

**The Murder of Walter Gunn
and
the DOJ Effort to Prosecute His Killers**



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I. INTRODUCTION

Walter Gunn was a husband and the father of four children. Sheriff Edwin E. Evans and Deputy Sheriff Henry F. Faucett killed him on June 28, 1942 in Tuskegee, a city in Macon County, Alabama.¹ Evans and Faucett had targeted Gunn several times previously. They were known for beating prisoners, especially black prisoners, to force them to confess. Evans had a particular grudge against Gunn because of Gunn's friendship with a woman whom Evans was dating. On June 27, 1942 the sheriff and his deputy followed Gunn home. Faucett shot Gunn in the leg and beat him over the head with his gun. Walter Gunn died at the John A. Andrew Memorial Hospital the next day without ever waking up. His wife and children never got the chance to speak to him before he died.

The Department of Justice actually investigated the murder of Gunn as well as the beatings. The federal investigation involved over a hundred witnesses and secured the cooperation of several white local government officials. A federal grand jury indicted Evans and Faucett under 18 U.S.C. §52. Yet Evans and Faucett were still acquitted on all counts by an all-white jury in Opelika, Alabama.

II. THE MURDER OF WALTER GUNN

Sheriff Evans and Deputy Sheriff Faucett murdered Walter Gunn in June 1942.² However, Gunn had prior history with the sheriff in the period leading up to his murder.³ In

¹ Death Certificate for Walter Gunn, dated June 29, 1942 signed by Dr. John A. Kenney, treating physician at the John A. Andrew Hospital, Tuskegee, Alabama; certified copy issued September 16, 2014 in CRRJ files.

² T. Rupert Broady, *Tuskegee Scene of Brutal Killing*, PEOPLE'S VOICE, July 11, 1942 at 1.

³ Statement of Sallie Hill Gunn at 52: 9, *United States v. Edwin Eugene Evans and Henry Franklin Faucett*, Case Number 1297 and Case Number 1299, Eastern Division, Middle District of Alabama deposited at the Federal Records Center, Atlanta, Georgia, henceforth referred to as *U.S. v. Evans*. See also statement of Carl Crittenden at 83:1-5, *United States v. Evans*.

addition, Gunn was not the only person Evans and Faucett targeted, although he was the only one they killed.⁴

A. Walter Gunn

Walter Gunn was a thirty-four year old truck driver and mechanic.⁵ He drove a truck for the Tuskegee Army Flying School and worked for his brother, Joe Nathan Gunn, as a mechanic at Slayton's Filling Station.⁶ Gunn was married to Sallie Hill Gunn, and they had four children between the ages of six months and seven years.⁷

There were some suggestions that Gunn liked to drink.⁸ He had previously been arrested for drunkenness and reckless driving.⁹ Deputy Sheriff Faucett claimed that Gunn was known for drinking and for getting mean when he was drunk.¹⁰ He also claimed that Gunn had tried to kill Sheriff Evans several times by driving his car towards Evans and then jumping out.¹¹ According to Faucett, Gunn had resisted arrest every time he was taken into custody.¹²

Gunn had befriended a black woman named Ollie Jackson few years before his murder.¹³ There were rumors that they were having an affair, but there is no concrete evidence of anything more than their presence in cars together.¹⁴ However, members of the local community believed that Sheriff Evans was dating Ollie Jackson.¹⁵

B. Sheriff Evans and Deputy Faucett

⁴ *Indict Ala. Sheriffs in Jail Beatings*, *The Chicago Defender*, May 1, 1943 at 2.

⁵ Statement of Joe Nathan Gunn *U.S. v. Evans* at 49:3; Sallie Hill Gunn, *U.S. v. Evans* at 51:1.

⁶ *Id.*

⁷ *Tuskegee Has Another Brutal Police Slaying*, *THE CHICAGO DEFENDER*, July 11, 1942 at 1.

⁸ Frederick James Gunn, *U.S. v. Evans*, at 95:4

⁹ *Id.* at 2.

¹⁰ Statement by Sheriff Faucett, *U.S. v. Evans*, at 80:9,

¹¹ *Id.*

¹² *Id.*

¹³ Statement of Gather Gunn, *U.S. v. Evans*, at 64:3

¹⁴ *Id.*

¹⁵ Frederick James Gunn, *supra* note 7 at 95:3.

Edwin Eugene Evans was born to Marion T. Evans and Ida Lee Smith Evans in about 1907.¹⁶ Known as “Pat” Evans,¹⁷ he was a former high school football star.¹⁸ In 1943 he was a sheriff in Macon County.¹⁹

Evans and Faucett had demonstrated a pattern of brutality against prisoners, particularly if the prisoner was black.²⁰ They forced confessions from prisoners using a “walking stick, a blackjack, a rubber hose and other weapons.”²¹ They had handcuffed Louis James Hatcher to his cell bars with his feet barely touching the ground and then hit him with a rubber hose and walking stick.²² They handcuffed Eugene Brown to a tree and beat him with a blackjack and tree limbs.²³ They beat Lillie May Hendon with blackjacks.²⁴ They told the police chief that they beat her because she lied about the location of money they thought she stole.²⁵ Although they mostly beat black prisoners, they were known to have beaten at least two white suspects.²⁶

Evans was also known for taking advantage of Macon County’s prohibition laws.²⁷ He had informants at bars in neighboring counties who would tell him when blacks from Macon County were drinking there. Sheriff Evans would arrest them as soon as they returned to Macon

¹⁶ Edwin E. Evans in the 1910 UNITED STATES FEDERAL CENSUS, available at http://sharing.ancestry.com/5419099?h=a2bd8c&utm_campaign=bandido-webparts&utm_source=post-share-modal&utm_medium=copy-url.

¹⁷ Robert J. Norrell, *Reaping the Whirlwind: the Civil Rights Movement in Tuskegee*, at 52, 1985.

¹⁸ *Id.* at 52.

¹⁹ *Id.* at 53.

²⁰ *Id.* at 53; Jurgen Martschukat and Silven Niedermeier, *Violence and Visibility in Modern History*, 102 , 2013.

²¹ Martschukat, *supra* note 19 at 102.

²² Norrell, *supra* note 16 at 53.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Martschukat, *supra* note 19 at 102.

²⁷ Norrell, *supra* note 16 at 53.

County.²⁸ He confiscated the liquor, and many suspected that he was not pouring it out.²⁹ One man wrote his name on the bottles that were confiscated from him.³⁰ When he went to a bootlegger to purchase more he was sold the bottles that had his own name on them.³¹

Sheriff Evans also frequently overcharged defendants.³² In two hundred and ninety-five out of four hundred of his cases, the warrants had only a pretense of a foundation for the legal proceeding.³³ Many of them were completely blank.³⁴ The Justice of the Peace did not sign some of the warrants.³⁵ Evans admitted to state authorities that he frequently charged more than the legal costs in order to compensate himself for the trouble of arresting them.³⁶

Evans was interested in Ollie Jackson, an African American woman, and perhaps was dating her.³⁷ He had seen her around town with Gunn.³⁸ Although Evans was generally known for beating prisoners, he began to particularly target Gunn when he heard that Gunn was involved with Ollie Jackson.³⁹ He warned Walter Gunn to avoid being in a car with her.⁴⁰

C. Beating at St. Esther Church

²⁸ Norrell, *supra* note 16 at 53.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Grand Jury Brief at 2-3, *United States v. Evans*.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Frederick James Gunn, *supra* note 7 at 95:3; Gather Gunn, *supra* note 12 at 64:3.

³⁸ Statement of Pervis Shelton at 65:3, *United States v. Evans*.

³⁹ Gather Gunn, *supra* note 12 at 64:3.

⁴⁰ Pervis Shelton, *supra* note 37 at 65:3.

On the first Sunday in October, 1941 Walter Gunn, Sheriff Evans and a deputy sheriff named Riley were at St. Esther Church in Macon County.⁴¹ According to Faucett, who was also present, the sheriff and Riley had gone to the church to arrest Gunn for drunkenness and disorderly conduct.⁴² C.H. Thrasher, the Tuskegee police chief, said that he told Evans and Sheriff Riley to look out for Gunn because he must be drunk.⁴³ They believed that Gunn had swung a curve in his car and skinned a tree.⁴⁴ Carl Crittenden saw Gunn parking his car, and also saw Riley walking to the car and telling Gunn to drive through the gate.⁴⁵ Riley then told Gunn to get out and go see Sheriff Evans.⁴⁶

As Gunn got out of his car and started towards the sheriff,⁴⁷ Riley hit him from behind with a walking stick.⁴⁸ When Gunn turned to look behind him, Sheriff Evans came up behind him⁴⁹ and beat Gunn with his handcuffs.

Sheriff Evans also ripped Gunn's clothes.⁵⁰ He claimed that he tried to arrest Gunn and that Gunn had resisted arrest.⁵¹ According to Faucett, Gunn almost tore Evans' clothes off fighting against the sheriff's attempts to arrest him.⁵² Sheriff Evans warned Gunn that he'd better not catch him in a car with Ollie Jackson anymore.⁵³

⁴¹ Statement by C.H. Thrasher, *U.S. v. Evans*, at 82:2; statements of Willis Chisholm and John G. Gunn, *U.S. v. Evans*, at 91 and 92.

⁴² Sheriff Faucett, *supra* note 9, *U.S. v. Evans*, at 80:10.

⁴³ C.H. Thrasher, *supra* note 40, *U.S. v. Evans*, at 82:2.

⁴⁴ *Id.*

⁴⁵ Carl Crittenden, *supra* note 2, *U.S. v. Evans*, at 83:1.

⁴⁶ *Id.*

⁴⁷ *Id.* *U.S. v. Evans*, at 83:2.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ C.H. Thrasher, *supra* note 40, *U.S. v. Evans*, at 82:3.

⁵² Sheriff Faucett, *supra* note 9, *U.S. v. Evans*, at 80:10.

⁵³ Purvis Shelton, *supra* note 37, *U.S. v. Evans*, at 65:3.

Sheriff Evans returned to the police station with Gunn, who was handcuffed, bleeding around the head, and partially unclothed, as his pants were almost torn off.⁵⁴ Evans told Chief Thrasher that Gunn had run away from them and resisted arrest.⁵⁵ Carl Crittenden said that he was with Gunn from the middle of the morning on.⁵⁶ He said that Gunn had not been drinking and was not drunk.⁵⁷

III. THE FATAL BEATING

Walter Gunn was working at the garage on Saturday, June 27, 1942.⁵⁸ He left at about 6:00 PM to get his wife Sallie to take her into town.⁵⁹ Edward Baker and Gunn's father, Eddie Gunn, accompanied Gunn for part of the trip.⁶⁰ Baker rode for twenty minutes and testified that Gunn was not drunk and had not been drinking.⁶¹ Gunn dropped his father off at Purvis Shelton's house.⁶² Eddie Gunn also testified that his son was not drinking or drunk.⁶³ His sister Mable Gunn Shelton also saw him and did not see any indication that he had been drinking.⁶⁴

There is not much information on what happened between the time that Walter Gunn left his father and Edward Baker and his return home. Deputy Sheriff Faucett claimed that he saw Gunn drunk and driving erratically.⁶⁵ Faucett also said that he saw Gunn drinking in town and at

⁵⁴ C.H. Thrasher, *supra* note 40, *U.S. v. Evans*, at 82:3.

⁵⁵ *Id.*

⁵⁶ Carl Crittenden, *supra* note 2, *U.S. v. Evans*, at 83:5.

⁵⁷ *Id.*

⁵⁸ Joe Nathan Gunn, *supra* note 4 at 49:3.

⁵⁹ *Id.*

⁶⁰ Statement of Eddie Gunn, *U.S. v. Evans* at 67: 1; Statement of Edward Baker, *U.S. v. Evans*, at 63: 1.

⁶¹ Edward Baker, *supra* note 59, *U.S. v. Evans* at 63: 1.

⁶² Eddie Gunn, *supra* note 59, *U.S. v. Evans* at 67: 1.

⁶³ *Id.*

⁶⁴ Statement of Mable Gunn Shelton, *U.S. v. Evans*, at 66:1.

⁶⁵ Sheriff Faucett, *supra* note 9, *U.S. v. Evans*, at 79:1.

Slayton's gas station, he had warned him to go home.⁶⁶ He stated that he had seen Gunn a little later driving wild.⁶⁷ Faucett also stated that he and Sheriff Evans took off after Gunn and that Gunn had turned left at a high speed, almost raising the car up on two wheels, nearly colliding with another car.⁶⁸

Booker Harper testified that about 2:30 or 3:00 PM he had observed Gunn talking loudly, seemingly drunk. Harper said that Faucett had told Gunn to get out of town.⁶⁹ Willie Alexander testified that he saw Gunn driving all over the dirt road at sixty miles per hour with the sheriff following.⁷⁰ However, other testimony conflicted with the statements of Faucett, Harper, and Alexander, supporting the prosecution's position that Walter was not drunk at the time.⁷¹ The only indication that Gunn may have been driving fast before the sheriff and deputy began following him is Deputy Faucett's statement.

Walter Gunn drove home in his Packard truck followed closely by Sheriff Evans and Faucett in the sheriff's car.⁷² Witnesses said that both cars were driving fast.⁷³ Sallie Gunn was in the yard with their four children who were playing there.⁷⁴ Carrie Conner was inside her home next door.⁷⁵ Her daughter, Marie Harris (also called Marie Conner) and her son-in-law, Horace Davis, were outside on the porch.⁷⁶

⁶⁶ *Id.*

⁶⁷ *Id.* at 1-2.

⁶⁸ *Id.* at 2.

⁶⁹ Statement of Booker Harper, *U.S. v. Evans*, at 77:2.

⁷⁰ Statement of Willie Anderson, *U.S. v. Evans*, at 77:1.

⁷¹ *See* Eddie Gunn, *supra* note 59, *U.S. v. Evans* at 67: 1; Edward Baker, *supra* note 59, *U.S. v. Evans* at 63: 1.

⁷² Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:2.

⁷³ Willie Anderson, *supra* note 69, *U.S. v. Evans* at 77:1.

⁷⁴ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:2.

⁷⁵ Statement of Carrie Conner, *U.S. v. Evans* at 59:1.

⁷⁶ *Id.*; Statement of Marie Harris, *U.S. v. Evans* at 60:1.

As Walter Gunn pulled up to his home, Deputy Faucett fired one shot from the right door of the car.⁷⁷ He then got on the running board and fired two or three shots from there.⁷⁸ Faucett claimed that Gunn was trying to get in the house to barricade himself and start shooting.⁷⁹ However, there is no testimony to suggest that Walter Gunn had a weapon and no other testimony besides the statement given by Faucett to suggest that Gunn had ever or was likely to retaliate against Evans and Faucett.

Neighbors heard the shots.⁸⁰ To Carrie Conner it sounded like children beating a piece of tin.⁸¹ Horace Davis ran into the house of Carrie Conner and said “Oh, Lordy, the law is after Mr. Walter.”⁸² He held Carrie Conner and would not let her go outside.⁸³

Walter Gunn parked his car in front of the house and the sheriff did the same.⁸⁴ As Gunn got out and ran by the south side of the house,⁸⁵ Faucett shot at him again and then fired two more shots as Gunn reached the backyard.⁸⁶ Sheriff Evans then got out of his car and stopped to speak to Sallie Gunn. Mrs. Gunn asked what her husband had done.⁸⁷ Evans told her “he [Gunn] is trying to kill us, so I hope he [Faucett] will kill him.”⁸⁸

⁷⁷ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:2; Marie Harris, *supra* note 75, *U.S. v. Evans* at 60:2.

⁷⁸ Marie Harris, *id.*

⁷⁹ Sheriff Faucett, *supra* note 9, *U.S. v. Evans* at 79:5.

⁸⁰ Carrie Conner, *supra* note 74, *U.S. v. Evans*, at 59:1.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:3.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id. U.S. v. Evans* at 51:4.

After Walter Gunn fell onto the ground, face down,⁸⁹ Deputy Faucett hit him over the head several times with his gun and kicked him.⁹⁰ Faucett claimed that Gunn rebounded off a wash bench into a wooden tub with his right leg turned under him. He said that he never hit Gunn and only shot at his leg three times.⁹¹ When Sheriff Evans joined Faucett in the backyard,⁹² Sallie Gunn saw them drag Gunn from the back across the road. However, Faucett claimed that they carried Gunn⁹³ and laid him on the ground.⁹⁴

IV. THE AFTERMATH

Sheriff Evans and Deputy Faucett called Horace Davis to help them.⁹⁵ They forced him to put Gunn in the back seat of Gunn's car.⁹⁶ Deputy Faucett then drove Gunn's car with Davis in the front seat and Gunn in the back. Evans drove the sheriff's car.⁹⁷ Davis heard Walter Gunn say "Oh, Lordy, they done shot me in the foot," and then repeatedly say "Oh Lordy."⁹⁸ Faucett told Gunn to shut up.⁹⁹ Davis could see that Walter Gunn had been shot in the hip or leg and that he had a hole above his right ear and bruises.¹⁰⁰ Blood was running down the side of his head.¹⁰¹

⁸⁹ Statement of Leon Ross, *U.S. v. Evans* at 62:2.

⁹⁰ *Id.*

⁹¹ Sheriff Faucett, *supra* note 9, *U.S. v. Evans* at 80:9.

⁹² Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:4.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Statement of Horace Davis, *U.S. v. Evans* at 61:2.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 61:3.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

Deputy Faucett told Davis that Gunn had nearly killed them with his reckless driving.¹⁰² Davis did not smell any alcohol on Gunn.¹⁰³

At about 7:00 PM, Sheriff Evans drove to the garage.¹⁰⁴ He told Joe Gunn that Walter had run and he had shot him.¹⁰⁵ He forced Joe Gunn to get in his car and drive with him to the John A. Andrew Memorial Hospital.¹⁰⁶ At the hospital, Joe Gunn saw Gunn's car with Gunn and Davis in the back seat.¹⁰⁷ Walter Gunn was bleeding from his mouth and ears and had been shot in his right leg.¹⁰⁸ Joe Gunn picked him up and put him on a stretcher that two nurses provided. Walter Gunn was admitted to the hospital at 9:00 PM.¹⁰⁹

Dr. John A. Kenney, the medical director of the hospital, treated Walter Gunn for a few minutes,¹¹⁰ and Joe Gunn left to get their parents.¹¹¹ Walter Gunn had a compound fracture to his right leg as a result of being shot.¹¹² He was bleeding out of both ears and had a bruise just above his right ear.¹¹³ When Joe Gunn returned a half hour later, Dr. Kenney told him that his brother had never regained consciousness.¹¹⁴

When Sallie Gunn went to the county jail to find out what happened to her husband,¹¹⁵ she found Sheriff Evans and Deputy Faucett in front of a café.¹¹⁶ They told her that Walter was at

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Joe Nathan Gunn, *supra* note 4, *U.S. v. Evans* at 49:4.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id. U.S. v. Evans* at 49:5.

¹¹⁰ *Id. U.S. v. Evans* at 49:67

¹¹¹ *Id.*

¹¹² Notes on Dr. J.J. Peter's Report on Victim's Physical Condition, *U.S. v. Evans* at 54:1

¹¹³ Joe Nathan Gunn, *supra* note 4 at 49:6.

¹¹⁴ *Id.*

¹¹⁵ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:5.

¹¹⁶ *Id.*

the hospital and would live a long time.¹¹⁷ They also said, “you know Walter as well as I do. He is always into something.”¹¹⁸ Although Faucett later claimed that they were attempting to arrest him for drunkenness and reckless driving, they never identified any charge to Sallie Gunn.¹¹⁹ After speaking with the sheriffs, Mrs. Gunn went to the hospital,¹²⁰ where she found her husband still unconscious.¹²¹ She stayed a few minutes after she arrived, and then returned home.¹²²

Pervis Shelton, Walter Gunn’s brother-in-law, was in the hospital when Gunn was brought in.¹²³ He tried to talk to Gunn several times, but Gunn remained unconscious.¹²⁴ The next day Sallie Gunn returned to the hospital to visit her husband.¹²⁵ Walter Gunn died soon after she left, at 8:40 PM.on June 28, 1943.¹²⁶ He had never regained consciousness.¹²⁷

Dr. Leon A. Dickson performed the autopsy.¹²⁸ He noted five recent bullet wounds in Gunn’s right leg, as well as the fractures in his skull, which was filled with blood.¹²⁹ He concluded that Gunn died from a fractured skull and the massive hemorrhage and increased pressure that resulted from the fracture.¹³⁰

At some point between June 29 and 30, Gunn’s father Eddie Gunn convinced Ready Haguley and Louis Sargent--both white men-- to help him investigate what happened. When they

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *See Id.*; Sheriff Faucett, *supra* note 9, *U.S. v. Evans* at 79:1.

¹²⁰ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 51:5.

¹²¹ *Id.*

¹²² *Id.*

¹²³ Pervis Shelton, *supra* note 37, *U.S. v. Evans* at 65:1.

¹²⁴ *Id.*

¹²⁵ Sallie Hill Gunn, *supra* note 2, *U.S. v. Evans* at 52:6.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ Notes on Dr. J.J. Peter’s Report on Victim’s Physical Condition, *U.S. v. Evans*, at 54.

¹²⁹ *Id.* at 55.

¹³⁰ *Id.* at 58.

accompanied him to the place where Walter was killed,¹³¹ they saw blood on the ground and a trail of blood leading from the backyard to the front.¹³² The ground had been torn up in a way that showed that Gunn had been dragged the way an animal would be dragged.¹³³ After Sheriff Evans and Deputy Faucett found out that Haguley was investigating the murder, they beat him on June 31.¹³⁴ Jefferson Davis Hodnett testified that the walking stick which Sheriff Evans customarily carried around with him had not been seen since the Gunn incident.¹³⁵

IV. THE INVESTIGATIONS

A grand jury was convened in Macon County to review evidence for state criminal charges.¹³⁶ Dr. H.W. Nixon, the state toxicologist, and Dr. Keeling were the only two witnesses called. The court docket shows that a warrant was issued for Gunn on June 27, 1943 charging him with resisting arrest.¹³⁷ An entry in the docket noting that he was deceased was added on July 6, 1943.¹³⁸ Apparently no further action was taken to pursue state charges.

In August 1942 the Tuskegee Civic Association began to raise money to try to bring a suit against Evans.¹³⁹ They were able to collect some money, but there was little hope that a lawsuit could be successful.¹⁴⁰ They gave the information they had on Sheriff Evans to the United States attorney in Montgomery, Alabama.¹⁴¹ Assistant Attorney General Wendell Berge

¹³¹ Statement of Louis Sargent, *U.S. v. Evans* at 68:1; Eddie Gunn, *supra* note 59 at 67:2; Statement of Ready Haguley, *U.S. v. Evans* at 69:1.

¹³² Ready Haguley, *supra* note 130, *U.S. v. Evans* at 69:1.

¹³³ Statement of Louis Sargent, *supra* note 130, *U.S. v. Evans* at 68:2.

¹³⁴ Ready Haguley, *supra* note 130. *U.S. v. Evans* at 69:1.

¹³⁵ Miscellaneous Notes, *U.S. v. Evans* at 85:6.

¹³⁶ *Id.* *U.S. v. Evans* at 85:3.

¹³⁷ *Id.* *U.S. v. Evans* at 85:4, referring to Inferior Court Docket #1823.

¹³⁸ *Id.*

¹³⁹ Norrell, *Supra* note 16, *U.S. v. Evans* at 53.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

requested the initiation of an investigation of Evans and Faucett for the murder of Gunn and the beatings of prisoners over a three-year period.¹⁴²

Many white residents in Tuskegee, Alabama as in other southern states, feared federal involvement.¹⁴³ They wanted to keep the federal government out of what they saw as local affairs.¹⁴⁴ They believed in conformity to local Jim Crow customs and, for the most part, saw police violence as part of community control.¹⁴⁵ White conservatives believed that any convictions against the police would hinder police authority and destroy the racial power structure.¹⁴⁶ Although there were some white people who recognized the brutality of Evans and Faucett and were willing to cooperate with the federal government, the majority of white conservatives considered anything but full support of the police and law enforcement officials as treason to the ideology of white supremacy.¹⁴⁷ Police Chief Thrasher stated that, although he believed Evans was beating blacks too much, if white people did not take Evans' side then blacks would give more trouble in the future.¹⁴⁸

However, some white leaders, including the mayor of Tuskegee, Frank Carr, and state representative, Henry Neill Segrest, were concerned about Sheriff Evans' actions.¹⁴⁹ They asked Alabama governor Frank Dixon to remove Evans from office.¹⁵⁰ Governor Dixon investigated but failed to act.¹⁵¹ During the 1942 elections Sheriff Evans had been renominated. Most white

¹⁴² *Indict Ala. Sheriffs, supra* note 3, *U.S. v. Evans* at 2.

¹⁴³ Norrell, *Supra* note 16, at 54-55.

¹⁴⁴ *Id.* at 55

¹⁴⁵ *Id.*

¹⁴⁶ Martschukat, *supra* Note 19, at 102.

¹⁴⁷ Norrell, *supra* note 16, at 54-55.

¹⁴⁸ C.H. Thrasher, *supra* note 40, *U.S. v. Evans* at 82:6.

¹⁴⁹ Norrell, *supra* note 16, at 54.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

voters supported Evans and Faucett.¹⁵² Friends of Faucett and Evans tried to intimidate witnesses.¹⁵³ They claimed that if Evans and Faucett were convicted then white people would have to move out of Macon County.¹⁵⁴ In some cases they dressed as FBI officers in order to scare potential witnesses.¹⁵⁵

VI. INDICTMENT AND TRIAL

Evans and Faucett were indicted under 18 U.S.C. § 52 (which is now §242) in April 1943 for the murder of Gunn as well as for the St. Esther beating and the beatings of ten other individuals.¹⁵⁶ They were also charged under 18 U.S.C. § 550 for the overcharging of prisoners.¹⁵⁷ The indictment was announced in Washington, a move the *Montgomery Advertiser* believed was designed to counteract Japanese propaganda about American racism.¹⁵⁸ They also claimed that a conviction would mean, “The white people of Macon County, Alabama will have to move.”¹⁵⁹

18 U.S.C. § 242 allows the federal government to prosecute those who deprive an individual of their Constitutional rights if they are acting “under color of law.”¹⁶⁰ Previously “color of law” meant that the individual had to have been acting under the authority of a state statute. If they were breaking the law, they were not acting “under the color of law.” However, in *United States v. Classic*, a 1941 decision involving election fraud in Louisiana, the Supreme

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Witnesses to Slaying Won't Talk*, THE CHICAGO DEFENDER, Aug. 1, 1942 at 5.

¹⁵⁶ Indictment at 47-48, *U.S. v. Evans*; Indictment at 86-87, *U.S. v. Evans*; Grand Jury Brief, *Supra* note 31, *U.S. v. Evans* at 1-3; *Indict Ala. Sheriffs*, *Supra* note 3, *U.S. v. Evans* at 2.

¹⁵⁷ Grand Jury Brief, *Supra* note 31, at 1-3.

¹⁵⁸ Norrell, *Supra* note 16, at 54.

¹⁵⁹ *Id.*

¹⁶⁰ 18 U.S.C. § 242.

Court held that 18 U.S.C. § 52 could cover someone who was breaking the law as long as they were clothed with the authority of their position.¹⁶¹ The Supreme Court applied *Classic* to police misconduct in 1945.¹⁶² In *United States v. Screws*, the court held that a sheriff who beat a prisoner to death in Georgia was acting under the color of law.¹⁶³

Although Evans and Faucett were tried before *Screws* was decided, the *Classic* case had been decided just two years before their trial. Therefore, the possibility of an expanded definition of “color of law” was available during the federal trial in Alabama. Both Evans and Faucett were charged with violating the Fourteenth Amendment rights of Gunn and ten other individuals.¹⁶⁴

The trial took place at the federal district courthouse for the Middle District of Alabama, Eastern Division in Opelika, Alabama, in neighboring Lee County.¹⁶⁵ Judge C.C. Kennamer presided.¹⁶⁶ More than three hundred Alabama police officers were present at the courthouse.¹⁶⁷ Edward Burns Parker, the U.S. Attorney for the Middle District of Alabama prosecuted the case along with G. Maynard Smith, a special assistant to the attorney general in the Civil Rights Section of the Criminal Division in the Department of Justice.¹⁶⁸ They produced more than one hundred witnesses.¹⁶⁹

The defense attorneys focused on discrediting the witnesses.¹⁷⁰ In particular, they focused on Lillie May Hendon.¹⁷¹ They told her to pull down her skirts during cross-examination and

¹⁶¹ *United States v. Classic*, 313 U.S. 299 (1941).

¹⁶² *Screws v. United States*, 325 U.S. 91(1945).

¹⁶³ *Id.*

¹⁶⁴ Indictment, *supra* note 155, *U.S. v. Evans* at 47-48; Indictment *supra* note 155, *U.S. v. Evans*, at 86-87.

¹⁶⁵ *Jury Acquits Macon Sheriff and His Deputy*, ATLANTA DAILY WORLD, June 26, 1943 at 1, 6.

¹⁶⁶ *Id.*

¹⁶⁷ Martschukat, *supra* Note 19 at 102-103.

¹⁶⁸ Indict Ala. Sheriffs, *Supra* note 3 at 2.

¹⁶⁹ Martschukat, *supra* Note 19 at 103.

¹⁷⁰ Martschukat, *supra* Note 19 at 103

claimed that her boyfriend was the one who beat her.¹⁷² They called several white witnesses to say that she did not have a good character.¹⁷³

The defense attorneys also called into question the origins of the prosecution.¹⁷⁴ They claimed that the Tuskegee Civic Association, Eleanor Roosevelt, or the NAACP were behind the prosecution and that the old civil rights statutes were a “reconstruction measure passed by a vindictive government.”¹⁷⁵ These arguments framed the legal issues and implied that there was collusion between blacks and the federal government. They also played into the jurors’ fears of outsiders and federal interference with local law enforcement.¹⁷⁶

After a three-day trial, the jury acquitted Sheriff Evans and Deputy Faucett on all counts.¹⁷⁷ Judge Kennamer warned them against taking any retaliatory actions against witnesses.¹⁷⁸ Evans continued to serve as sheriff in Macon County until he was defeated in the 1950 election,¹⁷⁹ when the Tuskegee Civic Association threw their support to his opponent. The defeat of Sheriff Evans was the first major political victory for black voters in Macon County.¹⁸⁰

VII. CONCLUSION

The trial of Evans and Faucett shows that even when the FBI and the DOJ investigated cases of police brutality and prosecuted them under 18 U.S.C. § 52, it was still a legal fight that was difficult, if not impossible, to win. The local resistance to federal involvement was too

¹⁷¹ *Id.*; Norrell, *Supra* note 16, at 54.

¹⁷² Norrell, *Supra* note 16, at 54.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*; *Jury Frees 2 Ala. Police in Beatings*, *The Chicago Defender*, July 1, 1943 at 2.

¹⁷⁶ Norrell, *Supra* note 16, at 54.

¹⁷⁷ *Jury Acquits*, *supra* Note 164

¹⁷⁸ *Id.*

¹⁷⁹ Norrell, *Supra* note 16 at 75-76.

¹⁸⁰ *Id.*

strong, and fears of blacks conspiring with the federal government made it much more likely that all-white juries would acquit. Any attempts at federal intervention were viewed as a threat. The evidence against Evans and Faucett was overwhelming. The prosecutors had over a hundred witnesses as well as the medical report for the autopsy conducted on Gunn's body. They even had the support of a few powerful local white leaders. Nevertheless, Evans and Faucett were acquitted.