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1995 Volume III: The Constitution and Criminal Justice

You and the Law—Beating the Odds

Curriculum Unit 95.03.08
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CURRICULUM'S PURPOSE:

The thrust of this curriculum is to change the attitudes and the modus operandi of the victim. The curriculum targets the victims and is intended to teach the truth, develop acceptance of the truth and teach how to navigate in racial undercurrents. This navigation's intent is to prevent students from becoming another statistic of the institutional racism that exist in our criminal justice system and to be knowledgeable of the constitutional rights that are suppose to be guaranteed to every American citizen.

This curriculum will develop an awareness in students of the problems as they exist. The main focus of this unit will be to change students attitudes toward crime, develop a positive attitude towards law enforcement agents and remove the victimization mentality. The ultimate objective is to teach students at an early age the importance of not taking risk by engaging in inappropriate behavior which will place them at the mercy of a system which historically places them at risk.

This curriculum is designed to help students develop positive attitudes while interacting within a racist environment. Students will learn that they possess the power to either become or not become a statistic. Students will be empowered with knowledge to become proactive and preventative in their approach to crime.

Character building will be incorporated in this curriculum. Students must begin to learn and to internalize the positive governing morays and values which are the foundations upon which our laws are founded. Our young people must begin to be taught that like it or not certain rules, regulations and laws Must be adhered to and that there is an appropriate means to effect change. Our children must realize that the consequences of incorrect approaches to bring about change are severs and in many cases life threatening economically, physically, mentally and spiritually.

INTRODUCTION :

The Constitution of the United States has been viewed by some people as the greatest protector of citizens rights. Other people view the U.S. Constitution as the biggest lie ever written. While its original intent receives kudos, its interpretation and application for certain segments of the population receive failing grades. What has fueled this ambiguity is the treatment of certain citizens with respect to denial of equal protection and due process as established by the Constitution of the United States.

Did the forefathers of our nation outline the principles of democracy in words that speak for all of us? The Declaration of Independence asserts: 'We hold these truths to be self-evident, that all men our created equal.' The opening phrase of the Constitution proclaim that 'We the people' seek a 'More perfect Union' The Bill of Rights spells out the basic freedoms guaranteed to all Americans.

However, the experience of many individuals shows that these universal principles have not been universally applied.

The equality declared in 1776 belonged, in fact, to white men—not to men of other races nor even to white women. The sane constitution that established our democratic government turned a blind eye to slavery.' ¹

In 'Faces at the Bottom of the Well' legal scholar Derrick Bell has argued very forcefully that Black people will never gain full equality in this country. Even those great efforts we classify as successful only net temporary 'peaks of progress,' short-lived victories that fade into unimportance as racial patterns adapt in ways that Maintain white dominance. ² The current 1995 Supreme Court rulings on affirmative action and voting districts support his contention.

Raymond Winburh similarly argues that all people experiencing racism should be educated as to, ' who, how and why they are denied the same opportunities that the majority cultures take for granted. Without explicitly teaching the truth about the Afro-American experiences, then education is failing and the inequities will continue to exist.' ³

The realization that we live in a country that does not always practice what it preaches, mandates curriculums that educate students about the adverse effects of institutional racism, the limitations of the constitutional guarantees with respect to African-American and people of color and how to take charge of their lives to determine their future. The net result of this education hopefully is to empower students with knowledge that will prevent them from allowing violations of their Constitutional rights

Afro-American children can no longer operate under a false premises with respect to Constitutional guarantees. However, it is imperative that all children be taught their constitutional rights. In addition, African-American children must be taught the ills of racism and its influence on constitutional guarantees throughout the course of history

The lack of recognition by African-Americans and whites of the psychosis that racial prejudice over the years has created in both black and whites must be resolved. Black and White Americans cannot afford to continue to cling to their respective anger and shame. There must be open, honest attempts to understand the harm and danger that the system of bigotry, hate, discrimination, resentment, fear and continued inequitable treatment has caused to each. It is only when this dialogue takes place will resolution occur.

In the socialization of children there is controversy between teaching the truth regarding racists realities and communicating a sense of personal strength and capability. Black children should be taught there are major barriers, but they also need to be taught that they can overcome these barriers. Feagin & Sikes (1994) warn against teaching black children too such optimism about American promises of equal opportunity. These authors argue that black children are owed an obligation. That obligation is that they should be taught about racism and how to deal with it, instead of giving them the false impression that if you get a good education, if you go to the better schools, if you appease the white man, then you will not really have to deal with racism.

Afro-American children have got to realize that things aren't fair, that there are barriers out there, that there are additional barriers, . . . and that everything we face isn't because we're black. But we're going to face a certain amount of things that are because We are black. . . . if we teach our children on the front end of the tunnel, that that doesn't have to stop anything. We may have to figure out a different strategy. . . . Teaching Afro-American children about racial hostility is important, but so is teaching them how to circumvent the barriers they will face. ⁴

HISTORICAL PERSPECTIVE:

It is important to understand that the criminal justice system is one arena of institutional racism. Years of protesting, crying and dying, usually adult driven techniques for forcing change, have resulted in many significant changes. Yet in every major American institution we see evidence that proves racism persists. Many argue that the changes have merely been to camouflage what was once openly accepted. Racism still exists; however, under its new disguise the reality of racism is more palatable. It is imperative to understand that although racism was legislated against, this legislation did not and will not change what is in the hearts of many people.

Most of the cry for change has been targeted at institutional racism and individual racists. Many of the attempts to end racism have placed the people being treated unfairly as victims of racism. Any change is viewed as a benevolent gesture waded to the victims. It appears that white America does not understand that basic human rights and equality are not a matter of choice on their part.

Feagin and Sikes (1994) found that in the 1940's most blacks like whites, were under the spell of the American creed, the 'ideals of the essential dignity of the individual human being, of the fundamental equality of all men, and of certain inalienable rights to freedom, justice and a fair opportunity. The basics of the American Dream include not only liberty and justice but also the pursuit of happiness, which can be seen as including a decent-paying job, a good home, and a sense of personal dignity. The question is being asked, can all Americans achieve this dreams

Many teachers argue they are being called upon to teach children of color the basic tenets of the Constitution. Yet, their teaching the Constitution places them in the position of teaching a lie. How do we justify teaching all children that the framers of the Constitution planned for a document of not only American rights, but human rights. As we travel from the American Revolution learning of the wonderful provisions of the American Constitution, we are bombarded by the cruelty of slavery.

The denial of basic rights to African-Americans was suppose to be remedied by the Thirteenth and Fourteenth Amendments to the U.S. Constitution in the late 1800s. Yet Jim Crow negated those remedies. The late sixties saw a battle waged concerning the denial of basic human rights. The 1960s and the seventies ushered in new

legislation which would do what the Thirteenth and Fourteenth Amendment could not. Afro-Americans rejoiced and hoped that white America would live up to the Constitutional guarantees. Afro-Americans thought certainly they would see the demise of racism in America's institutions. Upon examination of the institution we realize that the disease of racism is thriving well in the nineties.

THE CRIMINAL JUSTICE SYSTEM

In order to understand the difficult plight of minorities who become victims of institutional racism in the criminal justice system an examination of the procedure must be understood.

The history of police in the minority community is one of horror. For many African American youth this is their first contact made with an agent representing our government. The arrest is typically made by the white arresting officer. Sociologist James Hlackwell has reviewed research suggesting that 'three quarter of the white officers in certain mostly black precincts have antipathy to black residents. A recent study of 130 police brutality incidents reported across the nation found that black or Latinos were the victims in 97% of the assaults. And 93% of the officers were white. It is clear from this report and others that police brutality is not confined to Southern cities.' ⁵

Historical unwarranted beatings of black men, such as the videotaped beating of Rodney King in Los Angeles in 1991, have directly or indirectly precipitated numerous riots in black communities from the 1930s to the 1990s. Given the history of police harassment and brutality, it is likely that most black men—including middle-class black men—see white police officers as a source of possible danger if not injury.

The police are seen as foes rather than friends. This presents additional problems because if we are to believe that:

Every constitution must first gain authority, and then use authority . . . It must first win the loyalty and homage of mankind, and then employ that homage in the work of government. In societies with representative governments, the police must obtain and then utilize voluntary compliance with their authority. ⁶

The United States National Commission on the Causes and Prevention of Violence concluded in 1969 that violent crime in the cities stems from the ghetto slum where most Negroes live. In the early 1980s 44.1 percent of arrests for violent crimes and 29.9 percent of arrests for property crimes were of blacks.

The National Commission also stated that police say disproportionately arrest blacks on suspicion and that their actions may lead to a higher reported black involvement in crime than is the true situation.

John J. DiLulio, Jr. (1994) reports that a 1993 research summary published by the U.S. Office of Juvenile Justice and Delinquency Prevention confirm there is ample evidence of racism against minority juveniles in the justice system. Beginning at the time of arrest and throughout the system to sentencing minorities are at the mercy of institutionalized racism.

The media has been very effective in portraying Afro-Americans as negative elements of society. Night after night while watching the evening news Americans see young, Afro-American males in particular, portrayed as criminals. As a result of the negative image given blacks by the media, blacks bear the stigmatization of being

guilty before being proved innocent.

In the 1990s institutional racism still continues to plague every facet of the criminal justice system. Recent escalation in the arrest of young minority males associated with the sale of illegal drugs continue to fuel the fire. This fact must be taught to students.

It is argued that blacks fare worse than whites at the hands of the police because they evidence little respect toward the police (Black, 1980, p 105). This lack of respect is due to a great degree to the disrespect the police have historically afforded blacks.

Millions of Americans viewed the horrific beating of Rodney King on national television. What Message did this give Afro-American youth? The trial, the verdict, the acceptance of this inhumane treatment by certain segments of our society all continue to fuel negative attitudes. What happened to Rodney King's Constitution rights, what happened to his human rights?. And the most profound question to many is why did it take a riot for justice to occur? What good is 'due process' when the end result will not net fair adjudication?

If people's view of the police reflects their general attitude toward the government which police represent then upon examination of its treatment of minorities we must conclude that our government is racist.

What do we teach the children? How do we inspire hope in the face of institutional racism which touches every aspect of the child of color. Where do our Afro-American children go to escape? The neighborhoods they live in are controlled by racism.

The argument is made that African American youth are considered an endangered species. If African American youth are endangered the question arises who endangered them? Raymond A. Winbush (1993) contends that African Americans have been endangered since they were first stolen from Africa nearly five centuries ago. Winbush quotes from Charles Darwin's book *The Origin of Species by Means of Natural selection* the following:

'If the differences among human beings is not due to biology but to our institutions then great is our sin.'

Winbush interprets this to mean that there is a clear either /or choice concerning problems currently facing African American youth. African American youths are either genetically predisposed to commit crime, sell drugs, and have early pregnancies or there is something terribly wrong with the institutions through which they move from birth to adulthood. According to Winbush, great is the sin that allows a black child to be deprived of proper prenatal care in Washington, D.C., which currently experiences an infant mortality rate among its African American children slightly lower than that of Bangladesh., (Winbush, 1994} Winbush further supports Jonathan Kozal's argument that, 'there is something seriously wrong within institutions of a society that deprive African, Latino and Indian children the right to public education because of the shrinking tax bases in most large urban areas.' ⁷

African American youth are in danger now more than ever because of a growing uneasiness among nonblack Americans that there are too many persons of color taking over the institutions that historically belong to white America . Winbush's examination of the problem reveals that there is a growing hostility among whites toward African American youth which translates into their wholesale destruction, once they reach the public school system (Winbush, 1994)

Afro-American scholars theorize that when ecological organizations place animals on the endangered list, three criteria must be operational. First there must be limited numbers of the species left. Second the

organization must identify the exact predator of the endangered species. Third, a plan must be devised that will increase the numbers so they will no longer be endangered. (Winbush, 1994)

The school is the ideal place to begin to increase the numbers of successful Afro-American youth. Schools along with government and business must create environments that will enhance the life of Afro-American youth in our society. But is that a realistic expectation from those who view African Americans with racist eyes? With everyone fighting for a share of the American pie, there is little support for changing old ingrained techniques for locking out certain segments of the population. This realization mandates that racism will continue. Since this is the dilemma faced by African Americans we must begin to teach African American youth how to survive the endangered species list.

If African Americans are going to survive in the Twenty-First Century three prerequisites must be met. African Americans must have a sense of who is being talked about, develop a sense of historical determination, know where African Americans are today and know what are the causes for their situation. (Washington, 1994)

CONCLUSION :

Dramatic shifts occurring since the mid-twentieth century have increased the influence of school in the life of youths. Schools play an integral part in forming the patterns of adolescent identity. With the myriad of societal problems escalating schools will continue to play a fundamental role in shaping the lives of young people. It is because of the influence of schools in our students' lives that gives educators an advantage.

We must begin to educate our children very early about the realities of life. Some might argue that perhaps my curriculum enforces a passive attitude. My reply to that argument is to look at the past. Our children must learn that militant reactions always net negative responses. It is more beneficial for them to effectuate change from the positions of lawyers, doctors, nurses, engineers,-constructive citizens utilizing the power of the vote than from the cell block. African American children must be taught not to be defeated by a sense of futility and to attack the barriers vigorously and assertively.

The past ten years have resulted in budgetary cuts in education while at the same time criminal justice systems budgets have increased. New state of the art prisons are being constructed while our schools lay in decay. We must begin to ask why and for whom are these lavish prisons being built. The answer is frightening.

What can educators do to help keep these Jail cells empty? Teach the children the truth and offer alternatives. Debora Parks, (1994) contends that:

'Engage women in politics and women become interested in politics. Address children's perspectives in books and children become interested in books. Discuss the history and accomplishments of African-Americans in the classroom and African-Americans are interested in African-Americans.'⁸

Teachers must be trained and equipped to empower children by teaching them how to overcome the obstacles that they face as being African-American.

Our universities must prepare teachers to handle a student population that live with the following conditions which Howard and Hamond (1985) identify as rooted directly or indirectly in racist, discrimination and oppression:

Single parent homes

Poor nutrition

Poverty

High school drop-out rate

Teenage pregnancy

Imprisonment of significant family members

Howard and Hammond (1985) asserts that due to the miseducation of educators which is passed on to students, African-Americans have been intellectually suppressed.

Deficiencies in the process of intellectual development are one effect of long-term suppression of a people: they are also, I believe, one of the chief causes of continued social and economic underdevelopment. Intellectual underdevelopment is one of the most pernicious effects of racism, because it limits the people's ability to solve problems over which they are capable of exercising substantial controls.⁹

OBJECTIVES

The curriculum's lesson plans are designed to be covered in grades 6 through 8 Social Studies, Language Arts or Social Development classes. Lessons are to:

1. Assist teachers in the areas of helping students develop a positive self-esteem and understanding the importance of building good character.
2. Discussion and activities have been developed to teach the children their basic rights as guaranteed by the U.S. Constitution while at the same time teach the children that these rights have not always been afforded certain people. The lessons outline the struggles which have been a part of obtaining and maintaining these Constitutional rights.
3. Children will also learn that they have options in life and that short-term solutions to what may be perceived as a problem may result in long-term consequences that will destroy their lives. Suggested book: *When a Hero Dies*.
4. One focus of the curriculum is to teach children how to objectively, without anger identify and realize that there are obstacles in life. The particular obstacle this unit is designed to address is that of racism in general and specifically in the criminal justice system. Children will be presented with deciding whether to become a statistic or to change the statistics.

PROJECT: Development of an ongoing program involving law enforcement personnel as mentors, tutors and counselors will help to accomplish this task.

5. Develop a penpal program with a suburban school. The program will introduce students through writing friendly letters, making and sending birthday cards, holiday drawings, sharing photographs and visiting each other's schools. The culmination of the year's program will be an activity where the children from both schools can socialize outside of the school environment. Examples: picnic, field day activity, bowling tournaments

LESSON PLAN #1

OBJECTIVE:

Students will complete a number of exercises designed to heighten self-concept, increase their ability to make choices and take responsibility, increase their desire to learn, increase self-love, self-confidence, self-reliance and self-esteem.

STRATEGY:

Students will develop personal journals which consist of activities designed to improve the areas listed in the above objectives.

MATERIALS NEEDED-

1. TEACHER GUIDE AND STUDENT WORKBOOK I AM A GOOD PERSON Cat. No. CA 347, Curriculum Associates, Inc. 5 Esquire Road, North Billerica, MA 01862-2589. Phone: 508-667-8000, Fax 508-667-5706, Toll Free: 800-225-0248

VOCABULARY:

Positive messages

Positive feelings

Self-esteem/self-image

Potential

Goals

Evaluate/Affirmation

Body Language

Visualization

LESSON PLAN #2

OBJECTIVE:

1. Students will explore and develop an awareness of the value of freedom and the extent to which people will sacrifice in order to obtain and maintain freedom

2. Students will recognize the historical and global denial of basic human rights.

STRATEGIES:

- I. Teacher defines freedom and basic human rights.
- II. Teacher divides class into groups. Each group will be given the task of researching and identifying the causes of one of the following wars:
 - A. THE AMERICAN REVOLUTIONARY WAR
 - B. THE CIVIL WAR
 - C. THE SOUTH AFRICAN WAR
 - D. THE INDIA/BRITISH WAR
- III. Once research is completed group reports will be given
- IV. Teacher will facilitate the class to show the commonalities of each war
- V. Students will discuss the devastation, destruction and violence associated with freedom.
- VI. Students will write reactionary papers after viewing and debriefing each video. Teacher will determine length of papers.

YOU WILL NEED:

1. Reference materials on:
 - American Revolutionary War
 - Civil War
 - South African War
 - India/British War
2. VIDEOS:
 - Making of the Constitution
 - MANDELLA
 - GHANDI
 - THE CIVIL WAR SERIES (TIME LIFE SERIES)

LESSON PLAN #3

OBJECTIVE:

Students will critically analyze the Declaration of Independence and recognize the inequities that existed upon the documents inception, during the 17th, 18th, 19th and 20th centuries.

Students will examine the Constitution of the United States and become familiar with their guarantee to basic human rights.

Students will understand why amendments to the Constitution were necessary.

STRATEGIES:

Teacher will ask students if they believe that all men are created equal.

Students will break into small groups for discussion of the question and must collectively come up with one example from the 17th, 18th, 19th, and 20th centuries which questions the Constitution's application.

Students will reconvene as a class and share group responses.

Teacher will ask students to list their basic rights

LESSON PLAN #4

OBJECTIVES:

1. Students will analyze the Fourth Amendment. Students will discuss the conditions which necessitated the creation of the Fourth Amendment.
2. Students will discuss current application of the Fourth Amendment.
3. Students will read and discuss Supreme Court landmark decisions which deal with violations of Fourth Amendment Rights.
4. Given the following case, Students will analyze the case and identify Fourth Amendment violations.

CASE STUDY

Mr. and Mrs. C live in a small town located in South Jersey. There is widespread discrimination. The police

force in this town have a reputation for harrasing African-American citizens. Mr. and Mrs. C are law abiding citizens and have no previous criminal record. One day during the summer of 1992 a white police officer arrived at the hone of Mr. & Mrs. C. He asked if their youngest son was hone. Mr. C told the officer that his son was not home. The officer asked if he could check the house. The officer did not have a warrant to search the premises or a warrant for the arrest of Mr. & Mrs. C 's son. Mr. C grudgingly agreed to let the officer search the house. The officer went from room to room. In the bedroom he looked under the beds. After the search was completed, he left.

DISCUSSION QUESTIONS

1. What Amendment Right was violated?
2. Why do you think the police officer violated Mr. & Mrs. C's amendment right?
3. Why do you think Mr. and Mrs. C allowed the officer to check their house?
4. What should Mr. & Mrs. C have done?
5. What should Mr. & Mrs. C do to ensure this doesn't happen again?

LESSON PLAN #5

OPBJECTIVE:

Student will examine the Civil Rights Movement. Students will learn how to challenge and change unjust laws.

VOCABULARY:

Bus boycott

Jim Crow legislation

Segregationist

NAACP

Nobel Peace Prize

Assination

Nonviolent resistance

MATERIALS NEEDED

VIDEOS:

EYES ON THE PRIZE (The civil rights movement has been documented in the PBS video series Eyes on the Prize. The 14-part documentary is available from PBS Video at 1800-344-3337.

BOOKS

Voices of Freedom, a collection of oral histories, Bantam Books, NY, 1990

The Eyes on the Prize Civil Rights Reader, Penguin Books, 1991.

LESSON PLAN #6

OBJECTIVE:

Students will discuss the importance of character building. Students will learn the importance of being productive, law abiding citizens.

Discussion Questions:

Why do we have classroom rules?

Why do we have laws which govern our land?

What do police do?

What do you think the police should do?

What is a criminal?

Where do convicted criminals go?

What should happen to kids who commit crimes?

Why do people commit crime?

What is a criminal record and how does it affect your life?

What type of career opportunities are available in the field of criminal justice?

MATERIALS NEEDED

Current information on kids and crime.

Articles on the new legislation regarding tougher sentencing for kids who commit adult crimes.

SPECIAL PROJECT

Investigate developing a project with the local police department. Try to have a team of officers come in once a week to discuss crime and the prevention of crime.

Design a plan whereby the police officers can serve as mentors for students. The plan could be to eat lunch once a week with a group of students, help with classwork, homework, computer games, etc. This plan will give the children an opportunity to develop a positive/respectful view of the police.

GUEST SPEAKERS:

The following people will present the positive side of the criminal justice system:

Lawyers, policemen, court clerk, judge, correctional officers, warden.

FIELD TRIPS:

Local Police Station, community correction center, court

WRITING ASSIGNMENT:

Provide student with story starters they are to complete the story by writing either a positive or negative outcome.

EXAMPLE OF STORY STARTER:

Scott, Sillip and Doug were best friends. They loved to explore the unknow things of nature. They loved to play basketball, baseball and football. They were all in the same grade in school.

Scott and Phillip lived with both parents. Scott's parents were well educated and stressed the importance of having a good quality education. Phillip's parents were older, not well educated people and did not realize the changes in society. Douglas lived with his mother until the age of 13 and then he went to live with his father who was the director of a juvenile boys detention home.

Both Scott and Douglas were involved in extracurricular sports. School and good grades were very important to their parents. Phillip's parents didn't really stress the importance of good grades and doing will in school. Phillip didn't do well in school and had to repeat a grade.

At the age of 14 Phillip began to get involved in petty crime. Breaking and entering, car theft. The types of crime began to be wore serious in nature. Phillip began to:

1. Complete the story telling what happened to the boys.

LESSON PLAN #7

FINAL PROJECT

OBJECTIVE:

Students will review, reinforce and share with the student body guaranteed constitutional rights. This will be accomplished through writing, video taping and performing a play.

STRATEGY:

Students will be given the following task:

Write a play with the following elements:

Two characters who must make a decision regarding the future. One chooses the life of crime, blaming racism. He/she commits crime that involves a capital punishment. The other chooses education.

Write scenes which involves a racist bad cop, good nonracist cop, violation of Maranda Rights, Fourth, Fifth and Sixth Amendment rights.

The ending must argue for or against the death penalty.

FOOTNOTES

1. Carnes, Jim. *Us and Them*. Southern Poverty Law Center, Montgomery, Alabama, 1995, p. 4.
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3. Feire, P. Pedagogy of the Oppressed, quoted in Raymond Winbush., 'African American Youth Who: Endangered Them,' *The Journal of Intergroup Relations*. Vol. XXI, No. 2, Summer, 1994.
4. Feagan, Joe & Sixes, Melvin. *Living with Racism*, p. 314.
5. Blackwell, James E. *The Black Community*. quoted in Joe Feagin, Melvin Sikes, *Living with Racism*, pgs. 64 & 65.
6. IBID pg. 64
7. Winbush, Raymond, 'African American Youth: Who: Endangered Them' *The Journal of Intergroup Relations* Vol., XXI, No. 2, summers 1994, p. 37.
8. Debra Parks, 'Minority Education: A Plan of Action,' *The Journal of Interaroun Relations*, Vol. XXI, No. 2, Summer, 1994
9. J. Howard & R. Hammond, 'Rumors of Inferiority: The hidden obstacles to black success.' *The New Republic*. pg 18.

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Goldberg, Jeffrey, 'What white cops think of blacks.' *Commentary; Lifestyles, Vol. 27*, July 11, 1994, p: 28-32. Twelve percent of the New York City Police Department is black, and it has been that way for years. However, people should not automatically believe that the white officers are prejudiced just because of their color.

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