

# a murder, a lynching, a mystery

## ... a list that names prominent Cobb County men involved in the plot to hang Leo Frank

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By Jim Auchmutey

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He wanted her to know because Kean, a 46-year-old special education administrator, is the great-niece of Mary Phagan, the blue-eyed, pink-ribboned factory girl whose 1913 murder precipitated one of the most infamous chapters in Georgia history. Her employer, Frank, a wiry, nervous young man from Brooklyn, was convicted of the crime and then lynched near Marietta, not far from the site of the Big Chicken, after the governor commuted his death sentence.

People confided in Kean. Once, at a Size 5-7-9 shop in Cumberland Mall, a salesgirl recognized her name and volunteered that one of her kin had helped string up Frank. Kean recorded what she heard and kept a roster of the men who believed they were avenging her great-aunt. She sealed her latest version of the list in an envelope and printed across the front, with a teacher's neat penmanship, "To be opened at my demise."

Kean pulls the envelope out of a loose-leaf binder and lays it on a table in her Marietta home. "I can't show this to you," she says. "Too many people would be hurt."

But it's too late now. One of her working lists has been posted on the Internet against her wishes. For the first time, one of the oldest, darkest secrets of the South --- the names of the people who lynched Leo Frank --- is beginning to see the light of day.


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It has been almost 85 years since Frank was hanged, but the passions unleashed that long-ago morning in Marietta have not been forgotten. Two plays inspired by the case are opening here this summer. On Tuesday, Atlanta native Alfred Uhry's musical "Parade" will begin a week-long run at the Fox Theatre. On Aug. 16, the anniversary of Frank's abduction, Theatre in the Square will stage "The Lynching of Leo Frank" on the very square where Cobb County's movers and shakers plotted to break him out of prison and execute him.

Retellings of this tale are nothing new, of course. Perhaps 20 books, movies and plays have covered the ground in every decade since Phagan and Frank were murdered. In all of them, the lynchers have remained a faceless, nameless mob. The victims, on the other hand, are vivid.

All these decades later, pilgrims still visit the Phagan grave in Marietta's Confederate cemetery and tarry at the inscription that assures her soul that "many an aching heart in Georgia beats for you." Some of them leave stuffed animals, a display strangely reminiscent of the toys hung from a dogwood tree a few blocks away at the grave of another murdered child, JonBenet Ramsey.

Across town, there's a different sort of tribute. A plaque on a nondescript professional building off Cobb Parkway, at Roswell and Freys Gin roads, marks the



1915

Atlanta: Leo Frank, who ran the National Pencil factory (above), was convicted of murdering Mary Phagan, a teenage employee from Marietta. After the governor commuted his death sentence, Frank was lynched (top) in Cobb County. No one was charged.

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spot where Frank was lynched. The inscription is as stark as Phagan's is lyrical: "Wrongly accused. Falsely convicted. Wantonly murdered."

Rabbi Steven Lebow, of the nearby Temple Kol Emeth, had the bronze tablet placed on the 80th anniversary of the lynching. It was the first time anyone in Marietta had memorialized Frank, who was Jewish.

"That lynching is treated like the original sin in Cobb County," Lebow says. "It's like something out of a William Faulkner novel."

Marietta was definitely a more Faulknerian place in 1915. It was a country town of about 6,000 centered on a classic Southern courthouse square that filled with farmers' horse-drawn wagons on Saturday afternoons. The county's largest employer was the Brumby rocking chair factory. Atlanta, 20 miles down red-clay roads, felt much farther away than it does today.

It was an era of vigilantism. Twenty-two people --- all but one of them black --- were lynched in Georgia in 1915. One of them died the same day as Frank; 63-year-old John Riggins was hanged near Bainbridge for allegedly assaulting a white tobacco planter's wife. The story rated three paragraphs on an inside page of The Atlanta Journal.

Frank's lynching got a three-line banner headline across the front. His story was utterly unique. Here was a white man, an Ivy League-educated Yankee, convicted of murdering a pretty gentile girl with Marietta roots, all on the testimony of a black janitor who said his boss man had come on to her at the pencil factory. Sex, race, religion, class, sectionalism --- in one swoop, the case exposed the raw nerves quivering below the surface of the New South. Once Frank was sentenced to die, his fate became a national cause celebre, on one side galvanizing the newly formed Anti-Defamation League of B'nai B'rith, on the other helping to inspire the rebirth of the Ku Klux Klan.

For all its larger repercussions, however, the Frank story continues to fascinate historians and playwrights for one very human reason: It began and ended with murder mysteries.

"The lynching is one of the great unsolved crimes of the 20th century," says Steve Oney, a Los Angeles writer who has been working on a book about the case for more than a decade.

Many of the details are known from contemporary and historical accounts. In the summer of 1915, after Gov. John M. Slaton commuted Frank's death penalty to life in prison, a group of Cobb civic leaders calling themselves the Knights of Mary Phagan met secretly to plot the lynching. What drove them to action, Oney says, wasn't blind anti-Semitism. It was their belief that Slaton had pulled a fast one; one of the partners in his Atlanta law firm was Luther Z. Rosser, Frank's lead defense counsel.

Oney draws an analogy: "Imagine how people would have felt if O.J. Simpson had been found guilty and the governor of California commuted his sentence and, oh, by the way, he practiced law with Johnnie Cochran."

Three weeks after the commutation, the Knights launched an attempt to abduct Frank but had to abort it because someone talked. A few days later, an inmate attacked Frank with a butcher knife, slitting his throat and almost killing him. The lynchers bided their time as he healed.

Finally, late on the afternoon of Aug. 16, a Monday, eight cars left Marietta one by one for the state prison farm in Milledgeville. The commandos arrived shortly before midnight, cut the telephone wires, severed the gas lines of the prison cars and overpowered the guards. They woke Frank, handcuffed him and drove him through the night to his execution.

The sun was beginning to rise as the party approached Marietta from the east on Roswell Road. They had planned to hang Frank in the town square or at Phagan's grave. Now they decided they'd better get it done before daylight, so they pulled off into an oak grove on a farm belonging to a former Cobb sheriff. They wanted to know whether Frank had any last requests. He removed his wedding ring and asked that it be returned to his wife of five years, Lucille, a member of one of Atlanta's most prominent Jewish families, the Seligs. He was allowed to write her a

note, Oney says, but the lynchers destroyed it because it was in German and they couldn't be sure he wasn't pointing a finger at them.

A little after 7 a.m., one of the men kicked a table out from under Frank. His body dangled 4 feet above the ground, blood spreading from the reopened knife wound, and he slowly strangled to death.

When word of the lynching reached Marietta, people rushed to the scene and snapped photos of the corpse and snipped pieces of the rope for souvenirs. One roadhouse in Smyrna for years displayed a scrap of what it claimed was the nightshirt Frank had been wearing.

Some in the crowd wanted to mutilate the corpse. One man ground his heel into the face. Thanks to a judge who talked down the mob, Frank's body was spirited to Atlanta before any further desecration and shipped home to New York. He was buried under a headstone that bears the Latin engraving *semper idem* --- "always the same."

The state prison commission conducted an investigation. Cobb County held two inquests. But no suspects were named, no charges brought. Marietta had closed ranks. The Knights of Mary Phagan had taken a vow of silence. As it turned out, not all of them would take their secret to the grave.

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Bill Kinney is sitting in a back booth at the Cupboard, a meat- and-three restaurant in an old house near the square in Marietta. The columnist has covered his native Cobb County for almost half a century with the Marietta Daily Journal. As he pokes his fork into a mound of sweet potato souffle, he considers the touchy question of why, after all these years, Frank's lynchers have never been named.

"It's a community embarrassment, that's why," he says. "My mother always said not to talk about it because it was a black eye for Marietta. So we didn't talk about it."

But some people did --- people in a position to know. Whether they were proud of their involvement or stricken by guilty consciences, some of the lynchers (the last one of whom died a quarter of a century ago) wrote things down or told their recollections to family and friends. One account, from the inner circle of the conspiracy, ended up in Kinney's possession.

As a young reporter, Kinney wanted to know everything about the Frank case. He spent days in the Fulton County courthouse reading the trial transcripts (which have since disappeared) and decided that, like the jurors, he would have voted to convict.

Then, almost 30 years ago, he got a call from a good friend, a local judge. One of the last lynchers had suffered a heart attack some years before. Feeling pangs of mortality, he had summoned the judge and made a deathbed statement of what he knew about the Frank killing. The judge had a list of people who had planned and carried it out. He was getting old now and wanted to entrust the information to his newspaper pal.

"I didn't know what to do with it," Kinney remembers. "It's like wanting to know something, and once you know it, you're sorry. It's been a burden."

Over the years, a procession of students, historians and journalists have tramped into Kinney's office and tried to wheedle a peek at the list. He guards it like a last will and testament. While he has hinted at some of the names in talks before civic groups, he has disclosed little. He certainly hasn't spilled the beans in the Marietta paper, not when he sees the grandsons and great-nieces of lynchers on a weekly basis.

Kinney sees one of the descendants in the mirror every morning. An uncle of his, a barber named Cicero Dobbs, was almost certainly a member of the group that plotted Frank's death.

"I don't know if he was involved," Kinney says. "Everyone says he was."

There are others with lists. Kean has hers. Oney obtained one from a woman who had taken dictation from her father, one of the lynchers, during the '40s. Tim

Cole, a sports marketer who grew up in Cobb County, got a list from a person who got it from one of the lynchers. He passed it along to Rabbi Lebow, whose synagogue he attends with his Jewish wife.

Until recently, none of the list-keepers has tried to publicize the information --- not even the rabbi responsible for the plaque memorializing Frank.

"I just put it in a file," Lebow says. "I know some nice and kind people here who are related to members of the lynch mob. I didn't want to hurt them."

Dan Cox, director of the Marietta Museum of History, saw firsthand how damaging anything connected to the lynching could be when he gave an interview to a reporter a few years ago.

"The story kind of implied that someone had been involved, and I knew good and well he hadn't been," Cox says. "Well, his widow called and said it was news to her. She was upset. She said she hadn't been sleeping very well just thinking about it. This is still very sensitive with the older people."

Cox has his own list, based in part on oral histories he has conducted. He figures the whole sordid story will all come out sooner or later --- probably when Oney's book is published --- and he almost welcomes that day, as if a ball and chain will finally have been unfastened from Marietta's psyche. He just doesn't want to be the one who does it. He has to live here.

This year an Atlantan saved Marietta the trouble.

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The list that finally came out is one Mary Phagan Kean made as a young woman when she started gathering information for a memoir she finished in 1987. She disclosed no names in her book. But she did share her intelligence with Tom Watson Brown, a garrulous lawyer and great-grandson of Tom Watson, the politician-turned-publisher who did so much to inflame feelings against Frank in his newspapers. Brown forwarded a copy of the list to a friend at Emory University, who placed it in the Leo Frank file in the general library's special collections. That's where Stephen Goldfarb saw it; he thought he'd discovered the Holy Grail.

Goldfarb, a former history professor at Spelman College, works as a reference librarian at the Atlanta-Fulton Public Library and has written about the Frank case for several years. After doing some biographical spade work to identify the names, he approached several publications in New York and Atlanta (including the Journal-Constitution) about printing his analysis. They all declined for various reasons.

Weary of the project, he decided to post the information online at [www.leofranklynchers.com](http://www.leofranklynchers.com). He did it, he says, not in a spirit of vengeance, but because it was a piece of lost history that might lead to more pieces.

"We don't blame the children of Germany for the Holocaust," Goldfarb says. "How can we blame the people of Marietta who are two generations removed for this lynching? You don't chose your ancestors."

The list shows about two dozen people, some identified only by surname, a few with notations suggesting that they planned the operation, actually participated in the lynching or, in one case, might have knotted the hangman's noose.

Kean, who admits the document is hers, says it was an embryonic effort marred by several mistakes. She was ticked off at Goldfarb for putting it on the Internet. To avoid any future indiscretions, she vows to shred her current list --- the one marked "To be opened at my demise."

Even allowing for some inaccuracies, the Web site supports what has always been said about the Frank lynching: that the leading citizens of Cobb County conceived and sanctioned it. The list includes judges, lawyers, bankers, a former House speaker, a former governor and some of the county's oldest names --- Brumby, Clay, Dorsey, Morris, Sessions --- several of whom have Marietta streets named for them. Most of them probably weren't at the hanging, but they set it in motion.

"This thing was organized from the courthouse on down," says Cox, of the Marietta history museum, who reviewed the list and confirmed many of the names.

But the treachery wasn't confined to Cobb. The Frank lynching was not, as many think, a moral stain that Marietta bears exclusively. Oney, whose book is scheduled to be published by Pantheon next year, promises to detail a much broader conspiracy, a stain that leaches across the Chattahoochee River and beyond.

"The story is a lot bigger than that list," he says. "The lynching was planned and carried out in Marietta, true. But there were accomplices in Atlanta and Milledgeville. Powerful people in the state government had to sign off. It wasn't just Cobb County that lynched Leo Frank."

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Mary Phagan Kean is not the only woman linked by blood and anguish to the Frank drama. In Wyckoff, N.J., Catherine Smithline, Frank's 53-year-old great-niece, has been following the reverberations of the case for years. She believes she is the first member of the Frank family to speak to the Atlanta media in many decades.

Like the Phagans, the Franks didn't talk much about the painful events of the past. Smithline didn't hear the story until she was in high school. Her mother, the daughter of Frank's sister, didn't find out about it until she was on a date in the late '30s and saw a Lana Turner movie loosely based on the saga, "They Won't Forget."

"You know that's about your uncle," her boyfriend said. She had always been told that her Uncle Leo died of pneumonia.

A few years ago, the William Breman Jewish Heritage Museum in Midtown Atlanta contacted Smithline to see whether the Frank family had any artifacts it might donate. Archivist Sandra Berman wanted to show Frank as a human being, not just a bug-eyed suspect in a courtroom or a manacled corpse suspended from a limb. Smithline and her family gave the museum dozens of photos, letters and personal effects, including the tiny leather shoes Leo wore as a baby.

Smithline has not been to the museum. "It's very difficult for me to set foot in Georgia," she says. But she has visited the state. Once, while her husband was in town on business, she spent hours at the Atlanta History Center reading about the case. She had no desire to go to Marietta.

When she heard about the Web site, Smithline at first didn't care to go there either. But she soon gave in to curiosity and called it up on her computer screen and read the names of the people who took it upon themselves to decide her great-uncle's fate. They meant little to her. She felt nothing.

"It's too late to do any good anyway," she says. "They don't prosecute people posthumously."

### **Key events in the Frank-Phagan Saga**

April 26, 1913: Mary Phagan, a 13-year-old employee of the National Pencil factory in Atlanta, is sexually assaulted and strangled when she goes downtown to collect her pay and watch the Confederate Memorial Day parade. Three days later, Leo Frank, the 29-year-old factory superintendent, is charged with her murder.

July 28, 1913: The monthlong trial begins. The most damaging testimony comes from Jim Conley, a janitor at the factory, who says Frank asked him to dispose of Phagan's body after she rejected his advances. The jury takes four hours to convict. A cheering crowd lifts prosecutor Hugh Dorsey onto its shoulders.

March 10, 1914: The Atlanta Journal, expressing qualms about a prejudicial atmosphere in the courtroom, calls for a new trial. Political kingmaker Tom Watson is enraged and starts to write about the case, frequently lapsing into naked anti-Semitism, in his weekly newspaper, the Jeffersonian.

October 1914: Conley's lawyer announces that he believes his client committed the murder.

April 19, 1915: Eighteen months of appeals come to an end as the U.S. Supreme Court refuses, with two dissents, to order a new trial.

June 21, 1915: Frank's final plea for mercy lands on the desk of Gov. John M. Slaton. On the eve of execution, he commutes the death sentence to life in prison, finding that "the court and jury were terrorized by a mob."

July 17, 1915: An inmate at the state prison farm in Milledgeville slits Frank's throat with a butcher knife. He almost dies.

Aug. 16, 1915: Eight cars leave Cobb County for Milledgeville. The party abducts Frank and hangs him outside Marietta as dawn breaks the following day.

September 1915: A Cobb grand jury rules that Frank was lynched by "unknown persons." No one is ever charged with the crime.

1933: Mary Phagan's brother runs into Conley in Marietta and invites him home for a talk. Conley, just out of prison for armed robbery, recounts his story. "I believe you," Phagan tells him, "because if I didn't, I'd kill you myself."

1957: Lucille Frank dies in Atlanta. Never remarried, she signed her name "Mrs. Leo Frank" until the end of her life.

1982: Alonzo Mann, who had been an office boy in the pencil factory, tells The Tennessean newspaper of Nashville that he saw Conley carrying Phagan's body and thinks he killed her. Mann didn't mention it at the time, he says, because Conley threatened him. Three Jewish groups ask the state to give Frank a posthumous pardon.

1983: The Board of Pardons and Paroles rejects the petition, saying the new information doesn't prove Frank innocent.

1986: The board approves a second petition based on Georgia's failure to protect Frank from his lynchers. The pardon does not address his guilt or innocence.

1987: A startling title hits bookstores: "The Murder of Little Mary Phagan" by Mary Phagan. The author, the victim's great-niece, says the family still believes Frank was guilty.

June 13, 2000: "Parade," Alfred Uhry's musical about the case, opens in Atlanta. Members of Frank's family saw it on Broadway and loved it. The Phagans do not plan to see it here.