

CIVIL RIGHTS DIVISION

Notice to Close File¹

File No. 144-40-1660

Date: December 6, 2021

To: Chief, Criminal Section

Re: Roy Bryant (Deceased)
John William (J.W.) Milam (Deceased) – Subjects;
Emmett Till (Deceased) – Victim;
CIVIL RIGHTS

It is recommended that the above matter be closed for the following reasons:

1. Date of the Incident: August 28, 1955
2. Synopsis of the Facts and Reasons for Closing:

In 1955, Emmett Till, a 14-year-old Black youth visiting family in Mississippi, was murdered by white men after the wife of one of the men claimed that Till had propositioned her. Till, who was from Chicago, Illinois, visited relatives near Money, Mississippi, during the summer of 1955. On August 24 of that year, he entered Bryant's Grocery & Meat Market and had an interaction with Carolyn Bryant, the wife of the store's owner. Accounts differ as to precisely what happened during that encounter. Black witnesses who had accompanied Till to the store reported—both near the time of the incident and more recently—that Till's behavior was limited to whistling at Bryant as she left the store. Bryant, however, alleged that Till was physically aggressive towards her and that he propositioned her. What is clear from all accounts is that Bryant suffered no physical harm and that Till's conduct was likely perceived by many in the white community to violate their unwritten code, prevalent in the Jim Crow South, that Black men were forbidden from initiating interactions with white women. Four days later, Till was forcibly abducted from his relatives' home by at least two men. His brutally beaten body was found three days later in the Tallahatchie River. Because there did not appear to be a basis for federal jurisdiction given the limited scope of the civil rights statutes in effect in 1955, the Federal Bureau of Investigation (FBI) did not investigate Till's murder at that time. Mississippi state authorities, however, arrested two men: Carolyn Bryant's husband, Roy Bryant, and her brother-in-law, John William (J.W.) Milam. They were indicted for murder and tried by a local, all-white jury, which quickly acquitted them. Following their acquittal, the men admitted to a journalist that they murdered Till in part because of his earlier actions toward Carolyn Bryant. Both Roy Bryant and J.W. Milam are now deceased.

Angela M. Miller
Attorney

¹ Memo revised August 15, 2022, to address June 2022 discovery of 1955 state kidnapping warrant.

To: Records Section
Office of Legal Administration

The above numbered file has been closed as of this date.

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Date

Barbara K. Bosserman
Deputy Chief, Cold Case Unit, Criminal Section
FORMERLY CVR-3 FORM CL-3

This case was originally opened as a federal matter in 2004. The Department of Justice (Department) determined that it lacked jurisdiction to bring federal charges at that time but assisted local Mississippi law enforcement officials in identifying possible suspects, including Carolyn Bryant-Donham,² who could be prosecuted under state criminal statutes. The Mississippi District Attorney's Office, Fourth District, pursued several leads, but a state grand jury ultimately declined to issue any indictments.

In early 2017, new information emerged suggesting that Carolyn Bryant-Donham had recanted her claims that Till had assaulted and propositioned her in the store. Timothy Tyson, a university professor who had written a book, *The Blood of Emmett Till*, alleged during a book-promotion tour that Carolyn Bryant-Donham had, during an interview with him nearly a decade earlier, recanted the account that she had provided under oath in proceedings related to her husband's trial. Once Tyson's assertion about the recantation was made public, members of Till's family, state and federal public officials, advocacy groups, journalists, and other interested parties requested an investigation into, and, if possible, prosecution of, Bryant-Donham.

Shortly after the book's publication, attorneys in the Department of Justice's Civil Rights Division, the United States Attorney's Office for the Northern District of Mississippi, and the Mississippi District Attorney's Office, Fourth District, re-opened prior investigations to examine the truthfulness of Tyson's claim and re-examine the earlier decision to close the case without prosecution. Specifically, the Department reviewed its previous determination concerning Bryant-Donham's culpability in Till's abduction and murder, and also considered whether new information suggested that any other living person complicit in Till's murder could be identified and potentially prosecuted. The FBI's investigation, although no longer active in 2017, had never been officially closed.

² Carolyn divorced Roy Bryant in 1974 and eventually remarried, taking the name Carolyn Donham. To avoid confusion, the memo refers to her as Carolyn Bryant-Donham throughout.

For the reasons set forth below, the Department has concluded, after an exhaustive, multi-year review, that it cannot prosecute Bryant-Donham or any other subjects³ for any federal offense. First, the Department has not uncovered any new evidence that would change its conclusion from its 2004 investigation that it was not able to bring federal charges against Bryant-Donham in connection with Till's abduction and murder. This conclusion remains even after the June 2022 discovery of a 1955 state arrest warrant to arrest Bryant-Donham on a charge of kidnapping. Moreover, and as explained more fully below, the statute of limitations, which is essentially a deadline for charging someone with a crime, has run on all potential federal crimes that could apply to Till's abduction and murder, and there is no other potential basis for federal jurisdiction.

Additionally, the Department cannot prosecute Bryant-Donham either for perjury (*i.e.*, lying while under oath in relation to the 1955 state trial) or for previously making false statements to federal investigators. The statute of limitations has run for any charges (state or federal) for lying under oath, and for any charges that could be based on false statements Bryant-Donham made to federal investigators during the 2004 investigation.

Finally, the Department cannot charge Bryant-Donham for making false statements during the *current* investigation. Bryant-Donham was re-interviewed in 2017, at which time she denied having ever recanted her state court testimony. The Department thus considered whether it could charge her with making false statements in relation to the current investigation. But to prosecute Bryant-Donham for making a false statement to federal investigators, the government would have to prove that she intentionally lied when she told FBI agents that she had never recanted her prior statements. This necessarily means that the government would have to prove, beyond a reasonable doubt, that when Bryant-Donham talked to Tyson, she did, in fact, recant her testimony from the state proceedings. As explained more fully below, the alleged recantation is not well documented⁴ and Tyson's own account of the recantation cannot be independently corroborated. This would prevent the government from proving, beyond a reasonable doubt, that Bryant-Donham recanted her testimony when she spoke with Tyson over a decade ago and, consequently, that she lied to FBI agents when she denied having done so.

The Emmett Till Unsolved Civil Rights Crime Act⁵ (Till Act) and its Reauthorization,⁶ which are named in honor of Till, are designed to provide answers in cases of unresolved crimes of violence and, where possible, bring justice to victims and their families. These laws formally authorize federal authorities to assist state and local jurisdictions in investigating and prosecuting cold cases from the civil-rights era. However, the government has not uncovered any admissions by Bryant-Donham that would add to those gathered in 2004 when the state grand jury

³ All other identifiable subjects who were involved in Till's abduction and murder are deceased, and the Department's multiple reviews have not identified any additional living participants or witnesses to his murder.

⁴ See, e.g., Jerry Mitchell, *Bombshell quote missing from Emmett Till tape. So did Carolyn Bryant really recant?* Mississippi Clarion Ledger, Aug. 21, 2018.

⁵ Pub. L. No. 110-344, 122 Stat. 3934 (2008).

⁶ Pub. L. No. 114-325, 130 Stat. 1965 (2016).

determined not to indict her. Nonetheless, the Department’s findings have again been shared with the Mississippi District Attorney’s Office, Fourth District.

3. Background

A. *The Abduction and Murder of Emmett Till*⁷

Emmett Till, a 14-year-old Black youth from Chicago, Illinois, traveled to Money, Mississippi, in the summer of 1955 to visit relatives. He stayed with his relatives Mose and Elizabeth Wright in their home just east of Money. According to XXXX—XXXXX the only surviving witness—he, Till, and approximately six other youths drove to Bryant’s Grocery & Meat Market on August 24, 1955. Till entered the store as XXXX was leaving; another family member, Simeon Wright, entered the store shortly after Till. According to XXXX, and contrary to long-standing belief about the events in and near the store, no one among their group, nor anyone present outside the store, challenged Till to enter the store and speak to or flirt with Bryant-Donham. Nor did Till have a photo of a white girl that he showed to the men standing outside the store.⁸ Rather, Till bought some items and he and Wright left the store together, without incident. XXXX, who was waiting just outside the store’s entrance and could hear what was happening inside, denied that there was any commotion inside the store. Shortly after Till and Wright exited, Bryant-Donham came out of the store, unhurried and undisturbed. It was then that Till whistled at her. Those accompanying Till were concerned for Till’s safety after he did so, given their familiarity with the unwritten, racist code prevalent in the white community governing interactions between Black men and white women, so everyone, including Till, quickly left.

A few days later, in the early morning hours of August 28, Roy Bryant, his half-brother J.W. Milam, and at least one other person came to Till’s relatives’ home, armed, looking for the “boy that done the talking”⁹ in Money, and abducted Till. They left after a person in a waiting car with a “lighter voice than a man’s”¹⁰ identified Till. Three days later, a teenager fishing in the Tallahatchie River discovered Till’s brutally beaten body floating in the river. Till’s assailants had weighed him down with a 75-pound cotton gin fan, which they tied to his body with barbed wire.

⁷ This memo provides an abbreviated summary of the events surrounding Emmett Till’s death; the FBI’s 2006 Report, cited below and from which this summary is principally, although not exclusively, drawn, includes a comprehensive recitation of the reported circumstances before, during, and after Till’s death. This memo includes and focuses upon those facts necessary to place the current investigation into context.

⁸ XXXX denied making several quotes attributed to him over the years; specifically, he denied that someone dared Till to enter the store and that Till was carrying a photograph of a white girl. XXXX explained that a picture in *Jet* magazine years ago was incorrectly identified as him, and he believes those reporting on these events may have mistaken him for XXXXX. XXXX told investigators that the first time he spoke with the media about the matter was in 1985.

⁹ Testimony of Mose Wright, *State v. J.W. Milam and Roy Bryant*, September Term, 1955, p. 12.

¹⁰ *Id.*, p. 19.

B. The State Trial and Carolyn Bryant-Donham's Testimony

State officials in Tallahatchie County charged Roy Bryant and J.W. Milam with murder; they were tried the following month. During the trial, Carolyn Bryant-Donham testified at an evidentiary hearing, but not in front of the jury.¹¹ According to her testimony,¹² as she held out her hand for Till to pay for his purchase, Till “caught” her hand by grasping her fingers in his palm with a “strong grip” while asking, “How about a date, baby?” She “jerked” her hand away with difficulty and turned to the back of the store. Till came toward her and “caught [her] at the cash register” by putting both hands on her waist. He then asked, “What’s the matter, baby? Can’t you take it?” As she tried to free herself, Till told her that she “needn’t be afraid of” him and that he had been “with white women before.” Another person then came into the store, took Till by the arm, and led him out. She then called out to her sister-in-law, Juanita Milam, who was in the living area behind the store, and “ran out the door” to get her pistol from Juanita’s car.¹³ She saw Till standing on the front porch of the store and heard him whistle at her. After she got her gun, she saw Till getting into a car. She claimed that the interaction with Till “scared [her] to death.”

Roy Bryant and J.W. Milam were acquitted of murder by an all-white jury, which had not heard Bryant-Donham’s proffered testimony. Shortly thereafter, a local grand jury considered kidnapping charges against the two men, but the grand jury did not return an indictment. To date, no other charges have ever been filed against Roy Bryant, J.W. Milam, or any other person in connection with Till’s abduction and murder. Following their acquittals, both Bryant and Milam confessed to kidnapping and murdering Till to journalist William Bradford Huie, who published their account¹⁴ in *Look* magazine in January 1956. Milam was quoted as saying, “[W]hen a n***** gets close to mentioning sex with a white woman, he’s tired o’ livin. I’m likely to kill him.” Milam died in 1980; Huie died in 1986; and Bryant died in 1994.

C. The 2004 Federal Investigation

¹¹ The defendants sought to introduce Carolyn Bryant-Donham’s account of what happened between her and Till inside the store; the state prosecutor objected. She testified under oath before the trial judge, but outside the presence of the jury. After hearing her sworn testimony, the judge ruled that it was inadmissible because defense counsel had not shown that the events on August 24 were sufficiently connected to the defendants’ alleged actions on August 28—the day of Till’s abduction and murder.

¹² The original trial transcript is not available. Portions of the original trial transcript are included in the FBI’s findings from the 2004 investigation. A complete, recreated trial transcript is available online at https://fsu.digital.flvc.org/islandora/object/fsu%253A390158/datastream/OBJ/view/J_W_Milam_and_Roy_Bryant_Trial_Transcript.pdf. In addition, portions of Bryant-Donham’s testimony are available at: Jerry Mitchell, *What Did Carolyn Bryant-Donham Say and When?*, Mississippi Clarion Ledger, Aug. 24, 2018.

¹³ Juanita Milam testified at the trial of Roy Bryant and J.W. Milam, but was not asked about the events that took place in the store.

¹⁴ Key aspects of the account Huie reported conflict with the evidence the FBI obtained during its 2004 investigation, as well as with witnesses’ trial testimony.

The FBI opened the case as a federal civil rights investigation in 2004 upon the request of several interested parties and as part of an agreement between the Department and the Mississippi District Attorney's Office, Fourth District. Although the Department determined there was no basis for a federal prosecution at that time, the federal investigation was designed to assist local Mississippi law enforcement officials in determining whether others besides Roy Bryant and J.W. Milam were involved in Till's murder. Under the terms of the agreement, if the federal investigation uncovered evidence that any living person was involved in the abduction and murder, the Department would assist the state's efforts to hold them criminally responsible. Over the next two years, the FBI conducted an extensive investigation that included obtaining and reviewing historical records; identifying and interviewing surviving witnesses; conducting forensic analyses; and exhuming and examining Till's remains.

The Department shared its findings, available [here \(part one\)](#) and [here \(part two\)](#), with the Mississippi District Attorney's Office, Fourth District. Of note, the Department found that, in addition to Roy Bryant and J.W. Milam, the two men who had been indicted at the time of the offense (and who later admitted to a journalist that they had killed Till), there had likely been other participants in Till's abduction and murder. The findings contradicted several aspects of the account Bryant and Milam had given to journalist William Bradford Huie following their acquittal—an account which had, for years, shaped the narrative of the events surrounding Till's death. The state pursued several leads from the referral, including investigating what role, if any, Carolyn Bryant-Donham had in Till's abduction and murder. The District Attorney's Office presented criminal charges against Bryant-Donham to a state grand jury in February 2007; the grand jury, however, did not issue an indictment. The Civil Rights Division [closed its investigation](#) into the matter in 2007 after concluding that no one could be federally prosecuted based on the evidence available at that time.

As part of its investigation, the FBI interviewed Carolyn Bryant-Donham several times between 2004 and 2006. The focus of these interviews was to identify whether others, including Carolyn Bryant-Donham herself, participated in the events leading up to Till's death. Some questions, however, centered on what happened between her and Till inside the store. In these interviews, Bryant-Donham relayed, consistent with her sworn testimony, that Till grabbed her hand and waist and made suggestive comments to her. She explained that she did not intend to tell her husband what had happened inside the store and only provided him a detailed account of what happened after he claimed to have learned of the encounter from someone else and confronted her about it a few days later; this account, according to Bryant-Donham, included Till having made verbal and physical advances toward her.

D. Timothy Tyson's Claim That Carolyn Bryant-Donham Recanted Her Testimony

No additional investigative steps were taken by the federal or state government in the next decade. Then, shortly before the publication of his book *The Blood of Emmett Till* in 2017, Timothy Tyson revealed to several media outlets that Carolyn Bryant-Donham had, during an interview with him nearly a decade earlier, recanted the account that she had provided under oath during a hearing at her husband's trial. Tyson's account suggested that Bryant-Donham lied in court and lied during the FBI's 2004 investigation.

Specifically, Tyson stated that Bryant-Donham admitted that her representation that Till had made verbal and physical advances toward her in the store was “not true.”¹⁵ In the book, which was published the following month, Tyson wrote that Bryant-Donham said, “I have thought and thought about everything about Emmett Till, the killing and the trial, telling who did what to who,” and then murmured, “They’re all dead now anyway.”¹⁶ He wrote that while “trying hard to distinguish fact from remembrance,” Bryant-Donham revealed a story different from what he thought he knew about the incident.¹⁷ Specifically, he represented that Bryant-Donham handed him a transcript of her sworn testimony and claimed: “That part’s not true.”¹⁸ He then wrote:

If that part was not true, I asked, what did happen that evening, decades earlier? * * * “I want to tell you,” she said. “Honestly, I just don’t remember. It was fifty years ago. You tell these stories for so long that they seem true, but that part is not true.” * * * “Nothing that boy did could ever justify what happened to him.”¹⁹

In the book, Tyson identified a September 8, 2008, interview with Bryant-Donham and “accompanying handwritten notes by the author” as his sources for these and other statements of Bryant-Donham’s included throughout his book.²⁰ Tyson also relied upon a draft memoir Bryant-Donham had written, but had not published.

4. Current FBI Investigation²¹

Tyson’s claim of Bryant-Donham’s recantation understandably caused outrage in Mississippi and around the country, and it was widely reported by numerous news outlets in both print and television media. Interested parties questioned whether, having recanted her prior statement, Bryant-Donham could be punished for her previous lies. If confirmed, a recantation of Bryant-Donham’s account of what happened inside the store would raise questions about the previous federal and state decisions to decline prosecution; the Department’s previous conclusion about what role, if any, Bryant-Donham had in Till’s abduction and murder; and whether any other person, previously identified, was complicit in the underlying crimes. And, of

¹⁵ See, e.g., Sheila Weller, *How Author Timothy Tyson Found the Woman at the Center of the Emmett Till Case*, *Vanity Fair*, Jan. 26, 2017; see also Timothy Tyson, *The Blood of Emmett Till* (Book), pp. 6-7, citing a Sept. 8, 2008, interview with Carolyn Bryant-Donham.

¹⁶ Book, p. 1.

¹⁷ Book, p. 2.

¹⁸ Book, p. 6.

¹⁹ Book, pp. 6-7.

²⁰ Book, p. 221.

²¹ Although the FBI’s investigation that began in 2004 was never formally closed, this document refers to the active investigation between 2004 and 2006 as the “previous” investigation, and the active investigation that began in 2017 as the “current” investigation.

course, a recantation would directly contradict both her testimony at the state proceedings in 1955 and the statements she provided to the FBI during the previous investigation.

The current investigation was designed to identify evidence corroborating Tyson's claim that Bryant-Donham recanted her 1955 testimony and whether there was additional evidence identifying (1) previously unknown information of Bryant-Donham having been complicit in Till's abduction and murder; (2) any previously unknown living subject; and (3) a basis to support any other federal or state charges. In reexamining these issues, the FBI interviewed Carolyn Bryant-Donham, Timothy Tyson, and persons close to or associated with them. In addition, the government also re-interviewed XXXX, the last surviving member of the group of young men who accompanied Till to Bryant's Grocery & Meat Market, and who was present when Till was abducted from his relatives' home. The FBI also obtained and reviewed other relevant documents, conducted forensic computer analyses, and consulted with case agents familiar with the earlier investigation.

The FBI quickly identified a significant obstacle in its investigation. Tyson conducted two separate interviews with Bryant-Donham and recorded and transcribed both; however, the key statements Bryant-Donham reportedly made to him recanting her previous testimony were neither recorded nor transcribed. The FBI learned that Tyson had lost one of the recordings—the one during which Bryant-Donham reportedly recanted her earlier statements and sworn testimony. Moreover, Tyson gave inconsistent explanations of whether there had ever been a recording of the admission and, if not, why none had been made. Tyson also gave differing accounts as to when Bryant-Donham made the recantation. And Tyson told investigators that although Bryant-Donham did not specifically identify any part of her testimony as untrue, he understood from the context of their conversation that she was referring to her allegation that Till had physically accosted her in the store and that this connection was recorded in his written notes; Tyson's notes, however, do not include such a connection. These facts would preclude the government from proving, beyond a reasonable doubt, that Bryant-Donham recanted her previous testimony when speaking with Tyson, and therefore that she lied to the FBI when she denied having done so.

There remains considerable doubt as to the credibility of Bryant-Donham's original account of what happened inside the store, particularly her assertion under oath that Till made lewd comments to her and physically accosted her, as her testimony is undercut by assertions made by XXXX and by other Black youths who were with Till at the store on the day of the incident. However, XXXX is the only one of these witnesses who is still alive, and he was not inside the store at the time Bryant-Donham said the interaction occurred; thus, there is no witness the government could now call to disprove her account. Moreover, as explained more fully below, the statute of limitations has expired on any charges that could be brought relating to her original account of the events in the store.

A. Summary of Investigative Steps

Once it was reported that Bryant-Donham had recanted to Tyson, the Department took multiple steps to corroborate Tyson's account. The FBI and the Mississippi District Attorney's Office, Fourth District, conducted several interviews, to include:

- The FBI interviewed Carolyn Bryant-Donham and XXXXX (XXXX) in early 2017 to ask about Tyson's claims. Bryant-Donham admitted twice meeting with Tyson because she and XXXX sought his help in writing, editing, and publishing her memoir. She denied ever recanting her earlier testimony.
- The FBI, together with the Mississippi District Attorney's Office, Fourth District, re-interviewed XXXXX in the summer of 2018; Bryant-Donham declined to participate in the subsequent interview. XXXX, who had been present during Tyson's interviews with Bryant-Donham, denied that Bryant-Donham had ever recanted her earlier accounts of what happened in the store.
- Twice in the summer of 2018, the FBI, together with the Mississippi District Attorney's Office, Fourth District, interviewed XXXXX, Tyson's XXXX at the time of his interviews with Bryant-Donham. XXXX, who transcribed the recorded interviews for Tyson, informed investigators that one of the original recordings was missing. XXXX told investigators that she recalled hearing Bryant-Donham make the controversial statements on the tapes that she was transcribing, and that she recalled including them in her transcriptions; she could not explain why the statements were not on the available recording or included in either transcription.
- The FBI, together with the Mississippi District Attorney's Office, Fourth District, interviewed XXXX in the summer of 2018. XXXX relayed his account of what happened before and after Till entered Bryant's Grocery & Meat Market in August of 1955, which contradicted Bryant-Donham's long-held account of those events. He also relayed his account of what happened the night Till was abducted from his relatives' home. XXXX's account was consistent with the account he provided federal investigators in 2004.
- The FBI, together with the Mississippi District Attorney's Office, Fourth District, interviewed Timothy Tyson in the fall of 2019. According to Tyson, Bryant-Donham made the controversial statements at the very beginning of his first interview with her. He explained that he had not yet begun recording their conversation when she made these comments so he took notes of their conversation instead. Tyson told investigators he never thought to report Bryant-Donham's confessional quotes to law enforcement at the time because he believed the investigation was closed.

The FBI also reviewed numerous documents, audio records, and electronic media, some of which was obtained through XXXX and some through witness cooperation, including:

- A single photocopied page of Tyson's handwritten notes, one audio recording of an interview with Bryant-Donham, transcripts of two audio recordings of interviews with Bryant-Donham made by Tyson's XXXX, a copy of Bryant-Donham's unpublished memoir, and an image of the hard drive from Tyson's XXXX's laptop.
- A copy of Bryant-Donham's 109-paged, unpublished memoir that contained Tyson's editorial comments and suggestions.

- The contents of a 2014, unpublished paper Tyson wrote referencing his interviews with Bryant-Donham that Tyson's graduate student posted online.
- Email conversations between Tyson and another author about the content of the 2014, online paper.
- Email conversations between Tyson and XXXX.
- Email conversations between Tyson and XXXXX.
- Comments Tyson made publicly to various reporters about his interviews with Bryant-Donham.

B. Carolyn Bryant-Donham and XXXXX

In 2017, FBI agents met with Carolyn Bryant-Donham and XXXXX, who had been present for Tyson's interviews of Bryant-Donham. The purpose of the interview was to consider whether Bryant-Donham, or anyone else, participated or played a more significant role in Till's abduction and murder than previously found, and to determine whether Bryant-Donham would admit to federal authorities what she had reportedly admitted during her interview with Tyson. Far from corroborating Tyson's account, however, Bryant-Donham adamantly denied having made the admission Tyson attributed to her in his book. Moreover, she and XXXX together provided a very different account of their interactions with Tyson than those portrayed in his book and those Tyson later shared with federal investigators. In fact, their accounts differ dramatically from Tyson's—not just on what was said during the interviews, but on the nature of their relationship, their understanding of what Tyson could do with a draft memoir they were working on, and their knowledge of Tyson's intention to write a book about Emmett Till.

According to Bryant-Donham, nearly ten years earlier she and XXXX began writing *I Am More Than a Wolf Whistle: The Story of Carolyn Bryant Donham XXXXX*, a memoir of Bryant-Donham's life. XXXX, realizing the task of doing so was too overwhelming for the two of them, reached out to Tyson for help with writing, editing, and publishing the book. When Tyson agreed, Bryant-Donham traveled to North Carolina (where XXXX lived) to meet with Tyson for help with the memoir. According to Bryant-Donham, she met with Tyson on two occasions for a few hours, and Tyson recorded their sessions. XXXX indicated that Tyson "recorded everything from the moment he walked in the door." XXXX explained that shortly after the interviews, Tyson provided her with copies of the interview transcripts to assist her in writing Bryant-Donham's memoir. Bryant-Donham, however, eventually decided against publishing her memoir.

Although she did not repeat to federal investigators her account of what happened inside the store in 1955, Bryant-Donham denied to investigators that she ever told Tyson in either of their interviews that she had lied during her testimony. XXXX also denied to investigators that Bryant-Donham had recanted her testimony during her conversations with Tyson and explained to investigators that Bryant-Donham had consistently maintained for over 40 years that Till had

physically grabbed her in the store. Bryant-Donham's XXXX confirmed that, to his knowledge, Bryant-Donham's story had never changed.²²

Because Bryant-Donham not only failed to repeat the inculpatory admission when talking to federal authorities but also denied ever having made such an admission to Tyson, authorities attempted to find other evidence that Bryant-Donham had, in fact, confessed to Tyson that her previous accounts of the incident were false.

C. Timothy Tyson

Federal authorities contacted Tyson and asked him if he would provide government officials with any information he had from his meetings with Bryant-Donham, such as notes, recordings, or any other information upon which he based his claim that Bryant-Donham had recanted her testimony. Tyson informed authorities that material from his interviews of Bryant-Donham belonged to the University of North Carolina's Southern Historical Collections. Federal investigators confirmed that the library archives received from Tyson two transcribed interviews, a copy of Bryant-Donham's draft memoir, and a photograph of a legal notepad. In September 2017, the FBI obtained from the library archives and other sources one audio recording, transcripts of two audio recordings, a single photocopied page of handwritten notes, a copy of Bryant-Donham's memoir, an edited copy of her memoir, an image of the hard drive from Tyson's XXXX's laptop, and various email correspondence.

1. Audio recordings and transcriptions

The FBI obtained an audio recording of one of Tyson's interviews with Bryant-Donham, and transcriptions of both interviews. Tyson informed the FBI in an email that he could not locate the recording of his first interview with Bryant-Donham, and that his then-XXXX, XXXXX, "lost it somehow." He indicated, however, that he thought they "found it" and he would continue to search for it and update the FBI with the results of his search. He has never provided the FBI with a second recording. Tyson did not mention or suggest in his email to the FBI that the recordings, whether available or not, were incomplete, or that they did not cover the entirety of his interviews with Bryant-Donham.

Neither the available recording nor the transcripts include the controversial statements he attributes to Bryant-Donham. Moreover, case agents who had participated in previous interviews with Bryant-Donham scrupulously reviewed the transcripts to determine whether she made admissions inconsistent with her prior statements to federal authorities. Agents determined that while she provided some additional details of the events surrounding Till's abduction and murder that were previously unknown to federal investigators, none of Bryant-Donham's recorded or transcribed statements was materially different from statements she made during interviews with the FBI during the earlier investigation, and none suggests that she altered or recanted her previous testimony. And none of these new details led to the identification of a new living participant in Till's abduction and murder who could be prosecuted.

²² This account, even if it were true, would do nothing to lessen the atrocity of Roy Bryant and J.W. Milam's actions (or those of anyone else who participated in Till's abduction and murder).

2. *Timothy Tyson's handwritten notes*

The undated, handwritten notes Tyson provided to the FBI do not include a full quotation of the alleged recantation that Tyson described in his book. The notes include only four statements without context as to what subject had been under discussion when the statements were made or what questions had led to the statement. The notes state, in full, as follows:

- Bryant
- "That pt wasn't true"
- "50 yrs ago. I just don't remember"
- Nothing that boy ever did cd justify what happened to him

Tyson did not provide any accompanying information to identify the context in which Bryant-Donham allegedly made these statements. Nor did he provide any additional notes of his interviews with Bryant-Donham; rather, he represented that he did not believe he took any additional notes of their conversations.²³ There is also nothing in the recording/transcripts that obviously correlates to these statements to provide any additional context and, instead, the recording/transcripts raise additional questions about what Bryant-Donham said and when she said it.

3. *Interview of Tyson and review of additional information*

The recording/transcripts of Tyson's interviews with Bryant-Donham do not include a recantation or provide context to Tyson's sparse handwritten notes, and the notes themselves do not corroborate Tyson's assertion that Bryant-Donham recanted. For that reason, the FBI and the Mississippi District Attorney's Office, Fourth District, reviewed additional information uncovered during the investigation and interviewed Tyson to ask him directly about the nature and context of the statements he attributed to Bryant-Donham. But rather than obtaining other corroborating evidence to support Tyson's claim that Bryant-Donham offered a recantation, investigators instead identified numerous inconsistencies in Tyson's account that raised questions about the credibility of his account of the interviews. For example, it is undisputed that Tyson interviewed Bryant-Donham twice, but there is confusion about the purpose of the interviews and when they occurred, when the key statements were made and in what context, and why those key statements were not memorialized. Moreover, inconsistencies between Tyson's account and documentary evidence would prevent the Department from relying upon Tyson's uncorroborated account.

a. *Confusion over the purpose of the interviews and when and in what context Bryant-Donham made the alleged recantation*

Almost all of the circumstances surrounding Tyson's interviews with Bryant-Donham are disputed, including the reason the parties met and the expectations each had of the other. Bryant-Donham and XXXX claimed that they contacted Tyson for assistance in writing, editing, and

²³ XXXXX told investigators that she could not recall Tyson taking notes during his interviews with Bryant-Donham.

publishing Bryant-Donham's memoir. Bryant-Donham and XXXX insisted that they had no idea that Tyson intended to write his own book about Till's death. They alleged that they first learned about Tyson's book from reporters and that they did not know, until after its publication, that Tyson used Bryant-Donham's memoir and statements from the interviews as source material. Bryant-Donham and XXXX expressly denied ever giving Tyson permission to quote from Bryant-Donham's memoir.²⁴

Tyson, on the other hand, claimed that XXXX invited him to meet Bryant-Donham because she enjoyed a previous book he had written. Tyson has denied that he ever agreed to edit Bryant-Donham's memoir or to assist her in publishing it, although he admitted that Bryant-Donham provided him with the draft manuscript and that he did "a little editing" of it. It is unclear when Tyson decided to write his own book, although Tyson expressly denied that his initial interview of Bryant-Donham was conducted for the purpose of writing a book. Although Tyson has admitted that he never expressly informed Bryant-Donham that he was writing a book, he insisted that Bryant-Donham and XXXX knew or must have known at some point that it was his intent to do so.

It is not only unclear what expectations the parties had with respect to the interview, but also unclear is when Bryant-Donham's alleged recantation was made. There is general agreement that Tyson interviewed Bryant-Donham twice in 2008.²⁵ It is, however, not entirely clear during which of the interviews the alleged recantation was made. Tyson told investigators that the two interviews "kind of blur together" but that he believed Bryant-Donham made her confessional statements at the very beginning of their first interview while XXXX and XXXX were out of the room. XXXXX, Tyson's XXXX, was not present for either interview but told investigators she recalled hearing the confessional comments in the first recorded interview while transcribing the statements. She later told investigators she heard them in the recording of the second interview. In any event, after claiming to have heard the statements in one of the recordings, she had no explanation for why they are not included in either of her transcriptions.²⁶

²⁴ XXXXX and Tyson acknowledge that they did not have a formal agreement concerning Tyson's role in reviewing Bryant-Donham's memoir.

²⁵ Bryant-Donham, XXXXX, Tyson, and Tyson's XXXX (who transcribed the recordings) agree that there were two interviews, even though they agree on little else. The only documentary information that arguably corroborates that Bryant-Donham made the statements Tyson attributes to her are Tyson's sparse, handwritten notes. The notepad on which these notes were taken does not include a date, but included with the notepad is a separate document containing the date "July 2008." Tyson's book includes a general bibliography that references an interview with Bryant-Donham in July 2008; the book's individual footnotes, however, indicate that Bryant-Donham's quotations were from a September 8, 2008, interview. Tyson's 2014, unpublished (but posted online) paper includes an introduction dating Bryant-Donham's comments to 2010. Tyson told the FBI that he believed one of the dates in his book's footnotes was in error, that the 2010 date included on the 2014 draft paper posted online was also in error, and that both interviews took place in the summer of 2008.

²⁶ Tyson's representation of when Bryant-Donham made her recantation is inconsistent with a document that purports to be a transcript of Tyson's interview with her. Tyson quotes Bryant-Donham in his book as saying she "thought and thought" about the Till matter before murmuring that certain persons were deceased and admitting that her testimony was not true. But a transcript of one of the interviews begins, "Oh, well, I tell you what, I have just thought and thought and thought about everything about Till, the killing and the trial, telling who did what to whom, well, you know, I really don't know who did what to whom." The transcript continues with XXXXX

There is no explicit recording or transcript of the recantation. The statement “that p[ar]t wasn’t true” is contained in Tyson’s notes. But the notes do not indicate exactly *what* Bryant-Donham said was not true. When questioned, Tyson stated that he *understood* the statement to refer to Bryant-Donham’s prior description of her interaction with Till inside the store. He told investigators that Bryant-Donham did not specifically identify any part of her testimony as untrue but that he understood from the context of their conversation that she was referring to her allegation that Till had physically accosted her in the store. Tyson explained to investigators that he believed she was talking as part of the same “riff” wherein she acknowledged everyone was dead as a way of “giving herself permission to say whatever it was she was going to say next.” Tyson explained that if that connection is not in his written notes, then he must have other written notes. Tyson, however, has not identified or provided investigators with any additional notes covering his conversations with Bryant-Donham.

Tyson, in his book, claimed a more direct connection between Bryant-Donham’s testimony and her recantation, writing that Bryant-Donham handed him both a copy of her memoir and her 1955 testimony and, with respect to her testimony, told him “That part’s not true.”²⁷ But accounts surrounding this alleged transaction also differ, as XXXXX did not recall Bryant-Donham having had a copy of the transcript to offer Tyson.²⁸ Even assuming the government could prove Bryant-Donham said the words “that part wasn’t true” while handing over her transcript, there remains considerable ambiguity about what, specifically, she was referring to. This ambiguity would complicate any prosecution.

b. Inconsistent explanations for failure to memorialize the alleged recantation

Tyson has been unable to provide a cogent explanation for why Bryant-Donham’s recantation was not recorded. He admitted that “a little piece at the front” of one of the interviews—specifically, a portion that caused his jaw to drop—was not recorded because he was still setting up the recorder. Indeed, one of the transcripts suggests that an interview was paused briefly at the beginning to ensure that the recorder was working. But, according to the available audio, once Tyson confirmed the recorder was working, Bryant-Donham continued with a story unrelated to her interactions with Till.²⁹ According to Tyson, Bryant-Donham made

explaining that Bryant-Donham said her family never talked about what happened to Till. The interview then continues from there, without the confessional quotations Tyson’s book attributed to Bryant-Donham.

²⁷ Book, p. 6.

²⁸ Tyson wrote in his book that Bryant-Donham handed him a copy of the transcript of her testimony and her memoir and that he promised to deliver both of those documents, along with their interviews, to the archives. Book, p. 6. The archives did not have a copy of the trial transcript.

²⁹ The typewritten transcript begins:

Tyson: Well, I’m curious.

Carolyn Bryant-Donham: Well, do you want me to tell that first? Want me to go ahead and tell it?

Interlude – making sure the equipment works.

the relevant comments shortly after saying, as if to herself, “they’re all dead now anyway.”³⁰ It was at that point, he said, that he began taking notes.

Despite Tyson’s acknowledgment that he was aware at the time Bryant-Donham’s reported recantation may not have been recorded, Tyson has not offered a compelling or consistent explanation to the FBI or Mississippi District Attorney’s Office, Fourth District, as to why he did not take more detailed notes, ask her to repeat or clarify the “jaw dropping” statement when he was sure the recorder was working, or attempt to have Bryant-Donham repeat it in the second interview. When FBI and Mississippi District Attorney’s Office, Fourth District, investigators initially asked Tyson why he did not return to the topic of Bryant-Donham recanting her testimony once he knew the recorder was working, he explained that he did not want to interrupt the flow of conversation. At other points in his interviews with Bryant-Donham, however, he asked her to repeat something or clarify her account.³¹ Tyson later told investigators that it was not until well after the interviews that he realized he did not have her recantation on tape.

Investigators asked Tyson why he never reported Bryant-Donham’s admission to the police but rather publicized it while marketing his book. Tyson explained that he did not consider her recantation to be particularly significant because he never credited her testimony in the first place. Tyson admitted, however, that Bryant-Donham’s reported recantation was significant in marketing his book, and this is clear from emails he exchanged with another author working on a book about Emmett Till. Tyson characterized Bryant-Donham’s statements as one of just two new things his book would offer over others in a crowded publishing market, potentially making the book more saleable and profitable, and it was for this reason that he was reluctant to share the information with other authors in advance of his book’s publication.

c. *Questions why Tyson failed to challenge Bryant-Donham when she relayed statements consistent with her long-held account and inconsistent with a recantation*

The audio recording of that interview, however, actually begins in the middle of XXXXX saying, “...once he gets that on there. That’s the...that’s the new story she told me today that’s got to go in the [memoir]. It has just got to go.” Tyson then responds, “Well, I’m curious” and the transcript proceeds as above. After the interlude, and after Tyson confirms the recording equipment is working, Bryant-Donham proceeds to tell the story of her family’s visit to a predominantly-Black Baptist church when she was a child, suggesting that this was the story Bryant-Donham was relaying to Tyson when he was checking to ensure the recording equipment was working at that particular point in the interview.

³⁰ As noted above, Tyson wrote in his book that Bryant-Donham murmured, “They’re all dead now anyway,” after saying she had “thought and thought” about the Till matter. Book, p. 1. But while the “thought and thought” quotation is included in the beginning of a transcript of one of the interviews, the statements Tyson attributed to Bryant-Donham in his book after making the “thought and thought” quotation are not.

³¹ For example, Tyson told Bryant-Donham: “I want to make sure I’ve got the story straight ... with the drunk man, and the pistol, and the blood It’s a . . . revealing story” and “Let me make sure I get that ... story ... straight....”

The available documentary evidence shows that after she allegedly recanted, Bryant-Donham maintained her long-held account of that incident in both a recorded interview with Tyson and in the memoir Tyson reviewed. Tyson, however, did not challenge these statements when he had the opportunity to do so.

During the recorded interview, Bryant-Donham relays that during her encounter with Till inside the store she was “busy trying to defend” herself and recounts that she “scream[ed]” for her sister-in-law, Juanita, to help her. These statements to Tyson, far from being recantations of her description of a physical assault, are consistent with her state court testimony and with the account she has consistently provided to federal investigators. Moreover, the recording does not reflect that Tyson expressed surprise at this account or that he asked questions about why Bryant-Donham was giving a different version of events than what she had told him previously, as one might expect if she had earlier admitted that she had fabricated the story of a physical assault inside the store.

In addition, when reviewing Bryant-Donham’s memoir, Tyson did not challenge statements that were consistent with her previous statements and inconsistent with a recantation. It is undisputed that Tyson had access to Bryant-Donham’s draft memoir and provided her with suggested edits.³² Tyson also relied upon parts of the memoir in writing his own book. The Department reviewed both the memoir and Tyson’s edits of it. And while the memoir includes some additional details about Bryant-Donham’s interaction with Till inside the store that were not included in her previous statements, it does not include a recantation. Nor does it materially contradict her previous statements to the FBI.³³

According to the edits embedded in the document, Tyson edited the manuscript between October 2008 and March 2009, well after he heard Bryant-Donham’s “jaw dropping” recantation. Yet his edits do not question why her recantation was not contained in the memoir or why her description of events at the store was inconsistent with that recantation. Despite providing multiple comments on other parts of the memoir, Tyson nowhere questioned why Bryant-Donham had not corrected her story to reflect the account she supposedly provided to him.

When asked specifically why he did not provide any editorial comments to Bryant-Donham about her account of what happened inside the store, given that it differed from the account Tyson said she gave to him in an interview, Tyson responded that he did not want to have any part of reframing Bryant-Donham’s story, put words in her mouth, or instruct her on what to say.³⁴ This explanation, however, is undermined by the fact that he made multiple

³² Accounts differ dramatically as to why Tyson had access to Bryant-Donham’s memoir and what permission he was granted with respect to it.

³³ The FBI, however, identified some inconsistencies between her memoir and previous accounts she gave in interviews with the FBI about other events. For example, Bryant-Donham provided in her draft memoir a detailed account of her husband’s physical interaction with a Black boy in the store on August 27, 1955. But when previously asked about this specific interaction by investigators, Bryant-Donham said she only “vaguely remembered something happening in the store” with the young man.

³⁴ Tyson explained that this was the reason he decided not to continue helping with the memoir.

comments suggesting her underlying account was implausible in other ways.³⁵ Moreover, this explanation fails to explain why Tyson would not have asked questions to ensure the accuracy of his own manuscript, which relied upon the recantation.

d. Documented inconsistencies about Tyson's characterization of Bryant-Donham's reaction following publication of Tyson's book

In an interview with reporter Jerry Mitchell following the publication of his book, Tyson indicated that Bryant-Donham's family, while upset about renewed media scrutiny, had not taken exception to any of the facts included in his book.³⁶ But an email exchange between Tyson and XXXXX indicates that Bryant-Donham and XXXX *did* take exception to facts in Tyson's book, specifically to his assertion that Bryant-Donham had recanted. After the controversy surrounding Tyson's book surfaced, XXXX emailed Tyson in January 2017 and asked him to contact her so he could "reassure Carolyn that you fairly represented her." Tyson responded via email³⁷ that he would send her a copy of his book and that he had "tape or notes of all quoted material." XXXX responded shortly thereafter by asking Tyson why people were "quoting you saying that Carolyn lied?" She wrote that it was "distressing," particularly because Tyson provided "no public comment . . . refuting it." Tyson responded that, in his "assessment," Bryant-Donham did not tell the truth in court and, during their interview, admitted as much by providing the quotations he attributed to her in his book. He continued that the statements he attributed to Bryant-Donham were supported by other portions of the historical record.

5. Legal Analysis

This matter is being closed, as it cannot be federally prosecuted. The Department's current investigation focused on two main issues: (1) whether Bryant-Donham or any previously unknown living suspects in Till's abduction and murder could be identified and prosecuted, and (2) whether evidence exists to prove beyond a reasonable doubt that Bryant-Donham willfully gave false information to federal investigators. Although the most recent investigation revealed some previously unknown information, no information or evidence was obtained that identified previously unknown living subjects or would warrant a prosecution of a living subject at this time. The June 2022 discovery of a 1955 state warrant to arrest Bryant-Donham for kidnapping does not change this assessment.

³⁵ For example, when Bryant-Donham described the car that Till arrived in as a type of "luxury car" that was not typically seen in Money, Tyson commented, "I find this hard to believe, honestly." In the section of the memoir where Bryant-Donham recounts her interaction with her husband after Till's abduction, Tyson comments, in various places, "I find this implausible" and "This is just not credible . . ."; and in the section where Bryant-Donham recounts Roy's arrest, Tyson comments, "This stretches credulity."

³⁶ Jerry Mitchell, *Bombshell quote missing from Emmett Till tape. So did Carolyn Bryant really recant?* Mississippi Clarion Ledger, Aug. 21, 2018.

³⁷ Tyson told investigators that he did not recall an email correspondence with XXXXX but did recall a phone call with her in which XXXX was upset about the media scrutiny.

A. No Previously Unknown Living Suspects in Till's Abduction and Murder Could Be Identified.

The current investigation uncovered no new evidence to change the Department's previous analysis from its 2004 investigation that there are no living suspects to hold accountable for Till's abduction and murder. Even if additional suspects had been identified, there would be insurmountable barriers to a federal prosecution. In 1955, at the time Till was murdered, no federal hate crime laws existed. The only federal civil rights laws that existed in 1955 were Reconstruction-Era statutes that would have required proof that anyone charged for the offense was a law enforcement officer or otherwise acted under color of law.³⁸ Since the time of Till's death, Congress has enacted several laws prohibiting bias-motivated violence. But even if any additional living subjects had been identified, they could not be prosecuted for violating these more modern statutes. This is because the Constitution's *Ex Post Facto* clause, art. I, § 9, cl.3, prohibits the government from prosecuting anyone for violating a law that was not in effect at the time of the alleged misdeed.

Neither could any subject be charged for violating the Reconstruction-Era civil rights statutes that *did* exist at the time of Till's death. Not only is there no factual evidence that anyone involved in Till's murder acted under color of law, as required by these statutes, but the Reconstruction-Era statutes were, at the time of Till's murder, subject to a five-year statute of limitations period, which has expired. *See* 18 U.S.C. § 3282(a).³⁹ The government cannot prosecute any defendant after expiration of this limitations period.

The Department of Justice has used non-civil rights statutes to overcome the statute of limitations challenge in a small number of cases, such as those involving kidnapping across state lines, *see United States v. Seale*, 600 F.3d 473 (5th Cir. 2010), or offenses occurring on federal land, *see United States v. Avants*, 367 F.3d 433, 440 (5th Cir. 2004). The available evidence in this case, however, does not support a finding that Till was transported across state lines or that he was killed on federal land. For all of these reasons, the government cannot now prosecute anyone for the abduction and murder of Emmett Till.

B. Insufficient Evidence Exists to Establish that Bryant-Donham Lied to Federal Investigators

³⁸ Two civil rights statutes were available to prosecutors in 1955. Section 242 of Title 18 prohibits persons acting under color of law from willfully depriving others of constitutional rights. *See* 18 U.S.C. § 242. Section 241 of Title 18 prohibits conspiring to deprive others of rights or privileges secured to them by the Constitution or federal law. *See* 18 U.S.C. § 241. Although Section 241 does not expressly include a color-of-law requirement, it was for many years largely limited by case law to defendants who were public officials. *United States v. Cruikshank*, 92 U.S. 542 (1875).

³⁹ In 1994, these statutes were amended to eliminate the statute of limitations for certain death-resulting offenses. This was accomplished by making certain offenses defined by 18 U.S.C. §§ 241 and 242 death eligible. *See* Pub. L. No. 103-322, 108 Stat. 1796 (1994); 18 U.S.C. § 3281 ("An indictment for any offense punishable by death may be found at any time without limitation."). The *Ex Post Facto* clause prohibits the government from retroactively extending the statute of limitations once it has expired. *See Stogner v. California*, 539 U.S. 607, 610 (2003).

As a threshold matter, the federal government could not prosecute Bryant-Donham for perjury for her 1955 testimony, as perjury in state court is not a federal offense. Moreover, in 1960 the statute of limitations – which, as explained above, is a deadline for bringing a prosecution – expired on any state perjury offense.⁴⁰ Federal law prohibits knowingly and willfully making a materially false statement in the course of a federal investigation. 18 U.S.C. § 1001. Bryant-Donham spoke to investigators during the 2004 investigation, at which time she repeated her story about the alleged physical interaction she had with Till inside the store. The five-year statute of limitations has expired on a claim that this story was false. Thus, even if the government could prove that the account Bryant-Donham gave during the 2004 investigation was false, she could not be prosecuted for such a statement.

Bryant-Donham also spoke to federal investigators during the most recent investigation. If the government could prove beyond a reasonable doubt that Bryant-Donham knowingly and willfully lied to federal investigators during this investigation, then she could be charged with a federal crime. During the most recent investigation, however, Bryant-Donham did not repeat her account of Till's actions inside the store.⁴¹ Rather, when federal investigators confronted Bryant-Donham with Tyson's claim that she had recanted the version of events set forth in her testimony, Bryant-Donham denied the recantation without affirmatively repeating her account. For this reason, any basis for charging Bryant-Donham with lying to federal investigators during the present investigation would have to be based on whether the government could prove, beyond a reasonable doubt, that she recanted her prior accounts when talking to Tyson and that she subsequently deliberately lied to investigators by denying that she had done so.

There is no recording or documentation clearly reflecting that Bryant-Donham admitted to Tyson that her prior statements were false. If there was, then the government could use her own words to prove that she was untruthful to federal investigators when she denied to them

⁴⁰ Tyson's book contains an additional piece of information—other than Bryant-Donham's alleged recantation—that casts doubt on whether Bryant-Donham's state court testimony was truthful. Specifically, the book reveals that there are notes reportedly taken by a now-deceased defense counsel for Roy Bryant and J.W. Milam that were purportedly of an interview counsel had with Bryant-Donham less than a week after Till's abduction. These notes apparently do not include a description of a physical encounter like the one Bryant-Donham testified about. In other words, it appears that Bryant-Donham made a statement to her husband's lawyer, near the time of the events, that dramatically differs from her in-court testimony.

Combined with the other evidence set forth above, the account Bryant-Donham provided to her husband's defense counsel might suggest that Bryant-Donham was not truthful in her court testimony. It is unclear whether the attorney's notes could be admitted into evidence in a modern prosecution, given the dual hurdles of spousal privilege and attorney-client privilege. In addition, a court might exclude the evidence on Confrontation Clause grounds, given that Bryant-Donham would be unable to confront the defense attorney who took the notes to ask about the accuracy of the notes and whether the notes represented everything she said to him. Even assuming, however, that these hurdles could be overcome and the evidence was deemed admissible, the federal government lacks jurisdiction to prosecute Bryant-Donham for perjury based upon statements she made in *state* court. Moreover, the statute of limitations has expired with respect to state perjury charges.

⁴¹ Even if the government could argue that Bryant-Donham re-adopted or ratified her prior version when she denied recanting to Tyson, the fact that there is no living witness to the events inside the store would likely prohibit the government from proving beyond a reasonable doubt that her long-held account was false.

having recanted those statements to Tyson. But neither the available recording nor the transcripts of her interviews with Tyson contain such admissions.

Absent such documentation, the government would have to rely solely upon Tyson's recollection of Bryant-Donham's statements to prove that Bryant-Donham lied to federal investigators. Tyson's account, however, is insufficient to establish beyond a reasonable doubt that Bryant-Donham lied to investigators. Tyson's assertion that Bryant-Donham recanted her prior version of events relies on imprecise documentation of an ambiguous statement. Moreover, Tyson's account lacks credibility due to Tyson's shifting explanations to FBI investigators and officials from the Mississippi District Attorney's Office, Fourth District, the questionable nature of his relationship with Bryant-Donham, and his financial motives.⁴²

For these reasons, the government could not prove beyond a reasonable doubt that Bryant-Donham recanted her testimony and therefore lied to the FBI by denying she did so. Although we conclude that Bryant-Donham cannot be federally prosecuted, there remains considerable doubt about the truthfulness of her 1955 testimony in state court and her subsequent repetition of that account. Bryant-Donham's account of Till physically accosting her inside the store is contradicted by XXXX, a living witness, who was outside for much of the time that Till was in the store. XXXX has stressed to investigators that there was no commotion inside the store and that Bryant-Donham left the store unhurried and undisturbed. The truthfulness of Bryant-Donham's state court testimony is also undermined by the trial testimony of Mose Wright (deceased), who explained that when men came to his home looking for Till on the night he was abducted, they said that they were looking for the "boy that done the talking." This account suggests that defendants Bryant and Milam were concerned with words, not physical contact. As explained above, however, the statute of limitations has run on charging Bryant-Donham for her prior accounts and the government could not prove beyond a reasonable doubt, as would be required in any prosecution, that Bryant-Donham ever recanted this story.

The Till Act and its Reauthorization provide that the federal government can assist state or local governments in prosecuting cold cases when the cases cannot be prosecuted federally. The Department has consulted with the Mississippi District Attorney's Office, Fourth District. The current investigation has uncovered no additional evidence about Bryant-Donham's culpability that was unavailable at the time the state grand jury refused to indict her as a co-conspirator, nor has the current investigation uncovered evidence that any other living person could be prosecuted for Till's murder.

C. June 2022 Discovery of State Arrest Warrant and Presentation of Charges to a State Grand Jury

Months after the Department closed this investigation in December 2021, several family members and civil rights advocates located a 1955 state warrant to arrest Bryant-Donham on a charge of kidnapping. Following this discovery, the District Attorney's Office, in August 2022, presented to a state grand jury all evidence and testimony it had gathered since the 2004

⁴² Finally, even Tyson's own account characterizes Bryant-Donham as a person "trying hard to distinguish fact from remembrance" and not an individual knowingly recanting prior testimony. Book, p. 2.

investigation regarding Bryant-Donham's involvement in Till's abduction and murder. The state grand jury considered the evidence in support of kidnapping and manslaughter charges against Bryant-Donham but did not indict her on either charge.

While we have analyzed these developments closely, the recent discovery of the 1955 state arrest warrant and the state grand jury's decision not to indict Bryant-Donham on state charges has no bearing on the Department's December 2021 conclusion that there is no basis to bring federal charges. As explained above, no federal hate crime laws existed in 1955, the statute of limitations has run on the only civil rights statutes that were in effect at that time, the crime did not occur on federal land or involve federal kidnapping (which would toll the statute of limitations), and no new evidence has been discovered to charge any living person with any other federal crime.

6. Conclusion

Emmett Till's abduction and murder were representative of the routine violence committed at that time against our country's most marginalized citizens; Roy Bryant's and J.W. Milam's acquittal was representative of the willingness among some in our country to condone or ignore such systemic violence. Till's death nonetheless represented a turning point in our country's history and its struggle to protect the civil rights of all of its citizens.

The Civil Rights Division reopened this investigation as part of its continuing commitment to seeking justice in such cases whenever possible. After a thorough evaluation of all available evidence, the Civil Rights Division concludes that this matter should be closed without prosecution.

The United States Attorney's Office for the Northern District of Mississippi concurs with this recommendation.