

THE ONES LEFT BEHIND

The Homicide of Prentiss McCann and NAACP Strategy in Post-War Mobile



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TABLE OF CONTENTS

I. INTRODUCTION	3
II. PRENTISS McCANN	4
III. MOBILE, ALABAMA DURING WORLD WAR II	5
MAYSVILLE	7
POLICE MISCONDUCT	9
MOBILE NAACP	11
IV. INCIDENT AT THE MIDWAY	12
THE OFFICERS' STORY	13
THE NAACP WITNESSES' STORY	14
V. THE GREAT HOPE: FEDERAL PROSECUTION OF POLICE BRUTALITY	16
UNITED STATES V. SCREWS	17
FEDERAL INVESTIGATION	19
BEHIND THE NAACP'S STRATEGY	23
VI. CONCLUSION	26

I. INTRODUCTION

On the evening of July 7, 1945 a young African American veteran and father of three was killed by a “trigger-happy” police officer in Mobile, Alabama for being in the wrong place at the wrong time.¹ However, the violence committed against the family of Prentiss McCann did not end with his homicide. In the aftermath, his wife and children were left destitute and forced to leave their city, and local and federal officials alike treated the McCanns with disrespect and neglect. And McCann’s reputation was tarnished in the local media and even on his own death certificate by a fabricated self-defense story. The officer who killed McCann was never punished, and the Mobile Police Department was never held accountable.

In 2010, McCann’s daughter Claudine McCann began to hunt for information about her father’s death.² Claudine and her twin brother Claude were only eight months old when they lost their father to police violence. Her mother had never talked about the incident, and had remarried when Claudine was two years old. All she knew was the family story: Prentiss was walking to the grocery store to get milk for the babies, and never came home. She heard from her uncle Van Sumlin that the police never even contacted her mother to tell her that her husband was dead. Talking to a co-worker one day, Ms. McCann decided that she was ready for some answers. She contacted the Mobile Police Department, the Civil Rights Division of the Department of Justice, the University of Alabama, and a civil rights attorney in Montgomery.

¹ John LeFlore, “Mobile Cop Kills Innocent Youth,” *The Chicago Defender*, July 29, 1945.

² Telephone Interview with Claudine McCann (July 2, 2013).

However her attempts were unsuccessful. Because of bureaucratic red tape, Ms. McCann was unable to access any information about what happened to her father in 1945.³

In fact, Prentiss McCann's death received quite a bit of attention, but his family never knew about it. The inadequate response of local law enforcement to McCann's killing prompted the Mobile chapter of the National Association for the Advancement of Colored People (NAACP) to pressure the Department of Justice to take action under a recent Supreme Court decision that would allow prosecution of law enforcement violence in federal court. The NAACP campaign sheds light on the strategy of the civil rights movement in response to (1) the displacement of state-sanctioned mob style lynchings by state-sanctioned law enforcement violence in the 1940s, and (2) increasing racial tensions sparked by World War II. The campaign's ultimate failure illustrates the limitations of legal remedies in the face of deep-seated institutional racism.

II. PRENTISS MCCANN

Prentiss McCann was born on March 22, 1922 to Irene and Mallis "Mallie" McCann. He grew up in rural Choctaw County, Alabama, the eldest of four children. The seventeen-year old McCann is listed on the 1940 census as a farm laborer on his father's farm.⁴ On December 13, 1942 when Prentiss was twenty years old, he enlisted in the United States Army at Camp Shelby, Missouri.⁵ He served briefly as a private at Port Huachuca, Arizona, but after three months of service he was honorably discharged on March 23, 1943 because he had "flat feet."⁶ McCann's character is listed as "excellent"

³ *Id.*

⁴ U.S. Census, 1940.

⁵ Prinest (sic) McCann, Honorable Discharge from the Army of the United States (March 23, 1943).

⁶ Interview with Claude McCann, Claudine McCann, and Corey Polk, in Cecil, Ga. (July 24, 2013).

on his honorable discharge form.⁷

Before his army service, McCann married Rena Sumlin of Waynesboro, Mississippi on August 9, 1941.⁸ They met while McCann was visiting his aunt and uncle in Waynesboro, which was the closest commercial area to Choctaw County.⁹ His wife remembers him as “just a nice person,” and “a good provider for the children and me.”¹⁰

By March of 1943 the McCanns had moved to 1526 King Fisher Drive in the African American neighborhood of Maysville in Mobile, Alabama.¹¹ McCann got a job as a civilian employee at the Brookley Air Force Base, driving trucks.¹² He is also listed as a repairman at the Weinacker Service Station in Maysville.¹³ At the time of his death McCann had three young children, Doris (age two) and twins Claude and Claudine (age eight months).¹⁴ His wife, Rena, was nineteen years old.¹⁵

III. MOBILE, ALABAMA DURING WORLD WAR II

Mobile, Alabama was a center of defense industry activity during World War II and experienced its share of war-related racial tension. Michael Mansfield describes the sudden growth of the city:

Mobile literally exploded during the early 1940s, profiting from massive federal defense expenditures and the opening of Brookley Field, a facility established by the army Air Corps in 1940. It's population literally doubling in the span of just four years, the city faced enormous challenges during the coming decade, including the rebirth of a politically active black middle class.¹⁶

⁷ *Id.*

⁸ Interview with Rena Andrew, in Valdosta, Ga. (July 24, 2013); Marriage License Record of Prentiss McCann and Rena Sumlin (Sept. 10, 1941).

⁹ *Id.*

¹⁰ Interview with Rena Andrew, in Valdosta, Ga. (July 24, 2013); Rena McCann Aff., July 15, 1945, *Legal File of Prentiss McCann* (Letters of the NAACP, Part 8, on file at Lamont Library, Harvard University).

¹¹ Primest (sic) McCann, Honorable Discharge from the Army of the United States (March 23, 1943).

¹² LeFlore, *supra* note 1.

¹³ Polk's Mobile City Directory, 1944-45, at 247.

¹⁴ Rena McCann Aff., July 15, 1945, *Legal File of Prentiss McCann* (Letters of the NAACP, Part 8, on file at Lamont Library, Harvard University); *Colored Mortuary*, Mobile Register, July 10, 1945, at 2.

¹⁵ McCann Aff.

¹⁶ Michael William Mansfield, “A Slide, a Swing, and an Oak Tree”: Maysville, Alabama and the Birth of an African-American Community 257 (Oct. 13, 2005) (Ph.D. dissertation, University of Alabama).

Brookley was a major training and transportation facility employing nearly 17,000 workers, on top of the 40,000 employed at Mobile's two shipyards.¹⁷ As a result of defense industry employment, Mobile's African American population rose over twenty-two percent from 1940-1944.¹⁸ The McCann family would have been part of the 89,000 person "deluge" from rural Alabama, Mississippi and Florida that flooded Mobile in search of defense industry jobs in the early 1940s.¹⁹

The year the McCanns moved to Mobile, racial tensions exploded at the Alabama Drydock and Shipbuilding Company (ADDSCO) shipyard. On May 24, 1943, ADDSCO upgraded twelve African American men as welders in response to pressure from the NAACP and the Fair Employment Practices Commission.²⁰ The following day white workers rioted in protest against the new black employees. Delene Case describes how the "[t]he rioters... assaulted even the least skilled black workers with bricks, pieces of iron and steel, as well as tools such as hammers, wrenches and crowbars."²¹ Though there were no deaths, about fifty people were injured.²² Local papers reported that the riot was sparked by fears that black men would be placed where white women worked, and that they would take skilled jobs from white men.²³

Less than a year later racial tension exploded at Brookley Field, which was Prentiss McCann's place of employment. A repair and modification depot for the Air Force, Brookley Field housed 15,000 soldiers and civilians, who lived and worked in segregated facilities.²⁴

¹⁷ Mansfield, *supra* note 13, at 259.

¹⁸ Mansfield, *supra* note 13, at 265.

¹⁹ *Id.* at 261.

²⁰ Delene Case, "Ain't Gonna Let Nobody Turn Me Around:" The Black Freedom Struggle in Mobile, Alabama 1902-1969 38 (Oct. 26, 2004) (M.A. thesis, University of South Alabama).

²¹ Case, *supra* note 17, at 38.

²² *Id.*

²³ Case, *supra* note 17, at 39.

²⁴ James Albert Burran III, Racial Violence in the South During World War II 201 (Dec. 1977) (Ph.D dissertation, University of Tennessee, Knoxville).

Blacks at Brookley complained about abuse from white military police officers.²⁵ In addition, employees alleged that Brookley Field officials would not elevate African Americans to semi-skilled and skilled positions.²⁶ A year to the day after the ADDSCO riot on May 24, 1944, a white civilian made a rude remark to the female companion of a black soldier, who responded by beating the white civilian.²⁷ The civilian went to military police and lied, claiming that black soldiers had robbed him. In response, military police ordered all black soldiers back to their barracks.²⁸ The military police requested backup, and the result was a two-hour shoot-out between black Brookley employees and white military police.²⁹ As a result of the “Battle of Brookley,” nine black military personnel were convicted of mutiny.³⁰

MAYSVILLE

Maysville, the Mobile neighborhood where Prentiss McCann lived and ultimately died, was a center of African American working class life, culture, and political activity in the 1940s. McCann’s brother-in-law Van Sumlin describes it less charitably as “the Projects.”³¹ Maysville was established in the 1870s when Jonathon P. May, a white former slave owner, founded a neighborhood for local African Americans.³² The neighborhood grew and flourished, becoming home to a “thriving working-class community of shipyard workers and domestics,” who “asserted considerable influence over their own lives, nurturing their own sense of place and time by establishing their own institutions, advancing the community’s sense of collective

²⁵ Burran, *supra* note 21, at 202.

²⁶ Letter from John Leflore and M.J. Jackson, Mobile NAACP, to Byron E. Pickering, Superintendent, Mobile Light and Railroad Company (Aug. 25, 1942) (Letters of the NAACP, Part 26, on file at Lamont Library, Harvard University).

²⁷ Burran, *supra* note 21, at 203.

²⁸ *Id.*

²⁹ *Id.* at 204.

³⁰ Mansfield, *supra* note 13, at 308; Burran, *supra* note 21, at 208.

³¹ Interview with Van Sumlin, in Cecil, Ga. (July 24, 2013).

³² Mansfield, *supra* note 13, at vi.

identity and consciousness through the development of social structures such as schools, churches, and business enterprises.”³³

During World War II, Mobile experienced a massive housing shortage due to the incoming deluge of defense industry workers.³⁴ Many families were forced to live in substandard conditions.³⁵ According to a survey of housing conditions among African American families in Mobile conducted by the Young Women’s Christian Association in 1942, nearly one third of the 3,377 homes surveyed were in deplorable condition.³⁶ Of the homes surveyed, 363 had no running water, 743 had no sewer, and 1,654 had no window screens.³⁷ To alleviate the wartime housing shortage, local and federal officials worked through the Federal Housing Administration to construct sixteen housing projects in Mobile, including two reserved for African American families.³⁸ One of these developments, the “Maysville Homes,” was built in 1942 in Maysville.³⁹ This dormitory style housing consisted of single occupancy units for “unattached workers” and single-family dwellings consisting of two rooms.⁴⁰ When these small apartments proved inadequate for families with small children, a number of one, two, and three bedroom apartments were added.⁴¹ The construction of Maysville Homes forced the city to improve infrastructure in Maysville, adding new sewer lines, water service, and fixing streets.⁴²

³³ *Id.* at vi-vii

³⁴ *Id.* at 261.

³⁵ *Id.* at 261-62.

³⁶ USO Interpretation of The Negro Housing Survey (on file with Dr. David Aslobrook, History Museum of Mobile).

³⁷ *Id.*

³⁸ Mansfield, *supra* note 13, at 273.

³⁹ *Id.* at 275.

⁴⁰ *Id.* at 276-77.

⁴¹ *Id.* at 279.

⁴² *Id.* at 284.

During this period a number of bars, pool halls, and gambling and drinking establishments opened to cater to the neighborhood's influx of war workers.⁴³ These establishments were subject to frequent raids in response to complaints about illegal liquor sales and gambling.⁴⁴ The Midway Club, located at 1600 Dublin St. in Maysville, may have been one such establishment: "Equally troublesome for authorities was a club located immediately across Dublin from the Homes that catered to its residents, especially during the weekend when shift workers, eager to blow off steam, spent their time drinking and carousing."⁴⁵ In one raid in 1944 the police arrested sixteen men in two establishments.⁴⁶ Also in September 1944, a thirty-one year old black man was sentenced to three months in jail and a fine for allegedly shooting a white police officer during a raid.⁴⁷

The McCanns lived at 1526 King Fisher Drive, Apartment A in Mobile, in a wartime rental housing development.⁴⁸ According to the locals, the development was torn down in the seventies to make way for the high school that now occupies the site.

POLICE MISCONDUCT

In addition to the frequent raids on entertainment establishments, the 1940s saw a great deal of police violence against African American residents of Mobile. In 1943 the Mobile Police Department received media attention for killing a twenty-four year old black youth, and for receiving a reprimand from Governor Chauncey Sparks after beating a confession out of two

⁴³ *Id.* at 305-306.

⁴⁴ *Id.* at 306.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 307.

⁴⁸ Prinest (sic) McCann, Honorable Discharge from the Army of the United States (March 23, 1943).

other black youth in a capital rape case.⁴⁹ Also in 1943 there was a conflict between the Mobile Sheriff's Department and a state court judge, Tisdale J. Touart, who had dismissed charges against black men targeted by a racially discriminatory vagrancy law the Sheriff's Department was charged with enforcing.⁵⁰ In the same week as the McCann homicide in 1943, a black woman was raped by a white police officer.⁵¹ In 1946 a white Mobile police officer brutally beat an elderly black man.⁵² In sum, police assaults on black city residents was a common occurrence in Mobile at the time of McCann's death.

Despite the Governor's reprimand of the police in the capital rape case, the state rarely took a strong stance against racialized police misconduct. The frequency of such incidents of racial violence led the Mobile NAACP to call publicly for abolition of police brutality, stating, "[w]e view with apprehension the high homicide rates of negroes in Mobile County and throughout the South, and look with misgivings on the wisdom of the usual leniency in sentences in murder cases involving only members of the colored group."⁵³

District Attorney Carl M. Booth was one reason why the Mobile Police Department could abuse community members with impunity. Booth served as the Mobile District Attorney (D.A.) for twenty-six years, from 1944 to 1970.⁵⁴ The McCann case was not the first time Booth had failed to address police misconduct and brutality: a 1944 article reports on his role in response to complaints by the CIO National Maritime union about the beating and arrest of seamen for no reason by the Mobile Police. The article states that when the Attorney General referred the case

⁴⁹ John LeFlore, "Mobile Cops Kill Youth Fugitive," *The Chicago Defender* (Aug. 7, 1943); John LeFlore, "Ala. Governor Blasts Police Third Degree," *The Chicago Defender* (July 24, 1943).

⁵⁰ John LeFlore, "Judge, Sheriff Clash in Mobile Enforcement of 'Work-Fight' Law," *The Chicago Defender* (Oct. 9, 1943).

⁵¹ John LeFlore, "Mobile Cop Fired for Raping Negro Woman," *The Chicago Defender* (July 7, 1945).

⁵² "Discontinue Case Against Aged Citizen Beaten by Mobile Cop," *The Chicago Defender* (Feb. 22, 1947).

⁵³ "Negroes Stress Equality Theme," *Mobile Register* (Papers of the NAACP, Part 26).

⁵⁴ Telephone Interview with Don Brutkiewicz, former assistant to Mobile County District Attorney Carl M. Booth (June 12, 2013).

to the D.A.'s office "the local official said that his office failed to find any cases which might call for federal intervention."⁵⁵ Booth was also hostile to African American defendants. For example, he opposed a reprieve for a twenty-one year old black youth facing the death penalty for an alleged attack on a white girl in 1947 and he appealed the reversal of a death sentence for a black defendant accused of raping a white woman in 1962.⁵⁶ The *Chicago Defender* reported that Booth, to his credit, did pursue grand jury indictments of Ku Klux Klan members who were active in Mobile in the late 1940s.⁵⁷

Shortly before he became District Attorney, Carl Booth was peripherally involved in a blackmailing scandal with then-Assistant D.A. Bart Chamberlain Jr., whose father was the District Attorney at that time. The scandal involved a prominent Mobile crime boss who managed several gambling establishments in African American neighborhoods.⁵⁸ The younger Chamberlain was indicted for his participation, and though acquitted, he resigned soon after.⁵⁹ Booth went on to replace Chamberlain's father as D.A., a position he held for a quarter century.

MOBILE NAACP

The Mobile chapter of the National Association for the Advancement of Colored People (NAACP) actively organized against racial violence and discrimination in Mobile during World War II. The Mobile branch was founded in 1925, and was led by postal worker and organizer John LeFlore.⁶⁰ Under his leadership, the Mobile NAACP led successful campaigns against job discrimination in the defense industry and the U.S. Postal Service. In addition, the NAACP

⁵⁵ John LeFlore, "Mobile Police Brutality Blasted Again By CIO," *The Chicago Defender* (Jan 29, 1944).

⁵⁶ John LeFlore, "Taylor Case to High Court: Alabama Governor Grants Sixth Reprieve," *The Chicago Defender* (Sep 27, 1947); "Death-Decree Fight is Weighed in Rape," *New York Times* (June 13, 1962).

⁵⁷ Ellie C. Johnson, "Klan Crosses in Mobile," *The Pittsburgh Courier* (Dec. 17, 1949); "Burn Crosses in Ala. Towns," *The Pittsburgh Courier* (Dec. 17, 1949).

⁵⁸ Chip Drago & Chris McFadyen, "Mobile's Valentine's Night Massacre," *Mobile Bay Magazine* (February 1991).

⁵⁹ *Id.*

⁶⁰ History of the Mobile Branch of the NAACP (Letters of the NAACP, Part 26, on file at Lamont Library, Harvard University).

worked to open up Pullman car accommodations on trains for African Americans, led Alabama voter registration drives, and organized against racist violence on city buses.⁶¹ In 1942, thirteen years before the famous Montgomery bus boycott, LeFlore and the Mobile branch organized a “Walk to Work – Walk to Church – Walk to Shop” campaign in Mobile following the slaying of black soldier Henry Williams by a bus driver on a Mobile City Bus.⁶² The NAACP made seven demands of the bus company, five of which were granted, among them the disarming of Mobile bus drivers.⁶³

The bus boycott campaign was ultimately dropped, pointing to a strategy the Mobile NAACP employed in the 1940s. As one commentator observed, “major leaders in the ... NAACP explicitly wanted to keep Mobile peaceful by avoiding the conflicts that other Alabama cities experienced. They preferred to negotiate with city commissioners and businesses owners for improvements for blacks.”⁶⁴ The Mobile NAACP during this period favored progress achieved through legal means.⁶⁵

IV. INCIDENT AT THE MIDWAY

On Saturday evening, July 7, 1945, around 8:45 PM, Prentiss McCann left his home to go to Green’s Fish Market.⁶⁶ On the way to the store he passed his friend Robert Davis, Jr., who would take

⁶¹ Letter from A.S. Chrishon, Chairman of Committee of Arrangements, NAACP, to Roy Wilkins, Administrator, NAACP (Aug. 14, 1950).

⁶² Announcement from Mobile NAACP to the Public about Mass Meeting on Walk to Work Campaign (Aug. 25, 1942) (Papers of the NAACP, Part 26, on file at Lamont Library, Harvard University).

⁶³ Letter from John LeFlore and MJ Jackson, Mobile NAACP, to Byron Pickering, Superintendent, Mobile Light and Railroad (Aug. 26, 1942); “Bus Driver’s Disarmed: Mobile NAACP Wins Big Victory,” *Pittsburgh Courier* (Sep. 12, 1942).

⁶⁴ Case, *supra* note 17, at 8.

⁶⁵ *Id.*

⁶⁶ Rena McCann Aff., July 14, 1945, (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

his wife to the hospital the next day to identify his body.⁶⁷

“Where are you going Jitterbug?” Davis asked.

“I am going up to Greens to get some eggs for the baby,” McCann responded.⁶⁸

McCann kept walking, and soon arrived at the Midway Club, where about twenty to twenty-five men were standing around in the parking lot playing dice.⁶⁹ McCann stopped to observe the game. Shortly thereafter, at 9:00 or 9:30pm, Mobile police officers Melvin Porter and Patrick Gibney drove up to apprehend the gamblers.⁷⁰ In the ensuing chaos, McCann was shot twice in the head by Officer Porter. Robert Davis Jr. heard the shots as he continued on his walk home.⁷¹ After the shooting, McCann was transported by the police to City Hospital where he died shortly after midnight.

THE OFFICERS’ STORY

Officers Porter and Gibney claimed that they shot McCann in self-defense. According to Porter, when the officers drove up:

All the negros [sic] scattered and ran except the negro who had the dice and one other who we learned later to be Prentis [sic] McCann. This negro did not run but came directly at me and I hit him in the face with my fist, causing him to go back about three or four feet. He then started back at me with his right hand in his pocket and I told him twice to stop at the same time stepping back a step or two and when he continued coming I drew my gun and fired twice at him.⁷²

Porter’s statement was affirmed by Officer Gibney.

In the immediate aftermath of the incident Police Chief Dudley McFadyen asked District Attorney Carl M. Booth to conduct an immediate, independent investigation. He also contacted

⁶⁷ Robert Davis Jr. Aff., July 15, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 9.

⁶⁸ *Id.*

⁶⁹ Melvin Porter Aff., July 8, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 3.

⁷⁰ Photograph A, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University); LeFlore, *supra* note 1.

⁷¹ Robert Davis Jr. Aff.

⁷² Melvin Porter Aff., July 8, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 3.

Assistant Coroner Thomas B. Henderson to come and examine the body. D.A. Booth's investigation was comprised of interviews with the two officers and one eyewitness, Garfield Daniels, who was rolling the dice when McCann was shot and assisted the officers in placing McCann in their vehicle for transport to the hospital.⁷³ Daniels, apparently drunk the night of the incident, could not speak to the officers until the next day.⁷⁴ Meanwhile Dr. Henderson made his assessment of the cause of death based only on an examination of the body and a conversation with the two officers.⁷⁵ In his opinion, the self-defense story lined up with his observation of two gunshot wounds and facial bruising on the body.⁷⁶

Because the D.A. and coroner made little effort to gather evidence or interview witnesses who might lend credence to a different narrative, the officers' version of the story was widely accepted. The Mobile Register published an article about the incident on July 10th, which claimed, "Dice-Shooter Threatens Arresting Officer."⁷⁷ Based on Dr. Henderson's assessment, Prentiss McCann's death certificate lists the cause of death as "justifiable homicide."⁷⁸ Ultimately, District Attorney Carl M. Booth chose not to press charges against Officer Porter on the basis of the self-defense story. Despite predictions of a grand jury in the FBI's report on the incident, one was never held.⁷⁹

THE NAACP WITNESSES' STORY

Despite the unqualified acceptance of the Officers' claim of self-defense, there was another version of the story. In the absence of local prosecutorial action, the local NAACP got involved under the leadership of John LeFlore. Approximately one week after Prentiss

⁷³ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 2.

⁷⁴ Garfield Daniels Aff., July 22, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 8.

⁷⁵ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 6.

⁷⁶ *Id.*

⁷⁷ "Negro Is Killed by Mobile Police," *Mobile Register*, July 10, 1945.

⁷⁸ Standard Certificate of Death for Prience (sic) McCann (Alabama Center for Health Statistics, July 9, 1945).

⁷⁹ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 2; Press Register archives show that Porter was never brought before a grand jury.

McCann's death the NAACP began its own investigation. LeFlore and his colleagues obtained statements from nine witnesses and from McCann's nineteen-year-old wife, Rena. These statements painted a very different story about what happened.

Witnesses agreed that two shots were fired from the police vehicle immediately upon stopping, while the officer was still in the vehicle.⁸⁰ The police vehicle may have been unmarked.⁸¹ At the time he was shot, McCann was standing eight to ten feet from the police car with his arms folded, engaged in conversation with another patron.⁸² According to two witnesses and his wife, McCann was not participating in the dice game, nor did he gamble or drink.⁸³ No witnesses mentioned seeing McCann attack Officer Porter in a manner that would justify the self-defense claim. The NAACP affidavits establish that after the shooting, the officer and a "colored man," Garfield Daniels, put McCann in the vehicle and drove away.⁸⁴

The *Mobile Register* article states that the police were "called to scene" of the dice game.⁸⁵ Several witnesses also attest that earlier in the evening, between 7:30 and 8:00 pm, the police vehicle passed for the first time but did not stop, though the illegal gambling was happening earlier as well.⁸⁶ This testimony suggests that McCann found himself in the middle of a typical police raid of a Maysville gambling establishment.

⁸⁰ Willie Bonner Aff., July 15, 1945; Will White Aff., July 12, 1945; Jack Ludgood Aff., July 12, 1945; Sam Hill Aff. July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁸¹ Willie Bonner's affidavit only describes "an automobile." Willie Bonner Aff., July 15, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁸² Photograph C; Willie Bonner Aff., July 15, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁸³ Earnest Jones Aff., July 12, 1945; Garfield Davis Aff., July 12, 1945; Rena McCann Aff., July 15, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁸⁴ York Poellnitz Aff., July 12, 1945; Garfield Daniels Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University). Negro is Killed, *supra* note 72.

⁸⁵ Negro is Killed, *supra* note 72.

⁸⁶ Jake Ludgood Aff., July 15, 1945; Will White Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

The NAACP also included photographs of McCann's injuries in their file, showing two bullet holes in his head, and a gash under his eye as well as a bruised nose and lip.⁸⁷ The notes indicate a suspicion that the bruising was inflicted by the officers on the way to the hospital "in order to say that he 'resisted' them."⁸⁸

Thus, two very different versions of the story of what happened to Prentiss McCann emerged in the aftermath of his death. For Rena McCann, however, all that mattered was that her husband was dead, and she and her three young children were alone. The Mobile Police never reported to Rena McCann that her husband had been killed; instead, she found out the next morning from Robert Davis Jr.⁸⁹ Rena McCann and her children could no longer support themselves in Mobile, and they returned to Waynesboro to live with her parents.

V. THE GREAT HOPE: FEDERAL PROSECUTION OF POLICE BRUTALITY

John LeFlore did two things with the story he assembled from witness testimony. First, he wrote an article about the case for the *Chicago Defender* with the corrected account of the story.⁹⁰ Then he sent the affidavits to Attorney Thurgood Marshall in the national office of the NAACP on July 17. Thurgood Marshall was optimistic that Porter could be prosecuted in federal court under a federal criminal statute whose application had been expanded in an important Supreme Court decision just two months earlier.

⁸⁷ Photograph A, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁸⁸ *Id.*

⁸⁹ Rena McCann Aff., July 14, 1945, (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

⁹⁰ LeFlore, *supra* note 1.

UNITED STATES V. SCREWS

The federal criminal statute now codified as 18 U.S.C. §242 has its roots in the Civil Rights Act of 1866. It allows for criminal prosecution in federal court for the deprivation of an individual's Constitutional rights "under color of law."⁹¹ However, in early interpretations of the statute, it was unclear whether this "color of law" language required a showing that the defendant acted under the authority of a state statute. If the language did so require, an individual could only be criminally prosecuted for violating a victim's constitutional rights in *federal* court if he was following the law and acting in his official capacity.⁹² If the individual acted unlawfully and in doing so violated the victim's rights, he could not be charged under §242.⁹³

The "color of law" provision was clarified and its application expanded in a 1941 Louisiana election fraud case. In *U.S. v. Classic* the court held that:

The alleged acts of appellees were committed in the course of their performance of duties under the Louisiana statute requiring them to count the ballots, to record the result of the count, and to certify the result of the election. Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law.⁹⁴

In other words, an individual could violate 18 U.S.C. §242 (then §52) by *breaking* a law, as long as he was clothed in the authority of the state. Under the *Classic* interpretation, "the phrase refers to official action that *seems* to be lawful and authorized, but turns out not to be."⁹⁵

In May 1945, the Court applied *Classic* to police misconduct. *United States v. Screws* involved the vicious, and ultimately fatal, beating of a prisoner by the sheriff of Baker County, Georgia.⁹⁶ In *Screws* the Court held that the sheriff was acting under color of law for the purpose of federal criminal

⁹¹ Frederick M. Lawrence, *Civil Rights and Criminal Wrongs: The Mens Rea of Federal Civil Rights Crimes*, 67 TUL. L. REV. 2113, 2138 (1993); 18 USC §242 (1948).

⁹² Steven L. Winter, *The Meaning of "Under Color of" Law*, 91 MICH. L. REV. 323, 353 (1992).

⁹³ *Id.*

⁹⁴ *United States v. Screws*, 313 U.S. 299, 325-26 (1941).

⁹⁵ Winter, *supra* note 86, at 324.

⁹⁶ *Screws v. United States*, 325 U.S. 91, 92 (1944).

prosecution because he was acting “in the name and for the State, and [was] clothed with the State’s power,” even though he was violating state law.⁹⁷ The Court stated:

Here the state officers were authorized to make an arrest and to take such steps as were necessary to make the arrest effective. They acted without authority only in the sense that they used excessive force in making the arrest effective. It is clear that under “color” of law means under “pretense of law”.... Acts of officers who undertake to perform their official duties are included whether they hew to the line of their authority or overstep it.⁹⁸

Screws would allow the U.S. government to bring a federal claim against a police officer who violated a victim’s constitutional rights while acting in his capacity as an officer of the state, even if his actions violated state statutes. Thus *Screws* transformed §242 into a potentially powerful tool to combat racially motivated police brutality and misconduct.

However, *Screws* was a double-edged sword. Despite its clarifying definition of “color of law,” it interpreted the term “willful” in the statute to establish a specific intent requirement.⁹⁹ Under this standard, the government would have to prove that the officer *intended* to violate the victim’s constitutional rights in order to successfully prosecute him under §242.¹⁰⁰ In his correspondence with the Department of Justice, Attorney Thurgood Marshall tried to fit the McCann case into the requirements outlined in *Screws* by emphasizing that the officers “willfully shot and killed the deceased” (original emphasis).¹⁰¹ Marshall also omitted an affidavit from York Poellnitz in which Poellnitz states that he overheard Officer Porter say, “I’m sorry it happened. The gun hung up on the door,” while shaking his hand.¹⁰² This statement opened up the possibility that the incident was an accident, in which case the intent requirement would be defeated.

⁹⁷ *Id.* at 110.

⁹⁸ *Id.* at 111.

⁹⁹ *Id.* at 101.

¹⁰⁰ *Id.* at 101.

¹⁰¹ Letter from Thurgood Marshall, NAACP, to Tom Clark, U.S. Dept. of Justice (July 20, 1945) (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

¹⁰² York Poellnitz Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

Despite the specific intent requirement, Marshall felt optimistic. Perhaps he saw the McCann killing as an opportunity to apply the *Screws* holding and further develop it as a tool with which to prosecute police brutality cases.

FEDERAL INVESTIGATION

Attorney Marshall contacted Attorney General Tom Clark on July 20, 1945 with information about the incident and affidavits. Based on the NAACP affidavits, the Department of Justice instructed the FBI to conduct an investigation of the McCann homicide in late July 1945 and to “ascertain the general reputation of the subject and particularly whether he has killed or violently assaulted other Negroes in the course of his duty.”

The FBI re-interviewed the NAACP’s eyewitnesses, and the two sets of testimony differ in significant ways. First, the FBI reports de-emphasize the immediacy of the gunshots. The fact that the shots were fired immediately when the scout car came to a stop in front of the Midway Club is a primary piece of evidence that contradicts the officers’ self-defense story. Jack Ludgood told the NAACP, “I heard two shots at the moment the car stopped,” and Will White who witnessed the events of the evening from Ludgood’s porch across the street, stated, “When the car came to a stop the policeman on the right began firing before getting out of the car.”¹⁰³ The two men modified their statements to the FBI, saying, “just about the time the car stopped I heard two shots.”¹⁰⁴ Sam Hill modified his statement even more. He told the NAACP, “I saw the car when it came to a stop. I heard two shots at the time the car came to a stop.”¹⁰⁵ However, in Hill’s statement to the FBI he did not mention the immediacy of the shots; instead

¹⁰³ Jake Ludgood Aff., July 15, 1945; Will White Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

¹⁰⁴ Jack Ludgood Aff., Aug. 22, 1945; Will White Aff., Aug. 22, 1945; Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 13-14.

¹⁰⁵ Sam Hill Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

he stated that when he looked over after hearing the gunshots, he saw one officer sitting under the steering wheel, and one officer standing outside the car.¹⁰⁶ Hill went on to say that he didn't see the actual shooting but that, "I heard someone say that the police officer had hit the man with his fist before the shooting and I heard others say he didn't hit him but that he shot before the car stopped."¹⁰⁷ Earnest Jones told the NAACP, "I saw the police officer who did the shooting get out of the scout car after the man had been shot," but he modified his statement substantially in his interview with the FBI: "I saw a police car for the first time and an officer standing beside the car...."¹⁰⁸ In sum, the FBI affidavits de-emphasize or negate the fact that shots occurred while the officers were still in the vehicle, which, if true, would defeat their self-defense story.

The FBI also challenged the credibility of the witnesses whose statements about the timing of the shots were most incriminating to the police officers. The FBI report notes that Garfield Daniels, who was standing next to McCann when he was shot, was drunk the night of shooting, and had served time in prison for assault with a knife.¹⁰⁹ After the statement from Willie Bonner which read "As the car drove up and before it came to a stop, I heard two shots fired in quick succession," the FBI noted that Bonner acknowledged being arrested on a number of occasions over fifteen years for disorderly conduct, trespassing, intoxication and vagrancy, and that where he placed the witness was inconsistent with other witness statements.¹¹⁰ The FBI report also noted that Jack Ludgood, his brother Jake, and Will White had an obstructed view from their porch because of a fence.¹¹¹ It seems quite clear that the FBI sought to minimize

¹⁰⁶ Sam Hill Aff., Aug. 21, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 18.

¹⁰⁷ *Id.* at 19.

¹⁰⁸ Earnest Jones Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University); Earnest Jones Aff., Aug. 21, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 17.

¹⁰⁹ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 9.

¹¹⁰ *Id.* at 17.

¹¹¹ *Id.* at 13-15.

reference to the immediacy of the shots, and impeach the credibility of witnesses who nevertheless spoke about the immediacy.

The second difference between the two sets of statements is that the majority of the FBI statements mention Officer Porter shaking his hand after the shots, though no one actually saw Officer Porter hit McCann in self-defense. Indeed, in their FBI statements, Garfield Daniels, Will White, Willie Bonner, and Sam Hill all mention Officer Porter shaking or rubbing his hand “like his right hand hurt him,” after omitting any reference to the hand in their earlier statements to the NAACP.¹¹² If Officer Porter was indeed shaking his hand, it might support the officers’ self-defense story.

In fact, the two NAACP affidavits where the shaking hand appears suggest somewhat different explanations. Earnest Jones told the NAACP that he saw the officer who shot McCann exit the vehicle after shots were fired, and that he was “shaking his hand in what seemed to be a state of excitement.”¹¹³ York Poellnitz, whose affidavit was omitted in the NAACP’s correspondence with the Department of Justice, reads, “I walked toward the man who was shot and the officer came back shaking his hand and said, ‘I’m sorry it happened. The gun hung up in the car door.’”¹¹⁴ Taken together, these two references to the hand in the NAACP affidavits suggest a different reason for the shaking hand. Instead of resulting from a self-defense blow to McCann, the hand injury may have resulted from some activity or malfunction of the gun that occurred while the officers were inside their vehicle.

In addition to re-interviewing the NAACP’s witnesses, the FBI also investigated Officer Porter’s

¹¹² Garfield Daniels Aff., Aug. 22, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 8; Will White Aff., Aug. 22, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 14; Willie Bonner Aff., Aug. 21, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 16; Sam Hill Aff., Aug. 21, 1945, Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 18;

¹¹³ Earnest Jones Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

¹¹⁴ York Poellnitz Aff., July 12, 1945, *Legal File of Prentiss McCann* (Papers of the NAACP, Part 8, on file at Lamont Library, Harvard University).

character. Chief McFadyen stated that Officer Porter was a reliable member of the Police Department and “he had previously encountered no difficulty in handling negroes,” nor had any complaints been filed against him.¹¹⁵

Despite aspects of the witness statements that appear to corroborate the self-defense story, and the alleged good record of Officer Porter, the FBI report contains two pieces of evidence that strongly suggest that their story was fabricated. First, Officer Porter and Officer Gibney’s statements are nearly word-for-word identical, which indicates that they were not given independently from each other. The second piece of evidence comes from Assistant Coroner Thomas B. Henderson’s conversation with the officers after he examined McCann, who was in a coma, on the night of July 7. The examination revealed that McCann had two bullet holes in his head, and a gash under his eye as well as a bruised nose and lip. After leaving the hospital, Dr. Henderson went to speak with Officers Porter and Gibney.

According to the report:

At the time [the officers] revealed to [Dr. Henderson] that they arrested McCann who was participating in a dice game in front of the Midway Club. As they were loading him into the police car he was shot by an accidental discharge. Dr. Henderson told Porter and Gibney they were lying. They then talked between themselves and then told their current account of the shooting.¹¹⁶

Dr. Henderson encouraged the officers to come up with a plausible story that matched the injuries he observed on McCann’s body. The arrest and accidental-discharge story did not fit the description. So the officers made up a story that did, after “talk[ing] between themselves.”

Despite the relatively consistent stories of eyewitnesses and the strong evidence that the police had fabricated the self-defense story, the Department of Justice claimed that the case did not merit prosecution because “none of the witnesses can give a satisfactory account of the occurrences which preceded the death of Prentice (sic) McCann and ... there is no evidence whatsoever sufficient to

¹¹⁵ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 2.

¹¹⁶ Fed. Bureau of Investigation Report on Melvin Porter (Aug. 25, 1945) at 6.

overcome the police officer's defense of self-defense."¹¹⁷ A successful self-defense claim would run afoul of the specific intent requirement of 18 USC §242 as established in *Screws*. The Department of Justice closed the case for lack of federal jurisdiction on October 3, 1945.¹¹⁸ The inadequacy of the federal investigation into McCann's homicide illustrates the failure of *Screws* to fulfill its promises of redress for victims of police brutality, as well as questionable investigative practices of the FBI during this period and the limitations of federal civil rights law.

BEHIND THE NAACP'S STRATEGY

A comparison of the FBI and NAACP affidavits is also instructive in understanding the NAACP Legal Department's strategy with the McCann case. The NAACP was between a rock and a hard place in terms of the legal options available to them. By choosing to omit York Poellnitz's affidavit because of the concern that the accident theory would defeat federal jurisdiction under *Screws*, the NAACP also removed the alternative explanation for Officer Porter's shaking hand. Because no witnesses actually saw Officer Porter hit McCann in self-defense, the shaking hand was the only piece of eyewitness testimony that supported the self-defense story. Without the alternative explanation offered in Poellnitz's affidavit, the FBI could easily claim there was no evidence to overcome the Officer's story.

If the case were tried today, Poellnitz's story of the accidental discharge could support a negligence, excessive force, or wrongful death civil claim in state court. A successful state tort claim could have entitled the McCann family to pecuniary damages, which they desperately needed after McCann's death. However, in 1945 police officers enjoyed nearly complete immunity from tort claims based on misconduct while "acting for the city in its governmental capacity."¹¹⁹ *Birmingham v. Brock* was a civil suit brought by Charles Henderson Brock, a (white) prisoner, against the City of Birmingham

¹¹⁷ Letter from Director, Federal Bureau of Investigation, to Theron L. Caudle, Assistant Attorney General (Oct. 3, 1945).

¹¹⁸ *Id.*

¹¹⁹ *Birmingham v. Brock*, 242 Ala. 382, 385, 6 So. 2d 499, 1942 Ala. LEXIS 64 (Ala. 1942).

after he was shot by a police officer while trying to escape hard labor on a city street.¹²⁰ The court held for the City, affirming an earlier holding in the 1926 case *Hillman v. City of Anniston* that, “under the general principle of immunity of government agencies from liability for the torts of its officers, there is no liability for the negligence or wrongful act of police officers in arresting or guarding prisoners.”¹²¹ The rationale the court used to support its decision that denying immunity for police officers against civil claims based on negligence and misconduct would incentivize criminal activity. Referring back to the facts of the case, the court stated, “[a]s is well argued, to hold otherwise would be to encourage the convict to escape. If he makes good, he gains his liberty. If in his recapture injury results by reason of any wrongful or negligent conduct of the officer, the city must respond in damages, and the convict thus profit by his own initial wrong.”¹²² The court observed that if the doctrine of immunity from liability was losing favor, it was the job of the legislature to change it.¹²³

Brock perhaps explains why the officers’ first story to Assistant Coroner Henderson included an accidental discharge during an arrest: police officers enjoyed total immunity from civil liability for negligence during the execution of their law enforcement duties, specifically during the arrest or guarding of prisoners. Although a successful state tort claim would have had a more significant and positive impact on the McCann family than a criminal prosecution, it was not an option in 1945. Therefore, the NAACP made a strategic decision to pursue a criminal prosecution in federal court in order to test the waters after *Screws*. The symbolic value and legal precedent set by a criminal prosecution of a police officer, especially a successful one, would have been enormous for African American communities across Alabama and the country.

However, much like *Screws*, York Poellnitz’s mysterious missing affidavit, with its problematic

¹²⁰ *Id.* at 383.

¹²¹ *Id.* at 384.

¹²² *Id.*

¹²³ *Id.* at 385.

“accidental discharge” story, was a double-edged sword. Including Poellnitz’s affidavit would destroy the possibility of a federal criminal prosecution because if the discharge was, in fact, accidental, it would defeat the intent requirement for jurisdiction under *Screws*. However including the affidavit would provide the necessary alternative explanation for Officer Porter’s “shaking hand” to counter the self-defense story. Thus, the NAACP’s decision to exclude the affidavit made possible the federal investigation, and simultaneously ensured its failure.

Ultimately, there was no punishment for Officer Porter, no accountability for the Mobile Police Department, and no compensation for McCann’s young and financially destitute family. The failure of the federal government to pursue a prosecution illustrates the deeply institutionalized racism in the criminal legal system at the time, from the Mobile County District Attorney’s office to the Federal Bureau of Investigation.

Officer Melvin (“Malvin”) Porter was still listed as a police officer in the 1946 City Guide, but by 1947 he appears to have moved from Mobile. He passed away in 1975 at age 60 in Monroeville, Alabama. He was never punished for the homicide of Prentiss McCann.

Rena McCann and her family never returned to Mobile. As Claudine McCann put it, “[Prentiss] hadn’t been working long there, at the base. So there was my mom stuck with three babies, no job, just trying to support [us], and there was no social security or anything to come in each month from his death, you know? So she had to depend on her dad and mom until she remarried.”¹²⁴ Rena McCann (now Andrew) never talks about what happened to her first husband, even with her own children. When asked, she responds, “I can’t tell you anything, because I don’t know anything.”¹²⁵

¹²⁴ Interview with Claude and Claudine McCann, in Cecil, Ga. (July 24, 2013).

¹²⁵ Interview with Rena Andrew, in Valdosta, Ga. (July 24, 2013).

VI. CONCLUSION

Claude McCann does not remember his father, Prentiss. He was only eight months old when his father was killed on an ill-fated trip to the grocery store to buy him some milk.¹²⁶ But he does remember when Emmett Till was murdered. He would have been eleven years old in 1955. When asked what Till's death makes him think about, he doesn't mention the murder of his father a decade earlier. "It makes me think about Trayvon Martin," he says.¹²⁷

Perhaps the greatest tragedy of Prentiss McCann's homicide in 1945 was not the destruction of young life, or the impact on the McCann family, or the impunity of the police officers, or the failure of the legal system to provide remedies to victims and survivors of racialized police violence. The greatest tragedy is that, nearly seventy years later, law enforcement violence continues to devastate communities of color. A 2012 report by the Malcolm X Grassroots Movement (MXGM), a grassroots organization that works to defend human rights and promote self-determination in communities of color, illustrates the extent of the problem. According to MXGM's data, a black person in America is killed by a police officer, security guard, or vigilante in an extra-judicial killing every twenty-eight hours.¹²⁸ Forty-seven percent of the time police justified the shooting by saying that they "felt threatened" (as opposed to thirteen percent of the time when the suspect actually fired a weapon).¹²⁹ Only four percent of officers who killed black people in 2012 were even charged with a crime.¹³⁰ Like Melvin Porter, almost all police officers who kill black people are never held accountable for their crimes of violence.

The death of Prentiss McCann, and the countless similar extra-judicial killings that occurred in

¹²⁶ Interview with Claude and Claudine McCann, in Cecil, Ga. (July 24, 2013).

¹²⁷ Telephone Interview with Claude McCann (July 11, 2013).

¹²⁸ Malcolm X Grassroots Movement, *Operation Ghetto Storm: 2012 Annual Report on the Extrajudicial Killings of 313 Black People by Police, Security Guards, and Vigilantes* 12 (2013), <http://mxgm.org/wp-content/uploads/2013/04/Operation-Ghetto-Storm.pdf>

¹²⁹ *Id.* at 25.

¹³⁰ Malcolm X Grassroots Movement, *Update to Operation Ghetto Storm* (July 19, 2013) <http://mxgm.org/wp-content/uploads/2013/07/ImpunityTable-7.19.13.pdf>

the 1940s, constitute a missing link in Americans' cultural narrative of racial violence. The decline in incidents of racially-motivated mob violence in the late 1930s did not indicate increased acceptance, or result in increased safety, for black communities. Rather, changing labor needs during the War and migration of black families caused a shift in racial control tactics, and law enforcement violence replaced lynchings as the most effective method of enforcing white supremacy.¹³¹ As social movements and legal advances of the 1950s and 1960s transformed American society in deeply significant ways, racial violence was further transformed. Prentiss McCann's death, the NAACP's efforts to create legal tools to prosecute police misconduct, and the ultimate failure of local and federal official to hold the Mobile Police Department accountable, are evidence of how deeply racism is institutionalized within the criminal legal system, both then and now.



It is July 2013, and this author is visiting Claude and Claudine McCann in Cecil, Georgia. Sixty-eight summers ago their father was slain by police officers in Mobile. At the end of the interview, Claude pulls out a photograph of him and his twin sister as toddlers. They stare, wide-eyed into the camera. She is wearing a white dress, and has a tiny white bow in her hair. He wears a white jumper and white shoes. Claude and Claudine chuckle, and then the mood turns somber.

He points to the photograph. "This is who got left behind," he says.

¹³¹ Melissa Nobles, Remarks at Legislative Briefing on the Civil Rights and Restorative Justice Project at Birmingham City Hall (July 25, 2013).