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Cleaning Up "Nasty Nac": Vice, Race, and Social Reform in Nacogdoches, Texas, 1870 to 1915

by

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A Plan-B paper submitted in partial fulfillment of the requirements for the degree

of

MASTER OF ARTS

in

History

UTAH STATE UNIVERSITY
Logan, Utah

2016

Introduction

In 1910, Della Sutphen, an African American widow and single mother, was indicted in Nacogdoches, Texas, for running a "house of ill repute." Della and her young son shared a home with another single black woman, Rena Hooper. However, Nacogdoches County officials did not seem to be all that worried about prostitution; Della was one of several African Americans repeatedly arrested for selling liquor.[1] Della's prostitution charge went hand in hand with a charge of selling liquor illegally, and this was one of three instances in which she suffered arrest for this crime.

Nacogdoches had a long history of liquor restrictions – the town licensed and taxed legal liquor sales decades before Della was born. What is interesting about Della and her contemporaries, however, is that most of those arrested in her time were African Americans violating a 1906 law that completely prohibited alcohol in Nacogdoches County. Law enforcement repeatedly arrested several African Americans – including Della Sutphen, Emma Hightower, George Pleasant, Frank Payne, and Edie Johnson – primarily for the crime of selling alcohol.[2] Although the county had always restricted

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[1] *State of Texas v. Della Sutphen*, case #5409, Justice of the Peace (Justice Court) Records, East Texas Research Center (ETRC), Stephen F. Austin State University (SFASU), Nacogdoches, Texas. Case files #5392 and #5445 contain documents related to Della's other arrests; Davis, Kathryn Hooper, *The People of Nacogdoches County in 1910: An Edited Census* (Nacogdoches: Ericson Books, 1994), 33; *Thirteenth Census of the United States, 1910*, Nacogdoches, Texas, Roll T624-1581, page 3B, United States Census Bureau, National Archives and Records Administration. It should be noted that at the time of researching at the ETRC (July 2015 and December 2015), some items were either uncatalogued or undergoing reorganization and thus may now have new boxes, numbers, or collection names. For example, the Justice of the Peace records were not listed in the online catalog at the time, and though some cases within the JP boxes were numbered, the boxes themselves were not. Similarly, sometimes where boxes list case number ranges, some individual case files within the boxes were not numbered.

[2] Minutes of Sheriff's Accounts, Book 1905-1910 and 1908-1915, East Texas Research Center (ETRC), Stephen F. Austin State Univeristy (SFASU), Nacogdoches, TX; in Nacogdoches County (RHRD/6) County-Criminal #1468 (1878) - #869 (1914). East Texas Research Center (ETRC), Stephen F. Austin State University (SFASU); Davis, Kathryn Hooper, *The People of Nacogdoches County in 1910: An Edited Census*.

liquor through licensing requirements and local option laws, it had not completely banned alcohol prior to 1906. Furthermore, postbellum liquor laws had not been disproportionately applied against African Americans before the 1906 prohibition law. In fact, the opposite is true. Before the twentieth century, more white people in Nacogdoches suffered arrests for alcohol-related crimes. The vice laws that nineteenth century African Americans faced charges for were mostly those of a sexual nature, and they did not suffer arrests for these crimes at a higher rate than white citizens. By the time of Della Sutphen's arrests, African Americans suffered the majority arrests for vice crimes in Nacogdoches. An analysis of case files beginning in the 1870s suggests a distinct racialization of vice and law enforcement, particularly in regards to liquor laws, in the years following Reconstruction.[3] What caused this apparent racialization of vice in Nacogdoches? Why did law enforcement transition from a broader concern with vice of all races to a focus on alcohol-related crimes committed by African Americans? What motivated the prohibition effort in Nacogdoches? How does this fit in with broader trends related to race, crime, and sexuality?

This racialization of vice crime laws is not limited to Nacogdoches. Historians studying these matters have noted that after Reconstruction, law enforcement in the South

[3] Boxes 2-7, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, SFASU, Nacogdoches, TX; Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas; Nacogdoches County (RHRD/6) County – Criminal #1468 (1878) - #869 (1914), ETRC, SFASU, Nacogdoches, TX. Race of individuals is found by locating those mentioned in the case files in census records. In regards to census records, digital versions of the microfilm (besides the physical microfilm) are available online and Carolyn Ericson and Kathryn Davis compiled the census records for Nacogdoches into printed volumes. I looked at both the microfilm and print versions and include citations for both where appropriate, but cite Ericson (and Davis) more as that presentation of the information is simpler to access. I found no discrepancies between their work and the microfilm, though the handwriting on the microfilm is sometimes difficult to decipher.

targeted African Americans for petty crimes "against the moral order."[4] Vice laws largely served as one means to maintain white superiority and racial control in the South, and at times when the law fell short, white southerners often resorted to violent means to maintain white control. In the 1890s, social theorists used supposedly objective census data to suggest that black people, particularly black men, were inherently criminal, further encouraging law enforcement to focus on crimes committed by African Americans, even in northern cities.[5] Reform efforts thus often focused on helping white citizens and immigrants above African Americans. As Reconstruction ended and Jim Crow laws spread throughout the South, African Americans faced disenfranchisement that limited their political voice. Prohibition efforts intertwined with racial concerns and perceptions of black criminality to socially and legally control African Americans and maintain white superiority.

Most scholarship on this topic, however, focuses on urban areas, be it in the North or South. Furthermore, most research focuses on the eastern half of the country. Nacogdoches demonstrates how racial, social, and legal concepts and trends interplayed with one another in a rural area that has ties to both the West and South. Further, Nacogdoches reveals how gender can combine with studies in race and crime; women promoted prohibition efforts that were implemented by white male voters. Nacogdoches also serves as one example of a trend to use vice crime laws to inhibit African Americans

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[4] Christopher Waldrep, *Roots of Disorder: Race and Criminal Justice in the American South, 1817-80* (Chicago: University of Illinois Press, 1998), xii; Donald G. Nieman, "African American Communities, Politics, and Justice: Washington County, Texas, 1865-1890," *Local Matters: Race, Crime, and Justice in the Nineteenth-Century South*, Christopher Waldrep and Donald G. Nieman (Athens: University of Georga Press, 2001), 204-205.

[5] Khalil Gibran Muhammed, *The Condemnation of Blackness: Race, Crime, and the Making of Urban America* (Boston: Harvard University Press, 2011), 3, 6-8, and 11.

that foreshadowed current trends in the War on Drugs. Case files, newspapers, and photographs in Nacogdoches Texas combined with secondary literature on sexuality, race, and crime indicate that Prohibition may have reinforced a racialization of crime in Nacogdoches. This racialization of crime serves as one localized example of the use of moral legislation to maintain white societal superiority under the guise of being racially neutral.

Nacogdoches: Background and Relationship with Vice before 1900

Nacogdoches, Texas occupies an interesting space and plays an important role within both Texas and American history. Originally settled by the Spanish and later attracting other Europeans, it served as an early frontier crossroads. It was a place where people stopped as they passed through to other parts of Texas, the Southwest, and Mexico. With Spanish settlers, American Indians, Mexicans, "Texians," and immigrant Americans, Nacogdoches was rather diverse before ever becoming part of the United States. Eventually, it came to share demographic characteristics with other portions of the West and the American South, including cotton culture and slavery. Later, the railroad connected it more easily with other areas, as lumber became a growing industry in the Piney Woods area of East Texas and changed the economic dynamic of Nacogdoches County and other East Texas areas. Texas also sided with the South during the Civil War and went through Reconstruction. In the 1880s, Nacogdoches slightly shifted in industry in that the railroad came and lumber became increasingly important. This provided new

job opportunities and connections with other areas, but Nacogdoches County remained rural and continued to consist primarily of farmers.[6]

Despite arrests related to liquor and gambling, Nacogdoches, like many Western towns, had several saloons. Vice therefore held some degree of acceptability.[7] Nevertheless, regulation of vice crimes in Nacogdoches existed for much of Nacogdoches's history. For example, some of the earliest ordinances in Nacogdoches after Texas became a state prohibited slaves from possessing or drinking alcohol and prohibited white citizens from giving or selling alcohol to slaves.[8] Regardless of early concerns over racial prohibition, during and following Reconstruction, no more concern appears in case records over African Americans consuming or selling alcohol than for white people committing those same crimes. In fact, case records suggest the opposite: By the 1870s, African Americans faced significantly less punishment for alcohol crimes than their white counterparts. If anything, law enforcement in Nacogdoches targeted African Americans more for sex and marital crimes. In Nacogdoches, sex and marital crimes included prostitution, fornication, seduction, bigamy, polygamy, sodomy, adultery, and miscegenation.

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[6] James G. Partin, Archie P. McDonald, Carolyn Ericson, and Joe Ericson, *Nacogdoches: The History of Texas' Oldest City* (Texas: Best of East Texas Publishers, 1995).

[7] Gambling is largely left out of this study except in cases where those arrested for gambling-related crimes are the same people arrested for the other vice crimes mentioned here. The number of gambling-related crimes – which can include playing pool, playing various types of card games (even in private homes), playing dice games like craps, or simply displaying a table possibly used for gaming – is significantly higher than the number of other vice crimes in Nacogdoches in general and would push this project beyond its current scope (in fact, gambling might eclipse the other topics). A cursory look at the records do not suggest the same correlation with race – and indeed, most of the people gambling usually do not appear in the records for other vice crimes - but future research could shed more light on the topic. This is, admittedly, a limitation of this current work, but serves as an interesting avenue for further future research into vice crime both within and beyond Nacogdoches.

[8] Register of City Ordinances, City of Nacogdoches Records, ETRC, SFASU, Nacogdoches, Texas.

Law enforcement arresting African Americans for sex-related crimes was common in the South. During Reconstruction, sexual crimes helped exert social control over African Americans. David Nieman notes that a bigamy conviction hindered the election of African American Matt Gaines to the Texas state senate in Washington County, Texas, for example (though he won reelection later). Similarly, in his account of the legal culture of Vicksburg, Mississippi, historian Christopher Waldrep notes the same pattern of using sexual moral crimes to exert white power over African Americans. Waldrep also mentions that these charges often accompanied crimes that weren't vice-related.[9] Nacogdoches resident Jack Doyle found himself subject to this tendency. In 1870, Doyle faced charges not only for polygamy, but also for assaulting his wife Ella. A witness testified that Ella and Jack argued in a field over whether or not to let another black man stay in their house and during the dispute, Jack hit Ella. Seven years later, he faced yet another charge of bigamy, once again over his marriage to Ella.[10]

Law enforcement in Nacogdoches did not actually arrest African Americans for sex crimes at a higher rate than whites, but the treatment of African Americans and whites differed within these arrests. Ten African Americans and one "mulatto" faced charges for these crimes compared to eleven white people. Six of unknown race suffered arrests, but two of those were likely white.[11] Eight of the nine African Americans

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[9]Nieman, "African American Communities," 209; Christopher Waldrep, *Roots of Disorder: Race and Criminal Justice in the American South, 1817-80* (Chicago: University of Illinois Press, 1998), 96-97.

[10] *State of Texas v. Jack Doyle*, 1870 and 1876, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas.

[11] I use "likely white" or "likely African-American" to cover two possibilities. One is that the names of those in the case files match the names of someone of that race in a nearby town or county according to federal census records. Another is that the "name" in a case file is a likely nickname or just initials and a last name, making identification in the census problematic. The reverse – initials used in the census but first names in the case files – also occurs a couple times. Often, all listed in the census with the last name and

mentioned committed these crimes with one another, with law enforcement arresting both participants. This makes the instances of sex crimes seem more numerous than they actually were. In cases of fornication, the African American men and women often later married one another. In contrast, usually only one participant in white sex crimes faced legal consequences. Records often did not name both parties involved, making it unclear how many of the whites arrested committed sex crimes with one another or whether or not they later married one another.

Those committing sex and marital crimes in Nacogdoches also faced punishment discrepancies. Both Mandy Johnson and Millard Gray committed fornication in 1889 (not with each other). Mandy, an African American woman, paid $200 for this crime, whereas Millard Gray, a white man, only had to pay $100, half as much. This discrepancy also occurred with an interracial couple. Angeline Simpson, listed as "mulatto" in the 1880 census, committed fornication with William Wisener, a white man. Angeline paid a fine of $200 for this crime, though her partner William paid nothing. Both situations suggest that the county tolerated white men's indiscretions more than those women of color committed.[12]

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first initial will be of the same race, but that is not conclusive enough to verify the person's race with certainty.

[12] *State v. Millard Gray* and *State v. Mandy Johnson*, cases #2409 and #2411, Box 7: #2304 - 2839, 1888 – 1894, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, SFASU, Nacogdoches, TX; *State of Texas v. William Wisener and Angelina Simpson*, Box 5: #1700 - 1918, 1882 – 1884, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, SFASU, Nacogdoches, TX; *Tenth Census of the United States, 1880,* Nacogdoches, Texas, Roll 1320, pages 176C and 198B, United States Bureau of the Census, National Archives and Records Administration; Ericson, Carolyn, *The People of Nacogdoches County in 1880, An Edited Census* (Dallas: Curtis Media, 1987), 50. The case file for Angeline Simpson and William Wisener lists her name as "Angelina," who does not appear in census records. However, the 1880 census lists an "Angeline Simpson," a 25-year-old single mother of three. The handwritten nature of documents and tendency for slight name variations across documents indicate they are likely one in the same.

Interracial pairings like William and Angeline appear to be uncommon in Nacogdoches during this nineteenth century. James Beebee and Jennie Bush formed the only other known interracial union. James, a white man, married Jennie Bush in 1897. Both James and Jennie faced a misdemeanor charge for miscegenation, but no punishment appears in records.[13] Nacogdoches officials may not have been particularly concerned with miscegenation in this circumstance since the woman in the couple was also the African American in the pairing. Fear of miscegenation and laws banning it often stemmed from the desire to protect white women as society linked white womanhood with traditional social and moral values.[14]

Rose Dabney was the only person in nineteenth century Nacogdoches who law enforcement arrested for prostitution, and her race is unknown, with no clear indication of whether she was white or black.[15] Like Della thirty years later, the prostitution charge appears to almost be a side note to the crime of selling alcohol illegally. Although alcohol had yet to be prohibited during Rose's time, its sale was still subject to licensing and taxation. Rose did not possess a license to sell alcohol. Unlike Della, Rose did not live outside the main part of town with known dependents. Rather, Rose operated on Main

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[13] *State of Texas v. James Beebee and Jennie Bush, Nacogdoches County District Criminal #3800-5104, 1902-1905*, ETRC, SFASU, Nacogdoches, TX.

[14] Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009), 93.

[15] The 1930 Federal Census mentions an African American Rose Dabney, then age 96, as living in Austin, Texas. This Rose would have been born in 1834 and thus in her forties at the time of the arrest of the Rose Dabney in Nacogdoches – a bit older than the average prostitute, but not unheard of. This is clearly not enough evidence to make any conclusions, however. Even if they are the same person, it is unclear how Rose would have attained the funds for such a trip and what would inspire a black woman of that age to move such a distance, especially since prostitutes usually had little upward social mobility. *Fifteenth Census of the United States, 1930*. Austin, Texas, Roll 2287, page 8A, United States Census Bureau, National Archives and Records Administration.

Street in a house known as a "common resort for prostitutes and vagabonds" owned by a white grocer named George Partin.[16] This house lay across the street from a hotel, making it an ideal location to attract men visiting Nacogdoches.

It is reasonable to believe that George Partin ran a house of prostitution. Besides the aforementioned terminology referring to the house, the 1870 census lists four women as living with him in 1870 (Rose is not among these). Three of these women, two named Mary Partin (both housekeepers) and one named Sally Moore, were white women between the ages of 16 and 25. Because the 1870 census fails to document the relationship between the head of household to other members of the household, the relationship between each of these women and George Partin remains unclear. Although two of these women share his last name, they would have been too old to be his daughters. It is likely that one married him, as the census lists Coats as a maiden name for the 25-year-old Mary. The other Mary Partin, aged 19, came from Alabama whereas George was born in Tennessee and everyone else in the household in Texas. They were in the average age range for prostitutes. African American Frank Fulgum, the fourth woman living with him, worked as a cook.[17]

If George Partin did run a house of prostitution with more women working in that profession than just Rose, then the set up fits in with prostitution trends elsewhere in the

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[16] *State of Texas v. Rose Dabney*, Case #79, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas.

[17] Ericson, Carolyn Reeves, *The People of Nacogdoches County in 1870: An Edited* Census (Lufkin, TX: Pineywood Printing, 1992), 8; *Ninth Census of the United States, 1870*, United States Bureau of the Census, National Archives and Records Service, Texas Federal Population Schedules, District 1, Roll 1599, Page 426B; Anne Butler, *Daughters of Joy, Sisters of Misery: Prostitutes in the American West, 1865-90* (Illinois: University of Illinois Press, 1985), 15. Although "Frank" is traditionally a male name, census records list Frank Fulgum as a female.

1870s, particularly in the West. According to historian Anne Butler, who wrote an early book on prostitution in the West, prostitutes generally left behind few records as they were women of low socio-economic status who lived largely outside the law.[18] This could be a contributing factor as to why Rose does not clearly appear in records outside of her case file; she also may have married and changed her surname. Many prostitutes chose the profession out of limited economic opportunities. Dabney probably never attained means or status that would warrant an appearance in other records, and her arrest occurred in 1877, which was not a census year. Prostitutes often appeared in legal records for crimes besides just prostitution, including alcohol-related crimes. The census often listed prostitutes as working in other professions like laundressing. In the case of the women living with George Partin, two were listed as housekeepers and one as a cook.[19] Finally, prostitutes often married men of similar socioeconomic status or even their own pimps, so even Partin's marriage to one of the Mary Partins fits into prostitution norms.[20] The fact that this is the only obvious case of prostitution in Nacogdoches is also unsurprising. Prostitution in Nacogdoches may have been uncommon due to the county consisting of farming families rather than single working men. Prostitution thrived in frontier towns more when the population included mostly male workers rather than farming families. Rose Dabney's time period was also one in which the law sometimes

[18] Anne Butler, *Daughters of Joy, Sisters of Misery*, xvii.

[19] Butler, *Daughters of Joy, Sisters of Misery*, 35 and 138; Ericson, *The People of Nacogdoches County in 1870*, 8.

[20] Butler, *Daughters of Joy*, *Sisters of Misery*, 28 and 35.

ignored prostitution, so the lack of other prostitution cases could alternatively mean that Nacogdoches generally turned a blind eye to it.[21]

On the surface, Rose being African American or Frank Fulgum working as a prostitute may appear to contradict the idea of George Partin operating a brothel. However, historians who have studied prostitution do not adequately explore how race and prostitution interplayed with one another. Although many historians, particularly in the West, discuss the plight of Chinese prostitutes, most do not delve into the racial dynamics of prostitution, including how white and black prostitutes' experiences differed from one another. They note that white prostitutes held a higher position in the prostitution "hierarchy" than prostitutes of other races without discussing the details of that hierarchy (though Chinese were often the "lowest" in the areas in which they lived).[22] Jeffrey Nichols notes that, although most prostitutes of different races lived in different houses, this was not always the case. Historians largely have not discussed the dynamics of mixed-race brothels, perhaps because of a lack of sources.[23] With these elements in mind, the possibility of a mixed race house of prostitution in Nacogdoches is not farfetched.

Dabney and Partin slightly deviated from the "norm" of prostitution during this time more in the fact that Partin owned and apparently ran the brothel. Male pimps did control some prostitutes during Partin's time and eventually came to dominate the

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[21] Barbara Meil Hobson, *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition,* (New York: Basic Books, Inc., 1987), 46.

[22] Butler, *Daughters of Joy, Sisters of Misery*, 4-14; Jan Mackell*, Red Light Women of the Rocky Mountains*, (Albuquerque: University of New Mexico Press, 2009), 8-16; Jeffrey Nichols, *Prostitution, Polygamy, and Power: Salt Lake City, 1847-1918* (Chicago: University of Illinois Press, 2002), 62.

[23] Nichols, *Prostitution, Polygamy, and Power*, 63; Butler, *Daughters of Joy*, *Sisters of Misery*, *7*.

prostitution profession because reform efforts pushed women out of madam-controlled brothels. However, during Partin's and Dabney's time period, women themselves usually controlled prostitution. Historian Ruth Rosen notes that this largely changed in the United States during early twentieth century reform efforts. Rather than eradicating prostitution, these efforts deprived many women of their agency and brothel protection. Paula Petrik discusses this transition more in depth in Helena, Montana, by tracing how prostitutes there started out as independent and later consolidated into madam-run brothels before various laws pushed prostitutes under the control of pimps and into less desirable areas of the city.[24] Jeffrey Nichols also discusses this trend in his study of prostitution and polygamy in Salt Lake City. Although prostitutes were at first welcomed, reform efforts to "save" women and society at large eradicated prostitution as a legal profession after they had similarly eliminated polygamy.[25]

These trends towards male-controlled, extralegal prostitution typically occurred in later years, raising a few questions as to why the only known Nacogdoches's 1870s prostitution case apparently involved a brothel controlled by a man in a time when, elsewhere, madams held much of the power. Perhaps future works on prostitution could explore this phenomenon in more depth. A study on men involved with prostitutes, as pimps or customers, might be useful. Historians have not thoroughly examined the

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[25] Barbara Meil Hobson, *Uneasy* Virtue, 5; Jeffrey Nichols, *Prostitution, Polygamy, and Power*; Paula Petrik, *No Step Backward: Women and Family on the Rocky Mountain Mining Frontier*, *Helena, Montana, 1865-1900* (Helena: Montana State Historical Society Press, 1987), 54; Ruth Rosen, *The Lost Sisterhood: Prostitution in America 1900-1918* (Baltimore: John Hopkins University Press, 1983). Hobson's work particularly notes that efforts against prostitution targeted the prostitutes rather than their male pimps or customers, resulting in a loss of agency and protection. Rosen's entire work describes how efforts to eradicate prostitution simply led the profession to being more male-controlled, harming the women more in the long run. Petrik describes this development in a specific place – Helena, Montana.

dynamic of mixed-race prostitution houses, either. Many historians who study prostitution also focus on urban areas (or places that became urban) rather than rural areas such as Nacogdoches. Perhaps rural prostitution in areas with farming families operated differently than urban prostitution. Furthermore, some works on American prostitution, such as Barbara Meil Hobson's political history of the profession and how various reform efforts affected it, begin earlier in the Nineteenth Century before Texas became a state.[26] Essentially, Rose Dabney and George Partin appear on the surface to be a little out of place in terms of American prostitution, but not radically so, and they may fit into patterns historians have yet to adequately examine.

Partin himself ran into trouble with Nacogdoches officials for additional vice crimes. Besides gaming and gambling, Partin faced charges for "failing to pay occupation tax" to maintain his license to sell liquor.[27] Law enforcement's primary role in situations like this was to collect county funds. Indeed, alcohol sales were not the only things requiring a license and occupation tax. Even lawyers paid taxes associated with their profession.[28] It is impossible to know if people charged with "failing to pay occupation tax" sold liquor or were involved in more honorable professions. Not all arrests related to

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[26] Hobson examines three different mass eras of reforms against prostitution: religious reforms in the 1840s, Progressive-era reforms, and twentieth century feminist reforms. Dabney's case falls in 1877, in between the first two eras Hobson describes. Perhaps religious reforms had some influence in Nacogdoches, but Texas did not become a state until 1845, in the midst of these efforts. Essentially, Texas's mixed history as part of Mexico and then its independence before statehood could feasibly have influenced its approach to vice crime, including prostitution.

[27] *State of Texas v. George Partin*, case #1032, Box 2: #735 - 1095, 1859 – 1873, Collection 3B: District Court Records, Nacogdoches County Records, ETRC; *State of Texas v. George Partin,* #1353, Box 3: #1098 - 1499, 1873 – 1880, Collection 3B: District Court Records, Nacogdoches County Records, ETRC; *State of Texas v. George Partin*, #1796, Box 5: #1700 - 1918, 1882 – 1884, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, Nacogdoches, TX.

[28] One example is *State of Texas v. Tom R. Jennings*, case #1908, Box 5: #1700 - 1918, 1882 – 1884, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, Nacogdoches, TX.

selling alcohol focused on the monetary and licensing aspects; however, all accompanied some detail in addition to merely selling liquor. For example, one might be arrested or fined for selling liquor to minors or on Sundays.[29] In short, although law officials arrested citizens for alcohol-related crimes in the 1800s, usually the offense had to do with other aspects of the sale than alcohol in and of itself.

W. C. Roberts, the only black man in this time period charged with selling liquor, did so on a Sunday. Wallace McKnight, a man listed as "mulatto" in the census, faced charges of "drunkenness."[30] "Drunkenness" as a crime rarely shows up among the case files and the vagueness of the terminology makes it difficult to determine what was objectionable about drunkenness. Donald Nieman notes that, during Reconstruction, African Americans often faced charges for "petty crimes" such as drunkenness to "curb black freedom."[31] Perhaps this was the situation for Wallace McKnight. If so, it is a bit surprising for him to be the only African American to get into legal trouble for "drunkenness."

McKnight and Roberts were the only two confirmed people of color in nineteenth century Nacogdoches who faced legal trouble for alcohol-related crimes. In contrast, Partin was one of at least twelve white persons who suffered arrest for alcohol-related

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[29] *State of Texas v. John Pressler* and *State of Texas v. W. C. Roberts*, cases #1599 and #1697, Box 4: #1501 - 1699, 1880 – 1882, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, Nacogdoches, TX; Ericson, *The People of Nacogdoches County in* 1880, 156. W.C. Roberts also faced charges for failing to pay an occupation tax, though the case file (#1600) does not indicate whether the charge involved selling alcohol without a license. However, the 1880 census lists W.C. Roberts as living with a white farmer named Samuel Patterson and working as a "servant," which suggests that Roberts did not hold another profession that would require licensing.

[30] *State of Texas v. Wallace McKnight*, case #1770, Box 5: #1700 - 1918, 1882 – 1884, Collection 3B: District Court Records, Nacogdoches County Records, ETRC, SFASU, Nacogdoches, TX.

[31] Donald G. Nieman, "African American Communities," 204-205.

crimes during this time period. Three of unknown race were likely white as they shared names and time frames with white people in nearby counties, whereas none of unknown race arrested for alcohol-related crimes shared the same information as people in nearby counties. At least two white women in Nacogdoches also supposedly sold alcohol, but no punishment discrepancy based on gender appears in records. One aspect that might complicate the data in regards to race is the fact that, prior to 1930, the census listed Mexicans as "white," which indicates they were viewed as white legally but not necessarily socially.[32] Most of the surnames of those in the case files, however, are not Spanish etymologically, and the twentieth century increase in arrests of African Americans remains. Law enforcement in late nineteenth century Nacogdoches did not arrest African Americans much compared to whites (or those legally considered white), but when they did, it was primarily for sex and marital crimes. Law enforcement paid little attention to African Americans selling or consuming alcohol, despite a precedent for racial concerns over alcohol during slavery. In contrast, law enforcement frequently arrested white people for alcohol crimes at a much higher rate than people of color.

By the time of Della's 1910 arrest, this dynamic would virtually reverse. From 1900-1915, nineteen African Americans appear in the case records – sometimes repeatedly – as well as four people listed as "mulatto." Of sixteen people of unknown race, four share names with other African Americans in nearby areas. In contrast, eleven white people suffered arrests for vice-related crime, with one of the unknowns sharing a

[32] Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Country* (Berkeley: University of California Press, 1997), 5, 210.

name with a nearby white person.[33] These numbers suggest that African Americans suffered an increased arrest rate in the early twentieth century than they had before and at least twice as many people of color were arrested than white people 1900-1915. Although the general population in Nacogdoches increased significantly during this time, the percentage of African Americans did not.[34] Law enforcement focused on alcohol-related crimes more than sex crimes; thirty-three persons who underwent arrests did so for alcohol-related crimes. Excluding Della's prostitution charge, only nine people were arrested during these fifteen years for sex-related crimes. This allotment is roughly equal among races but nearly exclusively male. Four – two white people and two of unknown race – faced charges for "abusive language."

Law enforcement's shift in focus over time from sex crimes to alcohol crimes suggests a shift in the morality Nacogdoches concerned itself with, and its transition from mostly arresting white citizens to primarily arresting African Americans suggests a new racialized focus. How and why did attitudes about race and crime – particularly related to alcohol – change so much to account for the apparent and racial shift between the 1880s and the 1900s? What does this tell us about Nacogdoches, race, crime, and the early twentieth century in general? What caused this extreme shift from law enforcement

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[33] Nacogdoches County-Clerk District Court Criminal Cases 1873-1880, 1882-1884, and 1894-1898, ETRC, SFASU, Nacogdoches, TX.

[34] According to data from the censuses in 1870, 1880, 1900, and 1910, approximately 34% people in Nacogdoches were "non-white" in 1870. This percentage decreases to just over 26% in 1880. In 1900, African Americans made up approximately 27% of the population of Nacogdoches and in 1910, they comprised nearly 26% of the population. The population itself increased from 9,614 in 1870 to 27,406 in 1910. *Ninth Census of the United States, 1870*, United States Bureau of the Census, National Archives and Records Service, Texas Federal Population Schedules, Roll 1599; *Tenth Census of the United States, 1880,* Nacogdoches, Texas, Roll 1320, United States Bureau of the Census, National Archives and Records Administration; *Twelfth Census of Population, 1900,* Nacogdoches, Texas, Roll 1661, United States Census Bureau, National Archives and Records Administration; *Thirteenth Census of the United States, 1910,* Nacogdoches, Texas, Roll T624-1581, United States Census Bureau, National Archives and Records Administration.

focusing on sex crimes and arresting mostly white people for alcohol crimes to focusing on alcohol crimes and mostly arresting African Americans – the apparent racialization over time? In order to answer these questions, one must examine the prohibition effort in Nacogdoches, the resulting legal cases after the passage of the 1906 law, and broader prohibitive and racial trends in both the South and nation as a whole.

Between Reconstruction and the 1906 Law in Nacogdoches: Prohibition Efforts and Changing Racial Attitudes

In 1882, Francis Willard, an early president and promoter of an early prohibitionist reform group largely spearheaded by women called the Women's Christian Temperance Union (WCTU), toured Texas in hopes of sparking WCTU chapters throughout the state. Texans did not especially like Willard because she was a radical northern social reformer who promoted women's suffrage. Nevertheless, a significant number of Texas women supported Willard's temperance goals. Furthermore, Willard's tour sparked an immediate response in Texas. Many local temperance efforts rose up shortly after Willard's tour.[35] Though evidence does not suggest that Willard stopped in Nacogdoches, she did visit nearby areas in the East Texas region. The earliest signs of a temperance movement in Nacogdoches County appear merely three years after her visit. In 1885, Nacogdoches had its own chapter of the United Friends of Temperance, a Southern all-white temperance group. Both men and women attended meetings for the

[35] James D. Ivy, "'The Lone Star State Surrenders to a Lone Woman': Frances Willard's Forgotten 1882 Temperance Tour," *The Southwestern Historical Quarterly* 102, no. 1 (July 1998), 44-61.

United Friends of Temperance, and the chapter was affiliated with the local Methodist church.[36]

Prohibition efforts in Texas would not meet with much success until the early twentieth century, though the push for prohibition grew throughout the state in the 1880s after Willard's tour. In 1886, reformers formed a Prohibition political party, and, in 1887, there was a proposed referendum for statewide prohibition. At this time, African Americans were active in the Republican party and did not yet face Jim Crow barriers to voting. Although most black Republicans opposed prohibition, a few saw the divisions among white Democrats as an opportunity for greater black political voice as the black vote could be the deciding factor in the prohibition battle. Both sides of the prohibition debate attempted to attract black votes by portraying the opposing side as "Negro-haters" while simultaneously using race to attract white votes by painting the opposition as too friendly towards African Americans. That is, prohibitionist forces sought support of black churches while portraying their cause as one of white men versus African Americans and German immigrants, whereas anti-prohibitionist forces critiqued prohibitionists both for racism and for their leader taking advice from a black man. However, even some appeals to African Americans and a few prominent black Republicans advocating prohibition did not change the racial dynamic of the debate. A roughly equal division existed among whites in terms of support and opposition to the proposed prohibition referendum, whereas nearly two-thirds of African American voters opposed the proposed prohibition

[36] United Friends of Temperance 1885-1886, Business and Organizational Collection, ETRC, SFASU, Nacogdoches, TX; Michael Wagner, "'As Gold is Tried in the Fire, So Hearts Must Be Tried by Pain': The Temperance Movement in Georgia and the Local Option Law of 1885," *The Georgia Historical Quarterly* 93, no. 1 (Spring 2009), 30-54.

law.[37] Although some saw supporting prohibition as a good political opportunity for African Americans, most viewed prohibition as a means to curtail black freedom. Indeed, it was only after African Americans lost free access to voting that Prohibition passed in Texas.[38]

In between the 1880s temperance movements in Texas and the more successful Prohibition movement in the early 1900s, the nation saw a stronger link between perceptions of race and criminality. Historian Khalil Gibran Muhammed in particular demonstrates this. Muhammed intricately examines how Americans began to equate criminality with blackness by combining theoretical ideas in the late 1800s related to psychology, race, sociology, and social Darwinism with more concrete historical evidence such as census records, government reports, organizational reports, and newspapers to describe this development. Muhammed notes that the 1890 census suggested a high crime rate among black males without placing these crime rates into their larger context and examining why black men may commit crimes. This information did not accompany statistics on crimes committed by white people, regardless of the victim's race. Since the information was statistical, people could claim that it was "colorblind" despite the lack of context, and it appeared to be evidence of contemporaneous views that African Americans were inherently inferior to white Americans. These statistics were then used to justify discriminatory laws and practices.[39]

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[37] Gregg Cantrell, "'Dark Tactics': Black Politics in the 1887 Texas Prohibition Campaign, *Journal of American Studies* 25, no. 1 (April 1991), 85-93. Pages 90-91 specifically describe the political dynamics of the racial appeals to voters.

[38] Thomas Pegram, "Temperance Politics and Regional Political Culture: The Anti-Saloon League in Maryland and the South, 1907-1915," *The Journal of Southern History,* 63, no. 1 (Feb. 1997), 75.

[39]Muhammed, *The Condemnation of Blackness*, 2-4, 234, 239-240.

Muhammed also describes the role of northern reform efforts in marrying criminality and race in the American mindset. Northern reformers largely targeted white Americans and ethnic immigrants (such as Irish). Their efforts not only largely ignored the difficulties African Americans faced, but also used African Americans as a group poor whites could measure themselves against in their search for improvement. Even efforts to rid cities of crime held a racial aspect: as laws and law enforcement cracked down on crime in certain districts that were predominantly white, they often turned a blind eye to crime in black neighborhoods, even though some of this crime was actually controlled by white Americans in the background. In short, statistics were used to create a seemingly objective perception that African Americans, particularly men, were criminals, and this perception led reform efforts to focus on improving the lives of white Americans while ignoring and thus perpetuating the societal elements that lead African Americans to commit crimes. These trends of linking blackness with criminality and not helping African Americans continued largely unchallenged in ways that would actually be effective in decreasing crime or improving black lives. Muhammed even credits reformer's failure to address these issues to concerns over police brutality. Since police could maintain societal support despite corruption, reformers who discussed police brutality appeared to be concerned over African Americans without actually having to understand and address the deeper challenges African Americans faced.[40]

Although Muhammed's work focuses on northern cities, his ideas can be applied to a study of vice law application in other, more rural parts of the country such as Nacogdoches. Muhammed uses census records and social theory circulating from 1890-

[40] Muhammed, *The Condemnation of Blackness*, 162, 227- 229, 231-232, 245-246, and 267-274.

1940 to explain that white Americans became more focused on crimes committed by African Americans rather than all crimes because of an ideological perception that blackness and criminality went hand in hand. Other scholars and arrest records in Nacogdoches county suggest that this perception likely influenced prohibition reforms throughout the southern United States and Nacogdoches specifically.

Progressive reforms in the South, especially the call for Prohibition, centered around racial ideology. Reformers often advocated their efforts based on white, Christian, middle class concerns. They achieved the most success when combined with Baptist and Methodist forces.[41] They linked liquor with corruption and disorder, including opposition to poll taxes, giving money to people of color, and surges in black violence against white women.[42] They used fears of miscegenation to incite support for Prohibition, arguing that even liquor bottles depicting white women encouraged black men to sexually assault white women.[43] In Texas, Democratic reformers viewed Prohibition as a key issue to fight Mexicans, African Americans, and Germans who they perceived as politically corrupt and opposition to Prohibition as pro-German, pro-black, and anti-white.[44] Meanwhile, evidence suggests that Prohibition only succeeded in the South, including Texas, due to African American disenfranchisement.[45] That is, African Americans

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[41] Pegram, "Temperance Politics and Regional Political Culture," 60 and 71-72.

[42] Pegram, "Temperance Politics and Regional Political Culture," 71-72.

[43] Lewis J. Gould, "Progressives and Prohibitionists: Texas Democratic Politics, 1911-1921," *The Southwestern Historical Quarterly* 75, no. 1 (July 1971), 8; Pegram, "Temperance Politics and Regional Political Culture," 71-72.

[44] Cantrell, "Dark Tactics," 7; Gould, "Progressives and Prohibitionists," 8.

[45] Cantrell, "Dark Tactics," 6-7; John Frendreis and Raymond Tatalovich, "'A Hundred Miles Dry': Religion and the Persistence of Prohibition in the U.S. States," *State Politics & Policy Quarterly*, 10, no 3 (Fall 2010), 302-319; Gould, "Progressives and Prohibitionists," 8. Cantrell notes that African Americans saw liquor prohibition as inhibiting their freedom. Gould quotes Texas politician Thomas B. Love saying

lacked the political voice to combat prohibition. Sociologists note that even present-day Southern areas that still have prohibition in place have a "disproportionate African American population."[46] These white racialized fears that enabled Prohibition often coincided with violent white actions against African Americans. In much of the South, the Anti-Saloon League (ASL) led prohibitionist efforts and found a base of support from the Ku Klux Klan (KKK). The ASL did not endorse the KKK, but since KKK members usually supported the ASL, the ASL did not openly condemn the KKK.[47] Progressive reformers who were not members of the KKK still aligned with the organization on the issue of Prohibition as the KKK avidly supported Prohibition efforts while violently attacking both African Americans and German-speaking Americans.[48] Social reform, therefore, often correlated – sometimes violently – with racial social control.

Available evidence indicates that the prohibition effort in Nacogdoches mirrors these broader trends. White people, especially women, in Nacogdoches gathered for prohibition parades in the early Twentieth Century, holding signs to encourage prohibition.[49] The Methodist and Baptist churches in the county worked together and held

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that African Americans should not be allowed to vote on the issue of prohibition, whereas Frendreis and Tatalovich use evidence from larger historical works on prohibition and temperance movements to support the idea that disenfranchisement and Prohibition in the south were linked.

[46] Frendreis and Tatalovich "A Hundred Miles Dry," 305.

[47] Thomas R. Pegram, "Hoodwinked: The Anti-Saloon League and the Ku Klux Klan in 1920s Prohibition Enforcement," *The Journal of the Gilded Age and Progressive Era* 7, no. 1 (Jan. 2008): 89-119.

[48] Walter D. Kamphoefner, "The Handwriting on the Wall: The Klan, Language Issues, and Prohibition in the German Settlements of East Texas," *The Southwestern Historical Quarterly* 112, no. 1 (July 2008), 52-66.

[49] William Earl Woods Tindall, "Religion: Recollection and Reckonings," *The Bicentennial Commemorative History of Nacogdoches*, Edward M. Baker (Nacogdoches: Nacogdoches, TX 1976), 96; There is another prohibition parade photo in the Teutsch Early Nacogdoches Documents, ETRC, SFASU, Nacogdoches, TX.

weekly meetings to discuss the topic.[50] Sometimes, women convened their own special meetings in favor of prohibition with no obvious religious slant.[51] At the same time Nacogdoches citizens walked in these parades and held these meetings, they expressed fear of black violence and complacency with violence targeting blacks. The town publically hanged black men and used the front page of the local *Daily Sentinel* newspaper to discuss black violence in nearby areas, including a supposed rape of a white woman by a black man in nearby Sabine County, Texas. Similarly, racial tensions in Shreveport, Louisiana – KKK activity and a race riot – made front page news in the local newspaper, *The Daily Sentinel*.[52]

The Daily Sentinel attempted to maintain a neutral role in the prohibition debate. Both sides advertised meetings about the issue. For a while, citizens used the newspaper to express their opinions on the topic. Pastors encouraged prohibition and discussed the evils of saloons, and former judge H.W. Blount encouraged citizens to vote for prohibitionist candidates.[53] In contrast, the anti-prohibitionists used the newspaper to protest prohibition and argued that a prohibition law would harm businesses.[54] However, beginning in February 1906, the newspaper refused to publish editorials on the

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[50] Tindall, "Religion," 96; *Daily Sentinel,* February 8, 1906; *Daily Sentinel* February 9, 1906; *The Daily Sentinel,* February 15, 1906; *The Daily Sentinel*, February 19, 1906.

[51] *The Daily Sentinel,* February 27, 1906.

[52] There are two photos of hangings in the Teutsch Early Nacogdoches Documents, ETRC, SFASU, Nacogdoches, TX; *The Daily Sentinel*, January 9, 1906 discusses KKK activity in Shreveport, Louisiana in reaction to the murder of Charles Coleman, supposedly by an African American man, and subsequent "riots"; *The Daily Sentinel*, February 13, 1906 discusses the "Negro rapist" in nearby Sabine County, Texas.

[53] *The Daily Sentinel*, February 12, 1906; *The Daily Sentinel*, February 20, 1906.

[54] *The Daily Sentinel*, February 8, 1906 and *The Daily Sentinel* February 20, 1906.

controversial topic.[55] Prohibitionist forces nevertheless continued to use the paper as a tool. Not only did ads for prohibition meetings aimed at church members or women continue, but when the 1906 law passed, control of *The Daily Sentinel* proved vital in implementing the law. That is, "dry" forces obtained an injunction after the election to prevent the recording, declaration, and publication of election results in *The Daily Sentinel*. However, "wet" forces circumvented the injunction by both getting important officials out of town and leasing the newspaper, ensuring everyone knew that the prohibition law had passed.[56]

The passage of the 1906 law also contained a noticeable gendered element. Only white men could vote for the law, and people in Nacogdoches linked voting with ideals of masculinity. *The Daily Sentinel* ran advertisements that said "Be a man – pay your poll taxes!"[57] This suggests that, on some level, Nacogdoches citizens perceived voting as a sign of manhood. Poll taxes, of course, prevented black men from achieving this masculine ideal in the form of voting throughout the South. Similarly, women and children partaking in prohibition parades encouraged their husbands and fathers to vote for the 1906 law by holding signs and singing songs encouraging "noble men" to "vote the whiskey out."[58] In Nacogdoches, white women thus appealed to masculine duty to enact prohibition. People of color, denied this voice, became the primary targets of the prohibition law that the white men in the county voted for.

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[55] *The Daily Sentinel*, February 20, 1906.

[56] Tindall, "Religion," 96-97.

[57] *The Daily Sentinel*, January 14, 1906.

[58] Tindall, "Religion," 96.

Results and Relevance of the Prohibition Law

As already stated, the racial make-up of those charged with vice crimes in Nacogdoches, Texas changed in the first fifteen years of the twentieth century compared to the three decades before. African Americans and those listed as "mulatto" in the census became the primary arrest targets for alcohol-related crimes and often suffered multiple arrests. Part of the increased concern parallels a shift in attitudes towards alcohol. Although local option laws existed in Nacogdoches (and Texas as a whole) for decades, the 1906 law, which went into effect in 1909, prohibited alcohol altogether.

The African Americans arrested were of low socioeconomic status; typically, they were farmers (or "farm laborers") who were heads of households who had dependents living with them. The men usually had wives and children. Three women repeatedly faced charges for selling alcohol: Edie Johnson, Emma Hightower, and Della Sutphen. At least two of these, Emma and Della, were widows with children to support and other adult women living with them.[59] Emma lived with a woman named Annie, listed as her daughter-in-law who worked as a laundress, and Annie's daughter Valeta. Emma, Annie, and Valeta were listed as "mulatto" in the census. Emma was 34 years old in 1910 and

[59] *Twelfth Census of Population, 1900,* Nacogdoches, Texas, Roll 1661, pages 14B and 15B, United States Census Bureau, National Archives and Records Administration; Kathryn Davis and Carolyn Ericson, *1900 Census Nacogdoches County, Texas* (Nacogdoches: Ericson Books, 1989), 167. Some records list Della as Delia and Emma Hightower as Emily or (or spell her name "Heightower"). Tracking Edie Johnson in records proves more difficult than Emma Hightower and Della Sutphen. No Edie Johnson appears in the Nacogdoches County census records, but an Eda Johnson appears in the 1900 census as a "wash woman." She would be a bit older than many of the other arrestees in this time (late forties), but also appears in case files for other black arrestees (usually as a witness). Therefore, all evidence points to her being African American. If "Edie" is the Eda Johnson in the 1900 census, then she had several children and three adult female boarders living with her, which further parallels Emma and Della.

Annie was 21. According to the census, Emma either had a son exceptionally young (who was also younger than Annie) or Annie married her step-son (who is not listed as being part of the household, though he was presumably still living as Annie was not listed as "widowed").[60] Emma owned her own home, but the census lists no job for her and nothing suggests that she, like Della, engaged in prostitution. However, Emma faced arrest for selling alcohol more frequently than any other African American at the time, and one arrest even required transport from Dallas to Nacogdoches. It is reasonable to think that selling alcohol was Emma's primary means of survival and supporting herself, Annie, and Valeta.

Della Sutphen, aged 29, worked as a farm laborer and lived with her eight-year-old son Willie and a female roomer named Rena Hooper. Unlike in Emma Hightower's situation, the two women do not appear to be related. Della faced the charge of "running a house of ill repute" out of her home on Logansport road (outside the main area of Nacogdoches) and selling alcohol in 1910, but selling alcohol appears to be the worse sin in the eyes of Nacogdoches officials.[61] Unlike with Rose Dabney thirty years before, evidence does not suggest that Della was in the control of a male pimp, though she did

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[60] *State of Texas v. Emma Hightower*, unnumbered case and cases #881 and #5488, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas; *State of Texas v. Emma Hightower* in Nacogdoches County (RHRD/6) County-Criminal #1468 (1878) - #869 (1914); Minutes of Sheriff's Accounts, Book 1905-1910 and 1908-1915, East Texas Research Center (ETRC), Stephen F. Austin State Univeristy (SFASU), Nacogdoches, TX; Kathryn Hooper Davis, *1910 Census Nacogdoches Texas* (Nacogdoches: Ericson Books, 1994), 103; *Thirteenth Census of the United States, 1910,* Nacogdoches, Texas, Roll T624-1581, page 5A, United States Census Bureau, National Archives and Records Administration. Emma Hightower's case files, unlike others, contain documents related to multiple charges.

[61] *State of Texas v. Della Sutphen*, case #5409, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas. Case files #5392 and #5445 contain documents related to Della's other arrests; Davis, *1910 Census*, 33; *Thirteenth Census of the United States, 1910,* Nacogdoches, Texas, Roll T624-1581, page 3B, United States Census Bureau, National Archives and Records Administration.

not own her home. Given Della's status as a young black widowed woman with a young son and another female border who may have also been involved in prostitution, she, like most prostitutes, probably pursued the profession of her own agency for economic reasons.

Della living outside the main area of Nacogdoches – in contrast to Rose Dabney on Main Street – fits in with American prostitution patterns. As reform efforts (both religious and otherwise) grew, prostitution nationwide became less acceptable and less out in the open. In most places this resulted in the profession falling into the control of men, but perhaps Nacogdoches is outside the "norm" in this regard, especially when one recalls that Rose Dabney operated on Main Street in a house owned by a man who happened to live with multiple women and often found himself on the wrong side of vice crime laws. Strangely, though Della operated outside of the main city of Nacogdoches and faced difficult socio-economic times as a widowed black woman, she may have exercised more agency in her extralegal endeavors than Rose had three decades earlier. Della also fits some racial trends of the time. In northern cities, for example, law enforcement often turned a blind eye to crime, including prostitution, in more "black" areas while keeping "white" areas more free of crime.[62]

The 1906 law that Della violated may have not been entirely legal at the time. Her lawyer, S. M. Adams, argued that the prohibitive law passed in 1906 violated the Texas constitution, which called for local option, and earlier local option decisions in Nacogdoches.[63] S. M. Adams used a similar argument in defense of Frank Payne, an

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[62] Muhammed, *The Condemnation of Blackness*, 226-227.

[63] *State of Texas v. Della Sutphen*, case #5409, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas.

African American man who also suffered repeated arrests for selling alcohol. Perhaps this argument held some weight since Della was found not guilty for her first charge of selling alcohol and for her charge running a "house of ill repute."[64] In the case of the latter charge, Della's defense rested on the technicality that she did not own the house she lived in. The county convicted Della for selling alcohol in a 1911 case, and after that she disappears from the records. Interestingly, Della's lawyer, S. M. Adams, later served as an attorney for the county prosecuting those accused of selling alcohol rather than defending them. Adams's transition in 1911 coincides with many of the African Americans arrested for "selling alcohol" receiving harsher penalties for their crimes. Before 1912, those charged with selling alcohol received acquittals, dismissals (like in Della's first two cases), or fines. Closer to 1915, guilty verdicts and even prison sentences became more common.[65]

Edie Johnson scarcely warranted the attention of law enforcement compared to Emma and Della despite also obtaining three arrests. However, she sometimes served as a witness against other African Americans arrested for selling liquor, including Frank Payne. Emma, however, appears in legal records extensively. She appears in five case files, some which include documents from multiple arrests. Both women lived in situations similar to Della's – that is, female boarders lived with them and they had

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[64] *State of Texas v. Della Sutphen*, #5409 and #5392. Minutes of Sheriff's Accounts reveal that the #5445 case resulted in a guilty conviction but does not mention the sentence. Unfortunately, the account only lists the date of arrest and not the date of conviction.

[65] Minutes of Sheriff's Accounts, Book 1905-1910 and 1908-1915, East Texas Research Center (ETRC), Stephen F. Austin State Univeristy (SFASU), Nacogdoches, TX. Page 28 discusses the punishment shift more.

children to support – but nothing indicates that they engaged in prostitution to support themselves.[66]

The men arrested for selling alcohol, like the women, often faced charges multiple times before actually receiving a guilty verdict. Evidence related to alcohol arrests often do not contain much information about the cases or defendants – often, files include only a subpoena, warrant, indictment, and/or call for witnesses. These records do not usually include information about the verdicts those charged received. However, of the verdicts that are known, it is worth noting that Della Sutphen, Edie Johnson, Emma Hightower, George Russaw, Green Woods, Charley White, and Frank Payne all received acquittals or dismissals before 1911. Frank Payne received one conviction in 1909, but only paid a fine. The known verdicts after 1911 are all "guilty." Della Sutphen received a guilty verdict, but her punishment does not appear in records. Frank Payne, Wallace Jones, and Lawrence Aldridge all received prison sentences of 2-3 years in 1911 and 1912. One white man, Otis Jopling paid a fine for selling liquor in 1908. Dorse McNeer, a man of unknown race, received a guilty verdict of unknown punishment in 1911 and a prison sentence in 1912. These cases, though small in number, suggest that punishments for selling alcohol grew in severity over time.[67] This is not particularly surprising considering that a few years later, legislators enacted Prohibition throughout Texas and

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[66] *Twelfth Census of Population, 1900,* Nacogdoches, Texas, Roll 1661, page 15B, United States Census Bureau, National Archives and Records Administration; Kathryn Davis and Carolyn Ericson, *1900 Census Nacogdoches County, Texas* (Nacogdoches: Ericson Books), 167; *State of Texas v. Edie Johnson*, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas. This is assuming that Edie was a nickname for Eda (see note 56). Two of her cases were unnumbered in the Justice of the Peace records.

[67] Minutes of Sheriff's Accounts, Book 1905-1910 and 1908-1915, East Texas Research Center (ETRC), Stephen F. Austin State Univeristy (SFASU), Nacogdoches, TX.

the United States, indicating more widespread vigilance against alcohol alcohol as well as "wet" forces attaining political success.

Witnesses, more often than not, included other African Americans, some who also suffered repeated arrests for selling liquor and some who were called from nearby counties to testify. For example, witnesses against Frank Payne included both his father, from nearby San Augustine County, and fellow Nacogdoches arrestee Edie Johnson (against whom Frank Payne also once testified).[68] White people rarely obtained calls to testify despite being named as customers. Since the 1906 law prohibited *selling* alcohol, consumers did not face arrests and charges. The legal focus on the sale of alcohol may have helped protect white consumers from arrest. Regardless, the increased arrest of African Americans for alcohol-related crimes in the early twentieth century indicates that enforcement of vice crime laws became racialized over time, and prohibition in Nacogdoches, like elsewhere in the country, likely served to control the African American populace.

It is, of course, possible that white people in Nacogdoches stopped selling alcohol or committing other vice crimes. However, it is not very probable. The targets for vice arrests appear to be a total, sudden reversal, and the racialized concern with vice crimes was a national, contemporaneous trend that produced similar results – that is, African Americans suffered arrests for crimes at a higher rate than white Americans either in spite of similar crime rates or without consideration for the reasons they turned to crime.[69]

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[68] *State of Texas v. Frank Payne,* Case #5394, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, Texas; *State of Texas v. Edie Johnson*, Case #5393, Justice of the Peace (Justice Court) Records, ETRC, SFASU, Nacogdoches, TX.

[69] Muhammed, *The Condemnation of Blackness*, 234.

Also, this racialized concern for crime remained a trend throughout American history both in national alcohol prohibition and later the drug war, as Michelle Alexander demonstrates in her examination of the current War on Drugs and comparison of it to slavery, Jim Crow segregation, and Prohibition.[70]

Alexander argues that the "drug war" effectively serves as a contemporary, metaphorical version of old Jim Crow laws in that the application of drug laws not only incarcerates African Americans at a higher rate than white Americans, but also strips African Americans of basic civil rights such as voting and turns them into an "undercaste."[71] Although white Americans use drugs at roughly the same rate as African Americans, African Americans enter the legal system at a higher rate.[72] Often they do not have the means to combat charges or are guilty. Once they have a record, they face barriers to voting, owning guns, and obtaining jobs to earn money and get out of the impoverished conditions that may have encouraged them to commit crimes to begin with. This often places a lot of stress in their families and can result in African Americans continuously finding themselves trapped in a legal loop.[73] Further, court cases have made it nearly impossible for defendants to argue that they are targeted based on race, and the idea that we now live in a "colorblind" society perpetuates the difficulties in attacking this racialized law application. Finally, Americans do not showcase much sympathy towards criminals, meaning that this cycle continues largely unaddressed and sometimes

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[70] Michelle Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness (New York: The New Press, 2012), 11 and 187.

[71] Alexander, *The New Jim Crow*, 7.

[72] Alexander, *The New Jim Crow*, 7

[73] Alexander, *The New Jim Crow*, 94-95.

furthered by stories of "black exceptionalism."[74] Alexander argues that the "drug war" largely developed as a new means to control African Americans and compares the current system of law application, mass incarceration, and societal attitudes to earlier periods of history, notably slavery and earlier segregation, Jim Crow laws, and other vice crime laws, including Prohibition.

From 1920 until 1933, the Eighteenth Amendment banned alcohol nationwide, and the reasoning for this, as Alexander notes, largely stemmed from the same desire to limit African Americans that occurs under the current drug war.[75] However, many local and reform efforts demonstrate this trend before 1920. One can observe this in the rural town of Nacogdoches, Texas, at least as early as 1906 with the prohibition law. African Americans in the county faced barriers to voting in the form of poll taxes and Jim Crow era racial attitudes and tensions. Like those incarcerated in today's drug war, once arrested, they lost opportunities to advance in society (and likely resorted to crime to begin with because of their low economic status). The law, however, forbade anyone, white or black, from selling alcohol making the law technically neutral even though its enforcement demonstrated a racial bias. The racialization of vice crime law application in Nacogdoches occurs in between slavery and national Prohibition, indicating a potential specific bridge between those two forms of systemic racism and white control during the broader "Jim Crow" era.

Conclusion

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[74] Alexander, *The New Jim Crow,* 14 and 248.

[75] Alexander, *The New Jim Crow*, 187.

Available evidence suggests that between 1870 and 1915, vice law enforcement in Nacogdoches Texas, particularly that of laws restricting alcohol, became increasingly racialized. Whereas law enforcement mostly arrested white citizens in the late 1800s for vice crimes, especially for alcohol-related crimes, they arrested mostly African American for these crimes against morality in the early 1900s. The enactment of a prohibition law in Nacogdoches County in 1906, promoted by white women and churchgoers and passed by the white male populace, marked a shift in focus from sexual crimes to liquor crimes within the county.

Between 1870 and 1915, the nation also began to associate blackness with criminality, and progressive efforts to "clean up" society encouraged prohibition efforts. Fears of this criminality fed into the desire to "better" society and protect white women. This paternalism, combined with female and religious encouragement of Prohibition and ideas of masculinity, led men to vote in favor of Prohibition. Southern reformers viewed Prohibition as a central component of Progressive reforms, and Jim Crow laws prevented African Americans from voting on prohibition laws, including the 1906 law in Nacogdoches. Prohibition in the south thus appears to be one avenue that white southerners used to maintain supremacy. My evidence suggests that law enforcement in Nacogdoches, likely influenced by contemporaneous national and regional racial ideology, applied vice laws, particularly the 1906 prohibition law, disproportionately against African Americans. This application appears to have resulted in a racialization of vice in Nacogdoches that mirrored broader racial and legal trends throughout the nation that kept African Americans under the control of the white population and demonstrate a ground-level precedent for current controversies surrounding drug laws and mass

incarceration of people of color. Prohibition in Nacogdoches thus formed a racialization of crime that implicitly maintained white social control within the “oldest town in Texas” even as more explicit means of control such as segregation existed.

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