Servicemen Slain on Streetcars by Motormen with Guns

A Legal History and Analysis of the Killings of Veterans Walter Lee Johnson and Madison Harris

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I. Introduction

The stories of John R. Owens, Madison Harris and Walter Lee Johnson are eerily similar, and extend beyond time and place. All involve young, black veterans, an altercation initiated by a streetcar motorman, and the operators’ fear that the black men were on the verge of attacks with weapons. Two of the young men were killed by motormen carrying guns; the third was shot and badly wounded. The three tragedies are linked to a common element in Jim Crow laws: armed motormen. Although it is well known that laws segregated public transportation prior to the overturn of the legal standard of separate-but-equal in Brown v. Board of Education,1 less is known about laws that granted police power to conductors and motormen of the segregated public transportation of the American South.

This paper is divided into four parts. First, it focuses on the political and civil rights terrain of Atlanta in 1946, as well as the role of Georgia Power Company in public transportation. Next, it recounts the stories of the two veterans killed in 1946, first focusing on the personal elements and facts of the story and transitioning to the legal narrative in the courtroom, and the injustices throughout the process. Then the analysis dissects the Georgia laws that segregated streetcars and gave police powers to motorman, and focuses on the role of motormen with police powers as part of the Jim Crow framework. Finally, the paper reviews the response from the Atlanta community in 1946 after the killing of Madison Harris and Walter Lee Johnson, and relates these responses to the trend of advocacy opposing the delegation of state police power to motormen.

Young Men Shot on Streetcars: Straighten Up and Fly Right

The death certificate for Walter Lee Johnson from September 29, 1946 lists the cause of death as “bullet to the abdomen” and type of death as “homicide.”2 In the upper right corner, it says “Veteran status: WWII.”3 The night before his death, Johnson was on the sidewalk with his cousin, Harriet, when he saw a friend driving by him.4 It was a Saturday evening, around 9:30 P.M. in Fulton County, Atlanta, Georgia, almost ten months after Johnson had returned from the war.5 As his friend passed, Johnson brought the words of Nat King Cole to the Vine City street and enthusiastically yelled “straighten up and fly right” in the direction of his acquaintance.6

Walter D. Lee, a streetcar operator on an adjacent trolley heard Johnson’s yell, jumped off the inbound River Line Streetcar 9187 and approached Johnson.8 Lee must have not known the song; he said later he thought Johnson had sworn at him.9 He confronted Johnson, and, a few

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2 Walter Lee Johnson’s death certificate, in author’s possession.
3 Ibid.
4 “Veteran, Shot by Motorman, Dies at Lawson-General,” Atlanta Daily World, October 1, 1946.
5 Ibid.
6 Ibid.
7 Officers J.V. Lynn & N.W. Flanagan, Atlanta Police Department Offense Report, Walter Lee Johnson, September 29, 1946. This is the official police report filed at the scene of the shooting.
8 Ibid.
9 Ibid.
minutes later, the twenty-two year old African American veteran had a bullet in his abdomen.\textsuperscript{10} The next morning, in a hospital bed, Johnson was dead, and the streetcar operator was back on his route.\textsuperscript{11} Three weeks later, Judge A.W. Callaway of the Recorder’s Court ruled that the killing was a “justifiable homicide.”\textsuperscript{12}

To many in the Atlanta community, Walter Lee Johnson’s death was a familiar story. Almost six months before Johnson was killed, on the evening of April 10, 1946,\textsuperscript{13} Madison Harris, another World War II African American veteran, was at the door of an Atlanta streetcar that he had just exited.\textsuperscript{14} The streetcar operator, Thomas H. Purl, yelled to the twenty-two-year-old: “Boy, give me that gun!”\textsuperscript{15} Harris raised his hands above his head, and Purl shot him in the temple.\textsuperscript{16} Madison Harris fell to the Atlanta concrete, dead.\textsuperscript{17} Purl said he thought he had seen a gun in Harris’ pocket.\textsuperscript{18} Two weeks later, the same Judge Callaway of the same Recorder’s Court held that the killing was a justifiable homicide.

The deadly April evening when Madison Harris was killed was not the first time a motorman had shot an African American veteran in Atlanta that year. On March 30, 1946, less than two weeks prior to Harris’ death, John R. Owens, and two friends were out enjoying the evening in Atlanta.\textsuperscript{19} As the young men meandered, they approached a streetcar and asked if they could get a free ride from the man in the conductor’s car.\textsuperscript{20} In a few brief moments, the scene became violent. The angered streetcar operator, Jordan Y. Jackson, claimed that Owens had reached for a weapon in his pocket.\textsuperscript{21} When the dust settled, Owens had a bullet in his abdomen, and his two friends\textsuperscript{22} had been arrested for disorderly conduct.\textsuperscript{23} However, unlike the motorman shootings that killed Harris and Johnson, the shot that hit Owens was not fatal.\textsuperscript{24} Over a month and a half later, Jackson, the streetcar operator, was charged with “Suspicion of Shooting,” and John R. Owens, the victim, was charged with “Disorderly Conduct.”\textsuperscript{25} Both charges were dismissed in the same Recorder’s Court, once again, by the same Judge Callaway.\textsuperscript{26}

\textsuperscript{10} Ibid.
\textsuperscript{11} “Motorman’s Trial This Afternoon,” \textit{Atlanta Daily World}, October 16, 1946.
\textsuperscript{12} “Georgia Power Motorman Freed in Negro Slaying,” \textit{Atlanta Daily World}, October 17, 1946.
\textsuperscript{13} Officers R. J. Stevens & J.J. Morris, Atlanta Police Department Miscellaneous Report, “Negro Killed By Streetcar Operator: Madison Harris,” April 10, 1946. This is the official police report completed at the scene.
\textsuperscript{14} “Motorman Slays Youth At Door of Trolley,” \textit{Atlanta Daily World}, April 11, 1946.
\textsuperscript{15} Ibid.
\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid.
\textsuperscript{18} Ibid.
\textsuperscript{19} “17\textsuperscript{th} Homicide, Many Assaults Recorded Here Over Week-End,” \textit{Atlanta Daily World}, April 3, 1946.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid.
\textsuperscript{22} Clifford Moreland, one of the two friends, had served in the Army for over three years and had been released on February 24, 1946, a little over a month before the incident. He was twenty-four at the time of the incident. Ancestry.com, \textit{U.S. Department of Veterans Affairs BIRLS Death File, 1850-2010}, ANCESTRY.COM, in possession of the author.
\textsuperscript{23} “17\textsuperscript{th} Homicide, Many Assaults Recorded Here Over Week-End,” \textit{Atlanta Daily World}, April 3, 1946. & “Same Old Story: Streetcar Conductor Freed for Shooting,” \textit{Atlanta Daily World}, May 15, 1946.
\textsuperscript{24} Ibid.
\textsuperscript{25} “Same Old Story: Streetcar Conductor Freed for Shooting,” \textit{Atlanta Daily World}, May 15, 1946.
\textsuperscript{26} Ibid.
Jim Crow, Motormen and Guns

Georgia, along with many other southern states, transferred police power to conductors and motormen at the same time Jim Crow segregation was codified in the law. From the enactment of the Jim Crow laws in the 1890s to the post-World War II era, the reality of motormen and guns had a significant impact on African American communities. The killings of Walter Lee Johnson and Madison Harris and the shooting of John R. Owens vividly illustrate the gravity of the laws that delegate such police power. Of course, the bottom line in Atlanta is simple: without the police power granted by the laws, three African American men would not have been shot, and two veterans would have survived beyond the year of 1946.

The focus of this paper on African American veterans and the use of guns by streetcar motormen is two-fold. First, the stories and analysis of the legal outcomes of the young black veterans killed on the home front after surviving the world-wide conflict abroad illustrate the volatility of 1946 Atlanta for African Americans, and convey the complexities of civil rights activism with respect to segregation and streetcars prior to Brown. Second, the stories examine a passion-driven movement to overturn segregation and to break down the barriers of a law that granted police powers to non-state actors and contributed to systemic racism and racially-motivated violence. The views that people in Atlanta had about this subject in 1946, preserved in the newspaper accounts, editorials and letters to the editor, constitute a comprehensive outline of the thoughts and emotions of the early Civil Rights Era. Lastly, the movement to combat the structural oppression created by motormen with guns reached beyond Atlanta, and 1946, and is part of a larger civil rights effort that extends as far back as the turn of the Twentieth Century.

II. Background: Pragmatic Activism and Orchids for Operators

1946 was a complex year for Atlanta, Georgia and race relations. A quick review of the newspapers from the era reveals a collection of tumultuous events. In addition to the return of African American veterans after the close of World War II, the Supreme Court had finally prohibited state laws that excluded African American voters from participation in primary elections. The Ku Klux Klan was on the rise, and the Columbians, an Atlanta-based neo-Nazi group, was starting to flex its muscle. The infamous segregationist governor, Eugene

27 “Police Power of Street Conductors and Others,” Georgia Code Annotated, 1933, §27-214 and “Duty to Assign Passengers to their Cars; Police Powers of Conductors,” Ga. Code Ann, 1933, §18-207. Both laws are included in “Mule to Marta” file Atlanta History Center, in the author’s possession. The analysis of statutes included in this paper cites directly to the Georgia Code Annotated, 1933.
28 Harry Belafonte, Martin Luther King: Harry Belafonte Remembers ‘I Have a Dream,’ THE GUARDIAN (Aug. 15, 2013), http://www.theguardian.com/world/2013/aug/11/martin-luther-king-speech-harry-belafonte. Belafonte, a well-known actor, civil rights activist and veteran of World War II, framed the cognitive dissonance felt by African American veterans returning to the segregated south after World War II: “To then come back to an America where black people were denied their basic rights as citizens was to come back to a so-called democracy where political evils still taunted us . . . I believe to this day that it was that experience that underpinned the beginnings of the civil rights struggle in America.”
30 Email from Dr. Clifford Kuhn, Executive Director, Oral History Association, to author (June 13, 2013). Correspondence with Dr. Clifford Kuhn assisted in collecting primary documents from sources in Atlanta.
Talmadge, was running in his final campaign. The city’s African American population continued to rise with African Americans equaling roughly 35% of the total population. Racial violence was high, with ninety-five African Americans killed in the year of 1946.

Over a decade before the Brown decision, the Atlanta NAACP had its hands full fighting for civil rights under the leadership of the executive committee, which included Dr. J. Max Bond and Reverend Martin Luther King, Sr. Attorney A.T. Walden, general counsel of the Atlanta branch of the NAACP set the standard for the “pragmatic” activism of Atlanta. Walden emphasized “politics over litigation, placed a high value on economic security, and rejected the idea that integration (or even desegregation) were one in the same.” Often, this put the Atlanta agenda at odds with the NAACP ‘s national office, although Walden worked closely with the local chapter, and was known as Thurgood Marshall’s “man” in the city. With Walden and the national NAACP at the helm assisting the prosecution in the Recorder’s Court hearings in the Madison Harris and Walter Lee Johnson matter. The killings of the veterans were in the most competent legal hands in the south.

The Georgia Power Company and Atlanta Streetcars

31 Ibid.
32 Karen Ferguson, Black Politics in New Deal Atlanta, (Chapel Hill, University of North Carolina Press, 2002), 257, [hereinafter Ferguson, Black Politics in Atlanta]. In addition to the population growth, African American Atlantans worked for wages lower than their fellow citizens and in lower level jobs.
33 Matthew Bernstein, Nostalgia, Ambivalence, Irony: “Song of the South” and Race Relations in 1946 Atlanta, Film History, 219, 224 (1996). Comparatively, the total number of whites killed in Georgia in 1946 was ten.
35 Atlanta Branch, NAACP Officers and Executive Committee, 1950, Papers of the NAACP, part 26, Series A, Reel 9.
36 Tomiko Brown-Nagin, Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement (Oxford, Oxford University Press, 2011), 17-31 [hereinafter, Brown-Nagin, Courage to Dissent]. Austin Thomas Walden was called the “elder statesman of the civil rights movement in the South” and was one of the only African American lawyers in Atlanta. A graduate of the University of Michigan School of Law and a student of W. E. B. Du Bois, Walden is also recognized as the first African American judge in Georgia after Reconstruction.
37 Ibid at 2.
38 Ibid.
39 A.T. Walden’s involvement with the Atlanta NAACP in 1946, however, was complex. Walden assumed the presidency of the Atlanta NAACP in 1920, and remained in the role until 1936. Younger members worked to transition Walden out of the presidency, and even wrote to the NAACP national office about Walden’s controlling and disconnected approach to running the chapter. The new generation of activists was ready for more aggressive action. However, because of Walden’s experience and expertise, the Atlanta NAACP used Walden as the Atlanta NAACP general counsel, which led him to assist the prosecution in the Owens, Harris and Johnson Recorders Court hearings. See Ferguson, Black Politics in Atlanta, supra note 32 at 148-149. See generally Brown-Nagin, Courage to Dissent, 1-2.
40 Brown-Nagin, Courage to Dissent, at 1.
41 Walden also worked heavily in important transportation cases in Atlanta before, during and after the killings of Madison Harris and Walter Lee Johnson.
The first electric streetcar was introduced in Atlanta in the summer of 1889. The Georgia Railway and Electric Company formed in 1901 and managed the streetcar lines until 1927, when the company merged and formed Georgia Power Company. The power company employed the motormen on the streetcar lines, with one operator per streetcar.

In 1946, revenues from transportation services were $11,288,142 (an increase from the prior year), with over one-fifth of every dollar of company revenue coming from transportation services. There were 1,031 trolley and bus drivers on staff and a total of 203 streetcars in 1947. On May 1, 1946, the streetcar operators took to the streets to strike for higher wages and essentially destroyed the city’s web of transportation for a brief period of time. The motormen were eventually awarded a twenty-percent raise.

Motormen were an essential part of Atlanta life in 1946. They kept the city humming along, getting Atlantans from point A to point B. Almost anyone traveling in the city arrived at their destination driven by a motorman. There was even a weekly publication, Two Bells, which recognized exemplary drivers in an “Orchids for Operators” section, provided updates on streetcar lines and included streetcar humor. This way of life ended when Atlanta streetcars were replaced by trackless trolleys in 1949.

The Same Players Again, and Again and Again

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42 “The Trolleys are Leaving for Good Come Say “Goodbye” Friday,” Two Bells, 14 Georgia Power Company, 19 (September 23, 1949) from Georgia Power Company File, Atlanta History Center. The streetcars were introduced by the President of the Atlanta Edgewood Street Railroad Company, and controlled until his retirement and closure of the company.
43 Ibid.
44 An issue of the Two Bells newsletter advertises the motormen employment positions: “If you are a man between 21 and 45 or a woman between 21 and 35, with no serious handicaps, your applications will be welcome.”
45 “Strictly Personnel,” Two Bells, 13 Georgia Power Company, 42 (October 23, 1944) from Georgia Power Company File, Atlanta History Center.
47 Ibid.
49 The strike had a significant impact on the daily life of the average Atlantan, and demonstrated the importance of the streetcar in the city. The strike began in the middle of the workweek on a Tuesday night, and caused much distress during the commute to work. Individuals walked, took taxis or government buses, hitchhiked and carpooled. See generally “Strike, no Bus, Trolley Service,” Atlanta Daily World, May 1, 1946; “Transit Strike Continues as Negotiations Proceed,” Atlanta Daily World, May 2, 1946; and “Transit Strike Continues Here,” Atlanta Daily World, May 3, 1946.
50 Ibid.
51 Ibid at 4, 8.
As this analysis unravels the stories of the servicemen shot on streetcars, along with other legal cases involving discrimination in 1945 and 1946 Atlanta, one cannot help but notice the reoccurring appearances of the same attorneys, judge, participants and rulings. From the stories highlighted in this analysis, one could assume that Attorney Walden of the NAACP, Judge Callaway of the Recorder’s Court, and defense attorney William Schley Howard, were always working on the same cases over and over again. With a few notable exceptions, the consistency of the players equaled consistent rulings of injustice. The repetitiveness extends beyond mere irony and leans heavily toward the appearance of racial inequality within the structure of justice, strongly suggesting that the legal system was ineffective as a means to obtain justice.  

III. The Killings and Recorder’s Court Hearings: “Justifiable Homicides”

The return of African American servicemen to Atlanta in 1946 was the source of a considerable amount of tension in the bustling city. Owens, Harris and Johnson were shot in a volatile environment for returning African American veterans, who faced “hostility and ingratitude, coming home to an economy unsupportive of black workers.” Throughout the end of 1945 and 1946, African American veterans advocated for civil rights, integrated access to hospital care, voter registration and the inclusion of African Americans on the Atlanta Police force. Tragically, African American veterans were often harmed, rather than supported, by the police force. Officers of the law often singled out African American veterans, arrested veterans for vagrancy and loitering, and abused veterans with disabilities. Rallies were held to protest

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53 The fact that a prominent Klansman claimed Judge A. W. Callaway was member of the Ku Klux Klan does not help boost one’s confidence in Atlanta’s criminal courts during the relevant period. Stetson Kennedy, “KKK Plot in G.A. Bared,” The Pittsburgh Courier, 27 December 1947.

54 Ferguson, Black Politics in Atlanta, supra note 32 at 256.

55 “Atlantans Ask Integration of Veterans’ in Hospital Planning,” Atlanta Daily World, 19 December, 1945. A letter was sent to the Veterans Administration signed by veterans and advocacy groups that was authored at a conference held by the Georgia Veterans League aimed to “integrate Negro veterans in whatever hospital program of expansion is worked out.”

56 “Veterans Call at Doors Today,” Atlanta Daily World, 31 March,1946. An effort lead by veterans in the Georgia Veterans League to register voters occurred on March 31, 1946, within a day of the shooting of John R. Owens.

57 “NAACP Not Behind Demonstration By Veterans,” Atlanta Daily World, 28 February, 1946; “Undoing Good Work,” Atlanta Daily World, 3 March 1946; & Groups Not Behind Monday Police March,” Atlanta Daily World, 3 March 1946. African American veterans did not always share the same vision for advocacy for civil rights during this complex time. In early March of 1946, the United Negro Veterans Organization organized the “March on City Hall” to demand the Atlanta Police Department hire African American police officers. Several voices in the African American community did not support the initiative, including the Atlanta Daily World, the Atlanta branch of the NAACP, the Georgia Veterans League, and A.T. Walden, who said of the march: “I consider it unwise and inexpedient.”


59 Ibid. Veterans submitted complaints to the Veterans Bureau of Administration, and received little support. One incident of abuse against an African American veteran is worth highlighting because of the men in the courtroom. In late 1945 the Atlanta branch of the NAACP became involved in support of a disabled veteran named Joel Tate, who worked as an apprentice at a shoe shop and was abused by a police officer. The incident is yet another Recorder’s Court hearing in which attorney A.T. Walden represented an African American client and Judge A.W. Callaway presided in the courtroom. Tate, a married veteran with a clean record, and a father of two, had visited a cafeteria and had a quick conversation with a woman who was a former co-worker there. A police officer asked Tate if he had enough money to order at the establishment, to which Tate responded: “Only if I get in trouble.” The officer found
brutality against veterans. Police violence against veterans was even deadly. One veteran was killed by police officers, and two others were shot. Private Lorenzo Butler, a twenty-one-year-old, was shot by Atlanta police officers in November of 1945 after he asked for some coffee at a shoe store. Weeks before, another African American youth was killed in a park.

Combined with the challenges facing African American veterans in Atlanta in 1946, the shootings of John R. Owens, Madison Harris and Walter Lee Johnson had a unique impact on the black and white communities. The recurrent violence by motormen against African Americans and the similarities among the three young black veterans exposed the darkest side of the streetcars in the city that was supposed to be “too busy to hate.”

**First Streetcar Shooting: Veteran John R. Owens**

The details of the shooting of John R. Owens come exclusively from accounts in *Atlanta Daily World* from April and May of 1946. According to a report written by the shooter, Motorman Jordan Y. Jackson, three young African American men asked Jackson for a free ride and cursed and threatened him when he refused. Owens reached for his pocket, and was shot. The three African American men were charged with “ Disorderly Conduct,” two of them were fined twelve dollars.

Although Owens was shot before Madison Harris, the Recorder’s Court hearing for the incident did not occur until May 15, 1946, many weeks after the hearing for the shooting of Harris. At the Recorder’s Court, A.T. Walden assisted the prosecution and Judge Callaway presided over the court. The testimonies of the three young men differed from the motorman’s version of what unfolded on the evening in late March. According to the young men, they had just been “kidding around” and had joked about asking the motorman for a free ride. They said Jackson overhead what they had said, and sternly told them they could not ride unless they paid their fare. As the young man walked away, the motorman remarked: “The best thing for you to do is to learn to respect this offensive, and beat Tate. A headwaiter at the cafeteria was also arrested for trying to help Tate. Judge Callaway fined Tate twelve dollars, thereby quashing Walden’s efforts for justice.

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60 “Vets To Discuss Police Brutality,” *Atlanta Daily World*, 16 December, 1945.
63 The private had enjoyed a few drinks prior to the unfortunate meeting with the officers, and got into an argument at the shoe shop. The disagreement extended into the street, where the unarmed Private Butler was shot. *Atlanta Daily World* wrote a scathing post-shooting editorial, which asked important question about why the police officers failed to call the military police. The editors observed: “This matter of taking human life is serious and we hope that the responsible city officials will give it due consideration. The simple truth is that some of the police are too quick to the trigger when it comes to dealing with Negroes.”
64 Ibid.
66 Ibid.
68 Ibid.
69 Ibid.
70 Ibid.
do is to get up the street.” Jackson’s retort, asked for Jackson to repeat it. Rather than fulfill Owens’ request, Jackson got off the car and shot three times. One bullet hit Owens in the abdomen.

Jackson maintained his version of the events of the evening, and emphasized that he shot Owens to defend himself. During his cross examination of the motorman, Attorney A.T. Walden, brought out two essential facts, which were admitted into evidence: first, Jackson admitted to shooting three bullets, rather than two, as written in the police report; and second, Jackson admitted to stepping off the street car to shoot at the young men. Nonetheless, Judge A.W. Callaway did not find the evidence persuasive enough to warrant a trial in front of a jury of Jackson’s peers. Instead, he dismissed the charges against Jackson.

**Second Streetcar Shooting: Veteran Madison Harris**

Madison Harris was born on August 15, 1924, the youngest of nine children. His mother died after giving birth to her final son, at age thirty-seven. The son of a farmer and laborer, Madison Harris was nearly twenty-two years old when he was shot, and had served in the military from February to October of 1943 in the 212th Replacement Company in the United States Army Casual Company. He was buried in Jonesboro Cemetery. Harris had left the military with a medical discharge and had shown interest in dry cleaning work at the Veteran’s Administration a little over a month before he was shot. He worked for the grocer Luther M. Jordan in 1943. His death certificate states that his occupation, at the time of death, was “Domestic.”

Motorman Thomas H. Purl shot Harris on the eastbound Irwin Street car line, on Mitchell Street between Tatnall and Maple Streets in Southwest, Fulton

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72 Ibid.
73 Ibid.
74 Ibid.
75 Ibid.
76 Ibid.
77 Ibid.
78 Ibid.
79 Ibid.
80 Ibid.
81 United States Census Records: Census records for 1910, 1920, and 1930 for Jeff Harris, on file with the author.
83 Ibid.
85 Ibid.
86 “Reset Hearing for Motorman Slayer,” Atlanta Daily World, April 12, 1946.
87 Atlanta City Directory, 714, 1943.
88 Madison Harris’ Death Certificate, on file with the author.
89 Note: Two other editorials from the Atlanta Daily World describe the shooting as on the West Hunter Street Line.
County, Atlanta. Shortly after the incident, the streetcar operator gave his account of the facts to two police officers on evening watch. Officers R. J. Stowers and J.J. Morris of the Atlanta Police Department arrived on the scene and found Harris’ body on the road in front of the streetcar. Purl said that Harris had beat on the door to the trolley after the other riders had boarded and he had already started the car for the next stop. Purl said that he stopped the car to allow the young African American man to board, and he claimed that as Harris started to enter the streetcar, Harris quickly flashed a gun in-and-out of his back pocket, and mumbled a remark intelligible to Purl. Purl said that Harris reached to his pocket and acknowledged that he shot Harris with his 45-caliber revolver.

Other eyewitnesses contradicted Purl’s account of the events. One witness testified that Harris had gotten off the trolley and, as he walked by the front of the streetcar, Purl opened the door and shot him. In fact, the majority of witnesses at the Recorders Court hearing expressed other versions of what led to the quick killing. Harris’ body was left in the street between the trolley and the sidewalk. Rather than take Purl into custody, the officers of Radio Car #23 gave him a copy of the charges: “Disorderly Conduct and Shooting Another,” and the date for his case: April 11, 1946.

Recorder’s Court Hearing: T.H. Purl and Madison Harris

Motorman Thomas H. Purl’s hearing in the Recorder’s Court was a travesty of justice, in the eyes of civil rights activists in Atlanta and others. The initial hearing was rescheduled because the defense needed additional time to prepare. However, community members were not deterred by the changed date. Two sections of the courtroom were filled an hour before the start of the trial. Policemen turned away nearly 150 African Americans because the courtroom space was filled to capacity with motormen and other employees of Georgia Power.

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91 “Reset Hearing for Motorman Slayer,” Atlanta Daily World, April 12, 1946.
93 Ibid.
94 Ibid.
95 Ibid.
96 Motorman Slays Youth At Door of Trolley,” Atlanta Daily World, April 11, 1946.
100 Reports from the Recorder’s Courtroom on the day of the originally scheduled hearing suggest that a variety of community members attended, including veterans and students from college and high school.
101 With a date of April 19, 1946, the Recorders Court hearing was roughly a few weeks before the Georgia Power Company’s bus and trolley drivers went on strike. One can speculate that the workers may have found heightened unity with their fellow motormen because of the upcoming labor dispute, and arrived out of solidarity for Purl. Currently, there is no evidence that the union had any influence on the number of motormen at the hearing, nor is there any information available about if the union took any official stand on the shootings. See generally “Strike, no Bus, Trolley Service,” Atlanta Daily World, May 1, 1946; “Transit Strike Continues as Negotiations Proceed,” Atlanta Daily World, May 2, 1946; and “Transit Strike Continues Here,” Atlanta Daily World, May 3, 1946.
Assisting the prosecution, A.T. Walden and A. Walton Nail called eight witnesses who testified they had not seen Harris with a gun. All eight witnesses also confirmed that Harris was on the sidewalk when he was shot.

William Schley Howard, the defense attorney for Thomas H. Purl, called one witness who had been seated in the back of the streetcar and testified he had seen a gun, another witness who claimed that Harris and Purl had exchanged words before the shooting, and two police officers who claimed that they had discovered a gun next to Harris rather than in his pocket, as had been initially reported. Howard tried to impeach his first two witnesses: an owner of a local pool hall and an owner of an inn. Neither witness confirmed Howard’s assertion that Harris had been causing trouble in the community earlier in the day. In short, Attorney Howard’s presentation of Purl’s defense had a stumbling start and failed to offer a compelling argument that the case should not go before a jury. Nonetheless, at the conclusion of the hearing, Judge A.W. Callaway ruled that Thomas H. Purl’s actions constituted a “justifiable homicide.”

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**Third Streetcar Shooting: Veteran Walter Lee Johnson**

102 Ibid.
103 Ibid.
104 Ibid.
105 Attorney William Schley Howard was a prominent Atlanta defense attorney and former Georgia state representative. Although Howard advocated strongly in support of the rights of Thomas Purl in the courtroom, he was no stranger to Judge A. W. Callaway. Although he usually represented defendants, Howard was brought on by the Atlanta branch of the NAACP to assist the prosecutor in November 1945 for a Recorders Court hearing involving the killing of Phinizy (or Phinizy) William Summerour, an African American man employed by the American Broadcasting Corporation who was shot dead by postal worker. Subsequently Attorney Howard defended Walter D. Lee against charges involving the shooting of Walter Lee Johnson, the third African American veteran shot by a motorman.

106 “Judge Callaway Frees Streetcar Operator in Slaying of Veteran,” *Atlanta Daily World*, April 19, 1946. Attorney Walden argued that Judge Callaway should not decide an outcome based on the eight testimonials from witnesses who did not see the gun versus the one testimonial from the witness, a man who Howard called “Uncle Ed” in the courtroom, who did. He urged this was enough to block release and go before a jury.

107 “Motorman Held in Shooting Fray,” *Atlanta Journal*, April 11, 1946. The *Atlanta Journal*, a white newspaper that reported the killing the day after the incident, suggested that Harris said something to Purl, and when Purl asked what he said, Harris had drawn a gun. The reporter more than likely took these facts from the Atlanta Police Report.


109 Ibid.

110 Ibid. Defending the actions of Purl, Howard made references to the police powers of motormen authorized by Georgia Code (1933) § 27-214 and § 18-207.

111 Madison Harris’ Death Certificate, on file with the author. Although held a “justifiable homicide,” Madison Harris’ death certificate is blank in the “Primary Cause of Death” section, the “Accident, Suicide, Homicide” section, and the “Means of “Injury” section. However, the certificate has “Section 25” of the certificate filled out: “If death was due to external violence, place an answer to the following questions.”
Walter Lee Johnson was honorably discharged from the Army in November 1945 after serving three and a half years in World War II in England, France and Germany. Private Johnson served in the 569th Ordnance Ammunition Company, with 160 other African American soldiers. At the time of his death, Johnson had a three-year-old son, and his wife, Ms. Lucy Mae Johnson, was carrying a second child. He was employed at ZacLac Paint and Lacquer Company and was a parishioner at the Mt. Gilead Baptist Church.

The twenty-two year old Walter D. Lee shot Walter Lee Johnson a little after 9:30 pm on Saturday, September 28, 1946 on the inbound River Line streetcar near Simpson and Gray Streets. There are several accounts of what happened that night. Motorman Lee’s version of the shooting is documented in the police report filed after the incident. According to Lee, the African American veteran had stumbled out of a bar and cursed at Lee as he was about to pull away from the station. Lee said he put his foot to the brakes, got off the car and yelled to Johnson to “Not to call me names or curse at me.” According to Lee, Johnson grabbed him and started to punch him. In a matter of seconds, Johnson tried to reach into his pocket, and Lee shot him once with his .25 automatic pistol. The bullet lodged in the young man’s left lower abdomen.

Unlike Madison Harris, who died instantly after being shot earlier that year, Walter Lee Johnson survived the bullet. In fact, he had walked away from the scene down the street with support from other African Americans. By the time police officers Lynn and Flanagan arrived, an ambulance had taken Johnson to the Grady Memorial Hospital, which offered segregated

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112 “Surprise Move Backfires, Case of Streetcar Victim Reset for Next Wednesday,” Atlanta Daily World, October 5, 1946.
113 Email from Walter Robinson, to author (January 23, 2014)(on file with author). Walter Robinson reviewed records of Walter Lee Johnson’s unit in World War II at the National Archives at College Park, Maryland.
114 “Surprise Move Backfires, Case of Streetcar Victim Reset for Next Wednesday,” Atlanta Daily World, October 5, 1946.
Six decades later, Atlantans frequently flock to this location. Next door to historic Vine City, the Georgia Dome, where the Atlanta Falcons play, now covers the streetcar stop. Additionally, on game days, Walter Lee Johnson’s church Mt. Gilead Baptist Church (now named Higher Ground Empowerment Center) and surrounding parking lot are both pieces of prime real estate for football fans to drop their cars off to tailgate before a game.
117 The narrative of Johnson’s killing in the introduction of this note is the narrative established through witness testimony.
118 Officers J.V. Lynn & N.W. Flanagan, Atlanta Police Department Offense Report, Walter Lee Johnson, September 29, 1946. The police report lists that it is “unknown” if Johnson was sober.
119 Ibid.
120 Ibid.
121 Johnson’s cousin, Harriet Ponder, who was next to Johnson when he was shot, said Lee was about to fire his pistol a second time, and she yelled out “Lord, don’t shoot him anymore!”
123 Ibid.
Services. Reporters from the Atlanta Daily World had a brief conversation with Walter Lee Johnson before the police took his statement. According to the reporters, Johnson said that he had not been on the trolley. He said that he had just yelled, “straighten up and fly right” to his friend. Reporters from the Atlanta Daily World also interviewed Johnson’s cousin, Harriet Ponder, who said that Lee’s trolley had arrived just as Johnson yelled the Nat King Cole song title to his friend. She claimed that Lee had angrily gotten off the trolley, demanded Johnson repeat the comment, snapped his pistol and shot Johnson after Johnson shoved the gun away. Police arrested Lee and then released him “on copy.” Like the other two motormen, Thomas Purl and Jordan Jackson, Walter D. Lee was charged with “Disorderly Conduct and Shooting Another.” Walter Lee Johnson, the victim, was taken from Grady Hospital to Lawson General Hospital, the V.A. hospital, where he died the next morning. The charges against motorman Lee remained the same after Johnson’s death, and he continued working on his streetcar route until the Recorder’s Court hearing.

The Recorder’s Court Hearing: W.D. Lee and Walter Lee Johnson

The Recorder’s Court hearing on October 16, 1946 for Walter D. Lee must have felt as if history was repeating itself for the participants. As in the previous streetcar shootings, Judge Callaway presided, and Attorney William Schley Howard defended the motorman, Attorney A.T. Walden assisted the prosecution and the date for the original hearing was rescheduled. Georgia Power Company employees packed the hearing again, and even Thomas Purl was in attendance. Ultimately, the third time was no victory for civil rights. Judge Callaway concluded that Lee’s shooting of Johnson was a “justifiable homicide,” the same conclusion that he reached in Thomas Purl’s shooting of Madison Harris. He dismissed the case, saying: “I don’t believe that this man [motorman Walter D. Lee] got off the car with the intent of committing murder. I think

124 Ibid. and Grady Memorial Hospital Collection, ATLANTA HISTORY CENTER (October 31, 2014, 10:00 A.M.), http://libraryguides.nesl.edu/content.php?pid=358326&sid=2934955.
125 Out of the Gate: A. Walton Nail, Atlanta Daily World, October 1, 1946.
128 Ibid.
The editorial staff at the Atlanta Daily World was hopeful that the return to the Recorder’s court would be unlike the two before, and wrote “we do not wish to discuss further the matter before the courts have had time to act.”
131 “Georgia Power Company Motorman Freed in Negro Slaying,” Atlanta Daily World, October 17, 1946. This time, however, NAACP civil rights attorney S.S. Robinson assisted the prosecution in the place of A. Walton Nail.
132 “Surprise Move Backfires, Case of Streetcar Victim Reset for Next Wednesday,” Atlanta Daily World, October 5, 1946. “Motorman’s Trial This Afternoon,” Atlanta Daily World, October 16, 1946. The hearing time was rescheduled twice. First, the time was changed because Walden had not been notified of the time of the hearing, and thus many of the witnesses were at work. Much to the displeasure of opposing counsel, Judge Callaway allowed the hearing to be rescheduled. The following week, defense attorney Howard requested a change because he was ill and “confined to his bed.”
he went out to remonstrate with him. This man had no idea of committing murder, no jury on earth would convict him, so I am going to dismiss the case.”134 Thus, Judge Callaway added a third name to the growing list of exonerated motormen shooters.

After attorney Walden’s two earlier unsuccessful attempts in front of Judge Callaway in the hearings for the motormen Jackson and Purl, he changed his approach in the courtroom. This time around, he insisted that Judge Callaway’s legal duty was not to favor one set of witnesses, and that the case needed to go before a jury.135 In this rematch against defense attorney Howard, Attorney Walden’s strategy challenged W.D. Lee’s improper use of the police powers granted to motormen.136 He emphasized the statutory language limiting their police powers, arguing that the law granted motormen such powers only on the trolley and at the terminal.137 Walden argued that because motorman Lee got off the trolley, the shots that he fired did not fall within the proper use of an armed motorman’s police powers under the Georgia law.138

At the hearing, the witnesses corroborated the prosecution’s claim that Johnson had been standing on the sidewalk and said that they had not seen him with a weapon.139 Lee, however, was confident in the courtroom; he laughed at the prosecution witnesses’ testimony and even admitted that the only reason he had not shot Johnson again was because his gun had jammed. Following Judge Callaway’s decision not to forward the charges against Lee for trial, a motorman exclaimed, “Now I guess they see where we stand!”140

Another Veteran Laid to Rest

On October 8, 1946, Reverend Monroe Watts of Mt. Gilead Baptist Church led Johnson’s funeral service and gave the eulogy.141 In a prescient glimpse into the future, Reverend William Holmes Borders spoke at the service. A decade later, Borders would lead the Law, Love and Liberation movement to desegregate the bus system in Atlanta.142 His words were comforting for those mourning the loss of a young man who had served his country and they provided a rallying cry for change:

The stars and stripes in which the casket is draped represent democracy. That democracy which ensures citizenship rights to all people must come and those who fight it must go down in defeat . . . It is better to die for right [sic] than to live a coward.143

134 Ibid.
135 Ibid.
136 Ibid. Attorney Walden also used this argument in the hearing of motorman Jackson. The statute, from 1890, appears in the 1933 edition of the official Georgia Code, § 27-214, See Section IV for full discussion of the law.
137 Ibid.
138 Ibid.
139 Ibid.
140 Ibid.
141 “Slain Veteran Laid to Rest,” Atlanta Daily World, October 8, 1946.
143 “Slain Veteran Laid to Rest,” Atlanta Daily World, October 8, 1946.
Nonetheless, most of the civil rights advocates in Atlanta continued to engage in “pragmatic” civil rights. In 1946 they had not yet made the jump to fighting for integrated services in Atlanta, nor had they fixed their sights on the structurally oppressive elements of Jim Crow.

IV. The Law: Segregated Streetcars and Motormen with Police Powers

The impetus for arming streetcar operators in 1946 Atlanta is rooted in the segregation of streetcars. The legal authority giving motormen police powers is connected through the enactment of the Jim Crow law, which was euphemistically called the “Equal Accommodations Act,” and two other statutes. Collectively, these laws granted police powers to motormen as the enforcers of streetcar segregation and also supported racially motivated city ordinances. The legal history of public accommodation statutes in other states is similar to the formation and evolution of streetcar segregation laws in Georgia.

Jim Crow and Segregated Streetcars

The Georgia Equal Accommodations Act was passed in the 1890-91 legislative session, and required segregation on streetcars “as much as practicable.” The statute left the determination of practicability up to individual streetcar companies. The Act made Georgia the first southern state with a law on the books that segregated streetcars, although all states in the region would eventually enact laws endorsing segregated streetcars. The initial implementation of the Act had failed in some Georgia cities because of boycotts by African Americans. W. E. B. Du Bois said of the Equal Accommodations Act: “There is in Georgia a permissive legislation which allows cities to separate the races on street-cars by giving the Negroes the rear end of the car, and the whites in the front. This, however, is seldom enforced, as the self-interest of street-car companies forbids it.” In fact, a review of the communities segregating streetcars in the South demonstrates that many streetcar companies did not support

144 These statutes were codified in the 1933 edition of the Georgia Code; see Georgia Code Annotated, 1933, §27-214 and. §18-207.
145 Discussions of the Act refer to it as the “Equal Accommodations Act.” This analysis uses the same title. The content of the Act is similar to and codified as “Carriage of Passengers,” Ga.Code Ann. 1933, §18-206. Related titles are: “Duty of Carriers to Furnish Equal Accommodation,” §18-205; “Separate Cars or Compartments For White and Colored Passengers; Seats, Lights; Ventilation,” §18-206; and “Duty to Assign Passengers to Their Cars; Police Powers of Conductors,” §18-207.
150 Meier and Rudwick, The Boycott Movement, supra note 149 at 55. The boycott occurred in Atlanta in1892-1893.
laws and customs for separate cars and sections for economic reasons. In Georgia, some streetcar companies did not segregate streetcars or follow the Act.

Importantly, language in the Equal Accommodations Act relating to the “Carriage of Passengers” mandates separate and equal accommodations for common carriers of passengers for hire “without distinction of race, color, or previous condition.” Subsequent amendments to the Code, dating to 1890, mandated segregation in separate railroad cars or compartments for white and colored passengers. Related statutory provisions from legislative sessions in 1880 and 1891, deal with enforcement of public order and segregation on railroads, busses, and streetcars. In addition, laws that spell out the duties of motormen and their police powers date to 1890. Enacted over a twenty-year period, these laws highlight the evolution of official policies that endorsed segregated streetcars and strengthened the police powers of motormen to enforce segregation practices.

**Police Powers for Motormen**

The authorization of police powers for Atlanta motormen was directly connected with the legal evolution of segregation. Two laws from the legislative session of 1890-1891 gave motormen, as well as railroad conductors, and employees and bus drivers, police powers. The first law, entitled “Duty to Assign Passengers to their Cars; Police Powers of Conductors,” invested “all conductors and other employees of railroads and all conductors of street cars and busses . . . [with] police powers to carry out said provisions; [measures relating to the separation of cars based on race].” The second law solidified the direct connection between segregation and increased the police powers of motormen beyond the provisions related to the assignment of seats based on race. Entitled “Police Power of Street Car Conductors and Others,” the law read:

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153 Ibid.


“Duty of carriers to furnish equal accommodations; Common carriers of passengers for hire shall furnish like and equal accommodations for all persons, without distinction of race, color or previous condition.”

155 Ibid.

156 Ga.Code Ann. §§ 18-206-207 (1933) codified the statute from 1890, which concerned the assignment of passengers to segregated cars and compartments. Further, it gave conductors, including streetcar operators, the police power to enforce segregation. The duties of streetcar operators are specified as follows:

“Duty to assign passengers to their cars; police power of conductors – All conductors or other employees in charge of passenger cars shall assign all passengers to their respective cars, or compartments of cars, provided by the said companies under the provisions of Section 18-206, and all conductors of street cars and busses shall assign all conductors of streetcars and busses shall assign all passengers to seats on the cars under their charge so as to separate the white and colored races as much as practicable.”

157 Ibid.


The conductors, motorman, and drivers of street railroad cars are invested with all the powers, duties, and responsibilities of police officers while on duty on their trains or cars, and while on duty at the termini of their lines: Provided, nothing, herein contained shall affect the liability of any railroad company for the acts of its employees.\textsuperscript{160}

It is worth noting that some language in this law existed prior to the 1890-1891 legislative session. Statutes from 1880 authorized operators and train conductors to exercise specific “police powers,” namely the right to eject disorderly customers using force, as well as the authority to assist and command other employees to remove the disorderly customer, and the power to “detain and deliver” such a customer to the proper authorities.\textsuperscript{161} The first portion that authorizes the exercise of “police power of railroad train conductors” is identical to the language added in 1890-1891 to grant police powers to motormen and streetcar conductors.\textsuperscript{162}

In short, the Georgia laws authorizing police powers for railroad operators and conductors served as a precedent for giving such powers to motorman, thereby strengthening the enforcement of segregation in Atlanta.\textsuperscript{163} In addition, the laws multiplied the harm of segregation because they permitted unequal treatment of African Americans by white motormen. J. Max Barber, editor of the black monthly journal \textit{Voice of the Negro}, observed that all African Americans on streetcars were potential victims of arbitrary policing by white motormen in Atlanta as far back as 1905.\textsuperscript{164}

\textbf{Motormen with Guns}

At times, segregation in southern communities was enforced through city and municipal ordinances that gave teeth to the enforcement of the Equal Accommodations Act.\textsuperscript{165} Atlanta passed a municipal ordinance in 1900\textsuperscript{166} that confined African Americans to the back of the streetcar and granted whites the ability to sit anywhere on the streetcar.\textsuperscript{167} The City Code of Atlanta, Section 85-138 (2959), deferring to the Georgia state standard, was entitled: “Passengers

Entitled, “\textit{An act to confer police power upon the conductors of passenger trains in the State, to provide a punishment for a neglect of their official duties, and for other purposes,}” the law reads:
When a passenger is guilty of disorderly conduct, or uses any obscene, vulgar or profane language, or plays any game of cards or other game of chance or money or thing of value, or is guilty of any disorderly or improper conduct tending to cause a breach of the peace, said conductors, motorman and drivers are authorized to eject him from the cars, using only such force as is necessary to accomplish the removal and they may command the assistance of the employees of the company, and the passengers on such trains or cars, to assist in the removal, and they may cause any person who violates the provisions of the section, or who commits acts in violation of law, to be detained and delivered to the proper officers for trial as soon as practicable; and said officers are authorized to exercise the police powers hereby conferred, at the termini also of their lines, while on duty either as conductors, motorman or drivers.
164 J. Max Barber quoted in Kelley, \textit{Right to Ride: Streetcar Boycotts supra} note 146 at 103.
165 Roback, \textit{The Political Economy of Segregation supra} note 152 at 899-906.
166 Clarissa Myrick-Harris, \textit{The Origins of the Civil Rights Movement in Atlanta, 1880-1910}.
Boycotts occurred from 1900 to 1906 in Atlanta, Augusta, Rome and Savannah to protest municipal ordinances supporting segregation. Some streetcar companies tried to ignore the ordinances, and often only partially enforced segregation. Du Bois viewed the 1900 segregation ordinance in Atlanta to be a result of business competition and political corruption.

Atlanta streetcars were not fully segregated until 1906. In September of 1906, the Atlanta Race Riot was the final event that led to implementing segregation as required by the ordinance. The enforcement of the ordinance was sought by white Atlantans who wanted a more structured racial order after the riot; it was not specifically about streetcars. The Georgia Railway and Electric Company did not segregate their streetcars until 1906. At that time, however, the company created the policy that was in place for John R. Owens, Walter Lee Johnson and Madison Harris: African Americans in the rear, and whites in the front.

The police power of motormen had continued to create a threatening environment for African Americans, essentially making the enforcement of Jim Crow much worse. In general, authorities were unable to ensure that motormen used their broad law enforcement power so that African American riders were treated equally under the law. The City Code of Atlanta Section 85-139, conferred on the police force the “duty . . . to see that conductors enforce state laws requiring the separation of races.” Occasionally some motormen were punished for the abuse

168 City Code of Atlanta, Section 85-138, from Mule to Marta File.
170 Roback, The Political Economy of Segregation, supra note 152 at 905. The Atlanta boycott in 1900 was among the first community actions opposing segregation.
171 Kelley, Right to Ride: Streetcar Boycotts, supra note 146 at 217. Du Bois felt this way because at first an integrated streetcar line was successful in Atlanta until the city council approved a new line that followed the Equal Accommodations Act. African American customers refused to ride the new line, but other voices began to support segregation following the Act. Ultimately, some city councilmen were “influenced” successfully by leaders of the shift to support a segregation ordinance, which then became law in Atlanta.
172 Roback, The Political Economy of Segregation, supra at 905.
173 Gregory Mixon and Clifford Kuhn, Atlanta Race Riot of 1906, NEW GEORGIA ENCYCLOPEDIA (Aug 16, 2013, 8:00 PM), http://www.georgiaencyclopedia.org/articles/history-archaeology/atlanta-race-riot-1906. The Atlanta Race Riot of 1906 occurred on September 22-24, 1906. The riot, during a time of racial tension, was caused by many factors, including the governor’s race of that year, the evolution of a black elite class in Atlanta, and, most notably, newspaper accounts of African American men assaulting white women on September 22, 1906. The death count of the riot was high, with dozens of African Americans killed. In ways, the 1906 riot had parallels to the violence in Atlanta in 1946. Interestingly, Walter Lee Johnson was killed on a segregated streetcar nearly forty years after the 1906 Race Riot.
174 Roback, The Political Economy of Segregation, supra at 906.
175 History of Atlanta streetcars, GEORGIA POWER COMPANY 1, 2, http://www.georgiapower.com/docs/about-us/History.pdf. See also Roback, The Political Economy of Segregation: The Case of Segregated Streetcars, 905. The Georgia Railway and Electric Company would later become the Georgia Power Company. The Company’s President even said: “I do not believe that any large part of Atlanta’s citizens would expect the company to go to such an expense.”
176 Roback, The Political Economy of Segregation, supra at 905-906.
177 Ibid.
178 City Code of Atlanta, Section 85-138, from Mule to Marta File.
of their police powers, but this was far from the norm. For instance, in Atlanta during the 1930s, a motorman and other bystanders beat an African American dentist and his wife.\textsuperscript{179} Indeed, attorney A.T. Walden worked on that case and won damages from Georgia Power Company.\textsuperscript{180} However, the successful outcome of this case was unusual. In fact, many motormen used their police power to arrest African Americans without cause.\textsuperscript{181}

In 1942, efforts were made to connect with officials of Georgia Power Company through the Georgia Interracial Commission. Much like the commission committee meeting called after the Madison Harris killing, the meetings of 1942 encouraged Georgia Power Company to train motormen to be more tolerant of African American passengers, and to add more officials to patrol streetcars to ensure motormen were behaving properly.\textsuperscript{182}

But the emphasis on tolerance and training programs receded when the city conferred on the motormen for the first time the authority to carry guns. Although decades had passed since the original racial separation policy was initiated by the Georgia Power Company, segregation on streetcars was still loosely defined with considerable discretion given to the individual motorman in the 1940s when the three veterans were shot by motormen with guns.

The city ordinance authorizing motormen to carry guns was a direct response to a racially motivated incident, according to the historian Kevin Kruse.\textsuperscript{183} Sometime during 1944, a motorman ordered an African American worker in dirty clothes to move to the back of the car.\textsuperscript{184} The African American man, out of concern he was too unkempt, did not follow the motorman’s command.\textsuperscript{185} In response, the motorman physically confronted the rider with a tool. During the skirmish, the passenger removed the tool from the motorman’s hands, initially to defend himself. He severely beat the driver, and then fled the scene.\textsuperscript{186} After the incident, motormen were “deputized and given revolvers” on the streetcar lines in Atlanta.\textsuperscript{187} The provisions of Georgia law authorizing police power for motormen provided the statutory support for this change.\textsuperscript{188}

\textit{Weapons and Segregation in Other Southern States}

Many other southern jurisdictions conferred police power on their public transportation conductors and allowed them to carry weapons. For example, a Virginia Jim Crow law from 1904 granted police power to operators, giving motorman “special policemen,” status with wide discretion and the ability to carry weapons while on the streetcar and when returning home from work.\textsuperscript{189} Since all motormen with guns were white men, of lower-class status and less likely to

\textsuperscript{179} Brown-Nagin, Courage to Dissent, \textit{supra} note 36 at 123.
\textsuperscript{180} Ibid.
\textsuperscript{181} Ibid.
\textsuperscript{182} Ibid.
\textsuperscript{183} Kruse, \textit{White Flight: Atlanta}, \textit{supra} note 142 at 108.
\textsuperscript{184} Ibid.
\textsuperscript{185} Ibid.
\textsuperscript{186} Ibid.
\textsuperscript{187} Ibid.
\textsuperscript{188} Ga. Code Ann. \textsection{}27-214 (1933).
be supportive of African Americans, Civil Rights activists in Virginia responded to the 1904 law with worry.  

Interestingly, the Virginia law was crafted to fall within the scope of the “separate-but-equal” rule of the Supreme Court’s 1890 holding in Plessy v. Ferguson. However, the implementation was far from equal. In part because armed motormen were granted unrestricted power to enforce the law at all times, African American passengers were not provided equal access to the streetcars. Instead, they experienced fear, the ever-present threat of violence, as well as the humiliation associated with policing by ill-trained armed white men with the power and ability to discriminate.  

Supported by the police power law, Jim Crow transportation evolved into an evil more insidious than “separate but equal.” The situation helps to explain why African Americans chose not to use this public service. Many African Americans concluded that the only way to be safe from an armed motorman was to stay off the streetcars. Further, protest techniques, like sit-ins and strikes, became dangerous propositions if a motorman could at any moment pull out a gun and assume the role of a policeman, and could do so with impunity. In fact, the danger of armed motormen was so insidious that it was employed as a strategy by activists against segregation. 

Another example of police powers granted to motormen is an ordinance from Jacksonville, Florida. The summer of 1901 had proved racially tense for Jacksonville after the Fire of 1901, which burned 146 city blocks and left almost 10,000 residents homeless, greatly impoverishing those who lived in the African American community. In the wake of the fire, there were instances of discord on the streetcars, including the killing of an African American boy. Officials in Jacksonville passed a city ordinance in November 1901 that segregated streetcars. The civil rights leaders in the community asserted that giving motormen police powers was what made “segregation” turn to “Jim Crow.” Civil rights activists issued a resolution to the effect that “lower class” white men became motormen for the purpose of exercising authority over African Americans.

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190 Ibid. 
191 Ibid. 
192 Ibid. 
193 Ibid. 

Even white newspapers in Virginia observed that streetcar operators abused their police power. In fact, there were some incidents where motormen were arrested by police officers for abusing their police power. These accounts confirm that operators abused their power. 

194 Ibid. at 162.
197 Roback, The Political Economy of Segregation, Supra note 152 at 909. 
198 Ibid. 
199 Ibid.
Overall, activists deemed that the policy granting motormen police powers was “bound to bring about a strife and possibly bloodshed.” They used the law arming motormen as a red flag to rally and engage people to participate in boycotts of the segregated buses. Even the Jacksonville Street Railroad Company petitioned against the ordinance. The company’s president did not want to grant his motormen police powers and insisted that security on streetcars was the responsibility of the police. Nevertheless, similar ordinances spread to other Florida cities like Tampa.

V. The Community Response to Slain Veterans: Pulse of the Public

Knowledge of the shooting of John R. Owens and the killings of Madison Harris and Walter Lee Johnson was widespread in both the civil rights movement and the community-at-large in Atlanta in 1946. Across the board, the response centered on the racial tensions on streetcars because of the police power conferred on motormen. After the killing of Madison Harris, the black community responded quickly and angrily. The propinquity of the killing of Madison Harris to the shooting of John R. Owens garnered the attention of Atlantans and stirred their passions. Regardless of race, the symbolism of a young veteran, dead on an American sidewalk after the end of the war, surely stirred passions even more than that of Owens. Civil rights organizations, newspapers, interracial commissions, religious leaders and general citizens all responded to the shootings and killings with concern.

Immediately following Harris’ killing, the Atlanta NAACP encouraged witnesses to meet at the local YMCA. An editorial in the Atlanta Daily World encouraged the NAACP and Madison Harris’ family to “leave no stone unturned,” but also opined that African Americans would continue to be treated as second-class citizens until they registered to vote. The editorial commended community members for showing up at the first scheduled Recorder’s Court hearing, and urged readers “to remain calm” and wait for the process of the judicial system.

Civil Rights Activists

Much of the attention focused specifically on the provisions of the law giving police power to motormen. Following the Recorder’s Court hearing for Madison Harris, a representative of the NAACP expressed hope that the miscarriage of justice would stimulate a discussion about taking police powers away from motormen. Additionally, the Atlanta Baptist Ministers’ Union composed a resolution, endorsed by 200 ministers, to Georgia Power

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200 Meier and Rudwick, The Boycott Movement Against Jim Crow Streetcars, supra, note 149 at 762.
201 Roback, The Political Economy of Segregation, Supra note 152 at 909.
202 Ibid.
204 “Motorman Slays Youth At Door of Trolley,” Atlanta Daily World, April 11, 1946.
205 Editors, “Another Killing” Atlanta Daily World, April 12, 1946. Although the editorial is directly about the Owens and Harris shootings, it is entitled “Another Killing,” even though only Harris was killed.
206 Ibid.
Company, calling on elected officials to change the system.\textsuperscript{208} The ministers requested: “We protest police power being delegated to streetcar operators,”\textsuperscript{209} and asserted that maintaining armed motormen would lead to “more serious race relations.”\textsuperscript{210} Flyers were posted that warned African American men of the danger of riding streetcars because of armed motorman\textsuperscript{211}

Johnson’s killing also garnered the attention of Civil Rights activists and publications. The Atlanta NAACP chapter devoted most of an Executive Committee meeting of the chapter’s Legal Redress Committee to the killing.\textsuperscript{212} Chapter president C. L. Harper facilitated the discussion.\textsuperscript{213} In an editorial following Walter Lee Johnson’s killing, the editors of the \textit{Atlanta Daily World} echoed a point stressed by A.T. Walden in court:\textsuperscript{214} motorman Walter D. Lee did not act in accordance with the police powers granted to him. The law only granted police powers to motormen on the “trolley or the terminus,” and by most accounts, Lee was neither on the trolley or the terminus. As far as activists and Attorney Walden were concerned, not only was the law bad, but the killer was not even acting within the law when he exercised his police powers and shot Johnson.

\textit{White Newspapers}

With the resurgence of the Ku Klux Klan, and the Columbians,\textsuperscript{215} the events were also of importance to the white community. Klan members were employed as motormen, which created a dangerous mix of white supremacists, who occupied positions of power with weapons and personal discretion and were interacting with African Americans daily.\textsuperscript{216} The editorial page, “Pulse of the Public” in \textit{The Atlanta Constitution}, the major white, mainstream newspaper, gave voice to the debate within the white community around the issue of armed motorman. W. Bernard Baker II, a critic of the actions of the motormen, wrote sarcastically: “I can think of no better time now to commend the street car [sic] conductors for their proficiency with the gun . . . The conductors seldom miss, regardless of whether or not the passenger has already drawn a gun on them.”\textsuperscript{217} Baker sardonically criticized the armed motorman because of the weak scrutiny from the police department to properly oversee the motorman. Baker wrote: “[the] the police

\begin{itemize}
  \item \textsuperscript{208} Ibid. The first part of the resolution read: “BE IT RESOLVED, that in the light of the afore mentioned [sic] facts, that the Atlanta Baptist Ministers Union, appeal to the Honorable Mayor, City Council, Chief of Police, Police Committee and to the President and Officials of Georgia Power Company to enforce the law without regard to color, creed or religion.”
  \item \textsuperscript{209} “Baptists Hit Slayings of Streetcar Motorman,” \textit{Atlanta Daily World}, April 18, 1946.
  \item \textsuperscript{210} Considering other events in 1946 Atlanta, and Walter Lee Johnson’s killing in September, this could not be further from the truth.
  \item \textsuperscript{211} Kruse, \textit{White Flight: Atlanta}, supra note 177 at 110.
  \item \textsuperscript{212} “Slaying By St. Car Motorman Arouses N.A.A.C.P,” \textit{Atlanta Daily World}, October 1, 1946.
  \item \textsuperscript{213} Ibid.
  \item \textsuperscript{214} Editors, “Another Slaying by Motorman” \textit{Atlanta Daily World}, October 2, 1946. The Editors asked: “Like this case [the shooting of Madison Harris], Johnson was shot when he was on the sidewalk and the question is immediately raised as to why should a motorman of a streetcar leave a station to shoot a citizen in the street?”
  \item \textsuperscript{215} Beginning in 1946, the Columbians were a Neo-Nazi political organization that patrolled the streets in Atlanta from 1946 to 1947 and threatened violence to individuals who supported equality. The group was the first of its kind in the United States. Edward A. Hatfield, \textit{Columbians}, NEW GEORGIA ENCYCLOPEDIA, (Aug. 15, 2013), http://www.georgiaencyclopedia.org/articles/history-archaeology/columbians.
  \item \textsuperscript{216} Kruse, \textit{White Flight: Atlanta}, supra note 142 at 110.
  \item \textsuperscript{217} W. Bernard Baker II, “Pulse of the Public,” \textit{The Atlanta Constitution}, April 13, 1946.
\end{itemize}
seldom fail to book the conductor with disorderly conduct, whether or not a murder was intended or perfected. Boy! That’s what I call a corking good bit of cooperation.”

In response, Klan member, prominent Atlanta attorney and Columbian supporter Vester Ownby defended motormen, whom he referred to as the “humble servant of all.” Opposing Baker’s view, Ownby argued that motormen had the right to carry arms, and had “no time for improper liaisons with the police.” He challenged critics to “ride a streetcar for an hour” to understand why they needed to be armed.

One Paul F. Jones, a motorman, also challenged Baker’s letter and wrote to defend “gun-carrying streetcar operators.” Jones hypothesized “if . . . Baker were a street car [sic] operator himself, he would see the number of abuses we take from the public and I think he would change his view.” Jones took the liberty to act as a spokesperson for his fellow motormen: “we, the operators, feel that if he [W. Bernhard Baker II, the citizen who wrote the initial letter to the editor criticizing armed motorman] loves the Negroes so well he should go to Africa to live with them.”

The Georgia Power Company

Seven days after the killing of Madison Harris, the Chairman of the Georgia Interracial Commission organized an interracial group of Atlantans to discuss the killing of Madison Harris. Georgia Power Company President W.E. Mitchell was a member of the group. On April 25, 1946, the Executive Committee on Interracial Cooperation discussed the “emergency of the transportation situation . . .” as reflected in the Owens and Harris shootings.

Individual Atlantans wrote to Georgia Power Company, including 1st Lt. William Jones, an African American veteran and student at Gammon Theological Seminary. The Manager of the Transportation Department, John Gerson, responded with a letter that focused on the need for drivers to defend themselves because “ignorance or premeditated desire to rob, make it necessary for the operators on some of our lines to protect themselves.” Nonetheless, Gerson added: “the courtesy with which our operators treat our passengers, both colored and white, is a great

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218 Ibid.
219 Kruse, White Flight: Atlanta, supra note 142 at 110.
221 Vester Ownsbys’ dismissal of Baker’s observation of an “improper liaison” between the police and motorman more than likely highlighted another dynamic of armed streetcar operators; namely the desire for members of white power and neo-Nazi groups to enforce the law themselves through vigilante action. From this perspective, the ability for motorman to carry guns has extended significance.
223 Paul F. Jones, “To Africa (Pulse of the Public)” The Atlanta Constitution, April 17, 1946.
224 Ibid.
225 Ibid.
226 “Georgia Power Head Queried on Death of Youth by Motorman,” Atlanta Daily World, April 17, 1946. This meeting was, for better or worse, of the same nature as the discussion with the Georgia Interracial Commission cited above.
228 John Gerson to William P. Jones, Mule to Marta, April 23, 1946, Box 116, Folder 4.
229 Ibid.
concern to us and we are watching this important part of our operation with great intensity.”

The “intensity” which the Georgia Power Company focused on its drivers, however, was not great enough, since, less than six months later; Walter Lee Johnson met the same fate as his fellow veteran.

**Similar Arguments**

Public protests about these 1940s-era killings of African American men at the hands of motormen abusing their police powers reprised the complaints raised by activists nearly forty years earlier. The efforts of the postwar Civil Rights activists focused on the danger of riding on streetcars because of armed motormen, and the inability to punish bad actors, just as the activists in Richmond, Virginia had done in 1904, and as J. Max Barber had done in Atlanta in 1905. In the Letters to the Editor, writers focused on the racism and excitement of armed motormen exerting power over African Americans, the same problem that the activists in Jacksonville, Florida had warned about in 1901. Armed white motormen had abused their power in other communities as well. In 1946, Georgia Power Company continued to claim a customer friendly position, similar to the position taken by the railroad companies during the old era of Jim Crow streetcar laws. In sum, the response to the killings of Madison Harris and Walter Lee Johnson demonstrated a continuum of activism in the segregated south around a specific aspect of Jim Crow laws.

**VI. Conclusion: Boy, Give Me that Gun**

Keeping the memory of Madison Harris and Walter Lee Johnson alive is necessary for personal and historical reasons as Americans continue toward the horizon of justice. It is important to honor and respect their lives, lost far before their time. The absence of justice and the racism endorsed by the courts and Jim Crow laws remind us of the lack of dignity granted to African Americans in the South after World War II.

Although 1946 can feel like ancient history, the reintroduction of the streetcars to Atlanta in 2014 brings Atlantans and visitors closer to this particular story of injustice than they have been in decades. Without acknowledging the old Jim Crow laws and civil rights abuses associated with the original Atlanta streetcars, a deceptive nostalgia for a wholesome Americana will be all that the new vehicles in modern Atlanta represent. Today, Atlantans, and Americans generally, need to acknowledge the past in order to understand the fear and pain that the old streetcars represented for the African Americans who rode them every day over a half century ago. In short, there is no better time than now to learn from the hard facts about the racial injustices of the past and move toward healing and reconciliation.

At the same time, the deaths of Madison Harris and Walter Lee Johnson exemplify the broader injustice and evils of Jim Crow laws beyond segregation. Their deaths can deepen our understanding of the social and legal structures that support racial discrimination. Their stories add one more element of truth to our ever-growing understanding of the impact of harmful and

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230 Ibid.
immoral laws on African Americans throughout our nation’s history. The essence of injustice is inequality of the law: in a time not long ago, a white man with a gun to could say to an African American veteran, who had raised his hands above his head, “Boy, give me that gun” and the white man could shoot him with impunity.
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