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Rap Music on Trial: Should Rap Lyrics be Admissible in Court as Evidence?

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ABSTRACT

This thesis evaluates the issue of rap on trial from both a legal and socioeconomic perspective, analyzing the causes, practices, and effects of rap's use in the courtroom through these two lenses. This thesis first explores rap as an art form and its history to contextualize rap's controversial nature and turbulent relationship with the law. Next, this thesis examines existing legal cases involving rap lyrics before analyzing rap on trial's socioeconomic effects. Evaluating rap on trial asserts its capacity to denigrate America's judicial integrity while reinforcing negative racial stereotypes and empowering a culture of discrimination. Finally, this thesis will postulate what its findings mean for the future and attempt to discern a path forward that unequivocally upholds justice without infringing on the artistic sphere or freedom of expression. By evaluating both sides of rap on trial through the legal and socioeconomic lenses, this project aims to elucidate the dangers that rap on trial poses to art, justice, equality, and freedom of expression in the United States.

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Chapter 1

Introduction

Jeffrey Lamar Williams—better known by his stage alias Young Thug—was born the tenth of eleven children in 1991 and grew up in the Jonesboro South projects of Atlanta’s Sylvan Hills neighborhood. In 2002 Williams was expelled from the sixth grade for breaking his teacher’s arm and spent the next four years in juvenile detention as a result. Following his release, Williams began his rap career in 2010 and debuted his first mixtape one year later. In 2013, fellow Atlanta-based rapper Gucci Mane signed Williams to his label 1017 Brick Squad Records, at which point Young Thug exploded into the forefront of the rap industry. Over the next few years Young Thug would release several chart-topping projects, accumulating accolades and widespread critical acclaim for his revolutionary style. Young Thug’s eccentric lyrical style and unconventional fashion initially proved divisive within hip-hop, but soon inspired successive generations of young rappers. Young Thug’s influence shines through the musical style and cultivated personas of contemporary rap luminaries including Gunna, Lil Baby, Lil Uzi Vert, Lil Nas X and Baby Keem. By 2016 Young Thug had established his own label YSL Records, which contracted prominent rap artists such as Gunna, Lil Keed, and formerly Lil Baby, while garnering support from other industry titans including Travis Scott, Lil Uzi Vert, Nav, YNW Melly, and Lil Gotit. In 2022, however, everything would change for Young Thug.

On May 9, 2022, Young Thug was arrested in Atlanta on account of gang-related charges. The Fulton County court promptly unveiled a sprawling fifty-six count Racketeer Influenced and Corrupt Organizations Act (R.I.C.O.) indictment against Young Thug, Gunna,

and twenty-six additional members of the YSL Records collective. The indictment alleges 182 counts of gang activity and criminal conspiracies, including charges for violent crimes such as attempted armed robbery and murder levelled against certain individuals (Guy). Among the plethora of evidence cited by prosecutors, one category takes the spotlight: rap lyrics.

Young Thug's prosecution for his rap lyrics has been met with vehement opposition by rapper Jay-Z and other prominent artists, who in response have publicly advocated for New York's Senate Bill S7527. The "Rap Music on Trial" bill does not explicitly ban the evidentiary citation of song lyrics, although it does limit the use of "creative expression" in prosecuting crimes (Reese). As recently as Friday, September 30, California followed New York's example by passing Bill 2799, also known as the Decriminalizing Artistic Expression Act (Shakhnazarova). At this current moment, Young Thug has been denied bond and will await his January 2023 trial behind bars. Whether other states will follow suit and if these legal precedents will affect the YSL trial remains yet to be seen, but this instance of citing rap lyrics as evidence represents the most recent example of rap's turbulent relationship with the law.

The use of rap lyrics as evidence in court is nothing new. As early as the 1990s courts used lyrics as evidence in the prosecution of rappers. Recently, however, the political spotlight on racial bias in law enforcement and judicial systems has garnered increased attention to the issue of rap on trial. The Black Lives Matter movement, George Floyd's murder and resultant protests have brought unprecedented scrutiny to the probative value of rap lyrics. Many scholars, artists, and political figures maintain that using rap lyrics as evidence represents another means expressing institutionalized bias against African-Americans and other minorities in an arguably unjust justice system. These advocates further assert that rap on trial perpetuates negative racial

stereotypes, evokes racial bias among juries, and contributes to high incarceration rates that factor into preserving cycles of poverty and inequality plaguing minority communities.

This thesis aims to examine the issue of rap on trial from both a legal and socioeconomic perspective, analyzing the causes, practices, and effects of rap's use in the courtroom through these two lenses. First, this thesis will explore rap as an art form and its history to contextualize rap's controversial nature and turbulent relationship with the law. This thesis will then discuss existing legal statutes regarding the issue of rap on trial, and subsequently examine the benefits and detriments of rap on trial from a socioeconomic perspective. The legal and socioeconomic analysis will reveal rap on trial's capacity to cause harm within both contexts and support increased scrutiny for rap lyrics' presence in court. As this project discovers, rap on trial denigrates the integrity of America's justice system while reinforcing negative racial stereotypes and empowering a culture of discrimination. To conclude, this thesis will postulate what its findings mean for the future and attempt to discern a path forward that unequivocally upholds justice without infringing on the artistic sphere or freedom of expression. By evaluating both sides of rap on trial through this multifaceted lens, this thesis will elucidate the dangers that this issue poses to art, justice, equality, and freedom of expression in the United States.

Chapter 2

Literature Review

Attempting to tackle an issue as controversial and nuanced as rap on trial demands significant research from a variety of angles. This thesis approaches rap on trial through its two primary spheres: legal and socioeconomic. Although an issue such as rap on trial premises that these two contexts would be fundamentally interconnected, research on the topic tended to focus on one or the other. Therefore, this project necessitated comprehensive research into both sides of the issue to deduce relationships and connections between them. Most works focusing on rap on trial refute rap lyrics' probative value, which rendered a basis for this thesis' counterargument difficult to ascertain despite providing a wealth of literature in support of this thesis' conclusion. Fortunately, this project's most important sources were easily-accessible online and rap on trial's current relevance ensured that recent news articles provided most of the supplemental information required to contextualize or exemplify this project's assertions.

Charis E. Kubrin and Jack I. Lerner's "Rap on Trial: A Legal Guide for Attorneys" provided the most significant insight into rap on trial. As the leading scholar studying this issue, Kubrin's research breaks down rap on trial as part of rap music's long legacy of persecution, misinterpretation, and misuse in its turbulent relationship with the law. Kubrin and Lerner's work details techniques and relevant legal statutes to aid attorneys in pushing for the dismissal of rap lyrics as evidence, and for undermining their relevance or validity if admitted. Kubrin's data and analysis regarding court cases involving rap on trial proved crucial to this thesis' exploration of rap on trial's legal elements. Although Kubrin discusses the origins, history, and causes of rap on trial to a degree sufficient for his project, the book's focus on rap on trial's legal context warrants supplementation regarding rap music's history, characteristics, and tropes—which this

thesis seeks to provide. Kubrin's precise approach highlights rap on trial's causes without comprehensively evaluating its effects from a socioeconomic perspective. Other works by Kubrin place heavier emphasis on these alternative aspects, however this collaboration with Lerner maintains its role of legal guidance as the title implies. Ultimately, Kubrin's thorough research and legal analysis provided the basis for this project's evaluation of rap on trial's context and legality.

This thesis' breakdown of rap's history, tropes, and characteristics was crucial as understanding these components in rap music proves essential to understanding why rap on trial occurs in the first place. Understanding rap on trial's effects prerequisites understanding its causes. Salaam ya Mtume's article "The Aesthetics of Rap" presents an unrivaled analysis of rap's components from a scholarly perspective, which Kubrin's brief focus on the subject aids in contextualizing by abridging these components with their capacity for misinterpretation. Shoshana Paget's article "Sound on Trial: Rap Music & the U.S. First Amendment" and Carrie B. Fried's study "Bad Rap for Rap: Bias in Reactions to Music Lyrics" cooperate to demonstrate demographics' role in rap music's reception and misinterpretation. Although Paget focuses on judge demographics and Fried breaks down how negative racial stereotypes are connoted by the rap genre, their analyses overlap in presenting how the demographics of artists and audiences influence rap's potential for dangerous misinterpretation.

Rap music's perceived influences represent an imperative piece of both this thesis' argument and counterargument. Jeanita W. Richardson and Kim A. Scott's article "Rap Music and Its Violent Progeny: America's Culture of Violence in Context" provides relevant statistics to correlate rap's rise to prominence with increasing violence, specifically amongst urban youth most affiliated with rap music's audiences. Richardson and Scott, however, provide further

evidence to dispel notions of rap influencing this violence and effectively portray rap as this violence's product rather than its cause. Richardson and Scott present statistics regarding external factors influencing rates of violence that provide a factual basis for this thesis' arguments against rap's negative influences. Joshua Espinoza's article "Researchers Are Exploring the Ways Hip-Hop Can Heal the Brain" and Angela Scott's article "Hip Hop Therapy/Beats Rhymes and Life" support Jeanita W. Richardson and Kim A. Scott's argument against rap's negative influences by citing rap's potential for therapeutic and cathartic purposes. Raphael Travis Jr. and Scott W. Bowman's study "Validation of the Individual and Community Empowerment Inventory: A Measure of Rap Music Engagement Among First-Year College Students" and "A Hip-Hop State of Mind" by Akeem Sule and Becky Inkster further break down rap's positive reception as introduced by Espinoza. Espinoza, Travis Jr., Bowman, Sule, and Inkster's articles discuss the effects of listening to hip-hop while Angela Scott's article discusses cathartic elements in freestyle composition. These articles address two dichotomous aspects of rap music, but all agree upon rap's therapeutic potential and provide evidence for this thesis' assertion of rap's positive influences.

To evaluate rap on trial's potentially dangerous implications, this project must connect rap on trial to broader issues including police brutality and discrimination amongst law enforcement. Magnus Lofstrom's articles "Racial Disparities in Law Enforcement Stops" and "Racial Disparities in Traffic Stops" introduced evidence for both issues from a scholarly point-of-view. Lofstrom's findings all pointed to negative racial stereotypes and implicit biases as cause for discrepancies in law enforcement conduct towards different races, which connects this rap on trial's capacity to propagate stereotypes to the broader issue confronting minority

communities. Data cited from Statista supplemented Lofstrom's findings to convey the gravity of this issue as well as rap on trial's central role in its perpetuation.

Addressing rap on trial's causes, principles, and effects through the legal and socioeconomic perspectives demanded a multifaceted approach to research. The research process illuminated an unexpected wealth of literature on the subject and increasingly reinforced this thesis' premises regarding rap on trial's importance and relevancy. At the beginning of my research, I expected this project to focus primarily on rap on trial's implications for art and music aside from its legal implications, yet further research promptly shifted my focus towards the socioeconomic perspective that has since become central. As various sources contextualized rap on trial and connected aspects of it to rap's long history and tumultuous legacy, rap on trial's inherent relationship with broader racial issues facing minority communities today became more apparent. In conclusion, this process diverted my thesis away from an artistic focus and instead towards a far more enriching socioeconomic analysis of rap on trial—the importance of which truly became clear to me through my research.

Chapter 3

What is Rap?

Definition and Components

The Oxford Dictionary defines rap as “a type of popular music of U.S. black origin in which words are recited rapidly and rhythmically over a prerecorded, typically electronic instrumental backing”. Although many use the terms rap and hip-hop interchangeably, their dynamic contextualizes rap music and illustrates its foundational ties to the culture, socioeconomic reality, and ideologies of primarily urban African-American communities. “According to many Hip Hop aficionados, Hip Hop consists of at least four fundamental elements: Disc jockeying (DJing), break dancing, graffiti art, and rapping (emceeing)” (Alridge and Stewart 190). Hip-hop’s umbrella encompasses the rap music genre, and rap’s connection to this broader cultural, artistic, and ideological framework underscores its inseparability from the lifestyle rap portrays. Alridge and Stewart continue: “Hip hop has encompassed not just a musical genre, but also a style of dress, dialect and language, a way of looking at the world, and an aesthetic” (190). Alridge and Stewart’s definition necessarily maintains a degree of ambiguity, considering that most rap and hip-hop artists consider their genre one that must be “felt, experienced, and communicated” (190). This sense of creative intimacy fosters rap’s grounding, as any art form demanding such perception necessitates it convey a fundamental and impactful truth.

Like all great art, rap’s best music captures the gravity of an artist’s most personal struggles or emotions. As an originally African-American art form, rap built itself on the poverty, violence, and deprivation that afflicts and defines African-American urban

communities. Mtume ya Salaam's article "The Aesthetics of Rap" defines four essential components of rap: lyrics, style, flow, and sound. Lyrics pertains to the subject matter and lyrical construction, including creativity and literary devices such as alliteration and metaphor. "Because rap music tends to be so unapologetically direct and personal, the great rappers almost without exception write their own lyrics" (Salaam 305). This focus on originality further promotes a personal subject matter. Style refers to tonal quality and originality, flow dictates rhythm and tempo, and sound captures the intangible element that distinguishes a rapper from their peers (Salaam 306). Each of these facets lends itself to a musical genre that demands, above all else, authenticity—or at least the perception of authenticity.

Persona

In addition to these technical components, rap's evolution has precipitated the development of several recurring tropes that prove imperative to understanding its reception, perception, and controversial use in the courtroom. Understanding these tropes, and their usage, first demands an analysis of the concept of "persona" in rap music. Rap artists almost universally cultivate a character under whose name they perform. Jeffrey Lamar Williams, for example, adopted the moniker of "Young Thug" as his stage name. Renowned civil-rights activist Reverend Conrad Tillard extrapolates this idea in the 2006 film *Hip-Hop: Beyond Beats and Rhymes* (Byron Hurt, 2006): "Every black man that goes in the studio has always got two people in his head: him, in terms of who he really is, and the thug that he feels he has to project". The pressure to conform to this imagery, as described by Tillard, demonstrates the persona's implicit connection to the rap genre.

These personas represent more than a pseudonym, however, and more accurately depict an alter ego through which a rapper cultivates his or her image. Marshall Mathers III, who performs under the stage names Eminem and Slim Shady, elaborates on this concept: “Slim Shady is a name for my temper and/or anger. Eminem is just the rapper. Marshall Mathers is who I am at the end of the day” (Mueller). Understanding this concept of persona redefines tropes such as violence and hypermasculinity within rap music as an expression of these alternative characters’ viewpoints, rather than those of the artists themselves. Rappers exhibit these ideas to aggrandize their persona, and this often represents a commercial strategy rather than an accurate reflection of the artist’s character or perspective. Eminem’s hit track “The Real Slim Shady” off *The Marshall Mathers LP* (2000) features the following lyrics:

“It's the return of the ‘ah, wait, no way, you're kidding
 He didn't just say what I think he did, did he?’
 And Dr. Dre said—nothing you idiots
 Dr. Dre's dead, he's locked in my basement
 Feminist women love Eminem
 "Chicka, chicka, chicka, Slim Shady, I'm sick of him
 Look at him, walkin’ around, grabbin’ his you-know-what
 Flippin’ the you-know-who
 ‘Yeah, but he's so cute though’”
 (Eminem 0:27)

Eminem became infamous for his provocative, violent lyricism as exemplified. These lyrics do not represent the viewpoint or actions of Marshall Mathers III as much as they reflect the image associated with his Slim Shady persona. Such lyricism bolstered the Eminem/Slim Shady image and contributed significantly to Mathers’ popularity, which evidences the importance of persona in rap music. The concept of persona depersonalizes tropes such as

violence and hypermasculinity, allowing for an understanding of their expression and how these expressions are often and easily misconstrued as reflective of a rapper's genuine character.

Rappers express violent and hypermasculine tropes through braggadocio—one of many rhetorical devices central to the genre. Merriam-Webster Dictionary defines braggadocio as “empty boasting” (merriam-webster.com), with this thesis placing an emphasis on “empty”. Expressions of violence and hypermasculinity through braggadocio enhance a rapper's persona, but do not necessarily align with an artist's actual values. These connections premise this thesis' subsequent exploration of these specific tropes.

Violence, Hypermasculinity, and Commentary

Chief among rap's tropes remains violence—and gang violence in particular—which naturally connects this genre to the law. This trope emerged with the explosion of “gangsta rap” in the 1980s, spearheaded by artists such as the rap group N.W.A. (more on their impact in the history of rap section). Violence connects rap to long-standing themes within American and African-American music, film, literature, and folklore, although these traditions are not explicitly violent in nature. Instead, the theme of violence stems from cultivating the “outlaw image” that underscores storytelling in American entertainment. Tracing its roots to the heavily-mythologized Wild-West era, early films about outlaws such as Billy the Kid and Bonnie and Clyde provide early examples for this archetypal antihero. Contemporary films and television glorifying organized crime attest to the American outlaw's enduring allure within both white and African-American culture. The outlaw image traces its musical roots to the blues, country, and

western music. Johnny Cash’s “Folsom Prison Blues” and Jimi Hendrix’s “Hey Joe” exemplify this trope on both sides of the 1960s’ polarizing racial divide:

<p>“When I was just a baby, my mama told me ‘son’</p> <p>‘Always be a good boy, don’t ever play with guns’</p> <p>But I shot a man in Reno just to watch him die</p> <p>When I hear that whistle blowin’, I hang my head and cry”</p> <p style="text-align: center;">(Cash 0:29)</p>	<p>“You know I caught my old lady messin’ ‘round town</p> <p>And I gave her the gun, I shot her...</p> <p>I’m goin’ way down south, way down to Mexico way...</p> <p>Ain’t no hangman gonna, he ain’t gonna put a rope around me”</p> <p style="text-align: center;">(Hendrix 1:32)</p>
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Labelling the entire rap genre as violent disregards its point-of-view and social commentary.

Contextualizing violence in rap dispels stereotypes of African-Americans and their art as inherently violent. The outlaw image in rap music reflects the socioeconomic conditions of minority communities and themes of resisting oppression frequently exhibited in art from these demographics. In his book *Hip Hop America*, Nelson George writes that “gangsta rap” characterizes outlaws as “gangsters, hustlers, and especially pimps [who] are...elevated to the status of hero, because within the music and throughout Black culture, they have always been viewed as a rare example of black male authority over his domain” (36). According to George’s analysis, violent tropes in rap music represent a method of sociopolitical critique as well as a commercial strategy for aggrandizing a rapper’s stage persona through braggadocio.

Understanding the history of violent tropes in rap through the outlaw archetype, and their use via braggadocio and persona, suggests that most violent rap lyrics lack excusable probative value.

Similarly, themes of hypermasculinity remain far from unique to African-American art and music. Country, rock and roll, and metal music all exude hypermasculinity as predominantly white genres. Hypermasculinity in rap, like violence, resists oppression by asserting African-

American male authority over an environment in which African-Americans are systematically deprived of personal autonomy. Rappers attach attention, respect, and credibility to their images through hypermasculinity, representing a commercial strategy when analyzed through the lens of persona. Also, like violence, hypermasculinity in rap often embodies a form of social critique through braggadocio rather than an expression of genuinely held sentiments. Although these principles do not justify instances of blatant, overt sexism, contextualizing hypermasculine tropes in rap music combats stereotypes of African-Americans as more violent and sexist based on rap music.

To further contextualize these tropes, one must examine how rap evolved from African-American oral storytelling traditions and the practice of “signifying”, which Oxford Dictionary defines as “exchanging boasts or insults as a game or ritual” (languages.oup.com). Boasts and insults in signifying competitions valued clever wordplay above all else, employing rhetorical techniques including metaphor, allusion, rhyme, and meter (the rap battle format emulates signifying competitions with the addition of beats and music). Although an emphasis on wordplay stimulates profoundly innovative lyricism, it proves a double-edged sword in the courtroom. “Even while rappers routinely use recognizable literary and poetic techniques... rap’s use of Black vernacular slang, and its tendency to create new words and attribute varied meanings to common words...makes rap particularly susceptible to misinterpretation” (Kubrin 3, 15). Rap music expresses social commentary in complex ways through rhetorical techniques adopted from signifying, as evidenced by the relationship between persona and braggadocio that underlines violent and hypermasculine tropes’ function as a form of commentary. Rapper J. Cole’s verse on “A Tale of 2 Citiez” illustrates this process:

“Fuck with me my n***a

We gonna slug around the Ville and hit a lick
 Cop some tree my n***a
 And some powder, bag it up and make it flip
 You gon' see my n***a
 One day we gon' graduate and cop a brick
 And that's the key my n***a
 And listen up I'm bout to go and get rich
 Stand back and watch if you want to n***a
 Me I want my pockets fat about a bitch
 Tired of seein' n***s flaunt, I wanna flaunt too n***a
 Watch some rollers in the fuckin' Crown Vic"
 (Cole 2:00)

In this excerpt from a leading track on J. Cole's groundbreaking album *2014 Forest Hills Drive*, Cole outlines the process by which money and flaunted materialism seduce people immersed in such conditions, and how violence subsequently becomes a means to an end. Discerning the vernacular in this verse outlines the process of falling into the criminal lifestyle, graduating from selling small quantities of narcotics to selling "bricks" or whole kilos, and using that money to purchase the flashy accessories that correlate with street status. Cole manages to convey this process in a vivid and personal manner through braggadocio. Cole puts his audience in the shoes of young African-Americans who are lured into this lifestyle without having worn those shoes himself. J. Cole has no criminal record and merely recounts the cycle he observed throughout his upbringing in Fayetteville, North Carolina. Cole has not engaged in these actions, although the perception that he has increases the repertoire of his persona and the personal impact of his commentary. This exemplifies the dual-role of these tropes and techniques as social commentary and commercial strategy, while again illustrating their susceptibility to misinterpretation. To treat this as a confession of culpability would ignore this elucidating

commentary and the deeply-nuanced issues it discusses. Holding artists so suffocatingly liable would deprive their art of its function as art, regardless of form, genre, or race.

Chapter 4

History of Rap

Origins

African-American communities have pushed the boundaries of American musical evolution for generations, creating the blues, jazz, and rap to express their woes from centuries of oppression and inequality. Rap's forms descend from West African folk traditions, which emphasize the spoken word over percussion or sparse instrumentation. The first instance of proto-rap can be attributed to Jon Hendrick's commentary on George Russell's 1958 jazz album "New York, N.Y.", in which Hendricks delivers rhythm-conscious narration that adheres to consistent rhyme schemes. Coke La Rock is often cited as hip-hop's first MC, having laid the foundations for modern rap music in cooperation with DJ Kool Herk.

Rap proper emerged during the early 1970s in the South Bronx as minority populations were displaced by the Cross-Bronx expressway and other municipal projects. The youngest generations sought an outlet for their angst and creativity, thus turning to hip-hop and rap. Immediately, this angst influenced subject matter; "The first rappers criticized institutions such as the police, the government, and media, as well as the discrimination faced by blacks; the themes in these songs clearly representative of the plight of blacks" (Flores). This rapidly polarized the emerging genre against the police and law and order in general. The disparity deepened as mainstream record labels began adopting rap. The 1980s characterized a shift away from social critique and towards the hyper-violent, hypermasculine "gangsta rap" subgenre. Public animosity would reach a boiling point with the release of N.W.A.'s *Straight Outta*

Compton (1988) album. The following lyrics from N.W.A.'s "Fuck Tha Police" epitomize gangsta rap's controversial nature:

"Fuck the police comin' straight from the underground
A 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 the one
For a punk motherfucker with a badge and a gun
To be beatin' on, and thrown in jail
We can go toe-to-toe in the middle of a cell"

(N.W.A. 0:30)

Police would frequently threaten to shut down N.W.A. concerts if they played this controversial record and often followed through on this threat. One year later in 1989, MTV aired "Yo MTV Raps", which proved that rap could be marketable to MTV's predominantly white, teenage audience. This additionally underscored the rise of music videos, which emphasized a rapper's image alongside their sound. "The generic, industrial standard of hip-hop videos of this modern era often display rappers 'ego-stroking' by making glorious displays of wealth and power. While watching a standard contemporary music video, one will often see scantily clad women parading around the rapper's mansion, entertaining the rapper and his 'posse'" (Flores). Rappers became obsessed with flaunting money, jewelry, and other signifiers of the materialistic success minority communities are systematically excluded from. The concept of "flexing" represents another method of rebellion against socioeconomic oppression by white society. This visual medium provided a new avenue for rappers to aggrandize their personas, thus reasserting tropes of hyper-violence and hypermasculinity once again.

The “golden age” of hip-hop spanned from the mid-1980s to the early-1990s and encompasses the period in which rap music experienced its most transformative and expansive iterations. This era also saw rap’s ascension to the forefront of mainstream music, marked by the Beastie Boys’ *Licensed to Ill* becoming the first hip-hop album to reach number one on the Billboard 200 in 1987. Rappers from this period developed the complex wordplay that modern rappers adapt and emulate to further push the genre’s boundaries through refreshing and innovative techniques. The emergence of many subgenres including old-school rap, gangsta rap, jazz rap, and boom-bap rap also flourished during rap’s golden age.

Evolution

The turn into the 2010s saw trap’s rise to prominence, characterized by booming 808 bass, rapid hi-hats, and the instrumental and lyrical use of triplets. Trap endures as the most popular mainstream form of rap today, often glorifying the glamor and materialism accrued to successful rap artists. Trap music also maintains the hyper-violent and hypermasculine characteristics of its precedents:

“I ain’t never lookin’ for no handouts
 Broke ass n****s never helpin’ but they hands out
 Find out where the fuck n***a live then we camp out
 Screamin’, “Fuck the world”, never catch me with my pants down
 Always been a stand-up guy, I’d rather stand out
 Raf Simons, Stan Smith edition with my bands out
 I’m the trillest one to do it since Pimp, n***a hands down
 If a n***a put his hands on me, that’s a man down”

(A\$AP Rocky 1:04)

During the mid-2010s trap music spawned mumble rap, as exemplified by artists such as Young Thug and 21 Savage, in which triplets are accelerated with the use of borderline unintelligible lyrics. More recently, the advent of “Soundcloud rap” (named after the streaming platform Soundcloud from which it emerged) and examples of fusion between rap music and indie, rock, and even country continue to sustain rap’s hegemony over the modern music scene. Soundcloud rappers such as Juice WRLD, XXX Tentacion, Lil Peep, and Lil Uzi Vert redefined rap’s sound in the late 2010s and early 2020s while legitimizing the more emotional edge that characterizes many of their most successful projects:

“I still see your shadows in my room
 Can't take back the love that I gave you
 It's to the point where I love, and I hate you
 And I cannot change you so I must replace you (oh)
 Easier said than done
 I thought you were the one
 Listening to my heart instead of my head
 You found another one, but
 I am the better one
 I won't let you forget me”
 (Juice WRLD 0:22)

The emotional emphasis exhibited in their works aided in marketing rap to audiences unfamiliar with the gangster lifestyle, thus further exemplifying rap’s versatility and adaptability. Notable differences in subject matter between the cited lyrics from A\$AP Rocky and Juice WRLD denote the shift and expansion in topical matter that Soundcloud rap facilitated. Fusion projects and the Soundcloud wave have paved the way for the development of new subgenres including indie rap, emo rap, and even country rap. Such subgenres have incorporated instrumental styles from non-rap genres to further diversify rap music’s capabilities. Rap’s harder edge—as initially

introduced by gangsta rap—survives through drill, which originated from Chicago rappers such as Chief Keef and maintains a thriving New York theater as pioneered by the late Pop Smoke. Drill rap doubles-down on trap’s grittier aspects, primarily featuring the gangster lifestyle and commentary on crime in minority communities over speedy, brooding beats featuring potent bass lines. Topics closer to those evident in A\$AP Rocky’s verse remain integral to drill and are often intensified in drill, although the beats, flow, and overall sound differ drastically.

Today, rap music has become nearly synonymous with pop culture as artists such as Drake, Travis Scott and Jay-Z infiltrate the ranks of A-list celebrities. As rap music pushes the vanguard of art, music, fashion, and street culture, the genre’s social and legal implications have come under increasing scrutiny. Critics of the genre argue that rap’s perceived glorification of violence and hyper-masculinity instill detrimental values and provide poor examples to youth in minority communities, while rap’s supporters cite the genre as a vehicle for expression and a revolution in musical style and capacity. Having established rap’s components and history, however, this thesis will analyze the legal precedents of rap on trial before evaluating its socioeconomic benefits and detriments.

Chapter 5

Legality of Rap on Trial

Any evaluation of rap lyrics' use in courts remains insufficient without analyzing the actual legal precedents dictating their probative value. Although rap on trial's social, economic, and political effects may be documented and analyzed, progress requires understanding the legal context wherein change may be enacted and codified. Numerous documents and court cases exist detailing the reasoning behind rulings both for and against admitting rap lyrics as evidence. To understand rap on trial's legal elements, one must first examine the legal concepts providing a basis for these rulings. The United States' legal system maintains that defendants are innocent until proven guilty, and the legal burden of proof states that guilt must be proven beyond a reasonable doubt. Using rap lyrics strictly to undermine a defendant's character risks leading juries to perceive a defendant as capable of committing a crime without proving their actual involvement in said crime. First and foremost, the legal statute most fundamental to understanding rap on trial in the courtroom remains the First Amendment of the United States' Constitution.

Freedom of Speech

The First Amendment of the United States' Constitution declares that "Congress shall make no law...abridging the freedom of speech". The verdict from the 2015 case *Elonis v. United States* elaborates on this clause, stating that the Supreme Court recognizes First Amendment protection of expressive media such as music—and therefore rap. (Supreme Court

of the United States) However, in *Watts v. United States* the Supreme Court ruled that First Amendment protection does not apply to “true threats”, although the definition of a “true threat” remains subjective at best and speculative at worst (the court case *Commonwealth v. Knox*, as evaluated in this thesis’ subsequent subsection, elaborates on the interpretation of a “true threat” and demonstrates an application of this principle).

Clearly, not every aspect of speech can endure freely without justifiable scrutiny. Verbal or written testimonies, confessions, and statements by the defendant remain integral aspects of the judicial process. The 1993 trial *Wisconsin v. Mitchell* maintains that “the First Amendment does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent. Evidence of a defendant’s previous declarations or statements is commonly admitted in criminal trials subject to evidentiary rules dealing with relevancy, reliability, and the like” (Supreme Court of Wisconsin). However, the verdict from the 2019 *People v. Coneal* trial in California differentiates these statements from art within the legal domain: “Reasonable persons understand musical lyrics and poetic conventions as the figurative expressions which they are, which means they are not intended to be and should not be read literally on their face, nor judged by a standard of prose oratory...Absent some meaningful method to determine which lyrics represent real versus made up events, or some persuasive basis to construe specific lyrics literally, the probative value of lyrics as evidence of their literal truth is minimal” (California Court of Appeals). The *People v. Coneal* verdict dictates that the admissibility of rap lyrics relies on a strong connection between those lyrics and evidence related to the offenses in question.

Legal Precedents

Examining specific cases of rap on trial reveals complex, layered interpretations and applications of the previously-evaluated legal statutes while providing insight into how rap on trial actually occurs. As the following cases will show, rap lyrics' probative value primarily relies upon whether the lyrics in question constitute a "true threat" (actual evidence with a strong connection to the crime) instead of a gratuitous assault on a defendant's character.

In the 2014 case *State v. Skinner*, the Supreme Court of New Jersey prosecuted defendant Vonte Skinner for attempted murder and other related charges. Law enforcement officials found plaintiff Lamont Peterson with seven gunshot-inflicted wounds, which Peterson attributed to the defendant Vonte Skinner. Peterson testified that he and Skinner sold narcotics for a man named Brandon Rothwell, and that Rothwell had ordered Skinner to murder Peterson for withholding profits from their operation. A witness of the State was permitted to read many of Skinner's vulgar and violent rap lyrics to the jury, which, according to the State, demonstrated the defendant's "motive and intent" for committing attempted murder. These lyrics, as argued by the State, demonstrated Skinner's ties to a culture of street violence and characterized Skinner as someone whose character would support his commitment of the offenses in question. Ultimately, the court ruled that "Fictional forms of inflammatory self-expression, such as poems, musical compositions, and other like writings about bad acts, wrongful acts, or crimes, are not properly evidential unless the writing reveals a strong nexus between the specific details of the artistic composition and the circumstances of the underlying offense for which a person is charged, and the probative value of that evidence outweighs its apparent prejudicial impact" (Supreme Court of New Jersey). This ruling exemplifies the dichotomy between linking evidence and assaulting character. The court rules that a "strong nexus" must exist connecting the lyrics to the crime at

hand and recognizes the dangerous prejudicial impact inherent to rap on trial. While rap lyrics might frame the defendant as someone who fits the profile, this approach risks invoking negative racial stereotypes and biases to make defendants look guilty without really proving their guilt. Painting a defendant as capable of committing a crime does not prove their complicity in that specific crime, instead violating the legal burden of proof. This in turn risks courts erroneously dispensing sentences to innocent people.

Attacking a defendant's character to slander them with negative racial stereotypes and imply guilt circumvents the due process of law, violating the principles upon which the United States' legal system was founded. In 2011, the case *Hannah v. State* presents similar logic to that found in the *State v. Skinner* ruling. During cross-examination in *Hannah v. State*, the prosecution read the defendant's rap lyrics to the jury to assert the defendant's knowledge of firearms. This appeal declared that prosecution had abused its discretion in ruling lyrics admissible and provided a basis for reversing and remanding the defendant's murder conviction. The court ruled that the defendant's lyrics "had no tendency to prove any issue other than the issue of whether Petitioner was a violent thug with a propensity to commit the crimes for which he was on trial" (Maryland Court of Appeals). The ruling's emphasis on the "propensity to commit crimes" displays how rap on trial circumvents the legal burden of proof by attempting to use an image of capability as proof of complicity.

On the contrary, the 2018 case *Commonwealth v. Knox*'s ruling describes an instance in which the court ruled that rap lyrics' evidentiary value superseded its prejudicial impact. In this case, the defendant's lyrics detail the murder of police officers and informants, additionally referring to a man who had previously murdered three law enforcement agents. The court ruled that not only did the lyrics convey the defendant's propensity for violence, but that their

personalized nature presented a “true threat” and thus were not protected by the First Amendment. Interestingly, the ruling acknowledged the concept of persona in rap, but ultimately decided that “the content and surrounding circumstances of the song in issue do not demonstrate an adherence to the distinction between singer and stage persona sufficient to ameliorate its threatening nature” (Pennsylvania Supreme Court). Here, the court establishes sufficient connection between the defendant’s lyrics and evidence to uphold the legal burden of proof. These cases rely upon the same legal principles to achieve conflicting rulings and justify both results with consistent logic. The conflicting rulings show how the subjective definition of a “true threat” premises rap on trial’s subjective nature. *State v. Skinner* and *Hannah v. State* also demonstrate how easily racial bias might subvert the due process of law in reaching these rulings. Whether or not bias factored into ruling Knox’s lyrics as a “true threat” cannot be determined. *Commonwealth v. Knox* highlights rap on trial’s nuance and the precision required to regulate it through legislation.

The Supreme Court case *United States v. Herron* provides another instance where the court rejects a First Amendment defense. In this case, the prosecution pushed to admit video evidence that included rap music videos featuring performances by the defendant. In response, Herron argued that “his statements...may be viewed as specific content meant to evoke, through gritty violent imagery, the reality of the streets and communities in which the defendant was raised, and in which many citizens continue to live today in the inner city.” Attempting to counter the content’s probative value, Herron further argued that his lyrics “do not constitute admissions to any specific crimes. They reflect ‘abstract beliefs’ about law enforcement, cooperators, and the unfairness of the criminal justice system”. The Supreme Court rejected this argument, ruling that the videos contained “proof of the existence of the alleged criminal

enterprise, Defendant's membership and position therein, his association with other members, his familiarity with firearms, and a motive or plan to commit the charged conduct" (Supreme Court of the United States) This ruling was predicated on the fact that videos in question portrayed organizational ties between the members pictured, which aligned with and therefore supported their connection to a criminal enterprise. *United States v. Herron*'s ruling displays less margin for potential influence by bias than *Commonwealth v. Knox*. Whereas Knox's lyrics required subjective interpretation to be characterized as a "true threat", Herron's videos provided insight into a proven criminal enterprise and evidenced its members' association. This case represents a more justifiable instance of rap on trial, thus again referencing rap on trial's nuance. *United States v. Herron* further showcases how deep ties between rap music and criminality can run.

These court cases exhibit the multifaceted and subjective role that legal statutes play in rap on trial. Every case, regardless of whether it rules for or against rap lyrics' probative value, provides consistent legal logic and contributes to rap on trial's complex legal background. The subjectivity innate to the interpretation and application of these legal statutes introduces the danger in rap's tumultuous relationship with the law. The First Amendment's applicability and the validity of any connection to a crime remain up to interpretation in specific instances. In interpretation, there exists the possibility for implicit bias to influence rulings. Codifying protection for rap lyrics would require more strictly-defined parameters for what constitutes a "true threat", as well as where the line between speculative and sufficient lies for connecting rap lyrics to specific cases. These cases represent a wide range of examples citing both reasonable and tentative applications of such principles.

Chapter 6

The Case for Rap on Trial

To better understand the movement against rap on trial, this thesis must acknowledge and evaluate arguments asserting rap lyrics' probative value. Rap on trial represents the byproduct of a judicial system that disproportionately targets minority communities more than a targeted assault against the rap genre. Rap's roots in hyperviolence, street crime, and gangster lifestyle established a rocky relationship with the law from the beginning. Thus it seems inevitable for rap music to fall into the justice system's crosshairs as it works to deter violence and crime. Proponents for upholding rap lyrics' admissibility as evidence claim that rap music and related media can provide key pieces of evidence for indicting violent criminals and identifying criminal organizations—both of which provide an objective benefit to society. Indeed, several recent cases of rap on trial cite its potential for positive impact. Determining rap on trial's ethical justification requires analyzing rap lyrics' content and intention instance to instance, however, which only amplifies rap on trial's complexity.

Catching Criminals

Any functioning justice system must be able to identify criminals and separate them from the at-risk general populace. Although evidence suggests that the United States' penal system promotes recidivism and perpetuates cyclical crime and poverty in minority communities, this issue demands an in-depth study of its own to be properly understood. Uprooting criminals and disbanding criminal organizations provides an objective benefit to society from a strictly judicial

perspective, and this thesis premises its counterargument upon this perspective. Prior to evaluating the abuses and negative effects of rap on trial, this section will acknowledge several cases in which the probative value of rap lyrics aided courts in apprehending violent criminals.

Revisiting the ongoing and groundbreaking YSL trial involving rappers Young Thug and Gunna, an associate of Young Thug's YSL collective was recently convicted of murder. Despite occurring in a separate trial, YSL associate Jaydin Myrick was nonetheless listed among the twenty-eight defendants in the collective's R.I.C.O. case. Myrick's individual trial pertained to the 2018 robbery and murder of Christian Broder that occurred outside of the Capital City Country Club wedding venue in Atlanta. Ultimately, Myrick was charged on sixteen counts including violation of street gang terrorism and prevention, malice murder, felony murder, armed robbery, criminal attempt to commit armed robbery, aggravated battery, aggravated assault, possession of a firearm during commission of a felony and possession of a firearm by a first offender probationer. Previously, at the age of fourteen, Myrick was tried and convicted for holding up a woman in his home city. Myrick was still on probation for this conviction when he committed, and was arrested for, the robbery and murder of Christian Broder. During his murder trial the seventeen-year-old defendant—only fifteen years-old when committing the offenses in question—confessed his gang affiliations, and even opened-up about being groomed and subsequently recruited into the organization by a senior member. This specific organization was a street gang and not the YSL collective, although this criminal network likely fermented Myrick's ties to Young Thug's syndicate.

While Myrick's murder conviction was imposed separately from YSL's R.I.C.O. case, Myrick's mutual affiliation demonstrates the potential for the rap industry to host criminal enterprises that inspire crime and enable violence. As the YSL case progresses, this instance of

rap on trial may distribute further justice for inimical criminal activity even if the indicted rappers including Young Thug and Gunna are not themselves found culpable. Myrick's grooming certainly imbues his story with an element of tragedy, as he may be the latest victim of the poverty cycle and institutionalized crime, but such circumstances can hardly excuse the depravity of his actions. From a judicial standpoint, removing a repeat, violent offender such as Jayden Myrick from the streets objectively benefits society while providing justice and closure to Christian Broder's family.

The case of twenty-three-year-old rapper Jamell "YNW Melly" Demons more directly involves the probative use of rap lyrics. In 2019, Demons was arrested in Broward County, Florida on capital murder charges related to the double-murder of Anthony Williams (YNW Sakchaser) and Christopher Thomas Jr. (YNW Juvy). The prosecution claims that Demons and codefendant Cortland Henry (YNW Bortlen) staged a drive-by shooting that resulted in the deaths of Williams and Thomas Jr. All involved persons were members of the YNW (Young New Wave) hip-hop collective, which reasserts the propensity for such collectives to constitute criminal organizations and enable violent crime as evidenced prior by Young Thug's YSL collective. Locations and messages regarding a Sig Sauer nine-millimeter handgun obtained from phone records have both been tied to the murder, along with an incriminating DNA report which asserts that the gunshots were fired from Demons' seat in the car used for the shooting. In February, a grand jury charged Demons with two counts of first-degree murder with a firearm, and additionally stated that these crimes were committed "for the purpose of benefitting, promoting or furthering the interests of a criminal gang" (TCPalm.com) in reference to the YNW collective. Furthermore, the prosecution cited Demons' 2018 breakout single "Murder on my Mind" in pursuit of the maximum penalty. The second verse of this song was employed by

prosecutors in a previous case, which sought to indict Demons for minor infractions violating his probation in 2017.

“Yellow tape around his body, it’s a fucking homicide
His face is on a T-shirt and his family traumatized
I didn't even mean to shoot him, he just caught me by surprise
I reloaded my pistol, cocked it back, and shot him twice
His body dropped down to the floor, and he got teardrops in his eyes
He grabbed me by my hands and said he was afraid to die
I told him, ‘It’s too late, my friend, it's time to say goodbye’
And he died inside my arms, blood all on my shirt”

(YNW Melly 1:38)

The prosecution reading these lyrics sparked controversy primarily stemming from the fact that this song’s composition and release preceded the murders of Williams and Thomas Jr. by over a year. Citing this discrepancy, critics argued that these lyrics bore no probative value and instead represented an irrelevant attack against Demons’ character by associating Demons with African-American criminal stereotypes. Demons’ February indictment for these ameliorates this slander to some degree, although the lyrics remain unrelated and therefore unjustifiable as evidence. The lyrics exhibited no direct correlation to the crime in question and in fact represent the potential for rap on trial to abuse evidentiary criterion and enable egregious mischaracterization. Nonetheless, the lyrics’ presence in the courtroom links this case to the broader phenomenon of rap on trial.

Fortunately for Demons, the prosecution failed to renew a notice of intent to seek the death penalty within forty-five days of Demons’ arraignment. Demons’ counsel argued that this violated trial rules, and the judge ruled in favor of the defense. Nonetheless, the potential for the death penalty speaks to the depravity of Demons’ crimes, and Demons’ is most likely guilty. The

high probability of guilt suggests this case exercises rap on trial positively despite the actual lyrics being misused. Although Demon's complicity minimizes the injustice perpetrated by evidencing these lyrics, their use in assaulting Demons' character represents an irrelevant, inappropriate, and ultimately pernicious overreach by the prosecution. Citing Demons' lyrics violates ethical legal conduct, which takes away from this case's objectively positive outcome.

Bad Influence?

Is rap music a bad influence? Another argument in favor of rap on trial posits that rap music's glorification of crime embodies detrimental values and poorly influences its audience. Rap music inspiring crime and perpetuating the gangster lifestyle through glorification appears logical at first glance. Statistics indicate a correlation between rap's rise to mainstream prominence and marked rise in violent crime among American youth: "gun-related deaths of American youth under the age of 15 are nearly 12 times higher than 25 similarly industrialized nations combined...teens (youth aged 12-17) are three times more likely than adults to be violently victimized. While crime rates have decreased radically since 1993, the group most apt to be the victims of violent crime remains those between the ages of 12-19" (Richardson and Scott 179-180). Even if most rappers aim to draw attention to the gritty reality besetting minority communities in America, a disparity exists between intention and reception. As previously mentioned, rap music's values can be misinterpreted just as easily by avid fans as those unfamiliar with the genre. Rap's violent themes more often represent an effect of increasing crime rates than their cause, although they could be either depending on circumstance .

Concerns that young and impressionable listeners may come to idolize and pursue the gangster lifestyle have support, as statistics specify youth violence to disproportionately affect African-Americans. “African Americans, when compared to Whites are more likely to be the victims of violent crime. African American females and males are 4-11 times at greater risk of being killed than Caucasian children” (Richardson and Scott 180). To emphasize the proliferation of violence, Jeanita W. Richardson and Kim A. Scott note that less than ten percent of “serious, habitual violent offenders” are juveniles. The remarkably young ages of rappers and affiliates examined in the previous cases further supports this, evidencing that rap music’s glorification of the criminal lifestyle may bolster its allure to impoverished youths. The fact that rap lyrics have provided relevant evidence in cases would also seem to underscore rappers’ inclination towards committing crimes to validate their personas. This apparent connection between rap music and cycles of gang crime supports arguments in favor of rap on trial’s necessary function. Such arguments posit that prosecuting rap lyrics works against rap’s negative influences—at least to some extent.

Still, individual mindsets and environmental factors contribute to endemic violence far more than rap music. Jeanita W. Richardson and Kim A. Scott work to explain the violent epidemic that their statistics illustrate. Richardson and Scott’s *Journal of Negro Studies* article “Rap Music and Its Violent Progeny: America's Culture of Violence in Context” argues the following: “While episodes of violence litter the daily reality of some urban youth, vicarious exposure to violence is also a function of the lives of all America's children, primarily because of media exposure” (176). The scholars point to environmental factors as the primary source of violence in minority communities. When compounded by contemporary media’s inclination to focus on violence and crime, the already-violent realities of many urban youths contribute to

desensitization according to this argument. Richardson and Scott cite additional factors:

“Aggressive marketing of violent material to children and teens is evident in all forms of media and is at least partially to blame for a desensitized population. For example, by the time the average American child reaches the age of 18, they have witnessed 16,000 simulated murders and 200,000 acts of violence. Some cartoons contain as many as 80 violent acts per hour. Commercial television for children contains 50-60 times more violence than primetime adult television programs” (178). Such exposure leads youths to accept violence as a “normal part of life to be imitated” (178). It seems unlikely that violent trends in entertainment are solely responsibility for violent actions, but desensitization erodes deterrence to participation in minority communities where criminal networks are readily-available to youths.

Contrary to arguments favoring rap’s negative influence, rap music proves a product of endemic violence rather than a driving factor. Even if violent themes in rap music reinforce this violent epidemic, uprooting it requires addressing root causes rather than clear symptoms. Rap on trial’s occasionally beneficial applications, as exemplified by this section’s case analysis, do not compare to, or justify its detrimental side-effects including discrimination and propagating negative stereotypes. It remains doubtful that most supporters of rap on trial maintain racial discrimination or perpetuating stereotypes as motives for their beliefs, yet these factors must be acknowledged as an implicit byproduct of rap on trial regardless. Some proponents of rap on trial might even believe these to be detrimental, yet necessary byproducts of the pursuit of justice, although the potential for rap on trial to harm minority communities outweighs any benefits that it might provide the judicial system in its recurringly ineffective efforts to uproot endemic crime. Despite specific instances of rap on trial aiding in dispensing justice, such an approach to combating crime is not the answer that America’s justice system needs. The perceived benefit of

rap lyrics in court represents another failure by the United States' justice system to identify and ameliorate the root-causes of crime and violence. This thesis' subsequent section will evaluate the social detriments of rap on trial to bolster this claim.

Chapter 7

The Dangers of Rap on Trial

Although rap on trial may have some positive effects including the apprehension of violent criminals, identification of criminal enterprises, and deterrence of gangster values, persecuting rap produces dangers that outweigh the capacity for these benefits to facilitate progress. The previous section's acknowledgement of such benefits does not mitigate the significant hazards rap on trial poses to the judicial system's enforcement of unbiased justice. Furthermore, analyzing the issue of rap on trial through a purely criminal or judicial lens fails to acknowledge rap on trial's personal, social, and economic impacts. Restricting analysis to the criminal sphere risks disregarding the personal and social aspects that any art form—including rap—involves. Persecuting rap music minimizes this art form to its negative, more easily-apparent links to crime and overlooks rap music's myriad positive influences on its listeners. Exploring rap's beneficial effects additionally reveals its potential as a tool for combating the despair and criminality this genre seems so inextricably linked to. This section will evaluate the detrimental effects of rap on trial by illuminating rap's positive influences, dissecting the widespread misinterpretation of rap's social commentary, and finally by outlining how rap on trial propagates negative racial stereotypes.

Positive Influences

Treating rap purely as an expression of violence and hypermasculinity completely ignores rap's inherent nuance, as well as the positive influences it can provide for audiences. Multiple studies correlate aspects of rap music to mental health benefits evident amongst artists

and audiences alike. While rap has been historically linked to crime, violence, hypermasculinity, and the gangster lifestyle, more recent developments in the genre have established deep ties between rap music and mental health. “The proportion of rap songs that referenced mental health more than doubled between 1998 and 2018” (menshealth.com). This references the shift away from gangsta rap and emphasis toward emotion that Juice WRLD, XXX Tentacion, Lil Peep, Lil Uzi Vert and other Soundcloud wave rappers popularized.

Statistics reveal that today’s youth struggle with mental health issues at unprecedented rates, which have been exacerbated by the COVID-19 pandemic and resultant lockdowns. “The Center for Disease Control (CDC) released a study...that showed that over 40% of adults in the United States reported struggling with mental health challenges...almost 11% of respondents had seriously considered suicide in the 30 days prior to survey completion, and the number was significantly higher among 18-24 year-olds (over 25%)” (Dartt). Seeing how today’s culture venerates prominent artists to a nearly superhuman degree, seeing one’s heroes confront and articulate difficult mental and emotional issues productively may inspire their followers to do the same. Furthermore, their open commentary on such matters works to destigmatize mental health in the mainstream discourse. Youths comprise most of rap’s audience, and rap’s efforts to destigmatize mental health issues resonates deeply with the younger generations. Dartt’s CDC statistics demonstrate that the mental health epidemic most significantly affects these younger generations, and rap music’s potential to assuage such concerns represents one of its positive effects. A study conducted by Raphael Travis Jr. and Scott W. Bowman for the *Journal of Human Behavior in the Social Environment* found that rap music inspired self and community-empowerment in its listeners. Another study found that rap music provides “positive visual imagery” (Sule and Inkster 494) to listeners, which evokes hope and improves mental health. In

this regard, Sule and Inkster argue that rap music also works to combat negative mental health factors resulting from discrimination and racism.

Rap's therapeutic potential applies not only to its audiences, but to its artists as well. Researchers at Cambridge University "discovered that the art of freestyling puts rappers' brains into a unique 'flow state' that triggers 'parts of the brain responsible for emotion, language, motivation, motor function, and motor processing.' That type of stimulation can greatly improve the lives of people dealing with neurological illnesses" (Espinoza). Freestyle rap composition's unique stimulatory capacity can be a productive vehicle for catharsis, which has already been successfully actualized by several programs working to counsel and rehabilitate urban youths. Tiphonie Gonzalez and B. Grant Hayes' article "Rap Music in School Counseling Based on Don Elligan's Rap Therapy" explores school counseling programs that use rap music to help students find their own voice. Sarah Baker and Shane Homan's article "Rap, Recidivism and the Creative Self: A Popular Music Programme for Young Offenders in Detention" highlights a revolutionary program that employs rap music to rehabilitate young offenders. Rap can offer many of these youth offenders a new perspective by providing an outlet for positively expressing traumatic experiences, which would ideally lead them to gravitate away from the criminal lifestyle and its harmful values. Angela Scott's article "Hip Hop Therapy/Beats Rhymes and Life" outlines this process to extrapolate rap's therapeutic capabilities:

"Poverty is an act of violence and violence creates trauma. When you add all this up it's like shaking a soda, the pressure starts to build. You are left with a few options. If you take off that cap, you'll get an explosion. If you let the bottle sit and don't do anything, eventually overtime it will go flat. That's depression. That numbing out effect, because we don't address the experiences of black and brown

men. Now, if you very carefully twist the cap little by little, intentionally, it releases the pressure so that you don't get an explosion and it doesn't go flat.

That's what hip hop therapy is.”

Scott breaks down rap's ability to intervene in the cycle through which endemic socioeconomic inequality motivates violence. By providing an outlet for trauma, rap music can inspire troubled youths to abandon criminal pursuits just as often, if not more than it inspires youths to adopt them.

Rap on trial disregards rap's positive influences on its audiences and freestyle rap composition's potential as a tool for therapy and rehabilitation. These personal and social benefits illustrate another reason why persecuting and prosecuting rap music negatively affects society. Nonetheless, rap on trial remains an inherently criminal issue. As such, returning to the disparity between rap's intent and reception spotlights another danger inherent to rap lyrics' presence in the courtroom: misinterpretation and censorship of rap's social commentary.

Misinterpretation of Social Commentary

Understanding the misinterpretation of rap social's commentary—and how this evolves into active censorship—first requires an evaluation of rap's social commentary and its compositional elements. The earlier section dissecting the components of rap music concludes with an analysis of J. Cole's verse on “A Tale of 2 Citiez” to show how the concept of persona orients rap's perspective on crime. Although J. Cole's account of narcotics trafficking serves to aggrandize his persona, it also provides insight into how J. Cole generates social commentary from a unique and nuanced perspective. Turning to a similar case, widely acclaimed rapper

Kendrick Lamar's album *good kid, m.A.A.d city* (2012) represents a pinnacle of the poignant social commentary that rap music often aspires to. Growing up on welfare in Compton's Section 8 housing, Kendrick bore firsthand witness to the poverty, drug-trafficking, and gang-violence that rap music frequently adapts for its lyricism and ethos. Kendrick Lamar's father Kenny Duckworth affiliated with the Gangster Disciples, while most of his childhood friends were Westside Piru Bloods. Kendrick, however, would instead complete his secondary education at Compton's Centennial High School, where he was a straight-A student. Lamar's education and dedication contribute to the eloquence that defines his social commentary, and this commentary shines brightest on *good kid, m.A.A.d city*'s titular track "m.A.A.d city":

"This is not a rap on how I'm slingin' crack or move cocaine
 This is cul-de-sac and plenty Cognac and major pain
 Not the drill sergeant, but the stress that weighing on your brain
 It was me, L Boog, and Yan Yan, YG Lucky ride down Rosecrans
 It got ugly, waving your hand out the window, check yo self
 Uh, Warriors and Conans
 Hope euphoria can slow dance with society
 The driver seat the first one to get killed
 Seen a light-skinned nigga with his brains blown out
 At the same burger stand where *beep* hang out
 Now this is not a tape recording saying that he did it
 But ever since that day, I was lookin' at him different
 That was back when I was nine
 Joey packed the nine
 Pakistan on every porch is fine
 We adapt to crime, pack a van with four guns at a time
 With the sliding door, fuck is up?
 Fuck you shootin' for if you ain't walkin up you fuckin' punk?
 Pickin' up the fuckin' pump

Pickin' off you suckers, suck a dick or die or sucker punch
 A wall of bullets comin' from
 Ak's, AR's, 'Aye y'all. Duck'
 That's what momma said when we was eatin' that free lunch
 Aw man, God damn, all hell broke loose
 You killed my cousin back in '94, fuck yo truce."
 (Lamar and MC Eiht 0:28)

This gritty verse recounts Lamar's perspective on the rampant crime that constantly loomed over his upbringing in Compton. At eight years old, Kendrick witnessed Tupac Shakur and Dr. Dre filming the music video for their hit song "California Love". In "m.A.A.d city", Lamar recounts witnessing his first murder one year later at the age of nine. When questioned about this lyric, Lamar responded:

"I'm bleeping out a name. These stories are serious and in-depth, I'm not going to go out here and really, really slander and put my real ones out there that have been in some real situations.... It's just about me seeing somebody get killed, just as a kid. And knowing, and being right there, and knowing how it all went down, feel me?"

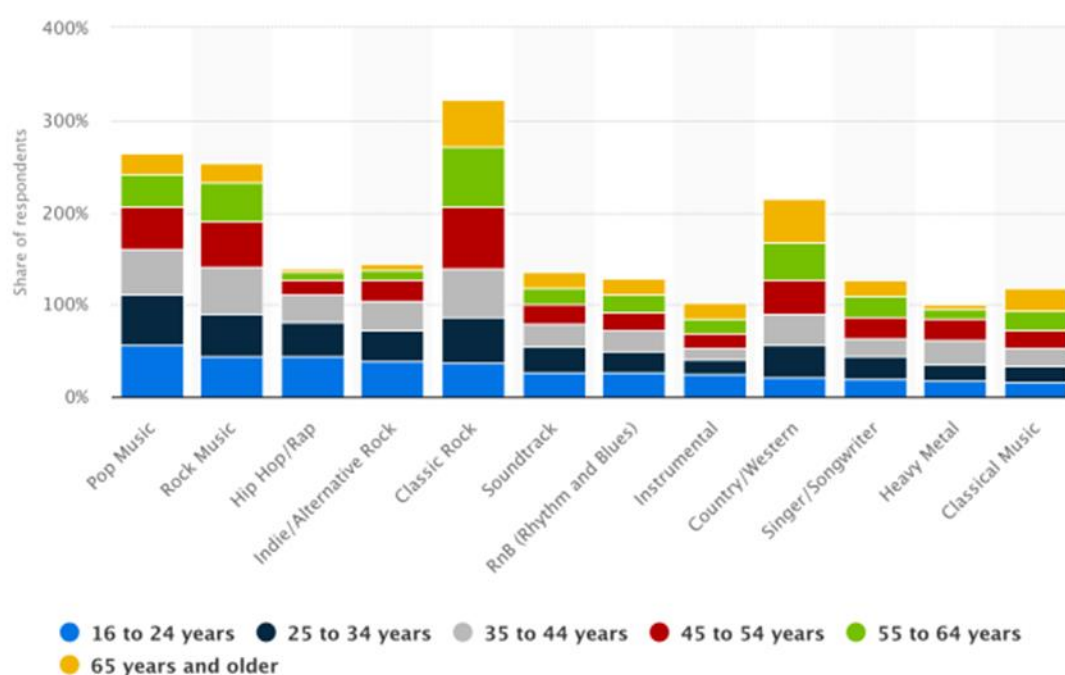
Lamar's response summarizes the verse's purpose; "m.A.A.d city" provides firsthand social commentary on systemic crime and violence in urban communities. Lamar even prefaces "This is not a rap on how I'm slingin' crack or move cocaine / This is cul-de-sac and plenty Cognac and major pain" to denote his intentions. Lamar likely refrains from trafficking narcotics as he claims to in this excerpt, although the principle affirms that his commentary works to spread awareness for the effects of violent crime rather than to glorify it. His reference to "Cognac and major pain" alludes to the cathartic function this song's composition serves, with cognac

symbolizing the substance abuse that many of his peers turned to in the absence of a more productive outlet for generational trauma. “m.A.A.d city’s” firsthand commentary provides unique, firsthand insight into systemic crime. Such an impactful message begs the question: why is rap’s commentary on violent crime so often misconstrued as glorification?

Thematically, glorifying violent crime proves essential to spreading awareness regarding its cyclical perpetuation. Kendrick Lamar discusses how violence desensitizes those who witness it regularly, and how they “adapt to crime”. Lamar does not participate in such violent crime himself, but by adopting a perspective as if he has, Lamar more effectively conveys the gangster lifestyle’s magnetic pull. He wants his audience to understand why others engage in this lifestyle—and to then empathize. To understand why violence and crime have become rooted in these communities, Lamar’s “m.A.A.d city” posits that one must understand its allure to community members. “[Sociologist Theresa Martinez from the University of Utah] argues that rappers enter the discourse to ‘destabilize’ dominant ways of thinking, vocalizing the marginal status of Black American identity. In other words, rappers often use rebellious lyrics to critique society, rather than to describe actual behavior” (Kubrin 26). This principle uses rap as a vehicle for social commentary, which evokes empathy in audiences and brings awareness to sociopolitical issues and systemic injustice. Both Kendrick Lamar and J. Cole do not seek to glorify the criminal lifestyle, but instead to show how minority youths in urban communities are conditioned to glorify this lifestyle. By putting listeners in their shoes, these artists demonstrate this process more vividly than outside perspectives might permit.

Regarding rap on trial’s legality, rap lyrics’ probative value in courts relies upon misinterpreting social commentary as glorification of violence and crime. Author Charis E. Kubrin of “Rap on Trial: A Legal Guide for Attorneys” argues that rap’s reliance on African-

American vernacular and versatile slang renders the genre especially susceptible to misinterpretation, especially by listeners unfamiliar with such language. The extensive analysis required to clearly discern Kendrick Lamar’s perspective in “m.A.A.d city” exemplifies this risk. Indeed, demographics do play a significant role in rap lyrics’ misinterpretation and misuse by judiciaries. A figure from Shoshana Paget’s article “Sound on Trial: Rap Music & the U.S. First Amendment” visualizes the demographic disparity:



<http://lawandthesenses.org/probes/sound-on-trial-rap-music-the-u-s-first-amendment/>

Paget’s article reveals that, according to statistics, judges fall within the age groups least likely to listen to rap music. Paget finds that most “judges are appointed somewhere between 54 and 62, and on the Supreme Court, the average age of Justices is 69”. Most judges do not listen to rap music enough to be able to discern its structural elements and the unique perspectives driving its social commentary. Therefore, most judges are not familiar enough with rap music to differentiate social commentary on crime from glorification of crime. Rap’s chronic reliance on

slang and coded language impedes judges from discerning its artistic merit and commentative intent because of their unfamiliarity with such jargon. This in turn enables misinterpretation of rap lyrics' probative value, as judges who admit rap lyrics as evidence likely fail to even understand the lyrics before measuring their connection to a case.

Additionally, racial bias may influence audiences—or judges—to mistake rap's social commentary for violent intent. Two studies sourced from Carrie B. Fried's article "Bad Rap for Rap: Bias in Reactions to Music Lyrics" in the *Journal of Applied Social Psychology* provide evidence for this claim. The first study found that respondents perceived the same lyrics as more offensive and dangerous in rap versus in other genres, which asserts a biased association between rap and violence as already widely prevalent. The second study found that respondents perceived lyrics as more offensive when the artist was identified as African-American versus when identified as white, which highlights the racial undertones underlining the previous study's resultant biases against rap music. Whether the association between rap music and offensiveness produces the association between African-American artists and offensiveness or vice versa remains unknown and ultimately subjective. These two studies in conjunction, however, clearly indicate a connection between rap, African-Americans, and connotations of violence or offensiveness that might be amplified by the judge demographic's unfamiliarity with rap music and thus present another source for misinterpretation of rap's social commentary.

Demographics and bias aid in understanding the causes for widespread misinterpretation regarding rap music's social commentary. Such misinterpretation, when applied through rap on trial, facilitates persecution of rap's social commentary. If rampant misinterpretation compels rappers to fear their lyrics being persecuted, rappers might feel pressured to abandon such impactful forms of commentary entirely. This would not only debilitate rap's expressive

capabilities as an art form but further ignore valuable insight into the systemic crime and injustice that the justice system works to extinguish. Rap's social commentary spreads awareness regarding endemic urban crime and its inner workings. Silencing this vehicle of expression for minority communities will not alleviate the crime and inequality affecting them. Evaluating rap's benefits implies that silencing rappers will only worsen the effects of systemic crime by eliminating one of these suffering communities' few productive outlets. Rap on trial's misguided efforts to stamp out violent crime risk eradicating what could prove one to be of the justice system's most insightful tools for understanding and uprooting crime. The justice system targeting crime's symptoms again proves counterintuitive to targeting crime's roots, which reinforces the misinterpretation and silencing of rap's social commentary as one of rap on trial's most harmful byproducts.

Spreading Stereotypes

The propagation of pernicious racial stereotypes might prove rap on trial's most harmful byproduct. Revisiting the 2011 *Hannah v. State* ruling provides an example of rap on trial's potential to perpetuate negative racial stereotypes in action. The Maryland Court of Appeals ruled that the rap lyrics admitted as evidence "had no tendency to prove any issue other than the issue of whether Petitioner was a violent thug with a propensity to commit the crimes for which he was on trial". This thesis' section on court cases involving rap on trial has already evaluated the legal aspects of this slanderous technique, so this section will discuss its social ramifications. By attempting to slander the defendant as a "violent thug", this instance of rap on trial demonstrates how rap on trial reinforces racial stereotypes of African-Americans and other

minority groups as predisposed to crime and violence, and the dangerous effects of such stereotypes render this principle paramount to understanding rap on trial's capacity for harm.

Considering recent events, statistics delineating police brutality and bias against African-Americans best exemplify the capability for negative racial stereotypes to cause real harm and proliferate injustice. A report by the Public Policy Institute of California analyzed over four million traffic stops, and concluded that "On average, 40 percent of traffic stops are of Latino drivers, 33 percent are of white drivers, and 14 percent are of Black drivers," although "With about 6 percent of the state's population, Black Californians are markedly overrepresented in traffic stops" (Lofstrom et al.). The report indicates that African-Americans are not only more likely to be stopped by law enforcement, but also that "Black Californians are more than twice as likely to be searched as white Californians, at about 20 percent versus 8 percent of all stops" (Lofstrom et al.). Although searches of African-Americans were less likely to yield contraband, African-Americans' increased likelihood to be searched regardless indicates stereotypes of African-Americans as more likely to possess contraband or be engaged in illegal activity to motivate law enforcement officials in accosting them. Furthermore, "Black people are overrepresented in stops not leading to enforcement—defined as an officer declining to issue even a warning" (Lofstrom et al.), which implies that African-Americans are often accosted for their race rather than for any evidence of criminal activity or violation of the law. The true potential for these stereotypes to inflict harm, however, emerges from statistics on police brutality and use of force.

One study estimates that African-Americans are two-and-a-half times more likely to be killed by police than whites, and another study found that African-Americans shot by police were twice as likely to be unarmed when compared to their white counterparts (nature.com).

These findings, specifically the second statistic, quantify the dangerous effects of untempered stereotyping. African-Americans shot by police were twice as likely to be unarmed, which implies that police were inclined to assume a higher proportion of African-Americans might be carrying weapons and/or possess such a violent disposition as to use them against law enforcement agents. These issues are not restricted to California, as police killed African-Americans at higher rates than whites in forty-eight of the United States' fifty largest cities between 2013 and 2022, and only one-in-three of these killings resulted from an alleged violent crime (mappingpoliceviolence.us). Despite efforts by movements such as Black Lives Matter and increased efforts to bring awareness to police brutality, the racial disparity in the United States' fatal police shootings appears to be increasing, "with a total 856 civilians having been shot, 75 of whom were Black, as of October 31, 2022. In 2021, there were 1,055 fatal police shootings, and in 2020 there were 1,020 fatal shootings. Additionally, the rate of fatal police shootings among Black Americans was much higher than that for any other ethnicity, standing at 41 fatal shootings per million of the population as of October 2022" (Statista). These statistics highlight racial bias as the only common denominator in explaining these discrepancies, and this bias endures through stereotypes. Law enforcement's inability to curb the issue, despite increased nationwide attention, implies that several factors such as rap on trial continue to propagate pernicious racial stereotypes throughout American culture and society to dangerous effect.

Rap on trial cannot be solely responsible for the issue of widespread racial stereotypes amongst American police and society, though rap on trial's ability to reinforce the stereotypes linking minorities to criminality certainly constitutes a factor. Data on police brutality and discriminatory practices elucidates bias and thereby stereotypes as the evident causal factor. The

issue of rap on trial largely results from unchecked stereotyping and cyclically perpetuates this process. By doing so, this source of bias within the justice system itself puts African-Americans disproportionately in harm's way and represents the most directly dangerous side effect of prosecuting rap lyrics in court.

Chapter 8

The Future of Rap on Trial

The future of rap on trial remains precarious and uncertain. While the ongoing YSL trial and other recent examples prove that the issue of rap on trial remains far from resolved, recent legislation passed in response to increased scrutiny provides a glimmer of hope. New York's "Rap Music on Trial" Senate Bill S7527 and California's "Decriminalizing Artistic Expression Act" (Bill 2799) could lay the legal groundwork for principles protecting rapper's expressive freedoms, although ending rap's persecution would require enacting legislation on a federal level. The specific nature of such legislation presents another uncertainty, as no broad legal statute could ensure a just outcome to every instance of an issue as nuanced, complex, and subjective as rap on trial. Protecting all rap lyrics ubiquitously runs the risk of rendering potentially useful evidence unviable in cases where the probative value of rap lyrics does prove sufficient and pertinent. The justice system cannot allow blatant threats or confessions to crimes in rap music to go unheeded. Effective regulations addressing rap on trial might instead intensify the procedural scrutiny required to admit rap lyrics as evidence. Federal regulations, enforced uniformly, could make evidentiary standards for art more comprehensive or require additional parties to review art prior to admitting it as evidence. Experts on the genre or even rap artists themselves might be admitted into evidentiary hearings to prevent misinterpretation.

Regardless, this thesis illuminates an urgent and irrefutable need for increased legislative initiative. Charis E. Kubrin's "Rap on Trial: A Legal Guide for Attorneys" provides detailed techniques for attorneys to combat the bias and misinterpretation of rap lyrics that enables rap on trial's history of injustice, although the rap on trial's persistence suggest that such techniques can only prove marginally effective without codified, legislative backing. Judges ultimately retain

the ability to determine rap lyrics' probative value in terms of the lyric's relevance to a case and their conformity to the "true threat" definition. Applying increased specificity to the standards required to determine a "true threat" regarding art—and therefore rap lyrics—could also work to reduce abuses of evidentiary standards. New York and California's recent groundbreaking legislations could provide the legal basis for constructing this statute, as both apply specifically to art and have potential to combat the rap on trial issue without impairing the justice system's ability to prosecute other, non-controversial forms of evidence or "true threats". Regarding misinterpretation and bias, this thesis' efforts to contextualize rap's history and controversial elements convey the nuanced perspective required to discern commentary and critique in rap lyrics. Programs could be instituted to educate court officials on this topic or to reduce implicit biases more broadly.

None of these solutions can ameliorate institutional problems permeating the United States' justice system, but each has the potential to take another step towards ending rap lyrics' abuse, which is a step in the right direction. Similarly, addressing rap on trial might not prove sufficient for solving broader issues affecting African-Americans and other minorities like institutionalized bias, police brutality, and systemic poverty, but precluding rap on trial's capacity to propagate pernicious stereotypes and perpetuate injustice would represent another step towards acknowledging a legacy of oppression. Legislative solutions to rap on trial will be relegated to top legal minds in the field, but the racial injustice that enables rap on trial requires initiative from the ground-up. This project seeks to increase attention towards rap on trial while providing the contextual background required to understand rap music's persecution. This broad approach to the issue of rap on trial, from both a legal and socioeconomic perspective, acknowledges the depth and nuance inherent to any aspect of racial injustice in the United States.

Indeed, rap on trial cannot be understood or addressed without acknowledging its legal and socioeconomic aspects as interconnected and codependent. Attempting to confront rap on trial through either of these lenses independently fails to address its complex network of root causes and enabling processes. Society's perspective can only be made more amenable by acknowledging such complexity and understanding the plethora of nuances inherent to rap on trial as evaluated herein. This thesis aims to educate, and by doing so to expand perspectives and inspire meaningful change. While the future of rap on trial may remain uncertain, this thesis' evaluation of rap on trial elucidates the dangers that this issue poses to art, justice, equality, and freedom of expression in the United States, and why these dangers must be acknowledged urgently.

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PROFILE

A 4th year undergraduate student, proud to be selected to join the prestigious Schreyer Honors College. As a member of the Honors College, I have maintained a high GPA while taking on a double major, increased workload and leadership roles in my community and fraternity. I exhibit a charismatic, creative, and highly driven character, valuing the unique attributes of others to cultivate meaningful relationships.

EDUCATION

The Pennsylvania State University Schreyer Honors College

University Park, PA

- College of the Liberal Arts, Bachelor of Arts in English and History

Class of 2023

LEADERSHIP & VOLUNTEER EXPERIENCE

- **Zeta Beta Tau Fraternity** – Pledge Class President, Academic Committee, Leadership Committee *Jan 2021 - Present*
- **National Federation of Temple Youth Groups** – Regional Recruitment Assistant Chair *Jan 2018 – Aug 2018*
- **Kinnelon Temple Youth Group** – President / Founder *Sep 2017 – Aug 2018*

WORK EXPERIENCE

Waiter / Server

Belleville, NJ

Whiskey Priest Sports Bar

Jun 2020 – Present

- Build relationships with customers to grow base of regulars by establishing rapport and owning the customer experience.
- Recognized for multi-tasking and time management skills to provide prompt and reliable service to assigned customers.
- Responsibilities include accurate recording of orders, managing payment and overseeing overall quality of service.
- Maintain full knowledge of dynamic food and beverage lists, as well as ongoing promotions.

Assistant Manager

Boonton, NJ

Vector Marketing

Feb 2019 – Aug 2019

- Promoted recruitment efforts to expand size of local office team.
- Developed positive culture by organizing and managing team meetings, training seminars, and team bonding activities.
- Responsible for maintaining accurate inventory of materials for employee continuing education programs.
- Utilized multiple communication channels to engage team members depending on business purpose and activity.

Cutco Sales Representative

Boonton, NJ

Vector Marketing

Sept 2018 – Feb 2019

- Recognized for generating \$10k in sales in 1 week, \$35k total sales over one year.
- Maintained a high quality of customer service, emphasizing communication and product representation for clients.
- Curated product recommendations for customers based on their unique needs and preferences.

HONORS AND AWARDS

- **Paterno Fellows** – Honors program requiring advanced academic coursework, including a leadership/service commitment.
- **Dean's List** – Consecutively 2019, 2020, 2021 & 2022
- **Bunton-Waller Fellowship** – Full academic scholarship to Penn State College of Liberal Arts.

SKILLS AND INTERESTS

Skills - Microsoft Office, Sales, Leadership, Teamwork, Public Speaking, Conflict Resolution, Critical Thinking, Organization

Interests - Music, Playing Guitar, Traveling, Reading, Snowboarding, Exercise, Photography, Art, Philanthropy, History, Sports

References Furnished Upon Request