

# **Timothy Hood:**

*Reflections on a Soldier's Story and  
a Quest for Government Documents*



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## I. INTRODUCTION

Timothy Hood died fighting Jim Crow and his emissaries aboard an Alabama streetcar, and yet his name, like the names of many other beautiful black men, women, and children on the front lines of the struggle for civil rights, never made it into the history books. Murdered for moving a Jim Crow sign two seats closer to the front of the streetcar where only two white passengers were sitting, Hood paid the ultimate price for trying to relieve congestion. Instead, his act was taken as an affront to the Southern way of life.

To ride comfortably aboard the streetcar, which he paid to board like everyone else, Hood moved the sign separating the seating area for whites from the seating area for blacks. It was a simple act, which made no distinction between the passengers, yet it brought down upon Timothy Hood the full fury of white supremacy. He was immediately beaten and shot by the conductor, William R. Weeks, and was killed by Police Chief G.B. Fant, who shot him in the head. Three bullets including the one from Fant's gun, were later found in Hood's body by the Jefferson County Coroner, T.J. McCollum, who ruled the shooting a "justifiable homicide."

Discontented with the handling of the Hood case, the community organized to demand justice. But despite the efforts of community leaders, like Dr. J.M. Byas, and organizations, including the Southern Negro Youth Congress (SNYC), the Alabama Veteran's Association, and the National Association for the Advancement of Colored People (NAACP), Timothy Hood's name faded from our nation's *Civil Rights Memory*<sup>1</sup>.

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<sup>1</sup> Romano, Renee C., *Narratives of Redemption: The Birmingham Church Bombing Trials and the Construction of Civil Rights Memory, in The Civil Rights Movement in American History* 96 (Renee C. Romano & Leigh Raiford eds. 2006).

*Civil Rights Memory* is how we as a society remember the Civil Rights Era, according to Renee C. Romano. She points out that there are often competing versions of history, alternative interpretations of events long past, and she cites the 1977, 2001, and 2002 Birmingham church bombing trials as evidence of the ways in which “past events are shaped and given meaning according to current beliefs, values, and political desires.” Professor Romano argues that “By focusing on those responsible for the church bombing as individual racist men who are now archaic symbols of a time long gone, the trials suggest[ed] that racism is a thing of the past and that whites’ racial attitudes have changed dramatically from the 1960s.” This version of history “...emphasizes how much has changed since the civil rights era and showcases the ultimate victory of justice within the American legal system.” She contrasts the views of Martin Luther King Jr., “...who held the entire social and political structure of Birmingham responsible for the bombings” with the stance of Albert Boutwell, Birmingham’s mayor, who insisted on the city’s innocence. These competing interpretations of how to think about the Birmingham church bombings played a crucial role in enshrining Boutwell’s version of the past into the historical record. The mayor’s version ‘fixes up’ history by making what was not necessarily viewed as true in 1963 into the ‘popular’ truth today.” Thus, if society continues to view racial violence of the Civil Rights Era as the actions of “individual racist men,” the murder of Timothy Hood and countless other incidents of racial violence, which, collectively, evidence patterns and practices that denied equal rights to black citizens, will remain lost from our “collective memory.”

Uncovering the truth about cases like Timothy Hood’s murder is essential to achieving true reconciliation for the crimes of the past. Without the truth, true retractive

justice and reconciliation can not be achieved. The Civil Rights & Restorative Justice Project (CRRJ) at Northeastern University School of Law, under the direction of Professor Margaret A. Burnham, has investigated the death of marine veteran Timothy Hood by researching national, local, and historical black newspapers, government and non-governmental organization archives, including Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and National Association of the Advancement of Colored People (NAACP) files, as well as through conducting interviews with friends and family of Timothy Hood.

It is my hope that, through the CRRJ Project, Timothy Hood's story, the story of a soldier who returned home from a war overseas, only to fight one at home, can be told in a way that honors his life and legacy. In recognition of the pain, the trauma and heartache that his family and community experienced and lives with to this day, it is with a deep sense of pride and a heavy heart, that I tell the story of U.S. Marine veteran Timothy Hood, who had been honorably discharged<sup>2</sup> from service.

## **II. THE DEATH OF TIMOTHY HOOD**

On the night of February 8, 1946, at around 10:30 pm<sup>3</sup>, Timothy Hood was arrested and shot to death<sup>4</sup> by Police Chief G.B. Fant<sup>5</sup> in Bessemer, Alabama<sup>6</sup> soon after

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<sup>2</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*.

<sup>3</sup> "The trouble occurred about 10:30 o'clock last night on the Bessemer line at Dartmouth Avenue and 27<sup>th</sup> Street, Chief Fant declared." LeMay, Francis M., Ex-Marine is Slain, Motorman Injured in Streetcar Row: Finding of Justifiable Homicide Ruled in Shooting of Negro by Police Chief; Streetcar Employe[e] Has Injuries, *Birmingham News*, February 9, 1946.

<sup>4</sup> Standard Certificate of Death of Timothy Hood, Registrar's No. 373301 (February 8, 1946), Bessemer, Jefferson County, State of Alabama, Alabama Center for Health Statistics. The Standard Certificate of Death for Timothy Hood identifies the "Immediate cause of death" as "Gunshot wounds of head and left side. Due to (Homicide)."

<sup>5</sup> Year: 1940; Census, Place: *Brighton, Jefferson, Alabama*; Roll: *T627\_45*; Page: *1A*; Enumeration District: *37-147*. Line 13, column 28, of the 1940 United States Federal Census lists "Policeman" as the

he moved a “Jim Crow” sign on a streetcar<sup>7</sup> <sup>8</sup> Hood reportedly moved the sign that separated whites from blacks shortly after he boarded the streetcar<sup>9</sup> at 23<sup>rd</sup> or 24<sup>th</sup> street in Bessemer.<sup>10</sup> According to testimony from streetcar conductor William R. Weeks<sup>11</sup> in the *Birmingham News*, Hood rode the streetcar for about four blocks before he stood up and removed the seat marker, placing it about two seats closer to the front of the streetcar where two white passengers were sitting at the time.<sup>12</sup> Hood’s family maintains he moved the sign to relieve congestion on the busy streetcar.<sup>13</sup> According to Weeks, when he told Hood to put the sign back, he refused<sup>14</sup> and said, “Move it back yourself.”<sup>15</sup> Weeks

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occupation of “Fant, G.B.” The name is also a match with the name documented in Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R... *The Chicago Defender (National edition) (1921-1967)*; Feb 23, 1946; ProQuest Historical Newspapers: Chicago Defender (1910-1975) pg. 1.

<sup>6</sup> The “Alabama, Deaths, and Burials Index” lists Bessemer, Alabama as Timothy Hood’s place of death. However, *The Chicago Defender* article “Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R...” cites Brighton, Alabama as Mr. Hood’s place of death. See Ancestry.com. *Alabama, Deaths and Burials Index, 1881-1974* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2011. Original data: "Alabama Deaths and Burials, 1881–1952." Index. FamilySearch, Salt Lake City, Utah, 2009, 2010. Index entries derived from digital copies of original and compiled records; See also Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R... *The Chicago Defender (National edition) (1921-1967)*; Feb 23, 1946; ProQuest Historical Newspapers: Chicago Defender (1910-1975) pg. 1.

<sup>7</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R... *The Chicago Defender (National edition) (1921-1967)*; Feb 23, 1946; ProQuest Historical Newspapers: Chicago Defender (1910-1975) pg. 1.

<sup>8</sup> Mr. Gaskins was told as a child by his mother, who was alive at the time of Timothy Hood’s murder, that his Uncle Tim, was “shot for moving the [Jim Crow] sign to relieve congestion” on the busy streetcar. Mr. Gaskins was born after his uncle was murdered and never had a chance to meet him or “hear his voice.” Phone Interview with nephew of Timothy Hood, Henry Howard Gaskins, Jr., September 28, 2012.

<sup>9</sup> Norris, Michelle. *The Grace of Silence: A Family Memoir*: Vintage Books, 127 (2011).

<sup>10</sup> LeMay, Francis M., *Supra*.

<sup>11</sup> Year: 1930; Census Place: *Birmingham, Jefferson, Alabama*; Roll: 23; Page: 5B; Enumeration District: 8; Image: 86.0; FHL microfilm: 2339758. The 1930 US Federal Census lists William R. Weeks’s occupation as “Conductor Streetcar.”

<sup>12</sup> LeMay, Francis M., *Supra*.

<sup>13</sup> Mr. Gaskins was told as a child by his mother who alive at the time of Timothy Hood’s murder, that his uncle, Tim, was “shot for moving the [Jim Crow] sign to relieve congestion” on the busy streetcar. Phone Interview with Nephew of Timothy Hood, Henry Howard Gaskins, Jr., September 28, 2012.

<sup>14</sup> Norris, Michelle, *Supra*.

<sup>15</sup> LeMay, Francis M., *Supra*.

claims he then told Hood that he would give him his fare back, refunded the seven cents, and told him to get off of the streetcar.<sup>16</sup>

After the conductor went to the front of the streetcar to open the rear doors, Weeks claims that Hood walked up to him and said, “I’m going out the front door and you’re going with me.”<sup>17</sup> According to Weeks, Hood reached for his back pocket and then Weeks reached for his gun.<sup>18</sup> Weeks told reporters of the *Birmingham News* that he held the gun by the barrel, “hoping to bluff the Negro, but as he came nearer...[I] swung the gun, striking him... above the eye.”<sup>19</sup> The next thing he knew, Weeks said, he and Hood were on the ground fighting.<sup>20</sup>

During the altercation, Weeks fired five shots, but Hood managed to escape.<sup>21</sup> Responding to the sound of gunshots outside of his home in Brighton near where the Bessemer line streetcar runs,<sup>22</sup> Police Chief Fant rushed to the scene where he found Weeks on the ground.<sup>23</sup> One report states that Fant claimed Weeks looked as if he had been “shot or wounded.”<sup>24</sup> However, when Weeks arrived at St. Vincent’s Hospital, they assessed his condition as “fair,” determining that he had sustained only minor head injuries in the scuffle.<sup>25</sup>

Timothy Hood however, had been badly injured in the fight and had not made it very far from the scene, as Fant was able to track him down to a house nearby where he

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<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*. Weeks admitted to firing five shots at Hood according to *The Chicago Defender’s* report.

<sup>22</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*. from reports in both the *Birmingham News* and *The Chicago Defender*

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> LeMay, Francis M., *Supra*.

laid wounded.<sup>26</sup> His condition was critical.<sup>27</sup> Hood, it was later found, had been shot by Weeks<sup>28</sup> after he had struck Hood with the butt of his gun.<sup>29</sup>

Severely wounded, Hood was arrested<sup>30</sup> and placed in the back of a Bessemer police car where he was shot in the head.<sup>31</sup> Chief Fant claimed Hood made a move as if reaching for a gun when he asked him if he had shot the conductor.<sup>32</sup> It was at this point that the police chief shot Hood, “once in the head, killing him instantly.”<sup>33</sup> “Three bullets, one from Fant’s gun, were later found in Hood’s body.”<sup>34</sup> The shooting was ruled a “justifiable homicide”<sup>35</sup> by the Jefferson County Coroner T.J. McCollum.<sup>36</sup>

### III. THE COMMUNITY RESPONSE

Discontented with the way local law enforcement was handling the Hood case, the community organized to demand that justice be done. In a letter to the editor of the *Birmingham News*, dated February 12, 1946, Dr. J.M. Byas, a prominent figure and dentist in the black community in Birmingham, expressed outrage over the unequal application of the law in the Hood case, calling on the South to “promote equal and exact

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<sup>26</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*.

<sup>27</sup> *Id.*; See also, Norris, Michelle. *Supra*. (“While Timothy sat in the back of the police car, he was shot in the head by the police chief.”)

<sup>28</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*.

<sup>29</sup> LeMay, Francis M., *Supra*.

<sup>30</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*.

<sup>31</sup> Chief Is Exonerated Of Death Of Negro In Finding By Coroner, *Birmingham News*, February 10, 1946, Page 10A, Column 4.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Ex-Marine Slain For Moving Jim Crow Sign: Alabama Police Chief Fires Fatal Bullet Claim Veteran R..., *Supra*.

<sup>35</sup> *Id.*

<sup>36</sup> Standard Certificate of Death of Timothy Hood, *Supra*.

The name of the coroner on the Standard Certificate of Death of Timothy Hood is written as “T.J. McCollum.”



justice and democracy for all regardless of race.”<sup>37</sup>

Dear Sir:

Courts have been set up in our city and our state to determine those guilty of law-breaking and to sentence the guilty to just punishment. Yet, a Negro Marine veteran, Timothy Hood was not given the opportunity to appear before the court. He was shot down in the streets after arrest by an officer of the law, Chief E.B. Fant. The officer in this case took the rights of the court and the judge into his own hands. That the Jefferson County solicitor and Coroner T.J. McCollum agreed that this was a case of “justifiable homicide” illustrates once more the unequal justice with which Negroes are treated in Alabama.

A few days ago, Senator John Bankhead told the Nation that the Negro people of the South are content and satisfied with conditions in the South. Can any Negro be content and satisfied when he knows that officers of the law have no more respect for his life than this. It is about time for those who dislike adverse criticism of the South to do something to promote equal and exact justice and democracy for all regardless of race.

Sincerely yours,

Dr. J.M. Byas<sup>38</sup>

On March 12, 1946, the Alabama Veterans Association, formed by members of the SNYC to fight for the rights of black veterans, pledged to bring the “police killers of Timothy Hood” to trial.<sup>39</sup> The following Sunday, March 17, 1946, 1200 members of the NAACP gathered at New Zion Baptist Church<sup>40</sup> to urge the U.S. Department of Justice to

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<sup>37</sup> J.M. Byas to Editor, Birmingham News, February 12, 1946, Southern Negro Youth Congress Papers Box 10; Manuscript Division, MSRC.

<sup>38</sup> Id.

<sup>39</sup> Press Release: Alabama Veterans Organize, March 12, 1946, Southern Negro Youth Congress Papers Box 10; Manuscript Division, MSRC, p. 2.

<sup>40</sup> Urge FBI Probe of Ex-marine’s Slaying, Classified Ad 2 -- No Title, *The Pittsburgh Courier* (1911-1950); Mar 23, 1946; ProQuest Historical Newspapers: Pittsburgh Courier (1911-2002), pg. 18.

investigate the “slaying of Timothy Hood.”<sup>41</sup> During the mass meeting, Reverend R.T. Thomas demanded that racial discrimination be put to an end and that black people in the South be granted justice before the law.<sup>42</sup> Lorenzo Wyatt, a college roommate of Timothy Hood, and Malcolm C. Dodd of the Southern Conference for Human Welfare also spoke at the meeting.<sup>43</sup> Echoing Reverend Thomas’ call for justice, both Wyatt and Dodd expressed “deep indignation” over the coroner’s “justifiable homicide” determination that “exonerated Fant of the killing.”<sup>44</sup>

However, based on information gathered through the CRRJ investigation to date, it appears that his killing has gone largely unpunished, despite the community’s efforts to bring justice for him and his family,

#### **IV. THE CRRJ INVESTIGATION**

On September 11, 2012, I began the CRRJ investigation into the events surrounding the death of Timothy Hood in February 1946. At the time, I was only aware that Hood was shot by a streetcar conductor in Bessemer, Alabama because he objected to a “Jim Crow” sign on the streetcar. I also knew that not long afterward he was shot and killed by an officer of the law. As far as I knew, the rest of the events leading up to his death, ruled a “justifiable homicide” by the coroner, were lost to history.

However, days later, I was able to find a way to contact Timothy Hood’s nephew, Henry Howard Gaskins, Jr., who had left online comments<sup>45</sup> in the review section of

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<sup>41</sup> 1200 at NAACP Meeting Ask U.S. to Probe Killing of Marine, *Afro-American (1893-1988)*; Mar 23, 1946; ProQuest Historical Newspapers: The Baltimore Afro-American (1893-1988), pg. 9.

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> “Timothy Hood was my only uncle on my mother's side of the family. There were two sisters Peacie Hood (Gaskins, McLemore), and Theodora Hood (Royal,Lewis). He was killed as a result of a dispute

Black Movements in America.<sup>46</sup> When I read Mr. Gaskins' comments mentioning his uncle's death, I was at once relieved to know that Timothy Hood's story had not fallen through the pages of history. But I was also saddened to know that his nephew never had the chance to meet him or "hear... [his uncle's] voice."<sup>47</sup>

Before I reached out to Mr. Gaskins, I decided to gather more information on his uncle's death and searched through old newspaper articles from 1946. I wanted to make sure I could provide him with more than what he presumably knew, based on his online comments. After an extensive search of newspaper articles from black newspapers of that day, I found articles in *The Chicago Defender* and *The Pittsburgh Courier* that helped me piece together more of what happened leading up to Hood's death. He had recently returned home from service after being honorably discharged from the U.S. Marines. Timothy Hood had grown up in a town where the intersection of white and black lives constantly reminded him of the repression and terror black people experienced day to day. His new experience in the Marines, which were on the march toward desegregation long before civil society, offered him the promise of an end to racial discrimination, a promise that must have given hope to him and changed his expectations about the old Jim Crow customs in his hometown.

After boarding the Alabama streetcar that fateful Friday, February 8, 1946, Hood reportedly moved the "Jim Crow" sign, disrupting the Southern order of segregation. Whether for reasons of wanting to relieve congestion on the streetcar or in defiance of

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about moving the sign up ,to relieve congestion, that separated the black and white sections on a street car. He was shot in the head by a police officer. I never even got the chance to hear my uncle's voice. Henry Howard Gaskins, Jr." *Black Movements in America* - \*Robinson - Google Books, *Supra*.

<sup>46</sup> **Black Movements in America** by Cedric J. Robins, a Professor in the Department of Black Studies and the Department of Political Science at the University of California, Santa Barbara.

<sup>47</sup> *Black Movements in America* - \*Robinson - Google Books, *Supra*.

Jim Crow, his decision to move that sign separating whites from blacks was taken as a threat by the streetcar conductor, W.R. Weeks, who admitted to firing five shots at Hood.<sup>48</sup> This drew the attention of Police Chief G.B. Fant who claimed to have heard the gunshots from his home near the streetcar line.<sup>49</sup>

Fleeing for his life, Timothy Hood allegedly ran from the scene to a house nearby where he was found, wounded on the ground, by Fant.<sup>50</sup> Hood was reportedly arrested and placed in the back of Chief Fant's police car. There he was shot in the head at point blank range, allegedly because Fant believed he was reaching for a weapon.<sup>51</sup> On examination, the Jefferson County Coroner, T.J. McCollum, found three bullets in Hood's body.<sup>52</sup> One of the bullets was from Fant's gun,

Discovering for the first time, the graphic nature of his death and the names of those involved, I turned the focus of my investigation on filing Freedom of Information Act (FOIA) requests for Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) files to find out whether there had been any investigations concerning the events surrounding Hood's death and/or criminal prosecutions of any of the individuals involved in his shooting.

After I filed the FOIA requests, I decided it was time to contact Mr. Gaskins to notify him of the CRRJ Project's ongoing investigation and to ask if he had any further information on his uncle's death. I felt confident that I had new information to present to Mr. Gaskins concerning the death of his uncle. I also wanted to tell Mr. Gaskins about the

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<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> Id.

upcoming event that CRRJ was planning at Northeastern University School of Law to honor black servicemen on Martin Luther King Day.

Before contacting Mr. Gaskins, I wanted to know exactly how CRRJ might be able to bring justice for Timothy Hood and his family. I felt that I had a clearer sense of how CRRJ might work toward remediating the wrongs that had been done to Timothy Hood, his family, and the community. Within days of my email, Mr. Gaskins responded to say that he was interested in working with the CRRJ Project and eager to help..

On September 28, 2012, Mr. Gaskins, Professor Margaret Burnham, the head of the CRRJ Project, and I spoke on a conference call about the work that the CRRJ Project does. We talked about the investigation and Mr. Gaskins' interest in finding out the truth. We learned that everyone in Timothy Hood's family who was alive at the time of his death had long since passed on; our investigation would have to rely on other sources of information. Mr. Gaskins told us that this was the first time he had heard about the details of the events surrounding the death of his uncle. It was heartening to know that the work we had already done was having a meaningful impact on Mr. Gaskins by bringing to light what America's dark history of racial violence had kept from sight for far too long.

After the phone conference with Mr. Gaskins, I was left with a sense of hope in the power of the law to bring about change. I knew that the law had originally failed Timothy Hood, his family, and his community in 1946, but I felt that, despite these failings, our work, could be the beginning of a new chapter in Hood's story. This could be a time when justice was restored.

Taking my newfound hope with me, I searched through the papers of the National Association for the Advancement of Colored People (N.A.A.C.P.) and the Department of

Justice files on civil rights, at Harvard University's Lamont Library.<sup>53</sup> I contacted local historical societies and libraries to see if they had any information about the events surrounding the death of Timothy Hood. Although not every new lead produced the results, I felt I was getting closer to finding out the truth and finding a path to justice for Timothy Hood. With each new find, I refocused my investigation and crossed off dead-ended research leads. For example, once I had found all of the articles from the historical black newspapers available to me as student at Northeastern University through *ProQuest*, I moved on to search for articles in local newspapers in Alabama, including the *Birmingham News*. Although I could not travel to Bessemer to conduct the research myself, I was still able to obtain several local newspaper articles thanks to an Alabama-based investigator.

## **VI. STATE ROADBLOCKS IN ACCESSING RECORDS**

I was not always so fortunate in the search for official documents related to Timothy Hood's death. When I called the Records Unit of the Jefferson County Sheriff's Department, hoping to obtain police records related to the shooting of Timothy Hood, I was told the Records Unit did not have those records. The representative from the Records Unit told me that after 10 years the records would have been transferred to Archives, and, after 25 years, they would have been destroyed. I said that I was unaware of the policy of disposing of the records after 25 years, and explained that the Alabama state government website says that records of this nature are supposed to be retained for

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<sup>53</sup> Papers of the NAACP and the Department of Justice Classified Subject Files on Civil Rights, 1914-1949, Lamont Library at Harvard University.

80 years.<sup>54</sup> She repeated what she had told me and stated that such records must be subpoenaed, reiterating that the Records Unit would not have these records, and ending our conversation.

Although this experience came as an upset, I thought about the progress of the investigation, which had already offered not only setbacks and false starts, but also great strides and small victories. I'd found pertinent information by searching through online databases, and reviewing microfilm at Harvard's Lamont Library, and seeking local newspapers through investigators in Alabama. My request for documents from the Jefferson County Courthouse was only a temporary roadblock. I was determined not to let the Records Unit stop me. I knew, one way or another, I was going to get whatever documents were available. Putting the experience in perspective, I recalled that, on several occasions, what could have been the end of the investigation instead turned out to be the closing of one door, and the opening of another. This was the case when I found Timothy Hood's date of death and requested his death certificate. The death certificate allowed me to submit a FOIA request for DOJ and FBI files, since I was able to provide the proof of death documentation necessary for the DOJ and FBI to review my request.

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<sup>54</sup> **Special Inquiry Investigation Records and Death Investigations Case Files.** These files are created in the course of an investigation dealing with a death or other special case such as shootings involving law enforcement personnel. The case files are microfilmed upon final disposition in court or due to the case being unsolved. The investigation records and case files are retained 80 years due to the possibility that new leads may be developed on a cold or unresolved case, the use of DNA to show innocence, and the possibility of historical value. After the retention period has expired, the records should be examined for possible historical value by the Department of Archives and History prior to destruction. Historical cases would include high profile investigations...

**Criminal Case Files (not death or special).** Criminal Case Files are created in the course of an investigation of a crime. Older cases are also in microfiche. Newer cases are in an automated digital database. The paper copies are maintained until final judicial action because it is sometimes necessary to go back to the paper file. The microfiche and automated records are maintained 80 years."

Alabama Department of Public Safety: Functional Analysis & Records Disposition Authority, Alabama Department of Public Safety, P. 2-3, <http://www.archives.alabama.gov/officials/rdas/PublicSa.pdf> [last visited October 25, 2012].

After my conversation with representative at the Records Unit of the Jefferson County Sheriff's Department, I spoke with Professor Burnham to see what next steps I should take in the investigation. She advised me to prepare an affidavit, providing an account of the documents I was requesting, explaining why I was requesting these documents, listing the roadblocks I encountered in requesting the documents, and describing how those roadblocks hindered the investigation of Timothy Hood's death. Professor Burnham explained that the affidavit could be used to help us lobby for changes in the public records retention policy in Jefferson County.

Once I had completed the affidavit, I turned my attention to obtaining articles from local newspapers in Alabama through the investigator that Ibinabo "Ib" Kolesho, Research Assistant to Professor Burnham, had hired. Within days, the investigator was able to find three articles from the *Birmingham News*, which provided even more information about Timothy Hood's death than I was able to gather from the national newspapers.

## **VI. LEGAL ANALYSIS AND OPTIONS FOR ACTION**

The Hood case represents a prime example of the failings of the American legal system from the Civil Rights Era and continuing to this very day. From the Jefferson County Coroner T.J. McCollum's ruling that the shooting was a "justifiable homicide," which exonerated Police Chief Fant, right up to the State of Alabama's policy on the retention of public records and the current process for obtaining these records, if they are available at all, the legal system makes it difficult for the true reconciliation of past crimes, and incidents of civil rights violence that occurred before the 1970s.



To begin repairing the damage that has been wrought by racial violence in this country, advocates for restorative justice must press forward to open up channels through which grievances for past crimes that the legal system is currently not equipped or designed to resolve. States like Alabama must engage in the difficult process of truth and reconciliation for the benefit of American society. For the light of truth to shine on the darkness that has allowed our society to ignore many injustices, legislative action must be taken in order to provide legal advocates with access to the documents and records that are essential to righting the old wrongs.

One action to open avenues for redressing old civil rights crimes like the murder of Timothy Hood, could include reforming the State of Alabama's public records retention policies and also the process for obtaining such records. However, even if progressive records reforms were put into place, there is little that can be done about records which have already been destroyed. When records of crimes and law enforcement investigations do not exist because an investigation never took place due to government inaction, options for restorative justice are even more limited. This is why the focus of this particular reform effort should be tailored to streamlining the process for requesting public records in order to make information about civil rights violence more accessible to investigators and advocates of restorative justice. In addition, going forward, efforts should be made to ensure that records of such investigations are properly kept.

Under Section 41 of the Code of Alabama, the State or Local Government Records Commission has the power, by recommendation and consent, to destroy or dispose of any public records, which, on the advice and recommendation of the custodian

of those records, is deemed to have no significance, importance, or value.<sup>55</sup> This includes any books, papers, newspapers, files, printed books, manuscripts, tapes or other public records.<sup>56</sup>

Pursuant to the Code of Alabama, the State and Local Government Records Commission are authorized and empowered to make any orders, rules, or regulations necessary to carry out the provision on the disposal of public records.<sup>57</sup> However, the State Government Records Commission only regulates the handling of state records, while the Local Government Records Commission regulates county, municipal, and other local government records. Specifically, the State Government Records Commission is charged with the responsibility of determining, “which state records shall be permanently preserved because of historical value, which state records may be destroyed or otherwise disposed of after they have been microfilmed, and which state records may be destroyed or otherwise disposed of without microfilming.”<sup>58</sup> The Local Government Records Commission is charged with making a determination with respect to “county, municipal, and other local government records.”<sup>59</sup>

One of the custodians of public records regulated under Section 41 of particular importance to the investigation of the murder of Timothy Hood, and the CRRJ Project’s investigations in general, is the Alabama Department of Public Safety. Presently, the Alabama Department of Public Safety consists of five divisions, each of which is headed by an officer with the rank of Major.<sup>60</sup> While each of these divisions may hold vital

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<sup>55</sup> Ala. Code § 41-13-5.

<sup>56</sup> Id.

<sup>57</sup> Id.

<sup>58</sup> Ala. Code § 41-13-21.

<sup>59</sup> Id.

<sup>60</sup> Alabama Department of Public Safety: Functional Analysis & Records Disposition Authority, Alabama Department of Public Safety, Apr. 26, 2002, P. 1-2,

information related to a CRRJ Project investigation, the Alabama Bureau of Investigation (ABI) however, is perhaps the most important of the divisions because much of the information the CRRJ Project seeks involves records, which the ABI produces through the course of its criminal investigations that are conducted at the request of the department and other state agencies.<sup>61</sup>

Of the two major categories of records maintained by the Alabama Department of Public Safety, ABI investigative records fall into the “Temporary Records” category.<sup>62</sup> According to the department, temporary records “should be held for what is considered their active life and be disposed of once all fiscal, legal, and administrative requirements have been met.”<sup>63</sup> Two of the types of files, which the ABI creates during the course of its investigations, include “Special Inquiry Investigation Records and Death Investigations Case Files” and “Criminal Case Files (not death or special).”<sup>64</sup> However, the “Special Inquiry Investigation Records and Death Investigations Case Files” would be more likely to include records pertaining to the Hood case, as the “Criminal Case Files” do not pertain investigations dealing with death.<sup>65</sup>

“Special Inquiry Investigation Records and Death Investigations Case Files” however, are created in the course of an investigation “dealing with a death or other special case such as shootings involving law enforcement personnel.”<sup>66</sup> These case files are microfilmed after final disposition in court. Due to the possibility that new leads may be developed on a cold or unresolved case, the ability to now use DNA to show

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<http://www.archives.alabama.gov/officials/rdas/PublicSa.pdf> [last visited October 25, 2012].

<sup>61</sup> Id.

<sup>62</sup> Id. at P. 2-2.

<sup>63</sup> Id.

<sup>64</sup> Id. at P. 2-3.

<sup>65</sup> Id. at P. 2-2.

<sup>66</sup> Id.

innocence, and the possibility of historical value, the microfilmed records are retained for 80 years,<sup>67</sup> Once the retention period for these records has expired, the Department of Archives and History are supposed to examine the records for possible historical value.<sup>68</sup>

Although the facts of the Hood case are not yet 80 years old, (suggesting any records relating to the investigation of his death by the ABI would not have been transferred to the Department of Archives and History to determine whether they have historical value), the role of the ABI in the 1940s was far more limited than it is today.<sup>69</sup> Known as the Investigative and Identification Division of the Highway Patrol in the 1940s, the ABI “conducted investigations for Highway Patrol, the Governor’s Office, Attorney General’s Office and other state departments” as well as “assisted the FBI, sheriffs, circuit solicitors and municipalities upon request.”<sup>70</sup> Given the questionable practices of local and state law enforcement and government officials at the time, with respect to civil rights and affording blacks “equal and exact justice and democracy,”<sup>71</sup> it is likely that there was no request from the local sheriff’s department for any investigation in the Hood case because the Jefferson County Coroner, T.J. McCollum, had already ruled the shooting a “justifiable homicide.”

On October 2, 2012, when I called the Records Unit of the Jefferson County Sheriff’s Department to inquire about requesting police records involving the shooting of a marine veteran in 1946 by an officer of the law, I was told that the Records Unit did not have these records. Ms. Henderson, the Record Unit representative I spoke with at the

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<sup>67</sup> Id.

<sup>68</sup> Id.

<sup>69</sup> ABI History, Alabama Department of Public Safety, <http://dps.alabama.gov/Home/wfContent.aspx?ID=20&PLH1=plhABI-History> [last visited October 28, 2012].

<sup>70</sup> Id.

<sup>71</sup> J.M. Byas to Editor, *Supra*.

time, explained that after 10 years the records would have been sent to the Alabama State Archives and that after 25 years the records would have been destroyed. This came as a surprise, having read the information on the retention of public records on the Alabama Department of Archives and History website, which made no such mention of the destruction of these types of records.

Ms. Henderson also informed me that if any records did exist that they would have to be subpoenaed and that the Records Unit would then have to determine if they have those records in order for the records to be sent. This too struck me as odd and left me wondering whether there were any records at all concerning the death of Timothy Hood and, if so, whether I would be able to obtain those records.

That same day, I called the Alabama State Archives to inquire about the process of requesting public records. After speaking with Mr. Norwood Kerr, a research archivist with the state archives, I was told that the archives did not have any police records or records from the lower courts, but that the Archives of the Birmingham Public Library might be helpful. While I was grateful to have been able to speak with Mr. Kerr, I started to think tracking down any and all records pertaining to the death of Timothy Hood would not be as straightforward as I had hoped and that I was not always going to be given the right information.

According to “Local Law Enforcement Agencies: Functional Analysis & Records Disposition Authority,” which provides information on the retention of records created and/or maintained by local law enforcement agencies, there are three major categories of

records: Temporary Records, Permanent Records, and Records No Longer Created.<sup>72</sup> Of the three major categories of records created and maintained by local law enforcement agencies, the Government Records Division recommends records of criminal investigations of historical value be maintained permanently.<sup>73</sup> “Prior to disposing of any investigation files,” the Government Records Division explains, “local law enforcement officials should determine whether any of the cases relate to public issues of permanent historical significance. The law enforcement agency should request assistance in evaluating the records from a Government Records Division archivist, or from another qualified state or local historian or archivist.”<sup>74</sup> Moreover, files identified as having “long-term historical significance,” the Government Records Division continues, “should be retained by the agency permanently or transferred to a local library, archives, or historical society under the terms set forth in a local government records deposit agreement.”<sup>75</sup>

However, this policy does not appear to have helped in the case of Timothy Hood, as the Records Unit of the Jefferson County Sheriff’s Department maintains they do not have these records because they would have been destroyed after 25 years. While the recommendation of the Government Records Division to determine whether investigation files have any historical value is intended to prevent the destruction of records relating to “public issues of permanent historical significance,” it has not made requesting records from the Jefferson County Sheriff’s Department any easier. To date, the Records Unit of

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<sup>72</sup> Local Law Enforcement Agencies: Functional Analysis & Records Disposition Authority, Alabama Department of Archives and History, Nov. 2, 2011, P. 2-1, <http://www.archives.alabama.gov/officials/rdas/local/lawrda.pdf> [last visited October 29, 2012].

<sup>73</sup> *Id.* at P. 2-3.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

the Jefferson County Sheriff's Department has not furnished any records relating to the shooting of Timothy Hood despite my written request for records.

While this problem may, in part, be the result of earlier public records retention policies, the need for reform remains evident. For the investigation of past crimes, such as the investigation of the shooting of Timothy Hood, changes are needed to help advance civil rights and restorative justice for family of the victims, the community, and our society at large. The process for requesting public records should be streamlined to remove excessive barriers and increase coordination amongst federal, state, and local government and law enforcement agencies. Public access to government information is vital to the basic functioning of a democratic society. Without such protections, we run the risk of returning to the old policies that allowed for the violation of the human rights of black people during the Civil Rights Era. We need improved access to government documents in order to achieve "equal and exact justice and democracy for all regardless of race,"<sup>76</sup>

## **VII. CONCLUSION**

Realizing the end of the academic quarter was near and that the Martin Luther King Day event honoring black servicemen and women was quickly approaching, I began writing down the story of Timothy Hood from information I had gathered over the course of my investigation. I wanted to honor his memory as a soldier who fought a war abroad and a war at home so we could all to be free from the tyranny of racism. And so I wrote and wrote, with his story, his sacrifice, close to my heart, and the weight of this responsibility on my mind.

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<sup>76</sup> J.M. Byas to Editor, *Supra*.

The investigation of the shooting death of Timothy Hood is far from over. There are many questions that remain as to what happened on the night of February 8, 1946. These questions need to be answered so that justice may be served for Timothy Hood, his family, and the community at large. The CRRJ Project is committed to finding the truth and will continue to work with the Hood family, local investigators, and Alabama-based civil rights and restorative justice advocates to seek out records from local, state, and federal law enforcement officials pertaining to his death.

While my role as lead investigator has come to a close, the resolve of the CRRJ Project investigators is strong and they are prepared to take legal action if necessary to find out what happened leading up to the shooting of Timothy Hood. The CRRJ Project will continue its efforts to lobby for reform of state regulations and policies impeding progress in this and other CRRJ Project investigations in Alabama and throughout the South.

On behalf of CRRJ, I am proud to have been able to help tell the story of Timothy Hood and dedicate this essay in loving memory to him and all those beautiful black men, women, and children who were on the front lines of the struggle for civil rights in America. As the fight for civil rights and restorative justice continues, I want the Civil Rights generation to know that I and many other young men and women appreciate the sacrifices that have been made for us. We are committed to this cause and will continue to champion “equal and exact justice and democracy for all.”<sup>77</sup>

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<sup>77</sup> Id.