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XXXXXXXXXXXXXXXXXXXXXXXXXXXX were on duty on the night of the shooting. The FBI did not locate XXXXXX but it did interview XXXXXX who did not recall being on duty but stated that the subject told him that he had to fire five times and that the subject was bothered by the shooting. Similarly, former RPD XXXXXXXX who was working for the RPD at the time of the shooting, opined that XXXXXX had not wanted to shoot the victim.

According to a contemporaneous newspaper article, a local Coroner’s Inquest determined that the subject had shot Wilder in self-defense. Lincoln Parish Coroner Dr. Robert Carter was quoted in the article as saying that he had questioned unidentified officers and three African-American witnesses in reaching his conclusion. The shooting took place while the subject and victim were in close physical contact and, according to the Coroner, the victim had a hand on the subject’s neck.

2008 Federal Investigation:

In 2008, the FBI initiated a review of the circumstances surrounding the victim’s death, pursuant to the Department of Justice’s “Cold Case” initiative and the “Emmett Till Unsolved Civil Rights Crime Act of 2007,” which charges the Department of Justice to investigate “violations of criminal civil rights statutes . . . result[ing] in death” that “occurred not later than December 31, 1969.” The FBI interviewed former RPD XXXXXXXX and XXXXXXXX and attempted unsuccessfully to interview XXXXXX contacted several Louisiana law enforcement officials, and an investigator from the Southern Poverty Law Center (SPLC); and conducted searches of the internet and law enforcement databases.

The FBI contacted XX XXXXXXXXXXXXXXXX. An interview was then scheduled through XXXXXXXXXXXXXXXX but

¹ XXXXXX, whose version of the events was provided in summary form by his attorney, did not apparently specify the difference in physical size between him and the victim.

² As mentioned in the prior footnote, only a summary of XXXX’s version of events is contained in the investigative file. As a result, some of the details and chronology are not clear. For example, it is not clear whether the subject interrupted his struggle with the victim in order to get his shotgun.

The FBI also contacted **RPD XXXXXXXX**, who confirmed that the RPD did not have records pertaining to the victim's shooting.⁸

The FBI contacted officials at the **Lincoln Parish Coroner's Office** and the **Lincoln Parish Police Jury** but neither agency maintained any records pertinent to the shooting. Additionally, XXXXXXXXXXXX told the FBI that he contacted **Lincoln Parish District Attorney Bob Levy** who said that his office maintained no records relevant to the Wilder shooting.

The FBI obtained the **victim's death certificate** which indicated that he had died as a result of a "gun shot wound through [the] heart," and that he was shot by a police officer.

Legal Analysis

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. First, there is insufficient evidence to contradict the subject's account that he fired in self-defense. Although the contemporaneous newspaper account is somewhat different from XXXXXXXXXXXX account as provided through XXXXXXXXXXXX they are consistent in relevant detail, i.e., that the subject fired in self-defense. Moreover, according the article, the Coroner determined that the shooting was justified after reportedly questioning both law enforcement and three civilian African-American witnesses.

Second, 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, including 18 U.S.C. § 242, 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). While 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, the facts of the present case do not lend themselves to prosecution under other statutes.

Based on the foregoing, this matter lacks prosecutive merit and should be closed. Counsel to the United States Attorney, William Flanagan, Western District of Louisiana, concurs in this recommendation.

⁸ XXXXXXXX said that there had been a leak in the roof of the RPD causing damage to records. A significant mold problem developed as a result of the leak and records were destroyed. It is not clear whether the records were destroyed by the mold itself or by RPD officials after they were damaged.