



The Trial of Sam Sheppard

Part II: The Trial

By Mark J. Phillips and Aryn Z. Phillips

The murder of Marilyn Sheppard in her bedroom during the early morning hours of July 4, 1954, remains one of America's most notorious unsolved crimes. Young and beautiful, the mother of one child and pregnant with another, her bludgeoning death transfixed a nation. Every circumstance of her death and the nine-week trial of her husband that followed became fodder for an unprecedented crush of newspaper coverage. In what the United States Supreme Court later called "a carnival," hundreds of reporters took up every inch of the Cleveland courtroom, reporting every line of testimony, and tracking the judge, jury, lawyers, and witnesses from home to court and back again. No one moved in the corridors without being questioned. Newsmen handled the evidence as it was offered during the proceedings. They set up a television station in a room next to the jury.

A preliminary hearing was initially held before Judge William Thomas on August 16th.

Presented with no evidence by the prosecutor, he ordered Sam Sheppard released on bail. The newspapers howled. The following day, the prosecutor sought an indictment from the grand jury, and the newspapers printed the grand jury testimony, normally sealed. Even more, the pictures, names, and addresses of grand jury members were published in the *Cleveland Press*. Grand jurors found themselves telephoned and stopped on the street. The grand jury obediently returned an indictment against Sam, and grand jury foreman Bert R. Winston was quoted as saying, "The pressure on us has been enormous."¹

Sam's trial commenced in October 1954, amidst this circus of media attention. It was also two weeks before the November general election of 1954, at which the Prosecutor John Mahon was a candidate for judge, and the trial judge, Judge Edward Blythin, was up for re-election. Twenty-five days earlier, seventy-five individuals were called as prospective jurors. All three Cleveland newspapers published their

Cleveland Press City Room waits for verdict in Sam Sheppard murder case, 1954. *Photo courtesy of Cleveland State University, Michael Schwartz Library, Special Collections.*

names and addresses, so that when eighteen days of jury selection began on October 18, 1954, every prospective juror told the court that they had received letters and telephone calls, both known and anonymous, regarding the trial.²

From the beginning, the press had free range of the courtroom. The courtroom itself was a modest 1,200 square feet, including four rows of seats behind the railing, or bar, that separates the spectators from judge, jury box, and the well where the prosecution and defense were seated. The first three rows of audience seats were assigned to the press, and only the last row was assigned to family. When those three rows proved insufficient for all of the media representatives that clamored for seats, the extraordinary remedy was adopted



Fred Garmone and Sam Sheppard settle in, while members of the press mill in the background. *Photo courtesy of Cleveland State University, Michael Schwartz Library, Special Collections.*

of placing a twenty-foot-long temporary table in the space between the bar and the tables occupied by the prosecution and defense, and packing that table with reporters. Seated where they were, the press could hear the lawyers talk to each other and to Sam, and they could view and handle all of the evidence. One end of the extemporary press table ended only three feet from the jury box.

Representatives of the news media also used every room on the courthouse floor, including the room where cases were ordinarily called and assigned for trial. Private telephone lines and telegraphic equipment were installed in these rooms so that reports from the trial could be speeded to the papers. Station WSRS was permitted to set up broadcasting facilities on the third floor of the courthouse next to the jury room, where the jury rested during recesses in the trial. Newscasts were made from this room throughout the trial, even while the jury deliberated.³

At twenty-eight days of witness testimony, the trial of Sam Sheppard was said to have been the longest criminal trial on record in the United States at the time.⁴ Sam was represented by the legal team of William Corrigan; Corrigan's young son Bill Jr., recently graduated from law school; and attorneys Fred Garmone and Arthur Petersilge. The prosecution team included Mahon, who was elected to a judgeship in the middle of the trial; Gertrude Bauer, whom Mahon would marry days after the trial ended; and Saul S. Danaceau and Thomas J. Parrino, both later judges. Also at the prosecution table was Cleveland Police Inspector James McArthur.

His pretrial statements that there was no proof of anyone else having been in the Sheppard house at the time of the murder had been published by the local newspapers.

The prosecution began with photos of the murder of Marilyn projected on a screen in the courtroom, accompanied by testimony by Dr. Lester Adelson, the Chief Pathologist in the Coroner's office who had conducted the autopsy on Marilyn and testified about the injuries she suffered. A wax model of Marilyn's head was used to demonstrate the murder blows. Neighbors Don and Nancy Ahern each testified how Sam had fallen asleep while they watched a movie the evening before the murder, still wearing his jacket, which he was not wearing after his fight with the intruder. The jacket was found neatly folded on the daybed, a fact the prosecution offered as evidence that Sam's actions on the night of the murder were calm and unhurried. Nancy Ahern testified that Marilyn had confided to her a rumor that she had heard that Sam was considering a divorce but had decided against it.

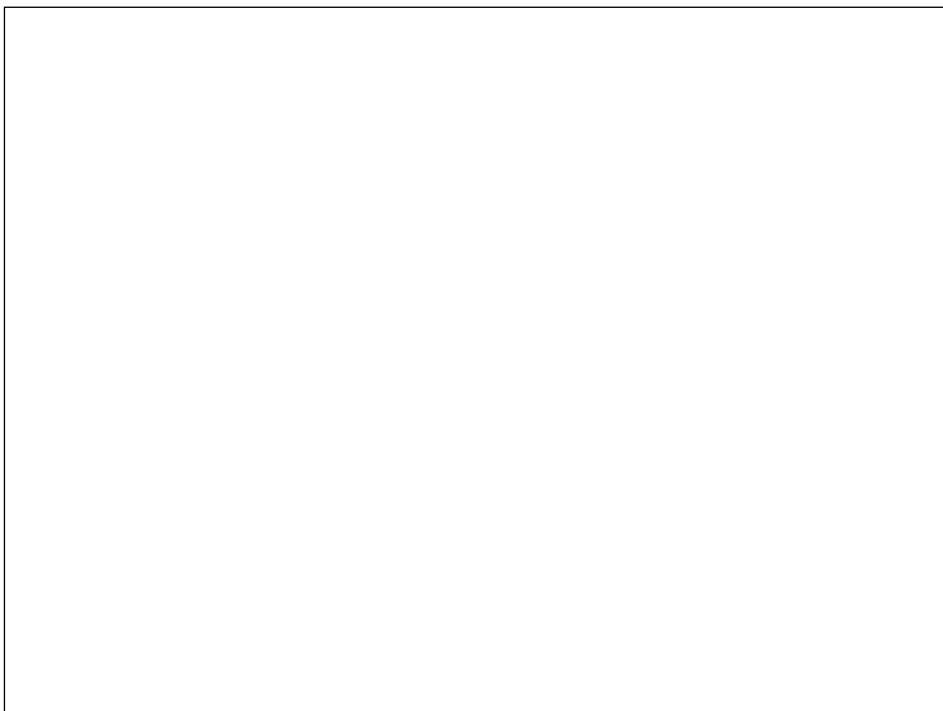
Esther and Spen Houk were called to testify regarding their meetings with Sam on the morning of July 4. Esther was asked if Sam's shoulder was dry when she touched it, and she answered that it was, to the point that he was not wet when he returned from his altercation with the bushy-haired assailant at the beach. Mayor Houk, over objections, was allowed to testify that he had voluntarily taken a lie detector test in the days that

followed Marilyn's murder, in sharp contrast to Sam's well-published refusal to do the same. Their son, Larry Houk, testified about finding a green bag in the Sheppard yard that contained Sam's watch and jewelry, which the prosecution considered a ruse.

The Houks were followed to the witness stand by Bay Village police officers Drenkhan, Hubach, and Eaton, and firemen Callihan and Sommer. Then came Cleveland officers Dombrowski, Poelking, Grabowski, Gareau, and Schottke, along with county deputy sheriffs Rossbach and Yettra. The officers testified as to their actions on the morning of the murder, and that there was no sign of forcible entry to the Sheppard home.

Coroner Dr. Gerber then came to the stand, and he dropped a bombshell. He testified that his examination of the bloodstains on a pillowcase on Marilyn's bed were made by the imprint of a long, hinged, two-pronged weapon, which he identified as a surgical instrument. Because no such weapon or instrument had been found in or outside the house despite an intensive search, including the dredging of Lake Erie in front of the Sheppard home, he could not describe the instrument with greater particularity. Nevertheless, his testimony strongly implicated Marilyn's surgeon husband as the perpetrator. Then came Susan Hayes, who testified regarding her affair with Sam, with its damaging effect on his credibility after his

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earlier denial of the relationship with her.

The defense's presentation, in turn, was light on scientific evidence. The law in 1954 did not require prosecutors to turn over evidence in a trial to the defense team, and the Sheppard home had been sealed against examination by experts hired by Sam and his attorneys. Evidence of the presence of a third-party intruder that might have cast doubt on the guilt of Sam, including a trail of blood left by the assailant, were inaccessible to those

experts. Though bleeding profusely, Marilyn had never escaped the bedroom, and Sam had no open wounds.

Instead, the defense featured medical witnesses who testified that Sam's injuries on the morning of the murder were of a type inconsistent with the struggle that Marilyn may have put up, and character witnesses who testified in Sam's defense. Dr. Charles Elkin, who had examined Sam on the first days following the murder, and five other doctors, a dentist and several nurses were called by the defense for a thorough detailing of Sam's



Newspapers are brought to the courthouse during the Sam Sheppard murder trial. *Photo courtesy of Cleveland State University, Michael Schwartz Library, Special Collections.*

injuries, which included injuries to his spine and swelling at the base of the skull. The prosecution in response characterized those injuries as self-inflicted. Members of Sam's family testified. A long string of character witnesses testified to Sam's good nature and the general normality of his relationship with Marilyn. Members of her family also testified as to her buoyant mental state in the days preceding the murder in an attempt to deflect any suggestion of marital discord.

Next the defense elicited the testimony of people who had been in the area the night of the murder. Various neighbors testified as to when lights went on and off at the residence. Fishermen from the lake testified to seeing teenage boys on the park pier early in the morning, and teenagers testified as to activities and movements in the immediate area. Drivers who had seen a stranger walking on Lake Road in the morning were called to give their testimony. Then Sam testified on his own behalf, taking the stand for three days. Under cross-examination from the prosecution, his story of the events of that night did not change.⁵ Both sides made their closing arguments, Prosecutor Mahon concluding, "Why, this house was full of phantoms that night, I think, ladies and gentlemen...."

During the course of the trial, all three Cleveland newspapers maintained their

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relentless call for Sam's conviction. Syndicated columns and news agency reports made the case almost as well-known in every community of the nation as it was in Cleveland. In the middle of the trial, national broadcaster Walter Winchell aired a story about a woman under arrest in New York who claimed she had a child by Sam. It turned out to be false.⁶

After five days of deliberation, on December 21st, the jurors came back with a verdict of second-degree murder, intentional but without premeditation. Dorothy Kilgallen—known for her celebrity role on the television game show *What's My Line?*—covered the trial and expressed shock at the guilty verdict. But it wasn't until years later that Kilgallen also described how the judge called her into his chambers on the first day of the trial. They shook hands, and he asked her, "What brings you to Cleveland?" She replied that she was there to cover the trial and told Judge Blythin that she was intrigued by the mystery of who had committed the murder. The judge responded, "Mystery? It's an open and shut case . . . He is guilty as hell. There is no question about it."⁷

The Sheppard family was, as expected, crushed and distraught by the jury's verdict. Sam's mother, Ethel, shot herself to death three weeks later. His father, Richard, died of stomach cancer eleven days after Ethel. By contrast, Prosecutors Bauer and Mahon, the latter now a judge elect, were able to celebrate. The two married before Christmas. Mostly, though, the trial was a bonanza for the local newspapers. Before the murder, from March 1953 to March 1954, the *Cleveland Press* had suffered a circulation decline.⁸ But all three Cleveland newspapers reported extraordinary circulation gains during the Sheppard trial, and the *Cleveland Press* sold 30,000 extra copies on the day of the verdict.⁹ ★

ENDNOTES

¹Cynthia L. Cooper and Sam Reese Sheppard, *Mockery of Justice* 93 (New York: Onyx 1997)

²*Sheppard v. Maxwell*, 384 U.S. 333, 342 (1966).

³*Id.* at 343.

⁴Jack P. DeSario and William D. Mason, *Dr. Sam Sheppard on Trial* 5 (Kent, Ohio: Kent State University Press, 2003).

⁵Cooper & Sheppard 106-10.

⁶*Id.* at 69.

⁷*Id.* at 46.

⁸*Editor & Publisher Magazine* (January 8, 1955).

⁹Cooper & Sheppard 114.



Mark J. Phillips is a shareholder at the law offices of Lewitt Hackman in Encino, California.



Aryn Z. Phillips, Ph.D. is an assistant professor at the University of Maryland at College Park. Mark and Aryn are the co-authors of *Trials of the Century* (Prometheus 2016).