

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-54-1187

Date: September 23, 2024

To: Chief, Criminal Section

Re: Robert Gerald Teel (Deceased)
XXXX – Subject;
XXXX – Subject;
Henry D. “Dickie” Marrow, Jr. (Deceased)
XXXX – Victims;
CIVIL RIGHTS

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

1. Date of the Incident: May 11, 1970
2. Synopsis of the Facts and Reasons for Closing:

Henry D. “Dickie” Marrow, Jr. was a 23-year-old Black man and Army veteran living in Oxford, North Carolina. On May 11, 1970, after Marrow allegedly said something that offended a white woman, three of the woman’s relatives shot Marrow from behind, severely beat him while he was on the ground, and then fatally shot him in the head. The men who participated in the assault that killed Marrow included: (1) the woman’s husband, XXXX; (2) XXXX Robert Gerald Teel (Robert) (deceased); and (3) Robert’s XXXX. At least two witnesses heard XXXX and Robert use racial slurs either during or shortly after their assault on Marrow.

Angela M. Miller
Attorney

To: Records Section
Office of Legal Administration

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

Date

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

Following Marrow's death, the state charged two of the men, XXXX and Robert, with murder and aiding and abetting murder, respectively. State authorities also charged Robert with a felonious assault for firing his shotgun at XXXX, a bystander to Marrow's death. XXXX and Robert were tried in state court in July 1970 on the murder and aiding and abetting counts. An all-white jury acquitted them. The acquittals followed a surprise declaration at trial by XXXX that, contrary to eyewitness testimony introduced at trial, he XXX, rather than XXXX, fired the fatal shot that killed Marrow. XXXX testified that he fired the fatal shot by accident after "someone," whom XXXX never identified at trial, bumped his arm.

Following the acquittals, Judge Robert M. Martin (deceased), who presided over the trial, issued bench warrants for all three men on various counts, including murder XXXX aiding and abetting XXXX in murder (Robert), and felonious assault XXXX.¹ A grand jury did not return any indictments. In 1977, the local prosecutor's office dropped the pending felonious assault charge against Robert related to the shooting of XXXX. Robert was never tried on that felonious assault charge and, to date, XXXX has never been formally charged with any crime associated with Marrow's death or for the attempt on XXXX's life.

The Department opened this investigation for review and assembled an investigative team with members from the Civil Rights Division's Cold Case Unit and the Federal Bureau of Investigation. The investigation focused on whether any evidence or information could be uncovered to support a federal prosecution and, if not, whether any new admissible evidence or information is available to support further state prosecutions. After conducting a thorough preliminary investigation, which included interviews of dozens of people, exhaustive record searches, and reviews of numerous contemporaneous and post-incident media, the investigative team identified what it believed to be new information confirming the identity of the person who shot and killed Marrow. Specifically, two eyewitnesses to Marrow's murder who were familiar with the subjects unequivocally identified XXXX as the shooter. Both acknowledged that they had not done so during the state court proceedings in 1970 and provided reasons for not doing so. Their general accounts were corroborated by several eyewitnesses who were not called to testify in the state proceedings.

The investigative team concluded after completing its preliminary investigation that a federal prosecution was not viable. At the time of Marrow's death, the only available federal criminal civil rights statutes were subject to a five-year statute of limitations, which has since run. Federal prosecution is thus precluded.

However, because the Civil Rights Division believed, for the reasons set forth more fully below, that a state prosecution might be viable, the Department formally referred the matter to North Carolina's Office of the District Attorney – Eleventh Prosecutorial District in July 2022. The Civil Rights Division provided District Attorney Mike Waters with the team's investigative file and offered the Civil Rights Division's assistance in any state or local investigation or prosecution. The Department's most recent Report to Congress reported on this referral. *See* The Attorney General's Eleventh Annual Report to Congress Pursuant to the Emmett Till Unsolved

¹ It is not clear whether prosecution of Robert and XXXX on these charges would have been permitted under the Constitution's prohibition against double jeopardy.

Civil Rights Crime Act of 2007 and Fifth Annual Report to Congress Pursuant to the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016. That report did not fully summarize the investigative team's preliminary efforts to ensure it did not interfere with any investigative or prosecutive activities the District Attorney's Office might undertake.

While waiting to hear back from the District Attorney's Office on its assessment of the preliminary investigation, the investigative team took the necessary steps to finalize its own investigation. The Civil Rights Division determined, while its Cold Case Unit was finalizing its own investigation, that the District Attorney's Office was not inclined to pursue a state investigation or prosecution. In addition, it learned that Robert had died. Thus, the Civil Rights Division now provides a fuller accounting of the investigation completed under the Till Act.

3. Factual Summary

According to sworn testimony, contemporaneous news reports, recent interviews, and other accounts, the incident began while Henry D. "Dickie" Marrow, Jr.² was walking toward an area known as "Four Corners," where he and other young Black men, including XXXX, XXXX's older brother XXXX, XXXX, XXXX, and XXXX, often gathered to socialize. There were several businesses in the area, including a barbershop, laundromat, and motorcycle repair shop owned by Robert. Many in the local Black community avoided Robert and his family, refusing to patronize their businesses because Robert and XXXX reportedly held racist views. This was corroborated by an investigator with the State Bureau of Investigation who informed the investigative team that a confidential informant reported to him in 1970 that both Robert and XXXX were associated with the local Ku Klux Klan at the time of Marrow's killing.

When Marrow reached Four Corners, XXXX, XXXX, XXXX, and XXXX had already gathered. Marrow allegedly said something to XXXX, XXXX, to which XXXX took offense. XXXX and Marrow then exchanged some words. Although specific details differ, witnesses generally relayed that XXXX picked up a long pole or stick and Marrow pulled out a small pocketknife. At some point, Robert and XXXX joined XXXX after retrieving guns from Robert's barbershop.

The young Black men who had gathered at Four Corners ran from the area. As they were running, they yelled at Marrow to come with them, but Marrow initially stayed where he was before eventually turning and running away from the area. Shortly thereafter, XXXX, a young Black man who was friends with Marrow and who was just approaching the area after baseball practice, saw four young men run by him with Marrow running behind them. Robert fired his shotgun at Marrow as Marrow was running from the area. Marrow fell to the ground with a shotgun wound to the back of his thighs. XXXX saw Robert brandishing a shotgun, which Robert then swung toward a passive XXXXs before firing it. XXXX ducked to avoid the shotgun's full blast, but he suffered injuries to his face, shoulder, and upper body. He yelled, "What the hell is wrong with you?" as Robert fired the shotgun again—although this time it did not discharge a round. XXXX escaped into a store doorway as Robert swung the shotgun at him.

² The birth record for Mr. Marrow is recorded as Henry D. Marrow, Jr. His death certificate identifies his name as Henry Doctress Marrow, Jr.

XXXX ducked again and avoided being hit as XXXX and XXXX came from around a corner and ran toward Marrow.

The rest of the young men ran to an area close to a nearby home. The homeowner's XXXX, XXXX, was outside on the front porch and thus witnessed the events. From their various locations XXXX and the young men could see Robert, XXXX, and XXXX surround Marrow as he lay on the ground wounded and incapacitated from the earlier shotgun blast. Multiple witnesses saw the three white subjects repeatedly kicking and punching Marrow. One witness heard Marrow say "you got me" to the three men. XXXX himself later admitted under oath that he and Robert kicked Marrow while Marrow was on the ground. XXXX likewise testified that he struck Marrow two or three times with his fists as Marrow lay unresisting on the ground before XXXX picked up a knife from beside Marrow. XXXX reported that he also saw Robert strike Marrow in the head with the stock of the shotgun. XXXX could not identify precisely what Robert used to repeatedly strike Marrow but likened it to a long board. Decades later, XXXX's wife, XXXX, reported to the investigative team that XXXX had told XXXX Robert had struck Marrow in the head multiple times with the butt of his shotgun using "some kind of maneuver he learned in the army."

Several witnesses reported that after Marrow had verbally surrendered and while he was on the ground, incapacitated from both the initial shotgun wound and the beating, Robert directed XXXX to kill Marrow. While witnesses agree that Robert directed the shooting, they recall him using different (but similar) language to do so. For example, one witness recalled hearing Robert direct XXXX to "Kill that son of a b**ch"; others recalled hearing, "Shoot the mother f****r," or "Shoot that n****r." Various witnesses reported seeing XXXX place the end of the rifle against Marrow's head and fire it. XXXX, however, testified that someone else (although he never identified whom) ran up and shot Marrow; XXXX testified—and maintains to this day—that he, and not XXXX, fired the gun and that he did so after he was accidentally bumped (although he has never identified who bumped him). When the three white men walked away, the young Black men returned to aid Marrow. These men reported that Marrow had a small bullet hole immediately above his right eye. Others also saw injuries to his face and head separate from the gunshot wound. XXXX and the other young men who had originally gathered at Four Corners placed Marrow into a car and transported him to Granville County Hospital. Marrow was eventually transported to Duke University Hospital, where he was pronounced dead from a gunshot wound to the head.

Contemporaneous news reports indicate that Marrow's death was followed by a period of considerable unrest in the community, characterized by property and fire damage. These media sources also report that leaders of the Black community lacked confidence in the court system and its ability to render justice for Marrow.

4. The 1970 State Investigation

The young men who witnessed Marrow's murder traveled from the hospital to the Oxford Police Department (OPD) to provide statements. Based upon these statements, the OPD initiated an investigation, which was led by Lieutenant James "J.C." Williams (deceased). Although the

OPD initiated the investigation, it was quickly turned over to the State Bureau of Investigation (SBI) and led by SBI Agent XXXX.

According to the available SBI investigative file, then-OPD Chief Doug White called for assistance from the SBI at approximately 10:00 p.m. on May 11, 1970. Agent XXXX took XXXX and Robert into custody at approximately 3:45 a.m. on May 12, 1970.

No records of the OPD investigation have been located. However, one of the young men, XXXX, told the investigative team that he was interviewed by OPD and that he identified to OPD the three men—XXXX, Robert, and XXXX—who were responsible for Marrow's murder.³

When contacted by the investigative team, Agent XXXX recalled that he had received investigative notes or reports from Lt. Williams and provided those notes, as well as his own, to the District Attorney's Office. A representative from the District Attorney's Office indicated that the office did not retain murder files from the 1970s and instead relied upon records maintained in the courthouse. The Final Report from the SBI investigative file indicates that then-Solicitor W.H.S. Burgwyn (deceased) "kept all inv. notes and measurements as per the investigation." The investigative team was unable to locate copies of these notes.

5. State Criminal and Civil Proceedings

a. *Pre-trial Proceedings (preliminary hearing; habeas corpus proceeding; indictments)*

The investigative team reviewed contemporaneous news reports and the available court records and exhibits for the criminal charges brought and subsequent bench warrants issued against Robert, XXXX, and XXXX.⁴ The court records include a transcript of a habeas corpus hearing held before the trial, a partial transcript of XXXX's trial testimony, and a complete transcript of XXXX's testimony; no other transcripts were available in the court records.

The court held a preliminary hearing on May 13, 1970, during which XXXX and XXXX testified.⁵ According to a news account, XXXX testified that: (1) he had sustained shotgun pellet injuries to his forehead, neck, shoulders, and hand; (2) Robert, XXXX, and a third man were standing over Marrow while Marrow was on the ground; (3) Robert held a shotgun, XXXX held a stick, and a third man held a rifle; (4) he saw all three hit Marrow while Marrow was on the ground; (5) he heard Robert tell XXXX to "Shoot the son-of-a-b**ch"; and, (6) he saw XXXX shoot Marrow in the head with a rifle.

³ XXXX's statement to federal investigators also suggests that he identified all three men to the OPD; he stated that none of the officers appeared willing to arrest the three men at that time. Moreover, XXXX testified at the habeas corpus proceeding that, in addition to Robert, he saw XXXX come out of a store with a gun. This was likely a reference to XXXX, who is XXXX.

⁴ 70-cr-1847; 70-cr-1848; 70-cr-1849; 70-cr-3231; 70-cr-3232; 70-cr-3233.

⁵ A subpoena for XXXX to appear on May 13, 1970 is included in the court files, but contemporaneous news reports do not mention him testifying and no trial transcript including his testimony could be located.

The court held a habeas corpus hearing on June 2, 1970, and denied bond for the defendants. At that hearing, OPD Lt. Williams testified that he saw Marrow at the Granville Hospital and observed a shotgun wound to the back of Marrow's thigh and a small caliber bullet wound over his right eye. Lt. Williams also testified that, when questioned, XXXX identified Robert as the person who shot him (XXXX) in the face with a shotgun, stated that he watched Robert strike Marrow in the head and face with a shotgun, indicated that he saw three men (Robert, XXXX, and another man) kick Marrow while Marrow was on the ground, heard Marrow say, while on the ground, "All right, you have got me, let's just forget it," heard Robert ask XXXX, "Aren't you going to shoot the son of a b**ch?" and identified XXXX as the person who shot Marrow in the head. XXXX testified that he saw XXXX kick at Marrow, saw Marrow with a knife, and then saw XXXX pick up what looked like a pole while being held back by his "XXXX," who was wearing "greasy looking clothes." He testified that this person and Robert (whom he identified as "Mr. Teel") then ran back into the store and came out with guns. XXXX testified that Marrow was not threatening XXXX with the knife but was instead holding it as if he "had his guard up." During this hearing, XXXX denied seeing the actual shooting but testified that he did hear a "couple" of shots fired.

On July 13, 1970, a state grand jury formally indicted XXXX for Marrow's murder (N.C. G.S. 15-144). That same grand jury indicted Robert for "aiding and abetting, counseling and encouraging . . . XXXX . . . who actually killed and murdered" Marrow (N.C. G.S. 15-144). The state presented the grand jury with a separate murder count against Robert, but the grand jury did not return a true bill on that count. The grand jury also indicted Robert that same day for a felonious assault against XXXX (N.C. G.S. 14-32(a)). That charge specified that Robert used a deadly weapon (shotgun), had the felonious intent to kill and murder XXXX, and inflicted serious injuries (specifically, "great bodily pain & loss of blood") upon XXXX. No charges were brought against XXXX.

b. *State Trial*⁶

XXXX and Robert were tried on the murder and aiding and abetting charges relating to Marrow before a jury in the Superior Court of Granville County in July and August 1970. Solicitor W.H.S. Burgwyn, Jr. prosecuted the case, assisted by Charles M. White, III (deceased) and private prosecutor⁷ XXXX, of the law firm XXXX. The trial did not include the charge against Robert relating to XXXX.

Court records and contemporaneous news reports identified several witnesses for the prosecution, including OPD Lt. Williams, SBI Agent XXXX, Dr. R. Page Hudson (Chief Medical Examiner) (deceased), Dr. William B. Tarry (deceased), XXXX, XXXX, and XXXX.

⁶ The investigative team obtained information about the trial from available court records and contemporaneous news reports. When information is sourced from news reports rather than court records, it is identified as such or referred to as having been "reported." As explained more fully at section 6.a., the investigative team attempted to find corroborating court records, but could not do so.

⁷ North Carolina law grants the District Attorney authority to permit private prosecutors, often retained by a victim's family members, to aid in the prosecution of a case. *See, e.g., State v. Camacho*, 329 N.C. 589, 594 (1991). (explaining that a trial court's discretion to permit private prosecutors to appear with the District Attorney's consent "has existed in [North Carolina] courts from their incipency") (quoting *State v. Best*, 280 N.C. 413, 416 (1972)).

According to news reports, XXXX testified that he saw XXXX with a stick in his hand and then saw Robert coming out of the store with a shotgun. XXXX reportedly testified that he was hit by shotgun pellets in his face, neck, and arm, and was then confronted by Robert, who “put a shotgun barrel in [his] face.” When Robert backed away, XXXX, who was holding a stick, approached XXXX. Thereafter, XXXX reportedly testified that he saw three men standing over Marrow and kicking him. He heard Robert give an order to shoot Marrow, and then saw XXXX shoot Marrow after a third man (presumably XXXX) handed XXXX a rifle. XXXX reportedly testified that after XXXX heard gunshots, XXXX saw three men standing over Marrow and kicking him, and XXXX heard Robert give an order to shoot Marrow.

Dr. Hudson reportedly testified that the shotgun wound to Marrow’s lower body would have incapacitated him but would not have killed him. Dr. Hudson further testified, according to news reports, that, in addition to the shotgun wounds, Marrow had two skull fractures—one on top of his head and one on the back of his head—as well as numerous bruises and abrasions on his body.

Contemporaneous news reports identified a few defense witnesses, including XXXX (XXXX), XXXX (XXXX), and XXXX (XXXX’s wife). XXXX reportedly testified that Marrow displayed a knife as XXXX walked toward Marrow; XXXX reportedly testified that she saw XXXX fire a shotgun blast and saw Robert shoot Marrow with a shotgun as Marrow ran from the commercial district.

XXXX testified in his own defense. According to the partial transcript, which contains only XXXX’s direct testimony and the cross-examination by Robert’s attorney (but not the prosecutor’s cross-examination), XXXX testified that he heard Marrow say, “Hey, you white girl, hey, you son of a b**ch” to his wife. XXXX responded, “That is my wife you are talking to.” XXXX testified that Marrow then said, “Come on,” and “I am a soul brother.”

XXXX testified that, following the exchange, he advanced on Marrow and that Marrow, in turn, pulled out a knife and advanced towards XXXX. At that point, XXXX kicked Marrow in the chest. According to XXXX, Marrow responded by grabbing some gravel and throwing it at XXXX, which prompted XXXX to pick up a nearby stick. XXXX testified that he then heard a shot fired, after which Marrow ran and XXXX followed him. XXXX came across another person⁸ and almost hit him with the stick, but then threw the stick down and ran to where Marrow was on the ground, “jumped up on top of him,” and hit him multiple times with his fists. He testified that he saw a knife on the ground, grabbed it, and jumped up. At that point, he “was looking down at the end of a gun barrel” and saw it jerk and heard it go off. He testified that he saw XXXX standing near him but did not know who was standing next to him with the gun. Marrow’s friends then returned and took Marrow to their car and left. XXXX denied ever holding a gun that day and denied that XXXX said anything to him as he stood over Marrow.

⁸ Given the sequence of events and statements obtained, this person was likely XXXX, although XXXX did not identify him in the available testimony.

XXXX, who had not been indicted, also testified for the defense. According to the transcript, he testified that he, Robert, and XXXX were working on a boat when XXXX's wife, XXXX, yelled at them to help XXXX. He then ran to get a gun from the barbershop where he passed Robert, who was carrying a single-barrel shotgun, coming out of the shop. XXXX retrieved a combination .410 shotgun and .22 caliber rifle. He left the shop and saw Robert "shoot at" Marrow. He and Robert ran up to Marrow and then XXXX came over, straddled Marrow, and began hitting him. XXXX testified that both he and Robert kicked Marrow and that XXXX hit Marrow, and that they continued to do so until XXXX told them he (XXXX) had picked up a knife, at which point XXXX got up from his position over Marrow. Then, XXXX testified, "somebody pushed or bumped" his shoulder and the gun "accidentally went off." When questioned, he denied under oath that Robert had said anything while they were surrounding Marrow, other than to say he was going to call the police and an ambulance. He also denied ever seeing XXXX with a gun that day. XXXX testified that he later carried the shotgun/rifle back to the barbershop.⁹

On cross-examination by the state, XXXX testified that upon the advice of counsel he did not come forward earlier, even though Robert and XXXX had been in jail since May. When asked whether he fired the shotgun, as XXXX had testified to earlier,¹⁰ he invoked his right not to incriminate himself. He also admitted that he knew neither his lawyer nor XXXX could testify against him.

An all-white jury acquitted the defendants on both counts on August 2, 1970. News reports described the atmosphere in the town as "tense" during the week of the trial.

c. *Post-trial Proceedings (bench warrants following acquittal; subsequent grand jury proceedings; dismissal of pending charges)*

The same day the jury acquitted XXXX and Robert, the trial judge issued bench warrants for the arrests of XXXX on a charge of murder, XXXX on a charge of felonious assault inflicting serious injury, and Robert on a charge of aiding and abetting XXXX in murder.

According to contemporaneous news reports and the available court records, Solicitor Burgwyn was prepared to present the proposed charges to the grand jury for indictment in early November, but the proceedings were postponed because some witnesses failed to appear. The case was presented to the grand jury in February 1971 but the grand jury did not issue any indictments.

Court records indicate that, upon a motion for a continuance by Robert's defense counsel, the felonious assault charge against Robert for shooting XXXX was continued in November 1970. Witnesses, including XXXX, XXXX, XXXX, XXXX, OPD Chief White, OPD Lt. Williams, SBI Agent XXXX, and XXXX, were summoned to court proceedings scheduled for

⁹ The shotgun/rifle was never recovered.

¹⁰ This part of the transcript was not located and therefore this testimony is unconfirmed. However, XXXX's testimony is referenced in the prosecutor's question to XXXX and mentioned in a contemporaneous news article. *See* Witness Says He Held Death Gun, NEWS AND OBSERVER (Aug. 1, 1970).

early 1971, but the case was continued until the July 1971 session. The case was continued again in July 1971, November 1971, and February 1972. In March of 1977, the prosecution dismissed the case. The court records indicate that the “state no longer considers this an active case and does not wish to continue prosecution.”

d. *Civil Suit Filed by Marrow’s Widow*

Marrow’s widow filed a civil suit against Robert Teel, XXXX, and XXXXy on August 4, 1970—just a few days after the trial ended in acquittals. Although the civil docket indicates that the defendants answered the complaint in September 1970, the current file includes neither the complaint nor the answer. The order dismissing the case, dated December 3, 1970, indicates that the case was scheduled for trial on that date but was dismissed with prejudice after the court was informed that “the plaintiff no longer desires to pursue this matter and the defendants no longer desire to pursue their counterclaim.”

6. The Federal Investigation

This matter was referred to the Department of Justice by an eligible entity under the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act. Upon receiving the matter, the Department assembled an investigative team with members from the Civil Rights Division’s Cold Case Unit and the Federal Bureau of Investigation. The investigative team took several steps, outlined below, to evaluate whether there was a basis for either federal or state prosecution.

The investigation initially confirmed that all three subjects were alive.¹¹ The Department then notified Marrow’s XXXX, XXXX, and XXXX about the nature and purpose of the investigation. Marrow’s XXXX was just XXXX when XXXX was killed. XXXX expressed XXXX opinion that justice has never been served for XXXX family.

a. *Records Review*

The Department obtained the available copy of the SBI file but was unable to locate any OPD files pertaining to Marrow’s murder. The Department was able to obtain the available criminal court records and exhibits from the Granville County Courthouse for case file numbers 70-cr-1847 (Robert Gerald Teel: Murder); 70-cr-1848 (Robert Gerald Teel: ADW); 70-cr-1849 (XXXX: Murder); 70-cr-3231 (XXXX: Murder); 70-cr-3232 (Robert Gerald Teel: Aiding and Abetting Murder); 70-cr-3233 (XXXX: Assault Inflicting Serious Injury); and 70-cvs-330 (civil suit). These records contain, among other documents, a transcript of the June 2, 1970, habeas corpus proceeding, a full transcript of XXXX’s trial testimony, and a partial transcript of XXXX’s trial testimony. It is not clear whether a complete trial transcript ever existed. The available court records do not include a transcript of the entire criminal trial, and the Department’s efforts to secure a copy of additional transcripts from the now-retired court

¹¹ Robert Teel was alive when the Department opened its investigation and when it met with the District Attorney’s Office in July 2022 to present the case for potential state prosecution. Robert Teel died in June 2024.

reporter, the private prosecutor affiliated with the criminal prosecution, as well as attorneys and an intern affiliated with the private prosecutor's then-law firm, were unsuccessful.

Those assigned to the investigation reviewed contemporaneous news articles reporting on Marrow's death, as well as the preliminary hearing, habeas proceeding, criminal trial, subsequent bench warrants, civil proceeding, and grand jury proceedings. They also reviewed the 2004 book Blood Done Sign My Name, by Timothy Tyson.

The Department also reviewed Marrow's death certificate, which indicates that he died from cardiopulmonary arrest following a "gunshot wound of the head." The book mentioned above cited to a coroner's report that was reportedly located in the Granville County Courthouse files. A coroner's report would identify any additional injuries Marrow suffered apart from the gunshot wound that killed him. The records reviewed at the Granville County Courthouse, however, did not include a coroner's report, and efforts to locate a coroner's report or other medical records through the North Carolina Archives and History, the Office of the Chief Medical Examiner, the Granville Health Center, Duke Hospital, or Marrow's family members were unsuccessful.

b. *Recent Witness Interviews*

The investigative team interviewed numerous people, including Marrow's friends and family members. Marrow (fondly remembered as "Dickie" by his friends) was 23 years old when he was killed. He was a veteran and the married father of two young children. Those who knew him well described him as an easy-going, relaxed person (e.g., "a gentleman"; "a cool, laid back guy") who was not one to instigate a fight or cause trouble. His family and friends agreed, however, that he would stand up for himself when necessary.

The Department also interviewed those who witnessed the events surrounding Marrow's killing. Most significantly, the investigative team spoke with three eyewitnesses to Marrow's killing who definitively identified XXXX as the shooter. Two of these witnesses also identified Robert as the person who bludgeoned Marrow with an object (i.e., his shotgun) after shooting and incapacitating Marrow as Marrow ran from the three men. These same two witnesses recalled hearing Robert order the shooting of Marrow after Robert, XXXX, and XXXX assaulted Marrow as Marrow lay on the ground, injured and defenseless. These witnesses testified at the state trial and their present-day recollections remain generally consistent with their previous testimony. The third witness's recollection differed from his testimony at the habeas corpus proceeding—a proceeding in which he denied seeing who shot Marrow. He revealed to investigators, however, that he did, in fact, see XXXX shoot Marrow but was reluctant to disclose that during the habeas proceeding. He disclosed that the atmosphere in Oxford was contentious following Marrow's death and during the resulting trial, and that he was concerned about ongoing civil unrest.

Collectively, XXXX, XXXX, XXXX, XXXX, and XXXX provided members of the investigative team with their detailed recollections of the events surrounding Marrow's killing.¹² In the early evening of May 11, 1970, XXXX, XXXX, XXXX, and XXXX had gathered at Four Corners, an area around the corner from Robert Teel's businesses. Marrow walked past the group of young men and turned the corner. Shortly thereafter, the group of young men heard a commotion. When the young men went to see what was going on, they saw Marrow and XXXX arguing. XXXX recalled hearing XXXX accuse Marrow of saying something to his wife. XXXX indicated he would not have been surprised if XXXX's wife had said something to Marrow, but both he and XXXX doubted that Marrow would have said anything inappropriate to her. XXXX urged Marrow to leave the area around the same time the group of young men saw Robert and XXXX appear with firearms. The young men, who had initially approached to help Marrow, ran from the area. Before running, XXXX recalled seeing Robert discharge a shotgun round into the air and thinks XXXX may have, too. In any event, the four men all remembered running from the area after Robert and XXXX appeared with weapons.

XXXX recalled seeing several people running from the area of Four Corners just as he was approaching that area from the other side of the street. He had heard a gunshot earlier but ignored it, as it was not uncommon for people to shoot guns in a nearby open field. XXXX recalled hearing another gunshot and seeing Marrow fall to the ground. XXXX, who had continued to run after he saw Marrow fall, heard Marrow yell out, "Ah, he got me!" After he saw Marrow fall, XXXX recalled seeing Robert brandishing a shotgun. XXXX then saw Robert swing the shotgun toward him and fire. XXXX ducked but was nonetheless struck by shotgun pellets in his face. Robert again pulled the trigger on the shotgun but the weapon did not discharge. Robert then swung the shotgun at XXXX like a baseball bat, but XXXX was able to avoid the strike. He recalled hearing Robert say that he shot XXXX by mistake, thinking he was Marrow. XXXX then saw XXXX and XXXX come around the corner. In his interview with the investigative team, XXXX identified XXXX as the person holding a .22 rifle and XXXX as the person holding a stick, contrary to his trial testimony.¹³

The other young men had run past the yard of a nearby residence owned by XXXX. XXXX was in the yard at the time. XXXX recalled seeing Robert and XXXX stand over Marrow after Marrow fell to the ground. According to XXXX, Robert repeatedly struck Marrow with what looked to XXXX like a long board; he continued until Marrow's tongue came out of his mouth. XXXX also recalled seeing all three men (Robert, XXXX, and XXXX) standing over Marrow and remembered Robert striking Marrow in the head with the shotgun. According to XXXX, Robert struck Marrow so violently that it broke the stock of the shotgun. XXXX relayed that he saw all three men brutally stomping and kicking Marrow, who was unable to defend himself. XXXX also remembered seeing Robert, XXXX, and XXXX kicking and beating Marrow as Marrow was on the ground. XXXX recalled that, from his vantage point, he saw the three men standing over Marrow, heard scuffling noises, and observed what he thought was the

¹² Where the recollections are consistent and overlapping, they are presented collectively. Specific recollections are attributed to the identified individual.

¹³ As noted earlier, contemporaneous news articles report that XXXX testified that XXXX was carrying a stick and XXXX was carrying a rifle, and that XXXX handed the rifle to XXXX after Robert gave the order to shoot Marrow.

men assaulting Marrow. XXXX remembered yelling at Robert to stop, saying something to the effect of, "Leave him alone, you just about killed him, you see he can't fight back." According to XXXX, Robert responded that XXXX needed "to get [XXX] ass in the house," or something to that effect.

XXXX, XXXX, and XXXX each recalled hearing Robert direct XXXX to kill Marrow, using words like, "Kill that son of a b**ch," or "Shoot that n****r," or "Shoot that motherf****r." XXXX recalled seeing XXXX put his foot on Marrow's chest, position the rifle to Marrow's head, and fire a shot. XXXX's and XXXX's recollections are consistent with XXXX's. XXXX saw XXXX point a gun at Marrow and then heard a gunshot; XXXX also saw XXXX shoot Marrow in the head. XXXX remembered hearing one of the men say as he was walking away, "Fucking n****er won't do that anymore."

XXXX acknowledged XXXX did not identify XXXX as the shooter at the trial. XXXX explained that XXXX never had a doubt that XXXX was the person who shot Marrow, as XXXX was familiar with the Teel family, in general, and with Robert, XXXX, and XXXX, specifically. She recalled that after Marrow was killed and after people in the community learned XXXX had seen the shooting, some people threw cherry bombs (small spherical exploding fireworks) under XXXX house. XXXX also learned of vicious threats made against XXXX. XXXX recently explained to the investigative team, however, that XXXX reluctance to testify and identify XXXX back in 1970 had nothing to do with these intimidation efforts. Rather, it was because XXXX never thought justice would be served against the Teel family. XXXX explained that XXXX knew what Robert and XXXX looked like but recalled that, at trial, XXXX had significantly changed his appearance from the time of the shooting. According to XXXX, when XXXX shot Marrow, he had long hair, a beard, and sideburns. At trial, he did not. XXXX explained that, given XXXX's change in appearance, XXXX thought the prosecutor's questions to XXXX about identifying XXXX were designed to set XXXX up to perjure XXXX and, given that XXXX did not think the Teels would ever be held responsible, XXXX did not see the point in positively identifying XXXX as the shooter. XXXX acknowledged that XXXX could have been more direct in XXXX testimony, as XXXX knew XXXX was the shooter, but XXXX thought there would be more protests and rioting if XXXX identified XXXX and then he and Robert were acquitted anyway. XXXX stressed, however, that XXXX was indeed the shooter.

XXXX, like XXXX, acknowledged that he saw XXXX kill Marrow but did not testify to that during the 1970 proceedings. He explained that he was reluctant to get involved in the trial, given the unrest in the area at the time and the potential repercussions to him and his family. He told an investigator that he remains reluctant because he does not think local authorities will bring charges against the Teel family and that no one will ever be held to account for their actions. He was aware of XXXX's testimony admitting that he (XXXX) shot Marrow. XXXX, however, maintains that XXXX, and not XXXX, shot Marrow.

Although XXXX and XXXX did not positively identify XXXX as the shooter at trial, XXXX did. XXXX's present memory is consistent with his reported trial testimony: Robert initially shot Marrow; Robert then shot him (XXXX); Robert, XXXX, and XXXX brutally beat Marrow; and XXXX shot and killed Marrow.

Marrow's friends recalled that after the shooting they gathered around Marrow, who was grievously injured. He had a gunshot wound over his eye and severe injuries to his face. Although XXXX thought he heard Robert say something about calling an ambulance, an ambulance never arrived. Instead, the five friends placed Marrow in one of their own cars and drove him to the hospital. XXXX was treated at the same hospital for the injuries he sustained when Robert shot him.

After they left the hospital, the friends recalled, they went to the Oxford Police Department, where they waited for hours to speak to law enforcement officers about what had happened. Both XXXX and XXXX remembered seeing a large group of white people gathered near the police station. XXXX recalled informing the police that Robert, XXXX, and XXXX—men he was familiar with well before Marrow was killed—were the three men responsible for Marrow's death. For that reason, he said, law enforcement should have been aware of XXXX's involvement before the trial. XXXX also recalled telling the police who he had seen involved in the shooting. XXXX recalled being questioned by OPD Chief Doug White and OPD Officer Nathan White (deceased) the next day but does not recall either man taking notes or asking him to provide a written or oral statement or to identify the suspects.

Retired SBI Agent XXXX, recalled heading up the state investigation into Marrow's killing after OPD Chief Doug White requested assistance. He relayed to the investigative team that he drove to Oxford from Raleigh late on the evening of May 11, 1970.¹⁴ He remembered that OPD Lt. Williams briefed him on the investigative steps that had been taken. However, XXXX indicated that XXXX's name was not mentioned to him. After XXXX obtained arrest warrants for Robert and XXXX, he went to the Teels' residence and was met by Billy Watkins (deceased), a prominent defense attorney and state representative. According to XXXX, XXXX turned over a pocketknife that he claimed belonged to Marrow. XXXX explained to the investigative team that Watkins had moved Robert and XXXX to a separate part of the house so XXXX was unable to see or speak with anyone else. XXXX did not recall anyone at the Teels' home mentioning XXXX.¹⁵

XXXX arrested the Teels and intended to book them into the Granville County jail, but the sheriff refused to accept them at the jail, citing concern about rising racial tensions in the town. XXXX therefore drove the Teels, unescorted (despite requesting an escort from OPD), to the central prison in Wake County / Raleigh. During the drive, XXXX at one point said, unsolicited, "The n***er had a knife." XXXX did not recall XXXX or Robert making any other comments about Marrow's death.

The only person XXXX recalled interviewing was XXXX, as Lt. Williams had interviewed many of the other witnesses before XXXX was assigned to the investigation. According to XXXX, XXXX reported that XXXX heard gunshots, saw two men surround

¹⁴ On his way to Oxford, Agent XXXX learned that Marrow was being transferred from the Granville Hospital to Duke University Medical Center. He directed another SBI Agent to intercept the ambulance to obtain a statement from Marrow; Marrow, however, had succumbed to his injuries before the agent arrived.

¹⁵ The first time Agent XXXX saw or heard about XXXX, he recalled, was when XXXX appeared at the trial to testify.

Marrow and assault him, and heard the older of the two direct the younger to “Shoot him.” XXXX, XXXX recalled, provided a “pretty good description” of both men but did not name them.

Agent XXXX recalled sharing information with local FBI Agents from Raleigh, who were investigating the civil unrest in Oxford that followed Marrow’s death. An FBI confidential informant told Agent XXXX that both Robert and XXXX were members of the local Ku Klux Klan.

Most of the young men who had been with Marrow when he was killed recalled meeting later with attorney XXXX and providing him with their accounts of what happened to Marrow. XXXX served as a private prosecutor on behalf of the Marrow family during the criminal trial. When interviewed by the team, XXXX recalled that he was asked by a local civil rights activist to assist the Marrow family. According to XXXX, the prosecutor, Charles White, appeared uncomfortable handling a case of such notoriety and with such racial overtones. XXXX recalled that Solicitor Burgwyn eventually took over the prosecution. XXXX praised Burgwyn’s professionalism and felt Burgwyn was sincere in his efforts to prosecute the case. XXXX suspected that the bench warrants issued after the trial, which were not requested by the prosecution, were an effort on the part of the judge to quell racial tensions in the community.

XXXX, XXXX’s wife at the time Marrow was killed (XXXX), was reluctant to speak with federal investigators. She stated she did not “have anything to do with” what happened. Rather, the events “just happened” while she was there and she “did not know what to do.” She indicated she was concerned about people putting words in her mouth, but she declined additional invitations to speak to investigators.

*c. Subject Interviews*¹⁶

XXXX spoke with the investigative team in late 2023. He stated that he regretted the incident and remains “puzzled” as to why it happened. He denied that the incident was either race- or Klan-related. He acknowledged that several witnesses claimed they saw him shoot Marrow but maintained that he did not. He asserted that he was tested for gunshot residue the night of the shooting and the results were negative.¹⁷ During his interview with the investigative team, XXXX seemed most concerned about what he perceived to be incorrect information

¹⁶ The investigative team conducted its preliminary investigation, as described above, and then referred the matter to North Carolina’s Office of the District Attorney – Eleventh Prosecutorial District. The investigative team decided to wait until learning the District Attorney’s decision before interviewing the subjects so as not to interfere with any potential state prosecution. Upon learning that the District Attorney was not likely to pursue a state investigation or prosecution, the investigative team completed its investigation under the Till Act by interviewing the available subjects.

¹⁷ SBI Agent XXXX, who led the state investigation, did not mention a test for gunshot residue or knowledge of the results of any test. As previously mentioned, the Department was unable to locate any OPD investigative files or files maintained by the District Attorney’s Office, so it is not clear whether such a test was conducted and, if it was, what those results reflect. It is clear, however, that the prosecution proceeded with a case against XXXX as the identified shooter.

contained in Timothy Tyson's book, Blood Done Sign My Name. For a time, XXXX maintained a website (no longer active) to counter the "misinformation and lies" he described in the book.¹⁸

XXXX and his wife, XXXX, also spoke with the investigative team in late 2023. XXXX, who claimed he could not recall all of what happened, remembered that he was working with Robert inside the building that contained several of Robert's businesses when XXXX came in and yelled for them to help XXXX. Both he and Robert grabbed weapons and left the building. XXXX remembered seeing Robert, who had picked up a shotgun, shoot Marrow as Marrow was running away. He also recalled seeing Marrow fall to the ground. XXXX retrieved a shotgun / rifle combination and, as he ran toward the others, he saw someone kicking Marrow while he was on the ground. When he got closer, he observed that it was Robert kicking Marrow and XXXX was pulling Robert away. Thereafter, he recalled, his arm was "bumped" by someone (whom he did not name) and he accidentally and reflexively pulled the trigger on the gun. He told the investigative team that after he discharged the gun, he handed it to XXXX but did not know why he did so. He thought this explained why some eyewitnesses claimed to have seen XXXX with the gun. When asked directly, XXXX denied ever kicking Marrow while he was on the ground. He also identified only two gunshots from that evening: the one by Teel when he shot Marrow and the one from him. He expressed regret for shooting Marrow and maintained that he shot Marrow by mistake.¹⁹

XXXX's present-day recollection differed from his trial testimony and reports of others' trial testimony (although he said he stood by his trial testimony). For example, XXXX admitted in his testimony that both he and Robert were kicking Marrow while Marrow was on the ground—something he denied to the investigative team. XXXX also denied during his testimony ever seeing XXXX with a gun in his hands that evening. This contradicts his statement to the investigative team that he handed XXXX his weapon shortly after his arm was bumped and he accidentally fired the gun. XXXX's recollection that only two shots were fired that evening (i.e., Robert shooting Marrow with the shotgun and XXXX shooting Marrow with the combination shotgun/rifle) is contradicted by the testimony of other witnesses that Robert fired his shotgun at least twice—once at Marrow and once at XXXX.

XXXX was an eyewitness to some of the events and largely corroborated XXXX's account. She recalled XXXX's then-wife yelling for others to help XXXX and saw Robert grab a shotgun before leaving the building. She remembered seeing Robert chase after Marrow and shoot him as he was running away. She also recalled Robert and XXXX catching up with Marrow shortly thereafter and knew Marrow was on the ground but said she could not see what was happening. She also recalled XXXX, who had retrieved a gun, joining Robert and XXXX to stand over Marrow. She said she saw the weapon XXXX was holding discharge but did not

¹⁸ For example, Tyson recalls in the opening of his book that Robert Gerald Teel, Jr. (deceased), or "XXXX (XXXX), told him shortly after the shooting that, "XXXX and XXXX and 'em shot 'em a n***er." According to XXXX, however, XXXX never spoke to Tyson about Marrow's death. XXXX also provided the investigative team with some documentation in support of his claim that his younger siblings, including XXXX, left Oxford the day after Marrow was killed to stay with relatives and did not return to Oxford until months later, thereby calling into question Tyson's account that he spoke with XXXX shortly after Marrow was killed.

¹⁹ Like XXXX, XXXX also expressed frustration with Tyson's account of the incident in his book.

know at that time whether anyone was shot. She did not recall ever seeing XXXX with a weapon and did not see the encounter between Robert and XXXX or anyone else. XXXX, who acknowledged not seeing how Marrow died, told the investigative team that she believed Marrow was already dead from head injuries Robert inflicted upon him before XXXX shot him. According to XXXX, XXXX explained to her that Marrow's skull fractures were caused by Robert using the butt of his shotgun to strike Marrow in the head with a maneuver Robert had learned in the military.

Both XXXX and XXXX volunteered that XXXX's attorney at the time instructed him not to come forward after Robert and XXXX were arrested.

7. Legal Analysis

This matter is being closed by the Department, as it cannot be federally prosecuted. In 1970, at the time Marrow was killed, the then-available federal civil rights statutes each had a five-year statute of limitations. This means that any federal prosecution under one of those statutes would be barred after 1975.²⁰ Moreover, the facts uncovered during the investigation would not support a federal prosecution under those statutes *even if* the statute of limitations had not already run. For example, Section 242 of Title 18 prohibits persons acting under color of law from willfully depriving others of constitutional rights.²¹ But there is no factual evidence that anyone involved in Marrow's death acted under color of law. Two statutes enacted in 1968, 18 U.S.C. § 245 and 42 U.S.C. § 3631, prohibit bias-motivated violence if undertaken because of the victim's participation in, or enjoyment of, a federally protected activity. But our investigation did not reveal that any of the subjects acted for such a purpose.

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 Marrow was transported across state lines or that he was killed on federal land. For these reasons, the government cannot now prosecute anyone for Marrow's death.

²⁰ In 1994, some 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, 242, and 245 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."). But 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).

²¹ *See* 18 U.S.C. § 242.

8. Referral to the State

The Till Act²² and its Reauthorization²³ permit the Civil Rights Division to coordinate investigative and prosecutorial activities with state and local law enforcement officials where state prosecution may be possible. Although there is no basis for federal jurisdiction, the Civil Rights Division referred the case to local authorities to consider whether state prosecution may be possible.

One subject, XXXX, was previously prosecuted for Marrow's murder and was acquitted. Any state prosecution of him for the same or associated crimes for which he was previously prosecuted would be barred by the Constitution's prohibition against double jeopardy.²⁴ However, the Constitution would not bar a prosecution against XXXX for perjury if it could be proven he testified falsely during his 1970 trial when he denied shooting Marrow. Moreover, XXXX was never prosecuted for *any* state crime related to his participation in the acts surrounding Marrow's beating and death. Given that there is no statute of limitations for felonies in North Carolina, *see State v. Taylor*, 713 S.E.2d 82, 212 N.C. App. 238 (2011), the Department referred the matter to state authorities to determine whether prosecution for these offenses may still be possible.

Given these facts, in July 2022 the Department met with representatives from North Carolina's Office of the District Attorney – Eleventh Prosecutorial District to discuss the Department's preliminary findings and refer this matter for the state's consideration. The Department provided the Office of the District Attorney with a copy of the federal investigative file and a detailed summary of its investigative findings. The Department also identified potential, viable state felony charges, recommending that state authorities consider whether any charges could potentially be brought against all three subjects: a felonious assault charge against Robert Teel²⁵ for his assault on XXXX, *see* N.C.G.S. 14-32 (1969); a felonious assault charge against XXXX (either as a principal or an aider and abettor) for his admitted participation in the brutal beating of Marrow before Marrow was fatally shot, *see* N.C.G.S. 14-32 (1969); and perjury charges against both XXXX and XXXX for their trial testimony indicating that XXXX, and not XXXX, fatally shot Marrow, *see* N.C.G.S. 14-209.²⁶

²² Pub. L. No. 110-344, 122 Stat. 3934 (2008).

²³ Pub. L. No. 144-325, 130 Stat. 1965 (2016).

²⁴ Robert Teel's recent death precludes any prosecution of him. Although the Double Jeopardy Clause prevented the state from re-prosecuting Robert Teel for any charge associated with Marrow's death while he was alive, Robert Teel was never prosecuted for his felonious assault upon XXXX. Such a prosecution, if brought while he was alive, would not have implicated the Double Jeopardy Clause.

²⁵ When the Department met with representatives from the District Attorney's Office in July 2022, Robert Teel was still alive.

²⁶ Both XXXX and Robert were charged with, tried for, and acquitted of Marrow's murder. For that reason, any additional prosecutions related to their earlier assault on Marrow would likely be barred on double jeopardy grounds as a lesser-included-offense of Marrow's murder itself. Their indictments for murder / aiding and abetting murder, however, were limited to their attack on Marrow and do not include the assault on XXXX. In fact, Robert's attack on XXXX was charged separately. For that reason, the felonious assault charge against Robert for shooting XXXX would likely not have merged with, or be considered a lesser-included offense of, the charge related to Marrow's murder (i.e., the charge of which Robert was acquitted). Moreover, XXXX was never formally charged in

The Department also offered to provide the District Attorney's Office investigative and prosecutive assistance.

In April of 2024, the Department determined that the District Attorney's Office was not inclined to pursue charges. The Department then finalized its investigation to fulfill its obligations under the Till Act to provide a public account of its investigation, its referral to the state for consideration, and the state's decision to forgo prosecution.

9. Conclusion

Henry D. "Dickie" Marrow was chased by armed men, shot from behind while running away, beaten while he was on the ground and incapacitated from his injuries, and then shot in the head in front of eyewitnesses. Although the state brought two of the three subjects responsible for Marrow's death to trial, both were acquitted. The third subject has never been tried for any offense related to Marrow's beating and death. Moreover, although one of these subjects was charged over fifty years ago with wounding XXXX after shooting him in the face, he was never tried for that offense.

After a thorough evaluation of all available evidence, the Civil Rights Division determined that a federal prosecution was not possible. The Department referred the matter to the state for its own evaluation of the facts and evidence. Given the District Attorney's decision not to pursue an investigation or prosecution, the Department is formally closing this matter.

The United States Attorney's Office for the Eastern District of North Carolina concurs with this recommendation.

connection with the murder of Marrow and therefore any charges against him for assaulting Marrow would not be barred on double jeopardy grounds.