



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 23 2011

The Honorable Joseph R. Biden, Jr.
President Pro Tempore
United States Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed please find a report to Congress about the Department's activities regarding civil rights era homicides, as required by the Emmett Till Unsolved Civil Rights Crimes Act of 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Weich".

Ronald Weich
Assistant Attorney General

Enclosure

THE ATTORNEY GENERAL'S
THIRD ANNUAL REPORT TO CONGRESS
PURSUANT TO THE EMMETT TILL
UNSOLVED CIVIL RIGHTS CRIME ACT OF 2007
AUGUST 2011

INTRODUCTION

This report is submitted pursuant to the Emmett Till Unsolved Civil Rights Crime Act of 2007 ("The Till Act").¹ This third Department of Justice ("DOJ" or "Department") Report is updated with the Department's activities in the year since the second report² and summarizes prior Department activities in order to present a comprehensive picture of the Department's efforts regarding unsolved civil rights murders predating December 31, 1969.

Section I of the Report gives a history of the Department's civil rights cold case work and provides an overview of the factual and legal challenges we face in our ongoing efforts to prosecute unsolved civil rights era homicides. Since the last report, Department attorneys and FBI agents worked with local officials to bring a successful state prosecution; participated in a local grand jury investigation with a federal prosecutor cross-designated as a deputy district attorney; successfully defended one of our federal convictions on appellate review; interviewed potential witnesses; and reviewed thousands of pages of documents, files, news accounts, and evidence. We have now concluded our investigation into 79 of 111 cold cases involving 124 victims. Though very few prosecutions have resulted from these exhaustive efforts, the Department's efforts to review these matters have helped bring closure to many family members of the victims. This Section describes the Department's efforts locating the victims' next of kin, personally notifying them of the closure, and providing them with a detailed letter explaining the facts of their relative's case and our decision.

Section II of the Report sets forth the steps we have taken since we began the Cold Case Initiative in 2006. It describes how our efforts to bring justice and/or closure to the families have evolved to the point where it has become apparent that most of these cases will not result in prosecutions. This Section describes our ongoing efforts to generate leads, uncover relevant information and heighten public awareness through extensive outreach efforts. This year in particular, the Department conducted significant outreach via the media. Section II chronicles

¹ Pub. L. 110 – 344 (2008). The Act requires the Attorney General to annually conduct a study and report to Congress not later than six (6) months after the date of enactment of this Act, and each year thereafter. Among other issues, the study and report is required to discuss the number of open investigations within the Department for violations of criminal civil rights statutes that occurred not later than December 31, 1969, and resulted in a death. The Act also requires the report to discuss any applications submitted for grants under section 5, the award of any grants, and the purposes for which any grant amount was expended. Additionally, the Act requires the Attorney General to designate a Deputy Chief in the Criminal Section of the Civil Rights Division to coordinate the investigation and prosecution of these criminal cases, and authorizes the Deputy Chief to coordinate investigative activities with State and local law enforcement officials.

² The Attorney General's First Report to Congress Pursuant to the Emmett Till Unsolved Civil Rights Crime Act of 2007 was submitted on May 13, 2009. The Second Report was submitted on August 5, 2010.

our cold case presentations at national conferences, in classes, and as part of town hall meetings. And, this Section updates the Department's litigation efforts regarding our successful prosecution of James Ford Seale for the 1964 murders of Charles Moore and Henry Dee. The Department has engaged in extensive appellate litigation to uphold this important conviction. On March 12, 2010, the Fifth Circuit affirmed the conviction, and on October 4, 2010, Seale's petition to the U.S. Supreme Court for certiorari review was denied.

Section III of the Report sets forth where things currently stand with respect to the 111 matters opened for review during this process. Section III identifies by name all 124 victims and the approximate date and location of death. It also identifies the three cases which were successfully prosecuted and the 76 matters for which, after significant investigation and review, we have made a decision to close without prosecution. In the majority of the matters that we have closed without prosecution, all identified subjects are deceased. In others, there is insufficient evidence to establish that a racially motivated homicide prosecutable under a civil rights statute occurred, as opposed to some other manner of death outside the scope of the Till Act. The Department's work pursuant to the Till Act is continuing in earnest. We believe that we have made substantial progress this year, and look forward to continued progress in the upcoming year.

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

A. Overview and Background

For more than 50 years, the Department has been instrumental in bringing justice to some of the nation's most horrific civil rights era crimes, including through the Department's groundbreaking 1967 federal prosecution of 19 subjects for the 1964 murders of three civil rights workers in Philadelphia, Mississippi, a case commonly referred to as the "Mississippi Burning" case in which seven defendants were convicted. These crimes occurred during a terrible time in our nation's history when all too often crimes were not fully investigated or prosecuted or evidence was ignored by juries because of the color of the victims' skin. The Department believes that racially motivated murders from the civil rights era constitute some of the greatest blemishes on our history. Accordingly, the Department continues to lend its assistance, expertise, and resources to assist in the investigation and possible prosecution of these matters.

Unfortunately, federal jurisdiction over these historic cases is quite limited. The Ex Post Facto Clause of the Constitution and federal statutory law limit the Department's ability to prosecute most civil rights era cases at the federal level. For example, two of the most important federal statutes that can be used to prosecute racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C. § 3631 (interference with housing rights), were not enacted until 1968. Another important federal statute that can be used to prosecute racially motivated homicides, 18 U.S.C. § 249, was enacted in 2009. Under the Ex

Post Facto Clause, these statutes cannot be applied retroactively to conduct that was not a federal crime at the time of the offense.

The five-year statute of limitations on federal criminal civil rights charges presents another limitation on such prosecutions. In 1994, death-resulting violations of 18 U.S.C. § 242 (civil rights violations committed under color of law) and 18 U.S.C. § 245 (interference with federally protected activities) became capital offenses; as capital offenses, these statutes are no longer subject to a statute of limitations. However, even death-resulting civil rights violations that occurred prior to 1994 are governed by the then-existing five-year statute of limitations.

The Fifth Amendment's protection against double jeopardy prohibits the re-trial, in the same court, for the same offenses, 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 regardless of how biased the jury, how inadequate the prosecution or how misinformed the court might have been.

In addition, there are certain difficulties inherent in all cold cases: subjects die; witnesses die or can no longer be located; memories become clouded; evidence is destroyed or cannot be located; original investigations lacked the technical and scientific advances relied upon today. In addition, with regard to civil rights cold cases, it appears that in some instances, members of local law enforcement agencies were either themselves members of the Ku Klux Klan, or sympathized with Klan viewpoints, which may have impacted their investigations into racially motivated homicides. Most investigators agree that the first 48 to 72 hours are crucial to solving a homicide case. Witnesses are easier to locate, and their recollections generally prove more accurate soon after the incident. Investigators also agree that if a homicide is not solved within the first year, the chance of it ever being solved plummets. Even with our best efforts, investigations into historic cases are exceptionally difficult, and justice in few, if any, of these cases will ever be reached inside of a courtroom. Notwithstanding these legal and factual limitations, the Department believes that the federal government can still play an important role in these cases.

The Department has always been willing to reassess and review cold cases when new evidence comes to light, and, as set forth below, played a major role in successfully prosecuting three such cold cases prior to the launching of the Cold Case Initiative. In order to further the Department's mission, in 2006, the FBI began its Cold Case Initiative to identify and investigate the murders committed during our nation's civil rights era.

In October 2008, the Till Act was signed into law, directing the Department to designate a Deputy Chief in the Civil Rights Division to coordinate the investigation and prosecution of civil rights era homicides, and a Supervisory Special Agent in the FBI's Civil Rights Unit to coordinate the investigation of these cases. The Civil Rights Division and the FBI were also given the authority to work with State and local law enforcement officials.

B. Pre-Cold Case Initiative Efforts

For many years now, the Department has played an important role in the investigation and prosecution of civil rights era homicides, notwithstanding the constitutional and jurisdictional limitations noted above. Even prior to launching the Cold Case Initiative in 2006, the Department was able to play an important – indeed, essential – role in three successful cold case prosecutions.

For example, in 1997, the FBI reopened the investigation into the 1963 bombing of the Sixteenth Street Baptist Church in Birmingham, Alabama which resulted in the deaths of an eleven-year-old and three fourteen-year-old girls. Civil Rights Division attorneys worked with the U.S. Attorney for the Northern District of Alabama in conducting a federal grand jury investigation. We were able to assume federal jurisdiction because a predecessor statute to the current arson and explosives statute, 18 U.S.C. § 844, provided that in situations where death resulted from an explosive transported in interstate commerce, the penalty was death, and under 18 U.S.C. § 3281, crimes punishable by death have no statute of limitations. Ultimately, we could not prove that the explosive traveled in interstate commerce, so we released the grand jury investigation to the State of Alabama. State charges were filed against defendants Thomas Blanton and Bobby Cherry in Birmingham, Alabama, in May 2000. G. Douglas Jones, at the time the U.S. Attorney for the Northern District of Alabama, was cross-designated to serve as the lead prosecutor in the state trials. Defendant Blanton was convicted in April 2001, and sentenced to four life terms; Cherry was convicted in May 2002, sentenced to four life terms, and died in prison in 2004. Thus, this case – which was investigated by federal agents and a federal grand jury, and ultimately successfully prosecuted by a federal prosecutor in state court – provides a perfect example of the Department's efforts to find creative ways to pursue civil rights era cases.

In 1999, the Civil Rights Division and the U.S. Attorney's Office for the Southern District of Mississippi reopened the investigation into the 1966 murder of Ben Chester White, an elderly African-American farm worker, by Ernest Henry Avants, a Mississippi Klansman. Avants, along with two other men, lured White to Pretty Creek Bridge in the Homochitto National Forest outside of Natchez, Mississippi. Once there, White was shot multiple times with an automatic weapon, and also was shot in the head with a single barrel shotgun. Following the killing, which was intended to lure Dr. Martin Luther King, Jr. to the area, White's body was thrown off the bridge. His bullet ridden body was discovered several days later. 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. The Justice Department opened an investigation into the death of White in 1999, using a federal statute that prohibits murder on federal property, 18 U.S.C. § 1111. Avants was indicted in June 2000, convicted in February 2003, sentenced to life in prison in June 2003, and died in prison in 2004.

Another matter in which federal resources contributed to the conviction of a civil rights era murderer involved the reopened investigation into the 1964 “Mississippi Burning” case. At the time of the murders, the Assistant Attorney General for the Civil Rights Division, John Doar, personally led the investigation and prosecution of these murders. Despite facing extraordinary hurdles, he was able to secure the convictions of 7 of the 18 defendants charged with these murders; however, they received sentences ranging from just 4 to 10 years of imprisonment. One of the ringleaders, Ku Klux Klan member Edgar Ray Killen, received a mistrial because one of the jury members refused to convict a “preacher.” The Department, however, remained committed to ensuring that Justice eventually prevailed in that case. The FBI worked with local law enforcement and provided invaluable assistance on the reopened investigation, which resulted in the indictment of Killen on three counts of state murder charges on January 6, 2005. Killen was finally convicted on June 21, 2005 for three counts of manslaughter for his involvement in the case. The then-80-year-old Killen was sentenced to twenty years for each count, to be served consecutively.

In addition to the three successful cold case prosecutions, the Department also made significant contributions in the recent re-investigation of the murder of Emmett Till, the 14-year-old victim of a brutal murder in Money, Mississippi in 1955, and the individual for whom the Congressional Act authorizing renewed federal investigations of these cold cases is named. Photographs of Mr. Till’s mutilated body caused a national outcry and galvanized the civil rights movement. In a 1955 state prosecution, a jury of 12 white men acquitted the two men, now deceased, of murdering Mr. Till. Shortly after the trial, protected by the double jeopardy clause, the two men admitted to a magazine reporter that they had killed the teenager. Since then, allegations persisted that there were others – most of whom are also deceased – involved in the murder. At the request of the District Attorney for the 4th Judicial District of Mississippi and the Department’s Civil Rights Division, the FBI commenced a new investigation of the murder in May 2004, and in March 2006 turned over a more than 8,000 page report to the District Attorney.³ The District Attorney presented the matter to a grand jury in February 2007 and the grand jury declined to issue any new indictments in the matter. Although the grand jury did not issue an official report on the matter, several members of the biracial grand jury spoke with members of the press, and they reported that the grand jury unanimously agreed that there was insufficient evidence to establish probable cause that any surviving individual participated in the kidnapping or murder of Mr. Till. In March 2007, the FBI and the District Attorney met with family members of Mr. Till and discussed the investigative findings with them. Additionally, the FBI produced a detailed report on the investigation, a redacted version of which is available on the FBI’s website at <http://vault.fbi.gov/Emmett/20Till/20>. Although

³ The five-year statute of limitations on any potential federal criminal civil rights violation has expired, and there were no other applicable federal statutes; thus, there was no possibility of a federal prosecution.

this particular case did not result in a successful prosecution, we believe that the exhaustive investigation conducted by the FBI gave some sense of closure to the victim's family members and the community. Additionally, the investigation served to benefit history by unearthing the long-lost transcript of the 1955 trial.

These four cold cases represent the four different models in which the Department of Justice has participated in the investigation and prosecution of civil-rights era crimes:

1) non-civil rights federal statutes, such as the federal murder statute, have been used to successfully prosecute the perpetrators in federal court; 2) when the federal investigation failed to establish federal jurisdiction, a federal prosecutor was cross-designated to serve as a state prosecutor and was able to use the federal investigation in a successful State trial; 3) federal and local investigators have jointly investigated and provided assistance to a State prosecutor in an effort to bring a State prosecution; and 4) a thorough investigation has been completed and even though no prosecution has resulted, some closure has been provided.

II. THE COLD CASE INITIATIVE

A. Overview

In order to further the Department's commitment to investigating and prosecuting civil rights era homicides, the FBI in 2006 began its Cold Case Initiative (the "Initiative") to identify and investigate the murders committed during the civil rights era. The Department and the FBI have jointly participated in a multi-faceted strategy to address these investigations.

The first step was to identify cases for inclusion under the Initiative. Each of the 56 FBI field offices was directed to identify cases within its jurisdiction that might warrant inclusion on a list of cold cases meriting additional investigation. In 2007, we began the next phase of this initiative, which includes a partnership with the National Association for the Advancement of Colored People (NAACP), the Southern Poverty Law Center (SPLC), and the National Urban League to identify possible additional cases for investigation and to solicit their assistance with already identified matters.

As the investigations progressed, we fully realized the challenges associated with locating surviving subjects, witnesses and family members of the victims. In an effort to generate leads and other information, we began an extensive outreach campaign, soliciting assistance from community groups and other Non-governmental Organizations (NGOs), engaging the academic community, reaching out to the media, and working with state and local law enforcement organizations. We have received valuable information as a result of these efforts. When our work on the Initiative began, we had identified 95 matters for inclusion. Largely as a result of our outreach efforts, that number has now grown to 111, and our outreach campaign will continue. At a minimum, we believe that our demonstrated commitment already has provided

the communities with the assurance that they are being heard and that the Department is doing everything possible to investigate these important cases.

B. Ongoing Outreach Efforts

As part of the Department's efforts to uncover relevant information regarding our unsolved civil rights era homicides, we continue to engage in a comprehensive outreach program, meeting with a broad array of interested individuals and organizations.

i. Meetings with NGOs and Community Activists

In July 2010 and June 2011, the Assistant Attorney General for the Civil Rights Division and other Department officials met with the Chairman of the Emmett Till Justice Campaign ("ETJC") to discuss issues related to the Till Act. These meetings followed up on a July 2009 meeting during which the Attorney General met with the ETJC Chairman, a cousin of Mr. Till, and other interested advocates, academics, journalists and members of the media to discuss issues related to the Till Act. During an earlier meeting, Department officials met with a number of key supporters of the Cold Case Initiative, including the ETJC Chairman, and the brother of slain civil rights worker James Chaney to update them on the status of the Department's cold case work. During these meetings, we also discussed how these groups and individuals could: 1) help law enforcement locate witnesses and family members of the victims; 2) assist in providing psychological comfort and closure to victims; and 3) fulfill a historical role by documenting the stories underlying these cases through investigative journalism, research, and documentary films. In addition to these formal meetings, senior Department officials are in regular contact with the ETJC Chairman and other interested individuals and groups. We expect these productive dialogues with these groups to continue throughout the Initiative.

Senior officials with the Department and the FBI have also met with and will continue to meet with representatives from the NAACP, SPLC, and the National Urban League. The purpose of these meetings is threefold: 1) to encourage those organizations to reach out to their field offices and to try to obtain information on cold cases; 2) to provide the organizations with updates on our progress; and 3) to educate these organizations on the scope of the Till Act and the impediments that we face in pursuing these matters.

ii. Law Enforcement Outreach

We have also reached out to federal and local law enforcement officials and organizations to educate them about the Till Act and to solicit assistance and information. As noted earlier, the FBI reached out to all of its field offices and instructed them to identify all potential cold cases in their districts. The Department has proactively reached out to all of the U.S. Attorneys' Offices in districts in which there are open cold cases, notifying them of the cases in their districts and seeking their assistance.

A Department official presented on the Till Act at the Criminal Civil Rights Conference at the National Advocacy Center in Columbia, South Carolina in 2009 and 2011. The conference was attended by Assistant United States Attorneys and FBI agents from across the country. A Department official also gave a presentation on the Till Act at the FBI's Civil Rights training program in 2009, attended by agents from across the country.

In an effort to broaden the outreach to prosecutors at a state and local level, Department officials participated in the annual conference of the National Black Prosecutors Association in July 2009, and presented on the James Ford Seale case. The FBI and Department officials have also met with representatives from the Mississippi Highway Safety Patrol, the Alabama Bureau of Investigation, and numerous other state and local law enforcement agencies.

iii. Collaboration with Academic Communities

In January 2008, November 2008, July 2009, October 2009, and October 2010, Department officials met with professors from the Syracuse University College of Law. The Syracuse law school founded a Cold Case Justice Initiative (CCJI) project in response to the unsolved 1964 murder in Ferriday, Louisiana of shoe shop owner Frank Morris, who suffered fatal burns when his store was set on fire, presumably by members of the Ku Klux Klan.⁴ Under the supervision of two professors, Syracuse University College of Law students have researched thousands of documents related to the Morris matter and other cold cases in that geographic area. In addition, in October 2009, the Department and FBI met with a Syracuse undergraduate class in which students have done significant research on civil rights homicides. Syracuse has generously shared the results of the research conducted by its students.

We have also been in contact with a professor from Northeastern University School of Law, who is directing Northeastern University's Civil Rights and Restorative Justice Project, which engages students in matters relating to the civil rights movement. These students have also done extensive research on a number of our cold cases, and have shared their findings with us.

iv. Conferences and Town Hall Meetings

In addition to our efforts with scholars, the Department continues to reach out to local civil rights organizations and participate in conferences in an effort to encourage the active assistance of these groups. For example, an official from the FBI participated in the Mississippi Civil Rights Veterans Conference in Jackson, Mississippi in March 2009 and March 2010. In both instances, the official met with journalists, veterans of the civil rights movement, and others

⁴ It should be noted that the Department is continuing to vigorously pursue the Morris murder case and the FBI has offered a \$10,000 reward for information leading to an indictment in the Morris matter.

to discuss issues related to cold cases, explain our achievements with the Initiative, answer questions regarding specific cases, and request assistance with our efforts. In connection with the 2010 conference, the Attorney General issued a statement in support of the Till Act in which he encouraged citizens to come forward with any information they might have concerning civil rights era racially motivated homicides.

Similarly, in March 2009, officials from the FBI and the Civil Rights Division jointly participated in a two-day conference in Monroe, Georgia, sponsored by the Moore's Ford Memorial Committee. During that conference, officials participated in a panel discussion and met with community members, civil rights veterans, local law enforcement, jury consultants, and others in an attempt to re-invigorate the Moore's Ford investigation, which focuses on the lynching of two African-American couples on the Moore's Ford Bridge in 1946.⁵ A \$35,000 reward has been offered for information leading to an indictment in this matter.

During the October 2009 visit to Syracuse, New York, Department and FBI officials participated in a town hall meeting, which began with the screening of a documentary film about one of the cases under review as part of the Initiative. The officials granted an interview to a local public television program and met with community members, professors, journalists, and other interested persons in an attempt to identify leads and other information for the Cold Case Initiative in the northeast, where many African Americans relocated during the turbulent civil rights era.

The FBI participated in a town hall meeting in Baton Rouge, Louisiana in November 2009, again partnering with a documentary filmmaker to screen one of his cold case documentaries in a community where some of these crimes occurred and where witnesses might reside.

The FBI participated in similar events in February 2011 in New York City, New York; Natchez, Mississippi; and Bogalusa, Louisiana, in connection with the screenings of several documentaries discussed further below.

In July 2010, a Department official delivered a presentation on the Cold Case Initiative at the NAACP's annual conference in Kansas City, Missouri.

v. Media Outreach

The Department and the FBI have embarked on an aggressive media outreach campaign, granting interviews to the Washington Post, National Public Radio, the British Broadcasting

⁵ In July 2008, agents with the Federal Bureau of Investigation (FBI) and the Georgia Bureau of Investigation (GBI) conducted searches in Walton County, Georgia in reference to the Moore's Ford investigation as part of the continuing joint investigation into the 1946 Moore's Ford Lynching by the FBI and the GBI.

Company, 60 Minutes, Dateline, and local media outlets to continue to elicit the public's assistance with locating witnesses to these crimes, as well as family members of the victims.

In January 2009, the Department sponsored a joint press conference held by representatives from the FBI, the Civil Rights Division, the U.S. Attorneys and other prosecutors from the Northern and Southern Districts of Mississippi, senior officials from the United States Marshals Service, and the Mississippi Attorney General. During this press conference, the Department released the names of the victims whose murder cases were under review in Mississippi, provided a phone number for a cold case hotline, and asked for citizen assistance in solving these crimes.

In April 2011, 60 Minutes aired a segment on the 1964 murder of Louis Allen in Liberty, Mississippi. Mr. Allen was murdered in his driveway by two shots to his head. A subject profiled by 60 Minutes as potentially involved in the murder was also the investigating officer on the case. Still living in Liberty, Mississippi, this individual denied his involvement, but refused to answer some key questions posed to him and declined to take a polygraph test. An FBI official was interviewed as part of the program, and provided information regarding the FBI's investigation into the matter.

The Department continues to meet with journalists to seek input, ideas, and possible leads. For instance, we are regularly in contact with members of the Civil Rights Cold Case Project, a multi-partner, multi-platform effort focused on the unresolved history of the South during the civil rights era, seeking any information that it may have relevant to cold cases. Among the participants in that project are investigative reporters from Alabama, Mississippi, and Louisiana, who are vigorously investigating the matters in their respective regions. Investigative reporters from Michigan and Massachusetts are also contributing to the project. Another participant in that project is a documentary filmmaker from the Canadian Broadcasting Corporation, who provided the Department with invaluable information during the investigation and successful prosecution of the James Ford Seale case.

vi. Documentaries

In an unusual step, the FBI has partnered with a documentary filmmaker on the production of a number of documentaries focused on specific open, unsolved cold case investigations. The FBI participated in the hope that additional attention for these cases may develop new leads and uncover witnesses willing to share information that may help bring closure to these cases. The first such documentary aired on the History Channel in February 2009, and focused on a particularly egregious cold case – the murder of Johnnie Mae Chappell, an African-American mother of ten who was gunned down by a car full of white men as she walked along the side of the road searching for her wallet. An FBI official was interviewed for that documentary, and at the end of the documentary, the filmmaker provided an FBI phone number for viewers to call with information related to any cold cases.

More recently, the filmmaker produced a series of documentaries called "The Injustice Files" for Investigation Discovery in which three additional cold cases were profiled. The series began in February 2011, to coincide with Black History Month. The first episode, premiered on February 18, 2011, focused on the 1967 murder of Wharlest Jackson, a father of five and treasurer for the local chapter of the NAACP, who was killed when a bomb exploded in his truck as he left work one evening shortly after receiving a promotion. The second episode, premiered on February 25, 2011, focused on the 1965 murder of Oneal Moore and non-fatal shooting of David Creed Rogers, the first two African American police officers in Bogalusa, Louisiana, who were gunned down while they were on patrol.⁶ The third episode, premiered on March 4, 2011, focused on the 1963 murder of William Lewis Moore, an activist who was gunned down near Attalla, Alabama during his solo protest march from Chattanooga, Tennessee to Jackson, Mississippi, where he intended to hand deliver a letter to the Governor of Mississippi urging him to accept integration. A senior FBI official was interviewed and is shown in all three episodes explaining the ongoing efforts by the Department to investigate these and other cold cases, and directly soliciting information from the public. The website for the program, <http://investigation.discovery.com/tv/injustice-files/>, also includes a link through which individuals can provide tips directly to the FBI.

C. Prosecutions

The Cold Case Initiative resulted in one successful federal prosecution which was upheld on appeal in 2010. This case involved the 1964 murders of 19-year-olds Charles Moore and Henry Dee in Franklin County, Mississippi. On May 2, 1964, James Ford Seale and other members of the Ku Klux Klan forced Moore and Dee into a car and drove the teenagers into the Homochitto National Forest. Insisting that Dee was a member of the Black Panthers, which he was not, and that he was bringing guns into the county, the Klansmen beat the boys while interrogating them about the location of the weapons. In order to stop the beating, the boys falsely confessed, telling the Klansmen that guns were stored in a nearby church. The Klansmen then split into two groups. One group went to search the church for the guns. The other group, including Seale, transported the victims across state lines, into Louisiana, and then back into Mississippi to a remote location on the Mississippi River. Moore and Dee, bound and gagged, were chained to a Jeep engine block and railroad ties, and were taken by Seale out onto the water in a boat, and were pushed overboard to their deaths. Their severely decomposed bodies were found months later.

Seale and another Klansmen, Charles Edwards, were arrested on state murder charges in late 1964, but the charges were later dropped. The Civil Rights Division and the U.S. Attorney's Office for the Southern District of Mississippi reopened an investigation into the murders in

⁶ The FBI has offered a \$25,000 reward for information leading to an indictment in the Oneal Moore matter.

2006. The new investigation revealed evidence that supported a federal prosecution under the federal kidnapping statute, 18 U.S.C. § 1201. Edwards, who was in the group of Klansmen who searched the church, but who did not participate in the actual murders, was granted immunity and testified against Seale, the only other surviving participant. Seale was indicted in January 2007, and convicted in June 2007, of two counts of kidnapping and one count of conspiracy. He was sentenced to three life terms.

On appeal, when Seale's conviction was reversed by a three judge panel on a legal technicality involving the statute of limitations, the Department successfully sought en banc review. The en banc panel reinstated Seale's conviction and returned the case to the original panel for consideration of the remaining issues. On March 12, 2010 Seale's conviction was affirmed by the original Fifth Circuit panel. On October 4, 2010, the Seale's petition for certiorari review to the U.S. Supreme Court was denied. Seale's application for a writ of habeas corpus pursuant to 18 U.S.C. § 2255 was filed on January 10, 2011. It was still pending before the U.S. District Court for the Southern District of Mississippi, when Seale died in prison on August 2, 2011, rendering the writ moot.

In addition, during this reporting period, there has been a successful state prosecution. This case involved the February 18, 1965 shooting of Jimmie Lee Jackson by then-Alabama State Trooper James Bonard Fowler following a civil rights protest in Marion, Alabama. Mr. Jackson died from an abdominal infection secondary to his injuries on February 26, 1965. While Fowler alleged that he and Mr. Jackson struggled for control of his service weapon, and that the gun discharged when Mr. Jackson struck Corporal Fowler's hand, the civilian witnesses stated that they saw Fowler draw his gun and deliberately shoot Mr. Jackson. The civilian witnesses also disputed Fowler's claim that Mr. Jackson struck Fowler with a glass bottle prior to the shooting.

A state grand jury investigated the matter in 1965, but declined to bring charges. In May 2007, the District Attorney for Perry County, Alabama filed murder charges against Fowler. The FBI lent its assistance to local investigators and the District Attorney's office in connection with the case. On November 15, 2010, the seventy-seven year old Fowler pleaded guilty to manslaughter, and received a six-month prison sentence.

D. Notifying Victim Family Members

During the past three years, the FBI has completed its work on many of the investigations and has submitted them to the Department for review. The Department's review of these investigations and the thousands of documents provided by the FBI is ongoing. Unfortunately, during this process, it has become apparent that due to the many impediments discussed earlier in this Report, few, if any, of these cases will be prosecuted.

In an effort to nonetheless bring some sense of closure to the family members of these victims, the Department is writing letters to the next of kin when found. Pursuant to 68 Fed. Reg. 47610-01, excepting certain categories of disclosure from the Privacy Act, the Civil Rights Division has the authority to disclose information about the results of an investigation or case to family members of the victims. Thus, we have made the decision that our notification letters will detail our investigative efforts and our findings. We have also made the decision to have FBI agents hand deliver these letters to known family members.

The FBI has devoted considerable resources to locating the next of kin for the victims, successfully locating family members for 95 of the 124 victims. The FBI enlisted the public's assistance in locating next of kin at a town hall forum on November 18, 2009, at Southern University in Baton Rouge, Louisiana by presenting a list of the victims for whom the FBI was searching for next of kin. A press advisory alerted media to the announcement beforehand, and press packets were available at the event. Following the announcement, the FBI posted the Next of Kin list on the Seeking Information page of its website, and simultaneously issued a press release with updates and a link to the Seeking Information poster. Additionally, the information was publicized with a front page story on www.fbi.gov, email alerts to www.fbi.gov subscribers, a video on the FBI's YouTube channel, announcements on the FBI's Twitter feed and Facebook page, and through the "Wanted by the FBI" Podcast. A large number of media outlets picked up the story, including the Associated Press. This effort helped the FBI locate 12 of the 95 next of kin.

III. COLD CASE STUDY AND REPORT

As set forth above, the Department's efforts to investigate and prosecute unsolved civil rights era homicide cases predate the Till Act. During the course of the Department's focus on these matters, we have opened 111 matters, involving 124 victims, for review. Five of those matters have been opened since the First Report to Congress was submitted in May 2009; sixteen of them have been added since the Initiative's inception.

Thus far, the Department's efforts have resulted in two successful federal prosecutions, and three successful state prosecutions. The first federal case was *United States v. Avants*, 367 F.3d 433 (5th Cir. 2004), which was indicted in the Southern District of Mississippi in June 2000. Avants was convicted in February 2003, and sentenced to life in prison. The second federal case was *United States v. James Ford Seale*, 600 F.3d 973 (5th Cir. 2010), described in Section II.C above, which was indicted in the Southern District of Mississippi in January 2007. Seale was convicted in June 2007, and sentenced to three life terms.

The first successful federally-assisted state prosecution was the Sixteenth Street Church bombing case described above. The second successful federally-assisted state prosecution was the *State of Mississippi v. Edgar Ray Killen*. Charges were filed against Killen in Philadelphia, Mississippi, in January 2005; he was convicted of three counts of manslaughter in June 2005,

and was sentenced to 60 years in prison. The most recent successful federally-assisted state prosecution occurred in 2010, in the *State of Alabama v. James Bernard Fowler*, described in Section II.C. above. Fowler was convicted in November 2010 and sentenced to six months imprisonment.

Six of the 111 matters have been referred to state authorities. One of those matters is *In re: Emmett Till*. As discussed above, the District Attorney for the 4th Judicial District of Mississippi presented the matter to a grand jury in February 2007, and the grand jury declined to issue any new indictments. Another matter is *State of Alabama v. James Bonard Fowler*, also discussed above.

Thus far, our review has revealed no viable federal statutory authority for any of the matters other than the federal murder statute used in *United States v. Avants* and the federal kidnapping statute used in *United States v. Seale*. In 48 of the cases closed without prosecution, all identified subjects are deceased. In 19 of the closed cases, there was insufficient evidence of a potential violation of a criminal civil rights statute, as opposed to an accidental death, a suicide, a heart attack, a homicide committed by a black subject for non-racial reasons, or some other manner of death outside the scope of the Till Act.

Since January 2007, at least 70 federal prosecutors have worked on cases under review as part of the Department's Cold Case Initiative and the Till Act. The resources involved in a viable prosecution 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.

Although no matters are currently under federal indictment, several cases have been identified as potentially viable prosecutions at the state level. The Department is partnering with the FBI, United States Attorney's Offices, and District Attorney's offices in actively and aggressively investigating those cases. Prosecutors from the Civil Rights Division are actively traveling on these matters and personally participating in witness interviews and other investigative steps.

The Department has received no applications for grants from State or local law enforcement agencies under the Till Act.

Below is a chart listing the 124 victims whose deaths the Department has reviewed and is reviewing in accordance with the Till Act:

NAME OF VICTIM	INCIDENT LOCATION	INCIDENT DATE	CLOSING DATE
1. Louis Allen	Amite County, Mississippi	January 31, 1964	
2. Andrew Lee Anderson	Crittendon County, Arkansas	July 17, 1963	April 9, 2010
3. Frank Andrews	Lisman, Alabama	November 28, 1964	
4. Isadore Banks	Marion, Arkansas	June 8, 1964	
5. John Larry Bolden	Chattanooga, Tennessee	May 3, 1958	April 15, 2010
6. Preston Bolden	San Antonio, Texas	May 8, 1953	May 26, 2011
7. James Brazier	Dawson, Georgia	April 20, 1958	April 6, 2009
8. Thomas Brewer	Columbus, Georgia	February 18, 1956	April 6, 2009
9. Hilliard Brooks	Montgomery, Alabama	August 13, 1952	April 9, 2010
10. Benjamin Brown	Jackson, Mississippi	May 11, 1967	
11. Charles Brown	Yazoo City, Mississippi	June 18, 1957	April 16, 2010
12. Gene Brown/a.k.a Pheld Evans	Canton, Mississippi	1964	April 21, 2010
13. Jessie Brown	Winona, Mississippi	January 13, 1965	April 19, 2010
14. Carrie Brumfield	Franklinton, Louisiana	September 12, 1967	
15. Eli Brumfield	McComb, Mississippi	October 13, 1961	April 16, 2010
16. Johnnie Mae Chappell	Jacksonville, Florida	March 23, 1964	
17. Jesse Cano	Brookville, Florida	January 1, 1965	June 3, 2011
18. Silas Caston	Hinds County, Mississippi	March 1, 1964	May 2, 2010
19. James Chaney	Philadelphia, Mississippi	June 21, 1964	
20. Thad Christian	Anniston, Alabama	August 28, 1965	April 6, 2011
21. Clarence Cloniger	Gaston, North Carolina	October 10, 1960	April 3, 2009
22. Willie Countryman	Dawson, Georgia	May 25, 1958	April 6, 2009
23. Vincent Dahmon	N/A	N/A	April 12, 2010
24. Jonathan Daniels	Lowndes County, Alabama	August 20, 1965	April 26, 2011
25. Woodrow Wilson Daniels	Yalobusha County, Mississippi	June 25, 1958	April 12, 2010
26. Henry Hezekiah Dee	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
27. George Dorsey	Monroe, Georgia	July 25, 1946	
28. Mae Dorsey	Monroe, Georgia	July 25, 1946	
29. Roman Ducksworth	Taylorville, Mississippi	April 9, 1962	April 12, 2010
30. Joseph Dumas	Perry, Florida	May 5, 1962	April 9, 2010
31. Joseph Edwards	Vidalia, Mississippi	July 12, 1964	
32. Willie Edwards	Montgomery, Alabama	January 23, 1957	
33. James Evansington	Tallahatchie County, Mississippi	December 24, 1955	April 12, 2010
34. Andrew Goodman	Philadelphia, Mississippi	June 21, 1964	
35. Mattie Greene	Ringgold, Georgia	May 20, 1965	
36. Jasper Greenwood	Vicksburg, Mississippi	July 10, 1964	June 17, 2010
37. Jimmie Lee Griffin	Sturgis, Mississippi	September 24, 1965	
38. Paul Guihard	Oxford, Mississippi	September 30, 1962	
39. A.C. Hall	Macon, Georgia	October 11, 1962	
40. Rogers Hamilton	Lowndes County, Alabama	October 22, 1957	
41. Adlena Hamlett	Sidon, Mississippi	January 11, 1966	May 26, 2011
42. Samuel Hammond	Orangeburg, South Carolina	February 8, 1968	
43. Collie Hampton	Winchester, Kentucky	August 14, 1966	June 1, 2011

44. Alphonso Harris	Albany, Georgia	December 1, 1966	April 12, 2010
45. Isaiah Henry	Greensburg, Louisiana	July 28, 1954	
46. Arthur James Hill	Villa Rica, Louisiana	August 20, 1965	May 18, 2011
47. Ernest Hunter	St. Marys, Georgia	September 13, 1958	April 6, 2009
48. Jimmie Lee Jackson	Marion, Alabama	February 18, 1965	May 3, 2011
49. Luther Jackson	Philadelphia, Mississippi	October 25, 1959	April 16, 2010
50. Wharlest Jackson	Natchez, Mississippi	February 27, 1967	
51. Ernest Jells	Clarksdale, Mississippi	October 20, 1963	April 16, 2010
52. Joseph Jeter	Atlanta, Georgia	September 13, 1958	May 2, 2010
53. Nathan Johnson	Alabaster, Alabama	May 8, 1966	April 21, 2011
54. Marshall Johns	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
55. Birdie Kegl	Sidon, Mississippi	January 11, 1966	May 18, 2011
56. Bruce Klunder	Cleveland, Ohio	March 7, 1964	April 16, 2010
57. William Henry "John" Lee	Rankin County, Mississippi	February 25, 1965	May 5, 2011
58. George Lee	Belzoni, Mississippi	May 7, 1955	June 6, 2011
59. Herbert Lee	Amite County, Mississippi	September 25, 1961	April 16, 2010
60. Richard Lillard	Nashville, Tennessee	July 20, 1958	April 15, 2010
61. George Love	Ruleville, Mississippi	January 8, 1958	June 10, 2011
62. Maybelle Mahone	Zebulon, Georgia	December 5, 1967	April 6, 2009
63. Dorothy Malcolm	Monroe, Georgia	July 25, 1946	
64. Roger Malcolm	Monroe, Georgia	July 25, 1946	
65. Sylvester Maxwell	Canton, Mississippi	January 17, 1963	May 2, 2010
66. Bessie McDowell	Andalusia, Alabama	June 14, 1956	April 9, 2010
67. Ernest McPharland	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
68. Robert McNair	Pelahatchie, Mississippi	November 6, 1965	May 26, 2011
69. Clinton Melton	Sumner, Mississippi	December 3, 1955	April 12, 2010
70. Delano Middleton	Orangeburg, South Carolina	February 8, 1968	
71. James Andrew Miller	Jackson, Georgia	August 30, 1964	April 12, 2010
72. Hosie Miller	Newton, Georgia	March 25, 1965	June 21, 2011
73. Booker T. Mixon	Clarksdale, Mississippi	September 12, 1959	
74. Neimiah Montgomery	Cleveland, Mississippi	August 10, 1964	April 12, 2010
75. Charles Edward Moore	Parker's Landing, Mississippi	May 2, 1964	March 15, 2010
76. Harriette Moore	Mims, Florida	December 25, 1951	July 15, 2011
77. Harry Moore	Mims, Florida	December 25, 1951	July 15, 2011
78. Oneal Moore	Varnado, Louisiana	June 2, 1965	
79. William Moore	Attalla, Alabama	April 23, 1963	
80. Frank Morris	Ferriday, Louisiana	December 10, 1964	
81. James Motley	Elmore County, Alabama	November 20, 1966	April 12, 2010
82. Claude Neal	Greenswood, Florida	October 26, 1934	
83. Samuel O'Quinn	Centreville, Mississippi	August 14, 1959	
84. Herbert Orsby	Canton, Mississippi	September 7, 1964	April 12, 2010
85. Will Owens	New Bern, North Carolina	March 5, 1956	April 3, 2009
86. Mack Charles Parker	Pearl River County, Mississippi	May 4, 1959	
87. Larry Payne	Memphis, Tennessee	March 28, 1968	July 5, 2011
88. Charles Horatious Pickett	Columbus, Georgia	December 21, 1957	April 12, 2010
89. Albert Pitts	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010
90. David Pitts	Ouachita Parish, Louisiana	July 13, 1960	April 22, 2010

91. Jimmy Powell	New York City, New York	July 16, 1964	
92. William Roy Prather	Corinth, Mississippi	October 31, 1959	
93. Johnny Queen	Fayette, Mississippi	August 8, 1965	
94. Donald Raspberry	Okolona, Mississippi	February 27, 1965	May 17, 2010
95. James Reeb	Selma, Alabama	March 8, 1965	May 18, 2011
96. James Earl Reese	Gregg County, Texas	October 22, 1955	April 15, 2010
97. Fred Robinson	Edisto Island, South Carolina	August 5, 1960	
98. Johnnie Robinson	Birmingham, Alabama	September 15, 1963	April 9, 2010
99. Willie Joe Sanford	Hawkinsville, Georgia	March 1, 1957	
100. Michael Schwerner	Philadelphia, Mississippi	June 21, 1964	
101. Marshall Scott	Orleans Parish, Louisiana	January, 1965	
102. Jessie James Shelby	Yazoo City, Mississippi	January 21, 1956	May 24, 2010
103. Ollie Shelby	Hinds County, Mississippi	January 22, 1965	April 16, 2010
104. George Singleton	Shelby, North Carolina	April 30, 1957	April 16, 2010
105. Ed Smith	Stateline, Mississippi	April 27, 1958	November 5, 2009
106. Henry Smith	Orangeburg, South Carolina	February 8, 1968	
107. Lamar Smith	Brookhaven, Mississippi	August 13, 1955	April 12, 2010
108. Maceo Snipes	Butler, Georgia	July 18, 1946	April 12, 2010
109. Eddie Stewart	Jackson, Mississippi	July 9, 1966	May 26, 2011
110. Isaiah Taylor	Ruleville, Mississippi	June 26, 1964	April 12, 2010
111. Emmett Till	Money, Mississippi	August 28, 1955	December 28, 2007
112. Ann Thomas	San Antonio, Texas	April 8, 1969	April 15, 2010
113. Freddie Lee Thomas	Sidon, Mississippi	August 19, 1965	June 9, 2011
114. Selma Trigg	Hattiesburg, Mississippi	January 21, 1965	May 2, 2010
115. Ladislado Ureste	San Antonio, Texas	April 23, 1953	April 20, 2010
116. Hulet Varner	Atlanta, Georgia	September 10, 1966	April 6, 2009
117. Clifton Walker	Woodville, Mississippi	February 29, 1964	
118. Virgil Ware	Birmingham, Alabama	September 23, 1963	March 29, 2011
119. James Waymers	Allendale, South Carolina	July 10, 1965	April 15, 2010
120. Ben Chester White	Natchez, Mississippi	June 10, 1966	October 16, 2003
121. Robert Wilder	Ruston, Louisiana	July 17, 1965	May 25, 2011
122. Rodell Williamson	Camden, Alabama	May 20, 1967	May 2, 2010
123. Archie Wooden	Camden, Alabama	December 25, 1967	April 20, 2010
124. Samuel Younge	Tuskagee, Alabama	January 3, 1966	March 28, 2011