

The Color of Guilt: A History of Wrongful Convictions and Racial Control

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ABSTRACT

This paper examines the relationship between Jim Crow-era lynching and wrongful convictions in the modern United States by tracing how racialized presumptions of guilt persisted across changing legal forms. Using historical scholarship, legal cases, and contemporary wrongful-conviction data, and detailed case studies including the Scottsboro Boys, Curtis Flowers, and Anthony Ray Hinton, it argues that although extrajudicial mob violence declined during the twentieth century, many of its underlying assumptions were absorbed into formal legal institutions. The first part of the paper analyzes lynching as a form of racialized punishment sustained by accusation, public spectacle, and weak legal protection. It then examines the historical transition through which public mob violence declined while racialized punishment increasingly moved into courtrooms and imprisonment. The case studies illustrate how discriminatory jury selection, inadequate defense counsel, and barriers to post-conviction review continued to undermine the presumption of innocence for Black defendants. The paper concludes that wrongful convictions should be understood not only as isolated legal failures but also as part of a longer history in which racial injustice was reconfigured within the legal system rather than fully eliminated.

1. INTRODUCTION

In American courtrooms, justice is often portrayed as blind: a figure holding balanced scales, impartial and immune to bias. The U.S. Constitution guarantees due process, trial by jury, and effective legal counsel, protections designed to ensure fairness regardless of race or class. Yet for much of American history, these promises were systematically denied to Black Americans. From the violence of nineteenth-century lynchings to the institutionalized courtroom biases of the twentieth century, the legal system has too often operated not as a shield of rights, but as a tool for preserving racial hierarchy.

This paper examines how wrongful convictions in the United States can be understood within that longer history of racialized punishment. Its central objective is to show that Jim Crow-era lynching and modern wrongful conviction should not be treated as entirely separate injustices belonging to different historical worlds. Rather, they are connected by a persistent presumption of Black guilt and unequal access to legal protection. By placing extrajudicial violence and formal legal injustice within the same analytical frame,

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this paper argues that wrongful convictions are shaped by deeply embedded racial- and class-based inequalities.

To achieve this, the paper proceeds in four parts. First, it examines the rise of extrajudicial racial violence in the Reconstruction and Jim Crow eras, showing how lynching functioned as a form of communal punishment sustained by accusation and spectacle, with weak legal accountability. Second, it traces the historical transition through which public lynching declined while racialized punishment increasingly moved into formal legal institutions. Third, it analyzes wrongful convictions in the post-civil rights era through case studies that reveal the continuing effects of discriminatory jury selection, inadequate legal defense, prosecutorial misconduct, and procedural barriers to relief. Finally, it considers the broader implications of this continuity for understanding the relationship between legal reform, due process, and racial inequality in American history.

For Black Americans and economically disadvantaged defendants, the presumption of guilt often characterizes every stage of their legal journey: from arrest to trial to sentencing. This bias manifests in racially skewed policing, flawed forensic practices, coerced confessions, underfunded defense, and all-white juries that view Black defendants through a lens of suspicion. In such a system, being innocent is no guarantee of freedom. Instead, wrongful convictions emerge as the logical outcome of a legal structure that, despite its procedural appearance, often operates on assumptions shaped by race and poverty.

While the instruments of justice have evolved, the presumption of guilt based on race has remained a constant in American history—from extrajudicial violence to modern-day wrongful convictions—revealing systemic flaws in both the legal process and the broader racial ideology underpinning it. This paper examines how racial targeting and failures of due process remain consistent from the era of Jim Crow lynchings, where mobs took racialized justice into their own hands, to the end of the twentieth century, which still failed to provide Black defendants with adequate protection of their legal rights.

2. JIM CROW EXTRAJUDICIAL VIOLENCE AND VIGILANTE JUSTICE

2.1 Reconstruction, Black Codes, and the Legal Foundations of Racial Control

A racialized criminal justice system began almost immediately after the demise of chattel slavery. Between 1865 and 1877, the U.S. government undertook the monumental task of integrating nearly four million formerly enslaved people into American civic life.¹ The Civil War had not only fractured the nation but also forced the white slaveholding South, whose economy and identity had been built on human bondage, to redefine its political, legal, and social relationship with Black Americans.² This

¹ Eric Foner, “Reconstruction - the End of Reconstruction,” in *Encyclopædia Britannica*, 2019, <https://www.britannica.com/event/Reconstruction-United-States-history/The-end-of-Reconstruction>, accessed June 12, 2025.

² Foner, “Reconstruction.”
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period, known as Reconstruction, marked the nation's first attempt to build an egalitarian society on the ashes of slavery.³

In the immediate aftermath of the Civil War, President Andrew Johnson implemented a lenient Reconstruction plan that prioritized restoring the political and economic power of the Southern elite over protecting the rights of the newly freed. On May 29, 1865, Johnson offered sweeping amnesty to former Confederates and permitted Southern states to reestablish governments with few federal constraints.⁴ Most significantly, his policies allowed white Southerners to reclaim property and reinstitute local authority without meaningful guarantees for Black civil rights.⁵ As historian Eric Foner notes, "virtually from the moment the Civil War ended, the search began for the legal means of subordinating a volatile Black population that regarded economic independence as a corollary of freedom and the old labor discipline as a badge of slavery."⁶ Consequently, Johnson's approach not only emboldened Southern resistance to racial equality, but also opened the door for new forms of legally sanctioned oppression.

While Johnson sought reconciliation with white Southerners, Congress ratified the Thirteenth Amendment in December 1865, officially abolishing slavery.⁷ However, it provided a legal loophole that states used to create a prison convict leasing system to fill the South's postwar labor shortage.⁸ This loophole was quickly filled by state statutes known as Black Codes, which criminalized behaviors like vagrancy and loitering, and allowed authorities to arrest, fine, and "bind out for a term of labor if unable to pay the fine" those found guilty of violating the law. Black Codes initiated the mass incarceration of Black men, who, though technically freed from slavery, were then leased as convicts to private enterprises.⁹ The entire complex of labor regulations and criminal laws created by the Black Codes was enforced by a local police apparatus and state judicial system in which Blacks enjoyed virtually no voice.¹⁰ This system effectively and legally perpetuated slavery under another name, reinforcing racial hierarchies and exploitation in the post-emancipation era, as it continued through the late-nineteenth and early-twentieth centuries.

In response to Southern defiance and the rise of such oppressive systems, the Republican-led Congress initiated a more assertive phase of Reconstruction. Between 1866 and 1870, Congress passed, and the states ratified, the Fourteenth and Fifteenth Amendments, which granted citizenship and equal protection to all persons born in the United States and prohibited racial discrimination in voting.¹¹ For the first time in American history, the law enfranchised Black men (women were excluded from voting under the

³ Foner, "Reconstruction."

⁴ "Reconstruction," Gilder Lehrman Institute of American History, 2025, <https://www.gilderlehrman.org/history-resources/essays/reconstruction>, accessed June 12, 2025.

⁵ Foner, "Reconstruction."

⁶ Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper, 2011).

⁷ U.S. Const. amend. XIII.

⁸ Ellen Terrell, "The Convict Leasing System: Slavery in Its Worst Aspects," [blogs.loc.gov](https://blogs.loc.gov/inside_adams/2021/06/convict-leasing-system/), June 17, 2021, https://blogs.loc.gov/inside_adams/2021/06/convict-leasing-system/, accessed June 13, 2025.

⁹ Jim Crow Museum, "Black Code - Other Jim Crow Information - Jim Crow Museum," jimcrowmuseum.ferris.edu, 2024, <https://jimcrowmuseum.ferris.edu/links/mislink/blackcode.htm>, accessed June 13, 2025.

¹⁰ Foner, *Reconstruction*, 217.

¹¹ U.S. Const. amend. XIV and XV.

Fourteenth Amendment).¹² During a brief window from 1868 to 1877, Black men served in elected office throughout the South, and the federal government established military districts to oversee the enforcement of civil rights.¹³

Yet even these strides toward racial equality could not overcome the deep-seated racism that continued to dominate American society, particularly in the South. Without a transformation of hearts and minds, especially among white Southerners who were largely unwilling to accept Black citizenship as equal, the legal gains of Reconstruction remained vulnerable to political and legal attacks. In the face of this resistance, Radical Republicans' vision of an egalitarian democracy began to fade, paving the way for a violent backlash and the rise of white supremacist organizations determined to restore racial dominance by any means necessary.

2.2 Organized White Supremacist Violence During Reconstruction

White Southerners, enraged by the Republican Party's policies aimed at establishing political and economic equality for Black Americans, responded with political obstruction and racial violence.¹⁴ Most infamously, the Ku Klux Klan emerged in 1865 as a not-so-secret terrorist organization dedicated to restoring white supremacy through intimidation and murder.¹⁵ In coordination with other paramilitary groups like the White League and the Knights of the White Camelia, the Klan launched a campaign of violence targeting Black voters, officeholders, and white allies.¹⁶ Together, these organizations formed the first tranche of vigilante justice groups that would, up until the Civil Rights Movement's culmination in the 1960s, contribute to a system in which Black men and women experienced wrongful convictions at the hands of a citizenry whose actions were shaped by racial hostility.

Political violence, like that instigated by the Klan, ran rampant after the Civil War. During the Reconstruction-era constitutional conventions of 1867 to 1868, over one in ten Black lawmakers faced acts of violence, and at least seven were assassinated.¹⁷ Beyond assassinations, the organization relied heavily on intimidation to suppress Black civic engagement. Tactics included midnight raids, physical beatings, economic retaliation, and threats against entire communities for attempting to vote, attend school, or hold office.¹⁸ In 1868 alone, the Freedmen's Bureau agents in Georgia documented 336 cases of murder or attempted murder against freedmen, revealing the scale of violence used to reinforce racial subordination.¹⁹

¹² U.S. Const. amend. XIV.

¹³ Evans, "Reconstruction."

¹⁴ "Ku Klux Klan: Origin, Members & Facts," *History.com*, October 29, 2009, <https://www.history.com/articles/ku-klux-klan#Revival-of-the-Ku-Klux-Klan>, accessed June 14, 2025.

¹⁵ "Ku Klux Klan," *History.com*.

¹⁶ "Lynching in America: Confronting the Legacy of Racial Terror," Equal Justice Initiative, 2017, <https://lynchinginamerica.eji.org/report/>, accessed June 13, 2025.

¹⁷ "Ku Klux Klan," *History.com*.

¹⁸ Jonathan Bryant, "Ku Klux Klan in the Reconstruction Era," *New Georgia Encyclopedia*, October 3, 2002, <https://www.georgiaencyclopedia.org/articles/history-archaeology/ku-klux-klan-in-the-reconstruction-era/>, accessed June 13, 2025.

¹⁹ Bryant, "Ku Klux Klan in the Reconstruction Era."

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2.3 Federal Enforcement and Judicial Retreat

By 1870, the escalating violence against Black Americans and their white Republican allies had rendered Reconstruction governments increasingly powerless.²⁰ In response, Congress enacted a series of federal laws known as the Enforcement Acts in 1870 and 1871, designed to safeguard Black Americans' newly granted constitutional rights under the Fourteenth and Fifteenth Amendments. The First Enforcement Act (1870) made it a federal offense to use “force, bribery, threats, intimidation, or other unlawful means” to prevent citizens from voting “without distinction of race, color, or previous condition of servitude,” giving federal courts the authority to enforce the Fifteenth Amendment and punish violations with fines and imprisonment.²¹ The Second Enforcement Act (1871) placed national elections under federal oversight, authorizing U.S. marshals and judges to monitor polling places and ensure fair procedures.²² The Third Enforcement Act (1871), known as the Ku Klux Klan Act, allowed the president to suspend habeas corpus and use federal troops against individuals or groups who sought to “hinder, prevent, or obstruct” the equal protection of the laws.²³ These laws expanded federal reach into civil rights enforcement, signaling a brief but powerful attempt to protect Black political participation.

Despite these measures, federal protection proved short-lived and hollow. In *United States v. Cruikshank* (1876), the U.S. Supreme Court undermined the power of the federal government to enforce the Enforcement Acts.²⁴ The case arose from a violent political dispute that ended with armed white vigilantes murdering over 100 Black men. The Court ruled that the Fourteenth Amendment “prohibits a State from depriving any person of life, liberty or property, without due process of law,” but crucially, the Court asserted that it “adds nothing to the rights of one citizen as against another.”²⁵ In effect, the Court interpreted the amendment as applying only to state actions, not to private violence (as was the case in *Cruikshank*), thereby denying the federal government the power to intervene in acts of racially targeted violence carried out by individuals.²⁶ As a result, the Justice Department dropped at least 179 pending prosecutions in Mississippi alone.²⁷ This judicial retreat not only undermined federal civil rights enforcement; it also normalized a violent form of “community justice” carried out with impunity. The consequences were immediate and devastating: racial violence continued, white supremacists launched attacks on Black citizens in broad daylight, knowing they would face no consequences from local or state authorities.²⁸

²⁰ “Lynching in America,” Equal Justice Initiative.

²¹ U.S. Congress, *An Act to Enforce the Right of Citizens of the United States to Vote in the Several States of This Union, and for Other Purposes*, Public Law 41-114, 41st Cong., 2nd sess. (May 31, 1870), 16 Stat. 140–146.

²² U.S. Congress, *An Act to Enforce the Rights of Citizens of the United States to Vote in the Several States of This Union, and for Other Purposes*, Public Law 41-99, 41st Cong., 3rd sess. (February 28, 1871), 16 Stat. 433–440.

²³ U.S. Congress, *An Act to Enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for Other Purposes*, Public Law 42-22, 42nd Cong., 1st sess. (April 20, 1871), 17 Stat. 13–15.

²⁴ *United States v. Cruikshank*, 92 U.S. 542 (1876).

²⁵ *Cruikshank*, 92 U.S. at 550.

²⁶ “Lynching in America,” Equal Justice Initiative.

²⁷ “Lynching in America,” Equal Justice Initiative.

²⁸ “Lynching in America,” Equal Justice Initiative.

This judicial rollback coincided with a broader collapse of political will. By the mid-1870s, Northern interest in Reconstruction waned, and President Grant, politically weakened, grew reluctant to continue military intervention in the South. When Mississippi's governor requested federal troops to quell widespread violence during the 1875 state elections, Grant sent an exasperated letter encouraging him to broker a "peace agreement" between the state militia and the white mobs, writing that "[t]he whole public are tired out with these annual autumnal outbreaks in the South."²⁹

Without the backing of federal enforcement, Black political participation became perilous. On election days across the South, Black voters faced brutal intimidation, violence, and even murder, as white supremacists aimed to restore racial dominance through force. The presidential election of 1876 resulted in a deadlock between Republican Rutherford B. Hayes and Democrat Samuel J. Tilden. Congress and the Supreme Court brokered a "compromise" under which Hayes would become president if he promised to end Reconstruction. Within two months of taking office, President Hayes withdrew federal troops from the South, effectively abandoning efforts to enforce civil rights.³⁰

2.4 The Rise of Jim Crow and the Institutionalization of Racial Hierarchy

Following the collapse of Reconstruction, the withdrawal of federal forces from the South in 1877 unleashed a pent-up wave of racial violence that overwhelmed the few remaining protective structures and entrenched Black Americans in an inferior social, political, and economic position. No longer restrained by federal oversight, Southern states erected a legal regime known as Jim Crow, mandating segregation in every aspect of life and formalizing the racial hierarchy that slavery had once enforced.³¹ Though slavery had been abolished and constitutional rights formally granted, Black Americans quickly discovered that those rights held little weight in a white-dominated political and legal system.

Jim Crow statutes enforced a strict color line in virtually all aspects of life and denied Black Americans equal status by mandating racial segregation in public facilities, education, and transportation.³² Unsurprisingly, "colored" facilities were generally inferior, older, less-well-kept. In other cases, there were no facilities at all.³³ Jim Crow states also passed statutes severely regulating social interactions between races. For example, in 1930, Alabama declared: "It shall be unlawful for a negro and white person to play together or in company with each other in any game of cards or dice, dominoes or checkers."³⁴ Many states even outlawed interracial marriage; a 1911 Nebraska law, voided any marriage if

²⁹ "Lynching in America," Equal Justice Initiative.

³⁰ "Lynching in America," Equal Justice Initiative.

³¹ David Pilgrim, "What Was Jim Crow," Jim Crow Museum (Ferris State University, September 2000), <https://jimcrowmuseum.ferris.edu/what.htm>, accessed June 18, 2025.

³² Jackson Sun, "Examples of Jim Crow Laws - Oct. 1960 - Civil Rights - Other Jim Crow Information - Jim Crow Museum," jimcrowmuseum.ferris.edu (Jim Crow Museum, 2001), <https://jimcrowmuseum.ferris.edu/links/mislink/examples.htm>, accessed June 20, 2025.

³³ Jim Crow Museum, "Black Code - Other Jim Crow Information - Jim Crow Museum."

³⁴ National Museum of American History, "Jim Crow Laws - Separate Is Not Equal," Si.edu (Smithsonian National Museum of American History, 2019), <https://americanhistory.si.edu/brown/history/1-segregated/jim-crow.html>, accessed June 20, 2025.

one party was a white person and the other had “one-eighth or more negro blood.”³⁵ These laws served not only to separate but to subordinate: reminding Black citizens daily that, regardless of education or status, they would never be equal in the eyes of white society.

2.5 Lynching as Racialized Extrajudicial Punishment

2.5.1 Origins and Racialization of Lynching

Yet Jim Crow’s legal architecture was enforced not only by statutes, but by grisly, extra-legal spectacle. The collapse of federal enforcement had opened the door to segregation as well as new forms of racial control. Violence increasingly replaced law as the primary means of maintaining white supremacy. In this context, lynching emerged as the second wave of vigilante justice in the post-Reconstruction South. While the Ku Klux Klan represented an earlier form of organized racial oppression during Reconstruction, its decline gave way to a more decentralized but equally brutal form of “community justice.” Lynchings became not the work of hooded night riders alone, but the practice of sheriffs, local newspapers, and ordinary white citizens whose participation, or silence, legitimized the violence.

A lynching is the public killing of an individual who has not received the requisite due process, a punishment or an execution carried out, often openly, by a mob that claims to enforce justice while operating entirely outside the law.³⁶ Although these mobs were “lawless,” local police and sheriffs frequently aided or acquiesced, blurring the line between state authority and mob rule. Because lynchings denied their victims the standard criminal-defendant rights afforded under the Bill of Rights and state legal codes, they constituted an extralegal form of wrongful conviction, enabled not only by vigilante violence, but by the acquiescence of courts and police.

Lynchings first emerged on the American frontier in the late eighteenth and early nineteenth centuries as a form of vigilante “justice” in areas where formal legal systems were weak or nonexistent.³⁷ According to historian W. Fitzhugh Brundage, these early acts of lynching were often non-lethal and included punishments such as tarring and feathering, whipping, or banishment, usually targeting white criminals and reflecting a mistrust of centralized authority.³⁸ Beginning in the 1830s, however, the practice took a racial turn in the slave South. Fabricated fears of a slave uprising in Mississippi led to the lynching of both white abolitionists and enslaved Black people.³⁹ This marked a crucial transformation: what had previously been informal, frontier-style punishment, often non-lethal and aimed at enforcing local order, began evolving into a racialized spectacle of violence. The criminal justice system, dominated by white officials, offered little protection; white people could assault Black people with impunity, and lynchings

³⁵ National Museum of American History, “Jim Crow Laws - Separate Is Not Equal.”

³⁶ NAACP, “History of Lynching in America,” naacp.org (NAACP, n.d.), <https://naacp.org/find-resources/history-explained/history-lynching-america>, accessed June 22, 2025.

³⁷ NAACP, “History of Lynching in America.”

³⁸ W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880–1930* (Urbana: University of Illinois Press, 1993).

³⁹ “Lynching in America,” Equal Justice Initiative. April 2026

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became “a way of using fear and terror to check ‘dangerous’ tendencies in a black community considered to be ineffectively regimented or supervised.”⁴⁰

2.5.2 Lynching under Jim Crow

By the late nineteenth century, during the Jim Crow era, lynching had become a widespread form of extrajudicial punishment. Between 1882 and 1968, over 4,700 lynchings were recorded in the United States, with approximately 3,440 Black victims.⁴¹ Lynchings replaced evidence with racial suspicion and proclaimed the victim’s guilt without trial, investigation, or any semblance of due process. Nearly twenty-five percent of lynching victims were accused of sexual assault, and about thirty percent were accused of murder.⁴² Yet these accusations were often dubious, fabricated, wildly disproportionate to the alleged offense, or based solely on racial prejudice rather than criminal acts. From minor social transgressions to consensual interracial contact, and from baseless accusations of violent crimes, Black people were targeted for existing outside the boundaries of white supremacy’s social order.⁴³ Whether the alleged offense was real, imagined, or socially constructed, the mere accusation was often enough to mark someone for death.

Sexual assault accusations, particularly those involving white women, were among the most frequent pretexts for lynching Black men. Rooted in the fear of Black male autonomy and interracial intimacy, the “myth of the Black rapist” portrayed Black men as uncontrollably hypersexual and inherently dangerous to white women.⁴⁴ As historian Crystal Feimster explains, “The rape of white women became the symbolic center of Southern racial politics, and lynching was the primary instrument through which white men reasserted their political and social dominance.”⁴⁵ Because white society refused to acknowledge the possibility of interracial intimacy as anything but coercive, even consensual acts were redefined as sexual violence to protect the perceived purity of white womanhood and preserve social and racial boundaries. In many jurisdictions, when the accused was Black, even without an identification by the alleged victim, an accusation could incite a mob and result in lynching.⁴⁶

In 1892, journalist Ida B. Wells courageously challenged these assumptions, writing in the *Memphis Free Speech* that “nobody in this section of the country believes the old threadbare lie that Negro men rape white women.”⁴⁷ A prominent columnist and co-owner of the *Free Speech and Headlight*, Wells regularly used her platform to expose the falsehoods behind sexual assault claims, and to document cases in which

⁴⁰ Pilgrim, “What Was Jim Crow.”

⁴¹ Pilgrim, “What Was Jim Crow.”

⁴² “Lynching in America,” Equal Justice Initiative.

⁴³ NAACP, “History of Lynching in America.”

⁴⁴ Crystal N. Feimster, *Southern Horrors: Women and the Politics of Rape and Lynching* (Cambridge, MA: Harvard University Press, 2009), 5.

⁴⁵ Feimster, *Southern Horrors*, 5.

⁴⁶ “Lynching in America,” Equal Justice Initiative.

⁴⁷ “Southern Horrors: Lynch Law in All Its Phases - Oct. 5, 1892,” Archives of Women’s Political Communication, n.d., <https://awpc.cattcenter.iastate.edu/2020/09/21/southern-horrors-lynch-law-in-all-its-phases-oct-5-1892/>, accessed June 24, 2025.

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lynching followed consensual interracial relationships or fabricated accusations.⁴⁸ In retaliation, a white mob destroyed her newspaper's office and threatened her life, forcing her into exile. Yet her investigative work laid bare a pattern: once a Black man was accused, regardless of evidence, circumstance, or truth, his right to due process effectively vanished.

One 1918 news report in Omaha, Nebraska's *The Monitor* captured the prevailing atmosphere: "The brutality of the mob is inconceivable. It is shocking, horrible, inhuman beyond expression."⁴⁹ Such brutality was not only widespread but often baseless: approximately one-third of the lynching victims were falsely accused of crimes.⁵⁰ The case of George Meadows in 1889 exemplifies this dynamic. Meadows was lynched in Jefferson County, Alabama, after being accused of rape. Even though his accuser later admitted that Meadows was not the perpetrator, and the sheriff declared him innocent, the lynching had already taken place.⁵¹ Similarly, in 1893, Samuel J. Bush, a Black day laborer accused of assaulting two white women, was dragged from jail by a mob of approximately 1,500 people in Decatur, Illinois. Despite being in police custody, the mob broke in, seized him, and executed him without trial. Notably, as he was led out, Bush pleaded, "Gentlemen, you are killing an innocent man."⁵² Another example occurred in Lewiston, North Carolina, in 1918. After a white woman was raped, a Black man named Peter Bazemore was accused of the crime and lynched by a mob before an investigation could begin. It was later revealed that the real perpetrator had been a white man wearing black makeup.⁵³

Meadows, Bush, and Bazemore were all victims of the lynch mob's wrongful convictions. Black men were also lynched for so-called "social transgressions," acts that challenged the racial order but were not crimes in any legal sense. Such "offenses" included speaking disrespectfully, refusing to step off the sidewalk, using profane language, using an improper title for a white person, suing a white man, arguing with a white man, bumping into a white woman, insulting a white person, and other social grievances.⁵⁴ In 1940, Jesse Thornton was lynched in Luverne, Alabama, for referring to a white police officer without the title "Mister."⁵⁵ In 1916, Jeff Brown was lynched in Cedarbluff, Mississippi, for accidentally bumping into a white girl while running for a train.⁵⁶ In 1934, Richard Wilkerson was lynched in Tennessee for allegedly slapping a white man who had assaulted a Black woman.⁵⁷

⁴⁸ "Our Namesake – Ida B. Wells Society," Ida B. Wells Society, n.d., <https://idabwellsociety.org/about/our-namesake/>, accessed June 25, 2025.

⁴⁹ "The Brutality of the Mob," *The Monitor* (Omaha, NE), August 9, 1918, Chronicling America: Historic American Newspapers, Library of Congress, <https://chroniclingamerica.loc.gov/lccn/sn93062828/1918-08-09/ed-1/seq-4/>, accessed June 25, 2025.

⁵⁰ Pilgrim, "What Was Jim Crow."

⁵¹ "George Meadows, Murderer & Rapist, Lynched on Scene of His Last Crime," Library of Congress, Washington, D.C. 20540 USA, n.d., <https://www.loc.gov/item/2012646363/>, accessed June 26, 2025.

⁵² "1,500 White People Lynch a Black Man on Illinois Courthouse Lawn," Equal Justice Initiative, <https://calendar.eji.org/racial-injustice/jun/3>, accessed June 26, 2025.

⁵³ "Lynching in America," Equal Justice Initiative.

⁵⁴ "Lynching in America," Equal Justice Initiative.

⁵⁵ "Lynching in America," Equal Justice Initiative.

⁵⁶ "Lynching in America," Equal Justice Initiative.

⁵⁷ "Lynching in America," Equal Justice Initiative.

Hundreds more Black people were lynched based on accusations of far less serious crimes like arson, robbery, non-sexual assault, and vagrancy, many of which were not punishable by death if convicted in a court of law.⁵⁸ Yet lynching carried out by mobs served as a substitute for the legal process when the accused was Black. Race, rather than the alleged offense, sealed lynching victims' fates. While Black people were brutally executed based on rumor or fabricated claims, white suspects accused of similar or even worse crimes were far more likely to be tried in court, and in many cases, acquitted.⁵⁹ In 1930, in Thomasville, Georgia, a Black man named Lacy Mitchell was murdered by four white men for testifying against a white man accused of raping a Black woman. Mitchell's killer went free, and the white defendant was acquitted.⁶⁰

2.6 Public Participation and Legal Complicity

What made these lynchings more chilling was the legal system's complicity, as few perpetrators faced accountability for extralegal killings of Black men. After Reconstruction, many Northern politicians abandoned efforts to protect Black Americans, choosing instead to pursue "sectional reconciliation" with the South. This meant disavowing federal authority to intervene in racially motivated violence, including lynching. Throughout the lynching era, Congress repeatedly attempted to pass federal anti-lynching laws. However, the constitutional limitations set by *Cruikshank* (1876) continued to hinder anti-lynching legislation, as opponents argued that such laws would infringe on states' rights and fail judicial review under the precedent it established.⁶¹ As a result, Southern lawmakers repeatedly blocked efforts to pass anti-lynching legislation in Congress. To deflect federal intervention, Southern states passed their own anti-lynching laws but then largely refused to enforce them. As a result, lynching continued largely unchecked and unpunished.

In this vacuum of enforcement and accountability, thousands of Black Americans were terrorized and killed with impunity. Of all lynchings committed after 1900, only one percent resulted in the criminal conviction of a white perpetrator.⁶² The overwhelming majority of lynch mobs went unpunished, even in cases where law enforcement was directly involved. In fact, as many as seventy-five percent of lynchings were carried out with the direct or indirect participation of police officers.⁶³ White perpetrators rarely faced trials, and when they did, convictions were nearly impossible. In a 1920 Duluth, Minnesota lynching, where a white mob brutally murdered three Black men, a grand jury indicted thirty-seven white men for rioting and murder. Yet only eight were brought to trial, and just three were convicted, not for

⁵⁸ "Lynching in America," Equal Justice Initiative.

⁵⁹ "Lynching in America," Equal Justice Initiative.

⁶⁰ "Lynching in America," Equal Justice Initiative.

⁶¹ "Lynching in America," Equal Justice Initiative.

⁶² "Lynching in America," Equal Justice Initiative.

⁶³ Jhacova Williams and Carl Romer, "Black Deaths at the Hands of Law Enforcement Are Linked to Historical Lynchings: U.S. Counties Where Lynchings Were More Prevalent from 1877 to 1950 Have More Officer-Involved Killings," *Economic Policy Institute*, June 5, 2020, <https://www.epi.org/blog/black-deaths-at-the-hands-of-law-enforcement-are-linked-to-historical-lynchings-u-s-counties-where-lynchings-were-more-prevalent-from-1877-to-1950-have-more-officer-involved-killings/>, accessed June 29, 2025.

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murder, but for the lesser charge of rioting.⁶⁴ Similarly, after the 1908 Springfield Race Riot in Illinois, where dozens of Black residents were killed and displaced, only one person was convicted, and for a minor offense.⁶⁵

Equally concerning was the public's role in normalizing and legitimizing lynching. These extralegal killings were often conducted in public view with hundreds or thousands in attendance.⁶⁶ Some lynchings were advertised in local newspapers, schoolchildren were let out early to attend, and photographs of the murdered bodies were sold as postcards. As Black victims were tortured, mutilated, and dismembered, community members cheered, posed for pictures, and collected souvenirs from the victims' remains.⁶⁷ The community, through participation or silence, became complicit. Their presence and inaction sent a powerful message: that such racialized violence was acceptable, even celebrated.

Overall, this era reflected a consistent pattern: the presumption of guilt based on race displaced the legal principle of innocence until proven guilty. In the absence of due process for Black people, lynching operated as racialized vigilante justice, where accusation alone became a death sentence. The mob acted as judge, jury, and executioner, and legal institutions either stood aside or gave tacit approval. Far from administering justice, these extrajudicial killings functioned as wrongful convictions and a means of racial control, enforcing white supremacy not through law, but through intimidation and violence.

3. FROM MOB VIOLENCE TO INSTITUTIONALIZED PUNISHMENT

As the twentieth century progressed, the public spectacles of lynching began to decline. Anti-lynching activism, particularly by the National Association for the Advancement of Colored People (NAACP), played a significant role in turning the tide of public opinion. Through powerful media campaigns such as W.E.B. Du Bois's *The Waco Horror* photo essay, published in the NAACP's magazine *The Crisis*, which turned lynching postcards into tools of protest, and the landmark report *Thirty Years of Lynching in the United States*, which compiled data by race, location, and alleged offenses, the NAACP exposed the scale and savagery of such violence to a national audience.⁶⁸ Their advocacy, including legislative pushes for the Dyer Anti-Lynching Bill and symbolic protests such as flying a banner reading "A Man Was Lynched Yesterday" from their New York headquarters, contributed to public reconsideration of lynching's role in society.⁶⁹

⁶⁴ Minnesota Historical Society, "Duluth Lynchings," *Mnopedia*, <https://www3.mnhs.org/mnopedia/search/index/event/duluth-lynchings>, accessed June 29, 2025.

⁶⁵ The White House, "A Proclamation on the Establishment of the Springfield 1908 Race Riot National Monument," *Briefing Room*, August 16, 2024, <https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2024/08/16/a-proclamation-on-the-establishment-of-the-springfield-1908-race-riot-national-monument/>, accessed June 29, 2025.

⁶⁶ "Lynching in America," Equal Justice Initiative.

⁶⁷ "Lynching in America," Equal Justice Initiative.

⁶⁸ NAACP, "History of Lynching in America."

⁶⁹ NAACP, "History of Lynching in America."

Simultaneously, the Great Migration saw millions of Black Americans flee the South in search of safety and opportunity, which disrupted the South's rigid economic and social hierarchy. Combined with Depression-era economic hardships and global scrutiny during the Cold War, support for lynching eroded.⁷⁰ By 1935, lynchings had dropped drastically to fewer than ten per year; by the 1950s and 1960s, the United States saw fewer than one lynching annually.⁷¹ Despite this gradual decline of lynching, the racial violence embodied in the practice did not disappear, but evolved. The same presumption of Black guilt and disregard for due process that fueled lynch mobs migrated into courtrooms and prison cells. Rather than being murdered by vigilantes, Black defendants were increasingly subjected to death sentences through a criminal justice system rife with racial bias.

This shift is essential to understanding the relationship between Jim Crow violence and modern wrongful convictions. As overt mob violence became less publicly acceptable, racialized punishment took a less blatant form, becoming administered through policing, prosecution, jury selection, sentencing, and imprisonment. Thus, in this transformed context, Black defendants were no longer as often subjected to public execution by mobs; rather, they faced a criminal legal system that frequently treated accusations as evidence, discounted due process, and imposed severe punishment through courts that claimed procedural neutrality.

4. WRONGFUL CONVICTIONS IN THE POST CIVIL-RIGHTS ERA LEGAL SYSTEM

Following the Civil Rights Movement's passage of landmark legislation like the Civil Rights Act of 1964 and the Voting Rights Act of 1965, a widespread belief circulated that racial equality had been achieved. The Civil Rights Act outlawed segregation in public spaces and banned employment discrimination on the basis of race, color, religion, sex, or national origin, marking the most far-reaching civil rights legislation since Reconstruction.⁷² The Voting Rights Act dismantled many of the tools used to suppress Black political participation, including literacy tests, poll taxes, and other Jim Crow era tactics.⁷³ By formally prohibiting overt racial discrimination and guaranteeing equal protection under the law, these reforms appeared to disassemble the most visible structures of white supremacy. At the time, they were seen as a turning point, a historic victory after centuries of slavery, mob violence, and state-sanctioned segregation. To many Americans, they symbolized the end of an era of racial injustice.

However, historian Michelle Alexander contends that the Civil Rights Movement's progress was undermined by the emergence of a new system for racial control: mass incarceration.⁷⁴ In the aftermath of the civil rights era, the federal government began to wage a punitive and racially coded "War on Drugs," officially declared by President Richard Nixon in the 1970s and aggressively expanded under the Reagan

⁷⁰ Geoffrey Abbott, "Lynching | Mob Violence," in *Encyclopædia Britannica*, December 5, 2016, <https://www.britannica.com/topic/lynching>, accessed July 3, 2025.

⁷¹ Abbott, "Lynching."

⁷² U.S. Congress, *Civil Rights Act of 1964*, Pub. L. No. 88-352, 78 Stat. 241 (July 2, 1964).

⁷³ U.S. Congress, *Voting Rights Act of 1965*, Pub. L. No. 89-110, 79 Stat. 437 (August 6, 1965).

⁷⁴ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2012).

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administration in the 1980s.⁷⁵ Although rates of drug use are similar across racial groups, Black and Latino men were disproportionately targeted and incarcerated for drug offenses.⁷⁶ Alexander argues that the resulting mass incarceration of non-white drug offenders, which was fueled by the War on Drugs, has created a “well-disguised system of racialized social control that functions in a manner strikingly similar to Jim Crow.”⁷⁷

As the War on Drugs escalated in the 1980s, lawmakers passed harsh sentencing laws that disproportionately impacted Black communities. The Anti-Drug Abuse Acts of 1984 and 1986 introduced mandatory minimum sentences that removed judges’ discretion and imposed automatic prison terms based on drug type and quantity.⁷⁸ In particular, the 1986 Act created a 100-to-1 sentencing disparity between crack and powder cocaine: five grams of crack, commonly found in poorer Black neighborhoods, triggered a mandatory five-year sentence, while it took 500 grams of powder cocaine, more often used by wealthier white Americans, to receive the same punishment.⁷⁹ Nearly ninety percent of those imprisoned for crack-related offenses were Black.⁸⁰ By the early 2000s, more Black men were incarcerated than were enslaved in 1850.⁸¹ Severe sentencing laws left many with criminal records, subjecting them to legalized discrimination in employment, housing, and the deprivation of their right to vote.⁸² The War on Drugs policies not only codified racial inequity into federal sentencing but also laid the foundation for a criminal justice system that continues to presume Black guilt and disproportionately convict and incarcerate Black Americans. As Alexander asserts, “We have not ended racial caste in America; we have merely redesigned it.”⁸³

In this new “Jim Crow” system of mass incarceration, wrongful convictions occur, not extralegally, as they did as a result of vigilante lynchings during the Jim Crow era, but as routine outcomes of the formal legal system. The American justice system, in other words, operates as a tool to facilitate not only mass incarceration, but also the wrongful conviction of Black men.

4.1 Jury Exclusion and the Presumption of Guilt

⁷⁵ Thomas Bernard, “War on Drugs,” in *Encyclopædia Britannica*, December 5, 2018, <https://www.britannica.com/topic/war-on-drugs>, accessed July 6, 2025.

⁷⁶ Sarah Childress, “Michelle Alexander: ‘a System of Racial and Social Control,’” FRONTLINE (Frontline PBS, April 29, 2014), <https://www.pbs.org/wgbh/frontline/article/michelle-alexander-a-system-of-racial-and-social-control/>, accessed July 6, 2025.

⁷⁷ Alexander, *The New Jim Crow*, 21.

⁷⁸ Nekima Levy-Pounds, “Can These Bones Live? A Look at the Impacts of the War on Drugs on Poor African-American Children and Families,” *Hastings Race and Poverty Law Journal* 7, no. 2 (2010), https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1074&context=hastings_race_poverty_law_journal, accessed July 7, 2025.

⁷⁹ U.S. Congress, *Anti-Drug Abuse Act of 1986*, Pub. L. No. 99-570, 100 Stat. 3207 (October 27, 1986).

⁸⁰ Levy-Pounds, “Can These Bones Live?.”

⁸¹ “Legal Scholar: Jim Crow Still Exists in America,” NPR.org, n.d., <https://www.npr.org/transcripts/145175694>, accessed July 7, 2025.

⁸² Alexander, *The New Jim Crow*, 28.

⁸³ Alexander, *The New Jim Crow*, 32.

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Criminal defendants in the United States are constitutionally guaranteed a wide range of due process rights through the Bill of Rights and the Fourteenth Amendment. These include the right to a speedy trial, effective legal counsel, protection against self-incrimination, trial by a jury of peers, the right to remain silent, protection from double jeopardy, the right to appeal, and the presumption of innocence.⁸⁴ While these rights are extensive, they are only meaningful if upheld. However, in practice, these rights have been systematically denied to Black defendants, undermined by racial bias at every stage of the modern legal process.

A fair trial begins with a fair jury. The Sixth Amendment guarantees criminal defendants the right to “an impartial jury” composed of fellow citizens.⁸⁵ This jury should represent a random cross-section of the community where the case is being tried, ensuring the verdict is not shaped by preconceived biases.⁸⁶ To protect against partiality, American courts have long interpreted this right to mean a “jury of one’s peers,” though only recently have courts acknowledged that this requires a panel that reflects the diversity of the population, especially in terms of race, ethnicity, and gender.⁸⁷ Yet for much of American history, Black defendants were denied this right through the systematic exclusion of Black jurors, particularly in the South. Despite Supreme Court rulings such as *Strauder v. West Virginia* (1880), which struck down laws explicitly barring Black jurors, the practice persisted through subtler forms of discrimination.⁸⁸

One of the clearest examples of unrepresentative juries appears in the 1931 case of the Scottsboro Boys, where nine Black teenagers were falsely accused of raping two white women.⁸⁹ Even though the defendants’ testimonies were contradictory and there was a lack of physical evidence to reach the “beyond reasonable doubt” standard for guilt, the Black defendants were still swiftly convicted by all-white juries in a deeply segregated Alabama courtroom.⁹⁰ During this time, Alabama circumvented the *Strauder* decision by claiming to follow a race-neutral jury selection process; in practice, however, no Black person had served on a jury in Scottsboro’s Jackson County for over thirty years.⁹¹ Prosecutors and jury commissioners arbitrarily excluded Black citizens, citing race-neutral criteria like “good character” or “sufficient intelligence,” ensuring these jurors never made it onto panels.⁹² As part of the multiple appeals resulting from the Scottsboro trials, in *Norris v. Alabama* (1935), the Supreme Court found that this intentional, routine exclusion violated Black defendants’ constitutional rights: “the systematic exclusion of Negroes from jury service solely because of their race denies the equal protection of the laws.”⁹³ Ultimately, the Scottsboro Boys’ case demonstrated that even after lynching declined, the

⁸⁴ U.S. Const. amends. V, VI, and XIV.

⁸⁵ U.S. Const. amend. VI.

⁸⁶ “Jury of One’s Peers,” Legal Information Institute, August 19, 2010, https://www.law.cornell.edu/wex/jury_of_one%27s_peers, accessed July 10, 2025.

⁸⁷ “Jury of One’s Peers,” Legal Information Institute.

⁸⁸ *Strauder v. West Virginia*, 100 U.S. 303 (1879).

⁸⁹ “The Scottsboro Boys,” National Museum of African American History and Culture, (Smithsonian, March 15, 2017), <https://nmaahc.si.edu/explore/stories/scottsboro-boys>, accessed July 10, 2025.

⁹⁰ “The Scottsboro Boys,” National Museum of African American History and Culture.

⁹¹ Equal Justice Initiative, “Race and the Jury,” EJI Reports, 2021, <https://eji.org/report/race-and-the-jury/>, accessed July 10, 2025.

⁹² Hilary Weddell, “A Jury of Whose Peers?: Eliminating Racial Discrimination in Jury Selection Procedures,” n.d., <https://lira.bc.edu/files/pdf?fileid=33aac142-de06-4299-9050-1a87cc81fbdf>, accessed July 10, 2025.

⁹³ *Norris v. Alabama*, 294 U.S. 587 (1935).

criminal justice system could still uphold racial violence, this time cloaked in the legitimacy of legal form, with all-white juries serving as instruments of preordained guilt.

Norris did not solve the issue of jury selection. New techniques were developed to achieve the same outcome of excluding Black jurors without explicitly invoking race. One of the most common methods was the use of peremptory strikes during jury selection, which allowed attorneys to summarily dismiss potential jurors without stating a reason.⁹⁴ These strikes were frequently used to remove Black jurors, especially in cases involving Black defendants.⁹⁵ As a result, rampant jury discrimination continued; all-white or mostly white juries enabled prosecutors to easily secure death sentences against Black defendants, especially in cases involving white female victims.⁹⁶

This pattern prompted the U.S. Supreme Court to intervene once again in *Batson v. Kentucky* (1986).⁹⁷ The case involved a Black defendant who was convicted by an all-white jury after the prosecutor used peremptory strikes to remove all Black jurors. The court ruled that it was unconstitutional to use peremptory strikes to exclude jurors solely on the basis of race. It further established that if a party suspects a racially discriminatory strike, the opposing counsel must provide a race-neutral justification, and the court would consider whether there is evidence that the race-neutral explanation is a pretext for discrimination.⁹⁸ This became the *Batson* challenge. This ruling was meant to enforce *Norris* and curb the disguised racial bias embedded in jury selection.

Although *Batson* offered a mechanism to challenge racially discriminatory jury strikes, its promise quickly unraveled. While some early convictions were overturned after prosecutors openly admitted to striking jurors based on race, most prosecutors soon adapted. They learned to offer race-neutral justifications to evade scrutiny. Courts accepted rationales such as a juror's "demeanor," clothing, and hairstyle, or residence in a so-called "high-crime area," a thinly veiled reference to predominantly Black neighborhoods.⁹⁹ In doing so, courts diluted *Batson*'s intent, enabling racial bias to persist behind a facade of neutrality.

This loophole was illustrated in *Flowers v. Mississippi* (2019).¹⁰⁰ Curtis Flowers, a Black man, was tried six times by the same white prosecutor, Doug Evans, for a 1996 quadruple homicide. In each of the first four trials, Evans disproportionately used peremptory strikes to remove nearly all Black jurors from the panel, despite significant numbers of Black citizens in the jury pool. The juries in these trials included

⁹⁴ John C Busby, "Peremptory Challenge," Legal Information Institute, June 15, 2015, https://www.law.cornell.edu/wex/peremptory_challenge, accessed July 10, 2025.

⁹⁵ Lauren Hill and Leah Roemer, "'He Looks a Little like the Defendant': A Closer Look at the History of Racial Bias in Jury Selection," Death Penalty Information Center, March 28, 2025, <https://deathpenaltyinfo.org/news/he-looks-a-little-like-the-defendant-a-closer-look-at-the-history-of-racial-bias-in-jury-selection>, accessed July 17, 2025.

⁹⁶ Hill and Roemer, "He Looks a Little like the Defendant."

⁹⁷ *Batson v. Kentucky*, 476 U.S. 79 (1986).

⁹⁸ *Batson v. Kentucky*, 476 U.S. 79 (1986).

⁹⁹ Mintz, Jonathan B. A Closer Look at the History of Racial Bias in Jury Selection. Death Penalty Information Center, April 2025.

<https://deathpenaltyinfo.org/news/he-looks-a-little-like-the-defendant-a-closer-look-at-the-history-of-racial-bias-in-jury-selection>, accessed July 18, 2025.

¹⁰⁰ *Flowers v. Mississippi*, 588 U.S. 284 (2019).

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either one or zero Black jurors, and Flowers was either convicted or faced hung juries each time. In Flowers's sixth and final trial, Evans again struck five out of six Black prospective jurors, resulting in a nearly all-white jury (eleven white jurors and one Black juror) that convicted Flowers once more. Only after this decades-long ordeal and rising national attention did the Supreme Court rule that the jury selection process had been unconstitutional under *Batson*.¹⁰¹

Flowers's experience demonstrates that even with formal protections like *Batson* in place, racial bias is still deeply embedded in the jury-selection process. When Black defendants are tried by juries that exclude or severely underrepresent Black citizens, the ideal of an "impartial" jury of one's peers becomes hollow. The result is a legal system where Black guilt is not only presumed but reinforced by juries that reflect neither the diversity nor the lived experiences of Black communities. These juries become echoes of earlier mobs: not in their violence, but in their uniformity and their unquestioning acceptance of the state's accusations. The courtroom, once seen as the safeguard against mob rule, has in many ways inherited its biases. Jury exclusion thus becomes the first structural failure in the criminal legal process, laying the foundation for wrongful convictions by denying Black defendants a fair trial guaranteed under the Constitution.

4.2 Unequal Defense and Indigent Representation

While jury selection determines who judges a defendant's guilt, it is only one component of the due process required to achieve justice. A fair trial also depends on the quality of the defense counsel. The Sixth Amendment guarantees the right to effective legal counsel; yet this promise often goes unfulfilled.¹⁰² In practice, access to justice frequently depends not just on the facts of the case, but on the defendant's ability to afford competent representation. This systemic flaw disproportionately harms indigent and Black defendants, further exacerbating racial and economic inequality in the courtroom.

In *Gideon v. Wainwright* (1963), the U.S. Supreme Court held that the Sixth Amendment guarantees a right to court-appointed counsel to defendants in serious (felony) criminal proceedings.¹⁰³ Yet, even with this constitutional assurance, states frequently prioritize cost-minimization over effective legal defense, underfunding the public defender system.¹⁰⁴ The U.S. Department of Justice found that approximately seventy-three percent of county public defender offices exceed the maximum recommended caseload limits.¹⁰⁵ Overburdened attorneys, unable to meet recommended caseload limits, often fail to provide effective counsel, violating their clients' Sixth Amendment rights.

¹⁰¹ *Flowers v. Mississippi*, 588 U.S. 284 (2019).

¹⁰² U.S. Const. amend. VI.

¹⁰³ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

¹⁰⁴ Stephen B. Bright and Alec C. Sanneh, "Defiance of Gideon," American Constitution Society, 2011. <https://www.acslaw.org/wp-content/uploads/old-uploads/originals/documents/Bright%20and%20Sanneh%20-%20Defiance%20of%20Gideon.pdf>, accessed July 19, 2025.

¹⁰⁵ "County-based and Local Public Defender Offices, 2007," Bureau of Justice Statistics, 2008.

<https://bjs.ojp.gov/content/pub/pdf/clpdo07.pdf>, accessed July 19, 2025.

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This systemic inadequacy of legal aid is particularly harmful to defendants from marginalized communities, who largely rely on the public defense system. As Tad Roach from the Equal Justice Initiative (EJI) noted, “Whether a defendant will be sentenced to death typically depends on the quality of his legal team more than any other factor.”¹⁰⁶ Economically disadvantaged defendants are less likely to receive adequate legal counsel and, as a result, have a higher chance of wrongful conviction than those with greater financial resources.¹⁰⁷ The American Bar Association concurred: “The disturbing conclusion is that thousands of persons are processed through America’s courts every year either with no lawyer at all or with a lawyer who does not have the time, resources, or, in some cases, the inclination to provide effective representation.”¹⁰⁸ Such systemic failures reveal that the right to counsel is not equally protected, and that wealth, rather than guilt, too often determines a person’s legal outcome.

The case of Anthony Ray Hinton vividly exemplifies this injustice. In 1985, Hinton, a Black man living in Alabama, was charged with two capital murders based entirely on bullets recovered from crime scenes, despite having a verified alibi.¹⁰⁹ Unable to afford private counsel, he was appointed an attorney whose first words were shockingly dismissive: “I did not go to law school to do pro bono work.”¹¹⁰ The attorney’s indifferent attitude set the stage for a deeply flawed defense. The entire case against Hinton hinged on crucial firearm and toolmark evidence, making it essential for his attorney to secure a competent expert witness. Yet Hinton’s attorney, unaware that he could petition for additional state funding, hired a visually impaired expert with no relevant experience. His incompetence went unchallenged in court, and Hinton was sentenced to death. Nearly three decades later, after the Supreme Court unanimously overturned his conviction in *Hinton v. Alabama* (2014) for ineffective assistance of counsel, qualified ballistics experts re-examined the evidence and concluded that the bullets from the crime scenes could not have come from the gun in question.¹¹¹ Their findings confirmed what Hinton had maintained all along: he was innocent. His wrongful conviction, rooted in a legal system that denies economically disadvantaged defendants the resources to secure competent counsel, illustrates how post-civil rights era criminal justice, while outwardly neutral, continues to replicate the racial and class-based injustices of earlier eras under the guise of due process.

4.3 Prosecutorial Misconduct and Coercive Plea Bargaining

¹⁰⁶ Tad Roach, interview by Yulisa Ma, May 6, 2025.

¹⁰⁷ Melinda Burgin, “Socioeconomic Factors in Wrongful Convictions,” *Res Publica - Journal of Undergraduate Research*: Vol. 27, <https://digitalcommons.iwu.edu/respublica/vol27/iss1/13/#:~:text=Bias%20on%20the%20part%20of,higher%20risk%20of%20wrongful%20conviction>, accessed July 19, 2025.

¹⁰⁸ Maurice Deane et al., “Defense Lawyering and Wrongful Convictions Recommended Citation,” *Defense Lawyering and Wrongful Convictions*, 2014, https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1930&context=faculty_scholarship, accessed July 19, 2025.

¹⁰⁹ Anthony Ray Hinton, *The Sun Does Shine: How I Found Life and Freedom on Death Row* (New York: St. Martin's Press, 2018), accessed July 19, 2025.

¹¹⁰ “Wrongfully Convicted Man Spent 30 Years on Death Row,” *Ocean County Sentinel*, <https://ocnsentinel.com/wrongfully-convicted-man-spent-30-years-on-death-row/>, accessed July 19, 2025.

¹¹¹ *Hinton v. Alabama*, 571 U.S. 263 (2014).

Prosecutors also wield immense power. They control which charges are filed, what evidence is presented, and often, how long a defendant will spend behind bars. However, there is a lack of accountability for prosecutorial misconduct in the American criminal justice system. The doctrine of “prosecutorial immunity” shields prosecutors from accountability, even in cases of serious misconduct, which can undermine the foundation of justice.¹¹² The problem is compounded by the fact that prosecutors are often incentivized—directly or indirectly—to maximize their conviction rates. This creates a dangerous environment where the pursuit of convictions can overshadow the fundamental duty to achieve justice.¹¹³ Without the risk of liability, there are few deterrents against unethical practices such as intentionally withholding exculpatory evidence, coercing witnesses, or using unreliable testimony to secure convictions.¹¹⁴

A striking illustration of this misconduct is the case of Michael Morton, a Texas man, who was convicted in 1987 and spent nearly twenty-five years in prison for his wife’s murder. The prosecutor, Ken Anderson, deliberately concealed critical exculpatory evidence, including DNA evidence and a police report implicating another suspect, and exonerating notes from the lead detective on the case. When confronted with his obfuscation, Anderson faced minimal consequences for his misconduct: ten days in jail and a \$500 fine, a relatively minor sanction compared to the decades Morton lost in prison.¹¹⁵

Beyond misconduct during trial, prosecutorial abuse also manifests through coercive plea bargaining. Indigent and marginalized defendants, particularly those with limited legal knowledge and weak defense representation, are often pressured into accepting plea deals, even when innocent.¹¹⁶ Facing the threat of lengthy sentences if they go to trial, many plead guilty to avoid worse outcomes.¹¹⁷ While plea bargains may appear beneficial in the short term, they significantly complicate the exoneration process, as guilty pleas are legally treated as admissions of guilt.¹¹⁸ The result is a system where innocence can be buried beneath paperwork, and guilt may be presumed before the trial even begins, especially for Black defendants without access to resources or legal power.

Tyrone Day’s story reveals how this dynamic plays out in real life. In 1990, Day, a young Black father with two daughters, was charged with sexually assaulting a white woman. Although he maintained his innocence, his court-appointed attorney advised him to plead guilty to avoid the maximum sentence of

¹¹² “Immunity for Prosecutorial Conduct,” Institute for Justice, <https://ij.org/issues/project-on-immunity-and-accountability/immunity-for-prosecutorial-conduct/>, accessed July 20, 2025.

¹¹³ “Prospective Study of the Effects of the Death Penalty,” https://lucasrentschler.com/wp-content/uploads/2020/09/Pros1_331.pdf, accessed July 20, 2025.

¹¹⁴ “Prospective Study of the Effects of the Death Penalty.”

¹¹⁵ Maurice Deane et al., “Defense Lawyering and Wrongful Convictions Recommended Citation,” *Defense Lawyering and Wrongful Convictions*, 2014, https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1930&context=faculty_scholarship, accessed July 20, 2025.

¹¹⁶ “False Confessions,” Innocence Project, <https://innocenceproject.org/false-confessions/>, accessed July 20, 2025.

¹¹⁷ “Coerced Pleas,” Innocence Project, <https://innocenceproject.org/coerced-pleas/#:~:text=Oftentimes%2C%20prosecutors%20use%20the%20threat,a%20plea%20despite%20their%20innocence>, accessed July 20, 2025.

¹¹⁸ “Coerced Pleas,” Innocence Project.

ninety-nine years.¹¹⁹ The attorney assured him, wrongly, that by accepting a forty-year sentence, he would be paroled within four years. Day, also battling serious health conditions, feared that a jury in Texas would never believe a Black man over a white accuser. Under this pressure, he pleaded guilty. Because of the plea, no DNA evidence from the crime scene was tested. He spent over two decades in prison before new testing excluded him and revealed that another man had committed the assault. Day was finally exonerated in 2017, after serving twenty-six years for a crime he did not commit.¹²⁰

This case is part of a broader trend. In Harris County, Houston, researchers have found that the majority of wrongful misdemeanor pleas involved defendants who were factually innocent but accepted plea deals to avoid prolonged pretrial detention.¹²¹ Lacking bail money and meaningful legal counsel, many chose to plead guilty simply to return home. Therefore, in this system, pleading guilty becomes not a reflection of actual guilt but a survival strategy, one that leaves the indigent and marginalized most vulnerable to wrongful convictions. When the system measures success by the number of convictions rather than their accuracy, wrongful convictions are no longer anomalies, they become institutionalized.

4.4 Policing, Search, and Flawed Evidence

Beyond the courtroom, the Constitution's Fourth Amendment promises protection against unreasonable searches and seizures, but modern policing practices often erode these protections, especially for Black Americans.¹²² One of the ways is through "pretextual stop," in which police pull over a driver for a minor traffic infraction as a pretext to investigate more serious, unsupported suspicions, often racially motivated.¹²³ In the landmark case *Whren v. United States* (1996), the Supreme Court held that as long as officers have a reasonable cause to believe that a traffic violation occurred, they may stop any vehicle, regardless of what other personal motivations the officers might have had for stopping the vehicle.¹²⁴ This ruling effectively legalized racial profiling under the guise of traffic enforcement, allowing officers to disproportionately stop Black drivers under the thinnest pretenses.¹²⁵ As historian Michelle Alexander observed in *The New Jim Crow*, officers learn "how to use a minor traffic violation as a pretext to stop someone, [and] how to lengthen a routine traffic stop and leverage it into a search for drugs."¹²⁶ Her critique helps explain how *Whren's* race-neutral logic enabled disproportionate policing of Black communities.

¹¹⁹ "Tyrone Day," Innocence Project of Texas, n.d., <https://innocencetexas.org/cases/tyrone-day/>, accessed July 20, 2025.

¹²⁰ "Tyrone Day," Innocence Project of Texas.

¹²¹ Ram Subramanian et al., "In the Shadows: A Review of the Research on Plea Bargaining," 2020, <https://vera-institute.files.svdcdn.com/production/downloads/publications/in-the-shadows-plea-bargaining.pdf>, accessed July 21, 2025.

¹²² U.S. Const. amend. IV.

¹²³ "Pretextual Traffic Stops," The Policing Project, n.d., <https://www.policingproject.org/pretextual-traffic>, accessed July 21, 2025.

¹²⁴ *Whren v. United States*, 517 U.S. 806 (1996).

¹²⁵ Stephen Rushin and Griffin Sims Edwards, "An Empirical Assessment of Pretextual Stops and Racial Profiling," *SSRN Electronic Journal* 73, no. 3 (2019), <https://doi.org/10.2139/ssrn.3506876>, accessed July 22, 2025.

¹²⁶ Alexander, *The New Jim Crow*, 162.

Empirical studies confirm its disproportionate impact on Black drivers. A study of nearly 100 million traffic stops across the United States by the Stanford Open Policing Project reveals that Black drivers were about twenty percent more likely to be stopped than white drivers relative to their share of the residential population.¹²⁷ It also found that Black drivers made up a smaller share of those stopped at night, when it is more difficult to discern the race of a driver, which suggests that racial bias may influence stop decisions.¹²⁸ Another University of Michigan study corroborated the study, finding that Black drivers are more frequently searched during traffic stops without contraband being found compared to white drivers: specifically, innocent Black drivers were searched about 3.4 to 4.5 percent of the time, while innocent white drivers were searched about 1.9 to 2.7 percent of the time.¹²⁹

Compounding the effects of policing practices, flawed evidence also plays a key role in wrongful convictions, especially when it intersects with race. Eyewitness misidentification is a leading cause of wrongful convictions, contributing to errors in more than seventy percent of such cases, yet it remains one of the most persuasive forms of evidence presented to jurors.¹³⁰ But this issue is not just about human error; it's about racial perception. Psychological research has consistently documented the cross-race effect, a phenomenon where people are significantly less accurate at identifying individuals of a different race.¹³¹ This means that Black defendants are especially vulnerable to being misidentified by white eyewitnesses, a pattern that has been confirmed by both social science and wrongful conviction data.¹³² When this flawed testimony is presented to jurors, it can reinforce existing biases and contributes to the broader presumption of Black guilt, increasing the likelihood of a guilty verdict and wrongful conviction.

4.5 Post-Conviction Barriers and Finality

Even after conviction, systemic injustice may persist. For many incarcerated individuals, the path to proving their innocence after a wrongful conviction is obstructed by a maze of procedural hurdles that prioritize finality over truth. In theory, post-conviction relief mechanisms like habeas corpus and appeals exist to correct judicial errors. In reality, however, they often serve to uphold wrongful convictions, especially when the defendants are Black and indigent.

¹²⁷ Stanford University, "Stanford Open Policing Project Analyzed Data from Nearly 100 Million Traffic Stops in the US," journalism.stanford.edu, n.d., <https://journalism.stanford.edu/news/stanford-open-policing-project-analyzed-data-nearly-100-million-traffic-stops-us>, accessed July 22, 2025.

¹²⁸ Stanford University, "Stanford Open Policing Project Analyzed Data from Nearly 100 Million Traffic Stops in the US."

¹²⁹ "Study: Racial Bias Is No 'False Alarm' in Policing," University of Michigan News, April 30, 2024, <https://news.umich.edu/study-racial-bias-is-no-false-alarm-in-policing/>, accessed July 22, 2025.

¹³⁰ "Eyewitness Misidentification," Kentucky Department of Public Advocacy, <https://dpa.ky.gov/kentucky-department-of-public-advocacy/about-dpa/kip/causes/misid/#:~:text=An%20eyewitness%20false%20identification%20of,a%20significant%20role%20in%20over>, accessed July 23, 2025.

¹³¹ Kathleen L. Hourihan, Aaron S. Benjamin, and Xiping Liu, "A Cross-Race Effect in Metamemory: Predictions of Face Recognition Are More Accurate for Members of Our Own Race," *Journal of Applied Research in Memory and Cognition* 1, no. 3 (2012): 158–62, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3496291/>, accessed July 23, 2025.

¹³² Hourihan, Benjamin, and Liu, "A Cross-Race Effect." April 2026

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Under the precedent set in *Strickland v. Washington* (1984), defendants seeking relief based on ineffective assistance of counsel must meet an exceptionally high bar. They must not only demonstrate their attorney's performance was deficient but also this deficiency resulted in actual "prejudice," that is, a reasonable probability that the trial outcome would have been different if not for the lawyer's errors.¹³³ This standard imposes a nearly insurmountable burden, especially for defendants without access to resources. Rather than acknowledging and correcting the failure of ineffective assistance of counsel, *Strickland* imposes the nearly impossible task of proving what might have happened under different circumstances, a standard that enables the system to sidestep accountability for its own constitutional shortcomings.

Even when defendants manage to uncover evidence of wrongful conviction after trial, the system continues to erect obstacles to justice. The culture of finality is reinforced by federal legislation and case law that makes it extremely difficult for incarcerated individuals to challenge their convictions once their appeals are exhausted. Restrictions on habeas corpus petitions, notably under the 1996 Antiterrorism and Effective Death Penalty Act, limit the opportunity for prisoners to present new evidence and file successive petitions after their initial appeals have failed.¹³⁴ More recently, the Supreme Court's ruling in *Jones v. Hendrix* (2023) solidified these barriers, with Justice Clarence Thomas stating unequivocally, "Congress has chosen finality over error correction."¹³⁵

Further complicating post-conviction relief, in *Teague v. Lane* (1989), the Supreme Court held that new constitutional protections generally do not apply retroactively to cases already finalized.¹³⁶ *Teague*, who was convicted by an all-white jury after prosecutors deliberately excluded Black jurors, was denied relief because his conviction became final before the Supreme Court recognized such racial discrimination in jury selection as unconstitutional.¹³⁷ *Teague's* experience reveals that Black defendants subjected to biased juries, over-policing, and inadequate defense are often the least likely to benefit from legal reforms. When courts declare new protections for defendants but refuse to apply them retroactively, they effectively abandon the very people those protections were designed to help. In doing so, the system preserves its past injustices and denies justice to those historically excluded from it.

5. DISCUSSION AND IMPLICATION

The evidence examined in this paper suggests that the decline of lynching did not mark a simple transition from racial violence to racial justice. Instead, it points to a transformation in the form through which racialized punishment was administered, from extrajudicial violence carried out with little regard for evidence or due process, to punishment imposed through formal legal institutions that claimed neutrality while often reproducing racial inequality. Although the mechanisms changed, the underlying presumption

¹³³ *Strickland v. Washington*, 466 U.S. 668 (1984).

¹³⁴ *Antiterrorism and Effective Death Penalty Act of 1996*. 104th Cong., 2nd sess., Senate Bill 735, 1996. Congress.gov, <https://www.congress.gov/bill/104th-congress/senate-bill/735/text>, accessed July 24, 2025.

¹³⁵ *Jones v. Hendrix*, 599 U.S. ____ (2023).

¹³⁶ *Teague v. Lane*, 489 U.S. 288 (1989).

¹³⁷ *Teague v. Lane*. Supreme Court of the United States.

of Black guilt remained persistent. What had once been enforced through the spectacle of mob violence increasingly reappeared in policing, prosecution, jury selection, sentencing, and barriers to post-conviction relief.

This continuity has two important implications. First, it complicates narratives of steady legal progress. Although the Civil Rights Movement secured major formal protections, the cases and mechanisms discussed here show that equal rights on paper do not guarantee equal protection in practice. A legal system may abandon the spectacle of racial violence while still reproducing racial inequality through discretionary procedures, selective enforcement, and uneven access to defense and review. Second, it suggests that wrongful convictions should not be understood only as isolated miscarriages of justice or unfortunate procedural breakdowns. Rather, they must also be understood as historically rooted outcomes shaped by broader structures of racial and economic inequality. The persistence of all-white or nearly all-white juries, overburdened indigent defense systems, prosecutor-dominated plea bargaining, racially skewed traffic stops, and rigid post-conviction standards demonstrates that wrongful conviction is often systemic rather than exceptional.

Viewing wrongful convictions in this longer historical frame also changes the meaning of reform. If wrongful convictions are tied not only to evidentiary mistakes but also to deeper assumptions about race, credibility, and punishment, then reform cannot be limited to correcting errors after conviction. It must also address the conditions and implicit biases that make certain defendants more vulnerable to accusation and conviction in the legal system in the first place. In that sense, the problem lies in how the system has distributed the protections of due process unevenly, making innocence harder to prove and easier to disregard for those already burdened by racial and economic disadvantage. The broader implication of this paper, then, is that the history of wrongful conviction is inseparable from the history of racialized punishment in the United States, and that meaningful reform requires confronting not only procedural failures but also the deeper inequalities that shape whose innocence is recognized, whose testimony is believed, and whose rights are fully protected.

6. CONCLUSION

Throughout American history, wrongful convictions have disproportionately impacted Black men, functioning as a form of racial control. From the extrajudicial violence of lynch mobs during the Jim Crow era to the systemic flaws and biases embedded in the post-civil rights era legal system, the presumption of Black guilt has endured, shifting in form but not in function. As vigilante justice gave way to courtroom proceedings, the site of racialized punishment merely changed venue. Biased jury selection, coercive plea bargaining, underfunded legal defense counsel, and barriers to post-conviction relief have collectively sustained a legal system where wrongful convictions are not rare errors but recurring outcomes, particularly for indigent Black defendants.

Yet hope remains. The case of Anthony Ray Hinton shows that the same legal system capable of grave injustice also retains the tools for redress. With the help of Equal Justice Initiative attorney Bryan

Stevenson, Hinton spent fifteen years challenging his conviction, and in 2014, the U.S. Supreme Court unanimously overturned it, ruling that his trial counsel had rendered constitutionally deficient performance in violation of his Sixth Amendment right to effective assistance of counsel.¹³⁸ On April 3, 2015, after nearly thirty years of wrongful imprisonment, Hinton walked free, becoming the 152nd person exonerated from death row in America since 1973.¹³⁹

Justice, however, should not be just for the select few. It should not take decades of litigation, tireless advocacy, and the intervention of the U.S. Supreme Court to overturn a conviction rooted in failure from the start. Hinton's case proves that the system has the capacity to correct its errors, but it also reveals how rare and arduous that process remains. Achieving true justice demands more than retrospective exonerations; it requires the dismantling of the structural biases that have historically equated Blackness with guilt. Only when the presumption of innocence truly applies to all Americans, and the safeguards of due process are upheld without exception, can the legacy of racial injustice that has long shaped the American legal system be dismantled, ensuring that wrongful convictions become relics of history and not challenges of the present.

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¹³⁸ *Hinton v. Alabama*, 571 U.S. 263 (2014).

¹³⁹ "Anthony Ray Hinton," Equal Justice Initiative, <https://eji.org/cases/anthony-ray-hinton/>. April 2026

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