

Numbers that Are Not New: African Americans in the Country's First Prison, 1790-1835

IN 1989 AFRICAN AMERICANS BETWEEN THE ages of 20 and 29 outnumbered all other racial groups in the state penal institutions of this country. Black men surpassed white men of the same age group in state prisons, numbering 138,706 to 138,111 white men. African-American women were not far behind their white counterparts in this country's state prisons, totalling 6,072 and 6,320 respectively. The significance of these numbers becomes even more apparent when one considers that while African-American men constituted 50.1 percent of the state prison population, they only represented 13.4 percent of the U.S. male population between 20 and 29 years of age. A similar discrepancy holds true for black women, who composed 49 percent of the female prison population and 14.7 percent of the U.S. female population.¹ In 1993 the rate of incarceration in the U.S. assumed even more dramatic proportions: "African Americans [were] incarcerated at a rate that is more than six times that of whites—1,947 per 100,000, compared to 306 per 100,000" [Marc Mauer, *Americans Behind Bars: The International Use of Incarceration, 1992-1993* (Washington, D.C., 1994), p. 1]. The black imprisonment statistics for 1989 and 1993, however, are neither new nor unique in American history.

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¹ Figures for male and female imprisonment rates are from Marc Mauer, *Young Black Men and the Criminal Justice System: A Growing National Problem* (Washington, D.C., 1990), 8. Mauer provides imprisonment rates for white, black, and Hispanic populations between the ages of 20 and 29. African-American representation in the U.S. population is based on information available on July 1, 1989, and is extracted from *Information Please Almanac: Atlas and Yearbook, 1992* (45th ed., Boston, 1992), 803. For the sake of consistency, all other racial groups have been factored out of calculations for both the prison and general U.S. populations.

What is now known as imprisonment by the state, which replaced traditional physical punishments with incarceration designed to reform the criminal, began in Pennsylvania in 1790. In a commonwealth renowned for its benevolence toward the prisoner, the pauper, and the slave, all these categories were often satisfied by the black people who found themselves "entangled with the white man's law."² Relying upon impressions instead of evidence, certain scholars and observers concluded that black people have always pursued criminal activity over seeking legitimate employment. Hence their imprisonment could be justified.³ Yet, to date there has not been a quantitative and conclusive examination of the evidence describing the African-American population in this country's first state penitentiary. Nor has there been a profile of the offenses for which black people were sentenced to the first prison. In an effort to end the unsubstantiated speculation about the first instances of black imprisonment, this paper analyzes the racial composition of the Jail and Penitentiary House at Walnut Street in Philadelphia, the first state penitentiary in this country.

Although many histories of Philadelphia and Pennsylvania have

² LeRoy B. DePuy, "The Walnut Street Prison: Pennsylvania's First Penitentiary" *Pennsylvania History* 18 (1951), 136.

³ Although generally sympathetic to the plight of African Americans in Pennsylvania, Edward R. Turner, in *The Negro in Pennsylvania: Slavery—Servitude—Freedom, 1639-1861* (1911), 155-56, is less than charitable toward those accused of committing crimes. Turner's conclusions that black people were averse to work and prone to criminality are based on claims by observers such as Thomas Branagan, whose anti-slavery tract *Serious Remonstrances . . . on the recent revival of the Slave Trade* (Philadelphia, 1805), 68, had considerable impact on arguments advocating colonization. Branagan observed: "[W]hen the slaves elope from the South, and escape to the North, as their general rendezvous, or assylum; or when a slave holder gets tired of his superannuated slaves, and wants to get rid of them, and so sends them to the North[;] on they come with all the accumulated depravity which they have been long accustomed to; such as lying, pilfering, stealing, swearing, deceit, and a thousand meaner vices, the fruits of slavery. When they arrive, they almost generally abandon themselves to all manner of debauchery and dissipation, to the great annoyance of many of our citizens."

The belief that African Americans are averse to work and prone to criminality, more so than other groups, has continued well into this century, and is most recently argued by Thomas Sowell in *The Economy of Politics of Race: An International Perspective* (New York, 1938), p. 132. Sowell explains: "Blacks have exhibited the classic patterns of social pathology among groups attempting to move into a modern urban economy without the skills, traditions, or experience for it. Blacks have had higher than average incidences of crime, disease, educational problems, and families on welfare. Rates of crime and violence among blacks have been so high that in some years there were more black than white murder victims in absolute numbers, though blacks are only about 11 percent of the population." Emphasis in original.

focused on either African Americans or penal practices, few have extensively examined the relationship between race and punishment for criminal offenses in the commonwealth.⁴ Despite such lacunae, two studies, separated by ninety years, have provided the impetus for this quantitative examination of the black imprisonment rates in this country's first state penitentiary. In 1899 W. E. B. Du Bois asserted that criminality in Philadelphia increased in part due to blacks entering the city from southern states. Although he was correct in certain respects, Du Bois provided no evidence to substantiate this claim. In 1989 G. S. Rowe examined the preponderance of black conviction rates in Pennsylvania courts in the late eighteenth century, concluding that prosecutions against black people represented a growing concern with securing property rather than with racism. Rowe's study concludes in 1800, and he does not discuss the results of conviction, namely incarceration. Moreover, neither of these studies acknowledges the Jail and Penitentiary House at Walnut Street in Philadelphia, the prison to which people convicted of criminal offenses were sentenced. Walnut Street Prison has been overlooked by scholars concerned with punishment and African Americans, but it remains significant as the first systematic effort to replace corporal and capital punishment with imprisonment by the state.⁵

⁴ Because of its reputation for benevolence and innovation, Pennsylvania has commanded scholars' attention in both the areas of race relations and penal practices for a considerable period of time. Although not the first such study, Turner's *Negro in Pennsylvania* still stands as a major historical work on the black presence in Pennsylvania. Harry Elmer Barnes's *The Evolution of Penology in Pennsylvania: A Social Study* (New York, 1927) has achieved the same distinction as Turner's work in the literature on penal practices in Pennsylvania. A recent examination of the relationship between race and crime has been undertaken by Roger Lane, *Roots of Violence in Black Philadelphia: 1860-1900* (Cambridge, 1986). Lane, however, does not extensively examine the period prior to 1860.

⁵ W. E. B. Du Bois, *The Philadelphia Negro: A Social Study* (1899; reprint, New York, 1967); G. S. Rowe, "Black Offenders, Criminal Courts, and Philadelphia Society in the Late Eighteenth-Century," *Journal of Social History* 22 (1989), 685-712. Although Du Bois and Rowe most explicitly inform this examination, numerous other works have touched upon the concerns of this study. Turner follows Du Bois's lead in uncritically attributing blame for crime to fugitive slaves and illiterate freedmen from the South; *The Negro in Pennsylvania*, 158. Gary B. Nash, *Forging Freedom: The Formation of Philadelphia's Black Community, 1720-1840* (Cambridge, 1988), 173, offers a more critical perspective of the conditions facing black people immigrating to Philadelphia after 1800.

At least two other articles examine the degree of crime committed by various groups in colonial and early national Pennsylvania, but the authors do not extensively concentrate on the fate of African Americans: G. S. Rowe, "Women's Crime and Criminal Administration in Pennsylvania, 1763-1790," *Pennsylvania Magazine of History and Biography* (hereafter, *PMHB*) 109 (1985),

Although Walnut Street Prison was in use as a state penitentiary between 1790 and 1835, this study of black imprisonment rates must begin in 1780. In 1780 the Pennsylvania legislature began the process that eventually abolished slavery in the commonwealth. Walnut Street Prison received legislative approval in 1790, only ten years after slavery's abolition. Although Pennsylvania achieved renown for both of these legislative decisions, the acts converged to have a negative effect on the black populace's relationship to penal practices.

The 1780 decision is vital to this examination for reasons other than the gradual abolition of slavery in the commonwealth. Although significant because it was the first state law in the new nation abolishing slavery, this legislation also immediately changed the status of blacks in the courts and affected the punishments they would receive if convicted. Section 4 of the Act for the Gradual Abolition of Slavery stipulated:

[T]he offenses and crimes of negroes and mulattoes as well [as] slaves and servants and [*sic*] [as] freemen, shall be inquired of, adjudged, corrected and punished in like manner as the offenses and crimes of the other inhabitants of this state are and shall be enquired of, adjudged, corrected

335-68, and Craig B. Little, "The Criminal Courts in 'Young America': Bucks County, Pennsylvania, 1820-1860, with Some Comparisons to Massachusetts and South Carolina," *Social Science History* 15 (1991), 457-78.

Negley K. Teeters's, *The Cradle of the Penitentiary: The Walnut Street Jail at Philadelphia, 1773-1835* (Philadelphia, 1951) stands as one of the most thorough examinations of Walnut Street's history. It is, however, neither the only nor the first. Among studies of the first state penitentiary written during Walnut Street's existence are: Caleb Lowmes, *An Account of the Alteration and Present State of the Penal Laws of Pennsylvania; Containing also An Account of the Gaol and Penitentiary House of Philadelphia and the Interior Management Thereof* (Philadelphia, 1792); William Bradford, *An Inquiry How Far The Punishment of Death Is Necessary in Pennsylvania; With Notes and Illustrations* (Philadelphia, 1793); Roberts Vaux, *Notices of the Original and Successive Attempts to Improve the Discipline of the Prison at Philadelphia and to Reform the Criminal Code in Pennsylvania* (Philadelphia, 1826).

Two differing interpretations of Walnut Street Prison's significance as the first prison can be found in David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971) and Michael Meranze, "The Penitential Ideal in Late Eighteenth-Century Philadelphia," *PMHB* 108 (1984), 419-50. Other books written during the twentieth century that devote some attention to Walnut Street Prison include Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, N.J., 1977); Samuel Walker, *Popular Justice: A History of American Criminal Justice* (New York, 1980); Thomas L. Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Madison, 1987). None of these studies, however, systematically examine the significance of black incarceration at Walnut Street Prison.

and punished, and not otherwise, except that a slave shall not be admitted to bear witness against a freeman.⁶

This statute eliminated laws that had existed since 1700, laws that specifically designated legal and penal practices for black people in the province. Theoretically, between 1700 and 1780, black people charged with criminal offenses were tried in courts apart from the conventional judicature and, if found guilty, they received punishments different from those prescribed for whites.⁷ The 1780 legislation, then, eliminated what had been racially specific courts and penal practices, and imposed an apparently uniform penal code for people of all races.

In 1790 the Pennsylvania legislature passed a bill establishing the Jail at Walnut Street in Philadelphia as the first state penitentiary in this country.⁸ Walnut Street Prison represented a substantial departure from previous penal practices, employing the earliest procedures that defined imprisonment by the state. First and foremost, the legislation replaced corporal and capital punishment with confinement accompanied by solitude and reflection. The legislation also transformed penal practices by standardizing the terms of servitude for specific offenses. Finally, the legislation authorized the incarceration of convicted offenders from throughout the commonwealth, a penal practice never before ventured. Nowhere, however, did this legislation mention the race of an offender. Theoretically, then, the act upheld the non-racial requirements of the

⁶ Henry Flanders and James T. Mitchell, *Statutes at Large of Pennsylvania: From 1682 to 1801* (hereafter, *Statutes*) (18 vols., Harrisburg, 1896-1915), 10:70.

⁷ Two categories of statutes designated specific punishments for African Americans in Pennsylvania before 1780. The first group of statutes was written exclusively for the black population; see *Statutes*, "An Act for the Trial of Negroes" (1700), 2:77-79; "An Act for the Trial of Negroes" (1705) 2:233-36; "An Act for the Better Regulating of Negroes in this Province" (1725), 4:59-64. The second group of statutes is directed at the general populace, but each statute includes a section in which punishments are specifically delineated for black people; see *Statutes*, "An Act for Preventing Accidents That May Happen By Fire" (1721), 3:252-54, §4; "An Act For the More Effectual Preventing Accidents Which May Happen By Fire and For Suppressing Idleness, Drunkenness and Other Debaucheries" (1750), 5:108-11, §3; "An Act For the Better Regulating the Nightly Watch Within The City of Philadelphia" (1750) 5:111-28, §22; "An Act To Prevent The Hunting of Deer and Other Wild Beasts" (1759), 6:46-51, §7; "An Act for Regulating Wagoners, Carters, Draymen and Porters within the City of Philadelphia and for Other Purposes" (1769), 7:356-60, §8; "An Act For Regulating and Continuing The Nightly Watch, Enlightening the Streets, Lanes and Alleys of the City of Philadelphia, and for Other Purposes Therein Mentioned" (1770), 8:96-116, §25.

⁸ *Statutes*, 13:511-28.

1780 legislation; practically, the act had the opposite effect for African Americans.

This examination does not attempt to explain the judicial process in its entirety or the entire complex of social relations that resulted in black imprisonment. Rather, prison records demonstrate that the numbers in themselves possess inherent significance, since the information extracted from these documents reveals that African Americans, and especially African-American women, received a disproportionate share of sentences to the first penitentiary. Records from the Walnut Street Prison provide the information with which to pursue this study of the 3,053 black people sentenced to the prison. From these documents it is possible to determine where African Americans were tried and sentenced, to explore some aspects of their lives before imprisonment, and to learn what their offenses had been.

The primary source of information about the black people sentenced to Walnut Street is the Prison Sentence Dockets. These docket books contain information recorded by a clerk as people departed after serving their sentences at Walnut Street. Among other things, the clerk indicated prisoners' offenses, the courts in which they were tried, dates of convictions, the lengths of their sentences, as well as a description that, in many instances, includes their places of birth and, in fewer instances, their occupations before sentencing. These records further disclose the race of each prisoner. This is the evidence that has been overlooked, although such evidence is critical to any conclusion about who inhabited the first prison. Regrettably, however, the first book of these records, containing information for the years between 1790 and 1794 is missing.

Fortunately, though, Philadelphia's preeminent penal reform attracted philanthropists and reformers, especially visitors from abroad. At least some visitors took an interest in the information recorded about the prison's population. One French philanthropist, François Alexandre Frédéric, duc de la Rochefoucauld Liancourt, was among these travelers to Philadelphia. He was the only early visitor who recorded the numbers of black people incarcerated at Walnut Street between 1790 and 1794, the years covered by the missing docket book.⁹ In 1790 the black population of

⁹ When La Rochefoucauld visited Walnut Street, he noted the racial composition of the prison between 1790 and 1794. Between May 1790 and June 1791, he noted that there were 24 (14.9%) black inmates in the aggregate population of 161; from June 1791 until June 1792 there were 12 (18.5%) black inmates in a total population of 65; between June 1792 and June

Pennsylvania composed only 2.3 percent of the state's total inhabitants and 4.6 percent of Philadelphia's. La Rochefoucauld's enumeration reveals, however, that black inmates at Walnut Street constituted 14.9 percent of the prison's residents between May 1790 and June 1791.¹⁰ Although his figures reveal a disproportionate black presence in Walnut Street Prison, La Rochefoucauld Liancourt did not remark upon the statistical significance of this observation.

The Prison Sentence Dockets disclose that, although the 1790 legislation designated Walnut Street as the prison for the entire state of Pennsylvania, the vast majority of people imprisoned there received sentences from the Philadelphia courts. The same pattern held true for the black inhabitants condemned to the prison; out of a total of 3,053 African Americans sentenced statewide between December 1794 and June 1835, 2,596 were sentenced in Philadelphia. Urban black people were overrepresented in the penitentiary, with 85 percent of the total black prison population sentenced from Philadelphia courts while they constituted

1793, 15 (24.6%) black inmates in a total population of 61, and from June 1793 until June 1794, there were 12 (19.7%) black inmates out of 61 people. La Rochefoucauld's calculations, however, cannot be substituted for numbers of individuals sentenced to the prison. The numbers he collected represent people who were already incarcerated at Walnut Street. François Alexandre Frédéric, duc de la Rochefoucauld Liancourt, *On the Prisons of Philadelphia, by an European* (Philadelphia, Moreau de Saint-Mery, 1797), 42.

La Rochefoucauld was not alone in pointing out black presence in Walnut Street. Robert Turnbull, visiting Philadelphia from South Carolina, estimated "one-eighth of the number of convicted compose the negroes and mulattoes." *Visit to the Philadelphia Prison* (Philadelphia, 1797), 28. Acknowledgment of black presence in the prison is also evident in the writings by later visitors. Cf. Bernard, Duke of Saxe-Weimar Eisenach, *Travels through North America, during the Years 1825 and 1826* (2 vols., Philadelphia, 1828) 1:145; Basil Hall, *Travels in North America, in the Years 1827 and 1828* (2 vols., Edinburgh and London, 1829), 2:352; William Crawford, *Report on the Penitentiaries of the United States, Addressed to His Majesty's Principal Secretary of State for the Home Department* (1835), 57.

The Philadelphia Society for Alleviating the Miseries of Public Prisons kept records of Walnut Street's population as well, issuing reports at various intervals. The Society's Acting Committee recorded its activities in their Minutes, January 19, 1798–December 15, 1835, vol. 2, Historical Society of Pennsylvania. For later periods see "To the Acting Committee of The Philadelphia Society for Alleviating the Miseries of Public Prisons" in the Society's *Documents* (Philadelphia, 1821) and the Society's *Annual Report* (Philadelphia, 1833), 13–23, Library Company of Philadelphia. In none of these reports, however, were the numbers calculated for black people who had been convicted and sentenced to Walnut Street Prison. Rather, the figures in their reports represented individuals incarcerated at Walnut Street.

¹⁰ La Rochefoucauld, 42.

only 35.3 percent of the commonwealth's black populace.¹¹ Although both blacks and whites imprisoned at Walnut Street represented less than one percent of their respective racial groups throughout the commonwealth, a comparison of incarceration rates to the decadal census establishes that blacks were incarcerated at a greater rate than whites. This pattern of disproportionate sentencing remained constant throughout Walnut Street's existence (Table 2).

Until 1830 the percentage of African-American inmates sentenced to Walnut Street Prison from Philadelphia courts almost consistently outdistanced the growth of the black populace in the city (Table 3). When compared to black population growth throughout the commonwealth, although exemplified by much smaller numbers, a similar pattern of incarceration at Walnut Street Prison also persisted (Table 4). As both Tables 3 and 4 indicate, the rates of incarceration slowed abruptly after 1820. One explanation for the reduced rate of increase of black inmates sentenced to Walnut Street between 1820 and 1830 is that in July 1826 the Western Penitentiary at Pittsburgh began receiving state prisoners.¹² By 1827 none of the western counties in Pennsylvania sent inmates to Walnut Street.¹³ In October 1829 the Eastern Penitentiary opened on the outskirts of Philadelphia, further reducing Walnut Street's use.¹⁴ By 1832, with more prisoners consigned to Western and Eastern penitentiaries, the number of men sentenced to Walnut Street decreased by one-half.¹⁵

Black women were especially affected by the use of imprisonment in Philadelphia. The Prison Sentence Dockets confirm G. S. Rowe's assertion that "the lot of black females was the harshest of all those coming before Philadelphia courts."¹⁶ Moreover, these records disclose an extraordinary statistic with respect to African-American women who lived

¹¹ Nash, *Forging Freedom*, 137, Table 4 provides figures for black population of Philadelphia

¹² Teeters, *Cradle of the Penitentiary*, 123

¹³ The last year that western counties such as Allegheny, Fayette, and Washington sent inmates to Walnut Street was 1826

¹⁴ Teeters, *Cradle of the Penitentiary*, 112 In 1830 thirteen counties other than Philadelphia sent convicts to Walnut Street By 1832, however, only three others—Bradford, Susquehanna, and Wayne—sent prisoners to Philadelphia By 1835, the year that Walnut Street closed, Union was the only county other than Philadelphia that sent prisoners

¹⁵ In 1831, 151 men were sentenced to Walnut Street, in 1832 only 60 men received sentences to the prison

¹⁶ Rowe, "Black Offenders," 704

throughout Pennsylvania. Rates of commitment were not nearly so great for black females as those for the black male population. Of the total black prison population, 71.7 percent were male and 28.3 percent were female (Table 1). However, although fewer black women received prison sentences than black men, they almost always constituted a higher percentage of the black prison population than did white women in the white prison population at Walnut Street (Table 5).

Further evidence that black women were sentenced disproportionately can be found by comparing the percentage sentenced to their percentage in the Pennsylvania population. The 1820 census was the first to delineate the gender breakdown for black men and women. The information extracted from the Prison Sentence Dockets reveals that black women received prison sentences at a greater rate than their white counterparts. Table 6 shows that, in fact, the magnitude of black women's overrepresentation assumed staggering proportions in the female population committed to the prison.

The years 1820 and 1830, however, were not the only ones with such a large percentage of black women sentenced to Walnut Street. Figure 1 compares black and white women's representation in the prison population throughout Walnut Street's existence. The incarceration rate for black women almost always exceeded that for white women. Finally, between 1819 and 1833, black women outnumbered white women sentenced to the penitentiary (Fig. 1).

When Nicole Hahn Rafter examined the history of women's imprisonment, she found a similar pattern of incarceration rates for black and white women, concluding that such a comparison "demonstrates that partiality was extended mainly to whites. Chivalry filtered them [white women] out of the prison system, helping to create the even greater racial imbalances among female than male prisoner populations."¹⁷

Francis Lieber, noted nineteenth-century penal reformer, expressed the conventional judgment of the period that women were supposed to inhabit a sphere governed by "moral bashfulness," and it was their duty to exercise a positive influence upon their families. There were women who did not do so. These were the ones who committed crimes that

¹⁷ Nicole Hahn Rafter, *Partial Justice: Women, Prisons, and Social Control* (2d ed., New Brunswick, 1990), 155.

betokened their "rapid and precipitous moral fall."¹⁸ Lieber's remarks echo sentiments that probably contributed to higher incarceration rates for black women. Especially during Walnut Street's later years, the figures comparing the incarceration rates for black and white women in Walnut Street suggest, just as Hahn Rafter has claimed, that such a predisposition did not extend to black women. Women of African descent found guilty of committing crimes were not perceived as meeting any of the criteria that qualified them for chivalrous considerations, such as those expressed by Lieber.

Another distinguishing characteristic of the 1790 legislation was that it authorized the courts anywhere in the commonwealth to send those given sentences to the Walnut Street Prison. This aspect of the legislation also had important consequences for the black people who lived throughout Pennsylvania. Rowe's examination of the black and white conviction rates from sixteen counties and the city of Philadelphia between 1780 and 1800 is an important contribution to understanding the differences between urban Philadelphia and the rest of the primarily rural state. He finds that rural Pennsylvania's reliance upon "controls other than criminal statutes—curfews and threats of exile and unemployment, to list but a few—to guarantee black docility and acquiescence," in part accounted for the low black prosecution rates in the hinterlands.¹⁹

In conjunction with these threats, however, black compliance in the hinterlands was also reinforced by the threat of deportation to prison in Philadelphia. Banishing an individual to prison removed the presumed threat of disorder from the white community and reminded the black residents of their precarious status. No incident more clearly reveals this outlook among whites than the "conspiracy of 1803," once alleged to have been a black uprising.²⁰ That year a series of fires erupted in the

¹⁸ Gustave de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States and its Application in France; with an Appendix on Penal Colonies, and also, Statistical Notes* (Philadelphia, 1833), "Introduction, Notes and Additions" by Francis Lieber, xiii-xv.

¹⁹ Rowe, "Black Offenders," 692.

²⁰ Suspicion of white involvement in the fires was revealed in a petition by York borough residents to Governor McKean. They stated: "[A] number of suspected blacks and whites have been apprehended and committed to jail and some since their commitment, have made confessions, which being the offense named to them: it is strongly suspected that many of our worthless white people, are involved in the combination." Petition to Thomas McKean, 1, Historical Society of Pennsylvania. Early historians of York County and of black Pennsylvanians have referred to this incident as a black uprising, yet they have overlooked the York County residents' claim of white involvement. Some of these authors include Turner, *The Negro in Pennsylvania*, 152, 153; John

borough of York, shortly after a young black woman named Margaret Bradley was sentenced to Walnut Street for attempting to poison her mistress and her mistress's child.²¹ Although black and white people were initially suspected and subsequently tried for the fires, only the African Americans received prison sentences at Walnut Street.²²

York, of course, was by no means the only county where arson occurred at the hands of African Americans. It was, however, the county from which the largest number of black people were sent to Walnut Street for this particular offense. Arson was generally a grave concern to authorities, posing a threat to life and property. These combined concerns had been captured in 1793 when William Bradford, attorney general for the commonwealth, proclaimed that arson was "the crime of slaves and children. Its motive is revenge."²³ Although by 1803 slavery was a dying institution throughout Pennsylvania, this case illustrates that social relations among racial groups and economic classes had worsened in York County. Conviction of only the black "conspirators" suggests that county residents continued to believe Bradford's declaration. And, as Rowe asserts, black people in rural Pennsylvania faced "persistent hostility and real barriers to advancement . . . Few activities among blacks attracted whites' attention more quickly, or were prosecuted more expeditiously, than physical insubordination against white authority."²⁴

A not insignificant number (457) of African Americans from outlying counties in Pennsylvania received prison sentences at Walnut Street. The sentencing patterns for these men and women differed considerably, however, from those of Philadelphia. The most obvious difference is the smaller numbers of black people who were convicted in the hinterlands. Where 85 percent of the black people sentenced to Walnut Street received their guilty verdicts in Philadelphia courts, only 15 percent received

Gibson, ed., *History of York County Pennsylvania* Appended (Chicago, 1886), 548, George R. Prowell, *History of York County Pennsylvania* (2 vols., Chicago, 1907), 1 788

²¹ Prison Sentence Dockets, Court of Quarter Sessions, York County, Feb. 25, 1803

²² Found guilty of arson were Isaac, "negro and slave of Peter Dinkle", Isaac, "negro and servant of Margaret Spangler", Abner, negro, Hetty Dorson, mulatto, Ruth, mulatto, and William Grimes, negro. Oyer and Terminer Sentence Docket, York County, May 1803, 73-75. Along with eleven other black people who were found not guilty, at least one white man, John Foulks, was also exonerated.

²³ William Bradford, *An Inquiry How Far The Punishment Of Death Is Necessary in Pennsylvania With Notes And Illustrations* (Philadelphia, 1793), 31-32

²⁴ Rowe, "Black Offenders," 689

theirs from the outlying counties. In fact, when compared to the white populations sentenced from these areas, the percentages of African-American men seems relatively diminutive. Black men represented 32.4 percent of all men sentenced from Philadelphia and 19.9 percent of all men sentenced from the outlying counties (Table 7). African-American women, however, were closer to their white counterparts, representing 47.6 percent of all the women who received prison sentences from Philadelphia courts and 44.9 percent of the women sentenced from the courts in the hinterlands.

This comparison alone, however, does not reveal a more fundamental disparity. A dramatic difference becomes evident when the figures for blacks convicted in Philadelphia are compared with those of the outlying regions (Table 8). Black men from the counties outside Philadelphia received prison sentences at a much higher ratio than their African-American counterparts in Philadelphia. Whereas 68.6 percent of the black populace who received sentences from Philadelphia courts were men, black men represented 88.4 percent of the African Americans from outlying counties who were sent to Walnut Street from the various counties throughout Pennsylvania.

As Table 8 also demonstrates, the same sentencing pattern did not hold entirely true for the African-American women from the outlying regions of Pennsylvania. The greatest disparity in sentencing was reserved for African-American women from counties outside of Philadelphia. Although black women in the hinterlands received prison sentences at a much lower rate than their African-American counterparts in the city (11.6% vs. 31.2%), they were sentenced to Walnut Street at a considerably more frequent rate than their white counterparts in the countryside (11.6% vs. 3.9%).

Counties at a considerable distance from Philadelphia rarely sent more than one African-American male to the prison. In only one instance did a county send a black man and no other people to Walnut Street.²⁵ William Allison was among those African-American men convicted and transported a considerable distance, 268 miles, from Indiana County to

²⁵ In 1825 Cambria sent the only person to Walnut Street from that county, William Johusts, convicted of burning a stable. Prison Sentence Dockets, Court of Quarter Sessions, Cambria County, April 7, 1825. However, in no other instances did counties send more black men than white men to Walnut Street.

Philadelphia. At the time of his conviction, Allison was seventy-two years old. Although the court sentenced him to two years of servitude for larceny, Allison did not complete the sentence. He died from smallpox two months after arriving at Walnut Street.²⁶ Conversely, the closer the county was to Philadelphia, the larger the number of African-American men who received prison sentences at Walnut Street.

Moreover, counties at a considerable distance from Philadelphia did not appear reluctant to convict and transport black women. Although no county ever sent more women than men, there were instances where distant counties sent the same number or more black women than counties close to the city. Chester, the county nearest Philadelphia, sent only three African-American women to Walnut Street. On the other hand, Washington and Allegheny, two of the western-most counties, each respectively sent six and eight black women to the penitentiary at Philadelphia. Furthermore, five counties sent only black women and five other counties sent more black than white women to Philadelphia.²⁷ Hannah Kane, for instance, was convicted and transported approximately 195 miles, from Centre County to Philadelphia, in 1813. Eight months after arriving at the prison, Hannah Kane died.²⁸

Many of these black people in the country's first prison had been born, lived, and worked in various places outside Philadelphia before their encounters with the legal authorities. This issue has not been adequately examined, however, and only superficial portrayals of these unfortunate individuals survive. Indeed, little information about these African Americans exists prior to their imprisonment at Walnut Street. Yet, in his pathbreaking study, *The Philadelphia Negro*, W. E. B. Du Bois claimed that by 1790 "a mass of poverty-stricken, ignorant fugitives and ill-trained freedmen had rushed to the city, swarmed in the vile slums which the rapidly growing city furnished, and met in social and economic competition equally ignorant but more vigorous foreigners."²⁹ Du Bois,

²⁶ Prison Sentence Dockets, Court of Quarter Sessions, Indiana County, Dec. 27, 1823; Inspectors of the Jail and Penitentiary House, Death Register, 1819-1914, Philadelphia City Archives.

²⁷ The counties that sent only black women were Adams, Bucks, Centre, Bedford, and Fayette. York, Washington, Montgomery, Allegheny, and Franklin counties sent more black than white women.

²⁸ Prison Sentence Dockets, Court of Quarter Sessions, Centre County, Aug. 25, 1813. Hannah Kane was the only woman ever sentenced to Walnut Street from Centre County.

²⁹ Du Bois, 31.

Table 1. African Americans Sentenced to Walnut Street Prison, 1794-1835

COUNTY	MALE	FEMALE	TOTAL
Adams	3	1	4
Allegheny	18	8	26
Beaver	2	0	2
Bedford	4	1	5
Berks	21	3	24
Bradford	2	0	2
Bucks	37	4	41
Cambria	1	0	1
Centre	2	1	3
Chester	86	3	89
Circuit Court	1	0	1
Columbia	1	0	1
Crawford	1	0	1
Cumberland	9	1	10
Dauphin	16	3	19
Delaware	38	2	40
Fayette	7	2	9
Franklin	8	2	10
Huntingdon	8	0	8
Indiana	1	0	1
Lancaster	42	4	46
Lebanon	1	0	1
Lehigh	3	0	3
Luzerne	3	0	3
Lycoming	1	0	1
Mifflin	1	0	1
Montgomery	28	1	29
Northampton	4	2	6
Northumberland	5	0	5
Philadelphia	1785	811	2596
Pike	1	0	1
Tioga	2	0	2
Union	3	0	3
Washington	11	6	17
Westmoreland	7	1	8
York	22	8	30
Supreme Court	4	0	4
TOTAL	2189	864	3053

Table 2. Black and White Incarceration Rates Relative to Decadal Census

	1800	1810	1820	1830
BLACK				
State	2.7%	2.9%	3.5%	2.8%
Walnut Street	28.8%	30.2%	40.4%	46%
WHITE				
State	97.3%	97.1%	96.5%	97.2%
Walnut Street	71.1%	69.8%	59.6%	54%
TOTAL				
State	100%	100%	100%	100%
Walnut Street	.01%	.02%	.03%	.02%

Sources: Department of State, *Statistical View of the Population of the United States from 1790-1830, Inclusive* (Washington, 1835), pp. 48-49. Figures for inmates are extracted from Inspectors of the Jail and Penitentiary House, *Prison Sentence Dockets* (Philadelphia, 1794-1835), Books 2-4 for years corresponding to the Census only.

like many other observers and scholars, argued that these black people appeared to be the ones responsible for the increased crime in the city.³⁰ The Prison Sentence Dockets reveal that black people from other states and countries constituted the largest group of African Americans imprisoned at Walnut Street, hence appearing to support Du Bois's claim. His assertion fails, however, to capture other, more subtle factors involved in the imprisonment of African Americans who immigrated to Pennsylvania.

Unquestionably, people of African descent from elsewhere poured into the city, and Philadelphia's racial composition changed dramatically by the end of the eighteenth century. Between 1790 and 1800 the black population of Philadelphia increased by 176 percent, as the white popula-

³⁰ Cf. note 3.

**Table 3. Black Inmates Convicted from Philadelphia Courts:
Increase Compared to Decadal Census**

	1800-1810	1810-1820	1820-1830
Sentenced to Walnut Street	+113.8%	+45.2%	+22.2%
Philadelphia Black Population	+52.9%	+13%	+31.4%

Figures for the decadal census are based on Department of State, *Statistical View*, pp. 48-49. Except for the increases between 1800 and 1810, the growth of the black population in Philadelphia is the same as Nash in *Forging Freedom*, p. 137, table 4. Nash's numbers in turn differ from Turner's, *The Negro in Pennsylvania*, p. 253, Appendix. The difference in numbers, and therefore percent by which the black populace increased between decades, yields different results depending on sources used.

Figures for black inmates sentenced to Walnut Street Prison are based upon numbers extracted from *Prison Sentence Dockets*, Books 2-4 (Philadelphia, 1794-1835). The same comparison cannot be made for 1790-1800 since the first book of the *Prison Sentence Dockets* is missing. And, although La Rochefoucauld recorded the numbers of inmates by race at Walnut Street Prison in 1790, his figures cannot be used to measure this difference since he did not indicate whether inmates were sentenced from Philadelphia or courts in the outlying counties, and his calculations for 1790 began in May. La Rochefoucauld Liancourt, p. 42.

tion increased by 38.2 percent.³¹ The black population sentenced to Walnut Street Prison also confirmed Du Bois's claim, the largest group convicted in Philadelphia and outlying county courts having been born outside Pennsylvania.

³¹ Turner, *The Negro in Pennsylvania*, 253. An effort to measure more precisely the change in Philadelphia's population has been undertaken recently. For the most part, these studies have been more concerned with the demographics of class than race. See John K. Alexander, "The Philadelphia Numbers Game: An Analysis of Philadelphia's Eighteenth-Century Population," *PMHB* 108 (1974), 314-24; Gary B. Nash and Billy G. Smith, "The Population of Eighteenth-Century Philadelphia," *PMHB* 109 (1975), 362-68; Billy G. Smith, "Death and Life in a Colonial Immigrant City: A Demographic Analysis of Philadelphia," *Journal of Economic History* 37 (1977), 863-89; Susan E. Klepp, *Philadelphia in Transition: A Demographic History of the City and Its Occupational Groups, 1720-1830* (New York, 1989).

**Table 4. Black Inmates Convicted from Pennsylvania Courts:
Increase Compared to Decadal Census**

	1800-1810	1810-1820	1820-1830
Sentenced to Walnut Street	+112.5%	+64.7%	+7.1%
Pennsylvania Black Population	+43.1%	+38.9%	+18.4%

**Table 5. Number of Convicts Sentenced to Walnut Street
by Race and Gender**

	MALES	FEMALES
Black	29%	47.5%
White	71%	52.5%
Total	100%	100%
Base Number	7533	1820

The birthplaces of black men sentenced to Walnut Street from Philadelphia courts conformed to the more general pattern of black males' migration to Philadelphia.³² Most men of African descent sentenced to prison came to Pennsylvania from other states and countries (925), representing 66.6 percent of the black males committed to prison from Philadelphia courts.³³ African-American men from southern slaveholding states constituted the largest group of convicts who had immigrated to Pennsylvania. The second largest group of black men born outside Pennsylvania came from Rhode Island, Massachusetts, New York, and New Jersey. Freedom from slavery may not have been the issue for these individuals since the

³² Gary Nash finds a similar increase in the Philadelphia black male population; *Forging Freedom*, 136, Table 3.

³³ Calculations are based on only those individuals committed to prison for whom origins are known, using information extracted from the Prison Sentence Dockets. The total number of black men equals 1,388, representing 77.8% of the 1,785 black men convicted in Philadelphia courts. This computation and subsequent ones describing an inmate's place of origin cannot be considered complete, however, since much of the record is illegible due to its poor condition. Calculations are based upon only those for whom place of birth is given.

Table 6. Black and White Women's Incarceration Rates in Walnut Street Prison Relative to their Representation in Pennsylvania's Female Population.

	1820		1830	
	Pennsylvania	Walnut Street Prison	Pennsylvania	Walnut Street Prison
Black	3%	52.9%	3%	70%
White	97%	47.1%	97%	30%
Total	100%	100%	100%	100%
Base Number	516,000	34	663,872	60

Decadal census figures for black and white women in Pennsylvania are taken from Department of State, *Statistical View*, p. 49.

Table 7. Males and Females Sentenced to Walnut Street Prison by Race and Place of Residence, 1794-1835.

	Outlying Counties		Philadelphia		
	Male	Female	Male	Female	Total
Black	19.9%	44.9%	32.4%	47.6%	32.6%
White	80.1%	55.1%	67.6%	52.4%	67.4%
Total	100%	100%	100%	100%	100%
Base Number	2021	118	5512	1702	9353

Table 8. Blacks and Whites Sentenced to Walnut Street Prison by Gender and Place of Residence, 1794-1835

	Outlying Counties		Philadelphia	
	Black	White	Black	White
Male	88.4%	96.1%	68.8%	80.7%
Female	11.6%	3.9%	31.2%	19.3%
Total	100%	100%	100%	100%
Base Number	457	1682	2596	4618

states they left had either abolished slavery or were moving in that direction.³⁴ The third group of black men from outside Pennsylvania came from the West Indies, some of whom arrived during the revolt at Saint Domingue. The smallest number of men born abroad were from the African continent.

African-American men born in Philadelphia constituted the second largest group committed to Walnut Street from Philadelphia courts. They composed 20 percent (278) of the prison's African-American male population. Some, like Leonard Chew, were possibly descended from the people who once had been slaves belonging to the prominent Chew family of Philadelphia.³⁵ Henry Forten, on the other hand, might have been related to the Fortens, one of Philadelphia's most prestigious black families.³⁶ Perhaps an ironic entry in this group was George Lad, born in Philadelphia, sentenced to prison for "kidnapping free Negroes."³⁷ Born in 1780, he had grown to adulthood in Philadelphia ostensibly knowing freedom, yet was accused and found guilty of denying other black people the same freedom.

Finally, the smallest group of black men sentenced to prison from Philadelphia courts came to the city from other parts of the commonwealth. This group constituted 13.3 percent (185) of the African-American males sentenced to Walnut Street. One man, Caesar Burd, had traveled across the state diagonally from Crawford County to Philadelphia, a distance of 370 miles.³⁸ Most of the men born elsewhere in Pennsylvania,

³⁴ Massachusetts was the first state to follow Pennsylvania in abolishing slavery, doing so by judicial decision in 1783. Rhode Island (1784), New York (1799), and New Jersey (1804) legislatures abolished slavery by gradual means. Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago, 1967), 114, 121, 180-82, 192-93.

³⁵ Prison Sentence Dockets, Mayor's Court, Philadelphia, Dec. 28, 1829. Nash and Jean Soderlund discuss the slaveholding practices of the Chew family in *Freedom by Degrees*, 146-47.

³⁶ Prison Sentence Dockets, Mayor's Court, Philadelphia, Sept. 19, 1827.

³⁷ Prison Sentence Dockets, Court of Quarter Sessions, Philadelphia County, 266. The record states that Lad was 23 at the time of his commitment, therefore it can be surmised that he had been born in 1780.

³⁸ Prison Sentence Dockets, Court of Quarter Sessions, Philadelphia County, March 7, 1811.

however, came from areas closer to the city, the largest number of them from Bucks County.³⁹

Black women's immigration to Philadelphia and imprisonment at Walnut Street from Philadelphia courts followed the same pattern as black men, but the women were somewhat less mobile.⁴⁰ Three hundred eighty-four of these women arrived in the city from other countries and states, representing 58.1 percent of black female commitments to the prison from Philadelphia courts.⁴¹ An infinitesimal number of these women had been born in Africa—less than ten. A slightly larger number of women had been born in the West Indies, and a few came from other northern states. Like their male counterparts, most African-American women in Walnut Street had been born in southern states. Ester Green, condemned to Walnut Street in 1796, had been “born in Maryland on the plantation of Robert Hoops.” She probably was drawn to Philadelphia in part because her mother “live[d] about five miles from Schuylkill.”⁴²

Like African-American men, black women born in Philadelphia constituted the second largest group to have been tried in Philadelphia courts. One hundred ninety-seven black women had been born in Philadelphia, and they composed 29.8 percent of the black female population at Walnut Street. Teeny Deal, “a Negress,” had been born in Philadelphia and sentenced to Walnut Street for larceny. Upon her release from prison she was “pardoned and discharged by the Governor, upon condition of leaving the state forthwith not to return.”⁴³

Women born in other parts of Pennsylvania made up the smallest group of black females sentenced to Walnut Street from Philadelphia

³⁹ Black men tried in Philadelphia courts and sentenced to Walnut Street had been born in the following counties: Bucks (35), Chester (26), Lancaster (16), Dauphin (11), York (6), Mifflin (3), Crawford (1), Montgomery (18), Allegheny (2), Columbia (1), Cumberland (7), Franklin (5), Adams (1), Berks (4), Delaware (1), Northampton (1), Washington (1), Northumberland (1).

⁴⁰ Calculations are based only on those individuals committed to prison for whom origins are known. The 661 women subsequently represented 81.5% of the 811 black women convicted in Philadelphia courts.

⁴¹ This figure represents only those women for whom origins are known on the basis of information extracted from the Prison Sentence Dockets. A total of 661 women had been born in or came from places other than Pennsylvania. All subsequent figures are based on the same calculation, viz., only those for whom origins are known.

⁴² Prison Sentence Dockets, Court of Quarter Sessions, Philadelphia County, March 18, 1796.

⁴³ Prison Sentence Dockets, Mayor's Court, Philadelphia, Dec. 6, 1797.

courts, 12.1 percent (80) of all black female commitments. This group of women came from fewer areas than their male counterparts. Like the men, though, most of these women came from counties close to Philadelphia, most having been born in Bucks County.⁴⁴

Sentencing patterns from the courts in outlying counties largely resembled sentencing patterns in Philadelphia courts with respect to an inmate's place of birth (Table 7). The majority of black people condemned to Walnut Street had not been born in the counties where they were convicted (288/85.9%).⁴⁵ The largest segment of this group of black men and women had been born in other states or countries (178/61.8%). Berks, Bucks, Chester, Lancaster, and Montgomery sent the greatest numbers of black people who had not been born in the state. The second largest group of black inmates had been born elsewhere in Pennsylvania (110/38.2%). Eighteen of the outlying counties sent only African-American men to prison who had not been born in those counties.⁴⁶ Unlike the sentencing patterns for black people convicted in Philadelphia courts, however, the smallest group of African-American inmates received sentences in the counties where they had been born (47/14%). Of these counties, Chester and Lancaster sent the largest number of black men and women to Walnut Street.

As stated earlier, Du Bois claimed that these black individuals were ignorant and ill-trained. At first glance, the Prison Sentence Dockets might appear to support such an assertion, since most African-American men were common laborers and the women had worked as domestic servants before prison. But Du Bois's claim accounts for neither the diversity nor the complexities of these peoples' circumstances.

The prison records reveal that, indeed, most black men sentenced to Walnut Street from Philadelphia courts had been laborers and chimney

⁴⁴ Black women tried in Philadelphia courts and sentenced to Walnut Street had been born in the following counties: Bucks (17), Lancaster (12), Allegheny (1), Chester (13), Montgomery (2), Adams (1), Berks (2), Delaware, (3), Huntingdon (1), Lehigh (1), Northampton (1), Cumberland (1).

⁴⁵ Figures for places of birth are based only on those individuals for whom origins are known. Of the 457 total black inmates sent from outlying county courts, origins are known for 335 (73.3%).

⁴⁶ Those counties were Beaver, Bradford, Cambria, Crawford, Franklin, Lebanon, Luzerne, Pike, Adams, Bedford, Centre, Columbia, Huntingdon, Indiana, Lehigh, Lycoming, Northumberland, and Tioga.

sweeps before prison.⁴⁷ However, several others had skills; hence the question arises as to whether they were able to gainfully use them, especially if they came to Philadelphia from elsewhere after 1812. The second largest group worked providing personal service, which included waiters, house servants, and barbers. The smallest group of men had worked in skilled occupations: cabinetmakers, shoemakers, painters, glaziers, and carters.⁴⁸

This distribution of jobs among African-American men also might be accounted for, in part, by the fact that “[some] African-Americans who entered the Philadelphia labor market between 1790 and 1820 . . . were beset by physical problems resulting from harsh treatment under slavery. More were accustomed primarily to rural work routines and lacked urban skills.”⁴⁹ Confirmation of this claim can be found scattered throughout the Prison Sentence Dockets. The clerk at Walnut Street regularly recorded the physical descriptions of African-American men, especially those born in southern states, some of whom had entered the prison bearing scars from slavery upon their bodies. George Bailey, born in Alexandria, Virginia, arrived at the penitentiary with “a large scar on [his] forehead.”⁵⁰

Additionally, for those black men born in the French-speaking Caribbean Islands and on the African continent, language may have presented obstacles to their employment. Difficulty with English may have been among the problems facing Peter Grant, born on the coast of Guinea in 1774 and convicted of larceny in 1795. When he left after serving his sentence at Walnut Street, the clerk noted that Grant, who had worked as a waiter before prison, “speaks very bad English.”⁵¹

Women who came to Philadelphia from other states and countries also faced formidable obstacles in finding work. They were not among the “small number of black women, many of them widows, [who] operated their own businesses.” Nor would they find employment opportunities recently provided by the emerging industrial economy, since

⁴⁷ Nash and Soderlund, *Freedom by Degrees*, 170. Black laborers worked “loading ships, digging wells, graves, and house foundations, and toiling as sawyers, sweepers, porters, ashmen, chimney sweeps, and bootblacks” Nash, *Forging Freedom*, 146.

⁴⁸ Nash classifies these occupations as skilled *Forging Freedom*, 148-50.

⁴⁹ Nash and Soderlund, *Freedom by Degrees*, 170.

⁵⁰ Prison Sentence Dockets, Mayor’s Court, Philadelphia, March 19, 1824.

⁵¹ Prison Sentence Dockets, Mayor’s Court, Philadelphia, June 16, 1795.

Figure 1
Black & White Females Committed to Walnut Street, 1794-1835

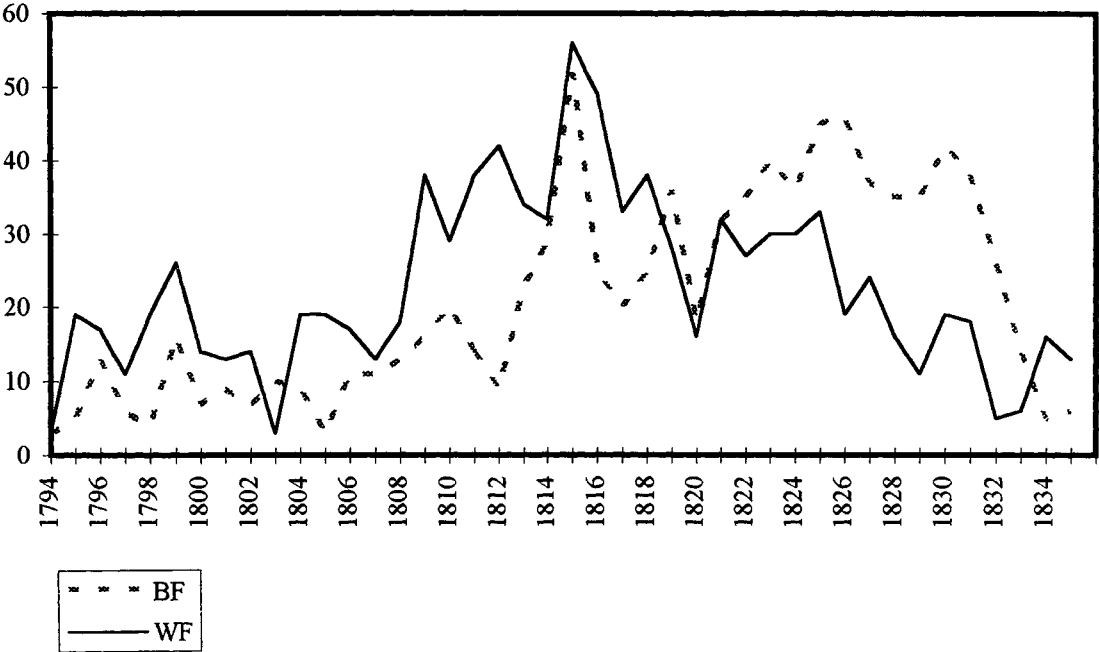
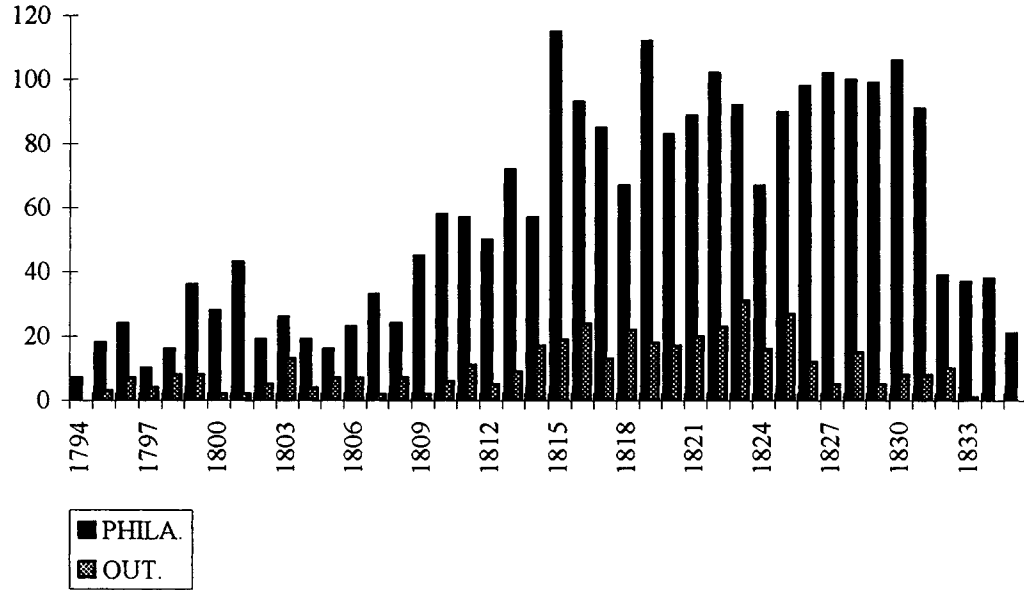


Figure 2
Black Commitments to Walnut Street for Property Crimes, 1794-1835



white women were the laborers of choice in these new factories.⁵² African-American women entered a city where their job prospects were overwhelmingly limited to working as domestic servants in white households. A very few, like Rachael Harman from Maryland, worked in semi-independent circumstances.⁵³ Harman had been a seamstress before her incarceration.⁵⁴ Women like Harman, however, were the exception. Rather more common were women like Sarah Ann Chew, who had worked before prison by "liv[ing] at service."⁵⁵

Moreover, Du Bois did not acknowledge the circumstances facing African Americans who resided and worked in the Pennsylvania countryside before their imprisonment in Philadelphia. With few exceptions, little is known about the employment of African Americans who resided outside Philadelphia.⁵⁶ Although the individuals recorded in the Prison Sentence Dockets represent a meager sample of Pennsylvania's black population, some dissimilarities in occupation between black people from Philadelphia and from outside Philadelphia immediately become apparent. Jobs held by black men in the rural areas were restricted to two types of employment; almost all men whose occupations were recorded had worked as laborers or yeomen. Laborers constituted the vast majority of those whose occupations were registered as they entered Walnut Street. William Richardson had toiled at a forge in Lancaster County before being convicted for burglary in 1811.⁵⁷ Perhaps his worksite was not

⁵² Nash, *Forging Freedom*, 152.

⁵³ Nash defines semi-independent employment to include "barbers, seamstresses, hairdressers, coachmen, nurses, gardeners, cooks, chimney sweeps, washerwomen, and waiters." These people provided personal service for whites, but in some instances "maintained their own residences and contracted their labor on their own terms." *Forging Freedom*, 150.

⁵⁴ Prison Sentence Dockets, Mayor's Court, Philadelphia, March 16, 1796.

⁵⁵ Prison Sentence Dockets, Court of Quarter Sessions, Philadelphia County, June 8, 1830.

⁵⁶ Among the few studies that examine black occupations outside Philadelphia are: Carl Oblinger, "Alms for Oblivion: The Making of a Black Underclass in Southeastern Pennsylvania, 1780-1860," in John E. Bodnar, ed., *The Ethnic Experience in Pennsylvania*, (Lewistown, 1973), 94-119; Jerome H. Wood, "The Negro in Early Pennsylvania: The Lancaster Experience, 1730-1790," in Elinor Miller and Eugene D. Genovese, eds., *Plantation, Town, and Country: Essays on the Local History of American Slave Society*, (Urbana, 1974), 441-52; Paul G. E. Clemens and Lucy Simler, "Rural Labor and the Farm Household in Chester County, Pennsylvania, 1750-1820," in *Work and Labor in Early America*, ed. Stephen Innes (Chapel Hill, 1988), 106-43; Nash and Soderlund, *Freedom by Degrees*, 187-88.

⁵⁷ Two Examinations of Two Prisoners—A Negro Lad, Saul and William Richardson, a Blackman, both belonging to Mr. Edward Brien, Oct. 10, 1811, Court Records, Lancaster County Historical Society (hereafter, LCHS).

typical of other rural workers, but Richardson's job as a simple "laborer" was the most common designation among men from regions outside of Philadelphia.

The occupational category, yeoman, presents certain difficulties when applied to men of African descent, for its definition does not accurately reflect their circumstances. For instance, the definition for yeoman does not adequately explain why Peter Huston would purloin one bag and four bushels of rye if he were "a country man (though not necessarily a farmer) of respectable standing."⁵⁸

On the other hand, African-American women from the outlying regions shared similar occupations with black women from Philadelphia imprisoned at Walnut Street. According to the clerk who recorded their occupations before imprisonment, these women had worked almost exclusively as servants. At age twenty-one, Catherine Coleman was sentenced to Walnut Street from the Chester County Court of Quarter Sessions for a misdemeanor in "endeavouring the death of her bastard child." Coleman had been "brought up in the James Carter's family of Bradford Township" in Chester County, and presumably that is where she resided and worked when brought before the court in 1795.⁵⁹

The 1790 legislation also departed from earlier penal statutes, which had inflicted corporal or capital punishment, by assigning prison terms to specific criminal offenses. Crimes against property composed 92.7 percent of the offenses for which African Americans were convicted and sentenced to Walnut Street Prison. As might be expected, larceny was the crime that accounted for the vast majority of prison sentences at Walnut Street. The Prison Sentence Dockets disclose that 83.8 percent (2,561 out of 3,053) of the total number of black commitments to the penitentiary between 1794 and 1835 were for this particular offense.

Larceny convictions provide the most instructive information about the relationship between race, poverty, and crimes against property. Qualitative and quantitative evidence of black peoples' economic circumstances

⁵⁸ Lynn Ann Catanese, comp., *Guide to Records of the Court of Quarter Sessions, Chester County, Pennsylvania, 1681-1969* (West Chester, 1989), 61. Admittedly, Catanese states the term's use was implied during the colonial era, but no other satisfactory definition is extant.

⁵⁹ Prison Sentence Dockets, Court of Quarter Sessions, Chester County, Dec. 9, 1795. For a full description of the circumstances surrounding the indictment and prosecution of Coleman, cf. Leshe Patrick-Stamp, "The Prison Sentence Docket for 1795," *Pennsylvania History* 60 (1993), 353-82.

can be found in documents to support the claim that African Americans, and quite possibly those convicted of larceny, had limited access to the labor force.⁶⁰ Indictments from outlying counties often reveal the items an individual was convicted for having purloined. Property stolen most frequently in many counties included clothing and fabric, bank notes and money, food and tools.⁶¹ Sarah Roberts came before the Washington County Court of Quarter Sessions in November 1822 for larceny. The jury found Roberts guilty and sentenced her to two years' imprisonment at Walnut Street for having stolen \$5.11 worth of goods: "eleven pounds of wool, one sheet containing the wool, and one crock and grease."⁶² No occupation was listed for Roberts. Indictments occasionally disclose an individual's employment before prosecution. Samuel Jackson had been a laborer in Lancaster County before conviction for larceny in 1814. Jackson received the same sentence as Roberts, two years at Walnut Street, though the goods and chattels he had been convicted of stealing totalled \$72.50.⁶³ These two cases also illustrate the more general pattern that sentencing for larceny was not consistent from county to county.

The magnitude of larceny convictions and the fact that the volume of black people increased over time can be best discovered by examining the number of verdicts handed down in Philadelphia courts. Sixty-six people were committed to Walnut Street in 1800 for larceny, of which 25

⁶⁰ For discussions of discrimination in the labor force against African Americans in the city of Philadelphia, cf. Nash, *Forging Freedom*, 144-45; for Lancaster County, cf. Oblinger, "Alms for Oblivion," 96-98; for Chester and Delaware counties, cf. Nash and Soderlund, *Freedom by Degrees*, 187-92.

⁶¹ Dauphin, Washington, Northumberland, Northampton, Lancaster, Centre, Bucks, Chester, Fayette, Huntingdon, Lehigh, Montgomery, Tioga, and York counties produced indictments naming one or more of these items as having been stolen in the commission of a larceny by black individuals. Unfortunately, no similar documents for the city or county of Philadelphia are extant.

⁶² Indictment—Larceny: Commonwealth vs. Sarah Roberts, a Black Woman, *Quarter Session Court Docket Book*, Washington County, reel 23, March 1821–January 1825; Prison Sentence Dockets, Court of Quarter Sessions, Washington County, November 1822.

⁶³ Indictment—Larceny: Commonwealth vs. Samuel Jackson, Court of Quarter Sessions, January 1814, LCHS. According to the indictment, Jackson had stolen 5 Irish ruffled shirts, 1 calico shirt, 4 pairs worsted stockings, 1 pair white cotton stockings, 2 pairs black silk stockings, 1 white waistcoat, 10 muslin neck handkerchiefs, 5 silk handkerchiefs, 2 checkered muslin neck handkerchiefs, 2 flannel jackets, 3 pairs leather gloves, 1 pair black silk gloves, 1 pair cotton drawers, 1 cotton night cap, 1 towell [*sic*], and 1 large hair trunk marked H.M. Jackson's sentence will be found in Prison Sentence Dockets, Court of Quarter Sessions, Lancaster County, January 1814.

(37.9%) were black. By 1810 the number of people committed increased to 154, and 55 (35.7%) black men and women were among them. The year 1820 brought the largest percentage of black people sentenced to prison for larceny, 51.7 percent (77 out of 149). The largest number of larceny convictions for the years calculated came in 1830 when 106 (47.3%) out of 224 prisoners were black. Although black commitments to the prison for larceny only once constituted a majority of the total number of commitments, the real numbers of black individuals sentenced grew steadily. Furthermore, these percentages always outpaced the city's black populace.⁶⁴

Although larceny was the crime for which most African Americans were found guilty, it was not the only property-related crime for which they received prison sentences. Other offenses against property included burglary (162/5.3%), receiving stolen goods (44/1.4%), horse theft (11/0.36%), robbery (15/0.49%), forgery and counterfeiting (9/0.29%), and breaking and entering (1/0.03%). For the most part, men committed these offenses. Arson (27/0.88%) was the only property-related offense for which black women received prison sentences more frequently than black men (17 vs. 10).⁶⁵

Commitments to prison for crimes against property always constituted the greatest proportion of convictions, and the number of black commitments for these offenses rose steadily between 1794 and 1830. Never decreasing to less than ten, the number of black people sent to Walnut Street from Philadelphia courts reached its height in 1815 with 115. Between 1815 and 1830 these convictions remained at their highest, never decreasing below 67 commitments per year.

⁶⁴ Nash, *Forging Freedom*, 143, Table 5 provides racial composition of Philadelphia's population between 1780 and 1830

⁶⁵ Adams County Negress Sabe, Nov 27, 1804 Allegheny Hannah Ford, April 11, 1812 Berks Dinah Anderson, Aug 6, 1814 Cambria William Johusts, April 7, 1825 Franklin Polly Peters, Jan 22, 1818, Jacob Ramsey, Aug 19, 1818, Rebecca Brooks, Nov 11, 1828 Montgomery Jane Wedge, Nov 10, 1802 (died) Philadelphia, Oyer & Terminer Hannah Carson, Feb 22, 1799, Magdalen, Jan 4, 1804 (died Nov 8, 1805), Flora, Jan 4, 1804 (died Aug 26 1804), John Green, March 28, 1809, Mary Pool, June 16, 1812, Rachael Robinson, Nov 26, 1827, Peter Liston, Nov 26, 1827 Washington Ruth (a mulatto), March 24, 1814 Westmoreland Thomas Jones, June 26, 1807 York Abner Short, May 19, 1803, Isaac "Dinkle," May 19, 1803, Isaac "Spangler," May 19, 1803, Hetty Dorson, May 19, 1803, Ruth "a Mulatto," May 19, 1803, William Grimes, May 19, 1803, Negress Comfort, April 6, 1817 (died April 26, 1817), Sal (a woman), Aug 7, 1822, Matilda Scott, April 7, 1823 (died May 3, 1826), Thomas Fisher, Jan 2, 1826 (died Dec 9, 1830)

Increased convictions for offenses against property corresponded to developments in the larger economic context. According to Gary Nash, "after the War of 1812 . . . the most severe depression in Philadelphia's history threw as much as one-third of the labor force out of work." It was during this period that "[p]overty-related crimes against property, such as larceny and burglary, also increased . . . at rates that white leaders found alarming."⁶⁶

On the other hand, courts from the outlying counties neither sent convicts to Walnut Street in large numbers, nor did the pattern of commitments follow that of Philadelphia courts. Commitments for property crimes from outlying counties reached their highest point in 1823, numbering 31. Only two periods disclosed a steady incline in the number of black commitments from outlying counties: 1812-16 and 1820-23. As Figure 2 shows, the number of African Americans committed for property crimes rose and fell similarly in Philadelphia and the outlying counties during only 14 of the 41 years analyzed.

Nonproperty-related offenses included assorted forms of assault and battery (67/2.2%), various degrees of murder (25/0.82%), rape (10/0.33%), infanticide (8/0.26%), and kidnapping (2/0.06%). Only two black people, for instance, were committed to Walnut Street before receiving the death sentence for first degree murder. The two men, John Joyce and Peter Matthias, were hanged for this crime in 1808.⁶⁷ First degree murder was among the few crimes that continued to be a capital offense under the 1790 legislation. While Joyce and Matthias were the only two African Americans executed from Walnut Street, ten other black people, seven men and three women, received the death penalty in various counties throughout the commonwealth between 1790 and 1834.⁶⁸ The relatively low number of crimes against persons conclusively demonstrates that these people were not predisposed to violence.

⁶⁶ Nash, *Forging Freedom*, 214. Turner also discusses the increased black presence in prison, but he does not acknowledge the role of economic factors. Turner, 156, n. 59. Although they arrive at similar conclusions to this study, Nash and Turner base their arguments on numbers imprisoned, while this examination is based on numbers convicted.

⁶⁷ Prison Sentence Dockets, Court of Oyer and Terminer, Philadelphia County, Feb. 20, 1808.

⁶⁸ Executions, 1792-1820: Samuel Peeves, Berks, rape, 1792; "Negro" George, Franklin, rape, 1794; "Negro" Bob, Northampton, murder, 1795; "Negress" Chloe, Cumberland, murder, 1801; "Negro" Dan Byers, Centre, murder, 1802; "Black" Hannah Miller, Chester, infanticide, 1805; Elizabeth Moore, York, infanticide, 1809; Benjamin Stewart, Dauphin, murder, 1824; Christian Sharp, Washington, murder, 1828; Edward Williams, Chester, murder, 1830. Negley

The final group of offenses for which African Americans received prison sentences did not fall precisely into the categories of murder, violence against persons, or against property. Some of these crimes included keeping a disorderly or bawdy house (22/0.72%), attempted poison, mayhem, unspecified misdemeanors and felonies, nuisance, riot, perjury, bigamy, buggery, blasphemy, sodomy, prison breach, and various conspiracies (71/2.3%). In 18 (0.59%) instances, offenses either were not listed or were illegible due to the poor condition of the documents.⁶⁹

The documents further reveal variations in the crimes for which city and country courts sentenced African Americans to Walnut Street. Philadelphia courts sentenced for 25 different crimes, while only 18 crimes listed by the outlying counties carried prison sentences. African Americans convicted for larceny constituted the largest category of individuals receiving sentences from both courts in Philadelphia (2,275/87.6%) and from courts throughout the state (285/62.4%).

Moreover, in some instances, Philadelphia courts and courts in the countryside differed in the crimes deemed worthy of prison sentences. Disorderly and bawdy houses, mayhem, and riot were among those offenses for which black people in the city were convicted and sentenced to Walnut Street, whereas almost no black individuals from the countryside received prison sentences for these offenses. There were some crimes, however, that caused courts in the countryside to send African Americans to Philadelphia more frequently than the city courts. Black men from the outlying regions received prison sentences for sexual crimes, while no African Americans were found guilty in Philadelphia courts for these offenses. African-American men from the hinterlands went to Walnut Street Prison for rape, sodomy, and buggery. Likewise, twenty black people from the outlying counties received prison sentences for arson, while only seven from Philadelphia were incarcerated for the same offense. The difference between crimes for which black people in the countryside and the city received prison sentences may reflect the concerns authorities

K. Teeters, "Public Executions in Pennsylvania: 1682-1834" *Journal of the Lancaster County Historical Society* 64 (1960), 152-53.

⁶⁹ These figures only represent the distribution of offenses, since in some cases people were convicted for committing more than one crime.

had about offenses that threatened to spread the "disease" of social disorder in a particular context.⁷⁰

Despite these differences, there were instances when nearly equal numbers of black people were sent to Walnut Street from the city or the country for the same offense. For example, four African-American women from Philadelphia and four from the hinterlands received prison sentences for infanticide.⁷¹ Additionally, courts from throughout the state sent 74 black people to Walnut Street for burglary, while Philadelphia courts sent 88 African-American men and women to prison for that particular offense. In this latter instance, the nearly equal number of black people sentenced to prison from both urban and hinterland courts confirms Rowe's claim that crimes against property were viewed consistently as warranting prosecution.

This article has proposed that it is necessary to examine the documentary evidence before arriving at conclusions about black crime and punishment. By presenting the figures extracted from the Prison Sentence Dockets of the country's first state penitentiary, the claim has been substantiated that black people, relative to the black population in Pennsylvania, were disproportionately present in prison when use of the prison began. Conclusions about black imprisonment in the first state penitentiary are only now appropriate.

Although after 1780 the penal code of Pennsylvania did not designate racially specific punishments, the Prison Sentence Dockets confirm that

⁷⁰ John K. Alexander, *Render Them Submissive Responses to Poverty in Philadelphia, 1760-1800* (Amherst, 1980), see chap. 4 for discussion of the fear of social disorder in Philadelphia.

⁷¹ For the period between 1763 and 1800, G. S. Rowe finds that all women in Philadelphia were less likely to have been punished for sexual offenses (fornication and bastardy) than women in the countryside. Rowe, "Women's Crime," 349, "Black Offenders," 694. The findings in this examination that no black men or women received prison sentences for fornication and bastardy agree with Rowe's. On the other hand, prosecution for infanticide is not explicitly acknowledged in relation to illegitimate births in the documentary evidence. Sharon A. Burnston asserts, however, "[i]t is appropriate to discuss infanticide and concealment of illegitimate births together since these two acts were regarded as all but synonymous by eighteenth-century standards." "Babies in the Well: An Underground Insight Into Deviant Behavior in Eighteenth-Century Philadelphia," *PMHB* 106 (1982), 167. Burnston systematically demonstrates the methods by which an illegitimate birth could have been disposed of in Philadelphia. Her argument is amplified by Susan E. Klepp's finding that a higher rate of illegitimacy seems to have occurred in Philadelphia, where a different conception of sexuality prevailed than in the countryside, see Klepp, *Philadelphia in Transition*, 91-93.

black people were disproportionately incarcerated between 1790 and 1835, when Walnut Street was used as a state penitentiary. More black men than women received prison sentences, and black women were extraordinarily overrepresented when compared to their white counterparts.

Most African Americans received prison sentences from Philadelphia courts, although considerable numbers of black men and women were sentenced to Walnut Street from various counties throughout the state. Despite the fact that black people in the hinterlands received prison sentences less frequently than their counterparts in Philadelphia, the results of this finding disclose significant information. The data provide information about the distribution and growth of the African-American population throughout the commonwealth and the different sentencing patterns employed in the outlying regions of Pennsylvania. African Americans sentenced to prison represented, however, a miniscule portion of the overall black population in the state. This latter discovery confirms that African Americans were not inherently criminal even though circumstances sometimes conspired against those who immigrated to the state. And, despite earlier claims, these numbers reveal that even most immigrants were not involved in criminal activity.

The records provide details suggesting other circumstances that may have driven certain African-American men and women to engage in criminal activities. Most of these people had immigrated to Pennsylvania from other states and countries. Whether convicted in Philadelphia or hinterland county courts, black people born outside Pennsylvania were most numerous among the African Americans sentenced to Walnut Street. Du Bois's and others' claims that Pennsylvania was attractive to fugitive bondspople may be correct, but such a proposition overlooks where many of these people came from, where they attempted to settle, and what many of these individuals probably encountered upon their arrival in the state.

In the first place, not all black immigrants to Pennsylvania came from southern states. A number of black people came to Pennsylvania from other northern states, fewer from the Caribbean, and fewer still came directly from the African continent. Upon arriving in Pennsylvania, or even if they had been born in the state, these black people encountered impediments to supporting or sustaining themselves.

For black people from other countries, difficulties with the English language may have presented obstacles to acquiring a legitimate livelihood. Their small numbers as skilled laborers suggest the challenges facing

black men seeking to acquire jobs other than that of common laborer. And for women, especially those who resided outside Philadelphia, not much employment was available at all, except work as a house servant. From the data available, then, it seems safe to conclude almost all these individuals worked in low-paying jobs, if they held jobs, before prison. Adversities such as these might account for the fact that the vast majority of the African-American men and women sentenced to Walnut Street Prison were found guilty of crimes against property.

It is generally accepted that there is a correlation between poverty, race, and crime that leads to imprisonment. In this respect, the conclusions presented in this article are nothing new. Nor is it necessarily original or adequate to merely assert that African Americans have been disproportionately imprisoned in this country. This article parts company with previous studies in its requirement to acknowledge and examine the evidence provided in the institutional records. This evidence reveals that black people did in fact endure disproportionate imprisonment in this country's first state prison, the Jail and Penitentiary House at Walnut Street.

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