

**Unsettled Accounts: Political Responses to  
Past Racial Violence in 20<sup>th</sup> Century America**

**by**

**DeAunderia N. Bowens**

**A dissertation submitted in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy  
(Political Science)  
in the University of Michigan  
2011**

**Doctoral Committee:**

**Professor Richard L. Hall, Co-Chair  
Associate Professor Robert W. Mickey, Co-Chair  
Associate Professor Martha S. Jones  
Assistant Professor Mariah A. Zeisberg**

© DeAunderia N. Bowens

---

All rights reserved

2011

To my Lord and Savior, who has helped me to accomplish what seemed impossible just a few, short years ago but has been faithful to see me through until the end.

## ACKNOWLEDGEMENTS

I give my sincerest love and thanks to my mother, Donnetta Mathis for her tireless love and support in every way imaginable. I also thank my father Rubin Mathis for reminding me that I will accomplish all that I have been blessed to begin. I thank my friends (and extended Facebook family) whose cheers and encouragement brightened the days when I was glued to my computer. I want to especially thank my husband, James Bowens, who prayed for my strength and wisdom every morning and my best friend, Erica Walker, who told me that I had no choice but to finish and was the greatest cheerleader anyone could ever have.

I would be remiss if I failed to acknowledge the financial support given by the Gerald R. Ford Fellowship as well as the Center for Ethics in Public Life Fellowship that kept me afloat during a particularly difficult summer.

I also thank all of my committee members for every critical thought and request for clarification that pushed me to produce the best possible work I was capable of on this subject. Rick was especially helpful with the need to be more precise about the process of framing in Chapter 2. Rob was great at coordinating the final weeks leading up to my defense and helping me edit the final manuscript in record time despite the demands of a young family. Martha pressed me to clarify my use of pogrom to describe these cases and I came away from my quick study resting securely in my decision. She

was also gracious enough to agree to attend my defense via Skype during her sabbatical away from campus. I give personal thanks to Mariah Zeisberg who was a part of the project before it could even be called a research question. She believed in my ability to write my passion and in the purpose of the project when no one else did; without her protection, encouragement, and confidence I would not have brought this project and my defense to completion. I call Scott Ellsworth an honorary member of my committee because of his enthusiasm for my project. Thank you for giving me an opportunity to present my work along with you at the CAAS 40<sup>th</sup> Anniversary Conference, sending me information on activities in Tulsa, and introducing me to some of the folks still working on reconciliation in Tulsa. Your wisdom and insight provided a great start in my understanding of Tulsan politics.

I owe thanks to Rackham Graduate School for all the resources that have allowed me to present my work in Berlin, Toronto, Philadelphia, Hawaii, Atlanta, and many other places along my academic journey. I have benefited from many enrichment workshops for incoming graduate students and students of color, as well as from the financial support I have received from Rackham when I faced a seemingly insurmountable financial burden in 2008.

Lastly, but by far the greatest thanks go to the many survivors and in memory of the many African American men, women, and children who faced envy, hatred, violence and murder at the hands of those who were supposed to protect and preserve their lives and property. I owe them my heartfelt thanks for choosing to break the years

of silence and share their experiences with the world; this work would not be possible if not for their efforts.

## TABLE OF CONTENTS

Dedication .....	ii
Acknowledgments .....	iii
Chapter	
1. Introduction .....	1
2. Historical Narrative & Political Frames.....	29
3. The Path to Legislative Resolution: a Quest for Compensation.....	72
4. Restitution vs. Reparations Outside the Slavery Debate.....	112
5. Defining Success.....	137

## Chapter 1

### Introduction

#### I. OVERVIEW

Why do some polities wrestle with resolving past injustices? How do we choose whether to respond and how to bring closure to past incidents of racial violence that still cry out for a response? Specifically, how has the United States addressed incidents of racial injustice, including racist violence and why is it that American communities have only belatedly begun to tackle historical incidents (i.e., those that transpired years or even decades in the past)? When these incidents are addressed, they result in a range of different outcomes, including: official apologies, reparations, “healing”, efforts at enhancing dialogue across social boundaries, etc. What explains this variation in redress efforts?

My dissertation begins to address these questions by comparing two important and highly interesting cases of restorative justice in the American context: efforts to redress racial violence in Rosewood, Florida and Tulsa, Oklahoma. These cases are similar in several respects: both occurred in the 1990s, both tackled crimes that occurred in the 1920s, and both are, broadly speaking, “southern” cases. Finally, these cases share another important feature—they remain barely examined at all by scholars, much less compared with one another. Moreover, these cases depart significantly from the cases previously explored by scholars of both comparative politics and U.S. race politics. For instance, the crimes at issue both occurred several decades before the attempts to respond to them. This contrasts with,



for example, the Kerner Commission, which was convened immediately after the urban riots of the 1960s. Additionally, both cases differ from South Africa's much-celebrated Truth and Reconciliation Commission, which was in part a policy designed to facilitate a transition to democratic rule and to promote reconciliation between victims and perpetrators of violence. The cases of Rosewood and Tulsa were neither concerned with restoring law and order nor with improving the prospects for democratic consolidation, but with restorative justice for survivors of racial violence.

Surprisingly, however, they have been settled in different ways: The 1994 Rosewood Massacre Claim Bill successfully garnered \$2.1 million in compensation for survivors and those families who could prove they had lost property in the week-long violent spree (Florida House Bill 591). However, in the case of Tulsa, the state legislature approved a bill creating a commission to study the 1921 Tulsa Race Riot in 1997, but after the commission issued its report no legislation to compensate survivors or descendants was ever introduced. On June 1, 2001, the 1921 Tulsa Race Riot Reconciliation Act of 2001 was signed into law (Hirsch 2002). Largely symbolic, the legislation was a hollow victory for survivors and while it provided no appropriated funding for victims or families who sustained great loss of life, liberty and property, it galvanized the Tulsa community around efforts to achieve racial reconciliation. If we care about settling past accounts or restorative justice, it is important to understand why two comparable cases have significantly different outcomes.

In this dissertation, I attempt to explain these different outcomes. I do so by emphasizing the importance of issue framing and the institutional differences across the two cases; both shaped the choices made by political actors that are critical for understanding the divergent paths taken in these two cases. In both cases, primary actors first sought to

uncover what occurred in an historical context through written and oral documentation, such as newspapers, books, and interviews with survivors and descendants. Next, historical reports were commissioned by and then presented to the Florida and Oklahoma state legislatures, respectively, for final remedy. Therefore, this dissertation examines how the need to address remedies for each racial pogrom was strategically framed by primary actors in order to gain legislative attention and then to determine equitable resolutions to past injustices.

The violent events that occurred in both Rosewood and Tulsa have long been thought of as riots or racial uprisings. As specific details have emerged about the cases through the historical reports, I find that the word riot is insufficient: the wholesale demolition of every building owned or operated by a black person in Rosewood, the passage of ordinances to prevent rebuilding efforts in Tulsa, the failure of local and state officials to stop the extensive looting and destruction of property of any black residence in either case. These actions are in addition to the shooting, killing and burning of many black citizens and thus these events cannot be adequately described as simply a riot.

The term pogrom was first used to describe the organized mistreatment and persecution of Polish and Russian Jews during the early 20<sup>th</sup> century (Dubnow 1918). In the book, *American Pogrom*, Charles Lumpkins agrees with Jewish American sources that categorized the violence occurring in East St. Louis, Illinois in July of 1917 as a pogrom (2008:210).<sup>1</sup> The argument offered by Lumpkins is that, like the violence experienced by Russian and Polish Jews, the “riot” of 1917 is more like a pogrom than a riot because it was

---

<sup>1</sup> In East St. Louis, Illinois on July 2 and 3, 1917, white men and women assaulted blacks and looted and burned down black homes and businesses. The mob, “which included police officers and National Guardsmen, wounded or killed many black residents and terrorized others into fleeing the city” (Lumpkins 2008:1).

an effort to impede the economic and social progress of a racial group or community with the sanction or knowledge of the government or state. The term “pogrom” is especially useful when thinking of what occurred in Rosewood and Tulsa; pogroms are animated by racial/ethnic hatred and the actions result in overt, violent oppression.

In this chapter, I will briefly describe the cases, sketch my argument and then discuss some alternative explanations. I situate my cases among different models of securing justice after incidents of violence. The chapter closes with a discussion of my case selection, research methods, and an outline of the chapters to come. In order to ground my discussion, I offer brief summaries of each case and the institutional paths to redress chosen by leading participants.

## II. BRIEF SYNOPSIS OF CASES

The 1994 Rosewood Claim Bill sought to compensate survivors of the racial violence occurring in a working-class African American community located between Cedar Key and Otter Creek in Florida in 1923. During a week-long period of bloodshed and brutality, the official deaths were listed at eight, six blacks and two whites, although survivor recollections note that it could be as many as 150, and eighteen homes of black residents were destroyed. The political process of investigation, comprehensiveness of its final report and subsequent support in the state legislature has made this case a model of success in achieving individual compensation for survivors and victims of property loss.

The 1997 Oklahoma Commission to Study the Tulsa Race Riot of 1921 investigated violence that obliterated a town in less than sixteen hours and left thirty-nine people dead, twenty-six black and thirteen white. Some reports claim that approximately 300 were burned and put in mass graves. The redress process has been marked by battles both political and

legal with descendants failing to receive full remedy in either arena; in 2001, the legislature passed the Tulsa Race Riot Reconciliation Act that was primarily symbolic and failed to approve group compensation for both survivors and their descendants while the courts denied their petition for redress in 2005.

### III. THE ARGUMENT

I argue that the importance of understanding the divergent paths taken in two historical cases of racial violence is contingent upon an understanding of how issue framing and institutional differences across these cases shaped the choices made by political actors. Specifically, I describe the framing choices made by primary actors in each case, along with the way in which different institutional opportunities and constraints available within both Oklahoma and Florida affected those choices. Paramount in my description is the policy structure available in each state that allowed unique cases to be heard; the claimants in Rosewood were able to secure support by fitting the claim for survivors into an existing quasi-legal mechanism available within the state legislature, while in Tulsa, the battle was waged and fought in committees and ultimately on the Oklahoma house floor, a process typical of most legislative bills.

Primary actors in both Rosewood and Tulsa first had to explain why after 70 years the cases should be examined. Each case used a two-part frame that answered both questions of "why" the case should be heard, and then "how" it should be resolved. In order to address the merits of each case and the pertinent reasons for redress, political actors in both Florida and Oklahoma carefully compiled evidence implicating the state in violent actions against African American citizens within their borders and under their jurisdiction. But the means for achieving resolution in each case was different; Rosewood focused on

achieving individual compensation while Tulsa aimed to acquire group reparations for a community of survivors.

The first dilemma that compensation advocates faced was that of justifying the contemporary importance of reexamining these cases. What became necessary to get on the agenda of both the Florida and Oklahoma legislatures was the careful construction of state responsibility in the pogrom. The frame was a carefully created historical narrative of how state responsibility was identified and a general acceptance of the narrative was necessary to move the cases forward. Acceptance, in this case, would be over two basic areas of contention as a first step in reconciling survivors and perpetrators. First, the advocates needed to achieve a public consensus on what actually occurred-- an acceptance of an official narrative. In addition, the advocates needed to establish who was responsible for the harm by identifying who did what and under what legal authority they acted or failed to act. This is more than simply assessing harm for spontaneous violent actions which occurred in a state's jurisdiction between two citizen groups, but seeks to ascertain how the state and/or its agents participated in and responded to morally wrong actions at the time they occurred.

The historical narrative used to identify state culpability was primarily a written historical report submitted to the legislature, but in one case this narrative became more than written words on paper. Rosewood diverges slightly from Tulsa in that the members of the legislature had an opportunity to hear directly from the victims in their own words. According to primary actors, the stories shared by survivors became an essential step in the path toward compensation, while in Tulsa, the voices and faces of individual victims was never offered as a possible way to persuade legislators. Although survivors gave live and videotaped stories to the Tulsa Riot Commission, this body had no political authority or

power to implement any recommendation they would suggest to the state legislature for proper redress. As a commission, the body is created as a temporary institution through legislative or executive power, but lacks enforcement power or the ability to guarantee any public policy response. Specific to this case, commissions are bodies of inquiry created in response to violent acts that are significant to a particular time and place, such as the Oklahoma Commission to Study the Tulsa Race Riot of 1921 referenced here, rather than a permanent institution created to resolve general conflicts, such as the legislature or courts in general. Although the acceptance of an official narrative by both parties is necessary to reconcile the claims stemming from racial pogroms, it is not sufficient to bring closure to claims.

The second arena where framing was important concerned the proper restitution awarded for the loss of life, liberty and property. Highlighting the difference between the cases, Rosewood and Tulsa chose dissimilar frames to justify restitution for their claimants with varied results. While Rosewood focused on the ability for an individual to have legal standing<sup>2</sup> in the case based upon personal or direct harm from the violent actions of the state, Tulsa crafted a group claim that sought standing based upon the state's infliction of harm to the entire Greenwood community. This last frame became the final word on how to think about each case and led to the final act of redress for both cases: the issue of reparations was denied in the case of Tulsa with the governor signing the largely symbolic 1921 Tulsa Race Riot Reconciliation Act of 2001 and no further legislation to address the survivors of the Tulsa riot has been passed since that time. Alternatively, the 1994

---

<sup>2</sup> Standing is a legal doctrine holding that an alleged victim can articulate a relationship between an actual injury and themselves and that there is something that the alleged perpetrator can do to redress this injury (Miller 92-93).

Rosewood Claim Bill distributed \$2.1 million between nine survivors and several descendants who could show property loss and was the final legislative action on the Rosewood Massacre (Florida House Bill 591).

In designating both of these cases as “unsettled” accounts, it is important to note that although Rosewood may have achieved restitution for victims and descendents, the African American community was completely destroyed in the violence; the payments to victims, in essence, concluded the story of restorative justice for African Americans in Rosewood, Florida. The story for Tulsa is much different due to the legal and legislative denial of survivor claims for reparations; the remaining community of African Americans in Tulsa continues to fight to be heard and to shape the political landscape of Tulsa, Oklahoma. Although Rosewood has been hailed as a success because people were actually paid restitution (Ogletree 2002 & 2003; Hirsch 2002; Henry 2007; Horowitz 2001; Robinson 2001:225; Salzberger and Turck 2004: 284; Yamomoto 1998) , and Tulsa was regarded as a failure because its outcomes were primarily symbolic (Henry 2007; Brophy 2002), from the perspective of social justice, one might be able to make a subtler point: The Tulsa Commission’s experience seems to have done something important by mobilizing those previously inactive and creating a renewed sense of political engagement among African Americans still remaining in the community, and therefore may in fact have achieved the goal of social justice, even while failing to achieve restitution. I explore the aftermath of legislative outcomes as well as the concept of political success more thoroughly in Chapter 5.

#### IV. ALTERNATIVE EXPLANATIONS

There are two primary alternative explanations for the disparate outcomes in the Rosewood and Tulsa cases. The first suggests that differing levels of racial animus explain

this variation. On this view, the town of Rosewood, Florida was completely demolished by an angry, white mob and so it may be plausible that racism was not as much of a factor when survivors were no longer living in the area and were less likely to present future claims on the state as a group. Therefore, compensation was a way to easily settle the issue and move on without truly addressing the racist views that led to the destruction. With regard to Tulsa, it is also possible that the close proximity of survivors, their descendants and victimizers and their descendants created such a racist environment that even the presence of evidence refuting the long-standing belief by whites that blacks started the riot would not be accepted and therefore compensation would be impossible. What I actually find is that there was great contention in both Florida and Oklahoma over the official accounting of events and that financial settlements won in Florida were not easily gained. While group-based conflict around race may help explain the unsettled aspect surrounding these cases, it alone is not sufficient to explain the variation in these cases.

In the course of this study, I will provide evidence showing that this more cultural account of what occurred is intellectually insufficient and fails to explain the variation that this dissertation describes. As these are both southern states with similar violent actions against African Americans in the same time period, racism cannot be the only explanation for the absence of a compensatory response in the Tulsa case. Those who were closely involved in Tulsa failed to see the potential for success had the case been framed in an alternative way, focusing on individual compensation for survivors rather than group reparations, and that the case may have achieved different results instead of being doomed to failure before gaining adequate public and legislative support.



The second alternative account holds that the success of the Rosewood redress is attributed to the fact that it was labeled as a bill for compensation rather than reparations, the sophisticated lobbying efforts of primary actors in Florida, and the unity shared between survivors. This argument is most forcefully made by Charles P. Henry in the book *Long Overdue*. Although all of these factors are true, Henry fails to acknowledge the political difference between reparations and compensation and the institutional constraints and opportunities available within each state which made success more likely in the Rosewood case. Henry, a proponent of reparations, deploys these cases as a way to bolster his claims for the success of reparation claims. He appears to equate the \$2.1 million outcome as a win for reparations rather than considering that, despite the many similarities between Rosewood and Tulsa, their approaches were explicitly different from the start, reparations were never the sought response for Rosewood, while Tulsa never attempted to seek any alternative to reparations.

There are significant social and political differences between claims for reparations and those for restitution. Specifically, reparation is defined as the act of making amends for a wrong or injury and is also considered a form of compensation or redress to make good any loss “if the wronged party is not to receive the specific property taken or its monetary equivalent” (Shapiro).<sup>3</sup> On the other hand, restitution is defined as the return or restoration of a specific thing to its rightful owner, or compensation in terms of the monetary value for such a loss. “This is often an equitable remedy: a form of reparation (or damages imposed) for the loss caused by the “taker” to the rightful owner” (Shapiro). In Chapter 4, I will show

---

<sup>3</sup> Jessica Shapiro was Assistant Counsel in the Office of the Legislative Counsel for the U.S. House of Representatives in 2005. I requested, via email, a legal understanding of the difference between restitution and reparations and this is a summary of her response.

that public opinion appears to lean toward associating reparations with slavery and perceived undeserved gain, while opponents fear the possible flood of claims from descendants of slaves or other ethnic groups who have faced similar group-based violence if such claims are successful. Further, I will explore the way in which strategic judgments by political actors could have led to framing the issue as a matter of reparations versus restitution, and the plausible consequences of the framing choice.

In the next section, I discuss alternative ways that efforts to redress racial and ethnic conflict have been modeled and then situate the Rosewood and Tulsa cases among these different models of securing justice after incidents of violence.

#### V. ALTERNATE MODELS OF POLITICAL REDRESS

Commissions created to investigate the urban riots of the 1960's have been one type of redress on which scholars exploring racial violence in the U.S. have focused attention. Examples include the National Advisory Commission of 1968 (otherwise known as the Kerner Commission), the 1967 Governor's Select Commission on Civil Disorder in New Jersey (Lilly Commission), and the Governor's Commission on the Los Angeles Riots of 1965 (McCone Commission), the last two appointed by governors.

If we focus merely on the charge of commissions, rather than on the composition of their recommendations, it is clear that the commissions of the 1960's were convened to determine the best way to avoid future civil disturbances. For example, the charge given to commissioners on the Watts Riots was to develop recommendations designed to illuminate any and all law enforcement actions necessary to avoid future incidents with an emphasis on the steps local, state, and national governments can implement (*Governor's Commission*) with an eye toward prevention. Specifically, their main purpose was not to reconcile perpetrator

to victim, or to determine fault retributively, neither was the goal to compensate victims for personal harm or property damages, but the aim was to research the disorder and identify the best way in which order could be maintained in the future. Although recommendations to fund the creation of better schools in the inner city as well as efforts to increase employment opportunities for African Americans are heard, these are not seen as redeeming actions to assuage guilt over the discriminatory treatment of African Americans in society, but rather as a way to quell future uprisings.

Therefore, the examination of racially violent acts in the 1960's focused on the WHY and WHAT of the riots, but their primary goal was ultimately to determine HOW to prevent future occurrences through maintaining law and order within inner cities. Even the discovery of truth was not a primary goal because previous investigations, Harlem Riot of 1935 and 1943 committee reports had revealed largely the same explanations and suggested possible public policies necessary to reduce the potential for urban disorder (National Advisory).

Alternatively, the most recognized and often modeled redress of historical acts of racial violence is the Truth and Reconciliation Commission (TRC) in South Africa which came as a response to reconciling the period of violent and oppressive apartheid, lasting from 1960 until the first democratically held elections of 1994. The process used to bring attention and closure to apartheid was a commission, which has been described as being created "at a point of political transition within a country, used either to demonstrate or underscore a break with a past record of human rights abuses, to promote national reconciliation, and/or to obtain or sustain political legitimacy" (Hayner 1994:604). Indeed, this definition is based on the Truth and Reconciliation experience. So popular is the TRC

that its actual method has become paradigmatic of the commission process in general (Payne 2008; Hayner 1994; Minow 1998, 1997). Therefore, the goal of the TRC was to allow both sides, those who had experienced incidents of racial violence and those who were perpetrators, to publicly acknowledge the incidents of violence under the safety of amnesty, which pardoned the actions of violent aggressors in the name of restoring their humanity. Although it is likely that those who called for a Truth Commission in South Africa were seeking transitional justice, the Truth Commission process can be seen as a necessary but not sufficient step toward achieving transitional justice.

As a means of reckoning with past human rights abuses and as a method of political transition, scholars make a claim that backward looking commissions can be an alternate response to trials and punishment or simply forgetting and moving forward (Crocker 2004; Teitel 2002; Sriram 2000). What is not completely understood are the necessary components in the backward-looking process and the trade-offs made in reaching a resolution. For many international inquiries, the stated rationale has nothing to do with justice (Elster 2005; Sriram 2000). In fact, the claims of justice are sometimes put into conflict with the claims of reconciliation, therefore rather than “perpetuating an unhealthy cycle of blame and scapegoating” when the abuses are widespread, national stability becomes paramount and therefore amnesty is the vehicle used to achieve reconciliation (Sriram 2000:480).

In undertaking a truth commission process, South Africans hoped to resolve violent conflict through acknowledging and addressing specific harms by specific perpetrators in order to pave the way for reconciliation between perpetrators and victims. In order to gain as wide a scope as possible to uncover the atrocities committed under apartheid, a decision was made to offer amnesty for crimes politically motivated and only to those fully confessing their involvement. Those required to appear at public hearings and subject to

questions from the commission and from victims or family members of victims were those who had committed “gross violations of human rights” (Hayner 2002:43). As the granting of amnesty was not conditioned upon any sign of remorse or apology, the primary purpose of the TRC was reconciliation rather than restoring law and order, addressing retribution or restoration of lost resources.

As political redress, the commission process of the 1960’s can be best understood as seeking to restore law and order after urban riots, while officials in South Africa’s Truth and Reconciliation Commission sought to redress the violent actions of apartheid through amnesty in order to achieve democratic transition and reconciliation between formerly hostile groups. In comparison, primary actors in the Rosewood and Tulsa cases sought restoration from their respective states for the loss of life, liberty and property due to the violent actions of state agents. Next, I discuss other possible avenues for redressing racial pogroms and how they are insufficient to resolve these types of cases.

## VI. INADEQUATE INSTITUTIONAL RESPONSES

### *Prosecution*

The judiciary would seem the most likely locale for mediating claims in the wake of racial violence, but it too is limited in its capacity for responsiveness for several reasons. First, although courts can punish, they are limited in the kinds of information they can hear. Many historical accounts of racial violence pass down from family member to family member without verifiable documentation or legal claim ever having been filed at the time of incident. The courts have few exceptions to its rules of excluding hearsay evidence. The fact that in many cases victims have no legal records of owned property, or medical documentation of personal injury or mental anguish, can make seeking restitution in the name of the law daunting.

Similar to the first critique, those testifying in court may feel that they are left without an opportunity to fully convey their story. The ability for victims and other witnesses in cases of mass violence to have their experiences acknowledged without interruption or skepticism is crucial if what we care about is mediating claims of past racial injustice rising from episodes of racial violence. Martha Minow writes, for example, that “[i]f the goals are to gain public acknowledgement for the harms and accounts, as full as possible, of what happened, the trial process is at best an imperfect means” (1998:58). The different set of limitations in legal resolution of cases of mass violence makes litigation an untenable institutional option. Additionally, the legal arena is not a place for forgiveness or even reconciliation – it may in fact be a place for the opposite; trials pronounce judgments, measure out punishment and seek to remove the perpetrator from victims through sentences of death or imprisonment (Hayner 1994:26).

A common critique of legal narrative is its strict adherence to precedentialism that should produce fair and impartial results, and yet these procedures unduly disadvantage outsiders and are not without bias (Minow 1998; Delgado 1990; Scheppele 1989). Scheppele critiques legal tradition stating that marginalized narratives are not accepted because “justice isn’t thought to operate at a level that specific, ... or because the specific points of view people bring with them into concrete cases are too full of self-interest to provide a compelling normative account of how the case should be resolved”(1989:2080). The fact is that courts do allow stories, but very specific types of stories that are told in ways that adhere to legal formats and show a command of legal language, therefore making the legal validation of truth the battle ground and privileging the dominant view of history (1989:2082; Streich 2002).

Additionally, the types of remedies that judges fashion focus primarily on those who can prove direct harm in a case. For issues resulting in the wake of racial violence, harm is not simply experienced by those involved, but a legacy of fear and shame are passed down through generations and permeate the fabric of an entire community. Judicial solutions are not structured to adjudicate the harms of relatives who live with the legacy of a racially violent past.

Lastly, the fact that many incidents of racial violence occurred eighty or more years ago leads to an irresolvable problem for the judiciary. Many historical racial terrorism cases have greatly exceeded the statute of limitations to file suit against state and local governments or others responsible. The Sixth Amendment is also very specific about the accused having the right to confront and be confronted by his accusers, also known as the confrontation clause.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; *to be confronted with the witnesses against him*; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. (emphasis added, U.S. Constitution 1)

Due to the lapse in time from incident to justice seeking, both victim and victimizers may have passed away and may be unavailable for testimony and cross examination. Under these conditions, holding individual perpetrators to account through the judicial system can be next to impossible, but commissions have been able to address the constraints faced by attempts to judiciously resolve historical racial violence claims.

### ***Reparations***

Compensation for particularized events or harms can sometimes be achieved through the law, but making restitution for more “general wrongs and injuries” involves

reparations which is a process that is handled politically. In the case of the reparations paid to Japanese-Americans for their internment in camps during World War II, government records exist and are verifiable to determine both the victim and the exact length of interment to assure only those directly affected are compensated through reparative claims. The case for African Americans and reparations for slavery faces a daunting task of producing accurate records from nearly two-hundred years ago and determining not only the cost of slave labor, but who specifically would be paid.<sup>4</sup>

According to Minow, greater access to public fora for “debating compensation and reparations for group harm could air enduring grievances, educate a broader public, and produce some sense of closure” (1997:90). But, it would seem unrealistic to think that airing enduring grievances alone would serve to reconcile victim and perpetrator or produce any real closure, especially when dealing with racial animus<sup>5</sup>. A danger is that payment would come to be equated with closure, such that the truth-telling and educational aspect of commissions aimed at compensation could be overshadowed or halted completely. Further, Minow concedes the point that the entire process could “encourage an unmanageable number of claims” (1997:90).

Another obstacle to the reparations movement is the lack of consensus among African Americans supporting its claim. Most reparatory movements first begin with the group itself making a claim, then organizing and pursuing the issue, but the lack of solidarity among African Americans is a major hindrance to success and gaining the support and serious attention of those in positions of power (Barkan 2000:325-326; Brooks 2007:398). The conservative and more middle class wing of African Americans have denounced any

---

<sup>4</sup> As this is the avenue of resolution sought in the Tulsa case, it is possible that reparations are not seen simply as a political quest for slavery restitution, but can be sought in post-slavery redress efforts. I examine this question further in Chapter 4.

<sup>5</sup> This is also articulated in reference to pedagogic trials for deterrence that are said to possibly foster dialogue between victims and victimizers regarding regime abuses. See Chandra L. Sriram, (2000).



claim on restitution for slavery or reparations: in doing so, those involved note their own financial success and argue that it is absurd to make poor whites responsible for owing them any money (Barkan 2000:293; Steele 2001; Reed 2000). It is possible that the group as a whole would be more responsive to restorative processes that include restitution for only individuals who have experienced specific harms, rather than diffuse benefits given to the race in its entirety.

## VII. ANALYTICAL CHALLENGES PRESENTED BY ROSEWOOD AND TULSA

Two key distinctive features make the cases under study here particularly difficult to explain. First, they do not clearly reflect the standard reasoning for their creation - a response to recent violent uprisings. These legislative actions are directly linked to a group of victims and the harms they experienced over seventy years before the first call for action, thus drawing a stark distinction from the commissions of the 1960's which were convened immediately after urban unrest. Secondly, these legislative processes were not undertaken to mark a democratic transition (although see Mickey 2011; Henry 2007:31), or by a new regime to repudiate past acts of terror. The motivation of each state government to undertake a process of reckoning with their violent past is an empirical question that deserves careful exploration. In the case of South Africa, the Truth and Reconciliation Commission process was thought to be a necessary step toward a more democratic regime, but this same clear pathway is missing in the legislative processes apparent in both the Rosewood and Tulsa cases; as one of the longest standing democracies, regime change or shift is not in question within the United States.

The cases I examine are a set of legislatively-sanctioned processes of inquiry in the U.S. that differ greatly from such inquiries as the Truth and Reconciliation Commission that use story-telling to reconcile perpetrators to victims and to restore perpetrators back to humanity and the community. By contrast, the processes created in the Rosewood and Tulsa

cases use story-telling as one necessary aspect of a more restorative process for victims and the community affected that includes restitution for the loss of life, liberty and property. The legislative process is strategic in nature and story-telling in this context becomes a process for eliciting legal facts through personal narratives and as one element in a bid for compensation. The next section will address the methods I use to examine and describe the efforts surrounding the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Act of 2001.

#### VIII. RESEARCH METHODS

Given my research question, these cases constitute an important and sensible comparison. First, the time periods of both incidents of harm as well as the efforts of redress are close in proximity (i.e., The Rosewood Massacre occurred in 1923 and redress in 1994, while the Tulsa Riot occurred in 1921 and the redress began in 1997). Next, each state archived and allowed access to historical reports, newspaper articles, and legislative records chronicling each case from the 1920's through the 1990's. Additionally, both redress efforts were conducted on behalf of still living witnesses. In the universe of all possible cases I could have used, access to detailed records, legislative attempt at redress, and still living witnesses may have proved difficult. The closest option was the 1898 Wilmington Race Riot Commission, which convened in 2000 to create a historical record of the 1898 Wilmington, North Carolina race riot. Although this process addressed historical racial violence and the commission website makes mention of the similar redress efforts in Tulsa and Rosewood, it did not feature a legislative process for compensation; moreover, the lack of living witnesses makes this case quite different from the ones explored in this dissertation ("1898 Wilmington"). Lastly, unlike any other comparison I could have made, these cases are not strictly independent. After the 1994 resolution of the Rosewood case, primary actors in

Tulsa attempted what they believed was the Rosewood process in Oklahoma on behalf of Tulsa Riot survivors. Specifically, the efforts surrounding 1921 Tulsa Race Riot Act of 2001 is shaped by the events surrounding the 1994 Rosewood Compensation Bill.

In order to answer my research question, certain types of information are necessary. Interviews with primary actors who framed the case and legislators who ultimately passed the pieces of legislation are my primary source. Additionally, I looked through the state archives in both Oklahoma and Florida to gather newspaper articles from the 1920's as well as the historical reports and legislative documents. In Florida, all records relating to the 1994 Rosewood Compensation Claim Bill are held at the Florida Department of State, Division of Archives at the Capitol in Tallahassee, Florida. The Tulsa Race Riot of 1921 Archives are held at the University of Tulsa in the McFarlin Library Special Collections in Tulsa, Oklahoma and Tulsa Race Riot Commission records as well as a small collection of photos and some duplicate newspaper articles are held at the Oklahoma Historical Society in Oklahoma City, Oklahoma.

The context of victim "stories", where they start and end and what type of information becomes legally relevant in assessing state liability and harm, is a significant part of this process. Further, I examine what is ultimately accepted as a truthful account of events and whether there was consensus on the official version of events among a diverse group of people, as well as an assessment of the extent to which outsider accounts were given voice during this process. Although records are not complete in either of these cases, in some instances editorials and news stories have been torn from newspapers, and further evidence of violent incidents and government documents have disappeared from archives, the information that remains presents a fairly persuasive case.

If my account is correct, I should see a focus on the individual testimonies given by survivors in Rosewood. Specifically, contemporary newspaper accounts and interviews with those in Florida should emphasize the central role that survivor accounts played in the case. Those supporting the survivors, as well as those in opposition, should make a point of either validating these individual accounts or attempting to discredit them, further highlighting the importance of what becomes accepted as the historical narrative. In the investigative report, the individual stories of survivors should appear with specific detail rather than generalized stories of violent actions against the entire community. I expect to see the language of property, compensation, and restitution rather than reparations. In examining interviews, newspaper articles, the final report commissioned by the legislature, as well as the bill signed into law, I expect to see discussion of victims as property owners and tax payers, while the importance of property rights in America will be mentioned and draw attention to the individual nature of the claims.

In the case of Tulsa, I expect to see less attention given to individual experiences in favor of discussions of the mass destruction of the Greenwood community and other group-based harms against them by state officials if my theory is correct. The accepted narrative will be hotly contested in newspaper accounts and perhaps in interviews after the issuance of the investigative report. I expect to see race-based debates about the accuracy of the historical narrative implicating the state as well as group-focused discussions about reparations being equated with slavery and a concern about the role this type of redress may have for other ethnic/racial groups who have also experienced violent acts within the state of Oklahoma. In the commissioned final report, I expect to see little direct reference to individual survivors and their experiences in favor of discussion regarding the need to

repair the community and restore what was lost to the descendants of Greenwood. I expect to see the language of reparations rather than individual compensation with opponents making comparisons to welfare, affirmative action, and undeserved gain. Additionally, I expect to see greater attention paid to the many other possible claims that could result from approval of reparations in this case.

There is an incomplete record of material in both Rosewood and Tulsa cases, but with the type of material that has been gathered - documents archived since the 1920's including newspaper articles from the time, some official documentation of the pogroms, current newspaper articles, oral histories and interviews with primary actors and community leaders - language is where I focus in order to see evidence of the strategic story I put forth in this dissertation.

#### IX. DISSERTATION STRUCTURE

I turn next, in chapter 2, to an exploration of the usefulness of historical narratives in political framing. I rely upon newspaper articles, personal interviews, and commissioned historical reports in my examination. I offer a comparison between the official narratives used in the 1920's by grand juries to frame racially violent events, and then look at the changed language describing the same events in historical reports commissioned by state legislatures in the 1990's. Political responses to violent events are affected by the way that these events are framed and what becomes accepted as an official account. It is a fact that not all narratives deliver a frame that generates the conclusion that the state must act; in both cases, it was an accomplishment for the official report to successfully identify liability on the part of the state in its actions or inactions which led to the loss of life, liberty and property and placed the issue solidly on their state's legislative agenda. In historical reports, primary

actors assessed state responsibility by identifying who did what and under what legal authority actions were undertaken, if any. In defining the incidents and determining their causes, the accepted historical narrative found in the commissioned reports assessed state liability for the harm inflicted both at the time of the incident and in the treatment of survivors subsequently after the violent incidents. I argue that gaining agreement on a common narrative involves defining problems and evaluating causes and is simply a first step in responding to claims stemming from racially violent events, and also necessary to be put on a legislative agenda, but in order to fully resolve claims it is also necessary to make moral judgments and prescribe remedies.

Chapter 3 examines the legislative and political differences between remedies prescribed by primary actors, the institutional paths chosen, and the moral judgments made by the public in the 1994 Rosewood Massacre Bill and the 1921 Tulsa Race Riot Act of 1997. Although each case sought redress within state legislatures, processes and procedures to address unique cases of harm may differ greatly from state to state. In Florida, the legislative claim bill process evades the legal constraint of sovereign immunity by using the legislature to hold the state liable for harms against individuals through actions or inactions of state officials. A quasi-legal, mini-trial is held within the state legislature where the merits of the case against the state are decided, and then the presiding official makes recommendations to the legislature that become the basis for a final bill that must follow typical committee to floor vote procedures for passage into law. In Oklahoma, while no reason exists to bar political actors from introducing similar legislation to compensate individual survivors, no unique process like the one found in Florida was already in place. Chapter 3 focuses on the different choices that political actors made in these similar cases

because of both institutional availability as well as a lack of creative thinking. The availability of particular institutional features within a state and the imagination of political actors help condition the way in which cases are framed and the route that each takes politically. Additionally, I also describe the importance that survivor narratives played or possibly could have played in the passage of each bill. My examination of the interplay between institutional and behavioral explanations along with the importance of framing relies upon interviews with primary actors, newspaper accounts, and archival data.

Chapter 4 captures, in more detail, the moment when lawyers working on the Rosewood case chose to distance their efforts from reparations claims. The decision to avoid the word “reparations” was a political choice that rhetorically distanced the Rosewood case from that of Japanese American Internment, although the actual features of the two cases are quite similar. In this chapter, I briefly describe the slavery reparations debate and then how the racialization of the term ‘reparations’ has made the connection between harms stemming from slavery and those from post-slavery pogroms almost synonymous. Additionally, I explain how use of the term negatively affects public opinion, similar to the use of the term ‘welfare’ when compared to ‘help for the poor’, and emphasize the value of describing efforts for compensation in terms of restitution for specific losses. Lastly, I briefly describe the closer similarity that cases like Tulsa and Rosewood have with the redress of Japanese-American Internment that led to the Civil Liberties Act of 1988. Specifically, I will describe how both the Japanese American and Rosewood cases distanced their issue from the obvious racial matter to one of constitutional principles; equality of opportunity in the Japanese American case and property rights in Rosewood.

Chapter 5 describes the way that the Tulsa and Rosewood cases can both be viewed as successful. While Rosewood has been hailed as a success because people were actually paid restitution, and Tulsa was regarded as a failure because its outcomes were primarily symbolic, the payments to victims, in essence, concluded the story of African Americans in Rosewood, Florida. And although the survivors in Tulsa failed to receive any monetary compensation for their losses, the experience seems to have done something important by mobilizing those previously inactive and creating a renewed sense of political engagement among African Americans still remaining in the community; a significant portion of African Americans in Tulsa are still engaged in activities that seek reconciliation between whites and blacks. Recent activities include a reconciliation dinner between whites and blacks and conference on reconciliation held in honor of the new John Hope Franklin Center for Reconciliation. I will also describe how Rosewood and Tulsa can still be considered “unsettled” cases due to the continued efforts of survivors and descendants to acknowledge, memorialize, and “heal” from the racial pogroms in their community. Lastly, Chapter 5 will offer suggestions on how scholars might build on the findings of my research.



## Works Cited

- "1898 Wilmington Race Riot Commission". Web. <<http://www.history.ncdcr.gov/1898-wrrc/whoware.htm>>. 21 February 2011.
- Barkan, Elazar. *The Guilt of Nations: Restitution and Negotiating Historical Injustices*. New York: W. W. Norton & Company, 2000.
- Barnett, Martha. Personal Interview. 13 July 2009.
- Bassett, C. Jeanne. "House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury." 22 Fla. St. U. L. Rev. 503-523, 1994.
- Brooks, Roy L. ed., *When Sorry Isn't Enough*. New York: New York University Press, 1999.
- Crocker, David A. "Reckoning with Past Wrongs: A Normative Framework". Unpublished Manuscript, 2004.
- Delgado, Richard. "When a Story is Just a Story: Does Voice Really Matter?" *Virginia Law Review*, Vol. 76, No.1 (February), pp. 95-111, 1990.
- D'Orso, Michael. *Like Judgment Day*. G.P. Putnam's Sons: New York, NY, 1996.
- Dubnow, Simon. *History of the Jews in Russia and Poland: From the Death of Alexander I, until the Death of Alexander III*. The Jewish Publication Society of America, 1918.
- Elster, Jon. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge: Cambridge University Press, 2004.
- Florida House Bill 591 – First Draft. 1994. Florida State Archives. 14 July 2009.
- Florida House Bill 591 - Enrolled. 1994. Florida State Archives. 14 July 2009.
- Ford, Brian. "Reparations to Riot Survivors? Panel Passes Resolution to Set Up Commission." *Tulsa World* 20 Feb. 1997, FINAL HOME EDITION, CITY/STATE: A11. *NewsBank*. Web. 10 Oct. 2009.
- Governor's Commission on the Los Angeles Riots: McCone Commission Report*. 1965.  
"The Governor's Charge to the Commission".  
<<http://www.usc.edu/libraries/archives/cityinstress/mccone/part2.html>>. (February 12, 2009).
- Hayner, Priscilla B. *Unspeakable Truths: Facing the Challenges of Truth Commissions*. New York: Routledge, 2002.

- \_\_\_\_\_. "Fifteen Truth Commissions—1974 to 1994: A Comparative Study," *Human Rights Quarterly*, Vol. 16, No. 4, pp. 597-655, 1994.
- Henry, Charles P. *Long Overdue: the Politics of Racial Reparations*. New York: New York University Press, 2007.
- Hirsch, James S. *Riot and Remembrance*. New York: Houghton Mifflin Company, 2002.
- Hixson, Richard. "Special Master's Final Report". Florida House of Representatives. 21 March 1994. Florida State Archives. 14 July 2009.
- Latham, Amy. "Lawmakers Want Reparations for Riot Descendants." *Tulsa World* 31 Jan. 1997, FINAL HOME EDITION, CITY/STATE: A9. *NewsBank*. Web. 10 Oct. 2009.
- Lumpkins, Charles L. *American Pogrom: the East St. Louis Race Riot and Black Politics*. Athens, Ohio: Ohio University Press, 2008.
- Kahn, D. Stephen. "Legislative claim bills; a practical guide to a potent(ial) remedy." *Florida Bar Journal*. 62.n4 (April 1988): 23-28. *AcademicOneFileGale*. University of Michigan - Ann Arbor. 14 Aug. 2009.  
<<http://find.galegroup.com.proxy.lib.umich.edu/gtx/start.do?prodId=AONE>>.
- "Legislative Claim Bill Manual." 14 August 2009. <[http://www.flsenate.gov/data/Publications/2000/House/reports/interim\\_reports/pdf/claimpdf](http://www.flsenate.gov/data/Publications/2000/House/reports/interim_reports/pdf/claimpdf)>, 1999.
- Mickey, Robert W. *Paths out of Dixie: The Democratization of Authoritarian Enclaves in America's Deep South, 1944-1972*. Princeton: Princeton University Press, 2011.
- Miller, Eric J. "Representing the Race: Standing to Sue in Reparations Lawsuits". *Harvard Blackletter Law Journal*. Vol. 20, Spring, pp. 91-114, 2004.
- Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide*. Boston, MA: Beacon Press, 1998.
- \_\_\_\_\_. *Not Only for Myself: Identity, Politics & the Law*. New York: The New Press, 1997.
- National Advisory Commission on Civil Disorders: Kerner Commission Report*. 1968a.  
"Conclusion". <<http://www.eisenhowerfoundation.org/docs/kerner.pdf>> (February 12, 2009).
- Payne, Leigh A. *Unsettling Accounts: neither Truth nor Reconciliation in Confessions of State Violence*. Durham: Duke University Press, 2008.

- Reed, Jr., Adolph L. "The Case Against Reparations." *The Progressive*. (December 2000) Web. 4 Feb 2011. <[http://findarticles.com/p/articles/mi\\_m1295/is\\_12\\_64/ai\\_67921041/](http://findarticles.com/p/articles/mi_m1295/is_12_64/ai_67921041/)>.
- Scheppele, Kim Lane. "Forward: Telling Stories". *Michigan Law Review*, Vol. 87, No. 8, Legal Storytelling (August), pp. 2073-2098, 1989.
- Shapiro, Jessica R. Email. 13 April 2005.
- Sriram, Chandra. "Truth Commissions and Political Theory: Tough Moral Choices in Transitional Situations". *Netherlands Quarterly of Human Rights*, Vol. 18, No. 4, pp. 471-492, 2000.
- Steele, Shelby. "... Or A Childish Illusion Of Justice?." *Newsweek* August 27, 2001. Web. 4 Feb 2011. <<http://www.newsweek.com/2001/08/26/or-a-childish-illusion-of-justice.html>>.
- Streich, Gregory W. "Is There a Right to Forget? Historical Injustices, Race, Memory, and Identity". *New Political Science*, Vol. 24, No. 4, pp. 525-542, 2002.
- Teitel, Ruti G. *Transitional Justice*. Oxford University Press, USA, 2002.
- "U.S. Constitution: Sixth Amendment."  
Web. <<http://caselaw.lp.findlaw.com/data/constitution/amendment06/>>. 21 February 2011.
- Wheat, Jack. "Bill Filed for Massacre Compensation." 31 December 1993. *Miami Herald*. Florida State Archives. 14 July 2009.
- Wolin, Sheldon S. *The Presence of the Past*. Baltimore, Maryland: The Johns Hopkins University Press, 1989.

## Chapter 2

### **Historical Narrative & Political Frames**

...[W]hat we knew is that something terrible had occurred, that there were still survivors, there were living witnesses to it, that time was running out and that there were, we thought, important principles, legal principles that needed to be sustained; violence based on racial discrimination, compensation for people whose property been taken, you know, compensation for the loss of land, their emotional stress, their constitutional access to justice somehow. The promise that their constitution has, that everybody has access to justice, even ...ultimately, the constitutional right of citizens to go to their government and petition their government.

~ Martha Barnett, Holland & Knight (2009)

This chapter describes how both the Rosewood Massacre and the Tulsa Race Riot were framed in order to gain legislative attention. In so doing, it argues for the importance of historical narratives in political framing. I situate framing within the process of communication that links primary actors to the public that has the ability to voice its opinion, and links actors to legislators who will decide to support or deny claims stemming from racially violent events that can be framed in different ways. A frame, in essence, suggests how one should think about an issue; therefore, it has important implications for how it should be approached and resolved. Because it is possible to frame political issues in a number of ways, political actors often struggle to imbue discussions of these issues with symbolic meaning and associations (Chong and Druckman 2007; Hemmer 2003; Durham 2003; Gamson 2003; Zaller 1992; Gamson and Modigliani 1987).

According to Entman (1993), framing is a matter of selection and salience. A frame selects a particular aspect of reality and then promotes this description in some communicating text, speech, utterance in such a way that highlights or makes salient a specific definition of a problem for the issue at hand, while ignoring or omitting other aspects (52, 53). Frames have the ability to accomplish very specific tasks in influencing audiences. They can define problems, evaluate causes, make moral judgments and prescribe remedies. Additionally, frames can be self-reinforcing once accepted, so that any attempt to speak of the issue in unique terms or to change the debate dialogue can result in the loss of public confidence or credibility for the communicator (Entman 1993:55; Gross 2008; Sniderman and Theriault 2004). This fact could prove daunting for contemporary political actors who face the challenge of reframing events that have long been thought of as “Negro uprisings” in order to bring final closure (Brophy 2002:39, 43, 51; Hirsch 2002:126, 140; Ellsworth 1982:102).

The narrative, or story, that contemporary actors use to justify a need to respond politically to long forgotten pogroms can be seen as a type of frame. A narrative, or story, “combines either real or imagined events that connect in such a way to provide a chain of events that are recounted to others” (Chaitin 2004:2). Similar to a frame, narratives help us to organize our thoughts and make sense of the world we live in and the events that take place around us. In an experiment by Gross (2008), she finds, “[a] story that generates incredible anger at how an individual has been treated by the government or that generates incredible sympathy and pity for an individual’s plight can facilitate persuasive claims on behalf of policy change” (184). Alternatively, she found evidence reinforcing work done by Iyengar (1991) that if the story is not compelling, the audience is much more likely to

attribute individual versus societal responsibility and the persuasive appeal to change public policy is likely to fail (184).

In this chapter, I draw attention to the narratives used by political actors to make sense of the horrific events that occurred in their respective states at the time of violence, as well as the process each group undertook to create contemporary claims against the state. It is not only important to examine the types of frames used by political actors, but also what information becomes legally relevant in assessing state liability and harm. Chapter 3 explores how institutional differences helped or hindered the ability of victims to participate in the truth-telling process and further, the importance victim accounts played in determining financial remedies.

#### **USE OF NARRATIVES**

Not every case of racial harm is subject to this sort of specific redress. The legislative call came more than seventy years after both the Rosewood and Tulsa pogroms occurred. Additionally, “not every injury obliges the perpetrator to make the victim whole” (Miller 2004); therefore, there are certain types of injuries that require legal or political action. In both the Rosewood and Tulsa cases, commissioned reports attribute responsibility to state and local officials, a fact that is rarely verifiable in cases from previous decades and unlikely on such a massive scale under today’s civil rights legislation. In essence, each case hinges on the construction of state responsibility for racially violent acts in which the state and/or its agents are rumored to, at best, have been non-responsive to, and at worse to have been participants. These factors further highlight the need for political response, the uniqueness of both cases, and the importance each holds for discussions of restorative justice.

Identifying institutions capable of responding in the wake of racial violence is difficult. The courts have been the typical forum for civil rights cases and yet Yamamoto, Serrano and Rodriguez (2003) agree that there are significant legal obstacles in the ability of our judicial system to properly redress reparation lawsuits because of its focus on individual claims rather than those that are group-based. Further, it seems that scholars and activist alike have been searching for a quasi-legal apparatus which may facilitate the legal and binding efforts of judicial responses along with the financial judgments that courts are able to mete out, but avoiding the narrow constraints posed by statute of limitations, issues of legal standing, hearsay rules, and the confrontation clause of the Sixth Amendment that guarantees the accused the ability to face her accusers (U.S. Constitution 1).

Additionally, legislatures face serious limitations in their capacity to respond in both legal and structural ways. Legislatures are constitutionally barred from punishing particular individuals or groups, but are capable of convening hearings to discuss violent episodes from the past. Although this type of investigatory action could, in many cases, be beneficial to the legitimacy of the claims by victims, adjudicating past racial violence cases can be controversial and public pressure may lead the legislature to distance itself from the process altogether by relegating such issues to committee where they simply die. A lack of political will in legislatures for dealing with highly controversial, charged issues of racial violence significantly diminishes its ability to offer remedial solutions. Legislatures are compelled to act on controversial issues only by the concerted effort of citizens; consequently, absent a significant outcry for policy solutions the legislature will not be compelled to act. In choosing the legislature as the institution of redress, primary actors in both the Rosewood

and Tulsa cases were banking on media exposure and public opinion to urge political response.

Interestingly enough, the narratives that became crucial to this process did not actually originate in the legislature, but in ad hoc institutions, commissions in this case, built by the legislature. In Tulsa's case, a true commission was appointed by the governor which included diverse membership in terms of race, gender, and political affiliation. For Rosewood, a study was commissioned by the legislature and offered as a contract for bid within the state university system of Florida. In the end, a group of historians from three top Florida universities came together to produce the final historical report on the Rosewood Massacre. In both cases, commissioned groups were appointed to study each pogrom with a specific charge of action and deadline for completion. Reports were produced after each process was completed and recommendations were sent to the parent institution, the legislature. While I reserve my analysis of each state legislature and their final case response for the next chapter, I focus attention directly on the activities and processes undertaken by political actors to get these past incidents of racial violence on their state's respective legislative agendas, as well as the final determination of facts given by these ad hoc institutions.

We should be under no illusion that redressing historical racial pogroms will restructure governmental institutions, reform societal attitudes or transform social relationships between whites and black in America. But it is possible, with successful efforts, to give voice to citizens who were victimized by their government and restore their dignity, while also giving place to events that have been long buried (Yamamoto, 1998; Minow, 1998). With the careful construction of institutions responsive to the need of victims



to tell their story in their own words and the investigatory aspect of each commission process, our understanding of the history surrounding both pogroms was forever changed.

#### **MY APPROACH TO FRAMING ANALYSIS**

The question now is how to begin examining the materials associated with both the 1921 Tulsa Race Riot and the Rosewood Massacre of 1923 with an eye toward analyzing the framing used both then and at the time of redress in the 1990's. Gamson (2003) has a useful way to examine frames that includes a three-part process. First, attention is given to the production of these frames, specifically, "the ways in which carriers of particular frames engage in activities to produce and reproduce them" (ix). Focusing on this process can help identify issues of power and resources and the way in which the framing process is a struggle over meaning expressed through a communicating medium (ix). Important in this process will be the reports by grand juries describing each series of events and then the significantly new frames produced by political actors when we fast forward to the 1990's and the legislative redress of each case. Examining the production of frames helps us to identify not only the visible use of power, but it also leads us to "attend to absences and silences" that marginalize other frames as well (ix).

The next step in the process of frame analysis is examining the texts or materials where framing is present (x). This would signal texts in the sense of written documents (historical reports, bill language, newspaper articles with statements from primary participants or official accounts of the events). Frames are contained within the text, manifested by "the presence or absence of certain keywords, stock phrases, stereotyped images, sources of information, and sentences that provide thematically reinforcing clusters of facts or judgments" (Entman, 1993, p. 52). Additionally, it is important to examine the

charge given to the historians in Florida and to the Tulsa Riot Commission in the legislation that appointed these groups. The charge is important because it gives an indication of the latitude given to identify truth and how far the state is willing to go to uncover and remedy that truth.

Lastly, framing analysis must speak to the interaction which occurs between an attentive audience and the frames they were offered while negotiating the meaning of events (Gamson 2003: x). In this case, this would indicate public opinion examined through newspaper articles and the statements from legislators who had the final vote on bill passage<sup>6</sup>. As stated before, I situate framing within the process of communication that links primary actors to the public that has the ability to voice its opinion, and to legislators who will decide to support or deny claims stemming from racially violent events that can be framed in different ways. Therefore, my task is to explore the difference between two historical cases of racial violence in America (that bear similarity in time, place, and type of harm), in terms of case description, problem conceptualization and solution identification through the use of framing by political actors. While the first two tasks of framing analysis concern how the case was described and the problem defined, both at the time of incident and in the 1990's, I leave to Chapter 3 a discussion of suggested remedies as well as an exploration of public opinion and legislative response.

More largely, though, we need to consider not only how frames can be analyzed but how they can be useful in helping to explain differences in how cases are described, evaluated, and remedied. The notion that frames have the ability to define problems,

---

<sup>6</sup> In other cases this may include bill signing or veto from the Governor, but in both the Tulsa and Rosewood case their respective Governor's were quoted as saying that they would sign any legislation approved by the legislature addressing the historical racial violence.

evaluate causes, make moral judgments and prescribe remedies is something important to understand. Gamson says that we must first look to the production of frames and how they are reproduced, which will help identify issues of power and resources and the struggle over meaning in the framing process. Additionally, he says to examine texts or materials where framing is present (Gamson 2003: x). The creation of a frame, as it relates to the cases in question, would include problem definition and certainly an evaluation of the cause of each incident. Therefore, in order to determine whether a frame is actually doing these things, we need to analyze the following; first, the state had to define the violence as a matter of public rebellion or official negligence, or some combination of the two. This process involved describing the case as well as evaluating the cause, which are two activities easily accomplished through narrative frames (Entman 1993). If the state determined that violence occurred without their authorization and in such a quick manner that they were unable to respond adequately, then they could not be held liable and victims would have to identify individual assailants.

The first evaluation of the pogroms in the 1920's by each state's Grand Jury, described the events as mob violence outside of the control or sanction of the local government, and no legal or political response was given to satisfy those who were victimized. Contemporary political actors changed the dialogue associated with these historical cases and therefore the nature of the debate over redress. In classifying the specific events that occurred during and after the pogrom, primary actors in the 1990's were able to find fault with the state and its agents in how they responded, or in some cases, failed to respond to the melee. It is highly unlikely that any redress would have taken place at all if not for the careful construction of an historical narrative indicating state responsibility. In

both the Rosewood and Tulsa cases, the historical narrative used to establish state culpability was primarily historical reports commissioned by and submitted to state legislatures.

Secondly, Gamson says that we must address the interaction that occurs between an attentive audience and the frame they were offered while negotiating the meaning of events (x). This process of framing analysis is an examination of the moral judgments made by the audience (the public and legislators), as well as the remedies that are prescribed. In order to resolve each case, some type of remedy had to be negotiated between the state and those who were victimized. The suggested remedies hinged on some form of restitution for living victims who had managed to survive the pogroms. The issue was not one of criminal or civil liability because of the statute of limitations, but was one of moral judgment assessed through narrative framing that implicated the state. Rosewood and Tulsa chose dissimilar frames to justify restitution for their claimants with varied results; Rosewood focused on the ability of an individual to have legal standing<sup>7</sup> in the case based upon personal or direct harm from the violent actions of the state, while Tulsa crafted a group claim that sought standing based upon the state's infliction of harm to the entire Greenwood community. The governors of Florida and Oklahoma both signed legislation into law redressing the pogroms that occurred in the 1920's in their respective states. The language and makeup of each bill is qualitatively and quantitatively different; the final word on these historical pogroms and the final act for each case highlights the different institutional opportunities and constraints available within each state and will be explored more carefully in the next chapter.

#### **CASE JUSTIFICATION**

---

<sup>7</sup> Standing is a legal doctrine holding that an alleged victim can articulate a relationship between an actual injury and themselves and that there is something that the alleged perpetrator can do to redress this injury (Miller 92-93).

As the process of framing is a way to organize and give coherence to a varied collection of symbols and idea elements (Gamson 2003: x) in a communicating medium, we must be reminded that not all frames are persuasive. Therefore, the question is what symbol or idea element is salient to the state and compels it to act on a case that has long past the statute of limitations and has seemingly been buried in the minds of those from the community? The fact is that not all narratives generate the conclusion that the state must act; it is important to note that in both the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Reconciliation Act of 2001, primary actors were able to successfully identify liability on the part of each state in its actions or inactions which led to the loss of life, liberty and property.

Primary actors in Florida and Oklahoma used frames to make moral judgments about state malfeasance and directly assess responsibility by identifying who did what and under what legal authority actions were undertaken. In doing so, we can observe the emergence of particular types of frames that made a compelling argument for redress. Specifically, primary actors asked themselves, how do we define this incident in legal/legislative terms & then how do we resolve the case? Although the presentation of this frame became contested ground in both states, these conceptualizations of the problem were ultimately accepted as the official account of events. Agreement on a common narrative is a great feat alone, but I argue that while the acceptance of an official narrative is a necessary part of reconciling claims stemming from racial pogroms, it is not sufficient to bring closure to claims.

The Rosewood and Tulsa cases differ greatly in how events came to light for redress in the 1990's. What is rare is that political action occurred at all when the story was buried

long ago in the minds of those, both white and black, still living with the fear of new violence erupting. Although the events share similarity in time, place, and type of harm, the approach to each case was significantly different. In short, two survivors of the Rosewood Massacre emerged and sought assistance at a prestigious law firm for redress in the summer of 1992. The lawyers approached the case from a legal perspective and this, along with the institutional structure available in Florida, presented unique opportunities for case resolution. In Tulsa, a state legislator became frustrated with the outpouring of assistance given to help rebuild Oklahoma City after the bombing of a federal building in 1995. The representative used the procedure most available to his expertise, which was to create a bill seeking justice for the Greenwood Community devastated by racial terrorism in 1921. It was ultimately different understandings of racially violent events that helped determine the route that each case would take politically, and then unique outcomes came as a result of the different legal mechanisms available within each state legislature.

This chapter in no way attempts to test or measure public response to competing frames or to determine if individuals were able to adequately distinguish the difference between frames. In the final chapter, I will discuss different conception of “success” in examining these sorts of cases, but this chapter answers the question of how primary actors were able to frame the historical pogroms in such a way that the state was compelled to give an official response when compared to the framing of the cases historically.

We will now examine a more detailed historical account of the Rosewood Massacre of 1923 and the Tulsa Riot of 1921 at the time of the incident as well as over seventy years later when both the 1994 Rosewood Compensation Bill and the 2001 Tulsa Race Riot Reconciliation Act were drafted.

## **ROSEWOOD**

How do we get from the story of brutal violence, loss of property, family and community, to a story of legislative resolution? It seems important to begin our exploration of Rosewood with a brief description of the violence and then move quickly to the final report on the incident by the Florida State Grand Jury at the time of the event. In examining the process undertaken by the grand jury, I note any charge given to jurors by the judge as well as any records that exist about the process the court took in order to uncover facts surrounding the case.

### **THE CASE**

The Special Master's Report which relies heavily upon the historical report commissioned by the Florida State Legislature provides a clear overview of the events surrounding the pogrom. The Rosewood Massacre occurred in 1923 in Rosewood, Florida, a town nine miles east of Cedar Key and forty miles southwest of Gainesville. The events unfolded on New Year's Day after a woman who lived in Sumner, an adjacent town, claimed she had been assaulted by an unknown black man while her husband was at work. Her bruised face became a visual representation of a possible rape, although she was never examined by a physician and had not expressly said that rape had occurred. A white posse was formed with the sheriff leading the way to question any black person they encountered on their way to the town of Rosewood. Members of the mob held people at gunpoint as a tool of interrogation in order to elicit the names of those who were responsible. Five days later, at least eight people lay dead from senseless acts of violence and those who escaped were forced to hide in the swamps and wait for the safety of a late night run to the train

station. At the end of that week, a mob came and burned every standing structure except the one lone house owned by a white grocer (Special Master's Report).

News articles at the time note that on the afternoon of January 5, 1923, four days after the start of the pogrom, the Governor Cary Hardee, had received word from the local sheriff of Levy county that the racial disturbance had settled down to the point that local authorities had the situation under control. Conflicting stories were flooding the Governor's office from press reports and despite the serious tone of these accounts, the governor had left his office for the afternoon to go hunting ("Rosewood Race Riot"). Sheriff Walker resigned on January 8, 1923, just days after the Rosewood incident, and the governor ordered a special jury investigation into the Rosewood massacre on January 29, 1923. The grand jury convened in the town of Bronson on February 12, 1923, but no official records exist (Special Master's Report, pg. 8-9). According to newspaper accounts, on February 13, 1923, thirteen witnesses testified and twenty-five more witnesses were scheduled the following day ("Special Jury"; "Thirteen Have Testified"). The hearing ended the next day and on February 15, 1923, the grand jury declared that there was no available evidence upon which they could indict anyone ("No Indictments"; "Rosewood Race Riots Probe").

What we know about the week long violence that occurred in Rosewood, Florida from accounts at the time is that it did not end until every last black resident was forced from the town and their property burned to the ground. What we need to know is how political actors at the time described and evaluated the event. As there are no official records from the governor, local sheriff, or any local official at the time of the event, we can only infer their thoughts based upon their actions as recounted in newspaper articles at the time. What we see is that despite the presence of the local sheriff, at least eight people died



without investigation, a community was terrorized and forced to flee by a white mob, and a town burned to the ground without any reprimand. Additionally, we find that the governor remained ill-informed and disinterested in the events being widely reported by the press and failed to respond with any military action when he was aware that there had been more than three days of violence in the town.

The primary actor at this time was the state, and at the convening of the grand jury, Judge A.V. Long charged the jurors to “make every effort to fix the blame where it belonged” and make sure that “guilty parties are brought to justice.” He declared that the mob violence had “not only had brought disgrace upon Levy County, but had brought disgrace to and reflection on the whole state of Florida” (“Special Jury”; “Rosewood Race Riots Probe”). Whether this statement was a false show of intent to seriously seek justice in the matter, or simply an often stated procedural phrase, Judge Long appeared to show sympathy and remorse for what had occurred within his state and called on jurors to find someone to blame whether white or black. After nearly a week of testimony from mostly whites, the grand jury was discharged without comment. The only statement about the report is that “[m]ob action was deplored” and insufficient evidence existed which to base indictments (Muskogee Times-Democrat Friday Evening February 16, 1923 page 1). Additionally, jurors noted that the “incident was regretted, not only by that body, but by the best citizens of Levy county” in their final report (“No Indictments”).

According to the statements surrounding the grand jury process, the incident was described as “mob action”, which means that the major thought at the time was that a lawless rebellion had taken place which, although regrettable, was not action for which the state was responsible. Additionally, the pogrom was regretted by those who stood for

justice (the grand jury) as well as the “best” citizens of Levy County, which begs the question of what those “best” citizens were doing while the “worst” of them were terrorizing the town of Rosewood. This also gives further credence to the fact that this was a lawless mob whose actions were not sanctioned by the state or its agents. Therefore, the conclusion is that the incident is described as mob action and the cause, although not directly identified by the grand jury, is noted as the alleged assault on Fanny Taylor, a white woman, by a black man (“Gun Battle”; “Levy County Posse”). As the records are scant here, there is nothing more we can understand about the official description of events or the evaluation of the cause at the time of the pogrom.

The next mention of what occurred in Rosewood was a series of articles in 1982 by Gary Moore in the *St. Petersburg Times* and a year later Ed Bradley visited the site for a 60 Minutes story (“Special Master’s Report”). The articles by Gary Moore were not evidenced in the Florida State Archives and were unattainable through the *St. Petersburg Times* Archives through on-line inquiry. Although Moore’s account of the incident may shed light on the perception of those whites who were still living around the town in the 1980’s and the blacks he found to interview, none of these would satisfy our need for official records or state accepted accounts. The series by Moore as well as the story on 60 Minutes are narratives that may have pushed victims to seek redress, but they are not politically relevant narratives in our exploration.

### **1990’S REDRESS**

Nearly ten years later, in the summer of 1992, the Miami branch of Holland & Knight received a visit from two ladies with a claim as survivors of the racially violent actions of seventy years previous. Lee Ruth Davis, 77, and Minnie Lee Langley, 88, met

with Manuel Dobrinsky and Steven Hanlon and shared their story (Voyles 1992; Mob survivors 1992).<sup>8</sup> Thinking that these were the only survivors, Dobrinsky drafted a bill proposal seeking reparations for the two women.<sup>9</sup> He remembers asking specifically for reparations and that he “looked at the Japanese reparations act” because they were in need of a model to work from (Dobrinsky). By January 1994, the Community Service team and pro bono division of Holland & Knight, which was headed by Steve Hanlon, took over the case to decide how best to pursue this 71 year old pogrom.

The case, now in the hands of a law firm, had to be defined in such a way as to gain public attention and support as well as meet some legal standard of harm by the firm.

According to an interview with a lawyer who was involved at the time, the idea to petition the courts was first considered, but ultimately discarded. They initially thought to address the Federal Court with some type of Civil Rights action, but became convinced that “the passage of time, the inability of those accused to question their accusers”, and the age and fading memory of witnesses would serve to only create controversy and bring attention to the matter, but would hinder them in reaching any equitable material relief and may in fact damage their ability to seek redress in future forums (Barnett). This starts a process of discovery with the Holland & Knight law team that ultimately identifies the legislature as the place of adjudication. The consideration of the case for lawyers may be quite different from the consideration of the case by other actors, but essentially, they had to determine

---

<sup>8</sup> Davis had been living in Miami, while Langley had lived in Jacksonville, Florida since 1926 (D’Orso 1996). *Like Judgment Day* claims that Hanlon first heard about the case from Michael O’McCarthy who was shopping around a movie deal with the approved contracts to the film rights of both Lee and Minnie’s stories sold for a thousand dollars each (131).

<sup>9</sup> This is likely what became HB 813 and died in the House Committee on Judiciary, the Florida State Archives was unable to locate a copy, but the bill is referenced in a letter from the Staff Director in charge of claim bills (see Claims Process) to the Speaker of the House. Mr. Dobrinsky does not remember its wording or what happened with it after he gave the materials to Mr. Hanlon (Dobrinsky 8/13/09).

what the case was about and if the claim was valid, and then had to identify the best forum for redress.

## **FLORIDA CLAIM BILL PROCESS**

In seeking to petition the legislature about the pogrom, the lawyers were aware that they would need to gain the support and assistance from legislators to craft a claim bill on behalf of the victims. A claim bill, also called a relief act, seeks compensation when no other avenue of remedy exists for an individual who is injured by actions or inactions of the state, its officers, subdivisions, agencies, or employees. Further, claims can either be general, a state agency is considered at fault, or local, which makes a claim against municipal, county, local, or special district officials. Additionally, claims can either be excess judgment, meaning that the plaintiff is requesting the difference between the capped statutory limit on their claim and the amount of judgment, or equitable claims, which are either moral claims having no legal cause of action or that have yet to receive any prior financial judgment (Bassett 504; "Legislative Claim" 5, Kahn 23). The statutory limits in Florida had been set to \$100,000 per person and \$200,000 per incident in 1981. Those seeking payment of claims that exceed this amount must have a state legislator introduce a claim bill in the legislature ("Sovereign Immunity" 3; "Legislative Claim" 5).<sup>10</sup>

---

<sup>10</sup>Another way that claim bills make their way to the legislature is through the judicial process when a jury awards the claimant more than the statutory limit. After researching over 20 state legislatures to see if they function in this same capacity, so far the closest state is Arkansas where their claims commission serves as a fact-finding body for the General Assembly. The Commission hears and determines claims for property damage, personal injury, refunds and breach of contract, then, when necessary makes its recommendation to the General Assembly on awarding monetary damages. <http://claimscommission.ar.gov/about.asp> Many other states create either tribunals (Tennessee and West Virginia) or claim boards (California, Connecticut, and Wisconsin to name a few) which are not tied to the legislature in any other way, but for claims over a certain amount that must be approved by the legislature.

The primary actors involved with defining and evaluating the racial violence that occurred in Rosewood represented both legal and legislative camps. Steve Hanlon was the primary lawyer involved with deciding how the case would proceed and providing the legislators with legal precedents and other background material to assist with bill crafting. Once deciding to seek redress in the legislature, Hanlon gave his full support to the legislators he had chosen to sponsor and craft legislation (“Hanlon’s Letter to Speaker Johnson”). He knew that the first step would be bill sponsorship and, considering the controversial subject matter and the fact that Florida is still considered the south, he carefully chose to contact Representative Miguel De Grandy. The case needed a conservative Republican who knew the claim bill process, but it did not hurt that De Grandy also happened to be socially liberal (Moss and Morgan 1994). De Grandy would later pull in the support of Representative Al Lawson, chairman of the Black Caucus, with whom he had worked with on a case against the Speaker of the House over redistricting, as co-sponsor on the claim bill for the Rosewood survivors.<sup>11</sup>

From my interview with Former State Representative De Grandy, he believed that it was his prior foray into the legal arena on behalf of both Hispanics and African Americans over the redistricting process that led to him being chosen for the case. As chairman of the Cuban-American caucus, De Grandy became affected by the story of displaced African Americans and experienced the same feelings of depression and shame when thinking of how his own people had been uprooted from Cuba by Fidel Castro. He was troubled

---

<sup>11</sup> Johnson, Speaker of the Florida House of Representatives, et al. v. De Grandy et al (October 1993) The facts of the case allege that the reapportionment plan for Florida State’s single-member Senate and House districts unlawfully dilute the voting strength of African Americans and Hispanics in the Dade County area in violation of the Voting Rights Act of 1965. The Supreme Court decided that vote dilution could not be shown due to insufficient evidence and the fact that the implemented plan gave rough proportionality to the minority groups in the Dade County area. <<http://supreme.justia.com/us/512/997/>>

because he remembered that those from his own community were unlawfully displaced when a dictatorial regime took over and, “took everybody’s property, everybody’s businesses, you know, people ultimately had to seek refuge in a new country, learn a new language, etc”. Then looking over the articles and materials he had been given by Hanlon, De Grandy saw similarities and even worse atrocities because, “law enforcement knew what was happening, what was about to happen...and they turned their back”. He goes on to recount how he read that the governor went on a fishing trip and did not send any military help or assistance despite being informed of posses forming, so the victims had to escape “through the swamps.”<sup>12</sup>

Unique in De Grandy’s recounting of the events, as he understood them, is the fact that he sees insult on top of the physical injury suffered by those who had experienced Rosewood’s Massacre. He states that, “the government took the properties on tax deeds because the folks didn’t pay their taxes. Well, they didn’t pay their taxes because they couldn’t come back to use their property” for fear of being lynched and having no government protection (De Grandy). Describing the Rosewood Massacre as not only physical harm, but financial injury as well presents a new narrative of the case. From the start, it appears that De Grandy identified with the banishment of the residents of Rosewood and saw the government as the responsible agent that failed its citizens during and after the destruction more than he blamed the angry, white mob. The lack of government assistance to protect the property rights of the victims and the displacement of Rosewood residents due to the taking of property by government action seems to draw him in to offer his assistance. According to De Grandy, the massacre at Rosewood was important to address not only

---

<sup>12</sup> It was in fact, hunting. (“Rosewood Race Riot.” 6 June 1923. *Jacksonville Times-Union*.)

because of senseless murder and lynching by a white mob, but also because the government had directly benefited from the gain of land lost by black families who had been run out of town.

#### **STUDY COMMISSIONED**

The first claim bill to address the Rosewood Massacre, HB 813, missed the January 1 filing deadline for the 1993 legislative session, but was still allowed to be introduced by then House Speaker Bolley “Bo” Johnson’s possibly to avoid negative public opinion for rejecting the bill on a technicality (D’Orso 162-163). Written more like a resolution than an appropriations bill, HB 813 requested appropriation for compensating survivors and for a monument to honor the victims, but neglected to request a specific amount of compensation for either the survivors or the monument (Bassett 510-511, Letter to Bo Johnson). However, the primary weakness in House Bill 813 was its lack of any supporting evidence or verifiable information regarding the events of 1923. In a letter to Speaker Johnson, the Staff Director listed some serious legal concerns for the bill in terms of statute of limitations and the lack of judicial record for the unsubstantiated version of events in the case.<sup>13</sup> The letter goes on to say that a claim bill process would not be the best approach under those circumstances, but states that, “[i]f a definitive study were funded at the University of Florida, the Legislature would be in the best position to determine the appropriate means to redress any injuries for which the state has liability” (Hixson Letter to Speaker). Subsequently, the bill died in the Committee on Judiciary in April 1993, at the end of the legislative session.

In order to address the concern over definitive evidence about the events which transpired in Rosewood over the weeklong spree of violence, HB 2423 was introduced just

---

<sup>13</sup> Staff Director Richard Hixson also held the position as the House Special Master, who in essence takes the role as judge or presiding officer in claim bill hearings. The Senate counterpoint was David Kerns.

after HB 813 died. The bill sought to provide appropriation to fund a grant to, “investigate the destruction of Rosewood, Florida” and “providing a report” (Florida House Bill 2425). This bill not only specified a specific appropriation in the amount of \$50,000 from the General Revenue Fund, but made clear that the grant amount be given to the University of Florida, along with the Black Archives at Florida Agricultural and Mechanical University (FAMU) and other so deemed entities of the State University System to “investigate, document, and compile a written report on the destruction of the town of Rosewood” (Florida HB 2425). Additionally, HB 2425 specified that the study appropriated must be conducted by “appropriately qualified academicians employed in the History Department of the University of Florida” and that the final report must include the following:

...a review of the factual accounts of the Rosewood incident, interviews of witnesses to the incident, a review of other written accounts of the incident, a bibliography of articles and writings about the incident, and a report relating to the responsibility of the state for any acts in this regard. (Florida HB 2425)

The deadline for all materials to be submitted to the legislature was to be no later than January 1, 1994, giving the researchers approximately one year had this measure become law. Although HB 2425 passed the House, it was placed on the Senate calendar and was never discussed again (Bassett 511).<sup>14</sup>

It appears that the failure of both HB 813 and HB 2425 to pass became the impetus for the consulting and research agreement between the Florida House of Representatives and the Florida Board of Regents in order to conduct an historical investigation and produce a report. Similar to what was originally requested in HB 2425, Speaker Johnson directed \$50,000 from the 1992-1993 Florida House budget to be used to study the events surrounding

---

<sup>14</sup> Although I found no record indicating that a similar bill ever passed the House, there is a newspaper article that says there was a 116-0 vote on Friday, April 2, 1993 to fund an extensive study to determine what occurred in Rosewood in 1923 (Magrin).



the massacre and burning of Rosewood in 1923. Further, under this agreement, a principle investigator or team of investigators from any Florida University would be selected by the Board of Regents through the submission of bid proposals (“House Speaker Allocates Funds”).

#### **BID PROCESS FOR COMMISSIONED REPORT**

The contract between the Florida Board of Regents and the Florida House of Representatives, or more specifically RFP 9402, had received two submissions by August 4, 1993 and requested quick review and approval from Speaker Bo Johnson (Memorandum, RFP Review Team; Chancellor’s Letter to Speaker). As a collaborative effort, the chosen team included Dr. Maxine Jones, Florida State University, designated as the principal investigator, Dr. Larry Rivers from Florida Agricultural and Mechanical University (FAMU) as Co-project Director, Dr. David Colburn from the University of Florida, Dr. William Rogers from Florida State University and graduate student Tom Dye from Florida State University (Background into Rosewood). When asked to describe how this process took place and how this group ultimately was chosen, Dr. Jones recalls the group deciding that “instead of having FAMU, and University of Florida, and FSU all compete for this, why didn’t we work together”(Jones). Additionally, Dye was brought in because he was doing his research on Cedar Key and knew his way around the area and the people there. Jones noted that this process emphasized the fact that “the legislature needed something more substantial to go on than just the memories of the people involved...” (Jones).

As a commissioned study by the legislature, the group was given specific tasks to be accomplished along with guidelines and a time limit in which all research had to be

completed and the final study produced.<sup>15</sup> Significant to the RFP requirements was a stipulation that the proposed study,

not discuss or address in any manner on the issue of any claim bill that has previously been filed before either House of the Florida Legislature or which may be filed in the future and shall not make any recommendation with respect to any claim by any individual or the heir of any individual which arises from the incident which occurred at Rosewood. (Background into Rosewood)

According to the “Review of the Rosewood Project” by Richard L. Greaves and Patrick Riordan, the Request for Proposal from the Board of Regents charged the chosen research team to do the following:

- a. a review of all documented accounts of the incident which occurred at Rosewood, Florida with specific reference to the sources of such accounts;
- b. identification of witnesses, and interviews of any witnesses who may still be living, with appropriate documentation to confirm the status of these individuals as witnesses;
- c. a comprehensive bibliography of articles and writings about the incident;
- d. as complete a description as can be provided, using extant historical materials, of the community of Rosewood in 1923;
- e. as complete a description as can be provided, using extant historical materials, of the incidents which occurred in Rosewood in 1923;
- f. as complete a list as can be provided, using extant historical materials, of the names of person who were residents of Rosewood, Florida in 1923 (or in 1920 based upon census records) before the incident which occurred in Rosewood in 1923.

The RFP further restricted the parameters of the study to exclude any discussion of damage claims against the state by survivors or their heirs and further prohibited the researchers from lobbying on behalf of any claimant or appearing as expert witnesses in any legislative

---

<sup>15</sup> I was unable to locate a copy of the original RFP 94-02 in order to see an exact list of assigned tasks, but I have identified a few through various letters and the submitted proposal from the chosen research team. The deadline for submission to the Board of Regents was also to be the last date of payment, November 22, 1993 (Research and Consulting Agreement 6/30/93, House Speaker Allocates Funds 7/02/93).

or judicial proceedings against the state in connection to any Rosewood event. Although the submission date was set as November 22, 1993, a 30-day extension was granted which allowed the team until December 22, 1993 for final submission.

In the case of Rosewood, the commissioned study was just one aspect of the entire commission process. Typically, a commission would receive a charge, or directive, with the required tasks to be accomplished and the date that recommendations would need to be submitted. In the case of Rosewood, the commissioned study was a first step that would ultimately lead to a hearing and then a mini trial process in the legislature. Ultimately, it would be the task of the Special Masters to make recommendations to the Legislature in favor of, or opposition to, the claim bill legislation.<sup>16</sup> Although the task of the historians appeared to be strictly academic in nature and to be designed to insulate their findings from political influence, the researchers would eventually have to defend their report in the trial process held within the state legislature. According to Jones, “I don’t know if we knew what we were getting into when we signed for this. And I thought our task was to prepare, as much as we could, historical study or background of what happened there”. They thought that they would simply turn over their report to the Speaker of the House, “and that would be it ...that wasn’t it” (Jones). The final report was submitted to the Florida Board of Regents on December 22, 1993 and then passed to the Florida State Legislature.

---

<sup>16</sup> The position of House Special Master was created in 1983 in order to save the state money in hiring private attorneys to conduct each claim hearing and create consistency by having a hearing master on staff, Richard Hixson was hired (D’Orso, 202). If a claim bill is filed in the House then its passage begins there with the House Special Master conducting the hearing and the Senate Special Master attending the proceedings. The voting process begins in the House, but will ultimately make its way through the Senate before reaching the desk of the Governor for final passage into law.

The commissioned study, reading more like a deposition, became an officially accepted account and was received as an academic study of the incidents of 1923 in Rosewood, Florida. The report included detailed documentation of the homes and land owned at the time and the names of each resident. Emphasis on individual residents and their experiences both before and during the massacre are described narratively and, despite the finding of “no evidence which to base any indictments” from the grand jury in 1921, this group of historians concluded three things definitively. First, the group agreed that in the week-long binge of violence they could only document the death of eight people. In terms of destruction of property, they used the estimates of Gary Moore that put the number of destroyed homes at eighteen (Jones, et al.).<sup>17</sup> Next, they easily identified taxpayers within the Levy County tax rolls in years prior to the violence and how this property was acquired by local whites who paid the delinquent taxes when the former residents were unable to return under threat of death. Lastly, the group assessed responsibility for the town’s destruction with local officials. They determined the failure to control the violence at the local level and to properly request assistance from Governor Hardee as events escalated lay with Sheriff Walker. Additionally, they held Governor Hardee to blame in that his actions failed to prevent the violence or to at least prevent the mass destruction of property. While he “condemned the violence and ordered a special prosecutor to conduct a grand jury investigation”, this was more than a month after the incident had occurred (Jones et al.).

---

<sup>17</sup> Several letters exist between Gary Moore and the research team and then between Moore and Dr. Richard Greaves, Chairman of the Florida State University Department of History alleging sloppiness, bias, and delusion by Moore. Ultimately the findings and methods used by the researchers were found to be sound with few exceptions made in a final review of the study by Greaves and Riordan (Bassett 513). Moore created his own analysis of the academic study that became a part of the materials used by the House and Senate Masters to make their recommendations to the state legislature.

The historians concluded that “Rosewood was a tragedy of American Democracy and the American legal system” in that the white leaders of the state tolerated the brutal behavior of white citizens against black residents and failed to “uphold the legal due process” that should have been afforded to every citizen (Jones et al.). Therefore, we find that the commissioned report described the violence as more than mob rebellion, and determined that the state had the power and means to mete out protection and justice yet failed to do so. Specifically, the group claimed that the probable cause of the brutal escalation was the failure of the local sheriff to request assistance from the governor and the mass destruction of property that could have been prevented by the governor. Unlike the understanding of the case after the dismissal of the grand jury in 1921, the narrative described here frames the violence in such a way that a state response is required. The comprehensiveness of the final report and its focus on the property ownership of former African American residents make this report quite different from the official report in the Tulsa case.

## **TULSA**

There could be no better phrase than ‘a culture of silence’ that could be used to describe the burning of Greenwood in Tulsa, Oklahoma in 1921 and the deafening silence on the subject that engulfed the city and state for the next seventy years. The story of the Tulsa Race Riot begins with an unclear altercation in an elevator between Sarah Page, a seventeen year old elevator operator and Dick Rowland, a nineteen year old shoe shine clerk on Memorial Day, May 30, 1921 (The 1921 Tulsa Riot Commission 56-57). A common phrase about the incident places the blame in three specific directions; on a hysterical girl, an

impudent Negro and on yellow journalism that spewed incendiary comments to stir the town into a violent frenzy (White).

While it would be easy to get lost in the minutiae of detail surrounding the Tulsa Race Riot of 1921, in the interest of focusing on the description and evaluation of the case both at the time of the incident and in the 1990's, it is important to begin our discussion with a brief description of the violence and then move quickly to the final report by the state grand jury at the time of the event. In examining the grand jury process, I will make note of any juror charge issued by the judge as well as any other effort the court may have taken in order to uncover facts surrounding the case.

#### **THE CASE**

Sometime on Monday, May 30, 1921, Dick Rowland entered an elevator in the Drexel building; a clerk heard a woman's scream and hurried to the elevator; Rowland left the building in a rush. The police were summoned, but no records exist as to Page's account of the incident. The next morning, Dick was arrested on Greenwood Avenue by two police officers, one white and one black, and was taken to the jail on the top floor of the county courthouse after booking at police headquarters (Riot Commission 57-58). The *Tulsa Tribune* was an afternoon paper that allegedly ran a story that very afternoon titled, "Nab Negro for Attacking Girl in Elevator" and included an inflammatory account of the incident as well as derogatory comments about Rowland and his purposes for taking the elevator that day (58). Both whites and blacks remember that some reference to a possible lynching was in that same paper as well (59).

The new sheriff of Tulsa County, Willard McCullough, organized his deputies to surround Rowland, positioned armed men on both the roof of the courthouse as well as at

the top of the stairs with orders to shoot intruders on sight, and disabled the elevator in the building. After making these preparations for trouble, McCullough told the mob to go home and turned away some men who entered the courthouse demanding Rowland (60). As word of the attempt on Rowland raced through Greenwood, a group of black men, armed with rifles and shotguns, drove to the courthouse and offered to help defend the jail and Rowland, but left after being assured that Rowland was safe. The crowd of whites, now estimated to be nearly a thousand, continued to stand at the courthouse and a group left and returned with guns while others attempted to gain access to the National Guard Armory, but were turned away at gun point (61).

Several local leaders tried unsuccessfully to talk the crowd into going home. The police chief, John Gustafson claims that he also tried to talk the mob into dispersing, but what is sure is that he never ordered a substantial number of Tulsa policemen to restore order at the courthouse that evening and just after 10pm a second group of black men arrived at the courthouse armed with weapons and again offered their services to protect Rowland and were once again refused. As they were leaving, an altercation between one of the black, World War I veterans and a white man led to the first shot and thus began the worst race riot in America (62-63). Records show that as many as five-hundred white men and boys, many of whom had just been part of the lynch mob, were deputized and many were provided with badges or ribbons. An owner of a sporting goods store testified that he witnessed a Tulsa police officer taking guns from his store and giving them to these new deputies (64).

The local National Guard became involved and eventually the governor was contacted to send the State National Guard for assistance. Upon arrival to Tulsa, nearly one

hundred National Guard soldiers, or “State Troops” as they were called by both blacks and whites, found that more than two-dozen owned business and homes in the Greenwood area had been torched and their owners led away at gunpoint, allegedly for their own protection, and were taken against their will to one of several “internment centers, including the Convention Hall, the fairground, and McNulty baseball park” (12). Order was restored at approximately 8pm on June 1, 1921 with the Greenwood residents being detained and released only for work by the application of a white person who would accept responsibility for the detainee’s subsequent behavior (13).

In the aftermath, thirty-nine men were confirmed dead with approximations extending upward of three hundred possible deaths (114). With 1,256 homes destroyed by fire, the property damage estimates at the time were in the amount of \$1.5 million and personal losses of \$750,000 (Hirsch 119). Red Cross relief was supported by the city and county government, but neither contributed to the rebuilding efforts of Greenwood; in fact, just six days after the riot on June 7, the Tulsa City Commission passed a fire ordinance that would prevent African Americans from rebuilding a commercial district where it had formerly stood. The Commission, which consisted of white business and political leaders, were rumored to have been rejecting outside offers to aid community rebuilding efforts (Riot Commission 88).

### **Grand Jury Indictments**

On June 2, 1921, District Judge Valjean Biddison called a grand jury at the request of Governor J.B.A. Robertson. Set to convene on June 8, Robertson’s asked that “the conduct of the police department and the sheriff’s office ... be investigated” (“Riot Charged” page 1). There seem to be no other charges given to jurors about their task or duty in the



investigation. On June 25, 1921, the grand jury issued its final report on the riot and although no official records exist, newspaper accounts were quite descriptive in their accounts. The jury had determined that the race riot was the direct result of the “band of armed negroes, who marched to the courthouse the night of May 31, ostensibly in protection of a negro youth held in jail on an assault charge” (“Blame for Riots”). Additionally, reports state that, “no attack had been made or was being made to lynch Rowland and that the crowd of whites assembled about the courthouse were largely peaceful” (“Indict 12 More”).

Ultimately, the jury held none of the whites who took part in the fighting at the courthouse responsible and stated that they were unable to find any evidence of a mob spirit among the whites and that there existed no discussions of lynching or arming the crowd. The report concluded that additional causes include, “agitation among the negroes of social equality, and the laxity of law enforcement” (Halliburton 21). The Chief of police John A. Gustafson and five city police were indicted for “conspiracy to dispose of stolen automobiles” and additionally the Chief was charged with failure to enforce the prohibition law, to suppress vice and to enforce the law against carrying firearms (“Tulsa Race Riot Jury” pg. 1). Additionally, seven African Americans were charged with riot-related offenses, while no white Tulsan was ever held accountable for the destruction of the Greenwood district (Riot Commission 89).

Therefore, we can determine that the primary actor at this time, the state, described the event as mob violence on the part of black residents who erroneously believed that a fellow black resident was going to be lynched. Additionally, the destruction of the town by whites was only in retaliation and to protect themselves from the fighting mob of black

residents. In describing the events and evaluating the cause of the Tulsa Race Riot of 1921, the grand jury held whites blameless except for the failures of local law enforcement.

### **1990'S REDRESS**

The legislative response to the Tulsa Riot of 1921 is due in great measure to the work of one policy entrepreneur who championed the case for Tulsa with very little support or interest from most of his colleagues. The first thing that was apparent during my interviews while in Oklahoma was the primary role that Don Ross played in the crafting and introduction of legislation on behalf of the 1921 Tulsa Race Riot survivors. According to Maxine Horner, former Oklahoma State Senator, without Ross, nothing would have happened. Additionally, she states that when Don ran for office, of the many things he wanted to accomplish, he was determined to bring the Tulsa Riot to light and even made it part of his platform (Horner). Having learned about the riot as a sophomore in high school, Ross emphatically denied it ever happened and openly rebuked the history teacher who suggested it (Hirsch 189). After the instructor, W.D. Williams, showed Ross an album of postcards, photographs, and newspaper clippings confirming not only the harsh treatment of residents of Greenwood back in 1921, but the destruction of the town as well, Ross began to ask for first hand accounts from the old men and women in his neighborhood himself. This story made a lasting impression on him as a teenager, but it would not be until adulthood when he made a promise to do something about the buried history in his congressional platform that he would compel Tulsa to confront the truth of its past (189-190). Ross would eventually ask Horner to carry the bill on the Senate side and she was delighted from the standpoint of bringing this horrific part of history into a legislative conversation (Horner).

What appears to be missing in this story is any real participation from the survivors themselves or their descendants from the start. Ross championed a cause that many, both black and white, would have rather left shrouded in darkness; whites would prefer to think of it as never occurring or something in the distant past, and survivors were afraid they would lose their homes, jobs, or would face some sort of retaliation by angry whites, but uncovering an accurate history would be the first necessary step in redressing this 1921 case (Gates). Ross even reached across the aisle in order to gain the support of fellow historian Leonard Sullivan, a white, Republican, who would co-sponsor House Joint Resolution 1035 – the legislation to establish the 1921 Tulsa Race Riot Commission and the first bill passed in relation to the 1921 incident. According to Sullivan, his own personal affinity for history captivated Don and in trying to find out more about the story, he became disappointed that there was very little information available to read. Sullivan recounts that Don was aware of his interest in the case and that prior to the legislation being written, they had discussed the incident (Sullivan).

The first iteration of HJR 1035, sponsored by Ross in the House and Horner in the Senate, sought reparations for the 1921 riot and subsequent destruction of the Greenwood district of Tulsa. According to newspaper accounts,<sup>18</sup> the bill asked for \$3 million from the state of Oklahoma and \$3 million from the city of Tulsa as ‘reparations’, allotting \$5 million for settling victim’s claims and \$1 million toward creating programs for children in the affected area (Latham; Ford). Language seeking reparations remains in every amended version of the bill until the final enrolled legislation. The bill that was ultimately signed into law by Governor Keating had stricken every reference to reparations and a section justifying

---

<sup>18</sup> No record of the introduced copy of HJR 1035 exists in the Tulsa Race Riot archives. University of Tulsa, McFarlin Library, Department of Special Collections, 2933 East 6th St., Tulsa, OK 74104-3123

the expenditure of public funds for reparations was replaced with a section justifying public funds to create a commission to study the incident and make possible recommendations (HJR 1035 Enrolled).

According to Sullivan, the bill had no hope unless Ross changed his tactic. It was with the addition of the commission to study the riot that Sullivan threw his support into the fray.

It's almost like a truth squad; he wanted to see if we could find some more truth in the whole thing. You know, and get below the surface that everyone else had talked about and known about for all these years. So it was more like, let's..., let's get some more facts on this while history can still be, you know, be corrected. I think that's where we were on the thing really when I got involved in it. And the other thing, he needed some white guys to help him. I mean, you know, he was getting no where and since I was a conservative Republican, for me to come on board helped him a lot. (Sullivan)

Sullivan speaks as if the "truth" of what had occurred was really unknown; certainly there were still survivors in both the group of victims and perpetrators who could recall the devastation of Greenwood, even if they were unable to remember what precipitated the violence. Additionally, he notes the racial polarization surrounding this case and how his presence may have helped to legitimize the process in the eyes of whites in the community and the legislature.

HJR 1035, now amended as a bill to create a commission to study the 1921 Tulsa Race Riot gained the needed legislative support in order for passage in April 1997 (HJR 1035 Enrolled). Maxine Horner remembers the difficulty the bill encountered in earlier stages when reparations were at the forefront. The fact that the Democrats were in control of the House made it possible for Ross to leverage his position as a fellow Democrat wanting to bring forth legislation for his constituents, but seeing the difficulty on the subject forced him

to settle for an interim move. Similar to Rosewood, in order to begin the dialogue about what actually occurred back in 1921 and to move the process forward, Don agreed to craft legislation to establish the Oklahoma Commission to Study the Tulsa Race Riot of 1921.

Horner notes that every Senator was watching this legislation and many of them were questioning the point of bringing up the past and the idea of reparations had them up in arms. She said that this was the, “major piece of the legislation that the legislators were not in favor of” and that she was referring specifically to the whites who were not at all supportive of that part of the measure. She questioned whether it was because they individually did not want it to pass or if they were dealing with the views of their constituents back home (Horner).

Whether the issue was about race or about votes, the fact was that any effort to appropriate funding aimed at the survivors or their descendants, according to those I interviewed, would have doomed the legislation to failure, therefore commissioning a study was an interim move to attempt to validate claims stemming from the events of 1921 and for our understanding here, to create an acceptable historical narrative of the incident.

The commission consisted of eleven (11) members to be apportioned primarily by a split between the governor and the mayor with help from the city council, with three each. In addition, the Director of Oklahoma Historical Society and the Director of the Oklahoma Human Rights Commission each serve as voting ex officio members. A key point in membership was that of the three persons appointed by the city council and mayor, one must be a survivor of the Tulsa Race Riot and two must be residents of the Greenwood subdivision.

Their charge was to undertake a study to develop a historical record of the 1921 Tulsa Race Riot including the identification of persons who:

1. Can show proof of actual residency in the Greenwood area on or about May 31 or June 1, 1921; or
2. Can demonstrate that they sustained an identifiable loss to their person, personal relations, real property, personal property or other loss as a result of criminal or tortious conduct during this same period.

Further, the commission was authorized to gather information, identify and interview witnesses or other person who had knowledge or documentation of relevant events pertaining to the 1921 Tulsa Race Riot and to submit a final written report with findings and recommendations regarding whether or not reparations can or should be made to the state by January 5, 1999 (HJR 1035 Enrolled).

In 2000, Ross achieved passage of HB 2468 to extend the life of the commission, push its final report date up to February 28, 2001, and acquire state land to create a memorial of reconciliation commemorating the lives of the victims and honoring the survivors of the 1921 Tulsa Race Riot (HB 2468). In the final report from the commission, they conceded the fact that they held no legal standing as judge or jury in assigning culpability, determining damages, or to establish any remedy to include restitution or reparations, but all but one commissioner agreed that "reparations to the historic Greenwood community in real and tangible form would be good public policy and do much to repair the emotional and physical scars" of the shameful past the city now shares (Tulsa Riot Commission). Similar to arguments made in the final analysis of the Rosewood case, the report says that there exists compelling argument in the law that would call for present governments to make monetary payment for the unlawful acts of a past government, but they choose to stand not on legal precedent, but on the moral responsibility that requires a moral response.

The commission determined that in the final calculus “municipal and county authorities failed to take actions to calm or contain the situation” as the hostile groups gathered at the courthouse and their confrontation erupted into violence. Further, civil officials deputized many white men who “did not stem the violence but added to it, often through overt acts themselves illegal” (11). They identified four primary points of evidence to justify the need for moral judgment. First, they determined that in some actions the government participated in the deed, in some actions the government performed the deed, in no action did the government prevent the violent deed, and lastly, in no action did the government punish the deed (The 1921 Tulsa Race Riot Commission).

The focus of the entire report is on the Greenwood Community itself and despite an estimate of the dead and approximate cost of property damage to the town; the report makes no direct reference to individual survivors and their personal stories.

The main charge of this commission was to investigate and issue a detailed historical report on the incident, but they faced ideological struggles regarding the approach to take in getting the full story of the incident and the word reparations hung over the entire process. The group argued over whether they should continue to dig up Oklahoma soil to find the rumored mass graves of black victims and whether the city actually used airplanes to drop incendiary devices onto Greenwood. All the while the media watched and derided the entire process and ultimately the usefulness of the commission in general (“Grave Mistake” 8A; Kurt 13A; The 1921 Tulsa Race Riot Commission). Unlike Rosewood, the Tulsa Race Riot Report was not compiled by historians or academicians simply interested in presenting what they could find evidence to substantiate. The Tulsa Race Riot Commission of 1921 was a group of politically and civically connected individuals of different races and backgrounds

who came together and produced a document with little cohesion; each section of the document has been produced independent of all of the others. What is unified is that the commission determined that the mob violence and destruction of Greenwood was white-led and the state failed to act to prevent it and in some cases participated in the acts as well. This new official narrative is at odds with the grand jury report and presents a new understanding of the events which occurred back in 1921 and frames the violence in such a way that a state response was required.

## CONCLUSION

In the aftermath of each pogrom, grand juries convened in order to determine fault and liability and found no sufficient evidence in which to prosecute any individual or group of individuals for the massive destruction of small towns within their state. If we can call anyone a primary actor at this point it would be the state, so it is possible to think of the activities of the state, subsequent to the violence, as producing particular frames about the violent incidents that occurred. In reports by the grand juries, there are differences between the Tulsa Riot and the Rosewood Massacre in terms of the language used to describe the events and statements made subsequently in the press<sup>19</sup>. Then we fast forward to the 1990's,

---

<sup>19</sup> In the case of Tulsa, on June 25, 1921 the grand jury issued its final report on the riot which stated that the race riot was "the direct result of an effort on the part of a certain group of colored men who appeared at the courthouse on the night of May 31, 1921, for the purpose of protecting one Dick Rowland" and that they were unable to find any evidence of a mob spirit among the whites and that there existed no discussions of lynching or arming the crowd. The report concluded that the assembly was just a curious group of spectators who were quiet until the arrival of "armed Negroes" who had caused the violent events that followed (Riot Commission Report 89, Halliburton 1972:352). For Rosewood, the grand jury convened in Bronson on February 12, 1923, but no records exist. According to newspaper accounts, on February 13, 1923, thirteen witnesses testified and twenty-five more witnesses were scheduled the following day. On February 16, 1923 the grand jury declared that there was no available evidence upon which they could indict anyone (Special Master's Report 1994). Although the newspaper states that the "incident was regretted not only by that body, but by the best citizens of Levy county", the result was that no justice was rendered to victims who lost lives and property in the destruction ("No Indictments").



and the legislative redress of each case, when political actors step from the shadows and produce significantly new frames describing each series of events. Additionally, we see preliminary evaluations of the possible causes of each pogrom by the state or its agents at the time of incident and then later by contemporary political actors in the 1990's that are quite dissimilar. Although describing the cases and evaluating possible causes are significant processes in analyzing frames and helping our understanding of historical pogroms, in order to fully redress claims stemming from racial violence it is necessary to make moral judgment and prescribe sufficient remedies. The next chapter will explore the way in which the state grappled with the evidence revealed in commissioned historical reports and how equitable remedies were identified.

According to Entman (1993), framing is a matter of selection and salience. A frame selects a particular aspect of reality and then promotes this description in some communicating text, speech, utterance in such a way that highlights or makes salient a specific definition of a problem for the issue at hand, while ignoring or omitting other aspects (52, 53). In this chapter, I have highlighted the narrative frames used by primary actors that redefined the way in which the violence in their states were understood. Specifically, primary actors in both the Rosewood and Tulsa cases chose specific ways in which to explain the racially violent incidents occurring within their respective states. Each approach led to very different descriptions within the historical narrative crafted by investigative studies; for Rosewood, the focus was on the culpability of the state and its agents as well as the specific emotional and financial damage experienced by survivors and the property loss of descendants. The claim bill process sought to restore individual victims who had experienced direct harm as well as property loss in the pogrom. Tulsa, on the other

hand, organized the entire Greenwood Community in a group-centered claim for redress with no specific calls to address individual property loss or damages. In their effort to create an historical narrative of the case, the Tulsa commission produced a historical report that determined government malfeasance and the moral obligation of the state to rebuild the Greenwood Community. The accepted historical narrative in each case identified state liability for the harm inflicted both at the time of each incident and in the treatment of survivors that followed, but this was simply the first step in resolving each case. Agreement on a common narrative is a great feat alone, but is not sufficient to resolve claims stemming from racial pogroms.

## Works Cited

- "Background into the Rosewood Incident of 1923 – RFP 94-02 Submission." Florida State Archives. 14 July 2009.
- Barnett, Martha. Personal interview. 13 July 2009.
- Bassett, C. Jeanne. "House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury." 22 Fla. St. U. L. Rev. 503-523 (1994).
- "Blame for Riots upon Tulsa Chief." *The Galveston Daily News*. 26 June 1921. NewsArchives.com. 25 October 2010.
- Brophy, Alfred L. *Reconstructing the Dreamland: the Tulsa Riot of 1921: Race, Reparations, and Reconciliation*. New York, NY: Oxford University Press. 2002.
- Chaitin, J. "Narratives and Storytelling in Conflicts and Conflict Resolution." *Intractable Conflict Knowledge Base*. 2003. Website: <http://www.beyondintractability.org/essay/narratives>. 30 April 2010.
- "Chancellor Charles B. Reed of the State University System of Florida Letter to Speaker Johnson about RFP 94-02." 4 August 1993. Florida State Archives. 14 July 2009.
- De Grandy, Miguel. Personal Interview. 16 July 2009.
- De Grandy and Lawson letter to Speaker Johnson to waive bill filing deadline. 1 February 1993. Florida State Archives. 14 July 2009.
- Dobrinsky, Manuel. Phone Interview. 13 August 2009.
- D'Orso, Michael. *Like Judgment Day*. G.P. Putnam's Sons: New York, NY. 1996.
- Ellsworth, Scott. *Death in a Promised Land: the Tulsa Race Riot of 1921*. Louisiana State University Press. 1982.
- Florida House Bill 2425. 1993. Florida State Archives. 14 July 2009.
- Florida House Bill 591 – First Draft. 1994. Florida State Archives. 14 July 2009.
- Florida House Bill 591 - Enrolled. 1994. Florida State Archives. 14 July 2009.
- "Florida Jury Fails to Locate Rioters." *Muskogee Times-Democrat*. Evening Edition, page 1. 16 February 1923. NewsARCHIVES.com October 20, 2010.

- Ford, Brian. "Reparations to Riot Survivors? Panel Passes Resolution to Set Up Commission." *Tulsa World* 20 Feb. 1997, FINAL HOME EDITION, CITY/STATE: A11. *NewsBank*. Web. 10 Oct. 2009.
- Gates, Eddie Faye. Phone Interview. 2 November 2009.
- Greaves, Richard L. and Patrick Riordan. "Review of the Rosewood Project." *Florida State University*. 2 February 1994. Florida State Archives. 14 July 2009.
- "Grave Mistake: Riot Probe Leads to Macabre Excavation." Editorial. *The Oklahoman*. 26 Jan. 2000: 8-A.
- "Gun Battle as Whites Rush Negro Barricade Rosewood." *The Evening Independent*. St. Petersburg, Florida. 5 January 1923. Florida State Archives. 14 July 2009.
- Halliburton R. Jr. "The Tulsa Race War of 1921." *Journal of Black Studies*, Vol. 2, No. 3 (March 1972), pp. 333-357.
- "Hanlon's Letter to Speaker Johnson Regarding Rosewood Study." 24 March 1993. Florida State Archives. 14 July 2009.
- Henry, Charles P. *Long Overdue: the Politics of Racial Reparations*. New York University Press, New York: 2007.
- Hirsch, James S. *Riot and Remembrance*. Houghton Mifflin Company: New York, New York, 2002.
- "House Speaker Allocates Funds for Rosewood Study; Enters Agreement with BOR." Press Release. 2 July 1993. Florida State Archives. 14 July 2009.
- "Hixson Letter to Speaker Johnson." 3 March 1993. Florida State Archives. 14 July 2009.
- "Indict 12 More in Tulsa Riots." *The Logansport Morning News*. 26 June 1921. Vol. 1, No. 12, Page 1. *NewsArchives.com*. 25 October 2010.
- Jones, Maxine D. Personal Interview. 14 July 2009.
- \_\_\_\_\_, Larry E. Rivers, David R. Colburn, R. Tom Dye, and William W. Rogers. *The Rosewood Report History*. 22 December 1993. 14 July 2009.<<http://www.displaysforschools.com/rosewoodrp.html>>.
- Kahn, D. Stephen. "Legislative claim bills; a practical guide to a potent(ial) remedy." *Florida Bar Journal*. 62.n4 (April 1988): 23-28. *AcademicOneFileGale*. University of Michigan -

Ann Arbor. 14 Aug. 2009.  
<<http://find.galegroup.com.proxy.lib.umich.edu/gtx/start.do?prodId=AONE>>.

- Kurt, Kelly. "Race Riot Panel Rules Against Grave Digging." *The Oklahoman*. 30 Jun 2000: 13-A.
- Latham, Amy. "Lawmakers Want Reparations for Riot Descendants." *Tulsa World* 31 Jan. 1997, FINAL HOME EDITION, CITY/STATE: A9. *NewsBank*. Web. 10 Oct. 2009.
- "Legislative Claim Bill Manual." 1999. 14 August 2009. <[http://www.flsenate.gov/data/Publications/2000/House/reports/interim\\_reports/pdf/claimpdf](http://www.flsenate.gov/data/Publications/2000/House/reports/interim_reports/pdf/claimpdf)>
- "Letter to Bo Johnson from Representative Miguel De Grandy." 1 February 1993. Florida State Archives. 14 July 2009.
- "Levy County Posse Continues Hunting Negro." *Tampa Tribune*. 6 January 1923. Florida State Archives. 14 July 2009.
- Magrin, Jud. "House Approves Rosewood Massacre Bill." *Gainesville Sun*. 3 April 1993. Florida State Archives. 14 July 2009.
- McAdams, Dan P. *The Stories We Live By: Personal Myths and the Making of the Self*. The Guilford Press: New York, 1993.
- "Memorandum from Request for Proposal Review Team of the State University System of Florida." 2 August 1993. Florida State Archives. 14 July 2009.
- Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide*. Boston, MA: Beacon Press, 1998.
- \_\_\_\_\_. *Not Only for Myself: Identity, Politics & the Law*. New York: The New Press, 1997.
- "Mob survivors want lost town remembered." *St. Petersburg Times* 30 Dec. 1992, CITY, TAMPA BAY AND STATE: 6B. *NewsBank*. Web. 16 June 2009.
- Moss, Bill and Lucy Morgan. "Victims measure passes House." *St. Petersburg Times*. 4b. 5 April 1994. Florida State Archives. 14 July 2009.
- "No Indictments of Mob Members by the Grand Jury." *Florida Times-Union*. 16 February 1924. Florida State Archives. 14 July 2009.
- "Research and Consulting Agreement." 30 June 1993. Florida State Archives. 14 July 2009.
- "Riot Charged to Official Neglect." *The Washington Post*. 3 June 1921. *ProQuest Historical Newspapers*. 24 October 2010.

- "Rosewood Race Riots Probe is Ended; No Indictments are Made." *Gainesville Sun*. 16 February 1923. Florida State Archives. 14 July 2009.
- "Rosewood Race Riot Resulted in Killing 2 White and 4 Black." *Jacksonville Times-Union*. 6 January 1923. Florida State Archives. 14 July 2009.
- "U.S. Constitution: Sixth Amendment."  
Web. <<http://caselaw.lp.findlaw.com/data/constitution/amendment06/>>. 21 February 2011.
- Sniderman PM, Theriault SM. 2004. "The Structure of Political Argument and the Logic of Issue Framing". In *Studies in Public Opinion*, ed. WE Saris, PM Sniderman. Princeton, NJ: Princeton Univ. Press
- "Sovereign Immunity and the Claim Bill Process." *Committee on Judiciary*. November 2004. August 13, 2009. [http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim\\_reports/pdf/2005-147ju.pdf](http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim_reports/pdf/2005-147ju.pdf)
- "Special Jury in Race Clash to Hear Witnesses Today." *Jacksonville Times-Union*. 13 February 1923. Florida State Archives. 14 July 2009.
- The 1921 Tulsa Race Riot Commission. "Tulsa Race Riot - A Report by the Oklahoma Commission to study the Tulsa Race Riot of 1921." 28 February 2001. 7 October 2009. <<http://www.okhistory.org/trrc/freport.htm>>
- "Thirteen Have Testified in the Riot Probe." *Jacksonville Times-Union*. 14 February 1923. Florida State Archives. 14 July 2009.
- "Tulsa Race Riot Jury Indicts Police Chief." *New York Times*. 26 June 1921. *ProQuest Historical Newspapers*. 24 October 2010.
- Voyles, Karen. "Former Rosewood residents take legal action to right 1923 wrong." *Gainesville Sun*. 29 December 1992. Florida State Archives. 14 July 2009.
- White, Walter F. "June 15, 1921". Reprint of *The Nation*. 23 August 2001. 23 June 2010. <<http://www.thenation.com/article/tulsa-1921?page=full>>

## Chapter 3

### **The Path to Legislative Resolution: a Quest for Compensation**

And it was not about blame, you know, but, I think the underlying force for doing this anyway [was] that these were people who needed to be compensated for what had never been done, never ever. So when you think in terms of property that was destroyed and resources were not there and many people who lost family, you know, that something should have been done and the State did not want to do that.

~ Former Oklahoma State Senator, Maxine Horner (2009)

While the previous chapter laid the foundation for exploring the difference between two historical cases of racial violence in America (that bear similarity in time, place, and type of harm), in terms of case description and problem conceptualization, my task in this chapter is to identify remedies offered by political actors and the constraints and opportunities involved with achieving those remedies within the institutions chosen. In order to resolve each case, some type of resolution had to be negotiated between the state and those who were victimized; suggested remedies in both cases urged some form of restitution for living victims who had managed to survive the pogroms.

Additionally, I explore how the availability of unique institutions stimulated the thinking of primary actors in distinctive ways in one case, but this was absent in the other case. I also look at the importance of victim's stories in the overall process of achieving compensation. In analyzing the frames used to describe and resolve each case, it is not only important to examine the types of frames used by political actors, but also necessary to determine the role that narrative frames, those shared by victims, played in the process and

what information became legally relevant in assessing state liability and harm. Resolving claims against the state for racial pogroms of the past is not just a matter of uncovering the truth, but a matter of determining if the truth is legally and politically relevant to warrant an official response and what that response should be. In order to justify restitution for their claimants, political actors working on the Rosewood and Tulsa cases chose dissimilar frames with varied results; the lawyers on the Rosewood case focused on individual claims for Rosewood survivors based upon personal or direct harm experienced through state negligence, while the legislator working on the Tulsa case crafted a group claim based upon the state's infliction of harm on the entire Greenwood community.<sup>20</sup>

The governors of Florida and Oklahoma both signed legislation redressing the pogroms that occurred in their respective states in the 1920's. The language and makeup of each bill is qualitatively and quantitatively different. Therefore, this chapter examines the remedies prescribed by primary actors and moral judgments made by the audience (the public and legislators) in each case. Further, I highlight the way in which the availability of unique institutional arrangements conditioned the types of responses chosen along with the importance of survivor narratives. The availability of particular institutional features within a state, help condition the way cases are framed and the route each takes politically.

In order to draw political attention to the unsettled accounts in both Rosewood and Tulsa, primary actors had to ask themselves how to define the incident in legal/legislative terms and then how to craft an equitable remedy. Primary actors created historical narratives which described or framed the racially violent events as either harm against

---

<sup>20</sup> These differences establish what is legally referred to as "standing" in the case. Standing is a legal doctrine holding that an alleged victim can articulate a relationship between an actual injury and themselves and that there is something that the alleged perpetrator can do to redress this injury (Miller 92-93).



individual African Americans, or harm against a group based upon their racial identification as a result of state malfeasance.

As we learned in the previous chapter, political actors were able to gain the attention of both the Florida and Oklahoma legislatures through the use of historical narratives which framed the pogroms as the failure of state and local officials to protect its citizens. More than simply assessing harm for spontaneous violent actions which occurred between two citizen groups in a state's jurisdiction, political actors were able to establish how the state and/or its agents participated in and responded to morally wrong actions which occurred in the 1920's. However, although this frame garnered attention for each case and was necessary in order to be put on the legislative agenda, determining state culpability was not sufficient to identify equitable remedy and ultimately resolve the cases.

As described in the previous chapter, framing analysis must speak to the interaction that occurs between an attentive audience and the frames they are offered while negotiating the meaning of events (Gamson 2003: x). In this case, our task is to examine public opinion in newspaper articles and statements from legislators who had the final vote on bill passage.<sup>21</sup> As stated before, I situate framing within the process of communication that links primary actors to the public, which has the ability to voice its opinion, and to legislators who will decide to support or deny claims stemming from racially violent events that can be framed in different ways.

In both the Rosewood and Tulsa cases, political actors had to identify how to justify restitution for the loss of life, liberty and property experienced by those who survived the

---

<sup>21</sup> In other cases this may include bill signing or veto from the Governor, but in both the Tulsa and Rosewood case their respective Governor's were quoted as saying that they would sign any legislation approved by the legislature addressing the historical racial violence.

racial pogroms as well as the institution best equipped to respond to their claim. In seeking to base their claim on individual harm, the primary actors in the Rosewood case focused on the many personal and direct injuries endured by persons who were able to give specific detail and produce tangible evidence of their incidents of harm. Furthermore, in choosing the claim bill route in the Florida State Legislature, the quasi-legal process allowed each individual to tell legislators in their own words how they were denied the protection of the state over their property rights when they were unable to return for fear of violence. This case in essence became similar to tort legal cases that address individual injury and therefore; despite the singular judgment rendered with final bill passage, compensation was individually conceived for each survivor. On the other hand, in choosing the reparations route, the primary actors in the Tulsa case paid little attention to individual cases of harm, but instead sought compensation for the entire community of survivors and their descendants through the typical bill passage process in the state legislature. And because reparations frame harm as group-based, despite the specific loss and damage experienced by individuals, the success of the case for all became tied to one legislative motion. Although this route was chosen by primary actors in Tulsa, it was not the only option available. The primary actors working on Rosewood were imaginative when they thought to fit a case representing many individuals to a process created to compensate individuals. Although the claim bill was not present in Tulsa, this did not preclude legislators from creating a bill set to compensate individuals who lost property in the riot. Although both cases sought redress within state legislatures, only one state had an existing forum to hear a claim for compensation on behalf of individual victims of state malfeasance.

Although I will describe and explore the choices made by political actors to seek specific types of compensation for pogrom survivors and how each case used a different conception of harm and standing in order to bring resolution, the next chapter will discuss the different ways in which we understand restitution, compensation and reparations and how they differ in contemporary calls for redress in racial pogroms. My focus here is an exploration of how political actors justified the need to bring each case to resolution with some form of compensation for survivors. In each case, primary actors were well aware of the passage of time and the impact of statute of limitation laws, but each were emphatic that the state had some obligation to make right the harms inflicted on its citizens in the past that had present day effects. I will use interviews with those involved with the cases as well as newspaper articles and bill language to show how each case was framed for resolution and the justification given for compensation. Lastly, I will share public opinion on the cases from archived materials and newspaper articles of the time.

Now we turn to the Rosewood case and the legislative process from the commissioned report being received by the legislature through the final passage of the bill into law in May of 1994. Next, I will explore the way the case was framed through statements made by primary actors involved with the case and their justifications for the way they proceeded from start to finish.

## **ROSEWOOD**

### *Legislative Process*

After the Florida State Legislature received the final report on the Rosewood Massacre from the historians in December of 1993, Representatives Manuel De Grandy and Al Lawson worked with Steve Hanlon and other lawyers from Holland and Knight to

introduce a bill for compensation. The first draft of House Bill 591, the 1994 Rosewood Compensation Bill, asked for \$7.2 million in compensation, with \$270,000 going to 16 elderly survivors and the remaining going to 46 descendants in amounts ranging from \$15,000 to \$135,000 in an equitable claim bill (First Draft HB 591; Wheat 1993). Nearly two months later, on February 8, 1994, HB 591, an act relating to Rosewood, Florida, was introduced and referred to the committees on Judiciary and Appropriations by the Speaker of the House and then the issue was in the hands of the Special Master to conduct a hearing on the claim (Bassett 514). According to Martha Barnett, the procedure for a claim bill “requires, essentially, a mini trial, within the legislative process” with the claimants’ lawyers defending the claim bill and the “attorney general’s office representing the state of Florida opposing the claim bill in the trial and ultimately in the legislature, but primarily in this trial” (Barnett).

Through a unique process called a claim bill, the state can compensate victims of wrongful death, wrongful incarceration, personal injury, medical malpractice, property damage, and loss of retirement, salary or business inventory. These bills, or relief acts, seek compensation when no other avenue of remedy exists for an individual who is injured by actions or inactions of the state, its officers, subdivisions, agencies, or employees. Further, a claim can either be general, in which a state agency is considered at fault, or local, which makes a claim against municipal, county, local, or special district officials. Additionally, a claim can be either excess judgment, meaning that the plaintiff is requesting the difference between the capped statutory limit on their claim and the amount of judgment, or an equitable claim, which is either a moral claim having no legal cause of action or a legal decision that has not received any prior financial judgment (Bassett 504; “Legislative Claim”

5, Kahn 23).<sup>22</sup> As no judgment had ever been rendered in the devastation of Rosewood, the lawyers involved with the case hoped that there was enough compelling evidence to secure an equitable claim.

Each claim hearing and trial held in the Florida State Legislature is conducted by an attorney called a Special Master. The position of House Special Master, first held by Richard Hixson, was created in 1983 to save the state money in hiring private attorneys to conduct each claim hearing and to create consistency by having a hearing master on staff (D'Orso, 202). If a claim bill is filed in the House then its passage begins there with the House Special Master conducting the hearing and the Senate Special Master attending the proceedings. The voting process begins in the House, but ultimately makes its way through the Senate before reaching the desk of the governor for final passage into law (Legislative Claim). The Special Master issues his final recommendation on the merits of the claim which is usually quite persuasive to the legislature. According to De Grandy, the legislature (up to the time of this claim) had always agreed with the recommendations of the Special Master and had subsequently passed favorable legislation (De Grandy).

The claim bill hearings included the testimony of survivors from Rosewood, descendents, psychologists and other expert witnesses who spoke of the possible effects of the trauma victims experienced as well as testimony presented to refute these claims by the attorney for the state, Jim Peters (Bassett 514; D'Orso 1996). After two weeks of testimony, Hixson took the weekend to carefully consider the case and then on March 21, 1994, he

---

<sup>22</sup>The statutory limits in Florida were set to \$100,000 per person and \$200,000 per incident in 1981. Those seeking claims that exceed the current limit must have the claim bill introduced and approved by the state legislature ("Sovereign Immunity" 3; "Legislative Claim" 5).

released his report (Moss 19 Mar.1994).<sup>23</sup> In the final analysis, Hixson stated that the evidence presented in the case “may not be sufficient to sustain a cause of action at law”, but that it certainly compelled a moral obligation on behalf of the state of Florida to remedy the issue (Final Report 1994). Hixson suggested linking the moral judgment about what kind of compensation was owed to a legal precedent, the case of *Gamble v. Wells*, where a child was awarded \$150,000 because of disfiguring and emotionally abusive treatment while in foster care. Hixson stated that, “Although the [Rosewood] claimants are now elderly, the damage they sustained was as children...the Gamble case provides guidance as to prior legislative enactments in this regard” (14). Therefore, the amount of \$150,000 would be awarded to each approved claimant of the Rosewood Massacre. The Special Master, in essence, acknowledged each Rosewood survivor as an individual claimant in this legislative proceeding.

Additionally, the recommendation from the Special Master in support of the Rosewood claim came in part because of what he said was a failure of government officials to “provide reasonable law enforcement prior to the destruction of Rosewood,” to reasonably investigate the actions and bring those who committed crimes to justice, and lastly to secure the area so that victims could return safely to their property (15). The four amendments requested for the claim bill were as follows:

1. Direction to the Florida Department of Law Enforcement to complete an investigation to determine if any criminal proceedings could be pursued.
2. Create a fund to compensate Rosewood families who could demonstrate property loss as a result of the destructive events.

---

<sup>23</sup> The hearings began on Friday, March 4, 1994 and concluded the morning of Friday, March 18, 1994.

3. Remaining survivors of the trauma of the Rosewood destruction and evacuation should each be compensated in the amount of \$150,000.
4. Establishment of a state university scholarship for Rosewood descendants (15; “Florida Urged to Compensate Victims” 1994).

Hixson determined that the state was liable for the failure to mete out justice in relation to the inactions and actions of its local and state agents and put a dollar amount on the necessary compensation in order to remedy the injustice.

Using the exact recommendation given by Hixson in his report, the enrolled copy of HB 591 (SB 1774 was the counterpart in the Senate) included the statement that the Rosewood Massacre was a unique tragedy because of the culpability of state and local government officials in the events that stretched over a week’s time and the subsequent failure to restore order or bring the guilty to justice.<sup>24</sup> The final bill, in the amount of \$2.1 in compensation, was sent to the House floor with an amendment directing payment from the General Fund in the amount of \$150,000 for eligible surviving victims (a total of nine persons), \$500,000 for those families and individuals who could prove they had lost property, and up to \$4,000 for 25 state university scholarships (Florida House Bill 591). Every step of the way amendments to strike the compensation to survivors in favor of memorials were offered, but failed (Hollis 1994; Cotterell 5 April 1994; Bassett 519). The final bill passed the House 71 to 40 with 17 Republicans joining 54 Democrats in voting yes, while 13 Democrats joined 27 Republicans in voting no (Moss and Morgan 5 April 1994). In the Senate, the bill again faced several attempts to remove survivor compensation in the Appropriations Committee, but none succeeded. The final votes from the whole Senate

---

<sup>24</sup> Enrolled bills are those that have passed both houses are now ready to be sent to the executive for final signature and passage into law. Engrossed bills are those having passed one house and include all amended portions usually underlined.

were twenty-six in favor, fourteen opposed and the 1994 Rosewood Compensation Bill was signed into law on May 4, 1994 by Governor Lawton Chiles.

Now that we have explored the legislative process from receipt of the commissioned study from state historians by the Florida State Legislature through bill passage and signage into official law, it is important that we understand how framing and the creative imagination of primary actors combined to utilize the claim bill process to compensate survivors of the historical pogrom.

### *Political Framing*

An illustration of the persuasive ability of frames can be seen in the book *Death by a Thousand Cuts*. The question is how were lobbyists able to portray those affected by the estate tax as all Americans, rather than just the wealthiest 2 percent in our society? The book alludes to the enduring American sense of wealth attainability (maybe similar to the idea that everyone claims that they are middle class when many are close to poverty), as one of the reasons why many cheered the repeal of the estate tax, newly framed as the death tax. But, legislative success was the work of a network of anti-tax coalitions who were able to convince the public that the debate over the estate tax was a matter of fairness in taxation rather than an effort to support social privilege in America and, as a consequence, polls showed that more than one-third of Americans were persuaded and believed that they would be affected by this tax (6).

Although the above example showcases how frames can be used to manipulate the public, it is also possible to use framing to highlight a true aspect of a case that would otherwise go unnoticed, while deemphasizing other aspects. We can use the above illustration to help us understand how political actors in the Rosewood case were able to use



similar persuasion in distancing the case from the very physical acts of racial violence to the less provocative and universally understood issue of individual property rights. The fact that the racial violence which occurred in Rosewood was reframed from a racial discrimination issue with imagery of slavery and a call for reparations, to an issue of property rights and fair compensation for individual claimants is what makes this case very different from the process of framing in Tulsa. Additionally, the Rosewood lawyers and legislators worked together to use language that focused on the abrogation of the due process clause of the 14<sup>th</sup> Amendment by the state of Florida and also evoked the values and tenets strongly held in America regarding the importance of property in America. The framing of this case, the imagination of primary actors to fit their claim for survivors into an existing quasi-legal mechanism in the legislature, as well as the use of survivor testimonies, helped primary actors resolve the Rosewood claim.

Hearing directly from survivors was an essential aspect in the framing of the Rosewood claim process. The stories told by survivors are narrative frames that further bolstered the Rosewood claim of state malfeasance and the great loss of property and security. The role of victim's speaking in their own words directly to those who would determine their fate was a persuasive tool that put a face on the existing harm experienced by survivors to an incident that occurred long ago. Next, I will discuss the importance the voices of living witnesses played in this case and then take a look at how the claim was framed as restitution or compensation for the property taken from Rosewood survivors.

According to several people I interviewed, the testimony from elderly survivors was instrumental in resolving the Rosewood claim. In the legislative hearing called by Special Master Richard Hixson, over 100 spectators and reporters filled a Florida State Legislature

hearing room lined with television cameras from local and national media while four Rosewood survivors, who were children at the time, testified about the pain they endured and the loss they experienced in the week-long rampage. Minnie Lee Langely, 80 at the time, said, "It hurt me. It just filled me up to think about it. They killed people... They took everything we had." And not wanting to invite anymore violence, Arnett Goins, 79 at the time, explained that it was something that no one spoke about. "I was just in fear of things. No telling what might happen, so you just didn't talk about it" (Cotterell 26 Feb 1994). Survivors recounted their memories of the murder of family members they witnessed as well as the years of silence they feared would break into more violence if they ever spoke of Rosewood.

Not only did survivors speak, but a white man who had witnessed the violence corroborated the stories told by the survivors and became instrumental in adding credence to survivor accounts. Ernest Parham, 89 at the time, supported the testimony of the survivors that the state and county authorities knew what was happening in Rosewood and failed to do anything to stop the violence (Moss 1994). Additionally, he refuted testimony given by descendants of a white man who had been shot outside of a black family's home who claimed their relative had been shot without warning. Parham detailed the siege upon the home and how the man was shot after he killed the family's dog and began to fire upon the black family's home (Cotterell 1994). Although Parham never disclosed the names of those he knew were involved in the murder of Rosewood residents, he was instrumental in offering a voice from the white community that confirmed what occurred and when local and county officials knew about the violence.

The legislative method we see in Rosewood first established a clear historical understanding of what occurred through the commissioned report submitted to the legislature by historians. Next, the claim bill process sought details of survivor's stories and those having any knowledge of the events in question in a legislative hearing, thus elevating the act of testifying – speaking out, truth-telling – to an official capacity that is significant for both victim and the legislators who would determine the merits of the claim. These were not simply stories, but they became politically relevant in deciding the merits of the 1994 Rosewood Compensation Bill.

Victim testimony was crucial to the case according to both Jones and Barnett, so much so that neither believe the case would have succeeded without hearing from them directly.

I don't think it would have passed, myself, that's me, I don't think it would have passed. ... What I think was different then and probably today, although, you know, you could have more current acts of violence that still have survivors, what was different then about anything anybody else knew was the total destruction of this town, um, and the fact that 71 years later we still had 12, 13 people who were living witnesses to it... and I think that's what made the difference (Barnett).

Jones, in agreement, attributes the success of the case to the affect the statements had on the Special Master stating, "[t]he impact when he saw and heard the elderly victims. He listened to them and was moved and he couldn't ignore that" (Jones). The importance of victim testimony in personalizing the historical report commissioned by the legislature cannot be overstated in this case. Steve Hanlon, the lawyer at Holland & Knight who spent three years representing the survivors said, "The day we put the survivors on the stand was my best day of practicing law. And it wasn't because of my preparation. They had a remarkable story to tell and they did a remarkable job of telling it. . . . The story was no longer buried in Florida's

history" (Halton). Through television and print media coverage, both the public and state legislators had an opportunity to hear directly from those who had experienced the terror first hand, and this most likely affected the final recommendation rendered by the Special Master as well.

The story-telling of survivors was crucial in highlighting the failure of the state to protect its citizens. In testifying, victims acknowledged their need for a state response, and although survivors did not speak of any financial gain, the lawyers involved with the case made the loss of property and future potential of wealth transfer an often stated point. So moving was the survivor's account of loss that the Special Master's report highlights the need to compensate the victims for property loss even above the call for individual restitution for survivors. The lawyers were well aware that the survivors could never fully recover the value of what they had lost or the land itself, so the compensation requested became a symbol of state acknowledgement.

Having been called to testify at the hearing, Professor and Principal Investigator on the Rosewood Report, Maxine Jones shares that for the victims, "it wasn't about the money, but it was about the money, you know. For the loss of property and so that the people in power would show an understanding of the importance of property and that it was taken from them". It was about "acknowledgement" and the sense that "justice had been done [giving] recognition that the state of Florida had not protected its citizens." Additionally, Jones notes that it was about the great loss experienced by survivors; a loss of security and safety afforded to every citizen and loss of property and their belongings in general.

According to Martha Barnett, it was not just a loss for survivors, but the loss of generational wealth transfer.

The real issue wasn't money, I mean, we felt it was appropriate for people who, you know,... to the degree you could establish how they lived,... it was an affluent community, you know, it may not have been upper class, but it was certainly a community where people had homes, they had jobs, they were land owners. This was a, a, thriving community and all of that was taken from them, their...including the opportunity to better themselves. And we felt that there was some compensation for what they had lost. You know, just that their own potential that they'd lost.

Barnett and Jones both center their discussions on the fact that this case was much more about state recognition for the community and the individual loss experienced by each survivor rather than financial gain. The state failed to protect the residents of Rosewood, and then inflicted further injury when land that belonged to claimants was seized for failure to pay taxes without due process of law.

Another persuasive tool in gaining legislative support was the prominence of property rights. When asked what significance the issue of property rights played in the overall case, De Grandy recounts how he was able to gain the votes of a few Republicans on the bill by highlighting this issue.

... because there were big debates at that time on property rights issues which is something that the Republican party's very strong on and some of the folks that I brought in, as votes from the Republic party, I won 'em on that. I remember one guy ... He was running some property rights bill in that session and I was getting, you know, a little bit ticked. I wasn't getting much support from my Republican side, we were only like 49 members out of 120. We had all of the Cuban Caucus, of course, on board, but uh, ..., we would lobby each other on our bills on the floor of the house so he came to talk to me about his bill,... uh, you know, property rights, I said, and I, and it was one of the those days where I was kinda stressed. I said, "Don't talk to me about property rights, you know, if you're not willing to support this". He said, "What do you mean?" I said, "What's the difference. You know. You're talking to me about property rights and there's people that owned property that, you know, were an entire community, who had their entire community devastated and the government take their property and you're not supporting restitution for that and you wanna come talk to me about a property right's bill. Don't talk to me about property rights." And he looked at me and he goes, "You know Miguel I hadn't looked at it that way, let's talk." And I got his vote. Cause, when people, when you separated it from the quote racial issue, you know, and you said this is about this, you know, then people started to look at it differently.

The value of property rights in America is significant to this case and overshadowed the salience of race. When speaking to his Republican counterpart, De Grandy makes no mention of the white mob that destroyed the town, but focuses on the government's seizure of property without restitution. De Grandy notes that when the case was stripped of all racial connotations and presented as a claim for restitution for property seizure, he was able to get those who were dead set against any form of restitution for the survivors to at least meet at the negotiation table.

Frames are not all powerful and not everyone is persuaded by rhetoric. Although the 1994 Rosewood Compensation Bill passed into law, it was not without its dissenters. At every legislative turn amendments crafted to reduce or eliminate financial payments to individual survivors were offered and editorials were written strongly urging against this course as well. One such article in the Pensacola News Journal, written just before final bill passage, states that the compensation path sets a dangerous precedent.

We don't argue that Rosewood is a tragic episode in the history of Florida. The deaths of six people and the destruction of an entire community attests to the brutality of the event. And we agree that apologies mean little to people who lost loved ones, land and opportunity. But we fail to see how monetary settlements, be they \$150,000 or in the millions, salve the years-long wounds. And we are troubled with attaching responsibility for the event to a generation who know of Rosewood only because of historical records. But even more are we troubled by the precedent that has been set by compensating victims of what today would be tantamount to a hate crime. There are, after all, any number of victims who might now use this settlement as a vehicle for their own demand for "justice."

This is the often quoted concern of opening the floodgates to other similar claims on the state coffers. This highlights the ability of political actors to gain support for their description and evaluation of the racial pogrom, but that some were not buying their frame of the necessary remedy to resolve the Rosewood claim. It was easy for some to admit that a tragedy

occurred in Rosewood and possibly even that the state's failure to handle the situation effectively was the cause, but opposition to a financial resolution was immediate.

The Special Master was also not immune to the pleas of the public to avoid paying restitution to Rosewood survivors. This letter, although humorous to me, depicts a simplistic solution to a problem with deep-seated racial animus. A woman from Gainesville, Florida wrote:

March 22, 1994

Dear Mr. Hixson,

Don't pay off the survivors of the Rosewood Massacre in money. It will not improve race relations and may actually harm them. (If you wish to know how, I'll be happy to explain 373-XXXX) Instead, try this:

Let all the white residents of the community express their shame over the incident to all the blacks by inviting them as honored guest to the finest dish-to-pass banquet they can provide, preferably home-made, see that whites and blacks sit together and talk together; understanding is the only way to improve race relations. I will gladly attend this banquet with my contribution if I am invited, even though I didn't know about Rosewood until I moved to Florida.

Yours Truly,  
(Gainesville Resident)

The writer alludes to the harm that payments would cause to the survivors, but we have no clue to her exact reason from the letter. The idea that a 'dish-to-pass' banquet, even with the best homemade food, would be the solution for the full-scale racism and discrimination that led to the Rosewood Massacre is upsetting at the least. Even if a large group of whites and blacks did join together at a banquet and actually sit near each other, it would be only those most likely to desire reconciliation and healing rather than those that this event would most like to influence. This letter is of further disappointment because it shows that this Florida resident, and likely others, fail to see the contemporary effects of past harm experienced by

those from Rosewood. Real efforts at reconciliation should begin with a shared acceptance of past harms and include activities aimed at addressing areas of continued discrimination and instances of injustice.

Lastly, we examine a statement made by the senator representing the district that used to include Rosewood who said that his opposition to the 1994 Rosewood Compensation Bill was not racially motivated, but was based upon how the case would establish a precedent of resolving 71 year old cases.

Williams said the Legislature would set a precedent that would make it liable for other financial claims stemming from racial violence. "I don't think money can repair all of those social injustices," he said. "I think it'll open a Pandora's box to many other claims of social injustices by others other than blacks." (Yeomans 1994)

The question was how Rosewood presented any different claim on the state than any other case of group-motivated violence. The concern for future claims against the state is a valid concern for both Rosewood and Tulsa and one that would have to be addressed in order to satisfy a majority of legislators voting on any compensation for pogrom survivors. The political actors working on Rosewood were convinced that they had a unique case and set out to describe the reason why their claim was valid and would not open the state to a flood of additional claims. Specifically, in crafting a claim for individual compensation for a group of pogrom survivors, primary actors presented a narrow case of liability on behalf of the state requiring a tightly constrained response on behalf of direct survivors.

Former Representative Miguel De Grandy clarifies the reason why this case justified a state response and further why compensation was warranted.

The first thing we had to do was to limit it to why this was appropriate and I made an introductory speech the first day that Hixson opened his hearing to introduce the item. And I said look, these folks are not here because, first of all, there are these statements that the Indians and the descendents of slaves and you're opening up this



floodgate, let me address that – first of all, you know, as atrocious as the Indian wars were, they were a sovereign nation and we were at war with them, ok? And as atrocious and heinous as slavery was, it was the law, ok? The difference here is the people that are coming here today to seek justice were American citizens that were entitled, under the law of that more enlightened day, to equal protection of the law and were denied that by their own government and to add insult to injury the same government that failed to protect them then took their property. And that’s qualitatively different then what we did with the Indians and even what we did during slavery because as heinous as slavery may have been there was a time when it was the law, and so it was not a violation of the law and we may look at it now as repugnant, but that was the law. Well, we’re talking about what the law was when these folks were, you know, basically run out of their home, killed, you know, their property taken, etc. They were American citizens entitled to protection from their own government and it was their government that failed them and it’s their government that has to step up to the plate and provide restitution.

We find that De Grandy persuasively distinguishes this case from any reparatory claim for slavery or other claims stemming from the rights of Native Americans in the United States. By distancing the claim of the Rosewood survivors from the quest for slavery reparations, the lawyers and legislators involved with the case hoped to avoid comparisons with the 1988 case of reparations for Japanese-Americans as well and instead framed the case as restitution for the land taken by the government and the failure to extend due process to American citizens who had been harmed by actions of the state of Florida.<sup>25</sup>

Martha Barnett explains the reason why they avoided comparisons to the Japanese-American case and how the issue was, ultimately, not about money.

We stayed away, by the way, from talking about reparations. We didn’t ... we were well aware of what happened with the Japanese-Americans and that issue, but we weren’t looking at this as reparations as much as compensation. Uh, and we asked for a lot more money than what we got, ultimately, we started out \$10m, \$15m, I can’t remember. Then, was a lot of money. The real issue wasn’t money, I mean, we felt it was appropriate for people who, you know, to the, to the degree you could

---

<sup>25</sup> While working in the Florida State archives in 2009, I found several copies of the legal briefs on the Japanese-American Internment reparations case, some with notes in the margins, as well as a few documents with notes about the arguments made in the case. From examining the Internment Reparations case, the lawyers working on Rosewood were well aware of the type of arguments that proved successful and likely used this information in preparing their own.

establish how they lived, they lived, it was an affluent community, you know, it may not have been upper class, but it was certainly a community where people had homes, they had jobs, they were land owners. This was a, a, thriving community and all of that was taken from them, their... including the opportunity to better themselves. And we felt that there was some compensation for what they had lost. You know, just that their own potential that they'd lost. (Barnett)

Here we begin to see a differentiation between reparations and restitution or compensation.

It is easy to see what the arguments would be against reparations and the lawyers knew them well and therefore chose to reframe the entire issue of Rosewood not as one of violence visited upon blacks by whites because of their racial heritage/identity, but as the failure of a government to protect its citizens from harm to their person, liberty, and property. What could opponents say to a case that is built on a fundamental notion of fair market value for the seizure of personally owned property by the government and the right of the people to be secure in their persons, houses, papers, and effects, which is the Fourth Amendment? It is also possible that the lawyers believed that old arguments on the merits of reparations given to the Japanese were irresolvable or that public support for reparations for African Americans was still quite low, but either way, they came up with a way to repackage the issue in terms the opposition had not already thought of a way to counteract.

Rosewood and Tulsa present very different studies in how historical cases of racial violence can be framed. It is possible that lawyers, as primary actors on the Rosewood case, envisioned the path to resolve their racial pogroms in very different terms than the legislators did on the Tulsa case, but the claim bill process itself made the task simpler and was instrumental in bringing the Rosewood case to resolution. Having no legal standing due to the statute of limitations on a seventy year old case, the lawyers involved had to rely upon a process that would allow moral judgment when a legal one was impossible.

According to Martha Barnett, a lawyer involved with the Rosewood case, the state of Florida was morally obligated to respond.

Our theory was that the state of Florida, had, if not a legal, and we thought there were good arguments that legal, but if not legal, they had a moral obligation to the citizens of Rosewood to, initially to have protected them from the violence and after the violence occurred they had an obligation that continued to that day, whatever day that was I was talking about it, that continues to this day to allow them to secure their property and allow them to return to their homes and that that obligation had continued for 71 years. Cause a lot of people were saying, 'Uh, time has gone by, no legal claim,' and I said, well, but you have a moral obligation, the state has an obligation. They knew this was going on, they failed to send anybody to protect these citizens, these were citizens, they were property owners, they were family member, our state had an obligation. (Barnett)

What we see here is the issue of property rights invoked as well as the culpability of the state in its failure to uphold the 14<sup>th</sup> Amendment rights of those citizens who formerly resided in Rosewood. Barnett draws upon language of the 14<sup>th</sup> Amendment that no state shall deprive any person of life, liberty or property without due process of law, and she points out the state's moral obligation to their citizens to afford equal protection of the laws to any person within their jurisdiction. This presents a strong foundation for a case based upon each individual/citizen having particular rights within a state and against state action and the significance of the claim bill process as an institution of redress that would support this type of claim.

The success of the 1994 Rosewood Compensation Bill is largely attributed to the claim bill process which allowed the state to be held accountable for its past disregard for the person, property, and posterity of the Rosewood survivors, the part victim's stories played in persuading the Special Master to decide in favor of compensation, and the weight given to the value of property rights. The lawyers involved with the case avoided purely racial claims on the 1923 pogrom and instead framed the violence as state malfeasance against individuals

living within the State's jurisdiction who should have been afforded protection and due process of law. This narrative is unique and differs significantly from the one given by the political actors on the Tulsa case which chose a significantly different resolution.

## **TULSA**

### *Legislative Process*

By choosing a strictly legislative route in Tulsa, the bill followed the familiar path of redress from introduction, to committee debate and markup, and then eventually to the floor for final debate and vote. It is possible that by not having any alternative avenue of redress, the primary actors working on the case did not think it necessary to frame their case in a unique way. Additionally, the Rosewood case differed slightly from Tulsa in that the members of the Florida Legislature had an opportunity to hear directly from the victims in their own words and therefore, their storytelling became an essential step in the path toward compensation.

The victim's stories played a great part in persuading the Special Master – the presiding official in the Florida State Legislature – to decide in favor of compensation. A similar process took place in Tulsa, but without the same impact; about a dozen survivors were videotaped by a member of the 1921 Tulsa Riot Commission to give an account of the violence they experienced, but this event and its detailed narratives were never shared directly with the entire commission and the survivors were never asked to participate in any hearings at the State Capital to share their stories with those who would decide their fate. Political actors in Tulsa failed to utilize their best weapon, the voices and faces of individual victims to persuade legislators and the videotaped stories were only shared with the Tulsa

Riot Commission that had no political authority or power to implement any recommendation they would suggest to the state legislature.

Upon receiving the final recommendations from the 1921 Tulsa Race Riot Commission, the issue of reparations stood in the forefront of legislative consideration. In February 2001, three survivors finally had an opportunity to visit the State Capitol as the commission's findings were shared with the public, but they were not asked to speak.<sup>26</sup> The event was attended by both major (New York Times, Washington Post) and local press who were anxious to hear what would be done about the issue of reparations (Hisch 322). Although no specific details were given that day, the final answer came at the end of the legislative session when HB 1178, also known as the 1921 Tulsa Race Riot Reconciliation Act of 2001, was signed into law. This act became the final word on achieving reparations for the 1921 riot survivors, but where it offered verbal support it lacked appropriations.

The bill used strong language to make six primary findings in resolving the 1921 Tulsa Race Riot:

1. The root causes of the Tulsa Race Riot reside deep in the history of race relations in Oklahoma and Tulsa which included the enactment of Jim Crow laws, acts of racial violence (not the least of which was the 23 lynchings of African-Americans versus only one white from 1911) against African-Americans in Oklahoma, and other actions that had the effect of "putting African-Americans in Oklahoma in their place" and to prove to African-Americans that the forces supportive of segregation possessed the power to "push down, push out, and push under" African-Americans in Oklahoma;
2. Official reports and accounts of the time that viewed the Tulsa Race Riot as a "Negro uprising" were incorrect. Given the history of racial violence against African-Americans in Oklahoma, including numerous lynchings by white mobs, and the breakdown of the rule of law in Tulsa on May 31-June 1, 1921, it is understandable that African-Americans believe they needed to assist Tulsa police in protecting Dick Rowland, an African-American accused of attempting to rape a

---

<sup>26</sup> According to the book, *Riot and Remembrance*, only three survivors were present at this conference and when all was said and done they were disappointed that the Governor did not even shake their hands (323).

white woman, against an assembled white mob. The documentation assembled by The 1921 Tulsa Race 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;

3. The staggering cost of the Tulsa Race 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 Tulsa Race Riot Commission estimates that the property costs in the Greenwood district was approximately \$2 million in 1921 dollars or \$16,752,600 in 1999 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 Tulsa Race 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 rebuilding the area thereby making the costs prohibitively expensive;

4. Perhaps the most repugnant fact regarding the history of the 1921 Tulsa Race Riot is that it was virtually forgotten, with the notable exception of those who witnessed it on both sides, for seventy-five (75) years. This "conspiracy of silence" served the dominant interests of the state during that period which found the riot a "public relations nightmare" that was "best to be forgotten, something to be swept well beneath history's carpet" for a community which attempted to attract new businesses and settlers;

5. The work of many individual Oklahomans and now of The 1921 Tulsa Race Riot Commission has forever ended the "conspiracy of silence" surrounding the events in Tulsa of May 31-June 1, 1921, and their aftermath. The Commission has subsequently turned the responsibility for how the state of Oklahoma will respond to the historical record to the 48th Oklahoma Legislature; and

6. The 48th Oklahoma Legislature in enacting the 1921 Tulsa Race Riot Reconciliation Act of 2001 concurs with the conclusion of The 1921 Tulsa Race Riot Commission that the reason for responding in the manner provided by this act is not primarily based on the present strictly legal culpability of the state of Oklahoma or its citizens. Instead, this response recognizes that there were moral responsibilities at the time of the riot which were ignored and has been ignored ever since rather than confront the realities of an Oklahoma history of race relations that allowed one race to "put down" another race. Therefore, it is the intention of the Oklahoma Legislature in enacting the 1921 Tulsa Race Riot Reconciliation Act of 2001 to freely

acknowledge its moral responsibility on behalf of the state of Oklahoma and its citizens that no race of citizens in Oklahoma has the right or power to subordinate another race today or ever again. (HB 1178 Enrolled)

The legislation largely agreed with the findings in the commissioned study's final report and created a Greenwood Area Redevelopment Authority, site location for the Memorial of Reconciliation, and also an education and scholarship program for Tulsa residents with preference for descendants of survivors, but provided no funding for any of these programs while also failing to legislate any compensation for those that lost property in the riot.

### *Political Framing*

There were significant problems that were ultimately irresolvable for the Tulsa case. First, the changing number of Tulsa Riot survivors hampered efforts to determine compensation costs. The number of living witnesses seemed to grow as the Tulsa Riot Commission did its work and a final number was never specifically determined. Secondly, the voices of the survivors were largely unheard by the legislators who would determine their fate. Although members of the Riot Commission would come to interview nearly a dozen survivors, the videos did not become part of the historical report given to the Oklahoma State Legislature. Lastly, while the political actors involved with the Tulsa case based their case on the restitution achieved in the Rosewood Compensation Bill, their focus on group-based compensation failed to include the millions of dollars lost in property damage, a tactic that proved successful in Rosewood.<sup>27</sup> With estimates of property damage by the Tulsa Real Estate Exchange amounting to \$1.5 million and personal property loss at \$750,000 in 1921, no better case for restitution could have been made (Hirsch 119). The

---

<sup>27</sup> In a nine-step plan for reparations, commission member Currie Ballard requested "payments of up to \$150,000 for riot survivors and families of those killed in the rioting" and the "cash payments follow guidelines used by Florida in its reparation to victims of the 1923 Rosewood race riot" (Nelson, CITY, NEWS: 1-A).

significant differences between the Tulsa and Rosewood cases can be attributed to the choices made by primary actors, but differences in state institutions to address historical cases of racial violence also played a role. While Rosewood had the presence of the claim bill process, no other similar institution of redress existed in Tulsa and primary actors had to rely upon the state legislature for political support.

Every interview I conducted in the fall of 2009 was abounding with statements about the individual efforts of Don Ross in putting this case on the legislative agenda as well as in the public conscious. Therefore, wrong or right, he alone became the face of any success the group had and of every failure experienced as well. Former State Senator Maxine Horner said that she made sure to check with Don every step of the way as the bill became challenged and amendments were added and deleted while in committee markup (Horner). Despite the valiant effort of Ross and Horner, they were the only African American members of the State Legislature to co-sponsor any of the Tulsa Race Riot legislation. Not having the strength of numbers in the legislature or unity among black members certainly did not help the cause on behalf of riot survivors and descendants.

Tulsa crafted a group claim that sought legal standing in the case based upon the state's infliction of harm to the entire Greenwood community and reparations were chosen as the remedy to bring closure to the case. Political actors in Tulsa, when discussing the incidents surrounding the Tulsa Race Riot, framed the violence as harm inflicted upon the entire community rather than as specific loss and damage experienced by individuals and therefore the success of the case for all became tied to one legislative motion. In essence, if the case were unsuccessful on behalf of the group, then no one would be able to gain any monetary relief for injury. A major concern in group-based compensation is determining



who should receive payment once a global compensation figure has been determined. The Tulsa Commission had a further problem in that they could not seem to pin down an exact number of riot survivors from which to determine eligibility for any future payment.

In August of 1999, Bob Blackburn, the chairman of the commission, announced to the media that 62 survivors had been found by researchers on the panel (Kurt 5 Aug. 1999). On December 16, 2000, over a year later, Eddie Faye Gates, an historian on the commission, confirmed 115 “living black survivors” had been located (“Klan, Guard actions”). Just a week later, in another article on the subject of reparations, Ms. Gates says that she cannot “compromise on the survivors” and expected direct payment for 117 survivors that she helped identify (Kurt 23 Dec. 2000). Lastly, on February 28, 2001, at the presentation of the 1921 Tulsa Race Riot Commission’s report at the State Capitol, Ms. Gates stood up and declared that most of the 120 riot survivors she interviewed wanted reparations (Hirsch 323).

The ever increasing number of survivors in the Tulsa case added to the uncertainty which conditioned conflict surrounding the issue of reparations. An editorial takes on the quest for reparations for Tulsa riot survivors and, similar to the arguments made in opposition to the compensation for Rosewood survivors, makes the claim that there are many other similar incidents of racial and ethnic harm in Oklahoma’s past that may be more deserving of reparations than the case for Tulsa survivors.

For 500 years, Native American generally known today as the Wichitas had an unchallenged occupancy of much of what is now Oklahoma. These “First Peoples” were displaced by other Native Americans such as the Apaches, Comanches and Osage. The latter engaged in a 100-year war with the Wichitas. The Osage won. Shouldn’t today’s descendants of the First People be paid reparations as a result of the actions of the ancestors of today’s Osage? If not, how can a case be made for the state to pay reparations to the survivors of victims of the infamous Tulsa race riot? ... As we said, no amount of money will be satisfactory to some people seeking reparations. The dispute would not end with a settlement. It would only begin. As

long as we're going to open a can of worms with this issue, we might as well urge the Wichitas to avenge atrocities by raiding the Osage tribal treasury. ("Pandora's" 8-A)

The editorial staff seems to equate the efforts to achieve reparations for survivors with a raid on the state treasury. Reparations advocates in Tulsa then failed to create a response to questions of how Tulsa was a unique tragedy in comparison to other racial or ethnic cleansings in Oklahoma and the political importance of the state responding with compensation for survivors. When faced with similar concerns of open floodgates surrounding the Rosewood case, De Grandy carefully explained that the freedoms and protections given to citizens were not extended to Native Americans who were considered a sovereign nation with whom the United States was at war (De Grandy). It would have been possible to apply this same logic in the Tulsa case by making it clear that the case presented in the editorial took place before the establishment of Oklahoma as US territory, and therefore each tribe would be bound by the rules of their respective tribe.

The commissioned report given to the Oklahoma State Legislature did not detail any direct survivor accounts of the riot or number those still living for consideration of reparation costs. The number of Tulsa survivors easily outnumbered those in Rosewood because those who lost property due to fire and damage by looters had chosen to rebuild and remain in the community, whereas those in Rosewood were unable to ever return to rebuild their homes or reclaim their land on the threat of death. The issue is that an increasing number of living witnesses can complicate the ability to produce an official record and determine costs for reparations.

Survivor related difficulties continued when the Tulsa Riot Commission invited more than 60 survivors to speak directly to the panel, only five showed up and each had

already been videotaped and therefore chose not to speak (Kurt pg. 10). Additionally, no survivor was ever invited to speak directly to state legislators who would vote to support or deny reparations to the survivors of the Tulsa Race Riot. Although Eddie Faye Gates, a commissioner on the panel, conducted video-taped interviews with nearly a dozen survivors before the commission convened, no survivor had an opportunity to share their story directly with the full panel of riot commissioners or state legislators. When asked why the survivors were never invited to the State Capitol to speak to legislators, former State Representative Leonard Sullivan attributed the failure to Ross.

... First they may not have been asked. But you know, if I had been in total charge of the thing and Don may have tried this and it didn't work, but if I was trying to sale some deal in a committee, I'd bring all my horse power, you know, that I could muster. And, you know, to bring a former, you know, person who has an injury that would have been a really good selling point when you're in that committee, everybody's quiet, and it's a smaller group, and everybody's listening. And yeah, I did that on several bills over the years.... But you can use things like that and I don't know why Don didn't. He might have actually asked some of those older people and their health or some other reason they just couldn't come to Oklahoma City, but I don't recall him bringing anybody over here and it would've, it would've helped.

Sullivan was the only white legislator to co-sponsor any Tulsa Riot legislation and looked at the bill as any other piece of legislation. He shared examples of how he had brought different people to the Capitol to speak at hearings on behalf of bills he worked on and the positive impact he received with bill passage in his favor. It seems that, in this case, Sullivan blames Ross for not utilizing his best weapon, but as co-sponsor on the bill he never requested to see or hear from any survivors either. If the purpose of legislation was to simply create a commission to produce an historical account of the incident and then ultimately to create a memorial as closure to the episode then the presence of survivors would not necessarily be essential to the case. But, according to former State Senator Maxine

Horner, the fundamental reason for taking on this case was to see the survivors compensated in some way.

I think, underlying, I think this was probably, and Don needs to verify this, but I would think that, more than anything, I think Don wanted to see people who had gone through this, that the State owed the survivors, even to the point that he wanted language in there descendents of... to be compensated. But I think that was, I think that was the driving force for him and that's an assumption on my part but I know it was for me... And it was not about blame, you know, but, I think the underlying force for doing this anyway that these were people who needed to be compensated for what had never been done, never ever. So when you think in terms of property that was destroyed and resources were not there and many people who lost family, you know, that something should have been done and the State did not want to do that. And when I say the state I'm talking in general, in terms of ..... and we both, Don and I both met with Governor Keating at the time and I will have to say, is that, except for reparations Keating was on board. That, "If the legislation hits my desk, I will sign it, I will go forward with it." But, he was on board with, and that was pretty much the attitude of most of those who say, "I can go with you if it doesn't have reparations in it".

Horner's statement highlights the difficulty the case faced in maintaining support if reparations were on the table. She speaks of the desire that she and Ross had to compensate the survivors for their loss of property and resources and it seemed that reparations was determined to be their only vehicle to achieve compensation. When asked why the case was not framed as a quest for restitution or compensation for property loss, Horner remarked that it was a good question, but her subsequent response (shown above) shows a failure to distinguish the difference between restitution and reparation and even hinted that she saw them as the same thing because her answer failed to address my question at all. It seems that when primary actors involved with the Tulsa case determined that the Greenwood Community deserved to be compensated, the only solution they imagined was that of reparations.

When I asked Leonard Sullivan if he thought the case might have achieved some compensation for survivors if it had been framed as a bill for compensation to individual survivors rather than reparations for the entire community, his comment shows that he was unpersuaded of the existence of living witnesses and their ability to account for their financial losses in order to achieve state compensation.

I think that would have been a valid point, a valid argument, if people could see... attach it to real faces, and real people versus just some generalized thing 'We're going to help Tulsa and do something for the race riots', but I think if you had put a face on it, which is good anytime, for any issue, you know, if you put a face on it. Just like me on any black issue, if I put JC Watts, who's my good personal friend, face on it, it gives it a whole different look.... but if you can put a face on it, I think it makes a lot of difference. And I think if they had put faces on the people in Tulsa; there are 37 people left that we can 100% identify that their family lost whatever.

I conducted my interviews in Tulsa eight years after the 1921 Tulsa Race Riot Reconciliation Act of 2001 passed and although it is possible that memories fade overtime, it is highly unlikely that Sullivan would forget meeting survivors who lost property in the riot or viewing any of their videotaped interviews. The failure of primary actors to allow legislators to hear directly from living witnesses undermined the strength of the reparations request and the claim of state financial liability.

A discussion of reparations, so fundamental to initial plans for compensating riot survivors and a large part of the introduced version of HJR 1035, was not supported by many in the public, including legislators and even a few survivors.<sup>28</sup> Several editorials raked the Tulsa Riot Commission over the coals, with one even calling the efforts to achieve reparations from the state a form of extortion by Ross.

It's about Ross and how much he can deliver his constituency. He's already gotten the Confederate flag removed from the Capitol grounds, he boasts. He got the state

---

<sup>28</sup> The first legislation introduced on behalf of the 1921 Tulsa Race Riot survivors.

to declare a Martin Luther King Jr. holiday. Now the postman wants to deliver a third goody in the form of reparations for riot victims and survivors, scholarships, tax incentives and, no doubt, free popcorn and pony rides for the kiddies. Who will pay for all this? All of us. ("Race Canard" 10-A)

To make matters worse, political leaders seeking reparations on behalf of survivors were also being undermined by statements made by descendants and survivors. Like many survivors, Otis Grandville Clark, 96 (in 1999), tried to forget the violence of the past. He said, "It's a mystery in itself to me why they brought this all up after so long" (Nelson 26-A). Similar to survivors of the Rosewood Massacre, there was fear that bringing the story to light would open new wounds and create more conflict in Tulsa.

In another article, a survivor is almost offended that anyone is seeking reparations on her behalf. Ernestine Gibbs, 95 (in 1998), said, "I don't see any need that I'd be asking for any money. Where would the money come from anyway? You've got to think about that" (Pagel 3). Then a descendant who was born 12 days after the riot ended stated, "I won't accept any pay from this because I'm OK. Both sides lost. If they're going to pay anybody, pay both whites and blacks" (Kurt 3-A). And lastly, 88-year-old Eldoris Mae McCondichie is quoted in an editorial as saying that the money might have been helpful back in 1921, "but today she'd rather have a memorial" ("Race Canard" 10-A).

The failure to achieve reparations may not be attributed solely to the lack of support from both the broader public and some survivors, but also the lack of support within the state legislature. Two legislative members, from opposite parties, appointed on the Tulsa Riot Commission both had personal reservations about reparations for riot survivors. State Senator Robert Milacek (R-Waukomis) said that funding for reparations "would be a tough sell in the Legislature". State Representative Abe Deutschendorf (D-Lawton) agreed and

“would not support reparation payments to riot survivors.” He said, “In my mind, making the state culpable for any of this is a stretch” (Nelson 1-A). These legislators had direct access to the historical reports compiled by academics on the panel as well as videotaped statements of survivors and yet were unconvinced of the state’s culpability.

Oklahoma State Representative Leonard Sullivan, co-sponsor of the legislation creating the Tulsa Riot Commission, parted ways with Ross on the need for reparations for survivors as well.

And we did not agree on that particular subject. And I’m still, ...well I’m still not for reparations. But you know, right now we’re talking about, you know, we could go back and give, I don’t know how many hundred-thousand Japanese money for what happened in World War II. But most of the people that it happened to aren’t alive and the young people don’t even know, don’t even know what you’re talking about. Just like the young blacks in Tulsa, they don’t know anything about the Riots, they don’t even remember, they have no way of even knowing about it. But, uh, so I think, you know, I, I happen to be Irish and, you know, I just went on a vacation recently to Ireland for a couple of weeks and you know what they did to the Irish over there is, you know, was worse than what they did to the slaves in the United States. You know, the English had come in and trampled ‘em down and take their land, they’d finally get a little bit of land back, and they’d come and take their land again. They actually, physically tried to starve ‘em to death. They killed everything that was green and growing in Ireland, tried to starve the Irish people to death, you know. But I don’t think the Irish government owes me anything for that. I mean, it’s just, that’s just a personal thing.

This was the most unusual comparison to reparations for riot survivors that I had ever heard and I had difficulty remaining impartial at this point in the interview. Additionally, I was appalled that Sullivan would compare human suffering and say that what happened to the Irish was worse than slavery in America. After this portion of his statement I went on to push him to think about how his story was about something happening to his grandparents and not directly to himself, very different from the still living survivors of the Tulsa Riot that were being directly represented in this case. This was the first moment when I realized that

many in Tulsa were still under the impression that there were few, if any, survivors and reparations would be going primarily to descendants. It was clear to me that by framing this case as harm against the Greenwood Community, instead of individual survivors, Ross and others involved with crafting legislation failed to connect the incidents of past violence with contemporary harm and a need for redress by the state.

Don Ross and those he consulted about riot legislation not only neglected to create a forum where survivors could share their stories with legislators and the public, but also failed to capitalize on the known costs associated with the burning of Greenwood by including specific claims for compensation for those who lost property. Despite having an abundance of living witness, primary actors failed to translate their presence into votes in support of reparations within the state legislature.

I asked former Oklahoma State Representative Leonard Sullivan if it would have made a difference if the bill had sought compensation for actual survivors instead of requesting reparations for an unnumbered group of survivors and descendants of the Tulsa Riot. Again, his response shows that state legislators were not well informed about the number of surviving witnesses or their stories about property loss and damages.

It, if you know, if you quantify it, there's nothing you can say, here's, there's 25 people still living today, now we can about all this other stuff, but there's 25 people who can remember smelling the smoke, and it was their parents house and if they hadn't burned it down they would have inherited it and they would've had a \$100,000 house in Tulsa now. You prob,... It would have helped; I wouldn't say that you could've sold that, but that would've been a good selling point. Say, 'Hey, here's some people right here, we're not paying everybody in Tulsa. We're paying 25 people that are up close and personal, you know. Something like that might have worked, but I don't recall us doing it exactly that way.

The presence of over 100 survivors in 2001 to the Tulsa Race Riot was quite remarkable and yet they were politically irrelevant when all was said and done. Although the state admitted



that they had a moral responsibility to protect citizens from racial discrimination and subordination, their response was less than satisfactory for individual survivors. In seeking to repair the damage done to the Greenwood Community, legislators chose to offer college scholarships for low-income students and to create an enterprise zone in the Greenwood district to encourage the growth of new business. The 'conspiracy of silence' continues regarding efforts to gain restitution for the personal loss experienced by riot survivors and the only reconciliation that Tulsa has experienced is in the name of the memorial recently erected in Hope Plaza at the John Hope Franklin Reconciliation Park.

## **CONCLUSION**

Although both the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Reconciliation Act of 2001 share considerable differences in outcomes and were crafted within different states and under different institutional rules, both cases were able to establish convincing historic narratives detailing the legal culpability of the state and/or its agents in the riots. When examining the process of framing for each case, starting with case identification and evaluation and then moving forward to solution identification, we see that people are not just exposed to a single frame given by political actors conceptualizing past violence and determining contemporary remedies, but competing frames are presented in the press as well. Gamson says that framing analysis must speak to the interaction which occurs between an attentive audience and the frames they were offered while negotiating the meaning of events (Gamson 2003: x). Examining these frames can be useful to help explain differences in how both the Rosewood and Tulsa cases were resolved.

In a study by Sniderman & Theriault (2004), the authors argue that citizens stick with views that are consistent with their values or principles when they are exposed to opposing

sides of an issue. So, then it is not a matter of changing one's belief, but changing the weight/salience a belief has in one's overall attitude about an issue. For example, it may be possible to say that the individualism/property-rights frame worked in the Rosewood case, but because this frame was never presented in Tulsa, it is impossible to say that this frame is a strong one across cases. Although this frame was effective in Rosewood, there may be mediating effects that made this a more plausible option in Rosewood and untenable in Tulsa. One possible reason that primary actors working on the Tulsa Race Riot chose not to focus on restitution could be the innumerable possible claimants in Tulsa and therefore the idea to form one claim for reparations made the most sense. A stronger case can be made for the fact that the institutional opportunity available in Florida, the claim bill process, was not available in Oklahoma where each legislative bill must pass through the tough committee and bill markup process. The fact that Oklahoma has no avenue available for unique bills or issues to be addressed within the state legislature meant that a simple vote up or down was all it took to close the issue for good.

In the final analysis, differences between the final legislation rendered on each case can be attributed to the number of living witnesses and the way in which their narratives were given place to 'speak out' and address the public and members of the legislature. The claim bill process in Florida made the narrative frames shared by survivors politically relevant in resolving the case, while legislators in Oklahoma never heard directly from any Tulsa Riot survivor. Additionally, although each case had official record of property damage and personal loss, the political actors involved with the Rosewood case were the only group able to identify a way to frame their case as a matter of property rights, while individual losses experienced by Tulsa Riot survivors were never given place in the discussion for

reparations for the entire Greenwood Community. In closing, institutional differences within states affected the types of frames that were possible and, therefore, changed the way that two very similar racial pogroms of the past were discussed and eventually redressed through legislation.

## Works Cited

- Bassett, C. Jeanne. "House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury." 22 Fla. St. U. L. Rev. 503-523 (1994).
- Barnett, Martha. Personal interview. 13 July 2009.
- Chong, Dennis and James N. Druckman. 2007. "Framing Theory." *Annual Review of Political Science*. 10:103-126.
- Cotterell, Bill. "Rosewood Refugees Speak the Unspeakable." *Tallahassee Democrat*. 26 February 1994. Florida State Archives. 14 July 2009.
- \_\_\_\_\_. "Details of a Horror Relived in Testimony." *Tallahassee Democrat*. March 1994, page 25. Florida State Archives. 14 July 2009.
- De Grandy, Miguel. Personal Interview. 16 July 2009.
- Florida House Bill 591 – First Draft. 1994. Florida State Archives. 14 July 2009.
- Florida House Bill 591 - Enrolled. 1994. Florida State Archives. 14 July 2009.
- Gainesville Resident. Letter to Special Master Richard Hixson. 22 March 1994. Florida State Archives. 14 July 2009.
- Gamson, William A. 2003. "Foreword." In *Framing Public Life: Perspectives on Media and Our Understanding of the Social World*, eds. Stephen D. Reese, Oscar H. Gandy, and August E. Grant. Mahwah, NJ: Lawrence Erlbaum Associates.
- Graetz, Michael J. and Ian Shapiro. *Death by a Thousand Cuts: the Fight over Taxing Inherited Wealth*. Princeton University Press New Jersey: 2005.
- Halton, Beau. "'No Resentment,' Rosewood Survivors Say." *Florida Times Union*. 21 October 1997. <<http://jacksonville.com/tu-online/stories/102197/2b3rosew.html>> Web. 10 March 2010.
- Hirsch, James S. *Riot and Remembrance*. New York: Houghton Mifflin Company, 2002.
- Hollis, Mark. "House's Approval Moves Rosewood Bill to Senate". *Gainesville Sun*. 5 April 1994. Florida State Archives. 14 July 2009.
- Jones, Maxine D. Personal Interview. 14 July 2009.

- "Klan, Guard actions murky in race riot report." *The Oklahoman*. 16 Dec. 2000, SUBURBAN, NEWS: 1-A. *NewsBank*. Web. 21 May 2009.
- Kurt, Kelly. "62 Black Survivors Found Of 1921 Tulsa Race Riot." *The Daily Oklahoman* 5 Aug. 1999, CITY, NEWS: 7. *NewsBank*. Web. 1 Aug. 2009.
- \_\_\_\_\_. "Historian Stuns Riot Survivors With Account." *The Daily Oklahoman* 10 Aug. 1999, CITY, NEWS: 10. *NewsBank*. Web. 1 Aug. 2009.
- \_\_\_\_\_. "Panel unresolved on riot reparations." *The Daily Oklahoman*. 23 Dec. 2000, CITY, NEWS: 3-A. *NewsBank*. Web. 1 Aug. 2009.
- Michelson, Melissa R. "The Black Reparations Movement: Public Opinion and Congressional Policy Making." *Journal of Black Studies*. Vol. 32, No. 5 (May, 2002), ppg. 574-587.
- Moss, Bill. "Rosewood Awaits His Word." *St. Petersburg Times*. 19 March 1994. Florida State Archives. 14 July 2009.
- \_\_\_\_\_ and Lucy Morgan. "Victims measure passes House." *St. Petersburg Times*. 5 April 1994. Florida State Archives. 14 July 2009.
- Nelson, Melissa. "Panel debates riot reparations." *The Daily Oklahoman*. 23 Nov. 1999, CITY, NEWS: 1-A. *NewsBank*. Web. 1 Aug. 2009.
- \_\_\_\_\_. "Race riot investigation opens old wounds 78 years after brutal conflict investigators sift through ashes." *The Daily Oklahoman*. 21 Nov. 1999, CITY, NEWS: 26-A. *NewsBank*. Web. 1 Aug. 2009.
- Oklahoma House Joint Resolution 1035 – Enrolled. 1997.  
[http://webserver1.lsb.state.ok.us/1997-98bills/HB/HJR1035\\_ENR.RTF](http://webserver1.lsb.state.ok.us/1997-98bills/HB/HJR1035_ENR.RTF)  
1 July 2009.
- Oklahoma House Bill 1178 – Enrolled. 2001.  
[http://webserver1.lsb.state.ok.us/2001-02bills/HB/HB1178\\_ENR.RTF](http://webserver1.lsb.state.ok.us/2001-02bills/HB/HB1178_ENR.RTF)  
1 July 2009.
- Oklahoma House Bill 2468 – Enrolled. 2000.  
[http://webserver1.lsb.state.ok.us/1999-00bills/HB/HB2468\\_ENR.RTF](http://webserver1.lsb.state.ok.us/1999-00bills/HB/HB2468_ENR.RTF)  
1 July 2009.
- Pagel, Jean. "Emotions Teem in Riot Reparations Talks." *The Daily Oklahoman*. 13 Apr. 1998, SUBURBAN, NEWS: 3. *NewsBank*. Web. 1 Aug. 2009.

- "Pandora's Cashbox - Riot Panel Opening a Can of Worms." *The Daily Oklahoman*. 30 Nov. 1999, CITY, EDITORIAL: 8-A. *NewsBank*. Web. 1 Aug. 2009.
- "The Race Canard - Tulsa Riot Panel Loses Sight of Its Mission." *The Daily Oklahoman*. 13 Feb. 2000, CITY, EDITORIAL: 10-A. *NewsBank*. Web. 1 Aug. 2009.
- "Rosewood Case Takes Wrong Path". *Pensacola News Journal*. 18 April 1994. Florida State Archives. 14 July 2009.
- Sniderman PM, Theriault SM. 2004. "The Structure of Political Argument and the Logic of Issue Framing". In *Studies in Public Opinion*, ed. WE Saris, PM Sniderman. Princeton, NJ: Princeton Univ. Press
- "Sovereign Immunity and the Claim Bill Process." *Committee on Judiciary*. November 2004. August 13, 2009. [http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim\\_reports/pdf/2005-147ju.pdf](http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim_reports/pdf/2005-147ju.pdf)>
- Sullivan, Leonard. Personal interview. 28 July 2009.
- Wheat, Jack. "Bill Filed for Massacre Compensation." *Miami Herald*. 31 December 1993. Florida State Archives. 14 July 2009.
- Yeomans, Adam. "Senator Opposes Rosewood Bill." *St. Petersburg Times*. 3 March 1994. Florida State Archives. 14 July 2009.

## Chapter 4

### **Restitution vs. Reparations Outside the Slavery Debate**

Ultimately, Japanese Americans succeeded on their reparations claims not because they transcended the individual rights paradigm, but because they were able to fit their claims tightly within it.

Eric K. Yamamoto (1998)

We stayed away, by the way, from talking about reparations. We didn't, we were well aware of what happened with the Japanese-Americans and that issue, but we weren't looking at this as reparations as much as compensation... This was a, a, thriving community and all of that was taken from them, their... including the opportunity to better themselves. And we felt that there was some compensation for what they had lost. You know, just that their own potential that they'd lost.

Martha Barnett, Holland & Knight

In the previous chapter we see a moment when the primary actors on the Rosewood case make a deliberate decision to avoid comparisons to the Japanese-American Internment Reparations case. Despite referencing the legal documents of the case and using similar language about the loss of wealth transfer, the lawyers involved with Rosewood seemed determined to resist the association between the compensation they sought and the idea of “reparations” for racial violence. From my interview with Martha Barnett, and her statement made above, this can plausibly be construed as a strategic choice. Although it is difficult to fully explain this decision because primary actors were not forthcoming about this process and it is also possible that they, themselves, were not fully aware of their reasoning, the facts are that primary actors in Rosewood, while modeling their case on the

legal basis for reparations in the Japanese American Internment case, chose to avoid the word 'reparations' and further distanced their case from the quest for slavery reparations. On the other hand, advocates involved with the Tulsa case eagerly embraced what they hoped to gain from reparatory claims, yet failed to consider the possibility of political backlash from using the term. This appears to be another missed opportunity of imaginative work on the part of primary actors in the Tulsa case. They were ultimately unable to achieve any financial judgment for riot survivors or their descendants.

While it is plausible to think that the choices made by primary actors' in both cases were shaped by the national discourse on reparations generally, and the achievement of reparations in the Japanese-American Internment case specifically, it is impossible to know how much the lessons learned in crafting this landmark case shaped the choices made by primary actors on the Rosewood and Tulsa cases. What I find interesting is that Barnett uses similar language about the survivors missing an 'opportunity to better themselves' and how the state needed to compensate them for their lost potential. This is basically the claim made in the Japanese-American Internment case on behalf of the interned victims (Hatamiya 1993). While the lawyers working on the Rosewood case preferred to avoid the parallel to the Japanese American case for reparations, it is ironic that the advocates in the Japanese American case faced similar concerns and were yet able to use the word 'reparations' without raising the specter of race.

Although this chapter does not address the myriad arguments for and against reparations for slavery, I will attempt to provide a basic description of the national discourse on reparations. Next, I will dissect the racialization of the term 'reparations' and the resulting push for a new paradigm. Lastly, I will discuss the way in which the often cited



Japanese-American Internment case for reparations has a greater similarity to both incidents of racial violence in Tulsa and Rosewood than it does to the slavery of Africans in America. Additionally, I offer a short comparison of what lessons Rosewood might have learned from the Japanese American case.

So, the question becomes, what is at stake when reparations are discussed and why so many people are turned off by its presentation as a valid claim? In “The Black Reparations Movement”, Melissa R. Michelson notes one national poll that was scientifically administered by ABC News on June 18, 1997. Respondents were asked, “Do you think the federal government should or should not pay money to Black Americans whose ancestors were slaves as compensation for that slavery?” The poll over-sampled African Americans and of the 703 responses, only 19% supported such an effort, with 77% in opposition and only 4% with no opinion. As the poll breaks down racially, 88% of whites were not in support, while only 10% supported reparations. Among African Americans, 65% were in support, with only 28% in opposition (578). Michelson also cites a poll conducted in October 2000 by the University of Chicago and Harvard University that found only 53% of African Americans surveyed thought that the government should pay reparations (578). Although this issue appears to fall along racial lines, even within the African American community strong support is not definitive.

### **Support for Reparations**

Although there may be little disagreement that America, as we know it, was built on the backs of slaves and that no compensation has ever been given for the free labor coerced by law, the question of whether African American descendants of slaves should receive reparations for that labor has not been settled. The most outspoken proponents of

reparations for slavery believe that reparations are a necessary part of the debt that is owed to African Americas for the atrocities of slavery and the centuries of legal discrimination that followed (Robinson 2001; Bittker 1973; Ogletree 2002, 2003), but there is some disagreement as to how the debt should be administered.

According to Ogletree, the central aim of the reparations movement is to help, “the poorest of the poor” break the cycle of poverty and discrimination. The reparations movement must address racial disparities in health care, access to education, housing, employment, insurance and other social goods. Efforts must seek to “finance social recovery for the bottom-stuck, providing an opportunity to address comprehensively the problems of those who have not substantially benefited from integration or affirmative action” (2002:3). This proposition is very similar to the suggestion made by Bittker in his seminal work on reparations, *The Case for Black Reparations*, where he supported an allocation of resources to programs crafted to achieve black reparations but was unsure whether the distribution of the cash in a program of reparations ought to be paid to individuals for their personal grievances, or paid over to black organizations for use in promoting various social programs (a point echoed by Westley 1993). He made it clear that he preferred some kind of legislative program, perhaps one modeled on the German compensation program for victims of the Holocaust, which included payments to Israel (1973).

In his 2001 book, *The Debt: What America Owes to Blacks*, Robinson set off a storm of responses from both sides of the reparations debate. In support of reparations, Robinson states, “Until America’s white ruling class accepts the fact that the book never closes on massive unredressed social wrongs, America can have no future as one people... And how do we square things with slavery’s modern victims from whom all natural endowments

were stolen? What is a fair measure of restitution for this, the most important of all American human rights abuses?" (2001:208). Robinson suggests the creation of a trust to assist in the educational and economic empowerment of African-Americans.

### **Opposition for Reparations**

While agreeing that disparities exist between Blacks and Whites on several social indices, opponents of reparations differ in whether the blame should be laid at the steps of slavery or on the individual choices of Blacks themselves. Citing the vast statistics on how Blacks find themselves at the lowest levels academically, socially, and financially and the resulting push for whites to do something, Shelby Steele says that, "the demand for reparations is yet another demand for white responsibility when today's problem is a failure of black responsibility" (2001:1). Similar to my concern with the idea that 'payment equals success' in the Rosewood case, Glenn Loury opines that to gain reparations without attacking the social ills that every American faces may very well allow the consequences of our tragic racial past to "persist in the blighted lives of millions of poor black people". Then the cynical public would be able to say, "We'd love to help, but you Negroes have already been paid" (2004:3). Loury agrees that the disadvantaged position faced by African Americans today "constitutes a gross historical injustice in American society", but does not believe that slavery reparations are the appropriate response to remedy this injustice (2004:1). Additionally, Loury seems to agree with McWhorter (2001) that the status of African Americans as social pariahs through slavery may be reinforced by the "successful advocacy for slavery reparations" (2).

In *The Case Against Reparations*, Reed shows that he understands that there are symbolic, material, and psychological aspects associated with the push for reparations

(2000:1). In centering the symbolic component of the campaign for reparations on public acknowledgement of the historical injustices inflicted on black people in this country, Reed agrees that public debate would promote public education about the “real history of the United States, although this is a project that does not require the rhetoric of reparations” (1). In a sentiment shared by other opponents of reparations, Reed vehemently disagrees with positions like Robinson’s that seem to view the mass Black American public as defective and in need of moral or psychological repair (2; McWhorter 2001; Horowitz 2001).

Both Horowitz and Reed agree that at the very least, the logistics of reparations is irresolvable. How would the government begin to decide who would and who would not receive payment? Would African Americans have to prove, through documentation, that they are descendants from a slave? Also, because some African Americans were free during that time period, how would compensation be determined for them? Horowitz even makes note that some free Blacks were actually slave-holders and therefore should be held accountable for the debt along with White Americans (2001: point 5). According to Reed, it is these ambiguities that “expose the faultiness of comparisons to payments to victims of Japanese internment and Nazi slave labor camps, who were identifiable individuals whose experience of the ultimate injustice was direct” (2000:2). And further pushes the best case scenario for reparations or compensatory justice toward cases like Rosewood and Tulsa than toward a redress for the harms associated with slavery.

### **Identity Politics**

One major argument of opponents of reparations for slavery exposes the issue of essentialism and the perception that all identity politics are bad politics. Opponents say that efforts to get America to pay sets African Americans against this nation and apart from the

democratic principles and institutions this country has come to embrace (Horowitz 2001; McWhorter 2001). In *Identity in Democracy*, Gutmann discusses the fact that identity-group politics is an inescapable part of democracies because identity groups represent who people are, not just what they want, and who people are shapes what demands they make on democratic politics (15).

Although it is impossible to describe the 1994 Rosewood Massacre Claim Bill and the 1921 Tulsa Race Riot Act of 1997 as anything less than identity politics, they are so much more than that. While each case was carefully constructed around incidents that were experienced primarily by African Americans, the issue at hand was more universal. Each group sought equal protection under the law and some form of compensation for reparations or as restitution for property losses. Critics of identity politics argue that individual rights are trampled when the needs of specific groups are placed at the forefront of political debate (Reed 2000; McWhorter 2001; Horowitz 2001). But increased freedoms for all have been achieved through the labor of identity-group efforts like the Civil Rights Movement by African-Americans, and equal pay for equal work by women's rights activists. Although identity and interest are closely intertwined, a person does not have to be a member of an identity group "to benefit from the instrumental aim" of the group (Gutmann 12).

Additionally, most individuals have overlapping identities and share membership in several different identity groups (13). This is significant when examining the difference between the way in which the Tulsa and Rosewood cases were framed by political actors. In the case of Rosewood, the lawyers sought to create an overlapping identity for the survivors that included law-abiding, tax-paying, land-owning citizens as well as the identity of being

African American. This group identity was further reinforced by using the term compensation, rather than reparations to describe the type of remedy sought by the group. Although the group was African-American, which was not the only identity they shared and in framing their case, primary actors chose to focus attention on their status as land and property owners who had been harmed by actions of the state. Political actors never publicly spoke of the actions of the state as racists, and in determining adequate remedy, the case never focused on the 'why' of the riots at all, but only that the state had failed to intervene and to make good the losses experienced by survivors.

In Oklahoma, primary actors focused efforts on achieving reparations for the entire Greenwood Community, thereby sacrificing the needs of individual survivors to achieve compensation for specific losses. The decision to seek reparations was not fully supported by the public or the survivors which may be the reason that no payments were ever made to any survivor or descendent for losses incurred by the riot.

### **From Here to There: Contemporary Cases**

The arguments supporting and in opposition of reparations are being made within academic and elite circles, but the term is still primarily associated with harms of the past. Yamamoto speaks of how opponents cite existing civil rights laws that afford every citizen equal opportunity and therefore additional reparation legislation is unnecessary to repair social inequalities (1998:7). But, in the case of both the 1921 Tulsa Riot and the 1923 Rosewood Massacre, the rights of citizens who should have been protected by those laws were subverted and maligned. A very specific harm was done to individuals based upon their group identity and the harm was specific to a time and place that was well-known. Those resisting reparations "assert the procedural bar of lack of standing by claimants", the

lack of legal causation which would identify the specific actions that caused injury, and the “impossibility of accurately calculating damages” in order to determine compensation (Yamomoto 1998:7). Yet, the typical use of legalism to oppose reparation cases fails to bar the efforts of those citizens seeking redress for racial pogroms. In both the Rosewood and Tulsa cases, the issue was current with living survivors to the violence and therefore the issue of direct harm and specific actions was possible to identify. Additionally, while Tulsa was not able to redress the incident with compensation, Rosewood was able to accurately determine and calculate the loss experienced by individuals who had first-hand experience in the pogrom and to those who had experienced property loss at the hands of a derelict government.

In the case of Rosewood, the road to the state house was not by default or accident. According to those interviewed who were involved with the case, there was never any other thought of action when the case was taken pro bono by Holland & Knight (Barnett; De Grandy). Steve Hanlon, the leading attorney from Holland & Knight, then made a point of separating the victim’s claim for restitution from a general claim for reparations by focusing on very specific compensatory damages that could be addressed through the claim bill process. Despite this fact, proponents as well as opponents of reparations misunderstand the full process that occurred in Rosewood and mistakenly categorize it as a successful route to reparations (Ogletree 2002 & 2003; Hirsch 2002; Henry 2007; Horowitz 2001; Robinson 2001:225; Salzberger and Turck 2004: 284; Yamomoto 1998). For example, even Ogletree, a lawyer and professor who worked on legislation on behalf of Tulsa Riot survivors, says, “States and municipalities have passed at least four statutes addressing reparations for African Americans, most notably in Rosewood, Florida...” (2003). Once more seeing the

efforts in Rosewood as a group-based approach seeking reparations rather than a carefully constructed compensation bill for individual claimants who lost property and survived the racial violence of 1923 in Rosewood, Florida. Then to make matters worse, a Florida state official speaks interchangeably about reparations and restitution as if the two are one and the same.<sup>29</sup> Maybe there is confusion not only within the general public about the specific difference between reparations and restitution, but in elite circles as well.

It is easy to see what the arguments would be against reparations and the lawyers involved with the Rosewood case knew them well and therefore chose to reframe the entire issue of Rosewood not as one of violence visited upon blacks by whites because of their racial heritage/identity, but as the failure of a government to protect its citizens from harm to their person, liberty, and property. What could opponents say to a case that is built on a fundamental notion of fair market value for the acquisition of personally owned property by the government and the right of the people to be secure in their persons, houses, papers, and effects, which is the Fourth Amendment? It is also possible that the lawyers believed that old arguments on the merits of reparations given to the Japanese were irresolvable or that public support for reparations for African Americans was still quite low, but either way, they came up with a way to repackage the issue in terms the opposition had not already thought of a way to counteract. Later in this chapter, I will explore the similarities between the Japanese American case for reparations and the case for both Rosewood and Tulsa, but suffice to say that the lawyers involved with crafting the Rosewood case chose to reframe the debate ideologically away from reparation claims.

---

<sup>29</sup> When asked about the differences between the compensation given to Rosewood survivors and the quest for reparations in the Tulsa Riot redress, Florida State Senator Tony Hill made reference that those in Tulsa were just seeking the same reparations given to the Rosewood survivors (Hill).



Tulsa, alternatively, did not have the benefit of a claim bill process or legal representation to help in crafting the legislation to address the 1921 Tulsa Race Riot. Don Ross, the state representative who first introduced legislation and championed the entire process told his senate counterpart, Maxine Horner, that survivors in the Rosewood Massacre had been given reparations and that he intended to get the same for those in Tulsa (Horner). Additionally, newspaper articles cited that reparation amounts suggested by those Tulsa Riot Commissioners who were in favor were based upon the financial payments given to Rosewood survivors (Nelson 1A; Pagel 3). Although Ross wrote language in every bill to determine the feasibility of the state paying reparations to Tulsa riot survivors, this language was stricken from every bill that passed through fierce debate and markup sessions. Ultimately, the state never paid any survivor for the loss of life, liberty or property associated with the 1921 riot.<sup>30</sup>

### **Racialization of Reparations**

According to Gamson and Modigliani, when events affect policy outcomes, explanations draw on “culturally available idea elements and symbols” (376). In the case of the 1923 Rosewood Massacre and the 1921 Tulsa Race Riot, race was a primary image in both the violence of the past and in the efforts to achieve a monetary response from the state in the 1990’s. Culturally, violence against African Americans is probably most likely to invoke images of slavery and the physical brutality faced on a daily basis by many Africans held in

---

<sup>30</sup> Initially after the burning of Greenwood, the City of Tulsa passed an ordinance to bar African American residents from building temporary structures on the land they owned. The residents fought the law and were successful in getting a judge to grant a permanent injunction against citing the effect it would have on property rights (Brophy 94). Although the focus on property rights became a cry that achieved some level of success for Greenwood residents back in 1921, it was largely absent in the contemporary push for political redress. In seeking to use the language of reparations the individual claims of property loss and damage were lost in favor of a focus on group-based claims of harm against the entire community of Greenwood. In tying the cases so tightly to each other the loss for one equaled a loss to all.

bondage in America as well as harsh treatment experienced under Jim Crow laws. The idea is that as soon as the issue of compensation for Rosewood and Tulsa survivors came into the political arena, one of the symbols in everyone's mind was slavery and then, as a result, the idea of reparations as a probable distributive policy. The task of primary actors in the Rosewood case then became how to distance their case from the images of reparations in the public's perception and therefore slavery as a whole.

The decision to reframe the political debate in the Rosewood case demonstrates an understanding of how words can shape public opinion. Consider the finding of Gilens in the book, *Why Americans Hate Welfare*. Gilens was able to show that portrayals of the poor and those most likely to need the assistance of welfare programming changed based upon negative or positive stories about welfare spending. During the earliest days of welfare, the media showed sympathetic images of white children with tattered clothing and soot on their faces, but in the 1980's when political debate centered around waste and fraud, the media focused on African American women who were called welfare queens. Gilens was able to show how welfare is no longer associated with assistance for the poor in the minds of many whites, but has become symbolic of undeserved benefits given to lazy, African Americans (Gilens 1999). The image of reparations, where it concerns African Americans, has become tied to other unfavorable public policies and has therefore become racialized in the minds of many in the public (Miller 2004).<sup>31</sup>

Similar to welfare debates, movements aimed at reparations create opposition before the true merits of any case can be explored and the faces of individuals become a sea of

---

<sup>31</sup> In discussing the inability of slavery cases to overcome the bar posed by judicial constraints, Miller notes that while the legal issue of standing is avoided by cases that address injustices during Jim Crow, the heart of the reparations debate is slavery, not Jim Crow (112).

undeserving African Americans standing with their hands out for government payouts. Alfred Brophy argues that there are strong arguments for slavery reparations, “based on its demonstration of the pervasive, systematic, and extraordinary effects of such discrimination” (106), but he concedes that a case is stronger when the claim is based on concentrated rather than diffuse harm. Stephen Winter’s, “Uncertain Justice: History and Reparations”, agrees that historical wrongdoing can give rise to reparative claims, but declares that his definition of historical wrongdoing includes only “those wrongdoings sufficiently ancient so that all or most of those individuals who were contemporary are now dead” (342). Winter says that the challenge today for opponents and supporters of reparative claims for slavery is how to connect present day harms to slavery, thus making reparations necessary (342).

Even Charles Ogletree, the professor of law currently at work on lawsuits to redress financial gains made by corporations and the government from slavery, notes that many of the most outspoken critics of slavery reparations appear to be supportive or at least less critical of claims stemming from Jim Crow era pogroms involving still living survivors (2003:281). One such example is David Horowitz’s, *Ten Reason Why Reparations is a Bad Idea for Blacks – and Racist Too*, which takes on the idea of reparations for an unknown number of African Americans, but affirms that, “The historical precedents generally invoked to justify the reparations claim are payments to Jewish survivors of the Holocaust, Japanese-Americans and African- American victims of racial experiments in Tuskegee, or racial outrages in Rosewood and Oklahoma City” (2001: point 5). Although this would seem to bode well for redress efforts for the violence experienced by African American citizens in both the Rosewood Massacre of 1923 and the 1921 Tulsa Riot, it is important to note that the

language of reparations may still undermine the effectiveness of appeals for compensation even where those appeals are legitimate.

There is significant social and political difference between claims for reparations and those for restitution. Legally, reparations is defined as the act of making amends for a wrong or injury and is also considered a form of compensation or redress to make good any loss “if the wronged party is not to receive the specific property taken or its monetary equivalent” (Shapiro).<sup>32</sup> But, in the U.S. context, this political policy is understood as a group-based means to assuage guilt for the acts of slavery in America and holds the stigma of undeserved gain. In fact, as stated in the previous chapter, several editorials opposed the Tulsa Riot Commission’s efforts to achieve reparations with one equating the process to extortion (“Race Canard” 10-A). In comparison, restitution is the return or restoration of a specific thing to its rightful owner, or compensation in terms of the monetary value for such a loss. “This is often an equitable remedy: a form of reparation (or damages imposed) for the loss caused by the “taker” to the rightful owner” (Shapiro). As the survivors of the 1923 Rosewood Massacre had a moral claim with no legal basis for a cause of action, this case was presented to the Florida State Legislature as an equitable claim rather than a suit seeking reparations. Despite the similarities shared in time, place and type of harm between two historical cases of racial violence in America, different methods were used to determine compensation for both sets of survivors which produced disparate resolutions.

The previous chapter explored interviews and newspaper references highlighting the difficulty that Americans have in distinguishing the difference between reparations for

---

<sup>32</sup> Jessica Shapiro was Assistant Counsel in the Office of the Legislative Counsel for the U.S. House of Representatives in 2005. I requested, via email, a legal understanding of the difference between restitution and reparations and this is a summary of her response.

slavery and reparations necessary to repair the harms from post-slavery actions of the state. It appears that many still equate reparations with slavery or fear the possible flood of claims from descendants of slaves or other ethnic groups who have faced similar group-based violence if such claims are successful. Additionally, there are several reasons why a state would not want to redress racial pogroms from previous decades and further reasons why attempting to resolve these sorts of historical conflicts becomes a rare enterprise. In the book *Long Overdue*, Henry makes cogent arguments for the difficulty that exists for redressing historical cases of racial violence because of several factors, two of which are important for our discussion here.

First, he speaks of the inability for citizens to sue state government due to the legal obstacle of sovereign immunity (2007:22). The waiving of sovereign immunity is one avenue which allows citizens to hold the state legally responsible for actions by its agents and/or officers. I call this an institutional barrier or constraint, and although it may prevent certain forms of redress, it is not the only way that a state can be held accountable for its actions or inactions as it relates to its citizens. We see this clearly with the primary actors in both the Rosewood and Tulsa cases who sought redress within the policy making structure of the state legislature. Although the Tulsa case, unlike Rosewood, was unsuccessful in achieving financial compensation for survivors, the state did accept some responsibility for its violent actions against its African American residents during the 1921 race riot and agreed to create a memorial of reconciliation.

Next, he says that there is a lack of legal theory to address group reparations because our American legal system is "individualistic, transactional... it assumes that injury is individual and that the harm is material/transactional and current" (23). Legal cases are

more likely to redress criminal harm against a single victim rather than a group (Yamamoto et al. 2003; Davis 2007). Furthermore, the legal system faces significant obstacles in redressing cases that have passed the statute of limitations and where little evidence other than the memory of elderly witnesses and faded newspaper articles exist. It seems that scholars and activists alike have been searching for a quasi-legal apparatus which may facilitate the legal and binding efforts of judicial responses along with the financial judgments that courts are able to mete out, but without the narrow litigative constraints posed by statute of limitations, issues of legal standing, hearsay rules, and the confrontation clause of the Sixth Amendment that guarantees the accused the ability to face her accusers (U.S. Constitution 1). Although this may be an accurate critique of the legal system and poses a barrier for reparation cases, it does not preclude individual claimants from seeking alternative institutions for response. The state legislature has been a unique forum to resolve these sorts of cases and through the claim bill process the state of Florida has created an institution, within the state legislature, that adheres to some legal standards and allows for the voice of victims even when accusers are no longer living.

Henry seems to make the assumption that group reparations are the best and only way to resolve racial pogrom cases. If harm is framed as group-based then reparations may be the best way to achieve compensation, but this is not the only possible option for resolving racial pogroms. It is possible to disaggregate the cases into individual claims of harm based upon group membership and open alternative opportunities of redress that were previously barred due to focusing on a group claim. For example, primary actors working on the Rosewood case requested restitution, or compensation in monetary value for

losses experienced by survivors, where a value was placed on the loss of land and personal harm experienced by individual survivors of the 1923 Rosewood Massacre.

### **The Specter of the Japanese American Case for Reparations**

It seems nearly impossible to discuss any claim for reparations without mentioning the legislation for interned Japanese-Americans. It would seem that the very moment after Japanese-Americans received their federally sanctioned reparations for internment during WWII and African Americans began to organize around a reparative movement for slavery, the word "reparations" became racialized and then synonymous with the perceived whining efforts of those who are already benefiting from other reparative measures like Affirmative Action. While it is possible to argue the legitimacy of the claims stemming from slavery, there are many on both sides of the reparations debate who fail to focus on the need to address more contemporary cases of racial violence in America.

After slavery, it was suggested that African Americans be given 40 acres and a mule, but this never occurred. Since then the discussion of restitution within the halls of Congress has been suggested, and after the success of reparations for Japanese Americans through the Civil Liberties Act of 1988 this would seem to be a possible task.<sup>33</sup> In focusing on the payments issued to Japanese Americans rather than the framing of the case, the Civil Liberties Act of 1988 has been largely misunderstood within the African American community. In the case of reparations paid to Japanese-Americans for their internment in camps during World War II, government records exist and were verifiable to determine both the victim and the exact length of interment to assure only those directly affected were compensated through reparative claims. As a law, it provided for the monetary restitution

---

<sup>33</sup> Every year, since 1989, John Conyers (D-M) introduces a bill seeking to create commission to study reparations proposals and every year it fails to be referred out of committee.

for those Japanese and Aleuts who were interned after the bombing of Pearl Harbor (Hatamiya 1993:125-126). Although this bill benefited only those directly affected by internment, the perception among many African Americans is that all internees as well as their entire families – those born and raised after the 1940's – were beneficiaries. Further, the antagonism against the restitution for Japanese American Internees, when African Americans have been proposing legislation for slavery redress, is possible to understand.

While it can be argued that it would be too difficult to attempt to pay African Americans for the injustices of slavery, as those currently living have not experienced its harshness directly; it is important to remember that the continuing discrimination and segregation that exists in America is a constant reminder of a “less-than” status for many African Americans. Specifically, cases such as the 1923 Rosewood Massacre and the 1921 Tulsa Race Riot are great examples of a continuing subjugation of African Americans long after the time of slavery. Further, the small success of a few African Americans within this society, including the ascendancy to the top office in this nation, cannot erase the issues of police brutality, racial profiling, stereotyping that remain a part of the social fabric of this nation.

The uphill battle to adjudicate reparations for slavery is legally confounding when we acknowledge that the harms experienced by victims of slavery were inflicted upon people who, at the time, were legally considered property and had no rights which were to be respected (*Dred Scott v Sandford*).<sup>34</sup> No matter how repugnant slavery and its aftermath and no matter how inhumane the institution, the fact is that slavery was the law of the land. I find it interesting that scholars and activists alike equate the reparation effort on behalf of the interned Japanese Americans and the movement for slavery reparations as similar, when

---

<sup>34</sup> *Dred Scott vs. Sandford* case of 1857. <http://www.lectlaw.com/files/case23.htm>



more closely tied to the justification for Japanese Americans are the incidents of Rosewood and Tulsa. Each of these three cases take place after Reconstruction and against citizens of the United States who were all denied liberty and property and, in some cases, individuals lost their lives due to government malfeasance.

The primary actors involved with crafting legislation for Rosewood survivors intentionally differentiated their case from claims for slavery and made a clear distinction between requesting reparations and seeking restitution. According to De Grandy, the former state representative handling the case within the Florida State Legislature, this was not a redress of slavery, but of the full rights guaranteed to citizens of the United States that were not protected.

See that's the thing, I, you know, and I do maintain the same position that I made then, you know. This was restitution, these were American citizens entitled to equal protection of the law that were not provided that by their own government, ok? Again, the issue of slavery, you know, I see it as one of the most repugnant things that man can ever do to man, but if it was the law then the debate is should their be reparation for that? And I fall on the side of no, quite frankly, because it was the law. This is different, these are American citizens, you know. There came to a point, what I said in the debate, there came a time in American where we took a more enlightened view of what our Constitution said, that 'every man was created equal' and we started living by that, ok? And when we live by that we have to live by that fully and if these individuals are entitled to equal protection of the law then dammit you give it to them, period, end of the story.

Many who were working in the movement on behalf of Japanese Americans in the 1980's shared sentiments similar to the one made above. Hatamiya quotes from Hohri's book, *Repairing America: an Account of the Movement for Japanese American Redress*.<sup>35</sup>

When you come down to simple justice, to just say I'm sorry' places [Japanese Americans] back in second-class citizenship status because in this

---

<sup>35</sup> William Hohri was 15 at the time of internment and in 1983 became the lead plaintiff in the \$25-billion class-action lawsuit against the federal government which ultimately led to the Civil Liberties Act of 1988 (Woo Metro pg. 39).

country, when you have been wronged and you have lost your possessions and your job and everything else when you are falsely imprisoned, then there is payment. That's the way our system works. (Hatamiya 1993:152)<sup>36</sup>

In both cases, a claim of citizenship grounded the claim that those injured deserved redress.

Each case sought redress based upon democratic principles and the promise of civic inclusion that is supported by the Constitution through the 14<sup>th</sup> and 4<sup>th</sup> Amendments. This was a story about framing just as much as Rosewood and Tulsa.

Hatamiya noted that primary actors had to find a principle that would unite conservatives like Ronald Reagan as well as liberals like Barney Frank.

In seeking redress, Japanese-Americans were not looking for “welfare payments or affirmative action” but equality of opportunity (1993:151-152). In order for the Japanese American redress to ever have any chance of success, the appeal had to be “couched in terms of bedrock American values” and presented as “a constitutional issue” rather than a racial one (152). It is plausible to believe that the reframing of Rosewood from an issue of race into one of property rights was significant in achieving favorable passage of legislation on behalf of survivors. Although I have no direct evidence that the lessons learned by primary actors working on the Japanese American redress carried over into the crafting of the compensation bill in Rosewood, it is plausible that the Rosewood advocates were using their knowledge of the politics of the Japanese-American Internment case as a basis for strategic thinking about how to frame their own appeals. Additionally, I offer the racialization of the term ‘reparations’ as a plausible reason to eschew narratives that closely relate contemporary calls for compensation with those seeking reparations for slavery. In my opinion, it was the inclination of astute political actors to reframe racial debates into issues fundamental to

---

<sup>36</sup> The quote is attributed to Grayce Uyehara, who was the Japanese American Citizens League (JACL) Legislative Education Committee Executive Director in the 1980's (Hatamiya 108).

democracy in America that achieved material responses and ultimately monetary compensation in both the Japanese-American Internment and Rosewood cases.

## **Conclusion**

This project gets at the heart of my inclination to study the framing of racially violent events and the way in which polities choose to respond. While I am against the cause of reparations for slavery because I understand the rules of law, and at the time the rape, castration, lynching, maiming, beating, and every other manner of brutality that was visited upon African Americans occurred, it was the law of the land; what I hope to convey is the importance of redressing more contemporary cases of racial violence in America that occurred after slavery and the importance of property and property rights to the American identity. If the issue is property unlawfully taken from its owners and destroyed with no equitable compensation given in return, then the color of the victim becomes secondary and formerly hostile groups have a point of agreement. Additionally, it is important to be aware of the valence of different words such as reparations and welfare when framing public policy debates. Although there is specific and legal difference between reparations and restitution, the issue is that when one term elicits such negative reaction from the public then it is necessary to reframe the debate in new terms.

The decision to seek a legislative resolution to historical acts of racial violence is a deliberate choice undertaken for reasons specific to each particular case. Whether the victims and their representatives are calling for specific compensation, general repair, or simply acknowledgement, a call for justice that is formed and crafted in legislative rather than judicial terms is not common. The efforts surround the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Reconciliation Act of 2001 illustrate the way in which framing

can impact disparate resolutions achieved in two very similar cases of racial violence in America. Additionally, institutional choice helped determine which frames were possible in order to first gain legislative attention and then to determine equitable remedies.

## Works Cited

- Bittker, Boris. *Reparations: The Case for Black Reparations*. Beacon Press. 1973.
- Brophy, Alfred L. *Reconstructing the Dreamland: the Tulsa Riot of 1921: Race, Reparations, and Reconciliation*. New York, NY: Oxford University Press. 2002.
- Davis, Adrienne D. "The Case for U.S. Reparations to African Americans". *Redress for Historical Injustices in the United States: on Reparations for Slavery, Jim Crow, and their Legacies*. Ed. Michael T. Martin and Marilyn Yaquinto. Durham: Duke University Press, 2007. 372-378.
- Dred Scott v. Sandford. 60 U.S. 393. U.S. Sup. Ct. 1857. Web.  
<http://www.lectlaw.com/files/case23.htm>. 20 January 2011.
- Gamson, William A. and Andre Modigliani. "The Changing Culture of Affirmative Action." In *Equal Employment Opportunity: Labor Market Discrimination and Public Policy*, ed. Paul Burstein. Hawthorne, NY: Aldine De Gruyter, 1994.
- Gilens, Martin. *Why Americans hate welfare: Race, media and the politics of anti-poverty policy*. Chicago, IL: The University of Chicago Press. 1999.
- Gutmann, Amy. *Identity in Democracy*. Princeton, NJ: Princeton University Press. 2003.
- Hatamiya, Leslie T. *Righting a Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988*. Stanford, California: Stanford University Press, 1993.
- Henry, Charles P. *Long Overdue: the Politics of Racial Reparations*. New York University Press, New York: 2007.
- Hill, Tony. Phone Interview. 17 September 2009
- Hirsch, James S. *Riot and Remembrance*. New York: Houghton Mifflin Company, 2002.
- Horowitz, David . "Ten Reasons Why Reparations for Blacks is a Bad Idea for Blacks - and Racist Too." *FrontPageMag.com*. January 2001. Web. 4 Feb 2011.  
<<http://archive.frontpagemag.com/readArticle.aspx?ARTID=24317>>.
- Loury, Glenn C. "Trans-Generational Justice – Compensatory vs. Interpretive Approaches." 2004. Web. 4 Feb 2011.  
[http://www.econ.brown.edu/fac/Glenn\\_Loury/louryhomepage/papers/reparations%20.pdf](http://www.econ.brown.edu/fac/Glenn_Loury/louryhomepage/papers/reparations%20.pdf)>.
- McWhorter, John H. *Losing the Race: Self-Sabotage in Black America*. Harper Perennial, 2001.

- Michelson, Melissa R. "The Black Reparations Movement: Public Opinion and Congressional Policy Making." *Journal of Black Studies*. Vol. 32, No. 5. pp. 574-587. May 2002.
- Miller, Eric J. "Representing the Race: Standing to Sue in Reparations Lawsuits." *Harvard BlackLetter Law Journal*. VI. 20 Spring 2004:91-114.
- Nelson, Melissa. "Panel debates riot reparations." *The Daily Oklahoman*. 23 Nov. 1999, CITY, NEWS: 1-A. *NewsBank*. Web. 1 Aug. 2009.
- Ogletree, Jr., Charles J. "Litigating the Legacy of Slavery". *New York Times*. Opinion. 31 March 2002. Web. 4 Feb 2011.  
<<http://www.nytimes.com/2002/03/31/opinion/litigating-the-legacy-of-slavery.html?pagewanted=2&src=pm>>.
- \_\_\_\_\_, "Repairing the Past: New Efforts in the Reparations Debate in America." *Harvard Civil Rights-Civil Liberties Law Review*. Vol. 38; No. 2 (2003): 279-320. Web. 4 Feb 2011.  
<[http://www.law.harvard.edu/students/orgs/crcl/vol38\\_2/ogletree.pdf](http://www.law.harvard.edu/students/orgs/crcl/vol38_2/ogletree.pdf)>.
- Pagel, Jean. "Emotions Teem in Riot Reparations Talks." *The Daily Oklahoman*. 13 Apr. 1998, SUBURBAN, NEWS: 3. *NewsBank*. Web. 1 Aug. 2009.
- Reed, Jr., Adolph L. "The Case Against Reparations." *The Progressive*. (December 2000) Web. 4 Feb 2011. <[http://findarticles.com/p/articles/mi\\_m1295/is\\_12\\_64/ai\\_67921041/](http://findarticles.com/p/articles/mi_m1295/is_12_64/ai_67921041/)>.
- Robinson, Randall. *The Debt: What American Owes to Black America*. First Plume Printing. 2001.
- "The Race Canard - Tulsa Riot Panel Loses Sight of Its Mission." *The Daily Oklahoman*. 13 Feb. 2000, CITY, EDITORIAL: 10-A. *NewsBank*. Web. 1 Aug. 2009.
- Salzberger, Ronald P. and Mary Turck, eds. *Reparations for Slavery: a Reader*. Publishing:Lanham, Maryland: Rowman & Littlefield, 2004.
- Shapiro, Jessica R. Email. 13 April 2005.
- Steele, Shelby. "... Or A Childish Illusion Of Justice?." *Newsweek* August 27, 2001. Web. 4 Feb 2011. <<http://www.newsweek.com/2001/08/26/or-a-childish-illusion-of-justice.html>>.
- "U.S. Constitution: Sixth Amendment." Web. <<http://caselaw.lp.findlaw.com/data/constitution/amendment06/>>. 21 February 2011.

Westley, Robert. "Many Billions Gone: Is it Time to Reconsider the Case for Black Reparations?" *Boston College Third World Law Journal*. 40, pp. 429-476. 1998.

Winter, Stephen. "Uncertain Justice: History and Reparations". *Journal of Social Philosophy*, 37: 342-359. doi: 10.1111/j.1467-9833.2006.00341.x. 2006.

Yamamoto, Eric K. "Racial reparations: Japanese American redress and African American claims." *Boston College Law Review* 40.1 (1998): 477-523. *LegalTrac*. Web. 15 Sept 2010.

## Chapter 5

### Defining Success

There may be other things more important [than reparations] -- more appropriate -- things like public statements, public proclamation, publicly hearing from people who survived the devastation. (Statement made by Pete Churchwell, Tulsa Riot Commissioner; Overall A-19)

In recent years, there has been a shift from relying upon the courts to resolve historical cases of racial violence, and many scholars and activists now advocate taking the legislative route to redress historical pogroms rather than attempting to overcome the procedural barriers of the judicial process (Henry 2007; Brophy 2004; Brooks 1999; Hatamiya 1993; Bittker 1973). Charles Henry argues that, "By switching from the legal to the political, a wider range of remedies has become available" (2007:26). This chapter explores two forms of legislative success: the accomplishment of concrete restorative justice through compensation (in the 1994 Rosewood Compensation Bill), and the mobilization of a community around claims of race-based harm in the wake of an unsatisfying legislative resolution (the Tulsa experience).

The efforts of primary actors in both the Rosewood and Tulsa cases can each be viewed as successful. The claim bill process animated the thinking of Rosewood advocates and, as a result, individuals received compensation. This was such a rare feat in the context of race-based harm that scholars and political activist use it as a prototype for reparations cases in general, despite significant difference between Rosewood and a reparations-based



approach to racially motivated harm (Ogletree 2002 & 2003; Hirsch 2002; Henry 2007; Horowitz 2001; Robinson 2001:225; Salzberger and Turck 2004: 284; Yamomoto 1998). Although the restitution paid to Rosewood survivors was an achievement, and the legislative bill in Tulsa only extended symbolic remedies, from the perspective of social justice, one might be able to make a subtler point: The efforts by political actors to achieve reparations for riot survivors seem to have mobilized those previously inactive and created a renewed sense of political engagement among African Americans and whites still remaining in the city. In the wake of the failure of the legislature to extend material compensation for survivors, Tulsa's civic community has responded in small ways to the needs of riot survivors.

This dissertation has illustrated the importance of framing efforts to redress historical incidents of racial violence, as well as how institutional differences conditioned those framing choices. The question now is how do we describe the overall efforts associated with the 1994 Rosewood Massacre Compensation Bill and the 1921 Tulsa Race Riot Act of 2001?

In this chapter, I briefly summarize my findings, and then argue why both Tulsa and Rosewood are best interpreted as different forms of legislative success. However, I will also explore why it makes sense to view both cases as "unsettled" despite their legislative outcomes. Lastly, I will suggest how scholars might build on the findings of my research.

#### **SUMMARY OF FINDINGS**

This dissertation has been an effort to examine the way polities have chosen to respond to racial violence. In contrast both to international efforts (e.g., South Africa's famed Truth and Reconciliation Commission), and to American responses to the urban

conflagrations of the 1960's, the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Act of 2001 were both concerned with restorative justice for survivors of racial violence. Primary actors in both cases strategically framed the need to address remedies for each racial pogrom in order to gain legislative attention and then to determine equitable resolutions.

In Chapter 2, I compared official narratives used in the 1920's by grand juries to frame racially violent events with historical reports commissioned by state legislatures in the 1990's describing the same events. The narratives of the 1990's featured data suggesting state culpability that were, of course, absent from those of the 1920's. In defining the incidents and determining their causes, the accepted historical narrative found in the commissioned reports assessed state liability for the harm inflicted both at the time of the incident and in the treatment of survivors subsequently after the violent incidents. Significantly, not all narratives feature a frame that generates the conclusion that the state must act to redress past injustices. In both cases, it was a significant political achievement that the official report successfully identified liability on the part of the state in its actions or inactions which led to the loss of life, liberty and property, and that it placed the issue solidly on their state's legislative agenda.

Although assessing state culpability was a necessary step in achieving legislative attention, it was not sufficient to resolve either case. Chapter 3 examined the legislative and political differences between remedies prescribed by primary actors, the institutional paths chosen, and the moral judgments made by the public in the 1994 Rosewood Massacre Bill and the 1921 Tulsa Race Riot Act of 2001. I explained the different choices that political actors made in these similar cases with reference to the resources supplied to them by political institutions, and to (the lack of) creative thinking.

The availability of the unique claim bill process in Florida animated the thinking of primary actors and conditioned the way they pursued compensation based upon property loss and damages inflicted by state malfeasance. The claim bill, rather than simply creating a piece of legislation to compensate survivors, provided the team of lawyers and legislators an opportunity to put the state on trial, and for legislators to hear directly from the victims about their emotional and financial damages. According to the lawyers, the success of their case is due in great part to the stories told by the survivors in their own words (Halton; Barnett). In Tulsa, however, primary actors used little imagination in crafting legislation seeking reparations for survivors and their descendants. Don Ross offered bills that sought the feasibility of reparations for riot survivors, but every reference to reparations was stricken through committee markup before reaching the floor for final vote. Even after the commissioned report was issued to the legislature, political actors did not draft a bill that included a request for a specific amount of damages for property loss that the report identified. The final bill, instead, created a commission to build a memorial to the riot, but without appropriations. The different institutions also provoked officials to different advocacy strategies in the legislature. In Rosewood, the focus on compensation for individual harms likely encouraged legislators to seek out the testimony of individual witnesses, which was politically efficacious. By contrast, in Tulsa, legislators were not encouraged to think in terms of the wrongs done to individuals and did not mobilize individual victims to tell their stories. The failure of imagination that marked the Tulsa advocates is ironic; after all, their Florida counterparts preceded them. They knew of the Rosewood case, and they even drew lessons from it for their work in Oklahoma.

In Chapter 4, I focused attention on the moment when the primary actors working on the Rosewood bill chose to seek redress through the claim bill process and to seek compensation for individuals rather than reparations for a group. I emphasized the paradox of the group's avoidance of the word "reparations" while they, in fact, consulted the Japanese-American Internment case for reparations. I attributed this distancing to the racialization of the term "reparations" and described the national discourse on reparations occurring throughout the 1990's. Lastly, I suggested some lessons that Rosewood advocates may have learned from their analysis of the Japanese-American case, and suggested further how these lessons may have assisted them in securing a favorable outcome.

#### **ROSEWOOD AS A SUCCESS**

As I stated above, we can interpret Rosewood as a success because political actors were adept at framing a racial pogrom in terms of harm against individuals and successfully sought state compensation for the property losses of individual survivors. The 1994 Rosewood Massacre Claim Bill successfully garnered \$2.1 million in compensation for survivors and those families who could prove they had lost property in the week-long violent spree (Florida House Bill 591). This is quite a feat in the context of racial harm, so much so that scholars frequently cite this as a model case for reparations, despite the fact that this was something quite different (Ogletree 2002 & 2003; Hirsch 2002; Henry 2007; Horowitz 2001; Robinson 2001:225; Salzberger and Turck 2004: 284; Yamomoto 1998).

As mentioned above, in an important sense my two cases are not independent of one another. Rosewood's compensation bill was a catalyst for Representative Don Ross when he began to ponder how Oklahoma might act on behalf of the Tulsa Riot survivors (Hirsch 2002; Horner; Gates). However, Ross failed to comprehend fully the process that Rosewood

followed in seeking compensation for the survivor's property losses. Additionally, the comparability of the two cases can also be seen by additional efforts at redress. In 2000, North Carolina General Assembly established the 1898 Wilmington Race Riot Commission in order to create a historical record of the 1898 Wilmington race riot and its website makes mention of the similar redress efforts in Tulsa and Rosewood ("1898 Wilmington").

Lastly, the injustices stemming from the racial pogrom in Rosewood, Florida seems to have been resolved in terms of what the legislative process was able to accomplish. Specifically, there have been no additional calls for redress or requests for government intervention into the matter. On this point, Tulsa differs sharply.

#### **TULSA AS A SUCCESS**

Although it seems that Tulsa Riot survivors paid very little attention to the efforts of Ross and other legislators fashioning legislation on their behalf in the late 1990's, a sleeping giant was awakened after the 1921 Tulsa Race Riot Act of 2001 was passed. In this case, compared to Rosewood, the survivors were not the mobilizing factor in gaining legislative attention. But they ultimately *did* become politically engaged; their engagement occurred outside the legislative process, but in response to it. In the wake of the unsatisfactory legislative response, whites and blacks in Tulsa are still engaged in activities that seek reconciliation. With the establishment of the commission to create a memorial of reconciliation through the 1921 Tulsa Race Riot Act, and the death of John Hope Franklin in 2009, the City of Tulsa and the Reconciliation Park Board of Directors decided to build a center and park for reconciliation in Hope's honor (JHF Center).<sup>37</sup> Also in 2009, the

---

<sup>37</sup> The late John Hope Franklin, one of America's most distinguished historians, worked for the Tulsa Race Riot commission, along with Scott Ellsworth, to produce the historical report of the Tulsa Race Riot of 1921. Franklin's father had lived through the riot when Franklin was a small child (Hirsch 2002). The John Hope

inaugural reconciliation dinner between whites and blacks and the first conference on reconciliation were held in Tulsa to bring attention to the unfinished work of reconciliation and the founding of the John Hope Franklin Center for Reconciliation. Additionally, religious and business leaders joined together in order to help implement the plans approved through the legislative bill.

According to John Gaberino, Board Chair of the Chamber of Commerce at the time of the bill's passage, the entire board realized that the Chamber had been largely silent throughout the legislative process and felt that they needed to do something.

So what I did is I formed a committee, and it was about 30 people, I don't remember if that was the exact number, but a 1/3 were chamber board members, 1/3 business reps from North Tulsa and, and also volunteers and people that were active in the community, and 1/3 politicians, the mayor, legislators, obviously Senator Horner and Representative Don Ross. So that group began to meet on a regular basis to see what we could do, the chamber and the city, we wanted to get the city government involved too, to help implement that legislation. And also to see what we could do in addition to that, to supplement it. (Gaberino)

The Chamber sought private donations to build the memorial for the riot that legislation had created, but did not fund. In all, the Chamber raised a half a million dollars for the memorial and also established a fund with the hope of paying each of the remaining 138 riot survivors \$5,000 ("131 Survivors" 5-A). Although the task force formed by the Chamber attempted to raise money, fund-raising efforts were stifled by the volatility of the reparations issue; it also seemed that they were unable to gain acceptance of the proposed amount from the survivors as a group (Gaberino). The largest amount raised and given to survivors in the form of reparations was from the Tulsa Metropolitan Ministry Reparations

---

Franklin Center for Reconciliation website describes the drama surrounding the eight years that it took to receive state funds to build Reconciliation Park, the memorial that was legislated through the passage of the 1921 Tulsa Race Riot Act of 2001.

Gift Fund totaling \$40,000, with checks of at least \$100 to each survivor (“131 Survivors” 5-A; “TMM Fund” a16). The TMM Reparations Gift Fund was established to provide support for riot survivors who did not gain monetary relief through the legislation after the passage of the 1921 Tulsa Race Riot Act (“TMM Fund” a16).

According to an article in the *Tulsa World*, Otis Clark, a riot survivor, was grateful to receive his check for \$214.03. “You have to be thankful for whatever you get. It’s better than nothing.” Before checks were issued by the Tulsa Metropolitan Ministry Reparations Gift Fund, “Nothing is just about all Clark’s mother and grandmother and the thousands of others left homeless by the riot had received...” (Krehbiel 1). The Tulsa Metropolitan Ministry Reparations Gift Fund was created by local churches in the area that supported reparation efforts on behalf of riot survivors. The group’s president even went so far as to urge the governor of Oklahoma to back the passage of HB 2468, originally crafted to extend the work of the Riot Commission and to determine the feasibility of paying reparations to survivors (“TMM Endorses” 11). Ultimately, every request for reparations was stricken from the bill and the creation of the Riot Memorial of Reconciliation Design Committee was put in its place (HB 2468).

In the wake of the unsatisfactory legislative response to the Tulsa Riot survivors, additional efforts to support the remaining living survivors have come from volunteer and community service groups. The Survivor’s Project, organized under Concerned Community Partners, paired the needs of survivors with local services such as transportation to and from doctor’s appointments and to grocery and clothing stores. Director Fai Walker said, “Reparations are important, and we don’t want to undermine that. But there are things we can do to help with day-to-day needs” (Kreihbiel 13). The group has even paired middle

school girls with the elderly riot survivors as a means of companionship. Walker adds, “[n]ot only will the girls give their service but the elders will tell the girls their story, and the story will get passed on” (13). The philanthropic efforts exhibited by business, religious and community groups in the aftermath of the 1921 Tulsa Race Riot Act demonstrate the continuing possibility for reconciliation due to the commitment of living survivors and their descendants in the area. Therefore, it is important to clarify what we mean when we label efforts to redress racial violence a “success” when compensatory resolutions are achieved. Conversely, I caution against equating those responses which lack redistributive outcomes with failure. Next, I suggest a look at how each case may be “closed” legislatively, yet retain an ‘unsettled’ element with respect to racial reconciliation.

#### **UNSETTLED ACCOUNTS**

Many see Rosewood as a closed case. However, it is possible to see unfinished work in terms of continued racism and discrimination generally and reconciliation between whites and blacks specifically. This is an “unsettled” case, unless we hold that “settled” equals compensation. In the book, *From Conflict Resolution to Reconciliation*, Yaacov Bar-Siman-Tov defines “reconciliation” as the restoration of “friendship and harmony between rival sides after conflict resolution, or transforming relations of hostility and resentment to friendly and harmonious ones” (2004:4). Although the state of Florida enacted legislation that was both compensatory (payments to survivors and funds set aside for property owners) and rehabilitative (scholarship fund for minority students), no apology was ever offered for the pogrom (Brooks 1999:10, 398). While Rosewood has been hailed as a success because people were actually paid restitution, and Tulsa has been regarded as a failure because its outcomes were primarily symbolic, the payments to victims, concluded the story of African Americans



in Rosewood, Florida. Since all survivors are now dispersed across the state and the United States, the potential for forging new relationships between formerly hostile groups around Rosewood is impossible. In the wake of the historic passage of the 1994 Rosewood Compensation Bill, survivors and their descendants hold gatherings in order to memorialize the events of 1923 and look to “healing”.

On May 4, 2004, exactly ten years to the day that Lawton Chiles signed the Rosewood Compensation Bill, Florida Governor Jeb Bush presided over the dedication of the Florida Heritage Landmark roadside marker erected to memorialize the Rosewood Massacre. Sponsored by the Florida Department of State and the Real Rosewood Foundation, the marker now stands on State Road 24 in Rosewood in front of the only building left standing following the burning of the town back in 1923 (Curry). Arnett Doctor, a descendant who represented the Rosewood families during the legislative process, told reporters that the marker was not enough, and neither was the payment of \$2.1 million to Rosewood survivors and descendants a decade earlier. Doctor remarked that the “redevelopment and revitalization of a township called Rosewood” would be the “last leg of the (healing process)” (DeWitt 1B). Just a few years earlier, Doctor wanted to build a monument for Rosewood survivors along with an educational center. Steve Hanlon, the lawyer who worked on the compensation bill, noted that money had already been raised for the project, but no concrete reports about any building projects have been recorded (Karp Weekend).

Other calls for a memorial were also heard in 2004 during the 81<sup>st</sup> Anniversary of the Rosewood Massacre when, for the first time, survivors and descendants held a “peace and healing” ceremony. Janie Bradley Black, Rosewood descendant and president of the

Rosewood Heritage Foundation, said that she would like to see, “a fitting memorial in Rosewood” because the memory of Rosewood must be kept alive. She also noted that “there needs to be something there in consideration of the family members who aren’t able to speak for themselves” (Flowers 5BH). Although only one living survivor remains, descendants still seek out many opportunities to share the story of Rosewood and to memorialize the incident for future generations.

Lizzie Jenkins, a Rosewood descendant and the president of the Real Rosewood Foundation that sponsored the road marker, said that, “When we preserve Rosewood’s history, we preserve America” (Lammers 5B). Additionally, she suggested that in returning to Rosewood for the 81<sup>st</sup> Anniversary, “it was time to come back for healing, peace, forgiveness and preservation” (Lammers 5B). Another descendant, Annette Goins Shakir, remarked that although her father was reluctant to talk about the events at Rosewood with strangers, she views “telling the story as a healing process” and would like to spread the word to as many people as she can so that they have an accurate picture of what really happened (Schulte 8). Efforts to understand and memorialize what occurred in Rosewood have set in motion calls for a state park on the site.

In 2009, a Miami-based community organization run by African American Marvin Dunn, purchased land in Rosewood in order to excavate the area for research and an archaeological survey. The Florida Division of Historical Resources donated a \$50,000 grant to assist with this effort (Audra 1A 2009). This was the first time a black person had owned property in Rosewood since residents had been forced out of the town in 1923. A year after acquiring the property, Dunn found a ceremonial sword and other items of historical importance and contacted Florida State Senator Tony Hill (D-Jacksonville), who said that the

findings were “a treasure that should be honored by a state park so people can research Rosewood” and planned to request special funding for the project in the 2011 legislature. The idea is that Rosewood would be restored as a museum and state park facility (Audra 1A 2010). Dunn, who purchased five acres of land in 2008 where the town once stood, is among the pool of landowners from whom the state may purchase property. Dunn states that it was always his intention to make his land open to the public (Audra 1A 2010). Additionally, he became so involved with the history of Rosewood that he organized the 88<sup>th</sup> Anniversary of the event held this past January 2, 2011 (Jones). Although the “Return to Rosewood Memorial Event” did not feature any survivors, nearly a dozen descendants attended. In his welcoming remarks, Marvin Dunn called for the “creation of a Rosewood State Historical Park” and declared his intention to lobby the state to purchase his property as part the building effort (Jones). Despite the material gain extended through passage of the compensation bill, it seems that there is still a push to memorialize the event in a more permanent way.

The story for Tulsa is similar in that, after the legal and legislative denial of survivor claims for reparations, the community of Tulsa continues to grapple with the issue of race and the need to reconcile blacks and whites in their city. Despite all of the political activity and engagement experienced in Tulsa around the issue of reparations, this city is yet to be united socially as reconciliation is being pursued. One important step in that process is an agreement upon a shared historical narrative and the effort to create a shared civic memory with an agreed-upon public narrative “about the problem of racial inequality” (Loury 2004; Bittker 1970:xiii; Olgletree 2002). Tulsa should be interpreted as unsettled not only because

its outcomes were primarily symbolic, but also because the city remains largely polarized by racial tensions between whites and blacks.

One example of racial tension is in the misperceptions about the Greenwood district based in negative stereotypes. Although the 1921 Tulsa Race Riot Act designated the Greenwood District as an enterprise zone to encourage the growth of new businesses, the perception of the area as high-risk for business and crime-ridden is a stigma the Greenwood Chamber is constantly working against. Chamber President and CEO, Reuben Gant says, "It has been difficult to attract private investment" because of racism and the view that the Greenwood community is "high risk" (Caliendo). In the 2010 Tulsa mayoral election, the three leading candidates noted that there is still a long way to go in healing race relations in the city and that building a grocery store in North Tulsa is a priority. Illustrating the point made by Gant above, one candidate suggested forming a consortium "made up of other local grocers so they would be willing to take the *risk* on the store" (emphasis added, Barber A11).

Adding to the difficulty of moving forward with a shared understanding and acceptance of a violent past is the unwillingness to support the findings issued by the Tulsa Riot Commission in its historical report. Despite the documents publication, many still strongly dispute its findings (Horner).

In March of 2001, Governor Frank Keating said that he could support compensation for survivors. Specifically, he said, if you can "show liability on behalf of the state, city or the county, I do support compensation to survivors. That is my personal view" (Greiner, 5-A). But in August of that year, he stated that he did not agree with the report issued by the Commission he appointed. According to one report, "Keating said he doesn't believe that the state was shown to be fault in the 1921 melee that destroyed about 35 blocks of Tulsa's

near north side and resulted in at least 38 deaths” (Krehbiel 1). Undermining the commissioned report has made it even more difficult to create useful dialogue around a shared historical narrative of the riot and to gain public support on behalf of the needs of riot survivors. Additionally, a Tulsa resident complained about the continuing news coverage in the *Tulsa World* newspaper regarding Tulsa Race Riot injustices. In a letter to the editor, the resident complained that the “stigmas of racism and culpability for this event – and the associated guilt of the current white population – are continually implied in the pages of your publication” and yet only a few survivors remain, “most of whom were children when the riot took place and who retain little or no actual memories of the event”. The letter concludes with a statement about the numerous calls for healing wounds, but that “[t]hey’re never going to heal if we keep prying them open and pouring salt in them (Hansen G2). In the aftermath of the 1921 Tulsa Race Riot Act of 2001, there have been many efforts to work across racial lines, but those efforts may not be desired by all residents of Tulsa.

Efforts to acknowledge, memorialize, and “heal” from the racial pogroms experienced in Rosewood and Tulsa can still be observed. In describing each of these cases as “unsettled”, I note that the meaning I use here refers to the continued effort, engagement, and activity around the issue of racism and racial discrimination stemming from the Rosewood Massacre and the Tulsa Race Riot. Therefore, the state of being unsettled is not necessarily a negative description and simply means that a community remains actively engaged in the process and pursuit of reconciliation.

#### **FUTURE RESEARCH**

In describing the processes that created the 1994 Rosewood Compensation Bill and the 1921 Tulsa Race Riot Act of 2001, I explored the importance of story-telling as one

necessary aspect of a more restorative process for survivors of racial violence. Specifically, in Chapter 3, I described how the use of story-telling in the legislative context becomes a process for eliciting legal facts through personal narratives and also constitutes one element in a bid for compensation. Primary actors in the Rosewood case identified in the claim bill process a forum for the voices of victims to be heard by those who would ultimately determine the fate of the bill. While Tulsa survivors were interviewed by a member of the race riot commission, their stories were never shared with state legislators. My work explores the strategic political value of hearing from victims, but this is far from the only way to consider the significance of story-telling.

In both legislative processes, primary actors first sought a clear historical understanding of what occurred through the details of survivor's stories. But Tulsa diverges from Rosewood and those stories never get shared with legislators. In *Between Vengeance and Forgiveness*, Martha Minow says that the act of testifying - speaking out, truth-telling - is significant for both victim and nation recovering from racial or ethnic violence (1998). But, in the Tulsa case, the words of the survivors were never used by the legislature in an official capacity. Minow argues that the cathartic benefits of storytelling can lead to liberation and healing for those who have been oppressively victimized. Although oral tradition and storytelling have long been understood as a way of creating community, conveying pertinent information, and maintaining an historical record among African Americans (Levine 1977), the claim that there is some greater benefit gained through the act of storytelling itself has not been verified.

Minow (1998, 1997) and Delgado (1989) write of the importance victim's voices can play in redress efforts and how storytelling can be cathartic. Additionally, according to

McAdams, narratives have the ability to persuade and give meaning to a series of events (1993). Future research would explore whether these claims are in fact true and whether the stories of victims produce some emotional, psychic benefit for survivors and whether it is, in fact, the stories told by survivors that persuaded legislators to compensate the Rosewood survivors or rather some other element of the case itself.

Additionally, I would look closely at other redress efforts in America that may, at first glance, appear discouraging or unsatisfactory concerning the failure of legislative or legal efforts at redistributive outcomes. I then suggest a closer examination of community and social activity at the local level surrounding the issue of race and racial injustice to determine if the community is still engaged in the work of reconciliation despite unsatisfying legal efforts.

## **CONCLUSION**

In a concern about payment equaling closure, it is possible that a cynical public may assume that all outstanding issues have been resolved when material relief is granted to survivors of past racial violence. But in examining the aftermath of legislative redress in both Rosewood and Tulsa, survivors and their descendants are still seeking something that courts and legislatures are not created to achieve, and that is reconciliation and “healing”. It is possible that compensatory responses may in fact work against a city trying to grapple with lingering racial questions.

In Tulsa, the business, religious, and civic organizations responded to the material and physical needs of survivors when the legislature did not approve reparations for Tulsa riot survivors and their descendants. While in Rosewood, survivors and descendants

received \$2.1 million in 1994 and yet still hope for a memorial or state park to honor the history of the Rosewood Massacre.

I began this dissertation with the desire to uncover why two similar cases of racial violence in America had such divergent outcomes. My explanation highlighted the narrative frames used by primary actors that redefined the way in which the violence in their states were understood. Each approach led to very different descriptions within the historical narrative crafted by investigative studies; for Rosewood, the focus was on the culpability of the state and its agents as well as the specific emotional and financial damage experienced by survivors and the property loss of descendants. The claim bill process sought to restore individual victims who had experienced direct harm as well as property loss in the pogrom. Tulsa, on the other hand, organized the entire Greenwood Community in a group-centered claim for redress with no specific calls to address individual property loss or damages. In their effort to create an historical narrative of the case, the Tulsa commission produced a historical report that determined government malfeasance and the moral obligation of the state to rebuild the Greenwood Community.

If we care about settling past accounts or restorative justice, it is important to understand why two comparable cases have significantly different outcomes. In the final analysis, differences between the final legislation rendered on each case can be attributed to the number of living witnesses and the way in which their narratives were given place to 'speak out' and address the public and members of the legislature. The claim bill process in Florida made the narrative frames shared by survivors politically relevant in resolving the case, while legislators in Oklahoma never heard directly from any Tulsa Riot survivor. Additionally, although each case had official record of property damage and personal loss,



the political actors involved with the Rosewood case were the only group able to identify a way to frame their case as a matter of property rights, while individual losses experienced by Tulsa Riot survivors were never given place in the discussion for reparations for the entire Greenwood Community. It was ultimately the combination of framing, institutional opportunity and the imaginative thinking of primary actors that affected the types of frames that were possible and, therefore, changed the way that two very similar racial pogroms of the past were discussed and eventually redressed through legislation.

## Works Cited

- "131 survivors of Tulsa riot compensated." *The Daily Oklahoman* 11 Apr. 2002, SUBURBAN, NEWS: 5-A. *NewsBank*. Web. 9 Feb. 2011.
- "1898 Wilmington Race Riot Commission". Web. <<http://www.history.ncdcr.gov/1898-wrrc/whoweare.htm>>. 21 February 2011.
- Barber, Brian. "Candidates take on race, religion." *Tulsa World (OK)* 31 Oct. 2009, Final, News: A11. *NewsBank*. Web. 25 Feb. 2011.
- Barkan, Elazar and Alexander Karn. "Group Apology as an Ethical Imperative." In, *Taking Wrongs Seriously: Apologies and Reconciliation*. Ed. Elazar Barkan and Alexander Karn. Stanford University Press, 2006. pp. 234-258
- Barnett, Martha. Personal interview. 13 July 2009.
- Bar-Siman-Tov, Yaacov. *From Conflict Resolution to Reconciliation*. New York: Oxford University Press, 2004.
- Bidenagal, J.D. "Justice, Apology, Reconciliation, and the German Foundation: Remembrance, Responsibility, and the Future." In, *Taking Wrongs Seriously: Apologies and Reconciliation*. Ed. Elazar Barkan and Alexander Karn. Stanford University Press, 2006. pp. 286-310.
- Bittker, Boris. *Reparations: The Case for Black Reparations*. Beacon Press. 1973.
- Brooks, Roy L. ed., *When Sorry Isn't Enough*. New York: New York University Press, 1999.
- Brophy, Alfred L. "The Tulsa Race Riot Commission, Apology, and Reparation: Understanding the Functions and Limitations of a Historical Truth Commission". In, *Taking Wrongs Seriously: Apologies and Reconciliation*. Ed. Elazar Barkan and Alexander Karn. Stanford University Press, 2006. pp. 234-258.
- \_\_\_\_\_. "Norms, Law, and Reparations: The Case of the Ku Klux Klan in 1920's". *HarvardBlackLetter Law Journal*. v. 20 (Spring 2004) p. 17-48.
- Brooks, Roy L. *When Sorry Isn't Enough: the Controversy over Apologies and Reparations for Human Injustice*. New York: New York University Press, 1999.
- Burch, Audra D.S. "A DIG FOR TRUTH IN HISTORY'S ASHES." *The Miami Herald (FL)* 25 Jul. 2009, Final, Front: 1A. *NewsBank*. Web. 24 Feb. 2011.

- \_\_\_\_\_. Audra D.S. "Town's story emerges from ground." *The Miami Herald* (FL) 29 Aug. 2010, Final, Front: 1A. NewsBank. Web. 24 Feb. 2011.
- Caliendo, Heather. "Erasing a reputation in Tulsa." *The Journal Record* (Oklahoma City, OK) 13 Oct. 2009.; NewsBank. Web. 25 Feb. 2011.
- Curry, Lashonda Stinson. "Rosewood massacre exhibit returns to Gainesville." *Ocala Star-Banner* (FL) 17 Jan. 2009, Entertainment: NewsBank. Web. 24 Feb. 2011.
- Delgado, Richard. "When a Story is Just a Story: Does Voice Really Matter?" *Virginia Law Review*, Vol. 76, No.1 (February), pp. 95-111, 1990.
- \_\_\_\_\_. "Storytelling for Oppositionists and Others: A Plea for Narrative". *Michigan Law Review*, Vol. 87, No. 8, Legal Storytelling (August), pp. 2411-2441, 1989.
- DeWitt, Dan. "Raising a town that vanished in ashes of violence." *St. Petersburg Times* (FL) 10 May, 2004, 0 SOUTH PINELLAS, CITY & STATE; METRO & STATE; TAMPA & STATE: 1B; 1B; 1B. NewsBank. Web. 24 Feb. 2011.
- Florida House Bill 591 - Enrolled. 1994. Florida State Archives. 14 July 2009.
- Flowers, Charles. "'I REMEMBER IT ALL MY LIFE,' ROSEWOOD SURVIVOR SAYS." *The Miami Herald* 8 Feb. 2004, Final, Special Section: 5BH. NewsBank. Web. 24 Feb. 2011.
- Gates, Eddie Faye. Phone Interview. 2 November 2009.
- Halton, Beau. "'No Resentment,' Rosewood Survivors Say." *Florida Times Union*. 21 October 1997. <<http://jacksonville.com/tu-online/stories/102197/2b3rosew.html>> Web. 10 March 2010.
- Hansen, John H. "Letter to the Editor: Let wounds heal." *Tulsa World* (OK) 28 Nov. 2010, Final, Opinion: G2. NewsBank. Web. 25 Feb. 2011.
- Hatamiya, Leslie T. *Righting a Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988*. Stanford, California: Stanford University Press, 1993.
- Henry, Charles P. *Long Overdue: the Politics of Racial Reparations*. New York: New York University Press, 2007.
- Hirsch, James S. *Riot and Remembrance*. New York: Houghton Mifflin Company, 2002.
- "H.R. 1843 Tulsa-Greenwood Race Riot Claims: Accountability Act of 2009." <<http://www.govtrack.us/congress/bill.xpd?bill=h111-1843>>. 7 February 2011.

- "H.R. 1995 Tulsa-Greenwood Race Riot Claims: Accountability Act of 2007."  
<<http://www.govtrack.us/congress/bill.xpd?bill=h110-1995>>. 7 February 2011.
- John Hope Franklin Center for Reconciliation. Web. <<http://www.jhfcenter.org/about/>> 23 February 2011.
- Jones, Lou Elliott. "Event Marks 88<sup>th</sup> Anniversary of Rosewood Race Riot." 7 January 2011.  
*Chiefland Citizen*. Web. <<http://www.chieflandcitizen.com/content/event-marks-88th-anniversary-rosewood-race-riot>>. 24 February 2011.
- Karp, David. "Nowhere to be found." *St. Petersburg Times* 21 Mar. 1997, WEEKEND:  
1T. NewsBank. Web. 24 Feb. 2011.
- Krehbiel, Randy. "Helping hand extended to Greenwood survivors." *Tulsa World*. 15 May,  
2002, Final Home Edition, NEWS: 13. NewsBank. Web. 9 Feb. 2011.
- \_\_\_\_\_. "Recognizing a wrong." *Tulsa World* 11 Apr. 2002, Final Home Edition, NEWS:  
1. NewsBank. Web. 9 Feb. 2011.
- Lammers, Dirk. "SURVIVORS MARK ANNIVERSARY." *The Miami Herald* 2 Jan. 2004, Final,  
Metro & State: 5B. NewsBank. Web. 24 Feb. 2011.
- Levine, Lawrence. *Black Culture and Black Consciousness: Afro-American Folk Thought from  
Slavery to Freedom*. New York: Oxford University Press, 1977.
- Loury, Glenn C. "Trans-Generational Justice – Compensatory vs. Interpretive Approaches."  
(2004). Web. 4 Feb 2011. Forthcoming in *Reparation*. Jon Miller (ed), Oxford  
University Press, Spring 2006.  
[http://www.econ.brown.edu/fac/Glenn\\_Loury/louryhomepage/papers/reparations%  
20.pdf](http://www.econ.brown.edu/fac/Glenn_Loury/louryhomepage/papers/reparations%20.pdf)>.
- Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide*. Boston, MA:  
Beacon Press, 1998.
- \_\_\_\_\_. *Not Only for Myself: Identity, Politics & the Law*. New York: The New Press, 1997.
- Overall, Michael. "Mending Fences - Panel to Eye '21 Race Riot Reparations." *Tulsa World* 17  
Aug. 1997, FINAL HOME EDITION, NEWS: A19. NewsBank. Web. 7 Feb. 2011.
- "Race Riot Lawsuit to be Subject of Bill, Hearing." 21 April 2007. <[http://www.statutes-of-  
limitations.com/news](http://www.statutes-of-limitations.com/news/)>. 7 February 2011.
- Schulte, Eileen. "Healing the wounds." *St. Petersburg Times* 3 Nov. 2000, LARGO TIMES;  
SEMINOLE TIMES; CLEARWATER TIMES; NORTH PINELLAS TIMES: 8; 8; 8;  
8. NewsBank .Web. 24 Feb. 2011.

Simpson, Kirk. "Voices Silenced, Voices Rediscovered: Victims of Violence and the Reclamation of Language in Transitional Societies." *International Journal of Law in Context*. 3, 2. pp. 89–103 (2007).

"TMM endorses riot reparations." *Tulsa World*. 24 Feb. 2000, Final Home Edition, NEWS: 11. *NewsBank*. Web. 9 Feb. 2011.

"TMM fund distributes \$12,000 more." *Tulsa World* 9 Aug. 2002, Final Home, News: a16. *NewsBank*. Web. 9 Feb. 2011.