

# **‘They Shot Me for Nothing’**

*A Legal & Historical Account of William Daniel’s Murder*



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<sup>1</sup> Photograph of a guard at company town, Jefferson County, Alabama, 1937, Creator Arthur Rothstein, from the Library of Congress Archives, <http://www.loc.gov/pictures/item/fsa2000007057/PP/>

## I. INTRODUCTION

The green rolling hills that circle Birmingham and dip into Jones Valley hold more than coal seams below. By the mid-1940s, the Birmingham District – which included Birmingham city, Jones Valley, and surrounding industrial towns – was a hotbed of contradictions.<sup>2</sup> The unspoken racial tensions of this place and time are captured in the short life and death of William M. Daniel, a World War II veteran and young coal miner in Jones Valley. Daniel was shot and killed in 1946 at the hands of a Tennessee Coal, Iron and Railroad Company (“TCI”) deputy during a Christmas shopping trip with his newlywed wife, Ruby at the TCI commissary in Westfield, Alabama.

This traumatic event set off a smoldering chain reaction in Daniel’s family, friends, and community. Daniel’s siblings left for Chicago shortly after his death and Ruby died within five years of the shooting. In contrast to what was reported, the community traded rumors about what really happened far different from what was reported, but a local investigation by civil rights activists saw witnesses disappear and change their stories. A grand jury was convened, but refused to indict the TCI sheriff for the killing. The investigation and activism around the case faded, and news of the murder never went much farther than the fire-licked steel mills down old Tin Mill Road. The Birmingham hills soaked up this loss of life, as they had many others.

In the early twentieth century, Birmingham was known as the “Pittsburgh of the South” and the mining towns that ringed the District were the city’s crowning jewels. By 1907, TCI was a subsidiary of U. S. Steel, which was the largest private employer in Jefferson County and the

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<sup>2</sup> See generally, DIANE MCWHORTER, CARRY ME HOME: BIRMINGHAM, ALABAMA: THE CLIMACTIC BATTLE OF THE CIVIL RIGHTS REVOLUTION 31 (2001). At the beginning of this award-winning work, McWhorter conceptualizes Birmingham’s iconic cast-iron Vulcan man statue as a personification of the “perpetual promise” of the vast mineralogical wealth of the area juxtaposed against the “incurable sore” of the accompanying industrialization and unbroken chain of human violence. *Id.* at 31-32. As she puts it, “Birmingham remained a city of dubious superlatives, like its immortal but lame icon [the Vulcan man].” *Id.* at 31.

entire state of Alabama. It still holds that title to this day.<sup>3</sup> Westfield was a “typical company town, rigidly controlled by TCI.”<sup>4</sup> William Daniel was one of many young black men who left their homes in rural western Alabama to seek work in the abundant mines that lined Jones Valley. After serving for a time in the army during World War II, Daniel secured a job in a TCI coalmine and settled in a historically black neighborhood in Fairfield, an industrial town across the tracks from Westfield.

On the surface, Westfield lived up to its promise as a “model village:” the commissary in Westfield was a place where any TCI employee, regardless of race, could shop for goods and make trades; though only black students attended Westfield High School, the teachers were top notch, often having returned to the town with college degrees from the North. Many residents and local historians report the racial tension common in Birmingham city was not so pronounced in Westfield because both the infrastructure and healthcare were better.

However, the “model village” description does not track the experiences of many young blacks trying to make a living in the new economy of mines and mills in the Birmingham District. Through the lens of William Daniel’s nearly forgotten story, this paper examines the undercurrent of violence in the Fairfield and Westfield area. Its focus is upon the law enforcers themselves – the police and deputized citizens – within the context of official Jim Crow law, the rebirth of the Ku Klux Klan in the area, and TCI’s policies of labor control. This paper explores the entwined authority of TCI “sheriffs” – nominally private police – and Fairfield police, which produced a climate of violence that was widely experienced but not well recorded or studied. It also discusses a new legal avenue for federal prosecution of these acts of brutality and violence by analyzing the changed landscape for civil rights cases after the Supreme Court’s decisions in

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<sup>3</sup> Marjorie White, “TCI-U.S. Steel and Ensley,” *The Birmingham District, An Industrial History and Guide* 97 (Birmingham Historical Society, 1981).

<sup>4</sup> JAMES S. HIRSCH, WILLIE MAYS: THE LIFE, THE LEGEND, 13 (2010).

*Screws v. United States* and *Marsh v. Alabama*,<sup>5</sup> both handed down in the mid-1940s just before William Daniel’s death. At bottom, this paper seeks to commemorate the lives of William and Ruby Daniel, by reconstructing their experience, using the few facts that have been left behind, and by placing their story in the broader context of the police brutality and industrial hegemony that characterized the Birmingham industrial area during the 1940s.

## II. FROM COTTON TO COAL

*“Why did I leave the farm? The boll weevils got me! ... So I came to Birmingham to work and that’s where I ended up—in the mines.” – Herschel Craig, retired coal miner*<sup>6</sup>

William M. Daniel was born in Sumter County, Alabama on August 17, 1925.<sup>7</sup> He was the fourth child of Caudiest Daniel<sup>8</sup> and Elvie Quales. The Daniel family lived in a rural farming town called Panola in western central Alabama, close to the border with Mississippi.<sup>9</sup> Daniel’s father, Caudiest, who was born in Alabama in 1897, was employed as a farmer, the prevailing occupation in Sumter County during the early Twentieth Century.<sup>10</sup> Caudiest Daniel and Elvie Quales married in 1914, when Caudiest was 17 years old and Elvie was 14 years old.<sup>11</sup> The Daniel family had three sons and three daughters. William Daniel was a middle child and the youngest son. He had an older sister named Etta (b. 1918), two older brothers, Caudiest Jr. (b.

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<sup>5</sup> 325 U.S. 91 (1945) and 326 U.S. 501 (1946), respectively.

<sup>6</sup> Marlene Hunt Rikard, *An Experiment In Welfare Capitalism: The Health Care Services Of The Tennessee Coal, Iron And Railroad Company* 9 (1983) (unpublished Ph.D. dissertation, University of Alabama)(on file with author).

<sup>7</sup> William M. Daniel’s death certificate, on file with author. Also accessible in the *Alabama, Deaths and Burials Index, 1881-1974* on Ancestry.com. Though Daniel’s death certificate says that he was born on August 17, 1925, his marriage certificate from three months before his death records his date of birth as August 24, 1925, in Livingston, Alabama. Livingston was the county seat of Sumter County and may have been where he was born, but documents from the Southern Negro Youth Congress and an interview with Daniel’s acquaintance Demetrius Newton confirmed that Daniel grew up in Panola, Alabama. The Daniel’s marriage certificate is also on file with the author.

<sup>8</sup> Caudiest’s name is also written as “Caudis” or “Condiest” in some documents. “Caudiest” is the spelling used in his signature on multiple documents that the Southern Negro Youth Congress collected in January 1947 and in William Daniel’s marriage certificate, so that spelling is used in this paper.

<sup>9</sup> William M. Daniel’s death certificate, on file with author. Also accessible in the *Alabama, Deaths and Burials Index, 1881-1974* on Ancestry.com.

<sup>10</sup> 1930 United States Federal Census. This record shows that the Daniels rented a residence in Hares, an unincorporated area near Panola in western Alabama.

<sup>11</sup> *Id.*

1920) and John A. (b. 1922), and two younger sisters, Ethel (b. 1926) and Eva (b. 1929).<sup>12</sup> Not much is known about William’s childhood, though it is clear that he and his siblings were enrolled in school and that William completed his education at least through grammar school.<sup>13</sup>

Sumter County comprises a fertile area traditionally considered part of the Black Belt, which is marked by its vast agricultural wealth and especially the reign of “King Cotton.” The early twentieth century brought many challenges to farmers in this region, including crop infestations and the Great Depression, which forced large numbers of farmers, sharecroppers, and other land tenants to leave the area to find other work.<sup>14</sup> In addition, the speed of technological change and the promise of jobs in booming industrial centers like Birmingham convinced many farmers and rural families to leave their agricultural roots and move to the metropolis. One scholar noted the pull of industry in the Birmingham District on laborers from rural Alabama: “The city also held promise for a poverty-ridden rural folk—excitement for some; for others, survival and a better future for their children.”<sup>15</sup>

For William Daniel, the onset of World War II and the increased demand for steel and the labor to produce it provided a path out of Panola. Daniel had worked as a farm hand for some time in his youth and then enlisted in the Army on June 1, 1944 at Fort Benning in Georgia.<sup>16</sup> Late in the summer of 1946, after the war had ended, Daniel returned to Alabama to seek employment. Jefferson County, which lies about 100 miles northeast of the Daniels’ home in Sumter County and includes much of the Birmingham District and accompanying mining towns, beckoned the 21-year-old veteran. Daniel settled into the home of Calphus Newton, a family

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*; *U.S. World War II Army Enlistment Records, 1938-1946* for William M. Daniel, Ancestry.com.

<sup>14</sup> See generally, RALPH M. LYON, *A BIBLIOGRAPHY OF WRITINGS ABOUT SUMTER COUNTY, ALABAMA AND IT’S PEOPLE* (Sumter County Historical-Preservation Society, 1982).

<sup>15</sup> Rikard, *supra* note 5, at 11.

<sup>16</sup> *Supra*, note 12.

friend from Panola who lived on 56<sup>th</sup> Street in Fairfield, in the heart of the Interurban Heights neighborhood.<sup>17</sup>

After U.S. Steel's acquisition of TCI in 1907,<sup>18</sup> the city of Fairfield was born out of plans for a "model industrial town" to attract skilled workers for new production facilities that were being developed just a few miles southwest of Birmingham.<sup>19</sup> Fairfield was conceptualized as an "alternative to under-serviced, disease-filled and crime-ridden cities" like Birmingham. Such conditions in Birmingham were thought to only diminish worker productivity and foster unionizers' efforts.<sup>20</sup> Fairfield was incorporated in 1918, and every component of the city spoke of its steel magnate founders' roots – from the name of the city itself (after the U.S. Steel president's hometown of Fairfield, Connecticut) to the large boulevards running to the civic and commercial center (Gary Avenue, Crawford Street, DeBardeleben Avenue).<sup>21</sup> Bordering on the Fairfield development and resting on the wooded hills just across the railroad tracks from the TCI mills, Interurban Heights had long been a popular black residential area and the area was

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<sup>17</sup> Author Interview with Demetrius Newton, Former Alabama Representative, 53<sup>rd</sup> District (Jefferson) (July 2, 2013). Transcript on file with author.

<sup>18</sup> After its acquisition, TCI became a subsidiary of U.S. Steel; however, not until 1952 did U.S. Steel subsume TCI within its corporate structure, at which point TCI officially became the "TCI Division of U.S. Steel Corporation." See Marjorie White, "TCI-U.S. Steel and Ensley," *The Birmingham District, An Industrial History and Guide* 123 (Birmingham Historical Society, 1981). Because this paper covers a period of time prior to the 1952 reorganization when the company was still known locally as TCI, this paper exclusively refers to the company as TCI.

<sup>19</sup> Marjorie White, "Fairfield," *The Birmingham District, An Industrial History and Guide* 116 (Birmingham Historical Society, 1981). TCI found it difficult to recruit and retain a workforce in Birmingham city, where rapid industrialization and uneven investment in municipal services led to deplorable urban conditions for workers. See Marlene Hunt Rikard, *An Experiment In Welfare Capitalism: The Health Care Services Of The Tennessee Coal, Iron And Railroad Company 17-22* (1983) (unpublished Ph.D. dissertation, University of Alabama) (on file with author).

<sup>20</sup> JAMES S. HIRSCH, *WILLIE MAYS: THE LIFE, THE LEGEND*, 15 (2010). For more information on TCI/U.S. Steel's anti-union stance, see BRIAN KELLY, *RACE, CLASS, AND POWER IN THE ALABAMA COALFIELDS, 1908-21* (2001).

<sup>21</sup> Marjorie White, "Fairfield," *The Birmingham District, An Industrial History and Guide* 116-19 (Birmingham Historical Society, 1981).

incorporated into Fairfield city in the late 1910s.<sup>22</sup> However, plans for Fairfield did not include housing for low-income workers, who were largely blacks and immigrants.<sup>23</sup>

The industrial demands of World War II created a boom for steel companies and a huge expansion of their workforce. To meet the increased demand for worker housing, TCI built a property directly across from the steel plants on Old Tin Mill Road, one mile north of Fairfield – the “model village” of Westfield.<sup>24</sup> Though it was a company-owned town, Westfield had everything that any other municipality might have: homes, schools, churches, sports fields, a commissary.<sup>25</sup> Still, the town and its resident workers were tightly controlled by TCI. Westfield sat just outside of the city limits. It was fenced in but was publicly accessible through various “gates” along Tin Mill Road, running between the old mining towns of Wylam and Dolomite.<sup>26</sup> The company town had its own “special police” force that contacted the Fairfield police only in the event of an emergency or death.<sup>27</sup> Historically, workers were paid in scrip that could only be used at the company commissary, where goods would often be marked up higher than other stores nearby. Otherwise, the workers could pay for goods at the commissary on credit, which would then be subtracted from their next paycheck, often leading to a cycle of debt with the

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<sup>22</sup> *Id.* at 123.

<sup>23</sup> *Id.* at 117 & 122; *see also* Rikard, *supra* note 5, at 15-16 (on immigration to Birmingham: “The earliest immigrants—English, Scotch, and Welsh—blended quickly and indistinguishably into the native white population. The German influx of the 1880s also dispersed occupationally and geographically across the city, but, like the Irish, the Germans retained a group identity through ethnic societies. Italians (some coming as strikebreakers in the 1880s and 90s but more often recruited for the steel mills in the early 1900s) were the victims of more discrimination than other groups, but this disparity lessened when they moved up the economic ladder. Smaller groups of French, Greeks, Syrians, Lebanese, and Chinese contributed further to the cosmopolitan blend within the district. The most significant, visible, and cohesive “ethnic” group was actually native-born—Birmingham’s black population. In 1870 blacks accounted for only 20 percent of the district’s population; by 1890 the proportion had risen to and leveled off at 40 percent.”)

<sup>24</sup> *Id.* at 122.

<sup>25</sup> Board of Equalization Tax Appraisal file on Westfield, archived at the Birmingham Public Library (last viewed July 26, 2013).

<sup>26</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author).

<sup>27</sup> Author interview with Grover Cleveland, Fairfield resident (July 26, 2013) (transcript on file with author).



company.<sup>28</sup> Moving across the tracks to Fairfield remained the great goal for many TCI workers, primarily because one could own a house there.<sup>29</sup> Every house in Westfield was TCI property.

Large strikes by coal miners in 1904 and 1908 – often with black miners at the forefront – and increased attempts at unionization in the early twentieth century pushed TCI to adopt “progressive social welfare reforms,” providing housing, sewage, improved infrastructure, and health services to workers.<sup>30</sup> The ostensible results of these “paternalistic methods” in Fairfield and Westfield are said to have resulted in the diminution in racial tension, at least as compared to Birmingham.<sup>31</sup> The races mingled in the mills and mines, and the towns’ infrastructure was in “superior overall condition” as compared to the city.<sup>32</sup> A state-of-the-art employee’s hospital for TCI workers, which sat on a hill in Fairfield overlooking the mills, was constructed in 1919.<sup>33</sup> Many former residents fondly recall their time growing up in Westfield before the town was dismantled and finally closed in the 1970s in the wake of the steel industry’s decline.<sup>34</sup> One former resident of Westfield remembers it as “truly separate but equal,” referring particularly to the fact that the Westfield High Schools were strictly segregated but that the quality of education and teachers was extremely high.<sup>35</sup>

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<sup>28</sup> See “Clacker, Scrip, and the Company Store,” *The Jefferson Journal*, No. 3, Jefferson County Historical Association (Summer 2013), at 4. The article begins by quoting the lyrics of a popular song in 1955 sung by Tennessee Ernie Ford: “You load sixteen tons, and what do you get? Another day older and deeper in debt. St. Peter don’t you call me cause I can’t go- I owe my soul to the company store’.”

<sup>29</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author); see also JAMES S. HIRSCH, WILLIE MAYS: THE LIFE, THE LEGEND, 15 (2010).

<sup>30</sup> Marjorie White, “TCI-U.S. Steel and Ensley,” *The Birmingham District, An Industrial History and Guide* 94 (Birmingham Historical Society, 1981); see also ROBIN D. G. KELLEY, HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION 5 (1990).

<sup>31</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author).

<sup>32</sup> JAMES S. HIRSCH, WILLIE MAYS: THE LIFE, THE LEGEND, 17 (2010).

<sup>33</sup> Marjorie White, “Fairfield,” *The Birmingham District, An Industrial History and Guide* 124 (Birmingham Historical Society, 1981).

<sup>34</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author); see also *Westfield: Struggles to Success* (August 2013)(documentary on file with author).

<sup>35</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013).

William Daniel had come to Fairfield looking for work in the summer 1946. He was quickly able to secure a job with TCI as a coal miner.<sup>36</sup> While living in the Interurban Heights neighborhood of Fairfield with the Newton family, Daniel met Ruby Ard Terry, a young woman who lived two doors down.<sup>37</sup> Ruby was born in Fairfield to Lou and Della Terry on August 7, 1928.<sup>38</sup> She was one of five children. Census records suggest that her father was absent, leaving Ruby and her siblings in the care of her mother and grandparents.<sup>39</sup> After a short courtship, Ruby and William Daniel married on September 20, 1946,<sup>40</sup> when Ruby was 18 years old and Daniel was 21 years old.<sup>41</sup> Around this time, Daniel moved into a new home with a male family member around his age down the street from the Terrys and Newtons, on a strip of Avenue E in Fairfield where historic Miles College now sits.<sup>42</sup>

### III. THE WESTFIELD COMMISSARY INCIDENT

*“They shot me for nothing. –William Daniel”<sup>43</sup>*

On December 21, 1946, the Daniels were doing some mid-day shopping in the Westfield commissary with a Fairfield neighbor and friend, Joe Windham.<sup>44</sup> Though they lived in Fairfield, it was common for TCI employees like Daniel to shop at the Westfield commissary, which was

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<sup>36</sup> Though Daniel’s death certificate simply lists his occupation as miner, individuals familiar with the area suggest that, based on his residence in Fairfield, Daniel would have been working in the coalmines to the northern side of Jones Valley (as opposed to the iron ore mines across the valley).

<sup>37</sup> *Alabama, Deaths and Burials Index, 1881-1974* for William M. Daniel, Ancestry.com; Author Interview with Demetrius Newton, Former Alabama Representative, 53<sup>rd</sup> District (Jefferson) (July 2, 2013) (transcript on file with author).

<sup>38</sup> Daniel’s marriage certificate, on file with author.

<sup>39</sup> Ruby Terry, 1930 & 1940 United States Federal Census, Ancestry.com.

<sup>40</sup> The Daniel’s marriage certificate, on file with author.

<sup>41</sup> *Id.*; See also *Alabama, Deaths and Burials Index, 1881-1974* for William M. Daniel, Ancestry.com; *Case of Willie Daniels*, Southern Negro Youth Congress Papers Box 1, Manuscript Division, Moorland Spingarn Research Center (hereinafter, MSRC).

<sup>42</sup> *Id.*; Author Interview with Demetrius Newton, Former Alabama Representative, 53<sup>rd</sup> District (Jefferson) (July 2, 2013) (transcript on file with author). According to his marriage certificate, Daniel had moved about a block down the road from the Newtons to 5606 Avenue E in Fairfield.

<sup>43</sup> *Case of Willie Daniels*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>44</sup> *Statement of Ruby Daniel*, SNYC Papers Box 1, Manuscript Division, MSRC. The commissary was also known as the “Westfield Union Supply Store.” Joe Windham was living at 5101 Avenue E, right across the street from Daniel.

akin to a Sears downtown, using the company coupon books.<sup>45</sup> But on this day, Daniel had the misfortune of upsetting a white female store clerk, who pointed Daniel out to the store manager as having insulted her.<sup>46</sup> Though it was unclear that Daniel had done anything at all to the clerk, TCI deputy J. W. Vanderford approached Daniel and asked him to leave the store.<sup>47</sup> Testimony conflicts about what happened when the men arrived outside, but moments later Vanderford shot and killed Daniel on the sidewalk in front of the commissary.<sup>48</sup>

The “official” story of William Daniel’s death was reported to the *Birmingham News* by Fairfield Police Chief E. L. Allman. Chief Allman claimed that Vanderford shot Daniel in the chest while attempting to take him “for questioning in regards to a complaint made by a white woman employee [...that he] ‘made some insulting remarks’” toward her.<sup>49</sup> Chief Allman said that Vanderford shot Daniel after he put his hand into his pocket during the questioning.<sup>50</sup>

This article attracted the attention of the Southern Negro Youth Congress (SNYC), who, the day after the shooting, took on the case at the request of Daniel’s family.<sup>51</sup> The SNYC was established in Birmingham in 1939 by a group of young organizers addressing a wide range of civil rights matters affecting blacks in Southern working class and rural communities, especially anti-lynching legislation and voting rights initiatives.<sup>52</sup> Because it lacked financial resources to pursue legal recourse, the SNYC sought to draw attention to cases of racial violence in the South through community petitions, demonstrations, and publicity.<sup>53</sup> The SNYC was seen by advocates

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<sup>45</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author).

<sup>46</sup> *Cause of William Daniels* [sic] *Death*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>47</sup> *Id.*

<sup>48</sup> *See generally, Case of William Daniels*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>49</sup> *T. C. I. Police Officer Shoots Negro Suspect*, *Birmingham News*, Dec. 22, 1946.

<sup>50</sup> *Id.*

<sup>51</sup> *Summary of Case of William Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>52</sup> Lopez Denoble Matthews, Jr., *The Southern Negro Youth Congress: Its Legacy and Impact* 3 (May 2009) (unpublished Ph.D. dissertation, Howard University) (on file with author).

<sup>53</sup> ROBIN D. G. KELLEY, *HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION* 216 (1990).

as “an alternative NAACP, a legal defense organization in the same traditional as the old ILD [International Labor Defense].” It would eventually be recognized as one of the most important and radical civil rights organizations ever.<sup>54</sup> However, its affiliation with the Communist Party would ultimately lead white southerners to drive the SNYC out of Birmingham and force it to dissolve in 1949.<sup>55</sup>

During its investigation into the Daniel case, the SNYC collected various witness statements that differ markedly from the official story. Ruby Daniel’s statement is consistent with the official report of what transpired inside the store; however, it departs from Chief Allman’s account of what happened when Daniel and Vanderford left the store. According to Ruby’s statement, she and her husband had finished making purchases and trades in the dry goods department upstairs and were heading downstairs, when another store customer, Sarah Davis, alerted Ruby and Daniel that a white store clerk had accused Daniel of “brushing up against her.”<sup>56</sup> The clerk had taken her accusation to the store manager, one Mr. Phillips.<sup>57</sup> Davis warned Daniel that he should leave the store; Daniel replied that he did not do anything and did not have to run away.<sup>58</sup> The manager came downstairs, waited a few minutes until the guard, Vanderford, came into the store, and pointed Daniel out to him.<sup>59</sup> Vanderford then approached Daniel, touched him on the shoulder, and told him to come outside and get into the car with him.<sup>60</sup> Just after the men had gone outside, as Ruby and the couples’ friend Joe Windham

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<sup>54</sup> *Id.*; Lopez Denoble, *supra* note 50, at 15.

<sup>55</sup> *See generally* Lopez Denoble, *supra* note 50.

<sup>56</sup> SNYC Papers, *supra* (Statement of Ruby Daniel).

<sup>57</sup> *Cause of William Daniels [sic] Death*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>58</sup> *Cause of William Daniels [sic] Death and Statement of Joe Ed. Windham*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>59</sup> *Statement of Ruby Daniel & Statement of Joe Windham*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>60</sup> *Statement of Harrison Hamilton*, SNYC Papers Box 1, Manuscript Division, MSRC.

reached the screen door, Vanderford pulled his gun and shot Daniel fatally.<sup>61</sup> Both Ruby and Windham attested that Daniel did not make any threatening motions or remarks to Vanderford before Vanderford shot him several times.<sup>62</sup>

Other signed witness statements collected by the SNYC conflict about whether any there was any conversation between the two men, or whether Daniel made any motion towards his shirt pocket or jumped away from Vanderford.

Tom Rudolph originally stated to a detective employed by the SNYC, Frank Hunter, that Daniel had kept his hands at his side upon exiting the store and was asking Vanderford why he was taking him to the fire station when Vanderford shot him. On the day of the shooting Rudolph had told his wife that at one point Daniel had put his hand to his side, but dropped it at the request of the guard.<sup>63</sup> Rudolph concluded that Vanderford shot Daniel “for nothing.”<sup>64</sup> However, during a second interview on February 16, 1947 – after Vanderford served Rudolph with a subpoena in advance of the grand jury proceedings – Rudolph changed his story, stating that he saw William jerk away from the guard, jump back about 10 or 12 feet, and reach into his shirt as if going for a weapon.<sup>65</sup> Tom Rudolph also stated that he had worked for TCI since 1927 and had known Vanderford for several years.<sup>66</sup>

Harrison Hamilton had seen Vanderford “rushing into the store” and was at the door as Daniel and Vanderford passed through on the way out.<sup>67</sup> Hamilton did see the two men “talk a

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<sup>61</sup> *Statement of Ruby Daniel*, SNYC Papers Box 1, Manuscript Division, MSRC. Ruby left the scene with friend Joe Windham shortly after the shooting, because Windham felt that “she was excited and it was best to take her home.”

<sup>62</sup> *Statement of Ruby Daniel & Statement of Joe Windham*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>63</sup> *Statement of Florence A. Castile, in the presence of Mrs. Hunter and Mrs. Rudolph*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>64</sup> *Id.*

<sup>65</sup> *Statement of Tom Rudolph, taken by Edward K. Weaver and Frank Hunter*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>66</sup> *Id.*

<sup>67</sup> *Statement of Harrison Hamilton*, SNYC Papers Box 1, Manuscript Division, MSRC.

little while,” but did not see Daniel reach toward his shirt or pants pocket.<sup>68</sup> Then, Hamilton saw Vanderford suddenly reach for his gun and shoot Daniel in the side.<sup>69</sup> When Vanderford reentered the store, Hamilton asked him what Daniel had done. Vanderford allegedly said, “I don’t know. Mr. Nicks and Mr. Phillips asked me to take him to the fire station. They wanted to talk with him.”<sup>70</sup> Then, Hamilton watched Vanderford continue walking on toward the back of the store.

Lin Allen was sitting on the garbage can in front of the store when “Mr. Van” and William came out.<sup>71</sup> He stated that William refused to go to the fire station and when Vanderford said, “Come on nigger [sic]” and grabbed him by the shoulder Daniel backed away and started poking around in his pocket.<sup>72</sup> Lin Allen then claims that “Mr. Van” said, “nigger [sic], take your hand away from your pocket” a couple times, but that William did not lift his hands and Vanderford pulled out his gun and shot him.<sup>73</sup>

Robert Lamarr did not see the shooting, but came outside of the store as Fairfield officers unsuccessfully searched Daniel for weapons.<sup>74</sup> Lamarr stated that he heard Daniel moan and cry out as he lay on the sidewalk that he “had been shot for nothing, and that God would punish him (the guard) for it.”<sup>75</sup> Daniel was taken to the TCI Employees Hospital and died later that day after doctors had treated him for over nine hours, including with a blood donation from his friend Joe Windham.<sup>76</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Statement of Lin Allen*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Statement of Tom Rudolph, taken by Edward K. Weaver and Frank Hunter, in the presence of Robert Lamarr*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>75</sup> *Id.*

<sup>76</sup> *Statement of Joe Ed Windham*, SNYC Papers Box 1, Manuscript Division, MSRC; Daniel’s death certificate, on file with author.

This author interviewed Demetrius Newton, late resident of Fairfield and a former state representative and lawyer, about Daniel’s murder. Demetrius Newton was the son of Calphus Newton and knew Daniel personally from when he was living in the Newton’s home. Newton recalled that he was home on winter break from his studies at Wilberforce University when the killing occurred.<sup>77</sup> While he did not witness the shooting, he recalled hearing multiple stories about it later from community members. Newton told CRRJ:

There were two or three rumors that the white folks side was saying that he was feeling on the white woman. The other one being that the white woman asked him something and he forgot to say “yes, ma’am.” And I don’t know which rumor is correct. Knowing him I would doubt that there is any credence to the first rumor.<sup>78</sup>

In a 2013 documentary on the history of Westfield that relies on CRRJ’s research on the Daniel case, former Westfield resident George D. Thomas recalled aspects of the event as well. Thomas stated that there had been a white boy shopping that day, who had come back into the store after taking groceries to the car. He had touched the store clerk, and then he went around the stairs so that she could not see him. “The only thing she see is this black man walking up the stairs,” Thomas remembered.<sup>79</sup> After Vanderford “just cold blood shot” Daniel, he was brought in front of a grand jury for the murder. According to Thomas, the few people that witnessed the event “went to the court hearing and backed up this white guy [Vanderford], talked up for him. That’s how he beat it.”<sup>80</sup>

The distinct likelihood that witnesses were intimidated during the grand jury proceedings is clear. In Tom Rudolph’s second signed statement, he acknowledges that he changed his story. The SNYC case file made notes multiple times that protection was necessary for several

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<sup>77</sup> Author Interview with Demetrius Newton, Former Alabama Representative, 53<sup>rd</sup> District (Jefferson) (July 2, 2013). Transcript on file with author.

<sup>78</sup> *Id.*

<sup>79</sup> *Westfield: Struggles to Success*, quotations by George D. Thomas, former Westfield resident (2013) (DVD on file with author).

<sup>80</sup> *Id.*

witnesses. One witness, Henry Bradley, reported that Vanderford had told him that a subpoena was waiting for him and that “he [Vanderford] was sure that all of these men were going to tell the truth.”<sup>81</sup> The SNYC concluded that Bradley would not “make a good witness as he stated that he had to still live there [in Westfield].”<sup>82</sup> SNYC Secretary Florence Castile reached out to union local officials to obtain their assistance in staving off intimidation by TCI company personnel.<sup>83</sup> The *Birmingham World* published an article on December 27, 1946, highlighting an investigation by NAACP attorney Hartford Knight, chairman of the legal redress committee. It noted his frustration that eyewitnesses would not “stand up and tell the truth about the tragic incident.”<sup>84</sup>

The *Birmingham World* often captured the accurate versions of episodes of racial violence, and published a balanced picture more consistent with how the black community experienced the event. However, in Daniel’s case the *World*’s reporting covered essentially the same ground as the *News*. The *World* characterized the white saleswoman’s complaint as Daniel having “playfully touched her.”<sup>85</sup> It should be noted that an SNYC case summary specified that their strategy around the case was one of “very little publicity on the advice of the attorney [Arthur D. Shores of the NAACP] who felt that pressure should be withheld until after the case was presented before the grand jury.”<sup>86</sup> Unfortunately, the true nature of the action that set off the deadly course of events that day was lost to the broader community, save for rumors among those close to the Daniels, and the witness testimony that is recorded in the SNYC case file.

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<sup>81</sup> *Case of William Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *To Investigate Fatal Shooting of Man Here*, BIRMINGHAM WORLD, Dec. 27, 1946 (on file with author).

<sup>85</sup> *Id.*

<sup>86</sup> *Case of William Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC; Daniel’s death certificate, on file with author.



#### IV. THE YOUTH CONGRESS VS. THE GRAND JURY

The SNYC collected seven witness statements and sent them to the Bessemer Solicitor's Office to encourage prosecution of the case.<sup>87</sup> NAACP attorney Arthur D. Shores, who was still early in his legal career, was retained by the SNYC to help the Daniel family with the criminal prosecution. Attorney Shores would later be recognized nationally for his path-breaking work on civil rights cases to equalize salaries for black teachers and to further voting rights in Alabama. His home in Birmingham was bombed multiple times – leading to his nickname, “the gentle giant of dynamite hill.”<sup>88</sup> At this point in time, Shores was the only or one of very few black attorneys working on such cases in Birmingham. Shores took Caudiest, Daniel's father, and Arthur Price, SNYC Special Projects Director, to the solicitor's office to request a warrant for Vanderford's arrest, but they were rebuffed.<sup>89</sup> No arrest warrant for the murder of Daniel was ever issued. Eventually, the Solicitor agreed to present the case to the grand jury when it convened in February 1947. While Shores led the public campaign for the criminal prosecution of Vanderford, Birmingham attorney Francois Hare was retained to pursue a civil suit on behalf of Ruby Daniel.<sup>90</sup>

Witnesses were ultimately subpoenaed in connection with the grand jury proceedings, including at least two witnesses subpoenaed by Vanderford himself. During one of its follow-up efforts to confirm witness statements, the SNYC noted that Vanderford had spoken with one witness, Henry Bradley, about the murder and had said that “he was sure that all of these men

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<sup>87</sup> *Case of Willie Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>88</sup> *See generally* Helen Shores Lee & Barbara S. Shores, with Denise George, *The gentle giant of Dynamite Hill: the untold story of Arthur Shores and his family's fight for civil rights* (2012).

<sup>89</sup> *Case of Willie Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC. According to the case summary, “the elected solicitor had just been drowned, so there was an acting solicitor in office. He refused to issue a warrant on the grounds that he had not heard of the case.”

<sup>90</sup> *Id.* The SNYC case summary notes that Ruby Daniel was advised to “correct the distorted story she had told Attorney Francis Hare who is handling the civil suit as to her physical condition. (She had been advised by a relative to tell him she was pregnant. She was not.)” No documentation of the civil suit or its result has been located.

[the witnesses] were going to tell the truth.”<sup>91</sup> In the same conversation, Vanderford also seemed to admit culpability, telling Bradley that “he was sorry that he had shot the boy, but did so when he was angry.”<sup>92</sup> Unfortunately, the SNYC concluded that Bradley was not likely to be a good witness because he was worried about still having to live in Westfield after he testified.

On February 20, 1947, all of the witnesses that the SYNC was able to collect testified before the grand jury at the Bessemer Court House.<sup>93</sup> The grand jury returned a “no bill” two days later, on February 22, 1947.<sup>94</sup> No further news was published about the case, even in the *Birmingham World*.

During the preparations for the grand jury, the SNYC had gathered a group of key citizens to form the “Willie Daniels [sic] Defense Committee,” which would distribute petitions in the Birmingham District to raise awareness about the case and pressure the Solicitor to take further action.<sup>95</sup> The committee included Reverend Claude Williams, William Daniel’s minister; Ruby Daniel and her mother, Mrs. Terry; Emory O. Jackson, the editor of the *Birmingham World*; Florence Castile, SNYC secretary; and several others.<sup>96</sup> SNYC hoped that this group would continue to function as a “citizens’ Civil Rights Committee,” but it is unclear whether it carried on any further activities under that name after the grand jury’s decision.

After the decision by the grand jury, SNYC contemplated the next steps to take in the case, which included identifying more witnesses, determining which witnesses could be recalled for a second grand jury, raising funds to defray the costs to witnesses of testifying, and

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<sup>91</sup> *Id.*

<sup>92</sup> *Case of William Daniels*, SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>93</sup> *Id.* The only witness that did not testify was Joe Windham, who was unable to be contacted by the SNYC prior to the grand jury hearing.

<sup>94</sup> *Id.* This grand jury document could not be located in the archives at the Bessemer Justice Center.

<sup>95</sup> *Id.*

<sup>96</sup> *January 29, 1947 Meeting Notes of Florence A. Castile, Acting Secretary*, SNYC Papers Box 1, Manuscript Division, MSRC.

publicizing the grand jury's decision.<sup>97</sup> A letter from SNYC's Arthur Price, Jr. to Emory O. Jackson about one month after the grand jury decision included a report on the case, and observed that they would notify him of further developments.<sup>98</sup> The letter also sheds some light on why the case seemed to have fallen off of the radar just months after the grand jury no bill:

In the mean while [sic] another case of extreme police brutality has come to our attention, involving the loss of an eye of a respected young resident of Fairfield. A report on this case, the case of Joseph Kirk, is also included. Your help is needed in pressing for justice in this matter...<sup>99</sup>

It appears that the SNYC organizers, Attorney Shores, Editor Jackson, and other advocates in the Daniel case may have simply been overwhelmed with these cases of egregious violence, which occurred on a fairly regular basis. Demetrius Newton recalled that most of Daniel's siblings moved to Chicago shortly after William Daniel's death, and thus the family's pressure on the case apparently dissipated as they were compelled to leave the area.<sup>100</sup> Ruby Daniel's untimely death followed within five years of her husband's murder.<sup>101</sup> Before she passed away, she remarried a man named Arthur Lloyd and continued to live in Fairfield. She did not have children from either marriage.<sup>102</sup>

## V. POLICE BRUTALITY & LABOR CONTROL IN STEEL COUNTRY

*"I found on coming to Birmingham that to be in the iron trade was to be respectable. To be an officer of an iron-making corporation was to have an entree to the best society, but to be the chief residential officer of the largest corporation was to carry the key to the kingdom of heaven."*<sup>103</sup>

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<sup>97</sup> *Summary of Case of William Daniels* [sic], SNYC Papers Box 1, Manuscript Division, MSRC.

<sup>98</sup> Correspondence of Emory O. Jackson, Office Files of the *Birmingham World* 1939-1988 (archived at the Birmingham Public Library).

<sup>99</sup> *Id.*

<sup>100</sup> Author Interview with Demetrius Newton, Former Alabama Representative, 53<sup>rd</sup> District (Jefferson) (July 2, 2013). Transcript on file with author.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> TCI Secretary-Treasurer, James Bowron, 1895 (quoted in Marjorie White, *The Birmingham District*, *supra* note 2).

Not much information is available about Sheriff J. W. Vanderford. What is clear from witness statements is that he had been working as a TCI guard for some time before the shooting, and that he continued to work for TCI for many years thereafter. U.W. Clemon, a former Westfield resident, protégé of Demetrius Newton, and retired federal judge remembered Vanderford patrolling the company town when Clemon’s family moved there in the mid-1950s and said that all the kids would call him “Sheriff Van.”<sup>104</sup> He did not recall any incidents of violence while he lived in Westfield.

One of the oldest living Fairfield residents, 91-year-old Grover Cleveland, did remember years of police violence perpetrated against the black communities of Fairfield and Westfield. Discussing the Daniel killing, Cleveland specifically recalled that “John Van” was a “mean man ... [who] would kill you just for being black.” He repeated, “John Van was just that way.”<sup>105</sup> Cleveland also recalled that Vanderford lived in Fairfield with his brother, who owned a hardware store across from city hall, and that he would often use his position as a TCI deputy officer to terrorize the black community on both sides of the track. “But at that time the police had his way,” Mr. Cleveland continued, “and most times whatever he’d done he know he’s gon’ free.”<sup>106</sup> Though census records could not be located for J.W. Vanderford, it is likely that he passed away in the 1970s and did not leave much family in the area.<sup>107</sup>

As Cleveland indicates, William Daniel’s death was not the first instance of police brutality against black residents and workers in the Fairfield community. In fact, this recurring reality was apparent in the early 1940s with the vicious murder of O’Dee Henderson by Fairfield

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<sup>104</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author).

<sup>105</sup> Author interview with Grover Cleveland, Fairfield resident (July 26, 2013) (transcript on file with author).

<sup>106</sup> *Id.*

<sup>107</sup> Author interview with U.W. Clemon, Retired Federal Judge, White Arnold & Dowd PC (July 25, 2013) (transcript on file with author).

police.<sup>108</sup> Henderson, an employee of TCI, was detained at the Fairfield jail after an altercation with a white TCI employee, M. M. Hagood, near a company building in Westfield.<sup>109</sup> At the jail, Fairfield police officers and Hagood beat O’Dee Henderson repeatedly, and ultimately an officer shot him to death.<sup>110</sup> Attorney Shores also fought for justice in Henderson’s case. The jury accepted the story that the killing was in self-defense and acquitted the officers.<sup>111</sup>

A few weeks after Henderson’s murder, a young black sheet-metal worker, John Jackson, also died at the hands of Fairfield police.<sup>112</sup> Jackson was standing in line at a movie theater when a Fairfield police officer took offense because Jackson, who was with his girlfriend, laughed and the officer thought he was being disrespected. He hit Jackson over the head, arrested him, beat him and shot him to death in the car on the way to the jail.<sup>113</sup> When the police brought Jackson to the TCI Employee Hospital, the hospital authorities said, “don’t bring any more dead men here to us,” referencing the Henderson killing that had occurred a few weeks before.<sup>114</sup>

These murders, especially the brutal Henderson killing, struck a chord with Fairfield residents, and public hearings on police brutality in Fairfield were held in May 1940.<sup>115</sup> During the hearings, officers at all levels of the police force related that beatings of blacks by police officers were common. W.R. Sims, the TCI chief deputy officer at the time and likely J.W. Vanderford’s supervisor, was identified as having taken part in beatings in collaboration with the

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<sup>108</sup> For more information on the Henderson murder, see <http://nuweb9.neu.edu/civilrights/henderson/>; see also ROBIN D. G. KELLEY, HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION 217 (1990) (describing police brutality in Birmingham as an “age-old issue in the black community that had been revived” by Henderson’s murder).

<sup>109</sup> *O’Dee Henderson*, Civil Rights & Restorative Justice Clinic, <http://nuweb9.neu.edu/civilrights/henderson/>.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> “Demand Probe After Ala. Police Murder Citizen,” *The Chicago Defender* (May 10, 1941); ROBIN D. G. KELLEY, HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION 217 (1990).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> “Fairfield Beatings Aired: Move to Fire Police Fails by One Vote,” *Birmingham Post* (May 14, 1940)

Fairfield police.<sup>116</sup> Fairfield Police Chief E. L. Allman, who later reported the Daniel case to the *Birmingham News*, had also participated in beatings.<sup>117</sup> A councilman overseeing the hearings candidly admitted that: “Negroes have been whipped as long as there’s been a jail. It will be that way as long as there is a decent police force. It has to be that way as long as there are so many Negroes living here.”<sup>118</sup>

The councilman’s statement illuminates the crucial tension over the increasing numbers of blacks living in the Birmingham District. Having left the sharecropping life, the blacks had come to the city to seek better standards of living and to compete for jobs. The demographic shift made white southerners anxious, and TCI in particular. Incidents of violence within the black community increased, especially as black young men sought to assert themselves in the changing times.

In his dissertation on “Race and Industrial Transformation in the Alabama Coalfields,” Robert H. Woodrum highlights the 1942 murder of Jack Bloodworth as an example of the “worst fears of white elites during the early war years.”<sup>119</sup> Bloodworth was a TCI coal miner and a member of the United Mine Workers Association (UMWA). He was married to Fannie Lee Brown and had two children. On August 12, 1942, Bloodworth allegedly “acted assertively” towards company officials by quarreling over an unwarranted deduction in the paycheck.<sup>120</sup> According to Cleve Bloodworth, Jr., the victim’s nephew, who was present at the time of the murder, a TCI camp deputy named Herbert Gray was called to the pay office as Bloodworth was leaving. Gray questioned Bloodworth’s boldness in asking for his paycheck in a timely fashion

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<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Robert H. Woodrum, *Race and Industrial Transformation in the Alabama Coalfields, 1933-2001* 164 (2003) (unpublished Ph.D. dissertation, Georgia State University)(on file with author).

<sup>120</sup> *Id.*

and without the erroneous deduction, claiming that Bloodworth came down there “raising Hell.”<sup>121</sup> Gray then sought another TCI officer, Hilford Mizell, to help him arrest Bloodworth.<sup>122</sup> When Bloodworth resisted getting into the officers’ car, the men began to struggle and Gray’s pistol was knocked into the road.<sup>123</sup> Mizell retrieved the gun and gave it to Gray, while also grabbing Bloodworth by the neck and holding him back from Gray. Gray then pointed the gun at the unarmed Bloodworth and shot him in the right side. When Bloodworth again resisted getting into Gray’s car, Gray shot him again, this time just above the heart.<sup>124</sup> Two witnesses, Felix King and Willie Coleman, went to where Bloodworth was lying and heard him gasp for air before dying.<sup>125</sup>

All witnesses interviewed by the FBI, except one, stated that Gray shot Bloodworth in self-defense, and a coroner’s inquest ruled the death a justifiable homicide.<sup>126</sup> The FBI noted that the one witness who identified Gray as the aggressor, Lawrence W. Mutry, was a “negro leader” and “labor agitator” because he was an official of the UMWA.<sup>127</sup> The FBI sought to discredit Mutry’s statement by crediting another witness who claimed that Mutry could not have seen the shooting. After the FBI’s report was submitted to the Department of Justice, the Department determined that no federal law was violated because Bloodworth resisted arrest and committed assault.<sup>128</sup>

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<sup>121</sup> Statement of Cleve Bloodworth, Jr., to the FBI, File of Jack Bloodworth, DOJ Criminal Division Archives (Sept. 1, 1942); *See also*, Woodrum, *supra* note 108.

<sup>122</sup> Officers Gray and Mizell were employed under TCI Chief W.R. Sims. Besides being a TCI officer, Gray was also a constable of the 39<sup>th</sup> Precinct, encompassing Docena village in Jefferson County. *See* Statement of Herbert H. Gray, File of Jack Bloodworth (Aug. 31, 1942).

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*; *see also* Statement of Lawrence W. Mutry, File of Jack Bloodworth (Aug. 29, 1942).

<sup>125</sup> Statement of Felix King, File of Jack Bloodworth (Aug. 29, 1942).

<sup>126</sup> FBI Case Summary, File of Jack Bloodworth (Sept. 4, 1942).

<sup>127</sup> *Id.*

<sup>128</sup> Memorandum from Wendell Berge, Asst. Attorney Gen., DOJ Criminal Division, to J. Edgar Hoover, the Director, FBI, File of Jack Bloodworth (Sept. 22, 1942).

These four homicides capture the reality of police brutality against black coalminers and steel workers in the early civil rights era. Most often such violence was used to control black worker's rising status during the war years. But the killings of Henderson, Jackson, Bloodworth, and Daniel can encourage open discussion of racial violence in the Birmingham District where the vast silence of stories that have not yet been remembered or told is deafening.

## VI. ACCOUNTABILITY IN COMPANY TOWNS: *SCREWS & MARSH*

*“Many people in the United States live in company-owned towns. These people, just as residents of municipalities, are free citizens of their State and country... There is no more reason for depriving these people of the liberties guaranteed by the First and Fourteenth Amendments than there is for curtailing these freedoms with respect to any other citizen.”*<sup>129</sup>

Soon after the Civil War and the enactment of the Reconstruction Amendments, the Supreme Court adopted the “state action” doctrine, which limited the application of these new constitutional protections to public officials, as opposed to private actors.<sup>130</sup> As a result of this barrier, prior to the 1940s, successful federal criminal prosecutions under the two Reconstruction statutes that protected individuals against willful deprivations of constitutional rights by government officials were rare.<sup>131</sup> Section 19 prohibited conspiracies to “injure, oppress, threaten, or intimidate any citizen” for the purpose of keeping him or her from exercising a constitutional right. Section 20 prohibited individuals acting under color of law from “willfully subject[ing]” a citizen to such a deprivation of constitutional rights.<sup>132</sup> These sections of the

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<sup>129</sup> Justice Black in *Marsh v. Alabama*, 326 U.S. 501, 508-09 (1946).

<sup>130</sup> *The Civil Rights Cases*, 109 U.S. 3 (1883). See also, *U.S. v. Cruikshank*, 92 U.S. 542 (14th Amendment applies to state action only.)

<sup>131</sup> See Landsberg, *Screws v. United States*, Encyclopedia of the Supreme Court 345 (MacMillan Reference USA, 2005). The statutes were § 19 of the Criminal Code (now 18 U.S.C. § 241) and § 20 (now 18 U.S.C. § 242).

<sup>132</sup> *Id.* at 346.



criminal code had previously been used to prosecute lynchings where there was evidence of state involvement, but with limited success.<sup>133</sup>

In a 1945 case, *Screws v. United States*, the Supreme Court construed the word “willful” in Section 20 as action with the “specific intent” to deprive a person of his or her constitutional rights.<sup>134</sup> This specific intent requirement became an essential element of federal prosecutions for police brutality, and marked the beginning of an era of civil rights litigation.<sup>135</sup>

Then, in January 1946, the Supreme Court reconfigured the boundary between state and private action in its landmark decision in *Marsh v. Alabama*.<sup>136</sup> *Marsh* is considered the leading case construing “state action” as applied to violations of constitutional rights by putatively private parties.<sup>137</sup> The Court’s reasoning in *Marsh*, combined with the revitalized case law reflected in *Screws* and the cases following it, may have provided, for a creative advocate in Daniel’s case, a federal cause of action.

*Marsh v. Alabama* created a narrow but crucial exception to the traditional state action doctrine for those actions by private parties who could be deemed to be partaking in a public function: “The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it.”<sup>138</sup> In *Marsh*, this meant that a company town owned by the Gulf Shipbuilding Corporation that had all the amenities and facilities of a typical state municipality, and which opened itself up to use by the “public in general,” could not prevent a person from exercising

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<sup>133</sup> *Id.*

<sup>134</sup> *Screws*, 325 U.S. at 101.

<sup>135</sup> Landsberg, *supra*, note 115, at 347.

<sup>136</sup> 326 U.S. 501 (1946).

<sup>137</sup> See, e.g., *Comm. For A Better Twin Rivers v. Twin Rivers Homeowners’ Ass’n*, 192 N.J. 344, 356 (2007) (“Federal case law has evolved to require that there must be “state action” to enforce constitutional rights against private entities. *Marsh v. Alabama* [...] is recognized as the leading case in this area of law.”) (internal citation omitted).

<sup>138</sup> 326 U.S. at 506.

first amendment rights on the premises. For, as Justice Frankfurter exclaimed in his concurrence in *Marsh*, “a company-owned town is a town. In its community aspects it does not differ from other towns.”<sup>139</sup>

In 1953, the Ninth Circuit clearly articulated the *Marsh* rule: “If the private actor is functioning as the government, that private actor becomes the state for purposes of state action.”<sup>140</sup> The *Marsh* rationale could have been applied to vindicate the federal constitutional rights of victims of violence at the hands of “private” guards in Westfield during the 1940s, where there was “nothing to distinguish” it from any other town. Although Westfield was privately owned and partially gated, it undertook the traditional functions of any public town. Like the company town in *Marsh*, Westfield provided housing, sanitation, health services, recreation, and law enforcement. Westfield’s streets and building were open for public use, and it was common it for TCI employees who lived in neighboring Fairfield to come to Westfield to shop. There appears to have been no constraints on public traffic passing through Westfield, even for persons just seeking a scenic route through town to visit the neighboring towns of Dolomite or Wylam. Cases following *Marsh* limited the public function rule to situations where a private entity had total control or had assumed traditionally “exclusive” governmental functions and powers.<sup>141</sup> TCI-owned Westfield was the exact entity the *Marsh* court contemplated in extending state action to company towns that performed public functions.<sup>142</sup>

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<sup>139</sup> *Id.* at 511.

<sup>140</sup> *Gorenc v. Salt River Project Agr. Imp. & Power Dist.*, 869 F.2d 503, 508 (9th Cir. 1989). *See also*, *Lloyd Corp., Ltd. v. Tanner*, 407 U.S. 551, 569 (1972) (“In effect, the owner of the company town [in *Marsh*] was performing the full spectrum of municipal powers and stood in the shoes of the State.”); *Terry v. Adams*, 345 U.S. 461, 469-70 (1953) (seminal case holding that the operation of the “Jaybird party” in Texas, which held a county primary but called it private so it could exclude blacks, was “state action”).

<sup>141</sup> *See, e.g.*, *Blum v. Yaretsky*, 457 U.S. 991, 1011 (1982) (private but heavily regulated nursing homes did not perform a function that is “traditionally the exclusive prerogative of the State”) (internal quotations omitted); *Tanner*, 407 U.S. at 596-70 (privately owned and operated shopping center was not “dedicated” to public use and did not exercise of municipal functions or power); *Gorenc*, 869 F.2d at 508 (privately owned and funded irrigation

Law enforcement in Westfield operated like many other southern towns: a chief deputy sheriff and special officers with guns and the authority to enforce Jim Crow laws and customs, just like other municipal police forces. The FBI report on the Bloodworth case confirms the TCI officers' broad authority in interviews with TCI Chief Deputy W.R. Sims and Jefferson County Sheriff Hold A. McDowell. When asked about the nature of the authority of TCI officers like Gray and Mizell, Chief Deputy Sims stated that the TCI officers had been hired on the recommendation of the Sheriff and that they were given "no instructions other than that they were to perform their duties in maintaining [law and order] on company property in accordance with the laws of Alabama."<sup>143</sup> Sheriff McDowell affirmed that the officers were appointed by him and further stated that:

[t]he only difference between these men and the other Deputy Sheriffs on his staff [...] is that [Gray] and Mizell are paid by the TCI and are restricted ordinarily to maintaining the peace on the property of said company, except in instances where their services may be required by the Sheriff's Office to assist in quelling riots, etc., in other places in the country.<sup>144</sup>

Chief Deputy Sims and Sheriff McDowell made little distinction between municipal officers and those paid by TCI. In fact, officer Gray was both a TCI officer and a constable in the town of Docena, a few miles down the road from Westfield. In reality, these "private" TCI officers were clothed in the same authority of state law enforcement and only minimally restricted by the expanse of company property.

After *Marsh*, a question remained as to whether the public function theory could be expanded to apply to vindication of other constitutional and statutory rights that are violated,

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district is not a state actor because it did not open its land to the general public or play a role traditionally filled by the government).

<sup>142</sup> See, e.g., *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1142 (3d Cir. 1995) (discussing how rare it was that private entities have been held to satisfy the public function test of *Marsh*); *Lucas v. Wisconsin Elec. Power Co.*, 466 F.2d 638, 665 (7th Cir. 1972) (finding that the defendant public utility was predominately municipal in "character and purpose," fulfilling the state action requirement under § 1983) (internal quotations omitted).

<sup>143</sup> FBI Case Summary, File of Jack Bloodworth (Sept. 4, 1942), at 24.

<sup>144</sup> *Id.*

“under color of state law.”<sup>145</sup> After tracing the “disorder” in state action theory after *Smith v. Allwright*,<sup>146</sup> *Screws*, and *Marsh*, Risa Goluboff noted that, “[s]cholars saw the state action connections between these disparate cases, concluding, [as did civil rights lawyers], that ‘[t]here are possibilities . . . that the rights guaranteed by the 14th Amendment may be extended over areas previously considered wholly private.’”<sup>147</sup> For instance, Goluboff notes that NAACP lawyers used the changing state action doctrine in labor cases that challenged private employer and union discrimination against black workers. In the two railroad union cases, *Steele v. Louisville & N.R. Co.*<sup>148</sup> and *Tunstall v. Brotherhood of Locomotive Firemen*,<sup>149</sup> the Supreme Court did not hold that unions were state actors but did find that their regulation by the federal government created a statutory duty of fair representation.<sup>150</sup> State courts went further in expanding state action beyond formally constituted public actors: in 1946, the Kansas Supreme Court<sup>151</sup> held that because federal law gave the union “the exclusive power of representation of relevant railway employees” that “government regulation had actually transformed the union from a regulable actor into a government actor.”<sup>152</sup>

In 1951, the Supreme Court considered the application of Section 20 (now Section 242) to a private detective in *Williams v. United States*.<sup>153</sup> The private detective held a “special police officer’s card issued by the City of Miami, Florida, and had taken an oath and qualified as a

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<sup>145</sup> *Screws*, 325 U.S. at 157; *See, e.g., Cmty. Med. Ctr. v. Emergency Med. Servs. of Ne. Pennsylvania, Inc.*, 712 F.2d 878, 882 (3d Cir. 1983) (declining to extend *Marsh* and its progeny to an action involving the designation by a nonprofit corporation of a new resource hospital, stating that the “First Amendment cases obviously are not applicable to CMC’s due process and equal protection claims”).

<sup>146</sup> 321 U.S. 649 (1944) (striking down white primary run by private entity as a discriminatory state action).

<sup>147</sup> Risa Goluboff, “*Let Economic Equality Take Care of Itself*”: *The NAACP, Labor Litigation, and the Making of Civil Rights in the 1940s*, 52 UCLA L. REV. 1393, 1444 (2005).

<sup>148</sup> 323 U.S. 192 (1944).

<sup>149</sup> 323 U.S. 210 (1944).

<sup>150</sup> Goluboff, *supra* note 146, at 1448-49. Justice Murphy wrote in the *Steele* concurrence that he would have held the unions to be state actors.

<sup>151</sup> *Betts v. Easley*, 169 P.2d 831, 839 (Kan. 1946).

<sup>152</sup> Goluboff, *supra* note 146, at 1450.

<sup>153</sup> 341 U.S. 97 (1951).

special police officer.”<sup>154</sup> Williams and others, including a police officer from the Miami Police Department, obtained confessions from four suspects by hours of “unmerciful[] punishment.”<sup>155</sup> Relying primarily on *Screws* and *United States v. Classic*, the Court found it clear that the private officer was acting under the color of state law.<sup>156</sup> Writing for the majority, Justice William O. Douglas stated:

It is common practice [...] for private guards or detectives to be vested with policemen’s powers. We know from the record that that is the policy of Miami, Florida. [...] Petitioner was no mere interloper but had a semblance of policeman’s power from Florida. There was, therefore, evidence that he acted under authority of Florida law; and the manner of his conduct of the interrogations makes clear that he was asserting the authority granted him and not acting in the role of a private person.<sup>157</sup>

Justice Douglas also noted that the willful intent requirement of *Screws* would protect these officers from any vagueness in Section 20 or its standard of guilt.<sup>158</sup> While the presence and participation of the public officer supported the Court’s holding, the most salient fact was that Williams’ himself was cloaked in the state’s authority.<sup>159</sup>

In 1964, the Court again considered the status of a private police officer in *Griffin v. Maryland*.<sup>160</sup> The case was brought by five black students who protested the Glen Echo Amusement Park’s policy to “exclude Negroes who wished to patronize its facilities.”<sup>161</sup> The park had entered into a special arrangement with the National Detective Agency to provide policemen “to protect and enforce [...]the] racial segregation policy of the operator of the

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<sup>154</sup> *Williams*, 341 U.S. at 98.

<sup>155</sup> *Id.* at 99.

<sup>156</sup> *Id.* at 99. To clarify the interplay between ‘under color of law’ and state action, one scholar notes that “the statutory element of action taken ‘under color of law,’ found in § 242 and in other federal statutes, is equivalent to the state action requirement of the Fourteenth Amendment.” Elizabeth E. Joh, *The Paradox of Private Policing*, 95 J. Crim. L. & Criminology 49, 98 (2004).

<sup>157</sup> *Id.* at 99-100 (internal citations omitted).

<sup>158</sup> *Id.* at 101.

<sup>159</sup> See Elizabeth E. Joh, *The Paradox of Private Policing*, 95 J. Crim. L. & Criminology 49, 98 (2004).

<sup>160</sup> 378 U.S. 130 (1964).

<sup>161</sup> *Id.* at 131.

amusement park.”<sup>162</sup> The Agency officers were deputized as “special deputy sheriffs” under Maryland law.<sup>163</sup> When the students refused to leave the park, an Agency official arrested them for trespass and the students were convicted. On appeal, the students argued that their convictions violated the Fourteenth Amendment’s Equal Protection Clause. The Court agreed, finding that the Agency officer, though not a public employee, was a state actor for Fourteenth Amendment purposes. The Court noted that the officer “wore a sheriff’s badge and consistently identified himself as a deputy sheriff rather than as an employee of the park.”<sup>164</sup> Citing *Screws*, the Court clearly stated:

If an individual is possessed of state authority and purports to act under that authority, his action is state action. It is irrelevant that he might have taken the same action had he acted in a purely private capacity or that the particular action which he took was not authorized by state law.<sup>165</sup>

Thus, the Court has held private police liable for violations of civil rights under Section 242 and the Fourteenth Amendment, especially where those officers are deputized by the state and there is evidence of the officer using the cloak of his authority to violate the law.<sup>166</sup>

In light of *Williams* and *Griffin*, Daniel’s murder by TCI deputy Vanderford may have fallen within the Court’s modern understanding of state action and, therefore, been actionable under Section 20. Vanderford was a deputized security officer who used his authority “to enforce the laws of Alabama.” Moreover, the TCI officers’ authority overlapped with municipal police officers, as evidenced in the FBI’s report in the Bloodworth case. Though Daniel’s murder occurred five years before *Williams* was decided, the Supreme Court was already headed in the direction of holding private entities liable for constitutional violations in *Marsh*, and would

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<sup>162</sup> *Id.* at 136.

<sup>163</sup> *Id.* at 132, n. 1.

<sup>164</sup> *Id.* at 135.

<sup>165</sup> *Id.*

<sup>166</sup> *See Joh, supra* note 158, at 97-101.

confirm that position when later presented with cases of private policemen who utilized the privileges of public officers.

In conclusion, the private deputies in Westfield were as brutal and partial in respect to black laborers as the state-run Fairfield police department across the railroad tracks. In addition, private security officers were under far less scrutiny than regular police because they were sheltered from public regulation and accountability by the corporation they served. As Grover Cleveland suggested, the TCI officers – and others like them – knew they were never going to get caught or seriously prosecuted for their transgressions against black workers. Yet the fundamental shift in federal law created by *Screws* and *Marsh*, may have opened a new area of civil rights litigation to support Daniel’s claim that he was deprived of his civil rights at the hands of Westfield’s “deputy sheriff.”<sup>167</sup>

## VII. CONCLUSION

The William Daniel case provides a revealing perspective on police brutality in southern company towns and the neighboring industrial cities in the 1940s. Daniel’s story offers a stark picture of law enforcement brutality in the early civil rights era; it also illustrates the power and practice of private security officers to enforce Jim Crow customs, often without even the minimal scrutiny to which public police were exposed. The oft-used claim of “self-defense” in cases of police beatings and shootings may have been credited by southern juries during the

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<sup>167</sup> As noted above, this theory of liability and federal jurisdiction was proposed for other areas of civil rights advocacy, including desegregation. *See, e.g.*, Notes, *Implementation of Desegregation by the Lower Courts*, 71 HARV. L. REV. 486, 500 (1958) (“[Another] ground for the assertion of jurisdiction exists when resistance to desegregation becomes so institutionalized through the formation of white-citizens councils and similar organizations as to exert a controlling power over government. In such a situation the organizations themselves may be directly subject to the proscriptions of the fourteenth amendment, and their discriminatory activity may then be enjoined,” citing *Marsh*.)

1940s, but a new legal arena under *Marsh* and *Screws* could also have provided to the Daniel family a means of pursuing TCI, its deputies, and its long-standing immunity.