March 2020

Unwritten Records: Crime and Punishment in Early Virginia

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Unwritten Records: Crime and Punishment in Early Virginia

by

Jessica L. Gantzert

A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts in Applied Anthropology
with a concentration in Cultural Resource Management
Department of Anthropology
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Date of Approval:
March 11, 2020

Keywords: Imprisonment, Criminality, Jailhouse Archaeology, Passive Resistance

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Acknowledgements

This project is all thanks to the many people that I have been lucky to share this time and space with. I would not be where I am or who I am if I was not surrounded with so many strong and intelligent people. I want to thank Diane Wallman for her constant encouragement and for working tirelessly with me on this project, Antoinette Jackson for her advocacy and for pushing me to always be better, and Jonathan Bethard for his intense support of my work and vast wealth of knowledge. This truly could not have happened without you guys, and I am forever grateful for you. I want to thank Keith Adams who has always supported me as a mentor and a friend, and who has turned me into the archaeologist I am today. I also want to thank Debbie Durham who had a precocious teenager dropped in her class, and instead of writing me off as just that, she made me rise to the occasion. Finally, I have to thank my friends, family, and loving husband. I would not have come this far without my whole family backing me up as the first one of us all to go to college, even if they call me a nerd. Mom and Dad, I’ve come a long way from the little girl with the rock collection, huh. To my amazing friends, you have no idea what you have given me over the years, Heidi Anthony, Taylor Kreis, Sarah Kosar, Victoria Dyke, and Amy Gatenbee. And to Taylor Gantzert, my other half, you made me strive to always be better, and you always believed in me, even when I didn’t believe in myself.

Finally, I would like to dedicate this thesis to all the people that are currently imprisoned for marijuana possession while I, a middle class white woman, can legally own it. This is the epitome of privileged criminality
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Abstract

Crime and punishment are highly racialized aspects of American society, and have been since the beginning. History has consistently focused on wealthy white males, leaving large gaps in our collective understanding of criminality as it applies to poor people and people of color. My thesis discusses how people of Amherst County in Colonial Virginia navigated imprisonment and their positionality. I engage with constructivist and feminist theories to expose silences in archives which hinders deeper understanding of the archaeological record. Though my research, I have been able to find the names of some of the people that were imprisoned, along with the crimes they were charged with. I discovered that race, class, and gender had a large effect on sentencing outcomes and time in spent in prison if found guilty, if a person was going to be released jail after being found not guilty, punished even after being cleared of charges, or if they were going to spend time in jail at all. I call this privileged criminality, and close my paper by arguing these privileged aspects of being were carried forward into the US after British rule ended, and that we need to study this more to determine how this truly effects the people of today.
Chapter One: Introduction and Research Methods

Introduction

What does it mean to be imprisoned? According to the legal dictionary (The Legal Dictionary 2017), it is: “1, the act of restraining someone against his will; 2, the act of taking away someone’s freedom.” In a simple understanding, that means you committed a crime and now, in order to pay for it, you must give up your liberty and freedom for a time. But what is the purpose of incarceration, and who gets imprisoned for what purposes? These are questions are central to understanding the creation of jails as places to houses prisoners since the early 1100’s, and these questions and controversies are making their way into the mainstream discourse today. For example, in her widely popular book, The New Jim Crow, Michelle Alexander (2010) puts the criminal justice system in the U.S. on trial, critically exposing race as a key factor in terms of the penial system and who gets incarcerated. This book is one of several that are beginning to cross the line form academia to mainstream thought, with some even advocating for this text to be required reading for middle school students.

The prison system and reform practices in the United States are controversial because it is an institution which profits off of structures that are built to house and exploit people, and a disproportionate number of people incarcerated are from historically disadvantaged or disenfranchised groups living in marginalized communities. I argue that this issue—the system of incarceration and the structural aspects of it—warrants attention and intervention from academics, and society as a whole. But first, this requires studying and understanding historical
structures and the origins of the practice of jailing people in the US. Archaeology is important in this endeavor because it draws these connections with the past and present, and provides a platform for giving voice to those that are no longer here, or who are currently unable of doing so themselves. Archeology is one way to be able to answer the questions about material remains and what they can tell us about places of incarceration in the past, and what they can tell us about those places in the present. It creates a space from which to engage in current debates about institutions and places of incarceration today.

My research investigates issues of crime and criminality at Cabellsville in Amherst County, Virginia (Figures 1.1 and 1.2). The jailhouse was built at the county seat, Cabellsville, in 1761 and used until 1810 when the county seat moved locations to its current seat in Amherst town, and Nelson County was created from the land that used to be Cabellsville and north Amherst County (Brown 1985). In order to prevent confusion, I will continue to refer to Cabellsville as part of Amherst County. There is now a small jail in Madison Heights in modern Amherst County that houses 380 people at max capacity, a sheriff’s office with two cells in Amherst Township. Most of the population in this area are descendants from the original group of people that interacted with the historic jailhouse at Cabellsville, be they the gentry, the white debtors and service-sector, or the black enslaved people.

**Research Overview and Questions**

My thesis aims to examine the history of crime and criminality in Amherst County, Virginia in the late 18th century by using archaeology to draw parallels to the current prison landscape. My research questions are as follows:
1. Is evidence of sexism, racism, or classism in the colonial Amherst County legal system knowable or made visible in the archaeological and historical records, or can it be made so?

2. If so, how does the material record and these structural forces intersect and impact how people with differing relations to power or differing positionalities conceptualize imprisonment, and how do their experiences while imprisoned differ?

3. How do imprisonment experiences vary by race, class, and gender, and does the material record provide a means of assessing these differences specifically in the case of Amherst County?

4. How does the material record of past imprisonment experiences in Amherst County inform present issues of incarceration in Virginia and the U.S. as a whole?

Figure 1.1 Map of Virginia and Amherst County, Courtesy of Wikimedia Commons
My thesis will address these questions, and show how people of different positionalities conceptualized imprisonment, criminality, and the jailhouse at Cabellsville. My theoretical orientation consists of black feminist, constructivist, and subjugated knowledges frameworks which are applied in order to best analyze the available data, or lack thereof. Throughout the remaining chapters of this thesis I will layout my case study, theoretical perspective, research methodology, and directly address my research questions.

In Chapter Two of my thesis, I discuss the previous research done on jailhouses and ideas of what makes a crime or criminal. I also breakdown the three theoretical platforms I use and explain how they work together, and why they are important for my line of research. Namely why some knowledge is unknown or unrecorded, and why it needs to be made known.
Chapter Three of this work goes further into detail on the history of Cabellsville and places it historically within contemporary sites. A brief overview is that Amherst County is a large county in central Virginia. It was created in 1761 by William Cabell when he donated the land for the county seat after it was petitioned for the area to separate from Albemarle County (Brown 1895). County meetings were held at Henry Key’s Ordinary that was a mile north on Route 29, the main road providing access to these backcountry areas in Virginia, until 1766 when the new courthouse and jail house were finished (Brown 1895). The county seat was dubbed “Cabellsville” in honor of Cabell, and he was personally charged 160 pounds, 18 shillings, and 8 pence for the construction of the buildings (Amherst County Courthouse, Amherst, Virginia [ACC] 1761: Order Book [OB] 1:5). The county seat was used until 1810 when Nelson County formed and moved the seat to a new location in Lovington (Brown 1895). Both the jailhouse and the courthouse burned down, with the former shortly after the county seat moved and the latter not until 1917, with a modern farm taking its place in the 1920s (Marmon 1989; WPA 1936).

In Chapter Four, I describe the field methods and laboratory methods utilized in my research. Chapter Five goes into detail on the artifacts found during excavation and how they tie into the written record found in the archives.

In Chapter Six, I analyze and discuss my findings. I work in the constructivist framework to create points of knowledge, and use subjugated knowledges theory to discuss why knowledge needs to be created in the first place. I also discuss power dynamics of the time period that systematically silenced the African American experiences within the physical jailhouse, and how passive resistance plays into those lived experiences.
Finally, in Chapter Seven, I explore the historical ramifications of the prison industrial complex and how past concepts of morality are used to interpret modern criminality. I close with arguing for more research into imprisonment and the prison landscape in order to combat prejudiced concepts of criminality in America.
Chapter Two: Virginia and Local Background

In this chapter, I discuss the history of Cabellsville and the past archaeological work that has been done at the Cabellsville site. With this thesis I am continuing work that I had previously undertook as part of my undergraduate research, so it is important to give this background to understand why I conducted the current research in the ways that I did.

Colonial Virginia

In order to fully understand the place of prisons and imprisonment in Cabellsville society, I also need to discuss the Virginia legal system as a whole. Amherst County was part of a much larger system at work in the colony and eventual state; much of what happened there happened in other areas as well. The ruralness and isolation of Cabellsville also had a pronounced effect on how laws were utilized, and how criminality and use of the jail was conceptualized.

Virginia People and History

Virginia was founded as a colony of the Virginia Company in 1607 at Jamestown after several other failed attempts along the Mid-Atlantic region. In 1624, the colony was taken over by the British crown and it officially became a crown colony that had to adhere to royal authority. Shortly afterwards the crown began enacting English style of government, and established things like the College of William and Mary in Williamsburg, built more cities and roads connecting them, and broke the general land area down in counties so even more expansion could happen.
In 1619, Virginia was the place where the first Africans taken from their homelands landed in British North America. These people were enslaved and were originally meant to go to a Dutch colony, but ended up in Jamestown (Horn 2018). The arrival of these people coincided with the beginning of tobacco being cultivated in Virginia as a cash crop for the European market, and they were quickly forced into the laborer role for the crop and others, such as hemp and cotton further south (Horn 2018; Kulikoff 1986; Taylor 2002).

Tobacco was a driving force in Virginia society and culture, and served as one part of the Triangular Trade System. The farmers who made money selling their tobacco crops used that money to buy more enslaved people, which they in turn used to make more tobacco and more money. In order to maximize their output, these farmers eventually moved out of cities and into larger tracts of land to have more space to grow the crop. More land required more enslaved people to work the land, so more and more people were bought and sold to keep up with the demand for tobacco (ACC 1764:OB 1:10; Horn 2018; Kulikoff 1986; Taylor 2002). This pushed expansion westward through the state and lead to the establishment of more counties, such as Amherst, that primarily consisted of slave labor-led plantations, minimal civic sector buildings, and two or three main roads connecting these isolated areas to major cities (ACC 1764:OB 1:10; Horn 2018; Kulikoff 1986; Taylor 2002).

People of Amherst

Not everyone who owned a plantation or enslaved people in backcountry counties like Amherst were considered wealthy in their time; there was a large social class of people that were considered the middle class. These people made up the majority of the population, had large swaths of farmland, owned enslaved people, and were confirmed gentlemen, but their wealth was relatively minimal in comparison to the upper class that owned an enormous amount of land and
produced a large amount of cash crops (Taylor 2002; Tillson 1991). The average plot of land in neighboring Botetourt County was 418 acres and people usually owned more than one plot of land, which shows that the average middle-class white male would still have owned a large amount of land (Tillson 1991). In order to cultivate half of that land (as required to become a gentleman), the property owner would have chosen to use slave labor.

Because Amherst County was part of the backcountry, there were no urban areas in the county. The closest cities were Charlottesville in Albemarle County forty miles to the north, and Lynchburg in Campbell County thirty miles to the south. This means that the county consisted mostly of plantations.

Amherst County is diverse geographically in that it consists partly of ideal flat farming land in the southeast piedmont portion, and mountainous difficult terrain in the northeast portion which is now considered the Blue Ridge Mountains and Shenandoah Valley. This led to more prosperous farms being located in the southern part of the county, and more of the middle class farms that still maintained many enslaved people and a sizable tobacco and hemp crop in the northern part (ACC 1764:OB 1:10; Taylor 2002; Tillson 1991).

According to Family Search, an online database that provides population metrics and guides on how to conduct genealogical research, there was somewhere between 5,000 and 7,500 enslaved people in Amherst County in 1790, and according to the 1790 census, there were about 13,700 free white people in Amherst County (Family Search 2020). This means that somewhere between a third and a half of all persons in Amherst County were enslaved. However, the number of enslaved people per household varied greatly. One family, the Fletcher family, owned a large plantation called Sweet Briar Plantation fifteen miles south of Cabellsville, and they had on average between 80 and 100 enslaved people at this one location (von Brieson 1965). These
estimates also do not take into account the multiple properties the Fletcher patriarch owned in other counties and colonies, including one in Smyrna Beach, Florida (von Brieson 1965).

There was most likely a very small free black presence in the county. Records of free black people exist that document the number of people of that class in every county to the south and east of Amherst, but there is no mention of Amherst itself (Russell 2012). John Russell who has collected the most information on the number for free black people in Virginia 1619 until 1865 states that “in the mountainous half of the State, which after 1830 contained half of the white population, free negroes were so scarce as to be an almost negligible social factor” (Russell 2012: 9).

Elijah Fletcher, the patriarch of the Fletcher family, was what was called a ‘gentleman’. In order to vote, hold office, own a business, or fully partake in society, you had to be a gentleman (Shepard 1995). A gentleman was not just a man, there were several very specific requirements to become a gentleman that had to be met before a man could attain the rank. The title could be inherited if a man was willed a plot of land when another male died that was a gentleman. Land could of course also be gifted to sons, or used as part of a dowry for a daughter, which would count as inheriting the title. If a man was not willed or gifted land, he had to patent either at least fifty acres of land with half of it farmed, or a plot in town. The man who had the land also had to be over 21 years old, and white (Shepard 1995: 466).

There were sporadic native American groups in the piedmont and Shenandoah areas, but Amherst County did not have a strong native presence when it was settled. The only group remaining in the area today is the Monacan Nation, and they were the ones present at the time of westward expansion into the area. There have been no Native American sites found in or around the Cabellsville property as of yet, but local legends state that this is because the Monacan
groups lived down near the James River in the southern part of the county in modern day Lynchburg and Campbell County.

**County Seat Complexes**

Amherst County was considered part of the backcountry when it was founded, and there are particular challenges that come with that level of ruralness. The best example of this is the location of the county seat complex. In backcountry counties, the county seat was the center of life; it had the courthouse, the jailhouse, and the lawyers offices, but also taverns, trading posts, general stores, and even gaming and gambling centers like horse racing tracks (Lounsbury 1989; Lounsbury 2005; Marmon 1985; Tillson 1991; Shepard 1995).

The county seat was roughly in the middle of the county so it would be easier for all gentlemen to travel to it for court day, the one day a month when everyone gathered to handle business affairs (Lounsbury 1989; Lounsbury 2005; Tillson 1991; Shepard 1995). In backcountry counties, this day was supposed to last one day a month since it was still a several day journey for gentlemen that lived near the outskirts of the county to make it to the seat. However, sometimes the court sessions ran long depending on how many people had charges to bring up and how extensive the cases were, and so the court day turned in to court days and continued on until all cases from the month were dealt with, or one or both parties returned to their home (ACC 1764:OB 1:10; Lounsbury 1989; Lounsbury 2005; Shepard 1995).

Another thing that was required to be at all backcountry courthouse complexes was the curtilage. The curtilage was a plot of land that was laid out around the jail house with clearly marked boundaries that non-violent criminals that were sentenced to spend time in the jailhouse, like debtors, could access during the day (Lounsbury 1989; Lounsbury 2005; Shepard 1995). They were allowed to walk around, talk to people, or make business dealings as long as they did
not leave the designated area and were back in their cells by night time. If the imprisoned person was a debtor and knew a trade, they were allowed to set up shop outside in the curtilage to earn money to try to pay their debt and be released from jail. The curtilage usually encompassed the official buildings so a debtor could also find work inside the courthouse if they did not know a trade (Lounsbury 1989; Lounsbury 2005; Shepard 1995).

**Punishments and Crime**

Almost all legal cases were handled by county courts, unless it was a felony charge. In those cases, the accused was sent to the General Court of the colony in Williamsburg (Rankin 1958). Felonies in this sense were crimes that allowed for capital punishment, which meant either loss of life or limb, such as buggery, murder, or horse thievery (Rankin 1958). However, enslaved people that were accused of felonies were always tried at the county courts (Rankin 1958). Sentences from county courts could be appealed in the General Court as well, but there were stipulations for individual crimes in order to keep the case docket small since the General Court served all of Virginia (Rankin 1958).

Sentences in Colonial Virginia were mostly still physical punishments, so people that committed a crime were rarely sentenced to imprisonment. However, there were specific instances where people were imprisoned, which is why all counties were required to have a jailhouse. In the backcountry, almost everyone who committed or was accused of committing a crime did actually spend some time in the jailhouse. This is because of the court day system, which meant that even if a person was accused of wrongdoing near the beginning of the month, those charges were not heard until court day, so they could have had to wait in the jailhouse until then (ACC 1764:OB 1:10; Lounsbury 1989; Lounsbury 2005; Shepard 1995). This holding
procedure applied to everyone who was accused of committing a crime, including enslaved people who would normally only face punishment from their owner (ACC 1764:OB 1:10).

One crime that a person could spend significant time imprisoned for was for nonrepayment of debts. Being a debtor was common especially in backcountry Virginia because all goods were bought and sold on debt (Baker, Cosgel, and Miceli 2012; Goodman 1993; Martin 2008). For example, if a gentleman needed tobacco seeds, he would buy them from the goods dealer without exchanging money upfront. The dealer would keep records of how much this person owed, and once the crop came to fruition and was sold, the dealer would collect the debt. However, if the crop failed or the ship was lost at sea, the gentleman would still owe the dealer the money for the initial seeds, even though he did not get paid for the crop. If the gentleman could not pay the debt, the dealer could take him to county court where the gentleman could be forced to spend time in jail until his debt was paid off. In some locations, there were separate buildings for debtor’s prisons and criminal prisons, and in some cases it was the same building.

**Cabellsville History**

Cabellsville was once the seat of Amherst County, Virginia. It was founded in 1761 when Amherst County separated from Albemarle County, which was a standard practice for county creation. It was named for William Cabell, who donated the land and paid for the buildings to be constructed (Brown 1985). He also served as a judge on the court for over a decade before stepping down (ACC 1761:OB 1:10). Cabellsville served as the county seat until Nelson County was formed in 1807 from the part of Amherst County that contained Cabellsville, and the new county seat was moved south to the town of Amherst. Cabellsville then became privately owned land and changed a hands multiple times, until to finally ended up with the Anderson family who
still owns it today. The family has used it a cattle ranch, personal farm, and orchard since the early 18th century.

No deeds or plat maps depicting the courthouse complex have been found as of yet because the land that the complex sat on was exchanged privately in the Cabell family while it was in use. The only map that exists is a partial map from 1790 of the jailhouse complex that depicts the curtilage bounds and a crude drawing of roughly where a jailhouse should stand (Figure 2.1). An interesting thing that is noted in the map though is a building named the House of Office.

Figure 2.1 1790 Curtilage Map of Cabellsville Jail, Courtesy of Author

The bounds map also shows the House of Office, which was the public privy, along with the fence line that would have existed as a visual guide for the imprisoned people. However, none of those structures are extant, so the springs that were included were used to georeference
the map (Figure 2.2). The northwest spring was identified as most likely the spring that was used because it encompassed the areas where the property owners were finding a lot of brick rubble, and where oral traditions said there was a large brick house before it burnt in the early 20th century (WPA 1936).

Figure 2.2 Georeferenced 1970 Curtilage Map, Courtesy of Author

According to Lee Marmon, the jail shown in the above map was the third jail built on the site in 1774; the first was built in 1761 along with the courthouse, and the second was built in 1767 (Marmon 1989). He also wrote about the legend of a debtor named John Gregory who died in the first jailhouse when it burnt down (Marmon 1989).
Because Cabellsville is almost exactly at the halfway marker on the only road between Charlottesville and Bedford, Thomas Jefferson frequented the town on trips between his homes. He also conducted business as a lawyer on site before the Revolutionary War broke out (Marmon 1989). There is also a local urban legend that states that Jefferson was hidden at Cabellsville by revolutionaries while he was being hunted by the British after raiding Monticello, but this has yet to be confirmed.

Cabellsville was not chartered as a proper city until 1803 by Samuel Cabell, William Cabell’s son. No town plats from this have been found either, so the extent of the town and the location and number of buildings in the courthouse complex are still unknown. Shortly after this, Nelson County was formed from the upper part of Amherst County. The courthouse was moved to the new center of the county in modern day Lovingston, about ten miles north, and court hearings began in the new location around 1810.

Cabellsville as a city died off shortly afterwards, and the Cabell family sold the property to Willis Wills in 1831 (Lichtenberger 2015). The plat map from this sale was found by archaeologists and it shows over 1,400 acres included in the parcel, but unfortunately does not show extant structures (Lichtenberger 2015) (Figure 2.3). The Wills family inhabited the courthouse and used the land as a plantation, until the late nineteenth century (Lichtenberger 2015).
The Works Progress Administration recorded history in this area in the 1930s. Ms. Dorothy Giles reported that the old house that used to stand on the property burned down in 1917, and the farmhouse that was standing in the 1930s was constructed on top of the burned one (Lichtenberger 2015). According to the WPA, the original house that they called “Cabellsburg” was “a two-story frame building with a gabled metal roof, and having three brick chimneys located at the ends of the building; large brick-walled cellar; two dormer windows; fifteen rooms; a three-flight and one-flight stairway; a front door with fan-light; and other doors of four-panel made of wood pine. The walls plastered and papered; fancy hand-carved mantels made of poplar; five-inch pine board floors; large brass locks; ‘HL’ hinges. The house was on the ‘T’ plan, and had a two-story porch” (WPA 1936: 2). The house that was built after this one burned down is the house that still stands on the property today.
Excavation History

Cabellsville was brought to the attention of local archaeologists at Hurt and Proffitt of Lynchburg, Virginia by the Andersons in 2013 (Lichtenberger 2015). They were finding large quantities of handmade brick, cut nails, wrought nails, and historic ceramics as they farmed the land (Lichtenberger 2015). There were also several oral histories, including stories of tenant houses, the brick making factory, and of a man named Gregory Brown who died when the jail burned down sometime in the late 18th century. The Anderson’s reached out to archaeologists because they were informed by the Virginia Electrical Cooperative—the Anderson’s neighbors to the west—that the company planned to expand as the county’s electricity demands increased, and the Anderson’s property could be seized under imminent domain.

![Figure 2.4 Map of Phase 1 Shovel Test Units Courtesy of Author](image)

Phase I excavations first began in September 2013 (Lichtenberger 2015) (Figure 2.4). 123 shovel test units were placed on 25 foot interval across the property (Lichtenberger 2015). All STUs were dug with round nose shovels until subsoil was hit, and dirt was screened through ¼
inch metal screen (Lichtenberger 2015). The excavations were performed by volunteers sourced through Sweet Briar College, personal contacts, and the Archaeological Society of Virginia certification program.

Phase II excavation began after Phase I was completed and two large deposits of brick, nails, and glass were found in STU 42 and 12. STU 12 was first investigated by opening three excavation test units—TU 1, 2, and 3. These units were excavated as part of the field methods course taught through Sweet Briar College in conjunction with Hurt and Proffitt. Through diagnostic artifacts, these units were determined to have been the location of the original courthouse of Cabellsville (Lichtenberger 2015). This discovery allowed archaeologists to confirm georeferenced hand drawn maps of Cabellsville, and to determine that STU 42 was most likely the site of the jail house. It was at this time that we determined that the overall site of Cabellsville would be excavated as two subsites: the courthouse and the jailhouse. Unfortunately, the maps that we have found so far of Cabellsville were hand drawn and not drawn to scale, so it is impossible to determine through records how large or how many structures could have physically been constructed at the site.

After STU 42 was determined to be sitting in the jail house area, five test units were opened (TU 4, TU 5, TU 6, TU 7, and TU 8) (Barry 2015). These units contained limited artifacts, along with a brick rubble filled feature that extended down six feet (Barry 2015). There were only wrought nails and bottle glass found inside the few units that were cleared of the brick rubble, so we decided that going forward we would not excavate the rubble fill as it took an inordinate amount of time and raised safety concerns for smaller archaeologists as it was so deep.
Artifacts

Most artifacts found at the prior jail site excavations were not diagnostic. The largest percentage of artifacts were nails, followed by bottle glass. However, one unique artifact was found: a soapstone pipe blank (Barry 2015).

Soapstone pipes are unique in this area of Virginia. There is a vein in the close by town of Schuyler, Virginia that provides the soapstone for the region (Lee 2012). Soapstone is heat resistant and non-porous, so it makes a great medium for constructing pipes. However, soapstone is harder to carve than kaolin so the pipes were rare (Lee 2012). From other studies of soapstone pipes found in the region, archaeologists have been able to determine that all soapstone pipes were contemporaneous, and most were found in enslaved contexts on Jefferson related sites, however, a few were also found in free black contexts and one in a poor white context (Lee 2012). This suggests that soapstone pipes are mostly associated with a black presence but there is a possibility that class divides also drove the use of these types of pipes.

We originally decided to excavate in the jailhouse area because the property owners found a lot of brick rubble while tilling for crops, and was worried they might be destroying something in the ground. The property owners are very invested in local history and are the biggest supporters of continuing the research at Cabellsville, and have consistently asked us to come back and excavate more areas. Because of their support, I felt that this was the ideal site to investigate issues of racialized criminality and imprisonment in early America.
Chapter Three: Cultural History and Theories of Imprisonment

The archaeology of imprisonment falls under the umbrella of institutional archaeology. Institutional archaeology focuses on places where people are forced to exist in under order of the government (jails, asylums, orphanages, etc.). These places can range from innocuous (a schoolhouse) to malevolent (prisons).

The idea of imprisonment is, simply put, being forced to stay in a place or structure against your will. Imprisonment has been conceptualized in a variety of forms, but for the purpose of this thesis, when I say “imprisonment,” I am referring to the legal keeping of a person or people in a government run physical structure due to an infraction of an established law. There were many instances of people being held against their will by another person or people, but I will only be focusing on imprisonment at an institutional level in this paper.

In order to understand how people interacted with the prison at Cabellsville and how their criminality affected their daily life, four groups of people are discussed: white men, white women, black enslaved men, and black enslaved women. By only focusing on one group with my research instead of all four, I would be doing a disservice. On top of that, these four groups of people did not exist in a vacuum. They all had to interact with each other, and all were integral parts of each other’s lives, and they affected each other’s criminality and relation to imprisonment. It is impossible to discuss just the white debtor without also discussing what happened to his wife after his conviction, or how his positionality affected the enslaved people that he owned. Therefore, my research will discuss all four groups.
History of Prison Development in the U.S.

What is a prison?

Prisons are often defined by their physical being. This is important because the architecture of prisons often shape the physical and cultural landscapes of the areas they are located in (Lounsbury 1989, 2005). In the 18th century, prisons were located alongside other municipal structures, such as court houses and lawyers’ offices at the county seat (Shepard 1995). This placement allowed easy access for magistrates and other servants of the court when court was in session.

This placement of prisons near the other main structures also created a panopticon effect. A panopticon was a type of prison designed in the 18th century where imprisoned people could not see if guards were watching them, so they in turn had to assume that they were being watched the time (Bentham 1791). This is an important aspect of prisons because it shaped the expectations for imprisoned people—there was no privacy, there was no option to create their own space, and they were always assumed to be under supervision, so they must be on their best behavior.

Prisons as a place to ‘serve time’ did not rise as an original thought, they developed from previous ideas of imprisonment in the form of physical punishment. It was once believed that crimes needed to be punished in a physical way, up to and including death for certain acts. This practice dates back to one of the first recorded sets of laws, Hammurabi’s Code, from Babylon (Pyrcz 2019). These codes listed laws and specific ways offenders were to be punished if they broke those laws. For example, taking a slave past the city gates would result in death (Pyrcz 2019). Many of these codes have shifted into laws that are still commonly used today, like how
incest of varying degrees is still punished by the courts according to the level of blood relation (Pyrcz 2019).

Hammurabi’s Code is possibly most famous for the common saying “an eye for an eye,” which was part of his advocating for equal punishment for a misdoing. However, he also advocated for varying levels and included the option for all people to be released of punishment if the victim forgives the perpetrator (Pyrcz 2019). This extreme dichotomy of physical punishment and no repercussions existed because this was a time before prisons were conceptualized, so there was only the option of physical punishment.

Punishment for crimes was focused on the physical body instead of the metaphysical body until fairly recently; around the mid 18th century punishment shifted away from torture or death, to imprisonment or the payment of fines (Foucault 2012). Foucault argues that this shift happened because the power was being given to the general public when they participated in the public events of torture and death, and this power threatened the power of the ruling class who issued laws and sentenced perpetrators (Foucault 2012). He believed that rulers were scared the public would eventually turn their anger at the wrongdoer towards them, and stage an uprising. Moving to imprisonment was a way of alienating the imprisoned people and preventing empathy for them from the numerous working classes (Foucault 2012). This line of thought can also be applied to the placement of modern jails and prisons in sparsely populated areas, away from where the general population would see what was happening to the imprisoned population.

This idea of separation and alienation of imprisoned people seems contrary to the panopticon of the central surveillance state, however, Foucault argues that the two concepts work together. He argues that imprisonment is just one part of the overarching panopticon of power in society (Foucault 2012). People in power retain power through creating institutions that control
the bodies of lower-class people and turn them into tools to further their power (Foucault 2012). This positive feedback loop of power creation and use of it to further subjugate people effects not only the daily lives of living people, but also how institutions are written about and how experiences are recorded throughout history.

In order to create a panopticon of power through institutions, the people in power create a pipeline to funnel people through from birth that is specifically designed to disenfranchise, disillusion, and manipulate people into becoming imprisoned (Alexander 2010, Foucault 2012). When it applies to imprisonment, this is known as the school to prison pipeline theory (Heitzeg 2009). This theory states disadvantaged youths, most notably African American youths, are disproportionately likely to be imprisoned as adults due to lack of access to resources and progressively severe policies that more strongly affect them than their more advantaged peers (Alexander 2010; Heitzeg 2009; Kendi 2016). This is a more abstract type of imprisonment than a physical structure, but it is an important step in the history of imprisonment that was developed from the previous versions.

Who was imprisoned?

Determining who was imprisoned is much more complicated than just a list of people that were imprisoned, or a list of offenses that were imprisonable. Laws are biased, and this bias leads to certain groups of people being imprisoned for crimes while others are not imprisoned for the same act only due to their positionality. In order to discuss how positionality plays into who was imprisoned and their experience while imprisoned, I use critical race theory and feminist theory to examine how laws affected people differently, and constructivist theory to discuss how power affected the historical presence of women and people of color in the written records of prisons.
Through my literature review, I have found that most writings on prisons and imprisonment are based from the white middle class male perspective. Some of the few exceptions are Suzanne Spencer-Wood’s “Feminist Theory and the Historical Archaeology of Institutions” (2009), which focuses on engendering prison spaces that housed white females, and Sarah Haley’s *No Mercy Here* (2016), which discussed the experiences of black women while imprisoned and working on work crews in the Jim Crow Era south. There has historically been a lack of first-person accounts and archaeological writings on women in prisons, which in turn has led many to believe that prisons cannot be engendered, but I, along with other feminist researchers, believe that that is not the case. I propose that a gendered perspective or approach to understanding prison experiences is necessary, and I have focused on a constructivist approach as a means to do so.

Constructivism is the theory that knowledge, and especially written records, are constructed through power relationships and social interactions that shift over time (Trouillot 1995). This power shifts continuously and is omnipresent for all writings, both historically and academically, and shapes who is written about, who writes the records, and what is considered important enough to immortalize in writings (Trouillot 1995). The only way to combat these silences is to look directly at them in order to determine why there are there in the first place, what was being silenced, and who the silencers were (Trouillot 1995). This approach does not give as much information as if the written record was complete, but it does provide valuable answers in the form of understanding why the record is not complete, which exposes power dynamics and societal values.

Constructivist theory works particularly well with feminist theory because women and their experiences have historically been silenced, and a common goal of the two theories is to
open the dialogue of and around marginalized people (Battle-Baptist 2011; Brumfiel 1996; Casella 2007; Craven and Davis 2013; Franklin 2001; Leone 1995; Spencer-Wood 2009). I argue that constructivist theory is an ideal way to recenter the dialogue of the past on women, and begin a new discussion on why they were marginalized during their time and by history.

As mentioned above, feminist theory is similar to constructivist theory in that both have the same end goal of exposing power dynamics that subjugate people, but there is much more that goes into feminist theory than just that. The main goal of feminist theory is to expose the societal forces that create gender inequality and to elevate women’s experiences (Brumfiel 1996, Craven and Davis 2013; Crenshaw 1989; Mahoney and Yngvesson 1992; Strobeck 2016). Some people feel that feminist theory only focuses on gender and gender inequality, which has the effect of it being essentialized in cisgender heterosexual white women’s experiences (Crenshaw 1989). However, there is an argument that we should move towards intersectional feminism which opens the umbrella of ‘feminist theory’ to include all aspects of being that effect people, like race, class, ability, and others (Craven and Davis 2013). I also argue that feminism must be intersectional to be effective and to not further marginalize people, and so I utilize this broadened aspect of feminist theory in this paper.

As mentioned above, a large part of intersectional feminism is racial politics as they effect women, but by combining critical race theory with intersectional feminism, racial diversity and experiences become just as important as gender diversity and experiences, and these multifaceted aspects of peoples’ lives can be better discussed (Battle-Baptist 2011; Crenshaw 1989; Leone 1995; Hodder 1985; Mahoney and Yngvesson 1992; Strobeck 2016). This is important for jailhouse archaeology because an imprisoned enslaved woman would have had a different experience with criminality than an imprisoned white woman.
Critical race theory is a relatively new theory, and it argues that the idea of race is a social construct, and was created by white people to assert dominance over other groups of people, namely black people, and it must always be considered when analyzing someone’s personhood (Kendi 2016). A central concept in critical race theory is the trope of the black savage. Ibram Kendi discusses this trope in his book *Stamped from the Beginning* (2016), and its historical origins. He states that it arises from early racist ideas that black people were more closely related to apes than to white people, and therefore they were ‘savages’ (Kendi 2016). This correlation with apes allowed white people to paint black people—especially black men—as ‘hulking brutes’ that were larger and more physically powerful than white men, which was also one of several thoughts used to rationalize enslavement (Kendi 2016). This trope has continued to exist with the idea of the Super Predator from the 1990s, and most recently, the Black Thug. The Black Thug trope presents this image of a large, aggressive black man in a hoodie that will assault someone or commit other crimes at any moment. With this take on the trope, black men are still being portrayed as physically larger and more aggressive than white men (via the black savage trope), but with the added portrayal of being more likely to commit criminal acts (Kendi 2016). Analyzing and combating this trope that presents black savageness and physical prowess coupled with the idea of inherent black immorality, is the core of critical race theory as it relates to imprisonment.

Imprisoned and enslaved people have often been essentialized in archaeology with most all narratives following the male experience (Battle-Baptist 2010; Brumfield 1996; Casella 2009; Leone 1995; Spencer-Wood 2009). There is an important distinction to make between the male and female experiences; while the men faced oppressive structures and marginalization due to their race or class, the women faced those same hurdles in addition to sexism and misogyny due
to their gender (Battle-Baptist 2010; Brumfiel 1996; Crenshaw 1989; Franklin 2001; Mahoney and Yngvesson 1992; Strobeck 2016). This is important for institutional archaeology because of the relative power and agency of white males compared to women, women in many cases engaged in prostitution in order to earn money when males were not typically forced to pursue this means of making money and were thus less exposed to threats of sexual violence. (Battle-Baptist 2010; Bedell 2010; Casella 2009; Franklin 2001; Laird 2010; Spencer-Wood 2009).

With the introduction of Christian morality-based laws in the US like anti-gambling laws, only men were imprisoned for infractions (Casella 2007; Spencer-Wood and Baugher 2001). This was because white women were seen as unable to commit criminal acts; they were not smart enough to partake in criminal acts and they were inherently moral beings (Casella 2007; Spencer-Wood and Baugher 2001). A common example of this is debtors prisons. White men were routinely imprisoned for failure to pay debts, but their white wives were not imprisoned or otherwise held accountable. This can be contrasted with modern laws of shared debt accrued during marriage, where both parties are responsible to pay off the debts. White men were seen to be in control of their actions, while white women were seen as tools used by men so they could not consciously be criminal (Spencer-Wood and Baugher 2001). This is called benevolent sexism, and while it does appear to not be as harmful at first, it is still very harmful because it meant white women had limited autonomy.

Despite benevolent sexism, some white women were actually imprisoned. These women were not considered full-women, and they were viewed as “others,” and left out of many historical records because they were so shameful (Leone 1995; Spencer-Wood 2009). This in turn affected archeologists, because without records of women, or theories on how to handle these situations, they often essentialized institutionalized people into the white middle class male
perspective. However, through application of constructivist and feminist theory, archaeologists have been able to uncover more information about female criminality and experiences with imprisonment (Casella 2007; De Cunzo 2006; Spencer-Wood 2009; Spencer-Wood and Baugher 2001).

Studies have shown that when white women were imprisoned, it was rarely in the same way that white men or black women were imprisoned. For example, many imprisoned white women were forced into work houses or religious institutions for ‘wayward’ women, and given much lighter work sentences than the black women that were imprisoned with them (Craven and Davis 2013; De Cunzo 2006; Spencer-Wood 2009). Past examples of these workhouses were laundries or church institutions, like a nunnery (De Cunzo 2006; Spencer-Wood 2009). More modern examples of these types of institutions are the Magdalene Laundries where women were sent by their families after getting pregnant out of wedlock, which were developed in the 18\textsuperscript{th} century and only shut down in the 1990s. In the cases where white women were imprisoned in a jail, they were segregated not only by gender, but also by race from the black women that were also imprisoned (Casella 2007; Craven and Davis 2013; Spencer-Wood 2009; Spencer-Wood and Baugher 2001).

Although historically, it was believed that white women could not act in a criminal manor, enslaved black women were often tried and punished alongside enslaved black men (Barry 2015; Casella 2009; Spencer-Wood 2009). This is because black people were seen as inherently criminal within the context of racial hierarchies that placed whites and whiteness on top (Kendi 2016). For example, Blackness is labeled as a sinful mark in some interpretations of Christian moral law because of two stories in the Bible: the Mark of Cain and the Sign of Hamm (Kendi 2016). In both stories, a person sinned and was struck down with a mark by God, and
through various interpretations, it was decided that that mark was black skin, and therefore being black meant a person was a sinner and had to be punished (Kendi 2016). This story and the misinformation and perceptions it creates is still shared in many church services in America today. I have even heard it being preached first hand.

This conception of inherent criminality of blackness and black people is still prevalent today in American communities. African Americans are much more likely to be imprisoned for similar crimes than white Americans, with African American males five times more likely to be imprisoned than white males (Alexander 2012; Kendi 2016; Nellis 2016). Laws are specifically constructed to hit harder on African American communities, especially drug laws (Alexander 2012; Kendi 2016; Nellis 2016). For example, powdered cocaine and crack cocaine face the same penalties in jail time, however, this level of usage is measured through weight. The same amount of potency of powdered cocaine weighs significantly less than crack cocaine. This is a racial issue because the users of crack cocaine are overwhelmingly black, while the users of powdered cocaine are overwhelmingly white, so African Americans spend more time in jail for a lesser amount of drugs (Alexander 2012; Kendi 2016).

Most of those drugs charges African Americans received for crack cocaine end up being felonies (Alexander 2012). Having a felony on your record can prevent you from holding certain jobs, building your credit, and landlords are legally allowed to refuse to rent to you. This prevents people with those charges from getting educations, getting better jobs and moving to safer neighborhoods, which in turn forces people to turn to extralegal methods of survival. Michelle Alexander has deemed these measures “The New Jim Crow”. [And, ] in her book by the same name. Alexander argues that these restrictions on people with felonies were designed specifically to target African American communities in the same way Jim Crows laws once did
(Alexander 2012; Wehr and Aseltine 2013). This idea ties into the prison industrial complex when for profit prisons are discussed because they—like the title suggests—make money off of having more people in them. If a person goes to jail for a drug felony, they are more likely to go to jail again, so it is in the best interests of people who profit off of for-profit prisons to find ways to continue sending people to jail (Alexander 2012; Wehr and Aseltine 2013).

Like Alexander shows in *The New Jim Crow*, there are a lot of racial disparities in the US in general, but especially when it comes to criminality. Even though the idea of the Mark of Cain in the form of black skin is not as widely believed as it once was, there are still a lot of ways in which black people in particular are criminalized that are prevalent in the criminal justice system and the public consciousness (Alexander 2012; Kendi 2016). Multiple studies and firsthand accounts show that African American people are unfairly targeted by police officers for traffic violations, loitering, and other acts deemed to be criminal in the situation while other ethnicities, especially white Americans, are not treated as inherently criminal (Kendi 2016; Wehr and Aseltine 2013).

**Case Studies**

Case studies are important for all archaeological research because they present one way of handling problems that might reoccur on new research endeavors. The case studies I used, coupled with the literature review, provided valuable insight on what type of artifacts (or lack thereof) that I would be finding, and what type of information I would be encountering while conducting my research. The US history of prisons and race and contemporary implications has its grounding in cases like Alexandria, VA and the Bruin Slave Jail and other sites.
Bruin Slave Jail

There have been a few case studies done on prisons already, mostly in the form of cultural resource management reports. One of these reports was done on the Bruin Slave Jail in Alexandria, Virginia. This jail was originally built around 1820 as a house for Joseph Bruin, a slave trader (Bedell 2010). Slave jails were not jails in the sense of places for imprisonment after breaking laws, they were holding centers and trading centers for people in the slave trade (Bedell 2010; Laird 2010). However, this does not mean the enslaved people were never imprisoned for breaking laws. As discussed later in Chapter Five, enslaved people were also imprisoned at Cabellsville if the court was not in session and they were accused of breaking a law.

For this project, archaeologists relied heavily on archival research in order to provide context to the artifacts recovered during excavation (Bedell 2010). This is considered a vital part of research for historical archaeology because the same artifacts were used by many different people, but it is near impossible to figure how those artifacts were used based just on the physical artifact itself. Archaeologists were able to determine how the enslaved people in the jail lived through magazine advertisements, manifests, and records of a local abolitionist, Moncure Conway (Bedell 2010). They were able to conclude that artifacts were reused and multipurposed, which also lent to the sparsity of them.

Field methods for this research focused primarily on reaching and fully excavating the contexts associated with the usage of the slave jail. Modern fill was removed mechanically in order to maximize excavations (Bedell 2010). Once down to historic era layers, the ground was shovel scraped to identify features, which were hand excavated (Bedell 2010). This methodology maximizes the amount of soil moved, as well as the time of the archaeologists that were doing the excavating because it was a cultural resource management project with a finite timeline.
The biggest issue with excavation appeared to be the timeline and available resources, a common obstacle in cultural resource management. As mentioned above, archaeologists used a variety of methods of excavating to fully utilize the time. Using this as a guide, I handled the Cabellsville excavations in a similar manner.

Worsham Debtor’s Prison

Worsham was the county seat of Prince Edward County that was originally to the southeast of Amherst County, and was founded in 1754. The debtor’s prison that was built for the county in 1787 still stands as a historic structure in modern Worsham, and serves as the only example of a jailhouse in a backcountry county that is contemporary to the one at Cabellsville. It was placed on the National Register of Historic Places in 1972.

This jailhouse is probably similar in construction to one built at Cabellsville. It was a small log structure built on a brick and sandstone foundation that was not sealed by chinking in the joints (National Park Service, National Register of Historic Places [NPS, NRHP] 1972). There was a chimney, a hole cut for latrine usage, and central doors with a window on either side that may have had bars in place of glass (NPS, NRHP 1972). Something that was specifically called out in the nomination form for the building was that its construction quality was much higher than average with the use of squared logs to form the walls (NPS, NRHP 1972). The building was refitted for a private residence around 1820, and the squared logs was one of the reasons why it was chosen to be reused and also why it is still standing today.

It was not common to use those types of logs in other buildings in Amherst County, evidenced by other extant structures in the area, so it is unlikely that square logs were used in the construction of the jailhouse at Cabellsville. Another interesting thing to note about the Worsham debtor’s prison is that county records named the man, Richard Bibb, who personally constructed
the building and how much he was paid for his work (NPS, NRHP 1972). The records of the people who personally built the jailhouses at Cabellsville have yet to be found. Later in this paper I go more into depth about what the lack of these records means, and what it says about who was responsible for constructing the jailhouses.

Australia’s Prisons

Possibly the most in/famous prisons were those in Australia when it was a penal colony. These prisons have had the most written about them historically, and the most work done on them archaeologically, and there is ample information on the imprisoned people that interacted them in comparison to what is available in the United States. However, most of these studies take place sometime after Cabellsville was abandoned, and Australia did not have the institution of slavery that effected the prison landscape.

There have been several studies done on women imprisoned in Australia though, and they provide good insight into how to engender prison spaces and people. Critical race and enslavement discussions are missing from the studies on Australia’s prisons due to the lack of chattel slavery in the colony and still underrepresented aboriginal presence, but the studies do use feminist theory to sus out the experiences of white women and the prisons (Casella and Fredericksen 2001; Spencer-Wood 2009; Spencer-Wood and Baugher 2007). They state that women were mostly imprisoned for adultery or other crimes related to sexuality, which is one area where women had relative autonomy (Casella and Fredericksen 2001; Spencer-Wood 2009; Spencer-Wood and Baugher 2007). However, when women were imprisoned they also faced sexual violence which men did not (Casella and Fredericksen 2001; Spencer-Wood 2009; Spencer-Wood and Baugher 2007). The studies also state that it is difficult to engender prison spaces based solely on artifacts because most artifacts were utilitarian in nature and would have
been used by all genders and ethnicities while imprisoned (Casella and Fredericksen 2001; Spencer-Wood 2009; Spencer-Wood and Baugher 2007). These studies have similar sentiments as the Bruin Slave Jail archaeologists in that research on jails needs to integrate the archaeological record with the historic documents (Casella and Fredericksen 2001; Spencer-Wood 2009; Spencer-Wood and Baugher 2007). This lack of integration of the written record may be one reason why some people do not think mixed gender prison spaces can be engendered. The most important thing to keep in mind while navigating gender discourse is that even though women were rarely imprisoned, it does not mean that they did not have criminality, nor that jails and threats of imprisonment did not affect their lives.
Chapter Four: Methods

Historical archaeology is its own beast because it requires the archaeologist to engage with traditional archaeological methods and techniques, along with historical techniques to address archives and other records that are integral to historical archaeology (Galloway 2006; King 2006; Wilkie 2006). My research equally uses the two sets of techniques to create a unique methodology that has allowed to me utilize both the written record and physical record to form a complete picture of Cabellsville of the 18th Century. In this chapter, I detail the field and laboratory methods that I utilized to come to my findings.

Field Methods

Research for my thesis builds upon research I have previously conducted at the Cabellsville site through Sweet Briar College and Hurt and Proffitt of Lynchburg from 2013 through 2015. The excavations and research done surrounding the jailhouse site in the past is considered preliminary research and exploratory digging because no significant findings were achieved.

Excavations

Because of prior research and excavations at the overall site (see Chapter 3), excavations in summer 2019 were sequestered to the jailhouse subsite (Figure 4.1). The property owner had informed us that while planting a small tree in the spring that had since died, he found an abundance of brick, mortar, and wrought nails near the jailhouse site. We removed the tree and found that he was correct, there was more brick rubble than soil in the gallon sized planting hole.
We located the hole on the site grid and placed a 5-x-5 foot excavation test unit (TU 8) over it to begin excavation, screening all dirt through ¼ inch screen throughout the excavation. A brick foundation that will discussed in the following chapter was discovered, but its presence dictated how I directed the excavation.

![Image of Test Units and Brick Feature](Figure 4.1 Map of Test Units and Brick Feature Courtesy of Author)

TU 9 was opened after excavation of TU 8 when I determined that the brick layer most likely continued eastward, and that assumption was proven correct. The brick layer continued eastward beyond TU 9, but due to time constraints, I decided not to continue along the path and to place another test unit ten feet eastward on the established grid to search for another foundation corner. Test Units 13-15 were expanded off of the TU 8-10 to clarify findings.
After digging the test units, seven shovel test units were dug to determine if there were any other structures that were related to the structure with the brick floor. These STUs returned no significant artifacts or other remnants of structures.

**Laboratory Methods**

All artifacts were processed under my supervision in the Hurt and Proffitt archaeological laboratory. These artifacts were washed in well water in a sink before being left to air dry, separated by context. After they were dry, they were placed in acid free bags with clearly labelled context tags.

**Catalog**

All artifacts collected by Hurt and Proffitt archaeologists are cataloged into a database in Microsoft Access that I created in 2013, and continue to provide support on. This database is modeled after many in the region, including DAACS, and ones used at Poplar Forest and Maryland Archaeological Conservation Laboratory. This database allowed me to quickly sort artifacts for interpretation, and make notes for future archaeologists.

**Artifact Identification**

All nails, glass, and ceramics were identified with the assistance of Ivor Noel Hume’s *Artifacts of Colonial America* (1969). Nails were identified based on head and body shape, glass was identified based on color and thickness, and ceramics were identified based on body paste and glaze assessed visually. I did not seek to identify the brick rubble found because there are oral histories of a brick making factory on the Cabellsville property, so therefore bricks would have been made on site with local clay.
Coin Treatment

Two coins were found in TU 8. These coins were identified as both being Virginia Half Penny bronze coins from 1773. A Spanish Half Real was also found in TU 15, bringing the total count of Reals found at the site as a whole to two and half Reales (one halved Real, two quartered Reals, two whole Reals, and one half Real). The coins were treated in the conservation laboratory at the Hurt and Proffitt Archaeological Materials Laboratory by myself and Mr. Keith Adams, head conservator. All coins are stored in snap lock coin holders with activated charcoal acid-free inserts, and are packed for storage in a large acid-free bag with silica gel packets to prevent corrosion.

The Real was only washed gently with deionized water. The soil at Cabellsville is highly acidic and preserves silver well (Lichtenberger 2015). Because the coin is silver, we did not use additional coatings to preserve the coin.

The Half Pennies were treated differently than the Real. First, they were soaked in a 5% solution of sodium sesquicarbonate and deionized water to leach out any chlorides that were absorbed in the soil (Plenderleith 1971). After soaking overnight, the coins were cleaned with 5% acetic acid and cotton swabs to remove the corrosion, and additional stuck on corrosion was lifted by a surgical scalpel (Plenderleith 1971). Residual acetic acid was removed with deionized water baths until pH tests confirmed all remaining acid was removed. Significant patina was removed during the cleaning process, so we re-patinated the coins by using a freshly boiled egg yoke placed in a sealed container overnight (Plenderleith 1971). This was done because the egg provides a stable brown sulfide patina, and was cost effective. The coins were finished with a coating of micro-crystalline wax to protect the surface (Plenderleith 1971).
Jailhouse Archaeology Issues

A unique issue with doing archaeology at sites of imprisonment is that there are inherently fewer artifacts in general and even fewer diagnostic artifacts (Casella 2007; De Cunzo 2006; Spencer-Wood and Baugher 2001). This is due to the nature of imprisonment. The people that were imprisoned were forced into confinement often quickly so they did not have time to pack items for their stay, in many cases they were not staying for an extended period of time, and the majority of people who were imprisoned were lower class white citizens or enslaved people that did not have many physical possessions; any items they did have they would have made care to not accidentally leave them behind after they were released from imprisonment (Casella 2007; De Cunzo 2006; Spencer-Wood and Baugher 2001).

Because of these issues, I expected to find few artifacts at the jailhouse site and was proven correct. I found 138 artifacts across the site, not including surface collections that the property owners found in their crops. Of these artifacts, most found were related to the physical structure of the jailhouse, including roughly 400 pounds of brick rubble. As mentioned above, I made the decision to not collect the brick rubble after the first excavation unit, so that number is an estimate based on how much was found in TU 8.

Archival Research Methods

Order Books, Day Books, and Deed Books

Historical archaeology depends just as much on written records as it does on physical records (Galloway 2006; King 2006; Wilkie 2006). Since Cabellsville was a county seat, it was a branch of the government and all records were required to be kept and are still stored in the modern Amherst County Court House archives. There is a total of twelve Order Books that document the court rulings, movements, and imprisonments from Cabellsville available to the
public. These records were kept by various members of the court, and in several instances multiple people kept multiple books documenting the same occurrences. All of these books were supposed to be collected and kept in the local government office.

   However, in the 200 years that the modern Amherst County Court house has stood, there have been many renovations and significant damage due to Hurricane Camille in 1969. Records were boxed and moved on many occasions between rooms in the court house, different counties, and private residences. Due to this movement, several books have gone missing. It is impossible to determine exactly how many have gone missing because there are no records of how many existed to begin with. In this paper, I present the most complete version possible at this moment of the written record.

**Public Outreach**

   I believe that all archaeology should be done for the general public and not just for other academics, therefore I leaned heavily into public archaeological methods.

*Public Dig Days*

   I hosted two public dig days over the course of excavation with the assistance of Mr. Keith Adams and Mr. Randy Lichtenberger. We had many volunteers participate over the two days, and the continue to interact with the official Facebook page for the site. I have worked with volunteers teaching archaeological field methods in the past and felt very equipped to do so again. The volunteers were tasked with sifting dirt and excavating test units in three groups under mine, Adams, and Lichtenberger’s direct supervision.
Genealogy Groups, Historical Societies, and Social Media

Facebook played a large part in my methodology. I run the Cabellsville Archaeological Project official Facebook page where I continuously publish updates about excavations, research, and interpretation of not only Cabellsville, but other archaeological sites that are in Virginia or that I am associated with, like Mead’s Tavern and Monticello. Through the Cabellsville page, I was able to raise awareness of the public dig days, present interesting artifacts, and answer questions for a variety of people across the country, many of which would not have the opportunity to have these discussions without social media.

Through the Cabellsville Facebook page, I was invited to join the Amherst County Genealogical Group. On that page, I continued to raise awareness of the Cabellsville main page and the public dig days, along talking to people who were descendants of the original settlers of Amherst County. This was valuable for my research because members of the group would tell me information that they learned from studying family trees about how properties changed hands and how families were tied together.

Members of the genealogy group were also usually members of the Amherst and Nelson County Historical Societies. The two historical societies independently raised awareness of the dig, with Nelson County Historical Society now serving as the home of the artifacts from past excavations and the future location of exhibits on Cabellsville. Amherst County Historical Society also happened to have in their possession one of the several missing order books which was found recently after missing for about thirty years.
Issues with Representation

An issue I faced with my research that past archaeologists at this site also faced with trying to interact with the descendant community of the enslaved people. There were no Facebook groups or official organizations that catered specifically to this community, and I did not receive any feedback after searching on the Amherst County Genealogical Group. This is frustrating because more diverse representation means more diverse knowledge. There is also the possibility that oral histories of the enslaved community at Cabellsville still exist in descendant communities that could shed light on the silences in the official record. Going forward, I will expand my public outreach methodology to include historically black churches in Lynchburg and Charlottesville with the hopes that I can connect with individual people. I will also expand my search area of descendant groups to beyond Amherst and Nelson counties, along with searching out more grassroots groups. I reached out to Black Lives Matter Charlottesville chapter and I could not make contact, but I will also try again.
Chapter Five: Results

I broke this chapter down into two sections, Field Results and Archive Results, because the methodology and the data returned from each was very different. The Field Results section discusses what was excavated and issues that occurred in the field, while the Archive Results section discusses the information gained from reading the order books and other research done with written works.

Field Results

Excavation

TU 8 contained one layer (Layer A) of heavily rototilled plowzone soil before stopping at the brick base on average 0.73 ft below surface (Figure 5.1). This layer was a uniform dark red brown clay loam that was heavily dotted with brick fragments. As a side note, I made the executive decision to not collect brick fragments after this unit because it was too time consuming and the amount of brick (beyond its general presence) provided no significant data. The brick floor at the base of Layer A was not removed in order to preserve the layers and artifacts sealed by it for future excavations. All text units (TUs 8-15) proceeded similarly to TU 8. There was about 0.75 ft of plowzone Layer A before reaching the brick feature at the base of the layer.
A well-preserved brick foundation corner (northwest corner) was found in the first unit placed (TU 8), and it was chased back to TU 9, which was placed directly east. Two more additional units were placed (TU 9 and TU 10) 20 feet east in order to find an additional corner. Unfortunately, the ground has been heavily rototilled after decades of farming, only the northwest corner was not badly damaged. Also due to the rototilling, there was only one layer (Layer A) between the grass and the brick foundation, which was consistently 0.9-1 feet below surface.

The structure measured twenty feet long by thirteen feet wide from the outer edge of the brick foundation. Because of the standing Worsham debtor’s prison, I can assume that the walls of this structure were single use exterior/interior walls constructed out of wood (NPS, NRHP 1972). There was little mortar, but there was sandy soil in between the bricks, so the mortar could have disintegrated over time, or there was only daub present that also disintegrated.

The two coins were found directly on top of the northwest brick foundation base (Figure 5.2). They were 1763 Virginia half pennies that were most likely part of builders’ rites and not used for commerce. These coins were imported from Great Britain in in 1775 and dispersed through the colony of Virginia shortly before the Revolutionary War began (Newman 1956).
Many of these coins have been found in Williamsburg and Richmond, but these two are the first of this type to be found in Amherst County.

**Artifacts**

As expected, there were very few artifacts found and very little diagnostic artifacts (See Chapter Three) (Table 5.1). People who were imprisoned would not carry many physical items into the jail, and if they did have any items, they would make sure to take them when they left. This is common for jailhouse excavations, and other archeologists have faced similar issues (Casella 2009; De Cunzo 2006; Spencer-Wood 2009; Spencer-Wood and Baugher 2001).

**Table 5.1 List of Artifacts from Test Units**

<table>
<thead>
<tr>
<th>Test Unit</th>
<th>Artifact Type</th>
<th>Subtype</th>
<th>Date</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>TU 8A</td>
<td>Bone</td>
<td>Mammal</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>TU 8A</td>
<td>Ceramic</td>
<td>Salt Glazed Stoneware</td>
<td>1685-1785</td>
<td>2</td>
</tr>
<tr>
<td>TU 8A</td>
<td>Ceramic</td>
<td>Creamware</td>
<td>1762-1820</td>
<td>1</td>
</tr>
<tr>
<td>TU 8A</td>
<td>Glass</td>
<td>Green Bottle Glass</td>
<td>1790-1820</td>
<td>2</td>
</tr>
<tr>
<td>TU 8A</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>8</td>
</tr>
<tr>
<td>TU 8 F T1</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>3</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Ceramic</td>
<td>Creamware</td>
<td>1762-1820</td>
<td>3</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Glass</td>
<td>Green Bottle Glass</td>
<td>1790-1820</td>
<td>2</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Glass</td>
<td>Clear Bottle Glass</td>
<td>1870-</td>
<td>1</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Glass</td>
<td>Aqua Bottle Glass</td>
<td>1800-</td>
<td>1</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Bone</td>
<td>Mammal</td>
<td>N/A</td>
<td>2</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>8</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Metal</td>
<td>Sheet Iron</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>TU 9A</td>
<td>Plastic</td>
<td>Black Moulded Plastic</td>
<td>1920-</td>
<td>1</td>
</tr>
<tr>
<td>TU 10A</td>
<td>Ceramic</td>
<td>Westervald</td>
<td>1630-1775</td>
<td>1</td>
</tr>
<tr>
<td>TU 10A</td>
<td>Ceramic</td>
<td>Whiteware</td>
<td>1820-</td>
<td>7</td>
</tr>
<tr>
<td>TU 10A</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>10</td>
</tr>
<tr>
<td>TU 10A</td>
<td>Glass</td>
<td>Clear Bottle Glass</td>
<td>1870-</td>
<td>1</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Ceramic</td>
<td>Westervald</td>
<td>1630-1775</td>
<td>2</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Ceramic</td>
<td>Whiteware</td>
<td>1820-</td>
<td>9</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Ceramic</td>
<td>Delft, Hand Painted</td>
<td>1600-1800</td>
<td>1</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Glass</td>
<td>Green Bottle Glass</td>
<td>1790-1820</td>
<td>1</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Glass</td>
<td>Clear Bottle Glass</td>
<td>1870-</td>
<td>1</td>
</tr>
<tr>
<td>TU 11A</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>11</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Ceramic</td>
<td>Whiteware</td>
<td>1820-</td>
<td>1</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Ceramic</td>
<td>Creamware</td>
<td>1762-1820</td>
<td>3</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Glass</td>
<td>Aqua Flat Glass</td>
<td>pre-1910</td>
<td>3</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Glass</td>
<td>Clear Bottle Glass</td>
<td>1970-</td>
<td>2</td>
</tr>
</tbody>
</table>
Table One (Continued)

<table>
<thead>
<tr>
<th>Test Unit</th>
<th>Artifact Type</th>
<th>Subtype</th>
<th>Date</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>TU 13A</td>
<td>Glass</td>
<td>Green Bottle Glass</td>
<td>1790-1820</td>
<td>3</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Bone</td>
<td>Mammal</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>TU 13A</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>21</td>
</tr>
<tr>
<td>TU 14</td>
<td>Ceramic</td>
<td>Creamware</td>
<td>1762-1820</td>
<td>1</td>
</tr>
<tr>
<td>TU 14</td>
<td>Glass</td>
<td>Green Bottle Glass</td>
<td>1790-1820</td>
<td>2</td>
</tr>
<tr>
<td>TU 14</td>
<td>Glass</td>
<td>Clear Bottle Glass</td>
<td>1870-</td>
<td>2</td>
</tr>
<tr>
<td>TU 14</td>
<td>Bone</td>
<td>Mammal</td>
<td>N/A</td>
<td>9</td>
</tr>
<tr>
<td>TU 14</td>
<td>Nail</td>
<td>Handwrought</td>
<td>pre-1800</td>
<td>10</td>
</tr>
</tbody>
</table>

Of the diagnostic artifacts, a few ceramic sherds were found. These ceramics were mostly undecorated creamware or salt glazed stoneware. They also utilitarian in nature in that they were thicker pieces of tablewares that were probably cups or plates, and not pieces of much higher quality teaware, or mostly likely vesselwares. There was also whiteware found throughout the site, but like I mentioned previously this is a heavily disturbed site and has had continuous occupation since 1763, so modern artifacts are to be expected. I also found clear and dark green bottle glass shards, but there were no diagnostic pieces that could provide any information beyond the presence of bottled liquids. All artifacts were dated with guides from the Society of Historical Archaeology, Maryland Archaeological Conservation Laboratory, and the National Park Service.

A relatively large number of nails were found. They were all handwrought nails, which dates them to prior to 1800, and most likely part of one of the original jailhouses built on the property. There is the possibility that some may have been reused in later buildings—a common practice even today—but there are no oral histories of out buildings being placed in this area of the property once it was a residential structure.
Even though there were few artifacts, I found a large amount of brick rubble. There was roughly 50 pounds of rubble per test unit, which is significant, but also significantly less than the amount of brick rubble found in the previous excavations (Barry 2012). This amount of brick rubble is consistent with a wood structure with a brick foundation, while the larger amount (upwards of 200 pounds of brick rubble per test unit) is more in line with an all brick structure.

The two coins were very useful dating the structure. The coins were minted in 1773 and were only legal tender for a few months prior to the Revolutionary War. A large cache of the coins was found in a historic context at Williamsburg, and they are commonly found in small town antique shops across the state and eBay. Because they were found directly on top of the brick foundation, I believe they are builders’ rites and not lost pocket coins. Builders’ rites are ceremonial items left in the foundations of buildings for luck or strength. The practice dates back hundreds of years and still continues to exist in the form of time capsules and cornerstones (Stall 2010). Cornerstones and other builders’ rites practices are not uncommon in Amherst County; I personally have witnessed several capsule ceremonies in the area where the capsules were placed
with much ado into a block under or directly next to the first corner built of many types of buildings. If these coins were builder’s rites, then this particular structure dates to sometime after 1773 and most likely after the Revolutionary War because of the value of the coins (no longer legal tender after war began).

All this information lines up perfectly to one iteration of the jailhouse that was constructed in 1775 (ACC 1761:OB 1:10). This jailhouse was a wooden structure that was ordered to be 12 x 20 feet, the same size as the first jailhouse (ACC 1761:OB 1:10). However, this cannot be considered the second version of the jail. The original jailhouse was in such a state of disrepair that it was no longer suitable sometime before 1769, and an interim structure was built. The only records available for this structure or why it was built was a brief mention in 1769 that the interim jailhouse needed repairs (ACC 1761:OB 1:10). At some point after this, imprisoned people were held in a Col. Reid’s basement, as mentioned in 1773 when needing a new jailhouse is first mentioned (ACC 1761:OB 1:10). There were two Col. Reid’s of Amherst County at the time, a father and son, and both were landed gentlemen. However, both owned large tracts of land in various areas in Amherst County and the surrounding counties, so it is unknown which of these is where imprisoned people were kept. The jailhouse that I found the foundation of will be considered the fourth iteration for the purposes of this thesis, but the possibility exists that there were more considering the fact that the previous two were only mentioned in sidebars as afterthoughts.

Public Outreach

The public outreach programs managed to reach a large number of people (380 followers for the Facebook page). There was significant interaction on Facebook posts and about ten people volunteered for each pubic dig day, which is a large number for such a small community.
However, there is a lack of diversity in people who have followed the Facebook page and who attended the public days. There were no people of color that either interacted with the Facebook page or came to the public days. The only people of descendant groups that I was able to contact were also Anglo American and descendants of the Anglo Americans people of Amherst County. I knew finding a way to contact the descendants of the enslaved community would be difficult, but this was the largest challenge of the project.

**Archive Results**

The archives provided a lot of information that was able to put the archaeological findings into context. However, the archives were not complete. One issue that was a consistent source of struggle was that the court order books and day books had been moved to many different places including private residences, and some had been lost over the years. Unfortunately, there is no way to know exactly how many were missing, even by counting chronologically; several people of the court were tasked with recording the happenings, and these books often times overlapped each other. The people who were tasked to record the court happenings also were not regulated, and appeared to have changed at will. This means that methods of recording orders and cases were not consistent, and as such, the records are missing vital information. It also appears that there could have been two separate sets of books with one recording the more mundane tasks of court and the other recording the criminal cases because I found the Order Book and the Rule Book for 1770-1773, and both contained different information. This may have been a singular instance, but there is the possibility that even more books are missing. I have pieced the information together to the best of my ability to present a cohesive picture of the jail and how the people of Cabellsville interacted with it.
Another issue I encountered was the fact that the records of the censuses taken in 1790 and 1800 were burned when the British stormed Washington D.C. during the War of 1812. These were the only two censuses that captured Cabellsville as well. Several Virginia historians have been able to track down some information, like population numbers, that were recorded second hand in other sources, but there is no complete record that shows exactly who lived in Amherst County.

Court Proceedings

Written records are inherently biased, and Cabellsville’s records are no exception. Only landed white men over the age of twenty-one could serve on the court, and only men of that same class can bring charges against another person (Lounsbury 1989; Lounsbury 2005). That rule applied to levying debts or filing a suit and things of that nature, so the records are overwhelmingly filled with one gentleman filing suit against other gentlemen for some amount of money. Power writes narratives, and in the case of Cabellsville, the narrative follows the upper-class white male perspective. The voices of white women, enslaved women and enslaved men are silenced in this narrative, so therefore in order to write about their experiences, I needed to look at what is not written and beyond what it written. Finding any instances of people that were not gentlemen in the court was rare, but they were plenty of cases that help expose the working of the colonial legal system (Table 5.2).

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Crime</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1766</td>
<td>William Giles</td>
<td>Not Properly Addressing Sheriff</td>
<td>Guilty, 10 pound fine</td>
</tr>
<tr>
<td>11/1766</td>
<td>Henry Childers</td>
<td>Assault and Battery</td>
<td>Guilty, fined and released</td>
</tr>
<tr>
<td>4/1767</td>
<td>Achillis Wright, Menos Wright, Isfou Wright, John Ryan, and Andrew Lackey</td>
<td>Assault and Battery, False Imprisonment</td>
<td>Released, fined 45 pounds each</td>
</tr>
<tr>
<td>7/1767</td>
<td>slaves Sam, Agg, Corey, and Peter of George Seaton</td>
<td>Detained</td>
<td>Imprisonment</td>
</tr>
</tbody>
</table>

Table 5.2 People Imprisoned, Their Crime, and Punishment
<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Crime</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/1767</td>
<td>slaves Sam, Agg. Corey, and Peter of George Seaton</td>
<td>Attempted Murder</td>
<td>Not Guilty, received 40 lashes</td>
</tr>
<tr>
<td>10/1767</td>
<td>John Davis</td>
<td>Debtor</td>
<td>Guilty, imprisoned for a year and a day or until debt is paid</td>
</tr>
<tr>
<td>5/1669</td>
<td>Joseph White</td>
<td>Assault and Battery</td>
<td>Released after bail paid</td>
</tr>
<tr>
<td>6/1769</td>
<td>Samuel Shackleford</td>
<td>Horse Theft</td>
<td>Case Dismissed</td>
</tr>
<tr>
<td>11/1769</td>
<td>Holland’s Negro</td>
<td>Unlisted</td>
<td>Lashed Unlisted Number of Times</td>
</tr>
<tr>
<td>11/1769</td>
<td>Edward Mason</td>
<td>Unlisted Felony</td>
<td>Imprisoned 14 Days</td>
</tr>
<tr>
<td>6/1770</td>
<td>Thomas Burgin</td>
<td>Drunk and Disorderly</td>
<td>Released, fined 45 pounds</td>
</tr>
<tr>
<td>6/1770</td>
<td>Philip Payton</td>
<td>Unlisted Felony</td>
<td>Found Missing from Jail</td>
</tr>
<tr>
<td>6/1770</td>
<td>Patty Daverson</td>
<td>Having a Bastard Child</td>
<td>Child Given to Church, Mother Committed</td>
</tr>
<tr>
<td>7/1770</td>
<td>Mary Morrison</td>
<td>Having a Bastard Child</td>
<td>Child Given to Church, Mother Committed</td>
</tr>
<tr>
<td>8/1770</td>
<td>slave William Moon</td>
<td>Theft</td>
<td>Imprisonment</td>
</tr>
<tr>
<td>3/1773</td>
<td>Stanly Morgan Holden</td>
<td>Fathering a Bastard Child</td>
<td>Child Given to Church</td>
</tr>
<tr>
<td>11/1774</td>
<td>John Hardruk, James Coffee, and Lane Grave</td>
<td>Running Away from Duty of Samuel Woods</td>
<td>52 days more for running away, 18 months and 3 weeks added as restitution</td>
</tr>
<tr>
<td>3/1774</td>
<td>Richard Whitehall</td>
<td>Insulted Taliaferro as Sheriff</td>
<td>Released from Jail, fined 5 pounds</td>
</tr>
<tr>
<td>2/1775</td>
<td>Henry Gilbert, John Gilbert, Josiah Gilberty</td>
<td>Murder of William Kealing</td>
<td>Questioned and Released</td>
</tr>
<tr>
<td>2/1775</td>
<td>Abraham Smith, by Ann Sawson</td>
<td>Abuse</td>
<td>Not Guilty, Ann Sawson Sentenced to three extra months of unpaid work</td>
</tr>
<tr>
<td>5/1775</td>
<td>slave Casar of John Harvie, slaves Pete and Will of Baylor Walker</td>
<td>Congregation and Unlawful Medicine Mixing</td>
<td>Not Guilty, 31 Lashes for Casar and 25 Lashes each for Pete and Will</td>
</tr>
<tr>
<td>2/1776</td>
<td>James Arnold AKA James Hopkins of Alexander Reid</td>
<td>Escape from Prison after Felony Charge</td>
<td>Death</td>
</tr>
<tr>
<td>8/1776</td>
<td>James Arnold AKA James Hopkins of Alexander Reid</td>
<td>Unlisted Felony</td>
<td>Recommitted to Jail to Await Hanging</td>
</tr>
<tr>
<td>9/1776</td>
<td>slave Tom of Morrie Gilbert</td>
<td>Murder of Chole, a female slave</td>
<td>Not Guilty, Lashes and Released</td>
</tr>
<tr>
<td>7/1777</td>
<td>slave Sam of Henry Gilbert</td>
<td>Theft</td>
<td>Guilty, Hand Burnt and 39 Lashes</td>
</tr>
<tr>
<td>3/1778</td>
<td>slave Abraham of David Shepard</td>
<td>Breaking and Entering</td>
<td>Guilty, 15 Lashes</td>
</tr>
<tr>
<td>2/1779</td>
<td>slave Bob of John Martin and slave Robin of James Stevens</td>
<td>Feloniously Administering Medicine</td>
<td>Not Guilty, 39 Lashes</td>
</tr>
<tr>
<td>4/1779</td>
<td>James Jones</td>
<td>Theft</td>
<td>Not Guilty, Released</td>
</tr>
<tr>
<td>4/1780</td>
<td>George Burton</td>
<td>Theft</td>
<td>Guilty, Sent to Richmond</td>
</tr>
<tr>
<td>4/1780</td>
<td>slave Mareh (supposedly of Doett Campbell in Orange)</td>
<td>Breaking and Entering, Theft</td>
<td>Guilty, Recommitted to Jail to Await Hanging</td>
</tr>
</tbody>
</table>
There were only two instances of white servants in the case proceedings. In one case, three servants—James Hardruk, James Coffee, and Lane Graves—had run away from their employer Samuel Woods. They were found after 30 days and brought before the court, where they were all ordered to work for Woods for an additional 52 days for the act of running away, and then another eighteen months and three weeks to repay Woods for his loss of service while they were on the lam (ACC 1764:OB 1:10). This is glaringly unequal treatment. The men were poor white men and even though there were lawyers and they were allowed to retain a lawyer, they would not have had the money to do so, which effected their sentence. This case was ruled over only by the magistrate William Cabell, as was standard, which presents a huge opportunity for a conflict of interest considering that Woods and Cabell would have interacted with each other quite often as gentlemen.

The other case that featured a white servant was Ann Sawson. She was able to complain to the court that the gentleman she worked for, Abraham Smith, was abusing her, and the suit moved to trial in 1775 (ACC 1764:OB 1:10). Like the men discussed above, she could not afford a lawyer either and represented herself, but she was only allowed to plea her case and call witnesses or bring evidence. Smith plead his case as well stating that he did not abuse her, and it was ruled by the magistrate that Smith was not abusing Sawson. Sawson was sentenced to work for an additional three months without pay for Smith after her service ended ACC 1764:OB 1:10). This is another clear example of a conflict of interest, with the gentry siding with the gentry, along with clear sexism by holding a woman to a higher burden of proof of assault than the male perpetrator.

As mentioned in previous chapters, people that were accused of committing a crime had to wait until the court day to have their cases heard. In my research, I found that in Amherst
County the most common case brought against a person was for assault and battery, but these cases were fought between two gentlemen as a civil matter and treated like a suit, not as a criminal charge from the government (ACC 1761:OB 1:10). Suits were only ruled over by the magistrate, which as mentioned above was William Cabell. There were three cases of assault and battery though that did result in the accused being imprisoned: one, Henry Childers started a drunken brawl; two; Achillis Wright, Menos Wright, Isfou Wright, John Ryan, and Andrew Lackey were charged with assault and battery and false imprisonment after trying to mug the sheriff; three, Joseph White got in a fight at a tavern (ACC 1761:OB 1:10). All of them men were released from jail at the next court day and were required to 10 pound, 45 pounds, and only bail respectively (ACC 1761:OB 1:10).

Along with assault and battery suits, the other most common suit was for debt. Tracking the debt charges presented a challenge because hearings for debts brought to the court level were often pushed for several months, and many seemed to have been resolved outside of the court because they were never brought up again or they were requested to be dropped by the plaintiff. For the cases that did make it to hearing, in all but one of the cases I was able to find records of the debtor was simply ordered to pay the debt under threat of legal action, or it was lower by the magistrate (ACC 1761:OB 1:10). There was only one recorded case of a white man actually being sent to the jailhouse as a debtors prison in 1767, where he was ordered to spend one year and one day in the jail while attempting to repay his debts for early release (ACC 1761:OB 1:10).

The only instances found in the archives of white women facing criminal charges were for adultery and having a child out of wedlock (ACC 1761:OB 1:10). There were two cases of women (Patty Daverson and Mary Morrison) having children out of wedlock, and both of them were forced to give their baby to the church and pay an unspecified fine. In a separate case, a
man (Stanly Morgan Holden) was charged as an adulterer and the child was sent to the church, which leads me to believe that the mother died in childbirth since she was not otherwise mentioned (ACC 1761:OB 1:10). I could not find the records of what happened to the children after they were sent to the church, so it is unclear if they became wards of the church or if the parents were allowed to raise their children after the fines were paid.

There was one person that was noted as having escaped from the jail, James Arnold. He was an enslaved man that was owned by Alexander Reid, and was previously imprisoned for an unnamed felony. He was caught living under the alias James Hopkins and was returned to Cabellsville where he was tried for escaping jail; he was found guilty and sentenced to hang for the escape in 1776 (ACC 1761:OB 1:10). I could not find the record of his death, but he was not mentioned again in the orderbooks so I assume he was indeed hung. He was not the only person hung at Cabellsville. There was another enslaved man named Mareh that was hung for breaking and entering and theft of a dairy in 1780 (ACC 1761:OB 1:10). As mentioned above in Chapter Two, counties were only permitted to try capital crimes for enslaved people (Cox 2003; Rankin 1958). There was another case of a horse theft by a gentleman (Samuel Shackleford) that would have been a capital crime, but the case was dismissed before he was sent to the General Court (ACC 1761:OB 1:10).

There is a silence in the record of escaped people though. Besides James Arnold, there were no records of people who escaped the jail or enslaved people that escaped in the order books. However, there were newspaper ads taken out by gentlemen of Amherst County showing at least ten enslaved people escaped (Amherst New-Era Progress [NEP], 28 April, 2011). Coupled with the records of James and the three servants that were caught after escaping, I argue that they only recorded subsequent captures and not escapes. This means that there may have
been many more people that escaped imprisonment, but were lucky enough to never be caught. This also explains why some records have it noted when a person is released from jail, and others do not.

There were two separate incidents of enslaved people being arrested for creating medicine unlawfully. In the first case, Casar, Pete, and Will were also charged with congregation because there was a law against more than two enslaved people gathering together in 1775 (ACC 1761:OB 1:10). They were found not guilty of either charge, but Pete and Will were given 25 lashes each, and Casar was sentenced to 31 lashes as the leader of the group (ACC 1761:OB 1:10). The other incident of medicine creation was very similar with Bob and Robin being found not guilty of the charge, but still being sentenced to 39 lashes each in 1779 (ACC 1761:OB 1:10).

An interesting thing noted was that even if enslaved people were acquitted of the charges brought against them or if the charges were dropped, they still faced a judicial punishment. The most common punishment handed down by the legal system was public lashings. Besides the two cases mentioned above, Sam, Agg, Corey, and Peter were charged with attempted murder of their owner George Seaton in 1767 (ACC 1761:OB 1:10). They were also found not guilty, but once again still sentenced to 40 lashes at the public whipping post (ACC 1761:OB 1:10). This case is also particularly interesting because Agg was a woman and she was sentenced alongside the men in the case. The presence of slavery is a clear indicator of racism in the legal system, but the act of punishing enslaved people after being found innocent is another very clear example of institutionalized racism.
Jailhouse Construction, Repairs and Reconstruction

The first record in the order books is the order for Cabellsville to be built (ACC 1761:OB 1:10). It details the list of structures, the exact cost of construction, and the fact that William Cabell paid to have it constructed, however, it does not detail who built it (ACC 1761:OB 1:10). The same goes for who actually did the upkeep work on the official roads that ran adjacent to properties that owners were charged with (ACC 1761:OB 1:10). These are two instances of silences in the narrative. As mentioned in the history of the colony (Chapter Two), backcountry areas relied heavily on slave labor to work the plantations, so free black people and poor white servants were relatively rare. With this information, I can assume that William Cabell did not personally build the civic structures, but instead tasked the enslaved people he owned with it.

An unsuspected discovery was that there were not three iterations of the jail house as previously recorded, there were at eight used during the colonial era (ACC 1761:OB 1:10) (Table 5.3). There was only one amateur historian, Lee Marmon, who had investigated the archives before I began my research, so my initial knowledge was based off of his findings which were deemed to be incorrect (Marmon 1989). This explains the massive amount of brick rubble found across the entire yard area by the property owners; there were many more structures present than previously thought (see table below for full list).

Every time a new jail was constructed, the iron fittings from the old one were taken and sold to be reused (ACC 1761:OB 1:10). This means that the old buildings were most likely fully dismantled, which explains why there are no extant structures. This also creates the possibility that buildings were superimposed through the years, which would also help explain why the physical remains of the jailhouse found at site was so badly torn up.
One iteration of the jail actually was not a new structure, it was in someone’s basement. The “Late Col. Reid’s house” is identified as the temporary holding place for imprisoned people in 1769 because the jailhouse constructed in 1768 burned (ACC 1761:OB 1:10). Though property record research, I discovered there were two colonel’s Reid in Amherst County, John Reid the father and Alexander Reid the son. Both were landed gentlemen and Alexander Reid appears often as a member of the court in the order books, so he was a very prominent member of society. Since he was alive at the time and his father was dead, I can assume the passage was in relation to John Reid. However, John Reid owned thousands of acres across central Virginia with multiple homes, and traded property often, so I currently cannot pin down exactly which house was used as an interim jail.

<table>
<thead>
<tr>
<th>Date</th>
<th>Jail</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1768</td>
<td>34 x 16 foot jail built to replace original</td>
</tr>
<tr>
<td>3/1769</td>
<td>Late Col. Reid’s house used as jail, last one burned</td>
</tr>
<tr>
<td>3/1769</td>
<td>New jailhouse ordered</td>
</tr>
<tr>
<td>2/1774</td>
<td>Repair request for jailhouse</td>
</tr>
<tr>
<td>2/1774</td>
<td>Repair request for jailhouse</td>
</tr>
<tr>
<td>5/1774</td>
<td>Repair request for jailhouse</td>
</tr>
<tr>
<td>6/1774</td>
<td>New wooden jailhouse to be built</td>
</tr>
<tr>
<td>11/1774</td>
<td>New brick jailhouse to be built, 20 x 12 feet</td>
</tr>
<tr>
<td>3/1777</td>
<td>Repair request for jailhouse</td>
</tr>
<tr>
<td>3/1778</td>
<td>Repair request for jailhouse</td>
</tr>
<tr>
<td>9/1778</td>
<td>New jailhouse ordered</td>
</tr>
<tr>
<td>5/1780</td>
<td>Sheriff paid to move people to new jailhouse</td>
</tr>
</tbody>
</table>
Chapter Six: Interpretation and Discussion

Looking for Meaning in Absence

The biggest theme of my research has been a large absence—be it the lack of artifacts, lack of context in the archives, or lack of a complete written record. Unfortunately, it is impossible to know exactly what and how much information is missing, and which silences were created from the nothingness. However, constructivist theory presents a way of narrating the past in the face of silence and absence in the present.

According to Trouillot, there are four moments of silencing: the making of sources, the creation of archives, the making of the narrative, and the creation of history (Trouillot 1995: 28). In the case of Cabellsville, the first moment was when the gentlemen of the court decided what was worthy of being recorded, and what was to be left out. The second moment was when the powers that be determined that these day books and order books needed to be preserved, and they created an archive. The third moment is more modern, it was when Lee Marmon gathered information for his book, but also when I gathered information for this thesis. The fourth and final moment is this thesis and my findings.

These moments of silence are all related to power. Power creates silences in the past, and power in the present can perpetuate those same silences. By leaning into the silences and investigating why something is missing, the power structures are revealed and this provides vital information about past societal values. For Cabellsville, power all revolves around white male landowners; they created the sources, they created the archives, they tried to construct a
narrative, and history has largely been told from their perspective. This is not new knowledge, especially in anthropology, but my research has helped to expose some of the silences at Cabellsville and silences in archaeological records that can be widely applied.

For the making of sources, the thing that is most notably absent from the written record is the presence of enslaved people. They are only mentioned if there is a court ordered aging or if they are accused of committing a crime, and only by name in the latter situation (ACC 1761:OB 1:10). As mentioned in the previous chapter, there are ample records of tobacco and hemp lots being assessed and which stretches of roads gentlemen were tasked with managing, but there is no mention of the people who actually did the work. Gentlemen did not do physical labor, so these jobs mostly fell on their enslaved workforce, who were subsequently silenced in the written record. Without names, we cannot track who worked on what project and who would have had contact with each other, or understand their social networks. The people who wrote the court records did not view the enslaved people they owned as actual people, so they saw no need to record who exactly they were.

While there were a few mentions of the working-class white people in Amherst County, the records do not reveal much about their lives either. We have their names, but we do not know what their jobs were. At least two people treated their servants bad enough that they tried to be removed from their service (see Chapter Five). I sincerely doubt that these were the only two instances of mistreatment, and that the servants were not further mistreated when they returned to service.

This same idea of looking at what is missing in the written record can be applied to the archaeological record. While glass was found at the site, it was all bottle glass that was very utilitarian and there was a distinct and noticeable lack of window glass. The jail house would
have had window holes, but the lack of window glass shows that this was not an enclosed structure, and therefore imprisoned people were exposed to the elements. The summers are brutally hot and the winters are bitterly cold, and no protection would have been provided from these conditions. While this seems cruel and unusual, according to Prison Policy Initiative (2019), at least of half of all Virginia prisons still have no climate control as of 2019. It appears the new Amherst County jail has exterior windows, but it is unclear if it is climate controlled, but the Madison Heights (20 miles south) jail is not climate controlled and does not have visible windows as of 2019.

The second moment of silencing was the saving of the archival records. The records have been shifted from one home to another over the years, including private residences, and this constant shifting is why so many books are lost or damaged beyond recognition. People recognized that this information was supposed to be saved, but their attitudes towards records of civic activity and imprisonment records was very non-committal. I even found one original order book under a pile of papers in a back closet. This attitude mimics modern attitudes towards imprisonment, in which the general public would prefer to not acknowledge its existence. “Out of sight, out of mind” is the common view on imprisonment, and this is shared by people that have the power to order prisons to be constructed in the middle of the Mojave Desert or a rural Appalachian valley.

As mentioned above, the third moment of silencing was twofold; it was when Marmon was researching Cabellsville and when I was researching Cabellsville. While Lee Marmon is the only other person who has written about Amherst County history, he is not highly regarded in the area by locals or academics because he was an amateur that tended to misrepresent history. Marmon made no reference of the enslaved presence in Amherst County, which shows his lack
of attention to detail and acknowledgment of the silences I am trying to expose (Marmon 1989). This is a very egregious example of silencing because Marmon was a middle-class white male that focused solely on the experiences of a select few upper-class white males at Cabellsville, and mostly the Cabells themselves. He aggravated the silences of disenfranchised people, and unfortunately his is the only work so far available on the history of Amherst County, so anyone doing research will be exposed to his ideas of the past.

Contrary to Marmon’s research, the first goal of my research was to look for silences that can be used to further expose power structures and daily life as it relates to imprisonment and criminality. I specifically sought out information on the enslaved people and how their social status effected their criminality, information on how poor white women conceptualized imprisonment and criminality because they were not allowed to be imprisoned, and how this multi-tiered narrative created different ways imprisonment and the jailhouse effected daily life. It was quite interesting to find that both enslaved women and enslaved men were punished in the same way, because all the previous works I had read on imprisonment and women had only discussed white women, or were dated much later and showed black women being held to different standards. I exposed this silence while creating my narrative of the jailhouse of Cabellsville, and added to the existing knowledge of what imprisonment and criminality meant to multiple groups of people.

The creating history moment of silence is still ongoing. I am actively trying to address the silences through this thesis, most notably engendering prison experiences and racializing criminality, but more work needs to be done. The written records are severely lacking, there are few artifacts to be found in the archaeological record, and oral histories have been hard to come
by. More work needs to be done to properly discuss criminality in a wider context, but this thesis is a start.

**Women’s Words, Women’s Lives**

In the previous chapter, I brought up Ann Sawson and her suit against her employer Abraham Smith for abuses. This case perfectly exemplifies silences around women’s experiences.

In the age of #MeToo, people are becoming more and more aware of the fact that women are chronically silenced, and their experiences are not believed. Ann was brave enough to complain about her employer, and as far as my research indicts, she was the only woman to do so. She went through her only legal avenues and had to fight against a corrupt system that did not help her get legal representation, allow her to bring witnesses, present evidence, or do anything but state her claim that she was abused (ACC 1761:OB 1:10). Her abuser was judged by his peers and had to present nothing more than stating that he was not abusing Ann for him to be believed (ACC 1761:OB 1:10). This shows that woman always start off on a lower rung on the ladder and have to fight uphill with the burden of proof just to be believed.

A fact that other archaeologists bring up about female criminality is that women had to face sexual violence while imprisoned (Casella 2009; De Cunzo 2006; Spencer-Wood 2009; Spencer-Wood and Baugher 2001). Ann was not imprisoned in the jailhouse, but she was forced to work for a man against her will which is a type of imprisonment. We know that men had sexual relationships and abused the enslaved women they owned, so there is the very distinct possibility that Ann was sexually abused as a servant. This may have been her original complaint in court too, but it was never recorded what exactly she said so we will never know. I tried to find more records of her to see what happened, but I was unsuccessful. That does not mean that
she died shortly after this, she could have lived a long happy life, but more work needs to be
done to fully showcase her story.

**The Good Old Boys**

Something else that is not noted specifically in the records but that is glaringly obvious is
that there was a core group of gentlemen in the county that were very involved in the legal
system. William Cabell, Alexander Reid, Frank Higgenbotham, George Stovall, Zacharias
Taliaferro, Gabriel Penn, Henry Loving, Thomas Moffitt, Henry Key, Abraham Smith; those are
all men that were the gentlemen that proceeded over court days, and were the ones responsible
for most of the suits brought up (ACC 1761:OB 1:10). Even if they were not friends in the
traditional sense, these men interacted a lot and had the same common interests, namely
exploiting the enslaved people they owned and collecting the most amount of money possible for
from everyone else.

These are the men that made laws, were lawyers arguing said laws, judged cases against
those laws, and handed out punishment when they felt the law was broken. These were also the
men that were the jury for felony cases; not exactly a jury of your peers for most people. The
British Colonial legal system did not have that concept, but this is still a large overreach of
power by a select few. This is perfect example of how gender, race, and class shaped criminality,
and created a privileged state of criminality for wealthy white men, which is something that still
exists today.

**Prisoners of a Different War**

Building off of the idea of the first moment of silencing, the actual builders of the civic
structures at Cabellsville are unknown because their names were not recorded. The order books
have the work orders recorded and the name of the gentlemen that were awarded construction
contracts for the various iterations of the jail, but not the enslaved people who actually did the work.

However, I was able to assume that the work crew that built the courthouse also built the first jailhouse, because they were ordered at the same time, and they would have used the same stock of bricks as well. This is particularly interesting information because there was only a singular work order found for the courthouse (replacing a window (ACC 1761:OB 1:10)) and the structure stood solidly until 1917 when it burned down, but there were at least eight and possibly more versions of the jailhouse. The various jailhouse structures were also allowed to degrade to the point that imprisoned people could easily escape through the crumbling walls (a common complaint by sheriff Taliaferro (ACC 1761:OB 1:10)), which only took about a year, before a new one was constructed near the old one. These structures also saw much less use than the courthouse building just due to the relatively low number of imprisoned people to general court goers.

To put it plainly, two structures that were made with the same materials, in the same location, by the same people had two vastly different life spans for an unexplained reason. One of those structures saw near daily use by a large amount of people, while the other was rarely occupied by a few people, and yet a regular occurrence was the less occupied one standing for barely a year before the sheriff requested funds to improve it (ACC 1761:OB 1:10). The following series of structures had the same fate as the first, with funds being required for upkeep, repair, and reconstruction nearly bimonthly (ACC 1761:OB 1:10).

This oddity raises a question: why did the courthouse stand for so long, while the multitudes of jailhouses consistently fall? One possible explanation is that is was just happenstance. Building materials were not regulated at the time, and the enslaved workforce
could have been highly unskilled. Local clay is very solid, but it is easy to make mistakes when making a lot of bricks. But if that is the case, why did the courthouse that was built with the same shoddy materials and by the same unskilled labors last for over 150 years with no recorded issues?

Another possible explanation is a little more subtle. After discussing my findings by happenstance with a retired military officer, they presented the idea that the jailhouses were built purposefully in a state of degrade so imprisoned people could escape more easily (personal communication 2019). This theory stems from the Prisoner of War Code of Conduct and the SERE (Survival, Evasion, Resistance, and Escape) training course all recruits are required to pass. The Code of Conduct has six articles, and Article III states “If I am captured I will continue to resist by all means available. I will make every effort to escape and to aid others to escape. I will accept neither parole nor special favors from the enemy.” The Code of Conduct is publicly available online through a variety of sources, but there is another confidential-ranked manual that instructors use while teaching the class. This manual has no recorded author or date of publication and cannot be accessed without security clearance, but it is taught to the class indiscriminately regardless of gender, ethnicity, economic status, or sexuality of those in attendance or of the instructors.

According to the officer, in this manual, it clearly instructs captured POWs to engage in passive resistance by purposefully poorly constructing prison camps. This serves two purposes: physically speaking, at best it gives you a chance to escape, or at worst it makes you still useful to your captors so they keep you alive; spiritually speaking, this small act of fighting back against the people that own you builds the inner strength needed to keep fighting. The officer said that the mental resilience aspect was stressed more than anything because of the effects on
the situation at hand, and the effects it had for the POWs when they do get to return home. They said it kept spirits up because you felt like you were still fighting and had not just given up and accepted your fate; you refused to have your identify taken and would remain true to the POW code and “will continue to resist by all means necessary,” even if those means were malicious compliance.

This hypothesis revolves around ideas passive resistance. Passive resistance is small acts or thoughts done by members of lower social classes that challenge those in power, but not in a overt way (Ong 2010; Scott 1985). A key part of passive resistance is that it needs to be subversive; the acts need to be normal acts that could be seen as continuing the status quo, but they are actually challenging it by questioning its existence (Ong 2010; Scott 1985). Active resistance would have been acts similar to Harper’s Ferry rebellion, but something as simple and innocuous as poorly laying bricks or incorrectly mixing mortar are prime examples of passive resistance.

What gives this hypothesis more credence is the fact that it appears mostly enslaved people were imprisoned for extended amounts of time (beyond a few days for holding pending charges), and the escapee was an enslaved person (ACC 1761:OB 1:10). There was also a jailbreak of several enslaved people in nearby Goochland County (NEP 2011). We cannot know what the enslaved people were thinking when they set the bricks for the jailhouses, but considering that their positionality branded them as criminal from birth, it is not a far stretch to posit that they knew they would have a strong chance of being imprisoned, even just for talking in a group of three (ACC 1761:OB 1:10).

Other acts of passive resistance are seen in the area with the few remaining letters the enslaved people of Poplar Forest sent Thomas Jefferson that are stored at the plantation. One in
particular by a woman named Hannah consisted of her apologizing for writing to him as a poor, feeble minded, lowly enslaved woman, and she wished him health and wellness, but also simultaneously asked for her nephew to be moved to be taught a trade. The letter reads very much so of purposeful self-deprecation in order to win favor, a common tactic of passive resistance and manipulation discussed by James Scott in his *Weapons of the Weak* (Scott 1985).

Jefferson stopped at Cabellsville many times as it was the halfway mark on the only road between Monticello and Poplar Forest, his two homes, and in his early days he practiced law there (Lichtenberger 2015). It is unknown if he travelled with enslaved people and if he had, if those people had contact with the enslaved people of Cabellsville, but Cabellsville could have been the contact zone for passive resistance to spread from one group of people to another.

Passive resistance is hard to identify because it is acted in such a subtle and insidious way so that those in power could not recognize it, but that also means researchers have difficulties recognizing it too. I could not recognize the acts of the jailhouse builders as passive resistance until someone who was trained in similar acts shared their experiences. This perfectly illustrates why more ethnographic and community-based research needs to be done. There is the possibility that oral histories still exist in and around Amherst County of the enslaved people who built the jailhouse, and hopefully through further research those stories can be told and shine light on what occurred during construction.

An issue researching this topic that I came across, and why I had to turn to sources outside anthropology is that most of the research on architecture centers around architecture of control or hostile architecture (Moore 1996; Petty 2016; Starolis 2020). These studies show architecture from the view of the people who designed and ordered the construction of institutional buildings that purposefully were meant to control people, but the people ordering the
construction of the jail and the people that were imprisoned in it were in two very different
classes. The only gentleman that was charged with a criminal case was William Giles who did
not address the sheriff properly, and he was simply fined and released (ACC 1764:OB 1:10). I
argue that the gentlemen of Amherst County made the laws and decided on how to apply those
said laws, and it is very unlikely that they would send their friends and fellow gentlemen to jail.
Even Giles was released without incident, when other people who were found to be not guilty
were still punished. I argue that research needs to be on the people who actually did the physical
work because they had agency while working, and could have tried to resist in any way they
knew how.
Chapter Seven: Applications and Future Research

Racialization of Imprisonment

*Being Born Immoral in the Time of the Prison Industrial Complex*

The most significant discovery from my research is the possibility that acts of passive resistance were happening at Cabellsville by enslaved people that mimic acts of passive resistance of POWs. This is a large gap in knowledge that deserves to be further investigated so as to flesh out the connection, if one does actually exist at all. Unless there is direct confirmation that that was happening, it will be hard to prove, but I do firmly believe that it is worth investigating nevertheless.

While that is highly significant, the finding most applicable to the US in 2020 is that the criminal justice system is built upon the idea of inherent immorality in African American people. I am not the first person to say this by far, but I am adding more information to the growing argument of the immorality of laws. Just talking together was a severe enough crime for three African American people to be sentenced to public whipping in the 18th century (ACC 1761:OB 1:10). While we do not do public whippings anymore, African American people are still unfairly targeted for loitering and hanging out together today as part of the Black Thug trope (Kendi 2016). Even the smallest laws have roots in inherent racism.

These laws are not seen as racist of even problematic because their origins are purposefully hidden. Alexander puts forward this concept racist ideas changing masks over time so them seem different, but it is always the same concepts couched in different terminology.
(Alexander 2012). This is the main idea of the New Jim Crow, but the same concept applies to laws and criminality in general, not just felony drug crimes. Anthropologists are well situated to take a critical lens to the origins of all laws, not just to bring to light their racist, classist, or sexist nature, but to develop a new method of handling criminality.

Call It What It Is

A controversial talking point right now are the African American people being killed by police. Sometimes these are people that are innocent bystanders (Atatiana Jefferson, Botham Jean), sometimes they may have possible engaged in citation-level wrong doing (Tamar Rice, Philando Castile), and sometimes they were engaging in illegal activities but were not a threat to officers (Eric Garner, Laquan McDonald). No matter the reasoning of the officer or the circumstances of the situation, people always argue that it was justified/not justified and if it was racist/not racist. Beyond the arguments, African American men face a 1:1,000 chance of being killed by police, and this is a clear problem (Edwards, Lee, and Esposito 2019). This discrimination is no different than that faced by Ann Sawson, Casar, Pete, and Will, or Mareh; all of these people were trying to break free of oppressive structures or were just talking together or even did commit a minor crime, and paid dearly for it. Again, I am not the first person to say that this belief is still prevalent in our society (Alexander 2020; Kendi 2016), I just argue that this belief needs to be studied further in historic contexts to determine how it has morphed into the present.

My research at Cabellsville shows that race, class, and gender all worked together to create privileged criminality for the rich white gentlemen of the county, and it left everyone else fighting an uphill battle simply to exist in their world. While the US tried to move away from colonial rule, clearly aspects of criminality were brought forward too.
Future Research

My research not only added vital knowledge to the meager body of literature on imprisonment, but it revealed telling information about how the people that 18th century conceptualized their role in the criminal justice system. Most prominently, that the people who built the jailhouses possibly knew they were going to be the ones that spent the most amount of time there, and so they tried to help their future selves by making it that much easier to get away.

Like I said before, it is possible that this explanation of passive resistance in the jailhouse is wrong, but that it is impossible to tell just from the archaeological record or the archival record as it is right now. Moving forward, I want to do a full open-area excavation of the Cabellsville site where the multiple jailhouses would have been located in order to find more artifacts that could paint a more conclusive picture of the past. There could be subfloor pits, trash middens, or a variety of artifacts that could show if people planned to stay in the jailhouse long term and deal with the elements, or tools that could help with the breakdown of the physical structure to help escape. I also want to conduct ethnographic work with the African American descendant community in the Amherst area and beyond to look for old stories and family legends that could point in one direction or the other on how people constructed jailhouses. There is the very real possibility that oral histories still exist of people who built the jailhouses at Cabellsville or in other areas of Virginia, and those stories could hold the answer to my question.

There is a lot of work to be done to correct inequalities and racial disparities within the criminal justice system and this means that my research is now more important than ever. I propose that anthropologist need to study this more because we can make real changes and help real people, and at the heart of it, that is why we do what we do.
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