Is a Joke*, on FEAR OF A BLACK PLANET (Def Jam Recordings 1990).

released *Fuck tha Police* and *100 Miles and Runnin'*;³⁷ Tupac Shakur released *Brenda's Got a Baby, Keep Ya Head Up*, and *Changes*;³⁸ Ice Cube released the explosive *AmeriKKKa's Most Wanted* featuring *Endangered Species (Tales from the Darkside)* and later *Dead Homiez*;³⁹ KRS-One released an entire album he styled *Edutainment* featuring *Love's Gonna Getcha*.⁴⁰ Each release represented an urban tale, a story known intimately by the authors/artists; likewise, each was an effort on the part of the artist to educate and enlighten the hip-hop generation.⁴¹ Particularly, these stories illuminated fans and listeners to the inequities and discrimination inherent in a criminal justice system that to this day systematically target and disproportionately imprison minority and urban youth.⁴²

Like the seminal hip-hop records mentioned above, CRT founders dropped narrative and intellectual bombs in their early countercultural legal writing. In educating the legal academy, and the world in general, to the deeply entrenched racism underlying American institutions, Derrick Bell wrote the profound *The Space Traders*, *Serving Two Masters*, *Minority Admissions and the Usual Price of Racial Remedies*, and *The Interest Convergence Theory*;⁴³ Richard Delgado published the explosive *The Imperial Scholar* and *A Plea for Narrative*;⁴⁴ Kimberlé Crenshaw authored the inspired *Race, Reform, and Retrenchment*;⁴⁵ Charles Lawrence published the groundbreaking *The Id, the Ego, and Equal*

37. N.W.A., *Fuck tha Police*, on STRAIGHT OUTTA COMPTON (Ruthless Records 1988); N.W.A., *100 Miles and Runnin'* (Ruthless Records 1990).

38. TUPAC SHAKUR, *Brenda's Got a Baby*, on 2PACALYPSE NOW (Interscope Records 1991); TUPAC SHAKUR, *Keep Ya Head Up*, on STRICTLY 4 MY N.I.G.G.A.Z. (Interscope Records 1993); TUPAC SHAKUR, *Changes* (Interscope Records 1998).

39. ICE CUBE FEATURING CHUCK D, *Endangered Species (Tales from the Darkside)*, on AMERIKKKA'S MOST WANTED (Priority Records 1990); ICE CUBE, *Dead Homiez*, on KILL AT WILL (Priority Records 1990).

40. KRS-ONE, *Love's Gonna Getcha*, on EDUTAINMENT (Jive/RCA Records 1990).

41. See GRANDMASTER FLASH AND THE FURIOUS FIVE, *supra* note 36 ("A child is born with no state of mind, Blind to the ways of mankind . . . You say I'm cool, huh, I'm no fool But then you wind up droppin' outta high school.").

42. See cummings, *supra* note 22, at 533–34.

43. DERRICK BELL, *THE SPACE TRADERS* (1992); Bell, *supra* note 29; Derrick A. Bell, Jr., Bakke, *Minority Admissions, and the Usual Price of Racial Remedies*, 67 CALIF. L. REV. 3 (1979); Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470 (1976).

44. Delgado, *supra* note 11; Delgado, *supra* note 4.

45. Kimberlé Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988).

Protection: Reckoning with Unconscious Racism;⁴⁶ Mari Matsuda wrote *Looking to the Bottom*;⁴⁷ and Neil Gotanda published *A Critique of 'Our Constitution Is Color-Blind'*.⁴⁸ Each publication represented an effort on the part of the CRT pioneers to educate and enlighten the civil-rights generation, emerging scholars of color, and the rest of the legal world to the inequities and discrimination inherent in a legal system that systematically disadvantages minority citizens in the U.S.

The fiery critiques of U.S. law and social justice offered by both CRT founders and hip-hop's socially conscious voices were met with an intense backlash that was severe.

B. Backlash

At inception, both CRT and hip-hop were battered by a backlash that was intent on destroying each movement. Taking different paths, the vitriolic backlashes represented not just a fundamental disrespect for African American and minority expression, but also represented a deep-seated irrational fear held by the majority status quo and an unadulterated loathing of unfamiliar self-expression. The loathing, disrespect, and backlash against both movements proved eerily similar.

In the 1980s, as hip-hop began to expand its reach into suburban America and its youth, and as hip-hop artists and groups began to wield political power and deliver countercultural messages that resonated with those youth, an aggressive and hostile backlash emerged.⁴⁹ The fearful response from law enforcement, activist groups, and government agencies came soon after seminal releases by Public Enemy, N.W.A., Boogie Down Productions and KRS-One, and Ice-T.⁵⁰ Hip-hop openly and

46. Charles Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

47. Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987).

48. Neil Gotanda, *A Critique of "Our Constitution Is Color-Blind"*, 44 STAN. L. REV. 1 (1991).

49. See *supra* note 22 and accompanying text.

50. See *id.*; see also *Encyclopædia Britannica's Guide to Black History: hip-hop*, ENCYCLOPÆDIA BRITANNICA, <http://kids.britannica.com/blackhistory/article-9117537> (last visited Apr. 25, 2015) [hereinafter *Guide to Black History*] ("The most significant response to New York hip-hop, though, came from Los Angeles, beginning in 1989 with N.W.A.'s dynamic album *Straight Outta Compton*. N.W.A. (Niggaz With Attitude) and former members of that group—Ice Cube, Eazy-E, and producer Dr. Dre—led the way as West Coast rap grew in prominence in the early 1990s. Their graphic, frequently violent tales of real life in the inner city, as well as those of Los Angeles rappers such as Ice-T (remembered for his 1992 single *Cop Killer*) and Snoop Doggy Dogg and of East Coast counterparts such as Schoolly D,

brazenly defied traditional laws and challenged the status quo across the board.⁵¹

Despite intense criticism and myriad attempts at its eradication,⁵² hip-hop did not just survive, but flourished and

gave rise to the genre known as gangsta rap.”) (emphasis deleted).

51. See albums cited *supra* notes 36–40; see also Smith, *supra* note 17 (discussing early hip-hop’s civil disobedience in the form of house parties and park performances held without required permits or paying for electricity, unlicensed radio stations known as “pirate stations” playing hip-hop across the country, music sampling, and illegal production and distribution of records and tapes).

52. See Colin Larkin, *Biography of N.W.A.*, OLDIES.COM, <http://www.oldies.com/artist-biography/NWA.html> (last visited Mar. 30, 2015) (“In 1989, the FBI investigated Straight Outta Compton’s infamous ‘F**k Tha Police’ It set a precedent for numerous actions against N.W.A., including the first time anyone in the music industry had received a threatening letter from the FBI.”); see also Damien Cave et al., *50 Moments That Changed the History of Rock & Roll: N.W.A. Outta Compton in 1989*, ROLLING STONE, June 24, 2004, at 152, available at http://www.rollingstone.com/artists/nwa/articles/story/6085509/nwa_outta_compton_in_1989 (“N.W.A.—Niggaz With Attitude—put Los Angeles on the hip-hop map by combining funk rhythms with staccato rhymes that condemned racist cops and offered a nihilistic chronicle of drug dealing, casual street violence and crack ho’s The FBI sent a letter to N.W.A.’s record company, Priority, six months after the album’s release, accusing the label of selling a record that encouraged violence against law enforcement.”); see James LeMoyne, *Limelight Nothing New for Sheriff in Rap Case*, N.Y. TIMES, June 26, 1990, New York Ed., at A12, available at <http://www.nytimes.com/1990/06/26/us/limelight-nothing-new-for-sheriff-in-rap-case.html> (discussing Broward County, Florida, Sheriff Nick Navarro’s “successful effort to have 2 Live Crew’s sexually explicit record album ‘As Nasty as They Wanna Be’ declared the first legally obscene record in America”); *Biography for Ice-T*, IMDB, <http://www.imdb.com/name/nm0001384/bio> (last visited Feb. 13, 2010) (“[Ice-T’s] most infamous song, the heavy metal ‘Cop Killer,’ was one of the major battle[s] in the cultural wars of the 1990s, in which cultural conservatives enlisted the Moses of the right wing, Charlton Heston, to get Ice-T dropped from his then-label, Sire/Warner Bros.”). See EMMETT G. PRICE III, *HIP HOP CULTURE* 74–75 (2006) (discussing the Tipper Gore-led formation of the Parents’ Music Resource Center with its goal of banning explicit material on recordings in rap, rock, and heavy metal music, and the Recording Industry Association of America’s introduction of a uniform labeling system for records with explicit content reading “Parental Advisory—Explicit Lyrics.”). See POTTER, *supra* note 22, at 95 (“In 1994, the reaction against this particular genre reached a crisis point in the form of congressional hearings instigated by Dr. C. Delores Tucker. Dr. Tucker . . . took offense to ‘gangsta rap’ lyrics, and organized a series of protests in the Washington, D.C. area Unlike Tipper Gore and her dormant Parents’ Music Resource Center, Tucker wanted more than warning labels; she demanded an outright ban on ‘gangsta’ rap records.”). See BAKARI KITWANA, *THE HIP HOP GENERATION: YOUNG BLACKS AND THE CRISIS IN AFRICAN AMERICAN CULTURE* 4 (2002) [hereinafter KITWANA, *THE HIP HOP GENERATION*]. Kitwana defines “hip-hop generationers” as “those young African Americans born between 1965 and 1984 who came of age in the eighties and nineties and who share a specific set of values and attitudes. At the core are our thoughts about family, relationships, child rearing, career, racial identity, race relations, and politics.” *Id.* Borrowing Kitwana’s definition, I adopt the idea here that the Hip-Hop Generation are indeed those individuals born between the years of 1965 and 1984, but seek to expand the definition to include also those individuals strongly influenced by the hip-hop movement who are Latino, White, Asian, Polynesian, etc., i.e., “hip-hop generationers” of color or of urban influence. See Christian D. Rutherford, *“Gangsta” Culture in a Policed State: The Crisis in Legal Ethics*

exacted a dominant influence over a generation.⁵³ While the initial backlash against hip-hop proved ineffective, present-day criticism continues, some for good reason.⁵⁴ This criticism must be recognized⁵⁵ and reconciled with hip-hop's message of empowerment and self-realization.⁵⁶

Formation Amongst Hip-Hop Youth, 18 NAT'L BLACK L.J. 305, 305 (2004–2005).

53. See BAKARI KITWANA, WHY WHITE KIDS LOVE HIP HOP: WANKSTAS, WIGGERS, WANNABES, AND THE NEW REALITY OF RACE IN AMERICA (2006) [hereinafter KITWANA, WHY WHITE KIDS LOVE HIP HOP]; IMANI PERRY, PROPHETS OF THE HOOD: POLITICS AND POETICS IN HIP HOP (2004) [hereinafter PERRY, PROPHETS OF THE HOOD]; S. CRAIG WATKINS, HIP HOP MATTERS: POLITICS, POP CULTURE, AND THE STRUGGLE FOR THE SOUL OF A MOVEMENT (2005); Horace E. Anderson, Jr., "Criminal Minded?": *Mixtape D-Js, The Piracy Paradox, and Lessons for the Recording Industry*, 76 TENN. L. REV. 111 (2008); Olufunmilayo B. Arewa, *From J.C. Bach to Hip Hop: Musical Borrowing, Copyright and Cultural Context*, 84 N.C. L. REV. 547 (2006); Ronald D. Brown, *The Politics of "Mo' Money, Mo' Money" and the Strange Dialectic of Hip Hop*, 5 VAND. J. ENT. & TECH. L. 59, 60 (2003) (defining the Hip-Hop Generation); see also BUTLER, *supra* note 22, at 123–24 (discussing the "hip-hop nation").

54. See CHANG, *supra* note 3.

55. See BUTLER, *supra* note 22, at 144 ("One serious deficiency in hip-hop is its endemic sexism and homophobia. Can any credible theory of justice be based on a culture that routinely denigrates more than half the population? The answer must be 'no.' For hip-hop to command the moral authority that, at its best, it deserves, it must address subordination within the hip-hop nation. The problem besmirches hip-hop's extraordinary aesthetic achievement and detracts from its important evaluation of criminal justice. Hip-hop music and videos, especially, contain the kind of depictions of gender and sexuality that we might expect of adolescent boys.").

56. The difficult misogyny, homophobia, and violence prevalent in some hip-hop deter many from hearing and feeling the transformative messages contained in thousands of hip-hop anthems and lyrics. See generally Edward G. Armstrong, *Gangsta Misogyny: A Content Analysis of the Portrayals of Violence Against Women in Rap Music, 1987-1993*, 8 J. CRIM. JUST. & POPULAR CULTURE 96, 96–126 (2001). The hip-hop nation must confront, debate, and challenge those messages that serve to injure minority communities. That debate is beyond the scope of this particular Essay, although not beyond the scope of the many presentations and panels delivered in connection with this Essay. As discussed meaningfully and often at every presentation connecting this theme, the corporatization of hip-hop is often considered one of the primary drivers behind the blatant 1990s shift in hip-hop away from revolutionary groups and messaging toward the "thug life" and female objectification messaging delivered by most major record label artists. See andré douglas pond cummings, Akilah Folami, D. Aaron Lacy, and Kamille Wolff, Panel Presentation at LatCrit Conference, American University Washington College of Law: The Hip Hop Movement at the Intersection of Race, Class and Culture: Hip Hop Music's Effect on Life, Liberty and the Pursuit of Happiness (Oct. 2, 2009) (on file with author) (panel discussion exploring the misogyny and promotion of violence in hip-hop, the reasons behind the messaging and potential strategies to combat the corporate message). Some leading scholars suggest that major record label corporate executives made a conscious decision in the mid-1990s to purposely "select" the thug image as the face of hip-hop in order to promote sales to White urban youth while attempting to squelch the revolutionary messages delivered by many prominent artists during that period. See andré douglas pond cummings, Akilah Folami, D. Aaron Lacy, and Kamille Wolff, Panel Presentation at the

Similarly, when CRT emerged and began to find genuine traction in the legal academy, the critical backlash from the establishment was acerbic and intense.⁵⁷ Of course, those invested and entrenched in protecting traditional legal scholarship criticized the emerging CRT scholarship as ungrounded, overly passionate and polemic, and neither academic nor intellectual.⁵⁸ The traditional academy sought to expose the narrative convention of CRT as non-scholarly, unempirical, unrepresentative, and untrustworthy.⁵⁹ In addition, opponents of the movement criticized CRT as promoting a “myth” that people of color share a specific or unified voice, and therefore should not be recognized as fundamentally important on issues of race.⁶⁰

The crucial element of Critical Race Theory’s aggressive storytelling and narrative tradition is that it invites the legal academy to “construct a new world” by “combining elements from the story and current reality.”⁶¹ However, this invitation to construct a different reality was resisted with vigor.⁶² The opposition from the traditional academy was extremely critical and, more than likely, expected.⁶³ During the firestorm of early

Annual Association for the Study of Law, Culture and the Humanities Conference, Brown University: Hip Hop and the Law (Mar. 19, 2010) (on file with author) (panel discussion exploring the impact of hip-hop on U.S. law and culture, particularly addressing the corporatization of hip-hop in the 1990s).

57. See Richard Delgado, *The Inward Turn in Outsider Jurisprudence*, 34 WM. & MARY L. REV. 741, 766 (1993).

58. See DANIEL A. FARBER & SUZANNA SHERRY, BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW 12 (1997) (exploring “the mechanisms that allow the radicals to abandon common sense and adhere to a set of basically implausible beliefs”); see also Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745, 1745–46 (1989); but see Richard Delgado, *On Telling Stories in School: A Reply to Farber and Sherry*, 46 VAND. L. REV. 665, 666–67 (1993) (finding Farber & Sherry’s perspective as discrediting the outsider and overly scrutinizing the stories of others).

59. See generally FARBER & SHERRY, *supra* note 58, at 12; see also Kennedy, *supra* note 58, at 1745–46; but see Delgado, *supra* note 58, at 666–67.

60. See FARBER & SHERRY, *supra* note 58, at 12; see also Kennedy, *supra* note 58, at 1787.

61. See Delgado, *supra* note 4, at 2415.

62. See generally Daniel A. Farber & Suzanna Sherry, *Telling Stories out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807, 814–15 (1993) (“Related to the lack of evidence for the existence of a distinct voice of color, we have found little exploration of the content of such a voice.”); Kennedy, *supra* note 58, at 1778 (“But what, as a function of race, is ‘special’ or ‘distinct’ about the scholarship of minority legal academics? Does it differ discernibly in ways attributable to race from work produced by white scholars? If so, in what ways and to what degree is the work of colored intellectuals different from or better than the work of whites?”).

63. See FARBER & SHERRY, *supra* note 58, at 814–15; Kennedy, *supra* note 58, at 1778.

criticism, Richard Delgado contended that the movement was in its “infancy,” and was still defining itself.⁶⁴ Delgado wondered aloud about the critics’ “rush to judgment” and openly questioned the motives of those making such caustic attacks so soon after the budding of the new movement.⁶⁵

Notwithstanding the early acerbic critiques and backlash, both hip-hop and CRT shook off the criticism and controversy and continued to offer powerful alternatives to mainstream legal scholarship and contemporary music.⁶⁶ Critical Race Theory rejected the critique and scorned the invitation to ground its relevance in traditional “accepted” methodologies.⁶⁷ True to its purpose and the power of its narrative, CRT scholars endeavored to produce scholarship and advocate for the oppressed and voiceless and did so.⁶⁸ They continue to do so today—unapologetically.⁶⁹ CRT’s slow burn continues today as evidenced by its powerful movement across disciplines and a deep legitimacy gained through its urgency and adherents.⁷⁰ Hip-hop similarly rebuffed the backlash, and its artists created, for a time, the most powerfully relevant and critical music of its generation.⁷¹ Critical Race Theory and hip-hop both continued to grow in influence and reach. There are valid and important exceptions to this growth, but acknowledging the weaknesses of each movement does not undermine the critical importance of both.⁷² To the contrary, active acknowledgment and analysis of criticisms borne from experientially diverse narratives—often encompassing those of the status quo—only emphasizes the inclusionary foundational principles upon which both movements were founded.

64. See Delgado, *supra* note 57, at 766.

65. *Id.* In 1993, Richard Delgado explained that Critical Race Theory, having sprung up in 1989, only consisted of four or five books and just 200 articles. *Id.* He then offered: “Yet, a number of authors . . . wish to rush to establish criteria to evaluate the scholarship. Why?” *Id.* Professor Farber, an outspoken opponent of Critical Race Theory, opined in 1994: “As of yet, no clear agreement exists about the defining characteristics of CRT.” Daniel A. Farber, *The Outmoded Debate over Affirmative Action*, 82 CALIF. L. REV. 893, 903 (1994).

66. See Castillo-Garstow, *supra* note 3; see also Pulido, *supra* note 5.

67. See Delgado, *supra* note 57, at 766.

68. See generally Delgado, *supra* note 58.

69. See generally cummings et al., *supra* note 56; see also cummings, *supra* note 14.

70. See CHANG, *supra* note 3; see generally BUTLER, *supra* note 22.

71. See Rutherford, *supra* note 52.

72. See BUTLER, *supra* note 22, at 144.

C. Founders

The launching of CRT shares a parallel universe with hip-hop's inception, and the backlash against hip-hop mirrors the initial academic rejection of CRT. Still, a more intriguing parallel exists between the voices of the individual founders of CRT and hip-hop's early pioneers. In significant ways, the early themes delivered by CRT pioneers and the political critiques offered by hip-hop founders, while different in delivery and context, are powerfully similar in theme, tone, and effect.⁷³ Millions of Americans, and eventually hundreds of millions of human beings worldwide, were inspired, moved, and *changed* by the similar messages dropped by CRT scholars and hip-hop poets. No early CRT voice was more important than that of Richard Delgado. His articles and speeches were fiercely critical, unapologetic, and resonated with academics worldwide. Similarly, no early hip-hop voice seized the attention of both fans and critics alike the way that Ice Cube and N.W.A. did when "Straight Outta Compton" shocked the nation at its release. Both furiously challenged convention and status quo America.

III. Richard Delgado and Ice Cube/N.W.A.⁷⁴

Richard Delgado shares a potent kinship with Ice Cube and the "dangerous" hip-hop group N.W.A. When Professor Delgado published *The Imperial Scholar*,⁷⁵ its impact was a literary shot across the bow of the traditional legal academy in its aggressive repudiation of entrenched White male civil rights legal scholarship.⁷⁶ Like a hand grenade launched into the upper reaches of an ivory tower, Delgado authored a blistering critique that condemned famed civil rights scholars for their own racism and failure to garner, appreciate, or represent the views of the very oppressed minority groups on whose behalf these scholars purported to advocate.⁷⁷ Many professors of color were writing

73. See ICE CUBE, *KILL AT WILL* (Priority Records 1990); compare Farber & Sherry, *supra* note 62, with Delgado, *supra* note 58.

74. Portions of this Section originally appeared in cummings, *supra* note 14.

75. Delgado, *supra* note 11.

76. See Randall Kennedy, *Persuasion and Distrust: A Comment on the Affirmative Action Debate*, 99 HARV. L. REV. 1327, 1339 (1986) (critiquing Delgado and others for "consistently avoid[ing] scrutinizing the motives of policymakers and fellow commentators"); see also John Denvir, *William Shakespeare and the Jurisprudence of Comedy*, 39 STAN. L. REV. 825, 847 (1987) (critiquing authors including Delgado of "ethnocentrism endemic to constitutional interpretation"); see generally FARBER & SHERRY, *supra* note 58.

77. Delgado, *supra* note 11.

articles and books about civil rights, yet the White male traditional academy ignored them.⁷⁸ Delgado exposed the hypocrisy of the top legal scholars in the United States who pontificated on issues of civil rights and continuing racism in a vacuum, sans impact or influence of minority voices.

As Professor Delgado charged in *The Imperial Scholar* when referring to the entrenched White civil rights “experts”:

A careful reading of the inner circle articles suggests that many of the above mentioned problems and pitfalls are not simply hypothetical, but do in fact occur. A number of the authors were unaware of basic facts about the situation in which minority persons live or ways in which they see the world. From the viewpoint of a minority member, the assertions and arguments made by nonminority authors were sometimes so naive as to seem incomprehensible and hardly merit serious consideration

In addition to factual ignorance or naiveté, some of the writing suffered from a failure of empathy, an inability to share the values, desires, and perspectives of the population whose rights are under consideration.⁷⁹

Sitting comfortably atop the civil rights ivory tower and opining from a place devoid of authentic experience,⁸⁰ leading civil rights authors of the time were undoubtedly stunned at Professor Delgado’s highly charged accusation of hypocrisy.⁸¹ Professor Delgado’s claim was an accusation of negligence at best and conscious racism at worst. Yet and still, Delgado levied the claims and dropped the bomb, consequences be damned. For the young scholars coming up, Delgado’s bold and brash indictment of the “powers that be” was a remarkable moment, where truth was truly spoken to power; a moment that emboldened the emerging CRT generation.⁸²

Later, in fully embracing his role as a Critical Race Theory founder, Professor Delgado authored *A Plea for Narrative*⁸³ which served as a response to the vitriolic backlash against CRT and eventually became the blueprint article for young scholars to follow in comprehending narrative scholarship and authoring

78. *Id.* at 567–68.

79. *Id.*

80. *See generally* cummings, *supra* note 22.

81. Kennedy, *supra* note 76, at 1346 n.44 (“While I disagree with both the method and the conclusion of Professor Delgado’s analysis, I applaud his willingness to explore this sensitive and neglected subject.”).

82. *See* West, *supra* note 20.

83. Delgado, *supra* note 4.

Critical Race pieces of import.⁸⁴ In *A Plea for Narrative*, Professor Delgado profoundly posits:

The stories of outgroups aim to subvert that ingroup reality. In civil rights, for example, many in the majority hold that any inequality between blacks and whites is due either to cultural lag, or inadequate enforcement of currently existing beneficial laws—both of which are easily correctable. For many minority persons, the principal instrument of their subordination is neither of these. Rather, it is the prevailing *mindset* by means of which members of the dominant group justify the world as it is, that is, with whites on top and browns and blacks at the bottom.

Stories, parables, chronicles, and narratives are powerful means for destroying mindset—the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place. These matters are rarely focused on. They are like eyeglasses we have worn a long time. They are nearly invisible; we use them to scan and interpret the world and only rarely examine them for themselves. Ideology—the received wisdom—makes current social arrangements seem fair and natural. Those in power sleep well at night—their conduct does not seem to them like oppression.

The cure is storytelling (or as I shall sometimes call it, counterstorytelling). As Derrick Bell, Bruno Bettelheim, and others show, stories can shatter complacency and challenge the status quo.⁸⁵

...

Traditional legal writing purports to be neutral and dispassionately analytical, but too often it is not. In part, this is so because legal writers rarely focus on their own mindsets, the received wisdoms that serve as their starting points, themselves no more than stories, that lie behind their quasi-scientific string of deductions. The supposedly objective point of view often mischaracterizes, minimizes, dismisses, or derides without fully understanding opposing viewpoints. Implying that objective, correct answers can be given to legal questions also obscures the moral and political value judgments that lie at the heart of any legal inquiry.

Legal storytelling is an engine built to hurl rocks over walls of social complacency that obscure the view out from the citadel.

84. See *id.* at 2413–14, 2441.

85. *Id.* at 2413–14.

But the rocks all have messages tied to them that the defenders cannot help but read. The messages say, let us knock down the walls, and use the blocks to pave a road we can all walk together.⁸⁶

In *A Plea for Narrative*, Professor Delgado issued a bold “call to arms” to those in the academy, urging a new conceptualization of academic scholarship; one that centered on narrative, personal storytelling, and counter-storytelling in order to “knock down”⁸⁷ walls and destroy entrenched paradigms.⁸⁸ He simultaneously rejected the sacred traditional legal scholarship as neutral, dispassionate, and purely analytical.⁸⁹

In both *The Imperial Scholar* and *A Plea for Narrative*, Professor Delgado attacked the entrenched status quo majority on two fronts.⁹⁰ First, the frontal assault directly challenged the mores of White privilege in the legal academy and practice of law, asking why “authentic” legal scholarship is—and could be—*only* that voiced by the privileged and entrenched.⁹¹ Second, the assault on the rear flanks was the clarion call to every scholar of color and emerging *outsider* scholar and lawyer to a new and different conceptualization by which legal scholarship could be presented and legal practice conducted.⁹² Truthfully, Richard Delgado’s writings were acerbic and violent rejections of the status quo ante. And, as chronicled above, the traditional academic responses to Delgado’s new conceptualization-call were bitter, outraged, condescending, and dripping in privilege and protectionism.⁹³

Similarly, when Ice Cube, Eazy-E, Dr. Dre, MC Ren, and DJ Yella (as N.W.A.) released *Straight Outta Compton*,⁹⁴ the album dropped profoundly on the consciences of inner-city youth, the nation, and eventually, the globe.⁹⁵ Never before had such an intensely angry, ferocious, rebellious record been released and embraced by the consuming public.⁹⁶ Cuts like *Fuck tha Police*, *Gangsta Gangsta*, and *Straight Outta Compton* resonated with

86. *Id.* at 2440–41.

87. *Id.* at 2441.

88. *Id.*

89. Delgado, *supra* note 4.

90. Delgado, *supra* note 11. Delgado, *supra* note 4.

91. See Delgado, *supra* note 11.

92. See Delgado, *supra* note 4.

93. See *supra* note 58 and accompanying text.

94. N.W.A., *STRAIGHT OUTTA COMPTON* (Ruthless Records/Priority Records/EMI Records 1988).

95. cummings, *supra* note 22, at 521.

96. *Guide to Black History*, *supra* note 50.

inner-city youth.⁹⁷ N.W.A. not only chronicled the brutal life of the inner-city, but also exposed American law enforcement as racist, predisposed against minority youth, and intent on putting as many young African American men in prison as possible.⁹⁸ N.W.A.'s brash style and violent extrapolation of the "gangsta" lifestyle engendered genuine fear in the hearts of mainstream America and U.S. law enforcement.⁹⁹ To wit, Ice Cube rhymed on *Fuck tha Police*:

Fuck tha police;
 Comin' straight from the underground;
 Young n***a got it bad 'cause I'm brown;
 And not the other color, so police think;
 They have the authority to kill a minority;

Fuck that shit 'cause I ain't that one;
 For a punk muthafucka with a badge and a gun;
 To be beaten on and thrown in jail;
 We could go toe to toe in the middle of a cell;

Fuckin' with me 'cause I'm a teenager;
 With a little bit of gold and a pager;
 Searchin' my car, lookin' for the product;
 Thinkin' every n***a is sellin' narcotics;

You'd rather see me in the pen;
 Than me and Lorenzo rollin' in the Benzo; . . .

. . . And on the other hand, without a gun, they can't get none;
 But don't let it be a black and white one;
 'Cause they slam ya down to the street top;
 Black police showin' out for the white cop;

Ice Cube will swarm;
 On any muthafucka in a blue uniform;
 Just 'cause I'm from the CPT, punk police are afraid of me;
 A young n***a on a warpath;
 And when I'm finished, it's gonna be a bloodbath;
 Of cops dyin' in L.A.;

97. cummings, *supra* note 22, at 522.

98. N.W.A., *STRAIGHT OUTTA COMPTON* (Ruthless Records/Priority Records/EMI Records 1988).

99. See *supra* note 50 and accompanying text.

Yo, Dre, I got something to say:

Fuck tha police.¹⁰⁰

N.W.A.'s messages of defiance and rejection of entrenched U.S. racism resonated worldwide.¹⁰¹ Admittedly, some of N.W.A.'s content is objectionable in its misogyny, homophobia, and promotion of violence,¹⁰² but in *Fuck tha Police*, Ice Cube exposed and educated his listeners to real issues of racism in U.S. law enforcement, including racial profiling, police brutality, siege mentality, and predisposition against minority youth.¹⁰³ N.W.A. sought to express an inner-city reality that few in America truly appreciated prior to the *Straight Outta Compton* record.¹⁰⁴ In fact, the Rodney King debacle¹⁰⁵ occurred just two years after the release of *Fuck tha Police*, and while King's beating shocked some Americans unfamiliar with N.W.A.'s anthem, it merely confirmed ugly American truths: continuing police brutality against minority citizens and siege mentality.¹⁰⁶

100. N.W.A., *Fuck tha Police*, on STRAIGHT OUTTA COMPTON (Ruthless Records/Priority Records/EMI Records 1988), lyrics available at <http://www.lyricsdepot.com/n-w-a/fuck-tha-police.html>.

101. "Its impact was global, with formidable audiences and artist pools in cities such as Paris, Tokyo, Sydney, Cape Town, London, and Bristol, England (where the spin-off trip-hop originated)." *Guide to Black History*, *supra* note 50.

102. See Collins, *supra* note 33.

103. See *supra* note 56.

104. "Young n***a got it bad 'cause I'm [B]rown; And not the other color, so police think; They have the authority to kill a minority." N.W.A., *Fuck tha Police*, on STRAIGHT OUTTA COMPTON (Ruthless Records/Priority Records/EMI Records 1988), lyrics available at <http://www.lyricsdepot.com/n-w-a/fuck-tha-police.html>.

105. See *Rodney King Testifies About Night of Beating*, N.Y. TIMES, Jan. 22, 1993, at A16, available at <http://www.nytimes.com/1993/01/22/us/rodney-king-testifies-about-night-of-beating.html> (describing Rodney King's harrowing testimony of the infamous police brutality incident).

106. See andré douglas pond cummings, *Just Another Gang: "When the Cops Are Crooks Who Can You Trust?"*, 41 HOW. L.J. 383, 407–08 (1998) (describing the "siege mentality" that permeates most large, urban police departments and discussing the "War on Drugs" as a war on small scale, inner city drug dealers rather than a war against the source countries and cartels); see also Sewell Chan, *The Abner Louima Case, 10 Years Later*, N.Y. TIMES, Aug. 9, 2007, available at <http://cityroom.blogs.nytimes.com/2007/08/09/the-abner-louima-case-10-years-later> ("Ten years ago today, a 30-year-old Haitian immigrant named Abner Louima was arrested and sodomized with a broomstick inside a restroom in the 70th Precinct station house in Brooklyn. The case became a national symbol of police brutality and fed perceptions that New York City police officers were harassing or abusing young black men as part [of] a citywide crackdown on crime."); Robert D. McFadden, *Police Kill Man After a Queens Bachelor Party*, N.Y. TIMES, Nov. 26, 2006, New York ed., at A1, available at <http://www.nytimes.com/2006/11/26/nyreg>

After shocking the world with *Straight Outta Compton* and enduring an enormous backlash that included FBI attention, protests from various groups including Tipper Gore and C. Delores Tucker, and local law enforcement harassment,¹⁰⁷ N.W.A. released *100 Miles and Runnin'*, wherein the group acknowledged its national impact and chronicled its interactions with the FBI and the California penal system.

Runnin' like a n***a I hate to lose;
 Show me on the news, but I hate to be abused;
 I know it was a set-up;
 So now I'm gonna get up;
 Even if the FBI wants me to shut up;
 But I've got 10,000 n***as strong;
 They got everybody singin' my "Fuck Tha Police" song;
 And while they treat my group like dirt;
 Their whole fuckin' family is wearing our T-shirts.¹⁰⁸

Later, after leaving N.W.A., Ice Cube released the ferociously political records *Kill at Will*¹⁰⁹ and *AmeriKKKas Most Wanted*.¹¹⁰ These records represented a clear move by Ice Cube from his violent gangsta rap roots to a socially conscious perspective tinged with thug life affect.¹¹¹ On the dark narrative hip-hop tale *Dead Homiez*—one that Professor Delgado must surely respect—Ice Cube warns of the problems existing in inner-city America when unemployment runs rampant and opportunities are limited:

Another homie got murdered on a shakedown;
 And his mother is at the funeral, havin' a nervous breakdown;
 Two shots hit him in the face when they blasted;
 A framed picture and a closed casket;
 A single file line about 50 cars long;
 All drivin' slow with they lights on;
 He got a lot of flowers and a big wreath;
 What good is that when you're six feet deep?;
 I look at that shit and gotta think to myself;
 And thank God for my health;
 'Cause nobody really ever know;

ion/26cops.html (discussing the death of Sean Bell, who was killed when police officers fired fifty rounds of bullets into his car following his bachelor party the evening before his wedding).

107. See *supra* Part II.

108. N.W.A., *100 Miles and Runnin'*, on *100 MILES AND RUNNIN'* (Ruthless Records/Priority Records 1990).

109. ICE CUBE, *KILL AT WILL* (Priority Records 1990).

110. ICE CUBE, *AMERIKKKA'S MOST WANTED* (Priority Records 1990).

111. GAIL H. WOLDU, *THE WORDS AND MUSIC OF ICE CUBE* (2008).

When it's gonna be they family on the front row;
 So I take everything slow, go with the flow;
 And shut my motherfuckin' mouth if I don't know;
 'Cause that's what Pops told me;
 But I wish he could have said it . . . to my dead homiez.

I remember we painted our names on the wall for fun;
 Now it's "Rest in Peace" after every one;
 Except me, but I ain't the one to front;
 Seems like I'm viewin' a body after every month;
 Plus, I knew him when he was yea big;
 Pour beer on the curb before I take a swig;
 But somethin' ain't right;
 When it's a tragedy, that's the only time that the family's
 tight;
 Lovin' each other in a caring mood;
 There's lots of people and lots of food;
 They say "Be Strong" and you're tryin';
 But how strong can you be when you see your Pops cryin'?;
 So that's why Ice Cube's dressed up;
 Because the city is so fuckin' messed up;
 And everybody is so phony;
 Take a little time . . . to think about your dead homiez.¹¹²

Ice Cube, in the same narrative format championed by Richard Delgado, spun tales and stories in his rhymes. Ice Cube tracks like *Endangered Species (Tales from the Darkside)*,¹¹³ *I Wanna Kill Sam*,¹¹⁴ and *The N***a Ya Love to Hate*,¹¹⁵ used the construct of storytelling, counter-storytelling, and parables to break down the walls between the wealthy suburban majority and the poor urban minority.¹¹⁶ As hip-hop became nationally recognized, record sales began to be dominated by White-suburban youth, some of whom embraced hip-hop as a looking glass into the inner-city soul of

112. ICE CUBE, *Dead Homiez*, on *KILL AT WILL* (Priority Records 1990) (ellipses in original), lyrics available at <http://www.lyricsdepot.com/ice-cube/dead-homiezs.html>.

113. ICE CUBE FEATURING CHUCK D, *Endangered Species (Tales from the Darkside)*, on *AMERIKKKA'S MOST WANTED* (Priority Records 1990).

114. ICE CUBE, *I Wanna Kill Sam*, on *DEATH CERTIFICATE* (Priority Records 1991).

115. ICE CUBE, *The N***a Ya Love to Hate*, on *AMERIKKKA'S MOST WANTED* (Priority Records 1990).

116. See KITWANA, *WHY WHITE KIDS LOVE HIP HOP*, *supra* note 53 (contextualizing the many ways that White youth have internalized hip-hop music and culture, often in deeply thoughtful and politically conscious ways).

America.¹¹⁷ Ice Cube plugged into this truism with explosive, narrative rhymes that perpetuated his own brand of politics, social consciousness, and exposed inequality.

Professor Delgado and N.W.A./Ice Cube both expose and decry racism, inequality, and oppression with passion and explosiveness through deeply personal narrative. In *Straight Outta Compton*, Eazy-E describes the autobiographical nature of the record.¹¹⁸ N.W.A. avoids overtly political statements, preferring to use personal narrative and harsh experience to illustrate the condition and to challenge those responsible.¹¹⁹ N.W.A. is gritty, impolitic, and raw, eschewing political messaging and marches, instead intent on subverting, distressing and naming the street reality of police brutality and modern oppression.¹²⁰ Similarly, in *Imperial Scholar*, Delgado identifies the oppression and calls it out, boldly and unafraid, consequences be damned.¹²¹ Both Delgado and N.W.A. identify “the cure” to their detailed experiential ills as furious storytelling—Delgado in *A Plea for Narrative* and N.W.A. in *Fuck tha Police* and *Gangsta Gangsta*.

N.W.A. relates their personal story through criminal exploits, but do not tell this story in a way to be emulated, but rather through an experience forced upon them by the conditions of their existence in America’s inner cities, perpetuated by the existing power structures.¹²² Delgado responds to the White liberal elite in much the same way, describing the reality, condemning it, and proposing a much different reality.¹²³ Like N.W.A. and Ice Cube, Delgado was not polite, politically correct, nor respectful of the establishment. It seemed as if Delgado’s messages were meant to subvert, distress, and name the conditions of oppression, even naming those who purported to be working to change the condition. Delgado and N.W.A. each set cornerstones upon which the house of Critical Race Theory and the hip-hop nation were built.

117. *Id.*

118. N.W.A., *STRAIGHT OUTTA COMPTON* (Ruthless Records/Priority Records/EMI Records 1988).

119. Ray Suzuki, *N.W.A. Straight Outta Compton*, PITCHFORK (Oct. 2, 2003), <http://pitchfork.com/reviews/albums/11791-straight-outta-compton-efil4zaggin/>.

120. *Id.*

121. Robert S. Chang, *Richard Delgado and the Politics of Citation*, 11 BERKELEY J. AFR.-AM. L. & POL’Y 28, 30–31 (2009).

122. N.W.A. *Biography*, ROLLING STONE, <http://www.rollingstone.com/music/artists/n-w-a/biography> (last visited Mar. 20, 2015).

123. cummings, *supra* note 14, at 539.

In 1989, Professor Delgado pled for the use of narrative in academic scholarship as a means of changing the perspectives, received wisdoms, paradigms, and entrenched beliefs of the traditional majority.¹²⁴ This plea landed heavily at the door of the legal academy and the challenge was accepted by a generation of academics who shepherded Critical Race Theory into a powerful legal and academic movement.¹²⁵ As Delgado was making his academic plea, hip-hop artists were, perhaps unwittingly, embracing this clarion call by using the power of narrative to inform, educate, scare, teach, inspire, and menace the traditional White American regime. Some of the most important hip-hop records of all time were released in the late 1980s and early 1990s, seemingly a direct response to Professor Delgado's plea.¹²⁶ In genuine ways, hip-hop's narrative tradition informed, educated, and inspired a generation whose life outlook and perspective was *changed* by hip-hop's narration.¹²⁷

The Critical Race Theory movement and attendant success and enlightenment drew from many pioneers, leaders, and advocates,¹²⁸ with Professor Delgado sitting upon the peak of the movement's brightest successes.

IV. Conclusion

For three decades, Critical Race Theory and hip-hop have been radically engaging the traditional majority in this country. Curiously, both of these radical engagements share many of the same characteristics and goals. In stridently challenging American norms, CRT advocates and hip-hop artists brashly suggest a reality completely different from the rest of the country and the world. Through narrative storytelling and funky bass lines, CRT and hip-hop seek to educate, inspire, and motivate a generation. CRT and hip-hop have informed and changed society in compelling ways. The hip-hop nation is growing up and joining

124. *Id.*

125. *Id.*

126. *Id.*

127. See KITWANA, THE HIP HOP GENERATION, *supra* note 52 (describing the hip-hop generation as "those young African Americans . . . who share a specific set of values and attitudes. At the core are our thoughts about family, relationships, child rearing, career, racial identity, race relations, and politics"); see also KITWANA, WHY WHITE KIDS LOVE HIP HOP, *supra* note 53 (describing the impact hip-hop has had on the way White youth think about race and equality in America).

128. The voices of the Critical Race Theory movement have come from across the world and have prospered and overcome harsh criticism. cummings, *supra* note 14.

the ranks of lawyers, doctors, engineers, teachers, laborers, professors, and service industry employees. The CRT founders are actively writing and engaging, but also looking to a new generation of scholars and teachers to assume the weight and responsibility of continuing their message.

Members of the hip-hop generation will deeply feel the messages of import delivered by Ice Cube and N.W.A., as described above. Law students and lawyers who study and embrace Critical Race Theory will understand the gravity of Richard Delgado's writings and the wide-ranging influence of his life. When Professor Delgado's influence is compared to that of Ice Cube, the hip-hop generation will understand the depth of this homage. Both men have inspired genuine change in U.S. law and culture. Both men continue to influence the attitudes and worldviews of millions.

Richard Delgado has lived a life of astonishing influence. He continues to deliver on the promise of his early revolutionary writing and thinking. Professor Delgado's example, messages, and writings literally changed the course of the law as it is understood and taught in the United States and abroad. He remains fearless and bold as he still cares little for the status quo conventions of the legal academy.

Professor Richard Delgado and Ice Cube continue today as brothers in arms.

