

MUMIA ABU-JAMAL PRESS PACKET

--Assembled by *The International Concerned Family and Friends of Mumia Abu-Jamal* (FreeMumia.com), *Journalists for Mumia* (Abu-Jamal-News.com), and *Educators for Mumia* (EmajOnline.com), November, 2007.

The newly discovered crime scene photos can be viewed at: www.abu-jamal-news.com

For more information, or to contact Linn Washington, Jr. (*Philadelphia Tribune* columnist and Associate Professor of Journalism at Temple University), Dr. Suzanne Ross (Clinical Psychologist and Co-Chair of the *Free Mumia Abu-Jamal Coalition, NYC*), or Pam Africa (Coordinator of *The International Concerned Family and Friends of Mumia Abu-Jamal*) please email *Journalists for Mumia* co-founder Hans Bennett at hbjournalist@gmail.com.

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Photos Bolster Claims of Mumia's Innocence and Unfair Trial

By David A. Love

Published by [The Black Commentator](#)

October 18, 2007 - Cover Story

A group of journalists is determined to seek a fair retrial of death row prisoner, noted journalist and former Black Panther Mumia Abu-Jamal, and they point to evidence they say provides further proof of his innocence: photos from the crime scene that the jury never had the chance to see.

The group, Journalists for Mumia, was founded by Hans Bennett, a Philadelphia journalist, and Dr. Michael Schiffmann, German linguist at the University of Heidelberg, to challenge what they characterize as "the long history of media bias against Abu-Jamal's case for a new trial."

Abu-Jamal, formerly known as Wesley Cook, was arrested and convicted of the 1981 murder of Philadelphia police officer Daniel Faulkner. He has been on Pennsylvania's death row since then, although a federal judge affirmed his conviction but vacated his death sentence in 2001. A three-judge, federal appeals court panel is reconsidering the case for his retrial, and heard oral arguments on May 17, 2007.

Faulkner was killed on the corner of Locust and 13th Streets in Philadelphia, on the morning of December 9, 1981. Abu-Jamal and his brother, Billy Cook, were found lying on the sidewalk when police arrived at the scene to find Faulkner dead. In addition, Abu-Jamal, who also had been shot, was beaten by police when they came to the scene. And he was arraigned at his hospital bed while recovering from life-threatening injuries.

This case has been one of the most contentious, most widely observed and most thoroughly critiqued cases of our times, as it has put a spotlight on the contagion of police brutality, racism and corruption in the criminal justice system, and the capricious application of the death penalty. Amnesty International has called for a new trial for Abu-Jamal. "It's shocking that the US justice system has repeatedly failed to address the appalling violation of Mumia Abu-Jamal's fundamental fair trial rights," said Amnesty International UK Director Kate Allen.

Through prodigious research, Schiffmann has located a number of photos taken by press photographer Pedro Polakoff. Polakoff, who arrived on the scene 12 minutes after Faulkner's killing, produced at least 26 photos before the arrival of the Philadelphia Police Department's Mobile Crime Unit. Some of the photos are highlighted in Schiffmann's new book, *Race Against Death. Mumia Abu-Jamal: A Black Revolutionary in White America*. The book — an expansion of Schiffmann's doctoral dissertation — was recently released in Germany, and has yet to be published in the United States.

Polakoff told Schiffmann that the crime scene was poorly managed and unsecured, "the most messed up crime scene I have ever seen." Polakoff attempted to hand his photos to the D.A.'s office on two occasions — before the trial in 1982 and in 1995 during Mumia's post-conviction relief hearing — but to no avail. Apparently, they weren't interested in what he had to show them. (And Schiffmann and Bennett say that Polakoff, who until very recently assumed Mumia was guilty, and that Mumia was the passenger in his brother's car, had no interest in contacting Mumia's lawyers regarding the photos.)

Perhaps this was because his photos presented some damning truths. In his book, Schiffmann makes a number of important arguments:

- The police manipulated the evidence that was provided to the trial court. For example, Polakoff's photo shows Faulkner's cap resting on the roof of Billy Cook's Volkswagen. Yet, in a police photo taken 10 minutes later, the cap is on the sidewalk in front of 1234 Locust.

- Police officer, James Forbes, testified at trial that he had secured Faulkner's and Abu-Jamal's weapons, and did not touch the metal parts in order to preserve the fingerprints. Yet, Polakoff's photos show that Forbes had touched the metal parts of the weapons, destroying valuable evidence in the process.
- Polakoff told Schiffmann that officers at the crime scene said they believed the shooter was sitting in the passenger seat of Billy Cook's Volkswagen, supporting the argument that a third person was at the crime scene.
- One of the prosecution's key witnesses, a cab driver names Robert Chobert, claimed he was sitting in his cab behind Faulkner's police car during the shooting. Yet, there is no taxicab in Polakoff's crime scene photos.
- The prosecution asserted that Mumia killed Faulkner by standing over the already wounded officer and unloading several shots from a .38 revolver. However, the Polakoff photos show a clean trickle of blood on the pavement, not the splatter of blood or cement damage that one would expect from the firing of such a weapon.

Journalists for Mumia are providing a valuable public service in the honored tradition of the First Amendment. Linn Washington, Jr., veteran journalist who worked for the Philadelphia Tribune at the time of Mumia's arrest, was on the case at a time when most of the Philadelphia press corps were asleep on the issues of race and criminal justice. Washington recently reflected on the role of the press in the U.S. Constitution: "One of the reasons why we have this First Amendment is [the framers] said, they knew that power corrupts absolutely. So they had this check and balance, you know, where the executive had a check on the legislative, and the legislative and a check on the courts, and the courts had a check on both of them. But who is going to check the checkers? Well that was supposed to be the press. So, the press had a watchdog role to look at what government is doing, and more specifically, look at what the government is doing wrong to who? We the people."

And the Philadelphia of 1981, on the heels of the brutal reign of police-chief-turned-mayor Frank Rizzo, was a time of rampant official corruption and misconduct, racism, and police brutality. Washington noted that during the year of Mumia's arrest, five men were framed by the Philadelphia police for murder and exonerated years later. Two of the innocent men spent as much as 20 years in prison before their release, and one man spent 1,375 days on death row before he became a free man. This legacy of police corruption haunts the city to this day, at a time when better police-community relations are needed to stem a tide of gun homicides.

There is much in Mumia's case that is troubling, and points to a dysfunctional system in dire need of repair.

- The prosecutor had a history of excluding African American jurors, and struck 10 of 14 Black potential jurors, but only 5 of 25 whites.
- In a sworn statement, a court stenographer said she overheard the trial judge, Albert Sabo, saying he would help the prosecution "fry the nigger."
- For twelve years, prosecutors withheld evidence that the driver's license of a third man was found in Faulkner's pocket at the crime scene.
- Defense witnesses who testified that someone other than Abu-Jamal killed Faulkner were intimidated.
- Five of the seven members of the Pennsylvania Supreme Court, which denied his appeal, received campaign contributions from the Fraternal Order of Police, the primary group that has advocated for the execution of Mumia, who they regard as an unrepentant cop killer.

All of this is about Mumia, yet far more than just Mumia, for Mumia's case marks a part of the continuum that represents the tortured, tragically consistent narrative of people of color in America's justice system. Decades before Abu-Jamal, there were the Scottsboro boys. In 1931, nine black teenagers in Scottsboro, Alabama — ranging in age from thirteen to nineteen — were accused of raping two white women. Tried without adequate representation, they were sentenced to death by all-white juries, despite a lack of evidence. And one of the women later recanted.

In more recent years, there were the Central Park Five, the five Black and Latino men convicted of raping and beating a female jogger in Central Park, N.Y., in 1989, and later found to be railroaded. Donald Trump had spent \$85,000 on full-page newspaper ads calling for the death penalty for the five youths, who were characterized as a wolf pack. And of course, today we have the Jena Six, arrested and prosecuted in a Louisiana town for fighting against nooses dangling under their high school's "White tree," while the White students who planted the nooses and committed other acts of violence were given a pass.

We will never know how many innocent people in this country — those who could not afford to buy justice — were sent to their deaths or forced to languish in prison for the rest of their lives, all on a lack of evidence or doctored and cooked-up evidence, served up by police officers who wanted to make a name for themselves, and prosecutors who aspired to higher office on a tough-on-crime stance.

Society cannot help those who were victimized by kangaroo justice, but no longer live among us and are now but a fleeting memory. But we can still help Mumia Abu-Jamal, and in doing so we begin to repair this system of "justice" and save ourselves in the process.

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EMAJ EDUCATORS FOR MUMIA ABU-JAMAL

12 Years Educating and Organizing for Abu-Jamal and Justice

PRESS RELEASE – OCTOBER, 2007. FOR IMMEDIATE RELEASE.

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Jurors Never Saw Earliest Photos at Abu-Jamal's 1982 Trial

RECENT DISCOVERY OF 26 PHOTOS OF OFFICER FAULKNER'S SCENE OF DEATH

More Evidence that Mumia Abu-Jamal was Denied a Fair Trial

Princeton, NJ. September 16, 2007. Analysts and leaders in human rights investigations for years have charged that Pennsylvania death row prisoner, Mumia Abu-Jamal, did not receive a fair trial when convicted in 1982 of the shooting death of Officer Daniel Faulkner. [Amnesty International](#), for example, continues to call for a new trial, a "fair retrial" of Abu-Jamal.

Now in 2007, German linguist, Michael Schiffmann (University of Heidelberg), has disclosed his discovery of 26 photographs, taken by press photographer Pedro Polakoff, which suggest more evidence that basic investigative protocol was violated by police from the earliest moments of the killing. (As a guide to this Press Release, use the one-page summary at the end of the release, "7 KEY POINTS ON THE POLAKOFF PHOTOS," which gives in capsule form the significance of the Polakoff photos.)

The very existence of these photos, and what they show, together with the many other indicators of prosecutorial abuse, manipulation of witnesses and violation of Abu-Jamal's constitutional rights, give still firmer ground that Abu-Jamal did not receive a fair trial.

Officer Faulkner was slain near the corner of Locust and 13th Streets in the early morning hours of December 9, 1981. At a trial the following summer of 1982, Mumia Abu-Jamal was convicted of the crime and continues to be on death row in Pennsylvania.

Now, the photos show a crime scene in 1981 that was almost completely unsecured by police, with officers holding crime weapons in their bare hands though they denied doing so at trial, and, with someone evidently having changed the position of Officer Faulkner's hat at the scene for later dramatic effect at trial.

Before commenting on these revelations more, recall the basics of the case. Abu-Jamal, previously Wesley Cook, a noted journalist and political activist in Philadelphia, was found on the sidewalk along

with his brother, Billy Cook, when police arrived on the scene to find the dying Faulkner. Abu-Jamal had also been shot, was beaten by arriving police, and was arraigned in the hospital during recovery from his own critical injuries.

To get the conviction at the 1982 trial, prosecutors argued that Abu-Jamal emerged from a cab he had been driving in the area, and ran through a parking lot across the street to confront Faulkner who had pulled over a Volkswagen driven by Mumia's brother, Billy Cook. Prosecutors claim that as he approached, Mumia shot Faulkner in the back, and then straddled Faulkner, in spite of having taken a shot in the chest, discharging his revolver at the fallen officer and killing him with a bullet between the eyes.

Abu-Jamal's case is one of the most contested in the history of the United States. Prosecutors, and the Fraternal Order of Police in support of them, have always claimed to possess a water-tight case of eye-witnesses and conclusive evidence.

Nevertheless, Abu-Jamal's conviction and death sentence have prompted jurists and human rights organizations worldwide to denounce the trial and death sentence as a travesty of justice. They cite bias in the original judge, a racially-skewed process of jury selection, numerous other denials of due process, and prosecution and police intimidation of witnesses. Amnesty International advised, for example, that "justice would best be served by granting a new trial."

Abu-Jamal's defense team identified 29 claims of constitutional violation of Abu-Jamal's constitutional rights, three of which have recently (May 17, 2007) been argued before the justices of the U.S. Third Circuit Court of Appeals that now is in deliberation on those claims.

Schiffmann's discovery of the 26 photos is announced in his thorough analysis of the case in his 2006 book, *Race Against Death: The Struggle for the Life and Freedom of Mumia Abu-Jamal* (published already in Germany, and awaiting publication in English). The book is an excellent introduction to the case's complexities. The most startling feature of his study, though, may be the 26 photos he discovered through internet research, taken by experienced press photo-reporter, Pedro P. Polakoff.

These photos still have not been acknowledged or discussed at length by the U.S. media in spite of the long-running public controversy this case has engendered. *Seven points*, summarized in chart form at end of this press release, dramatize the importance of the Polakoff photos:

Point 1 - The Earliest Photos of the Crime Scene. Press photo-reporter Polakoff arrived at the crime scene just 12 minutes after Faulkner's killing was reported to police, and he produced at least 26 photos of the scene over a 30-45 minute period, completing them *before* the Philadelphia Police Department's Mobile Crime Unit began taking its own pictures.

Point 2 - Officials Ignore Polakoff's Evidence. Polakoff offered his photos to the D.A.'s office, not once, but twice (before the original 1982 trial and during Mumia's 1995 PCRA hearings), but at neither opportunity did the prosecutors show any interest or respond to Polakoff's attempts to contact them. No jury, judge or other legal group has formally reflected on these photos.

Point 3 - An Unsecured Crime Scene. Reflecting on the crime scene in conversation with Schiffmann, Polakoff described it as the "most messed up crime scene I have ever seen," and, contrary to almost all police protocol and manual instructions, he recalls being permitted to move freely almost everywhere at the scene.

Point 4 - Police Ploys at the Crime Scene. Polakoff's photos show what appear to be manipulation of evidence and corruption of the crime scene:

(a) A key example of *the manipulation of evidence* is the movement of slain Officer Faulkner's hat. The police photos taken later, and then presented to the jury in 1982, show the hat lying on the sidewalk where Faulkner was shot. But one of the *earlier* of Polakoff's photos shows the hat resting on the top of his brother's, Billy Cook's, Volkswagen.

(b) Exemplary of *the corruption of the crime scene* are signs of police officers touching the revolvers of Faulkner and Abu-Jamal. At trial, Officer James Forbes denied touching the guns' metal parts during the full one-and-one-half hour he held them. But not only one, but several of Polakoff's photos show Forbes holding the guns and touching their metal parts while he stood at the crime scene.

Point 5 - Prosecution's Cab-Driver Witness: Where Was He? One of the prosecution's key witnesses, cab driver Robert Chobert, claimed that as the shooting started he was sitting in his cab right behind Faulkner's police car. But two of Polakoff's photos show the space behind Faulkner's squad car at the crime scene, and Chobert's cab is not parked there.

Point 6 - Did the Killer Really Shoot Downwards at Faulkner on the Pavement? Prosecutors argued that Abu-Jamal, after first shooting him in the back, killed Faulkner by standing over him, unloading several shots from his .38 revolver while Faulkner lay face-up and wounded on the sidewalk, one bullet hitting the policeman "right between the eyes, literally blowing his brains out." But six of the Polakoff photos show only a clean blood-stain trickling toward the street gutter, not the sidewalk splatter that a .38 revolver would have produced. Even more importantly, the photos also show no traces in the sidewalk of the large pieces of cement that the other shots from the .38 revolver would surely have broken out from the pavement.

Point 7 - Police Officers' Early "Passenger" Theory. Polakoff reported to Schiffmann that officers at the crime scene expressed the conviction that the shooter had been in the passenger seat of Billy Cook's Volkswagen and had shot Faulkner from that position.

Point 7 warrants special commentary. This early theory of the police was abandoned by the prosecution at trial in favor of an argument that the shooter – according to them, Abu-Jamal – shot Faulkner not from Billy Cook's Volkswagen, but after running from his own cab parked across the street and toward the crime scene. (Abu-Jamal's defense did not dispute that Mumia came through a parking lot across the street and had been shot by Faulkner, though of course defense denied claims that Mumia was the shooter.)

Nevertheless, the police officers' reference to the shooter being in the passenger seat of Cook's car (based on reports by three unnamed witnesses on the street) is another indication that there was a passenger riding with the driver, Billy Cook. This also gives further support to the much talked-about "third man," who may have been the shooter and fled the scene.

Schiffmann and others have discussed the various indicators that such a third man was present. These include:

(a) testimony from defense witnesses Dessie Hightower and Veronica Jones (and reports by others) claiming that they saw one or more other persons running from the crime scene after the shooting;

(b) testimony at a 1995 Post-Conviction Relief hearing that a driver's "license" document found in Officer Faulkner's shirt pocket after the crime, had been lent to one, Kenneth Freeman, Billy Cook's business partner and friend who often rode with him in his car. (Freeman, an African-American with dreadlocks, could easily have been confused by police with Mumia when he was emerging from the passenger seat of the VW.)

(c) testimony by one of the prosecution's own star witnesses, Cynthia White, that *two* distinct figures,

both a driver *and* a passenger, emerged from Billy Cook's Volkswagen when it was stopped by Faulkner. This testimony is in the transcript of the earlier March 1982 trial of Billy Cook.

This passenger, this third man, Kenneth Freeman, according to a deposition by journalist Linn Washington, Jr., frequently reported his experiences of police brutality to the *Philadelphia Tribune* where Washington worked. Washington knew Freeman as a person who had been victimized by police abuse. The person eyewitnesses saw leaving the scene is consistent with the physical description of Freeman. (For more context on Washington's observations, see his sworn [Declaration](#).)

Billy Cook and Mumia Abu-Jamal did not testify about Freeman, which could have meant pinning criminal blame on a friend of the family.

Kenneth Freeman died on May 13/14, 1985, the night of the fire-bombing of the MOVE house, "handcuffed and shot up with drugs and dumped upon a Grink's lot on Roosevelt Blvd, buck naked" (from testimony at a 1995 PCRA hearing).

No jury heard testimony about Kenneth Freeman, this third man at the crime scene.

(written by Mark L. Taylor, for EMAJ)

German Linguist Michael Schiffmann Unveils Newly Discovered Mumia Abu-Jamal Crime Scene Photos For the First Time in the United States

--Journalists for Mumia Press Release, Philadelphia, May, 2007

Speaking in Philadelphia on Friday, May 18, German author, Dr. Michael Schiffmann presented findings from his new book (not yet published in the US) "Race Against Death. Mumia Abu-Jamal: a Black Revolutionary in White America," an expansion of Schiffmann's PhD dissertation at the University of Heidelberg, just released in Germany. Schiffmann traveled from Germany to Philadelphia to observe Abu-Jamal's May 17 oral arguments before the Third Circuit Court of Appeals.

Along with original ballistics analysis, Schiffmann unveiled explosive new crime scene photos from the morning of December 9, 1981, taken by press photographer Pedro P. Polakoff, III.

In 1982, Abu-Jamal was convicted of killing Philadelphia police officer Daniel Faulkner and sentenced to death in a trial that Amnesty International has declared a "violation of minimum international standards that govern fair trial procedures and the use of the death penalty."

Below are quotes about the crime scene photos from Robert R. Bryan, Linn Washington, Jr., and Dave Lindorff.

ROBERT R. BRYAN

The newly discovered photographs reveal the fact that the police were actively manipulating evidence at the homicide scene. For example, their moving the police officer's hat from the roof of Billy Cook's vehicle to the sidewalk to make the scene more emotionally dramatic was fraudulent and criminal. It was as if they were setting up a scene, putting in props for a movie to be shot. That is incredible.

Further, the incompetent manner in which the police at the scene dealt with the evidence is mind-boggling. You would expect better from cops in some little town in Alabama or Mississippi, than what we see in this case in Philadelphia. The most stunning example was the photograph in which one sees Police Officer James Forbes holding both pistols found at the scene in one hand, bare-handed! This is unthinkable. A nitwit could do better. Why were there no fingerprint tests? Why no ballistic examinations? It reminds me of a scene from "The Keystone Cops," the way the evidence was being handled and manipulated, except this was not funny. The fraud and incompetence of the police had very tragic consequences for my client. Today Mumia Abu-Jamal continues to sit on Pennsylvania's death row.

Mumia was wrongfully convicted and sentenced to death. The police and prosecution trampled upon his constitutional rights. It is disgusting and shameful, as I pointed out on May 17 to the U.S. Court of Appeals for the Third Circuit.

My goal is to win a new trial and walk Mumia Abu-Jamal out of that courtroom a free person. I want an acquittal, so that my client can go home to his wife and family.

--Robert R. Bryan is the lead attorney for Mumia Abu-Jamal. He can be contacted via email: RobertRBryan@aol.com

LINN WASHINGTON, JR.

This series of photographs damage the prosecution's case significantly because they graphically show police tampering with and manipulating the crime scene...which is totally improper. Of particular significance is the fact that these photographs provide graphic evidence contradicting the core of the case against Abu-Jamal. The account of Abu-Jamal firing at the fallen officer is shown to be false because there are no bullet holes and/or embedded bullets consistent with the physics of this account. Further, claims that the eyewitness cab driver, Robert Chobert, was parked behind the officer's car are also shown false because there is no cab in any of the photos.

Given the ole "picture-is-worth-a-thousand-words" dynamic, it is not surprising that the prosecutor repeatedly rejected this photographer's offers of assistance because his photos expose the structural flaws in the case presented in court against Abu-Jamal. These photos provide additional evidence that the jury did not consider all of the available evidence due to misconduct by police and prosecutors. This misconduct fuels demands for a fair trial in this case.

Sadly, this newly rediscovered photographic evidence has yet to stimulate interest in mainstream media...showing once again how this supposed information seeking institution shirks its ethical duties in the Abu-Jamal case to "seek truth and report it."

--Linn Washington, Jr. is a veteran Philadelphia journalist who has been covering the Abu-Jamal case for over 25 years. He is a columnist for The Philadelphia Tribune newspaper and an Associate Professor of Journalism at Temple University.

DAVE LINDORFF

I've seen these photos. They are explosive. Of course, the key at this point is getting Mumia Abu-Jamal a new trial, so that all this incredible evidence can come out. Clearly, if there is a new trial, there would be a quite different verdict.

If there is not a new trial, then of course, the new evidence will have to be used in an effort to reopen the case at the state level.

--Dave Lindorff is the author of "Killing Time: An Investigation into the Death Penalty Case of Mumia Abu-Jamal"

SUMMARY OF FACTS FROM DR. MICHAEL SCHIFFMANN'S NEW GERMAN BOOK "RACE AGAINST DEATH."

In May, 2006, Schiffmann discovered two photographs on the Internet that were taken by the only press photographer immediately present at the 1981 crime scene: Pedro P. Polakoff, III. Polakoff arrived within 12 minutes of hearing about the shooting on the police radio and about ten minutes before the Mobile Crime Unit (responsible for forensics and photographs) arrived. According to Polakoff, this unit had still not taken any photos when Polakoff left after 30-45 minutes at the scene.

Upon contacting Polakoff, Schiffmann learned that three of his 31 original shots were published in Philadelphia newspapers at the time, and five others were lost. Schiffmann explains that he published five of the 26 remaining photos to show the following three points:

- "The cops manipulated evidence and supplied the trial court with stuff that was simply stage-

managed. On Polakoff's photos, P.O. Faulkner's police hat at first is clearly on the roof of Billy Cook's VW, and only later on the sidewalk in front of 1234 Locust where it was photographed by the police photographer who arrived 10 minutes after Polakoff!"

- "In court Police Officer James Forbes claimed that he had 'secured' the weapons of both Faulkner and Abu-Jamal without touching them on their metal parts in order to not destroy potential fingerprints. However, in the single photo reprinted in the book you can see that Forbes is touching the weapons on their metal parts, and quite a few of Polakoff's other photos make it clear that Forbes touched and smudged these weapons all over, destroying any potential fingerprint evidence that may have been on them."

- "The second-most important prosecution witness, cab driver Robert Chobert, simply was not parked in the spot, allegedly right behind Officer Faulkner's police squad car, where he claimed to have been and from where he claimed to have observed Abu-Jamal fire the shot that killed the officer."

Polakoff's observations don't stop there. Schiffmann writes in *Race*: "According to Polakoff, at that time all the officers present expressed the firm conviction that Abu-Jamal had been the passenger in Billy Cook's VW and had killed Faulkner by a single shot fired from the passenger seat of the car."

"Polakoff further reports that this opinion on the part of the police about what had happened was apparently based on the testimony of three witnesses who were still present at the crime scene, namely, by the parking lot attendant in charge of the parking lot on the Northern side of Locust Street, by a drug addicted woman apparently acquainted with the parking lot attendant, and another woman. As Polakoff later heard from colleagues in the media, the parking lot attendant had disappeared the day after, while the drug-addicted witness died a couple of days later from an overdose. Whatever it was that these witnesses saw or did not see, we will probably never know. The interesting fact in any case is that neither of them ever appeared in any report presented by the police or the prosecution."

Polakoff told Schiffmann that he was simply ignored when he repeatedly contacted the DA's office to give them his account--and his photos--of the crime scene.

Mumia's Battle in the Courtroom: The Four Issues Made Simple

by *Journalists for Mumia* (Abu-Jamal-News.com), May, 2007

In December, 2001 Federal District Court Judge William Yohn affirmed Mumia Abu-Jamal's guilt but overturned the death sentence. Citing the 1988 *Mills v. Maryland* precedent, Yohn ruled that sentencing forms used by jurors and Judge Sabo's instructions to the jury were confusing. Subsequently, jurors mistakenly believed that they had to unanimously agree on any mitigating circumstances in order to consider them as weighing against a death sentence.

Mumia's case is now in the federal Third Circuit Court of Appeals, with oral arguments set for May 17. District Attorney Lynne Abraham is appealing the death penalty ruling while Mumia is appealing the guilty verdict.

If the penalty ruling is overturned, a new execution date will be set for Mumia. If Yohn's ruling is upheld, the DA can still impanel a new jury to rehear the penalty phase, which could then sentence Mumia to death—regardless of the 3rd Circuit ruling.

Because the DA appealed Yohn's death penalty decision, Mumia has never left death row, and is still unable to have such “privileges” as full-contact visits with his family.

While the specter of execution still exists, there is also reason for hope. In December, 2005 the 3rd Circuit announced the beginning of deliberations and shocked many by agreeing to consider two claims not “certified for appeal” by Yohn in 2001.

Mumia's attorney Robert R. Bryan declared it to be “the most important decision affecting my client since his 1981 arrest, for it was the first time there was a ruling that could lead to a new trial and his freedom.” The court is now considering the following four issues:

1. Whether the penalty phase of Mumia's trial violated the legal precedent set by the US Supreme Court's 1988 *Mills v. Maryland* ruling. This issue was Yohn's grounds for overturning the death sentence and is now being appealed by the DA.
2. “Certified for appeal” by Yohn in 2001, the *Batson* claim addresses the prosecution's use of peremptory challenges to exclude Blacks from Mumia's jury. In 1986, the US Supreme Court ruled in *Batson v. Kentucky* that a defendant deserves a new trial if it can be proved that jurors were excluded on the grounds of race. Most importantly, *Batson* significantly lowered the defendant's burden of proof.

At Mumia's trial, Prosecutor McGill used 11 of his 15 peremptory challenges to remove black jurors that were otherwise acceptable. While Philadelphia was 40% black, Abu-Jamal's jury was composed of ten whites and only two blacks. From 1977-1986 when current Pennsylvania governor Ed Rendell was Philadelphia's District Attorney, the evidence of racism is striking: from 1977-86, the Philadelphia DA struck 58% of potential black jurors, but only 22% of white jurors.

In their *Amicus Curiae* (“friend of the court”) brief supporting the *Batson* claim, the NAACP Legal Defense Fund concludes that it is an “abundantly clear... *prima facie* case of discrimination.” The LDF cites a survey of homicide cases DA McGill tried from Sept., 1981 to Oct., 1983, showing that “the odds that Mr. McGill would peremptorily challenge an African-American potential juror were 8.47 times greater than for non-black jurors.”

3. The legality of McGill's statement to the jury minimizing the seriousness of a verdict of guilt: “If you find the Defendant guilty of course there would be appeal after appeal and perhaps there

could be a reversal of the case, or whatever, so that may not be final.”

In 1986 the Pennsylvania Supreme Court ruled against McGill in another case (*Commonwealth v. Baker*) on the same grounds. When Abu-Jamal addressed this same issue in his 1989 appeal with the State Supreme Court, the court reversed its decision on the legality of such a statement—ruling against the claim for a mistrial.

4. The fairness of Mumia's 1995-97 PCRA hearings when the retired, 74-year-old Judge Sabo was called back specifically for the hearing. Besides the obvious unfairness of recalling the exact same judge to rule on his own fairness in the original 1982 trial, his actual PCRA bias has been extensively documented.

During the 1995 hearings, even the mainstream *Philadelphia Inquirer* wrote that the “behavior of the judge in the case was disturbing the first time around—and in hearings last week he did not give the impression to those in the courtroom of fair mindedness. Instead, he gave the impression, damaging in the extreme, of undue haste and hostility toward the defense's case.”

Concluding the PCRA hearing, Sabo rejected all evidence and every witness presented by the defense as not being credible. Therefore, Sabo upheld all of the facts and procedures of the original trial as being correct.

This fourth claim is particularly explosive in that the PCRA evidence judged “not credible” by Sabo exposed much more than an unfair trial. Despite Judge Sabo and the DA's best efforts to minimize and discredit, proof of an extensive police frame-up emerged.

What the 1995-97 PCRA Hearings Revealed:

Gary Wakshul and the False Confession

Perhaps the clearest example of fabricated evidence used against Mumia, his alleged “confession,” was suspiciously introduced two months after his arrest. When interviewed in February 1982 by the police Internal Affairs Bureau investigating Mumia's police brutality complaint, Officers Wakshul, Bell, and hospital security guard Priscilla Durham then reported Mumia's supposed “hospital confession” for the first time.

Mumia allegedly declared (in the presence of 15-20 other cops that have never confirmed it): “I shot the motherfucker and I hope the motherfucker dies!”

Testifying in 1982, Bell (Faulkner's partner and “best friend”) claimed the over two month mental lapse (Bell first reported the “confession on February 25, 1982) resulted from being so upset about Faulkner's death.

At trial, Durham amended her statement to police by suddenly testifying that she had reported the confession to her supervisor the next day. While neither her supervisor or the alleged hand-written statement were presented in court, the DA sent an officer to the hospital--returning with a suspicious typed version of the alleged report. Sabo accepted the paper (not signed or dated) despite both Durham's disavowal of it (because it was typed and not hand-written) and the defense's protest that there was no establishment of authorship or authenticity.

Unfortunately, the jury never heard the most explosive evidence discrediting the confession. While the DA called Bell and Durham to testify, Wakshul was suspiciously absent. On the final day of testimony in 1982, Mumia's lawyer discovered Wakshul's statement from Dec.9—the morning of the shooting. After riding with Mumia to the hospital and guarding him until his treatment, Wakshul reported: “The Negro male made no comment.”

When the defense immediately sought to call Wakshul as a witness—the DA reported that he was on vacation. On grounds that it was too late in the trial, Sabo denied the defense request to locate him for testimony. Subsequently, the jury never heard from Wakshul or about his written report. When an outraged Mumia protested, Sabo cruelly declared: “You and your attorney goofed.”

Wakshul's “Negro male” report was key evidence at the PCRA hearings, and it was well-known that he would have to testify to defend his “confession” story. Unknown to Mumia's lawyers, on July 13 (days before his PCRA testimony) Wakshul was savagely beaten by undercover police officers in front of a Judge in the Common Pleas Courtroom where he worked as a court crier. Almost two years later, the two attackers (members of Philly's Vice Squad) were suspended without pay as punishment. With the motive still unexplained, the beating was likely used to intimidate Wakshul into maintaining his “confession” story at the PCRA hearings.

On the stand, Wakshul defended both his Dec.9 report and the two month delay as just being a bad mistake. Further discrediting the “confession” story, he repeated his incredible statement given to the IAB investigator in 1982: “I didn’t realize it had any importance until that day.”

The original trial's injustice was further exposed when Wakshul testified to being home for his 1982 vacation—in accordance with explicit instructions to stay in town for the trial so that he could testify if called.

The “confession” story has been thoroughly discredited. As *Amnesty International* concluded: “The likelihood of two police officers and a security guard forgetting or neglecting to report the confession of a suspect in the killing of another police officer for more than two months strains credulity.”

The Ballistics

At the PCRA hearings, defense ballistics expert George Fassnacht testified that he declined a request to assist Mumia’s defense in 1982 because the court-allocated \$150 was insufficient. Subsequently the defense never presented their own specialist. While testifying that the fatal bullet was probably the same caliber as Mumia's gun (legally purchased after his Taxi was repeatedly robbed), Fassnacht challenged the prosecution's 1982 evidence in two key ways.

1. Fassnacht defined “particular” and “general” rifling characteristics. “Particular” traits are “the small stria or scratches which identify a particular bullet” as coming from one specific gun. In contrast, “general” traits can only link a bullet to a particular *type* of gun.

Police experts have always said that the fatal bullet was too damaged to link the “particular” traits to Mumia's 38 caliber Charter Arms revolver.

Fassnacht noted an unexplainable contradiction in police ballistic expert Anthony Paul's original report. Paul first describes the bullet's “general” traits as “indeterminable.” Contradicting himself in the same report, Paul later identified a general trait: a “right-hand direction of twist.” Paul's 1982 testimony went further by identifying another general trait never mentioned in his written report “8 lands and 8 grooves.”

After deeming the general traits “indeterminable,” Paul then alleged two general traits that conveniently implicated Mumia's gun type. However, even if these “general” traits existed on the bullet, it was not a reliable link to Mumia’s gun. Paul was asked by the defense in 1982, “approximately, how many millions of guns have eight lands and grooves and how many would provide this bullet?” He acknowledged that it could have come from “multiples of millions,” including many millions of guns not manufactured by Charter Arms.

2. Police did not officially perform two basic forensics tests—the “smell” and “wipe” tests. It is standard to “smell” the gun's barrel for gunpowder (which can be smelled up to 4 or 5 hours after discharge). The “wipe test” checks for gunshot residue on suspects' hands and clothing.

When challenged by the DA, Fassnacht insisted that these tests were reliable and routinely used.

Quoting *Amnesty International*, “the failure of the police to test Abu-Jamal’s gun, hands, and clothing is deeply troubling.” Most likely, police did perform the tests, but hid this when the results did not implicate Mumia. This obvious ballistics manipulation seriously challenges the credibility of other evidence, such as the police allegation that Mumia’s gun was at his side with five spent cartridges when police arrived.

3. A third challenge of the prosecution’s ballistics was raised by medical examiner John Hayes. In 1982, prosecutor McGill argued that Mumia had been shot in the chest from below by a falling Faulkner. Recognizing the bullet's downward trajectory McGill claimed that the bullet ricocheted off bone within Mumia’s torso and then tumbled in a downward direction.

Challenging this far-fetched theory, Hayes testified in 1995 that X rays proved the bullet traveled without any deflection. Easily disproving the official scenario, Mumia was probably shot while running across the street towards Faulkner and his brother.

Veronica Jones Exposes Coerced Testimony

Veronica Jones' 1996 PCRA testimony exposed police coercion of witnesses and further discredited the 1982 testimony of the DA's star witness: prostitute Cynthia White (the only one to actually testify to seeing Abu-Jamal pull the trigger).

The story begins on Dec.15, 1981 when Jones (a prostitute who was working nearby on Dec.9) first told police that she had seen two men “jogging” away from the crime scene before police arrived. Testifying in 1982, Jones recanted and denied ever making the statement. However, when asked if she had talked to the police since her first statement, Jones testified that police had visited her in jail the next month:

“They were getting on me telling me I was in the area and I seen Mumia, you know, do it...They were trying to get me to say something that the other girl [Cynthia White] said. I couldn't do that.” Jones reported that police offered to let her and White “work the area if we tell them.”

Calling her testimony “absolutely irrelevant,” the DA moved to block the line of questioning and strike the previous statements. Because Sabo happily complied, the jury was ordered to disregard Jones' statement regarding White and a police offer of freedom to “work the area” in return for testimony that Abu-Jamal shot Faulkner.

The DA and Sabo's efforts to silence Jones continued through to the PCRA hearings.

Unable to locate her earlier, the Defense found Jones in 1996, and (over the DA's protests) obtained permission from the State Supreme Court to extend the PCRA hearings for Jones' testimony. Sabo vehemently resisted—arguing that there was not sufficient proof of her unavailability in 1995. However, in 1995 Sabo had refused to order disclosure of Jones' home address to the defense team.

Over Sabo’s objections, the defense returned to the State Supreme Court—which then ordered Sabo to conduct a full evidentiary hearing. Sabo's attempts to silence Jones continued as she took the stand. He immediately threatened her with 5-10 years imprisonment if she testified to having perjured herself in 1982. In defiance, Jones testified to perjury in 1982 when she recanted seeing two men “run away” and “leave the scene.”

She testified to changing her version of events after being visited by two detectives in prison, where she was being held on charges of robbery and assault. Urging her to finger Mumia, the detectives stressed that she faced up to 10 years in prison and the loss of her children if convicted. Afraid of losing her children, Jones testified to having met the police halfway: she didn't actually finger Mumia, but she did lie about not seeing two men running from the scene. Accordingly, Jones only received probation and was never imprisoned for these 1982 charges.

During cross-examination, the DA announced that there was an outstanding arrest warrant for Jones on charges of writing a bad check, and that she would be arrested after concluding her testimony. With tears pouring down her face, Jones declared: "This is not going to change my testimony!"

Despite objections from the defense, Sabo allowed New Jersey police to handcuff and arrest Jones.

While the DA attempted to use this arrest to discredit Jones, her determination in the face of intimidation only made her more credible. Outraged by Jones' treatment, even the mainstream *Philadelphia Daily News* reported: "Such heavy-handed tactics can only confirm suspicions that the court is incapable of giving Abu-Jamal a fair hearing. Sabo has long since abandoned any pretense of fairness."

The same coercion of witnesses by police, DA, and judge exposed by Jones' story was rampant in Mumia's case. Documented by *Amnesty International*, witnesses Cynthia White (a prostitute facing multiple charges) and Robert Chobert (an arsonist on probation, driving his cab without a license, which he had lost twice due to DWI) also "altered their descriptions of what they saw, in ways that supported the prosecution's version of events."

While the defense did attempt to challenge these discrepancies, Sabo blocked efforts to inform the 1982 jury fully about the vulnerability of these witnesses to police pressure.

Speaking about White, both Veronica Jones (in 1996) and another ex-prostitute, Pamela Jenkins (in 1997) testified that she was blackmailed into her testimony by the police, who had the power to pursue or drop prostitution charges against her, and in January 2002, yet another witness, Yvette Williams, testified that White's trial testimony against Mumia was the result of her fearing for her life because of threats by the police.

As for the second most important prosecution witness, cab driver Robert Chobert, he was not only vulnerable because he had been driving without a license, but also because he was on probation because he had firebombed a school, and with his probation revoked for illegally driving a cab, he faced a potentially very long time in jail. And yet his probation was never revoked while he continued to illegally drive his cab at least until the 1995 PCRA hearing, with an occasional fine being his heaviest punishment.

Sabo, of course, never found any trouble with any of this, neither in the original 1982 trial nor during the PCRA hearings – a stance that is probably best explained by his general stance with regard to Mumia right from the start, which is encapsulated in the statement of a new witness who came forward years after the trial.

"I'm Going To Help Them Fry The Nigger"

In 2001 another witness—Terri Mauer-Carter—challenged Sabo's integrity, but the State Supreme Court ruled against the defense's right to have her affidavit considered. Mauer-Carter was working as a stenographer in the Philadelphia Court system on the eve of Mumia's 1982 trial. She states that she overheard judge Sabo say in reference to Mumia's case that he was going to help the prosecution "fry the nigger."

In 2002, Journalist Dave Lindorff interviewed Mauer-Carter's former boss, Richard Klein, who was with Mauer-Carter when she states she overheard Sabo. A Philadelphia Common Pleas Court judge at the time who now sits on PA's Superior Court, Klein told Lindorff: "I won't say it did happen, and I won't say it didn't. That was a long time ago." Lindorff considers Klein's refusal to firmly reject Mauer-Carter's claim to be an affirmation of her statement.

The 2003 State Supreme Court ruling was an affirmation of lower-level Judge Patricia Dembe's argument that even if Maurer-Carter is correct about Sabo's stated intent to use his position as Judge to throw the trial and help the prosecution "fry the nigger," it doesn't matter. According to Dembe, since it "was a jury trial, as long as the presiding Judge's rulings were legally correct, claims as to what might have motivated or animated those rulings are not relevant."

As attorney Robert R. Bryan explains during his interview in this issue of *Abu-Jamal News* (see cover story), Mauer-Carter's affidavit is part of the current appeal at the Third Circuit, in regards to the fairness of Judge Sabo.

Grounds For a New Trial

Also supporting a new trial is respected Philadelphia journalist Linn Washington, who has been covering the Abu-Jamal case since the morning of Dec. 9, 1981 when he arrived at the suspiciously unguarded 13th and Locust crime scene while working for *The Philadelphia Daily News*. In a 2001 affidavit (not part of the current Third Circuit appeal), Washington states that when he arrived "around 8:30 AM," there were no police officers in sight guarding the scene. "As a veteran of much police beat reporting," he "found it highly unusual" and "feared that the lack of police presence... would have an adverse effect on the sufficiency of the police investigation."

In a recent interview, Washington argues that "Abu-Jamal deserves a new trial because he never received a fair trial or a fair hearing from any Pennsylvania state appellate court. It is obvious to non-partisan observers that the trial judge was less than impartial, the prosecutor engaged in improper conduct, police made errors in their investigation and the trial attorney was ineffective." These are "text book definitions for an unfair trial."

"When the Abu-Jamal case is placed in context with other cases where the state courts have overturned death and/or life sentences, it is amazing that over a long list of inmates have received relief on claims of injustice far less onerous than those in the Abu-Jamal case. *Amnesty International* is accurate in its conclusion that state courts have deliberately mishandled this case and those inappropriate actions by courts are part of what fuels international claims that Abu-Jamal did not receive a fair trial."

Citing Racist Bias, Attorneys for Mumia Abu-Jamal Urge a Federal Appeals Court to Grant the Former Black Panther a New Trial

Democracy Now!, Friday, May 18th, 2007

<http://www.democracynow.org/article.pl?sid=07/05/18/1429203>

Attorney Robert R. Bryan says a racist judge and racist jury practices contributed to the sentencing of Abu-Jamal to death row. Bryan joins us in New York one day after he argued before the 3rd U.S. Circuit Court of Appeals in Philadelphia. [includes transcript]

For our first segment, we turn to Philadelphia and a pivotal court hearing for the imprisoned journalist and former Black Panther, Mumia Abu-Jamal. Abu-Jamal has spent a quarter-century on death row. He was convicted of killing a police officer following a controversial trial before a predominantly white jury. In 2001, a judge overturned Abu-Mumia's death sentence but upheld his conviction. On Thursday, a three-judge panel heard oral arguments to decide whether Mumia gets a new trial, life in prison without parole, or execution. Hundreds of people packed the courtroom while an even larger crowd rallied in support of Mumia outside. A decision may not come down for months.

We are joined now by Mumia Abu-Jamal's lead attorney. Robert Bryan has represented Mumia since 2003. He is a fellow of the American Board of Criminal Lawyers and the former Chair of the National Coalition to Abolish the Death Penalty.

- **Robert R. Bryan**, Mumia Abu-Jamal's lead attorney. He is a fellow of the American Board of Criminal Lawyers and the former Chair of the National Coalition to Abolish the Death Penalty.
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JUAN GONZALEZ: For our first segment, we turn to Philadelphia and a pivotal court hearing for the imprisoned journalist and the former Black Panther, Mumia Abu-Jamal. Abu-Jamal has spent a quarter-century on death row. He was convicted of killing a police officer following a controversial trial before a predominantly white jury. In 2001, a judge overturned Mumia Abu-Jamal's death sentence, but upheld his conviction. On Thursday, a three-judge panel heard oral arguments to decide whether Mumia gets a new trial, life in prison without patrol, or execution. Hundreds of people packed the courtroom, while an even larger crowd rallied in support of Mumia outside. A decision may not come down for months.

AMY GOODMAN: We're joined right now by Mumia Abu-Jamal's lead attorney. Robert Bryan has represented Mumia since 2003. He's a fellow of the American Board of Criminal Lawyers and the former chair of the National Coalition to Abolish the Death Penalty. Welcome to *Democracy Now!*

ROBERT BRYAN: It's a pleasure to be here, Amy

AMY GOODMAN: Why don't you lay out what happened in the courtroom for -- what was it? -- two hours yesterday?

ROBERT BRYAN: Well, it was over two hours. We argued before a three-judge panel of the United States Court of Appeals for the Third Circuit, which is just below the US Supreme Court. The court seemed really interested. There are a number of issues pending before this court. They involve the death penalty, racism in jury selection, the racism and bias of the trial judge, Sabo, who referred to my client during the trial, to use his words -- I'm quoting him -- "I'm going to help them fry the nigger," referring to Mumia Abu-Jamal.

AMY GOODMAN: Who heard that?

ROBERT BRYAN: Pardon?

AMY GOODMAN: Who heard that?

ROBERT BRYAN: A court stenographer. It was just outside the courtroom. She was going with her judge to another courtroom, and they passed Judge Sabo in an antechamber adjacent to the courtroom where the trial occurred, and Sabo started talking about the trial and made those comments, which are as offensive as -- I mean, as you may know, I specialize in death penalty litigation. I've handled hundreds of death penalty trials and cases in post-conviction proceedings in the past three decades. I even went and spent three days in jail in a murder case for contempt of court, in which my client was acquitted -- African American. I've seen a lot of racism, but I've never heard anything like that, except in this case in Philadelphia. It's unprecedented.

JUAN GONZALEZ: And that court stenographer's statement, has it ever gone before a judge on this case?

ROBERT BRYAN: Juan, it went before the court yesterday. I said -- from my lips -- and I said, "Understand, these are the words of Judge Sabo, not Robert R. Bryan." But our focus yesterday is interesting, with all the energy by the prosecution to kill my client. The focus yesterday was on constitutional crimes committed by the prosecution. What the whole focus was primarily was on the death penalty, I'd say 20% and 80% on racism in the District Attorney's office of Philadelphia. And in all of my years of doing this kind of work, I find yesterday's hearing, as I think back on it this morning, as unprecedented. These judges, how they'll rule, we do not know, but they were very troubled -- that was very clear -- about the racism in this case.

JUAN GONZALEZ: One of the main points that you were raising was the jury selection process in the original trial, right?

ROBERT BRYAN: Yes.

AMY GOODMAN: The number of challenges of potential white jurors versus black jurors. Could you talk about that?

ROBERT BRYAN: Yes. The US Supreme Court has been very clear in recent years, beginning with a 1986 decision, that racism in jury selection offends the US Constitution. And in this case, the prosecutor used over two-thirds of his strikes to remove people of color, African Americans, only 20% to 25% white people. I mean, you know, you have all of these African American people removed and very few white people. And it's well-documented that the District Attorney's office of Philadelphia during that period in the early '80s, and certainly going back, were very active in employing racism in jury selection discrimination. And the big question yesterday, in my words, was -- an issue for the court was and is -- was race, was discrimination at work in this case? And it seems like not only the statistics, but a wealth of other evidence, certainly seems to establish that. Let's just hope that the judges agree with us.

AMY GOODMAN: Robert Bryan, the Assistant District Attorney Hugh Burns told the appellate panel that Judge William Yohn erred when he overturned Abu-Jamal's death sentence, because he should have deferred to the decision of the Pennsylvania Supreme Court, which had already held that the penalty phase jury instructions were not confusing. Please explain that, because most people think Mumia Abu-Jamal remains on death row.

ROBERT BRYAN: That is true. He is still on death row. He's in a cell today, Amy, that's smaller than most of our bathrooms at home. And from there, he does his journalism, which is another story, and it's phenomenal. But the lower US district court reversed the case in December 2001, because of a misuse

of the death penalty by Judge Sabo, the trial judge. He instructed the jury that they could not return anything less than death, unless they all agreed on any one particular special circumstance, such as his good works in his life. In other words, you couldn't have one juror feel that he should not get death for one reason, another or different reason; they had to all agree, which is nonsense and contrary to US Supreme Court precedent. Immediately after that decision, he reversed it. In other words, he said there had to be a trial on the question of life or death, a new jury trial. The prosecution immediately appealed it, so thus the death penalty remained in effect. Mumia remains on death row, where he sits today, as we're here in this nice studio.

And the court started out yesterday just ripping into the prosecutor. He had the opening comments, because he's the one who initially appealed. Then we cross-appealed. And they just could not understand how one could logically find that what the judge did in this case in instructing the jury would pass muster with the US Constitution. So the court seemed very troubled by that.

What we're interested in are the other issues. Of course, I do not want my client to be executed. I do not want to have to go and watch my friend, who has first asked me to represent him in 1986, twenty-one years ago -- I do not want to lose him. But I want a new trial for him. And at that trial -- I've won countless murder cases through the years -- this case deserves an acquittal. I want him to go home to his family.

JUAN GONZALEZ: Now, in terms of the move from here, the court -- you expect a decision sometime in the next few months?

ROBERT BRYAN: Yes. And there's really no way of predicting. I can only give a guess, a guesstimate, not even an estimate. I would predict that we would probably have a decision in forty-five to ninety days.

Now, I just received an email last evening from the court, which is -- I've never had this happen in the hundreds of death penalty cases I've handled through the years, in which they want us now to order transcripts of the hearing. Now, this isn't a trial. This is before a US Court of Appeals three-judge panel. And so, I will deal with that later today. So they actually want transcribed -- I don't know why they'd want to read what I had to say, but maybe my associates, maybe they want to see what they had to say. But they want transcripts of the hearing, which is unusual in a case at this stage.

JUAN GONZALEZ: And it was also a unusual that they allowed the NAACP to actually argue an *amicus* brief.

ROBERT BRYAN: Yeah, and one of the first things I did when I -- even though Mumia asked me to represent him in 1986, and I turned him down; I was just too busy with other cases -- when I finally took over the case -- he came back to me four-and-a-half or five years ago -- one of the first things I did was, I started talking with the NAACP Legal Defense Fund here in New York, because they are very well-known for their great work and particularly in racism in jury selection, which is one of our big issues.

And so, they argued -- Christine Swarns of that office argued yesterday. I shared some of -- and I was able to persuade the court -- I filed a motion asking if they'd be able to share some of my argument time. Normally, what they would call *amicus curiae*, friend of the court people, organizations like the NAACP Legal Defense Fund, only submit briefs. I asked the court if they could also join me in argument, and the court granted it, which was wonderful.

And so, here I was here up arguing then, and my associate Judith Ritter, who's a law professor, argued. And she argued strictly on the death penalty issue. And then the NAACP Legal Defense Fund was able to argue. And then I wrapped up. I argued twice. But it was marvelous to have them join us. So I think it indicates the concern this court has. They seem to be trying to grapple with trying to do the right

thing. Only time will tell. But also the National Lawyers Guild filed an *amicus curiae* brief. They did not argue yesterday, because we just didn't have enough time.

AMY GOODMAN: Ed Rendell, the governor of Pennsylvania, was the DA at the time in 1982 --

ROBERT BRYAN: Yes.

AMY GOODMAN: -- when Mumia Abu-Jamal was tried. His wife is a judge on the Third Circuit?

ROBERT BRYAN: But she recused herself, disqualified herself. She does in every case down in Philadelphia, so that was a non-issue. The prosecution tried to use that red herring to get rid of this court, and, of course, the court slapped them down and rejected that. She always steps aside in these type of cases.

AMY GOODMAN: Mumia Abu-Jamal was not at the hearing yesterday?

ROBERT BRYAN: No, unfortunately, because it wasn't a trial.

AMY GOODMAN: How is he doing?

ROBERT BRYAN: I talked with him at length, Amy, last night, and he was very humble about what happened yesterday. And his comments to me -- and, incidentally, he wanted me to say hello to both of you this morning -- his comments to me was, "You know what I want, Robert: people to understand that this is not about me, Mumia Abu-Jamal. This is about everybody on death row around the world. This is about all political prisoners around the world. And I hope that, through what the court does in this case, it will help other people." It's a typical Mumia comment and attitude, and he's very humble about his position in this.

JUAN GONZALEZ: And also, for some of our listeners or viewers who may not be as familiar with Mumia's case, how would you estimate the impact of his case -- given the virtual blackout that you have in the commercial media of the Mumia Abu-Jamal case, what is the impact of this case around the world?

ROBERT BRYAN: Well, the impact in commercial media, as we're speaking today, has been shifting and changing. I've worked hard to try to bring it to everybody, the message in this case. But it's a worldwide issue, Mumia Abu-Jamal. I have given a number of talks in Paris, in various places in France. I spoke to 2,500 people in January in Berlin, Germany. And there's world interest, standing ovation at the end of all of these talks. And it's not about me. It's not about Mumia, as he keeps reminding me. It's about him as a symbol in the fight against the death penalty.

And you have to remember that he's unique in the world, because Mumia Abu-Jamal is not just a death row prisoner, a brilliant one at that, but he is a journalist. When he was arrested, he was already known as the voice of the voiceless, and he continues from this tiny bathroom-sized cell to turn out weekly these commentaries that are read and heard by people, not only here, but around the world. And it just -- there's nothing like what's happening with Mumia around the world. So he's important to people everywhere.

AMY GOODMAN: Robert Bryan, I want to thank you very much for being with us. Robert Bryan is the lead attorney for Mumia Abu-Jamal, fellow of the American Board of Criminal Lawyers, former chair of the National Coalition to Abolish the Death Penalty. And we will certainly continue to follow this case. Thank you.

ROBERT BRYAN: Thank you.

Judge Bias Fuels Appeal for Mumia Abu-Jamal

By Linn Washington Jr., *The Philadelphia Tribune*, May, 2007

An Aug. 8, 1995 newspaper headline about Philadelphia Judge Albert Sabo presiding during a critical appeal hearing for death row inmate Mumia Abu-Jamal carried this headline: "Hangman judge holding hearings to decide on new trial."

Sabo's then widely known pro-police, pro-prosecution bias on the bench was not the stunning aspect about this headline for an article about the hearings for an inmate convicted of killing a Philadelphia policeman.

The stunning aspect is that this headline ran in one of America's most conservative, law-and-order newspapers – the Washington Times.

Sabo's pro-prosecution, pro-police bias during that 1995 appeals hearing was so blatant that it drew stinging criticism from columnists and editorial writers across the nation, including many with published records of being openly hostile to Abu-Jamal's claims of innocence.

One staunchly anti-Abu-Jamal columnist in Philadelphia demanded in July 1995 that Sabo step down from the then pending appeal hearings because he could not provide "an assumption of objectivity and credibility."

On Thursday, the Third Circuit Court of Appeals is scheduled to hold a hearing on the Abu-Jamal case; it will examine alleged misconduct by Sabo and the trial prosecutor.

Abu-Jamal, a Philadelphia journalist prior to his December 1981 arrest, has published five books while on death row plus thousands of print and broadcast commentaries on a range of topics...rarely if ever on his own plight.

One interesting aspect of this federal appeal hearing is that the Third Circuit took the unusual step of placing Sabo's alleged bias during that 1995 hearing into the appeal process despite Sabo's antics not being an item certified for appeal by the federal judge who ruled on Abu-Jamal's appeal a few years ago.

Groups from the NAACP to Amnesty International have criticized Abu-Jamal's death sentence as the product of an unfair trial, a contention rejected by his detractors including Philadelphia's District Attorney's Office and the city's police union, the Fraternal Order of Police.

Sabo's actions during the 1982 trial contribute to the internationally held belief that Abu-Jamal did not receive a fair trial.

The belief that Abu-Jamal did not receive a fair trial is so pervasive the French city of St. Denis last year named a street after Abu-Jamal honoring his struggle for a fair trial.

The U.S. Congress, along with Philadelphia City Council and the state Senate last year approved resolutions castigating the St. Denis street naming.

"The purpose of the judge in the proceeding is to remain fair and impartial. The bias of [Sabo] affected

his ability to adjudicate those proceedings in a fair and impartial manner,” said former Pennsylvania death row inmate Harold Wilson in a pro-Abu-Jamal statement released recently.

Wilson is the sixth person released from the state’s death row and the 122nd person in America to leave death row – where he languished for more than 16 years.

Wilson’s November 2005 release from death row resulted from the discovery of misconduct by a Philadelphia prosecutor and DNA evidence.

Since Wilson’s release, his anti-death penalty activism has included demanding a new trial for Abu-Jamal, a man who helped him prepare the appeals that produced his release from death row.

Opponents of Abu-Jamal sternly reject all allegations of bias by Sabo or any Pennsylvania judge hearing the case. Pennsylvania courts up to the State Supreme Court have consistently upheld Abu-Jamal’s conviction.

False allegations of bias against Sabo “diverts attention for the real criminal, Mumia Abu-Jamal,” states an account critical of Amnesty International’s 2000 report on the case co-authored by local media personality Michael Smerconish.

A number of news media sources reported about and/or commented on Sabo’s antics during the 1995 hearing, including The New York Times, the Associated Press, the American Lawyer Magazine and Philadelphia’s two daily newspapers.

An Aug. 13, 1995 Philadelphia Inquirer editorial blasted Sabo for his “injudicious conduct” that included “ridiculing, interrupting and generally feeding the worst suspicions of Abu-Jamal’s supporters.”

Sabo’s antics undermined his duty “to ensure that justice was done” that Inquirer editorial concluded.

Despite this widespread and unusual news media criticism, the state Supreme Court rejected it as independent verification of judicial misconduct.

Pennsylvania’s Supreme Court ruled that Sabo was legally impartial when it upheld Abu-Jamal’s death sentence for a second time in October 1998.

“The opinions of a handful of journalists do not, however, persuade us that Judge Sabo [evidenced] an inability to preside impartially,” the Court’s 1998 opinion declared.

The Pennsylvania Supreme Court has taken different postures in other cases alleging judicial misconduct.

In a March 1988 ruling addressing judicial impartiality in a murder case involving a former state trooper who killed a woman inside a judge’s office in western Pennsylvania, the Court found misconduct.

The Court found that a statement from the judge during the former state trooper’s trial, questioning one aspect of a defense witness’s testimony, “was extremely prejudicial” to the defendant.

The Supreme Court ruled that the former state trooper was “entitled to a new trial.”

Exactly one year later, the Supreme Court upheld Abu-Jamal’s death sentence for the first time in a ruling rejecting claims of Sabo improprieties during the 1982 trial far more numerous than the one incident during that former state trooper’s trial.

The Philadelphia District Attorney’s office vigorously objected to defense requests that Sabo not preside over the 1995 hearing where a central appeal item was Sabo’s bias during the 1982 trial.

The district attorney’s office also objected to requests that former Philadelphia district attorney and now Pennsylvania Supreme Court Justice Ronald Castille not participate in the deliberations for Abu-Jamal’s post-1995 appeal because Castille opposed Abu-Jamal’s previous appeals as district attorney.

Castille rejected those 1996 recusal requests, contending that judicial ethics provisions did not apply to him

Castille’s rejection additionally stated that it was unfair to criticize him for receiving campaign support from the Fraternal Order of Police when four other members of the state Supreme Court also received support from the police union. Five members of the seven-member Court had received FOP campaign contributions, Castille noted.

Yet, earlier this year, the Philadelphia District Attorney’s Office asked the entire Third Circuit to step aside.

The district attorney contended that since Gov. Ed Rendell’s wife is a Third Circuit judge and a jury discrimination practice during Rendell’s tenure as Philadelphia district attorney is an appeal item, having that Court hear the appeal would breach the ethical mandate of appearance of impropriety by judges.

The Third Circuit rejected the district attorney’s request yet Judge Rendell and a few other judges stepped aside.

Harold Wilson says the antics of the district attorney’s office and Sabo sabotaged any semblance of Abu-Jamal’s constitutional right to a fair trial.

“A biased judge, coupled with a prosecutor’s office that has a long and documented history of misconduct relating to issues of racism was a recipe for disaster,” Wilson said. “Grant [Abu-Jamal] a new trial so he can be afforded his rights as a citizen of this country.”

Discrimination in jury selection by the prosecutor is another element that led the Pennsylvania Supreme Court to grant a new trial for Wilson.

The Court rejects all jury selection discrimination claims from Abu-Jamal but this claim is a central aspect of the Third Circuit hearing.

The prosecutor during Abu-Jamal’s trial used 11 of 15 challenges to keep Blacks off the jury.

Scholarly research documents that this prosecutor struck Blacks 74 percent of the time during a period from 1977-1986 compared to 25 percent for whites.

Research also documents that the Philadelphia district attorney's office struck Black jurors 58 percent of the time compared to only 22 percent for whites during that 1977-86 time frame.

Abu-Jamal detractors dismiss this research as pseudo-science.

"The study is the product of a well-known anti-death penalty law professor...and it's a crock," stated that critique co-authored by Michael Smerconish. "There was nothing wrong with the jury."

The Third Circuit, in a series of rulings released during the past few years, has criticized Philadelphia prosecutors for discriminatory jury selection practices. Further, Third Circuit rulings have criticized the Pennsylvania Supreme Court for misapplying U.S. Supreme Court standards on jury discrimination.

For example, a February 2005 ruling by conservative Third Circuit Judge Samuel Alito, now a U.S. Supreme Court Justice, criticized a Philadelphia prosecutor and the Pennsylvania Supreme Court.

"[T]he explanations given by the state trial and appellate courts, were all contrary to Batson, or at least represented unreasonable application of that precedent," Alito's opinion stated noting the Batson decision, the U.S. Supreme Court's controlling ruling on discriminatory jury selection.

Abu-Jamal opponents say since the prosecutor in his case didn't exclude all Black jurors and Abu-Jamal did exclude Black jurors, the discrimination claim is without merit.

Alito ruled otherwise: "a prosecutor may violate Batson, even if the prosecutor passes up the opportunity to strike some African American jurors."

The May 17 hearing could produce a new trial or set the stage for the execution of Abu-Jamal, known worldwide for his criticisms of injustices.

German citizen Victor Grossman is typical of Abu-Jamal's far-flung supporters.

Grossman is an American born, Harvard graduate who's lived in Germany since 1952 when he served in the U.S. Army.

"Despite oceans of hogwash and lies," Grossman said, "we here view the case as critically symbolic in the age-old battle against racism and frame-ups against people of color and the poor, and against the death penalty."

‘Tyrants Hate Free Speech’

--Police intimidate Mumia supporters as May 17 court date looms

by Hans Bennett, *San Francisco Bay View Newspaper*, May 8, 2007

“I received nothing less than 10 or 15 death threats over the last four weeks from so-called Philadelphia police officers. I assured them that I would show up today, so they would have an opportunity to kill me. They’ve intimidated and scared folks. They’ve done what the Ku Klux Klan has always done in America: terrified Black people, poor people, immigrants and good white people” into stepping down and not confronting racism, declared Sgt. DeLacy Davis, of Black Cops Against Police Brutality.

Davis was speaking at an April 24 event in Philadelphia organized by supporters of Black death-row journalist Mumia Abu-Jamal. Widely considered to be a political prisoner, Abu-Jamal was convicted of killing white Philadelphia police officer Daniel Faulkner in a 1982 trial that Amnesty International has declared a “violation of minimum international standards that govern fair trial procedures and the use of the death penalty,”

Hundreds had gathered in Philadelphia on April 24 to celebrate Abu-Jamal’s birthday and to publicize his upcoming oral argument before the federal 3rd Circuit Court of Appeals in Philadelphia on May 17.

The event was met by a counter-demonstration of over a hundred plainclothes police officers – a culmination of recent intimidation tactics by the Fraternal Order of Police, who have long been key opponents of a new trial for Abu-Jamal.

Condemning both the police counter-demonstration and the death threats he had reported, Sgt. Davis passionately declared that “the behavior and tactics” he had observed from police outside was “exactly” what he had witnessed from the Ku Klux Klan. “It is that intimidation factor that we have to address and deal with.”

Other guest speakers on April 24 criticized the recent FOP intimidation. Emphasizing the long history of resistance to U.S. racism, Philadelphia journalist Linn Washington, Jr. told the crowd that “this struggle today around Mumia is not new.”

Washington then cited the 19th century Black journalist and abolitionist, Frederick Douglass, who observed, “Tyrants hate free speech.” Pointing to the large police counter-protest outside the building, he asked, “If the evidence against Mumia is as overwhelming as it is claimed to be, why is there such a shrill reaction” to someone questioning the evidence?

In his column written the previous week in the Black *Philadelphia Tribune* newspaper, Washington documented how the April 24 event had to change locations after police intimidation of the previous Clef Club venue. He wrote that the “anti-Abu-Jamal barrage of emails and telephone calls unleashed on the Clef Club included declarations perilously close to terroristic threats.”

Earlier that month, an April 15 hip hop concert and fundraiser for Abu-Jamal organized by youth in New York City was also forced to relocate when police intimidated the owner of the Remote Lounge.

The Amsterdam News, the venerable Black Harlem-based paper, reported that “after receiving 16 citations, thousands of dollars in fines and allegedly malicious threats, the night club owner canceled the concert, two days before the scheduled event.”

Acting as the NYC Free Mumia Coalition’s legal representative, attorney Michael Tarif Warren later declared at a press conference outside City Hall that “the police engaged in a conspiracy to close this event to prevent a worthy cause.” Quoted by *The Amsterdam News*, Warren called for “a fair hearing to air the legal improprieties” of the NYPD.

Comments posted by police officers on the infamous NYPD “RANT” blog website detailed the intimidation campaign. One post stated, “This f--ker should be dead, we should ruin this event and make life miserable for every f-ing Hollywood liberal scum liker that shows up, fry Mumia.”

Other posts threatened to send the violent Hells Angels motorcycle gang into the Remote Lounge, set up road blocks, send in undercover police, lure people with prostitutes, write up tickets, throw citations on the club and more.

After the event was forced to relocate, an April 15 thread on the “RANT” site was titled “NY Mumia Hip Hop Benefit Rally Gets Bitch Slapped.” One post under the name “Philadelphia Police Highway Patrol” said: “A sincere thank you to all of my NYPD brothers and sisters. You men and women are truly the best!”

Several other posts continued to boast of their actions with comments like “good job guys , f--k you mumia you dirty savage,” “I’m shocked, amazed, and feel a warm glow! Great work. Outstanding!!!,” “16 citations - and guess what the hits are gonna keep coming you f--k wad,” “Does anyone sell Mumia targets, so I can keep his cause alive in spirit?”

Another wrote: “Everything I know about islam I learned on 9/11.”

One post used imagery that explicitly drew the connection to the brutal history of U.S. lynchings, where Black victims of racist white mobs were literally burned alive, stating that “I’m waiting for Mumia to be well done on the rotisserie.”

Yet another post used the racist “Sambo” dialect attributed to African Americans for so many years in mainstream culture: “OH SNAP!!! da venue be changed? i hopez publik transpotation be making itz way ova dere fo me!”

Mobilizing for May 17

Pam Africa is the coordinator of The International Concerned Family and Friends of Mumia Abu-Jamal. She’s asking people to come to Philadelphia on May 17 and “show that the whole world is watching these oral arguments.”

And she urges people to organize local events if they are unable to travel. “We need public pressure to ensure the court’s fairness.”

“I believe Mumia is innocent and am personally calling for his immediate release. However, I’ll work with anyone supporting a fair trial. By demanding a new trial, we can work with those who know the

trial was rotten but are unsure of Mumia's innocence.

“Mumia can still be executed. Further, since the Supreme Court is unlikely to hear his case, this is realistically his last chance to get a new trial. We understand that they're getting ready to kill another Black revolutionary who has refused to bow down and suck up to his oppressor. His case represents all that is wrong with this system. We must take action now before it's too late.”

--For more information about the NYC police behavior and excerpts from the “NYPD RANT” blog posts, please link to: <http://www.freemumia.com/mumia9112.html>

Mumia Abu-Jamal: The ABC Hatchet Job

by James Owens, *Covert Action Quarterly*, 1999

More Americans get their news from ABC News than from any other source." While this is good for Disney/ABC, it says something quite different for those whose interests are outside of the corporate political beltway. Such was the case on December 9, 1998, when ABC's 20/20 presented a story called "Hollywood's Unlikeliest Hero," which focused on the case of U.S. political dissident Mumia Abu-Jamal. In the late 1960s and early '70s, Abu-Jamal was a Black Panther and the victim of illegal surveillance and harassment by the FBI and the Philadelphia Police as part of J. Edgar Hoover's COINTELPRO operations.¹ But since 1982, when he was convicted of first degree murder for the killing of Police Officer Daniel Faulkner, Abu-Jamal has been an inmate on Pennsylvania's death row.

Abu-Jamal was recently denied his petition for a new trial, and now will try to have his case heard by the U.S. Supreme Court. There has been little national television coverage of this story, so the ABC piece may be the only coverage many Americans hear on the subject. Unfortunately, 20/20 carefully chose issues and angles that would support only one side of the story, and provided analysis given only by the prosecution. In this way, 20/20 chose not to give the audience a full view of this complicated story and the issues it touches upon, but rather sought to justify the impending state execution of Mumia Abu-Jamal.

On December 9, 1981, just before 4:00 a.m., Philadelphia Police Officer Daniel Faulkner pulled over a blue Volkswagen near 13th and Locust Streets. Before even approaching the VW, Faulkner radioed a request for backup, specifically a police wagon. The driver of the VW was William Cook, the brother of Mumia Abu-Jamal. Over the next 45 seconds, Cook and Faulkner became involved in a struggle, Abu-Jamal arrived on the scene and was shot, and Faulkner was also shot. Abu-Jamal and Faulkner were taken to the same hospital, where Faulkner died. Attending physicians described Abu-Jamal as "barely conscious," with a bullet lodged near his spine.

Prosecutor Joe McGill claims witnesses saw Abu-Jamal shoot Faulkner and that he confessed at the hospital. Abu-Jamal claims he was framed by police who withheld evidence and coerced witnesses, a prosecutor whose tactics were improper and illegal, and a judge who was openly biased in favor of the prosecution. Sam Donaldson and 20/20, however, focused the viewer's eye on only half the story.

Selective Statements, Selective Witnesses

ABC went far out of its way to give the impression that there was "a spectacular array of evidence" against Abu-Jamal. Chief among this evidence was the testimony of three eyewitnesses, who, according to ABC, "all say they saw Jamal run from across the street and shoot the Officer in the back. As the Officer spun around, he grabbed his revolver and, as he fell to the sidewalk, fired a shot that wounded Mumia in the chest. It was then that Abu-Jamal, according to witnesses, executed Officer Faulkner."²

Each of these three witnesses, however, gave significantly different statements prior to the trial. It was only as time went on that their stories all changed to conform to the prosecution version of events, the version ABC presented.

Mark Scanlan, the first of the witnesses referred to by ABC, saw the scene from behind the police car and across an intersection, 50 to 120 feet from the scene. On the night of the shooting, Scanlan actually identified Abu-Jamal, not as the shooter, but as the driver of the VW.³ His initial statement was that "the guy running across the street pulled out a pistol and started shooting at the officer...the officer fell down. Then he stood over the Officer and fired three or four more shots point blank at the Officer

on the ground."⁴ But two days later, Scanlan stated that he hadn't seen the man running across the street holding a gun or firing a gun. Scanlan stated he "assumed" that the man crossing the street had fired the shot that he had heard.⁵ Scanlan also stated, "I don't know if the Officer fired his gun or not, I didn't see him pull his gun or fire it." During the same interview with detectives on December 11, 1981, he was asked, "Did you see which male shot the officer?" His answer, "No, all I saw was the flash.... I don't know which male shot the officer." Also on December 11, he stated, "I don't know which one it was [standing over Faulkner]" and "I don't know which male had the gun." Scanlan even drew a diagram on the night of the shooting that, in contrast to the prosecution theory put forth by ABC, shows Faulkner facing Abu-Jamal when the first shot was fired.⁶

On two occasions, I spoke with Harry Phillips, the producer of the 20/20 story. Phillips agreed that Scanlan had made these contradictory statements, "but his story fits with what the others said for what he did see."⁷ The problem is that ABC uses Scanlan to corroborate details that his statements simply do not support. Even Harry Phillips agreed that Scanlan did not identify Abu-Jamal as the shooter, did not see who fired the first shot, did not see Faulkner grab or fire his weapon, and places Abu-Jamal in front of Faulkner when the first shot was fired.

Robert Chobert was a prosecution witness who was in his cab directly behind the police car during the shooting. ABC described him to be "in plain view of the murder." Yet, how he could be "in plain view of the murder" when a police car with flashing lights on sat directly between him and the murder scene? His statements on the night of the shooting and prior to trial are also different from what he later testified under oath.

Chobert originally stated, on the night of the shooting, that he was writing a receipt for his fare when the first shot was fired and only saw the officer fall to the ground.⁸ According to a report filed on the morning of the murder by Inspector Alphonse Giordano, about ten minutes after the killing Chobert told him that "a black MOVE member did it and apparently ran away." (Like Abu-Jamal, MOVE members wear their hair in dreadlocks.) The jury would never hear this information. When shown Abu-Jamal, lying on his back in a paddy wagon, Chobert stated, "That is the man that shot the policeman."⁹

But Chobert said the shooter "ran away," so how could he be the critically injured Abu-Jamal?

Later, at the police station, Chobert changed his statement to say the shooter ran "maybe 30 or 35 steps. Then he fell...then the cops got him and stuck him in the back of the paddy wagon."¹⁰

Case closed? Not yet. If the shooter ran "35 steps" that would still rule out Abu-Jamal as the shooter because Abu-Jamal was found about four feet from the dying Faulkner. On December 12, 1981, Chobert changed his statement again, to say that the shooter ran only about ten feet away from the policeman.¹¹ At the trial, on June 19, 1982, Chobert described the shooter as "walking about ten feet."¹²

Abu-Jamal was quite thin at the time, and wearing dark clothing when he was arrested. This is in contrast to Chobert's second statement on the night of the shooting, describing the shooter as "heavysset...wearing light tan shirt and jeans." By the time of his December 12 interview with police, Chobert changed his description of the shooter's clothes to "dark gray."

Chobert further said that it was Abu-Jamal who was shot first, but that he did not see who shot him.¹³ Here we see another divergence from the prosecution theory of the events, and certainly not "essentially the same statement," as ABC inaccurately purported.

Finally we come to the prosecution's strongest witness, a prostitute named Cynthia White. She is a crucial witness for the prosecution because her testimony exactly corroborates the police version of events and places her as the closest witness to the crime scene. But her presence is unsupported by at least five other witnesses, who could not recall seeing her at the scene, though they did recall other

people near where she claims to have been.¹⁴ Dessie Hightower, the only witness who did recall seeing White, stated that she was nearly half a block to the west of the intersection.¹⁵ Even White herself gave conflicting testimony as to her location, stating on January 8, 1982, that she was "seven or eight feet" from the shooting, but on January 11, she said that she was "three cars away."¹⁶

I asked ABC producer Harry Phillips about White. He told me she was a credible witness; "There is nothing out there that says she changed her story."

But, as has been articulated by the defense, transcripts of her own police statements show that she did change her story. On December 9, 1981, in her initial statement to police, she said the shooter "fired his gun at the police officer four or five times. The police officer fell to the ground." She also stated "there was no struggle" involving Faulkner and the driver of the VW.¹⁷

But other prosecution witnesses said that there was only one shot prior to Faulkner's collapse, and that Faulkner was fighting with Cook. White was arrested twice (December 12 and December 17) between the time of the shooting and the start of trial. In both instances she was brought to the Homicide department where she changed her statement.¹⁸ On December 17, she changed her story to say that there was a struggle between Faulkner and Cook, and that the shooter fired "one or two times," then stood over him and shot him "three more times."¹⁹

I asked Phillips about the possibility of police coercion regarding witnesses. Referring to White, he argued, "She had no reason to lie or to change her story, she was already in jail. If she had received favors, why was she in jail?"²⁰

Although it was not mentioned by 20/20, White was indeed in jail at the time of trial. White had 38 arrests for prostitution in Philadelphia, was serving 18 months for prostitution convictions,²¹ and was facing trial in three additional cases.²² Contrary to the comments of Phillips, it is not hard to see why a person with a lengthy record, serving time and faced with serving more time would have incentive to strike a deal with police. An example of White receiving such a favor occurred in 1987, when she was facing felony charges. Appearing in court, Philadelphia police detective Douglas Culbreth urged that she be released without posting a cash bail as she had been "a Commonwealth witness in a very high profile case."²³

Double Standards, Hidden Evidence

ABC did not subject prosecution witnesses to the same degree of review as they did defense witnesses. For example, ABC mentioned Debbie Kordansky, a resident of a hotel that overlooked Locust Street and the crime scene, who witnessed a man running on the south side of Locust Street shortly following the shooting. Note how sharply ABC tries to limit her statement by saying that "police were already on the scene" when she was looking out her window and that "she did not testify that she saw someone running away, simply that she saw someone running."²⁴ Whatever that subtle difference may be, Kordansky reported a man running on the south side of Locust Street immediately after the shooting. The fact that police were on the scene may not diminish the relevance of this observation, because, as ABC reported, "back up officers arrived within 45 seconds."²⁵ Kordansky is not the only one who saw someone running on the south side of Locust Street immediately after the shooting. Veronica Jones also saw someone running on the south side of the street. When ABC presents this fact they again use qualifying and misleading language to discredit and limit the importance of this corroborating statement. "Defense witness number four, was a prostitute," is how ABC introduced Jones. Note that ABC never mentioned that prosecution witness Cynthia White was also a prostitute. ABC continues with Jones "who, after 14 years' silence, claimed she saw two men jogging from the scene."²⁶ Again, this is highly misleading, as it was not "after 14 years" that Jones first claimed to have seen someone

running on the south side of Locust Street, but in a statement that she made to police on December 15, 1981. She stated that she was on Locust Street by 12th when she "heard three shots," saw a policeman fall to the ground, and saw two black men cross Locust and head east "sort of jogging."²⁷ When she finally took the stand in June of 1982, Jones would retract this statement.

The "14 years of silence" stated by ABC is a poor way of reporting that, in 1996, Veronica Jones testified that she had lied during the 1982 trial due to police pressure and that she had indeed seen two men flee the scene.²⁸ In this instance, we see how carefully ABC chose their words. They reveal only that Jones had kept silent for years, but not that she was part of the original trial or that she admits to lying at the behest of police who gave her "a deal."

Phillips informed me that he had actually met with Jones and had considered her for an interview. Although Jones was willing to do an interview, Phillips said, "I found her barely coherent. She made contradictory statements and proved herself incredible to me."²⁹ Unfortunately, Phillips does not give his audience a chance to make up their own minds about Jones's credibility or her statements. Rather, he excludes her claims of coercion, obscures the order of her statements, and subjects her to a scrutiny none of the prosecution witnesses are put to.

The severity of these distortions are compounded by the fact that these two were not the only witnesses who reported someone fleeing east on Locust that night. They are, however, the only witnesses mentioned by ABC. Witness Dessie Hightower, who is never mentioned in the story, also reported seeing a man with dreadlocks fleeing eastward on the south side of Locust³⁰ and that police arrived "maybe ten seconds" after this individual disappeared from sight. In all, at least five witnesses stated to police that at least one man fled the scene, all say he fled on the same street and in the same direction and shortly after the shooting. At least three of them stated he wore dreadlocks. Thus, regarding witness statements, ABC distorted the facts to support the prosecution theory, while excluding statements that strengthen the defense's theory.

Common Coercion, Common Corruption

Many of Abu-Jamal's claims of police coercion and withholding of evidence are repeated in case after case throughout Philadelphia's troubled police department. Federal probes revealed an extensive network of corruption that ran from police officials at the highest level, through the department, and into the vice crime of Philadelphia.³¹ In 1985, the second highest ranked officer in Philadelphia, Deputy Commissioner John Martin, along with Chief Inspector Eugene Sullivan, were found guilty of extorting over \$350,000 from vice figures.³² Much of this involved the extortion of money and services from local pimps and prostitutes.

This practice was also carried out by officers serving in the 6th district, the same district involved in investigating and collecting evidence for Abu-Jamal's 1982 trial. It is also known that prosecution witness and prostitute Cynthia White had contact with two 6th district officers, later convicted of extorting prostitutes, on at least six occasions in the year prior to the shooting. It is quite likely that she was familiar with the process of "dealing" with police.³³

It has been further proven that police withheld evidence, and used false evidence and false testimony in order to gain wrongful convictions. The New York Times stated that "nearly 300 jail sentences were overturned recently because of police corruption."³⁴ In several cases the wrongfully convicted were sentenced to death.³⁵ An important example is the case of Raymond Carter. Carter served ten years on death row in Philadelphia for a murder he never committed. He was released in 1996 after a police officer informed FBI agents that prosecution witness and prostitute Pamela Jenkins had given perjured testimony in exchange for \$500 paid by police officers. The police in question were

two of six Philadelphia police officers who pleaded guilty in 1991 to framing defendants, stealing money, assault, and civil rights violations.³⁶ One of them, Richard Ryan, was a detective in the Central Division in 1981-82, an area that included the 6th district.³⁷ Jenkins testified that Officer Ryan repeatedly pressured her to provide such false testimony in the case of Mumia Abu-Jamal.³⁸ Phillips described the testimony and history of Pamela Jenkins as having "no bearing" on the Abu-Jamal case. Phillips's opinion is in keeping with that of Judge Albert Sabo, who presided over the original trial and the petition for a new trial, and who ruled that Jenkins's testimony was inadmissible.³⁹

Such testimony, however, corroborates the statements of Veronica Jones, whose testimony in the 1982 trial explicitly describes police attempts to coerce false testimony as part of a deal. "They were getting on me telling me I was in the area and I seen Mumia, you know, do it, you know, intentionally. They were trying to get me to say something the other girl said... we had brought up [prosecution witness] Cynthia's name and they told us we can work the area if we tell them." Judge Sabo ordered this portion of the testimony stricken.⁴⁰ (This stands in contrast to 20/20 producer Harry Phillips's comments to me regarding Jones's testimony, where he stated, "Clearly, the jury listened to [Jones] and heard the value of what she had to say."⁴¹) In 1995, when Jones testified that she had succumbed to police pressure to change her statement at the 1982 trial, Judge Sabo ruled that testimony was also inadmissible.

Unexamined Injustice

Why did the judge disallow such powerful arguments and testimony? A good question, but not one examined by ABC, even though the issue was raised on the show by defense spokespersons. That ABC spent zero time examining judicial impropriety is an alarming indicator of bias. Especially since systemic failures of justice have been previously acknowledged by Ed Rendell, Philadelphia Mayor, former DA, and one of the prosecution spokespersons on the 20/20 broadcast.

In 1992, Rendell openly described the Philadelphia system as "easily susceptible to influence," in the form of "politics, or who the defendant is."⁴² He also stated there were "incredible inconsistencies and randomness of justice from courtroom to courtroom" and that "the trial depends literally on what judge the case is assigned to."⁴³

Abu-Jamal was assigned to Albert Sabo. Sabo, a former member of the Fraternal Order of Police, served for 16 years as the Undersheriff of Philadelphia County. Famous as the judge who has sentenced the most people to death in America, in 1995, his total of 32 death sentences was more than twice that of any other judge.⁴⁴ In addition, over 90 percent of those sentenced to die by Sabo are people of color.⁴⁵ His 34 percent reversal rate ranks as one of the highest in the whole country. He has also been described as extremely biased toward the prosecution.⁴⁶

In responding to questions about Sabo, producer Phillips said, "Sabo may have a history of bias, I don't know." Phillips pointed out that Sabo was under "incredible pressure" and suggested Sabo's background might be irrelevant. "In this case, transcripts do not indicate that Sabo was acting in a biased manner." He summed up his reasons for omitting reference to Sabo with, "In my non-lawyer opinion, he didn't handle it that badly."⁴⁷ On this basis, Phillips excluded the opinion of many actual lawyers that there were problems with the way the courts, and Sabo in particular, have handled the case. Attorneys involved with organizations like the National Conference of Black Lawyers,⁴⁸ and the NAACP Legal Defense and Education Fund,⁴⁹ as well as Johnnie Cochran, and even Republican Senator and former Philadelphia DA Arlen Specter, have all voiced strong criticisms.⁵⁰ "The unfairness of Abu-Jamal's 1982 trial was almost guaranteed once it was assigned to Judge Albert Sabo," said American Lawyer magazine, describing Sabo as "notoriously pro prosecution."⁵¹

Controlling the Jury

One of the ways Sabo's influence had lasting impact on the trial and the subsequent appeal was his handling of the jury selection process. Eleven African Americans were removed from jury selection by prosecutorial peremptory challenges, though the original trial record only shows eight. The confusion over the exact number arises from Sabo's refusal to allow the race of the eliminated jurors from being entered into the record.⁵² This turns out to have been a crucial ruling that affected Abu-Jamal's 1989 appeal. Following a state challenge regarding jurors whose race did not appear on the record, the Pennsylvania Supreme Court ruled against Abu-Jamal's assertion of intentional racial discrimination.⁵³

The illegal manipulation of the jury's racial composition was a standard tactic that the Philadelphia prosecutor's office actively encouraged. A videotape made by Philadelphia Assistant Prosecutor McMahon in 1986 taught prosecutors how to lie to judges and exclude Blacks from juries. McMahon said on the tape, "The only way you're going to do your best is to get jurors that are unfair and more likely to convict than anybody else in that room."⁵⁴

The well-documented questionable rulings of Sabo went completely unmentioned by ABC, even when directly relating to the alleged confession that was prominently featured in the broadcast. ABC described the allegation as "a nail in Abu-Jamal's coffin." 20/20 did include in its story that the alleged confession was not reported for more than eight weeks, and was produced by the deceased officer's partner. ABC then gives a statement designed to increase the credibility of the alleged confession: "But security guard Priscilla Durham told the jury that she reported it to her supervisor the next day."⁵⁵ Although Durham did testify that she reported it to her supervisor, no evidence has been produced to confirm the accuracy of her claim. In court, a one-page typed document was offered as the report in question. Durham, however, denied the report was hers. The authorship was not authenticated, the witness denied it was her report, yet Sabo allowed the prosecution to read parts of it in front of the jury.⁵⁶

Framing the Story

An examination of the story structure underlying ABC's December 9 piece makes it difficult not to conclude that ABC built the story to support the prosecution perspective. The prosecution side is introduced to the audience first, defense representatives are shown only in highly edited context, analysis is exclusively conducted by the prosecution, and defense evidence is largely omitted or when mentioned, ABC does not investigate its merits.

Instead, ABC News, in the person of Sam Donaldson, began to insert a subtle commentary into the story, characterizing Abu-Jamal as a "charismatic" leader, and those opposed to his execution as "his followers."⁵⁷ Application of these labels creates an unspoken association in viewers' minds to others who have been similarly labeled by the media: people like David Koresh, Osama Bin-Ladin, or Jim Jones. While initially describing those opposed to Abu-Jamal's execution in limited terms such as "campus rebels," 20/20 quickly transformed them into "followers ...taken by his charisma."⁵⁸ Donaldson culminates the impression of "cultism" by referring to Abu-Jamal supporters as "zealous disciples" who believe that "Mumia Abu-Jamal is a prophet. To call him a murderer is sacrilege."⁵⁹

While ABC allowed selective issues to be raised by defense representatives, there was little follow-up review of the evidence or issues cited, or ABC would turn to the prosecution for evaluation. This "bait and switch" tactic allowed 20/20 to maintain an appearance of fairness while actually limiting the evidence to one side of the story.

Such was the case when defense attorney Leonard Weinglass raised the issue that Abu-Jamal's brother was being beaten by Officer Faulkner, and that witnesses reported a third man fleeing the scene. In a ridiculous example of bias, ABC turned to Maureen Faulkner, the widow of the slain officer, for the only assessment of these defense issues.

Sam Donaldson: "Have you looked over the evidence that Leonard Weinglass says would prove Abu-Jamal was innocent?"

Maureen Faulkner: "Yes, I have."

SD: "There's no substance to it?"

MF: "No, [Weinglass] has duped the world...."⁶⁰

ABC does not allow the viewers to know what this evidence is; instead 20/20 turns to the person most emotionally involved in the entire case, and most likely to be biased, for exclusive analysis.

As to the allegation of Faulkner beating Abu-Jamal's brother, at least three witnesses reported the officer either struggling with someone or hitting him with a billy club or flashlight.⁶¹ In addition, arresting officers reported William Cook to be bleeding from the face, and Faulkner's flashlight was recovered from the scene with a broken lens.⁶²

In contrast to his own report, ABC producer Phillips acknowledged to me that Faulkner had beaten Cook at the scene. "Witness statements indicate a struggle. He was beating [Cook] with a flashlight or billy club." Phillips's only explanation for why he did not focus more clearly on this was that Cook was not seriously injured, and that it was therefore irrelevant.⁶³

Whether or not Faulkner beat Cook is certainly relevant in a legal sense, as it could show mitigating circumstances, which could have lowered the charge to manslaughter or allowed Abu-Jamal to claim self-defense.

Emotion as Evidence

Maureen Faulkner played the role of emotional centerpiece, around which ABC set incomplete information disguised as serious investigation. Note that although 20/20 devotes considerable time to Maureen Faulkner, Abu-Jamal's family is never mentioned. One could see only too clearly how an interview with Abu-Jamal's children and grandchildren would change the emotional framework of the story, allowing Abu-Jamal to be seen as a human being. In the same manner that ABC selectively displays its facts, emotional issues of family and loss are only presented in support of the prosecution. Producer Phillips disagrees with this analysis: "As far as I know these people are not as important to the story as Mumia Abu-Jamal himself or Maureen Faulkner." Phillips insists that Faulkner's appearance was to present factual information and not for emotional impact. "She happens to be one of the most knowledgeable and credible people available on that side of the issue," Phillips said.⁶⁴

While ABC certainly did turn to Faulkner for analysis and assessment of fact, just as clearly she was used as the key emotional representative. For example, in the segment where ABC unveils the results of its "investigation," Sam Donaldson states, "We conducted a four-month investigation, and here is what we found. On a cold December day in 1981, Maureen Faulkner buried her husband. But for 17 years there has been no closure because of the voice that won't go away."⁶⁵ (The voice is, of course, Abu-Jamal, who has been referred to as "the voice of the voiceless.") The segment is a montage of photos of Maureen Faulkner and her family, grieving at the funeral, and accompanied by bagpipes playing "Amazing Grace." Notice how the lead-in is an announcement of the findings of the investigation, but the follow-up is pure emotion, with Maureen Faulkner center stage. Using Maureen

Faulkner's suffering to create appeal, ABC blames "the voice that won't go away."

The segment goes on to tell the story of Maureen Faulkner's outrage and grief over a series of radio commentaries by Abu-Jamal as part of the Prison Radio Project and National Public Radio. Giving no context or opposing view, and with Maureen Faulkner describing Abu-Jamal's voice as "haunting," the segment is a disguised attack on both Abu-Jamal's right to practice journalism while incarcerated, and on the right of prisoners to exercise their First Amendment guarantees. Nowhere in the report does ABC find time to mention that he won a federal lawsuit against the prison authorities. The three-judge panel unanimously agreed that the Pennsylvania prison authorities had violated Abu-Jamal's First Amendment rights and that they were punishing him for the content of his writings and commentary. The court went on to say that officials acted against Abu-Jamal only after "complaints concerning Abu-Jamal's proposed NPR commentaries were made by the Fraternal Order of Police."⁶⁶

Hidden Sources

It is very telling that ABC would not mention these facts, considering that the Fraternal Order of Police may have worked directly with 20/20 on the construction of this piece.

In a letter from ABC to prison authorities dated June 30, 1998, regarding the 20/20 segment (then still in production), ABC representative Phuong Nguyen clearly states, "We are currently working in conjunction with Maureen Faulkner and the Fraternal Order of Police." ABC kept their association with the FOP in the background, never mentioning the organization once during the entire piece. In my conversations with Harry Phillips he told me, "The FOP played no role whatsoever" in the construction or production of the story, and that he had only one phone conversation with them. Yet, he also stated, "I did call for their opinions on certain points." When I raised the issue of the letter, he distanced himself from it. Describing the letter as "unfortunate," he stated that Nguyen, "was simply trying to make the point that Mumia Abu-Jamal wouldn't be the only one speaking."⁶⁷

Next, ABC spotlighted Maureen Faulkner's "crusade." The camera shows a web site proclaiming "Justice For Daniel Faulkner," while Maureen Faulkner sits in front of the computer, looking through books and making notes. Sam Donaldson tells us, "[Maureen Faulkner] has written a 100-page document attempting to debunk [Abu-Jamal's] claims."⁶⁸ Faulkner's document, appearing at www.justice4danielfaulkner.com, is strikingly similar to the ABC piece, in both content and structure. This document makes several highly questionable claims of its own, even to its authorship. The document describes its authors as "private citizens." "We are not affiliated with any police organization," it states, "simply a group of individuals."⁶⁹ Ms. Faulkner, herself, is referred to in the third person, and nowhere could I find any claim to authorship, neither Maureen Faulkner's nor anyone else's.

Now, assuming Faulkner is the author, as ABC portrays, then she has intentionally obscured her authorship to create a false impression of impartiality. The document also argues vehemently in favor of the death penalty, describing the anti-death-penalty movement as a "culture of lies and deceit" that "specializes in the abolition of truth." Faulkner's document, however, holds truth in no high esteem, presenting statistics that are designed to produce inaccurate results. In order to bolster claims regarding the rarity of executions, Faulkner claims "there have been approximately 560,000 murders and 358 executions from 1967 to 1996" or "one execution for every 1,600 murders."⁷⁰ Yet, the truth is that there were no executions between 1967 and 1976, while the six years between 1977 and 1983 saw only ten executions, with no persons executed in 1978 or 1980. The remaining 348 executions took place between 1983 and 1996. The figures cited by Faulkner include 12 years when no executions took place, four years when five or fewer persons were executed, leaving only 13 active years of executions compared to the total number of murders from a 29-year period.⁷¹

Predictably, ABC does not question Maureen Faulkner about her role in authorship or promotion of this "document" nor her position on the death penalty.

Irrelevant History

One of the main issues that Abu-Jamal was following in his journalism immediately prior to his arrest was the issue of repressive police action towards the MOVE organization. Less than three years after Abu-Jamal's trial, on May 13, 1985, Philadelphia police dropped a bomb from a police helicopter on the MOVE organization headquarters. Two hundred and fifty people were rendered homeless and six adults and five children were killed in the ensuing blaze.⁷² By painting a scenario free of the history of longtime political repression of domestic dissidents, ABC conditions viewers to accept the execution of current political dissidents. On the day of the 20/20 story, Sam Donaldson said that, "as far as I'm concerned...the death sentence has to be carried out." Donaldson claimed that, "The people who support [Abu-Jamal's] release don't do so from a position of knowledge."⁷³ ABC certainly did little to put its viewers in "a position of knowledge."

Fascinating and revealing to me was that Phillips's greatest concerns over this case seemed to be that Abu-Jamal is "charismatic" and trying to exercise some kind of control over the angle that the media take on him.

Phillips portrayed this as evidence that Abu-Jamal is not to be listened to. "One side is making use of half truths and exaggeration. The Mumia movement supporters get information prepared and spun for their benefit," he told me. He then asked, "Could it be that [Mumia's] people are trying to control and spin his media?"⁷⁴ The irony is that there is absolutely nothing unusual about personality and spin control in media; in fact, that is what modern corporate media are all about. From Reagan to Clinton, from Sam Donaldson to Mumia Abu-Jamal, the battle has always been to project an image that the press will echo, and to control which issues the press will focus on.

Perhaps the real issue is that Abu-Jamal has done such a surprisingly effective job of getting his message out, despite the deceptive spin of corporate outlets like ABC.

Endnotes:

James Owens is an independent writer and researcher who has worked for a public interest law firm and for Congressman Bobby Rush (Dem.-Ill.). He has organized coverage of fair housing issues, and currently serves on the executive committee of Chicago Media Watch.

1. Over 700 pages of FBI documents specifically involving Jamal were obtained through Freedom of Information Act requests by New York attorney Paul Cooperstein. "Mr. Abu-Jamal was subjected to surveillance, harassment, disruption, politically motivated arrests, and attempted frame-ups by the FBI who worked in conjunction with the Philadelphia Police Department," Affidavit of Cooperstein, June 1995.
2. Transcript of ABC 20/20 show, Dec. 9, 1998, "Hollywood's Unlikeliest Hero" (hereinafter "ABC transcript"), p. 2.
3. Transcript of the trial, June 25, 1982, 8.46 (hereinafter thus: "Tr. 6/25/82, 8.46").
4. Police interview, Scanlan, Dec. 9, 1981.
5. Ibid., Dec. 11, 1981.
6. Ibid.
7. Telephone interview with author, Feb. 4, 1999.
8. Police interview, Chobert, Dec. 9, 1981.
9. Ibid.

10. Police report, Giordano, Dec. 9, 1981.
11. Police interview, Chobert, Dec. 12, 1981.
12. Tr. 6/19/82, 211.
13. Tr. 6/19/82, 267-269.
14. Scanlan and Magilton PCRA record, Ex. 21; interviews, Chobert, June 19, 1982, 227; Jones, June 25, 1982; Tr. 6/25/82, 8.58, 8.86.
15. PCRA record, Ex. 21.
16. Tr. 1/8/82, 28, 1/11/82, 98.
17. Police interview, White, Dec. 9, 1981.
18. White, Tr. 6/22/82, 5.31.
19. Police interviews, White, Dec. 12, 17, 1981.
20. Phillips interview, Feb. 4, 1999.
21. Tr. 6/21/82, 4.79 and 4.85.
22. Tr. 6/21/82, 4.80-4.81.
23. Commonwealth v. White, MC 87-06-2351, June 29, 1987, transcript, p. 29.
24. ABC transcript, p. 7.
25. Ibid.
26. Ibid.
27. Police interview, Jones, Dec. 15, 1981.
28. Associated Press, Oct. 1, 1996.
29. Phillips interview, Feb. 4, 1999.
30. Tr. 6/28/82, 126-127, 149-150. See also Police interview, Hightower, Dec. 15, 1981.
31. See United States v. City of Philadelphia, 644 F.2d 187 (3rd Cir. 1980).
32. Philadelphia Daily News, Dec. 7, 1985.
33. Officers Richard Herron and Joseph Goffre pled guilty in 1985 to shaking down prostitutes in the 6th district. Cynthia White had been arrested approximately 6 times in 1981 by these same officers. See case nos: 8005-2895, 8007-0195, 8006-2855, 8103-0493, 8104-0062, 8107-1610. See also Abu-Jamal Petition for Remand Hearing, 1997, p. 10.
34. New York Times, Apr. 3, 1997.
35. Rev. Betty Patterson, a 54-year-old grandmother, served nearly four years because police planted drugs in her home during an illegal search; see Philadelphia Tribune, June 14, 1998. Neil Ferber and Jay Smith were sentenced to death on the basis of perjury and withheld evidence, respectively. See Equal Justice USA, 1995 Report on Philadelphia Police Department, "Trampling the Public Trust," p. 2.
36. Philadelphia Inquirer, Dec. 31, 1996; Equal Justice USA, op. cit., n. 35.
37. Petition for Remand Hearing, 1997, p. 5.
38. Affidavit of Jenkins, 1997; see also Philadelphia Inquirer, June 27, 1997.
39. PCRA ruling, 1997.
40. Tr. 6/29/82, 129, 135, 141.

41. Phillips interview, Feb. 4, 1999.
42. Philadelphia Inquirer, Sept. 12, 1992.
43. Ibid., Sept. 13, 1992.
44. NAACP and Equal Justice USA, Jane Henderson, "Philadelphia's Judge Sabo"; Philadelphia Inquirer, Sept. 13, 1992; "Guilty and Framed," American Lawyer, Dec. 1995.
45. Henderson, *op. cit.*, n. 44, p. 9.
46. Philadelphia Inquirer, Sept. 13, 1992.
47. Phillips interview, Feb. 4, 1999.
48. The Nation, Sept. 11, 1995.
49. See 1996 report by NAACP Legal Defense and Education Fund and Equal Justice USA, "Philadelphia's Judge Sabo: The Judge who Became Death Row's King."
50. Los Angeles Times, Sept. 13, 1995.
51. American Lawyer, Dec. 1995.
52. Tr. 6/7/82, 20.
53. Commonwealth v. Abu-Jamal, 555 A.2d 846.
54. New York Times, Apr. 3, 1997.
55. ABC transcript, p. 6.
56. Tr. 6/24/82, 109-113.
57. ABC transcript, p. 4.
58. Ibid., pp. 1, 4.
59. Ibid., p. 9.
60. Ibid., p. 4.
61. Tr. 6/25/82, 8.6; see also Police interview, Scanlan, Dec. 9, 1981.
62. Tr. 6/30/82, 5.151; Tr. Ex 1.
63. Phillips interview, Feb. 4, 1999.
64. Ibid.
65. ABC transcript, p. 5.
66. Associated Press, New York, Aug. 25, 1998.
67. Phillips interview, Feb. 4, 1999.
68. ABC transcript, p. 5.
69. www.justice4danielfaulkner.com/myths.html.
70. www.justice4danielfaulkner.com/DP.html.
71. Execution statistics cited from University of Alaska, Anchorage, Justice Center, and University of Northern Illinois University, Critical Criminology Division.
72. CNN, June 24, 1996.
73. Philadelphia Inquirer, Dec. 10, 1998.
74. Phillips interview, Feb. 4, 1999.

The Media & Mumia: Were ABC and Vanity Fair Taken for a Ride?

By *Fairness & Accuracy In Reporting* (FAIR.ORG), 8/11/99

Two mainstream news outlets reported on the case of Pennsylvania death row inmate Mumia Abu-Jamal, claiming to present new evidence pointing to Abu-Jamal's guilt. But the evidence that both outlets rely on--testimony of a supposed confession made eight years ago--is questionable on its face, and an old letter that has subsequently surfaced suggests that this star witness is lying about Abu-Jamal.

The major news in both ABC 20/20's July 11 broadcast and the August 1999 issue of Vanity Fair is the testimony of Philip Bloch, a former prison volunteer who now claims to have heard Abu-Jamal confess to the 1981 murder of Philadelphia police officer Daniel Faulkner. During a conversation in 1991, Bloch claims that he asked Abu-Jamal if he had any regrets about shooting Faulkner, to which Abu-Jamal allegedly replied, "Yes."

Why has Bloch waited 8 years? Vanity Fair's Buzz Bissinger doesn't ask (or at the very least doesn't share his curiosity), and ABC's Sam Donaldson, in a virtual re-run of 20/20's 12/9/98 report, explains only that Bloch "felt no need to come forward," since "his friend was already on death row."

But Bloch's story has some serious problems, and new evidence casts considerable doubt on his credibility. A 1993 letter from Bloch to Abu-Jamal--two years after the "confession"--ended with the following passage: "So--it is possible to get justice from a jury--not always--but sometimes. So, when you get a new trial-I think that there is a good chance of acquittal." Why would one write that to a confessed murderer?

But even without this documentary contradiction, Bloch's tale is too dubious for a responsible journalist to run with. Over 18 years of imprisonment, Abu-Jamal has consistently refused to answer questions about the night of the shooting. Journalism professor Linn Washington, Jr. explained Abu-Jamal's stance (Philadelphia Tribune, 7/20/99), describing an interview conducted under circumstances similar to those Bloch had described: "During an interview, I asked Mumia a question regarding the shooting of Faulkner. He refused to respond, giving two reasons: (1) his lawyers told him not to discuss that incident; and (2) the cubicle was bugged."

In the rest of his account of the case, Bissinger consistently presents a version of reality that is partial to the prosecution-- unsurprisingly, given that the writer has an extraordinarily close relationship with Philadelphia Mayor Ed Rendell, who was Philadelphia's district attorney at the time of Abu-Jamal's trial. It's instructive to compare Bissinger's article with perhaps the most thorough journalistic account of the case, legal journalist Stuart Taylor's article in *American Lawyer* (12/95), to see how Bissinger leaves out information that undermines the prosecution's witnesses and points to the basic unfairness of Abu-Jamal's trial.

For example, Bissinger makes much of the fact the prosecution witnesses "formed a consistent picture of what happened that night." What he doesn't mention, though it is amply documented by Taylor, is that these witnesses changed their stories markedly after they were first interviewed by police.

Absurdly, Bissinger spends a considerable amount of space scolding supporters of Abu-Jamal for not reading the entire transcript of his case (which totals more than 12,000 pages). But several basic errors in Bissinger's account seem to indicate he did not carefully review the documents either. For example, Bissinger refers to Judge Albert Sabo as Alfred Sabo. He also misidentifies a key prosecution witness

as a defense witness.

Such reporting might have been anticipated by Leonard Weinglass, who wrote Vanity Fair's editors in June requesting a less biased journalist be assigned to the story. "I found (Bissinger's) manner and demeanor to be that of an angry, even furious, advocate for Mr. Jamal's detractors."

As for 20/20, the program seemed to leap on the claims of Philip Bloch in order to bolster its 12/9/98 hatchet-job on Abu-Jamal, for which it received a great deal of criticism: "Even before we broadcast our investigation into the case of Mumia Abu-Jamal last December, we began to hear from his supporters," explained ABC's Charles Gibson. "Our four-month investigation turned up provocative evidence, and recently turned up something startling." Aside from Bloch's far-fetched, subsequently debunked tale, much of the broadcast simply reiterated the distortions of the previous report, which was analyzed by FAIR in a previous action alert and article.

---Also see: **FAIR.ORG Archive on Mumia Abu-Jamal :**

http://www.fair.org/index.php?page=7&issue_area_id=35

Patrick Braouezec Statement About US Resolutions Condemning The Naming of a Street for Mumia Abu-Jamal By The French City of Saint-Denis (June 1, 2006)

Response to US Congressional Resolution 407, passed, ultimately in slightly varied forms, by the Philadelphia City Council, Pennsylvania Senate and Assembly, and US House of Representatives denouncing the naming of a street in honor of Abu-Jamal, "Rue Mumia Abu-Jamal," in Saint-Denis, France, and demanding that it be rescinded.

--Patrick Braouezec, is the former Mayor of Saint-Denis; President of the Community of 12 Suburban Cities, including Saint-Denis; elected representative to the National Assembly of France.

Concerning Resolution 407, introduced by persons close to the FOP [Fraternal Order of Police], I first want to say that I condemn the murder of the police officer. I believe that everyone must condemn this act. That is clear.

This draft resolution claims that the murder was undoubtedly committed by Mumia. But everybody knows that the point of naming a street in Saint-Denis in honor of Mumia Abu-Jamal is to underscore the fact that Mumia has always maintained his innocence and has always demanded a fair trial. These are entirely two different matters: condemning the murder of a police officer is one thing, but the absence of a fair trial for Mumia is an entirely different matter. Finally, it seems outrageous to me [that this resolution] demands that the French government force the city of Saint-Denis to reverse its decision.

Cities in France have the right to name streets in honor of individuals. We have experienced in our recent history many un-namings linked to political change. It is true that in choosing the name of Mumia Abu-Jamal we made a choice, a political choice, a choice aimed to show that we stand at his side in the struggle he is waging to obtain legal recognition of his innocence—and we proclaim our choice for all to hear. In the same manner, a few years ago, we named a street for Bobby Sands, who had resisted the British occupation of Ireland. We have also named other streets in honor of other resisters, other individuals who fought unconditionally against the bullying established orders that refuse to acknowledge injustice.

One last thing concerning the proposed resolution's third paragraph, commending all American and police officers worldwide: I must tell you that, while I recognize the role played by the police today, under certain circumstances, I am not willing to consider all police officers of equal valor whether those officers are American or hail from other parts of this planet. Because I know for a fact that many of them do not act in the constitutional way we would expect of them under all circumstances, especially as far as minorities are concerned. This is so whether we are speaking about the United States or certain other countries where the police abuse their power and do not play the role we expect of them as custodians of the equal treatment of all citizens. So let us not put the entire police force in the same basket. Statements such as those made in the proposed resolution regarding police forces as a whole constitute a false generalization—since it holds these police forces immune from any suggestion that they are capable of breaking or abusing rules.

Concerning the current situation confronting Pam Africa and the movement in Philadelphia, I

have two reactions. First, when one is reduced to resorting to fear, to imposing the law of silence, it means that somehow there is a degree of uneasiness, somehow there is a lack of confidence, somehow there are those who are afraid of the final verdict of truth. So my first reaction is that when a group of individuals tries to impose the law of silence in this way, it means that the final truth is not what we are led to think nor is it what is made to appear as such. And my second reaction is to say that one should definitely not allow oneself to be intimidated. Beyond the struggle Mumia is waging to gain recognition of his innocence, he is also waging another struggle to abolish the death penalty, and this struggle should be waged by all democrats worldwide. Also, it is obvious that by exerting this type of pressure, very strong almost physical pressure, a certain number of police unions, not to mention rightwing or extreme rightwing unions, are intimidating all those who are waging a struggle today against the death penalty, whether it be in the United States or in other countries.

This struggle against the death penalty is a vital one. In my opinion, it is not permissible to play games with the lives of people. There are too many examples in the world, and first and foremost in the United States, of people who were sentenced unjustly. Sometimes they have been condemned to death or to very heavy prison sentences while proof of their innocence is established either after execution or after they have spent a great many years in prison. So we must not allow ourselves to be intimidated by these types of actions but rather recognize that the show of pressure is more a form of weakness than a demonstration of force.

As far as raising the FOP's proposed resolution in the French National Assembly, I believe that we must work on some type of action at that level. I do not know at this stage whether it can be a "current events" issue like the ones we raise every week, which take the form of a written question to the government. It is necessary that we elected representatives initiate action against the death penalty at both the national and other levels. I am speaking also of those who, as elected representatives, support Mumia in his struggle, for example, by adopting him as honorary citizen or conferring other tokens of support.

I believe that all these people should raise the issue with the French government in a very direct manner, including a request that our government should react explicitly even if in the end the American government does not challenge the French government in response to the proposed draft resolution that some are attempting to introduce today. But this would be an opportunity for the French government to take a clearcut position concerning this affair and cut through any ambiguity there might be. So I am completely in favor of raising the issue in one form or another through the voices of a certain number of elected representatives—"députés," mayors or municipal councillors—because there is also within cities governed by the political opposition a great deal of political mobilisation for the defense of Mumia. I think raising the issue at government level today would be useful.

Concerning the question from a youth as to whether we should take orders from American capitalism, I say NO, I take orders from no capitalist even if we are compelled to accept capitalism as part of our lives, even if we have to make accommodation at this juncture with the situation it creates. We know perfectly well that we are living in a capitalist system, but the issue is much larger than the American capitalist order. I believe that there are American democrats, as well as democrats throughout the world, who fail to question capitalism but who nonetheless adhere to certain human rights and that, even in the absence of challenging capitalism, there are still many citizens in the world who are

probably against the death penalty and consider that Mumia Abu-Jamal has the right to an honest trial.

As far as our media notoriety in the U.S. is concerned, as mayors who named a street in honor of Mumia Abu-Jamal, our only objective as far as any media interest is concerned (whether the media be American or not) is to enhance the fairness of our claim. What is our claim today? We are among the many people who simply ask that Mumia be granted a new trial so that the evidence of his innocence can be heard. That is all we ask and I think that all the exposure we can obtain in the media should establish the claim concerning this issue. So let us make efficient use of the mikes or cameras that seek us out to validate our claim.

My thoughts are very much today with Mumia Abu-Jamal and the situation that entraps him. I am currently reading the most recent book by Michael Connelly, *The Lincoln Trial*, which exposes all the blemishes, all the abuse at the core of America's legal procedures, including the ways a trial can be manipulated. And we are made to see that it is money that fuels the neurological system of American justice—and that is a fact we can only condemn. If our statements, my statements are known throughout a number of radio stations and their networks—so much the better. I think it is useful, useful for Mumia, useful for the issue of abolition, useful for the totality of democracy whether it be in the United States or other countries that call themselves democracies today but are really undemocratic.

National Caucus of Black State Legislators (NBCSL) Statement Supporting Mumia Abu-Jamal's Release

December 3, 2004

NOTE: *On Dec. 3, 2004, The National Black Caucus of State Legislators (NBCSL) passed a resolution during its conference in Philadelphia calling for the release of Mumia Abu-Jamal. The state legislators' resolution reads:*

WHEREAS Mumia Abu-Jamal's 1982 trial in Philadelphia was characterized by illegal suppression of evidence, police coercion, illegal exclusion of Black jurors, and grotesquely unfair and unconstitutional rulings by the judge; and

WHEREAS the trial judge, Albert Sabo, has been quoted in a sworn statement to have vowed at the time of the trial to help the prosecution 'fry the n--'; and

WHEREAS subsequent appellate rulings have bent the law out of shape to sustain the guilty verdict of that trial; and

WHEREAS the appellate courts have also refused to consider strong evidence of Mumia Abu-Jamal's innocence, most notably a confession by Arnold Beverly to the crime; and

WHEREAS Mumia Abu-Jamal still is incarcerated on Death Row and still faces a death sentence; and

WHEREAS Mumia Abu-Jamal's case is now on appeal before the federal Third Circuit and the state court system; and

WHEREAS Mumia Abu-Jamal has for decades as a journalist fought courageously against racism and for the human rights of all people; and

WHEREAS the continued unjust incarceration of Mumia Abu-Jamal represents a threat to the civil rights of all people,

THEREFORE BE IT RESOLVED that the National Caucus of Black State Legislators demands that the courts consider the evidence of innocence of Mumia Abu-Jamal and that he be released from prison; and

THEREFORE BE IT FURTHER RESOLVED that the NCBSL demands that Pennsylvania Gov. Edward Rendell instruct his Attorney General to take over the case of Mumia Abu-Jamal from the Philadelphia County District Attorney's office and actually pursue justice; namely, go to court, make a legal confession of error, and stipulate that the conviction be vacated;

THEREFORE BE IT FURTHER RESOLVED that the NCBSL will communicate its views on this matter to Gov. Rendell, 225 Main Capitol Bldg., Harrisburg, PA 17120, and to the appropriate courts in consultation with the legal defense team of Mumia Abu-Jamal; and

THEREFORE BE IT FURTHER RESOLVED that the NCBSL will work with the legal defense team of Mumia Abu-Jamal to petition the courts to file any necessary friend of the court brief on behalf of Mumia Abu-Jamal.

Text of NAACP Resolution for New Trial for Mumia Abu-Jamal and a National Death Penalty Moratorium, adopted at NAACP National Convention, Phila, PA, July 15, 2004
EMERGENCY RESOLUTION REAFFIRMING OPPOSITION TO THE DEATH PENALTY

WHEREAS, the NAACP adopted a resolution in 2001 re-affirming our opposition to the death penalty due to its racially disparate application; and

WHEREAS, the NAACP has re-affirmed its 1975 resolution opposing the death penalty on the grounds that it constitutes cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution; and

WHEREAS, many people, including Mumia Abu-Jamal, are incarcerated on death row and face possible execution; and

WHEREAS, more than 320 people on death row have been exonerated; and

WHEREAS, though African Americans make up only 12.4% of the U.S. population, we make up 38% of all the Americans that were sentenced to death and later freed after being found innocent; and

WHEREAS, African Americans make up 35% of those being found innocent after being executed; and

WHEREAS, African Americans make up over 80% of those awaiting execution on federal death row; and

WHEREAS, 145 people have been exonerated based upon DNA evidence; and

WHEREAS, there is no possible way of restoring the life of an innocent person killed by the death penalty; and

WHEREAS, the implementation of the death penalty raises concerns regarding bias identification, police and prosecutorial misconduct, judicial apathy in protecting the rights of the accused, faulty evidence, inadequate defense representation, coerced confessions, and fabricated testimony, and,

THEREFORE BE IT RESOLVED that the National Association for the Advancement of Colored People reiterates its strong opposition to the death penalty; and

BE IT FURTHER RESOLVED that the NAACP calls on its units throughout the United States and the world to support the international call for Mumia Abu-Jamal to be released from death row; and

BE IT FURTHER RESOLVED that the NAACP reiterate its support of the international movement for a new and fair trial for Mumia Abu-Jamal; and

BE IT FINALLY RESOLVED that the NAACP renew its call for new nation wide studies on racial discrimination, the adequacy of counsel, access to modern research technology such as DNA analysis, the sentencing of children and women to the death penalty and that the NAACP reiterate its call for a national moratorium on all executions.

ss: Kweisi Mfume, President and CEO; Julian Bond, Chairman of the Board of Directors

CONGRESSIONAL BLACK CAUCUS QUESTIONS DUE PROCESS FOR MUMIA ABU-JAMAL

--Official Statement from Congressman Chaka Fattah 's website, Oct. 13, 1999:

http://www.house.gov/fattah/pr_washington_1999/mumia.html

WASHINGTON, DC -- Justice can only be served through a new trial for Mumia Abu-Jamal, concluded Congressmen Chaka Fattah and John Conyers, speaking on behalf of the entire 38 Member Congressional Black Caucus (CBC). Congressman Fattah, a Philadelphia Democrat, has been closely monitoring the Abu-Jamal case for almost two decades and has concluded that a new trial is necessary in order to carry out Abu-Jamal's constitutional right to due process. Congressman Conyers, the leading Democrat on the House Judiciary Committee, agrees.

Even as Governor Tom Ridge (R-PA) signs Mumia Abu-Jamal's death warrant, there are still many issues that have not been resolved. Abu-Jamal, an African-American journalist from Philadelphia known for his reporting of police brutality during the 1970's and 80's, was sentenced to death in 1982, for the murder of a white police officer. Testimony of eyewitnesses was suppressed, a witness was bribed to testify against Abu-Jamal, ballistics evidence did not match the circumstances of the case, there is no physical evidence linking Abu-Jamal to the crime, and tests which could have been done to prove his guilt or innocence were not ordered. At the trial, Abu-Jamal, a powerful orator, was denied the right to represent himself and even denied the right to confront his accuser. The judge used his insistence on his right to represent himself as an excuse to remove him from the trial. No audio transmission of the trial was provided, therefore, Abu-Jamal was unable to hear most of the prosecution's case.

There are many reasons for the CBC's reservations in the Abu-Jamal case. Even if he were guilty, there should be a more solid assurance of fact before he is put to death. If he is innocent, putting him to death on the basis of the current evidence makes the government guilty of the very thing for which it is accusing Abu-Jamal.

"The only thing we know for sure is that he has not been given due process and that alone is enough for a new trial," said Congressman Fattah.

Mumia Abu-Jamal -- Amnesty International calls for retrial

By *Common Dreams Progressive Newswire*, February 17, 2000.

[\(Read the full Amnesty International report online\).](#)

NEW YORK - February 17 - Amnesty International today called for a new trial in the case of Mumia Abu Jamal on the basis that his original trial was deeply flawed.

"This is not about an issue affecting the life of just one man. This is about justice -- which affects us all. And justice, in this case, can only be served by a new trial," Amnesty International said.

After many years of monitoring the case and an exhaustive review of the original documents, Amnesty International has concluded that the proceedings under which Mumia Abu-Jamal was tried, convicted and sentenced to death fail to reach the minimum international standards for fair trials.

"Amnesty International has chosen this moment to publish the results of their painstaking review of the case because Abu-Jamal's life and the fairness of the judicial system are now, more than ever, in the balance," the organization said.

Without a new trial, the federal courts are Mumia Abu-Jamal's final opportunity to have many of the troubling issues in his case addressed. However, the 1996 Anti-terrorism and Effective Death Penalty Act severely limit the federal courts' ability to guarantee a defendants' rights.

Amnesty International fears the act has increased the number of executions that were in violation of international laws and standards governing the use of the death penalty.

The organization is also alarmed that the Philadelphia Fraternal Order of Police Officers is actively campaigning for the execution of Mumia Abu-Jamal.

"Police officers and their representatives should be impartial enforcers of the law. Amnesty International understands the anguish officers must feel when a fellow officer dies in the line of duty but their attempt to pressure the judicial system to execute Mumia Abu-Jamal is inappropriate," the organization stressed.

Abu-Jamal's case illustrates broader problems in the judicial system, particularly those that involve the administration of the death penalty.

"Given the contradictory and incomplete evidence in the trial transcript, Amnesty International cannot take a position on Abu-Jamal's guilt or innocence," Amnesty International said. "In calling for a new trial we are not ignoring the pain of the relatives and colleagues of Officer Daniel Faulkner, for whom we have the greatest sympathy."

"Nevertheless, Mumia Abu-Jamal's inadequate legal representation at his 1982 trial, the fact that the judge appeared more concerned with expediting the trial than with ensuring justice, the politisation of the judicial process, and the possible bias of the appeal courts has lead Amnesty International to conclude that only a new and fair trial could prevent the execution of a man who has not been proved guilty in a fair trial," Amnesty International stressed.

The prosecution of Mumia Abu-Jamal was built upon three pillars:

the testimony of eyewitnesses;

ballistics evidence;

and an alleged confession by the accused. After a thorough study of original trial documents, Amnesty

International has determined that the veracity of each of these three pillars is in sufficient doubt to make a new trial essential.

Key concerns

- The three prosecution eyewitnesses substantively altered their description of what they saw between their original statements to police and their trial testimony.
- The witnesses were confused and unclear about the height of the shooter, what clothes he was wearing, in which hand he held the gun, and whether he ran away from the scene.
- The alleged confession, reportedly crucial to the jury's decision and sentencing, was first reported more than two months after the shooting.
- The alleged confession directly contradicted the contemporaneous notes of one of the alleged witnesses to the confession (a police officer) that "the negro male made no comments." This evidence was not put before the jury.
- There is also evidence that witnesses were offered inducements to alter their testimony in favor of the prosecution's version of events. This evidence was not put before the jury.
- Lack of adequate ballistic tests to determine whether Abu-Jamal's gun had recently been fired. It was not determined, for instance, whether there was residue on his hands from firing a gun.

Additional information and background

Amnesty International opposes the death penalty in all cases as a violation of human rights. The organization is therefore calling for a new trial in which should preclude the re-imposition of a death sentence.

Mumia Abu-Jamal, black, was convicted and sentenced to death in July 1982 for the murder of white police officer Daniel Faulkner on 9 December 1981. He has consistently maintained his innocence.

Amnesty International can take no position on the guilt or innocence of Mumia Abu-Jamal. The organization has expressed concern however, over the activities of a government counter-intelligence programme which appeared to list Abu Jamal among its targets. Amnesty International is also concerned that political statements attributed to him as a teenager were improperly used by the prosecution in its efforts to obtain a death sentence against him.