

# Grand jury records in notorious 1946 US lynching case to remain sealed

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The US Court of Appeals in Atlanta, Georgia ruled last week that extensive grand jury records in the notorious lynching of two African-American couples in 1946 must remain sealed. The 11th Circuit judges, by an 8–4 margin, citing the confidentiality of grand jury deliberations, declared that federal judges did not have the authority to release the records, which had been sought by historians and researchers. The decision came after the Trump administration’s Justice Department appealed a lower court ruling.

Descendants of the victims, along with authors and researchers, deplored the appellate decision. They argued that, based both the length of time since the case as well as its extraordinary historical importance, the transcripts should be made public. Joseph J. Bell, a lawyer who has fought for the release of the records, said, “I think history demands a full disclosure of the truth surrounding this important civil rights case.” Bell told the *New York Times* that the decision would be appealed to the US Supreme Court.

The July 1946 killings of George W. and Mae Murray Dorsey and Roger and Dorothy Malcom, sharecroppers on a farm in Walton County, Georgia, captured national and international attention. The murders became known as the “Moore’s Ford lynchings,” named after the bridge between the rural towns of Monroe and Watkinville near which their car had been forced to stop on the evening of July 25. Roger Malcom had just been released on bail after being jailed for an alleged stabbing of a white man. The car was stopped by a gang of 20 armed whites, and the four victims were tied to a large oak tree and killed by an estimated 60 shots fired at close range.

The Moore’s Ford lynchings have been called the last mass lynching in America. In the first half of the 20th century several thousand such extrajudicial murders of African Americans took place, primarily in the American South, mostly by hanging from trees or telephone poles, and later increasingly by shootings and other means. The white supremacist terror became a means of enforcing the regime of Jim Crow segregation in the post-Reconstruction South after the Civil War.

The brutality and shamelessness of the lynching, and even more importantly the historical and political context in which it occurred, provoked an outpouring of outrage and protest.

George Dorsey was a veteran of World War II. Like tens of thousands of others, he returned to the US with new knowledge and experience, determined to fight for equality before the law. The stirrings in the South coincided with a broad movement within the working class. The same year the Dorseys and Malcoms were killed, 1946, saw a massive wildcat strike wave in basic industry.

Large protests took place in Washington, D.C. and New York City after the Moore’s Ford lynchings. President Harry S. Truman was forced to take some action in an attempt to appease the anger. Truman ordered the FBI under J. Edgar Hoover, the racist and vicious reactionary who headed the domestic intelligence service for nearly 50 years, to investigate the murders.

J. Loy Harrison, the farmer for whom the Dorseys and Malcoms worked, had arranged for the release of Malcom from jail, but there were strong suspicions that he had been involved in plans for the lynching. Also reportedly implicated were Eugene Talmadge, a racist demagogue then running for governor of Georgia. Talmadge’s son Herman, who became governor only two years later, after his father’s death, went on to a 35-year career as a defender of racism and Jim Crow, first in the State House and then for more than 25 years as a US Senator.

After almost six months of investigation in late 1946, nearly 3,000 interviews and 100 subpoenas, the FBI came up empty-handed. Thurgood Marshall, then the legal counsel for the National Association for the Advancement of Colored People (NAACP), wrote a memo at the time declaring, “I have no faith in either Mr. Hoover or his investigators...and there is no use in my saying I do.”

A separate investigation was begun in late 1946 by a local grand jury, selected by US District Judge T. Hoyt Davis. At this time the governor of Georgia claimed, “that 15 or 20 of the mob members are known by name.” The grand jury heard from dozens of witnesses and others over a period of three weeks. The jury announced, after its lengthy hearings 73 years ago, that it was “unable to establish the identity of any persons guilty of violating the civil rights statute of the United States.” It is this testimony, which could shed light on why the jury refused to issue indictments, that remains sealed in the National

Archives and is at issue in the recent decision.

The Moore's Ford lynchings disappeared from local and national headlines and were little discussed in the ensuing decades. A witness came forward almost 50 years later, however, in 1992. This was reported first in the *Atlanta Constitution* and a few years later in other Georgia newspapers. A biracial Moore's Ford Memorial Committee was established to commemorate the atrocity and advocate further investigation. Later a state historical marker was placed near the site of the lynchings. The FBI and the Georgia Bureau of Investigation reopened the case in 2006 and 2008, respectively, but once again this led nowhere, and the case was closed yet again.

Historical research has continued over the past 25 years. A book on the case, *Fire in a Canebrake*, by reporter Laura Wexler, was published in 2003. Anthony Pitch, the author of another book, *The Last Lynching: How a Gruesome Mass Murder Rocked a Small Georgia Town* (2016), sought access to the sealed grand jury testimony, which has now been denied.

The transcripts could provide important leads in the case, even though it is more than 70 years old. As Ms. Wexler stated, "Not being able to see those grand jury documents means there's so many things we don't know. How the hell was nobody indicted in this?"

This makes the action of the Trump administration's Justice Department, appealing a lower court decision to insist that the records must not see the light of day, all the more significant. The president's base includes fascistic and white supremacist elements. No doubt some of the descendants of the gang of killers in 1946, now perhaps among the more prominent citizens of the state of Georgia, would also want this history covered up.

The granddaughter of Roger Malcom, Atanya Lynette Hayes, said after the court decision, "It made me really disappointed in our judicial system and FBI and all the people who were supposed to protect us. You should not be able to enjoy that good reputation. Dead or alive, good or bad, the truth needs to be known." In a brief comment to the *Times*, she noted the class reality behind the ruling. "We live in a day where people protect each other through the generations. It just goes back to something we've been told all of our lives: The rich look out for the rich."

Rigid Jim Crow segregation became the rule in the South in the last two decades of the 19th century and was given the legal backing of the US Supreme Court in its *Plessy v. Ferguson* decision of 1896. Segregation, together with the racist terror that found its most gruesome expression in lynching, was aimed especially at derailing the potential of unity of white and black workers, sharecroppers and small farmers that found expression in the growth of the Populist movement in the late 1880s and early 1890s. The vast majority of victims were African-American, but there were some others, including Leo Frank, a Jewish factory manager imprisoned on fraudulent

murder charges in Atlanta and kidnapped from jail and lynched in 1915, after his death sentence had been commuted.

It was no coincidence that the period which saw the greatest number of lynchings was the three decades from 1890 to 1920. While they continued later, the pace slackened, and they changed from the sometime shocking mass "celebrations" to semi-secret killings—murders that were never solved, with juries refusing to return convictions in the relatively few instances in which suspects were arrested and tried.

The heinous crime at the Moore's Ford Bridge was not the last of its kind, but the wide outrage it sparked was significant in heralding the mass movement that led to the end of official segregation and second-class citizenship. In the 1950s and 60s the civil rights struggle that swept the South finally dismantled Jim Crow, forcing the federal government to enact the first important civil rights legislation since the Reconstruction period of almost 100 years earlier.

There were other victims of white supremacy during this period, during the civil rights struggle—African-Americans and white supporters, including Medgar Evers, the Rev. George Lee, Emmett Till, the four schoolgirls killed in the Birmingham 1963 church bombing, civil rights workers James Chaney, Michael Schwerner and Andrew Goodman, the Rev. James Reeb and Viola Liuzzo. By the end of the 1960s, however, the era of lynchings had essentially come to an end.

The civil rights reforms did not and could not by themselves achieve the goal of social equality. The limited reforms of the 1960s made clearer than ever the necessity to remove the outmoded capitalist system. The unearthing of the true history of atrocities such as the Moore's Ford lynchings is important for the education of the working class for this struggle today. These murders can only be fully avenged through a united struggle for socialism, against the system that breeds every form of hatred and backwardness.



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