

A Soldier Slain:

The Murder of Private Booker T. Spicely



Shaneka Davis, NUSL 2014

June 15, 2013

**Civil Rights and Restorative Justice
(Working Document)**

Introduction

In July 1863 Fredrick Douglass wrote:

Once let the black man get upon his person the brass letters US, let him get an eagle on his button, and a musket on his shoulder, and bullets in his pocket, and there is no power on earth or under the earth which can deny that he has earned the right of citizenship in the United States.¹

Nearly 81 years after these words were written, Blacks drafted and serving in the military during World War II were still treated as less than American. Many Black soldiers fell victim to discrimination and the prejudiced views of some whites, not only within the military but also in their weekly encounters with white civilians, particularly those in the south, where 80% of Black soldiers were stationed.”² Black soldiers were usually addressed as “boy” rather than sir or Mr., they were given menial jobs in the military, expected to follow Jim Crow laws, and segregated within the quarters on the bases. Travel to and from the army bases into nearby towns were often fraught with conflict as soldiers attempted to access buses. Protesting the Jim Crow seating arrangement could often cost a soldier his life.³ The 1942 murder of Private Charles J. Reco, who was shot down by police in Jefferson County, Texas after being accused of violating Jim Crow bus laws (it was later discovered that he actually was adhering to Jim Crow);⁴ Private Henry Williams, killed by a bus driver in Mobile, Alabama in 1943; and Private Edward Green, killed by bus driver in Alexandria Louisiana in March 1944 are just three examples.⁵

¹ Should the Negro Enlist in the Union Army?, July 6, 1863, Marxists Internet Archive, www.marxists.org/history/etol/newspape/fi/vol07/no09/freddoug.htm#2. (last visited May 12, 2013).

² Neil A. Wynn, The African-American Experience during World War II, 46 (2010).

³³ Id. at 46-47.

⁴ People’s Voice, July 29, 1944.

⁵ People’s Voice, August 5, 1944.

In the 1940s, the city of Durham, North Carolina was home to the first great black business in America, the North Carolina Mutual Insurance Company⁶ and the city was often referred to as having “more harmony between the races [Black and White] than any city in America.”⁷ However, Durham was not very different from the rest of the south when it came to its treatment of Black soldiers.⁸

Many Black soldiers spoke up against the prejudices and discrimination they faced while in uniform, and those soldiers who were stationed at Camp Butner near Durham, North Carolina were famous for their resistance to Jim Crow laws. Durham bus drivers would often complain that the soldiers were making it nearly impossible for them to enforce Jim Crow laws.⁹ Many of Durham’s news reporters and state officials attributed the Jim Crow resistance to “[n]orthern Negro soldiers at Camp Butner and Northern white officers who [did] not believe in [its] segregation laws and [encouraged] the Negro soldiers to break them.”¹⁰

One example of these tensions was a riot on April 3, 1943 that broke out in the Hayti section of Durham between a Black soldier and a white liquor store clerk over rations. Bricks were thrown and a white bus driver and policemen were injured. In June 1944 Private Wilson of Camp Butner was beaten by the chief of police, H.J. Jackson, of Oxford, located in a county near Durham and jailed after calling a cafe owner, who refused to sell to him, a “white son of a bitch.”¹¹ Less than an hour after the Wilson’s arrest 60 soldiers from Camp Butner went to the police station and demanded Wilson’s release. When the soldiers first arrived at the jail two of them approached Chief Jackson to talk to him, in response to which the Chief, standing on the

⁶ John Merrick was born a slave and founded North Carolina Mutual bank in 1898. In the 1940s it had assets amounting to \$100,000 and was owned and operated by blacks. It is still operating today.

⁷ Osha Gray Davidson, *The Best on Enemies*, 24 (1996).

⁸ *Id.*

⁹ *Democracy Betrayed: The Wilmington Race Riot of 1898*, David Cecelski & Timothy B. Tyson, 264 (1998).

¹⁰ *Id.*

¹¹ *Id.* at 265.

steps of the door, pistol whipped one soldier causing him to fall on the concrete and jammed his gun into the face of the other. The soldiers retreated into the crowd and Chief Jackson demanded that the other soldiers disperse. Tear gas was then thrown into the crowd, and as the soldiers tried to rush the door of the jail, Assistant Chief J.L. Cash pointed a .50 caliber machine gun at them, forcing them to retreat. Five weeks later, Pvt. Booker T. Spicely of Camp Butner was shot in cold blood while riding a Durham bus.¹²

The Life and Murder of Booker Spicely

Private Booker T. Spicely was born December 1, 1909 in Blackstone, Virginia to Lazarus and Alberta Spicely.¹³ Spicely, the fourth oldest of seven children, completed two years of high school in Blackstone and spent his adult years in Philadelphia.¹⁴ In December 1943, at the age of 34, Spicely enlisted in the United States Army and was stationed at Camp Butner in North Carolina.¹⁵ He had no wife or children.¹⁶

On the evening of Saturday, July 8, 1944, eight days before the opening of the Democratic National Convention in Chicago, at approximately 7:15, a uniformed Spicely boarded a west bound Duke Power Company bus at the corner of Fayetteville and Pettigrew street, which was located in the local Black Hyati section of Durham, NC. Spicely had spent his day off in Durham, and appeared to be headed back to Camp Butner. He boarded the bus with Carey Jackson, who had her young child with her, and another soldier. The group sat in the

¹² Democracy Betrayed: The Wilmington Race Riot of 1898, David Cecelski & Timothy B. Tyson, 264-265 (1998).

¹³ Open Durham, <http://www.opendurham.org/people/spicely-booker-t> (last visited May 10, 2013).

¹⁴ Id.

¹⁵ Id.

¹⁶ North Carolina State Board of Health, Bureau of vital statistics, Booker Spicely's Certificate of Death (signed 7-15-1944).

second to the last row on the bus. The bus driver, Herman Lee Council¹⁷ said nothing when the group got on, and remained silent until the bus reached the white community of Five Points at around 7:35.¹⁸

At the Five points stop three white soldiers boarded the bus, including Pfc. Robert C. Martin who sat down in a seat toward the rear of the bus. Council yelled at Booker and his companions that they should move to the back of the bus. Miss Jackson and the other soldier immediately moved to the last row, but Booker questioned why he had to get out of his seat and give it to the white soldiers.¹⁹ “I thought I was fighting this war for democracy. I am from Pennsylvania and not used to seeing things like this,” Booker said.²⁰ The white soldiers laughed but said nothing. Council told Booker that he should cool down if he wanted to stay on the bus. As he drove on, Booker told the driver that he could put him off if he wanted to then. Council replied, “I’ll got something that will put you off.”²¹

Booker then moved to the last row in the bus, where his companions were, and spoke no further until he reached his destination at Fourth Street and Club Boulevard about 5 minutes after his first exchange with Council. At that stop, between 7:40 and 7:45, Booker stood near the rear exit door and, before stepping off the bus, said to Council, “[b]us driver, if I have done anything wrong, I beg your pardon.”²² Carey Jackson exited before Spicely, her child in tow, from the rear door. Council told Booker to come up to the front of the bus, but Booker refused. He asked

¹⁷ Council had only been driving the bus for 18 months and had been known to drive while under the influence of alcohol. 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

¹⁸ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

¹⁹ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²⁰ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²¹ Id.

²² Id.

Council to come outside to talk with him. Booker then exited the rear of the bus and walked toward the front of the bus.²³

As Booker walked toward the front of the bus Council grabbed from under the driver's seat a 38- caliber pistol. He got off the bus and shot Booker twice, hitting him once in the heart and once in the chest. Booker was unarmed. His body fell into the gutter and gunpowder burns formed on his uniform. Council turned around, got back in the driver's seat, put his gun away and continued on his route. Carey Jackson was so frightened when she heard the gunshots that she ran up Fourth Street toward her home. Private First Class Martin pulled the bell cord and got off at the next stop.²⁴

Clark Wilson, who was waiting for the bus at the Club Boulevard/Fourth Street stop, along with his neighbors Charlie Brown and Rev. Thomas, also witnessed the shooting. "The soldier had been shot down like a dog," Wilson later reported.²⁵ Wilson felt however, that everything would be handled by the law.²⁶

The military police arrived about ten minutes after the shooting and drove Booker to the hospital. They first went to the Watts Hospital, which was a short distance from the scene, but Watts refused to provide Spicely emergency services because he was Black. Although the Watts hospital refused to admit Spicely they conducted a blood alcohol test on him, which proved negative. The military police then brought an alive Spicely to Duke Hospital and he died upon

²³ The statements about what Booker said when he exited the bus are the statements according to Miss Jackson. According to Private First Class Martin's statement the following exchange occurred. Spicely while standing near the rear exit door on the bus said to Council "[h]ey driver when you get into uniform we will argue about this." Council then replied, "if you want to argue about it come up here and I'll take hold of you." Spicely replied, "I'm not going to argue with you in the bus and exited the bus." 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²⁴ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²⁵ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²⁶ Id.

arrival. Spectators began to gather around the scene of the crime, but when a fire broke out in a nearby warehouse and stable they all dispersed.²⁷

After Council finished his route he went to Five Points and surrendered himself to police Sargent W.I. Barbee. Council was bailed out that night by R.L. Lindsay, the head of Duke Power, on the condition that he would appear in court the following Monday.²⁸ Council admitted to the police that he had shot and killed Spicely and claimed that Spicely “on two other occasions threatened to cut [his] throat because [he] told him the North Carolina law required Negroes to sit in the rear of the bus.”²⁹ Council also told police that Spicely told him that he was unfit for service and had started an argument when he exited the bus that led to the shooting.³⁰ The day after Spicely’s murder bus drivers driving in the Hyati section of town were followed by police escorts.³¹

Spicely’s body was returned to Blackstone, Virginia on or around July 9, 1944 and he was buried there soon thereafter. Midway through Pvt. Spicely’s funeral, his eldest brother Robert³² stood up in the church and shouted, “[h]e’s a dead man now and if he’s going to hell, there’s no reason to preach him into heaven. The thing for all of you to do is join the N.A.A.C.P. and stop this sort of thing.”³³ Others who attended the funeral remarked that “the whites are committing mutiny against their own army, while negroes are fighting overseas” and “if a colored man had shot a white man, the colored man would have been lynched within hours of the crime. [The] white man should be punished.”³⁴

²⁷ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

²⁸ Durham Sun, [Bus Driver is Bond Over on Murder Charge](#), July 11, 1944

²⁹ [Id.](#)

³⁰ Durham Sun, [Bus Driver is Bond Over on Murder Charge](#), July 11, 1944.

³¹ 1944 War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

³² Robert Spicely was the Tuskegee Institute’s Director of Commercial Diabetics.

³³ 1944 War Department Report, accessible through the Civil Rights and Restorative Justice Project.

³⁴ [Id.](#)

The Trial of Herman Council and NAACP Involvement

On or around July 11, 1944 Council appeared before the Recorder's Court, waived his right to a preliminary hearing on the charge of murder, and was held on an additional \$2,500 bond.³⁵ R.L. Lindsay, bailed Council out again.³⁶ On July 19, 1944 a grand jury of fifteen indicted Council on the charge of first degree murder for the shooting death of Booker T. Spicely.³⁷

The original team of prosecutors in the case included C.J. Gates and M.H."Hughe" Thompson, both of whom were Black and hired by the Spicely family, and W.H. Murdock, the solicitor attorney of North Carolina. Gates and Thompson were hired after Council waived the preliminary hearing. They urged Murdock to re-arrest Council because bail was not available in first degree murder cases under North Carolina law, and contended that even if Council were charged with second degree murder, as Murdock proposed, the bail should have been not less than \$10,000. When Murdock refused to re-arrest Council, Gates and Thompson filed a motion for Council's re-arrest. Murdock told the Court that Council's bail was sufficient, and Gates' and Thompson's motion was denied.³⁸

While Spicely's family was awaiting Council's trial they sought the support of the NAACP. On July 20, 1944 Spicely's older brother, Robert Spicely wrote a letter to Charles Houston to discuss the possibility of NAACP engagement in the trial of Council. In his letter to Houston, Robert explained that the NAACP was despised in North Carolina and that he felt the Durham might treat Council more harshly if the NAACP was not in the picture. He also wrote that Durham's NAACP had been "all but killed in favor of a local inter-racial committee of some

³⁵ Durham Sun 1944, Bus Driver is Bond Over on Murder Charge, July 11, 1944.

³⁶ Id.

³⁷ Superior Court of Durham, NC Minute Docket, available at the Civil Rights and Restorative Justice Project.

³⁸ NAACP Papers, available at the Civil Rights and Restorative Justice Project.

sort.”³⁹ Nonetheless, Robert noted that the family had three objectives: “Serve notice on bus drivers that they cannot murder Negro soldiers with impunity;” “focus the eyes of the country a bit more closely upon this problem of Negro soldier treatment;” and “give the Negro courage and belief in a force that he can depend [sic] upon to fight for him,” and that these objectives would be served only if the NAACP was involved.⁴⁰ On July 24, 1944 Thurgood Marshall wrote back to Robert informing him that Charles Houston was not available as he was in private practice, but that the NAACP would get involved if the North Carolina attorneys who had been hired by the family, Thompson and Gates, and Solicitor General Murdock approved of their participation. In a July 26 letter, Robert Spicely informed Attorney Thompson that he had contacted the national NAACP and that they had agreed to work with Thompson on the case if he agreed. Robert noted that he realized “what [it] may mean on the local scene, but this is a national problem and we of the family would be doing less than our duty to accept personal satisfaction at the cost of what we feel to be national good.”⁴¹ Robert also sent a copy of the letter to Thurgood Marshall, who also wrote to Attorney Thompson.⁴²

Thompson replied to Robert by letter dated July 28, 1944 stating that he too felt that the case was “more than local in its aspect; it is national in that so many Negro soldiers have foregone embarrassment, humiliation and even suffered death at the hands of civil authorities, and if it is the desire of the family [he] will have to acquiesce [sic] in the fact that [they wanted] NAACP participation.”⁴³ Thompson also informed Robert that Durham’s Inter-racial Commission had agreed to raise money to fight the case and to hire a reputable white lawyer to

³⁹ Id.

⁴⁰ Id.

⁴¹ NAACP Papers, available at the Civil Rights and Restorative Justice project.

⁴² Id.

⁴³ Id.

help prosecute the matter. Thompson also told Robert that local reputable doctors in the neighborhood, and Dr. C.C. Spaulding, head of North Carolina Mutual Insurance, had agreed to pressure the Inter-racial Commission to raise money for the case, but Thompson warned that if they learned of possible NAACP involvement they might withdraw their support. Thompson also wrote that Thurgood Marshall was a personal friend, but he worried that Durham's white community, and some Blacks as well, would begin to sympathize with the defendant Council if the NAACP were associated with the case. He stated he thought Durham authorities would prosecute Council without pressure from the NAACP. "[Y]ou know, after all, a white jury will sit and they are the ones having the last say so," Thompson wrote.⁴⁴ Dr. C.C. Spaulding also wrote Robert a letter suggesting that he proceed just with his current counsel, Thompson and Gates, and a white Durham lawyer.⁴⁵

While Robert was considering these issues, Spicely's sister Ruth of Philadelphia reached out to the NAACP Philadelphia chapter. On July 31, Ruth called the Philadelphia chapter and inquired whether NAACP would sponsor a protest around Spicely's murder. Carolyn Davenport Moore, the chapter secretary, invited Ruth to the office, and, when they met, Moore informed Ruth that although the Durham NAACP was involved, the Philadelphia Chapter would show support if its executive committee agreed because Booker once resided in Philadelphia and had been inducted into the Army from a Philadelphia draft board. Moore also assured Ruth that she would request of the executive committee meeting that the NAACP Philadelphia sponsor a citywide meeting and a letter writing campaign on the case, and would let Ruth know what the committee decided.⁴⁶

⁴⁴ NAACP Papers, [available](#) at the Civil Rights and Restorative Justice Project.

⁴⁵ Id.

⁴⁶ Id.

In an August 6, 1944 letter Robert informed Thurgood Marshall that he had spoken to Thompson, and that he still wanted the NAACP to be involved in the criminal trial. In this heartfelt letter Robert wrote:

Nothing I or anyone else can do, can erase from my memory the sight of my aged mother groping her way to me and falling upon my shoulder dry-eyed, and hold me tight as she mumbled, 'My child. My child.' Nothing can help my brother.⁴⁷

Robert also told Marshall that he did not favor having a white attorney speak for the family, as “that much power is dangerous in the hands of any group so small and so far divorced from the problem of the masses and yet able to speak for [Blacks] as the ‘good Negroes of Durham are able to do.’”⁴⁸ Robert also feared that Durham’s whites might be influenced by Duke Power, the major Durham employer. He expressed concern that the newspapers were expressing sympathy for Council, and that bus drivers continued to carry guns on the busses. He seemed worried that without pressure from the NAACP, Council would be acquitted, and he pointed out that the defendant had been released on a low bail.⁴⁹

On August 11, 1944, Gates and Thompson wrote to Marshall, advising him that “in view of the fact that [they were] appearing with the solicitor of the district as private prosecution, which [could] only be done by consent and permission of the solicitor, in North Carolina, it [would] be necessary for the Association to get this permission in order to assist in the prosecution of this case.”⁵⁰ They noted that although they wished to collaborate with the NAACP on the case, they worried that NAACP involvement could prejudice the case. On August 29, 1944 Caroline Moore of the Philadelphia branch wrote to inform Marshall about her discussions with Ruth Spicely. Moore sought to confirm that the NAACP was taking on the

⁴⁷ Id.

⁴⁸ NAACP Papers, [available](#) at the Civil Rights and Restorative Justice Project.

⁴⁹ Id.

⁵⁰ Id.

case. On August 31, 1944 Edward Dudley, Assistant Special Counsel of the NAACP, wrote to Moore that Dudley planned to travel to Durham to explore the NAACP involvement. Dudley also asked Moore to change the name of the rally the branch was organizing to support Spicely,

You speak of a Booker T. Spicely Defense Rally. While I don't see anything wrong with it, our appearance in this case is a little different from usual in that if we appear at all, it will be on the side of the prosecutor and against the defendant. We would, therefore, not call it a 'Defense Rally,' which is a term to be used when we are defending someone and are seeking to get contributions as a result of that defense.⁵¹

Dudley also informed Moore that although in Durham efforts were afoot to keep the NAACP out of the case, the Association would make its decision based on what was the best way to bring about justice.⁵²

On September 5, 1944 Moore wrote to Marshall with confidential updated information on Council's case. Marshall replied two days later:

[T]he whole trouble around the Spicely case is the same trouble we have around all cases in North Carolina . . . certain Negro groups in North Carolina who believe that the only way to handle the problem is to handle it in North Carolina 'without outside influence'. One thing is certain is that the N.A.A.C.P. will not itself be intimidated by anyone, whether he be white or Negro. One day North Carolina will realize that none of us can handle our problem alone . . . as to the Spicely case, as long as the family wants us to remain in the case, we will remain in it, and it does not matter who attempts to get us out of it.⁵³

Sometime in early September, Dudley went to Durham to meet with attorneys Gates and Thompson and Spicely's family members. On September 12, 1944 Marshall received a letter from Ruth Spicely, thanking him for NAACP involvement and sending along a \$67.00 money order. The letter also reported that a white attorney had been hired by North Carolinians to assist

⁵¹ Id.

⁵² NAACP Papers, available at the Civil Rights and Restorative Justice Project.

⁵³ Id.

the prosecution, and the Durham branch of the NAACP had done nothing on the case. Its president, Ruth Spicely reported, worked for the Duke Power Company.⁵⁴

On September 13, 1944 75 people were summoned to the Superior Court in Durham as prospective jurors. Solicitor General Murdock announced that he would be proceeding on a charge of murder in the second degree or manslaughter, depending on what the evidence showed. Council entered a plea of not guilty. The trial began, with Spicely's sisters Ruth and Evelyn and his brother Robert there as spectators. Edward Dudley was allowed to sit with the lawyers, and attorney Gates and Thompson were permitted to question the Black witnesses, but when an issue came up requiring side bars, Gates and Thompson were excluded.⁵⁵

On the second day of the trial the jury heard more testimony from the witnesses of the shooting. On the third trial day, September 15, after 28 minutes of deliberation an all-white male jury returned a verdict of not guilty. White and Black citizens alike were said to have been shocked by the verdict, and placed the blame for a "miscarriage of justice at the feet of the incompetent jury."⁵⁶ Council was released and resumed his position as a bus driver for Duke Power until.

Four days after the end of the trial Dudley received a letter from a man named Herbert Tatum, inquiring whether the jury's verdict could be appealed.⁵⁷ Dudley wrote to Tatum and informed him that double jeopardy prevented an appeal. Then in November 1944 Marshall sent a letter to Robert suggesting that the family file a civil suit. "We are convinced that despite the

⁵⁴ Id.

⁵⁵ NAACP Papers, available at the Civil Rights and Restorative Justice Project.

⁵⁶ Id.

⁵⁷ The letter does not describe who Tatum was or his association with the Council case.

acquittal in the criminal case, you and the family should press for redress by means of civil action for damages against the driver and the bus company,” Marshall wrote.⁵⁸

On November 13, Robert wrote Marshall to inform him that he had spoken with Thompson and a white attorney about the costs for filing such a civil suit. Five years later, on January 1, 1949 when the prosecution of the men who killed Robert Mallard in Lyons, Georgia was going on, Robert wrote to the NAACP’s legal department to discuss the Council trial. “Why was this [NAACP prosecutorial representation] not possible in the case of my brother, [d]id we do anything, in employing Thompson and Gates, such as signing papers in employing official retainer before we contacted your office that limited your activities” and “[w]hy did not someone tell us this if it was true?”⁵⁹

Constance Baker Motley, NAACP Legal Assistant, replied on January 18, 1949., noting that it appeared that Thompson and Gates wanted Dudley to remain inactive in the courtroom, but that Dudley did advise Thompson and Gates on strategic matters and that the NAACP had done all that it could in the case. Motley also reminded Robert that the NAACP had advised the family to file a civil action for damages after the case was over. That appears to have been the end of the communication between the Spicely family and the NAACP.⁶⁰

Investigation of the War Department

Immediately following Booker Spicely’s murder, the War Department conducted an investigation into his death. However, the War Department’s investigation appears to have

⁵⁸ Id.

⁵⁹ NAACP Papers, available at the Civil Rights and Restorative Justice Project.

⁶⁰ NAACP Papers, available at the Civil Rights and Restorative Justice Project.

focused less on the actual murder and more on Spicely's character, and the threat of black protest in response to the slaying.⁶¹

On July 10, 1944, two days after the killing, the War Department's headquarters in Atlanta Georgia received a phone call from a Raleigh agent informing it of the shooting of Spicely. The agent stated:

As a result of the incident the racial situation has become much worse. Tensions have been rather high among the Negroes in Durham. Reports have been made that Negro soldiers at Camp Butner were going to attack the bus drivers and get even with them. The tension is subsiding and local law enforcement agencies state that the situation is getting better. The bus company is still operating normally but informant at the bus company reports that a number of the drivers are afraid to drive in the Negro section and that they do not believe that the situation is better. All informants believe that if nothing happens over this past weekend the worse will be over.⁶²

Colonel Willis M. Everett sent a letter to the commanding officer of Camp Butner on that day inquiring about why he had not sent information regarding Booker's death to the War Department's headquarters in Atlanta, Georgia. Authorities at Camp Butner responded that Booker had a valid pass to leave the camp that day, and that "the Camp Commander and observers in the camp area seem to feel that there [would] not be any trouble."⁶³

The next day the War Department headquarters received a letter from Camp Butner to the effect that: "[o]n 10 July 1944, this Agent, at the request of the Director, Security and Intelligence Division, Camp Butner, North Carolina made an investigation for possible racial disturbance, that may result from the death of Pvt. Booker T. Spicely, ASN 33809308 . . . a colored E.M [enlisted military soldier], who was shot by a white bus driver , Herman Lee Council."⁶⁴ The letter stated that the agent checked with Durham's chief of police, chief of

⁶¹ War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

⁶² War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

⁶³ Id.

⁶⁴ War Department Report, [available](#) at the Civil Rights and Restorative Justice Project.

Detectives, two FBI agents in the area, surveyed the area where Booker was killed, and spoke with people from Booker's platoon. The agent drew the conclusion that a racial disturbance protesting the killing was unlikely to occur.⁶⁵ The letter described the community where Booker was killed as a "negro settlement, consisting of about one hundred negro families with white middle class families bordering both sides of the district" and observed that "the topic of the conversation in the colored district where the incident occurred seems to be what will happen to Council, will he be convicted, or will he go free? [O]lder negroes in the district where the incident occurred have accepted the incident as another shooting and that nothing will come out of it. The younger element of the district are curious to know about what the army is going to do about the trial..."⁶⁶ The letter also named many prominent Black people in the community, and the writer remarked there was no reason to believe that they would cause a disturbance.⁶⁷

The War Department received daily updates reporting when and where Blacks gathered in groups or mentioned the incident, and from July 13, 1944 to July 20, 1944 it conducted an undercover investigation in Durham at Black establishments and at Camp Butner to see whether or not "negroes were being influence [sic] or encourage [sic] by agitators to misconduct themselves" as a result of Spicely's murder.⁶⁸ Agent Thomas C. Mason presented himself as a civilian seeking an industrial job in the area. Based on its investigation the War Department concluded that although soldiers at Camp Butner were alarmed when they discovered what happened to Spicely, and initially some attempted to obtain ammunition, the protest subsided after Council's arrest when the soldiers felt the court in Durham would handle the matter fairly. The investigation also observed that many soldiers were upset when Council was released on a

⁶⁵ Id.

⁶⁶ War Department Report, available at the Civil Rights and Restorative Justice Project.

⁶⁷ Id.

⁶⁸ Id.

low bail, noting that they “did not mind fighting but resent the fact that they were not treated as soldiers of the United States Army, and believed such a condition resulted from the southern policy.”⁶⁹

On July 26, 1944 the War Department shifted its investigation to Blackstone, Virginia and conducted interviews with persons who had attended Spicely’s funeral to gauge whether a Black uprising might take place there. In a July 27, 1944 report by agent Robert T. Jerome about that investigation, the author noted that Mary T. Collier, secretary of the Virginia NAACP was interviewed and observed that she did not notice any major acts of disturbance at Booker’s funeral and that “to [her] knowledge no one from the N.A.A.C.P [was] contemplating any form of action regarding the incident of the shooting.”⁷⁰

The War Department received regular reports from military personnel in Philadelphia and Maryland, and maintained a file of newspaper articles about the case. In a July 26 report from a military facility in Philadelphia, an informant wrote that the Philadelphia NAACP did not plan to get involved in the case unless directed to do so by its headquarters. The report noted that “up to the present time there has been no indication that other organizations will endeavor to arouse public sentiment or participate with the exception of the negro press.”⁷¹ In a July 31 communication, military sources in Philadelphia informed headquarters in Atlanta about the meeting between Ruth and NAACP secretary Caroline Moore.⁷²

The War Department kept track of Council’s trial. It monitored events for any indication of possible racial disturbances after Council’s acquittal. In a September 11, 1944 letter to Camp Butner, Col. Everett stated that “it is desired that any undue racial tension existing prior to,

⁶⁹ Id.

⁷⁰ War Department Report, available at the Civil Rights and Restorative Justice Project.

⁷¹ Id.

⁷² Id.

during, or after the trial of Herman Lee Council which might result in any disturbance be reported to this Headquarters promptly. . . . it is furthered desired that this Headquarters be informed of the outcome of the trial and of any comment in the negro press of the vicinity.”⁷³

The War Department’s investigation appears to have concluded on or around September 29, 1944.⁷⁴

Conclusion

It is unclear whether the Spicely family ever pursued civil action for the murder of Private Booker T. Spicely. However, the research demonstrates that the United States military, Durham, and the judicial system failed to fulfill its responsibility in the prosecution of Council and investigation of Spicely’s death. Unfortunately, during World War II it was the norm for the military to show little care for its Black soldiers. Private Green’s 1944 death was almost identical in fact to that of Spicely’s, but the War Department informed the NAACP that no action would be taken on its part to investigate.⁷⁵ Spicely’s death and the murders of hundreds of other Blacks soldiers on United States’ soil is a grim reminder of the fact that these soldiers fought for their country and their country refused to fight for them.

⁷³ Id.

⁷⁴ Id.

⁷⁵ People’s Voice, August 4, 1944.