

**TO THE HONORABLE MEMBERS OF THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
ORGANIZATION OF AMERICAN STATES**

GLOBAL RIGHTS AND CHARLES J. OGLETREE, JR.,

Petitioners,

on behalf of John Melvin Alexander, *et al.*

(see Annex for full list of Victims)

United States Citizens,

Victims,

v.

THE UNITED STATES OF AMERICA,
Member of the Organization of American States,

Respondent.

**PETITION ALLEGING VIOLATIONS OF THE
HUMAN RIGHTS OF JOHN MELVIN ALEXANDER
ET AL. BY THE UNITED STATES OF AMERICA**

This petition is respectfully presented to this Honorable Commission pursuant to Article 23 of the Rules of Procedure of the Inter-American Commission on Human Rights on behalf of John Melvin Alexander, *et al.*, United States Citizens, by:

CHARLES J. OGLETREE, JR.
CHARLES HAMILTON HOUSTON
INSTITUTE FOR RACE AND
JUSTICE
HARVARD LAW SCHOOL*
1575 Massachusetts Ave.
516 Hauser Hall
Cambridge, MA 02138
Phone: 617-496-2054

GAY J. MCDUGALL
RACHEL S. TAYLOR
GLOBAL RIGHTS
1200 18th St., N.W.
Suite 602
Washington, DC 20036
Phone: 202-822-4600
Fax: 202-822-4606

OCTOBER 26, 2005

* For identification purposes only.

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	iii
INTRODUCTION	1
I. STATEMENT OF FACTS	1
A. U.S. Courts Deny Victims an Effective Remedy	1
B. The Riot of 1921	2
C. The Riot as Part of a Broader Pattern of Systematic Racial Discrimination	9
D. Victims Denied their Rights to Resort to the Courts for Effective Redress.....	11
E. Truth Commission Ends Conspiracy of Silence	14
II. COMPETENCE OF THE COMMISSION.....	19
A. Competence <i>Ratione Personae</i>	19
B. Competence <i>Ratione Materiae</i>	21
C. Competence <i>Ratione Temporis</i>	23
D. Competence <i>Rationae Loci</i>	26
III. ADMISSIBILITY OF THE PETITION	26
A. Exhaustion of Domestic Remedies.....	26
B. Timeliness.....	27
C. Duplication of Procedures.....	27
IV. ARGUMENT	27
A. The United States Has Denied Victims the Right to Resort to the Courts to Ensure Respect for their Legal Rights and the Right to Equality Before the Law Without Distinction as to Race.....	28
1. No Statute of Limitations (Prescription) for International Crimes	28

TABLE OF CONTENTS—Continued

	Page
2. Statutes of Limitations May Not Run Before an Effective Remedy Is Available	30
3. No Internal Law May Undermine Rights in the American Declaration	33
4. The Crimes Committed Violate Rights Protected in Treaties to Which the United States is a Party	34
5. The United States Has a Legal Duty to Prevent and Investigate Human Rights Violations, and to Identify and Punish Perpetrators.....	34
B. The United States has Violated Victims' Rights to Life, Liberty and Security; to Equality Before the Law Without Distinction as to Race; to the Right of the Inviolability of the Home, to the Preservation of Health and Well-Being; to Resort to the Courts to Ensure Respect for their Legal Rights; to Property; and to Protection from Arbitrary Arrest.....	37
C. The Alleged Violations Are Imputable to the United States	39
V. THE OBLIGATIONS OF THE UNITED STATES.....	42
VI. RELIEF SOUGHT.....	45
ANNEX: LIST OF VICTIMS.....	1a

TABLE OF AUTHORITIES

INTER-AMERICAN JURISPRUDENCE AND MATERIALS	Page(s)
American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX (1948), <u>reprinted in</u> Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 (1992)	37
Inter-Am. C.H.R., <u>James Terry Roach and Jay Pinkerton v. United States</u> , Case 9647 (1987)	20
Inter-Am. C.H.R., <u>Vaca Narvaja et al. v. Argentina</u> , Case 10.288, 10.310, 10.436, 10.496, 10.631, 10.771, Report No. 1/93, OEA/Ser.L/V/II.83 Doc 14 (1993)	24
Inter-Am. C.H.R., <u>Joao Canuto De Oliveira v. Brazil</u> , Case 11.287, Report No. 24/98, OEA/Ser.L/V/II.95 Doc. 7 (1997)	26
Inter-Am. C.H.R., <u>Carmelo Soria Espinoza v. Chile</u> , Case 11.725 (1999)	22, 35, 36, 37
Inter-Am. C.H.R., <u>Mary and Carrie Dann v. United States</u> , Case 11.140, Report No. 75/02, Doc.5.rev.1 (2002)	24
Inter-Am. C.H.R., <u>Michael Domingues v. United States</u> , Merits, Case 12.285, Report No. 62/02 (2002)	21, 22
Inter-Am. C.H.R., <u>Statehood Solidarity Committee v. United States</u> , Case 11.204, Report No. 98/03 (2003)	24
Inter-Am. C.H.R Statute	20
Inter-Am. C.H.R., <u>Tracy Lee Housel v. United States</u> , Case 129/02, OEA/Ser.L/V/II.122, doc. 5 rev. 1 (2004)	20
Inter-Am. C.H.R., <u>Jailton Neri da Fonseca, v. Brazil</u> , Case 11.634, Report No. 33/04 (2004)	42
Inter-Am. C.H.R., <u>Omar Humberto Maldonado Vargas et al. v. Chile</u> , Report No. 6/05, Petition 285/03, admissibility (2005)	25
Inter-Am. Ct. H.R., <u>Barrios Altos case (Chumbipuma Aguirre et al. v. Peru)</u> (2001)	30
Inter-Am. Ct. H.R., <u>El Caracazo v. Venezuela</u> (2002)	30
Inter-Am. Ct. H.R., <u>Blake Case</u> , Preliminary Objections (1996)	26

TABLE OF AUTHORITIES—Continued

	Page(s)
Inter-Am. Ct. H.R., <u>Myrna Mack Chang v. Guatemala</u> (2003)	30
Inter-Am. Ct. H.R., <u>Paniagua Morales et al. Case</u> (1998)	35
Inter-Am. Ct. H.R., <u>Trujillo-Oroza v. Bolivia</u> (2002)	30
Inter-Am. Ct. H.R., <u>Velasquez Rodriguez Case</u> (1998)	34, 36, 41
Inter-Am. Ct. H.R., <u>Interpretation of the American Declaration of the Rights and Duties of Man in the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion</u> (1989)	20, 27

UNITED STATES CASES AND MATERIALS

<u>Alexander v. Oklahoma</u> , Case No. 03-C-133-E, 2004 U.S. Dist. LEXIS 5131 (N.D. Okl. Mar. 19, 2004)	1, 16, 17
<u>Alexander v. Oklahoma</u> , 125 S.Ct. 2257 (2005)	2
<u>Alexander v. Oklahoma</u> , 382 F.3d 1206 (10th Cir. 2004)	1
<u>Alexander v. Oklahoma</u> , 391 F.3d 1155 (10th Cir. 2004)	1, 18
74 Okla. St. Ann. § 8000.1 (West 2002).....	3, 15, 16

INTERATIONAL JURISPRUDENCE AND MATERIALS

<u>Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections</u> , 1996 I.C.J. 595 (July 11)	25
<u>Barcelona Traction (Belg. v. Spain)</u> , Second Phase, 1970 I.C.J. 3 (Feb. 5).....	28, 43
Commentaries to the Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, U.N. Doc. A/56/10 (2001)	40, 41, 43
Concluding observations of the Human Rights Committee: Argentina, U.N. Doc. CCPR/CO/70/ARG (2000)	31

TABLE OF AUTHORITIES—Continued

	Page(s)
Convention on Imprescriptibility of Crimes of War and Against Humanity, G.A. Res. 2391 (XXII), U.N. GAOR, 22d Sess. (1968)	29
Council of Europe, Non-applicability of Statutory Limitations to Crimes against Humanity and War Crimes, Jan. 25, 1974, E.T.S. No. 82.....	29
Eur. Ct. H.R., <u>Papamichalopoulos v. Greece</u> , (ser. A) (1993)	26
International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, 6 I.L.M. 36, <u>entered into force</u> Mar. 23, 1976	29
International Convention on the Elimination of all Forms of Racial Discrimination, Mar. 7, 1966, 660 U.N.T.S. 195, 5 I.L.M. 352, <u>entered into force</u> Jan. 4., 1969.....	29
International Law Commission, Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, U.N. Doc. A/56/10 (2001), <u>available at</u> http://www.un.org/law/ilc/texts/State_responsibility/responsibility_articles(e).pdf (last visited Oct. 5, 2005).....	26, 34, 40, 41, 42, 43
<u>Rainbow Warrior Arbitration (New Zealand/France)</u> , 20 UNRIAA 217 (1990)	43
Report of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, U.N. Doc. A/CONF.198/12 (2001)	16
Revised Set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Theo van Boven pursuant to Sub-Commission decision 1995/117, U.N. Doc. E/CN.4/Sub.2/1996/17 (1996).....	31, 44
Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90, <u>entered into force</u> July 1, 2002.....	29

TABLE OF AUTHORITIES—Continued

	Page(s)
Updated Set of principles for the protection and promotion of human rights through action to combat impunity, U.N. Doc. E/CN.4/2005/102/Add.1 (2005)	31, 44
Vienna Convention on the Law of Treaties, May 22, 1969, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980.....	34

BOOKS AND ARTICLES

Barrett, Charles F., <u>Oklahoma After Fifty Years: A History of the Sooner State and Its People, 1889-1939</u> (1941)	7
Brophy, Alfred, <u>Assessing State and City Culpability: The Riot and the Law</u> , in <u>Commission Report</u>	4, 8, 11, 13
Brophy, Alfred L., <u>Reconstructing the Dreamland: The Tulsa Race Riot of 1921 - Race, Reparations, and Reconciliation</u> (2002)	<u>passim</u>
Brophy, Alfred L., <u>The Riot in the Oklahoma Supreme Court</u> , 54 Okla. L. Rev. 67 (2001)	12
<u>Black's Law Dictionary</u> (7th ed. 1999)	30
Ellsworth, Scott, <u>Death in a Promised Land: The Tulsa Race Riot of 1921</u> (1982)	<u>passim</u>
Ellsworth, Scott, <u>The Tulsa Race Riot</u> , in <u>Commission Report</u>	<u>passim</u>
Franklin, John Hope & Scott Ellsworth, <u>History Knows No Fences: An Overview</u> , in <u>Commission Report</u>	12, 13
Goble, Danney, <u>Final Report of the Oklahoma Commission to Study the Tulsa Race Riot of 1921</u> , in <u>Commission Report</u>	<u>passim</u>
Halliburton, Jr., R., <u>The Tulsa Race War of 1921</u>	8
Letter to Governor Frank Keating, in <u>Commission Report</u>	44
O'Dell, Larry, <u>Riot Property Loss</u> , in <u>Commission Report</u> ,.....	8

TABLE OF AUTHORITIES—Continued

	Page(s)
Oklahoma Commission to Study the Tulsa Race Riot of 1921, <u>Tulsa Race Riot</u> (2001), <u>available at</u> http://www.ok-history.mus.ok.us/trrc/freport.pdf (last visited 5 Oct. 2005) (“ <u>Commission Report</u> ”).....	passim
<u>Restatement (Third) Foreign Relations Law of the United States</u> (1986)	28, 34
Ross, Don, <u>Prologue</u> , in <u>Commission Report</u>	passim
Smith, Gerald Jerome, Note, <u>Constitutionality of States’ Use of Police and Military Force to Arrest, Detain, and Confine American Citizens Because of Race</u> , 27 Okla. City U. L. Rev. 451 (2002)	9, 39
Staples, Brent, <u>Unearthing a Riot</u> , N.Y. Times Magazine, Dec. 19, 1999	passim
Tulsa Reparations Coalition, <u>Testimony of Binkley Wright</u> , at http://www.tulsareparations.org/BWright.htm	5
OTHER	
Declaration of Eric D. Caine	19, 33
Declaration of John Hope Franklin	18
Letter from Eric D. Caine to Michael D. Hausfeld, Aug. 25, 2003	8, 19, 32

INTRODUCTION

This petition is submitted by Global Rights and Charles J. Ogletree, Jr. (“Petitioners”) on behalf of John Melvin Alexander *et al.*, survivors of a race riot that occurred in Tulsa, Oklahoma from May 31-June 1, 1921, and descendants of that riot’s victims (collectively, “Victims”). This riot—in which an estimated 100-300 people were killed, 1,256 homes were destroyed and property worth approximately \$21,743,016 in 2005 dollars (\$2 million in 1921 dollars) was lost—devastated the African-American community living in Tulsa’s Greenwood neighborhood. In the years since, Victims have continued to suffer from the denial of their right to resort to the courts for an effective remedy, and their right to equality before the law without distinction as to race.

I. STATEMENT OF FACTS

A. U.S. Courts Deny Victims an Effective Remedy

On April 28, 2003, Victims brought suit in the United States District Court for the Northern District of Oklahoma for restitution and repair of the injuries sustained by them or their relatives as a result of the actions and inaction of the agents of the state of Oklahoma and the city of Tulsa during and in the aftermath of the Tulsa Race Riot of 1921. Victims brought suit in a timely manner with respect to personal safety, the revelation of critical information held in secret to evade accountability, and the viability of resorting to the courts. The United States District Court for the Northern District of Oklahoma dismissed Victims’ claims on March 19, 2004, saying that the statute of limitations on these crimes had run;¹ in so doing, they furthered a longstanding injustice that was racially discriminatory in intent and effect. The United States Court of Appeals for the Tenth Circuit affirmed the District Court’s ruling on September 8, 2004²; it denied Victims’ request for rehearing *en banc* on December 13, 2004.³ The United States Supreme Court declined to grant a writ of certiorari in this

¹ Alexander v. Oklahoma, Case No. 03-C-133-E, 2004 U.S. Dist. LEXIS 5131 (N.D. Okl. Mar. 19, 2004).

² Alexander v. Oklahoma, 382 F.3d 1206 (10th Cir. 2004).

³ Alexander v. Oklahoma, 391 F.3d 1155 (10th Cir. 2004).

case on May 16, 2005.⁴ As such, Victims have been denied their right to an effective remedy for the harms they suffer, a denial which has a discriminatory effect.

B. The Riot of 1921

On May 31, 1921, Tulsa authorities arrested Dick Rowland, a 19 year-old African-American man, for allegedly assaulting a white elevator operator, 17 year-old Sarah Page.⁵ Although the charges against Mr. Rowland were later dropped, Mr. Rowland was held for a time at the jail on the top floor of the Tulsa county courthouse.⁶ While he was there, news of the alleged incident was spread by Tulsa's afternoon newspaper, the *Tulsa Tribune*.⁷ In addition to a front-page story entitled "Nab Negro for Attacking Girl in Elevator," witnesses recall that the paper also published an article or editorial called "To Lynch Negro Tonight."⁸ With rumors of a lynching spreading fast, a mob of white men gathered outside the courthouse.⁹

Lynchings of African-Americans were all too common in Oklahoma during this era. In 1921, the year Mr. Rowland was held, 59 African-Americans were lynched in southern states or "border states."¹⁰ Between 1911 and 1921, 24 individuals had been lynched in Oklahoma alone; 23 of them were African-

⁴ Alexander v. Oklahoma, 125 S.Ct. 2257 (2005).

⁵ For more on this incident, and the Tulsa Race Riot generally, see Scott Ellsworth, Death in a Promised Land: The Tulsa Race Riot of 1921 45-70 (1982); Alfred L. Brophy, Reconstructing the Dreamland: The Tulsa Race Riot of 1921 – Race, Reparations, and Reconciliation 24-62 (2002); Oklahoma Commission to Study the Tulsa Race Riot of 1921, Tulsa Race Riot (2001), available at <http://www.ok-history.mus.ok.us/trrc/freport.pdf> (last visited 5 Oct. 2005) (hereinafter "Commission Report"); Brent Staples, Unearthing a Riot, N.Y. Times Magazine, Dec. 19, 1999, at 64 et seq.

⁶ See Scott Ellsworth, The Tulsa Race Riot, in Commission Report, supra note 5, at 58.

⁷ Copies of the newspaper have been destroyed, but a 1946 thesis on the riot indicated that these news items had been published, as did many witness reports. See Ellsworth, supra note 6, at 58-59; Ellsworth, supra note 5, at 47-48; Brophy, supra note 5, at 24.

⁸ See id.

⁹ See Ellsworth, supra note 6, at 59.

¹⁰ See Ellsworth, supra note 5, at 17.

American.¹¹ Less than one year before Mr. Rowland's arrest, a mob had taken a man out of the same cell where Mr. Rowland was held and lynched him.¹² Because members of Tulsa's African-American community knew that local authorities had failed to prevent lynchings in the past, they reasonably believed that Mr. Rowland's personal safety depended on his protection by the African-American community.¹³

By sunset on the evening of May 31, 1921, hundreds of people had congregated at the courthouse where Mr. Rowland was being held and tensions were running high.¹⁴ Soon, many began to chant "Let us have the nigger."¹⁵ By 9:30 p.m., the white mob that had gathered was nearly two thousand people strong.¹⁶ Despite the threat they posed, it appears that only five police officers were put on duty in the area.¹⁷

Believing that they would have to protect Mr. Rowland from the lynching that seemed increasingly likely to ensue, groups of African-American men made their way to the courthouse where Mr. Rowland was being held.¹⁸ As a group of these men was leaving the area, one of its members, an African-American World War I veteran who had with him an army-issue revolver, was approached by one of the white members of the mob.¹⁹ When the white man tried to take the gun away from the African-American man, the gun went off.²⁰ According to O.W. Gurley, a prominent

¹¹ See 74 Okla. St. Ann. § 8000.1.1 (West 2002); Danney Goble, Final Report of the Oklahoma Commission to Study the Tulsa Race Riot of 1921, in Commission Report, *supra* note 5, at 1, 19.

¹² See Ellsworth, *supra* note 6, at 53-54.

¹³ See *id.*; Brophy, *supra* note 5, at 1-23, 26.

¹⁴ See Ellsworth, *supra* note 6, at 60.

¹⁵ See *id.*

¹⁶ See *id.* at 62. Elsewhere, Ellsworth estimated the white crowd to be 400 people at 9:00 p.m. See Ellsworth, *supra* note 5, at 49. Brophy indicates that there were 800 people at the courthouse at 6:00 p.m. See Brophy, *supra* note 5, at 26.

¹⁷ See Ellsworth, *supra* note 6, at 62.

¹⁸ See *id.* at 61-63.

¹⁹ See *id.* 63; Ellsworth, *supra* note 5, at 52.

²⁰ See Ellsworth, *supra* note 6, at 63; Ellsworth, *supra* note 5, at 52; Brophy, *supra* note 5, at 33.

African-American businessman, it was then that “all hell broke loose.”²¹

Almost immediately, the white mob opened fire on the African-American men.²² Outnumbered by more than 20 to one, the African-American men fought back, while retreating towards Tulsa’s Greenwood district.²³ Greenwood was, at the time, a vibrant and well-off African-American community that was home to around 10,000 African-American men, women, and children.²⁴ Greenwood’s commercial district, one of the most business-laden African-American communities in the United States, was known across the nation as the “Negro Wall Street”; it was home to two newspapers, more than a dozen churches and numerous African-American-owned businesses.²⁵

By this point, many members of the white mob lining the streets and sidewalks near the courthouse were carrying both guns and liquor bottles.²⁶ A large number of this mob gathered outside the police headquarters, where as many as 500 white men and boys were sworn in as “Special Deputies.”²⁷ According to one of these Special Deputies, police officers instructed him to “Get a gun and get a nigger.”²⁸ Members of the white mob also broke into pawn shops, as well as sporting goods and hardware stores, to steal guns and ammunition.²⁹ In some instances, police even helped to distribute these weapons.³⁰ (The police failed to record the names of the people to whom they gave the guns and, after the riot, Tulsa’s police chief pleaded in the pages of a white Tulsa

²¹ See Alfred Brophy, Assessing State and City Culpability: The Riot and the Law, in Commission Report, supra note 5, at 153, 156.

²² See Ellsworth, supra note 6, at 63.

²³ See id.; Ellsworth, supra note 5, at 52.

²⁴ See Ellsworth, supra note 6, at 39, 42; Ellsworth, supra note 5, at 14; Brophy, supra note 5, at 1.

²⁵ See Ellsworth, supra note 6, at 40-42; Ellsworth, supra note 5, at 14.

²⁶ See Ellsworth, supra note 6, at 64.

²⁷ See id.

²⁸ See id.; see also Brophy, supra note 21, at 158.

²⁹ See Ellsworth, supra note 6, at 64.

³⁰ See id.; Brophy, supra note 21, at 159.

newspaper for their return, stating they were issued with the understanding that they would be returned when the need for them passed.³¹⁾

Shortly before 11:00 p.m. on the evening of May 31, the Tulsa units of the National Guard were called out to try to bring the situation under control.³² These local National Guard troops, all of whom were white, joined in the attacks against the African-American community³³ and, rather than quell the fighting, acted “like wild men.”³⁴ For example, at 1:15 a.m. some National Guard members, along with three experienced white machine gunners and six other white enlisted men, placed a machine gun on a truck.³⁵ They then traveled around the city putting down African-American efforts to defend themselves from the white mob.³⁶ At 3:00 a.m., National Guard troops were ordered to Stand Pipe Hill, where they used the truck with a machine gun mounted upon it to enter the town.³⁷ There, they disarmed African-American men, placed them in “protective custody” and sent them to the Convention Hall in police cars and trucks.³⁸ In addition, the white mob, including recently deputized members of the police department and uniformed members of the National Guard, fired machine guns at the African-American men stationed at Paradise Baptist Church. African-Americans at this church told one survivor, Binkley Wright, that the mayor of Tulsa had opened the Armory and given two machine guns to white people and that they “were using those machine guns to mow down our people.”³⁹

During the riot, African-Americans were also fired upon from airplanes that flew over Greenwood.⁴⁰ There is evidence

³¹ See Brophy, supra note 5, at 40.

³² See Ellsworth, supra note 5, at 54; Ellsworth, supra note 6, at 66.

³³ See id. at 66, 68; Brophy, supra note 5, at 58.

³⁴ See Don Ross, Prologue, in Commission Report, supra note 1, at iv, viii.

³⁵ See Brophy, supra note 5, at 43.

³⁶ See id.

³⁷ See id.

³⁸ See id.

³⁹ Tulsa Reparations Coalition, Testimony of Binkley Wright, at <http://www.tulsareparations.org/BWright.htm> (last visited Oct. 20, 2005).

⁴⁰ See Ellsworth, supra note 6, at 73-74.

indicating that the men in at least one of the airplanes dropped explosives, probably dynamite, on African-Americans who were fleeing the city.⁴¹ In addition, members of the National Guard advanced on the African-Americans living on Sunset Hill, where they fired at will on the black neighborhood with their standard-issue 30-caliber 1906 Springfield rifles and the partially-defective machine gun the Tulsa police had given to them.⁴²

Early in the morning of June 1, Oklahoma's governor, James B.A. Robertson, asked Tulsa's Chief of Police, Sheriff, and District Judge to draft a telegram requesting that National Guard troops from Oklahoma City be sent to Tulsa to join the local National Guard already there.⁴³ These troops from Oklahoma City, all of whom were also white, did not arrive in Tulsa until approximately 9:00 a.m. the next day.⁴⁴

At 5:08 a.m. on the morning of June 1, 1921, a whistle or siren sounded, as a signal to the white mob to make its mass assault on Greenwood.⁴⁵ This armed mob made its way into Greenwood and, throughout the morning of June 1, 1921, ransacked the neighborhood, shooting indiscriminately at African-Americans, burning people alive, and dragging people to death.⁴⁶ They also burned almost every building in the community. Throughout this time, the National Guard troops worked in close conjunction with the Tulsa police and the newly deputized mob to attack African-Americans.⁴⁷

As noted above, the police and National Guard placed a large number of Greenwood residents in "protective custody," a euphemism for illegal imprisonment, in a handful of hastily set-up internment centers, including Convention Hall, the Fairgrounds, and McNulty Baseball Park.⁴⁸ These African-Americans were

⁴¹ See *id.* at 74. For more on the use of airplanes in the Riot, see Brophy, *supra* note 5, at 46-47.

⁴² See Ellsworth, *supra* note 6, at 74.

⁴³ See *id.* at 71; Ellsworth, *supra* note 5, at 53.

⁴⁴ See Ellsworth, *supra* note 6, at 82.

⁴⁵ See *id.* at 72; Brophy, *supra* note 5, at 44.

⁴⁶ See Staples, *supra* note 5.

⁴⁷ See Ellsworth, *supra* note 6, at 37-102.

⁴⁸ See Ellsworth, *supra* note 5, at 59.

detained on the basis of race alone.⁴⁹ As they were taken away to their internment, the white mob systematically looted their homes and set their buildings on fire.⁵⁰ Witnesses reported seeing police officers and National Guard troops participating in these attacks.⁵¹

According to Victims' complaint to the United States District Court for the Northern District of Oklahoma, Brigadier General Charles F. Barrett, who was in charge of the National Guard brigade, stated that, on the morning of June 1, 1921, he witnessed a rioting white mob of 15,000 to 20,000 in Greenwood, which was by now on fire. The National Guard marched through the crowded streets. Trucks loaded with scared and partially-clothed African-American men, women, and children were parading the streets under heavily armed guards. Brigadier General Barrett wrote:

In all my experience, I have never witnessed such scenes that prevailed in this city when I arrived at the height of the rioting—25,000 whites, armed to the teeth were ranging the city in utter and ruthless defiance of every concept of law and righteousness. Motorcars bristling with guns swept through your city, their occupants firing at will.”⁵²

According to one newspaper report:

Personal belongings and household goods had been removed from many homes and piled in the streets. On the steps of the few houses that remained sat feeble and gray Negro men and women and occasionally a small child. The look in their eyes was one of dejection and supplication. Judging from their attitude, it was not of material consequence to them whether they lived or died. Harmless themselves, they apparently could not conceive the brutality and fiendishness of men who would deliberately set fire to the homes of their friends and

⁴⁹ See Brophy, *supra* note 5, at 164.

⁵⁰ See Brophy, *supra* note 5, at xviii.

⁵¹ See Ellsworth, *supra* note 6, at 74, 76, 78-79.

⁵² See Charles F. Barrett, Oklahoma After Fifty Years: A History of the Sooner State and Its People, 1889-1939 (1941).

neighbors and just as deliberately shoot them down in their tracks.⁵³

All firing had ceased by 11:00 a.m. on June 1, 1921, not because the National Guard had succeeded in bringing the white rioters under control but rather because Greenwood's African-American residents had been killed, placed in internment camps, or driven out of the city.⁵⁴ Oklahoma's Governor Robertson declared martial law at 11:29 a.m.⁵⁵ But even after the riot ceased, the deputized white citizens were told that they should "go out and shoot any nigger you see and the law'll be behind you."⁵⁶

By the time the Riot had ended, the damage was staggering.⁵⁷ As many as 300 African-Americans had been killed by city and state officials, and deputized government agents.⁵⁸ Every church, school, and business in Greenwood had been set on fire.⁵⁹ Thirty-five square blocks of property was laid waste in ashes, more than 1,200 houses were destroyed, and nearly 10,000 African-Americans were rendered homeless.⁶⁰ After the Riot, Greenwood's residents were forced to live "in grossly inferior dwellings."⁶¹ By contrast, in Tulsa's white neighborhoods, just over the railroad tracks and across town from Greenwood, homes had not been looted and churches had not been burned.⁶²

In addition, on the night of June 1, 6,000 African-Americans were held imprisoned in internment camps.⁶³ The state of

⁵³ Tulsa Daily World, June 2, 1921, cited in Ross, supra note 34, at iv.

⁵⁴ See Brophy, supra note 5, at 59; Brophy, supra note 21, at 162.

⁵⁵ See Ellsworth, supra note 6, at 84; Ellsworth, supra note 5, at 61.

⁵⁶ See R. Halliburton, Jr., The Tulsa Race War of 1921 10 (1975).

⁵⁷ See Larry O'Dell, Riot Property Loss, in Commission Report, supra note 5, at 143, 143-149.

⁵⁸ See Goble, supra note 11, at 12-13.

⁵⁹ See id. at 12.

⁶⁰ See id. at 12-13, 22-23; Ellsworth, supra note 6, at 88; Ross, supra note 34, at iv.

⁶¹ See Letter from Eric D. Caine to Michael D. Hausfeld, Aug. 25, 2003 (on file with Petitioners) (hereinafter "Caine Letter").

⁶² See Ellsworth, supra note 6, at 88.

⁶³ See Ellsworth, supra note 5, at 63.

Oklahoma and city of Tulsa forced these African-Americans to work while in custody by cleaning up the destruction caused by the white rioters. On June 2, 1921, General Barrett issued Field Order Number Four, which decreed that “all able bodied negro men remaining in detention camp at the Fairgrounds and other places in the City of Tulsa will be required to render such service and perform such labor as is required by the military commission.”⁶⁴ Greenwood’s African-American residents were treated like chattel and, in conduct reminiscent of slavery, were often only released when their white employers came to vouch for them.⁶⁵ Those released from the internment camps were forced to wear green tags to identify that they had been properly removed from custody.⁶⁶

C. The Riot as Part of a Broader Pattern of Systematic Racial Discrimination

The riot, which occurred fewer than sixty years after the end of *de jure* slavery in the United States, was part of a much larger pattern of systematic discrimination against the country’s African-Americans. As noted above, lynchings were common throughout the Southern United States during this time and racial tensions regularly ran high.⁶⁷

During this time, city and state officials engaged in official policy, practice, custom, habit, and usage of denying African-Americans their equal rights under the law. City and state officials created and condoned a climate of racial hatred that presented a clear and present danger, led to tragedy, and contributed to the environment of racially motivated suppression. Their actions were racially discriminatory in both intent and effect. This climate of racial hatred prevented the riot’s victims from obtaining redress for the harms they suffered and from rebuilding their community.

Tulsa newspapers contributed to this climate of racial animosity. For example, the Tulsa Tribune called Greenwood

⁶⁴ See *id.* at 75; Gerald Jerome Smith, Note, Constitutionality of States’ Use of Police and Military Force to Arrest, Detain, and Confine American Citizens Because of Race, 27 Okla. City U. L. Rev. 451, 454-55 (2002).

⁶⁵ See Brophy, *supra* note 5, at 91-92.

⁶⁶ See *id.*; Goble, *supra* note 11, at 13.

⁶⁷ See Brophy, *supra* note 5, at 1-23.

“Niggertown” and published the front-page article suggesting that Mr. Rowland, whose arrest sparked the riot, had assaulted a white elevator operator and that he would be lynched for it.⁶⁸ This publication served as an incitement to riot.

City and state officials participated in attacks against Victims that resulted in bodily injury, death, and destruction and theft of property. They also acted, with deliberate indifference and motivated by racial animosity, to permit Victims to be physically attacked by others, and to aid, abet, encourage, and condone those attacks. They failed to enforce the law equally among members of different racial groups. Their failure to prevent the commission of racial crimes exacerbated the Riot and led to further violations of Victims’ rights.

City and state officials, acting with racial animus, endangered Victims by deputizing and issuing ammunition and guns to persons they knew or should have known posed a danger to Greenwood’s African-American community. Moreover, city and state officials failed to adequately train and supervise those persons they deputized and to whom they issued ammunition. As a result, city and state officials placed Victims and the entire African-American community of Greenwood in general at an unjustifiably high risk of harm. City and state officials’ deliberate policy and practice was designed to drive Victims out of Greenwood, a known African-American community, or to intimidate Victims such that the Greenwood community would be devastated physically and economically.

Because of their racial animus, city and state officials failed to meaningfully investigate and act upon complaints filed by Victims and other members of Greenwood’s African-American community. In addition, city and state officials abdicated their responsibility to charge white citizens with crimes against Victims, thereby ratifying and jointly participating in racially motivated acts that deprived Victims of their rights. Throughout the Riot, and in its aftermath, city and state officials consistently acted on a racially discriminatory basis.

⁶⁸ See Ellsworth, supra note 6, at 58-59.

D. Victims Denied their Rights to Resort to the Courts for Effective Redress

In the years and decades that followed the Riot, city and state officials denied their involvement in directing and carrying out the attacks. Specifically, a grand jury was convened to establish the Riot's cause, but it found that African-Americans, and not members of the white mob that had been armed by the state, were responsible for the death and destruction that had ensued. The grand jury indicated that:

[T]he recent race riot was the direct result of an effort on the part of a certain group of colored men.... There was no mob spirit among the whites, no talk of lynching and no arms.... The assembly was quiet until the arrival of the armed negroes which precipitated and was the direct cause of the entire affair....⁶⁹

Even more egregiously, the grand jury issued several dozen indictments alleged crimes committed during the Riot, almost all of them against African-Americans.⁷⁰

Despite their best efforts to use the court system, African-Americans were subjected to discriminatory bias rather than justice. While some Greenwood residents and property owners tried to bring suit after the riot, not one was successful.⁷¹ In addition, because of the Ku Klux Klan's then-pervasive influence throughout the legal system, African-American victims of the riot quickly learned that they could not count on the racially-discriminatory courts for restitution.⁷² In fact, about one year after

⁶⁹ See *id.* at 89.

⁷⁰ See Brophy, *supra* note 5, at 75.

⁷¹ See Brophy, *supra* note 21, at 166-67. These suits were filed by both white and black residents, against insurance companies, the city of Tulsa, and an oil company that allegedly provided airplanes that were used to attack Greenwood. One case was filed by a white man who owned a hotel and movie theater in Greenwood against his insurance company. The insurance company denied liability and cited a riot exclusion clause that exempted the insurance company from liability for loss due to a riot. The Oklahoma Supreme Court interpreted the damages as due to a riot and thereby immunized insurance companies from liability. After this suit failed, no others went to trial.

⁷² For more on the Ku Klux Klan's strength in Tulsa, see Ellsworth, *supra* note 5, at 20-22; Ross, *supra* note 34, at vii; Goble, *supra* note 11, at 11; Ellsworth, *supra* note 6, at 45-49.

the riot, Oklahoma's governor declared martial law in Tulsa, citing among other reasons the pervasive control of the courts by the Ku Klux Klan.⁷³ According to the Commission report:

Everyone (on the Commission) agrees that within months of the riot Tulsa's Klan chapter had become one of the nation's largest and most powerful, able to dictate its will with the ballot as well as the whip. Everyone agrees that many of the city's most prominent men were Klansmen in the early 1920s and that some remained Klansmen throughout the decade. Everyone agrees that Tulsa's atmosphere reeked with a Klan-like stench that oozed through the robes of the Hooded Order.⁷⁴

The racial animus and lack of equal treatment that pervaded the justice system was clearly evidenced by the fact that every legal claim made by African-Americans in the wake of the Riot was denied, while the city approved two claims for more than \$5,000 for guns and ammunition that had been looted from white people during the Riot.⁷⁵

At the same time, the city and state quickly took steps to hide the truth about the Riot.⁷⁶ Victims were buried in unmarked graves, neither the state nor the city undertook any investigations or prosecutions into their murders, and documents relating to the riot vanished from state archives.⁷⁷ The government's effort to eliminate memory of the riot was so successful that the current mayor of Tulsa, Bill LaFortune, remarked in 1996, "I was born and raised here, and I had never heard of the riot."⁷⁸ "Until recently, the Tulsa race riot has been the most important least known event

⁷³ See Victims' Complaint to the U.S. District Court for the Northern District of Oklahoma at 196, citing Appellee's Brief in Sanford v. Markham, 221 P. 36 (Okla. 1923).

⁷⁴ See Alfred L. Brophy, The Riot in the Oklahoma Supreme Court, 54 Okla. L. Rev. 67 (2001).

⁷⁵ See Ross, supra note 34, at viii.

⁷⁶ See John Hope Franklin & Scott Ellsworth, History Knows No Fences: An Overview, in Commission Report, supra note 1, at 21, 24-29.

⁷⁷ See id. at 25; Ellsworth, supra note 6, at 87.

⁷⁸ See Franklin & Ellsworth, supra note 76, at 25.

in [Oklahoma's] entire history. Even the most resourceful of scholars stumbled as they neared it...."⁷⁹

This “conspiracy of silence” surrounding the Riot fell particularly hard on African-Americans, who believed it would not be safe to speak of their experiences.⁸⁰ According to Victims’ complaint filed in the U.S. District Court for the Northern District of Oklahoma, many of the Riot’s survivors and their families suffered deep psychological scarring, as the Riot and its aftermath—which lingers to this day throughout the African-American community in Tulsa—diminished the sense of security of Greenwood’s African-Americans, placed them in a subservient condition, and enforced a racial caste system that privileged whites and disadvantaged and demeaned African-Americans. Many of the Riot survivors are still hesitant to talk about the events surrounding the riot and its aftermath. Many of them still believe that the state and municipal government will punish them for discussing openly what happened during the Riot.

In addition, state and city officials, motivated by racial hatred, impeded Victims’ attempts to rebuild their lives after the Riot. After the Riot, the city quickly applied zoning restrictions to Greenwood that rendered reconstruction of the destroyed dwellings prohibitively expensive.⁸¹ When the zoning restrictions were declared unlawful, the city of Tulsa refused to provide economic compensation or to help the Victims, many of whom remained housed in tents through the fall and into the winter of 1921.⁸² The city of Tulsa also declined the offers of private aid that flowed in from outside the city.⁸³ Such promises were hollow: the city provided no assistance in rebuilding Greenwood, and Victims were left to rebuild their lives with their few remaining resources.⁸⁴ As

⁷⁹ See Goble, supra note 11, at 6.

⁸⁰ See Franklin & Ellsworth, supra note 76, at 26-28 (discussing suppression of discussion of Riot); Staples, supra note 5.

⁸¹ See Ellsworth, supra note 6, at 88; Ellsworth, supra note 5, at 85; Staples, supra note 5; Brophy, supra note 21, at 168.

⁸² See Ellsworth, supra note 6, at 88-89; Ellsworth, supra note 5 at 89.

⁸³ See Brophy, supra note 5, at 90.

⁸⁴ See Ellsworth, supra note 5 at 89.

a result of this mistreatment, thousands of African-Americans fled Tulsa permanently.⁸⁵

All actions and inactions of city and state officials, as alleged in this petition, were pursuant to the official policy, custom, habit, usage, pattern and practice of unequal enforcement of the law. City and state officials did not treat white citizens in the same or similar manner as Victims. As a direct and proximate result of city and state officials' illegal and racially motivated actions, Victims suffered physical injury, the loss of their property, and emotional distress.

E. Truth Commission Ends Conspiracy of Silence

The government's efforts to maintain a conspiracy of silence regarding the Riot lasted for more than seventy-five years. It was not until 1997 that the Oklahoma Legislature created a Commission to study the Riot and to make recommendations about restitution for its victims.⁸⁶ And the full truth about the riot was not known until February 28, 2001, when—after four years of intense study and unprecedented efforts to gather new evidence—the Tulsa Commission published its findings.⁸⁷ The Tulsa Commission report revealed information about the Riot that had never before been made available to the public.⁸⁸

The Tulsa Commission's report detailed the difficulty that its members and staff encountered in assembling evidence about what happened during the Riot. The report said, "As its work grew steadily more exacting and steadily more specialized, the commission turned to more experts [including] [l]egal scholars, archeologists, anthropologists, forensic specialists, geophysicists."⁸⁹ Moreover, the report contained significant amounts of new evidence. The Tulsa commission noted: "To write this report, Scott Ellsworth [author of the book *Death in a Promised Land*] used evidence he did not have—no one had it—as

⁸⁵ See *id.*

⁸⁶ See Goble, *supra* note 11, at 1.

⁸⁷ See Commission Report, *supra* note 1.

⁸⁸ See Goble, *supra* note 11, at 8.

⁸⁹ See *id.* at 3.

recently as 1982. He cites that new evidence at least 148 times.’⁹⁰ The report made clear for the first time the extensive involvement of the state and city in the prosecution of the Riot.⁹¹ Only after this report was published did Victims have sufficient information to state the nature of the causes of action they could bring, and against whom.

The Oklahoma legislature adopted many of the report’s findings. It found that:

The documentation assembled by the 1921 Riot Commission provides strong evidence that some local municipal and county officials failed to take actions to calm or contain the situation once violence erupted and, in some cases, became participants in the subsequent violence which took place on May 31 and June 1, 1921, and even deputized and armed many whites who were part of a mob that killed, looted, and burned down the Greenwood area.⁹²

The staggering cost of the Riot included the deaths of an estimated 100 to 300 persons, the vast majority of whom were African-Americans, the destruction of 1,256 homes, virtually every school, church and business, and a library and hospital in the Greenwood area, and the loss of personal property caused by rampant looting by white rioters. The Riot Commission estimates that the property costs in the Greenwood district were approximately \$2 million in 1921 dollars or \$16,752,600 in 1999 dollars [\$21,743,016 in 2005 dollars]. Nevertheless, there were no convictions for any of the violent acts against African-Americans or any insurance payments to African-American property owners who lost their homes or personal property as a result of the Riot. Moreover, local officials attempted to block the rebuilding of the Greenwood community by amending the Tulsa building code to require the use of fire-proof material in

⁹⁰ See *id.* at 8.

⁹¹ See *id.* at 11-12.

⁹² 74 Okla. St. Ann. § 8000.1.2.

rebuilding the area thereby making the costs prohibitively expensive.⁹³

Despite these findings, the city of Tulsa and state of Oklahoma have not abided by the recommendation of the Commission, which advocated that reparations should be made to those people who were directly affected by the Riot.

The same year that the Commission report was published, the United Nations World Conference Against Racism, in its concluding report, urged states to ensure that all persons have access to effective and adequate remedies for racial discrimination.⁹⁴ Around the same time, lawsuits demanding reparations for violations committed during the Holocaust were coming to fruition and being used as a model for other such claims arising out of the Armenian genocide as well as WWII-era harms committed by Japan and Japanese companies.⁹⁵

With new information about who was responsible for the riot, and the increased viability of lawsuits alleging human rights violations committed in decades past, Victims, realizing that such a suit would no longer be futile, as it would have been in years past, filed a complaint in U.S. court.

But the U.S. District Court dismissed the suit as untimely. Despite this finding, the presiding judge made clear that "...there is plenty of evidence...to support the premise that African-Americans would have, and did have, an extremely difficult time pursuing their legal rights in the aftermath of the Riot."⁹⁶ In addition, he noted,

Plaintiffs assert extraordinary circumstances in a legal system that was openly hostile to them, courts that were practically closed to their claims, a City that blamed them for the Riot and actively suppressed the facts, an era of Klan domination of the courts and police force,

⁹³ 74 Okla. St. Ann. § 8000.1.3.

⁹⁴ Report of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, at 24, U.N. Doc. A/CONF.198/12 (2001).

⁹⁵ The first Holocaust era lawsuit was filed in 1996. See http://sdshh.com/ICLR/ICLR_2002/12_Bazyler.pdf.

⁹⁶ Alexander v. Oklahoma, Case No. 03-C-133-E, 2004 U.S. Dist. LEXIS 5131, at *16 (N.D. Okl. Mar. 19, 2004).

and the era of Jim Crow. There is no question that there are exceptional circumstances here. Both the Commission Report and the Legislative Findings and Intent resulting from that Report catalog the horror and devastation of the Riot as well as the intimidation, misrepresentation and denial that took place afterward. The political and social climate after the riot simply was not one wherein the Plaintiffs had a true opportunity to pursue their legal rights. The question is not a factual question of whether exceptional circumstances existed. They did. It is a legal question of the effect, with respect to the issue of statute of limitations, of those exceptional circumstances.⁹⁷

Victims appealed to the Tenth Circuit Court of Appeals, which affirmed the lower court's ruling. But Judge Carlos Lucero, in a dissent joined by three of his colleagues on the bench, wrote:

No case in my tenure on the court could be more compellingly described as meeting the Rule 35 en banc standard of presenting a 'question of exceptional importance' deserving the attention of the entire court than this. In one of the more shameful events in our nation's history, over two hundred African-Americans were slaughtered and a whole section of the City of Tulsa was burned in an uncontrolled riot in 1921. Official government action by the City of Tulsa and the State of Oklahoma fueled this carnage by deputizing and arming the mob, and authorizing the National Guard to detain the victims while their forty-two square block community was razed to the ground... All subsequent claims raised by the victims fell upon the deaf ears of the courts at the time, and most languished without even a cursory glance at the merits. None of the over one hundred lawsuits filed were successful. In a perversion of justice, a grand jury commissioned by the state exonerated the city and state, and all white rioters, and blamed the victims for the atrocity. This history alone raises a 'question of exceptional importance'—the

⁹⁷ *Id.* at 21-22.

laudable recent investigation of this tragedy by the State of Oklahoma compels us to confront it.⁹⁸

Victims then appealed to the U.S. Supreme Court, which, on May 16, 2005, declined to take up the case. This had the effect of denying Victims their rights to equality before the law (Article II of the American Declaration of the Rights and Duties of Man), to a fair trial (Article XVIII of the American Declaration of the Rights and Duties of Man), and to numerous other rights articulated in additional treaties to which the United States is bound.

Because of this denial of an effective remedy, and its discriminatory effect, one scholar noted in 2003 in relation to Tulsa that:

[T]he riot has cast a pall over the city, and has made it feel half-dead even today. Prior to the riot, the black community in Tulsa had been economically prosperous, not to mention spiritually and physically cohesive and strong. The riot was devastating in all of these respects, but in particular economically, and given the lack of assistance and almost absolute segregation that existed for decades after the riot, people were not able to recover economically. The combination of circumstances that existed after the riot made it impossible for blacks in Tulsa to live as upstanding and fearless citizens even if they initially tried to do so. People did not just lose their homes and businesses, they seemed eventually to lose part of their dreams and their will, at least as a group. Thus while I believe that there was a period of approximately ten years in which people made their best effort to rebuild, and revitalize their community educationally and socially, eventually, given the economic devastation, and the persistent and complete separation and indifference of the white community, a pall of discouragement set in among the black community. And because the city has never honestly confronted what happened, that pall persists to this day.⁹⁹

⁹⁸ Alexander v. Oklahoma, 391 F.3d at 1159 (Lucero, J., dissenting).

⁹⁹ Declaration of John Hope Franklin, para. 10 (on file with Petitioners).

In short, this scholar explained, Tulsa “has never dealt honestly with what happened, and because of this failure, the city and its black community in particular has simply never recovered from the event.”¹⁰⁰

One doctor who interviewed some of the Victims and studied the Riot and its aftermath indicated that “[T]he black community continued to experience very significant emotions and circumstances tied to the Riot for many years afterwards, even up to the present. These effects included persistent and deeply felt fear, reluctance and suppression regarding subjects related to the Riot, reluctance and fear regarding contact with whites and a pervasive compulsion to avoid ‘stepping out of line’ in general, and additional persistent fear of unpredictable disaster.”¹⁰¹ One of the Victims interviewed reported that he still has occasional nightmares; another reported that her brother would wake up at night screaming.¹⁰² While the doctor “did not detect any specific psychiatric disorders in the people that [he] interviewed, he found that “the lives of most were permanently stained by those events.”¹⁰³

II. COMPETENCE OF THE COMMISSION

The Commission has competence *ratione personae*, *ratione materiae*, *ratione temporis*, and *ratione loci* to examine this petition.

A. Competence *Ratione Personae*

The Commission has competence *ratione personae* to examine this petition. Pursuant to Article 23 of the Commission’s Rules of Procedure, Petitioner Global Rights, a nongovernmental entity legally recognized in the United States, and Petitioner Charles J. Ogletree, an individual, are authorized to file complaints on behalf of third persons, alleging the violation of rights protected under the American Declaration of the Rights and Duties of Man.

¹⁰⁰ *Id.* para. 7.

¹⁰¹ Declaration of Eric D. Caine (hereinafter “Caine Decl.”) (on file with Petitioners).

¹⁰² Caine Letter, *supra* note 61, at 3.

¹⁰³ *Id.* at 4.

The Victims are persons whose rights are protected under the American Declaration, the provisions of which all members of the Organization of American States (OAS) are bound to respect; the United States ratified the OAS Charter on June 19, 1951.¹⁰⁴

By its ratification of the OAS Charter, the United States also became subject to the jurisdiction of the Commission. Although the United States has not ratified the American Convention on Human Rights, Article 20(b) of the Commission's Statute makes clear that the Commission may nonetheless "examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights."¹⁰⁵ Petitioner seeks relief in accordance with these explicit powers of the Commission under Article 20(b).

¹⁰⁴ The Commission's Statute gives it the following powers, in addition to those it possesses under Article 18, with regard to OAS member states not party to the American Convention on Human Rights:

- a. to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man;
- b. to examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights; and,
- c. to verify, as a prior condition to the exercise of the powers granted under subparagraph b. above, whether the domestic legal procedures and remedies of each member state not a Party to the Convention have been duly applied and exhausted."

Inter-Am. C.H.R Statute, Art. 20.

¹⁰⁵ Cf. Inter-Am. Ct. H.R., Interpretation of the Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion, at paras. 35-45 (1989); Inter-Am. C.H.R., James Terry Roach and Jay Pinkerton v. United States, Case 9647, at paras. 46-49 (1987); Inter-Am. C.H.R., Tracy Lee Housel v. United States, Case 129/02, OEA/Ser.L/V/II.122, doc. 5 rev. 1, at 504 para. 25 (2004).

B. Competence *Ratione Materiae*

The Commission has competence *ratione materiae* to examine this petition. The petition alleges violations of human rights protected by the American Declaration of the Rights and Duties of Man. Specifically, the petition alleges violations of Article II (right to equality before law) and Article XVIII (right to a fair trial) of the American Declaration.

In addition, the Commission also has the competence to consider other sources of international law that are relevant to interpreting and applying the Declaration. To this end, the Commission has said:

[T]he Commission recalls that in interpreting and applying the Declaration, its provisions...should be considered in the context of the broader international and inter-American human rights systems, in the light of developments in the field of international human rights law since it was first composed. Due regard should in this respect be given to other relevant rules of international law applicable to member states against which complaints of violations of the Declaration are properly lodged as well as developments in the corpus juris gentium of international human rights law over time and in present-day conditions.

Developments in the corpus of international human rights law relevant to interpreting and applying the American Declaration may in turn be drawn from various sources of international law, including the provisions of other international and regional human rights instruments and customary international law, including those customary norms considered to form a part of jus cogens.¹⁰⁶

The Commission went on to say:

It is well-established that other treaties concerning the protection of human rights in the American states may be invoked by the supervisory bodies of the inter-American human rights system, regardless of the bilateral or

¹⁰⁶ Inter-Am. C.H.R., Michael Domingues v. United States, Merits, Case 12.285, Report No. 62/02 (2002) (internal citations omitted).

multilateral character of those treaties, or whether they have been adopted within the framework or under the auspices of the inter-American system. Such treaties form part of the *corpus juris gentium* of international human rights law within which states' current international obligations are to be interpreted.¹⁰⁷

The Commission has also made clear that “the Inter-American Court has endorsed the Commission’s practice of applying sources of international law found in other treaties that contain human rights provisions different from those of the American Convention”¹⁰⁸ or, presumably, of the American Declaration. It then quoted from the Inter-American Court:

The need of the regional system to be complemented by the universal finds expression in the practice of the Inter-American Commission on Human Rights and is entirely consistent with the object and purpose of the Convention, the American Declaration and the Statute of the Commission. The Commission has properly invoked in some of its reports and resolutions “other treaties concerning the protection of human rights in the American states,” regardless of their bilateral or multilateral character, or whether they have been adopted within the framework or under the auspices of the inter-American system.¹⁰⁹

¹⁰⁷ *Id.*

¹⁰⁸ Inter-Am. C.H.R., *Carmelo Soria Espinoza v. Chile*, Case 11.725, para. 133 (1999).

¹⁰⁹ *Id.* The Court then went on to cite several of the Commission’s reports in which it had adhered to this principle. These included: the situation of human rights in El Salvador (OEA/Ser.L/V/II.46, doc. 23, rev. 1, November 17, 1979) at 37-38; the situation of political prisoners in Cuba (OEA/Ser.L/V/II.48, doc.24, December 14, 1979) at 9; the situation of human rights in Argentina (OEA/Ser.L/V/II.49, doc. 19, April 11, 1980) at 24-25; the situation of human rights in Nicaragua (OEA/Ser.L/V/II.53, doc.25, June 30, 1981) at 31; the situation of human rights in Colombia (OEA/Ser.L/V/II.53, doc.22, June 30, 1981) at 56-57; the situation of human rights in Guatemala (OEA/Ser.L/V/II.53, doc.21, rev.2, October 13, 1981) at 16-17; the situation of human rights in Bolivia (OEA/Ser.L/V/II.53, doc.6, rev.2, October 13, 1981) at 20-21; and Case 7481-Acts which occurred in Caracoles (Bolivia), Resolution No. 30/82 (OEA/Ser.L/V/II.55, doc.54, March 8, 1982).

The Commission therefore has competence to consider other sources of international law when interpreting applying the American Declaration. This includes the International Convention on the Elimination of all Forms of Racial Discrimination, which makes clear that “the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” In addition, the Commission has competence to consider the provisions of the International Covenant on Civil and Political Rights as well as jus cogens norms relating to the prohibition on racial discrimination when interpreting the American Declaration. This petition alleges that rights guaranteed by these bodies of law have also been violated.

C. Competence *Ratione Temporis*

The Commission has competence *ratione temporis* to examine this petition. Because the U.S. Supreme Court denied Victims’ petition on May 16, 2005, thereby depriving Victims of an effective remedy for the harms they suffered, the United States is in violation of its obligations under the American Declaration. While the underlying events upon which this petition is based was initiated on May 31, 1921, prior to the United States’ ratification of the OAS Charter, the denial of a remedy has been continuous up to and finally including the Supreme Court’s denial of certiorari on May 16, 2005. Moreover, the effects on the victims, including continued trauma and fear, continue to this day. To be clear, while the initial human rights violations committed during the riot were grave, this complaint alleges violations of the rights provided in the American Declaration and elsewhere that occurred after the Declaration’s ratification and that continue as of the date of this petition. These violations are based on the U.S. courts’ continuing refusal to provide an effective remedy for the harms Victims suffer.

The Commission has consistently stated that where violations of rights protected by a human rights instrument arose prior to the ratification of the instrument, the Commission nonetheless is competent to receive petitions where violations continue and

effects persist after the instrument's entry into force.¹¹⁰ For example, in the *Statehood Solidarity Committee* case, this Commission found that the United States violated Articles II and XX of the American Declaration by denying citizens of the District of Columbia the right to vote for and elect members of the U.S. Congress, as was dictated by the U.S. Constitution of 1789 and the Organic Act of 1801—despite the fact that both of these laws were enacted before the OAS Charter was written. The Commission made clear that:

While the situation upon which the Petitioners' complaint is based in part upon legislation that was enacted prior to the State's ratification of the OAS Charter...the violations of the Declaration alleged have continued and remained current after the date of ratification of the OAS Charter by the United States. That alleged violations of this nature fall within the scope of the Commission's competence to apply the American Declaration is consistent with the Commission's practice and that of other international human rights tribunals of applying human rights instruments to alleged violations that arose prior to the ratification of those instruments but which are continuing in nature and whose effects persist after the instrument's entry into force.¹¹¹

Moreover, the Commission recently found admissible a petition in which the harm was initiated before the country's ratification of the relevant document (in this case, the American Convention), but the denial of justice occurred with the refusal by the country's Supreme Court to reopen the case. In *Omar Humberto Maldonado Vargas et al v. Chile*, the victims were tried

¹¹⁰ See Inter-Am. C.H.R., Mary and Carrie Dann v. United States, Case 11.140, Report No. 75/02, Doc.5.rev.1 at 860 para. 166 n. 118 (2002); see also Inter-Am. C.H.R., Statehood Solidarity Committee v. United States, Case 11.204, Report No. 98/03, para. 59 (2003). For a similar situation in a case that reached friendly settlement, see Inter-Am. C.H.R., Vaca Narvaja et al. v. Argentina, Case 10.288, 10.310, 10.436, 10.496, 10.631, 10.771, Report No. 1/93, OEA/Ser.L/V/II.83 Doc 14 (1993).

¹¹¹ Inter-Am. C.H.R., Statehood Solidarity Committee v. United States, Case 11.204, Report No. 98/03, para. 59 (2003).

and convicted by a military court in Chile in 1974 and 1975.¹¹² After Chile's return to democracy, new facts emerged about the issuance of the sentences. In response, the victims asked the country's Supreme Court to reopen the case; the court denied the request. Chile had ratified the American Convention in 1990. In finding that this case was admissible, the Commission said: "The Commission has competence, *ratione temporis*, in that the decisions of the Chilean Supreme Court that are the basis for this complaint were issued on September 2, 2002, and December 9, 2002, when the obligation of respecting and ensuring the rights enshrined in the American Convention was already in force for the Chilean State."

In addition, other international courts have also held that they may have competence *ratione temporis* even when the treaty that was allegedly violated was ratified after the alleged violation took place. The International Court of Justice took this view of its competence concerning violations alleged to have occurred prior to the entry into force of the Genocide Convention,¹¹³ and other human rights tribunals have adhered to this principle as well.¹¹⁴

¹¹² See Inter-Am. C.H.R., Omar Humberto Maldonado Vargas et al. v. Chile, Report No. 6/05, Petition 285/03, admissibility (2005).

¹¹³ See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, 1996 I.C.J. 595, at 617 para. 34 (July 11) ("Having reached the conclusion that it has jurisdiction in the present case, both *ratione personae* and *ratione materiae* on the basis of Article IX of the Genocide Convention, it remains for the Court to specify the scope of that jurisdiction *ratione temporis*. In its sixth and seventh preliminary objections, Yugoslavia, basing its contention on the principle of the non-retroactivity of legal acts, has indeed asserted as a subsidiary argument that, even though the Court might have jurisdiction on the basis of the Convention, it could only deal with events subsequent to the different dates on which the Convention might have become applicable as between the Parties. In this regard, the Court will confine itself to the observation that the Genocide Convention — and in particular Article IX — does not contain any clause the object or effect of which is to limit in such manner the scope of its jurisdiction *ratione temporis*, and nor did the Parties themselves make any reservation to that end, either to the Convention or on the occasion of the signature of the Dayton-Paris Agreement. The Court thus finds that it has jurisdiction in this case to give effect to the Genocide Convention with regard to the relevant facts which have occurred since the beginning of the conflict which took place in Bosnia-Herzegovina. This finding is, moreover, in accordance with the object and purpose of the Convention as defined by the Court in 1951 and referred to

In short, the United States is in violation of its international legal obligations because its courts have denied Victims in this case an effective remedy for the harms they suffered. Although the underlying events described in this petition happened in 1921, the United States has never remedied their breach and, as such, remains in violation of its international obligations. According to the International Law Commission's Draft Articles on State Responsibility, "The breach of an international obligation by an act of a State having a continuing character extends over the entire period during which the act continues and remains not in conformity with the international obligation. The breach of an international obligation requiring a State to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation."¹¹⁵ The United States therefore has a legal obligation to remedy the violations initiated in 1921, which it has never done.

D. Competence *Rationae Loci*

The Commission has competence *ratione loci* to examine this petition. The petition alleges violations of rights protected in the American Declaration of the Rights and Duties of Man and elsewhere that took place in the territory of the United States, a member of the Organization of American States.

III. ADMISSIBILITY OF THE PETITION

A. Exhaustion of Domestic Remedies

The petition is admissible because domestic remedies have been exhausted as required by Article 31 of the Rules of Procedure

above.... As a result, the Court considers that it must reject Yugoslavia's sixth and seventh preliminary objections.").

¹¹⁴ See Inter-Am. C.H.R., Joao Canuto De Oliveira v. Brazil, Case 11.287, Report No. 24/98, OEA/Ser.L/V/II.95 Doc. 7 at 379 paras. 12-18 (1997); Inter-Am. Ct. H.R., Blake Case, Preliminary Objections, at paras. 24, 33-34 (1996); Eur. Ct. H.R., Papamichalopoulos v. Greece, at paras. 40-46 (ser. A) (1993).

¹¹⁵ See International Law Commission, Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, arts. 14(2), 14(3), U.N. Doc. A/56/10 (2001), available at [http://www.un.org/law/ilc/texts/State_responsibility/responsibility_articles\(e\).pdf](http://www.un.org/law/ilc/texts/State_responsibility/responsibility_articles(e).pdf) (last visited Oct. 5, 2005) (hereinafter "Draft Articles on State Responsibility").

of the Inter-American Commission. The United States District Court for the Northern District of Oklahoma dismissed Victims' claims on March 19, 2004. The United States Court of Appeals for the Tenth Circuit affirmed the District Court's ruling on September 8, 2004; it denied Victims' request for rehearing *en banc* on December 13, 2004. The United States Supreme Court declined to grant a writ of certiorari in this case on May 16, 2005.

B. Timeliness

The petition is admissible because it was filed within six months of notification of the exhaustion of domestic remedies as required by Article 32 of the Rules of Procedure of this Commission. As noted above, the United States Supreme Court declined to issue a writ of certiorari in this case on May 16, 2005.

C. Duplication of Procedures

The petition is admissible because its subject is not pending in any other proceeding or settlement as required by Article 33 of the Rules of Procedure of the Inter-American Commission.

IV. ARGUMENT

The facts described above make clear that the United States is in violation of the rights affirmed in the American Declaration of the Rights and Duties of Man as elaborated by other human rights treaties. Because the United States is a member of the Organization of American States, it is legally required to protect and promote these rights. According to the Inter-American Court of Human Rights, the rights articulated in the American Declaration are, at a minimum, the human rights that OAS member states are bound to respect.¹¹⁶ As such, the United States is responsible under international law for violating the rights declared in the American Declaration, for violating the rights affirmed in any treaty to which the United States is a party, and for violating *jus cogens* norms, specifically the prohibition against racial discrimination.

¹¹⁶ See Inter-Am. Ct. H.R., Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion, at paras 42-43 (1989).

A. The United States Has Denied Victims the Right to Resort to the Courts to Ensure Respect for their Legal Rights and the Right to Equality Before the Law Without Distinction as to Race

Article XVIII of the American Declaration of the Rights and Duties of Man says: “Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.” Additionally, Article II of the American Declaration guarantees that “All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race....” With the U.S. Supreme Court’s decision of May 16, 2005, Victims were denied their right to resort to the courts so that they might obtain an effective legal remedy, a denial that has a racially discriminatory effect.

In denying Victims’ right to an effective remedy, by applying a statute of limitations with the effect of furthering an injustice that was racially discriminatory in both intent and effect, the United States is in violation of its obligations under Articles XVIII and II of the American Declaration.

1. No Statute of Limitations (Prescription) for International Crimes

The initial human rights violations Victims suffered are not subject to any statute of limitations. Specifically, the crimes committed in 1921 are violations of the *jus cogens* norm prohibiting racial discrimination and, as such, are not subject to any statute of limitations.¹¹⁷ Because *jus cogens* norms are

¹¹⁷ See Restatement (Third) Foreign Relations Law of the United States § 702(f) cmt. n (1986) (making clear that while not all human rights norms are preemptory norms (*jus cogens*), several are if they are practiced, encouraged, or condoned as a matter of state policy, including: genocide; slavery or slave trade; the murder or causing the disappearance of individuals; torture or other cruel, inhuman, or degrading treatment or punishment; prolonged arbitrary detention; systematic racial discrimination; and a consistent pattern of gross violations of internationally recognized human rights); see also Barcelona Traction (Belg. v. Spain), Second Phase, 1970 I.C.J. 3, 32 (Feb. 5) (sep. op. J. Ammoun) (indicating that obligations of *jus cogens* “derive, for example, in contemporary international law, from the outlawing of acts of aggression, and of genocide, as also from the

prohibited by the international community as a whole, no state may shield itself from responsibility by invoking a statute of limitations. The crimes committed in 1921 also constitute crimes against humanity¹¹⁸ and, as such, are not subject to any statute of limitations. The United States' belief that the statute of limitations was applicable to these crimes was thus in error.¹¹⁹ Similarly, the attacks instigated during the riot may indicate the existence of a genocidal intent on behalf of the perpetrators. As such, because the crimes committed are not subject to any statute of limitations, the United States has violated Victims' right to resort to the courts by claiming such a statute of limitations has run.

principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination.”); International Convention on the Elimination of all Forms of Racial Discrimination, art. 2, Mar. 7, 1966, 660 U.N.T.S. 195, 5 I.L.M. 352, entered into force Jan. 4., 1969 (codifying the jus cogens norm prohibiting racial discrimination); International Covenant on Civil and Political Rights, art. 28, Dec. 16, 1966, 999 U.N.T.S. 171, 6 I.L.M. 36, entered into force Mar. 23, 1976 (same).

¹¹⁸ Under customary international law, as codified in the Rome Statute of the International Criminal Court, crimes against humanity are defined as

any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Rome Statute of the International Criminal Court, July 17, 1998, art. 7(1), 2187 U.N.T.S. 90, entered into force July 1, 2002.

¹¹⁹ See Convention on Imprescriptibility of Crimes of War and Against Humanity, G.A. Res. 2391 (XXII), U.N. GAOR, 22d Sess. (1968); Council of Europe, Non-applicability of Statutory Limitations to Crimes against Humanity and War Crimes, Jan. 25, 1974, E.T.S. No. 82; Rome Statute of the International Criminal Court, supra note 118, at art. 29.

The Inter-American Court has repeatedly made clear that states may not rely on statutes of limitations to shield themselves from responsibility for international crimes. Specifically, the Court has said:

[A]ll amnesty provisions, *provisions on prescription* and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by international human rights law.¹²⁰ (Emphasis added.)

It is imperative that justice be done for Victims of the Riot. Until an effective remedy is secured, the devastating harms from this event will continue to be felt. As the Tulsa Commission's report so clearly indicates: "What happened in 1921 in Tulsa is as alive today as it was back then. What happened in Tulsa stays as important and remains as unresolved today as in 1921."¹²¹

As such, when U.S. courts refused to decide the case on the merits because they said the statute of limitation had run, the United States denied Victims their right to access the courts and to an effective remedy. That denial has racially discriminatory content and impact, violating articles XVIII and II of the American Declaration.

2. Statutes of Limitations May Not Run Before an Effective Remedy Is Available

Moreover, even if the crimes committed were subject to statutes of limitations, these statutes of limitations could not have started to run before Victims had access to an effective remedy. The United Nations Independent Expert to Update the Set of

¹²⁰ Inter-Am. Ct. H.R., Barrios Altos case (Chumbipuma Aguirre et al. v. Peru), para. 41 (2001); see also Inter-Am. Ct. H.R., Trujillo-Oroza v. Bolivia, para. 106 (2002); Inter-Am. Ct. H.R., El Caracazo v. Venezuela, para. 119 (2002); Inter-Am. Ct. H.R., Myrna Mack Chang v. Guatemala, para. 276 (2003). Black's Law Dictionary defines prescription as the "effect of the lapse of time in creating and destroying rights." Black's Law Dictionary 1201 (7th ed. 1999).

¹²¹ See Goble, supra note 11, at 4.

Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, a post that was filled by the United Nations Secretary-General at the request of the United Nations Commission on Human Rights, made this clear by stating that:

Prescription—of prosecution or penalty—in criminal cases shall not run for such period as no effective remedy is available. Prescription shall not apply to crimes under international law that are by their nature imprescriptible. When it does apply, prescription shall not be effective against civil or administrative actions brought by victims seeking reparation for their injuries.¹²²

In situations with significant parallels to the current one, in which victims of human rights violations could not access the courts because the regime under which they were living did not provide such access, the Human Rights Committee has made clear statutes of limitations should not apply. Specifically, the Committee said, “Gross violations of civil and political rights during military rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary to bring their perpetrators to justice.”¹²³ Because Victims in this case similarly faced a situation in which they did not have access to the courts to protect their rights, and did not have the information they needed to bring suit effectively, the crimes committed against them should still be prosecutable today.

¹²² See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, principle 23, U.N. Doc. E/CN.4/2005/102/Add.1 (2005) (hereinafter “Updated Principles on Impunity”). The Revised Set of Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law similarly said that “statutes of limitations shall not apply in respect of periods during which no effective remedies exist for violations of human rights and humanitarian law. Civil claims relating to reparations for gross violations of human rights and humanitarian law shall not be subject to statutes of limitations.” Revised Set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Theo van Boven pursuant to Sub-Commission decision 1995/117, para. 9, U.N. Doc. E/CN.4/Sub.2/1996/17 (1996) (hereinafter “Revised Principles on Impunity”).

¹²³ Concluding observations of the Human Rights Committee: Argentina, U.N. Doc. CCPR/CO/70/ARG, para. 9 (2000).

As noted above, it was on February 28, 2001, that the Tulsa Commission published its report. In it, for the first time, the story of the riot was told fully and truthfully. Much of the information contained within this report had been withheld from public knowledge with specific intent to deny Victims recourse at law because of their race. Only with the report's publication did Victims have sufficient information to state the causes of action they could bring, and against whom. The Tulsa Commission's report made a remedy possible for the first time. Because no statute of limitations could have begun to toll before this, the United States denied Victims their rights by preventing them from accessing the courts due to an erroneous running of the statute of limitations.

While a lack of knowledge about who was responsible for the crimes committed was a significant factor preventing Victims from bringing suit earlier, it was not the only one. Victims were also prevented from obtaining an effective remedy in Oklahoma's courts after the riot because the judicial system was plagued by the influence of the Ku Klux Klan.

In addition, even if the truth had been clearly known and there had been some hope that a court would entertain the lawsuit, the fear that was intentionally created by the Tulsa attack, and which was reinforced by the climate of lynchings that preceded it, would have rendered knowledge of the truth and access to the courts insufficient for the full realization of Victims' right to legal process. In fact, Victims reasonably believed that if they brought a case, they would be in grave danger. As one doctor who has studied the riot and interviewed a number of Victims explained

[I]t is reasonable to conclude that few would have had the psychological resources to vigorously pursue restitution in court [soon after the riot]. That would, in many respects, have been the ultimate 'crossing the line,' and frankly, would have seemed foolhardy to most in that era, as it would have challenged the very social system of Tulsa that had just been 'reinforced' with bullets and fire.¹²⁴

¹²⁴ Caine Letter, supra note 61.

The trauma that Victims experienced also had the effect of deterring them from bringing suit soon after the Riot. The doctor who examined a number of Victims noted that those he interviewed “had emotions and personal reactions that were consistent with what one would expect from trauma victims, and consistent from what one would expect from the particular type of trauma that the Tulsa Riot was, namely, fear, resignation, and passivity as related to the source of the trauma, such that it is reasonable to expect that they would not have pursued their legal rights and remedies in the years after the Riot.” The doctor “also concluded that these emotions and sentiments have persisted in the years since the Riot.”¹²⁵ This makes clear that Victims were prevented, because of the harms they suffered during the state and city-supported Riot, from accessing any effective remedy.

Finally, it has only been in the past few years that courts have started to be receptive to granting remedies for crimes committed in the past. In 1996, the first case alleging human rights violations committed during the Holocaust was brought; since then, cases concerning atrocities carried out during the Armenian genocide and against Japanese persons and businesses during WWII have made their way through the courts as well. In addition, the conclusions of the World Conference Against Racism, issued in 2001, urged states to ensure that all persons have access to effective and adequate remedies for racial discrimination. As a result of these developments, Victims began to believe for the first time that courts would be open to redressing the abuses that Victims had suffered.

Because no effective remedy was possible for several decades after the Riot, and the United States permitted the perpetuation of a climate of fear that prevented Victims from bringing suit earlier, the United States may not now claim that the running of the statute of limitations mandates that the Victims should get no remedy.

3. No Internal Law May Undermine Rights in the American Declaration

No internal law of the United States—such as any law concerning a statute of limitations—can undermine the rights

¹²⁵ Caine Decl., *supra* note 101.

articulated in the American Declaration. Customary international law makes clear that states may not invoke provisions of their domestic law to justify their failure to comply with a treaty obligation.¹²⁶ Further, the Inter-American Court has held that “under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.”¹²⁷ As such, the United States cannot rely on a statute of limitations law to deny Victims their right to resort to the courts.

4. The Crimes Committed Violate Rights Protected in Treaties to Which the United States is a Party

In addition, the racially discriminatory impact of denying these Victims access to the courts constitutes a violation of a number of international treaties to which the United States is a party. These include Articles 2, 4, 5, and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination and Articles 2 and 26 of the International Convention on Civil and Political Rights.

5. The United States Has a Legal Duty to Prevent and Investigate Human Rights Violations, and to Identify and Punish Perpetrators

The United States has not fulfilled its legal duty to prevent and investigate the crimes committed against Victims, or its duty to punish the perpetrators of these crimes. The Inter-American Court has made clear that “States...have the obligation to prevent

¹²⁶ See Vienna Convention on the Law of Treaties, art. 27, May 22, 1969, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980 (“A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”); Draft Articles on State Responsibility, supra note 111, at art. 32 (“The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this Part”). Although the United States has not ratified the Vienna Convention on the Law of Treaties, it does recognize many of its provisions as customary international law, including this one. See Restatement (Third), supra note 117, at § 115(1)(b) (“That a rule of international law or a provision of an international agreement is superseded as domestic law does not relieve the United States of its international obligation or of the consequences of a violation of that obligation”).

¹²⁷ Inter-Am. Ct. H.R., Velasquez Rodriguez Case, para. 170 (1998).

human rights violations, investigate them, identify and punish their intellectual authors and accessories after the fact, and may not invoke existing provision of domestic law...to avoid complying with their obligations under international law.”¹²⁸ To date, the United States has not fulfilled this obligation with regard to the Victims. As the Commission so clearly found, “Not one of these criminal acts was then or has ever been prosecuted or punished by government at any level, municipal, county, state, or federal.”¹²⁹

The total absence of a criminal investigation into the events surrounding the Riot and the lack of prosecution of the perpetrators constitutes the definition of impunity. The Inter-American Court has made this point clearly, noting that impunity involves “the failure to investigate, prosecute, take into custody, try and convict those responsible for violations of rights protected by the American Convention”¹³⁰ and also, presumably, by the American Declaration. The Court has further said that “the State has the obligation to use all the legal means at its disposal to combat that situation, since impunity fosters chronic recidivism of human rights violations, and total defenseless[ness] of the victims and their relatives.”¹³¹

Moreover, the Court has made clear that states have an obligation to provide an effective criminal investigation into and prosecution of violations of rights protected by treaty. It has said:

What is decisive is whether a violation of the rights recognized by the Convention has occurred with the support or acquiescence of the government, or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible. The state has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify

¹²⁸ Inter-Am. C.H.R., Carmelo Soria Espinoza v. Chile, Case 11.725 (1999).

¹²⁹ Goble, supra note 11, at 13.

¹³⁰ Inter-Am. C.H.R., Carmelo Soria Espinoza v. Chile, Case 11.725 (1999).

¹³¹ Inter-Am. Ct. H.R., Paniagua Morales et al. Case, para. 173 (1998).

those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the person within its jurisdiction. The duty to investigate...must have an objective and be assumed by the state as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government.¹³²

The establishment of the Tulsa Commission is no substitute for judicial redress. In Carmelo Soria Espinoza's case against Chile, the State had established a similar investigatory commission. But the Inter-American Commission found:

[t]he National Commission for Truth and Reconciliation was not a judicial body, and its function was limited to establishing the identity of the victims of violations to the right to life. Given the nature of its mandate, the National Commission did not have the authority to publish the names of those who committed crimes nor to impose any type of punishment. Consequently, notwithstanding its importance in establishing the facts and awarding compensation, the National Commission for Truth and Reconciliation cannot be considered as an adequate substitute for a judicial process.¹³³

Moreover, the United States has the duty to investigate and punish these crimes on its own, irrespective of Victims initiative to bring suit. But it has not fulfilled this obligation. As the Commission has made clear:

[S]ince the crimes in question here are public crimes, that is to say subject to ex officio prosecution, as in the

¹³² Inter-Am. Ct. H.R., Velasquez Rodriguez Case, paras. 173, 174, 176, 177 (1998).

¹³³ Inter-Am. C.H.R., Carmelo Soria Espinoza v. Chile, Case 11.725 (1999), at para 103.

present case, the State has the legal obligation to investigate them, an obligation which may not be delegated or renounced. Thus, it is in any case incumbent on the Chilean State to take punitive action and press forward with the various procedural stages, in fulfillment of its duty to guarantee the right to justice of the victim and his family. This function must be assumed by the State as its own legal duty, not as a step taken by private interests or that depends upon the initiative of those private individuals or upon their offer of proof.¹³⁴

B. The United States has Violated Victims' Rights to Life, Liberty and Security; to Equality Before the Law Without Distinction as to Race; to the Right of the Inviolability of the Home, to the Preservation of Health and Well-Being; to Resort to the Courts to Ensure Respect for their Legal Rights; to Property; and to Protection from Arbitrary Arrest

Because of its action and inaction during and after the Riot, the United States is in violation of Article I of the American Declaration, which provides, "Every human being has the right to life, liberty and the security of his person." As the facts provided above clearly display, Victims were denied this right. As a result of the riot, an estimated 100-300 people were killed, 1,256 homes were destroyed and approximately \$21,743,016 in 2005 dollars (\$2 million in 1921 dollars) of property was lost.

Additionally, the United States is in violation of Article II of the American Declaration, which provides "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor."¹³⁵ The lack of accountability for crimes committed against African-Americans during the Riot shows that the city of Tulsa and the state of Oklahoma did not treat all persons equally before the law. As noted above, the grand jury indicted

¹³⁴ *Id.* at para. 82.

¹³⁵ American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX (1948), reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 17 (1992).

several African-Americans for their alleged roles in the riot, but no such indictments were ever issued for any white person. White gun shop owners were the only people who recovered damages for their losses.

The United States also is in violation of Article IX of the American Declaration, which provides, “Every person has the right to inviolability of his home.” As noted above, 1,256 homes were destroyed in the riot and nearly 10,000 African-Americans were left homeless.¹³⁶

In addition, the United States is in violation of Article XI of the American Declaration, which provides, “Every person has the right to preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.” Victims were denied this right when their homes were destroyed and they were forced to live in tents through the winter—even as the city turned away aid that flowed in from around the country.¹³⁷

The United States also is in violation of Article XVIII of the American Declaration, which provides: “Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.” As noted throughout this petition, Victims have been denied access to the courts to ensure respect for their legal rights. The truth about what happened was kept from Victims for years, they had no access to the justice system because it was heavily influenced by Ku Klux Klan, and Victims reasonably believed their lives could be at risk if they brought challenges in the courts.

Moreover, the United States is in violation of Article XXIII of the American Declaration, which provides, “Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.” Victims were denied their homes, businesses, and other private property as a result of the Riot.

¹³⁶ See Goble, *supra* note 11, at 12-13; Ellsworth, *supra* note 6, at 88.

¹³⁷ Pet. C.A. Br. 10 (quoting Dr. Scott Ellsworth).

Finally, the United States is in violation of Article XXV of the American Declaration, which provides:

No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law....Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

Victims were held in “protective custody,” a euphemism for illegal imprisonment, in a handful of hastily set-up internment centers, including Convention Hall, the Fairgrounds, and McNulty Baseball Park.¹³⁸ There, many of them were forced to work against their will. The police and National Guard were used as guards in these camps to ensure African-Americans remained in custody. The state of Oklahoma and city of Tulsa forced African-Americans to work their way out of custody by cleaning up the destruction caused by the white rioters. At some time on June 2, 1921, General Barrett issued Field Order Number 4, which decreed that “all able bodied [N]egro men remaining in detention camp at the Fairgrounds and other places in the City of Tulsa [would] be required to render such service and perform such labor as [was] required by the military commission.”¹³⁹ Greenwood’s African-American residents were treated like chattel and, in conduct reminiscent of slavery, were often only released when their white employer vouched for them. Those released wore green tags to identify that they had been properly removed from custody.

C. The Alleged Violations Are Imputable to the United States

The United States is responsible under international law for the actions taken by officials of the state of Oklahoma and the city of Tulsa. Oklahoma is a constituent state of the United States, having been admitted as such in 1907. Tulsa is a city incorporated

¹³⁸ See Ellsworth, *supra* note 5, at 61.

¹³⁹ See Smith, *supra* note 64, at 454-55.

in 1898 within the Indian Territory, the territorial predecessor to the state of Oklahoma.

As noted above, state and local officials, including the Tulsa police chief, participated in the Riot by deputizing between 250 and 500 members of a white mob with weapons seized from local gun and pawn shops. The police department ordered these newly-armed and deputized members of the white mob to “get a gun, and get a nigger.” When the National Guard arrived to assist the police, the guardsmen joined in the destruction and fired at will at African-Americans. As such, it is clear that the Riot was carried out with the involvement of officials of the state of Oklahoma and the city of Tulsa.

The Articles on State Responsibility make clear that international law considers a state responsible for acts illegal under international law whenever the act is taken by any organ of the state, be it an organ of the central government or of a constituent unit.¹⁴⁰ Such responsibility extends to actions taken by persons holding status as state officials under the law of the state in question.¹⁴¹ Accordingly, the actions taken by officials of the state of Oklahoma and the city of Tulsa can be imputed under international law to the United States.

The United States is also responsible under international law for the actions taken by private individuals deputized by Oklahoma and Tulsa officials. In addition to the violations carried out by state officials, additional violations were undertaken by private individuals deputized by officials of the state of Oklahoma and the city of Tulsa, including killings, looting, and arson. When they

¹⁴⁰ See Draft Articles on State Responsibility, *supra* note 115, at art. 4(1) (“The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State.”); Commentaries to the Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, at 85-86, U.N. Doc. A/56/10 (2001) (hereinafter “State Responsibility Commentaries”) (“the reference to a State organ in article 4 is intended in the most general sense. It is not limited to the organs of the central government... It extends to organs of government of whatever kind or classification...at whatever level in the hierarchy, including those at provincial or even local level.”).

¹⁴¹ See Draft Articles on State Responsibility, *supra* note 115, at art. 4(2).

were deputized, these private individuals became state officials under international law, for the duration of their deputization. As state officials, even temporary ones, their actions are directly attributable to the United States, according to Article 4 of the Draft Articles on State Responsibility, as discussed above.

Nevertheless, even if these private individuals are not considered state officials, their conduct is attributable to the United States, as they were directed by state officials and acted on the order of state officials. Article 8 of the Draft Articles on State Responsibility provides for state responsibility for acts taken by private individuals when that conduct comes at the direction or under the control of the state,¹⁴² and the State Responsibility Commentaries note that the

attribution to the State of conduct in fact authorized by it is widely accepted in international jurisprudence.... Most commonly cases of this kind will arise where State organs supplement their own action by recruiting or instigating private persons or groups who act as ‘auxiliaries’ while remaining outside the official structure of the State.¹⁴³

To the extent that the deputization of private individuals does not make them state officials, it clearly falls within Article 8, as explained by the Commentaries, and the conduct of deputized and otherwise organized private individuals therefore is attributable to the United States.

Similarly, the Inter-American Court of Human Rights has held that “under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.”¹⁴⁴

¹⁴² See *id.* at art. 8 (“The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”).

¹⁴³ State Responsibility Commentaries, *supra* note 140, at 104.

¹⁴⁴ Inter-Am. Ct. H.R., Velasquez Rodriguez Case, para. 170 (1988).

V. THE OBLIGATIONS OF THE UNITED STATES

The United States has a legal obligation to compensate Victims for the harms they suffered. The Inter-American Commission on Human Rights has made clear that:

In addition to the obligation to investigate and punish all human rights violations committed by its agents, the State also has the obligation to compensate the victims of such violations, or their next of kin, as applicable. In this regard, “a rule of common law, which is one of the fundamental principles of current international law on the responsibility of States” is the one pursuant to which, “when a wrongful act occurs that is imputable to a State, the latter incurs international responsibility for violation of an international rule, and thus incurs a duty to make reparation.”¹⁴⁵

Similarly, the Draft Articles on State Responsibility provide that:

A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed, provided and to the extent that restitution: (a) Is not materially impossible; (b) Does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.¹⁴⁶

The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.¹⁴⁷

The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by

¹⁴⁵ Inter-Am. C.H.R., Jailton Neri da Fonseca, v. Brazil, Case 11.634, Report No. 33/04 (2004).

¹⁴⁶ Draft Articles on State Responsibility, supra note 115, at art. 35.

¹⁴⁷ Id. at art. 36.

restitution or compensation. Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State.¹⁴⁸

In addition, the Draft Articles make clear that: “The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act. Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State.”¹⁴⁹ The Draft Articles also explains that “There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.” As the commentary to these draft articles show, “International obligations may be established by a customary rule of international law, by a treaty or by a general principle applicable within the international legal order.”¹⁵⁰ The commentary continues: “In the *Rainbow Warrior* arbitration, the Tribunal said that any violation by a State of any obligation, of whatever origin, gives rise to State responsibility and consequently, to the duty of reparation.”¹⁵¹

According to one UN expert, in a report commissioned by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, the reparation that must be provided includes compensation for:

any economically assessable damage resulting from violations of human rights and humanitarian law, such as:

a) Physical or mental harm, including pain, suffering and emotional distress;

¹⁴⁸ *Id.* at art. 37.

¹⁴⁹ *Id.* at art. 31.

¹⁵⁰ See State Responsibility Commentaries, *supra* note 140, at 69.

¹⁵¹ *Rainbow Warrior Arbitration (New Zealand/France)*, 20 UNRIAA 217, 251 para. 75 (1990); see also *Barcelona Traction*, 1970 I.C.J. at para. 86 (regarding breach of an international obligation arising out of a treaty or a general rule of law).

- b) Lost opportunities including education;
- c) Material damages and loss of earnings, including loss of earning potential;
- d) Harm to reputation or dignity;
- e) Costs required for legal or expert assistance.¹⁵²

The Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity similarly says, “Any human rights violation gives rise to a right to reparation on the part of the victims or his or her beneficiaries, implying a duty on the part of the State to make reparation and the possibility for the victim to seek redress from the perpetrator.”¹⁵³

The Tulsa Commission recommended:

- 1) Direct payment of reparations to survivors of the Tulsa Race Riot
- 2) Direct payment of reparations to descendants of the survivors of the Tulsa Race Riot
- 3) A scholarship fund available to students affected by the Tulsa Race Riot.
- 4) Establishment of an economic development enterprise zone I the historic area of the Greenwood District.
- 5) A memorial for the reburial of any human remains found in the search for unmarked graves of riot victims.¹⁵⁴

The United States has not provided any of these reparations. As such, Victims request that the Commission recommend that the United States grant victims an effective remedy for the harms they have suffered and provide them with appropriate compensation and restitution.

¹⁵² Revised Principles on Impunity, supra note 122, at para. 13.

¹⁵³ Updated Principles on Impunity, supra note 122, at principle 31.

¹⁵⁴ Letter to Governor Frank Keating, in Commission Report, supra note 5.

VI. RELIEF SOUGHT

Petitioners ask the Commission to find that the actions of the United States' federal courts in dismissing this action failed to comply with the provisions of the American Declaration of the Rights and Duties of Man. As such, we ask that the Commission recommend that U.S. federal courts hear this case on the merits and drop the statute of limitations objection.

Respectfully submitted,

CHARLES J. OGLETREE, JR.
CHARLES HAMILTON HOUSTON
INSTITUTE FOR RACE AND
JUSTICE
HARVARD LAW SCHOOL*
1575 Massachusetts Ave.
516 Hauser Hall
Cambridge, MA 02138
Phone: 617-496-2054

GAY J. MCDUGALL
RACHEL S. TAYLOR
GLOBAL RIGHTS
1200 18th St., N.W.
Suite 602
Washington, DC 20036
Phone: 202-822-4600
Fax: 202-822-4606

OCTOBER 26, 2005

* For identification purposes only.

ANNEX:

LIST OF VICTIMS

Please note:

Since the original brief was filed to the U.S. District Court for the Northern District of Oklahoma on April 28, 2003, 37 of the Victims have died; all other Victims remain living.

JOHN MELVIN ALEXANDER;
JUANITA DELORES BURNETT ARNOLD;
J.B. BATES;
ESSIE LEE JOHNSON BECK;
JAMES D. BELL;
PHINES BELL;
FRANCES BLACKWELL;
JUANITA WILLIAMS BLAKELY;
JUANITA SMITH BOOKER;
KINNEY BOOKER;
DOROTHY BOOKER BOULDING;
JEANETTE MCNEAL BRADSHAW;
TERESA EARLEE BRIDGES DYSART;
JOHNNIE L. GRAYSON BROWN;
LEE ELLA STROZIER BROWN;
CLARENCE BRUNER;
LULA BELLE LACY BULLOCK;
JOE R. BURNS;
ROSA L. GREEN BYNUM;
MURIEL MIGNON LILLY CABELL;
BEATRICE CAMPBELL-WEBSTER;
JAMES DALE CARTER;
ROSELLA CARTER;
SAMUEL CASSIUS;
NAOMI HOOKER CHAMBERLAIN;
MILDRED MITCHELL CHRISTOPHER;
MILDRED LUCAS CLARK;
OTIS GRANVILLE CLARK;
SANDY CLARK;
BLANCHE CHATMAN COLE;

WORDIE "PEACHES" MILLER COOPER;
CARRIE HUMPHREY CUDJOE;
LAVERNE COOKSEY DAVIS;
DOLLY MAE DOUFITT;
JAMES DURANT;
LUCILLE B. BUCHANAN FIGURES;
ARCHIE JACKSON FRANKLIN;
JIMMIE LILLY FRANKLIN;
JOHN HOPE FRANKLIN;
JOAN HILL GAMBREL;
ERNESTINE GIBBS;
HAROLD GIBBS;
THERESSA CORNELLA MCNEAL GILLIAM;
EDWARD L. GIVENS;
BERTHA GUYTON;
HAZEL FRANKLIN HACKETT;
MILDRED JOHNSON HALL;
NELL HAMILTON HAMPTON;
LEROY LEON HATCHER;
MADELEINE HAYNES;
JOYCE WALKER HILL;
ROBERT HOLLOWAY;
DR. OLIVIA J. HOOKER;
SAMUEL L. HOOKER, JR.;
WILHELMINA GUESS HOWELL;
CHARLES HUGHES;
MYRTLE WELLS HURD;
VERA INGRAM;
EUNICE CLOMAN JACKSON;
GENEVIEVE ELIZABETH TILLMAN JACKSON;
WILLIE BELL WHITE JACKSON;
DR. HOBART JARRETT;
ARTIE LACY JOHNSON;
WILMA MITCHELL JOHNSON;
EDWARD EARVEN JONES;
HAZEL DOLORES SMITH JONES;
JULIA BONTON JONES;
PERCY JONES;
THELMA THURMAN KNIGHT;
LEANNA JOHNSON LEWIS;

KATIE MAE JOHNSON LIVINGSTON;
ALICE HIGGS LOLLIS;
ROANNA HENRY MCCLURE;
ELDORIS MAE ECTOR MCCONDICHIE;
CAROL SMITHERMAN MARTIN;
MARY TACOMA MAUPIN;
WILLIE MUSGROVE MEANS;
ISHMAEL S. MORAN;
RUTH DEAN NASH;
SIMEON L. NEAL;
ALMADGE J. NEWKIRK;
MYRTLE NAPIER OLIVER;
JUANITA MAXINE SCOTT PARRY;
IDA BURNS PATTERSON;
FREDDIE SCOTT PAYNE;
JOAN ALEXANDER POWDRILL;
ALICE PRESLEY;
DELOIS VADEN RAMSEY;
CORR HAWKINS RENFRO;
SIMON R. RICHARDSON;
JEWEL SMITHERMAN ROGERS;
GERLINE HELEN WRIGHT SAYLES;
JULIUS WARREN SCOTT;
WILLIAM A. SCOTT;
TULETA S. DUNCAN SHAWNEE;
VENEICE DUNN SIMMS;
HAL "CORNBREAD" SINGER;
NAOMI SIPLIN;
BEULAH LOREE KEENAN SMITH;
GOLDEN WILLIAMS SMITH;
LOLA SNEED SNOWDEN;
JAMES L. STEWARD;
DOROTHY WILSON STRICKLAND;
SARAH TATUM;
LOIS WHITE TAYLOR;
WILLIE MAE SHELBURN THOMPSON;
EFFIE LEE SPEARS TODD;
MELVIN C. TODD;
KATHRYN MAE TAYLOR TOLIN;
BESSIE MAE AUSTIN VESTER;

QUEEN ESTHER LOVE WALKER;
SAMUEL WALKER;
TROY SIDNEY WALKER;
OSCAR DOUGLAS WASHINGTON;
MARY LEON BROWN WATSON;
ALLEN MATTHEW WHITE;
CECIL WHITE;
MARIE WHITEHORN;
MILDRED EVITT WILBURN;
BERTRAM C. WILLIAMS;
LOUIE BARTON WILLIAMS;
WILLIAM HAROLD WOOD;
CLOTIE LEWIS WRIGHT;
WESS YOUNG