

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

June 2019



INTRODUCTION

This is the eighth Report (Report) submitted to Congress pursuant to the Emmett Till Unsolved Civil Rights Crime Act of 2007 (Till Act),¹ as well as the second Report submitted pursuant to the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016 (Reauthorization Act).² This Report includes information about the Department's activities in the time period since the seventh Report, which was submitted in March 2018.

Section I of the Report summarizes the historical efforts of the Department of Justice (Department or DOJ) 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 presents the progress made since the last Report. It includes at Part II.F. a chart of the progress made on cases reported under the initial Till Act and under the Reauthorization Act. Section III of the Report provides a brief overview of the cases the Department has closed or referred to the state for preliminary investigation since its last Report. Case closing memoranda written by Department attorneys are available on DOJ's website:

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

Additional memoranda will be made available once reviewed to be sure they are compliant with FOIA regulations. Section IV of the Report provides additional information required by the Till

¹ Pub. L. No. 110-344, 122 Stat. 3934 (2008). The Act requires the Attorney General to annually conduct a study and report to Congress not later than six months after the date of enactment of the Act, and each year thereafter.

² Public Law No. 114-325, 130 Stat. 1965 (2016) extended the Till Act, including its reporting requirements, for an additional ten years.

Act, other than the statistical information provided in Section II. Finally, Section V of the Report sets forth the Department's work on conducting Till Act training and outreach.

I. THE DEPARTMENT OF JUSTICE'S EFFORTS TO INVESTIGATE AND PROSECUTE UNSOLVED 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 that began decades ago. The below summary of the Department's long-standing efforts to prosecute crimes of racial violence places the Department's current efforts in their historical context.

Reconstruction Era through the 1930s

Since the Reconstruction Era (1865-1877), the Department of Justice 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 imprecise tools for addressing racial violence.

The most famous case of the Reconstruction Era arose from the mass killing of African Americans in Colfax, Louisiana, and resulted in a Supreme Court decision that severely limited the Department's ability to prosecute cases of racial violence. The defendants had been charged with 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, and the Constitutional provisions at issue

placed limitations only on the conduct of *government* actors. *United States v. Cruikshank*, 92 U.S. 542, 554 (1875).

During the post-Reconstruction Era, racial unrest – particularly in the form of lynchings as a public spectacle – increased. The problem posed by such lynchings, and the federal government’s limited ability to redress such 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 Ed Johnson. Johnson, an African American, had been abducted from a local jail where he was incarcerated while he appealed his conviction. The kidnapping occurred while review of the case was pending in the Supreme Court. In urging the Court to hold the defendants 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>. *See generally United States v. Shipp*, 214 U.S. 386 (1909).

The lack of a specific federal anti-lynching law, or any law prohibiting racially motivated violence, 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, when soldiers returned from war, the country was gripped by Red Summer, a particularly violent time characterized by hundreds of instances of mob violence and burnings of segregated residential areas. *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).

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 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 lynching of African Americans. 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.

While 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 law prohibiting lynching or other acts of racially motivated violence, the Department could prosecute such violence using only the Reconstruction-Era laws. Nonetheless, in 1943, the Department used these tools to bring federal charges against Claude Screws, a Georgia Sheriff. Screws had ordered his deputies to arrest Robert Hall, an African-American man against whom Screws held a grudge. Afterwards, Screws and his deputies brutally beat Hall to death. Although Screws was convicted, his conviction was reversed because the Supreme Court determined that the instructions given during trial were inadequate.

<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 an African-American man who, while awaiting trial for allegedly assaulting a white woman and attacking a police officer, was kidnapped from a cell in Sikeston, Missouri, by a mob of angry white men. The mob then burned Wright alive. Attorney General Biddle authorized a federal prosecution under the Reconstruction-Era statutes, then codified at 18 U.S.C. §§ 51 and 52. 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); available at:

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. Rotnem argued that some lynchings could be prosecuted as deprivations of rights secured by the Constitution. Rotnem reasoned 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 lynchings, like those in the mob who murdered Wright, could still be prosecuted under these statutes. *See id.* at 62. He asserted that, by kidnapping a person from jail, such mobs directly interfere 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. The three civil rights workers were arrested by Neshoba County Deputy Sheriff Cecil Ray Price and jailed in Philadelphia, Mississippi. The civil rights workers were later 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 FBI investigation, 19 defendants were indicted, seven were convicted after trial, and another pleaded guilty. The jury was unable to reach a verdict with respect to three additional defendants and acquitted the remaining defendants.

In that same era, the Department obtained convictions of two Georgia Klansmen responsible for the murder of Lieutenant Colonel Lemuel Penn, an African-American 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 African-American men in it, they targeted the car's occupants based solely on their race. Although Myers and Sims were convicted in federal court, other defendants who were indicted with them as part of an overarching conspiracy to intimidate African Americans 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 (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 (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 the conspiracy).

Even more significantly, Congress enacted 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 (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 (*e.g.*, kidnapping across state lines; 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 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 also prohibits 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). Just last year, Congress amended this law to expand the

definition of religious real property to include property owned or leased by a nonprofit, religiously affiliated organization, which will allow prosecution of more acts of destruction. *See* Protecting Religiously Affiliated Institutions Act of 2018, PL 115-249 (September 28, 2018).

In 1994, Congress amended 18 U.S.C. §§ 241 and 245 to allow the government to seek the death penalty for 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, 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, 632–633 (2003) (legislatures lack the Constitutional power to expand the limitations period after the period has expired), and 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 enacting the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 (Shepard-Byrd Act), now codified at 18 U.S.C. § 249. This Act eliminates the requirement that prosecutors must prove that a defendant intended to interfere with a victim's federally protected right. 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 so with a dangerous weapon, and that the defendant acted because of the race of the victim (or some other person). Additionally, under the Shepard-Byrd Act, there is no statute of limitations if death results.

The federal government's increased ability to prosecute modern-day hate crimes still leaves unaddressed those cases that it was unable to prosecute in the past. Congress has stressed its desire for the Department to continue its efforts to bring justice, wherever possible, to unsolved civil rights cases, and through the Reauthorization Act, it has extended the original Act's reach into the 1970s. The Department has demonstrated a similar commitment to ensuring that any and all prosecutable cold cases be identified, investigated, and prosecuted.

B. History of the Cold Case Initiative

The Department is committed to achieving justice in civil rights-era cold cases. In fact, as outlined above, the Department's efforts to achieve justice in these cases predate the original Till Act. 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 in locating witnesses and victims' family members. 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 132.

C. 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 modern federal prosecution of a civil rights-era cold case was *United States v. Ernest Henry Avants*, 367 F.3d 433 (5th Cir. 2004). *Avants* involved the 1966 murder of Ben Chester White, an elderly African-American farm worker. Ernest 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 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-olds, 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. *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 an African-American 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). Pursuant to the Department's pre-Till Act cold case process, the case was re-examined in the late nineties and early two thousands. 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); 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.

<http://www.nytimes.com/2010/11/16/us/16fowler.html>

D. 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. 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 facts exist to support those charges.

The government also cannot prosecute a defendant if the statute of limitations (essentially a deadline by which prosecutors must charge a crime) has expired. There is currently no statute of limitations under 18 U.S.C. §§ 241 and 245 for hate crimes resulting in death; however, as explained above, the prior, shorter limitations period was removed by an Act of Congress in 1994. Before then, the limitations period for these crimes was five years. This means that if an act of racial violence that otherwise met the elements of a federal hate crime occurred before 1994, the case cannot be federally prosecuted now because the then-five-year limitations period has expired.

State murder prosecutions, while not barred by these factors, may be barred if there was a previous trial on the same or substantially similar charges. The Fifth Amendment's protection against Double Jeopardy prohibits re-trial 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.

As a factual matter, even if there is no legal bar to prosecution, there are evidentiary difficulties inherent in all cold case prosecutions. First, perpetrators die, leaving no responsible party to prosecute. Second, witnesses die or can no longer be located. Third, 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 132 matters, involving 151 known victims, and has fully investigated and resolved 116 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 March of 2018, and as of March 9, 2019, the Department has opened 17

new Till Act investigations (involving 23 known victims); some of these matters had been reported to the Department at the time the last Report was prepared (see p. 21, nt. 5 of the March 2018 Report) but had not yet been examined. One additional case has recently been reported to the Department for review.³

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 provides that ten of the 132 matters opened for review have been referred to state authorities since Congress enacted the original Till Act. No cases have been referred since the last Report.

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 104 cases without prosecution or referral to the state. (Of the 116 matters it has fully investigated and resolved since the original Till Act, ten were referred to the state, two were federally prosecuted, and the remainder were closed.) There have been no federal prosecutions since the last Report. As explained more fully in Section III below, seven cases were closed since the last Report without referral to any state.

³ This case was referred to the Department via a Congressional inquiry on behalf of a constituent and is currently being reviewed by attorneys within the Cold Case Unit to confirm the information provided and evaluate the merits of opening an investigation.

In total, since the original Till Act was enacted, 60 cases have been closed due to the death of all identifiable subjects; 37 others have been either closed or reviewed but not opened for investigation due to insufficient evidence to prove a violation of any relevant civil rights statute, most notably an inability to prove that the death of the victim was the result of violent conduct motivated by racial animus or bias as opposed to some other cause of death (*e.g.*, an accidental death or a homicide motivated by some non-racial, non-civil rights motive); and the remaining cases have been closed for a variety of other reasons, such as the inability to overcome a legal hurdle to prosecution (*e.g.*, double jeopardy; statute of limitations) or for a combination of reasons.

F. Chart

The Department provides the following chart to illustrate the statistics provided in subsections A through E of Section II of this 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 May 9, 2019.⁴

	NAME OF VICTIM	INCIDENT LOCATION	INCIDENT DATE	CLOSING DATE
1.	Anthony Adams	Salt Lake City, Utah	November 3, 1978	
2.	Louis Allen	Amite County, Mississippi	January 31, 1964	May 18, 2015
3.	Andrew Lee Anderson	Crittenden County, Arkansas	August 5, 1963	April 9, 2010
4.	Frank Andrews	Lisman, Alabama	November 28, 1964	November 13, 2013
5.	Isadore Banks	Marion, Arkansas	June 8, 1954	August 2, 2012
6.	John Bennett*	Augusta, Georgia	May 11, 1970	
7.	John Larry Bolden	Chattanooga, Tennessee	May 3, 1958	April 15, 2010
8.	Preston Bolden	San Antonio, Texas	May 8, 1953	May 26, 2011
9.	James Brazier	Dawson, Georgia	April 20, 1958	April 6, 2009
10.	Thomas Brewer	Columbus, Georgia	February 18, 1956	April 6, 2009
11.	Clyde Briggs*	Franklin County, Mississippi	January 18, 1965	
12.	Hilliard Brooks	Montgomery, Alabama	August 12, 1950	April 9, 2010

⁴ The chart does not include a case recently forwarded to the Department that is currently under review to confirm the information provided and evaluate the merits of opening an investigation.

18.	Carrie Brumfield	Franklinton, Louisiana	September 12, 1967	September 24, 2013
19.	Eli Brumfield	McComb, Mississippi	October 13, 1961	April 16, 2010
20.	Johnnie Mae Chappell	Jacksonville, Florida	March 23, 1964	March 20, 2015
21.	Jesse Cano	Brookville, Florida	January 1, 1965	June 3, 2011
22.	Silas Caston	Hinds County, Mississippi	March 1, 1964	May 2, 2010
23.	James Chaney	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
24.	Thad Christian	Anniston, Alabama	August 30, 1965	April 6, 2011
25.	Clarence Cloninger	Gaston, North Carolina	October 10, 1960	April 3, 2009
26.	Jo Etha Collier*	Drew, Mississippi	May 25, 1971	
27.	Eddie Cook*	Detroit, Michigan	November 7, 1965	
28.	Willie Countryman	Dawson, Georgia	May 25, 1958	April 6, 2009
29.	Lee Culbreath*	Portland, Arkansas	December 5, 1965	May 7, 2019
30.	Vincent Dahmon	N/A	N/A	April 12, 2010
31.	Jonathan Daniels	Lowndes County, Alabama	August 20, 1965	April 26, 2011
32.	Woodrow Wilson Daniels	Yalobusha County, Mississippi	June 21, 1958	April 12, 2010
33.	Henry Hezekiah Dee	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
34.	George Dorsey	Monroe, Georgia	July 25, 1946	January 27, 2017
35.	Mae Dorsey	Monroe, Georgia	July 25, 1946	January 27, 2017
36.	Roman Ducksworth	Taylorville, Mississippi	April 9, 1962	April 12, 2010
37.	Joseph Dumas	Perry, Florida	May 5, 1962	April 9, 2010
38.	Joseph Edwards	Vidalia, Louisiana	July 12, 1964	February 20, 2013
39.	Willie Edwards	Montgomery, Alabama	January 22, 1957	July 2, 2013
40.	James Evansingston	Tallahatchie County, Mississippi	December 24, 1955	April 12, 2010
41.	Peter Francis*	Perry, Maine	November 15, 1965	October 5, 2018
42.	Phillip Gibbs*	Jackson, Mississippi	May 15, 1970	
43.	Andrew Goodman	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
44.	James Earl Green*	Jackson, Mississippi	May 15, 1970	
45.	Mattie Greene	Ringgold, Georgia	May 20, 1965	May 4, 2012
46.	Jasper Greenwood	Vicksburg, Mississippi	June 29, 1964	June 17, 2010
47.	Jimmie Lee Griffith	Sturgis, Mississippi	September 24, 1965	August 14, 2012
48.	Paul Guihard	Oxford, Mississippi	September 30, 1962	July 19, 2011
49.	A.C. Hall	Macon, Georgia	October 13, 1962	July 27, 2011
50.	Rogers Hamilton	Lowndes County, Alabama	October 22, 1957	February 10, 2016
51.	Adlena Hamlett	Sidon, Mississippi	January 11, 1966	May 26, 2011
52.	Samuel Hammond	Orangeburg, South Carolina	February 8, 1968	
53.	Collie Hampton	Winchester, Kentucky	August 14, 1966	June 1, 2011
54.	Alphonso Harris	Albany, Georgia	December 1, 1966	April 12, 2010
55.	Isaiah Henry	Greensburg, Louisiana	July 28, 1954	May 21, 2012
56.	Arthur James Hill	Villa Rica, Georgia	August 20, 1965	May 18, 2011
57.	Ernest Hunter	St. Mary's, Georgia	September 13, 1958	April 6, 2009
58.	Jimmie Lee Jackson	Marion, Alabama	February 18, 1965	May 3, 2011
59.	Luther Jackson	Philadelphia, Mississippi	October 25, 1959	April 16, 2010

60.	Wharlest Jackson	Natchez, Mississippi	February 27, 1967	May 4, 2015
61.	Carol Jenkins*	Martinsville, Indiana	September 16, 1968	
62.	Alberta O. Jones*	Louisville, Kentucky	August 5, 1965	
63.	Ernest Jells	Clarksdale, Mississippi	September 20, 1963	April 16, 2010
64.	Joseph Jeter	Atlanta, Georgia	September 13, 1958	May 2, 2010
65.	Nathan Johnson	Alabaster, Alabama	May 8, 1966	April 21, 2011
66.	Marshall Johns	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
67.	Birdie Keglar	Sidon, Mississippi	January 11, 1966	May 18, 2011
68.	Bruce Klunder	Cleveland, Ohio	April 7, 1964	April 16, 2010
69.	Margaret Knott*	Butler, Alabama	September 11, 1971	
70.	William Henry "John" Lee	Rankin County, Mississippi	February 25, 1965	May 5, 2011
71.	George Lee	Belzoni, Mississippi	May 7, 1955	June 6, 2011
72.	Herbert Lee	Amite County, Mississippi	September 25, 1961	April 16, 2010
73.	Richard Lillard	Nashville, Tennessee	July 20, 1958	April 15, 2010
74.	George Love	Ruleville, Mississippi	January 8, 1958	June 10, 2011
75.	Maybelle Mahone	Zebulon, Georgia	December 5, 1956	April 6, 2009
76.	Dorothy Malcolm	Monroe, Georgia	July 25, 1946	January 27, 2017
77.	Roger Malcolm	Monroe, Georgia	July 25, 1946	January 27, 2017
78.	Henry Marrow*	Granville County, North Carolina	May 11, 1970	
79.	Sylvester Maxwell	Canton, Mississippi	January 17, 1963	May 2, 2010
80.	Sammie L. McCullough*	Augusta, Georgia	May 11, 1970	
81.	Bessie McDowell	Andalusia, Alabama	June 14, 1956	April 9, 2010
82.	Ernest McPharland	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
83.	Robert McNair	Pelahatchie, Mississippi	November 6, 1965	May 26, 2011
84.	Clinton Melton	Glendora, Mississippi	December 3, 1955	April 12, 2010
85.	Delano Middleton	Orangeburg, South Carolina	February 8, 1968	
86.	James Andrew Miller	Jackson, Georgia	August 30, 1964	April 12, 2010
87.	Hosie Miller	Newton, Georgia	March 15, 1965	June 21, 2011
88.	Booker T. Mixon	Clarksdale, Mississippi	October 12, 1959	August 13, 2012
89.	Neimiah Montgomery	Merigold, Mississippi	August 10, 1964	April 12, 2010
90.	Charles Edward Moore	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
91.	Harriette Moore	Mims, Florida	December 25, 1951	July 15, 2011
92.	Harry Moore	Mims, Florida	December 25, 1951	July 15, 2011
93.	O'Neal Moore	Varnado, Louisiana	June 2, 1965	March 31, 2016
94.	William Moore	Attalla, Alabama	April 23, 1963	August 2, 2012
95.	Frank Morris	Ferriday, Louisiana	December 10, 1964	December 30, 2013
96.	James Motley	Elmore County, Alabama	November 20, 1966	April 12, 2010
97.	Charlie Mack Murphy*	Augusta, Georgia	May 11, 1970	
98.	Claude Neal	Greenwood, Florida	October 26, 1934	October 1, 2013
99.	Samuel O'Quinn	Centreville, Mississippi	August 14, 1959	May 4, 2012
100.	Herbert Orsby	Canton, Mississippi	September 7, 1964	April 12, 2010
101.	Will Owens	New Bern, North Carolina	March 5, 1956	April 3, 2009

102.	Mack Charles Parker	Pearl River County, Mississippi	May 4, 1959	
103.	Larry Payne	Memphis, Tennessee	March 28, 1968	July 5, 2011
104.	Clarence Horatious Pickett	Columbus, Georgia	December 21, 1957	April 12, 2010
105.	William Piercefield	Concordia Parish, Louisiana	July 24, 1965	September 16, 2013
106.	Albert Pitts	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
107.	David Pitts	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
108.	Jimmy Powell	New York City, New York	July 16, 1964	February 9, 2012
109.	William Roy Prather	Corinth, Mississippi	November 1, 1959	February 16, 2016
110.	Edwin Pratt*	Shoreline, Washington	January 26, 1969	
111.	Johnny Queen	Fayette, Mississippi	August 8, 1965	July 26, 2013
112.	Donald Raspberry	Okolona, Mississippi	February 27, 1965	May 17, 2010
113.	Donna Reason*	Chester, Pennsylvania	May 18, 1970	
114.	James Reeb	Selma, Alabama	March 9, 1965	May 18, 2011
115.	John Earl Reese	Gregg County, Texas	October 22, 1955	April 15, 2010
116.	Fred Robinson	Edisto Island, South Carolina	August 3, 1960	February 2, 2012
117.	Johnnie Robinson	Birmingham, Alabama	September 15, 1963	April 9, 2010
118.	Dan Carter Sanders	Johnston Co., North Carolina	November 18, 1946	March 5, 2019
119.	Willie Joe Sanford	Hawkinsville, Georgia	March 1, 1957	July 5, 2012
120.	Michael Schwerner	Philadelphia, Mississippi	June 21, 1964	June 20, 2016
121.	Marshall Scott	Orleans Parish, Louisiana	January 23, 1965	May 25, 2012
122.	Milton Lee Scott	Baton Rouge, Louisiana	July 18, 1973	May 8, 2019
123.	Jessie James Shelby	Yazoo City, Mississippi	January 21, 1956	May 24, 2010
124.	Ollie Shelby	Hinds County, Mississippi	January 22, 1965	April 16, 2010
125.	George Singleton	Shelby, North Carolina	April 30, 1957	April 16, 2010
126.	Denver Smith*	Baton Rouge, Louisiana	November 16, 1972	
127.	Ed Smith	State Line, Mississippi	April 27, 1958	November 5, 2009
128.	Henry Smith	Orangeburg, South Carolina	February 8, 1968	
129.	Lamar Smith	Brookhaven, Mississippi	August 13, 1955	April 12, 2010
130.	Maceo Snipes	Butler, Georgia	July 18, 1946	April 12, 2010
131.	Eddie Stewart	Jackson, Mississippi	July 9, 1966	May 26, 2011
132.	James Stokes*	Augusta, Georgia	May 11, 1970	
133.	Isaiah Taylor	Ruleville, Mississippi	June 26, 1964	April 12, 2010
134.	Emmett Till	Money, Mississippi	August 26, 1955	December 28, 2007 (initial closing date) Re-opened
135.	Ann Thomas	San Antonio, Texas	April 8, 1969	April 15, 2010
136.	Freddie Lee Thomas	Sidon, Mississippi	August 20, 1965	June 9, 2011
137.	John Thomas*	West Point, Mississippi	August 15, 1970	April 17, 2019
138.	Selma Trigg	Hattiesburg, Mississippi	January 23, 1965	May 2, 2010
139.	Ladislado Ureste	San Antonio, Texas	April 22, 1953	April 20, 2010
140.	Hulet Varner	Atlanta, Georgia	September 10, 1966	April 6, 2009
141.	Clifton Walker	Woodville, Mississippi	February 29, 1964	October 1, 2013

142.	Virgil Ware	Birmingham, Alabama	September 15, 1963	March 29, 2011
143.	James Waymers	Allendale, South Carolina	July 10, 1965	April 15, 2010
144.	Ben Chester White	Natchez, Mississippi	June 10, 1966	October 16, 2003
145.	John Wesley Wilder	Ruston, Louisiana	July 17, 1965	May 25, 2011
146.	Elbert Williams	Brownsville, Tennessee	June 20, 1940	November 4, 2018
147.	Rodell Williamson	Camden, Alabama	May 22, 1967	May 2, 2010
148.	Mack Wilson*	Augusta, Georgia	May 11, 1970	
149.	Archie Wooden	Snow Hill, Alabama	December 25, 1967	April 20, 2010
150.	William Wright, Jr.*	Augusta, Georgia	May 11, 1970	
151.	Samuel Younge	Tuskegee, Alabama	January 3, 1966	March 28, 2011
152.	Unknown*	West Point, Mississippi	1960s/1970s	May 6, 2019

***Denotes matter referred to the Department by an eligible entity since enactment of the Till Reauthorization Act. See Section 2(2)(B)(i)(IV) of the Reauthorization Act.**

G. Cases in the Study Period Referred by an Eligible Entity

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 set forth 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, no cold cases were referred to the Department by an eligible entity. Since the Reauthorization Act was enacted in December of 2016, 23 cases were referred by an eligible entity. An asterisk on the chart indicates victims associated with cases referred by an eligible entity since the enactment of the Reauthorization Act. Many were mentioned in the 2018 Report.⁵

⁵ See Seventh Annual Till Report at pp. 17, 21-22 & n. 4 and 5 (2018).

These referrals include five matters that were reviewed by attorneys in the Cold Case Unit but never opened. Such unopened referrals are not included on the chart. One, as explained in footnote 5 of the prior Report, was outside of the Till Act period but was nonetheless examined and determined to be beyond the federal limitations period and thus not prosecutable. One matter, referred as a Till Act case, was not opened because there had already been a successful contemporaneous prosecution.⁶ Another matter did not fit the definition of a Till Act case because there was no allegation that it resulted in the death of any individual. It was, however, referred to the appropriate Deputy Chief in the Civil Rights Division's Criminal Section to determine whether there was any basis for opening it in the normal course of business.

Two other referrals contained too little information to confirm whether a murder falling under the Till Act had even occurred. In these cases, the eligible entity did not respond to requests for additional information, while the Department's own attempts to find out more from contemporaneous news articles and similar sources did not yield sufficient information to support a decision to open the matter for investigation.

⁶ An eligible entity referred to us a case involving the murder of Harold Nabors, an African-American young man. Nabors and his girlfriend were kidnapped at gunpoint and transported across state lines, at which time Nabors was murdered and his girlfriend, who survived, was sexually assaulted, shot, and left for dead. Archived investigative and court records revealed that the two men responsible, Ronald Eugene Ritter and Robert Darrell Thomas, were successfully prosecuted in federal court on kidnapping charges in the 1970s.

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

Seven cases have been closed since the last Report to Congress. The case closings are available on the Department's website – or will be available once the cases 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>.

A. The Death of Lee Culbreath

This matter was reviewed upon receipt of information from an eligible entity that it might fall under the Till Act or its Reauthorization. On December 5, 1965, 14-year old Lee Culbreath was standing outside a café in Portland, Arkansas, when he was shot and killed by an alleged member of the KKK.

The Department confirmed that state authorities arrested two brothers shortly after Culbreath died. Both brothers were initially charged with first-degree murder; however, after one of the brothers (the shooter) was tried by a jury, convicted of murder in state court, and sentenced to 21 years' imprisonment, the non-shooting brother (who had been called to testify in the trial of the shooter) had his charge reduced to accessory-after-the-fact and was then never prosecuted.

The Department closed the case without prosecution or referral to state authorities. The statute of limitations has run on any federal civil rights charges and the available evidence in this case does not support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired.

Moreover, a review of public records indicates that both brothers are deceased. In any event, referral to the state would be inappropriate in the case of the shooter, who was tried and

convicted by the state, as any re-trial of him would be barred by the Constitution's prohibition against double jeopardy. Even if the shooter's brother were still alive, this matter would not be suitable for referral, given that the state, which undertook a prosecution of the shooter, declined to prosecute his brother at that time when there were more living witnesses and when the evidence was still fresh. Investigation has uncovered no additional evidence that would change this calculus.

B. The Death of Peter Francis

This matter was reviewed upon receipt of information from an eligible entity indicating that it might fall under the Till Act or its Reauthorization. On November 14, 1965, five men from Bellerica, Massachusetts, traveled to the Pleasant Point reservation near Perry, Maine, for a hunting trip. Once on the reservation, the hunters drank and socialized with a member of the Passamaquoddy Indian tribe, and with his friend, Peter Francis, a 59-year-old tribe member from Connecticut who was visiting family on the reservation. Later, the hunters attacked the two tribe members. Francis's friend received serious but non-life threatening injuries; Francis was struck on the head multiple times and died from his injuries the next day. The friend's young son witnessed the attack.

After a local investigation, the County Attorney charged one of the hunters with manslaughter. None of the other hunters was charged for his role in the assault. An all-white jury subsequently acquitted the hunter at trial. Since the state trial, both Francis's friend and the friend's son, the only two eyewitnesses to the attack, have died.

The Department closed the case without prosecution or referral to state authorities. Federal prosecution of anyone responsible for Francis's death is not possible because the statute of limitations has run on all potential federal hate crimes and the evidence in this case does not

support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired. The case is also inappropriate for referral to the state. The Constitution's prohibition against double jeopardy prevents the state from retrying the most culpable subject in this case, and the lack of any living eyewitnesses to the attack upon Francis would impede any state trial of the remaining subjects.

C. The Death of Dan Carter Sanders

This matter was one of the cases identified under the Department's original Cold Case Initiative. On November 18, 1946, a white youth shot and killed Dan Carter Sanders, a 26-year-old African-American man. The shooting took place in Johnston Township, North Carolina. The youth and three other adult white men had been pursuing Sanders and another black man, whom they accused of stealing foxhounds from the youth's family's property. The youth's shot pierced Sanders's femoral artery. Neither the youth nor his companions attempted to get Sanders any medical attention and, instead, left him to die in the field where he was shot. At the time of his death, Sanders was a World War II veteran and the married father of two. The youth was never prosecuted by the state, despite admitting during an inquest that he fired the fatal shot.

The Department has closed this case without prosecution or referral to the state. The FBI confirmed not only that the youth, the person who actually fired the fatal shot, is deceased, but that all other persons identified as accompanying him in pursuing Sanders (and failing to get him medical attention) have also died. Thus, all subjects known to law enforcement as present during, or participating in, Sanders's death are deceased and cannot be prosecuted.

In addition, even if there were any living subjects, federal prosecution would be legally impossible. In 1946, at the time Dan Carter Sanders was killed, no federal hate crime laws existed and the existing Reconstruction-Era criminal statutes were then subject to a five-year

statute of limitations – a period which has long since passed. Moreover, the evidence in this case does not support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired.

The case is also inappropriate for referral to the state. No individual identified by the Johnston County Sheriff's Office as being a potential suspect in Sanders's death is known to be still alive. No one has come forward with information suggesting that there are additional subjects; nor has the government's own review identified any such subjects.

D. The Death of Milton Lee Scott

This case was reviewed by the Cold Case Unit after a citizen requested that the Civil Rights Division investigate the matter and it was discovered that it fell within the Till Act period. Milton Lee Scott, an African-American Muslim man, was shot and killed outside his home in Baton Rouge, Louisiana, on July 18, 1973, by federal agents during an attempted arrest.

The matter has now been closed without prosecution or referral to the state. The case was investigated at the time of Scott's death. The agents explained that they used deadly force during a struggle that the victim initiated; the agents further recounted that they feared the victim might be attempting to take one of the agent's weapons. This explanation was corroborated, in large part, by a civilian witness. Mr. Scott's wife gave a contrary account, but it appears by her own admission that she was not in a position to see what was happening at the time the fatal shots were fired; moreover, any account she might provide at trial indicating that the agents willfully violated Mr. Scott's civil rights would be undermined by the fact that she filed a lawsuit stating that the agents' actions were merely negligent.

The Department has closed the case without prosecution or referral to the state. The statute of limitations has long expired for any federal civil rights charges and the available

evidence in this case does not support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired. Neither the complainant nor the Department's own review has identified new eyewitnesses or other information that would be sufficient to permit prosecution in light of the accounts of the federal officers and civilian witnesses, making referral to the state inappropriate.

E. The Murder of John Thomas, Jr.

This matter was reviewed upon receipt of information from an eligible entity indicating that it might fall under the Till Act or its Reauthorization. On August 15, 1970, John Thomas, Jr., an African-American man, was fatally shot by a white man in West Point, Mississippi. The state arrested the shooter and charged him with murder. The next year, on October 11, 1971, an all-white jury acquitted the shooter, finding that he acted in self-defense.

The matter has been closed without prosecution or referral to the state. The only suspect ever identified is now deceased, and therefore he cannot be prosecuted by either state or federal authorities. In addition, even if there were a living person responsible for Thomas's death, federal prosecution would be precluded because the statute of limitations has run on any federal civil rights crime and the evidence in this case does not support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired. Referral to the state is inappropriate both because the suspect is deceased and because the Constitution's prohibition against double jeopardy bars any subsequent state prosecution.

F. The Murder of Elbert Williams

In our March 2018 Report, the Department explained that the Civil Rights Division intended to close this matter for the same reasons given by the United States Attorney for the

Western District of Tennessee, who closed this case in 2017. The matter has now been officially closed. It was referred to the Civil Rights Division's Cold Case Unit by an eligible entity.

On June 20, 1940, Elbert Williams and another man were abducted from their homes by a law enforcement official. Both were African-American members of the NAACP in Brownsville, Tennessee. The law enforcement official took them to the local jail, where they were questioned about the NAACP's activities. The other man was released from jail into a waiting mob, but escaped without physical injury. Williams's body was discovered three days later, on June 23, 1940, in the Hatchie River. Just a few days before Williams and the other man were abducted, a third African-American man had been abducted from his home by a mob of white men – a mob that included law enforcement officials. This man was taken to a nearby river where he was questioned about the NAACP's activities and told he would be killed unless he left town, which he did immediately. A fourth African-American man was threatened at the same time, but was released without physical injury.

A federal investigation began immediately after Elbert Williams' death but was closed in 1942 without any charges presented to a grand jury. A state grand jury was convened but was adjourned without issuing any indictments. The Department, after its current review, has closed the case without prosecution or referral to the state. The statute of limitations has long run on any federal civil rights crime and the evidence in this case does not support an alternate federal charge (*e.g.*, murder on federal land; federal kidnapping) whose limitation period has not expired. Moreover, it has been over 75 years since the incident occurred. Every person known to be involved in the abduction and murder is now deceased, as are all known witnesses.

G. Unknown Victims

This matter was referred to the Cold Case Unit by an eligible entity, opened for investigation, and summarily closed. The allegations are ones that, if corroborated, would have fallen under the Till Act and its Reauthorization, as they involve allegations of racially motivated violence resulting in death. The eligible entity provided the names of potential witnesses, as well as the name of a potential subject, who is now deceased. The FBI interviewed all identified living witnesses and consulted with local law enforcement agencies. The FBI, however, could not confirm the information provided in the referral. Thus, the matter was closed for lack of evidence that would support a decision to open an investigation.

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 investigations and prosecutions 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 80 federal prosecutors have worked on cases under review as part of the Department's Cold Case Initiative, the Till Act, and its Reauthorization. Some of these attorneys have reviewed files (many of which are extensive) and drafted memoranda explaining decisions about why a case could not be prosecuted. Others have participated with the FBI in witness interviews. Still others have participated in the prosecution of the *Seale* case. The resources required to prosecute

a federal criminal case are enormous. More than 40 federal employees participated in the *Seale* prosecution alone. That number does not include the numerous retired federal employees, local law enforcement officials, or contract employees who provided additional assistance. In this past study period, over 2,229.50 hours have been expended by 12 employees of the Criminal Section of the Civil Rights Division alone.⁷ The number does not include time spent by the FBI or USAO community.

B. Number of Grants

No funding has been appropriated for grants under the Till Act and its Reauthorization, and the Department has received no applications for grants from state or local law enforcement agencies under the Acts.

C. Notifying Victim Family Members

The FBI has devoted considerable resources to locating victims' next-of-kin, and has successfully located family members for 110 of the 122 victims in which a case has been closed or referred to the state. In a few of these cases, FBI agents and/or prosecutors have met with family members to discuss the reason a case could not be federally prosecuted. In other cases, letters explaining reasons for the closings have been hand-delivered to the family members or, when requested, to their legal representatives. 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.

As noted in our last Report, the Department has been informed that while many family members appreciate this notification process, others do not, and find visits by federal law enforcement agents intrusive. We have thus modified our practice so that, in some cases, the

⁷ This number reflects hours expended from March 2018 through March 2019.

Victim Witness Coordinator of the Criminal Section of the Civil Rights Division contacts family members to review with them the Department's decision and findings. A letter is then sent by mail or email as requested by the family member.

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 DOJ-designated entities to coordinate information sharing and to discuss the status of the Department's Till Act work. *See* Section 2(1)(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, Federal Bureau of Investigation, 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 stated in the last Report, 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 Web page that contains a link that can be used by any community group interested in requesting a training. The page also contains information about reporting hate crimes, including Till Act crimes.

VI. CONCLUSION

The Department remains committed to working with eligible entities to identify potential cases that fall under the Till Act's jurisdiction. We will devote all necessary resources to insure 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.