

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

August 6, 2010

Dear Attorney General Holder:

You may recall that we met with you in July 2009 to discuss the Department's civil rights-era cold case initiative. We write to follow up on your invitation for further dialog on the matter.

As you know, on July 28, 2010, the Department issued its annual report on the Emmett Till Unsolved Civil Rights Crimes Act. While progress has been made in several important unsolved civil rights murders during the period covered by the Report, we remain concerned that many cases are not being vigorously investigated. No suspect currently is under federal indictment, and, according to the Report, fifty-four cases are being closed, and only two new investigation files have been opened. So far as we know, the Department has not empanelled an investigative grand jury on any of the cases and the FBI does not appear to have undertaken a general review of the reports issued by its field agents in the 1950s and 1960s to determine if there are cases that should be investigated. The Report makes frequent reference to outreach to the families of victims; however, in our experience many families have not heard from the FBI. For some, the only contact they have received is the letter informing them that the Justice Department has closed the investigation. As a result, many of them have felt hurt and angry.

As you are aware, the Till Act, passed in 2008, calls for \$10 million dollars to be set aside every year for 10 years to help conduct civil rights era cold case investigations on federal and local levels. In 2009, Congress allocated \$1.6 million to the Cold Case Unit of DOJ specifically for these prosecutions. The Report does not provide a detailed explanation about how the allocated funds were spent. Additionally, we are concerned because living suspects have not yet been prosecuted, and the list of victims has remained static. Moreover, although funding for grants to local law enforcement to tackle unsolved civil rights murders is available, no local law enforcement agency has applied for a grant. We hope the Department will look into this situation to make sure it has adequately notified local authorities that these funds are available.

We believe that the Report submitted this year highlights the need for urgent attention and action by Congress, the Justice Department, including the FBI, the Executive Office, local law enforcement, and the American public at large to fully investigate and prosecute living subjects in the suspicious deaths that occurred during this era. More specifically, we urge the Department to:

1) Further Action to Identify All Victims

The list of victims set forth in the Report appears to be at once too broad and too narrow. It includes the names of well-known cases that cannot be prosecuted, and it is not adequately comprehensive. So far as we know, there has never been an accurate accounting of how many people lost their lives as a result of racial killings during this time. We do not think that Congress intended the list of victims relied upon by DOJ and the FBI to be a comprehensive list of all of the persons whose deaths may have resulted from racial hatred during the period covered by the Till Act. It appears that federal investigators are working primarily from the list of 109 victims' names generated by the Southern Poverty Law Center, which identified victims of racially motivated killings from the organization's records in the 1970s. Congress appended the Senate committee's report which included a list of 70 victims of unsolved killings to the Emmett Till Bill. But these existing lists, while a reasonable starting point for the FBI's initiative, do not go far enough. Careful perusal of law enforcement records from the period could yield additional names. Civil rights organizations and individuals in affected families and communities also maintained records and knowledge of homicides. Other government data bases on crime and individuals' accounts could be utilized. We urge a more rigorous review of these additional sources. Moreover, as is well known, many racially motivated murders were covered up by local law enforcement and determined to have been accidental or otherwise non-prosecutable deaths. Each of these questionable determinations should undergo scrupulous re-examination. In short, to obtain an accurate count of Till Act cases, a far more thorough canvas to identify those who disappeared or were killed under racially suspicious circumstances will have to take place.

2) Further Action to Devote Full-Time Special Agents and Task Forces in Each State

The Cold Case Unit at the Justice Department and FBI needs more than nominal staffing. If this endeavor is to succeed, these investigations must be full-time work for investigative agents, and the prosecutors must have adequate time and resources. Our observations indicate that only one attorney is assigned to the Civil Rights Division's Cold Case Unit. The Department's Report under the Till Act mentions 54 US attorneys, but this number includes US attorneys of various districts who have added the cold case assignment to their other major priorities. The Department's 2010 budget included a request for at least six full-time attorneys for the Cold Case Unit. The Report does not indicate whether such attorneys have been assigned.

As we continue to suggest, the Department should consider establishing state task forces under the Till Act to better marshal and concentrate its investigative and prosecutorial resources, and to heighten public awareness of the initiative.

3) Families of Victims Need Status Reports and Respect

As you know, the families of the victims of these racially-motivated civil rights era killings have fought for justice from the time their loved ones were killed. They continue to lead in the fight to assure that justice delayed is not justice denied. We know you will agree that they should be treated with respect for the harms they suffered and the delay in resolving these cases. We urge the Department to provide them with periodic status reports about the Department's progress on their individual cases.

In sum, we believe that fresh approaches will place us on a better track to respond, with alacrity, to civil rights-era crimes before these cases become too stale to prosecute. We urge the Department to:

- create State Task Forces with on-site representatives from state, federal and local agencies to conduct full investigations to identify and investigate suspicious deaths falling under the Till Act
- expedite access to federal government documents amassed during the civil rights era to assist private investigators of these crimes, including lawyers for the victims' family members
- meet promptly with family members of victims and their representatives
- provide to Congress and to the public a specific accounting of allocations and expenditures under the Till Act
- establish a Department advisory task force comprising key personnel from the FBI, DOJ, US Attorneys, local district attorneys, private investigators (including attorneys and journalists) community groups, and family member representatives to consider .

We look forward to hearing from you and request another meeting as soon as possible in order to discuss these matters.

Please know that we have circulated this letter to interested parties to keep them apprised of our concerns and proposals.

Sincerely,

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cc: Thomas E. Perez
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