

A Brief Overview of Race Relations in the Eleventh Prosecutorial District with an Emphasis on Johnston County

Crystal R. Sanders

Qualifications

I am an Associate Professor of African American Studies at Emory University. I previously served as an Associate Professor of History and the Director of the Africana Research Center at Pennsylvania State University. My curriculum vitae is produced with this report.

I earned my M.A. and Ph.D. in History from Northwestern University. I earned my B.A. in History and Public Policy from Duke University. I am a member of the Organization of American Historians, the Association for the Study of African American Life and History, the Southern Historical Association, and the African American Intellectual History Society.

I am the author of *A Chance for Change: Head Start and Mississippi's Black Freedom Struggle*, which was published by the University of North Carolina Press in 2016. The book won the 2017 Critics' Choice Book Award from the American Educational Research Association and the 2017 New Scholar's Book Award from Division F of the American Educational Research Association. The book was also a finalist for the 2016 Hooks National Book Award. I have also written several journal articles that can be found in the *Journal of Southern History*, the *North Carolina Historical Review*, and the *Journal of African American History*. I am the recipient of a host of fellowships and prizes including the C. Vann Woodward Prize from the Southern Historical Association, the Huggins-Quarles Award from the Organization of American Historians, and the Equity Award from the American Historical Association.

Introduction

I have been asked to offer historical evidence and my opinion in the context of the evidence attorneys anticipate presenting in a hearing under North Carolina's Racial Justice Act. Specifically, it is my understanding that attorneys will present evidence, from the most recent past, of racial disparities in the prosecutor's use of peremptory strikes in capital cases in North Carolina, the Eleventh Prosecutorial District, and in Johnston County, as well as racial disparities in capital sentencing in Johnston County. I have been asked to provide any relevant historical context for such evidence. Stated otherwise, I am answering whether, from a historical perspective, the recent evidence of racial disparities in these areas is isolated, or whether it is part of any pattern in history. In brief, the answer is that the racial disparities in capital cases in North Carolina, the Eleventh Prosecutorial District and Johnston County form part of a larger pattern in the history of this county, prosecutorial district, and state. I describe that historical pattern in this report.

North Carolina, unlike many of its southern peers, has long had a progressive reputation with respect to public education and race relations.¹ This image, however, has masked a history of racial violence, Black disfranchisement, and white supremacy. In eastern North Carolina locales such as Johnston County, African Americans have experienced lynching, segregation, disfranchisement, and discrimination in public accommodations and services. Everything from places of worship to hospitals, schools, barbershops, and residential neighborhoods have served as sites of racial injustice. Though civil rights litigation has dismantled segregation in public accommodations and protected African Americans' constitutional right to vote, Black

¹ V. O. Key, Jr., *Southern Politics in State and Nation* (Knoxville, TN: University of Tennessee press, 1984), 205; William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1981), 4.

Johnstonians continue to lack meaningful shared governance in county administration and continue to experience systemic racial inequality in the criminal justice system.

Late 19th/Early 20th Centuries Johnston County History

Located southeast of Raleigh, Johnston County is a rural, largely agricultural county whose local economy was predicated on corn, wheat, oats, and wool during slavery and on both corn and tobacco after Emancipation. The county was the home of the last full-scale action of the Civil War in a three-day assault known as the Battle of Bentonville. According to the 1860 United States Census, approximately 30% of Johnston County's total population was enslaved. Thus, the Civil War brought freedom to approximately 5,000 Black Johnstonians.² Today, Johnston County has a population of 215,999 with approximately 16% of residents identifying as Black.³

Many white landowners retained control over the labor of thousands of freedpeople after the Civil War. During Reconstruction, President Andrew Johnson ended important land reform measures that had made previously owned Confederate lands available to formerly enslaved people, and as a result, most African Americans became dependent on the sharecropping system or tenant farming in the years after Emancipation. The sharecropping system, which was popular in the South until late in the twentieth century, was an agreement where farmers, usually African American, farmed land owned by someone else. The landowner provided the land, animals, seed, fertilizer, and housing while the sharecropper provided the labor. A percentage of the crop yield went to the landowner for payment of land use and a percentage of the crop or the cash, minus the

² Inez Tuck, "An Analysis of the Intergenerational Patterns in Two African American Families." PhD diss., University of North Carolina at Greensboro, 1980, 175, 184; Jeffrey J. Crow, Paul D. Escott, and Flora J. Hatley Wadlington, *A History of African Americans in North Carolina* (Raleigh, North Carolina: North Carolina Department of Cultural Resources, 2021), 71.

³ U.S. Census Bureau; Total Population, 2020, <https://data.census.gov/table?q=race&g=050XX00US37085,37101,37105&tid=DECENNIALPL2020.P1>.

costs for food, lodging, and supplies, went to the sharecropper. Sharecropping limited the mobility of sharecroppers who could not leave the land until the agreed upon contract had been fulfilled and all debts paid. This system also opened sharecroppers up to other forms of exploitation including physical abuse. With tenant farming, farmers usually owned their own animals, seed, and farm tools and owned the crop once it was grown. Tenant farmers paid the landlord a share of the profits as compensation for use of the land.⁴

Sharecroppers in Johnston County usually grew cotton or tobacco. By the 1920s, the county was the largest tobacco producing county in the United States. At that time, there were few Black landowners in the area: Of the \$42 million worth of taxable property in Johnston County, African Americans owned \$1.7 million. The economy remained overwhelmingly agricultural until after World War II when the manufacturing sector grew with factories for textiles and meatpacking.⁵

Lynchings in Johnston County

Sharecropping was not the only challenge African Americans faced in the late nineteenth and early twentieth centuries. After slavery ended in 1865, lynching became a tool used by white supremacists to suppress African Americans' civil rights and instill fear in Black communities. Lynching victims were typically either successful Black businesspeople or Black men who violated the racial status quo of white superiority and Black inferiority. To the latter point, white people lynched African Americans for engaging in interracial sex with white women and for speaking to white people without appropriate deference. From 1881 to 1968, 4,743 lynchings

⁴ Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Knopf, 1998), 114-142; Jacqueline Jones, *The Dispossessed: America's Underclasses From the Civil War to the Present* (New York: Basic Books, 1992), 27-37.

⁵ Tuck, "An Analysis of the Intergenerational Patterns," 185-186.

occurred in the U.S., according to records maintained by the Tuskegee Institute. Nearly three quarters of those lynched were African American.⁶ Many historians believe that the actual number is much higher but because there was never formal tracking of every lynching incident, an exact number is not available. The overwhelming majority of lynchers were never punished since they often worked in tandem with law enforcement and because hundreds of people often participated in the killing. In fact, the Equal Justice Initiative found that, of all lynchings committed after 1900, only 1% resulted in a lyncher being convicted of a criminal offense.⁷

Between 1884 and 1914, Johnston County was home to at least four documented lynchings of Black men and at least one foiled lynching attempt.⁸ The first documented lynching occurred in 1884 after law enforcement arrested Charles Smith and Thomas Henry Davis, both Black men, for the alleged burglary of two stores in Clayton. Law enforcement officials temporarily jailed them at the Clayton station house with plans to relocate the two men to the county jail in Smithfield. A white mob — whose size was “not less than 50 men” — took Smith and Davis from the Clayton station house on December 24. The mob then put the two men on horseback and brought them to the outskirts of Clayton. The mob handcuffed at least one of the men, wrapped him with chains, and threw him off a bridge railing into the Neuse River. A few

⁶ Jamiles Lartey and Sam Morris, “How White Americans Used Lynchings to Terrorize and Control Black People,” *The Guardian*, April 26, 2018, Accessed here: <https://theguardian.com/us-news/2018/apr/26/lynchings-memorial-us-south-montgomery-alabama>.

⁷ Equal Justice Initiative, “Lynching in America: Confronting the Legacy of Racial Terror,” 3rd Edition, Accessed here: <https://lynchinginamerica.eji.org/report/>.

⁸ The foiled lynching occurred in December 1898 when Johnston County’s sheriff was able to get a Black man accused of killing a white man out of the county jail in Smithfield and took him toward Goldsboro to avoid meeting the growing mob. When the mob finally dispersed, the sheriff then took the suspect to Raleigh. See “Lynching Party Foiled at Selma,” *The News and Observer*, December 28, 1898.

days later, authorities recovered both bodies. According to at least one report, one of the bodies was found in the Neuse River wrapped in chains and handcuffed, while the other was found handcuffed and riddled in bullets beside the river. The only evidence suggesting Davis was guilty was the word of Smith.⁹ The mob denied Charles Smith and Thomas Henry Davis of the opportunity to defend themselves in court, to have a trial by jury, and the right of appeal.

Approximately one-fourth of the lynchings of African Americans in the South were based on charges of sexual assault. Such was the case of Jim Bailey, an eighteen-year-old Black man accused of sexually assaulting a fourteen-year-old white girl in 1901. Bailey allegedly tied the young woman to a tree outside of Smithfield and assaulted her. After Bailey supposedly untied his victim, she alerted her father to the crime. The girl's father summarily searched for and captured Bailey with the intent of delivering him to the county jail. On the way there, however, a mob of a dozen well-armed men overtook the father and captured Bailey. The crowd hung Bailey from a tree.¹⁰ The public spectacle served to terrorize the Black community.

The fourth Black man lynched in Johnston County was Jim Wilson, a twenty-five-year-old accused of murdering a white woman after a disagreement. Wilson was soon arrested and held in the Selma jail. On the morning of January 27, 1914, a mob of 500 people took Wilson from the jail and proceeded to beat and shoot him. The governor dispatched a squad of men from the state militia to prevent a lynching, but the regiment arrived too late.¹¹

⁹ "Lynched, No Doubt," *The News and Observer*, December 25, 1884; "The Clayton Affair," *The News and Observer*, December 28, 1884; "Lynch Law in Johnson (sic)," *Alamance Gleaner*, January 1, 1885; *A Red Record: Revealing Lynching Sites in North Carolina*, Accessed here: <https://lynching.web.unc.edu>.

¹⁰ "Negro Lynched for Outrage," *The North Carolinian*, July 4, 1901; "Jim Bailey Pays the Penalty of His Terrible Crime," *The Rutherfordton Tribune*, July 11, 1901.

¹¹ "Mob Lynches Negro Before the Arrival of State Troops," *Salisbury Evening Post*, January 28, 1914; *A Red Record: Revealing Lynching Sites in North Carolina*, Accessed here: <https://lynching.web.unc.edu>.

The trauma and psychological wounds of lynching reverberated in Black communities long after white mobs dispersed. The purpose of these sadistic acts was to instill fear and deny the humanity of African Americans. According to historian Leon Litwack, lynching demonstrated the “cheapness of Black life [and] reflected in turn the degree to which so many whites by the early twentieth century had come to think of Black men and women as inherently and permanently inferior, as less than human, as little more than animals.”¹² Lynching did more than dehumanize African Americans in the eyes of white people. It also created fear and terror in Black people that reverberated for generations. A sociologist found that the social control and terror established by violence lingered ninety years after the lynching of African Americans in one rural, southern community.¹³

While lynching was a tool of racial control, it was not the only way in which white supremacists maintained racial hierarchy. They also disfranchised Black voters so that they had no say or representation in local, state, and national politics.

Black Johnstonians and Denial of Political Participation

During Reconstruction, North Carolina adopted state and federal constitutional measures prohibiting the denial of voting rights based on race. The 1868 state constitution provided for universal male suffrage, which enfranchised Black men and did away with property requirements to vote or hold elected office. The Fifteenth Amendment to the United States Constitution

¹² Litwack, *Trouble in Mind*, 284.

¹³ Charlotte Wolf, “Constructions of a Lynching,” *Sociological Inquiry* 62, no. 1 (February 1992): 83-97.

prevented states from denying citizens the right to vote “on account of race, color, or previous condition of servitude.”¹⁴

During this period, Black men’s access to the ballot box allowed them to play important roles in local and state politics as both office holders and voters aligned with the Republican Party throughout the South. In November 1868, twenty African Americans—three in the state senate and seventeen in the state house—won seats in the North Carolina General Assembly, although none of them were from Johnston County. Once seated in the state houses, these Black elected officials pushed for legislation equalizing funding for Black schools, banning racial discrimination on public conveyances, and compelling county commissioners to include African Americans on juries. None of the bills passed.¹⁵

A few African Americans held political office in Johnston County between the 1870s and the 1890s. Smith Brooks, who was formerly enslaved, was listed as a member of the Smithfield Board of Commissioners in directories published in 1872 and 1877. William H. Brown, another African American resident in Smithfield, served on the town board in 1884. In the May 1891 Smithfield municipal elections, two Black men, Ashley Smith and Daniel Thomas, won Smithfield commission seats. They represented Smithfield’s Third Ward, which was a Black-majority district in the late nineteenth century. Ward-based systems of voting gave minorities a greater chance for minority representation while at-large systems of voting routinely diluted minority voting strength. By 1899, William Brown, once again a commissioner for the Third Ward, served as the lone Black

¹⁴ John L. Sanders, “Our Constitutions: An Historical Perspective,” NC Secretary of State, https://www.sosnc.gov/static_forms/publications/North_Carolina_Constitution_Our_Co.pdf, Accessed 22 September 2023; U.S. Constitution, Amend. 15.

¹⁵ Elizabeth Balanoff, “Negro Legislators in the North Carolina General Assembly, July, 1868-February, 1872,” *North Carolina Historical Review* 49, no. 1 (January 1972): 22-55.

member.¹⁶ And by the early twentieth century, the town of Smithfield moved to an at-large system of representation that remained until 1989 and as expected, diluted Black voting strength.¹⁷

Former Confederates regained suffrage in the late 1890s and began rolling back Reconstruction-era policies. For example, they did away with the ward system that enabled Black political representation. Former Confederates were especially troubled by alliances between members of the white Populist Party and the heavily African American Republican Party. This interracial movement became known as Fusion politics.¹⁸

Former Confederates joined the Democratic Party and worked hard to thwart the political advancement of African Americans. In 1892, three Black Johnstonians and seven white Johnstonians jointly petitioned for federal inspectors to monitor the 1892 local elections in the county. The men asserted that a fair and honest election was not possible without federal intervention. White Democrats in the county publicly decried the assertion and challenged white residents to “crush” the allegation “by voting the Democratic ticket—the white man’s party of

¹⁶ Wingate Lassiter, “Blacks Served on Smithfield’s Board Throughout the 1890s,” *The Smithfield Herald*, July 28, 1992; For more on the Third Ward, see “Pine Straws,” *The Smithfield Herald*, May 6, 1886; David Cecelski and Timothy B. Tyson, eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (Chapel Hill: University of North Carolina Press, 1998); Thomas J. Lassiter and T. Wingate Lassiter, *Johnston County: Its History Since 1746* (Smithfield, NC: Hometown Heritage Publications, 2004); Tuck, “An Analysis of the Intergenerational Patterns.” For more on ward-systems of voting, see Chandler Davidson and George Korbel, “At-Large Elections and Minority-Group Representation: A Re-Examination of Historical and Contemporary Evidence,” *The Journal of Politics* 43, no. 4 (November 1981): 982-1005.

¹⁷ Jane Ruffin, “Smithfield Blacks Sue Over Town Council Election Plan,” *The News and Observer*, May 24, 1989.

¹⁸ Lassiter, “Blacks Served on Smithfield’s Board Throughout the 1890s”; David Cecelski and Timothy B. Tyson, eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (Chapel Hill: University of North Carolina Press, 1998); Tuck, “An Analysis of the Intergenerational Patterns,” 180.

North Carolina.”¹⁹ By the end of the nineteenth century, the county had no Black elected officials and those committed to white supremacy held power.

By November 1898, a white supremacy movement swept across North Carolina and Johnston County was no exception. Four days before fall elections, an editorial in the county’s paper of record alerted readers to the fact that Black people served as magistrates and on juries in other parts of North Carolina. The editorial writer explained that the white domination that characterized Johnston County was not the case elsewhere and that white Johnstonians had a responsibility to “redeem the state.”

[T]he greatest issue now confronting our people is...Negro Rule...The last jury in the court of New Hanover was composed of 11 negroes and one white man. The people of the negro infested East are not deceiving you. Their cries come to you to relieve them...Providence has been kind to the people of Johnston. For years we have been quietly enjoying the joys and the peace of Democratic rule. The taxes are extremely moderate. The finances are ably managed. There is not an official of the Negro race in the county. Our people feel safe under the rule of the white man. We have no use for Winchester. There is not a Gatling gun in the county. Our white teachers are free from the insulting presence of Negro supervisors. Our public roads are as safe as the streets of any town. The colored race is quiet and orderly. They recognize the fact that they are in a political subjection only. They are treated as well as they deserve...Let all white men come together on Tuesday next ready to redeem the state and prepared for any emergency.²⁰

The editorial greatly exaggerated the number of African Americans holding elective office in North Carolina. While some cities and towns had Black men serving in positions of authority, “negro rule” simply was not true. What was true was that white Democrats did not plan to give African Americans even a modicum of power in the future, including through jury service.

White supremacists opposed to Fusion politics chose the election of 1898 to wage a violent white supremacy campaign. This campaign was led by Democratic Party chairman, Furnifold

¹⁹ “The Petitioners for Federal Inspectors,” *The Smithfield Herald*, October 6, 1892.

²⁰ “A Serious Occasion,” *The Smithfield Herald*, November 4, 1898.

Simmons. One of the initial sparks in the fire was the appearance of an August 18, 1898 editorial in the *Daily Record*, an African American newspaper based in Wilmington. The editorial, written by the newspaper's owner, Alexander Manly, who grew up in Johnston County, was a response to a speech from a Georgia white woman who called on white men to lynch Black men in order to protect white women. Manley asserted that consensual relationships between Black men and white women were common and that white women only accused Black men of rape after the relationship became public. Democratic newspapers throughout North Carolina reprinted the editorial and made it a cause célèbre in the 1898 election. Not content with simply fanning the flames of racial strife to ensure victory, Democrats turned to violence.²¹

Wilmington proved to be the perfect storm, as its biracial government was the opposite of the kind of hierarchical, conservative society that white Democrats desired. On the eve of the 1898 election, Alfred Waddell, a Confederate veteran and former U.S. congressman, told a group of assembled white citizens, "If you find the Negro out voting, tell him to leave the polls, and if he refuses, kill him, shoot him down in his tracks. We shall win tomorrow if we have to do it with guns." In a closing vow, Waddell told his enthralled crowd, "We will never surrender to a ragged ruffle of negroes even if we have to choke the Cape Fear River with carcasses."²² Even before Waddell's calls for violence, many of his followers had terrorized Fusionists throughout eastern North Carolina. There were reports of property damage and citizens being taken from their homes and whipped in the weeks leading up to the elections. Fusion officeholders and seekers in Wilmington and elsewhere were afraid to speak out against the intimidation. The threat level led

²¹ Cecelski and Tyson, eds., *Democracy Betrayed*, 77-79, 220.

²² *Ibid.*, xi, 30, 84.

Black Wilmingtonians to stay home on Election Day in hopes of avoiding violence. Democrats secured victory at the polls but did not end their white-supremacy campaign.²³

Two days after the election, white mobs, led by Alfred Waddell, burned Alexander Manly's printing press and office in Wilmington. Not stopping there, the white vigilantes marched through Black neighborhoods in Wilmington demanding the resignation of Fusion politicians and killing African Americans with impunity. The mayor, every alderman, and the entire police department were forced to resign under the shadow of guns. The Wilmington Massacre remains the only successful coup d'état, or violent overthrow of a duly elected government in United States history.²⁴ The language in the Johnston County editorial concerning this same election, which called for redemption and preparation for any emergency, demonstrates that white Johnstonians knew what had been planned for Wilmington and supported the racial violence.

Disempowerment of African Americans

In 1899, the Democratic Party regained control of the North Carolina General Assembly and approved a constitutional amendment restricting the right to vote. The disfranchisement amendment appeared to be race neutral, however, that was not the intent or effect. The amendment required prospective voters to pay a poll tax and pass a literacy test. The amendment also included a grandfather clause that allowed an illiterate man to qualify if he or a lineal ancestor had been a registered voter before 1867 when Congressional Reconstruction began. In a 1900 general election marred by violence and intimidation, the disenfranchisement amendment passed easily and

²³ *Ibid.*, 26-28.

²⁴ *Ibid.*, 31-37; Crystal R. Sanders, "Racist Violence in Wilmington's Past Echoes in Police Officer Recordings Today," *The Washington Post*, June 26, 2020, Accessed here: <https://www.washingtonpost.com/outlook/2020/06/26/racist-violence-wilmingtons-past-echoes-police-officer-recordings-today/>.

effectively curtailed Black participation in electoral politics in North Carolina up until the late twentieth century.²⁵

The story of George Henry White illustrates the political subjugation of African Americans in North Carolina at the turn of the twentieth century. White, a free born Black man from Columbus County in North Carolina, had the good fortune to acquire advanced education, graduating from Howard University in 1877. After studying law under a prominent white North Carolina judge, White became one of the first Black lawyers in the state when he passed the bar in 1879. His distinguished political career, undergirded by the support of African American voters in the Black Second Congressional District, included stints as a legislator in the North Carolina General Assembly and as the only Black district solicitor in the United States. Black voters sent White to Congress in 1896 and reelected him in 1898. The white supremacy campaign that swept North Carolina forced White to leave Congress in 1901. In his farewell speech on Capitol Hill, he declared, “This, Mr. Chairman, is perhaps the Negroes’ temporary farewell to the American Congress; but let me say, Phoenix-like he will rise up some day and come again. These parting words are in behalf of an outraged, heart-broken, bruised, and bleeding, but God-fearing people, faithful, industrious, loyal people—rising people, full of potential force.”²⁶

White’s speech, while lamenting the absence of African American representation in Washington, D.C., was an indictment about Black exclusion from electoral politics at all levels of government. His prediction that African Americans would one day return to Congress was a reference to Black resistance to disfranchisement. Black southerners who dared to register to vote

²⁵ Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888-1908* (Chapel Hill: University of North Carolina, 2001), 162-172.

²⁶ Benjamin R. Justesen, *George Henry White: An Even Chance in the Race of Life* (Baton Rouge: Louisiana State University Press, 2001).

in the first half of the twentieth century had to be prepared to deal with the consequences which could include intimidation, physical violence, economic reprisals, and even death.

Negro Civics Leagues sprang up in communities across the South throughout the 1920s and 1930s to help African Americans collectively mobilize for better conditions in terms of civic life, education, and social welfare. African American voting was one of the most common issues taken up by these leagues. While Wilson, North Carolina created its Negro Civic League in 1936, the date of establishment for the Smithfield chapter is unknown. What is known is that by the mid-1940s, the Johnstonian chapter made Black voter registration one of its priorities.

Literacy tests administered by subjective white voter registrars and poll taxes deprived Black Johnstonians of the right to vote for decades. In 1945, only seventy African Americans in Smithfield could vote. As Smithfield Negro Civic League officials attempted to increase this number, they encountered opposition from white voter registrar, Alexander Holman, Sr. Holman used a variety of tactics to make the franchise a whites-only enterprise in Johnston County. First, he required Black applicants to obtain and completely copy the United States Constitution and then to interpret two different sections to his satisfaction. Many white voter registrars were never satisfied with the responses of Black applicants and posed tricky questions that did not have correct answers. For example, the voter registrar in Halifax County asked a Black applicant: "Which has the most force, the militia or the General Assembly?" Other unfair questions asked by registrars included: "How many rooms are in the county courthouse?" and "if the NAACP attacked the U.S. government, on which side would you fight?"²⁷

²⁷ "Negro Leaders Protest Denial of Registration," *The Smithfield Herald*, March 23, 1945; John W. Wertheimer, *Law and Society in the South: A History of North Carolina Court Cases* (Lexington, KY: University Press of Kentucky, 2009), 140-141; "Negro League Requests Another Registration Under New Registrar," *The Smithfield Herald*, March 30, 1945.

The Smithfield Negro Civic League succeeded in having eighty eligible African American voters travel to the courthouse and complete voter registration forms ahead of the 1945 primary election. Yet, Holman denied all of them. The registrar's assessment of literacy was final, so African Americans did not have a way to appeal. At the very same time that Holman made voter registration extremely challenging for African Americans, he allowed a white woman to register her father who was home sick in bed. The father, a white man in Smithfield, was not physically present at the courthouse but Holman still registered him to vote.²⁸

Because registrar Alexander Holman could not stop the Smithfield Negro Civic League from sending potential Black voter registrants to his office, he decided to set up shop elsewhere. As the deadline to register to vote in the April 1945 primary loomed, Holman disappeared. African Americans waited in his office from 9 am until 6 pm. The recalcitrant registrar registered white citizens at an undisclosed location while Black citizens stood around all day waiting for their opportunity to attempt to secure their constitutional right to vote. In the end, Black Johnstonians had no recourse to challenge the violation of their right to vote and decided instead to pursue efforts to improve municipal services in Black neighborhoods including lobbying for annexation of Black neighborhoods, electric streetlights, water and sewage, and the hiring of Black police officers.²⁹

Although Smithfield's Black residents asked for Black police officers in 1945, the town did not grant the request until 1958. That year, town officials authorized the police chief to hire

²⁸ "Negro Leaders Protest Denial of Registration," *The Smithfield Herald*, March 23, 1945; "Negro League Requests Another Registration Under New Registrar," *The Smithfield Herald*, March 30, 1945.

²⁹ "Negro Leaders Protest Denial of Registration," *The Smithfield Herald*, March 23, 1945; "Negro League Requests Another Registration Under New Registrar," *The Smithfield Herald*, March 30, 1945; "Negro League to Ask No Further Decision in Vote Controversy," *The Smithfield Herald*, April 6, 1945. Though Black residents of as-yet unannexed parts of Smithfield had begun petitioning for annexation of their neighborhoods in the mid-1940s, the Smithfield Board of Commissioners deliberately excluded them in a 1947 extension of the town limits despite a third-party engineering firm recommending that the town annex those areas. See "Inclusion of Negro Areas is Requested," *The Smithfield Herald*, February 11, 1947.

one or two Black police officers on a temporary basis with the understanding that the positions would become permanent if the arrangement proved satisfactory to town officials. These Black officers, however, could only patrol Black neighborhoods.³⁰

Black Johnstonians forged ahead in their quest for meaningful change and inclusion in decision-making bodies. Despite documented cases of Black disfranchisement, Johnston County was not covered by the 1965 Voting Rights Act.³¹ Nevertheless, African Americans in the county mobilized to elect Black public officials. The first African American to hold elected office in the county since the nineteenth century was Mack Sowell who won election to the Selma Town Council in 1969. Two years later, Smithfield elected its first African American member in modern times, James Barbour. Clayton did not elect its first Black councilman until 1983 when Nathaniel L. Sanders, Jr. won office.³²

In 1989, at the urging of Black residents, Smithfield moved from an at-large system of municipal elections to a mixed-system where some council members are elected at-large and some from districts. Smithfield's new election system created three single-member districts and four members elected at-large. One district was predominately Black, although Black residents had proposed a plan that would have ensured the election of at least two Black officials.³³

³⁰ "Town To Hire One or Two Negro Police Officers for Negro Sections," *The Smithfield Herald*, November 7, 1958.

³¹ For list of jurisdictions covered by the 1965 Voting Rights Act, see www.justice.gov/crt/jurisdictions-previously-covered-section-5 and www.justice.gov/crt/section-4-voting-rights-act#bailout_list.

³² "Sowell Says His Election Begins Trend in County," *The Smithfield Herald*, May 9, 1969; "First Black Elected to Town Board Since Reconstruction," *The Smithfield Herald*, April 6, 1971; "Clayton's New Council," *The Smithfield Herald*, December 6, 1983.

³³ Ruffin, "Smithfield Blacks Sue."

African Americans also lobbied to end Johnston County School Board's at-large election system because the process diluted minority voting strength. They pointed out that while Black students made up more than one-quarter of the county's school population, there was zero African American representation in the body tasked with shaping school board policy. Moreover, Black citizens expressed concern over the lack of Black principals in the county's middle and high schools.³⁴

Despite numerous attempts dating back to the 1970s, an African American was not elected to the Johnston County Board of Education until 1998 when Dorothy Johnson won her seat. She remains the only African American to win county-wide office in Johnston County. Her singularity is a demonstration of the continued widespread African American exclusion in county governance.³⁵ Moreover, Johnston County has never elected an African American to the county Board of Commissioners, which is the body that oversees the county's management and administration.

The second-class citizenship of African Americans in Johnston County has manifested in a variety of ways including racial disparities in healthcare and education. In Johnston County and throughout the South, there was a dearth of Black physicians due to the closing of Black medical schools in the late nineteenth and early twentieth centuries.³⁶ Among the few remaining Black physicians in the country, the overwhelming majority chose to practice outside of the South because of the region's poverty, segregation, and racist exclusion of Black doctors from local and

³⁴ Scott Bolejack, "Blacks Walk Out of School-Board Session in Protest," *The Smithfield Herald*, May 15, 1992.

³⁵ District Court Judge Addie Harris-Rawls ran for office in a three-county district. "Johnston School Panel Gets 2 New Members," *The News and Observer*, November 4, 1988.

³⁶ Thomas J. Ward, *Black Physicians in the Jim Crow South* 60 (Fayetteville: University of Arkansas, 2003).

state medical societies.³⁷ Thus, Dr. Charles W. Furlonge, a practicing Black physician who moved to Johnston County in 1915 and provided medical care to the Black community, was an anomaly.³⁸

In 1917, Furlonge moved his practice to Smithfield and in 1929, he opened a fifteen-bed hospital. Johnston County's first hospital, the private Smithfield Memorial Hospital, had opened in 1920 with much fanfare, but it served white patients only. Five years later, Johnston County Hospital opened its doors in Smithfield. The Johnston County Hospital offered Black citizens medical treatment on a segregated and unequal ward but denied Furlonge hospital privileges. Thus, Furlonge opened his own hospital to combat his exclusion and offer Black patients an alternative to the second-class treatment at white-owned facilities. He remained the only Black physician in the county for more than fifty years.³⁹

African American education at the elementary and secondary levels was also limited in the late nineteenth century and for much of the twentieth century. In the antebellum period, North Carolina lawmakers made it illegal to teach enslaved people to read and write. Immediately after the Civil War, formerly enslaved people in Smithfield built a schoolhouse to promote literacy and to distance themselves from their enslaved past. In January 1866, the New England Freedmen's

³⁷ Thomas J. Ward, *Black Physicians in the Jim Crow South* (Fayetteville: University of Arkansas, 2003).

³⁸ Charles W. Furlonge, a recent graduate of Leonard Medical School at Shaw University, had not intended to settle in Johnston County but inclement weather enroute to his destination in Selma brought him in contact with a local Black business owner who convinced him to stay and provide medical care to Black Johnstonians. Doris Cannon, "The Story of a Pioneering Black Physician," *Smithfield Herald*, February 11, 1983. For more on Leonard Medical School, see Darlene Clark Hine, "The Anatomy of Failure: Medical Education Reform and the Leonard Medical School of Shaw University, 1882-1920," *Journal of Negro Education* 54 (Autumn 1985): 512-525; Todd L. Savitt, *Race and Medicine in Nineteenth- and Early Twentieth-Century America* (Kent, OH: Kent State University Press, 2007).

³⁹ "Negro Hospital Opens Its Doors," *The Smithfield Herald*, January 15, 1929; "Smithfield's New Hospital," *The Smithfield Herald*, January 14, 1921; "Johnston County Hospital Ceases Receiving Patients," *The Smithfield Herald*, January 1, 1952.

Aid Society sent three white women teachers from the North to staff the school. Arsonists, however, destroyed the schoolhouse in April 1866.⁴⁰

Undeterred by white hostility to Black education, freedpeople resumed instruction in their homes and looked to local Black churches and northern philanthropy for support.⁴¹ As early as 1888, members of the Johnston District Baptist Association began calling for high school education for African Americans. Black churches pledged to support the endeavor and in 1908, Black Baptists selected and purchased two acres in front of the Atlantic Coast Line Railroad station in Belmont, a Black neighborhood in Smithfield, for the site of the future high school. An article in the *Smithfield Herald* paid homage to the work that these Black citizens had done on their own, explaining: “[t]his building is not being built by the County authorities or out of the County School Fund, but it is being erected by and on the property of the Johnston Baptist Association.”⁴² Until the late 1920s, this school—known as the Johnston County Training School—was the only high school facility for African Americans in the county.

⁴⁰ Heather Andrea Williams, *Self-Taught: African American Education in Slavery and Freedom* (Chapel Hill: University of North Carolina Press, 2005), 19; “History of the Smithfield Freedmen’s Schoolhouse,” Johnston County Heritage Center, <https://www.johnstonnc.com/freedmenschool/content.cfm?pageid=117>, Accessed 26 September 2023.

⁴¹ “History of the Smithfield Freedmen’s Schoolhouse.” In 1868, the Freedmen’s Bureau constructed a two-room schoolhouse for African Americans in Smithfield. By the 1890s, three Black private schools operated in Johnston County. The Freedmen’s School became Smithfield Preparatory and had 109 pupils, Selma Academy had 38 pupils, and Clayton Preparatory had 64 pupils. Hugh Victor Brown, *E-Quality Education in North Carolina Among Negroes* (Raleigh, NC: Irving Swain Press, 1964), 92. The Johnston District Baptist Association, an organization of Black Baptist churches, provided the funding for the Smithfield School, which offered grades one through seven. Minutes of the Johnston District Baptist Association in the *African-American Baptist Annual Reports, North Carolina, 1865-1990*, North Carolina Collection, University of North Carolina at Chapel Hill.

⁴² “Colored High School in Johnston,” *The Smithfield Herald*, September 29, 1911. With hard work and collective efforts, Black Johnstonians constructed a 50 x 60-foot two-story dormitory and a 40 x 60-foot two story classroom building. The dormitory allowed students from all over the county to attend the school. They were able to stay there for the entire school term. The school was known as the Associational High School until the last part of 1914 when it formally took the name Johnston County Training School.

North Carolina's public schools operated on a segregated basis for much of the twentieth century. In Johnston County and throughout the state, public education was separate and unequal. Black students received used textbooks and secondhand sports equipment. Parents and community members often held fundraisers to make up for the shortfalls in funding and supplies caused by racist appropriations of tax dollars.⁴³

Although the United State Supreme Court outlawed segregation in public schools in 1954, school desegregation in North Carolina did not come quickly or easily because of the numerous roadblocks erected by the state's all-white legislature. In April 1955, the North Carolina General Assembly passed a pupil assignment act that gave "local school boards control of enrollment and assignment of children in the state's public schools. The act made it much more difficult for civil rights lawyers to challenge public school segregation because instead of suing the state, they would have to sue each of North Carolina's 173 school districts."⁴⁴ It also made it easy for local school officials to deny Black parents' requests to have their students transferred to previously all-white schools under the freedom of choice plan. Allegedly, one North Carolina school district denied a "[B]lack family's request to transfer their son to an all-white school because he was a C student and therefore too academically weak, but disqualified another [B]lack family's petition because their son was an A student and should not have his academic success disrupted."⁴⁵

⁴³ Vanessa Siddle Walker, *Their Highest Potential: An African American School Community in the Segregated South* (Chapel Hill: University of North Carolina Press, 1996); Sarah Caroline Thuesen, *Greater than Equal: African American Struggles for Schools and Citizenship in North Carolina, 1919-1965* (Chapel Hill: University of North Carolina Press, 2013).

⁴⁴ Jerry Gershennhorn, "Defying *Brown*, Defying Pearsall: African Americans and the Struggle for Public School Integration in North Carolina, 1954–1971," in Larry E. Tise and Jeffrey J. Crow, eds., *New Voyages to Carolina: Reinterpreting North Carolina History* (Chapel Hill: University of North Carolina Press, 2017), 271-272.

⁴⁵ Karl E. Campbell, "Pupil Assignment Act," *NCPedia*, <https://www.ncpedia.org/pupil-assignment-act>, Accessed 22 September 2023.

After the Pupil Assignment Act, state lawmakers went a step further passing a constitutional amendment known as the Pearsall Plan, which authorized vouchers to pay for students to go to private schools to avoid integrated schools. The plan also gave state officials the authority to close a school if desegregation led to bad conditions. The Pearsall Plan passed by a four-to-one margin demonstrating significant white opposition to school desegregation.⁴⁶

Political chicanery stalled desegregation for nearly a decade. In Johnston County, the first Black students to attend previously all-white schools did so in 1965 under the freedom of choice plan. Between 1965 and 1969, twenty-nine Black students in Smithfield desegregated local schools. A handful of Black students in the county's other towns did the same. These students recalled being socially isolated by their peers and ignored by their teachers. Black parents who supported desegregation were not immune from reprisals. For example, after Mrs. Charles Cole of Bentonville sent her children to a previously all-white elementary school in Four Oaks, segregationists burned a cross in her yard. White men also visited her home to discourage her from sending her children to school with white children.⁴⁷

Fed up with the slow pace of the change and the use of decentralization to subvert the spirit and law of the *Brown* decision, nineteen Black parents in Johnston County filed suit in federal court seeking injunctive relief against discriminatory practices by the local school board, the state board of education, and the state superintendent of public instruction. In a case that came to be known as *Godwin v. Johnston County Board of Education*, jurists ruled in 1969 that the Pearsall

⁴⁶ Gershenhorn, "Defying *Brown*, Defying Pearsall."

⁴⁷ "Freedom of Choice Trailblazers Honored," March 6, 2017, <https://jocoreport.com/freedom-of-choice-trailblazers-honored/>, Accessed 21 September 2023; National Register of Historic Places: Richard B. Harrison School, North Carolina State Historic Preservation Office, 8:18-19 (2012) (citing Minutes of the Johnston County School Board, January 3, 1968, State Archives, Raleigh).

Plan was unconstitutional and that the state could not place the burden of implementing *Brown* solely on local school systems.⁴⁸

While the violence that characterized school desegregation in other locales did not occur in Johnston County, white resistance was present. Take for instance the case of Nathan Alford and Lee Liles, two Black teachers who taught in previously all-white schools in Meadow and Benson after mandatory desegregation. Sheriff's deputies had to escort the men home every day because of threats of racial violence.⁴⁹

In the twenty-first century, Johnston County Public Schools continue to have vestiges of racial discrimination. Nonwhite students are underrepresented in honors and advanced placement courses and overrepresented in school suspensions and expulsions.⁵⁰ Black students in county schools have asserted that they are regularly racially bullied by their white peers who do not face consequences for their behavior.⁵¹ The Johnston County Board of Commissioners withheld funding for the school district until officials adopted a policy prohibiting Critical Race Theory from being taught in district schools.⁵² Many saw the commissioners' ultimatum as another example of how authorities have sought to exclude Black Johnstonians and their history and

⁴⁸ *Godwin v. Johnston County Board of Education*, 301 F. Supp. 1339 (E.D.N.C. 1969).

⁴⁹ The experiences of Nathan Alford and Lee Liles have been recounted in several events commemorating the Black Freedom struggle in Johnston County.

⁵⁰ Edward J. Smith and Shaun R. Harper, "Disproportionate Impact of K-12 School Suspension and Expulsion on Black Students in Southern States," Center for the Study of Race and Equity in Education, University of Pennsylvania Graduate School of Education, <https://race.usc.edu/wp-content/uploads/2020/08/Pub-14-Smith-and-Harper.pdf>, Accessed 24 September 2023; Uwemedimo Umoumoh, "Analysis of Racial Bias in School Discipline and Course Enrollment in a Rural North Carolina High School," M.A. thesis, Pennsylvania State University, 2022.

⁵¹ T. Keung Hui, "County's Black Students Allege They're Racially Bullied," *The News and Observer*, November 26, 2021.

⁵² T. Keung Hui, "NC School Board Gets \$7.9 Million, But Only After It OKs Limits on How Race Is Taught," *The News and Observer*, October 4, 2021.

contributions from the public discourse. Moreover, many Black residents in the county have lamented the lack of Black administrators at those high schools with the largest nonwhite student populations since research has shown that the presence of Black principals leads to higher achievement for students of color.⁵³ Despite decades-long calls for a Black principal at Smithfield-Selma High School, given the school's large Black population, the school board just appointed the school's first Black administrator in 2023, fifty-four years after its opening.⁵⁴

In addition to disfranchisement and the delayed and one-sided desegregation of public schools, even death was used as a vehicle to promote white supremacy in Johnston County. In April 1968, Johnston County native Lee Arthur Watson was killed in Vietnam. To the chagrin of the county's African American residents, he was buried in the Black section of a public cemetery in the county. Many felt that since he had given his life defending democracy, he should not have had segregated interment in a taxpayer-funded space.⁵⁵

Ku Klux Klan Presence in Johnston County

Stripped of access to the ballot box until the 1960s, African Americans in Johnston County and surrounding areas could not resist racial injustice through the electoral process. They could not elect prosecutors or sheriffs. Moreover, they routinely contended with an active Ku Klux Klan who maintained white supremacy by intimidation and violence. During the civil rights era, North

⁵³ Brendan Bartanen and Jason Grissom, School Principal Race and the Hiring and Retention of Racially Diverse Teachers (EdWorkingPaper No.19-59), Annenberg Institute at Brown University, <https://edworkingpapers.com/sites/default/files/ai19-59.pdf>, Accessed 26 September 2023.

⁵⁴ See "SSS Welcomes New Principal," *Johnstonian News*, August 7, 2023.

⁵⁵ Peter Hulth, "Negro Grievances Cited," *The Smithfield Herald*, September 24, 1968; Richard W. Hatch, "Segregated Cemeteries: Do They Promote Johnston Racial Strife?," *Greensboro Daily News*, September 25, 1968.

Carolina had more Ku Klux Klan members than all the other southern states combined. Most Klan rallies took part in eastern counties such as Johnston.⁵⁶

Documented evidence of the Klan's existence in Johnston County dates to 1926, but it is likely that the terrorist organization operated in the area much earlier.⁵⁷ For decades, two of the main entrances into the county featured billboards announcing the group's presence in the area. The sign one encountered when entering Smithfield from the west read, "This is Klan Country. Join and Support the United Klans of America, Inc. Help Fight Communism and Integration."⁵⁸ A photograph of one such sign is enclosed below:



⁵⁶ David Cunningham, *Klansville, U.S.A.: The Rise and Fall of the Civil Rights-Era Ku Klux Klan* (New York: Oxford University Press, 2012).

⁵⁷ "KKK Donates Methodist Revival," *The Smithfield Herald*, January 19, 1926; "Big Ku Klux Klan Rally to Be Held in Kenly Tonight," *Kenly Observer*, June 23, 1926; "Ku Klux Klan in Monster Rally at Kenly Friday," *Kenly Observer*, June 30, 1927.

⁵⁸ The Ku Klux Klan sign in Smithfield came down in 1977. See "Klan Leader Had His Say, Then Down Came the Sign," *The Smithfield Herald*, March 29, 1977.

By the civil rights era, Klan activity was more visible and antagonistic. In September 1965, more than 3,000 Klan supporters attended a KKK gathering near Clayton, where 192 robed members of the organization took part in a cross-burning ceremony. Attendees heard from Robert Jones, North Carolina Grand Dragon, and from George Dorsett, United Klans of America (UKA) Imperial Kludd (chaplain), who extolled states' rights and encouraged defiance of federal desegregation orders.⁵⁹

In April 1967, a young Black family that moved into a white neighborhood in Smithfield faced the kinds of intimidation that made the Klan famous. The family found a cross burned in their front yard, endured shots fired into their home, and received threatening phone calls. One telephone caller identified himself as a Klansman and warned the family that they would be killed if they did not move within the week. Local Klan leader Billy R. Flowers maintained that his group was not responsible for the threatening calls.⁶⁰ Three months later, in July 1967, Klansmen in Greensboro engaged in the very same kind of terrorism against a local Black minister after he purchased a home in a white neighborhood. The mastermind of the latter event was George Dorsett, who had spoken in Johnston County several times and is credited with reviving the North Carolina Klan in the mid-sixties.⁶¹

After the assassination of Martin Luther King, Jr. in 1968, Klansmen rode through Black neighborhoods in the Johnston County town of Benson brandishing weapons. Fed up with the antagonism, five young Black men, between the ages of sixteen and twenty, set fire to the local Ku Klux Klan meeting hall. Damage, estimated at less than thirty dollars, was confined to the

⁵⁹ Pete Hulth, "3,500 Attend Rally of KKK Near Clayton," *The Smithfield Herald*, September 28, 1965.

⁶⁰ "Telephone Caller Threatens Family," *The Smithfield Herald*, April 28, 1967; "Klan Offering \$1,000 Reward: Phone Threat Disavowed," *The Smithfield Herald*, April 28, 1967.

⁶¹ Chafe, *Civilities and Civil Rights*, 161-163.

meeting hall doorway. Despite their adolescence and clean records, all five young men were sentenced to twelve years in prison at hard labor.⁶² White defendants found guilty of similar crimes in the county received much shorter sentences. For example, in December 1965, five young white men had set fire to an all-Black elementary school located outside of Kenly in Johnston County. Property damage caused by the fire totaled \$734. The presiding judge suspended the sentences of four of the young men. The fifth defendant, who had a long criminal history, was sent to prison for a term of seven to ten years.⁶³

District attorney Archie Taylor was so startled by the ruling handed down to the five Black Benson youth in 1968 that he apologized to the young men's defense attorney because he recognized that the sentences were unusually severe. Following the sentencing, the young men were immediately taken into custody and placed in North Carolina's Central Prison. Their attorney vowed to appeal. National and international outcry led North Carolina Governor Bob Scott to exercise executive clemency and order the release of the Benson Five who had set fire to the Klan meeting hall. He commuted the active twelve-year sentences in favor of "twelve years suspended for three years upon condition that the young men remain employed or continue their education under parole conditions and supervision during the three-year period."⁶⁴

Racial intimidation and exclusion continued in Johnston County long after the Benson Five affair. In December 1977, gunfire awakened a young Black couple who had recently moved into

⁶² "North Carolina: Crime and Punishment," *Newsweek*, June 16, 1969; Sanders, "North Carolina Justice on Display."

⁶³ "All-Negro Bagley School Bombed During Nighttime," *The Smithfield Herald*, October 26, 1965; "School Bombing 'Leader' Gets Long Prison Term," *The Smithfield Herald*, December 10, 1965; Crystal R. Sanders, "North Carolina Justice On Display: Governor Bob Scott and the 1968 Benson Affair," *Journal of Southern History* LXXIX (August 2013): 659-680.

⁶⁴ Sanders, "North Carolina Justice On Display."

a previously all-white neighborhood in Smithfield. Weeks before the shooting, neighbors found a burning cross embedded in a watermelon in the couple's yard.⁶⁵ Nearly a decade later, after several Black and white students at Clayton High School engaged in a physical altercation, F. Glenn Miller, Jr., the former leader of the Johnston County Ku Klux Klan and the founder of a white supremacist organization called the White Patriot Party, offered to provide law enforcement officials with paramilitary aid, which they declined. Miller informed the Johnston County sheriff that "1,000 armed and uniformed members of the White Patriot Party are standing by for your use in combating Black insurrection/revolution in Johnston County."⁶⁶ Below is a photograph of members of the Ku Klux Klan marching through the streets of Benson, Johnston County in 1970:



⁶⁵ "Black Family Flees Violence," *The News and Observer*, December 4, 1977; "Black Couple Won't Return to All-White Neighborhood," *The Smithfield Herald*, December 6, 1977.

⁶⁶ Myra Knight, "Supremacist Offers Help to Clayton Authorities," *The News and Observer*, April 6, 1986.

The Ku Klux Klan has maintained a presence in Johnston County in recent times. Klan marches continued in areas such as Benson and Four Oaks through the 1990s.⁶⁷ Local law enforcement found evidence of Klan activity in Johnston County as late as 2001.⁶⁸

Racial Bias in the Criminal Justice System

Just as Black Johnstonians have experienced discrimination in access to the ballot box, they have also experienced discrimination in the criminal justice system. They have encountered racial bias at every stage in the legal process including policing, jury selection, and sentencing.

Jury service is one of the most tangible markers of citizenship. The United States Constitution guarantees defendants the right to a jury of one's peers, which means that the jury should reflect the community at large. Yet, in North Carolina and throughout the United States, African Americans have been routinely excluded from the pool of potential jurors. At one time, North Carolina law required prospective jurors to be property owners, a stipulation that effectively excluded Black people who were overwhelmingly sharecroppers.⁶⁹ In this way, even juror requirements that did not mention race resulted in the underrepresentation or exclusion of African Americans on juries. Johnston County did not have an African American member on its grand jury until 1958. And between 1982 and 1992, of twenty-two grand jury forepersons in the county, twenty of them were white.⁷⁰

⁶⁷ "Ku Klux Klan Wants March in Princeton," *The Smithfield Herald*, July 7, 1992; "Klan Asks Four Oaks for a Parade Permit," *The Smithfield Herald*, July 14, 1992.

⁶⁸ David Holthouse and Casey Sanchez, "A Ku Klux Klan Murder Reveals Details of Modern Klan Life," *The Intelligence Report*, July 1, 2007, <https://www.splcenter.org/fighting-hate/intelligence-report/2007/ku-klux-klan-murder-reveals-details-modern-klan-life>, Accessed 26 September 2023.

⁶⁹ Alexis Hoag, "An Unbroken Thread: African American Exclusion from Jury Service, Past and Present" *Louisiana Law Review* 81, no. 1 (Fall 2020): 55-79.

⁷⁰ "Johnston Grand Jury Gets First Negro Member," *The Smithfield Herald*, February 11, 1958; Transcript of Motion Hearing, *State of North Carolina v. Eugene Tyrone DeCastro*.

Additionally, Black North Carolinians face disproportionate incarceration rates. At the turn of the twenty-first century, while the state's African American population was approximately 22%, African Americans exceeded 70% of the state's prison population.⁷¹

Racial disparities in North Carolina's criminal justice system extend to legal executions. The first execution in the North Carolina colony during British rule was the hanging of a Native American man in 1726.⁷² From that time until 1910, local officials carried out the death penalty until the state constructed a permanent and centralized penitentiary. Construction of North Carolina's first permanent state penitentiary was completed in December 1884. Until then, the state housed inmates in a temporary structure at the construction site so that those incarcerated could help construct the building. The first three inmates at the construction site were Charles Lewis, Eliza Lewis, and Nancy Richardson, three African Americans from Johnston County convicted of robbery.⁷³

Since 1910, all executions in North Carolina have occurred at Central Prison in Raleigh and race has figured prominently in the death penalty process. The overwhelming majority of those executed for rape were African American men accused of raping white women. No white men were executed for the rape of Black women. Between 1910 and 1961, only one white person

⁷¹ Gregory S. Taylor, *Central Prison: A History of North Carolina's State Penitentiary* (Baton Rouge: Louisiana State University Press, 2021), 8.

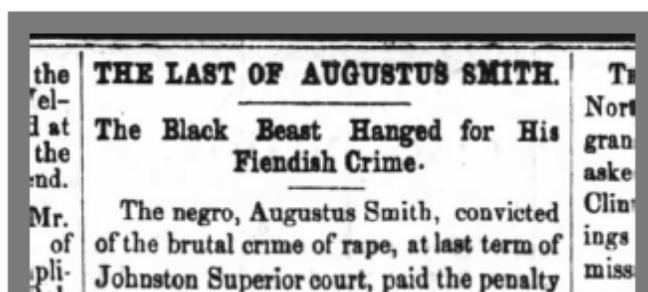
⁷² Jeff Welty, "The Death Penalty in North Carolina: History and Overview," UNC School of Government, <https://fbaum.unc.edu/teaching/articles/Welty-DP-overview.pdf>.

⁷³ Taylor, *Central Prison*, 21-33, 60.

was executed for a crime against an African American. Moreover, in that same time frame, North Carolina executed sixty other white people and 283 Black people.⁷⁴

The racial disparity in imposition of the death penalty was apparent early on. In 1930, the North Carolina State Board of Charities and Public Welfare commissioned a study to examine residents' feelings about capital punishment and the methods used to execute prisoners. The study showed that "in North Carolina the man who goes to the electric chair, almost without exception, is poor, uneducated, and feeble-minded. Race, also, is an important factor. The Negro here, as elsewhere in the administration of justice, is at a disadvantage even in comparison with the least privileged white group."⁷⁵ Race has been central to the death penalty process in North Carolina.

While not exhaustive, extant records describe five instances—in 1881, 1900, 1940, 2000 and again in 2001—where all-white juries in Johnston County sentenced Black men to death.⁷⁶ Below is a copy of the headline published on the day a Black man named Augustus Smith was executed after being sentenced to death by an all-white jury in 1881:



⁷⁴ Seth Kotch and Robert P. Mosteller, "The Racial Justice Act and the Long Struggle with Race and the Death Penalty in North Carolina" *North Carolina Law Review* 88, no. 6 (2010): 2038-2039, 2054.

⁷⁵ Taylor, *Central Prison*, 128-131.

⁷⁶ Augustus Smith was executed in 1881 for sexually assaulting two white girls and Zeb Page was executed in 1940 for raping a white widow. See "The Last of Augustus Smith," *Goldsboro Messenger*, November 21, 1881, and "State Executes Johnson (sic) Negro," *Statesville Record and Landmark*, April 8, 1940. Also see Kotch and Mosteller, "The Racial Justice Act.," *State v. Chapman*, 359 N.C. 328, 342 (2005).

In the 1900 case, after a Johnston County jury found Tom Smith guilty of the first-degree murder of a white man, Superior Court Judge Hoke ordered Smith's hanging. After the trial, the North Carolina Supreme Court reviewed the case and ordered a new trial. The second trial, heard in Wayne County, ended with the same verdict and the state Supreme Court declined to interfere with the death sentence. Smith's attorneys argued that Smith acted in self-defense with the events of the Wilmington Massacre in the back of his mind. North Carolina Governor Daniel Russell agreed and commuted Smith's sentence to life imprisonment.⁷⁷

Twenty-year-old James Marvin Farmer and twenty-one-year-old Albert Sanders's post-World War II prosecution was another instance of North Carolina's disproportionate execution of African Americans and illustrated the Black community's lack of power, representation, and equal justice in Johnston County. A Johnston County Superior Court jury convicted the two men in November 1946 of fatally beating Robert Mitchell, a white World War II veteran, near Smithfield. Farmer and Sanders encountered Mitchell on a road outside of Smithfield and allegedly brandished a metal pole that one of them used to strike Mitchell's skull. The veteran's empty wallet was found beside his lifeless body. Farmer maintained his innocence throughout the legal proceedings and a week before their execution, Sanders also confirmed the innocence of his cousin, Farmer.⁷⁸

James Farmer's mother, Nancy Ann, a widow who bore thirteen children, drew from her meager resources to hire A.O. Dickens, an attorney based in Wilson, to defend her son and delay the execution on the grounds of insufficient evidence. Dickens successfully had the execution

⁷⁷ "To Pay the Penalty," *Goldsboro Weekly Argus*, February 1, 1900; "Will Tom Smith Hang," *The Smithfield Herald*, October 12, 1900; "Untitled," *The Smithfield Herald*, October 19, 1900.

⁷⁸ "State Executes Johnston Youths," *The News and Observer*, June 7, 1947; "Marvin Farmer Murder Case in Smithfield, North Carolina," NAACP Papers: The NAACP's Major Campaigns—Scottsboro, Anti-Lynching, Criminal Justice, Peonage, Labor, and Segregation and Discrimination Complaints and Responses, Folder: 001532-005-0048. The present-day value of Mary Ann Farmer's payment calculated here: <https://www.usinflationcalculator.com>.

delayed once, but then stopped working on his client's behalf even though he continued to charge Nancy Ann for his services. In total, Nancy Ann Farmer paid \$443.25 (\$6,102.66 in 2023) to Dickens, who assured her that he would appear before the Parole Commissioner and have a new trial granted. The North Carolina Supreme Court was prepared to review the case, but neither Dickens nor the attorney for Sanders appealed. On June 6, 1947, the two young Black men clutched hands and died together in the Central Prison gas chamber in Raleigh, North Carolina.⁷⁹

James Farmer and Albert Sanders's engagement with the criminal justice system illustrated the Black community's lack of power and adequate representation. James Farmer's mother attended the trial and later recalled that presiding Judge Q. J. Kellog Nimocks, Jr. instructed the jury "'when you go and come back, say guilty of first-degree murder.' That's what the judge pointed his finger to the jury and said."⁸⁰ In addition to the judicial misconduct as evidenced by the biased jury instructions, Farmer and Sanders lacked adequate counsel since their attorneys failed to file appeals that could have stopped the executions, changed their sentences, or granted new trials. At the time, Johnston County did not have a single Black attorney; the first African American attorney to practice in Johnston County was Reginald L. Frazier who graduated from North Carolina College School of Law in 1959, a decade later.

In hopes of drawing public attention to the problematic court proceedings and lack of effective counsel, Farmer's mother contacted the national NAACP, Eleanor Roosevelt, and

⁷⁹ "State Executes Johnston Youths," *The News and Observer*, June 7, 1947; "Marvin Farmer Murder Case in Smithfield, North Carolina," NAACP Papers: The NAACP's Major Campaigns—Scottsboro, Anti-Lynching, Criminal Justice, Peonage, Labor, and Segregation and Discrimination Complaints and Responses, Folder: 001532-005-0048. The present-day value of Nancy Ann Farmer's payment calculated here: <https://www.usinflationcalculator.com>.

⁸⁰ "Criminal Term Opens Today in Smithfield," *The News and Observer*, October 14, 1946; "Marvin Farmer Murder Case in Smithfield, North Carolina," NAACP Papers: The NAACP's Major Campaigns—Scottsboro, Anti-Lynching, Criminal Justice, Peonage, Labor, and Segregation and Discrimination Complaints and Responses, Folder: 001532-005-0048.

President Harry Truman. Nancy Ann Farmer knew to seek redress outside of Johnston County and North Carolina because the pervasive nature of white supremacy meant that there were no local avenues for an African American to air grievances against white people. Registering her complaint with local officials invited retaliation for challenging the racial status quo such as eviction, job termination, or creditors calling in loans. As she appealed to public officials and a civil rights group in the North, Farmer admitted that she was “afraid to even be in North Carolina...afraid for any of my children to even leave out of the house.” She went on to say that she knew as a “colored” woman that she “had no voice.”⁸¹ Whether Robert Mitchell was killed in self-defense or whether Farmer and Sanders received a fair trial did not matter. Nancy Ann Farmer’s right to live free of fear and to know that her children’s civil rights would be respected did not matter. All that mattered was that a Black person’s alleged “infraction impacted the life and/or safety of a white person. Any perceived threat to a white person increased the chance of legal, or in many cases extra-legal, action being taken against the alleged perpetrator.”⁸²

In 1998, during jury selection in the trial of Kevin Golphin and Tim Golphin in Cumberland County, the court ordered a special venire and selected a jury from Johnston County. A conversation overheard between two prospective jurors in the Golphin trial suggested that those individuals had made up their minds before the trial even began. One potential Johnston County juror testified that he overheard another potential Johnston County juror say that “the defendants

⁸¹ “Marvin Farmer Murder Case in Smithfield, North Carolina,” NAACP Papers: The NAACP’s Major Campaigns—Scottsboro, Anti-Lynching, Criminal Justice, Peonage, Labor, and Segregation and Discrimination Complaints and Responses, Folder: 001532-005-0048.

⁸² Charles Wesley McKinney, *Greater Freedom: The Evolution of the Civil Rights Struggle in Wilson, North Carolina* (Lanham, MD: University Press of America, 2010), 50.

should never have made it out the woods.”⁸³ The comment suggested potential juror bias, but it is not clear if the person in question was removed from the jury pool.

Additionally, peremptory challenges have been racially biased and used to exclude people from juries unfairly when they should be used to exclude potential jurors who are unable to listen to the evidence before deciding on the guilt or innocence of the accused.⁸⁴

Racially biased discrimination in peremptory challenges is not the only cause for concern in the criminal justice system. In *Furman v. Georgia* (1972), the United States Supreme Court decreed the death penalty cruel and unusual punishment in violation of the Eighth Amendment when applied in an arbitrary or discriminatory manner. The ruling invalidated death penalty laws nationwide.⁸⁵ North Carolina, however, moved to reinstate the death penalty by making it mandatory for those convicted of murder, rape, burglary, and arson.⁸⁶ The United States Supreme Court struck down North Carolina’s statute imposing a mandatory death sentence for first-degree murder in *Woodson v. North Carolina* (1976) because there was no individualized consideration of a defendant’s character and record. The North Carolina General Assembly then approved a revised capital punishment law that went into effect on June 1, 1977. The new law, still in effect today, reinstated the death penalty for first-degree murder.

⁸³ Transcript of Jury Selection in *State v. Kevin Golphin* and *State v. Tilmon Golphin*.

⁸⁴ Whitney DeCamp and Elise DeCamp, “It’s Still About Race: Peremptory Challenge Use on Black Prospective Jurors,” *Journal of Research in Crime and Delinquency* 57, no. 1 (February 2020): 3-30.

⁸⁵ David M. Oshinsky, *Capital Punishment on Trial: Furman v. Georgia and the Death Penalty in Modern America* (Lawrence, KS: University Press of Kansas, 2010), 50-54.

⁸⁶ Joseph Adams, “Mandatory Death: *State v. Waddell*,” *North Carolina Central Law Review* 4, no. 2 (April 1973): 292-298.

In 1977, Johnston County was part of the 11th Prosecutorial District, comprised of Johnston, Harnett, and Lee Counties; the district was the home of the first murder indictments brought under the new death penalty statute. On June 10, 1977, two Black men, twenty-nine-year-old Henry Smith and twenty-five-year-old David Stewart, were charged in the fatal shooting of two white men, twenty-three-year-old Dennis Allen, a Four Oaks police officer, and forty-nine-year-old Linwood Johnson, a truck driver.

Attorneys for the defendants found that the eighteen-member Johnston County grand jury that returned the indictments should have had four Black residents serving on it but there were only two. Harry Martin, the trial judge, went on to serve on the North Carolina Supreme Court. District Attorney John Twisdale conceded that “clerical errors” occurred, but he maintained that there had been no systematic exclusion of nonwhite jury members. A Superior Court judge disagreed and ruled that the grand jury seated in the capital case was selected without adequate assurances that it reflected the racial and gender demographics of the community.⁸⁷ The fact that the prosecutor proceeded with indictments without ensuring that the grand jury properly constituted a representative cross-section of the community illustrates the historical continuity of Black exclusion in Johnston County. The nonrepresentative grand jury also called into question the fairness of the criminal justice system in the district.

The exclusion of African Americans from the grand jury in 1977 would not be the last time that questions of fairness arose in the 11th Prosecutorial District that included Johnston County. On July 15, 1979, someone entered a Lee County home and murdered four-year-old Carol Hinson and assaulted fourteen-year-old Patsy Mason. Mason, who suffered serious injuries, initially told

⁸⁷ “2 Blacks Held for Double Murder,” *Winston-Salem Chronicle*, June 18, 1977; “Paul and Frinks Join on Death Penalty Against KKK,” *The Carolina Times*, June 25, 1977; “Legality Ruling Expected in Murder Grand Jury,” *The Robesonian*, October 11, 1977; “Grand Jury Selection Improper,” *The Statesville Record and Landmark*, October 13, 1977.

police that a white man had committed the crime. Despite this eyewitness testimony, District Attorney John Twisdale charged Robert Henry McDowell, a dark-skinned African American man. Mason later changed her story and said that she was attacked by a Black man. A Johnston County Superior Court jury found McDowell guilty of first-degree murder and felonious assault and, on December 11, 1979, the presiding judge sentenced him to death. Twisdale never told McDowell's attorney or the jury about Mason's first statement. He also failed to disclose that there were reports of prior white intruders at the scene of the crime. Twisdale withheld key information from the jury that could have produced a different verdict. And a federal appeals court later overturned McDowell's death sentence.⁸⁸

John Twisdale served as the District Attorney of the 11th Prosecutorial District from 1970 until 1990. Up until the end of his term, the district had no Black assistant district attorneys. In 1991, Addie Harris Rawls became the first African American Assistant District Attorney in the 11th Prosecutorial District.⁸⁹ While the numerical designation of the district and the office holder changed over time, questions about racial bias and fairness in the district's courts continued.

Again, in 1998, questions about judicial fairness in Johnston County courts arose with the conviction of Terence Garner, a seventeen-year-old Black man. A Johnston County Superior Court jury convicted Garner of robbery and attempted murder of a white woman. Despite his insistence of his innocence, Garner was sentenced to 32-43 years in prison. Within two days of the

⁸⁸ "McDowell Facing Death for Slaying," *Durham Morning Herald*, December 12, 1979; "Lawyers Seek New Trial for N.C. Death Row Inmate," *The Charlotte Observer*, July 11, 1981; Marilyn Mather, "New Trial Ordered in Slaying," *The Charlotte Observer*, December 9, 1981; "Death Row Inmate's Conviction Overturned In Killing of 4-Year-Old," *The Charlotte Observer*, June 22, 1988; Ames Alexander and Eric Frazier, "Prosecutors Who Push Too Hard May Cross the Line on Fairness, Cases Show," *The Charlotte Observer*, September 12, 2000.

⁸⁹ John Twisdale Obituary, *The News and Observer*, August 15, 2020; Andrea Weigel, "Easley Appoints District Judges," *The News and Observer*, January 17, 2002.

conviction, another man confessed to the crimes before recanting his testimony. Garner's attorneys requested a new trial based on the new information and the problematic plea deal offered to one of the other defendants. Their request was denied, and Garner served four years in prison before a nationally televised PBS documentary led a state court to grant Garner a new trial. A *Los Angeles Times* review of the documentary suggested that this miscarriage of justice was caused by many factors including "mistaken identity, racism and officials eager to cover their missteps and keep their elected positions."⁹⁰

Prosecutors and judges have not been the only actors impeding justice and racial inclusion in Johnston County. Police officers and the sheriff have also contributed to the racial injustice, disempowerment, and terror of African Americans. In 1986, Ellis King, Jr., a young Black man living at his parents' home in Smithfield, called the police to report the theft of a television set. Police officers took the report and left. Smithfield Police Officers David Allen and Ricky McKeel performed a computer check and found an arrest warrant for a person of the same name as King but with a different social security number. Without securing an arrest warrant or consent, the officers entered the King home and attempted to arrest Ellis King, Jr. An unarmed King protested, and a struggle ensued.⁹¹ The two officers and King tussled and eventually the confrontation spilled out to the porch and the front yard. A passing, unaffiliated college student witnessed the struggle from the front door to the yard. The officers gained control over King, who laid prone on his back, with Allen on top of him and McKeel nearby. While restraining a compliant King, Allen struck

⁹⁰ Glenna B. Musante, "Goldsboro Teen Convicted in Brutal Robbery," *The News and Observer*, January 28, 1998; Glenna B. Musante, "Man's Confession Saves Teenager From Prison," *The News and Observer*, January 30, 1998; Glenna B. Musante, "Confession of Robbery Recanted in Johnston," *The Smithfield Herald*, January 31, 1998; Mark Sachs, "A Question of Guilt, Innocence," *Los Angeles Times*, January 10, 2022; Anne Saker, "Garner's Conviction Thrown Out," *The News and Observer*, February 6, 2022.

⁹¹ Transcript & Complaint, *King v. City of Smithfield*, 87-171-CIV-5.

him several times on the head before asking his partner, “do you want me to kill him?”⁹² There was no response. Allen shot King point blank in the back of his head with his service weapon. Ellis King, Jr., who had simply tried to report a theft, died in his parents’ front yard.⁹³

The officers involved in King’s death were placed on administrative leave, with pay, and were later reinstated. McKeel, the officer who shot King, subsequently secured employment with the State Capitol Police and the Smithfield Police Chief who supervised McKeel became a Johnston County magistrate.⁹⁴ King’s widow filed a federal civil rights lawsuit in Raleigh and the case was settled mid-trial. Like the Jim Crow-era lynchings of Black Johnstonians, there was no apology, no public acceptance of responsibility, and no accountability for King’s death. Instead, on the eve of a federal court verdict, a Stipulation of Dismissal was entered, a non-disclosure agreement was secured, and African Americans were left to contend with terrorism at the hands of those who had sworn to protect and serve them.⁹⁵

In 2008, Johnston County’s sheriff, Steve Bizzell, who had served as president of the North Carolina Sheriffs’ Association, made racially inflammatory remarks about Hispanic residents in the county in an interview with a news reporter. Pointing to a Hispanic-owned business, the sheriff remarked, “Look at that. You can’t even read the durned sign. Everywhere you look, it’s like little Mexico around here.” Later, in his conversation with the news reporter, Bizzell condemned immigrants for “breeding like rabbits” and stated: “When people think about illegal Mexicans,

⁹² Transcript & Complaint, *King v. City of Smithfield*, 87-171-CIV-5.

⁹³ “Shooting of Drug Suspect Probed in Smithfield,” *The News and Observer*, March 13, 1986.

⁹⁴ Jane Ruffin, “Smithfield Officer Sued in Death of Black Man,” *The News and Observer*, August 9, 1988.

⁹⁵ “Shooting of Drug Suspect Probed”; Jane Ruffin, “Smithfield Officer Sued in Death of Black Man,” *The News and Observer*, August 9, 1988; Jane Ruffin, “Smithfield, Widow Settle Suit on Killing of Man By Officer,” *The News and Observer*, August 10, 1988.

you know the first thing they think of? [D]riving drunk and shooting.”⁹⁶ There was very little opposition, if any at all, from other elected officials about the sheriff’s racist remarks. Alarmed private citizens wondered if Bizzell or his deputies had engaged in racial discrimination while carrying out checkpoints, arrests, and jail bookings given his blanket assertions about an entire group of people.⁹⁷

Conclusion

African Americans in Johnston County have experienced racial discrimination in every facet of life including in the administration of justice. Despite outward signs of racial progress such as the hiring of a Black superintendent of the county school system or a Black chief deputy in the sheriff’s office, racism and prejudice remain pervasive. For instance, the Johnston County town of Kenly made national headlines in 2022 after the town’s entire police force resigned after the hiring of a Black woman as town manager.⁹⁸ Additionally, amid a housing construction boom in Clayton that has made the town one of the most desirable places to live in the state, well-known and popular residential developers did not hesitate to name two new subdivisions “Bedford” and “Forrest”—named after Ku Klux Klan founder Nathan Bedford Forrest. These examples demonstrate the historical continuity of exclusion and white supremacy that has governed Black Johnstonians’ lives and highlight the need to adopt policies that address the root issues of racism and exclusion to bring about meaningful changes in county governance and administration.

⁹⁶ Kristin Collins, “Tolerance Wears Thin,” *The News and Observer*, September 7, 2008.

⁹⁷ Kristin Collins, “Activists Push for Sheriff to Quit,” *The News and Observer*, September 20, 2008.

⁹⁸ “NC Town Manager Fired in 3-2 Vote After Police Force Quit,” *The News and Observer*, September 2, 2022; Flowers Plantation, flowersplantation.com/single-family-homes/bedford, flowersplantation.com/neighborhood-spotlight-forrest Accessed 28 September 2023.