

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-17-792

Date Oct. 01, 2013

To: Chief, Criminal Section

Re: Unknown Subjects;
Brewton, Alabama,
Greenwood, Florida,
Marianna, Florida;
Claude Neal (Deceased) – Victim;
CIVIL RIGHTS

It is recommended that the above case be closed for the following reasons:

Case Synopsis

On October 26, 1934, Claude Neal, the 23-year-old African-American victim, was brutally lynched by a group of white men who had stormed the county jail in Brewton, Alabama where the victim was being held after confessing to the murder of a 20-year-old white woman in Greenwood, Florida. Following the victim's removal from his jail cell, the men brought the victim back to Florida, tortured him for several hours in the woods, then murdered him. The members of the lynching party then tied the victim's body to the back of an automobile and dragged the body to the home of the deceased woman's family where a large mob had gathered.

Shelly Ward
Attorney

To: Records Section
Office of Legal Administration

The above file has been closed as of this date.

Date

Deputy Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

The woman's family members drove knives into the victim's chest and torso, after which the lynching party hung the victim's nude body from a tree in the courthouse square in Marianna, Florida.

The victim's body was cut down on the morning of October 27, 1934, after numerous local citizens had viewed and photographed it. An angry mob then drove African-American citizens from their homes and businesses, and several African-American men were attacked by members of the mob. With the onset of heavy rain and the arrival of national guardsmen, the mob finally dispersed the next day.

Federal Investigation

The Federal Bureau of Investigation (FBI) opened an investigation into the circumstances surrounding the victim's death pursuant to the Department of Justice's "Cold Case" initiative, which focuses on civil rights homicides that occurred not later than December 31, 1969. As part of its investigation, the FBI obtained the state investigative file from the Alabama Department of Archives and History; the grand jury report from the Circuit Court of Jackson County, Florida; the Report of Investigation made for the National Association for the Advancement of Colored People (NAACP) by Howard Kester in 1934; and newspaper reports from around the time of the incident. Federal prosecutors also obtained and reviewed a copy of the 1982 book "Anatomy of a Lynching: The Killing of Claude Neal," by the late James R. McGovern. The book provides a detailed and thoroughly researched account of Neal's murder. Federal prosecutors then carefully reviewed these materials in the hope of identifying new leads that would reveal the identities of the men who removed the victim from the Brewton jail and lynched him. No new leads were discovered, and given the state of the evidence and the age of the case, there is no realistic chance of a criminal prosecution at this time.

Local Investigation

On October 19, 1934, Claude Neal was arrested for the murder of his employer's daughter, 20-year-old Lola Cannidy, by Jackson County Deputy Sheriff J.P. Couliette. Lola disappeared from her residence in Greenwood, Florida on the afternoon of October 18, 1934, and her body was found the next morning a short distance from the Cannidy home, badly mutilated about the head and arms. Sheriff W. Flake XXXX of Jackson County was called to the Cannidy home where he commenced an investigation into Lola's death. Several local boys mentioned that they had seen Claude Neal in the area at the time of the crime with a wound to his hand, which he claimed to have sustained while repairing a fence. Investigators searched the home of Neal's XXXXXXXXXX, and claimed to have found bloody clothing inside the home. A search was immediately begun for Claude Neal, and he was found in a corn crib and arrested. Neal initially implicated his XXXX, in Lola's murder, and XXXX was also arrested.

Sheriff Chambliss, who was at the Cannidy residence at the time of Neal's arrest, became aware of the lynching spirit arising in the community and decided to transfer the victim to another location in Florida for his protection. Shortly after his arrest, Neal was moved to several local jails in the Florida panhandle before being sent to the Escambia County Jail in Brewton,

Alabama.

In a letter to the file, Twenty-First Judicial Circuit, Alabama Solicitor Hugh M. Caffey, Jr. stated that he interviewed Escambia County XXXXX regarding the Claude Neal incident. XXXX stated that Pensacola Sheriff Herbert Gandy brought the prisoner to him at the Brewton Jail on the morning of October 20, 1934, and asked XXXX to keep the prisoner for a day or so for "safekeeping" and in order to see if they could get a confession from him. XXXX stated that he did not tell anyone, including his deputies, the identity of the prisoner they were keeping. XXXX made several trips to the jail to question Neal, and Neal finally confessed to the murder of Lola Cannidy. At first, Neal implicated his XXXX in the rape and murder. Two days later, without apparent justification, XXXX came to the jail with XXXX and took Neal and XXXX to a secluded spot two miles from Brewton. XXXX stated that he was also present at the meeting and that Neal repudiated the part of his confession that implicated XXXX and acknowledged that he was the sole actor in the murder. The following day, XXXX asked the county solicitor to put down the amended confession in writing.

In a typed confession, dated October 22, 1934, and signed with an "X", Neal stated that on the night of October 17, 1934, he spent the night with his wife in Malone, Florida. Neal returned to the residence of his employer, Wilford Cannidy, by wagon the next morning along with his wife. Neal spent the morning with Mr. Cannidy breaking a mule to the plow. Neal and Mr. Cannidy plowed until noon. Neal then left the Cannidy residence and went to his mother's house where he met XXXX out in the field adjacent to the Cannidy field. Neal and XXXX went over to the pump on the edge of the Cannidy field where they encountered Lola Cannidy cleaning out the hog trough. Lola asked Neal if he would clean the trough out for her, and Neal agreed. When Lola turned to go back to the house, XXXX grabbed her by the arm and asked her to have sexual intercourse with him. Lola refused and called out for her brother. XXXX pulled Lola over the fence and choked her. With Neal's assistance, XXXX carried Lola to the edge of the woods. XXXX told her to lie down, and Lola complied. XXXX told Neal to hold Lola's arms down while he had intercourse with her. Neal stated that Lola was fighting him off with her hands and trying to kick XXXX off of her. When XXXX finished having intercourse with Lola, he told Neal that it was his turn. Neal stated that he told XXXX he did not want to do it, but then had intercourse with Lola while XXXX held her down. Neal stated that XXXX then broke off a branch from a dead oak tree and hit Lola in the head with it. Neal and XXXX covered Lola with two logs and left her in the field. Neal stated that Lola "was not quite dead at that time." Neal then returned to his mother's house, which is where the sheriff came and arrested him.

In a Supplementary Confession on October 25, 1934, which was also signed with an "X", Neal stated that "XXXX had nothing to do with raping or murdering@ Lola Cannidy. Rather, Neal led her off to the woods himself and raped her. Neal stated that he then held Lola down with one hand while he broke off a branch from an oak tree. Neal struck here in the head with the branch and left her in the woods.

XXXX stated that he placed Neal in "the death cell," which is the best protected cell in the jail. XXXX stated that he had a double lock put on the cell door. XXXX promised to notify

XXXX if he heard any rumors about a mob being formed to take Neal from the jail. After the amended confession was signed, XXXX asked XXXX to take Neal back with him because he was being inadequately protected at the jail. XXXX said that he could not take Neal back with him at that time, but he would likely return that night to take Neal to Fort Barancas.

XXXX stated that at midnight on October 26, 1934, *The Associated Press* called him and asked him to confirm a statement they had received from Florida that Neal had confessed and was being held by XXXX at his jail. XXXX initially denied Neal's presence, then admitted that Neal had confessed, but claimed that Neal had been removed from the Brewton jail. At 2:00 a.m., XXXXXX called XXXX and advised him that Officer R.A. Strong had phoned and said that there was a danger of mob violence towards Neal. XXXX stated that he rushed over to the jail and arrived there within five minutes of the phone conversation. XXXX stated that there were two-to-three cars already at the jail, and one of the occupants of the cars, who was dressed in khaki, held an automatic shotgun on XXXX, while two other well-dressed men questioned him.¹ XXXX stated that he assured the men that Neal was no longer housed at the Brewton jail and even offered to take the men through the jail as he had safely concealed Neal inside the death cell. XXXX stated that the men expressed confidence that Neal was no longer at the jail, shook hands with XXXX and left the jail. XXXX stated that he got into his car and followed the men to determine if they were leaving town by way of Pensacola or Milton. The cars left Brewton via a bridge across Murder Creek into East Brewton.

XXXX stated that he turned around, drove to the courthouse, and spoke with Officers R.A. Strong and XXXX about possibly needing their assistance later on that morning. XXXX then saw four cars pass by him at a high rate of speed, traveling in the same direction the other cars had traveled on their way out of Brewton. XXXX stated that he rushed back to the jail to see if Neal had been taken and learned that the kidnappers had forced a janitor at the jail, at gunpoint, to unlock the cell. XXXX called XXXX by phone and told him that Neal had been taken from the Brewton jail. At the conclusion of his statement, XXXX stated that he warned Neal to say nothing about what he was being detained for because a mob wanted to lynch him. Neal stated that he did not care if the mob came and got him because he knew that he would die in the electric chair, and he would just as soon have a mob lynch him then so that he could get his thoughts away from the electric chair. XXXX stated further that he knew that Neal had told at least one other prisoner at the Brewton jail, in addition to a jailer, what he was in there for. XXXX stated that he told the jailer to try and stop Neal from talking to anyone.

Solicitor Caffey also interviewed City of Brewton Officer R. A. Strong,² who was formerly the sheriff. Strong stated that he was on duty at the Brewton jail on October 20, 1934, the morning that XXXX brought Claude Neal in. When Strong questioned XXXX about Neal's

¹ XXXX stated that he only saw these three men and doubted he would be able to identify them if they were brought before him. XXXX stated further that he did not take down the license plate numbers on any of the cars.

² According to Alabama death records, Sheriff Strong passed away in 1964.

detention at the jail, XXXX denied that Neal was still being housed there and claimed that Neal had been taken to Evergreen en route to Birmingham.

Strong stated that he was also on duty at the jail on the night of October 26, 1934, when a group of unknown men took Neal from the jail. At approximately 1:30 a.m., Strong saw two-to-three cars with Florida license plates driving around Brewton. Strong and XXXX deemed the vehicles suspicious, but thought the occupants were planning a bank robbery rather than a lynching. Strong followed one of the cars to the courthouse and stopped it. One of the occupants called out to Strong and said that they were police officers from Florida and that they wanted to see the sheriff. Strong described this man as wearing khaki pants, a flannel shirt and boots. Strong stated that he was not close enough to identify the man again if he saw him. The man asked Strong if the sheriff was at the jail, and Strong replied that the sheriff was most likely at home. They asked Strong if the jail was on top of the courthouse, and Strong said that it was not and told them where the Brewton jail was located. The cars then turned around and started back to Brewton via Milton Road.

Strong stated that at approximately 1:45 a.m., civilian XXXX³ came into town via Milton Road to pick up his daughter, who worked at the silk mill. XXXX stopped at City Hall and told Strong that a crowd of men had gathered at the end of the pavement in East Brewton. XXXX asked Strong if Neal was housed at the Brewton jail, because XXXX suspected that the mob was there to remove Neal.

Knowing that Neal had been in Brewton, Officer Strong stated that he walked into City Hall and phoned XXXXXX to tell him about the mob that was gathering. As soon as Strong hung up the phone and stepped out of the building, he saw what he believed to be a scout car traveling in the direction where XXXX said the other cars were parked. Strong later saw two-to-three cars headed north on Mill Street in the general direction of the jail. XXXX came by City Hall at that point and told Strong and XXXX that a mob had formed at the end of the pavement, but XXXX had "out talked them" and promised to deliver Neal to the Florida officers later that morning. As the three men were talking, Strong saw three cars drive by at a high rate of speed. Strong stated further that Claude Neal was in the rear of one of the cars sitting between two white men. Strong said that the men were unmasked, but they were traveling so fast, it was impossible to identify them.

Strong stated that as soon as the three cars passed them by, XXXX stated that he had better go over to the jail to see what they had done with jailer XXXX. Strong stated that he and XXXX remained at City Hall. Strong stated that in his opinion, the news of Neal's whereabouts

³ XXXX was interviewed by Solicitor Caffey. XXXX stated that earlier that day, he was at a store in Brewton when an acquaintance named XXXX came in and said that he had heard Neal's confession read at the drug store in front of a group of people. XXXX stated further that he heard that there was a mob of approximately 300 men who were gathering to lynch Neal. XXXX stated that up until then, he was not aware that Neal was being housed in the jail in Brewton or that a mob was gathering to lynch Neal.

was leaked out from Pensacola. Strong bases his opinion on the fact that newspaper reports stated that the sheriff of that county (XXXX) openly stated after Neal's confession "that he had never wanted to kill a Negro so badly in his life."⁴

Solicitor Caffey also interviewed XXXXXXXXXX. XXXX stated that on the morning of October 26, 1934, just after XXXX had left the jail, three-to-four cars drove up to the jail. The occupants jumped out and covered XXXX with their guns. The men ordered XXXX to drop his keys and said they wanted to go inside and look through the Negro cells. One of the men also had an arm full of dynamite and threatened to blow up the jail if they did not find what they were looking for. The men found Neal but were unable to unlock the cell. They held their guns on XXXX, forced him to unlock the cell, and removed Neal from it. XXXX arrived at the jail minutes later, and XXXX told him that Neal had been taken.

According to investigative reports, the men brought Neal back to Jackson County, Florida. Somewhere between Brewton, Alabama and Marianna, Florida, Neal was tortured and brutally killed. His body was then hung from a large tree outside the courthouse in Marianna. According to recent FBI reports, the case received national attention around the time the incident occurred because the nation was in the process of considering anti-lynching legislation. Significant public source documentation cast doubt on Neal's guilt, yet despite the attention the matter received in the media, little was done to officially investigate it or to hold those responsible for Neal's kidnap and murder legally accountable.

In a letter dated October 30, 1934, Twenty-First Judicial Circuit, Alabama Solicitor Hugh M. Caffey, Jr. answered Alabama Governor Benjamin M. Miller's call for an investigation into the lynching of Claude Neal. Mr. Caffey noted that as Neal was taken from the jail around 3:00 a.m., it was going to be very difficult to determine whether or not the Sheriff or his deputies were culpable in the matter, as they were the only witnesses to the event.

In a letter dated November 3, 1934, from Alabama Governor Miller to Solicitor Caffey, Miller indicated that he had reviewed the interview statements summarized above, which were sent to him by Caffey. Miller determined that it was absolutely necessary that a grand jury be convened in Escambia County, Alabama to investigate the lynching of Neal. Miller wrote that he had seen statements in the newspapers indicating that Neal was murdered in Alabama, rather than in Florida.

In a letter dated November 5, 1934, from Alabama Governor Miller to Florida Governor Dave Sholtz, Miller indicates that a special term of court was called to begin on November 19, 1934, in Escambia County, Alabama. Miller requested that Governor Sholtz request XXXX of Marianna, Florida and XXXX of Pensacola, Florida to attend the special session and to give the grand jury any assistance deemed necessary. In a letter dated November 6, 1934, Governor Sholtz replied and stated that he was requesting that XXXXXXXX attend the special session of

⁴ Although Strong's account is suspect in many respects, there is no extant evidence to conclusively refute it, and in any event, Strong is deceased.

court. Pensacola XXXX sent a telegram dated November 7, 1934, to Governor Miller in which he agreed to appear before the grand jury. Sheriff Chambliss also agreed to attend the grand jury in a letter to Governor Sholtz dated November 10, 1934. In a letter dated November 11, 1934, Solicitor Caffey informed Alabama Governor Miller that a Florida grand jury had concluded that the lynching took place in Florida, rather than in Alabama, leaving Caffey without jurisdiction in the matter. The only remedy available to Caffey was to investigate the conduct of XXXX and his jailer in connection with Neal's kidnaping.

According to the Florida grand jury report, dated November 9, 1934, from the Circuit Court of Jackson County, the grand jury convened on November 5th through 7th, 1934. The report states that the grand jury was not able "to get much direct or positive evidence" in reference to the matter. Rather, "practically all of [their] evidence and information [was in] the nature of hearsay and rumors."⁵ The grand jury was able to conclude that Lola Cannidy was raped and murdered on October 18, 1934, by Claude Neal, and that Neal came to his death in Jackson County on October 26, 1934, at the hands of a small group of persons unknown to the grand jury after being forcibly removed from the jail in Brewton, Alabama, by persons unknown to the grand jury. The grand jury also concluded that the Jackson County Sheriff Adid everything in his power under the circumstances to protect his prisoner. In conclusion, the grand jury report states that the grand jurors did not think anything could be accomplished by remaining in session any longer, but they would be willing to continue their investigation of the matter any time convincing evidence of a substantial nature was brought forth.

The FBI also obtained a letter to Florida Governor Sholtz from Jackson County Sheriff Chambliss, dated October 31, 1934, detailing the events leading up to the lynching of Claude Neal in chronological order. The description of the events was largely consistent with that which was set forth in the investigative reports and interview summaries from the Alabama investigation.

Kester Investigation

In an unofficial capacity, the NAACP sent an investigator, Howard A. Kester, to Marianna, Florida to look into the matter. Kester was a nationally known, white academic theologian, and an anti-lynching expert. His initial on-the-ground observations and interviews of several individuals in and around Marianna may be the most contemporaneous evidence as to

⁵The FBI interviewed XXXXXXXXXXXXXXX for Jackson County, Florida on September 1, 2011. She advised that because no one had been charged in court in the 1934 investigation, she did not believe there would be any relevant Florida records other than the grand jury report itself. When the interviewing agent advised that he believed a coroner's investigation and a grand jury investigation had taken place, XXXX stated that due to very poor record keeping procedures around 1934, and for several years afterwards, there were approximately 100 boxes containing files that were not indexed and not in any retrievable order. XXXX was also able to locate a detailed letter to Florida Governor Sholtz from Jackson County Sheriff Chambliss.

what transpired, due to the timeliness of his arrival in Marianna. As part of his week-long investigation, Kester interviewed numerous members of the white and African-American community, including several members of the mob and one of the men in the smaller lynching party. Kester died in 1977, but was believed to be associated with the University of North Carolina for several years where his academic papers are housed. The FBI obtained several versions of Mr. Kester's report in various stages of editing. Kester did not identify his sources, so the value of many of his conclusions is limited for evidentiary purposes.

Kester wrote that it was widely known in the Negro community that Neal had been having sexual relations with Lola Cannidy for a period of nearly two years prior to her death. One of Kester's sources, who was a friend of Neal's, reported that Neal told him that on the day of Lola's death, she broke off her relationship with Neal and told Neal that if he ever spoke to her again, she would tell the white men in the community about their relationship. Neal became enraged with Lola and killed her. Kester stated that Neal likely implicated XXXX in the crime because XXXX had recently "whipped" Neal in a fight.

Kester wrote that he "was reliably informed" that a prominent businessman in Marianna, Florida arranged with friends in Pensacola to notify him the moment that Neal was removed from Pensacola. When word of Neal's move from Pensacola to Brewton was received, several carloads of men set out for Brewton from Marianna. Kester wrote that in his opinion, taking Neal from Pensacola to Brewton was equivalent to handing him over to the mob." Kester stated further that had the officers truly been concerned about Neal's safety, they would have either kept him in Pensacola or taken him to Mobile, Alabama or some other large town.

Kester wrote that according to an unidentified member of the mob whom he interviewed for one hour and 45 minutes, Neal was lynched by a small group of men in an isolated spot about four miles from Greenwood, Florida, and not in Alabama, as was first reported by the media. During the lynching, which lasted ten-to-twelve hours, the men cut off Neal's penis and testicles and forced him to eat them. They sliced Neal's sides with a knife and cut off his fingers and toes. The men also burned Neal with hot irons and hung him from a rope almost to the point of strangulation. After several hours of torturing Neal, the members of the lynching party decided to kill him.⁶ After killing Neal, they tied his body to a rope on the rear of an automobile and dragged him to the Cannidy home where he was left in the road. A woman exited the Cannidy residence and drove a butcher knife into Neal's heart. A mob consisting of thousands of people from eleven southern states then converged on the property and kicked Neal's body and ran him over with their cars. The body, which was severely mutilated by this point, was then driven 10-to-11 miles to the courthouse square in Marianna, Florida, where it was hung from a tree in the northeast corner. Photographs were taken of Neal's mutilated corpse and sold to spectators. A few people were said to have kept Neal's fingers and toes as souvenirs, which they preserved in jars filled with alcohol. The body was eventually cut down on the morning of Saturday, October 27, 1934, and buried two hours later.

⁶ Kester did not state the cause of death, nor was an autopsy performed on Neal's body. However, media reports from the time of the lynching reported that Neal was slashed and shot to death.

Kester wrote that after Neal's body was removed from the square, most of the members of the mob dispersed. However, a smaller mob had formed and around noon that day, a white man struck an African-American man, who defended himself by throwing a glass soda bottle at his white attacker. The crowd members who witnessed the incident flew into a frenzy, and the African-American man narrowly escaped the mob and ran across the street to the courthouse where he was given protection by a friendly group of white nuns. The mob selected another African-American victim, but were kept at bay by a group of white citizens armed with a machine gun.⁷ Kester stated that the mob then attempted to systematically drive all the African-Americans from the town. Kester stated that the effort was led by a "young man from Calhoun county who [had] money and [came] from a good family." This individual is not further identified. During the mob effort, Marianna was virtually without police protection given that members of the mob had threatened to beat any members of the police force they came across. The National Guard was called in after the Marianna Mayor called the Governor of Florida and asked for assistance. When the guardsmen arrived, they patrolled the town, particularly the African-American sections, and the mob dispersed.

Kester wrote that it was well known that some of Marianna's most prominent citizens and businessmen were involved in the lynching. However, those citizens who were disturbed by the lynching were afraid to come forward and tell the authorities about the identities of the men in the lynching party. Kester stated that in large part, the citizens of Marianna accepted the lynching of Neal as a "righteous act." Kester stated further that the lynching was a symptom of economic woes in that white men felt that African-American men were taking their jobs. Therefore, the lynching was a way to threaten white employers who hired African-American laborers and the African-American laborers themselves. The NAACP turned over Kester's report to Alabama Governor Miller on November 22, 1934. Kester is deceased, and there is no further information available to identify his alleged sources.

McGovern Investigation

According to a 1982 book titled "Anatomy of a Lynching" by the late James McGovern, at the time of publication, all but one of the original six members of the lynching party were deceased.⁸ The book contains interviews of both whites and African-Americans who remembered the lynching and spoke to McGovern on conditions of anonymity. McGovern wrote that he obtained especially useful information from two persons, one the editor of a local

⁷ According to the letter from Sheriff Chambliss to Governor Sholtz, this man was identified as XXXX. XXXXX was said to have rescued XXXX from the mob and held him on the second floor of the courthouse. The mob stormed the courthouse demanding that XXXX also be lynched. XXXXXXXX, Circuit Judge Lewis, and Justice Buford of the Supreme Court were able to hold them off with the aid of several good citizens.

⁸ McGovern wrote that at the time of the murder, five of the members of the smaller lynching party were middle-aged, and the sixth was in his mid-20s.

newspaper at the time of the incident, and the other a close friend of the mob members to whom they related the details of the lynching.

McGovern wrote that Neal was lynched in a woodland area several miles from the Cannidy farm. The original plan to publicly lynch him on the grounds of the Cannidy farm was abandoned because the leaders of the lynching committee became fearful that they might be held criminally responsible for injuries or deaths suffered by whites in the turbulent crowd that was said to have exceeded one thousand people. McGovern wrote that the lynching was so gruesome, that one of the members of the lynching party vomited at the sight. McGovern wrote that Neal “died without remorse or protest,” and remained composed even after being tortured, at one point asking the group, “Kind sirs, do one of you have a cigarette?” The lynching party then delivered Neal’s body to the Cannidy residence where Mr. Cannidy fired four .45 caliber bullets into Neal’s head. The crowd members also subjected Neal’s body to various indignities. The crowd members then rushed to the slope and burned down every shack owned by African-Americans.

McGovern disagreed somewhat with Kester’s conclusion that the lynching was accepted as a righteous act and deemed Kester as “a liberal doing investigative work for the NAACP.” McGovern opined that “Jackson County’s principal officials would have preferred to see the letter of the law upheld in the Neal case.” McGovern stated that Marianna Mayor Burton blamed the riots on “out of town agitators” and remarked to the press that he deplored the fact that Neal’s body was brought to Marianna. State’s Attorney John H. Carter also stated that he deplored the manner in which Neal was punished and stated in a letter to Florida Governor Sholtz that he regretted what had occurred in their state and planned to have the matter thoroughly investigated.

McGovern wrote that State’s Attorney Carter was not “successful in ferreting out the perpetrators” because, as a reporter noted, “Inquiries into the lynching were likely to run into a blank wall.” McGovern also wrote that the county coroner did not call an inquest into Neal’s death and stated “that he did not know if he could.” Additionally, the coroner’s report was missing from the Jackson County courthouse, and McGovern believed it had undoubtedly been destroyed. McGovern opined that “Jackson County officials were probably concerned lest their investigations would result in confrontations which would simply lead to more social unrest.” In sum, McGovern concluded that the critical factor in the ineffectual prosecution of the mob that killed Neal was that the people of Jackson County “were not sufficiently militant to initiate action against the lynchers,” although they would have preferred a jury trial for Neal. McGovern is deceased, and there is no further information available to identify his alleged sources.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. Prior to 1994, federal criminal civil rights violations were not capital offenses, thereby subjecting them to a five-year statute of limitations. See 18 U.S.C. ' 3282(a). In 1994, some of these civil rights statutes were amended to provide 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).

The Civil Rights Division has used non-civil rights statutes to overcome the statute of limitations challenge in certain cases, such as those occurring on federal land and kidnaping resulting in death. United States v. Seale, 542 F.3d 1033 (5th Cir. 2008). In Seale, the defendant, who was a member of the Ku Klux Klan, was found guilty of two counts of kidnaping and one count of conspiracy to commit kidnaping, in violation of 18 U.S.C. ' ' 1201 (a) (c), a provision that does not include its own limitations period, in connection with the 1964 kidnaping of Henry Dee and Charles Moore. On appeal, Seale argued that his prosecution was time-barred by 18 U.S.C. ' 3282, which imposes a five-year period of limitations for offenses not punishable by death, except as otherwise expressly provided by law. A three-member panel of the Fifth Circuit agreed and rendered a judgment of acquittal. Id. At a rehearing en banc, the court was equally divided and nominally affirmed the district court’s denial of the motion to dismiss. United States v. Seale, 570 F.3d 650 (5th Cir. 2009). Seale filed a Motion to Certify Question of Law to the United States Supreme Court. The Supreme Court dismissed the certified question. United States v. Seale, 130 S.Ct. 12 (2009), and Seale’s conviction was affirmed. United States v. Seale, 600 F.3d 473 (5th Cir. 2010).

The predecessor statute to 18 U.S.C. ' 1201 was The Federal Kidnapping Act of June 22, 1932, 47 Stat. 324, 18 U.S.C. ' 408(a) or “the Lindbergh Act.” The original Act required that a kidnaping victim be “held for ransom or reward” in order for the statute to apply, and provided that the defendant shall, upon conviction, be punished by imprisonment. The amending Act of May 18, 1934, 48 Stat. 781, 18 U.S.C. ' 408(a) broadened the Act, eliminating the ransom or reward requirement, and also allowing for the death penalty. Thus, the five-year statute of limitations does not likely apply to the Claude Neal matter given that an indictment for any offense punishable by death may be found at any time without limitation. 18 U.S.C. ' 3281. However, the Eleventh Circuit has not ruled on this issue and is not bound by the decision of the Fifth Circuit in Seale.

While it may have been possible for the federal government to prosecute the members of the Claude Neal lynching party at some point, given the amount of time (79 years) that has passed, the dearth of investigative and court records, the lack of credible and reliable evidence identifying the men in the smaller lynching party who killed the victim, and the slim chance of any of these men being alive, this matter is not prosecutable and should be closed. The most comprehensive investigations into this matter were conducted by Howard Kester and James McGovern. However, neither of these now-deceased authors identified their sources or provided any credible leads that could reveal the identities of the men who removed Neal from the jail and lynched him. Thus, further criminal investigation into this matter would not be fruitful.

Criminal Chief Stephen Kunz of the United States Attorney’s Office for the Northern District of Florida concurs in this recommendation.

