Cummins Prison Farm: Lesson Plan Cummins Prison Farm Lincoln County, Arkansas


Bruce Jackson, *Inside the Wire*

Cummins Unit is a 16,600-acre maximum-security prison located five miles southeast of Grady (Lincoln County). Cummins is run by the Arkansas Department of Correction and houses male and female inmates. It is also the location of Arkansas's facilities for administering the death penalty. Cummins is the oldest and largest of the state's working "prison farms," which use inmate labor to grow crops and produce livestock.

About This Lesson

This historic lesson is based on the Cummins Unit Prison located in Lincoln County, Arkansas. This lesson plan focuses on the Prison Reform Movement and its response to societal changes between 1967-1990. Sources used for this lesson plan include photographs from Bruce Jackson and the Arkansas Encyclopedia.

***Topics*:** The lesson could be used in Arkansas History, Criminal Justice, Sociology, Psychology, Statistical Methods, or General Mathematic courses.

Time Period: 1967-1990s

***Topics to Visit/Expand Upon*:** Social Studies, Criminal Justice, Government and Politics, Sociology, Psychology, and General Mathematics.

Objectives for Students

1. Students will explore the physical design of Cummins Unit and how the design changed throughout the years.

2. Students will give reasons why Cummins Unit deviated from the Arkansas System in the early 1900s.

3. Students will develop an understanding of the internal and external factors that caused changes within the penitentiary.

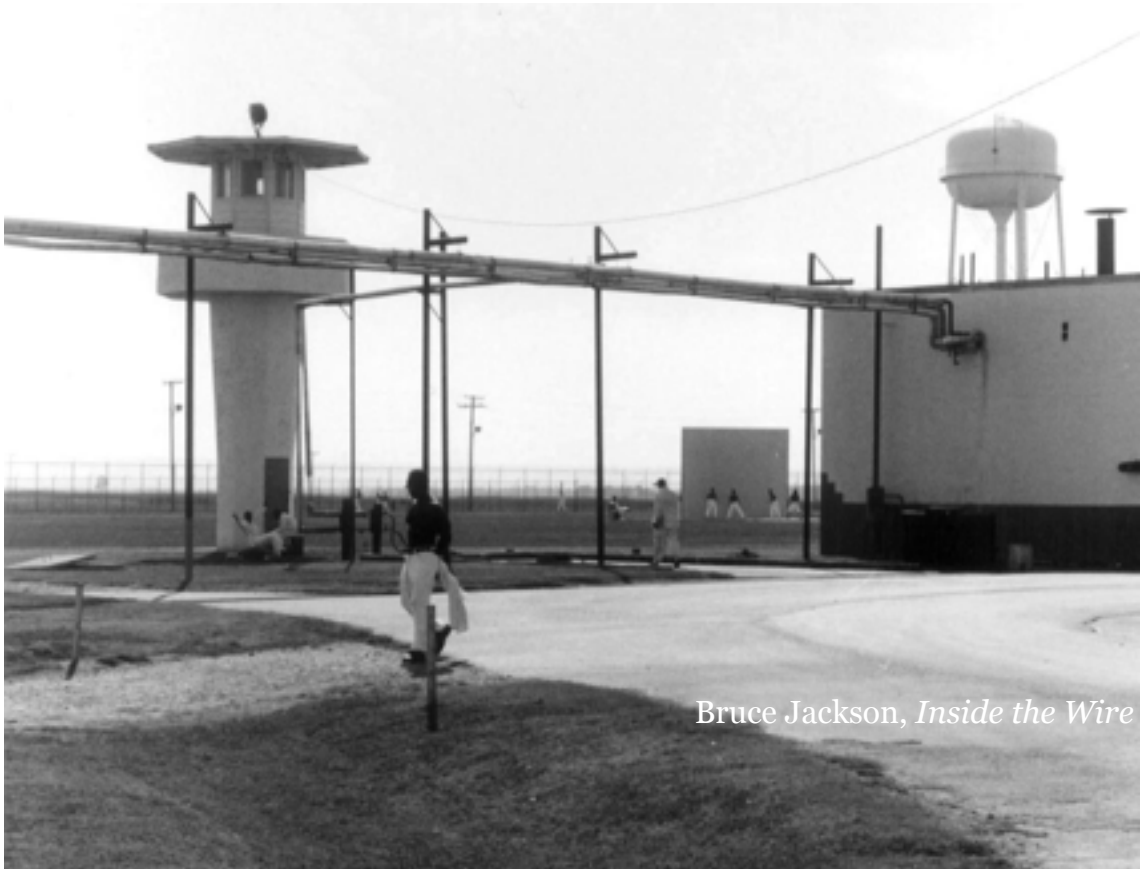
4. Students will analyze the crimes of the inmates and determine how those crimes represent or reflect the society outside of Cummins Unit.

Frameworks

- SS.3.S.2 Assess the role social institutions play in society
- SS.4.S.3 Examine the importance of norms and values to a culture and the effects on social structure
- SI.7.S.1 Examine factors that lead to social inequality

Getting Started

Inquiry Question


Bruce Jackson, *Inside the Wire*

What effects would this building have on the people in the surrounding areas?

Use the Photo Analysis worksheet to further investigate this image.

Photo Analysis Worksheet

1. Take a few seconds to examine the photograph. How would you describe it?

2. Divide the photograph into quadrants. Looking at each section individually, what do you notice? Pay attention to details such as people, objects, or activities, as well as clues that tell you what time period, season, or location the picture is from. Write your observations in the table below:

Quadrant 1	Quadrant 2
Quadrant 3	Quadrant 4

3. Based on what you have observed, how would you now describe the photo? Did the detailed study of the photograph change your mind about it?

4. Do you have any questions about the photograph? How do you think you would go about finding the answers?

Setting the Stage

Bruce Jackson, *Inside the Wire*
Prisoners picking cotton, 1975

In 1897, the Arkansas General Assembly established that the state could purchase "any lands, buildings, machinery, livestock and tools necessary for the use, preservation, and operation of the penitentiary." In 1902, the state bought 10,000 acres of property—consisting of land from the Cummins and Maple Grove plantations—to create the Cummins prison farm. Cummins would later gain national notoriety, becoming a symbol of an unjust Arkansas penal system. But when they established the prison farm, officials hoped Cummins would be an improvement on the brutal and long-standing convict lease system.

Arkansas abolished the convict lease system in the 1910s, but the corruption and brutality of the penal system continued on the prison farms. Officials expected Cummins not only to keep inmates at work—picking cotton and tending other crops—but to make money, ensuring that the prison paid for itself. In many ways, Cummins provided continuity between the antebellum era and the Jim Crow South: African-American inmates, like slaves before them, were exploited on plantation land for the sake of profit.

Locating the Site

This map shows Lincoln County in 1889 by the Mississippi River. By this time, Grady, Arkansas did not exist until 1910.

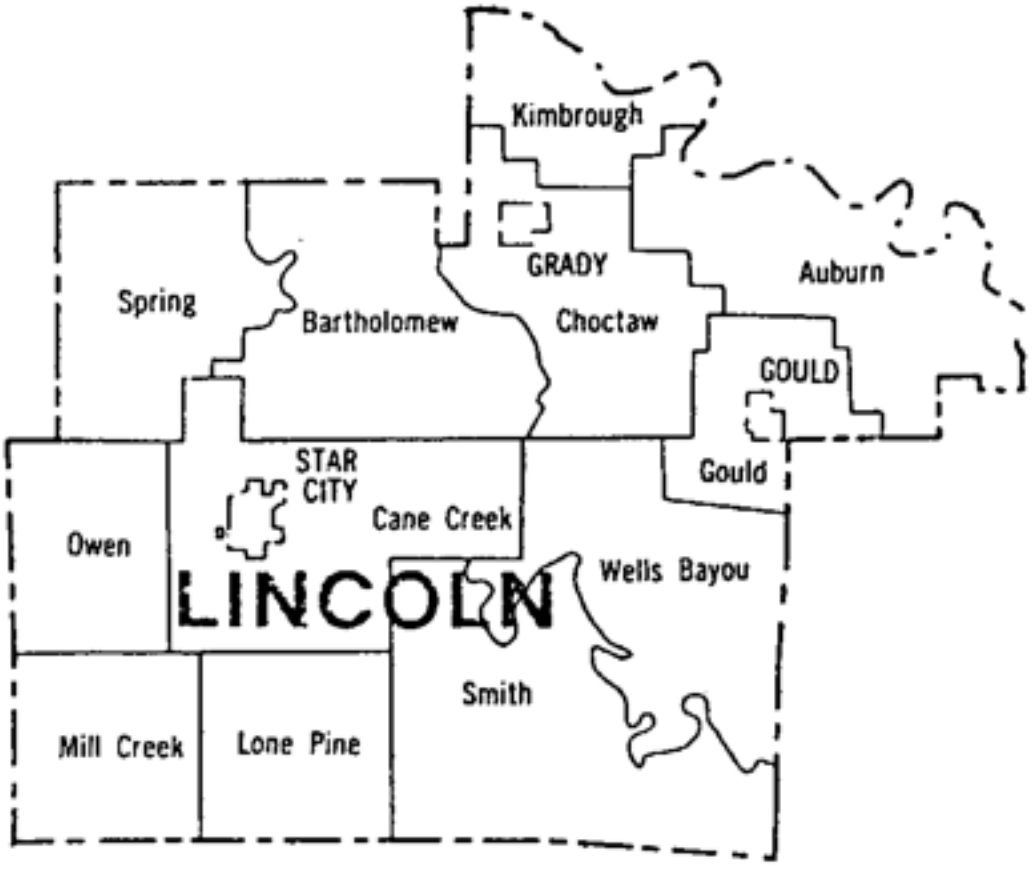
Questions for Map 1

1. What do you think were the leading crimes in 1889?

2. In 1889, the population of Lincoln County combined was 10, 255. Keeping in mind that the prison opened in 1902, how quickly do you think the penitentiary reached maximum capacity?

Question for Map 2

2. Why might the architects and developers have chosen to place the penitentiary in this location?



Activity 1

Research why the Cummins Unit was built? How did the unit change from 1902 to 1967? How did the system inside the prison adapt to an increase in inmates? What causes from the "outside" created the need for change inside the prison?

Determining the Facts

1. Where was the most common place of nativity for the inmates noted in your research?
2. How many inmates were sentenced for crimes against property (robbery, burglary, horse stealing, forgery)? How many were sentenced for crimes against an individual (murder, rape, manslaughter)? Create a chart to show your statistics.
3. After looking at the charts what, if anything, can you determine about life in Grady and the surrounding areas? Explain your reasoning.

Reading 1

BRIEF HISTORY OF CUMMINS PRISON FARM

Arkansas intended Cummins to serve as the primary location for black convicts. However, by the 1930s, Cummins housed all of Arkansas's adult prisoners, though their living spaces were racially segregated. It was not until 1970 that Governor Winthrop Rockefeller's administration, acting on a federal mandate, fully integrated Arkansas's prisons. When Cummins was created, men (and later women) lived in barracks, which kept inmates not in individual cells but in military-style rows of bunks. Cummins was also unusual among American prisons in that its trusties—or inmate guards—carried weapons, though "free world" guards did not. Armed

with shotguns, pistols, and high-powered rifles, trusties patrolled the prison, overseeing workers in the fields and maintaining order in the barracks. Trusties were at the top of the prisoner hierarchy, with "do-pops" (so called because they popped doors open for trusties) in the middle, and the "rank men" at the bottom. Cummins's trusties were better fed and cared for than the men beneath them, using bribery to control the distribution of food and mail. They were the main source of keeping order and inflicting punishment, which included whippings, shootings, and the use of the infamous "Tucker Telephone."

In 1944, lawyer Byron R. Brogard said that Arkansas prisons were "little improved over the Medieval system," using "slave labor for the production of cotton rather than to rehabilitate the men." He called Cummins a "10,000-acre state cotton plantation." In the mid-twentieth century, Arkansas made occasional improvements to Cummins, including the installation of air-conditioners in 1949 and two new barracks in 1952. But Arkansans did not see the need for true reform. Defenders of the system believed, as one *Arkansas Gazette* article noted in May 1952, that prison farms kept inmates more subdued than northern prisons did.

Amid the fight for civil rights in the 1960s, however, state and national attention focused on the horrific conditions at Cummins. Elected in November 1966, Winthrop Rockefeller, the first Republican governor of Arkansas since Reconstruction, wanted to make Arkansas prisons far more humane. A state police report of prison conditions—begun under Governor Orval Faubus's tenure but suppressed—shocked Rockefeller, who realized that the situation was worse than he imagined.

photo courtesy of the Arkansas History Commission

One of Rockefeller's most controversial appointments was that of Tom Murton, a prison expert who had worked in Alaska and taught in Illinois before moving to Arkansas. Murton had success running Tucker prison farm in Jefferson County before Rockefeller transferred him to Cummins. In January 1968, Superintendent Murton unearthed—in the presence of the media—three skeletons buried in the levee on prison grounds. Murton believed that the remains were those of murdered convicts, and he thought there were as many as 200 other bodies buried at Cummins of people who had died under mysterious circumstances. The official report issued by the Rockefeller administration, which included forensic evidence, determined that the bodies showed no signs of violent death and that they were from a pauper's grave.

Murton, however, was highly critical of the official report, and some ex-Cummins inmates who were there in the 1960s and saw abuses first-hand have since sided with Murton's assertion that there was a cover-up.

What is certain is that Murton became a political liability for Rockefeller. In March 1968, Rockefeller dismissed Murton after he had been Cummins's superintendent for only a few months. Unfortunately for Rockefeller, he could not avoid bad publicity for Cummins. In 1970, federal judge J. Smith Henley declared the Arkansas prison system unconstitutional. By then, Rockefeller had begun serious reform at Cummins, including better food, sanitation, and medical treatment, as well the beginnings of educational programs. Most importantly, Rockefeller began the dismantling of the corrupt armed trusty system. Just before leaving office in 1971, Rockefeller commuted the sentences of all men on death row to life imprisonment.

Another champion of reform at Cummins was musician Johnny Cash, who played at the prison in April 1969. With his wife, June Carter Cash, as well as Carl Perkins and the Statler Brothers, Cash performed as part of his larger efforts to shed light on the need for rehabilitation in American prisons. Rockefeller also attended. According to Cummins's inmate-run, uncensored paper the Pea Picker's Picayune, inmates "virtually flipped" during Cash's show. After the concert, the Picayune dubbed him the "King of Cummins." At the prison, Cash offered to pay $5,000 to help build a chapel, though his donation ultimately went to finish a chapel already underway at Tucker prison. It was not until 1977 that the Cummins chapel was finished.

Despite reform efforts by Rockefeller and others, in the 1970s, the horrors of Cummins became more widely known. In 1971, K. Wymand Keith, convicted in Arkansas of check fraud, published *Long Line Rider* about his years at Cummins. Though fictional, the novel vividly and accurately depicted prison abuses. That same year, nationally syndicated columnist Bob Greene wrote about a fifteen-year-old inmate scheduled for execution at Cummins, which had no age limit for convicts. In 1977, photographer Bruce Jackson published *Killing Time*, a frank examination of prison life at Cummins. The book contained photographs and testimony from inmates and prison officials concerning how the prison had changed since the Rockefeller period and the reforms that were still needed.

By the late 1970s, Cummins had rectified many of the worst abuses of the old system. New problems, however, had emerged. One was overcrowding. The national desire for "law and order" in the late 1960s and early 1970s led to an increasingly aggressive "drug war," while some state legislatures became concerned more with retribution than rehabilitation. Such factors led to an explosion in the prison population in Arkansas. In June 1980, Cummins was short 200

beds. In 1982, however, Arkansas's prisons finally became compliant with federal law: they were no longer deemed in violation of the Eighth Amendment's prohibition against "cruel and unusual punishment."

To add to Cummins's legacy of troubles, in the 1990s, the public discovered that the prison had allegedly been selling tainted blood plasma, some of it infected with the HIV virus and hepatitis C. Nevertheless, in 1996, the American Correctional Association accredited Cummins for the first time. Since the Rockefeller administration, the prison had without question changed for the better. In 2002, Cummins commemorated its 100th anniversary, when officials noted the progress the prison had made. Former warden Willis Sargent noted that Cummins "went from the pits…to today [being] one of the finest institutions in the nation." Were one to seek to work in corrections, Sargent said, "this is the prison to be at."

Questions

1. Why do you think Arkansans did not see a reason for true reform in 1952?
2. When and why did prison reform finally become an Arkansas topic? Even up to the 1990s, Cummins continued to have issues. Why do you think the issues continued?

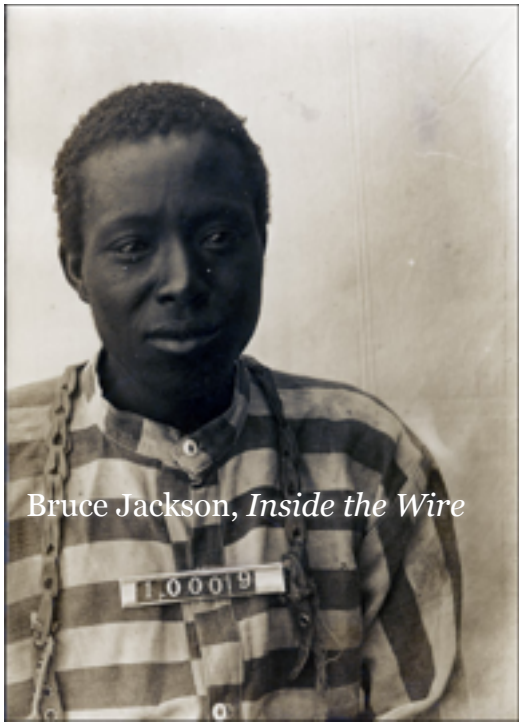
Activity 2

You will do research into your county's prison system. Consider the following questions:

1. What is life like for inmates of state prisons today?
2. How does this compare to life in Cummins during the 1960s?
3. How have opportunities for inmates changed through the years?
4. Does our current prison system "work?" If not, how can it be fixed?

Fear and Loathing in the Arkansas State Penitentiary: A Historical Account

In August 1966, Governor Orval Faubus ordered the Criminal Investigation Division (CID) of the state police to investigate Tucker Prison Farm in Arkansas (Tucker). This investigation was a long time coming. Prisoners at Tucker (also at the other state prison farm Cummins) had, for years, tried to have their complaints heard to no avail. The CID returned a report detailing a pattern of entrenched corruption, brutality, and torture. The Governor ultimately tried to have the report suppressed. It was eventually released in 1967 after a new Governor named Winthrop Rockefeller took office.



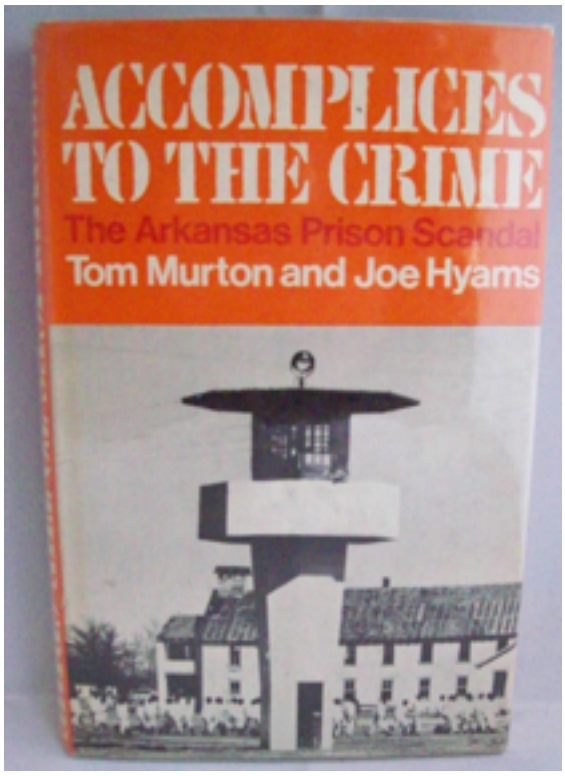
Bruce Jackson, *Inside the Wire*

In Arkansas, the whipping of prisoners was permitted by law and as late as the early 1970s was still being practiced. There were a number of tools used to inflict corporal punishment on prisoners including "the strap" which was "more than five feet long, five inches wide, three-eighths of an inch thick with an eighteen-inch wooden handle." One of the most infamous and cruel instruments of torture used at the prison, however, was a device called "the Tucker Telephone." "The telephone, designed by prison superintendent Jim Bruton, consisted of an electric 'generator' taken from a crank-type telephone and wired in sequence with two dry-cell batteries. An undressed inmate was strapped to the treatment table at Tucker Hospital while electrodes were attached to his big toe and to his penis. The crank was then turned, sending an electrical charge into his body. In 'long distance calls' several charges were inflicted — of a duration

designed to stop just short of the inmate's fainting. Sometimes the 'telephone' operator's skill was defective and the sustained current not only caused the inmate to lose consciousness but resulted in irreparable damage to his testicles. Some men were literally driven out of their minds.

The Tucker telephone was used not only to punish inmates but to extract information from them. One of the two telephones known to be on the farm was found hidden in a hat box on the top shelf of a linen closet in the Big House, where Jim Bruton was living then (Murton & Hyams 1969, 7)."

It won't come as a surprise to readers that black prisoners were the vast majority of the individuals who were subjected to the "Tucker Phone." Unfortunately the discovery of this torture apparatus was only the tip of the iceberg in terms of the events taking place at Tucker. Not only were prisoners beaten with leather straps, blackjacks, and hoses, needles were shoved under their fingernails, and cigarettes were applied to their bodies. The report also detailed a list of other horrors that prisoners were subjected to on a daily basis.



In an article titled "Hell in Arkansas," Time magazine reported on the efforts of a reform-minded superintendent of Tucker prison named Thomas Murton who had been appointed by Governor Rockefeller in 1967. The article outlines what Mr. Murton found upon his arrival at Tucker:

When Thomas Murton, Rockefeller's 39-year-old reform appointee to the prison superintendent's job, took over early in 1967, enforced homosexuality and traffic in liquor and narcotics were rampant at Tucker and the Cummins prison farm.

Trusties, armed with shotguns, were squeezing weekly payoffs out of the "rankmen," or ordinary inmates, who worked under their supervision. Often the trusties, who lived in unlocked TV-and-refrigerator-equipped shacks, fired rifles inches over rankmen's heads simply for sport. Murton quickly abolished many of the grotesque practices, but he was troubled by continuing rumors that prisoners had been murdered and buried on the prison grounds.

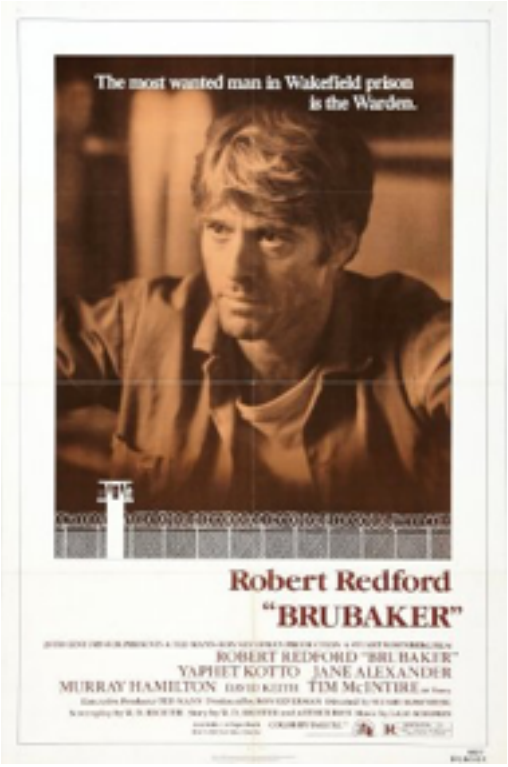
Ultimately, Murton only spent a year as superintendent at Tucker and a year later he published an absolutely scathing indictment of the prison farm in a book titled *Inside Prison U.S.A.* The book is out of print now but if you are a student of penal history, it is a must-read. If you are curious about what happened to the former superintendent Jim Bruton after he "resigned" from his position when the CID report was released. Here is a short summary from Time Magazine in 1970:

At Arkansas' Tucker prison farm, "the Tucker telephone" was a fearsome means of communicating the superintendent's displeasure. It consisted of an old-fashioned crank-phone apparatus that was wired to the genitals and one of the big toes of recalcitrant prisoners. When the crank was spun, the recipient of the message was shocked nearly unconscious. James Bruton, the superintendent who designed and used that device, resigned in 1966 when state officials began a series of investigations of brutality in the Arkansas prisons (TIME, Feb. 9, 1968). Last week Bruton pleaded no contest to charges that he violated prisoners' civil rights by administering cruel and unusual punishment. The penalty he received was considerably more compassionate than many he himself had dealt out.

The maximum permissible sentence that could be imposed on Bruton under the federal Civil Rights Act of 1871 was a $1,000 fine and one year in prison. Federal Judge J. Smith Henley imposed the full penalty, complained that it was too light, and then made it even lighter. He suspended execution of the prison term and released Bruton on a year's probation. Henley's explanation: "The court doesn't want to give you a death sentence, and quite frankly, Mr. Bruton, the chances of your surviving that year would not be good. One or more of these persons or their friends with whom you have dealt in the past as inmates of the Arkansas penitentiary would kill you."

Questions

1. Why would people like Jim Bruton create torture methods for prisoners?
2. Why did the nation finally become involved with the prison investigations?
3. Do you think prisons have been fully reformed?



BRUBAKER

In 1969 a mysterious man (Robert Redford) arrives at Wakefield State Prison in Arkansas. As an inmate, he immediately witnesses rampant abuse and corruption, including open and endemic sexual assault, torture, worm-ridden diseased food, insurance fraud and a doctor charging inmates for care. Brubaker eventually reveals himself—during a dramatic standoff involving Walter (Morgan Freeman), a deranged prisoner who was being held in solitary confinement—to be the new prison warden, to the amazement of both prisoners and officials alike.

With ideals and vision, he attempts to reform the prison, with an eye towards prisoner rehabilitation and human rights. He recruits several long-time prisoners, including trustees Larry Lee Bullen (David Keith) and Richard "Dickie" Coombes (Yaphet Kotto), to assist him with the reform. Their combined efforts slowly improve the prison conditions, but his stance enrages several corrupt officials on the prison board who have profited from graft for decades.

Assignment 1

By the time the death row inmate threatens Bullen's life, and Brubaker tells him that he is the new warden, we recognize there is some idea about the culture of the organization. The initiation of newcomers is presented in the film.

Describe the process by which people enter the prison:

How do newcomers learn the rules in the prison?

List the penalties for breaking the rules:

Assignment 2

Later, Brubaker meets variety of people he must manage correctly in order to succeed.

In the space below, diagram the relationships Brubaker must establish and foster in order to run a sound prison:

Some of the Central Characters in BRUBAKER

Eddie Caldwell	Trustee with navy cap and rifle
Henry Brubaker	New Warden
Huey Ross	Head Trustee
Dickie Coombes	Black Trustee with shotgun
Pinky	Cafe owner in town
Carol	Pinky's sister, Huey's girlfriend
Bullen	Habitual criminal, Pontiac lover
Roy Purcell	Clerk Trustee
Floyd	Trustee with plaid cap
Captain Renfro	Outgoing Warden
C. P. Woodward	Community Lumberyard Owner
Willits	State Employee
Abraham Cook	Old black man
Lilian Gray	Brubaker's Sponsor on the Prison Board
John Deech	Prison Board Chairman (17 years)
Charles Hight	Senator

Assignment 3

Brubaker forms the newly-elected inmate council. He is trying to help the men learn that their opinions, thoughts, beliefs, and values count.

List the ways that he must encourage his subordinates in order for them to grow into their self-image, their skills, and their abilities to contribute to the prison:

Assignment 4

Brubaker faced a major dilemma when the Senator offered financial support and freedom to reform the prison if he stopped digging for corpses.

List the possible issues Brubaker had when deciding between the desires of senior management and the desires of your subordinates. What was the impact on both groups? Do you think he had a third option?

Assignment 5

Eventually, Brubaker is driven out of Wakefield Prison, and we left wondering what will happen.

The new warden, Roy Polk, is making his introductory remarks about his takeover.

What do you think will happen? Why?

Assignment 6

As you reflect on the film, summarize below the major principles or ideas you have learned about how to manage change. What seems most important to remember about managing change in reforms?

Activity 3

After you have viewed *Brubaker,* think about how popular culture has represented prison life through the years. Based on the research you have completed, how accurate or inaccurate do think popular ideas about prison really are? Can you tell what the filmmakers think of the prison system? Does the depiction change based upon when the film was made? Has popular culture shaped society's opinions of prison, or has society shaped popular culture?

Politician's Concern for Prisoners

During Jim Guy Tucker's career as both a lawyer and politician, he demonstrated his passion for stopping crime. He fought to bring those who broke the law to justice and give the victims of crime some sense of closure. He was also concerned about the treatment of these criminals because their treatment reflected the attitudes of society.

The history of prison and prisoners has been a struggle between penalizing a society's criminals and doing so humanely. Prior to the 18th century torture, such as mutilation, whipping, or branding, was a common form of punishment for prisoners in many places in the world. But during the 1700s some of the public began frowning upon this form of penalty. Society began to shape and change policy concerning the treatment of those imprisoned. This action, otherwise known as prison reform, is the attempt to improve conditions inside prisons and establish a more effective penal system.

Arkansas prisons notoriously lacked sanitation, medical care, and food quality. In addition, guard brutality was severe. All of these deficiencies led to an increase in violence among prisoners and riots against the system. Attempts to keep the incidents of death and violence down resulted in more brutality by the guards and less care for the prisoners. This harsh cycle did not just occur in Arkansas, but Arkansas was particularly subject to criticism by a society that was very concerned about the treatment of these men and women behind bars. This particular rise of

societal inspection led to many prison reforms across the United States and particularly in Arkansas.

Cummins Prison Farm and Its Impact on Jim Guy Tucker

One of the most notorious Arkansas prisons was Cummins Prison Farm in Lincoln County. Ironically, this facility was formed to alleviate the poor conditions of the prior prison system. Built in 1902, it rapidly became flooded with brutality and corruption, such as long hours in the cotton fields and little to no food to control the population. This continued to build until the 1960s when individuals such as Governor Winthrop Rockefeller and country music star Johnny Cash fought to bring this corruption to light and fix its problems.

photo courtesy of the Arkansas History Commission

In March of 1970, prior to his time as Prosecuting Attorney for Pulaski and Perry Counties, Jim Guy Tucker went undercover at Cummins, to help in the effort.

For 36 hours during the month of March, 1970, I was at Cummins Prison Farm to conduct an investigation for the chairman of the State Board of Corrections. August 8th 1970.

While undercover, he discovered the trustee guard system was out of control. There was no overall system of supervision, which led to weapons being distributed among prisoners.

photo courtesy of the Arkansas History Commission

Drinking, gambling, and drug use ran rampant in the open. Physical conditions were also generally unsatisfactory as well. While definitely better than the previous system, the prison still suffered from overcrowding. Hygiene and sanitation were still deplorable; many prisoners were given one set of cloths to use for months at a time and would not be allowed to wash them except in their sinks or toilets. Tucker used this experience to advocate for changes in the Pulaski County Jail System, hoping to make treatment of those incarcerated more humane. During his years as Arkansas Attorney General, 1972-1976, he still held that reform was good and necessary, but did warn not to go overboard with change. In his opening remarks at the Second Annual Arkansas Criminal Justice Symposium in July 1975, he addressed the issue:

We are here to celebrate change and progress. Let me remind you that change has perilous, as well as pleasant aspects. I would also ask you to bear in mind that monumental works of law, like those of the arts, for example, are complex, finely wrought, and even delicate in the sense that seemingly small amendments to one part can, because of their interrelation, result in unforeseen, and certainly unintended, wrenching changes in other areas.

Holt v. Sarver

In the landmark Arkansas case *Holt v. Sarver*, inmates of the racially segregated Cummins Farm and Tucker Intermediate Reformatory units of the Arkansas prison system brought suit against the commissioner of corrections, Robert Sarver, and the Arkansas Board of Corrections, challenging their conditions of confinement. The case was heard in the United States District Court for the Eastern District of Arkansas, Pine Bluff Division, before Chief Judge J. Smith Henley. *Holt v. Sarver* was a turning point in the history of court intervention in the management of American prisons. The decision marked the end of the "hands-off" era of the federal judiciary toward prisoners and the beginning of an era of prisoners' rights.*Holt v. Sarver,* which inspired the 1980 film *Brubaker,* was the first case brought by inmates against a prison system in which the petitioners argued that the "totality of conditions of confinement" that existed in the prison system combined to violate the constitutional rights of prisoners. The petitioners brought their suit under Article 42 Section 1983 of the U.S. Civil Rights Act of 1871, the section of the code originally promulgated to protect the rights of newly freed slaves from lawless activities of state officials. *Holt v. Sarver* set the standard and established the precedent by which inmates could challenge the constitutionality of their conditions of confinement.

In *Holt v. Sarver* I (1969), three petitions of inmates of the Cummins Farm Unit, a 17,000-acre prison in Lincoln County, were consolidated and filed as a class-action suit. The court appointed Steele Hays, a respected Little Rock (Pulaski County) trial attorney, and his associate, Jerry D. Jackson, to represent the petitioners without charge. They visited the Cummins Farm (now the Cummins Unit of the Arkansas Department of Correction), near the town of Grady (Lincoln County), where they conducted interviews with the petitioners and others and took photographs of the facilities; the interviews and photos were submitted in evidence.

The principal complaints put forward by the petitioners were that confinement in isolation cells constituted cruel and unusual punishment, as did being denied medical attention, and that penitentiary authorities failed to protect prisoners from inmate-on-inmate assaults. The court found that "the prolonged confinement of numbers of men in the same cell under the described conditions was hazardous to health and offended modern sensibilities and, in the court's estimation, amounted to cruel and unusual punishment. The state also failed its constitutional duty to take precautions for inmates' safety."

Bruce Jackson, *Inside the Wire*

The judge ordered injunctive relief, and the commissioner was directed to report to the court within thirty days the steps being taken to resolve the problems. The court did not approve the commissioner's report. Due to continuing complaints and disturbing reports from the Cummins and Tucker prison units, Judge Henley decided not to terminate the three consolidated cases.

In *Holt v. Sarver* II (1970), Henley consolidated eight petitions of inmates from the Cummins Farm and the Tucker Intermediate Reformatory as a class-action suit (including the three cases from Holt v. Sarver I). Tucker Intermediate Reformatory (now the Tucker Unit of the Arkansas Department of Correction) is a 5,000-acre farm in Jefferson County. The inmates alleged that the cumulative effect of the conditions of confinement in Arkansas penitentiaries amounted to cruel and unusual punishment. They also argued that their long hours of forced labor in the fields without compensation for the benefit of the State of Arkansas violated the Thirteenth Amendment. The court appointed Jack Holt Jr. and Philip Kaplan of the Little Rock Bar to represent petitioners without charge.

Bruce Jackson, *Inside the Wire*

Judge Henley did not find that the inmates' involuntary servitude in the fields constituted a violation of the Thirteenth Amendment. However, he did declare the entire Arkansas prison system to be so inhumane as to be in violation of the Eighth and Fourteenth amendments' prohibition against cruel and unusual punishment. He found that the state was "unable to protect the inmates from harm and possible death." In addition, he found that racial discrimination was being practiced at both units. Henley noted that, unlike other cases that challenged certain

practices and abuses as they affected individual Arkansas convicts, this case constituted "an attack on the System itself," the first time that an entire penitentiary system was challenged in any court.

According to Henley, a particular convict might challenge his being beaten with the penitentiary strap, being electrically shocked by the "Tucker telephone," or being compelled to stand for long periods on the "teeter board." But regardless of how conditions affect an individual inmate, the court found that confinement within a given institution can itself be so bad that it amounts to cruel and unusual punishment. Taken together, the "trusty" system, the crowding of large numbers of men in open barracks, primitive conditions in the isolation cells, the failure to ensure the safety of inmates, and the failure to provide meaningful rehabilitation programs had cumulative impact and constituted violation of prisoners' constitutional rights.

In his opinion, Henley stated that, unlike most penal systems in the United States, the Arkansas prison system utilized armed trusties to guard rank-and-file inmates, which resulted in enormous abuses of power. The Arkansas prison system had only thirty-five paid free-world employees at the Cummins Unit for approximately 1,000 prisoners. Of the thirty-five, eight were guards, only two of whom were available for night duty—a time when many sexual assaults occurred. Henley opposed the state's delegating the governance of one convict to another convict and concluded that this practice forced convicts to sell their blood to obtain money to pay for their

safety, food, or access to medical attention—a practice that resulted in the Arkansas prison blood scandal of the 1980s and 1990s.

In sworn testimony, Arkansas Commissioner of Corrections Robert Sarver confirmed that the racially segregated facilities were in deplorable condition and that trusties trafficked in drugs, jobs, alcohol, food, and sex. He testified that prisoners were frequently sexually assaulted, that there was no satisfactory mechanism for keeping weapons out of their hands, and that attacks on inmates resulted in injury and death.

In strong language, the court ordered the respondents to promptly eliminate the unconstitutional conditions "that have caused the Court to condemn the System….The lives, safety, and health of human beings, to say nothing of their dignity, are at stake….Unless conditions at the Penitentiary farms are brought up to a level of constitutional tolerability, the farms can no longer be used for the confinement of convicts." In 1971, the United States Court of Appeals for the Eighth Circuit affirmed the district court's decision. The case was remanded to the district court to establish the respondents' progress in addressing the constitutional violations and to enter further orders as needed.

The United States Supreme Court reviewed the case in 1978, hearing oral arguments on February 21 and handing down a decision on June 23. The chief question before the Court was whether more than thirty days in isolation could be considered "cruel and unusual punishment" as forbidden by the United States Constitution. The Court affirmed Judge Henley's findings and rulings in all particulars.

*Holt v. Sarver s*et the stage for other successful challenges of the cumulative effect of conditions of confinement by prisoners in several Southern states, most significantly by Texas

prisoners in the case of Ruiz v. Estelle. This case continues to have clear implications for understanding the current situation in American prisons in the United States and abroad (e.g., Abu Ghraib and Guantanamo Bay), as well as the role of prisoners and the judiciary in ensuring the constitutionality of conditions of confinement.

Image: Arkansas prisoner giving blood. Retrieved from www.ozarkfoothillsfilmfest.org/littlerock.htm.

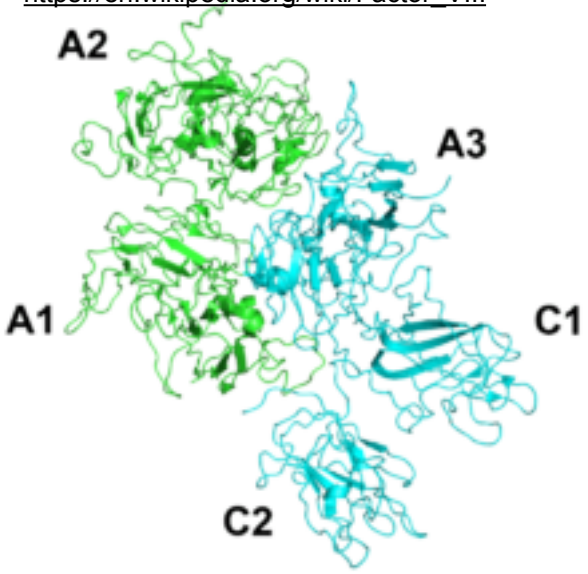
Arkansas Prison Blood Scandal

The Arkansas prison blood scandal resulted from the state's selling plasma extracted from prisoners at the Cummins Unit of the Arkansas Department of Correction (ADC). Corruption among the administrators of the prison blood program and poor supervision resulted in disease-tainted blood, often carrying hepatitis or HIV, knowingly being shipped to blood brokers, who in turn shipped it to Canada, Europe, and Asia. Revelation of the misdeeds and the healthcare crisis it created in Canada nearly brought down the Liberal Party government in 1997. In 1994, Arkansas became the last state to stop selling plasma extracted from prisoners.

Arkansas's prison blood program began in 1964 as a way for both prisoners and the prison system to make money. (Arkansas law forbids paying prisoners for their labor.) Set up by Birmingham, Alabama, physician August R. Staugh, it was, from 1967 to 1978, managed at various times by a group of physicians from the University of Arkansas Medical Sciences Campus (now the University of Arkansas for Medical Sciences) in Little Rock (Pulaski County) and by the Department of Correction itself. In 1978, the state contracted with Health Management Associates Inc. (HMA), founded by pediatrician Francis "Bud" Henderson of Pine Bluff (Jefferson County), to run both the prison medical program and the plasma program. HMA sold each unit of plasma for fifty dollars, and the donating prisoner was usually paid seven dollars in scrip.

The problems with the prison plasma program were legion. Prisoners were not adequately screened for disease, and state investigators later confirmed allegations that some prisoners were not paid in cash but in drugs. Other misdeeds included an inmate clerk in the prison's plasma center selling the "right to bleed" to fellow inmates who had been excluded because they likely were infected with hepatitis B (a possible indicator of HIV infection).

Image: Factor 8 Retrieved from https://en.wikipedia.org/wiki/Factor_VIII



Many pharmaceutical companies ceased buying prison plasma after a December 1982 warning from the Food and Drug Administration (FDA) that prisoners were more likely than the general population to be infected with the AIDS virus. Despite this, HMA contracted with Continental Pharma Cryosan Ltd., Canada's largest blood broker. Cryosan sold the plasma to companies in Europe and Japan and to Connaught Laboratories, a company based in Toronto, Ontario, that sold blood products needed by hemophiliacs throughout Canada. Only during a 1983 FDA-initiated international recall of plasma likely tainted with hepatitis B did Cryosan learn that it had been buying plasma extracted from prisoners. According to a report by the Krever Commission, which was established by the Canadian government in 1993 to investigate the blood scandal, "The shipping papers accompanying the plasma had not revealed that the centre was located in a prison. They had simply referred to the sources as the 'ADC Plasma Center, Grady, Arkansas,' without any

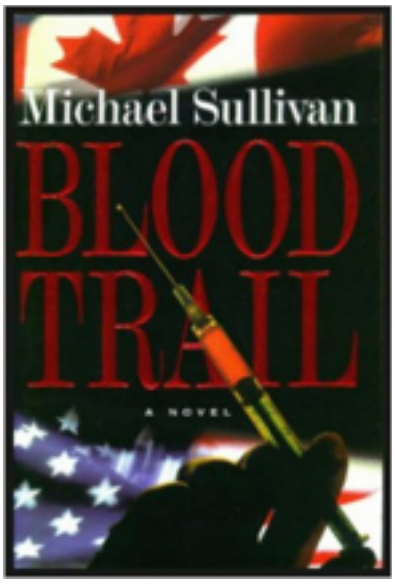
indication that 'ADC' stood for 'Arkansas Department of Correction.'" In 1984, the FDA revoked the license of the HMA plasma center after it had distributed hepatitis-contaminated plasma, though it managed to secure its license again after a few months.

In 1985, the Arkansas Board of Corrections hired the Institute for Law and Policy Planning (ILPP) in Berkeley, California, to conduct an independent investigation into HMA's practices. At the same time, Governor Bill Clinton ordered the state police to conduct a similar investigation. The institute discovered instances in which HMA had violated its state contract in forty areas, including poor health assessment and recordkeeping and the hiring of unlicensed, uncertified, and unqualified staff. In contrast, the state police investigation found only that a few HMA employees had been running a small-time gambling operation. Clinton urged a swift end to the investigation. ADC director Art Lockhart, about whom many allegations of impropriety had been raised, was not punished; being an employee of the ADC board, he could not be fired by Clinton, and he had a protector in the powerful state Senator Knox Nelson of Pine Bluff.

HMA was able to retain its contract after the state police investigation partly because of the lobbying efforts of HMA's president, Leonard Dunn, a Pine Bluff banker who later worked on Clinton's 1990 gubernatorial campaign. His negotiations with the state resulted in the creation of an ombudsman position within HMA, which hired a Clinton-appointed judge, Richard Mays, for a two-year contract of $25,000. But after the critical ILPP report was released, HMA lost its contract and dissolved in 1986.

The contract then went to Pine Bluff Biologicals, which expanded the plasma program to other ADC units; at one time, prison plasma accounted for forty percent of the company's business. But donor-screening problems persisted. In 1989, a prisoner who had been forbidden to donate on account of disease was able to sell plasma twenty-three times after he transferred from the Pine Bluff Diagnostics Unit to Cummins. The March 1991 edition of the *Arkansas Times* featured a story by Mara Leveritt on inmate plasma sales in Arkansas, raising the public's awareness of the issue. In 1992, a series of state police investigations uncovered corruption in the prison plasma program, including allegations of nepotism, such as ADC director Lockhart's asking Jimmy Lord, owner of Pine Bluff Biologicals, to hire his son. Lockhart was forced to resign.

The prison plasma program ended in 1994, but its effects linger. More than 1,000 Canadians who received plasma contaminated by that drawn from Arkansas prisoners were infected with HIV and 20,000 with hepatitis C. As a result of the report by Canadian Justice Horace Krever, that country's Red Cross was stripped of its responsibility for the nation's blood system; on May 30, 2005, the Canadian Red Cross pleaded guilty in Ontario Superior Court for its role in the scandal. As a result of a class-action lawsuit filed by more than 20,000 people who received tainted blood in Canada, the Canadian government, in late 1998, set aside a fund of $1.2 billion to compensate victims; on July 25, 2006, the Canadian government announced an expanded $875 million compensation package for victims. Arkansas has never apologized for its role in the blood scandal nor sought to reimburse victims for their suffering. Though some Canadians vowed to sue the Arkansas Department of Correction, no suit has yet materialized.



The Arkansas prison blood scandal was the subject of a novel, titled *Blood Trail* (1998), written by former HMA employee Mike Galster under the pseudonym Michael Sullivan. The scandal also has been the subject of a documentary movie, *Factor 8: The Arkansas Prison Blood Scandal*, directed by Kelly Duda, which was released in 2005 and drew worldwide attention to the events.

In England, Lord Peter Archer of Sandwell began, in March 2007, a public inquiry into contaminated blood given to British hemophilia patients in the 1970s and 1980s. At the beginning of the inquiry, the number of deaths from blood contaminated with hepatitis C and HIV in England stood at 1,757 out of over 6,000 infected; blood extracted from Arkansas prisoners has been linked to this contamination. The inquiry has heard testimony from victims, healthcare workers, investigative journalists (including filmmaker Duda), and more. Its final report cited a lack of self-sufficiency (being too much reliance upon foreign sources of blood products) as the source of the problem.

Inmates Recall Prison Life Before Reforms at Harsh Cummins Unit

Guards on horseback still watch inmates toil in sun-dried fields, harvesting rice, cotton and corn from the rich Delta land.

Little seems to have changed at the 99-year-old Cummins Unit prison, surrounded by vast flat land, its bounty of crops ringed by a moss-laden cypress swamp.

These days, however, the guards are paid employees, not rifle-wielding trusties spending the rest of their lives in a 10,000-acre prison, once among the harshest in the nation. Punishment is meted out under strict guidelines, not through bull whips and electric torture devices.

Life inside and outside the prison has changed, emphasized by the sight of modern buildings clumped on the landscape.

"It used to have just old, wooden buildings that the inmates were celled in. It looked like you were driving back in time to the 1800s," said Kenneth Nicely, a convicted police killer who began serving a life term in 1958.

Of the men now in custody at Cummins and the nearby 1,256-inmate Varner Unit, only a handful were incarcerated before widespread reforms of the 1970s.

Until court-ordered changes in Arkansas' prison system, inmates supervised inmates. Trusties known as long line riders -- usually convicted killers -- carried rifles and oversaw field work. Inmates answered to few outsiders.

"There were only eight or nine free-world people over four barracks with 160 people each," recalled Nicely, 63, a slight, gray-haired man dressed in tattered white prison pajamas.

Statewide, the Arkansas prison system now houses more than 12,300 inmates in more than a dozen facilities. The system has nearly doubled in size during each of the last three decades.

Dina Tyler, spokeswoman for the Arkansas Department of Correction, said prisoner oversight and awareness of human rights abuses has improved drastically through the decades.

"If you look at the difference between 1970 and 2001, there have been leaps forward. It makes your head spin to think about where we were and where we are now," she said.

Back then, survival depended on inner strength and the ability to keep up with work demands on the prison farm, Nicely said. For those who couldn't do the work, punishment was harsh.

"They would make you lie down on your stomach and whip you with a bull hide. I got whipped the first day I was on the hoe squad," Nicely said. Memories of the pain linger.

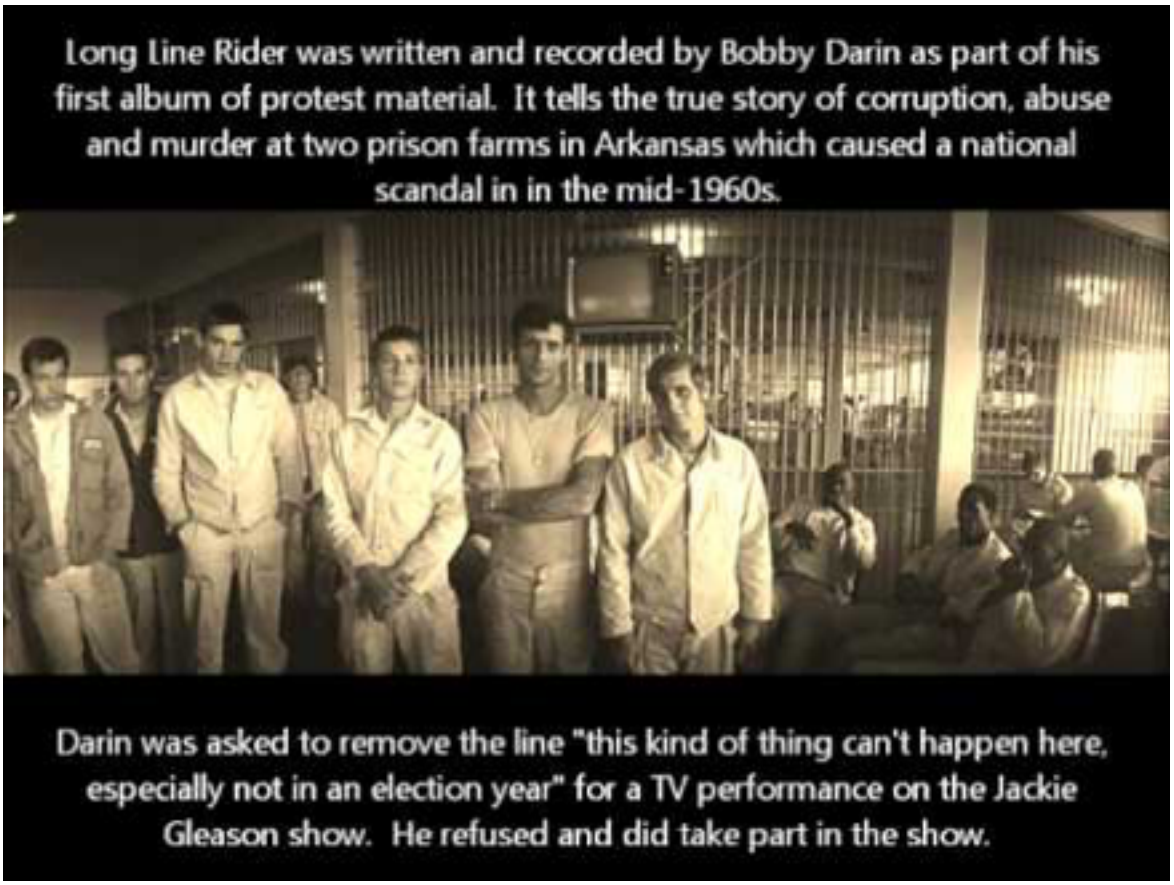
"It was like being backed up against a heating stove all day long. At night, you couldn't pull your shorts off. You had to take a shower and shake them loose," he said.

The U.S. Supreme Court ruled in 1970 that the Arkansas prison system violated constitutional prohibitions against cruel and unusual punishment. The prison remained under federal supervision for the next 13 years.

A federal judge from the era declared the state prison system a "dark and evil world." The prison system inspired Bobby Darin to write and record "Long Line Rider," which hit No. 78 on national music charts, and became the model for the 1980 Robert Redford film *Brubaker*.

Convicted murderer Samuel Billingsley, 62, entered Cummins in 1957 and spent years as an armed prison trusty supervising other black inmates throughout the 1960s. Integration didn't arrive until 1970, when Billingsley was among 10 black trusties moved to a white barracks; 10 white trusties moved to a black barracks at the same time.

Billingsley, a sharecropper's son with the earliest entry date of any current inmate, said he gained his coveted trusty position because he excelled at farm work. Most prisoners today couldn't survive the discipline that was the hallmark of the earlier system, he said.



"The guys now, very few of them could make it without being whipped to death. A lot of guys couldn't pick 300 pounds of cotton in a day," he said.

He doesn't share stories of the old days with fellow inmates because he says they wouldn't believe him.

"They don't believe you had to lay down there and stretch out on your stomach and someone would whip you 15 times and if you didn't stay put someone would hold you down," he said.

When Gov. Winthrop Rockefeller took office in 1967, he made prison reform a priority, declaring the Cummins Unit "probably the most barbaric prison system in the United States."

A State Police investigation of the system determined it operated under conditions of brutality, extortion, murder, sadism and fraud.

Among the abuses was the Tucker telephone, a hand-turned electric generator made from an old-fashioned crank phone. Guards in the prison system's Tucker Unit attached wires to an inmate's genitalia and turned the telephone's crank to generate an electric charge.

As part of the reforms, Rockefeller commuted the death sentences of 14 death row inmates. His son, Winthrop Paul Rockefeller, traveled with him to the Tucker prison farm when he announced the commutations for the death row inmates.

"He explained his feelings to them about the death penalty and advised them they were being commutated," said Rockefeller, now lieutenant governor. "It was a pretty momentous occasion."

Rockefeller said his father was motivated in part by the racial inequities within the system. "Back then, you would get the death sentence many times just for the color of your skin," he said. "I'm sure my father had access to the files and had reviewed the cases."
Rockefeller said his father took on the prison system in part because he had an innate sense of fairness.

"It started with a sense of right and wrong. The way in which the prison system existed prior to my father was very brutal. It was run by inmates and it was a nightmare system," he said. "Dad brought in professional criminologists and commissioned studies."

When Rockefeller visited prisons, his bodyguard had to check his gun with a prison trusty. "It didn't matter if they were with the sheriff's office, or a police department or an armed gubernatorial bodyguard. Armed people (from the outside) didn't go into the barracks" for fear unarmed inmates might try to jump them and take their guns, said John Haley, who served on Rockefeller's prison board and worked to reform the system.

"In 1967, there were only 35 employees at Tucker and Cummins combined," Haley said. "There were nearly 300 armed guards, all of whom were inmates."

Gov. Rockefeller brought in outsider Tom Murton to run the state prisons. Focusing on rumors of a secret prison burial ground, Murton unearthed a pauper's cemetery in front of television cameras.

Billingsley was among those who watched the cemetery excavation. He said rumors of unmarked graves had long circulated within the prison.

The controversy that followed the exhumations prompted Rockefeller to replace Murton with Robert Sarver, who continued the push for reforms.

Despite the decades of reform, the state prison system isn't scandal-free.

In February, a grand jury indicted six former state prison guards on charges they shocked and tortured three Cummins inmates in 1998. Two of the guards were fired and four others quit during an investigation. Five pleaded guilty in federal court and the sixth was convicted.

Bobby Darin

“Long Line Rider”

Wettin’ it down, boss

Wet it down

Wipin' it off, boss

Wipe it off.

Doin’ ten to twenty hard

Swingin' twelve pounds in the yard

Every day

Every day.

I came in with a group of twenty

There ain't left but half as many

In the clay

In the clay.

Long line rider, turn away.

There's a farm in Arkansas

Got some secrets in its floor

In decay

In decay.

You can tell where they're at

Nothin' grows, the ground is flat

Where they lay

Where they lay.

Long line rider, turn away.

All the records show so clear

Not a single man was here

Anyway

Anyway.

That's the tale the warden tells

As he counts his empty shells

By the day

By the day.

Hey, long line rider, turn away.

Someone screams investigate

'scuse me sir it's a little late

Let us pray

Let us pray.

This kinda thing can't happen here

'specially not in an election year

Outta my way

Outta my way

Hey, long line rider, turn away.

There's a funny taste in the air

Big bulldozers everywhere

Diggin’ clay

Turnin' clay.

And the ground coughs up some roots

Wearin' denim shirts and boots

Haul 'em away

Haul 'em away.

Hey, long line rider, turn away.

Well I heard a brother moan

Why they plowin' up my home

In this way

In this way.

I said, buddy, shake your gloom

They're just here to make more room

In the clay.

U.S.A.

Current Action

In 2010, Governor Mike Beebe designated a committee, the Arkansas Working Group on Sentencing and Corrections, to investigate the prison system once again, this time with a focus on reducing overcrowding. In response to the investigation, Beebe and state senator Jim Luker worked to pass a prison reform bill through the Arkansas House of Representatives. The bill provided for lesser sentencing for nonviolent crimes, increased the number of inmates eligible for early parole, and expanded the parole system. These measures were intended to primarily keep only violent offenders in prison for extended periods of time, thereby reducing overcrowding.

The reforms proposed by Luker and Beebe's bill had been suggested before, but many Arkansans, including the Arkansas Prosecuting Attorneys Association, felt that the bill was too lenient on criminals. In response to concerns over the practicality of the bill, Beebe and Luker implemented revisions designed to ease prosecutors' concerns. Such revisions included improvements to the parole system, which would allow better monitoring of the released criminals, as well as more extensive treatment methods, particularly for those convicted of drug-related crimes. In light of the revisions, the Arkansas Prosecuting Attorneys Association, on March 4, 2011, publicly announced its support of the bill. On March 9, the Arkansas Senate passed the reform bill, followed on March 16, 2011, by the House of Representatives. Beebe gave his final approval on March 22, 2011, signing the bill into law. Without the bill, Arkansas projected spending more than one billion dollars on its prison system over the next ten years and having a prison population growth of forty-three percent. Instead, by reducing overcrowding, it was hoped that the bill would allow the state to provide humane conditions for prisoners while still saving the state an estimated $875 million over the next ten years. However, by August 2015, the state had one of the fastest growing prison populations in the nation, despite a decline in violent crime, and set a record for the number of inmates under its jurisdiction, 19,055; this was approximately 3,000 inmates above capacity. Moreover, Arkansas still ranks among the highest in the nation for lawsuits over the conditions of incarceration.

The Arkansas prison system has undergone perpetual reform since the late 1960s. While concerns still exist regarding the numbers and treatment of prisoners, the Arkansas penal system has greatly improved. The prison reform movement was largely due to Gov. Rockefeller's

intervention, which began a string of investigations revealing Arkansas's desperate need for improvements in its antiquated penal system.

Assessment

Read Tom Murton's excerpts of *Accomplices to the Crime: Arkansas Prison Scandal*. Have students generate their own questions and hold a seminar how prison reform.

Socratic Seminar Rubric

	Outstanding	Strong	Satisfactory	Developing
Reading and Preparation • **Questions** • **Annotations** • **Summary** • **Reflection**	Student has prepared all questions. All questions are thought-provoking and demonstrate depth of thought. Student has annotated the text(s) thoroughly and knows the ideas *specifically*. Student can summarize the text precisely and concisely with deep understanding. Student has reflected deeply upon his/her own questions and is prepared to contribute *specific* ideas and questions.	Student has prepared all questions; most are thought-provoking. Student has annotated the text generally. Student can summarize the text generally. Student has reflected generally upon his/her own questions and is prepared generally to contribute ideas and questions.	Student has prepared most questions with only a few that are thought-provoking. Student has annotated the text somewhat. Student has reflected somewhat on his/her own questions and is prepared superficially to contribute ideas and questions.	Student has not prepared all questions. Student has not annotated the text fully. Student cannot summarize the texts satisfactorily. Student has not yet reflected upon his/her own questions and is not prepared to contribute ideas and questions.
Respect and Conduct	Student shows the utmost respect to each speaker through verbal *and* non-verbal means. Student respects the norm that only one person speaks at a time and follows this meticulously and consistently throughout discussion. When a student disagrees with ideas, he/she does so in a respectful, tentative tone. Student invites others to speak when appropriate. Student does not dominate or withdraw from discussion. Student seeks artful balance between speaking and listening.	Student shows respect to each speaker through verbal *and* non-verbal means. Student respects the norm that only one person speaks at a time and follows this mostly throughout discussion. When a student disagrees with ideas, he/she does so in a respectful, tentative tone. Student may lapse into talking too much or too little, but will catch him/herself and adjust accordingly.	Student shows respect to each speaker through verbal *and* non-verbal means. Student respects the norm that only one person speaks at a time but may forget and whisper or chat once or twice. When a student disagrees with ideas, he/she does so in a respectful, tentative tone. Student may lapse into talking too much or too little.	Student struggles to show respect to each speaker through verbal *and* non-verbal means. Student struggles to respect the norm that only one person speaks at a time and may whisper and chat on the side once or more. Student may shoot down other people's ideas, make rude comments or facial expressions.

Speaking and Reasoning	Student consistently ties ideas comments to the text. Comments and questions are consistently appropriate, timely, and insightful. They build the discussion and bring depth. Student transitions from idea to idea smoothly. Student consistently provides *specific* evidence and sound reasoning to support ideas. Student asks for clarification. Student is a consistently outstanding discussant with *specific* comments and questions.	Student's comments and questions are mostly appropriate, timely, and insightful. They mostly build the discussion. Student mostly transitions from idea to idea. Student provides evidence and sound reasoning to support ideas, but lacks specificity which is what the outstanding student does. Student ties ideas to texts most of the time but tends to be general and only share opinions. Students asks for clarification most of the time.	Students' comments and questions are appropriate and timely some of the time. They build the discussion, transition from idea to idea, provide evidence and sound reasoning some of the time. Student lacks specificity and tends to stay with superficial comments.	Student struggles to make a comment or ask a question. Comments or questions may be inappropriate or untimely. They may not build the discussion. Transitions may be choppy. Comments or questions may be off-topic or difficult to understand.
Listening	Student is focused and attentive consistently throughout the entire seminar. Student consistently looks at speaker. Student takes notes to track the discussion where appropriate. Student knows specifically where the conversation has been and where it is going.	Student is focused and attentive most of the seminar. Student looks at speaker most of the time. Student takes notes to track the discussion where appropriate. Student knows where the conversation has been generally and where it is going.	Student is focused and attentive some of the seminar. Student looks at speaker some of the time. Student takes notes to track the discussion where appropriate. Student knows where the conversation has been and where it is going somewhat.	Student struggles to focus and stay attentive during the seminar. Student struggles to look at speaker. Student does not take any notes. Student does not know where the conversation has been or where it is going.
Academic Language	Student uses precise, academic language consistently. Student uses content words, literary analysis words, strong active verbs, and artful transitions in comments and questions.	Student uses academic language most of the time but may lapse into conversational English one or two times. Student uses artful transitions most of the time.	Student uses academic language some of the time but may lapse into conversational English sometimes. Student uses artful transitions some of the time.	Student uses academic language infrequently and is developing in this area. Student speaks mostly in conversational English. Student uses artful transitions infrequently.

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