

THE ATTORNEY GENERAL'S  
ELEVENTH ANNUAL REPORT TO CONGRESS  
PURSUANT TO THE EMMETT TILL  
UNSOLVED CIVIL RIGHTS CRIME ACT OF 2007  
AND  
FIFTH ANNUAL REPORT TO CONGRESS  
PURSUANT TO THE EMMETT TILL UNSOLVED CIVIL RIGHTS CRIMES  
REAUTHORIZATION ACT OF 2016

December 2023

## **INTRODUCTION**

This is the eleventh annual report (Report) submitted to Congress pursuant to the Emmett Till Unsolved Civil Rights Crime Act of 2007, Pub. L. No. 110-344, 122 Stat. 3934 (2008),<sup>1</sup> as well as the fifth report submitted pursuant to the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016, Pub. L. No. 114-325, 130 Stat. 1965 (2016),<sup>2</sup> collectively referred to hereinafter as the Till Act. This Report includes information about the Department of Justice's (Department) activities in the time period since the tenth Till Act report, and fourth Reauthorization report, which was submitted to Congress in September 2022.

Section I of the Report summarizes the historical efforts of the Department to prosecute cases involving racial violence and describes the genesis of its Cold Case Initiative. It also provides an overview of the factual and legal challenges that federal prosecutors face in their efforts to secure justice in unsolved Civil Rights Era homicides. Section II of the Report provides information on the progress made since the last report. It includes a chart of the progress made on cases referred to the Department pursuant to the Till Act. Section III of the Report provides a brief overview of the cases the Department has closed or referred for prosecution since its last report. Case-closing memoranda written by Department attorneys explaining the reasons for closing or referring these matters are available on the Department's website: <https://www.justice.gov/crt/civil-rights-division-emmett-till-act-cold-case-closing->

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<sup>1</sup> The Till Act requires the Attorney General to conduct a study and report to Congress not later than six months after the date of enactment of the Act, and each year thereafter, regarding the Department's efforts to investigate and resolve unsolved Civil Rights Era homicides.

<sup>2</sup> The Reauthorization extended the Till Act, including its reporting requirements, for an additional ten years.

[memoranda](#). As additional case closing memoranda are drafted and approved, they will be made available on the website. These memoranda are first reviewed to ensure compliance with FOIA regulations and the Privacy Act.<sup>3</sup> Section IV of the Report provides additional information required by the Till Act, other than the statistical information provided in Section II. Section V of the Report sets forth the Department’s work on conducting Till Act training and outreach.

Anyone wishing to provide information about an unsolved civil rights murder that occurred before 1980 is encouraged to send information to the Cold Case Unit’s e-mail box. Persons with information are encouraged to send it to this e-mail box, regardless of whether it is a cold case that is currently being examined by the Department, one that has previously been examined and is now closed, or one that is not included on the list of matters the Department has ever investigated. The email address of the cold case e-mail box is:

[Coldcase.Civilrights@usdoj.gov](mailto:Coldcase.Civilrights@usdoj.gov).

**I. THE DEPARTMENT OF JUSTICE’S EFFORTS TO INVESTIGATE AND PROSECUTE CIVIL RIGHTS ERA HOMICIDES**

**A. Overview and Background**

The Department’s current efforts to bring justice and resolution to Civil Rights Era cold cases under the Till Act is a continuation of efforts begun decades ago. The following summary places the Department’s current efforts in their historical context.

*Reconstruction Era through the 1930s*

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<sup>3</sup> The Department will continue to make available case-closing memoranda as they are drafted, reviewed, and redacted by privacy and FOIA attorneys.

Since the Reconstruction Era (1865-1877), the Department has taken the lead in prosecuting crimes of racial violence in the United States. These efforts were hampered for many decades, however, by the lack of an effective federal anti-lynching law or other laws specifically prohibiting bias-motivated crimes. When prosecuting cases of racial violence during this era, the Department relied on the Reconstruction Era Enforcement Acts, enacted in 1868, 1870, and 1871. But given the courts' restricted interpretation of these statutes, they proved to be extremely limited tools for addressing lynchings and other acts of racial violence.

The most famous case of the Reconstruction Era arose from a mass killing of Black residents in Colfax, Louisiana. The prosecution resulted in a Supreme Court decision that severely limited the Department's ability to prosecute hate crimes. The defendants in that case had been charged by indictment and convicted of conspiring to deprive the victims of various enumerated rights, privileges, and immunities guaranteed by the Constitution. The Court, however, overturned the convictions, finding most of the indictment counts were defective because those counts charged *private* actors with depriving the victims of constitutional rights, whereas the constitutional provisions at issue placed limitations only on the conduct of *government* actors. See *United States v. Cruikshank*, 92 U.S. 542, 554 (1875).

During the post-Reconstruction Era, racial unrest – particularly in the form of “public spectacle” lynchings – increased. The problem posed by such lynchings, and the federal government's limited ability to redress such horrific wrongs, was recognized at the highest levels of the Department when, on March 2, 1909, Attorney General Charles Bonaparte urged the Supreme Court to hold in contempt local officials and members of a mob who kidnapped and lynched a Black man named Ed Johnson. Johnson was lynched after a mob seized him from a local jail, where he was being held while he appealed his conviction. In arguing that the

defendants should be held in contempt, Attorney General Bonaparte acknowledged the inadequacy of state laws to remedy the underlying violence against Johnson. “Lynchings have occurred in defiance of state laws,” he said, and further noted that state courts had made, at most, “only [a] desultory attempt” to punish the lynchers. <http://www.famous-trials.com/sheriffshipp/1064-bonaparteclosing>. The defendants were convicted of contempt of court.<sup>4</sup> *See generally United States v. Shipp*, 214 U.S. 386 (1909).

The lack of a federal anti-lynching law made it difficult for the federal government to redress acts of racial violence and, as noted by Attorney General Bonaparte, states rarely did. Partly for this reason, violence escalated through the turn of the century and continued through World War I. In 1919, as soldiers returned from war, the country was gripped by Red Summer, a particularly violent time characterized by hundreds of instances of mob violence against Black communities through murder, assault, arson, and other forms of terror. *See generally* Cameron McWhirter, *Red Summer: The Summer of 1919 and the Awakening of Black America* (Henry Holt and Company, 2011); Phillip Dray, *At the Hands of Persons Unknown*, Chapter 8 (Modern Day Library, 2002). This violence continued in the following years, as illustrated by the Tulsa Race Massacre of 1921.

#### *World War II through the 1950s*

In 1939, the Department made significant advances in addressing the problem of racial violence. Attorney General Frank Murphy created a Civil Liberties Unit (shortly thereafter renamed the Civil Rights Section) in the Criminal Division of the Department of Justice. Its

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<sup>4</sup> Shipp and two other defendants were sentenced to 90 days imprisonment in the United States Jail in the District of Columbia. The other three defendants received 60-day sentences. [The Trial of Sheriff Joseph Shipp et al.: An Account \(famous-trials.com\)](http://www.famous-trials.com/sheriffshipp/1064-bonaparteclosing).

mission was threefold: enforcing the federal civil liberties statutes, identifying the need for additional legislation, and “invigorat[ing] . . . the federal government’s endeavors to protect fundamental rights.” <https://www.justice.gov/sites/default/files/ag/legacy/2011/09/16/07-07-1939pro.pdf>.

In 1940, O. John Rogge, Assistant Attorney General for the Criminal Division, urged United States Attorneys to take a more aggressive approach to prosecuting crimes of racial violence, including the lynchings of Black victims. Attorney General Francis Biddle agreed, noting in a speech delivered during World War II that “[o]ne response to the challenge of Fascism to the ideals of democracy has been a deepened realization of the importance of these rights, based on a belief in the dignity and the rights of individual men and women.” Francis Biddle, An Address by Francis Biddle, Attorney General of the United States Annual Conference of the National Urban League, <https://www.justice.gov/sites/default/files/ag/legacy/2011/09/16/09-28-1944.pdf>. Soon thereafter, the Department began to investigate and attempt to prosecute more bias-motivated murders.

Although Assistant Attorney General Rogge’s directive demonstrated an increasing federal will to address the problem of racial violence, the federal government still lacked the necessary tools to adequately address the problem. Because there was no federal anti-lynching law, the Department could use only the Reconstruction Era laws, then codified at 18 U.S.C. §§ 51 and 52, to prosecute acts of racial violence. Nonetheless, the Department, using only these limited tools, brought federal charges against Claude Screws, a Georgia sheriff, in 1943. Screws had ordered his deputies to arrest Robert Hall, a Black man against whom Screws held a grudge. After arresting him, Screws and his deputies brutally beat Hall to death. Although

Screws was convicted of depriving Hall of his constitutional rights while acting under color of law, his conviction was reversed because the Supreme Court determined that the instructions given during trial were inadequate. *See*

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=5229&context=mulr>; *Screws v. United States*, 325 U.S. 91 (1945).

The Department also attempted to use the Reconstruction Era laws to prosecute members of a mob who murdered Cleo Wright on January 25, 1942. Wright was a Black man who, while awaiting trial for allegedly assaulting a white woman and attacking a police officer, was kidnapped from a jail cell in Sikeston, Missouri, by a mob of angry white men. The mob burned Wright alive. Attorney General Biddle authorized a federal prosecution under the Reconstruction Era statutes. Evidence was presented to a grand jury, but the grand jury refused to issue an indictment. The same grand jury issued an advisory report, later made public, in which it labeled the crime a “shameful outrage” and even stated that Wright had been denied “due process of law,” but nonetheless found that the mob’s actions did not constitute a crime under federal law. Victor W. Rotnem, *The Federal Civil Right “Not to Be Lynched,”* 28 Wash. U. L. Rev. 57 (1943),

[http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=3888&context=law\\_lawreview](http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=3888&context=law_lawreview).

Victor Rotnem, who had become the Chief of the Civil Rights Section in 1941, urged the Department to argue for a more aggressive application of the Reconstruction Era statutes that protected persons against deprivations of their rights guaranteed by the Constitution and other federal laws. Rotnem argued that, although the right to due process of law protected citizens against only those deprivations of life, liberty, or property committed without due process by a *governmental* entity, private persons who commit lynching, like those in the mob

who murdered Wright, could still be prosecuted under the Reconstruction Era statutes. *See id.* at 62. He asserted that, by kidnapping a person from jail, defendants directly interfered with that person's right to have a state or local government try him for the crime he was accused of committing, thus denying him the right to due process of law. *See id.* Courts, however, largely did not accept these arguments, and the lack of a specific federal hate crime law, coupled with restrictive interpretations of Reconstruction Era statutes, dramatically limited the kinds of prosecutions the Department could undertake.

### *The Civil Rights Era*

The Civil Rights Division was established in 1957 and, thereafter, the Department achieved greater success in prosecuting civil rights cases. The first notable success came in the case of *United States v. Price*, commonly referred to as the "Mississippi Burning" case. The case involved the 1964 murders of James Chaney, Andrew Goodman, and Michael Schwerner – three civil rights workers kidnapped and murdered during Freedom Summer, a time when civil rights organizations, including the Congress of Racial Equality (CORE), the Student Nonviolent Coordinating Committee (SNCC), and the Congress of Federated Organizations (COFO), actively recruited students from across the nation to come to Mississippi to participate in voter registration and other civil rights-related activities. The Ku Klux Klan (Klan), which opposed the goals of Freedom Summer, responded with violence. Chaney, Goodman, and Schwerner, who had traveled to Mississippi to help with voter registration efforts, were arrested by Neshoba County Deputy Sheriff Cecil Ray Price and jailed in Philadelphia, Mississippi. The three civil rights workers later were released from custody. Deputy Price, however, coordinated their release with members of the Klan, who killed the young men, burned their car, and buried their bodies in an earthen dam. Following an

investigation by the Federal Bureau of Investigation (FBI), 19 defendants were indicted. Seven of those defendants were convicted at trial and another pleaded guilty. The jury was unable to reach a verdict with respect to three additional defendants and acquitted the remaining eight defendants.

In that same era, the Department achieved convictions of two Georgia Klansmen responsible for the murder of Lieutenant Colonel Lemuel Penn, a Black WWII veteran. The defendants, Cecil Myers and Howard Sims, believed that Black men were coming to Georgia to test newly enacted civil rights laws. When they saw a car with Black men in it, they targeted the car's occupants based solely on their race, shooting at the men and killing Lieutenant Colonel Penn. Although Myers and Sims were convicted in federal court, other defendants who were indicted with them, as part of an overarching conspiracy to intimidate Black residents, were acquitted.

In both the "Mississippi Burning" case and the case resulting from Penn's murder, the defendants challenged the Department's authority to bring federal charges. In responding to these challenges, the Department obtained important Supreme Court victories that permitted a more expansive application of the Reconstruction Era statutes. *See United States v. Price*, 383 U.S. 787, 794 (1966) (establishing that private persons may act under color of law when they act in concert with state actors); *United States v. Guest*, 383 U.S. 745, 757–58 (1966) (establishing that the right to interstate travel is a right that may be protected against private interference if the interference of that right is the primary purpose of a conspiracy).

Even more significantly, Congress passed the first federal hate crime statutes in 1968: one prohibiting violent interference with housing rights (42 U.S.C. § 3631), and another prohibiting violent interference with several enumerated rights, including voting and

employment activities (18 U.S.C. § 245). These statutes were important tools in the federal arsenal that, for the first time, clearly and unambiguously allowed for the federal prosecution of racially motivated murders and assaults, even when none of the defendants was acting under color of law.

Unfortunately, these new statutes alone were not transformative. Each statute originally had only a five-year statute of limitations period, meaning the government had to bring charges within five years of the crime, even when the crime resulted in death. Thus, in cases in which families were too frightened to report crimes, or in which the federal government otherwise failed to indict a case within five years, the government was barred from prosecuting the case, except in the unlikely event that another federal statute, such as interstate kidnapping or murder on federal land, applied. Moreover, not all racially motivated crimes could be prosecuted because, for federal jurisdiction to apply, prosecutors had to prove not only bias motivation, but also that a defendant had acted to interfere with one of the federally protected rights specifically set forth in the statute, such as the right to fair housing or the right to employment.

#### *The Modern Era*

More recently, Congress has passed significant legislation that has given federal prosecutors greater flexibility and authority to prosecute bias-motivated crimes. In 1996, Congress passed the Church Arson Prevention Act, which prohibits destruction and damage to houses of worship motivated by either race or religion, and which also prevents interference with the free exercise of religion. *See* Church Arson Prevention Act of 1996, Pub. L. No. 104–155, 110 Stat. 1392 (codified at 18 U.S.C. § 247). In 2018, Congress amended this law to expand the definition of religious real property to allow prosecution of more acts of

destruction. *See* Protecting Religiously Affiliated Institutions Act of 2018, Pub. L. No. 115-249, § 2, 132 Stat. 3162.

In 1994, Congress amended 18 U.S.C. §§ 241, § 242, and 245 to allow the government to seek the death penalty for civil rights-related crimes resulting in a victim's death. *See* Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 60006, 108 Stat. 1970, 2109, 2113, 2147. Because there is no statute of limitations for death-eligible offenses, bias-motivated crimes that are committed after 1994 and result in death may now be charged even decades after the offense occurred. Congress, however, may not extend a statute of limitations that has already expired. *See Stogner v. California*, 539 U.S. 607, 632–33 (2003) (legislatures lack the constitutional power to expand the limitations period after the period has expired). Therefore, these amendments do not permit the government to prosecute cases in which the statute of limitations had expired by 1994.

In 2009, Congress further enhanced the ability of prosecutors to charge defendants with committing a federal hate crime by passing the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 (Shepard-Byrd Act), now codified at 18 U.S.C. § 249. The Shepard-Byrd Act eliminates the requirement that prosecutors prove a defendant intended to interfere with a victim's federally protected right for race-based crimes. To secure a conviction under the Shepard-Byrd Act, a federal prosecutor need prove only that a defendant willfully inflicted death or bodily injury upon a victim, or attempted to do so with a dangerous weapon, and that the defendant acted because of the race, color (or other enumerated protected characteristic) of the victim or some other person. Additionally, under the Shepard-Byrd Act, there is no statute of limitations if death results from the defendant's actions.

Recently, Congress passed and, on March 29, 2022, the President signed, the Emmett Till Antilynching Act, creating a conspiracy-specific law that can be used to prosecute the most serious conspiracies to commit hate crimes, including those that result in death or serious bodily injury or that involve kidnapping or its attempt, aggravated sexual abuse or its attempt, or an attempt to kill.

#### **B. Passage of Laws Promoting the Investigation and Prosecution of Civil Rights Era Offenses**

The federal government's increased ability to prosecute modern day hate crimes, including lynchings, still leaves unaddressed those cases that it was unable to prosecute in the past. For this reason, in 2008, Congress enacted the Till Act and, in 2016, its Reauthorization. These acts obligate the Department of Justice to identify, investigate, and, where appropriate, prosecute any civil rights offense that occurred before 1980 and resulted in death.

In January 2019, Congress enacted the Cold Case Records Collection Act (CCRCA), again stressing its desire that crimes from the Jim Crow Era not be forgotten. *See Civil Rights Cold Case Records Collection Act, Pub. L. No. 115-426, 132 Stat. 5489 (2019)*. This Act establishes a collection of hate crime investigative records within the National Archives that may be accessed and reviewed by scholars, the civil rights community, and the general public. In February 2022, Congress confirmed four members to the five-member CCRCA Review Board. Members of the Civil Rights Division's Cold Case Unit have been working with members of the Review Board and staff at the National Archives to comply with the requirements of the CCRCA.

#### **C. History of the Cold Case Initiative**

The Department's efforts to achieve justice in these cases predate the original Till Act, and the Department remains committed to achieving justice in Civil Rights Era cold cases today. As explained in prior reports, since the passage of the Till Act, Department lawyers and FBI agents have jointly participated in a multi-faceted strategy to identify cases that might potentially be prosecuted.

The Department began its Cold Case Initiative (Initiative) in 2006. The first step of this Initiative was to have each of the FBI's 56 field offices identify cases that might warrant review. In 2007, the Department began an extensive outreach campaign to solicit assistance from the NAACP, Southern Poverty Law Center, and the National Urban League, as well as various community groups, the academic community, and state and local law enforcement organizations. The Department also conducted an aggressive media campaign, granting interviews to numerous outlets, including the New York Times, the Washington Post, the Baltimore Sun, National Public Radio, the British Broadcasting Company, 60 Minutes, Dateline, and local media outlets, in an effort to elicit the public's assistance with locating witnesses to these crimes, as well as family members of the victims. When the Department's work on the Initiative began, the Department had identified 95 matters for further review. As a result of outreach efforts since the Till Act, that number has grown to 137.

#### **D. Past Efforts to Prosecute Cold Cases**

The Department's efforts to identify and resolve Civil Rights Era cold cases (both before and since the Till Act) have resulted in two successful federal prosecutions and three successful state prosecutions.

##### *Federal Prosecutions*

The first twenty-first century federal prosecution of a Civil Rights Era cold case was the prosecution of Ernest Avants. See *United States v. Ernest Henry Avants*, 367 F.3d 433 (5th Cir. 2004). This case involved the 1966 murder of Ben Chester White, a Black farm worker. Avants and two other Mississippi Klansmen lured White to Pretty Creek Bridge in the Homochitto National Forest outside of Natchez, Mississippi. Once there, the Klansmen shot White multiple times with an automatic weapon and once with a single-barrel shotgun. White's bullet-ridden body was discovered several days later. The murder was intended to lure Dr. Martin Luther King, Jr., to the area so that he, too, could be murdered, assaulted, or otherwise harmed. A 1967 state prosecution for murder resulted in an acquittal for Avants and a mistrial for another defendant, who is now deceased. A third defendant, also now deceased, was never prosecuted by state officials. In 1999, the Department opened an investigation into White's murder using a federal statute (18 U.S.C. § 1111) that can be used to prosecute murder on federal lands. Avants was indicted in June 2000, convicted in February 2003, and sentenced to life in prison in June 2003. He died in prison in 2004.

The second federal prosecution of a Civil Rights Era cold case was *United States v. James Ford Seale*, 600 F.3d 473 (5th Cir. 2010). This case involved the 1964 murders of two 19-year-old Black men, Charles Moore and Henry Dee, in Franklin County, Mississippi. On May 2, 1964, James Ford Seale and other members of the Klan forced Moore and Dee into a car and drove them into the Homochitto National Forest. Mistakenly believing, without any evidentiary basis, that Dee was a member of the Black Panthers and that he was bringing guns into the county, the Klansmen beat the young men while interrogating them about the location of the weapons. In order to stop the beating, the young men falsely confessed, telling the

Klansmen that guns were stored in a nearby church. The Klansmen then split into two groups: one searched the church for the guns and the other – including Seale – transported the victims to a remote location on the Mississippi River after briefly crossing into Louisiana. Moore and Dee, bound and gagged, were chained to an engine block and railroad ties, taken by Seale out onto the water in a boat, and pushed overboard to their deaths. Their severely decomposed bodies were found months later.

Seale and another Klansman, Charles Edwards, were arrested on state murder charges in late 1964, but the charges were later dropped. In 2006, the Civil Rights Division and the United States Attorney's Office for the Southern District of Mississippi re-opened an investigation into the murders. The investigation determined that the subjects had crossed state lines during the commission of the crime and, as a result, the government could prosecute the subjects under the federal kidnapping statute (18 U.S.C. § 1201). Edwards, who did not directly participate in the murders, was granted immunity and testified against Seale, the only other surviving participant. Seale was indicted in January 2007. In June 2007, Seale was convicted on two counts of kidnapping and one count of conspiracy. He was sentenced to three terms of life imprisonment. Seale's convictions were upheld after extensive appellate litigation. *See United States v. Seale*, 600 F.3d 473 (5th Cir. 2010). Seale died in prison in 2011.

#### *State Prosecutions*

The first successful, federally assisted state prosecution under the Initiative was against Klansmen who bombed the Sixteenth Street Baptist Church in Birmingham, Alabama, on a Sunday morning in 1963. The defendants targeted the church because it served a Black congregation and because it had been used as a meeting place for non-violent protests against

the city's segregation laws. Four young girls – Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley – were killed in the blast. Because of the code of silence among supporters of the Klan, no one was brought to justice for the murders until 1977, when Robert Chambliss was tried and convicted. *See generally Chambliss v. State*, 373 So. 2d 1185, 1187 (Ala. Crim. App. 1979). Chambliss died in 1985. Pursuant to the Department's pre-Till Act cold case process, the case was re-examined in the late 1990s and early 2000s. As a result, the United States Attorney for the Northern District of Alabama was cross-designated to serve as the lead prosecutor in two state trials charging Tommy Blanton and Bobby Cherry with murder. Blanton was convicted in April 2001 and sentenced to four life terms. *See generally Blanton v. State*, 886 So. 2d 850, 857 (Ala. Crim. App. 2003). Blanton died in prison in 2020. Cherry was convicted in May 2002 and also sentenced to four life terms. *See generally Cherry v. State*, 933 So. 2d 377, 379 (Ala. Crim. App. 2004). Cherry died in prison in 2004.

The second successful, federally assisted state prosecution was against one of the defendants against whom the jury failed to reach a verdict in the “Mississippi Burning” case (described in Part A). In a June 2005 trial, Edgar Ray Killen was convicted of three counts of manslaughter and sentenced to 60 years in prison. *See Killen v. State*, 958 So. 2d 172, 173 (Miss. 2007). Killen died in prison in 2018.

The most recent successful, federally assisted state prosecution was against James Bonard Fowler in 2010. Fowler, an Alabama State Trooper, fatally shot Jimmie Lee Jackson in 1965 during a protest in Marion, Alabama. Jackson's murder served as a catalyst for the famed 1965 march from Selma to Montgomery. *See State v. Fowler*, 32 So. 3d 21, 23 (Ala. 2009). Fowler was convicted of misdemeanor manslaughter and sentenced to six months in prison. *See* <http://www.nytimes.com/2010/11/16/us/16fowler.html>.

### **E. Barriers to Successful Federal Prosecution of Cold Cases**

Despite achieving convictions in a few Civil Rights Era cold cases, there remain significant legal limitations on the federal government's ability to prosecute these cases. For example, the Constitution's *Ex Post Facto* clause prohibits the government from prosecuting defendants using laws that were not yet enacted at the time a crime was committed. Thus, when the government evaluates whether it can bring a case in federal court, it must look to the statutes that existed at the time the crime was committed. As discussed above, there were no federal hate crime laws until 1968. Moreover, because those early laws require proof of an intent to interfere with a federally protected right, it is more difficult to obtain convictions under the 1968 laws than it would be under modern hate crime laws, like the Shepard-Byrd Act, that have eliminated the requirement that prosecutors prove a nexus with a federally protected right.

If an act of racial violence occurred before 1968, when the first federal hate crime statutes were enacted, then the government must charge a defendant with violating a Reconstruction Era statute, in which case it is even more difficult for the government to obtain a conviction as most charges that could be brought under these statutes would require proof that at least one defendant acted under color of law. In rare instances, as noted above in the prosecutions of Avants and Seale, the government may charge a subject with violating another federal statute, such as murder occurring on federal lands (18 U.S.C. § 1111) or kidnapping across state lines (18 U.S.C. § 1201), if evidence exists to support those charges.

The government also cannot prosecute a defendant if the statute of limitations (a deadline by which prosecutors must charge a crime) has expired. Before 1968, all federal hate crimes had a five-year statute of limitations (which has now been eliminated for the most

serious crime). However, if an act of racial violence that otherwise meets the elements of a federal hate crime occurred before 1994, the case cannot now be prosecuted.

State murder prosecutions, while not affected by these particular factors, may be barred if there was a previous trial on the same or substantially similar charges. The constitutional protection against double jeopardy prohibits retrial by the same sovereign for the same offense of persons who were previously found not guilty or who were convicted but received shockingly light sentences. There is no exception to this constitutional protection, even if it now appears in modern times that the jurors, prosecutors, or even the court harbored racial prejudice.

Another legal hurdle to successfully prosecuting cold cases is that suspects die, leaving no one to prosecute. The Sixth Amendment and the Due Process Clauses of the Fifth and Fourteenth Amendments give defendants the right to be present at a public trial. *See United States v. Gagnon*, 470 U.S. 522, 526 (1985) (explaining that the right to be present at trial emanates both from the defendant's Sixth Amendment right to confront accusers as well as from the Due Process Clause). Defendants cannot be afforded such rights after death, and therefore the government may not proceed with a prosecution without an available defendant.<sup>5</sup>

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<sup>5</sup> Even a defendant who has been convicted by a jury may have his conviction abated *ab initio* if that defendant dies while a direct appeal of the conviction is pending. In such a circumstance, the prosecution is not merely dismissed. Instead, everything associated with the prosecution is extinguished, leaving the defendant "as if he had never been indicted or convicted." *See United States v. Estate of Parsons*, 367 F.3d 409, 413 (5th Cir. 2004) (en banc).

As a practical matter, even if there is no legal bar to prosecution, there are evidentiary difficulties inherent in all cold case prosecutions. The older the case is, the more difficult it is to overcome these obstacles. First, witnesses die or can no longer be located. Second, memories fade and evidence is destroyed or cannot be located. Finally, original investigators often lacked the technical and scientific advances relied upon today, thus rendering scientific or technical conclusions inaccurate or incomplete (and the evidence on which a scientific conclusion was based may have been destroyed in the routine course of business or may have simply degraded over time). In such cases, even if a living subject exists, these evidentiary hurdles will likely render it impossible for prosecutors to prove guilt beyond a reasonable doubt. Even with our best efforts, investigations into historic cases are exceptionally difficult, and rarely will justice be reached inside of a courtroom.

## **II. COLD CASE STUDY AND REPORT: CASE PROGRESS SINCE THE LAST REPORT**

Pursuant to sections 3(c)(1)(A)-(E) of the Till Act, the Department must report to Congress the total number of investigations opened for review under the Till Act, the number of new cases opened for review since the last report to Congress, the number of unsealed federal cases charged, the number of cases referred by the Department to a state or local government agency or prosecutor, and the number of cases that were closed without federal prosecution. In addition, the Reauthorization Act requires the Department to report the number of cases referred by an eligible entity. This information is set forth below.

### **A. Total Cases Opened for Review**

Pursuant to section 3(c)(1)(A) of the original Till Act, the Department provides Congress information on the number of open investigations under the Act. As discussed

above, the Department's efforts to investigate and prosecute unsolved Civil Rights Era homicides predate the Till Act. During the course of the Department's focus on these matters, it has opened for review 137 matters, involving 160 known victims, and has fully investigated and resolved 125 of these matters through prosecution, referral, or closure.

### **B. Cases Opened Since the Last Report to Congress**

Pursuant to section 3(c)(1)(B) of the original Till Act, the Department provides Congress information on the number of new cases opened since the last report to Congress. Since the last report to Congress in September 2022, the Department has opened no new Till Act investigations and has continued its examination of those opened in prior periods. Since the last study period, 28 potential Till Act cases have been reported to—or were independently identified by—the Department for review and two reported in the last period are still being assessed. As explained more fully below, of these matters referred to the Department, 17 were not opened because they did not fit within the scope of the Till Act. These cases were either not death-resulting cases, did not involve an alleged violation of civil rights laws, or occurred after 1980. Allegations of civil rights offenses that occurred after 1980 were, where appropriate, referred to a Deputy Chief of the Civil Rights Division for analysis. Two of the cases examined fit within the scope of the Till Act but a preliminary review found insufficient evidence to open the matter as a Till Act case. One case referred to us was already open for investigation (and thus not opened based upon the referral). One case referred to us had been previously closed, but we are evaluating whether to re-open the investigation based upon information contained in the referral. Finally, another seven matters reported to us provided

such incomplete, incomprehensible, or unverifiable information that they were inappropriate for even preliminary review and, for that reason, were not opened for investigation.

### **C. Cases Unsealed Since the Last Report to Congress**

Pursuant to section 3(c)(1)(C) of the original Till Act, the Department provides notice that no charged federal cases have been unsealed since the last report.

### **D. Cases Referred to State or Local Authorities**

Pursuant to section 3(c)(1)(D) of the original Till Act, the Department informs Congress that 11 of the 137 matters opened for review have been referred to state authorities since Congress enacted the Till Act. As explained more fully below, during this past reporting period, one case, *In re Henry Marrow*, has been referred to state prosecutors.

### **E. Cases Closed Since the Last Report to Congress**

Pursuant to section 3(c)(1)(E) of the original Till Act, the Department provides the following information about cases it has closed. To date, the Department has closed 112 cases without prosecution or referral to the state. (Of the 125 matters it has fully investigated and resolved, 11 were referred to the state, two federally prosecuted, and the remainder were closed with a written explanation.) There have been no federal prosecutions since the last report. As explained more fully in Section IV below, in the last reporting period, two cases were resolved without referral to the state. The reason each matter was closed is summarized below. A longer memorandum explaining the reasons for the Department's resolution of the case is available at the Department's website. <https://www.justice.gov/crt/civil-rights-division-emmett-till-act-cold-case-closing-memoranda>

In total, since the original Till Act was enacted, 112 cases that were opened for investigation have been closed without prosecution or referral to the state. The reasons for closing a case without referring it to the state vary and include, most notably, (1) the death of all identified subjects; (2) the expiration of the federal statute of limitations coupled with a double jeopardy bar to state prosecution; (3) an inability to prove that the death of the victim resulted from an act of violence; (4) the inability to prove that any deliberate murder was motivated by racial animus or that the murder was otherwise a civil rights offense, or (6) a combination of reasons.

#### **F. Chart**

The Department provides the following chart to illustrate the statistics provided in subsections A through E of Section III of the Report. It lists the names of the victims, incident locations, incident dates, and closing dates (for those cases that are closed) of all cases that have been opened from the time the original Till Act took effect through June 30, 2023.

OPENED CASES	NAME OF VICTIM	INCIDENT LOCATION	INCIDENT DATE	CLOSING DATE
1.	<b>Anthony Adams</b>	Salt Lake City, Utah	November 3, 1978	May 26, 2020
2.	<b>Louis Allen</b>	Amite County, Mississippi	January 31, 1964	May 18, 2015
3.	<b>Andrew Lee Anderson</b>	Crittenden County, Arkansas	July 17, 1963	April 9, 2010
4.	<b>Frank Andrews</b>	Lisman, Alabama	November 28, 1964	November 13, 2013
5.	<b>Jerry Lee Armstrong</b>	De Soto County, Mississippi	December 23, 1977	
6.	<b>Isadore Banks</b>	Marion, Arkansas	June 8, 1954	August 2, 2012
7.	<b>John Bennett*</b>	Augusta, Georgia	May 9-11, 1970	
	<b>Sammie L. McCullough*</b>	Augusta, Georgia	May 9-11, 1970	
	<b>Charlie Mack Murphy*</b>	Augusta, Georgia	May 9-11, 1970	
	<b>Charles Oatman*</b>	Augusta, Georgia	May 9-11, 1970	
	<b>John Stokes*</b>	Augusta, Georgia	May 9-11, 1970	
	<b>Mack Wilson*</b>	Augusta, Georgia	May 9-11, 1970	

	<b>William Wright, Jr.*</b>	Augusta, Georgia	May 9-11, 1970	
8.	<b>John Larry Bolden</b>	Chattanooga, Tennessee	May 3, 1958	April 15, 2010
9.	<b>Preston Bouldin</b>	San Antonio, Texas	May 8, 1953	May 26, 2011
10.	<b>Michael Bowman*</b>	Barton, Arkansas	May 23, 1970	
	<b>Robert Lee Harris*</b>	Barton, Arkansas	May 23, 1970	
	<b>Eddie Jackson*</b>	Barton, Arkansas	May 23, 1970	
	<b>Johnny Lee Williams*</b>	Barton, Arkansas	May 23, 1970	
11.	<b>James Brazier</b>	Dawson, Georgia	April 20, 1958	April 6, 2009
12.	<b>Thomas Brewer</b>	Columbus, Georgia	February 18, 1956	April 6, 2009
13.	<b>Clyde Briggs*</b>	Franklin County, Mississippi	January 18, 1965	April 21, 2021
14.	<b>Hilliard Brooks</b>	Montgomery, Alabama	August 12, 1950	April 9, 2010
15.	<b>Benjamin Brown</b>	Jackson, Mississippi	May 11, 1967	March 19, 2013
16.	<b>Charles Brown</b>	Benton, Mississippi	June 18, 1957	April 16, 2010
17.	<b>Gene Brown/a.k.a. Pheld Evans</b>	Canton, Mississippi	1964	April 21, 2010
18.	<b>Jessie Brown</b>	Winona, Mississippi	On or about January 23, 1965	April 19, 2010
19.	<b>Leonard Brown*</b>	Baton Rouge, Louisiana	November 16, 1972	
	<b>Denver Smith*</b>	Baton Rouge, Louisiana	November 16, 1972	
20.	<b>Carie Brumfield</b>	Franklinton, Louisiana	September 12, 1967	September 24, 2013
21.	<b>Eli Brumfield</b>	McComb, Mississippi	October 13, 1962	April 16, 2010
22.	<b>Johnnie Mae Chappell</b>	Jacksonville, Florida	March 23, 1964	March 20, 2015
23.	<b>Jesse Cano</b>	Brookville, Florida	January 1, 1965	June 3, 2011
24.	<b>Silas Caston</b>	Hinds County, Mississippi	March 1, 1964	May 2, 2010
25.	<b>James Cates</b>	Chapel Hill, North Carolina	November 21, 1970	
26.	<b>James Chaney</b>	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
	<b>Andrew Goodman</b>	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
	<b>Michael Schwerner</b>	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
27.	<b>Thad Christian</b>	Anniston, Alabama	August 28, 1965	April 6, 2011
28.	<b>Clarence Cloninger</b>	Gaston, North Carolina	October 10, 1960	April 3, 2009
29.	<b>Jo Etha Collier*</b>	Drew, Mississippi	May 25, 1971	January 13, 2020
30.	<b>Eddie Cook*</b>	Detroit, Michigan	November 7, 1965	May 15, 2020
31.	<b>Willie Countryman</b>	Dawson, Georgia	May 25, 1958	April 6, 2009
32.	<b>Jean Cowsert*</b>	Mobile, Alabama	January 1967	
33.	<b>Lee Culbreath*</b>	Portland, Arkansas	December 5, 1965	May 7, 2019
34.	<b>Vincent Dahmon</b>	N/A	N/A	April 12, 2010
35.	<b>Jonathan Daniels</b>	Lowndes County, Alabama	August 20, 1965	April 26, 2011
36.	<b>Woodrow Wilson Daniels</b>	Yalobusha County, Mississippi	June 21, 1958	April 12, 2010
37.	<b>Rayfield Davis*</b>	Mobile, Alabama	March 7, 1948	

38.	<b>Henry Hezekiah Dee</b>	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
	<b>Charles Edward Moore</b>	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
39.	<b>George Dorsey</b>	Monroe, Georgia	July 25, 1946	January 27, 2017
	<b>Mae Dorsey</b>	Monroe, Georgia	July 25, 1946	January 27, 2017
	<b>Dorothy Malcolm</b>	Monroe, Georgia	July 25, 1946	January 27, 2017
	<b>Roger Malcolm</b>	Monroe, Georgia	July 25, 1946	January 27, 2017
40.	<b>Roman Ducksworth</b>	Taylorville, Mississippi	April 9, 1962	April 12, 2010
41.	<b>Joseph Dumas</b>	Perry, Florida	May 5, 1962	April 9, 2010
42.	<b>Joseph Edwards</b>	Vidalia, Louisiana	July 12, 1964	February 20, 2013
43.	<b>Willie Edwards</b>	Montgomery, Alabama	January 22, 1957	July 2, 2013
44.	<b>James Evansingston</b>	Tallahatchie County, Mississippi	December 24, 1955	April 12, 2010
45.	<b>Peter Francis*</b>	Perry, Maine	November 15, 1965	October 5, 2018
46.	<b>Phillip Gibbs*</b>	Jackson, Mississippi	May 15, 1970	
	<b>James Earl Green*</b>	Jackson, Mississippi	May 15, 1970	
47.	<b>Mattie Green</b>	Ringgold, Georgia	May 19, 1960	May 4, 2012
48.	<b>Jasper Greenwood</b>	Vicksburg, Mississippi	June 29, 1964	June 17, 2010
49.	<b>Jimmie Lee Griffith</b>	Sturgis, Mississippi	September 24, 1965	August 14, 2012
50.	<b>Paul Guihard</b>	Oxford, Mississippi	September 30, 1962	July 19, 2011
51.	<b>A.C. Hall</b>	Macon, Georgia	October 13, 1962	July 27, 2011
52.	<b>Rogers Hamilton</b>	Lowndes County, Alabama	October 22, 1957	February 10, 2016
53.	<b>Adlena Hamlett</b>	Sidon, Mississippi	January 11, 1966	May 26, 2011
	<b>Birdia Keglar</b>	Sidon, Mississippi	January 11, 1966	May 18, 2011
54.	<b>Samuel Hammond</b>	Orangeburg, South Carolina	February 8, 1968	
	<b>Delano Middleton</b>	Orangeburg, South Carolina	February 8, 1968	
	<b>Henry Smith</b>	Orangeburg, South Carolina	February 8, 1968	
55.	<b>Collie Hampton</b>	Winchester, Kentucky	August 14, 1966	June 1, 2011
56.	<b>Alphonso Harris</b>	Albany, Georgia	December 1, 1966	April 12, 2010
57.	<b>Isaiah Henry</b>	Greensburg, Louisiana	July 28, 1954	May 21, 2012
58.	<b>Arthur James Hill</b>	Villa Rica, Georgia	August 20, 1965	May 18, 2011
59.	<b>Ernest Hunter</b>	St. Marys, Georgia	September 13, 1958	April 6, 2009
60.	<b>Jimmie Lee Jackson</b>	Marion, Alabama	February 18, 1965	May 3, 2011
61.	<b>Luther Jackson</b>	Philadelphia, Mississippi	October 25, 1959	April 16, 2010
62.	<b>Wharlest Jackson</b>	Natchez, Mississippi	February 27, 1967	May 4, 2015
63.	<b>Carol Jenkins*</b>	Martinsville, Indiana	September 16, 1968	
64.	<b>Alberta O. Jones*</b>	Louisville, Kentucky	August 5, 1965	August 11, 2023
65.	<b>Ernest Jells</b>	Clarksdale, Mississippi	September 20, 1963	April 16, 2010
66.	<b>Joseph Jeter</b>	Atlanta, Georgia	September 13, 1958	May 2, 2010
67.	<b>Marshall Johns</b>	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
	<b>Ernest McFarland</b>	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
	<b>Albert Pitts</b>	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
	<b>David Pitts</b>	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010

68.	<b>Nathan Johnson</b>	Alabaster, Alabama	May 8, 1966	April 21, 2011
69.	<b>Bruce Klunder</b>	Cleveland, Ohio	April 7, 1964	April 16, 2010
70.	<b>Margaret Knott*</b>	Butler, Alabama	September 11, 1971	
71.	<b>George Lee</b>	Belzoni, Mississippi	May 7, 1955	June 6, 2011
72.	<b>Herbert Lee</b>	Amite County, Mississippi	September 25, 1961	April 16, 2010
73.	<b>William Henry "John" Lee</b>	Rankin County, Mississippi	February 25, 1965	May 5, 2011
74.	<b>Richard Lillard</b>	Nashville, Tennessee	July 20, 1958	April 15, 2010
75.	<b>George Love</b>	Ruleville, Mississippi	January 8, 1958	June 10, 2011
76.	<b>Maybelle Mahone</b>	Zebulon, Georgia	December 5, 1956	April 6, 2009
77.	<b>Henry Marrow*</b>	Granville County, North Carolina	May 11, 1970	July 14, 2022 – referred to the state
78.	<b>Sylvester Maxwell</b>	Canton, Mississippi	January 17, 1963	May 2, 2010
79.	<b>Bessie McDowell</b>	Andalusia, Alabama	June 14, 1956	April 9, 2010
80.	<b>Robert McNair</b>	Pelahatchie, Mississippi	November 6, 1965	May 26, 2011
81.	<b>Clinton Melton</b>	Glendora, Mississippi	December 3, 1955	April 12, 2010
82.	<b>Hosie Miller</b>	Newton, Georgia	March 15, 1965	June 21, 2011
83.	<b>James Andrew Miller</b>	Jackson, Georgia	August 30, 1964	April 12, 2010
84.	<b>Booker T. Mixon</b>	Clarksdale, Mississippi	October 12, 1959	August 13, 2012
85.	<b>Neimiah Montgomery</b>	Merigold, Mississippi	August 10, 1964	April 12, 2010
86.	<b>Harriette Moore</b>	Mims, Florida	December 25, 1951	July 15, 2011
	<b>Harry Moore</b>	Mims, Florida	December 25, 1951	July 15, 2011
87.	<b>Oneal Moore</b>	Varnado, Louisiana	June 2, 1965	March 31, 2016
88.	<b>William Moore</b>	Attalla, Alabama	April 23, 1963	August 2, 2012
89.	<b>Frank Morris</b>	Ferriday, Louisiana	December 10, 1964	December 30, 2013
90.	<b>James Motley</b>	Elmore County, Alabama	November 20, 1966	April 12, 2010
91.	<b>Claude Neal</b>	Greenwood, Florida	October 26, 1934	October 1, 2013
92.	<b>Samuel O'Quinn</b>	Centreville, Mississippi	August 14, 1959	May 4, 2012
93.	<b>Herbert Orsby</b>	Canton, Mississippi	September 7, 1964	April 12, 2010
94.	<b>Will Owens</b>	New Bern, North Carolina	March 5, 1956	April 3, 2009
95.	<b>Mack Charles Parker</b>	Pearl River County, Mississippi	May 4, 1959	August 30, 2023
96.	<b>Larry Payne</b>	Memphis, Tennessee	March 28, 1968	July 5, 2011
97.	<b>Clarence Horatious Pickett</b>	Columbus, Georgia	December 21, 1957	April 12, 2010
98.	<b>William Piercefield</b>	Concordia Parish, Louisiana	July 24, 1965	September 16, 2013
99.	<b>Jimmy Powell</b>	New York City, New York	July 16, 1964	February 9, 2012
100.	<b>William Roy Prather</b>	Corinth, Mississippi	October 31, 1959	February 16, 2016
101.	<b>Edwin Pratt*</b>	Shoreline, Washington	January 26, 1969	June 15, 2022
102.	<b>Johnny Queen</b>	Fayette, Mississippi	August 8, 1965	July 26, 2013
103.	<b>Donald Raspberry</b>	Okolona, Mississippi	February 27, 1965	May 17, 2010
104.	<b>Donna Reason*</b>	Chester, Pennsylvania	May 18, 1970	
105.	<b>James Reeb</b>	Selma, Alabama	March 9, 1965	May 18, 2011

106.	<b>John Earl Reese</b>	Gregg County, Texas	October 22, 1955	April 15, 2010
107.	<b>Fred Robinson</b>	Edisto Island, South Carolina	August 3, 1960	February 2, 2012
108.	<b>Johnnie Robinson</b>	Birmingham, Alabama	September 15, 1963	April 9, 2010
109.	<b>Dan Carter Sanders</b>	Johnston Co., North Carolina	November 18, 1946	March 5, 2019
110.	<b>Willie Joe Sanford</b>	Hawkinsville, Georgia	March 1, 1957	July 5, 2012
111.	<b>Marshall Scott</b>	Orleans Parish, Louisiana	January 23, 1965	May 25, 2012
112.	<b>Milton Lee Scott</b>	Baton Rouge, Louisiana	July 18, 1973	May 8, 2019
113.	<b>Jessie James Shelby</b>	Yazoo City, Mississippi	January 21, 1956	May 24, 2010
114.	<b>Ollie Shelby</b>	Hinds County, Mississippi	January 22, 1965	April 16, 2010
115.	<b>George Singleton</b>	Shelby, North Carolina	April 30, 1957	April 16, 2010
116.	<b>Ed Smith</b>	State Line, Mississippi	April 27, 1958	November 5, 2009
117.	<b>Lamar Smith</b>	Brookhaven, Mississippi	August 13, 1955	April 12, 2010
118.	<b>Maceo Snipes</b>	Butler, Georgia	July 18, 1946	April 12, 2010
119.	<b>Eddie Stewart</b>	Jackson, Mississippi	July 9, 1966	May 26, 2011
120.	<b>Isaiah Taylor</b>	Ruleville, Mississippi	June 26, 1964	April 12, 2010
121.	<b>Ann Thomas</b>	San Antonio, Texas	April 8, 1969	April 15, 2010
122.	<b>Freddie Lee Thomas</b>	Sidon, Mississippi	August 20, 1965	June 9, 2011
123.	<b>John Thomas*</b>	West Point, Mississippi	August 15, 1970	April 17, 2019
124.	<b>Emmett Till</b>	Money, Mississippi	August 28, 1955	December 6, 2021
125.	<b>Selma Trigg</b>	Hattiesburg, Mississippi	January 23, 1965	May 2, 2010
126.	<b>Ladislado Uresti</b>	San Antonio, Texas	April 22, 1953	April 20, 2010
127.	<b>Hulet Varner</b>	Atlanta, Georgia	September 10, 1966	April 6, 2009
128.	<b>Clifton Walker</b>	Woodville, Mississippi	February 29, 1964	October 1, 2013
129.	<b>Virgil Ware</b>	Birmingham, Alabama	September 15, 1963	March 29, 2011
130.	<b>James Waymers</b>	Allendale, South Carolina	July 10, 1965	April 15, 2010
131.	<b>Ben Chester White</b>	Natchez, Mississippi	June 10, 1966	October 16, 2003
132.	<b>John Wesley Wilder</b>	Ruston, Louisiana	July 17, 1965	May 25, 2011
133.	<b>Elbert Williams</b>	Brownsville, Tennessee	June 20, 1940	November 4, 2018
134.	<b>Rodell Williamson</b>	Camden, Alabama	On or about May 20-22, 1967	May 2, 2010
135.	<b>Archie Wooden</b>	Snow Hill, Alabama	December 25, 1967	April 20, 2010
136.	<b>Samuel Younge</b>	Tuskegee, Alabama	January 3, 1966	March 28, 2011
137.	<b>Unknown*</b>	West Point, Mississippi	1960s/1970s	May 6, 2019

**\*Denotes matter referred to the Department by an eligible entity or a State or local law enforcement agency or prosecutor. See Section 2(2)(B)(i)(IV) of the Reauthorization Act.**

### **G. Cases in the Study Period Referred by an Eligible Entity, Law Enforcement Agency, or Prosecutor**

Pursuant to Section 2(2)(B)(i)(IV) of the Reauthorization Act, now set forth at 28

U.S.C. § 509 (functions of the Attorney General), Unsolved Civil Rights Crimes, § 3(c)(H), the

Department must report the number of cases referred by an eligible entity within the study period. An eligible entity is defined as an entity whose purpose is to promote civil rights, an institution of higher education, or another entity, determined by the Attorney General. The Department must similarly set forth the number of cases referred to it by state or local law enforcement agencies or prosecutors.

Since the last report, two new cold cases were referred to the Department for review by an eligible entity.<sup>6</sup> In addition, since the last report no new cases were referred to the Department by a state or local government. One case referred by an eligible entity in the previous reporting period is still being evaluated to determine whether it should be opened. In addition, 22 potential cold cases were referred to the Department by the public through the cold case reporting e-mailbox. One case reported through the e-mailbox during the last reporting period and evaluated during this rating period was determined to fit within the scope of the Till Act; however, an interview with the complainant and follow-up research determined that there was not sufficient indicia of a crime to provide predication for opening an investigation. The complaint was passed on to state and local law enforcement for their awareness of the complaint. The remaining 21 referrals were not opened for investigation because they did not meet the Till Act criteria.

Since the Reauthorization Act (requiring that the Department keep track of reports made by eligible entities), 19 cases involving 29 known victims have been referred by an eligible entity or by a state or local law enforcement agency. An asterisk on the chart identifies

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<sup>6</sup> Neither of the two matters referred to us by an eligible entity has been opened for investigation; one did not meet the criteria of a Till Act case and one lacked identifiable subjects.

those cases referred by an eligible entity or a state or local law enforcement agency and opened for investigation since the enactment of the Reauthorization Act. The referred cases closed in prior reporting periods are discussed in previous reports.

Additional referrals from eligible entities and state or local law enforcement agencies include nine total matters that were reviewed by attorneys in the Cold Case Unit but never opened. One of these matters is presently being reviewed to determine whether it should be opened. Such unopened referrals are not included on the chart.

Since the last report, no new cases have been referred by a state or local prosecutor.

### **III. COLD CASE STUDY AND REPORT: SUMMARY OF CASES CLOSED SINCE LAST REPORT**

Since the last report to Congress, two cases have been closed and one has been referred to state authorities. The case closings and referral are available on the Department's website – or will be available once the memoranda have been redacted to protect the privacy rights of witnesses and uncharged subjects. The website can be accessed here:

<https://www.justice.gov/crt/civil-rights-division-emmett-till-act-cold-case-closing-memoranda>.

Summaries of the cases are provided below.

#### **A. Alberta Jones**

This matter was reviewed based upon a referral from an eligible entity. On the morning of August 5, 1965, Alberta Jones's body was found floating in the Ohio River near Fontaine Ferry Park, in Louisville, Kentucky. Jones was a prominent Black attorney, whose clients included Mohammad Ali. She was also the first female prosecutor in Louisville and was the founder of the Independent Voters Association (I.V.A.), a non-partisan organization dedicated to enfranchising Black voters and providing them information on political candidates. Given

Jones's high profile as a Black woman prosecutor and her involvement in civil rights activities, there was, and remains, speculation that she was killed because of her race, because of those activities, or both.

The Department undertook a review of an extensive state investigative file, FBI file, and information provided by the eligible entity and Jones's family members. Pursuant to that review, the Department has concluded that the evidence is insufficient to identify who killed Jones, and that there is no clear evidence that Jones was murdered because of her race or because her civil rights activities.

Jones was last seen alive about nine hours before her body was found. She had left the home of a friend at about 1:30 a.m., driving a rented white Ford Fairlane. A couple who lived about a mile from the home Jones visited reported being awakened in the early morning hours by a woman screaming. The husband had then looked outside and saw a woman being dragged into a car and the car had driven off toward the river. On the evening of August 6, Louisville Metropolitan Police Department (LMPD) found the Fairlane in the 3100 block of Del Park Terrace, a little over two miles from where Jones's body had been found and two blocks from the witness's home.

An autopsy determined that Jones's cause of death was drowning. The post-mortem revealed the presence of two cuts on Jones's head and hemorrhage in her right eye, but she had suffered no skull fractures or brain damage severe enough to have been fatal. In Jones's abandoned car, investigators found her blood and other evidence of a struggle. Investigators also found multiple fingerprints on the inside and outside of the Fairlane. It appeared that the car had significantly more miles on it than what could be accounted for by Jones's known activities.

Jones's murder was investigated four times – in the 1960s, late 1980s, between 2008 and 2010, and between 2016 and 2018. In the 1960s, LMPD investigators interviewed more than 400 witnesses. Investigators identified and investigated numerous potential suspects, obtaining the finger- and palm-prints of those individuals and many more, and conducting polygraph examinations of at least nine of the suspects. None of those persons was suspected by police of being motivated by Jones's race or her civil rights activities. Moreover, Jones's family, friends, and associates did not report suspicions of such motivation at the time.

The 1980s investigation was focused primarily on the possible connection between Jones's murder and the October 1964 drowning death of another Black woman, DeCora White, an acquaintance of Jones's. Investigators could not tie the two deaths together nor could any potential suspect identified as a result of that investigation be tied to Jones's death by physical evidence.

In 2008, an automated search conducted by the FBI at the request of LMPD cold case investigators matched a latent fingerprint found on the Fairlane to an individual who was a juvenile at the time of Jones's death. The individual with the matching fingerprint is Black, and he had no known ties to any groups that opposed Jones's voting rights advocacy work. During the initial investigation, no one identified him as a possible suspect or even as an individual who might have knowledge of the crime. The 2016 to 2018 LMPD investigation was again focused on the individual identified in 2008. Among other things, the LMPD obtained the individual's full finger- and palm-prints and compared them to a fingerprint on a torn newspaper in Jones's car: the prints did not match.

Most of the suspects identified originally and in 1980 are now dead and for none was there enough evidence to tie them to the murder. More importantly, there is no clear evidence

that any identified suspect was motivated by Jones's race or civil rights work, or that they acted for any other reason prohibited by federal civil rights laws. Even if additional evidence supporting such a theory could be developed, the case could not be prosecuted federally. There were no federal hate crime laws in 1965, the year Jones was killed. The only civil rights statutes that existed at the time required proof that the defendants acted under color of law. The Department considered allegations made by Jones's family members (and the entity that referred the case to us) that police or other city officials might have been involved in Jones's murder or in covering it up, but there ultimately is a lack of evidence to substantiate the allegations or to tie any specific, living, police official to Jones's murder. Moreover, the five-year statute of limitations period even for those offenses has long since expired.

There is, likewise, insufficient evidence to prove the jurisdictional element necessary to prosecute anyone under other (e.g., non-civil rights) federal statutes. For example, there is no evidence that Jones was killed on federal land as would be needed to prosecute any individual under the federal murder statute. There exists evidence to suggest that Jones's car could have been driven across the Sherman-Minton Bridge into Indiana on the night of the murder. The referring entity has suggested that this evidence could provide a basis for a federal interstate kidnapping charge. However, even assuming the government could prove that Jones's killer or killers drove her car across state lines, the kidnapping statute requires proof beyond a reasonable doubt that Jones was alive in the car when it was driven to Indiana – that burden simply cannot be met. State authorities are aware of this matter and have reviewed it several times as a cold case. Our review has found no additional leads that could be used for a state prosecution. Thus, the investigation is being closed without referral to state authorities.

## **B. Henry Marrow**

Henry D. “Dickie” Marrow, Jr. was a 23-year-old Black man and Army veteran who was beaten and shot to death in Oxford, North Carolina, on May 11, 1970, after allegedly saying something that offended a white woman. By all accounts, three men participated in the assault that killed Marrow. Two of the men are rumored to have been affiliated with the Klan, and at least two witnesses heard those same two men use racial slurs either during or shortly after their assault on Marrow.

Following Marrow’s death, the state charged two men; one with murder (the “charged shooter”), and the other with aiding and abetting murder. This second man was also charged with a felonious assault for firing his shotgun at a second victim, who survived. Both men were acquitted after the third man, who was not originally charged, made a surprise appearance in court and testified, contrary to eyewitness testimony, that he, rather than the charged shooter, shot Marrow. This third man claimed that he fired the fatal shot by accident.

Following the acquittals, the presiding judge issued bench warrants for all three men on various counts, including murder (for the third man), aiding and abetting the third man in murder (for the second man), and felonious assault (for the charged shooter). A grand jury did not return any indictments. In 1977, the prosecutor’s office dropped the pending felonious assault charge against the second man related to the shooting of the surviving victim. To date, the third man has never been formally charged with any crime associated with Marrow’s beating and murder, and the second man has never been tried for the felonious assault on the surviving victim.

The current investigation was opened after a referral by an eligible entity. The investigation focused on whether any evidence or information could be uncovered to support a federal prosecution and, if not, whether any new admissible evidence or information is

available to support further state prosecutions. After interviewing dozens of people, conducting an exhaustive record search, and reviewing media reports from the time of the incident, the Department has identified what it believes to be new information related to the identity of the person who shot and killed Marrow. Specifically, Department investigators spoke with two eyewitnesses to Marrow's murder who were familiar with the subjects and unequivocally identified the charged shooter as the actual shooter, but who acknowledged they were uncomfortable doing so during the state court proceedings. Investigators also spoke with several eyewitnesses who were not called to testify in the state proceedings but who can corroborate witnesses who were called to testify.

Despite this new information, the Department has concluded that a federal prosecution is not viable. At the time of Marrow's death, the only available criminal civil rights statutes were subject to a five-year statute of limitations, which has since run. Federal prosecution is thus precluded.

Prosecution by the state, however, may still be possible. Two of the men were previously prosecuted for murder charges and acquitted. Any state prosecution of these two men for the same or associated crimes for which they were previously prosecuted would be barred by the Constitution's prohibition against double jeopardy. However, the second man was never prosecuted for his felonious assault upon the surviving victim. Similarly, the third man was never charged or prosecuted for any state crime related to his admitted participation in the acts surrounding Marrow's death. Given that there is no statute of limitations for felonies in North Carolina, state prosecutions for these offenses, as well as additional state charges, such as perjury, may still be possible. Therefore, in July 2022, the Department referred this matter to North Carolina's Office of the District Attorney – Eleventh Prosecutorial

District, for its analysis of whether state prosecution of any living subject is possible. The Department has been in regular contact with the District Attorney's Office since then, and it stands prepared to assist the District Attorney if state authorities choose to prosecute this matter.

### **C. Mack Charles Parker**

Late in the evening on Friday, April 24, 1959, between twenty and thirty men met on a road outside Poplarville, Mississippi, where they conspired to abduct Mack Charles Parker from the Pearl River County Jail for the purpose of murdering him. Parker, a young Black man, stood accused of raping a white woman. He was held in the Pearl River County jail and was scheduled to be tried three days later. Parker had obtained Black attorneys as counsel, and white men in the community were concerned that these attorneys would cross-examine the white woman who was Parker's alleged victim.

The men who had participated in the meeting left in a caravan of cars and headed to the jail, located in the back of the county courthouse. Several men parked around the jail and served as lookouts. Using keys provided by a Pearl River County Sheriff's Deputy, eight to ten masked or hooded men entered the jail, where they beat Parker, dragged him from the jail, and shoved him into a waiting Oldsmobile. The Oldsmobile and a second car sped westward toward the Louisiana border. After crossing the Pearl River Bridge and into Louisiana, the Oldsmobile turned around and drove back onto the Pearl River Bridge. The evidence indicates that Parker was likely shot and killed on the bridge. His body then was thrown into the river.

The case was investigated by the FBI at the time of Parker's murder, and the FBI shared its investigative findings with state officials. After a state grand jury failed to return

indictments, a federal grand jury convened, but no indictments issued for any federal crime either.

The FBI briefly reopened its investigation in 1989 and, again, in 1997. The matter was again opened in 2008, pursuant to the Cold Case Initiative. As part of the 2008 investigation, the FBI reviewed its entire investigative file, interviewed additional witnesses, and procured the grand jury testimony of one of the then-surviving subjects. Department attorneys also reviewed the original 1959-1960 Department casefile at the National Archives and Records Administration to determine whether it might yield any additional investigative leads.

This matter does not constitute a prosecutable violation of any federal criminal statute. At the time of the offense, there were no federal laws punishing bias-motivated crimes.<sup>7</sup> The only civil rights statutes that could conceivably have applied to the offense were violations of 18 U.S.C. §§ 241 (civil rights conspiracy) and 242 (deprivation of rights under color of law). Before 1994, these statutes were not capital offenses, thereby subjecting them to a five-year statute of limitations, which has long since expired.<sup>8</sup> *See* 18 U.S.C. § 3282(a).

The only remaining potential vehicle for a federal prosecution is the federal kidnapping statute. However, a kidnapping prosecution is not viable for three reasons. First, all suspects

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<sup>7</sup> The first hate crime laws were enacted in 1968. *See* PL 90-284, 82 Stat. 73 (April 11, 1968).

<sup>8</sup> In 1994, some of these civil rights statutes, including 18 U.S.C. § 242, were amended to provide for the death penalty for violations resulting in death, thereby eliminating the statute of limitations. *See* 18 U.S.C. § 3281 (“An indictment for any offense punishable by death may be found at any time without limitation.”). However, the *Ex Post Facto* Clause prohibits the retroactive application of the 1994 increase in penalties and the resultant change in the statute of limitations to the detriment of criminal defendants. *Stogner v. California*, 539 U.S. 607, 611 (2003). It also prohibits retroactive application of modern civil rights statutes to actions that occurred before their enactment.

are deceased, with the possible exception of one subject who has never been positively identified and who cannot be connected to the crime except by testimony of a witness who is now deceased.

Second, prosecution for kidnapping (or conspiracy to commit kidnapping) may well be time-barred.<sup>9</sup> Third, due to lack of living witnesses, the government could not prove a critical element of a kidnapping offense. At the time of the lynching, the federal kidnapping statute required that the victim be transported in interstate or foreign commerce: across state lines or national boundaries. Although our review of the file indicates that several witnesses reported

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<sup>9</sup> Federal law provides that offenses punishable by death are not subject to a statute of limitations. *See* 18 U.S.C. § 3281 (1958) (“An indictment for any offense punishable by death may be found at any time without limitation except for offenses barred by the provisions of law existing on August 4, 1939.”); 18 U.S.C. § 3281 (2013) (“An indictment for any offense punishable by death may be found at any time without limitation.”). At the time of Parker’s murder, a violation of 18 U.S.C. § 1201, the federal kidnapping statute, was a death-eligible offense. *See* 18 U.S.C. § 1201(a) (1958) (providing for punishment by death if the victim not liberated unharmed, and upon jury recommendation). It is also now a death-eligible offense.

However, in 1972, the federal kidnapping statute was amended to remove the death penalty as a potential punishment. *See* Pub. L. No. 92-539, 86 Stat. 1070-73. In an appeal arising from a 2007 prosecution for a 1964 civil-rights-era murder, the Fifth Circuit Court of Appeals initially held that the 1972 amendment retroactively applied to the federal kidnapping statute the general federal five-year statute of limitations for criminal offenses. *United States v. Seale*, 542 F.3d 1033, 1045 (5th Cir. 2008). On this reasoning, the Fifth Circuit held that defendant’s prosecution was time-barred, reversed the district court’s denial of defendant’s motion to dismiss, and entered a judgment of acquittal. *Id.* However, on rehearing *en banc*, the Fifth Circuit split 9-9 on the issue, thereby affirming (albeit only nominally) the district court’s denial of defendant’s motion to dismiss on timeliness grounds. *See United States v. Seale*, 600 F.3d 473, 478 (5th Cir. 2010) (recounting procedural history). The question thereafter was certified to the Supreme Court, which then dismissed the certified question. *Id.* The Fifth Circuit subsequently upheld the defendant’s conviction without further discussion of the applicability of the federal statute of limitations. *Id.* at 497. Given the Fifth Circuit’s diffident treatment of the issue, it appears that any potential defendant in this matter has, at minimum, a colorable argument that a prosecution under the federal kidnapping statute is barred by the five-year general federal statute of limitations, and we cannot predict with any confidence how such an argument would be received by courts in the Fifth Circuit.

seeing a car transport Parker from the jail, and another witness told the FBI that he saw that same car travel into Louisiana, any witnesses who could testify that Parker was transported across state lines are now deceased. The government would therefore be unable to establish this element beyond a reasonable doubt.

The Department has the authority under the Till Act to refer matters to the state for prosecution. No referral is warranted here. Due to lack of living subjects and witnesses, state charges (for example murder charges) would likely be unsuccessful.

#### **IV. COLD CASE STUDY AND REPORT: REPORT ON NON-CASE SPECIFIC FACTORS**

Pursuant to sections 3(c)(1)(F)-(G) of the Till Act, the Department must report to Congress the number of attorneys who worked on any case under the Till Act, as well as the number of grant applications submitted by state or local law enforcement agencies for expenses associated with their investigation and prosecution of cases under the Till Act, and the amount of any grants awarded. This information is set forth below.

##### **A. Number of Attorneys Who Worked in Whole or in Part on Cases**

Pursuant to section 3(c)(1)(F) of the original Till Act, the Department provides the following information about the number of attorneys who have worked on cold cases. At least 88 federal prosecutors have worked on cases reviewed as part of the Department's Cold Case Initiative and work under the Till Act. During this reporting period nine attorneys have worked multiple hours on Till Act cases.<sup>10</sup> Some of these attorneys have reviewed files (many

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<sup>10</sup> Between July 1, 2022 and June 30, 2023, employees of the Criminal Section of the Civil Rights Division expended 3,140.5 hours on cold case work. Approximately 1,235.5 of those hours were spent on individual case work and the rest on general cold case issues, including compliance with the Cold Case Records Collection Act.

of which are extensive) and drafted memoranda explaining decisions about why a case could not be prosecuted.

In addition, a contract investigator spent 960 hours on Till investigations and a victim-witness coordinator has devoted multiple hours reaching out to victims' families. The number does not include the numerous federal agents, local law enforcement officials, or other contract employees who have provided additional assistance.

### **B. Number of Grants**

The Emmett Till Cold Case Investigations and Prosecution Program, launched in FY 2020, provides support to state, local, and tribal law enforcement and prosecutors in their investigation and prosecution of cold case murders associated with civil rights violations. Funds are limited to address violations of civil rights statutes resulting in death that occurred no later than December 31, 1979. General information about the program is available here.

[Emmett Till Cold Case Investigations and Prosecution Program | Overview | Bureau of Justice Assistance \(ojp.gov\)](#).

In fiscal year 2022, the Bureau of Justice Assistance (BJA) awarded two new site-based awards under the Till Act: one was made to the Tulsa Police Department and one to the Office of the District Attorney in Fulton County, Georgia. The money awarded to the Tulsa Police Department will be used to pursue forensic genetic genealogy identifications for potential 1921 Tulsa Race Massacre victims exhumed in the 2022 search of Tulsa Oaklawn Cemetery.

[Emmett Till Cold Case Investigations and Prosecution Program | Bureau of Justice Assistance \(ojp.gov\)](#). The money awarded to Fulton County is expected to fund a Victim-Witness Advocate to support families of cold case victims and to do outreach to discover cold case

incidents never fully investigated. [Fulton County, Office of the District Attorney, home of the civil rights movement investigates cold cases | Bureau of Justice Assistance \(ojp.gov\)](#).

The Department is currently in the process of receiving and evaluating applications for Till Act grants for fiscal year 2023. It anticipates making awards in the amount of \$750,000.

To assist law enforcement and prosecutors in pursuing these cases, BJA recently selected a team of training and technical assistance (TTA) providers to assist grantees in implementing the program as well as to support the field. Next summer, BJA will launch a rolling microgrant program to provide support for discrete investigations or projects that require less grant funding than the larger site-based awards.

### **C. Notifying Victim Family Members**

The Cold Case Unit has devoted considerable resources to locating the next of kin of cold case victims, and we have met with family members in all of the cases closed during this reporting period. Generally, a Victim-Witness Coordinator from the Civil Rights Division contacts the next of kin to alert him or her that a matter involving a loved one is being reviewed to determine whether the family member would like to meet with attorneys and investigators during the review. This process not only alerts family members that the death is under review, but also allows Cold Case Unit attorneys to obtain any information or suggestions about leads that the family wishes to provide.

If a decision is made to close the case, the family member is again contacted and attorneys from the Division meet with the next of kin, either in person or through a virtual platform. This contact is followed up by a letter fully setting forth the reason a case has been closed or other action has been taken. In some rare instances, the government has been able to

give family members further closure by returning property of their loved one that had been long held in evidence files.

## V. **IMPLEMENTATION OF THE REAUTHORIZATION ACT**

The Reauthorization Act, enacted on December 16, 2016, requires, among other things, that the Department meet regularly with civil rights organizations, institutions of higher education, and Department-designated entities to coordinate information sharing and to discuss the status of the Department's Till Act work. *See* Section 2(I)(c)(3) of the Reauthorization Act, now set forth at 28 U.S.C. § 509 (functions of the Attorney General), Unsolved Civil Rights Crimes, § 3(b)(4). The Act also requires that the Department hold meetings with representatives of the Civil Rights Division, FBI, the Community Relations Service, eligible entities, and, where appropriate, state and local law enforcement agencies to discuss the status of the Department's work under this Act. *See* Section 2(2)(iii)(4) of the Reauthorization Act, now set forth at 28 U.S.C. § 509 (functions of the Attorney General), Unsolved Civil Rights Crimes, § 2(2).

As first stated in the 2018 report and reiterated last year, the FBI has developed a Till Act training, which it can give to interested community groups with the assistance of prosecutors in the Civil Rights Division's Criminal Section. The Department of Justice's Hate Crime Initiative has developed a hate crime webpage that contains a contact link that can be used by any community group interested in requesting a training. The Department provided a training in 2023 to an academic institution that requested it through the Department's Hate Crime web page. The page also contains information about reporting hate crimes, including Till Act crimes. As noted above, anyone wishing to report a hate crime may do so through the Cold Case e-mailbox: [Coldcase.Civilrights@usdoj.gov](mailto:Coldcase.Civilrights@usdoj.gov).

## **VII. CONCLUSION**

The Department remains committed to working with eligible entities and others to identify potential cases that fall under the Till Act's jurisdiction. We will devote all necessary resources to ensure that those matters are reviewed and investigated as appropriate. Our efforts in doing so are to provide transparency to family members of the victims and to provide the greater public with truthful accounts of these matters. Of course, the Department remains committed to prosecuting any cold case in which living subjects exist, and in which the law and facts, including facts supporting federal jurisdiction, warrant prosecution. Should we identify a prosecutable case for which we are unable to establish federal jurisdiction, we will lend our assistance and resources to our state and local partners to ensure that best efforts are put forth to achieve justice.