



U.S. Department of Justice
Civil Rights Division

RJM:PMF:SW:tc
144-17-792

*Criminal Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530*

(b)(7)(C)

Gainesville, Virginia 20155

Dear (b)(7)(C)

(b)(7)(C) We are writing to inform you that the Department of Justice and the Federal Bureau of Investigation (FBI) recently opened an investigation into the circumstances surrounding the death of your (b)(7)(C) Claude Neal, on October 26, 1934. We have now concluded that investigation and wish to inform you in writing of our findings.

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

Over the last 50 years, the Civil Rights Division of the Department of Justice has been instrumental in bringing justice to some of the nation's most disturbing civil rights era crimes. Today, the Division continues to use its resources and expertise to identify, locate, and, where possible, prosecute those responsible for committing racially-motivated crimes committed more than 40 years ago.

In 2006, the FBI began its "Cold Case Initiative" — a comprehensive effort to identify and investigate racially-motivated murders committed decades ago. Toward that end, each of the 56 FBI field offices searched their "cold case files" to identify incidents which might be ripe for investigation. In February 2007, the FBI announced the next phase of the 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 assist the FBI in identifying additional cases for investigation and to solicit their help. In October 2008, the "Emmett Till Unsolved Civil Rights Crime Act" ("Emmett Till Act") became law giving the Department of Justice additional tools to investigate "violations of criminal civil rights statutes . . . result[ing] in death that occurred not later than December 31, 1969."

The federal review of Claude Neal's death was begun pursuant to the Cold Case Initiative and the Emmett Till Act. As part of its investigation into the circumstances of Claude Neal's

death, the FBI obtained the state investigative file from the Alabama Department of Archives and History; the grand jury report from the Circuit Court of Jackson County, Florida; the Report of Investigation made for the NAACP by Howard Kester in 1934; newspaper reports from around the time of the lynching; and the 1982 book "Anatomy of a Lynching: The Killing of Claude Neal." Federal prosecutors then carefully reviewed these materials in the hope of identifying new leads that would reveal the identities of the men who removed Mr. Neal from the Brewton jail and lynched him.

The 1934 state investigation revealed that on October 19, 1934, Claude Neal was arrested for the murder of 20-year-old Lola Cannidy by a Jackson County Deputy Sheriff. Jackson County Sheriff Chambliss became aware of the lynching spirit arising in the community and decided to transfer Mr. Neal to another location in Florida for his protection. Shortly after his arrest, Mr. Neal was moved to several local jails in the Florida panhandle before being sent to the Escambia County Jail in Brewton, Alabama. On October 22, 1934, Mr. Neal confessed in writing to the rape and murder of Lola Cannidy. Escambia County (b)(7)(C) placed Mr. Neal in a safety cell for his protection. In the early morning hours of October 26, 1934, a small group of unidentified men forced the jailer, at gunpoint, to open Mr. Neal's cell. The men then removed Mr. Neal and took him to a wooded location in Florida for the lynching.

According to recent FBI reports, the case received national attention around the time the incident occurred because the nation was in the process of considering anti-lynching legislation. Significant public source documentation cast doubt on Mr. Neal's guilt, yet despite the attention the matter received in the media, little was done to officially investigate it or to hold those responsible for Mr. Neal's kidnap and murder legally accountable. A grand jury was convened in Florida, in the Circuit Court of Jackson County, in November of 1934. The report states that the grand jury was not able "to get much direct or positive evidence" in reference to the matter. Rather, "practically all of [their] evidence and information [was in] the nature of hearsay and rumors." The grand jury was able to conclude that Lola Cannidy was raped and murdered on October 18, 1934, by Claude Neal, and that Neal came to his death in Jackson County on October 26, 1934, at the hands of a small group of persons unknown to the grand jury after being forcibly removed from the jail in Brewton, Alabama, by persons unknown to the grand jury. The grand jury also concluded that the Jackson County Sheriff "did everything in his power under the circumstances to protect his prisoner." In conclusion, the grand jury report states that the grand jurors did not think anything could be accomplished by remaining in session any longer, but they were willing to continue their investigation of the matter if evidence of a substantial nature was brought forth.

In Howard Kester's 1934 investigation into the lynching of Claude Neal, Kester interviewed numerous members of the white and African-American community, including several members of the mob and one of the men in the smaller lynching party. Kester, who died in 1977, did not identify his sources, so the value of many of his conclusions is limited for evidentiary purposes. Kester did not provide any further information to identify his alleged source.

In James McGovern's 1982 book titled "Anatomy of a Lynching: The Killing of Claude Neal," McGovern stated that all but one of the original six members of the lynching party were deceased. McGovern wrote that at the time of the murder, five members of the smaller lynching party were middle-aged, and the sixth was in his mid-20s. The book contains interviews of both whites and African-Americans who remembered the lynching and spoke to McGovern on conditions of anonymity. McGovern is now deceased and there is no further information available to identify his sources.

After careful consideration, we have concluded that this matter does not constitute a prosecutable violation of the federal criminal rights statutes because prior to 1994, federal criminal civil rights violations were not capital offenses, thereby subjecting them to a five-year statute of limitations. In 1994, some of these civil rights statutes were amended to provide the death penalty for violations resulting in death, thereby eliminating the statute of limitations. However, the *Ex Post Facto Clause* prohibits the retroactive application of the 1994 increase in penalties and the resultant change in the statute of limitations to the detriment of criminal defendants. Additionally, while it may have been possible for the federal government to prosecute the members of the lynching party at some point, given the amount of time (79 years) that has passed, the dearth of investigative and court records, the lack of credible and reliable evidence identifying the men in the smaller lynching party who killed Claude Neal, and the slim chance of any of these men being alive, this matter is not prosecutable and should be closed. The most comprehensive investigations into this matter were conducted by Howard Kester and James McGovern. However, neither of these now-deceased authors identified their sources or provided any credible leads that could reveal the identities of the men who removed Claude Neal from the jail and lynched him. Thus, further criminal investigation into this matter would not be fruitful.

Please accept our sincere condolences on the loss of your We regret that we cannot be of further assistance to you. (b)(7)(C)

Sincerely,

Paige M. Fitzgerald
Deputy Chief in Charge of the Cold Case Initiative