

Race, Socioeconomic Status (SES) and the Texas Prison System

The implications of racial and socioeconomic composition across every area of society needs attention, especially in cross-disciplinary study. Looking no further into the Texas prison system, these two factors caused disparities among incarcerated people. Even in a specific time like the 1870s to 1910s, these consequences are applicable in contemporary policymaking, interdisciplinary research, and discussions. Engaging with the economic conditions of all populations involved, this study includes multiple case studies connected to the political and social consequences of the societal structure of the Texas prison system from the 1870s to the 1910s.

Sociological literature imparts a framework on understanding socioeconomic status. Even in a modern context, application to historical context is practical. Prison policy developed by the federal and Texas legislatures perpetuate a cycle of poverty and imprisonment and continues to do so in modern times.¹ Communities lacking quality education, an accessible job market, consistent transportation and housing, and efficient healthcare, ultimately have a high number of poor Black convicts, constituting the most leased out in the prison system.²

Under the United States and Texas Constitutions, defendants hold a right to pro-bono legal counsel. This does not always provide equal justice for all, unlike what the nation and state pride itself on. Lawyers provided for these defendants are under-qualified and underpaid, providing little “equal justice.”³ Many poor individuals – especially those with intersectional

¹ While this data focuses on the modern criminal justice system, this information is useful when examining the beginnings of the prison system in Texas and its pitfalls. Source: “Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned,” Prison Policy Initiative, published July 5, 2015.

² Bernadette Rabuy & Daniel Kopf, “Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned,” Prison Policy Initiative, July 9, 2015.

³ The intersectionality among those of socioeconomic status emerges later in this paper. Source: Edward Cary Royce, *Poverty and Power: The Problem of Structural Inequality* (Maryland: Rowman & Littlefield, 2008), 242-245.

race and gender identities – do not receive a fair hearing and generally do not receive the “benefit of the doubt.” These norms, values, and otherwise culture of middle-class lawyers, juries, and judges diverge from the circumstances of those living in poverty.⁴

Across the New South, the planter, or wealthy, class held superiority in the Texas economy. After the Civil War, economic subjugation of Black Texans continued in the form of sharecropping, and later cash rent. Planters saw meager returns on land and held meetings on reducing costs of cotton

cultivation.⁵ The director of the Georgia Experiment Station testified that planters could not get much advantage of their laborers, as they were a fundamental part of the system.⁶ These problems arose through



Figure A: A color reproduction of a painting by William Aiken Walker titled "Sharecropper on a Mule." Citation: William Aiken Walker, *Sharecropper on a Mule*, 1878-1920, Painting, Louisiana Digital Library, The Historic New Orleans Collection: Williams, Research Center, <https://louisianadigitallibrary.org/islandora/object/hnoc-lph%3A695>

absentee landownership, leading to owners turning land over to tenants. The owners’ objectives changed: since saving a large portion of land would return a profit, they made space for another tenant simply for increased cotton growth.⁷ The growth of cash tenants increased substantially in the Black Belt from 18,000 in 1800 to about 59,000 in 1900, continuing the cycle of poverty

⁴ Royce, *Poverty and Power: The Problem of Structural Inequality*, 242-245.

⁵ Edward L. Ayers, *The Promise of the New South: Life After Reconstruction* (Oxford: Oxford University Press, 2007), 200-201.

⁶ Ayers, *The Promise of the New South*, 200-201.

⁷ Ayers, *The Promise of the New South*, 201-202.

unlike. shared tenancy and owner-occupied farms.⁸ The market dominated a tenant's life since they only had their money crop and a small garden compared to landowners. The price of cotton, availability of labor and land, and rates of credit loomed over their livelihoods.⁹

Latine Texans also bore many of the implications because of these oppressive societal structures and assumptions. Juan Crow laws in Texas created legalized segregation of Latine Americans and prohibited interracial marriages. According to White Texans, ethnic Latine residents did not merit the privileges and rights of American citizens, despite legal citizenship and their long, rich history in the state.¹⁰

In post-Civil War Texas, the bonds of whiteness, alongside barriers towards BIPOC Texans, began disintegrating.¹¹ Record numbers of white farmers excluded from voting due to poll taxes and subjected to tenancy created novel developments in early twentieth century race and class relations.¹² Compared to the Black and Latine prisoners, white convicts received lighter work and quotas, lower security classifications, higher-status inmate jobs, and fewer whippings, concluding that white Texans held much more privilege than BIPOC and Latine Texans.¹³

⁸ Class conflict, as further discussed, among White landowners defined much of southern society, but unity in agriculture remained regardless of the effects of this class conflict. Farmers owning their land mattered intensely. Owner-operated farms grew as much for household use as for other transactions and held connections with institutions like blacksmiths, merchants, and mills. Sharecroppers did not have these luxuries and lived barely on the money from the cash crop. Ayers, *The Promise of the New South*, 202.

⁹ Ayers, *The Promise of the New South*, 203.

¹⁰ What must be mentioned here is that, due to time constraints on the paper, further research is needed for future iterations of this paper, especially on the economic and political conditions of Latine Texans. This is significant because their history deserves recognition alongside recorded BIPOC history during this time. In future editions, more information on Latine Texans will be accessible. Monica Muñoz Martinez, *The Injustice Never Leaves You: Anti-Mexican Violence in Texas*, (Boston: Harvard University Press, 2018), 16.

¹¹ BIPOC is the acronym Black and Indigenous people of color. Throughout the paper, the author uses BIPOC, Black, and indigenous interchangeably when discussing Black and indigenous Texans, avoiding more clutter in sentences than warranted. In this paper, however, the separation of Latine Texans reflects respect for the racial diversity of the community. Many Latine people are people of color, but otherwise labelling all as BIPOC obscures the diversity of the community. It is a topic concerning the author's work as a White author and these conversations are necessary, among all research pertaining to race/ethnic studies.

¹² Robert Perkinson, *Texas Tough: The Rise of America's Prison Empire*, (New York: Henry Holt and Company, 2010), 172.

¹³ Perkinson, *Texas Tough*, 247.

The statistics provided from census records, tax records, and jail logs are helpful in creating connections between data and historical context. Information in each record provides illustrations of these peoples' lives, their influence on their communities if any, and how the prison system interpreted the crimes they committed. In each county's jail docket, there is critical data distinguishing each convict from one another, including nationality, offence, and their discharge process. The data demonstrates how compelling socioeconomic status, and its indicators are in the foundation of the Texas prison system, as it gives powerful connections alongside tax records on how much wealth an individual accrued.

In many cases, it demonstrates the conceivable influence those with wealth had in the criminal justice system, and therefore the rest of southern society. Likely, intersectionality plays a formidable role in this influence, as most individuals in Texas who had wealth could "pay themselves out" of a punishment from a crime.¹⁴ The composition of these people disproportionately benefitted white Texans in particular.

In Erath County, the total population in 1870 was 1,801, with 1,782 of the population composed of White people and the remaining eighty-nine being people of color.¹⁵ In Young County, the total population equated to 135, with four people of color and the remaining 131 being White.¹⁶ Between 1879 and 1880, Erath County jail dockets record 223 of the 1,801

¹⁴ While this is more sociological in nature, the study of power in sociological literature is very influential to the study of historical periods like Post-Antebellum Texas and even Texas in the present day. Sociological principles and theories are applicable across our studies in history and much of this study relies heavily on sociological literature and statistics from government documents, providing an argument and even a story in drawing upon implications of socioeconomic status and intersectionality in the Texas prison system, regardless of when you study.

¹⁵ Ninth Census of the United States (1870), Erath County, Texas, "Population Statistics," (Table III).

¹⁶ Ninth Census of the United States (1870), Young County, Texas, "Population Statistics," (Table III).

arrested.¹⁷ James Purdue was arrested for theft of a horse on July 19th, 1879 by Deputy Sheriff W.B. Slaughter, and discharged on July 28th, 1879, on bond.¹⁸

On different documents, James utilizes the initials J.H., J.D., or J.R., indicating he either went under multiple aliases, had his second initial transcribed incorrectly across the documents, or is not the same individual. Multiple individuals with the same name created some difficulty in locating the individual most likely associated with the jail logs, but the closest is James R. Purdue, born in Erath County, but living in Wise County.¹⁹ Aged forty-three according to the 1900 census, he was born in May 1857 in Virginia, married to Bettie Purdue with eight children, and worked as a farm laborer.²⁰ Purdue was also white, contributing strongly to his status and privileges in Texan society.²¹

Since there were no bondsmen in Texas during this time, Purdue either relied on accumulated wealth or funds from another individual in covering this fee. Examining tax records provided by Erath County in 1879 and 1880, Purdue, under the initials J.H./J.D. respectively, show signs of wealth in the county. In 1879, Purdue owned one carriage worth fifteen dollars, one horse worth twenty-five dollars, and two cows' worth ten dollars.²² In 1880, Purdue owned one carriage worth fifteen dollars, two horses worth forty dollars, and two cows worth ten dollars.²³ Both tax rolls indicate Purdue had accumulated some wealth, especially with his ownership of horses and cattle, giving evidence towards his action of paying off the bond according to the logs.

¹⁷ *Final Jail Logs in Erath County (1880s-1910s)*, September 20th, 2020

¹⁸ *Final Jail Logs in Erath County (1880s-1910s)* (September 20th, 2020).

¹⁹ Slaughter's name does not come on any records, warranting the use of his initials. Twelfth Census of the United States (1870), Wise County, Texas, Schedule One (Free pop.).

²⁰ 1900 Census, Wise County, Texas, Schedule One (Free pop.).

²¹ 1900 Census, Wise County, Texas, Schedule One (Free pop.).

²² Texas County Tax Rolls, Erath County (1879), pg. 101.

²³ Texas County Tax Rolls, Erath County (1879), pg. 101.

In Young County, an interesting case arises with Duncan Brinkley. In the tax roll, Brinkley's name follows the initials J.W. or (D.W. in the census records), indicating, like Purdue, he either held an alias or is not the same person. However, Brinkley is the only individual on all records that hold that last name. Born in January 1871 in Texas, he lived in Dewey, a town in Day County, Oklahoma according to the 1900 U.S. Census.²⁴ Aged twenty-nine years and married to Sallie E. Brinkley, he worked as a stock herder.²⁵ Brinkley had three children, a domestic servant, and a boarder living with him according to the 1900 census.²⁶

He was a white man, contributing to the privilege he had in the criminal justice system like Purdue, unlike Black and Latine Texans, but the domestic servant living with him also brings up a substantial element of the conversation. In the turn of the twentieth century, immigration grew, especially those from southern and eastern Europe.²⁷ Between 1900 and 1915, more than fifteen million immigrants arrived in the United States, and many immigrants coming from eastern and southern Europe, especially Italy, Poland, and Russia found difficulty in adjusting to American culture.²⁸ Domestic work, while performed by young, single women, attracted few American citizens due to close supervision, long hours, low socioeconomic status, and lack of freedom.²⁹ On top of that, domestic workers often were poor, causing a lack of

²⁴ Twelfth Census of the United States (1900), Day County, Oklahoma, Schedule One (Free Pop.).

²⁵ 1900 Census, Day County, Oklahoma, Schedule One (Free Pop.).

²⁶ 1900 Census, Day County, Oklahoma, Schedule One (Free Pop.).

²⁷ While many of these immigrants were "white-passing," they contribute much significance to the discussion of socioeconomic status, as they, like the BIPOC Texans affected by society after Jim Crow laws, the Black Codes, and other discriminatory strategies – both explicit and implicit – benefitted much less from society and would later become desperate for work, most times keeping them in a lower status because of anti-immigration sentiment, racism, and other bigotry encouraged by groups following nativism, like the Ku Klux Klan and the White League.

²⁸ "Immigrants in the Progressive Era," U.S. History Primary Source Timeline, Library of Congress, accessed October 3, 2021, <https://www.loc.gov/classroom-materials/united-states-history-primary-source-timeline/progressive-era-to-new-era-1900-1929/immigrants-in-progressive-era/>.

²⁹ *Chicago Historical Society, s.v. "Domestic Work and Workers,"* by Daniel A. Graff, accessed October 3, 2021, <http://www.encyclopedia.chicagohistory.org/pages/386.html>.

housing, or were excluded from other occupations, prompting the disproportionate number of immigrants and Black Americans performing domestic work.³⁰

On April 12th, 1892, Officer M.D. Lasater arrested Brinkley on a general charge of theft and burglary.³¹ Lasater's full name could not be found on any records, warranting the use of his initials. Subsequently, Officer Lasater would arrest Brinkley on two other charges of theft and burglary on July 15th, 1891, and on August 12th, 1891.³² In the first two incidents, officers discharged Brinkley on a fine. On August 12th, however, Lasater carried Brinkley to the penitentiary and would stay there until discharge on November 12th, 1891.³³ In the 1890 Young County tax rolls, Brinkley owned five horses, equating to \$116, and six hogs, equating to six dollars. He also owned ten dollars in miscellaneous property.³⁴ However, in the 1891 tax rolls, it seemed he held nothing in his name.³⁵ Why is this the case? Were his claims in the 1890 tax rolls on stolen property and livestock?³⁶

In Erath and Young Counties, the few labelled as “Negro” seem to have been discharged on bond less than their White or “White-passing” counterparts. For instance, Sheriff O.A. Bass arrested Jim Keith for a fine on May 28th, 1897.³⁷ The following day, May 29th, Bass and other law enforcement sent Keith out on “chain gang,” with little detail on his line of work or who he

³⁰ *Chicago Historical Society*, s.v. “Domestic Work and Workers,” by Daniel A. Graff, accessed October 3, 2021, <http://www.encyclopedia.chicagohistory.org/pages/386.html>.

³¹ *Young 151 Jail Logs*. (September 22, 2021).

³² *Young 151 Jail Logs*. (September 22, 2021).

³³ *Young 151 Jail Logs*. (September 22, 2021).

³⁴ Texas County Tax Rolls, Young County (1890), pg. 10-11.

³⁵ Texas County Tax Rolls, Young County (1891), pgs. 13-14.

³⁶ It is difficult to answer this question other than through speculation, as the charges in the jail logs give little information on the charges Brinkley accumulated other than “burglary and theft.” With the escalation in punishment, it seems this has a premise of a “three-strike” system, but perhaps there is something affecting this further. Transcribing the court records could give a more detailed account on Brinkley's charges and how his punishments changed so drastically.

³⁷ *Final Jail Logs in Erath County (1880s-1910s)* (September 20th, 2020).

worked with.³⁸ Born in Texas in March 1870 under both Jim and the initials J.W., Keith lived in Erath County in 1880 with his mother, Charlotte, and his brother, with his initial recorded as J.³⁹ In the 1880 census, Keith was aged ten and his mother's occupation was "washing."⁴⁰ In the 1900 census, Keith was aged thirty and worked as a domestic servant/day laborer for the Brumley household, consisting of Jasper and Martha Brumley.⁴¹ In 1895, the Brumley household held over \$380 in cattle, horses, hogs, miscellaneous land, and wagons, equivalent to roughly \$10,192 in today's dollars.⁴² Keith, however, did not have any property under his name.⁴³

The implications of the prejudice and discrimination lying in the Texas criminal justice system were severe. The analysis begins with Texas Democrats. Their policy changes along with implicit prejudices promoted by these policies and institutions like slavery and sharecropping led to assumption of Black racial inferiority. Sociologist Georg Rusche viewed crime as a product of economic necessity, as did Texas lawmakers and prison lessors & lessees.⁴⁴ Rusche's perspective shows further detail below:

Quoting George Bernard Shaw, Rusche observed that "if the prison does not underbid the slum in human misery, the slum will empty and the prison will fill." Historic forms of punishment – fines, torture, imprisonment – were shaped by historic variation in the economic situation of the dispossessed. The unemployed, representing the most wretched and crime-prone workers, occupied a special place in the theory. Lawmakers and judges were more lenient when labor was scarce and workers were fully employed. Punishment intensified and became more wasteful of labor when the economy slowed and workers were idle... In this

³⁸ *Final Jail Logs in Erath County (1880s-1910s)* (September 20th, 2020).

³⁹ Tenth Census of the United States (1880), Erath County, Texas, Schedule One (Free pop.).

⁴⁰ 1880 Census, Erath County, Texas, Schedule One (Free pop.).

⁴¹ 1900 Census, Erath County, Texas, Schedule One (Free pop.).

⁴² Texas County Tax Rolls, Erath County (1895), pgs. 30-31.

⁴³ Keith's name did not appear on the tax rolls for Erath County, indicating his status and further correlating to his standing in his charges. There are no specific details explaining how much the fine was, but since Keith held nothing to his name according to the records, it is unlikely he could pay his fines and therefore officers sent him over to a convict (chain) farm. This was common, as Black Texans had existed outside of legal protections. Later in this analysis, "pig laws" will emerge in the conversation. Citation: Donald R. Walker, *Penology for Profit* (College Station: Texas A&M University Press, 1988), pg. 114-15

⁴⁴ Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006), 54-55.

sense the criminal justice system embodied a social conflict that pitted the forces of property against the lower classes.⁴⁵

Modern descendants of Rusche's theory broadened the idea further by including that authorities utilize crime control as a larger project of enforcing conformity among socially marginalized groups, including minority youth. Research, like Rusche's suggests this happens through three methods: (1) legislators describe impoverished and marginal populations as dangerous and threatening may write criminal law to contain the threat, (2) police may scrutinize and apprehend the poor more frequently than the affluent, and (3) judges may treat poor defendants harshly once in court.⁴⁶ Historical literature and case studies from county jail logs, the United States Census, and county tax roll demonstrates this theory.

The Texas legislature created a penal code, along with discriminatory Black Codes to contain the "threat" Black Texans posed after the abolishment of slavery. These codes included vagrancy and apprenticeship laws, and the largest proponent – pig laws. The Constitution of 1876 and "Jim Crow" laws perpetuated segregation through separate accommodations in schools and railroads, along with restrictions on distribution of public lands and public-school funds.⁴⁷

"Pig laws" made theft of small animals a felony punishable by confinement in the penitentiary.⁴⁸ Prior to the Civil War, Texas legal statutes listed convictions for stealing any "horse, gelding, mare, colt, ass, or mule" carried a punishment of not less than five or more than fifteen years of penitentiary confinement. Theft of beef cattle, sheep goats, or hogs had a penalty of at least two but no more than five years. According to white Texans, small farm animals were a favorite target of Black people, leading to a disproportionate amount of Black people arrested,

⁴⁵ Western, *Punishment and Inequality in America*, 54-55.

⁴⁶ Western, *Punishment and Inequality in America*, 54-55.

⁴⁷ Lewis L. Gould, *Progressives and Prohibitionists: Texas Democrats in the Wilson Era* (Denton: Texas State Historical Association, 1992), 48.

⁴⁸ Walker, *Penology for Profit*, 115.

even though the crime remained a minor category of offense.⁴⁹ As a result of these policies, disproportionately poor and underrepresented people were more likely to be incarcerated, more likely to serve longer sentences, and less likely to benefit from early release.⁵⁰

The history and consequences of the Texas Rangers demonstrates the second point of the modern Rusche theory. The Texas Rangers encouraged Anglo-American settlement, using a constitutional order classifying slavery as an inalienable property right, and excluding indigenous Americans, African and Black Americans, and Tejanos from citizenship.⁵¹ In 1873, Governor Richard Coke and Texas Democrats in the state legislature recommissioned the Texas Rangers after disbanding the Union-controlled Texas State Police.

The imprisonment of non-white Texans grew exponentially as the government monetized the prison system. In 1883-84 alone, the state received a profit of \$118,343.45, and in 1888-90, it increased approximately 1.5 times higher than the 1883-84 profits to \$177,066.53.⁵² During the last quarter of the nineteenth century, Black Texans accounted for fifty percent or more of the penitentiary inmates, despite that Black people only constituted twenty-five percent of the total population of the state.⁵³ In Texan society, freedman held few job opportunities that did not fall under sharecropping – primarily due to a lack of education and legislation developed by Texas Democrats – which perpetually left them disadvantaged, especially if they held a criminal record.⁵⁴

⁴⁹ Walker, *Penology for Profit*, 115-116.

⁵⁰ Royce, *Poverty and Power: The Problem of Structural Inequality*, 242-245.

⁵¹ Perkinson *Texas Tough*, 55.

⁵² In today's money, roughly \$177,000 in 1980 U.S. dollars is equivalent to roughly \$5,335,480.22 today, a price increase of over 2,000%. Citation: Barr, *Black Texans*, 243-244.

⁵³ Lawrence D. Rice, *The Negro in Texas (1874-1900)* (Baton Rouge: Louisiana State University Press, 1971), 245-246.

⁵⁴ Barr, *Black Texans*, 83.

This expands further into the third point of judges and juries treating Black and Latine Texans harshly. Prior to court cases like *Powell v. Alabama* (1932) and *Gideon v. Wainwright* (1962), low-income defendants, especially Black Texans, had no right to counsel.⁵⁵ By the 1880s poor non-white defendants stood alone against white juries, judges, and prosecutors after the Democrats regained control of almost every Texan county.⁵⁶ By 1890, Texas convicted and imprisoned more Black Americans than any other state in the Union.⁵⁷

Reform movements, especially in populism, seemed effective on paper, but otherwise created blanket solutions addressing proximate causes rather than root causes of the prison system. The advocacy of populist William Jennings Bryan and progressive Thomas B. Love influenced the efforts of prison reform in Texas Governor Thomas M. Campbell's second term.⁵⁸ A special session in the legislature in 1910 reorganized the prison administration and ordered the abolition of convict leasing by 1914.⁵⁹ Governor Oscar B. Colquitt, Campbell's successor, ended the leasing practices by 1912, but the root causes of abuses in the prison system remained, proving this "one-size-fits-all" solution's failure in reforming the original causes of Texas penology.⁶⁰

Populist legal, political, and economic reform created some leverage in allowing Black Texans some privileges despite the circumstances given the social climate. Populist strength split the white vote, allowing Black Texans the possibility of swinging a decision, but only in the short-term as it addressed proximate causes.⁶¹ Democrats continued suppressing Black voters

⁵⁵ Perkinson, *Texas Tough*, 122.

⁵⁶ Perkinson, *Texas Tough*, 122.

⁵⁷ Perkinson, *Texas Tough*, 122.

⁵⁸ Gould, *Progressives and Prohibitionists*, 41.

⁵⁹ Gould, *Progressives and Prohibitionists*, 41.

⁶⁰ Gould, *Progressives and Prohibitionists*, 41.

⁶¹ Alwyn Barr, *Reconstruction to Reform (1876-1906)*, (Dallas: Southern Methodist University Press, 2000), 169.

from Populist ranks, resorting to many strategies in eliminating Black officials, such as high bonds in election to public office.⁶²

The creation of the white primary led to numerous fraud and intimidation against Black voters, only exacerbating the system of White privilege and supremacy.⁶³ The size of the Black vote was already small. However, laws from areas like Harrison County created a requirement where all ballots must be of white paper, with only the party name on the head. This created immense difficulties for illiterate voters, many of whom were Black voters due to lack of educational opportunities.⁶⁴

In summary, the understanding and connection of socioeconomic status and race creates a picture of the internal mechanisms of oppressive systems many benefit from, both in historical and contemporary contexts. The Texas prison system proves to be a remarkable case, afflicting not only the composition and the effects of law enforcement and prison regulation, but also its interpretations across other societal areas, including the economy, mobilization, political engagement, and social environments. Historical research like this gives deeper insight into preceding contexts, but is applicable among contemporary research, policymaking, and debate among scholars and the general public. Dissecting the framework of socioeconomic conditions among BIPOC, Latine, and poor Whites, otherwise known as plain folk, gives insights on how individuals and groups endured treatment created by the conditions mentioned further in the paper. Combining case studies from Erath and Young County public documents with the sociological implications from the 1870s to the 1910s created a genuine picture of how these systems, at the micro- and macro-levels, create and perpetuate such inequalities. These include

⁶² Barr, *Reconstruction to Reform (1876-1906)*, 194.

⁶³ Barr, *Reconstruction to Reform (1876-1906)*, 199 & 236.

⁶⁴ Barr, *Reconstruction to Reform (1876-1906)*, 196.

how lawmakers interpreted different racial groups, how White leadership in reform movements creates blanket, one-size-for-all solutions, and media's effects on social views, especially in local communities.