

CIVIL RIGHTS DIVISION

Notice to Close File

File No.: 144-55-1054

Date: 04/02/2009

To: Chief, Criminal Section

Re: Unknown Subject(s),
Gaston County Sheriff's Department,
Gaston, North Carolina;
Clarence Pershing Cloninger (Deceased) - Victim
CIVIL RIGHTS

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

A. Synopsis of the Allegations and Investigative Findings

On October 10, 1960, Clarence Pershing Cloninger, a 41-year-old white male, was transported from the Gaston County Jail to Charlotte Memorial Hospital, where he died of natural causes. It was alleged that Cloninger's XXXX filed a complaint with local law enforcement indicating that XXXXX was refused medical attention while incarcerated at the jail.

Katherine Scheflen
Attorney

To: Records Section
Office of Legal Administration

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

Date

Chief, Criminal Section

No investigation was opened by any known law enforcement agency at the time of Cloninger's death. The FBI opened an investigation pursuant to the Department of Justice's "Cold Case" initiative and the "Emmett Till Unsolved Civil Rights Crime Act of 2007," which focus on civil rights era homicides that occurred not later than December 31, 1969. As part of its investigation, the FBI queried appropriate local, state, and federal agencies for any records which may still exist pertaining to Cloninger's death, such as local or federal law enforcement reports, hospital records, or records from the state or county coroner. Aside from Cloninger's death certificate, no such records were located.

The FBI did locate and interview **XXXXXXX**, who was **XXXX** at the time of his death. **XXXXXX** provided no information which indicated that an investigation into Cloninger's death was warranted. **XXXXXX** told the FBI that on October 10, 1960, the Gaston County Sheriff called her and asked her to come to the jail because Cloninger had been arrested. **XXXXXX** explained that she later learned that Cloninger had gone to the jail to visit his **XXXXXX**, an inmate, and was served with a warrant for his arrest upon his arrival. According to **XXXXXX**, the warrant for Cloninger was for embezzling money from his employer, the Climax Textile Mill, located in Belmont, North Carolina.

XXXXXX told the FBI that when she arrived at the jail, deputies had already transported Cloninger to the hospital after finding him unconscious in his holding cell. **XXXXXX** stated that the sheriff told her that Cloninger had been dragging his right foot when he was arrested, but no one at the jail thought it was significant at the time. **XXXXXX** opined that, unbeknownst to anyone, Cloninger may have suffered a stroke. Contrary to the aforementioned allegations, **XXXXXX** told the FBI that **XXX** never filed a complaint with any civic or law enforcement agency about Cloninger's death, and expressed surprise that the FBI was looking into Cloninger's death for possible civil rights violations.

Cloninger's death certificate, dated October 11, 1960, states that Cloninger died at Charlotte Memorial Hospital at 4:40 p.m. on October 10, 1960. It lists Cloninger's cause of death as coronary thrombosis due to pneumonia. FBI investigators searched archived *Gaston Gazette* newspapers dated within the month following Cloninger's death. The search yielded two newspaper articles. The first article, dated October 11, 1960, noted Cloninger's death on October 10, 1960. The second article, dated October 12, 1960, referenced the autopsy performed on Cloninger. The article states that local police initially believed that Cloninger had ingested some kind of drug, but the autopsy revealed no trace of a poisonous substance and eliminated the possibility that Cloninger had died as the result of ingesting any foreign substance. According to the article, the autopsy report received by local police indicated that Cloninger had a heart condition, pneumonia, and a badly ulcerated stomach, any of which could have caused his death. It should be noted that **XXXXXX** indicated that she knew that Cloninger had severe stomach ulcers which may have contributed to his death.

B. Analysis of Prosecutive Merit

This matter does not constitute a prosecutable violation of the federal criminal civil rights statutes. It appears that the allegation forming the basis for the investigation resulted from misinformation that after Cloninger died, XXXXX filed a complaint with local law enforcement indicating that XXXXXX was refused medical attention while incarcerated at the jail. When FBI investigators met with Cloninger's XXXXX, she explained that she did not, in fact, file a complaint following XXXXXXX's death and had no reason to believe that Cloninger died as the result of any criminal civil rights violation, such as denial of medical treatment. All available evidence suggests that Cloninger died of natural causes. Accordingly, this matter lacks prosecutive merit and should be closed. AUSA Kenny Smith of the Western District of North Carolina concurs in this recommendation.