

THE UNCOMMONWEALTH / Voices from the Library of Virginia

Documenting Lynching In Virginia: A Transcription Project At James Madison University

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Mob violence against perceived threats to a local community has been a staple of US history, with its long tradition of vigilantism and “popular justice,” especially in the American Frontier. At the end of the Civil War, however, lethal mob violence became increasingly racialized in the South, targeting especially newly freed Black men. While rarely associated with this practice, lynching in Virginia also became a formidable instrument to oppress and terrorize African American communities. With the end of Reconstruction, lynching in the South became a pervasive form of extra-legal, lethal punishment for people accused of serious crimes, or even for violating racial norms. As a tool of racial repression and white supremacy, lynching wasn’t just a way to punish alleged “Black criminals,” though; crucially, it was a form of racial terror to send a message of intimidation to Black communities. Moreover, lynching mobs enjoyed at least some level of support by the white community they hailed from, and virtual impunity from the legal and political system. According to various estimates, between 3,000 and 4,000 Black people were lynched in the South between 1878 and 1940.

Until very recently, lynching was a mostly forgotten page of U.S. and Virginia history, the impact this barbaric practice had on African American communities erased from our collective memory. History textbooks and curricula tend to dedicate little to no attention to how lynchings terrorized Black communities for decades. In the past few years, however, there have been several initiatives in Virginia to address this erasure and confront our past of racial terror, including the History of Lynching in Virginia work group established by the Virginia General Assembly in 2018.

As a researcher of racial violence, I have developed over the last several years a digital history project called *Racial Terror: Lynching in Virginia* to document with primary sources all the lynchings that took place in the Commonwealth between 1866 and 1932. Released in 2018, *Racial Terror* provides the most complete inventory of people lynched in Virginia with detailed information about the race, gender, age, accusation of each lynching victim, and the location where the killing took place. For each person lynched, the website devotes a page describing the events that led to their murder and its aftermath (for instance, read here about the 1878 lynching of Charlotte Harris in Rockingham County). The overwhelming majority of lynching victims in Virginia were Black men (93 out of 115, 82%), often accused of committing a violent crime against a white person. Twenty lynching victims were white men. Two women, one Black, Charlotte Harris, and one white, Peb Falls, were also lynched, both in Rockingham County in 1878 and 1897, respectively.

By compiling and making accessible a comprehensive account of Virginia lynching victims, the *Racial Terror* project aims to offer students, scholars, and local communities the tools to explore these neglected stories of mob violence. To tell these stories, often removed from local histories, the site relies on primary sources, especially newspapers – the main source of information available to study lynching. The website hosts a database with more than 600 news articles, mostly from historical Virginia newspapers, covering lethal mob violence in the

Old Dominion. Importantly, this project was made possible thanks to several undergraduate research teams at James Madison University (JMU).

Since 2017, I have regularly taught *JUST 400*, the capstone course for the Justice Studies major at James Madison University (JMU), as a research-intensive Senior Seminar on Lynching and Racial Violence. Students in this course typically dedicate about four weeks during the semester to conduct one or more research projects related to the history of lynching and racial violence in Virginia. Every year, students work as research teams and are assigned weekly research assignments. Depending on the assignment and project, students work individually or as part of a small group. Over the years, students in this course have conducted a variety of projects on primary sources related to the history of lynching in Virginia. For instance, students have used online newspaper repositories such as *Chronicling America* and *Virginia Chronicle* to collect, organize, and classify the hundreds of articles that populate the *Racial Terror* website. As white newspapers were biased sources of information about lynching, often justifying and at times even inciting mob violence, students devoted special attention to gathering articles from the *Richmond Planet*, the leading Black newspaper in Virginia, as well as the *Norfolk Journal and Guide*.

These newspapers, and especially John Mitchell, Jr., the editor of the *Planet*, represented some of the loudest voices against lynching in Virginia and its apologists, providing a powerful counternarrative to the white media's construction of lynching [See Figures 1 and 2]. In another project, students geolocated each documented lynching in Virginia, which culminated in an interactive map of lynching in the *Racial Terror* website that provides basic information about each episode of mob violence and links to the stories of the lynching victims. Based on this student research, the existing inventories of Virginia lynching victims were improved and updated.

Most of the research projects involved the retrieval, use, and organization of news articles, as they represent the main source of information scholars have about lynching. However, newspapers only tell part of the story, and to get a more complete and precise account of these episodes of mob violence, an examination of archives and official documents is needed. Archival sources on lynching are, unfortunately, relatively rare and hard to come by, as most of the time there were no official records that a lynching took place. Like newspapers, these sources are subject to bias, as they are the product of agents of the state with their own institutional priorities, immersed in the white supremacist ideology of the time. As anti-lynching activist and journalist Ida B. Wells succinctly put it, "Those who commit the murders write the reports." The official investigations of lynchings were particularly important to ensure the impunity of the mobs and the white officials that often failed to prevent a murder; at the end of these investigations, officials would often conclude their report stating that the victims "died at the hand of persons unknown." In Virginia, very few members of lynching mobs were identified and brought to trial, and only in two cases were lynchers convicted with light sentences (in one case, the murderers were later pardoned) [See Figure 3].

In 2021, under the auspices of the History of Lynching in Virginia Work Group, JMU and the Library of Virginia (LVA) started a collaboration to identify and make accessible the archival sources related to lynching in Virginia. A team of archivists at LVA retrieved and digitized more than 300 pages of documents related to lynching events in Virginia. These archival materials

include commonwealth causes, coroner's inquests, and death certificates. Commonwealth causes are criminal court cases filed by the state government and relate to trials prosecuting individuals accused of violating the penal code. These files include warrants, summonses, subpoenas, indictments, and verdicts handed down by juries and other legal authorities [See Figure 4]. Coroners' inquisitions investigate the death of individuals who suffered a sudden, violent, unnatural, or suspicious death, or died without medical attendance. Under this category, we can find the inquisition, depositions by witnesses, and summons. Inquisitions provide information about the name of the coroner and the jurors, the name and age of the deceased (if known), their gender and race, and when, how, and by what means these people died [See Figure 5]. Death certificates provide basic demographic information about the deceased and the cause of death. All these documents can provide important details on the lynching victim and how they were killed, as well as the accusation that led to their killing. The identity of the lynchers, however, is almost always unknown, thus leading to impunity for the mob.

In the Spring of 2022, twelve students enrolled in the *JUST 400* Senior Seminar formed a research team tasked with transcribing the records that were digitized by the LVA team. As these old documents are often hard to read and are not searchable, transcribing them is a crucial and necessary undertaking to make them accessible to readers. The Justice Studies students thus joined LVA's Making History crowdsourcing project as part of the larger effort by LVA to enhance "access to collections covering 400 years of Virginia history, people, and culture."

During the first week of the student's research project, Sonya Coleman and Lydia Neuroth from LVA held an online lecture via Zoom on "Transcribing Virginia History." During their presentation, Sonya and Lydia introduced the students to crowdsourcing projects at LVA, the different types of records they would be transcribing, and the legal language that permeated the documents. Most importantly, Sonya and Lydia instructed students on how to transcribe these records, relying on the crowdsourcing platform From The Page. During this lecture, we worked collectively to transcribe one document, thus providing an initial template on how to approach the difficult task of transcribing old records.

For the next several weeks, we used a flipped classroom approach, in which students brought their laptops to class for 75-minute transcribing sessions. Each student was assigned a certain number of records to transcribe individually within a deadline and they used the class time to carry out some of the transcribing; the advantage of this approach was that students could rely on me and other students to ask questions, receive feedback, and "solve" some of the most difficult texts to transcribe. This approach created a dynamic learning environment in which students were helping and consulting each other, as they quickly learned the tricks of the trade of transcribing. For records that were particularly hard to decipher, I created a small team that worked together to transcribe them. When all the records were finally transcribed, I had students review each other's work, making corrections and leaving notes for each other.

At the end of the research section of the Senior Seminar, we had a debriefing session during which students discussed their experience and challenges in transcribing these records. During the discussion, students voiced their enthusiasm in conducting their research tasks and appreciated how this project was different from other academic assignments they conducted in the past, as this felt to be "real" and akin to solving puzzles. The project also generated a good collaborative spirit in the classroom, as students genuinely took interest in each other's work and helped each other with the most difficult texts to transcribe. Overall, they had a very positive

experience, and knowing that all their work would be made public boosted their commitment and involvement in the project.

After the end of the semester, I worked with Sonya and the LVA staff to further check and revise the transcriptions to weed out any remaining errors. In May 2023, the *Lynching and Racial Violence Collection* was published online as part of the LVA Digital Collections, making the digitized and transcribed records available to the public. The documents in this collection correspond to lynching victims catalogued in the *Racial Terror: Lynchings in Virginia* website and are directly linked to the pages dedicated to them. The *Lynching and Racial Violence* collection at LVA and the *Racial Terror* website represent two unique sources of primary documents and resources for anyone interested in learning, teaching, and researching about lynching in Virginia.

For far too long, stories of lynching and their impact on Black families and communities have been neglected and purged from both collective and institutional memories in Virginia and, more generally, the United States. History textbooks and curricula have typically overlooked lynchings as a tool of enforcing white supremacy and controlling Black communities through terror. The *Racial Terror* project and the *Lynching and Racial Violence* collection are part of a larger scholarly and public effort to reveal and examine the history and extent of racial violence in the United States. As archival scholar Tonia Sutherland noted, “these documentation efforts are also an attempt to create an historical record, eliminating the possibility of erasure and enabling the possibility of justice.”

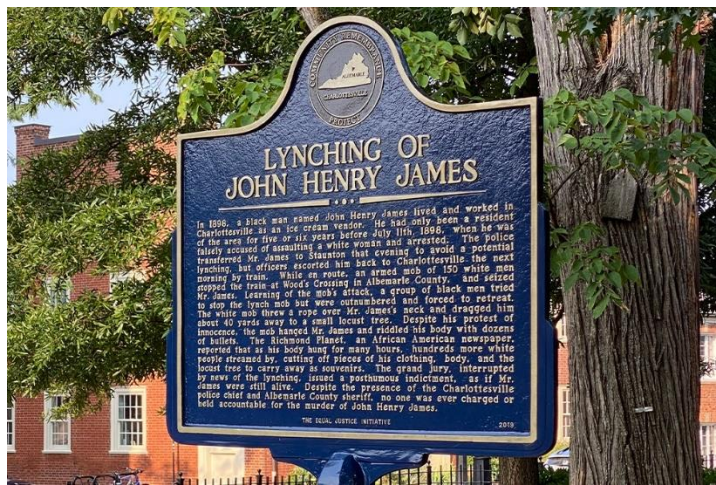
—*Gianluca De Fazio*, Associate Professor of Justice Studies, James Madison University



ESSAY

RECKONING WITH RACIST ‘LYNCH LAW’ AND RAPE CHARGES, A CENTURY LATER

States Like Virginia Are Reexamining Long-Ago Cases on the Path Toward Redress and Redemption



Margaret Burnham, director of the Civil Rights and Restorative Justice Project at Northeastern University, argues that it's time for attorneys and courts in the U.S. and Southern states to revisit decades-old rape accusations, many of which led to lynchings of Black boys and men. Pictured above: a historical marker on the grounds of Virginia's Albemarle County Courthouse commemorating lynch mob victim John Henry James, who was posthumously charged with rape. An Albemarle County judge threw out the 125-year-old indictment this year. Courtesy of [Albemarle Charlottesville Historical Society/Cvillepedia](#). Public domain.

BY MARGARET BURNHAM | OCTOBER 25, 2023

On July 12, 1898 John Henry James’ body, riddled with bullets, hung from a locust tree. The Virginia man had been in the custody of the Albemarle County sheriff, awaiting grand jury action on a rape allegation, when a mob of 150 people kidnapped and killed him.

James, the story went, sexually assaulted one Julia Hotopp. (I belabor here, in confirming your suspicion that James was Black and Hotopp white.) There were doubts surrounding Hotopp’s allegation. Still, a newspaper applauded the mob, noting that “the people of Charlottesville heartily approve the lynching.” The grand jury, determined to have its say too, over a corpse no less, issued a posthumous indictment.

For more than a century, James was an accused rapist. He obtained a minuscule measure of justice on July 12, 2023—the 125th anniversary of his death—when Albemarle County prosecutor James Hingeley asked a circuit court to revisit the indictment, and judge Cheryl V. Higgins, at long last, dismissed it.

These officials are to be commended; criminal indictments do their best work in the universe of the living. James’ is an easy and instructive case, illustrating with blinding clarity the umbilical link between illegal lynching and state-sanctioned rape executions, two corporeal atrocities that were, infamously, pretty much reserved for Black males—boys, as well as men.

James' exoneration is also a prophetic case. It demarcates a path forward for a crucial American reckoning with a thousand-plus state executions of Black males accused of assaulting white females, mostly in latter-day Confederate states, at the hands of a supremacist legal regime.

That John Henry James' indictment came after his lynching may seem absurd—but in 1898, and for decades thereafter, such was the symbiotic common ground between the county courthouse and the lynching locale. Legal officials raced against the mob to confer upon these killings the stamp of validity, and lynching parties, enacting “lynch law,” adorned their proceedings with the rituals of the courtroom. Lynchings were extensions and expressions of the administration of justice, not estranged from it. A case in point: in Memphis, Tennessee, in 1917, a group of men known as the Shelby Avengers announced their intention to lynch a man charged with the sexual assault and murder of a white teenager, giving people ample time to reach the location where, they promised, justice would be dispensed. After the man was burned, decapitated, and dismembered, the *Commercial Appeal* reported, “throughout the entire proceedings there was perfect order ... and none offered violence not countenanced by the summary court.” The newspaper also complimented the Avengers for having the forethought to appoint a treasurer to secure compensation for those participants who had absented themselves from work to search for and lynch the man. Jury duty.

This pattern persisted from the end of the Civil War until the early 20th century. Beginning around 1909, with the introduction of the electric chair, the numbers of legal executions rose, slowly replacing extralegal lynchings, at least in Virginia. Some scholars of lynching—Fitzhugh Brundage, for example—have expressed skepticism that a rise in legal execution in the early 20th century correlated with a decline in extralegal lynching. But the historical record is replete with evidence that executions were understood to be a replacement for the mob, particularly in Virginia.

The James case makes clear that the crimes of racialized justice must be lifted from the pages of books, criminology journals, and amicus briefs and placed in the public square.

From 1880 to 1909, 27 Black men were lynched in Virginia for rape or attempted rape, while just seven were lynched in the four decades that followed. From 1908 to 1965, Virginia executed 56 men on non-lethal sexual assault charges. All of them were Black. These numbers are not anomalous: 19th-century versions of the state's rape laws explicitly split white rape from Black rape. Before the Civil War, only “free negroes” charged with assault against white females were subject to the death penalty; the penalty for white males was limited to a 10- to 20-year prison term. Over its entire 400-year history, the state killed just three white men for rape, all before 1868, and no white man was ever put to death for attempted rape while 36 Black men suffered that fate—one as late as 1940.

In 1921, the state's highest court made the connection between the rise in executions and the decline in lynching explicit. In *Hart v. Commonwealth*, a case sanctioning the execution of a 21-year-old for attempted rape and rejecting his argument that the sentence constituted cruel and unusual punishment, the Virginia court opined that "the likelihood of the resort to lynch law, unless there is a prompt conviction and a severe penalty imposed. . . is well known to exist." (Indeed the state apparently deemed attempted rape more heinous than attempted murder—an offense for which no one in Virginia, Black or white, was executed after 1863.)

For decades to follow, Virginia's Supreme Court—comprised entirely of white male jurists—aided and abetted what U.S. Supreme Court Justice Harry Blackmun later described as a "machinery of death." From 1908 to 1963, the court wrote opinions in 73 capital and non-capital cases of rape and related crimes; they reversed the sentences of approximately one-quarter of Black defendants compared to nearly two-thirds of white defendants.

Other states enforced similar laws. Louisiana also ran a two-tiered legal regime for rape prosecutions, effectively reserving its capital penalty for Black defendants charged with sexual assault on whites. Since 1900, the state has executed around 40 defendants for aggravated rape; all but two were Black. It has never executed a white man for the rape of a Black woman. South Carolina has, since 1900, executed around 66 people for sexual crimes, of whom 61 were Black. Florida has executed 48 men for rape and related crimes, of whom 44 were Black. And in Georgia, since 1900, 87 of the 93 men executed by the state for rape have been Black.

The U.S. Supreme Court declared the death penalty for rape unconstitutional in 1977. But its decision in *Coker v. Georgia* hinged on the Eighth Amendment's prohibition against cruel and unusual punishment, and never addressed the penalty's longstanding racial intent and impact. Had it done so, lower courts might have been on notice to protect against unconstitutional bias in the administration of rape laws by, for example, ensuring fair and deracialized jury selection, protecting against discriminatory prosecution, and guarding against the race tax in sentencing.

Instead, the execrable history of lynching and execution continued to infect rape prosecutions. Until DNA forensics became widely available about 20 years ago, countless innocent Black men were wrongly convicted for sexual assault. Just 10 years ago, Black people were almost eight times more likely than white people to be falsely convicted of rape. And just last year, the National Registry of Exonerations reported that Black prisoners incarcerated for sexual assault are over three times more likely to be innocent of the crime than white prisoners—and generally received far longer sentences than white exonerees.

This is not just a Virginia problem. But Virginians are grappling with this history head-on, and could lead the nation in a project of redress. The state recently abolished the death penalty, in 2021. That year, then-governor Ralph Northam posthumously pardoned seven men who were executed after conviction on a 1951 rape charge that attracted international protest. Descendants of the Martinsville Seven, as the accused were known, had campaigned for the pardon. Northam was careful to specify that the pardon was not an exoneration; it was an acknowledgment that the men did not get a fair trial. "We all deserve a criminal justice system that is fair, equal, and gets it right," he proclaimed.



This illustration was part of a 1951 Michigan petition mailed to then-Virginia Governor John S. Battle to save the "Martinsville Seven." Their executions were carried out despite pleas for mercy from around the world. Image courtesy of the Library of Virginia.

By that measure—one none could quarrel with—there are, nationally, 1,073 rape executions that deserve posthumous redress. States could aim to correct these travesties by executive pardon, as with the Martinsville Seven, or by judicial action, as with John Henry James. The U.S. courts might start admitting their own complicity in rushing Black men to their deaths. Localities might consider how prosecutors' offices, like that of Albemarle County, can review historical cases to determine how many were rushed to judgment to avert mob violence, or otherwise shortchanged the process that was the defendant's due. They might also examine the actions of police, who often railroaded accused men by threatening to turn them over to the mob if they did not "confess."

Manifestly, not every Black man executed for rape was innocent of the charge. But because none of these men got the due process or sentencing justice they deserved, perhaps all their cases must be re-examined. All of these men were hostages in the war for white supremacy. All of them were subjected to the meta-law of race. And all of them experienced law as a political weapon, rather than a set of neutral evidentiary rules.

State-endorsed redress and remedial measures, while inevitably insufficient, will help. They would also expiate slanders and stereotypes that, even in today's courts and prosecutors' offices, render the Black male "naturally" a potent threat to white females. When Dylann Roof shot down parishioners at Emanuel AME Church in Charleston, South Carolina, in 2015, his battle cry evinced the abiding nature of this group libel. "Y'all are raping our white women, y'all are taking over the world," he yelled, as he slaughtered.

The new sits solidly on top of the old here; race is the beginning and the end of this ongoing horror story. There is work to do, and Charlottesville prosecutors have sharpened their pencils and stretched their (and our) imaginations. The James case makes clear that the crimes of racialized justice must be lifted from the pages of books, criminology journals, and amicus briefs and placed in the public square. There, they can stimulate a community's "ongoing commitment to . . . racial justice" and demonstrate the "importance of community remembrance projects," as Hingeley, the prosecutor who helped clear James, observed.

The more of these historical travesties we tackle, the better off our legal system, and our nation, will be.