

Mr. Nep Roland

*Building Empathy, Using Influence
and Creating Social Change*



**Kaila D. Clark, Northeastern University School of Law '20
Civil Rights and Restorative Justice Clinic
Fall 2018**

TABLE OF CONTENTS

- I. Introduction**
- II. The Killing of Mr. Nep Roland**
- III. The Historical and Geographical Context**
- IV. Community Reactions**
 - A. Acts of Kindness**
 - B. The Media Portrayal of Mr. Nep Roland's Death**
 - C. The NAACP**
 - D. The Interdenominational Ministers Alliance**
- V. The Legal Response and Possibilities for Restorative Justice**
 - A. The Grand Jury Investigation**
 - B. The Political Response by Chief Screws**
 - C. Challenges for a Civil Suit**
 - D. The Family and Honoring Mr. Nep Roland's Life in the Community**
- VI. Reflections**

I. Introduction

Mr. Nep Roland was a life-long Alabamian who was well-known and respected in his community. Prior to his untimely death, Roland, a middle-aged gardener, was employed by several prominent white families throughout Montgomery.¹ The white women for whom he worked described him as “quiet, industrious, law-abiding and dependable.”² Many others considered him “harmless.”³ Roland possessed a physical deformity that affected his legs. Media accounts of his life described him as “bandy-legged”,⁴ “little” and “bow-legged”⁵, earning him the nickname “Bow” among his employers.⁶ Roland worked for white homeowners in the 700 block of South Court Street in Montgomery.⁷

II. The Killing of Nep Roland

On the evening of Tuesday, April 16, 1940, Nep Roland was arrested on Highland Avenue by Montgomery City police officers Melvin James Fant and William Aaron Cauthen.⁸ According to the arresting officers, they found Roland in an intoxicated state and booked him on a drunk and disorderly charge.⁹ Both officers denied striking Roland at any time during his transport to police headquarters.¹⁰ However, the testimony of at least four witnesses is that they saw Roland

1 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10.

2 *White Women Force Probe of Police Brutality: Cops Said Rowland Died from 'Overdose of Liquor' -- Autopsy Shows Skull Fracture*, PITTSBURGH COURIER, May 18, 1940 at 24.

3 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

4 *Lets Investigate Further*, MONTGOMERY ADVERTISER, Apr 22, 1940 at 4.

5 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

6 *Head Broken, Negro Expires in City Jail Cell*, MONTGOMERY ADVERTISER, Apr 21, 1940 at 29.

7 *Id.*

8 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10; *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

9 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10; *White Women Force Probe of Police Brutality: Cops Said Rowland Died from 'Overdose of Liquor' -- Autopsy Shows Skull Fracture*, PITTSBURGH COURIER, May 18, 1940 at 24.

10 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10.

being repeatedly struck in the head by the two police officers.¹¹ At the time of his arrest, witnesses “said he was not disorderly, but only a little hilarious and convivial” --never resisting arrest.¹² The next morning, on April 17th, Roland was found dead in the Montgomery city jail.¹³ The white women, for whom Roland worked, turned the names of the witnesses over to the authorities and insisted on an autopsy.¹⁴ The arresting officers conceded that they “noted blood oozing from his scalp at the time.”¹⁵

Coroner M.B. Kirkpatrick initially examined Roland’s remains, but did not find a bruise on Roland’s head.¹⁶ Roland’s former employers demanded an autopsy, which was later performed on Roland’s body. The autopsy found that his skull was fractured by a blunt instrument, which caused a fatal brain hemorrhage.¹⁷ Coroner Kirkpatrick explained his initial oversight by saying that the bruise on Roland could not be found by external observation.¹⁸ According to Coroner Kirkpatrick’s observations, “something had hit him on top of the head,” but he was unable to deduce what the weapon was or if there was a weapon used at all.¹⁹ The surgeons conducting the autopsy were unable to tell whether the fatal injury happened before his arrest by officers Cauthen and Fant, or while he was being transported to the city jail, or after he

11 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1; *White Women Force Probe of Police Brutality: Cops Said Rowland Died from 'Overdose of Liquor' -- Autopsy Shows Skull Fracture*, PITTSBURGH COURIER, May 18, 1940 at 24.

12 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

13 *Id.*

14 *Id.*

15 *Id.*

16 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

17 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10; *White Women Force Probe of Police Brutality: Cops Said Rowland Died from 'Overdose of Liquor' -- Autopsy Shows Skull Fracture*, PITTSBURGH COURIER, May 18, 1940 at 24.

18 *Head Broken, Negro Expires in City Jail Cell*, MONTGOMERY ADVERTISER, Apr 21, 1940 at 29.

19 *Id.*

arrived there.²⁰ Prior to the autopsy, officers Cauthen and Fant hypothesized that Roland died from “an overdose of liquor” but they later changed their story to claim either that Roland had fallen while scuffling with them, or that he had hurt himself after he was placed in his jail cell.²¹ Other officials believed that the fracture may have caused Roland to appear intoxicated, but they weren’t able to retrace Roland’s actions after he left his job.²²

III. The Historical and Geographical Context

Nep Roland’s story takes place in the state capital of Alabama: Montgomery. In 1940, the population was 78,084.²³ The *Montgomery Advertiser*, the region’s premiere source of news and significant, began circulation in 1829.²⁴ It remains, to this day, one of the most widely read daily newspapers in the state of Alabama.²⁵ To fully understand the *Advertiser*’s role in bringing Roland’s story to the forefront of communal discourse, we must first look at the years leading up to 1940. During Reconstruction, editor and part-owner William Wallace Screws was sympathetic to the plight of newly-freed Blacks and advocated for assistance to help those who were sick and economically disenfranchised.²⁶ In 1928, associate editor Grover Cleveland Hall earned a Pulitzer Prize for a series of editorials he wrote in the *Advertiser* the previous year, condemning the Ku Klux Klan’s public floggings of Blacks across the state of Alabama.²⁷ Hall, along with

20 *Accident? Or Design!*, PITTSBURGH COURIER, May 4, 1940 at 10.

21 *White Women Force Probe of Police Brutality: Cops Said Rowland Died from 'Overdose of Liquor' -- Autopsy Shows Skull Fracture*, PITTSBURGH COURIER, May 18, 1940 at 24.

22 *Jury to Probe Negro’s Death – Kirkpatrick States Rowland Died of Fractured Skull*, MONTGOMERY ADVERTISER, Apr 22, 1940 at 12.

23 *Montgomery Population*, <http://worldpopulationreview.com/us-cities/montgomery/> (last visited Nov. 16, 2018).

24 Coke Ellington, *The Montgomery Advertiser*, ENCYCLOPEDIA OF ALABAMA (Jan. 15, 2009), <http://www.encyclopediaofalabama.org/article/h-1954>.

25 *Id.*

26 *Id.*

27 *Id.*

then-publisher Hanson, endorsed Democratic presidential candidate Alfred E. Smith,²⁸ who strongly opposed and took a stand against the Ku Klux Klan.²⁹ After Hall's death in 1941, the *Advertiser* remained committed to its progressive ideals, having replaced Hall with Gould Beech, who was known for writing editorials that were "critical of lynching, the tenant farmer system, and disfranchisement of blacks and poor whites. Under Beech's guidance, the editorial page of the *Advertiser* continued to protest injustice and racism."³⁰ The *Advertiser* never shied away from tackling what was seemingly controversial.

IV. Community Reactions

Following Nep Roland's death, the community and the media seemed to come together in mourning a beloved figure. His former employers treated him with respect and honor, and the newspapers brought his story to the attention of a larger public. However, the reactions of the Black community, reflected in editorials and a single letter to the editor published in the *Advertiser*, revealed community distrust and tensions in relations with the police and local law enforcement officials.

A. Acts of Kindness

On April 24th, Roland's funeral and burial were arranged and paid for by his former employers.³¹ An editorial commemorating his life and detailing his funeral appeared in the *Montgomery Advertiser*.³² For twenty-five years, Roland had been the yardman for several homes in the South Court Street area.³³ He was remembered as a little person weighing less than 100

²⁸ *Id.*

²⁹ Elizabeth R. Purdy, *Presidential Race of 1928*, ENCYCLOPEDIA OF ALABAMA (May 1, 2008), <http://www.encyclopediaofalabama.org/article/h-1517>.

³⁰ Ellington, *supra* note 24.

³¹ *White Employers at Nep's Funeral*, MONTGOMERY ADVERTISER, Apr 25, 1940 at 6.

³² *Id.*

³³ *Id.*

pounds with a leg deformity who was a hard worker and faithful.³⁴ His casket was covered in flowers and a card was placed upon it, which read, “*From some of his white friends.*”³⁵ His burial clothes were provided by one of his former employers. It was clear from the way in which his life was celebrated that Roland held a special place in the heart of those who employed him. In the days after the funeral--at a time when there is nothing left to do but grieve and ask questions--their love for him becomes apparent with their fierce and zealous advocacy of an investigation into his untimely and mysterious death.

B. The Media Portrayal of Nep Roland’s Death

On April 22nd, the *Montgomery Advertiser* ran an editorial entitled *Let’s Investigate Further*. In it, the author openly questions Coroner Kirkpatrick’s hypothesis that Roland may have injured his head on the cell floor, stating:

“We would not presume to question a professional deduction, but we are curious to know just how a man cracks the top of his pate on the floor... Doubtless the fact that most Montgomerians have a desire to hear more about the death of Bow will move Coroner Kirkpatrick to resume his investigatory enterprises.”³⁶

This open call for Coroner Kirkpatrick to resume investigating Roland’s death would prove to be the first of many rebukes to come from the publication.

On April 23rd, the *Montgomery Advertiser* published an editorial in the form of an open letter addressed directly to Commissioner of Police, William Preston Screws.³⁷ Born in Montgomery, Commissioner Screws had a distinguished military career before becoming active in Montgomery politics.³⁸ The open letter states that there is “considerable indignation in

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Lets Investigate Further*, MONTGOMERY ADVERTISER, Apr 22, 1940 at 4.

³⁷ *Admonition to a Gentleman*, MONTGOMERY ADVERTISER, Apr 23, 1940, at 4.

³⁸ Ruth Smith Truss, *William P. Screws*, ENCYCLOPEDIA OF ALABAMA (Mar. 8, 2017), <http://www.encyclopediaofalabama.org/article/h-3874>.

Montgomery” because two Blacks, both of whom were “highly esteemed and respected by numerous representative white families” had been killed by or within the custody of police.³⁹ The death of Roland, who is described as a “diminutive, ill-figured Negro,” is credited with bringing the indignation “to the boiling point,” prompting protests to both Commissioner Screws and the *Montgomery Advertiser* to “do something about it.”⁴⁰

The Black community is described as bitter, fearful, and distrustful of the Montgomery police department after years of mistreatment.⁴¹ The open letter goes on to describe the many ways in which “backward, undisciplined, and often criminally disposed Negroes” are just “as much of burden and source of grief to the sensible and decent people of his race” who are “intelligent, well-disposed”, “[r]esponsible...and good” and “constantly counsel their people to observe the law,” as they are to the police.⁴² Instead of challenging stereotypes, the Black leadership and wealthier individuals amplified prejudices by making a distinction between those who are “good” and those who are “backward.”⁴³ And while the white owners and editors of the *Montgomery Advertiser* might be trying to help paint the image of an “orderly” and “friendly” Black citizenry undeserving of police brutality, their underlying message is, in many ways, quite problematic.

The *Advertiser*’s open letter clearly states that it is not willing to see a handful of police officers bring grief to our citizens by “wantonly killing, assaulting and insulting” people of color (only because people of color do not vote their strength in elections).⁴⁴ In an ironic twist, the

Advertiser, on one hand, acknowledges that Black voices are missing from the conversation, but,

³⁹ *Admonition to a Gentleman*, MONTGOMERY ADVERTISER, Apr 23,1940, at 4.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 'Cossack Methods' of Police Dep't Blasted 'Wide Open' by *Montgomery Advertiser*, PITTSBURGH COURIER, May 18, 1940 at 24.

⁴³ *Id.*

⁴⁴ *Id.*

on the other hand, continues to hail the police force as “an honored and efficient branch of the public service” wherein there is a “minority” of bad actors.⁴⁵ While trying to protect the reputation of the city and construct an image of Montgomery as a place that is generally kind to Blacks, the article ignores the culture within the community that allows the very form of brutalitarian government which it is challenging, to exist. Making one last appeal to Commissioner Screws and his ability to purge his police department, the letter reminds him that he is the only one who “can correct the condition of which many of the best citizens of this community complain privately, but almost none of whom will shout indecorously in public.”⁴⁶ Perhaps without realizing it, the writer spoke to the silencing of all citizens in Montgomery, who might quietly speak among themselves about injustice, but they are afraid to speak out in public out of fear of succumbing to the brutality of the police department themselves.

The problematic dissemination of this rhetoric is not limited to the white-owned and -operated *Montgomery Advertiser*. After seeing the publication, the *Pittsburgh Courier* reports:

“Never, within the memory of the oldest Montgomery resident, has the white citizenry here been more incensed than at present, over the brutal treatment of Negroes by Cossack members of the police force who seemingly take advantage of every opportunity to go down to the Negro section and ‘crack a few heads’.”⁴⁷

Published in Pittsburgh, Pennsylvania, *The Pittsburgh Courier* was once the country’s most widely circulated Black newspaper.⁴⁸ It published large excerpts from the editorial directed at Commissioner Screws and included the same language in reference to a community of Blacks

45 *Id.*

46 *Id.*

47 ‘Cossack Methods’ of Police Dep’t Blasted ‘Wide Open’ by *Montgomery Advertiser*, PITTSBURGH COURIER, May 18, 1940 at 24.

48 *The Pittsburgh Courier*, PBS, https://www.pbs.org/blackpress/news_bios/courier.html (last visited Nov. 16, 2018).

who are at odds.⁴⁹ The nation's foremost forum for Black voices at the time missed an opportunity to challenge racist narratives. Instead, the *Courier* further disseminated the words of the *Advertiser* editorial's basic premise, which depended in large part on the shocking devaluation of some Black people in order to elevate others. Nonetheless, the force of the headline is unmatched, by rhetoric about the police forced compared to the Cossacks, Russian, self-governing military colonies.⁵⁰ With a simple headline, the *Courier* at once condemned the militarization of the Montgomery police department, while also shaming it about the brutal tactics that harmed their reputation.

The harshest rebuke of the city came from Mrs. E.C. Hughes, an older white housewife who had the courage to not only speak out about the injustices of police brutality but did so by signing her name. In her letter, Mrs. Hughes thanks the *Advertiser* for its many stories on "Bow", whose death she describes as "cruel and unjust."⁵¹

"Indirectly, in a way perhaps the citizens of Montgomery are to blame for "Bow's" death because too often stories of other such brutalities have come to our ears from our servants in the past. We have always been sorry and regretful at these injustices but do nothing about them until one of these brutalities is brought to our own home and neighborhood and not until then have we become indignant. The very fact that Dr. Kirkpatrick's report was not give[n] out publicly shows that our city police had something to hide or someone to shield... The abuse of our Negroes by some members of the Montgomery Police Department is known far and wide and is a disgrace to our city.... [T]he law has become a fearful, dreadful thing, from which they can expect no justice, as I regret to say has been proven in many cases. How much better for all concerned if our police force allowed justice to be meted out in the regular channels of court, instead of punishing

49 *Id.*

50 Lester W. Grau, *The Cossack Brotherhood Reborn: A Political/Military Force in a Realm of Chaos*, *LOW INTENSITY CONFLICT & LAW ENFORCEMENT* 2(3) (1993), <https://web.archive.org/web/20150826055134/http://fmso.leavenworth.army.mil/documents/cossack/cossack.htm>.

51 *Letters to the Editor – The Death of "Bow" Rowland*, *MONTGOMERY ADVERTISER*, Apr 24, 1940 at 4.

according to the dictates of a warped and cruel heart of some big bully with a blackjack in his hand.”⁵²

In an ironic twist, an older white woman understood what many haven’t so far: First, that the citizens of Montgomery, as a collective, hold blame for failing to act when the same brutalities that befell Roland were inflicted upon countless other Blacks in Montgomery; and second, that Roland’s story is not an isolated incident but is simply one of many which the white citizens have chosen to get indignant about.

Mrs. Hughes’ heartfelt words were not received well by everyone in the community. The very next day, another Montgomerian wrote a letter to the Editor of the *Advertiser* on behalf of the Montgomery Police Department. In his opening statement, J.M. Morrell asked, “Why don’t you give the police force a break?”⁵³ Morrell criticized the publication for publishing letters that “create contempt for the police force and disrespect for the law.” He reminded everyone that officers “risk their lives daily in order to protect life and property... for a mere pittance” and encouraged all those with criticisms to walk the beat.⁵⁴ He said that officers must be given the latitude to use “strenuous methods” and it is “often necessary to resort to extreme measures to subdue” bad citizens.⁵⁵ He referenced Roland, saying that he happened to know that the officers never hit him and that Roland was taken to jail “for his own protection” because the arresting officers “believed he would get into serious trouble if they permitted him to roam at large.”⁵⁶ He concluded by asking readers to “please ‘lay off’ the police force.”⁵⁷

52 *Id.*

53 *On Behalf of Our Police Department*, MONTGOMERY ADVERTISER, Apr 25, 1940 at 4.

54 *Id.*

55 *Id.*

56 *Id.*

57 *Id.*

In reply, the Editor responded by saying that “The Advertiser did give the Police Department a ‘break.’” by praising it highly and directing its criticism towards a “small minority.”⁵⁸ It is clear from these editorials that tensions were running high in Montgomery and that the pervasive use of news publications was serving the dual function of helping some citizens feel heard while stirring up the wrath of others who see these rebukes as a sweeping indictment of city officials.

The *Montgomery Advertiser* played a pivotal role in pushing Roland’s story into mainstream media. News of Roland’s death spread in the surrounding communities and even made its way north to be covered in several black-owned newspapers. These papers sent down reporters to check in on what the *Atlanta Daily World* described as “the worse record of police assaults to break out in a city anywhere in the south in recent times.”⁵⁹ There are countless stories that never make the headlines of newspapers – many of which involve brutal beatings that result in a spiritual death, not a physical one.

C. The NAACP

On April 23, 1940, exactly one week after Nep Roland’s death, local lawyer, Alex C. Birch, wrote about Roland to Secretary of the National NAACP, Walter White.⁶⁰ In this letter, Birch explained that the President of the local branch asked him to attend the autopsy on Roland’s body.⁶¹

The autopsy was performed by a white surgeon, Dr. Abraham Trumper, who was assisted by Black surgeons: Dr. Roman T. Adair, and Dr. Alfred C. Dungee, Jr.⁶² Birch described Dr.

⁵⁸ *Id.*

⁵⁹ *Three Brutal Killings by Police Officers Arouse Montgomery*, ATLANTA DAILY WORLD, Apr 29, 1940 at 1.

⁶⁰ Letter from Birch to White, April 23, 1940. NAACP Records Box II - B115, Folder 26. Legal File -Police Brutality.

⁶¹ *Id.*

⁶² *Id.*

Trumper as a “surgeon of high standing and skill”⁶³ but, indeed, all three gentlemen were well-credentialed. Dr. Birch was a state bacteriologist and pathologist⁶⁴ who owned a medical lab on the second floor of the Bell Building where he ran tests for other doctors.⁶⁵ Dr. Adair owned an office, clinic, lab, and nurse’s training school in Montgomery for many years.⁶⁶ Throughout his career, he published several medical papers, lectured, and was a physician at Alabama State College who attended all football games as the doctor on call.⁶⁷ Dr. Dungee, a graduate of Howard University’s School of Medicine,⁶⁸ was affiliated with Hale Infirmary, the state of Alabama’s first hospital for Blacks.⁶⁹

The surgeons were able to determine with full confidence “that the cause of death was a skull fracture” that resulted from a blow to the head “with a blunt instrument.”⁷⁰ Attorney Birch made it very clear to Secretary White that there was very little doubt in his mind that the police officers killed Roland.⁷¹ However, he conceded that it could be difficult to prove because the Black eyewitnesses to Roland’s altercation with the police had a strong aversion to testifying out of “deathly fear” of police retaliation.⁷² In his correspondence, he included a copy of an editorial

63 *Id.*

64 *Medical News*, 66(19) J. AM. MED. ASS'N 1435, 1472 (1916).

65 John B. Scott, Jr., *The Bell Building*, 17(2) Montgomery County Historical Society Herald 1, 3 (2009), <https://lostinmontgomery.files.wordpress.com/2009/07/herald-bell-building.pdf>.

66 A.J. Wright, *Hidden Legacies: I. Early African-American Physicians in Alabama*, EARLY AFRICAN-AMERICAN PHYSICIANS IN ALABAMA, <https://sites.google.com/site/earlyblackdocsalabama/> (last visited Nov. 16, 2018).

67 *Id.*

68 *Id.*

69 A.J. Wright, *Early African American Physicians in the Alabama Black Belt*, THE BIRMINGHAM GENEALOGICAL SOCIETY BLOG (Oct. 16, 2007), <https://birminghamgenealogy.wordpress.com/2007/10/17/early-african-american-physicians-in-the-alabama-black-belt/>.

70 Letter from Birch to White, April 23, 1940.NAACP Records Box II - B115, Folder 26. Legal File -Police Brutality.

71 *Id.*

72 *Id.*

of that day's Montgomery Advertiser, *Admonition to a Gentleman*. Birch was hopeful that the editorial will bring "good results" but finished the letter with his own legal analysis:

"The main difficulty in securing justice for the negro is not what happens to him in the court-room, when adequately represented by counsel, but what happens before he gets into court in the form of brutal treatment by law enforcement officers and mobsters in the effort to secure a confession or to give vent to an expression of egoistic authority. At the risk of re-iteration, I say that when the negro gets into Court, and is fortunate enough to procure competent counsel he fares as well as the ordinary litigant."⁷³

Birch's words, shared over 70 years after the ratification of the Fourteenth amendment to the Constitution, are a painful reminder that Blacks seldom received the due process rights or equal protection under the laws that was promised to them. The law enforcement agents tasked with upholding the law were the ones who circumvented it by depriving Nep Roland of his life and liberty without due process of the law. Despite the advocacy of the NAACP and Roland's white employers, Montgomery was one of many jurisdictions in which Blacks could not expect equal protection of the laws due to the common actions of excessive or deadly force by police.

D. The Interdenominational Ministers Alliance

The Interdenominational Ministers Alliance (IMA) is an interdenominational coalition of Black pastors and churches. During the era of the civil rights movement, IMA often formed coalitions with the Montgomery Improvement Association, Dr. Martin Luther King, Jr., and the Citizens Coordinating Committee to bring about systemic change on behalf of the Black citizens of Montgomery.⁷⁴ Leaders of IMA were at the forefront of the Montgomery bus boycott and wrote letters addressed to both the "Citizens of Montgomery" and to the Commissioners of the

⁷³ *Id.*

⁷⁴ Martin Luther King, Jr., L. Roy Bennett, W.J. Hayes, H.H. Hubbard & Rufus Lewis, *To the Citizens of Montgomery*, THE MARTIN LUTHER KING, JR. RESEARCH AND EDUCATION INSTITUTE (Jan. 27, 1956), http://okra.stanford.edu/transcription/document_images/Vol03Scans/107_27-Jan-1956_To%20the%20Citizens%20of%20Montgomery.pdf.

City of Montgomery.⁷⁵ In such advocacy, they made it clear that they were not requesting the segregation of Montgomery buses, but the “fair and reasonable seating of passengers to assure all passengers equal treatment.”⁷⁶ Over a decade before they began this work, IMA sent a letter to the Editor of the *Advertiser*, expressing their appreciation for the “fine editorials” that had been published and the *Advertiser*’s choice to take a “stand in the matter of N[e]p Roland.”⁷⁷ The authors emphasized their patriotism and loyalty to the flag of the Country and *Old Glory*, noting that they “are not easily persuaded by foreign propaganda.”⁷⁸ The letter was signed by S.H. Marion, pastor of Old Ship A.M.E. Zion Church and Rev. R.A. Daly, pastor of Murdock Chapel A. M.E.

V. The Legal Response and Possibilities for Restorative Justice

“We are grateful to you and your staff for these articles which may bring on an investigation of this cruel and unjust affair.” – Mrs. E.C. Hughes⁷⁹

There was never a question of whether Roland died while in the care and custody of the Montgomery police department. The police had not informed reporters of Roland’s death, and the initial information came from one of Roland’s former employers.⁸⁰ Roland’s story was first published in the *Montgomery Advertiser* on April 21st, five days after his death, with the

75 King et. al, *supra* note 34; Negro Ministers of the City of Montgomery and their Congregations, *To the Commissioners of the City of Montgomery*, THE MARTIN LUTHER KING, JR. RESEARCH AND EDUCATION INSTITUTE (Jan. 9, 1956), http://okra.stanford.edu/transcription/document_images/Vol03Scans/97_9-Jan-1956_To%20the%20Commissioners.pdf.

76 Negro Ministers, *supra* note 35.

77 *Appreciation from Colored Ministers*, MONTGOMERY ADVERTISER, May 17, 1940 at 4.

78 *Id.*

79 *Letters to the Editor – The Death of “Bow” Rowland*, MONTGOMERY ADVERTISER, Apr 24, 1940 at 4.

80 *Head Broken, Negro Expires in City Jail Cell*, MONTGOMERY ADVERTISER, Apr 21, 1940 at 29.

headline, “Head Broken, Negro Expires in City Jail Cell.”⁸¹ In the intervening five days, the location where Roland received the blow to his head and the circumstances which led to his injury had still not been determined.⁸² The arresting officers were questioned, but denied striking Roland after he was taken into custody.⁸³ After the coroner held an inquest on the evening following Roland’s death, a “delegation of housewives” called police headquarters to gain more information about the circumstances surrounding the death.⁸⁴ Their insistence led to the coroner performing an autopsy, and assurances that the investigation would be continued.⁸⁵

A. The Grand Jury Investigation

On May 9, 1940, the Montgomery County Grand Jury promised an investigation into Roland’s jail cell demise.⁸⁶ The Montgomery housewives who had employed Roland repeatedly asked for the investigation and gave the names of several Black eyewitnesses who saw officers Cauthen and Fant strike Roland on the head as they were arresting him.⁸⁷ The grand jury convened in Montgomery on May 20th.⁸⁸ Judge Walter B. Jones charged the grand jury with a zealous investigation into the two alleged policing killings, saying:

“Good citizens cannot tolerate unlawful homicides by officers of the law. The people of Montgomery County want a very fearless and full investigation of these killings. That is their right, and the court knows that the grand jury will thoroughly sift the matter, and, if the evidence justifies it, report true bills.”⁸⁹

81 *Id.*

82 *Id.*

83 *Id.*

84 *Id.*

85 *Id.*

86 *Grand Jury Probes into Negro’s Death*, ANNISTON STAR, May 9, 1940 at 3.

87 *Id.*

88 *Grand Jury Sift of Jail Mystery Death Assured*, MONTGOMERY ADVERTISER, May 7, 1940 at 1.

89 *Judge Jones Calls for Sift of Two Alleged Police Killings*, MONTGOMERY ADVERTISER, May 21, 1940 at 1.

Due to a lack of witnesses who were willing to appear and testify, the grand jury, was unable to return any indictments for the murders of Roland and another Black man.⁹⁰ Instead, their report found that the city's police officers had not been handling arrestees in a proper manner and urged city officials to change that process.⁹¹ Coroner Kirkpatrick was commissioned to make "immediate investigation of all deaths" in the county and submit a "more detailed report to the solicitor's office of his findings."⁹² He was also given a "mild slap on the wrist for alleged laxity" in handling Roland's body.⁹³

B. A Political Response by Police Chief Screws

The police force as a whole was initially silent on the issue of Roland's death. After the autopsy of Roland's body, writers at the *Montgomery Advertiser* reached out to the local police. The police department never reported Roland's death and his death was revealed by one of his part-time employers.⁹⁴ According to the *Advertiser*, Roland's "death was not considered of enough moment by the police to inform reporters" and they were reluctant to reveal their thoughts and feelings on the matter.⁹⁵ On June 13, 1940, Commissioner of Police, William Preston Screws, announced that he had discharged both Officer Melvin J. Fant and William A. Cauthen from the police department due to "inattention to duty."⁹⁶ Although this was less than a month after the no bill from the Montgomery Grand Jury and two months after Roland's death,

Commissioner Screws denied that the dismissal had anything to do with Roland's death.⁹⁷ In *2 Negro Deaths Held Improper by Grand Jury*, MONTGOMERY ADVERTISER, May 25, 1940 at 9.

⁹¹ *Id.*; *Jury Returns 93 Indictments*, ALABAMA JOURNAL, May 25, 1940 at 1.

⁹² *2 Negro Deaths Held Improper by Grand Jury*, MONTGOMERY ADVERTISER, May 25, 1940 at 9.

⁹³ *Jury Returns 93 Indictments*, ALABAMA JOURNAL, May 25, 1940 at 2.

⁹⁴ *Head Broken, Negro Expires in City Jail Cell*, MONTGOMERY ADVERTISER, Apr 21, 1940 at 29.

⁹⁵ *Id.*

⁹⁶ *Screws Releases Three Policemen*, MONTGOMERY ADVERTISER, June 14, 1940 at 7.

⁹⁷ *Id.*

October of that same year, both Fant and Cauthen entered military service. After returning home from the World War II, Cauthen became a loan collector in Montgomery and Fant became an insurance agent in Georgia. One of the doctors who was appointed to serve in the Selective Service headquarters was Dr. Abraham Trumper, the surgeon who oversaw the second autopsy of Roland's body.⁹⁸

C. Challenges for a Civil Suit

Although the passage of time and the absence of living witnesses make it virtually impossible to hold the perpetrators or the government accountable through the criminal justice system, the facts underlying Roland's case would theoretically support a civil suit under federal civil rights statutes.

Under federal law 42 U.S.C. § 1983, widely known as "Section 1983," establishes a cause of action for any person who has been deprived of rights secured by the Constitution or laws of the United States by a person acting under color of state law, namely the government.⁹⁹ This statute reads:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

⁹⁸ *Physicians Appointed*, MONTGOMERY ADVERTISER, Dec 6, 1940 at 2.

⁹⁹ 42 U.S.C. § 1983 (1978).

For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.¹⁰⁰

In the instant case, then-Officers Fant and Cauthen were acting under the color of law the performance of their police authority when they forcefully arrested and detained Roland. The state action requirement would likely be met because Fant and Cauthen were on duty and, presumably, wearing a police uniform and using police equipment. By carrying out Roland's arrest, a central police function, the officers were acting under color of state law and their conduct would be attributable to their local government. In addition to the eyewitness accounts of the officers repeatedly striking Roland in the head, Fant and Cauthen willfully left Roland with fatal injuries in a jail cell overnight where he succumbed to his wounds. There is no doubt that Fant and Cauthen meted out this punishment against Roland for no other reason than his race. Coroner M.B. Kirkpatrick, in dereliction of his duties, engaged in obstructionist conduct, which allowed Roland's killers, and likely the killers of many similarly-situated Blacks, to live out the remainder of their lives unpunished and with impunity. Under *Monell v. Dep't of Soc. Services*¹⁰¹, there may be an argument that the city of Montgomery had a policy of depriving Black people of their constitutional rights and privileges.¹⁰²

There are practical and legal obstacles to bringing a civil lawsuit so many years after Roland's untimely death at the hands of law enforcement authorities. These statutes are a remedy against state actors, but the individuals responsible for Roland's death and its botched investigation have long since passed away. The *Monell* decision concluded that local governing bodies could be sued directly under § 1983 for monetary, declaratory, or injunctive relief if the unconstitutional action implements or executes a policy statement, ordinance, regulation or

100 *Id.*

101 *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

102 *Id.* at 690.

decision officially adopted and promulgated by the body's officers.¹⁰³ Due to the passage of time, it would be difficult to prove the city of Montgomery followed a policy, failed to train officers on preventing injuries during the arrest and transport of detainees, or were negligent in hiring Cauthen, Fant, or Kirkpatrick. The remedies are limited, as well as the ability to scrutinize the actions that state actors took during the time period under a *Monell* analysis.

D. The Roland Family and Honoring Nep Roland's Life in the Community

Locating survivors has presented a challenge to CRRJ researchers. There are several instances where official, primary source documents conflict as they relate to the Roland family. On his death certificate, Nep Roland is listed as having been born to Robert Roland and Minnie Caffey on March 16, 1919, in Matthews Station, Alabama.¹⁰⁴ Existing 1910 census records show Nep Roland as a four year-old living with his mom and four siblings in Greenwood, Alabama – placing his birth year as 1906 which is a thirteen year gap.¹⁰⁵

Roland's father Robert Roland was born in Braggs, Lowndes County, Alabama to Louis Rowland and Eliza Walker in the late 1870s. Nep Roland's mother Minnie, like him, was born to Titus Coffey and Nancy Bennett during the early 1880s in Matthews Station,¹⁰⁶ a small community within Greenwood, Bullock County, Alabama. Robert and Minnie were married on December 25, 1896 in Greenwood, which was later incorporated into Fitzpatrick, Alabama. Robert and Minnie's children were Shelley (b. 1898), Callie (b. 1900), May Bell (b. 1902), Nep (b. 1906), and Eliza (b. 1909).¹⁰⁷ Robert Rowland does not appear with his family in the 1910

103 *Id.* at 690.

104 Nep Roland Death Certificate.

105 Nep Rollin Census (1910).

106 Nep Roland Death Certificate.

107 Nep Rollin Census (1910).

Census, indicating that he died in either 1909 or early 1910. His death certificate does not appear in any of the Alabama vital record indices. The family relocated after Robert's death from Greenwood to Montgomery, about 35 miles northwest. In the 1941, Alabama City Directory, Nep's mother Minnie is listed as still living in Montgomery.¹⁰⁸ Minnie died in Montgomery on June 16, 1965.

The sole surviving family member of Roland who has been confirmed by CRRJ research is Pauline (Rolling) Williams-Davis. Pauline is the daughter of Jesse J. Rolling¹⁰⁹, who was the son of Shellie,¹¹⁰ Nep's older brother.

The Roland family is notably absent from the records of his death. The Montgomery community at large expressed grief and shock about his untimely death and the mysterious circumstances surrounding it. The Roland family is not mentioned in the dialogue in the newspapers, despite being present in archival materials such as birth, death, marriage, and military records. While it is possible – and understandable – that the Roland family chose not to take part in the investigation, it is also possible that they were erased in the historical record, or simply were not given access to it to tell their story. Roland's story is told through the lens of his white employers and other white sympathizers, but his own community – the Black community – is absent with the exception of a piece written by Black religious leaders.

The work of the Civil Rights and Restorative Justice project serves as a mechanism to work with local communities to unearth the truth behind harrowing stories, such as Mr. Roland's. Documenting Roland's racially-motivated killing at the hands of law enforcement may lead to various remediation efforts, such as truth and reconciliation proceedings. There are undoubtedly many stories like Roland's, where Blacks were treated as second-class citizens by those entrusted

108 Minnie Rowland (Nep Roland's Mom), Montgomery, AL City Directory (1941), pg. 423.

109 Pauline Rolling Davis Marriage Record (1995).

110 Jesse Rolling, IN Death Certificate (June 9, 1994).

to protect and serve them. The Montgomery community – prosecutors, lawmakers, administrative agencies, and Roland’s family- can work together to seek genuine reconciliation and aim to prevent future breakdowns in the legal system. There is no greater way to honor the life and legacy of Mr. Nep Roland, than to bring his beloved community together once again - across racial and class divides - to have a dialogue about race relations in Montgomery, Alabama.

VI. Reflections

Although I am reminded that I am viewing these materials from a privileged lens of a Black person in 2018, I am still deeply troubled by the language used throughout the course of Roland’s story. What I find most troubling is the absence of Black voices. There were only four articles, out of twenty-two, written by Black authors. The ability to circulate the thoughts of the Black community is empowering in and of itself, but the manner in which it was done completely undermines Black lives. Most of the Black editorials uplift the notion of orderly and law-abiding Blacks at the expense of everyone in the community, because we all pay each time black respectability politics are upheld. The respectability politics help to bolster a narrative of Whites as inherently virtuous and good and Blacks as the most dangerous people in the world who must affirmatively work hard to overcome a predisposition to lawlessness. This portrayal is the epitome of internalized racism. In addition, it is difficult to read the distinction drawn between Blacks who are esteemed and well-regarded in White circles versus those who go unnamed, unmentioned, and disregarded. In truth, there is no amount of assimilation that can shield Black Americans from the stings of racism and discrimination so pervasive in this country. No number of backhanded compliments about being good or different can make up for such racial slurs. The idea that there are good and bad Black people and that one has to be

demonstrably good has caused generations of Black people to internalize a belief that they have to be twice as good to be respected. As Blacks and their allies respond to highly publicized racial incidents, we must all be mindful to avoid spreading rhetoric or implicitly sharing narratives that draw a distinction between who is and who is not deserving of basic human decency.

The inconsistencies in the ways in which law enforcement authorities treat Blacks compared to their treatment of whites and other non-blacks in similar or identical circumstances can be discussed at great length. The pervasive use of social media has re-exposed old wounds and revealed just how little racial progress our country has achieved. Once again, our consciousness as a country has been awakened to the pervasive horrors of police brutality. As I researched Roland's story, it was so painful to watch the continuous coverage of news stories and viral videos detailing yet more abuses of police power and excessive force. As 2018 is the 150th anniversary of the Fourteenth Amendment to our Constitution, it is imperative for enforcement agencies to take greater efforts to make its words a reality so that Blacks do not continue to experience any more measures of unequal or unfair treatment at the hands of those who have sworn to protect them.

Map of Relevant Events in Nep Roland's Story

