
Politics, Prisons, and Law Enforcement: An Examination of the Emergence of “Law and Order” Politics in Texas

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This article examines the rise of “law and order” politics in Texas, providing an in-depth archival case study of changes in prison policy in a Southern state during the pivotal period when many U.S. states turned to mass incarceration. It brings attention to the important role an insurgent Republican governor and law enforcement officials played in shaping crime policy. Law enforcement’s role is considered within a broader examination of political strategy during a period of intense socioeconomic volatility. The findings suggest that within particular political contexts, especially those with low levels of political participation, law enforcement agents might play a key role in shaping punishment.

Between 1988 and 1999 the number of inmates in Texas prisons quadrupled from around 40,000 to more than 160,000, an astonishing spike that established Texas as one of the world’s most punitive polities, with a prison population nearly equivalent to that of Western Europe (Walmsley 2003). Even though the prison population has leveled off, modestly declining in recent years, no serious decline seems likely, despite a precipitous drop in crime rates and serious budgetary challenges. This frenetic expansion in imprisonment was the byproduct of crime and punishment’s emergence as the primary political issue in state politics during the 1980s. Crime politics, which includes the rhetorical and substantive focus on crime, punishment, and the policies associated with their regulation, emerged during a period of profound socioeconomic change, and was an important factor in the complete realignment of partisan power in which Republicans usurped Democrats as the state’s most powerful political party. This article analyzes the ascent of

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crime and punishment in Texas's political sphere, attempting to tease out which factors were most important in explaining how and why crime emerged as such a salient political issue when it did.

This article is among the first to examine the rise of mass incarceration in a southern state through in-depth archival research, and it joins a growing set of scholarship that has recently delved more deeply into the state-level legal and political processes associated with prison expansion (Barker 2009; Gilmore 2007; Lynch 2010; Miller 2008; Page 2011; Perkinson 2010; Schoenfeld 2010). My work uses archival research methods to unearth how sometimes overlooked state-level political processes contributed to prison expansion. As we shall see, "law and order" politicians enjoyed certain strategic advantages in Texas, including the political activism of law enforcement groups generally and prosecutors in particular. Law enforcement groups played an important role in shaping crime legislation and stirring support for policies that prioritized prisons and harsher punishments. They were particularly important in Texas because the state's political culture and institutional structure skewed the political playing field to their advantage. As Texas entered a period of intense economic and demographic volatility that potentially threatened the state's traditional power relations, federal litigation forced Texas lawmakers to dismantle their plantation-style prisons. They did so, but reconstructed a new penal regime consistent with the state's historical tradition of harsh punishment, one that today cages an astounding proportion of the state's minority population.

Below I outline some of the key scholarship on incarceration and changes in punishment in the United States, with a particular focus on recent state-level scholarship. Then I explain how this case study was accomplished, and the nature of the data collected and analysis conducted. This is followed by a brief background section outlining some of the important factors that shaped the status of prisons in Texas by the late 1970s along with an historical narrative of key political developments associated with changes in prison policy in Texas; these focus particularly on key explanatory factors derived from previous research. Finally, I discuss how the Texas case furthers our understanding of how and why so many states turned to mass incarceration in the latter half of the twentieth century.

Theory

Scholars have provided an increasingly complex picture of the socioeconomic and political forces that have contributed to the increase in mass incarceration in the United States. Early

explanations largely drew on national level data and examples from states to explain increasingly punitive crime control policies. Many of these theories emphasized macro-level factors fundamental to late modern American society (Garland 1990, 2001; Tonry 2004; Wacquant 2001). Most prominent among them is David Garland's (2001) account that situates harsher crime control policies as a cultural response to the social and economic changes associated with late modern societies; anxieties stirred by weaker social bonds and economic uncertainty generate stronger modes of social control. Others have explained the rise of mass incarceration less as the product of fundamental socioeconomic changes, and more as the product of American politics. Katherine Beckett and Theodore Sasson (2000) argued that political strategy and media attention were intertwined with racial politics in generating undue focus on crime control. Similarly, Jonathan Simon (2007) argues that the politics of fear have fundamentally reshaped the structure of government in ways that privilege executive power—and the power of the executive branch—in ways that threaten the fundamental inclusiveness upon which democratic government rests.

These accounts necessarily relied on selective data from across the U.S. because of the lack of sufficient state and regional studies. Although crime policy is undoubtedly shaped by national level trends, most of the decisions leading to harsher punishment and prison expansion were made by state legislatures. A new wave of research has built a more robust empirical foundation focused on state-level processes associated with punishment. These case studies have reaffirmed the need to better understand how political dynamics facilitated the implementation of more punitive crime policies (Barker 2009; Gilmore 2007; Lynch 2010; Miller 2008; Page 2011; Schoenfeld 2010). These accounts have outlined the importance of political institutions in shaping political integration and crime policies (Barker 2009), how federalism privileges certain groups (Miller 2008), and the disproportionate influence of certain interest groups in the crime policy arena (Gottschalk 2006; Miller 2008; Page 2011).

State-level research has helped illuminate how political culture and the historical forces that have shaped it contributed to the rise of mass incarceration in certain states, especially in the South and Southwest. Robert Perkinson's (2010) account of changes in Texas's penal system notes the importance of state structure and political culture, drawing explicit links between political arrangements and Texas's history of racial conflict. He argues that Texas fiercely resisted northern ideas and methods of punishment throughout its history, and that punishment was always harsh and racially aligned. Mona Lynch's (2010) findings from Arizona echo Perkinson's

emphasis on race relations and prisons; in Arizona, nonwhites were incarcerated at much higher rates than the rest of the country well before the “punitive turn.” Arizona, Lynch argues, was committed to “cheap and mean” punishment, was never deeply committed to the notion of rehabilitation, and fiercely resisted federal litigation targeting prison conditions (Lynch 2010). The regional political culture of southern and western states, grounded in sharp racial conflict and defended by “states’ rights” claims, has buttressed harsh penal regimes that presaged the national punitive turn. With the rising influence of the Sunbelt states, this has increasingly become a nationwide affair.

Political processes and state institutions are certainly an integral part of the explanation of America’s prison binge. But understanding how institutional arrangements interacted to produce such an intense period of prison expansion remains elusive. For example, Barker (2009) suggests that certain institutional arrangements in Washington State stimulated political integration and led to political compromise and moderate crime policies. But her account also notes that by the early 1990s the state of Washington began instituting harsher penalties that led to a growing prison population despite no identifiable change in the state’s institutional structures. We are left to wonder what the source of this important shift was in a state seemingly committed to more moderate policies. Fundamental changes unfolded within state governments across the U.S. that ultimately transformed even those states that initially resisted more punitive policies. Understanding how state-level institutional arrangements operated within periods of intense legal change might help explain how and why states moved toward mass incarceration when they did.

We also know little about how those pushing for mass incarceration overcame inherent obstacles and contradictions that might have threatened their efforts. As Lynch (2010) notes, states such as Arizona (and Texas), both of which have histories of intense racial tension, were long committed to cheap and mean punishment, making the shift to mass incarceration, in a sense, as much *continuity* as change. But how and why were lawmakers so able and willing to abandon fiscal conservatism and embrace the extremely costly construction and operation of prisons? Fiscal conservatism posed a serious challenge to the imposition of harsh punishments because they are expensive. Many supporters of prison expansion professed to be fiscally conservative and opposed to the state’s expansion of prisons and especially to any expansion of its inefficient bureaucracies. Yet they ultimately supported the historically unprecedented expansion in prisons, which are notoriously costly. Understanding this change requires a careful look at who exactly supported prison expansion, what strategies they used in imple-

menting it, and a clearer conceptualization of the various roles government and political institutions played in effecting this change.

State governments provide a complex site for understanding “where the rubber meets the road” in explaining the punitive turn. While elected officials are charged with managing the administration of criminal justice, they always do so with an eye toward politics, and herein lies an important source of the tension between the pursuit of coherent policy objectives and political pragmatism. By examining how this tension played out between various actors and their organizations on the ground, we might begin to better understand the relationship between state institutions and the political forces that shape and manage them. My account aims to add to our understanding of these processes, which do not always draw considerable popular or media attention.

One way to examine these changes is to look closely at the politics associated with incarceration during various governorships. Although the Texas governorship is considered “weak” compared to that of other states, the executive branch was often a lightning rod for public attention regarding prisons and crime. It was the election of a Republican governor in 1978 that first signaled a change in state politics, and partisanship of the governorship alternated between the two parties in five consecutive elections from 1979 through 1995. The following narrative shows the various phases of political development that unfolded during a tumultuous period during which crime politics gained momentum, and looks closely at those factors raised by Lynch, Miller, Perkinson, and Barker: a tradition of cheap and mean punishment, a history of intense racial conflict, institutional structures that marginalize popular political engagement, and the consequences of the federal structure of government. I also unveil an often-underrepresented factor in explaining prison expansion—the political influence of groups affiliated with law enforcement.

Law enforcement actors and the occupational organizations that represent them occupy an important and somewhat ambiguous theoretical terrain: They are simultaneously interest groups and state functionaries. In state politics, local law enforcement actors and their organizations might be important political players, helping bridge the gap between often obscure state politics, and the local voters who might turn to these representatives to make sense of complex political issues associated with crime. As Joachim Savelsberg (1994) suggested, prosecutors in particular occupy a powerful and unique position in American politics, operating as state administrators of justice whose position is inherently political. Jonathan Simon’s (2007) account also emphasizes what he sees as the growing influence that prosecutors specifically, and executive

branches of government generally, wield in shaping American political culture. But while these two scholars suggest that prosecutors may be important, we know little about their role in politics. My account of how this operates in the state of Texas helps to explain how prosecutors might play a key role in advancing punitive crime policies.

Methods

This article, reconstructs an account of the relevant events associated with changes in incarceration in Texas in the pivotal period from 1978 through 1989, when crime politics emerged as a major political force. My methodology and sources of data are as follows: To avoid merely reconstructing a history of the present by retracing the steps of successful legislation, I began by examining the files of each governor from 1978 through 1992. Because the governor plays a prominent role in managing the prison system by appointing members of the state's prison board, and ultimately is held accountable in the press for its management, the prison system became an increasingly central political topic for the executive as federal litigation pressed reform. This meant that governors William P. Clements (two terms) and Mark White would spend considerable time grappling with federal litigation and the strains it posed; as a result, their papers contain ample information on prison policy and on litigation relevant to managing the emerging crisis, including legislative and policy initiatives that were never actually adopted.

Additionally, this history incorporates archival data from multiple commissions and committees established to investigate punishment practices. Data from the Joint Committee on Prison Reform of the Texas Legislature (1974) were collected and found to contain considerable information on prison conditions and the penal system. This included data outlining a Citizens' Advisory Committee's recommendations and a thorough description of the insular and racially structured state of the prison system. Data were also collected from the Governor's Blue Ribbon Commission on Criminal Justice (1982), which provided insight into the Clements administration's priorities, the committee's composition, and the various policy alternatives that were considered. Data from the Criminal Justice Summit in 1988 also provided important insights into how the administration helped shape the crime policy debate, and how it integrated and excluded various interested groups. These materials were then used to identify all key legislation presented on prison reform and relevant changes in sentencing.

These primary sources included a wide variety of material, including legislative bill files, internal communications, letters to and from various groups in the penal policy field, press releases, public testimonies, speeches, radio interviews and videos of debates and campaign advertisements, and other qualitative data. Articles pertaining to crime, prisons, and politics from the state's major newspapers—the *Austin-American Statesman*, the *Houston Chronicle*, and the *Dallas Times Herald*—were compiled and analyzed. These data were collected at the Texas State Library and Archives (TSLA) in Austin, the Papers of Governor William P. Clements Jr. at Texas A&M University in College Station, the University of Texas Law Library, and the Dolph Briscoe Center for American History at the University of Texas at Austin.

Although no history is ever complete, the review and analysis of this extensive and eclectic data collection was conducted in an effort to construct a more comprehensive account of the institutional processes associated with penal change that often go unnoted. I used these data to identify all of the key players in the prison policy arena, and then carefully examined which groups supported or opposed various changes, the frequency and nature of their presence and participation in key legislative meetings, at public hearings, on commissions, and in various forums on prison reform. Combining the historical narrative of the trajectory of bills and policy changes with the positions of various groups helps provide at least a glimpse of the relative influence various parties held in swaying reform.

Background

A History of Slavery

A long view of Texas's history is essential if we are to understand the state's political institutions and the political culture it has established and sustained. The migrants who entered modern-day Texas largely came from southern states, bringing with them slavery and the strictly racialized social hierarchy that sustained it (R.B. Campbell 2003). Texas was among the seven states that seceded from the U.S. before Abraham Lincoln took office, clearly aligning itself with southern states deeply committed to defending slavery and opposing federal attempts to regulate it (R.B. Campbell 2003). After the Confederacy's defeat and Texas's occupation during Reconstruction, "redeemed" ex-Confederates quickly ousted lawmakers supported by federal troops who had attempted to use the state government to address Texas's strict social and racial hierarchy (R.B. Campbell 2003). Upon their return to power, these "redeemers" held a constitutional convention and established

a state government explicitly designed to drastically limit the state's power and to exclude minorities (R.B. Campbell; Keyssar 2000; Perkinson 2010).

The new constitution incorporated a wide array of limitations on government that drastically limited state spending, established a decentralized state apparatus with extreme limits on the executive branch, and a legislature that met for just 140 days every two years (R.B. Campbell 2003). Minor matters of governance required the passage of constitutional amendments, strict limits were placed on taxation, and even control of education was relegated to decentralized agencies. The convention explicitly targeted the political disenfranchisement of Blacks, Mexicans, and Native Americans, with one delegate stating the popular fear that, "hoards of Mexican Indians will come streaming in . . . and vanquish you at the ballot box, though you are invincible in arms" (Keyssar 2000: 259). These measures were successful in excluding minorities from politics, and core aspects of Texas's social and political hierarchy were largely preserved until federal intervention again attempted to dismantle segregation and political exclusion in the 1960s and 1970s (R.B. Campbell 2003).

As Perkinson (2010) has shown, Texas prisons directly reflected and reinforced the state's traditional racial hierarchy. Corruption and the use of black and Mexican prisoners for forced plantation-style labor were the norm for Texas prisons; repeated scandals led to cycles of crisis and minor reforms, but prisoners in Texas remained "slaves of the state," toiling in rural fields and overseen by poorly paid white rural guards (Perkinson 2010). Reforms in the 1930s partially corrected conditions that had led to self-maiming and rampant suicide; prison managers established a largely self-sufficient, and even profitable network of agricultural and industrial holdings that improved the prison's sanitary and housing conditions (Martin & Ekland-Olson 1987; Perkinson 2010). Under authoritarian leadership, Texas prisons in the 1950s and 1960s became fiscally autonomous by demanding strict obedience to the rigorous work demands of mass agriculture and prison industry, an institutional arrangement that endured into the 1980s (Perkinson 2010; Joint Committee on Prison Reform of the Texas Legislature 1974).

The current state's formation was explicitly geared to limit government's ability to alter social and political arrangements (R.B. Campbell 2003; Keyssar 2000). Texas demonstrated the same commitment to harsh punishment based on the strict discipline and fiscal minimalism that Lynch noted in Arizona. Texas's institutions and political traditions were rooted in the state's opposition to federal interference in defense of its traditional racial hierarchy, which excluded Blacks, Mexicans, and Native Americans

(Campbell 2003; Perkinson 2010). These traditions were more evident in the prison system than in any other aspect of Texas government—Texas prisons were relatively insulated from legislative oversight, embodied traditional notions of racial hierarchy, operated at minimal cost, and relied on brutality to ensure strict discipline and obedience.

Demographic Transformation and Political Change

David Garland (2001) suggests that changes in the social and economic structure of the U.S. were an important factor in conditioning the turn to mass incarceration, and Ruth Wilson Gilmore (2007) situates her analysis of California within the profound shifts in the state's political economy. Changes in socioeconomic conditions are likely to change the context in which politics unfold. No state in the U.S. experienced a more radical period of socioeconomic change from 1970 through 2000 than did Texas. The state's population almost doubled from 1970–2000 to more than 20 million, and the proportion of nonwhite citizens increased markedly from around 13 percent in 1970 to more than 40 percent by 2000, mostly as a result of increases in the number and proportion of Hispanics (Stoops 2002). Urban growth was exceptional, and by 2000 Texas had three of the nation's 10 largest metropolitan areas in Dallas–Fort Worth, Houston, and San Antonio (Stoops 2002: 98). Economic volatility was equally intense: after a long stretch of exceptional growth in the 1970s, Texas experienced sharp declines in 1983 and 1986, as Table 1 demonstrates (Bureau of Economic Analysis 1997).

Table 1. Texas Economic Indicators, 1977–90

Year	Change in State GDP (%)	Unemployment Rate (%)	Personal Income Change (%)
1977	15	5.8	11.9
1978	14	5.4	15.7
1979	15	4.8	15.7
1980	19	4.4	15.4
1981	21	5.2	18.1
1982	6	5.3	9.9
1983	2	6.9	6
1984	9	7.9	10.7
1985	7	6.2	7.7
1986	−4	6.8	1.4
1987	1	8.9	2.2
1988	10	8.5	6.1
1989	7	7.4	7.3
1990	8	6.7	8.4

Source: Regional Economic Information System, Bureau of Economic Analysis, U.S. Department of Commerce.

As Garland suggests, economic uncertainty might stir popular anxieties and lead to conditions in which harsher punishments are more likely. The abruptness and intensity of the economic downturns that struck Texas in 1982–83 and 1986–87 were undoubtedly unsettling for Texans who had grown accustomed to exceptional prosperity. The depth of this reversal might have contributed to efforts by lawmakers to seem effective in the midst of such economically challenging developments. It was within this period of intense economic volatility—the same period during which Texas prisons had come under the oversight of the federal government—that the politics of crime emerged as *the* prime issue for state government.

An Unstable Legal and Political Terrain

The Case of *Ruiz v. Estelle*

Crime politics emerged in Texas in the 1980s amidst the biggest prison litigation case in American history. Despite multiple investigations pointing to violations of state and federal law in the state's prisons, state lawmakers ignored the problems in the insular Texas Department of Corrections (TDC) related to overcrowding, brutality, and use of "building tenders" to control inmates, insufficient health care, and racial discrimination (see *Ruiz v. Estelle* 1980). Inmates and prisoners' rights lawyers filed multiple lawsuits that ultimately culminated in *Ruiz v. Estelle*, a case in which a federal court essentially indicted the state's entire approach to corrections. In response to the increasingly intrusive efforts of federal investigators, the TDC's director responded, "I find little charity and less solace in bringing issues before a court that has no knowledge, direct or indirect, of what the real issues are and could care less that their personal social philosophy, finding its way into so-called law, jeopardizes not only our inmates' safety, but the safety of prison staff as well" (Martin & Ekland-Olson 1987: 139). Political leaders defended the system for more than a decade, and federal litigation generated an increasingly aggressive entrenchment by state officials. This approach mirrored the state's resistance to federal efforts to force desegregation and equitable funding in education.

In 1980, after nearly a decade of litigation, in *Ruiz v. Estelle* a federal court ruled in favor of the inmates and demanded that Texas reform its overcrowded plantation-style prisons. *Ruiz v. Estelle* exposed deep-rooted problems in the state's prisons; the ruling noted that, "In marked contrast to prison cases in other states, the defendant [TDC director W.J. Estelle] prison officials here refused to concede that any aspect of their operations were unconstitutional" (*Ruiz v. Estelle*: 127). The court imposed severe penalties on the state and demanded an almost complete overhaul

of the penal system, sending it into federal control, and foisting prison policy into the center of state politics for the next decade. This marked the beginning of the end of Texas's long and consistent history of punitive plantation-style prisons.

First William P. Clements Administration, 1979–83

The 1978 election of Republican Governor Clements provides a vivid illustration of how state institutions affect political participation. A 1972 constitutional amendment changed the state's constitution to increase the governorship from a 2-year to a 4-year term, and shifted the election to off-year (nonpresidential) cycles. This was followed by a sharp decrease in voter participation; despite Texas's population increase of over 3 million people from 1970–80, approximately 700,000 *fewer* Texans cast a ballot in the 1978 election than had in 1972. Clements won by the narrowest margin in state history, receiving 16,000 more of the 2.4 million votes cast than Democrat John Luke Hill (Curry 1978). Voter turnout rates for low-income, black, and Mexican American voters were around 25 percent, while turnout rates for whites were closer to 60 percent (Curry 1978). In unseating Democratic control of the governorship, Clements spent a record \$7 million, \$4.5 million of which came from his personal fortune (Richards 1982).

The Clements administration faced an overwhelmingly Democratic legislature stung by their party's defeat at the hands of the brash, big-spending oilman and billionaire Republican. When Clements entered office, the House had 127 Democrats and only 23 Republicans, and in the Senate the ratio was 27 to 4. This challenge was exacerbated by the fact that Clements had less than 6 weeks to prepare for the first of two 140-day regular legislative sessions that would occur during his term. This structural arrangement establishes severe limits on the state's ability to effectively govern— whoever wins the election has little time to prepare and negotiate an agenda with the legislature, an arrangement that was less problematic in a one-party system, but which bred dysfunction with a Republican governor. All legislation not passed by the end of the 140 days is declared dead and, unless the governor calls a special session, lawmakers must wait 2 years to reintroduce any bills. This arrangement made effective governance especially difficult as the state underwent radical change and expansion, and faced wild economic gyrations.

Crime and Political Strategy

Prisons and crime were not major issues during the 66th Legislature (1979), which focused largely on educational reform (the state faced federal litigation in this realm as well) and tax issues.

But the Clements Administration immediately began implementing a strategy aimed at building a political coalition that could threaten Democratic dominance by focusing on crime and punishment. Internal memos among administration officials illustrate that winning the support of law enforcement officials was a central aspect of the Clements administration's strategy. The administration held a meeting in January 1980 with key law enforcement groups, including the Sheriffs' Association of Texas, the Texas District and County Attorneys Association (TDCAA), the Texas Police Association, and the Texas Police Chiefs Association and formulated a set of potential proposals for the 1981 legislature (Johnson 1980). The proposals that emerged from this meeting seem modest by today's standards, but were viewed as ambitious by law enforcement and experienced legislative aides at the time.

Internal memos among the governor's staff indicate that far from seeing crime as a "home-run" issue that would garner public support, his aides were concerned that there would be little interest in crime. When the governor began preparing to publicly announce his anti-crime agenda in September of 1980, a rift developed within his administration over the feasibility of passing the anti-crime package. Legislative staff viewed the legislation as too ambitious, and noted that several proposed provisions had been debated in the legislature for 10 years and had never come close to passing. They argued, "[Passing] the whole set of drug bills will necessitate some serious arm twisting and pressuring of members during a session when members have more to worry about than law and order" (Biggart 1980). The governor's general counsel, a lawyer with a law enforcement background, objected strenuously to these criticisms and pressed the Governor to commit to an aggressive anti-crime platform. He argued that though it posed a challenge, winning the support of local officials had important political ramifications. He explicitly noted the political capital in pressing the legislation, "I see no downside to you politically in backing these law enforcement issues that will gain you the respect and appreciation of almost everyone connected with law enforcement throughout the state, literally touching every local city council, commissioners court, district attorneys office, etc., all principally democrats" (Dean 1980). Clements agreed and throughout his two nonconsecutive terms his administrations aggressively pursued law-and-order legislation, which provided a key stimulus for harsher punishment, and earned law enforcement's political support.

Data from the Texas Crime Poll, which has surveyed Texans' opinions on crime and punishment since 1977, offers a mixed picture of popular opinion regarding crime and punishment. From 1977 on, Texans felt that their justice system was too lenient with

Table 2. Crime, Punishment, and Public Opinion in Texas, 1977–1982

Year	Percent Agreeing					In Dealing with Convicted Criminals Courts Do/Are		
	Death Penalty for Murder	Mandatory Supervision	Support Early Release	Fear of Victimization	Fear Walking Alone Within Mile of Home	Good Job	Too Easy	Too Harsh
	%	%	%	%	%	%	%	%
1977	80	85	40	53	56	20	73	1
1978	79	85	45	57	54	19	73	2
1979	77	85	46	56	54	22	71	2
1980	81	86	55	60	57	18	78	2
1981	79	87	44	66	59	18	77	2
1982	84	90	38	57	58	19	77	1

Source: Texas Crime Poll Summary Reports, 1977–82.

criminals before Clements was elected. As Table 2 indicates, Texas sustained extremely high levels of support for the death penalty and consistent levels of fear of victimization in the years immediately preceding Clements's election. And although their opinions were stable, punitive, and negative, they were not uniformly punishment oriented; in 1980 more Texans rated rehabilitation as a "very important" role of the prison system, more than any other function, including punishment, deterrence, or incapacitation (Teske 1980). These data indicate that Texans supported harsh punishment and believed that their system was too easy on convicts, but that they also supported the idea that prisons should rehabilitate offenders. These poll data suggest that no short-term shifts in public opinion preceded the Clements administration's focus on the anti-crime agenda; instead, they suggest that people consistently perceived the system as too lenient, while also believing it should rehabilitate, not just punish offenders.

The lack of attention to crime issues in the 1979 legislature, public opinion data, and the internal concerns among the governor's own staff suggest that growing popular demands for an anti-crime package were not the primary factor driving the political focus on crime. Instead, as the Governor's general counsel noted, pushing crime had potential long-term political benefits that might pull erstwhile Democrats associated with law enforcement into the Republican camp. This suggests that, as Katherine Beckett (2000) [with Sasson] has argued, political strategy was an important factor in driving "law and order" campaigns. The governor's emphasis on winning the support of law enforcement also suggests that their support was thought to carry considerable political benefits, and that efforts to peel them from Democrats were intentional and politically motivated.

Media, Law Enforcement, and the Anti-Crime Agenda

The governor launched a campaign promoting his anti-crime package in the fall of 1980, and his administration worked to alter the inner workings of state politics in support of the plan (Kercher et al. 1980). The general counsel suggested that the governor “get the Speaker to alter the composition of the Criminal Jurisprudence Committee to break up the power of the members who are criminal defense lawyers so the bills can get to the floor of the House” (Dean 1980). And, the general counsel noted the power of law enforcement in lobbying for the legislation, and urged the governor to select a staffer to “get the criminal justice constituency to lobby and work each member of the Legislature for each bill’s passage. Anything short of that will mean defeat . . . The support from the prosecutors, chiefs of police, sheriffs, etc., is real and it’s there. They are ready to go do battle for the passage of the Anti-Crime Package” (Dean 1980). The Clements administration clearly viewed law enforcement as an important asset in pushing the administration’s anti-crime package. The state’s weak Republican Party and the entrenched status of Democrats made earning the support of pre-established institutions with broad appeal important, and the administration committed considerable resources to this goal. As we shall see, their success in doing so coincided with the growing strength of the Republican Party.

The administration also launched a large-scale mass mailing program that simultaneously targeted local law enforcement officials and local media outlets. The mailers cited various crime statistics and suggested that law enforcement was not receiving sufficient means for accomplishing their mission. The Clements administration brought a sophisticated marketing acumen to politics, and the governor’s ample social and fiscal resources backed it up. The administration helped stir media attention by dividing the state into regions, soliciting support from well-known law enforcement agents popular in those areas, and then drafting letters to be signed by these officials, urging the newspapers to endorse the governor’s plan (Carwright 1981). A first wave targeted local law enforcement and local print media, and a second wave highlighted radio and television, both encouraging the media to interview local law enforcement officials about the governor’s plan (Carwright 1981); ultimately more than 2,000 letters were distributed (Dean 1981b).

These appeals resonated with law enforcement officials around the state who expressed concern over the loss of federal funding for a variety of programs that the Reagan administration refused to extend. Many regional newspapers cited local law enforcement officials’ support for the measures, and media attention on the anti-crime package increased. The governor added further

impetus to growing attention in his annual State of the State address, urging lawmakers to join him and law enforcement in cracking down on criminals, and, for the first time, suggesting that the state needed to consider prison expansion to deal with federal lawsuits and overcrowding. By stirring media attention on crime and punishment, and using his position as the state's chief executive to draw public attention to it, Clements helped propel an issue that had received little attention in previous legislative sessions to the center stage of politics. Federal courts would add an important impetus to his efforts.

Texas's 67th Legislature passed nearly all of Clements's proposals, much to the surprise of some staffers. The Administration followed up on this success by expanding contacts with criminal justice officials through professional organizations and began soliciting ideas for a more ambitious package for 1983 (Dean 1981a). It launched an even larger and more ambitious mass mailing totaling nearly 3,000 letters to law enforcement agents and media outlets, touting the administration's success and noting the need for further law and order legislation (Dean 1981a; Clements 1981b). The Governor's letters noted that the 1981 anti-crime package marked "a high water mark for law and order legislation in Texas," but warned that "[t]he War on crime must continue to be waged and together, we must seek new and better methods to address and hold the line on the crime problem in Texas" (Clements 1981a). The administration received hundreds of responses along with recommendations and pledges of support from local law enforcement officials. One local judge wrote:

This is not to say that our previous Governors [Democrats] nor those who worked diligently in the past, such as LEAA and the criminal justice system in general, have not addressed this problem with deep concern; but your profound drive has added such emphasis that to me it has given all agencies a special guiding light (Haberma 1981).

Federal Litigation: the Impact of Ruiz v. Estelle

In December 1980 the federal court ruled against Texas in *Ruiz v. Estelle*, a legal development that has profoundly shaped Texas prison policy ever since. Clements and Democratic Attorney General Mark White both insisted that the state would win the case on appeal and sparred publicly over the case, with Clements accusing White of caving to federal officials, and White accusing Clements of exacerbating the problem by vetoing prison construction funds in 1979 (Balz 1981). Managing the state's position in the prison lawsuit would become one of the central issues in Clements's reelection campaign against White. In addition to passing his

anti-crime package, Governor Clements had also remained true to his commitment to limiting state spending and vetoed funding for corrections that would have addressed the overcrowding issues driving the *Ruiz* lawsuit. White and Clements would battle over who was to blame for federal intervention, and over who could best end it.

The Governor responded to the *Ruiz* ruling by launching a prison construction project and establishing the Blue Ribbon Commission on Criminal Justice (BRC) in July 1982. The construction project was not near the scale necessary to rectify the problems identified by the federal court, but marked the first attempt at dealing with the prison problem. The governor outlined the BRC's objective: "We want a comprehensive study of the entire criminal justice system, focusing on prisons. We want you to develop a blueprint, a master plan, to carry our corrections system into the 21st century" (Clements 1982). The committee's composition reflected the governor's tendency to privilege input from law enforcement and private business, while minimizing input from groups that represented broader constituencies. It was headed by a corporate executive from Dallas, and included five lawmakers, five business leaders, two scholars, two judges, one lawyer, one prosecutor, and two law enforcement officers (Blue Ribbon Commission 1982). No representatives of high-crime communities were involved, and the commission's task was framed explicitly in terms of addressing prison overcrowding by recommending prison expansion, not through a more comprehensive consideration of crime policy. This marked a new era in prison policy in Texas; every subsequent governor and legislature in the state would operate under the threat of federal intervention in the state's penal system, which drew relentless criticism of public officials in the press.

Events during the first Clements administration provide some important insights into the politics of crime. Facing a Democrat-dominated state legislature, the members of the Clements administration pursued "law and order" issues as one of the few viable avenues for political success. The administration specifically targeted support from law enforcement officials throughout the state through direct mailings and by appealing to occupational organizations, which provided an effective channel of communication. This helps illuminate some of the *how* and *why* regarding the politicization of crime in Texas. It was, in part, driven by a concerted political effort targeting specific constituencies—those that supported even harsher approaches to crime than Texas's already severe punishments. Within a political culture characterized by extremely low levels of political participation, law enforcement organizations represented one of the viable, well-organized institutions with a long-term interest in the prison policy arena. The

governor's interest in tougher anti-crime measures galvanized a nascent "law and order" political movement, and illustrated a growing affinity between the Republican Party agenda and law enforcement agencies concerned about declining resources. Although the governor's office was limited in its ability to directly shape policy, it was a vital nerve center and coordinating institution that, over time, helped press crime politics in the public sphere.

The Mark White Administration

Attorney General Mark White and the Clements administration lobbed political grenades at each other's camps regarding the *Ruiz* case in anticipation of an electoral showdown over the governorship in 1982. Clements's greatest political success had been the passage of his anti-crime package, but the governor could not distance himself from his tight links to the Reagan administration in the midst of a sharp economic downturn (King 1982). White won 53 percent of the vote despite the fact that Clements spent \$10 million on his reelection bid in what became the most expensive gubernatorial campaign in Texas history. In 1982 the economic crisis trumped crime politics, and Democrats retained control over every major state office and both branches of the legislature, even though their control of the House had declined from 1978 levels to 113 Democrats and 37 Republicans in 1982. White's victory was attributed in part to a surge in voter participation among blacks and Hispanics stemming from Senator Lloyd Bentson's get-out-the-vote drive; the total number of votes cast increased from 2.4 million in 1978 to 3.2 million in 1982.

Managing the Prison "Crisis"

Though the two camps had sparred over management of the *Ruiz* case and the prison crisis, they shared two important commitments—a wholesale rejection of federal intervention in state affairs, and a staunch defense of the existing prison system grounded in harsh punishment. These commitments limited options throughout the ongoing prison crisis, and placed the White administration on the defensive for 4 years. When White reclaimed the governorship for the Democrats, he faced a mounting prison-overcrowding crisis, the looming threats of federal fines and intervention, and a \$1.5 billion budget shortfall (Balz 1983). But the White administration's stance reflected an ongoing commitment to "cheap and mean" punishment, which Texas-style meant harsh brutality and coerced labor under conditions that the federal courts would no longer accept. White had defended the state's prison system in federal court, and continued to stand behind prison officials even as it became increasingly clear that reform was inevitable.

Political opponents attacked White for failing to stem federal intervention in state government, and the governor continued to argue that only minor reforms were necessary. White was attacked in the press when he alienated key conservative prison reformers whose investigations revealed that conditions in the prisons were unacceptable (Martin & Ekland-Olson 1987). The White administration defended the existing system, arguing that the overcrowding problem could be resolved with more efficiency and cosmetic improvements, stating that the prison problems could be fixed with some “soap and water” and that White would not support “country club prisons” (Martin & Ekland-Olson 1987: 240). One of the would-be reformers summed up the problem well: “Every expert in the field of penology that I’ve talked with states that Texas simply sends too many minor offenders to prison,” and stated that the governor needed to either reduce the number of people sent to prison through “sentencing reform, standard probation, community-based halfway houses or restitution centers or begin constructing new ones [prisons] immediately” (Ellis & Rice 1985). He also noted that either option would not “be readily accepted in Texas.”

These public feuds coincided with a sharp spike in prison violence, as the TDC reluctantly dismantled the building tender system, drawing more negative attention to the state’s management. The crisis generated turmoil simultaneously on many fronts over White’s entire term; the legislature passed an emergency measure that allowed the governor to parole inmates when the prison population approached court-mandated limits, and some members of the prison board resigned in protest at White’s strategy for managing the crisis. White defended his approach, arguing that he no longer felt that building large maximum security facilities was a reasonable way to address prison overcrowding (White 1983). White’s administration dramatically expanded parole and probation, and used the emergency powers granted by the legislature to manage the prison population through early release. White frequently cited the high cost of building and operating additional prisons; he and fellow Democrats were instead focusing their attention on reforming the state’s educational system, which had also been the subject of federal litigation due to insufficient funding. They attempted to shift management of the crime problem back to local governments and communities, and to defray the state’s costs in a period of budget shortfalls (White Administration 1984). Efforts to limit county admissions to state prison were opposed by the TDCAA, which insisted that local prosecutors should have no limits on the number of convicts local courts sent to state prison.

Texas’s delay in expanding mass incarceration is largely explained by Governor White’s reluctant willingness to use proba-

tion and parole to mitigate overcrowding, and continued concerns about cost. It seems that White's administration was willing to delay major reforms by defending the old system in order to continue their pursuit of educational reform. The Democratic governor simultaneously defended the system's tough and rough approach to penology, while adhering to a management approach that rejected massive prison expansion as an effective response to prison overcrowding.

Limited Options and Media Scrutiny

These events highlight the limits Texas's political culture and commitment to harsh punishment placed on lawmakers. As Lynch (2010) found in Arizona, Texas lawmakers adamantly opposed federal intervention in state affairs, and the state's historic commitment to harsh punishment at low cost forced lawmakers to decide between early release, alternatives to incarceration, or prison expansion and higher taxes. White utilized early release to manage the prison population because of the state's financial crisis and his administration's focus on education reform, but the governor faced intense political pressure for doing so. As Perkinson (2010) demonstrated, no history of rehabilitation existed to serve as an alternative model or to provide evidence that other crime-control policies might be effective; instead, White's administration was attacked for being "soft on crime." The economic crisis, combined with the cost increases associated with meeting growing court-mandated reforms associated with *Ruiz*, created conditions that strictly limited choices during White's administration. Instead of investing heavily in reforming the prison system and potentially expanding the state's capacity for incarceration, White utilized alternatives that briefly lowered and stabilized the state's prison population. Ironically, these efforts coincided with the first decline in serious crime in the state in years, a fact barely noted in the press. Rather, the White administration was harshly criticized in the press, where several of the state's largest newspapers ran exposés and editorials decrying early release and calling for prison expansion (Federal Bureau of Investigation 2011). The *Dallas Morning News* ran a series of articles focusing on the high release rates and on the crimes committed by parolees. In May 1986, the paper ran an editorial that noted an attempted rape by a parolee committed 48 hours after his release, and suggested that such offenses by early release inmates seemed like monthly occurrences (*Dallas Times Herald* 1986a). The editorial board called for higher taxes to support prison construction, and ran another similar editorial in December (*Dallas Times Herald* 1986b). The White administration failed to effectively publicize the stabilization and slight decline in crime rates that occurred as the governor used parole and proba-

tion, and a report noting that sentences served for serious offenses were still long gained little traction in newspapers. Whether the lack of attention to these important facts reflects a lack of effective promotion by the governor's staff, a lack of interest by the public, or the media's preference for more captivating headlines cannot be said. Whatever the reason, the administration's policies were consistently attacked in the media as threats to public safety.

The 1986 Gubernatorial Campaign

The 1986 gubernatorial campaign featured another runoff against Clements, and the key issues in the election—besides the collapse in oil prices in 1986—included White's educational reforms and the ongoing prison crisis. Prisons were an important issue in debates and campaigns, with White accusing Clements of creating the problem by vetoing prison construction funding in his first term, and Clements claiming White was incapable of effective management (Kilday & Reyes 1986). While the White administration tried to press spending cuts to deal with a budget shortfall, Clements railed against the governor, building a solid lead in the polls, and turning the table on White in another expensive and bitter campaign in 1986. The Clements campaign, working with media consultant and top campaign strategist Karl Rove, launched television advertisements attacking White for releasing convicts early and for his handling of the economy (Makeig 1986). Days before the election, three parolees shot two police officers in Houston, and media accounts used the event to underscore the consequences of the prison crisis (Makeig 1986).

Clements won the election, promising not to raise taxes, and gained considerable electoral support in rural areas that traditionally supported Democrats, and benefiting from low voter turnout among Democrats and high turnout rates among Republican voters (Foxhall 1986). The Republican garnered around 1.8 million to White's 1.6 million votes, an increase in turnout of nearly 200,000 voters from 1982, and Republican candidates gained ground in local elections across Texas (Kilday & Robison 1986). Despite the increase in turnout, only around 3.4 million or 31 percent of Texas's nearly 10.8 million eligible voters participated in the election (McDonald 2009). Contemporary observers and both candidates noted the primacy of economic conditions in the election, with Clements calling it a single-issue campaign, despite spates of negative ads on both sides regarding prison policy and management ability. Clements benefited from continued low levels of voter participation in south and western Texas where Hispanics turned out at very low levels, and rural voters shifted away from Democrats (Kilday & Robison 1986).

Mark White's victory in 1982 was attributable, in part, to an intense get-out-the-vote drive that increased electoral participation among minorities, and to the sharp economic decline that plagued Clements's first term. But the very economic crisis that propelled Democrats back into power also plagued their ability to effectively address key campaign promises—school reform and better health care for the elderly. The White administration also resisted serious prison reform, and failed to recognize the depth of the crisis. The persistent budget problems throughout his tenure and the economic crisis in 1986 were important factors in White's defeat. Economic perturbations created windows of opportunity that Clements deftly exploited in his reelection bid.

Garland (2001) suggests that economic uncertainty might stir public anxieties and facilitate harsher punishment; in Texas, economic volatility contributed to a gubernatorial merry-go-round that unsettled the state's long-entrenched partisan structure and created new opportunities for pushing an anti-crime agenda. Pressure from federal courts ensured that Texas's system would change, but the nature of that change was uncertain; both candidates were committed to retaining Texas's commitment to harsh punishment, but White was unwilling to preserve this system through expensive prison construction. But economic uncertainty and a political culture characterized by extremely low levels of participation were important factors in shaping the outcome of this pivotal race and others across the state. Low voter turnout among traditional Democratic supporters—especially Blacks and Hispanics—was an important factor in Clements's electoral victory. The second Clements administration would solidify its links with law enforcement and help ignite a furious focus on crime politics in the late 1980s.

The Second Clements Administration

Prison Expansion Round I: The End of Fiscal Conservatism

Clements inherited a prison crisis that threatened to generate enormous fines from federal officials whose patience with Texas's reluctance to address prison conditions had come to an end. After the state had resisted implementing reform for more than a decade, Clements promised federal judge William Wayne Justice that the state would take serious steps to resolve the litigation (Martin & Ekland-Olson 1987). Some legislators in the 1987 session advocated for moderate prison expansion and the use of community corrections to mitigate the crisis. At the same time, however, the session generated a conflicted array of "law and order" measures that, despite the overcrowding crisis, ensured that the number of inmates in Texas prisons would expand, even as the state faced enormous fines. By the late 1980s, Texas politics had become

increasingly focused on crime, and the 1988 Presidential campaign, in which George H.W. Bush's campaign featured the infamous Willie Horton advertisement, gave further impetus to this focus.

For the 1987 legislative session, the Clements Administration established a Criminal Justice Task Force (CJTF) that coordinated efforts to pass an expansive anti-crime and prison expansion agenda (Smith 1987). This task force unified prison expansion advocates, including legislators and law enforcement representatives. The governor's general counsel, Rider Scott, was an important link between the governor's office and Texas prosecutors. Scott had been a member of the TDCAA and was on the board of directors for the National District Attorney's Association. His approach to incarceration mirrored the position often advocated by prosecutors and leaders of the TDCAA—that Texas should build all of the prisons necessary to incarcerate those convicted by the state's prosecutors. Scott embarked on a state-wide media tour pushing for support for prison bonds. During and after his tour, major newspapers published a series of editorials supporting prison expansion, citing the perpetual problem of overcrowding and the threat of federal fines (*Houston Chronicle* 1987). Scott repeatedly cited law enforcement's support for prison bonds, and local law enforcement officers lobbied for support for general obligation bond funding for prison expansion (Ellis 1987). The measure, which was packaged with a broader set of bonds dubbed "Build Texas," passed easily, and provided Texas's first large-scale prison construction program. This marked an important departure for Texas, which had previously adhered to "pay as you go" fiscal management. By 1987 erstwhile fiscal conservatives were willing to borrow to pay for prison expansion.

As Gilmore (2007) notes in the California case, bond financing was an important aspect of prison expansion. Lawmakers wanted to claim that they were keeping spending in check while still making criminals pay; in a period of economic crisis and budget deficits this was only possible by borrowing. Conservative Democrats unsuccessfully sought to block the measure, citing the high cost of interest payments, the state's tradition of paying as you go, and the long-term costs associated with prison expansion. Clements and his supporters chose to abandon their traditional fiscal conservatism and fear of larger government; their commitment to harsh punishment outweighed their commitment to small government. Without this transformation, mass incarceration on a Texas scale would not have been possible. The abandonment of fiscal conservatism in order to preserve the state's commitment to a punitive regime provides a compelling example of the depth of the victory of those advancing harsh justice. Texans had always proven resistant to borrowing and government expansion, but crime politics created a context that ultimately expanded the state's reach and cost dramatically. It

seems that voters in Texas were not necessarily opposed to big government and big spending as long as it took the proper form.

Prison Expansion Round II: Consensus without “Thinkers” and “Crowds”

The second Clements administration launched an intense effort to procure funding for yet another round of prison expansion in 1989 and another set of penalty enhancements for criminal offenders. Their strategy was twofold—to establish a coalition united around a consensus aimed at prison expansion, and to shepherd the necessary legislation through the 1989 session by coordinating efforts between like-minded lawmakers and law enforcement officials.

With support from a federal grant, the administration held a “Criminal Justice Summit” in 1988 to establish a unified coalition to support anti-crime legislation. The administration stated that the public was not invited to this summit, and that the press would only be allowed at the conference on the final day for a briefing on the conclusions reached by attendees (Hastings 1988a). Critics immediately derided the meeting. A lobbyist for the Texas Conference of Churches stated, “I think the whole thing ought to be discredited before it starts. What you’ve got on that list are the traditional law-and-order type people who don’t know anything other than the way things are” (Hastings 1988c). The Texas Civil Liberties Union called the meeting “manipulation” and derided the administration for failing to include any representatives from groups opposing incarceration (Rice 1988).

As critics noted, the summit did not include any leaders from communities experiencing high crime, no advocates for rehabilitation, and no victims’ rights groups, but it did include private citizens who were prominent business leaders. The governor’s General Counsel Rider Scott stated, “The design of the summit is to put policy-makers and elected officials together in a working group where they can interact and come up with solutions. We don’t want crowds there” (Hastings 1988c). One planner stated, “We’re talking about inviting the actors, not theoreticians. . .” (Hastings 1988b), and a major newspaper noted, “Scott said organizers steered away from ‘thinkers’ and special interest groups in favor of the people who daily deal with prison and jail crowding” (Hastings 1988c). “The people” in this case meant law enforcement and prominent business leaders, which was largely overlooked in the press. The *Houston Post* noted, “The participants are mostly judges, law enforcement officers, state agency officials, mayors, district attorneys and conservative Republican lawmakers, which prompted LaMarche [TCLU] to contend the group is ‘badly skewed toward people who have a certain vested interest that building more prisons and locking people up is the only way to go’” (Rice 1988).

Table 3. Criminal Justice Summit Participants

Profession	Number of Attendees
District/County Attorneys	3
Law Enforcement ^a	7
Corrections	5
Judges	3
Business/Board Members ^b	6
Lawmakers	7
Local Political Leaders ^c	8

Source: Compiled Archival Data: Texas State Archives, William P. Clements Papers.

^aIncludes President, Texas Police Chiefs Association.

^bListed "Business" in their title.

^cIncludes two members of the Greater Dallas Crime Commission.

Table 3 shows a breakdown of participants; as it illustrates, the administration did not waver in limiting invitations to the summit, although, after considerable criticism, the administration allowed the media to cover the meeting. Attendees heard from prison experts and met to discuss policy recommendations; even though alternatives to prison expansion were mentioned, the vast majority of the Summit recommendations expanded law enforcement's power, increased punishment, and expanded prisons.

Although the meeting deliberately excluded those opposed to prison expansion, Clements administration officials and participants touted the meeting in the media as an example of inclusive government problem solving. Materials from the meeting and its planning show that the meeting was framed explicitly in a way to avoid broader discussions about crime prevention and was specifically aimed at resolving the overcrowding crisis through prison expansion. Rider Scott sent a statement to one newspaper, "Never before in the nation had so many of the key decision makers—mayors, county judges, legislators, prosecutors, judges, corrections and law enforcement officials, and private sector leaders—gathered together specifically to discuss the causes and cures of crime. The development of workable statewide solutions to the problem was a tremendous task, but the participants in the Texas Criminal Justice Summit met the challenge" (Scott 1988). This statement contrasted sharply with the meeting's actual agenda: "The scope of this criminal justice summit, because of the limited time available, not insensitivity to underlying issues, must be restricted and, therefore, will not explore in depth the causes of crime or . . . prevention" (Texas Criminal Justice Summit 1988). Participants were instructed to focus on fixing the overcrowding problem, and recommended an even more ambitious prison expansion package. The summit generated a steady stream of intense media attention to the prison problem and the administration's plan; headlines noted that the governor endorsed the conclusions attendees had reached.

This important meeting did not just marginalize diverse opinions, it purposely excluded them, and framed crime policy in a way that prohibited any serious discussion of crime prevention and of incarceration's effectiveness or cost. If, as Barker suggests, Washington's inclusive political culture contributed to more compromising policies, then this summit meeting represents the opposite—an anti-democratic meeting aimed at unifying like-minded groups around the singular policy goal of mass incarceration. As Clements noted in his opening remarks, the summit was designed to “formulate a consensus,” one derived from a coalition of law enforcement, lawmakers favoring prison expansion, and business leaders. This consensus directly reflected the policy position of prosecutors, the most active law enforcement lobbying organization in the state, and was grounded in massive prison expansion. The audacity of the summit reflects the growing strength of the anti-crime political movement, which by 1988 had considerable momentum that grew with an all-out push for another sweeping round of legislation in 1989.

The TDCAA was a key organization in shaping crime and punishment policy. Though the TDCAA is a nonprofit organization that does not officially take positions on legislation or lobby, its members testified frequently in local public hearings, and were often cited in communications between lawmakers and in legislative files as a key player in shaping crime legislation. The TDCAA and its members testified frequently at local public hearings, and were often cited in communications between lawmakers and in legislative files as key players in formulating crime legislation. The TDCAA had the largest membership of any prosecutor's organization in the nation, and many of its officers became influential leaders of the National Association of Prosecutor Coordinators, a national-level organization that facilitated communication between various state-level prosecutors and their associations. By 1990 the TDCAA maintained a permanent staff of 8 in Austin, and 2170 total members, including more than 90 percent of the state's elected prosecutors (*The Texas Prosecutor* 1990). The TDCAA maintained at least seven standing committees to coordinate long- and short-term activities, including a legislative committee that had 27 members (1989). In 1989, none of the organization's 15 officers and directors appears to have been female and only one had a Hispanic surname. The TDCAA is a large, well-organized group that was able to sustain an active presence in both local hearings on crime, and in the capitol, where their legally trained members advocated on behalf of the organization's interests. As Lisa Miller found in Pennsylvania, the ability to deploy these assets over time made the TDCAA a powerful player in the penal policy arena.

Coordinating the Campaign

The Clements administration used the conclusions drawn from the summit to establish a legislative agenda, and teamed with law enforcement groups to launch a carefully coordinated publicity and lobbying campaign. The governor's staff planned another mass mailing campaign featuring the Summit Report and urged nearly 2,000 law enforcement officials around the state to advocate for its passage (Smith 1988). Next, they established the Governor's Criminal Justice Task Force (CJTTF). The CJTTF linked a variety of law enforcement officials, business leaders, like-minded lawmakers, and an assortment of other officials in a concerted effort to pass the anti-crime package. Organized statewide hearings held by the CJTTF were "part of its effort to establish the framework for a comprehensive criminal justice package" (Clements 1988). Attendance and participation at these meetings reveals a consistent trend that illustrates the reach and activities of law enforcement agents and their organizations. Of the 194 people cited as participating in the hearings, 52 were associated with law enforcement (nonprosecutors), 21 were county/district attorneys, 21 were associated with other government organizations, and 24 were from anti-crime groups (1988). Members of the TDCAA were some of the most consistent attendees at these meetings. Only six opponents of incarceration attended the meetings, and only one representative from the National Black United Front Houston Chapter seems to have specifically represented the interests of minority groups or poor communities (1988).

The CJTTF, TDCAA, and the Texas Law Enforcement Legislative Council (which encompasses 10 law enforcement occupational associations) worked diligently to shape and advance the anti-crime package. The TDCAA alone deployed 27 members to the capitol to work on behalf of the prison/crime package. Clements administration officials tracked and monitored lawmakers' positions on their agenda for nearly a year, and anti-crime legislation sprung from the legislature as never before. By the 1989 session, the politics of crime and punishment were a central political issue in the capitol, and the coalition of pro-prison lawmakers, the Clements administration, law enforcement, and business leaders procured sweeping punishment enhancements and hundreds of millions of dollars in prison bonds pending voter approval. When combined with the massive prison construction project funded by the 70th Legislature, these legislative initiatives dramatically expanded Texas's capacity for incarceration, and reversed the state's relatively low levels of imprisonment. This legislation was the culmination of nearly a decade of growing political attention on crime, and marked a new "high water mark" for law and order in Texas, one more ambitious than the Clements Administration could have imagined in 1980.

Discussion

By 1989 crime politics were in full swing in Texas, with multiple waves of prison expansion set to launch incarceration to levels unfathomable in 1980. The Republican Governor Clements was certainly important in galvanizing support for anti-crime legislation, and the TDCAA and other law enforcement organizations played a primary role in shaping crime politics. The wealthy governor provided a political platform and the TDCAA and similar groups provided a well-organized, publicly recognized ally in stirring public interest in more punitive policies. As they did, Democratic and Republican legislators joined the “law and order” tide and embarked on one of the most remarkable and expensive public spending sprees in Texas history, a radical departure from the state’s traditional fiscal conservatism. A growing contingent of legislators would focus enormous energy on crime politics, and would ultimately become part of a transformation in Texas politics that would see the Republican Party displace the Democrats as the state’s new single ruling party by the end of the 1990s.

The state of Texas was always committed to harsh punishment, but the timing of its turn toward mass incarceration can best be understood by the last gasps of its commitment to fiscal conservatism during Mark White’s administration and the consequences of *Ruiz*. By utilizing probation and parole to manage overcrowding, and avoiding wide-scale expansion due to its cost, White briefly delayed a wholesale shift to mass incarceration. Economic volatility in the state certainly limited White’s choices, but his administration ultimately did not embrace large-scale borrowing to finance construction. For conservative Democrats, the harsh and cheap conditions in the old system were sufficient. But the old regime was untenable under the stipulations imposed by *Ruiz*, and White’s successor(s) and their legislative counterparts had to choose what form Texas’s new system would take.

Ironically, Clements, who ran on a platform of fiscal conservatism and limited government, nevertheless pushed prison bonds. Ultimately, the coalition that emerged around criminal justice issues—business leaders, conservative lawmakers, law enforcement, white suburbanites, and rural voters who increasingly supported Republican candidates—sacrificed fiscal conservatism and preserved Texas’s commitment to harsh punishment. Though federal litigation dismantled Texas’s plantation-style prisons, this coalition reconstituted it in a form they could accept—one that provided prosecutors with ample space to cage an expanding swath of the state’s convicts, most of whom were black and Hispanic. In some ways the shift to mass incarceration represented an important

change in Texas politics—a new willingness to expand the state at great cost. But in other ways, mass incarceration was more continuity than change, as it represented the perpetuation of a political culture willing to take extreme measures to preserve traditional power relations.

These events unfolded within a political culture that was the product of historically conditioned institutional arrangements explicitly established to prevent government from threatening established power relations. In Texas, the state's extremely low level of voter participation, especially among minorities, is one of the most glaring relics of this state's structure. Above all else, the state's founders intended to place extreme limits on government's capacity to manage social problems, and to limit the political power of minority groups. Texas's frequent elections, numerous constitutional amendments on minor matters, and a political culture characterized more by patriarchy than democratic inclusion, all contributed to low voting rates. This skewed political playing field accentuated the influence of affluent groups who were more likely to support harsh punishment, providing support for Vanessa Barker's assertion that decentralized state structures contribute to harsher anti-crime policies (Barker 2009). And, as Perkinson's (2010) account shows, Texas's political system has been extremely successful at marginalizing and oppressing minorities, and the penal system has long played a central role in this process, both substantively and symbolically. Though Civil Rights reforms eliminated most explicit forms of disenfranchisement and political exclusion, they left intact the underlying infrastructure erected with a specifically exclusionary purpose. Mass incarceration now further marginalizes these populations, with more than 500,000 citizens now disenfranchised in Texas as a result of some form of criminal justice supervision, including nearly 10 percent of the African American population (Manza & Uggen 2006).

But electoral participation was not the only arena where representation was skewed in ways that disadvantaged traditionally marginalized groups. Texas's institutional arrangements establish formidable obstacles—infrequent legislative sessions, extreme limits on government action, and frequent and complex elections—that make challenges to established power relations difficult. Serious organized opposition from groups representing poor and minority constituencies was almost entirely absent. This further privileged established, long-term players in the penal policy field, such as the TDCAA, whose experience and access to lawmakers, the legislative process, and ultimately the political process, made them a powerful player in shaping crime policy. At times this privileged position was explicit, such as the Criminal Justice Summit and the Blue Ribbon Commission, where potential opponents were excluded.

The TDCAA's permanent office in Austin and large lobbying teams ensured that they were, and remain, a powerful force. As elected public officials, the TDCAA was also able to stir negative media activity as soon as conservative Democrats attempted to lower penalties for minor crimes. As Miller (2008) found in Pennsylvania, law enforcement groups were consistently among the most vocal and most visible members of the penal policy arena, and their efforts gained momentum throughout the 1980s. Recent research by Joshua Page (2011) on California's prison guards union suggests that their political influence has grown markedly with prison expansion, and that they have become a powerful force in California politics. The prominence of the TDCAA and its members in Clements's planning and in campaigning and lobbying for passage of the legislation suggest that they were central in shaping crime policy.

Scores of letters from law enforcement officials indicated their growing concerns with rising crime rates and the threat to their resources with the expiration of federal funding, and this seems to have stimulated law enforcement's politicization at the state level. For the insurgent Republican governor crime politics were a potentially rich political field to hoe. These interests coalesced and interacted in powerful ways in Texas. As Clements's advisor noted in 1980, there were considerable political advantages to targeting law enforcement's support, and by 1989 they were increasingly allied with the governor and his party. This provided Governor Clements with an important institutional link to Texas's disparate communities and their voters. As Katherine Beckett (1997; 2000 [with Sasson]) argues, the politics of punishment brought certain rewards for particular politicians, and over time in Texas, that commitment attracted erstwhile Democrats from law enforcement to the Republican Party. This important institutional link helps illuminate how, in addition to and in cooperation with the media, the strategic aims of "law and order" politicians became manifest among the electorate.

Texas's turn to mass incarceration and its disproportionate impact on minorities was not unique to Texas, and Perkinson (2010) suggests that though federal courts attempted to press Texas to adopt more humane modes of punishment, the state instead reshaped the federal government and U.S. culture in its own image. He argues that southern states again, as they had prior to the Civil War, wielded disproportionate influence in politics and have dragged the nation as a whole into the mass incarceration morass (Perkinson 2010). But while southern states certainly exhibit higher rates of imprisonment, they were following the lead of "liberal" California in pressing "law and order" politics. Despite having no history of slavery and a tradition of extensive social welfare and rehabilitation, California launched its own massive prison construction project well before Texas did, surpassing the

Lone Star State in the late 1980s in incarceration rates, and to some extent serving as a model that Clements and Texas legislators sought to emulate (Campbell 2009). Like California, Texas would turn to bond measures to fund expansion, although Texas used general obligation bonds, while California used lease-revenue bonds (Gilmore 2007), and both states would do so regardless of budgetary shortfalls and changes in crime rates.

This suggests that while a history of racial conflict is certainly an important part of the picture, it likely extends well beyond southern historical traditions. It seems that states whose histories and political cultures were formed amidst potentially threatening minority populations—be they black, Hispanic, or other nonwhite groups—are those that turned most forcefully to mass incarceration. Mona Lynch (2010) paints a broader picture of race's influence in shaping punishment by pointing to the prominence of Sunbelt states, such as California and Arizona, and the southern states, as punitive polities. She suggests their histories of anti-statism foster political conditions more likely to punish harshly and cheaply (Lynch 2010). This broader conceptualization seems to provide a stronger explanation of the regional processes associated with mass incarceration, and emphasizes how the rising political influence of these states coincided with the rise of mass incarceration on a national scale.

Finally, my findings suggest that Beckett's (1997), Beckett and Sasson's (2000), and Garland's (2001) accounts might not be as incompatible as they sometimes seem. The economic fluctuations and the resultant public uncertainties and anxieties so central to Garland's explanation did not single-handedly drive punitive approaches to crime, but they did establish a context in which those ideas would be more readily received, as conservative politicians pried away constituencies once loyal to the Democratic Party. Winning the support of energized law enforcement agencies was a central component of that political effort. As Beckett (1997) and Beckett and Sasson (2000) suggest, the media played a central role in shaping public opinion, and conservative law and order advocates were diligent in crafting the marketing campaigns that framed the policy formation process and public debate about how to effectively address the overcrowding and crime problems gripping the state. Law enforcement organizations and their members provided a vital institutional link between the state-level penal policy arena, the media, and the public.

The dramatic transformation of the state's racial composition also likely stirred anxieties that had haunted Texans from the state's birth—that the large minority populations within their state posed a serious threat to the hegemony of nonminority Texans, and must be dealt with severely. In this context, a political strategy

with racial undertones fueled support for harsh punishment by stirring media attention and pressing legislative reforms that took a hard line on crime. Law enforcement's support was an important part of this strategy, as organizations associated with law enforcement—like the TDCAA—provided an established, wide-reaching network that was able to reach local communities, and utilized a powerful lobbying presence in the state capitol.

It is hoped that future scholarship will take a closer look at the role of law enforcement agencies in shaping crime policy in particular, and state politics more generally. Theoretically, these organizations might be understood as an important catalyst within certain political contexts, providing an enduring and experienced presence within state legislatures, and a powerful link between the state capitols and local constituencies. The prosecutorial orientation of American politics that Jonathan Simon (2007) explains might have arisen, in part on account of prosecutors' strategic position within the law-making organs of the state. Current events in California support this assertion, as groups affiliated with law enforcement have emerged as some of the most active opponents of recent efforts by the state to reduce overcrowding by releasing qualified inmates early (Page 2011; Blankstein & Winton 2010). It could be that in some states with higher levels of political participation, law enforcement advocacy groups face more competition for state resources, or face direct opposition from groups pressing alternatives to mass incarceration. Recent developments in Texas seem to offer hope that lawmakers might be reconsidering mass incarceration. But my findings and Page's suggest that these reforms might face stiff opposition from politically savvy, well-organized law enforcement groups adept at employing a politics of fear (Simon 2007). As was the case in Texas, anecdotal examples of wrongdoing by parolees and probationers will undoubtedly provide sensational media headlines, and rigorous study of the relationship between paroling minor offenders and public safety will be marginalized. Law enforcement groups enjoy a privileged degree of public legitimacy, and, as the successful defeat of California's attempts to revise the most draconian elements of the state's "three strikes" law shows, are often unwilling to compromise on policies widely regarded as ineffective in dealing with crime (Zimring et al. 2001).

As groups and organizations associated with law enforcement have expanded, as demonstrated by the dramatic growth in the size and resources allotted to branches of the criminal justice system, their ability to influence the political context that shapes their focus has increased as well. Robust CJS institutions now seem normal across much of the U.S., and attempts to "downsize" these institutions or implement major policy changes are likely to spark intense

resistance from those persons who benefit from their size and mission. Even the recent economic crisis has resulted in only modest declines in incarceration. As Max Weber famously noted, bureaucracies often formulate and pursue internally devised goals that may or may not conform to broader social demands. Weber explained how bureaucracies take on a sense of permanence, which rests in part on their ability to defend threats to their power, and their claims to expert knowledge (Weber 1946). In Texas, CJS agents viewed the loss of funding from the LEAA, the diminished sentences served by offenders, and their continuing inability to deter crime, as threats to their institutional power. Their political activism represents a defense of this power in the unsettling context of increasingly high crime rates that could have been interpreted as an indicator of the system's failure. CJS agents attributed this failure instead to the diminished power to punish, and worked to directly shape their mission within the political sphere. Those seeking to reform these massive systems now face formidable institutions that are certain to resist efforts to impose policies that might contradict ideas that have now been grounded in mass incarceration for decades.

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