

Race Against Death

The Struggle for the Life and Freedom of Mumia Abu-Jamal



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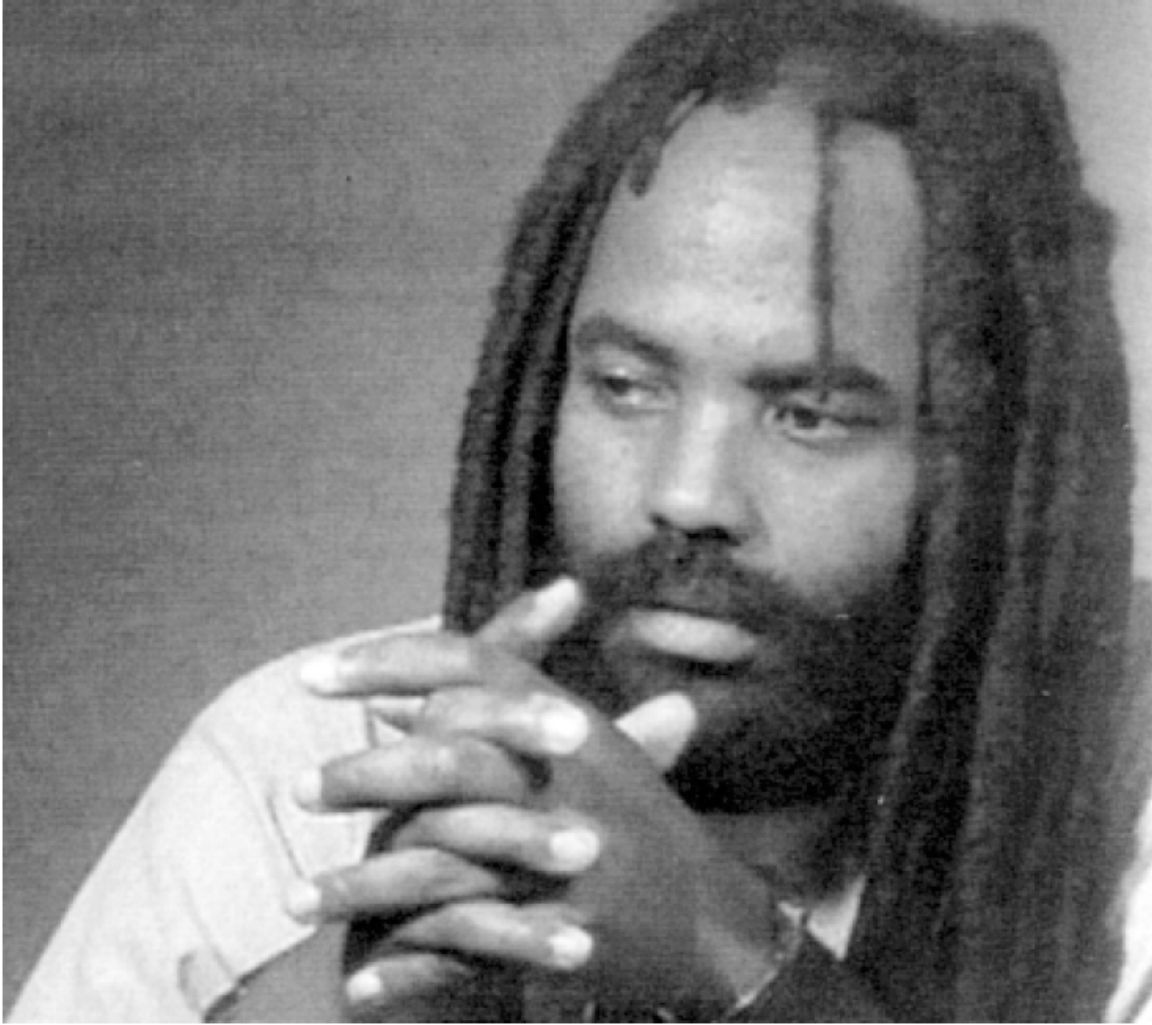
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1. Mumia Abu-Jamal in *A Case for Reasonable Doubt*, HBO 1996.



2. Demonstration in Philadelphia, December 8, 2001.

0. Introduction

In the early morning hours of December 9, 1981, a police officer by the name of Daniel Faulkner was shot and killed in the Center City area of Philadelphia. Found near Faulkner, who was lying in a pool of blood from a shot between the eyes, was the locally well-known radical black radio journalist Mumia Abu-Jamal, who had also been shot and critically wounded. Abu-Jamal was arrested, indicted for murder and, in the following summer, sentenced to death in a trial that was described by prosecutor Arlene Fisk as “one of the most famous murder trials in the City of Philadelphia.”¹ For the larger part of the general public, the news about his conviction was the last thing that was heard of him for a long while. He has spent his life in prison ever since.

Later on, however, the case of the black American death row prisoner Mumia Abu-Jamal has galvanized an international movement that has, at times, spanned the globe in such varied countries and locations as Germany, France, Spain, Ireland, Croatia, South Africa, Antarctica, and others. But what enabled such a world-wide movement was of course the fact that at its core were activists in many dozens of cities, universities, and unions in the United States itself. Their activities brought such popularity and fame to the case that it was hardly an exaggeration when, at the end of the year 2000, Abu-Jamal’s biographer Terry Bisson described him as “the world’s most famous political prisoner since Nelson Mandela.”²

Beginning in the early 1990s, a broad spectrum of political forces in the U.S.A. had rallied behind the demand to stop the execution of Abu-Jamal and to grant him a new trial. Indeed, the case had begun to take on a political and moral dimension of its own. The remarks of the well-known actor and civil rights veteran Ossie Davis on Abu-Jamal were not untypical for the feelings of many people drawn towards and into the movement: “Every generation has its own moral assignment: Ours is to save the life of Mumia Abu-Jamal.”³

What were the reasons behind sweeping comments such as this one, and how was it that the case of a single prisoner, and one with an African/Arabian name at that, could attract the support of so many people? What were the political and social issues around which this particular case revolved and continues to revolve? What are the contending forces that are pitted against each other in the struggle for and against the life and freedom of Mumia Abu-Jamal?

A sample of statements by liberal and leftist activists and celebrities on Abu-Jamal that was published by the American monthly *Z-Magazine* on its website under the title “Brief Comments on the Case of Mumia Abu-Jamal” provides useful hints for answering these ques-

¹ Protocol of Abu-Jamal’s hearings according to the Post-Conviction Relief Act (*PCRAH*), August 9, 1995, p. 172.

² Terry Bisson, *On a Move. The Story of Mumia Abu-Jamal* (New York: litmus books, 2000), p. 2.

³ In an interview in the HBO TV program “A Case for Reasonable Doubt,” produced and broadcast in 1996.

tions.⁴ Among those stating their positions were the famous American Indian prisoner Leonard Peltier, the feminist author and poet Adrienne Rich, economist Edward S. Herman, media analyst Norman Solomon, actor Michael Farrell, *Z-Magazine* editor Michael Albert, the well-known radical historian Howard Zinn and others. Their answers are probably best summarized in the four-sentence statement given by political scientist Stephen R. Shalom:

Why should WE care about Mumia? Because his case represents a decisive contest in the struggles against the death penalty, racism, police brutality, and police-state frame-ups. Because Mumia is an eloquent voice for the left and a more just world, and a beautiful human being.

Why should THEY care about Mumia? Because his case represents a decisive contest in the struggles against the death penalty, racism, police brutality, and police-state frame-ups. Because Mumia is an eloquent voice for the left and a more just world, and a beautiful human being.⁵

In the following, I want to pin down and discuss some of the reasons that have served to spark and make possible this unusually intense and broad movement. For one thing, I hope to refine and sharpen this answer as to who “WE,” the forces fighting for the life and freedom of Mumia Abu-Jamal are and what issues and positions they stand for. But since we are dealing with a *resistance* movement explicitly directed *against* “the death penalty, racism, police brutality, and police-state frame-ups,” it is also indispensable to talk about “THEM” – those who want to execute Abu-Jamal – and what they stand for. I will show that, politically and socially, they are by and large the same forces that Abu-Jamal fought against in his work as a journalist and social activist before his arrest.

Moreover, it is my contention that the peculiarities of Abu-Jamal’s case are closely connected to some themes that strike at the heart of the interpretation of democracy in general and U.S. democracy in particular. The struggle over Abu-Jamal brings into conflict two interpretations of democracy which are both deeply rooted in the American tradition, yet radically different from each other.

But let us start out by looking at the basic facts. Mumia Abu-Jamal has formally been under an active death sentence since May 25, 1983. He has been incarcerated since his arrest in the early morning hours of December 9, 1981. He was found guilty of having murdered a police officer in a trial that was described as having “failed the minimal international standards of justice” by the renowned human rights organization amnesty international.⁶

⁴ See <http://www.zmag.org/Crises/CurEvts/Mumia/Mumiacomments.htm>.

⁵ *Ibid.*

⁶ See amnesty international, *A Life in the Balance: The Case of Mumia Abu-Jamal* (London: ai, 2000).

On the face of it, the case of Abu-Jamal and the publicity it generates thus has to do with three simple issues:

- the death penalty, that is, the power of the state to kill its own citizens,
- the phenomenon of mass incarceration that has been increasing exponentially in the U.S.A. since the end of the sixties and then again with renewed force since the onset of the eighties, or in other words, the power of the state to coerce,
- the problem of the endemic general malfeasance and corruption in the American criminal justice system, a corruption that, once a person is inside the grinding wheels of the system, involves not only the prosecution but also the courts, and is a decisive contribution to the punitive approach that has led to mass imprisonment and the renewed and intensified use of the death penalty since 1976.⁷

That the state should have such powers stands in stark contradiction to a “democracy of the people” as it is understood in widely held interpretations of the American democratic tradition and the U.S. constitution. The issues are hotly debated and contested in the U.S.A. even outside of solidarity movements for what supporters claim are “political prisoners” like Abu-Jamal or Leonard Peltier. But these issues don’t stand alone as isolated phenomena. A closer look shows very quickly that much more is involved, namely the dimensions of

- race,
- class,
- and politics.

In the course of this thesis, I will show that in the case of Mumia Abu-Jamal the first three themes are inextricably intermingled with and inseparable from these latter three categories.

Even a superficial inspection of the three themes having to do with the U.S. criminal justice system immediately leads to a particular point without which discussing them would be like talking about *Hamlet* without mentioning the Prince of Denmark. Mumia Abu-Jamal is black, and thus, the fourth point that, to a large extent at least, unifies the three issues that I mentioned first is *race*.

⁷ On this corruption and the punitive approach that is one of its driving factors, see Loïc Wacquant, *Elend hinter Gittern* (Konstanz: UVK, 2000) and Loïc Wacquant, “Penal ‘common sense’ comes to Europe,” *Le Monde Diplomatique* (English edition), April 1999. On judicial corruption in death penalty cases, see Barry Scheck, Peter Neufeld, and Jim Dwyer, *Actual Innocence. Five Days to Execution, and Other Dispatches from the Wrongly Convicted* (New York: Doubleday, 2000) and Michael L. Radelet, Hugo Adam Bedau, and Constance E. Putnam, *In Spite of Innocence. The Ordeal of 400 Americans Wrongly Convicted of Crimes Punishable by Death* (Boston: Northeastern University Press, 1992).

Today, almost half of the 3697 men and women on death row in the United States are black,⁸ while African Americans represent only 12 percent of the general population. Almost half of the close to and possibly well over two million inmates of the prisons and jails in the U.S.A. are black.⁹ At the same time, statistics show that blacks are vastly underrepresented in juries that try felonies, especially capital cases, and that they are also vastly underrepresented in the judicial apparatus itself.¹⁰

A further point that largely, but not completely, overlaps with the fourth is the question of class. It is certainly no accident that it is Abu-Jamal – who at the time of his arrest worked nightshifts as a taxi driver to supplement his meager income as a radio freelancer – who is on death row, and not sports and TV star O. J. Simpson, despite the fact that the latter was accused of a grisly double murder and a significant amount of evidence spoke against him. That the death penalty, growing incarceration, as well as civil rights violations committed by the state are disproportionately directed against the lower strata of society, primarily against the poor, has been documented beyond a reasonable doubt.¹¹

The issues of race and class thus provide the general backdrop, but they still do not answer the question: Why was a movement formed around Abu-Jamal, and not some other death row prisoner who is also black and poor? At this point, the political views and the political stance of Abu-Jamal must be factored in, before as well as after his arrest. Abu-Jamal is not simply an indigent black person that his supporters claim was subjected to unfair and unjust treatment by an increasingly punitive judicial machine, but he understands himself, and is understood by others, as a black *radical*, a person who fights for a radical change of the socio-economic system in the U.S.A. towards racial and social equality for all.¹² Born in 1954, he was 27 at the time of his arrest and had, at that young age, already spent half of his life engaged in the turmoil of the political and racial

⁸ Death Penalty Information Center, <http://www.deathpenaltyinfo.org/dpicrace.html>. Of those on death row, 1605 (43 %) are black, 1665 (45 %) white, and 429 (11 %) Hispanic, Asian or other.

⁹ Depending on the source, the aggregate number given for the present prison population in the US varies considerably. The U.S. Department of Justice gives a number of 1,950,000 for the year 2001, other sources give number as high as 2,1 million. Based on U.S. Census Bureau data, a Human Rights Watch Press Background, February 22, 2002, concludes that blacks constitute 43,7 percent of the prison population.

¹⁰ For under-representation of blacks in juries in capital cases, see chapter 6. Documentation for the under-representation of blacks as prosecutors, especially in death penalty cases can be found on the website of the Death Penalty Information Center (DPIC). Of the 1838 District Attorneys (the only prosecutors who are entitled to prosecute capital cases) in the U.S.A., only 22 are black. Richard C. Dieter, Executive Director of the DPIC, “The Death Penalty in Black and White: Who Lives, Who Dies, Who Decides,” July 1998. See the website <http://www.deathpenaltyinfo.org/racertpt.html>.

¹¹ An exhaustive discussion of the matter can be found in Christian Parenti: *Lockdown America. Police and Prisons in the Age of Crisis* (London: Verso, 1999). See also Loïc Wacquant, “Imprisoning the American Poor,” *Le Monde Diplomatique* (English edition), July 1998.

¹² In an interview for a documentary by the legal defense organization Partisan Defense Committee in 1990, Abu Jamal said: “I am [...] still a revolutionary journalist. [...] I fight against my death sentence, I fight for my life, and I fight for the revolution in America.” Film by the Partisan Defense Committee, “The Case of Mumia Abu-Jamal,” 1990.

struggles in the United States. Moreover, at Abu-Jamal's murder trial the prosecutor used the political convictions of the defendant as an important argument for the necessity of a death sentence. I will later argue that the prominence his criminal case has acquired is in large part due to the fact that, over the years, the man and the case have become a symbol for these struggles.

The basic themes around which the case of Mumia Abu-Jamal revolves can thus be summarized as first, the question of how much power should be given to the state in relation to its citizens, second, the question of equality, racial as well as social, and third, the struggle for emancipation from conditions that are perceived as oppressive. These themes are closely connected to the above-mentioned conflicting traditions within democracy in the U.S.A., a conflict that goes as far back as the American revolution. The Declaration of Independence, the American Constitution and the Bill of Rights all proclaimed grand principles aimed at liberty and justice for the citizens of the new state, but in fact, the framers of these documents were well aware of the fact that they were designing a democracy of the few. In one of the articles later collected as the *Federalist Papers* and devoted to the discussion of the constitution, James Madison mentioned the "unequal distribution of property" as a primary reason for the adoption of federalism, since a federation of the then 13 states would stifle the formation of what he called a "majority faction." In a federation, the influence of the leaders of such a faction "may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States." The conflagration that he so feared was "a rage for [...] an abolition of debts, for an equal distribution of property, or for any other improper or wicked object."¹³

Madison also held that a new constitution should establish checks and balances so "as to protect the minority of the opulent against the majority," which is why "our government" must seek ways "to secure the permanent interests of the country against innovation,"¹⁴ in other words, the interest of the opulent minority elite in the status quo. A corollary of this goal was the principle that the majority should not have too much of a hand in the government of the state. In the same vein, one of the authors of the *Federalist Papers* elaborated further on the necessity to protect the country against innovations by the introduction of a Senate: "I shall not scruple to add that such an institution may be sometimes necessary as a defense to the people against their own temporary errors and delusions," because

In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens in order to check the misguided career, and to suspend the blow

¹³ Quoted in Howard Zinn, *Declarations of Independence. Cross-examining American Ideology* (New York: HarperCollins, 1990), p. 152.

¹⁴ Quoted in Noam Chomsky, *Perspectives on Power. Reflections on Human Nature and the Social Order* (Montreal: Black Rose Books, 1996), p. 117.

meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind?¹⁵

On the other end of the political spectrum, there were those forces that held that “liberty and justice” must truly be for all, that is, the radical-democratic current of the revolution that fought for a democracy “of the people, for the people, and by the people.” For this current, any exclusion from democratic rights and from protective rights against an oppressive state power on the basis of class or other, comparable reasons was intolerable. During a second constitutional convention that was held in Philadelphia 183 years after the first, one of the later leaders of this historical tradition, Black Panther Party member Mike Tabor, gave powerful expression to this view, and also explained how the original constitution of the United States had served, at the time of its institution, to exclude and deprive of their democratic rights “240,000 indentured servants, 800,000 black slaves, 300,000 Indians, and all women.”¹⁶

But as has been documented by historian Ray Raphael, the American Revolution had a long prelude of struggles of the majority for their rights, and even those who were later excluded from the full rights of citizenship to one degree or another did take part in the revolutionary movement and in shaping its outcome.¹⁷

The struggle to defend and develop the libertarian principles and rights contained in the founding documents of the United States, particularly the Bill of Rights, and to extend them to ever larger parts of the population has always been the mission of this radical current within American democracy. As for the conservative current, in the face of a choice between the status quo that secures the interests of the entrenched and educated elites on the one hand and the preservation and enlargement of liberty and justice for all as enshrined in the founding documents on the other, its historical tendency has most of the time been to choose the former and to sacrifice the latter.

It was the radical wing that fought for an extension of democratic rights to the poor, for the suffrage for women, and the abolition of slavery. The peculiar feature of that wing or, in the word of Madison, “faction,” as compared to conservative politics is that it aims at the creation of mass movements and at a massive participation of ever larger strata of the population itself. Just as there would have been no American Revolution as we have come to know it

¹⁵ In Zinn, *Declarations*, p. 235. It is not clear whether the author is James Madison or Alexander Hamilton.

¹⁶ Speech at the Revolutionary People’s Constitutional Convention, organized by the Black Panther Party in Philadelphia in 1970. Quoted in George Katsiaficas: “Organization and Movement. The Case of the Black Panther Party and the Revolutionary People’s Constitutional Convention of 1970,” in Kathleen Cleaver, George Katsiaficas (eds.), *Liberation, Imagination, and the Black Panther Party. A New Look at the Panthers and Their Legacy* (New York/London: Routledge, 2001), p. 147.

¹⁷ Ray Raphael, *The American Revolution: A People’s History. How Common People Shaped the Struggle for Independence* (London: Profile Books, 2001).

without the mass participation of ordinary people, the cornerstone in the abolition of slavery during the course of the second major upheaval in American history was a long history of resistance, and not even only by the slaves themselves, but also by an abolitionist movement spanning the whole nation, beginning with the founding of the first antislavery society in the world by the Quakers of Philadelphia in 1775.¹⁸

The same was true during what the black political scientist Manning Marable has termed the “second reconstruction,”¹⁹ that is the period of the civil rights movement roughly from 1955 onwards.²⁰ As for the two different conceptions of democracy at work during that period (insofar as the conservative current supported civil rights for blacks at all), their positions are presented with much clarity by Howard Zinn:

It is a comfort to the liberal system of representative government to say the civil rights movement started with the Supreme Court decision of 1954 in *Brown v. Board of Education of Topeka*. That was when the Supreme Court finally concluded that the Fourteenth Amendment provision of “equal protection of the laws” meant that public schools had to admit anyone, regardless of color. But to see the origins of the movement in that decision gives the Supreme Court too much credit, as if it suddenly had a moral insight or spiritual conversion and then read the Fourteenth Amendment afresh.

The amendment was no different in 1954 than it had been in 1896, when the Court made racial segregation legal. There was just a new context now, a new world. And there were new pressures. The Supreme Court did not by itself reintroduce the question of segregation in the public school. The question came before it because black people in the South went through years of struggle, risking their lives to bring the issue into the courts.

Local chapters in the South of the NAACP had much to do with the suits for school desegregation. [...]

It seems a common occurrence that a hostile system is made to give ground by a combination of popular struggle and practicality.²¹

How does all this fit in with the struggle for the life and freedom of Mumia Abu-Jamal? His supporters claim that during his arrest, trial and subsequent incarceration, Abu-Jamal has been denied a number of constitutionally guaranteed rights, and that, moreover, he has been the target of institutionally entrenched racism. His detractors, those who in part actively campaign for his execution like the present governor of Pennsylvania, former mayor of Philadelphia and district attorney responsible for the prosecution of Abu-Jamal, Ed Rendell, vigorously deny the claim.

¹⁸ Antislavery society: Gordon S. Wood, *The American Revolution* (New York: The Modern Library, 2002), p. 127-128.

¹⁹ Manning Marable, *Race, Reform, and Rebellion. The Second Reconstruction in Black America, 1945-1990*, Revised Second Edition (Jackson, MS: University of Mississippi Press, 1991).

²⁰ In the first chapter, I will give a summary of that period of mass movements as they affected the political development of Mumia Abu-Jamal.

²¹ Zinn, *Declarations*, p. 241-42. The “practicality” mentioned by Zinn was the necessity, as Attorney General Herbert Brownell put it before the Supreme Court, to deny “grist for the communist propaganda mills” in the context of the cold war (quoted in *ibid.*, p. 242).

In the following pages, I hope to show why, and then how, activists could tap a reservoir of popular forces in the U.S.A., and later on in many other parts of the world, and mobilize it in defense of Abu-Jamal.

It is my thesis that those who are active in this movement used the issues I have delineated above to mobilize a radical and popular current of American democracy firmly rooted in a long tradition. This current stands for the maximal extension of the rights of the citizens vis à vis the state, and for as much social and racial equality as can be achieved at any particular moment. At the same time, those drawn to this particular strand of democracy are adherents of the famous maxims of the freed slave Frederick Douglass that “power concedes nothing without a demand” and that “without struggle, there can be no progress.”²² In the eyes of those drawn into the support movement for Abu-Jamal, in his treatment at the hands of U.S. authorities, these rights and goals were violated at every turn. In their view, the concentration of these violations in this case was so severe that it became time to act.

Because of the intimate connection of the aspects of race, class, and politics to the developments in the criminal justice system mentioned above and because of their enormous significance for the later movement in support of Mumia Abu-Jamal, the first part of the following text will deal with the racial, social, and political circumstances that turned the young man who was later to become Mumia Abu-Jamal into a person who saw himself as an “enemy of the state”²³ and was soon to be perceived and persecuted as such by the state authorities.

The first two chapters of this thesis are intended to provide the larger socio-political context of Abu-Jamal’s formative years. In the first chapter I give a sketch of the development of the movement of blacks from the *Brown v. Board of Education* decision of the U.S. Supreme Court in 1954, Abu-Jamal’s birth year, to the mid sixties. During this time, a radicalization took place that was decisive for Abu-Jamal’s formation. At the end of this period stood the founding of the Black Panther Party, an organization that two observers claim was “the best possibility of Afro-Americans attaining some real measure of self-sufficiency and self-determination which has presented itself during the 20th century.”²⁴ One of the co-founders of the Philadelphia chapter of the party in early 1969 was none other than Abu-Jamal, who at that time was only fourteen years old. I will therefore also describe the philosophy, methods

²² Quoted in Manning Marable, *Speaking Truth to Power. Essays on Race, Resistance, and Radicalism* (Boulder, CO: Westview, 1996), p. 24 and 109.

²³ This apt formulation is taken from the title of an article by Michael Ely: “Mumia Abu-Jamal: Enemy of the State. From Panther to Voice of the Voiceless,” *Revolutionary Worker (RW)* No. 1076, October 29, 2000. This and other RW articles are on the website <http://www.rwor.org>.

²⁴ Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers. Documents from the FBI’s Secret Wars Against Dissent in the United States* (Boston: South End Press, 1990/2002), p. 164.

and goals of that party, which was soon declared “the greatest [single] threat to the inner security of the country” by FBI director J. Edgar Hoover,²⁵ and was treated accordingly.

The second chapter goes on to deal with the particular conditions in Abu-Jamal’s home town Philadelphia, a city that before the Civil War was situated immediately north of the Mason-Dixon line and never shed some of the features that this close proximity to (and dependence on) the American South brought with it.

The third chapter will serve to introduce the personality of Abu-Jamal into this context. I will show how his early activities in the Philadelphia chapter of the Black Panther Party, his professional work as a radio journalist, and later on once more, his alignment with the radical naturalist organization MOVE radicalized him and made him a constant target of the police and the state authorities who, at times, followed his every move.²⁶

First as an activist and then as a journalist in Philadelphia, Abu-Jamal had made it integral part of his mission to criticize the practices of the police, not only of his hometown,²⁷ but of the police in the U.S.A. in general.²⁸ Later on, he was sentenced to death for allegedly killing a police officer. The powerful police association Fraternal Order of Police continues to actively campaign for the execution of Abu-Jamal.²⁹ In the fourth chapter, I therefore focus on a theme that in my view is in many respects of primary importance for an understanding of the symbolic force of the Abu-Jamal case, namely, police corruption and brutality. Moreover, that topic is of equal importance for the development of the postwar black emancipation movement in general, since one of the clearest indications of the inferior status assigned to blacks in the United States in the 20th century has always been their differential treatment by the police as the most visible institution of law enforcement.

Talk about emancipation notwithstanding, a large number of African Americans in the United States in the first three decades after World War II experienced their situation as one of an

²⁵ In an interview with the *New York Times*, September 8, 1968. Quoted in Churchill/Vander Wall, p. 123.

²⁶ Over the years, the FBI alone assembled a file of “over 600 pages” on Abu-Jamal. See *Petition for Habeas Corpus*, October 14, 1999, Claim five, § 56 (quoted in the following as *HC I*). Undoubtedly, the Philadelphia police had also accumulated much material on Abu-Jamal. For surveillance practices in Philadelphia, see Frank Donner, *Protectors of Privilege. Red Squads and Police Repression in Urban America* (Berkeley, CA: University of California Press, 1990), p. 197-244.

²⁷ According to the veteran Philadelphia journalist and Temple University professor of journalism Linn Washington Jr., before his arrest “Mumia Abu-Jamal was among the handful of reporters who consistently reported on instances of police brutality.” Linn Washington Jr., “The Reign of Frank Rizzo: Brutality Explodes,” in *Resource Book on the Case of Mumia Abu-Jamal*, expanded edition (New York: Refuse and Resist, Dec. 1998), p. 18.

²⁸ On December 14, 1969, Abu-Jamal was a keynote speaker at the memorial service in Philadelphia’s Church of the Advocate for the two Chicago Black Panther Party members Fred Hampton and Mark Clark who had been killed ten days before in a police assault on Hampton’s home. Days before, Abu-Jamal had been in Chicago to report the event for the party newspaper *The Black Panther*. See Terry Bisson, *On a Move*, p. 74, 79. Three weeks later, he gave journalist Acel Moore an interview in which he castigated the “murders” in Chicago. This fateful interview which played a major role in the final phase of Abu-Jamal’s murder trial appeared on January 4, 1970 in the most important local newspaper *Philadelphia Inquirer*. For the full text, see *Trial Protocols (TP)*, July 3, 1982, p. 21-30. See also below, 3.3.1.

²⁹ More on this campaign in chapter five.

oppressed and impoverished minority of semi-colonial status.³⁰ One of the crucial aspects of this condition to be discussed below is that the racial oppression and consequent depressed social status of the black population in the U.S.A. inevitably brought them into a continual conflict with the police. On the one hand, this conflict arose from the treatment of blacks as colonial subjects by the police. Police subjected blacks to harassment, humiliation, differential treatment in relation to whites, and all imaginable kinds of abuse.³¹ A further factor was that, given the conditions African Americans were forced to live under, criminal activities were often the only means to survive.

Because of the brutality, misconduct, and corruption with which it treats the black population, the behavior of the police in the United States with respect to African Americans has often been described as that of an occupation army rather than of a protective force.³² Moreover, the huge numbers of blacks who took part in the black emancipation struggles were immediately drawn into another form of confrontation with the police: not for alleged or real criminal activities, but for political activism. In the course of reading through vast amounts of material on the black liberation struggle, I have come to the conclusion that it is all but impossible to comprehend the politics of the African American fight for liberty and equality in the second half of the 20th century without a thorough treatment of the issue of police corruption and brutality specifically directed against the black population. On the one hand, police brutality served as one of the catalysts of black protest, on the other hand, *any* form of publicly visible protest by blacks was certain to lead to another round of clashes and confrontations with the police.

In the second part of this thesis, I will turn to the issues more immediately connected with the narrower issue of the criminal case of Abu-Jamal. Towards the end of the sixties, behind the “surface” phenomenon of police brutality and corruption, an even more significant development began to emerge. The heavy-handedness of the police began to be accompanied by an explosion of mass incarceration and the accelerated use of the death penalty. Millions of people were drawn into the wheels of the criminal justice system, often for mi-

³⁰ The concrete conditions will be detailed below. The question of the colonial or quasi-colonial status of African Americans in the United States has been hotly debated for many decades. It is discussed in Harry Haywood, *Black Bolshevik. Autobiography of an Afro-American Communist* (Chicago: Liberator Press, 1978), p. 231-34, 278-80, 332-38, and 551-54, and many other sources.

³¹ An extensive survey including sources will be given in chapter four.

³² Many examples of police brutality, with the police often working hand in glove with the judiciary, will be given in the following text. Two contemporary cases of police brutality and judicial corruption that gained international notoriety were the beating of black motorist Rodney King in Los Angeles 1991 and the killing of Amadou Diallo in New York in 1999. In both cases, the police officers involved were subsequently acquitted. Going back a few decades, a “study of the Department of Justice found that in the eighteen-month period from January 1958 to June 1960, some 34 percent of all reported victims of police brutality were Black. And given the general fear of police retaliation, especially in the South, it is likely that the percentage was actually much higher.” Robin D. Kelly: “‘Slangin’ Rocks ... Palestinian Style.’ Dispatches from the Occupied Zones of North America,” in Jill Nelson (ed.), *Police Brutality. An Anthology* (New York/London: W. W. Norton & Company, 2002), p. 37.

nor violations. The natural concomitant was the gutting of traditional defendant's rights in the courts and an increasing corruption in court procedures. As mentioned, members of racial minorities, the poor, and political militants were disproportionately targeted by these developments.³³

Against this backdrop, in the fifth chapter I will try to show how the issue of race, social status, and political stance played themselves out in the trial of Mumia Abu-Jamal. In addition, I will investigate the events that led to the death of Philadelphia police officer Daniel Faulkner and the arrest and indictment for murder of Abu-Jamal primarily from the perspective that was available at that time. This same perspective will be used for recounting the trial in which Abu-Jamal was sentenced to death. While such a perspective must necessarily be constructed through hindsight and while I will not refrain from illuminating it with some of the facts that have become known only later (or whose importance was not clear at the time), one can properly evaluate the actions of the persons and institutions involved only from the vantage point accessible to them during the events themselves.

A sixth chapter will take up the theme of the punitive development in the American correctional system during the last twenty to thirty years. This development, which has led to the execution of close to a thousand people³⁴ and the incarceration of the enormous number of U.S. citizens quoted above, took place mostly after Abu-Jamal's arrest and during the years he spent in confinement. It is for this reason that I treat this issue only after I have dealt with Abu-Jamal's trial and conviction. Important in connection with the topic of this thesis is that the prospects for release from prison of many political activists who were incarcerated for alleged or real violations of the law in the seventies and eighties have worsened considerably. As the sole political militant on death row, Abu-Jamal was also directly affected by these developments. The continuing danger of execution he is still faced with despite mounting evidence for his innocence³⁵ must be seen in this larger context.

In the early nineties of the last century, the case of Abu-Jamal began to be known, first nationally in the U.S.A., then internationally. As is often the case, the indispensable factor required for such a development was that a tiny band of activists around Abu-Jamal found the

³³ For the case of the death penalty against political militants, the data base is slim, but here, I refer to the Abu-Jamal case itself, whose political dimensions and political use by the prosecution are discussed in detail below. For the correlation between race and class on the one hand and the use of the death penalty as well as incarceration on the other, see sources in footnotes 8, 10, and 11. For prosecutorial misconduct and extremely long prison sentences in the case of political militants, see chapter four below; further, Ward Churchill/Jim Vander Wall: *The COINTELPRO Papers* (particularly chapter 5 and 7), and for an exemplary case Peter Matthiessen, *In the Spirit of Crazy Horse. The Story of Leonard Peltier and the FBI's war on the American Indian Movement* (Harmondsworth: Penguin, 1992).

³⁴ The actual number until December 31, 2002 is given as 820 on the website of the DPIC. If executions continue at the present rate of 60-70 per year, the number of a thousand will be reached towards the end of the year 2005.

³⁵ This evidence will be discussed in chapter seven.

appropriate ways and means to show to concerned people what happened in Abu-Jamal's case and to demonstrate the myriads of rights that they considered violated in Abu-Jamal's treatment at the hands of the American judicial system. All of a sudden, the case of Mumia Abu-Jamal became "breaking news" all over the United States and then, the world.

Also of enormous importance was the fact that, as already hinted at by Stephen Shalom in my initial quotation, the personality of Abu-Jamal himself has served as a further rallying point. Not only was – and is – he considered by many as a "beautiful human being," but he has been, even in prison, a very articulate spokesperson for the very principles whose application to his own case he claims to have been denied in such a stark manner.³⁶ In addition to this, the irony that lay in the fact that Abu-Jamal, with his history as a political activist and journalist who occupied himself primarily with the themes of the abusive power of the state and the denial of racial and social equality, finally became a victim of the tendencies he had fought against so strenuously, was not lost on the fledgling movement.

It is clear that even the most determined activists can do very little if they are not able to tap into a social and political potential that is already there. The early nineties were the point when the issues sketched above – the death penalty, the exploding prison population in the U.S.A., prosecutorial and judicial misconduct in shocking dimensions, racial oppression combined with social discrimination, police corruption and brutality and the political struggle Abu-Jamal stood for – merged with such a potential, creating a mass movement of extraordinary proportions. At the core of the process that made these developments possible were the revelations surrounding Abu-Jamal's attempt to win a new trial during three successive post-conviction hearings in 1995, 1996, and 1997. For the first time, the defense and Abu-Jamal's supporters were able to relate to a broader public their story about how Abu-Jamal's murder trial was stage-managed by the police, the prosecution, and the judge from beginning to end, and how the deck against him was stacked in such a manner that he never had a chance of acquittal.

In the seventh chapter, I will use the revelations at these hearings to demonstrate how this stage-management or, as the supporters of Abu-Jamal say, "frame-up" worked. In the process, I will also show how, fed by these revelations about the workings of the judicial system in the particular case of Abu-Jamal, his ordeal, which in 1990³⁷ was unknown even to many political activists, finally managed to "climb a world stage"³⁸ and came close to being an integral part of the agenda of lib-

³⁶ Abu-Jamal's first two books, *Live from Death Row* (New York: Addison-Wesley, 1995) and *Death Blossoms. Reflections from a Prisoner of Conscience* (Farmington, PA: Plough Publishing House, 1997) were published during this period.

³⁷ In 1990, his "regular" appeal was formally denied by the Supreme Court of the United States

³⁸ This phrase was used by the local newspaper *Philadelphia Inquirer* during Abu-Jamal's Post-Conviction hearings 1995. "Abu-Jamal's long climb to a world stage," *Philadelphia Inquirer*, August 13, 1995.

eral and leftists political currents all over the world. As part of the explanation of why this happened, I will take a closer look at how participants in the support movement for Mumia Abu-Jamal perceived the workings of the judicial system in Philadelphia and the United States in general as well as the bias of the workings of the criminal justice system against members of racial minorities and the poor, as they were described in chapters 5 and 6.

In an addendum to this chapter, I will present and elucidate still new facts of the case that have come to light during the last two years, based on the information I was able to assemble up to March 2003. I will argue that this new material strongly points not only to the actual innocence of Abu-Jamal in the murder of Daniel Faulkner, but also to a still deeper degree of prosecutorial, judicial, and police misconduct, a misconduct that, on the part of the police, apparently even reached murderous proportions. At the moment, it is not yet clear what the consequences of these revelations will be as far as the movement for the life and freedom of Mumia Abu-Jamal is concerned. In my conclusion I will try to sum up and evaluate the facts and arguments presented previously and speculate on what course the future development in this specific case might take.



3. Houses in Cleveland, 1966.



4. Demonstration in Birmingham, Alabama, 1960s.



5. Demonstrators at the August 28, 1963 March on Washington.

1. From Civil Rights to Panther Movement: The Black Liberation Struggle After World War II

1.1 Modest Beginnings

In the United States, the period after World War II saw a renewed upsurge in the struggle for racial equality. During the first two decades of this struggle, its proponents employed primarily legal and peaceful methods of protest, but in the mid-sixties the frustrations suffered in the fight of the disadvantaged black population for equality and freedom frequently erupted into a proliferation of fierce militancy.

After World War I, the participation of black men in the battles in Europe had already led to serious racial clashes when the black soldiers, who by all accounts had fought well on the battlefields, came home and expected a better treatment of the black population than before.³⁹ At the end of World War II that had been fought against the most vicious form of racism the world had ever experienced, the expectations on the part of black people were even higher. Over three million black men had registered for service, about half a million were stationed in Africa, the Pacific, and Europe, and once again, the – segregated – black troops fought valiantly. This was complemented by the war efforts of another million black women and men in the war industry in the U.S.A.⁴⁰ Those who had given their lives and their labor in the war and in the factories to defeat fascism were now determined not to submit to racist oppression in the United States any longer. Or as Manning Marable puts it: “The blatant contradiction between the country’s opposition to fascism and the *herrenvolk* state and the continued existence of Jim Crow in the States after 1945 was clear to all. Blacks and an increasing sector of liberal white America came out of the war with a fresh determination to uproot racist ideologies and institutions at home.”⁴¹ The federal government as well as the US Supreme Court were under intense pressure to do something about a situation that led to pressure by potential black voters in key urban areas as well as to the treat of racial disturbances, especially in the South.

³⁹ On black soldiers in World War I, see the chapter “A Black Regiment in World War I,” in Haywood, *Black Bolshevik*, p. 36-80. In the prologue of his book, Haywood, describes his 1919 return from the battlefields of Europe to an also war-torn Chicago: “Exactly three months after mustering out of the Army, I found myself in the midst of one of the bloodiest race riots in U.S. history. It was certainly a most dramatic return to the realities of American democracy.

“It came to me then that I had been fighting the wrong war. The Germans weren’t the enemy – the enemy was right here at home. These ideas had been developing ever since I landed home in April, and a lot of other Black veterans were having the same thoughts.” Haywood, *ibid.*, p. 1.

⁴⁰ Data from Marable, *Race, Reform, and Rebellion*, p. 15.

⁴¹ Marable, *ibid.*, p. 14.

On April 3, 1944, the U.S. Supreme Court had already put a ban on all all-white primary elections. In May 1946, the court ruled state laws requiring segregation on interstate buses unconstitutional. In July 1948, President Truman signed an executive order “to put into effect as rapidly as possible”⁴² a policy of racial equality in the armed forces and signaled more reforms for the future. Black votes then turned out to be the decisive factor when he won a very close presidential election against his Republican opponent Thomas Dewey. In 1950, the Supreme Court ruled that where a state did not have a law school for blacks, it had to admit the black applicant to a white law school.⁴³

And then, of course, in 1954 there came the landmark decision by the Supreme Court on the case *Brown v. Board of Education* that ordered the desegregation of schools in general. It was the most important legal decision on the matter of racial equality since the Supreme Court’s 1896 *Plessy v. Ferguson* ruling that established the “separate but equal” decision, and it was an outright reversal of that ruling.

Even before, there was visible progress in many areas, e.g., black voter registration in the South which went up from an almost incredible low of 2 percent in 1940 to 12 percent in 1947, or clear gains in the median income of blacks as compared to whites in the decade from 1940 to 1950.⁴⁴ But that progress fell far short of expectations. The court decisions on the state and federal level did not mean that the institutions and states that in theory were affected by these decisions acted upon them. In a pattern that was to continue into the early sixties, the defenders of the existing situation reacted with endless delays and stalling, sometimes open defiance.

Until the mid-fifties, however, this had not led to the emergence of a mass movement that actively challenged the status quo and demanded an acceleration of progress by direct action. In large measure, the concessions to the demands of the black population for greater equality had been made in the context of the cold war. Under conditions where the United States had to compete with the Soviet Union for influence with the newly emerging de-colonized nations, particularly in Africa, its racial situation at home placed it in an impossible situation. But at the same time, in a way these concessions were part of a *quid pro quo*. The postwar years saw a stifling of political dissent in the United States similar to the “Red Scare” that had followed World War I. According to Manning Marable, “the paranoid mood of anti-

⁴² Quoted in Zinn, *Postwar America 1945-1971*, p. 122. Zinn also reports that apparently, “as rapidly as possible didn’t mean much, since even in 1960, the desegregation of the armed forces was still not completed.

⁴³ Zinn, *Postwar America*, p. 123; for details, see Peter Irons, *A People’s History of the Supreme Court* (Harmondsworth, Penguin, 1999), p. 372-377.

⁴⁴ Marable, *Race, Reform, and Rebellion*, p. 16. On income, he quotes labor historian Philip S. Foner, *Organized Labor and the Black Worker, 1919-1973* (New York: International Publishers, 1974), p. 270; the numbers are income of nonwhites among wage and salary earners 41 percent of the white median in 1939 to 60 percent in 1950.

communist America made it difficult for any other reasonable reform movement to exist.”⁴⁵
Draconian measures adopted by state legislatures served to reinforce the general mood:

In 1949, 15 states passed “anti-subversion laws.” “Writing or speaking subversive words” in Michigan was a crime punishable by a life sentence in prison. In 1951, Tennessee mandated the death penalty for the espousal of revolutionary Marxist ideas [...] Georgia, Indiana, Pennsylvania and Washington outlawed the Communist Party. The U.S. Attorney General, Tom Clark of Texas, warned all Americans in January 1948: “Those who do not believe in the ideology of the United States, shall not be allowed to stay in the United States.”⁴⁶

In such a context, it is hardly surprising that the leadership of an already heavily oppressed and persecuted minority such as the African Americans for the most part not only joined the anti-communist crusade, but also tried their very best to demonstrate their loyalty by working *within* institutions, rather than against them. Within Congress, black deputy Adam Clayton Powell was the lone voice against the restriction of theoretically cherished and constitutionally enshrined civil liberties in the name of the struggle against the red menace. But he was isolated even in mainstream black leadership.⁴⁷

But deliberate moderation on the part of the black leadership did not prevent growing discontent on the part of the black population at large. Moreover, even in the late forties, there were first attempts at non-violent direct action by organizations like the (racially mixed) Congress for Racial Equality (CORE). In a visionary move, CORE “staged a series of non-violent boycotts to desegregate lunch counters and schools in a series of northern and mid-west cities.”⁴⁸ CORE activists even anticipated the “Freedom Rides” of the sixties when they tested the May 1946 Supreme Court desegregation decision on interstate buses in the upper South in autumn 1946. To be sure, in an experience that became all too common, they “were repeatedly arrested and intimidated by southern police, bus drivers, and the local courts,” but were nevertheless able to establish “a pattern of civil rights protest which would be revived with greater effectiveness as the Freedom Ride movement in the 1960s.”⁴⁹

The long and the short of it was that at the beginning of the fifties, there was little progress in the realm of racial equality. In terms of tangible results for the black population, even the 1954 desegregation decision of the U.S. Supreme Court at first didn’t change much. In some states in the South, even voter registration didn’t change perceptively in the postwar years. Howard Zinn notes that “in Mississippi at the height of Reconstruction, when federal troops

⁴⁵ Marable, *ibid.*, p. 18.

⁴⁶ *Ibid.*, p. 20.

⁴⁷ *Ibid.*, p. 21-22.

⁴⁸ *Ibid.*, p. 25.

⁴⁹ *Ibid.*

enforced Negro rights in the South, 67 per cent of the Negro population was registered to vote, as compared with 55 per cent of the white population; by 1955, the registration figures for Negroes was down to 4 per cent while that of whites was 59 per cent.”⁵⁰

Despite all the legal victories that had been won by dedicated efforts over many years, a new approach to promote civil rights for African Americans was clearly warranted. It was only a question of time and opportunity when new methods of resistance against racial oppression would be tested on a mass scale. Zinn, a white sympathizer of the movement who not only later chronicled it as a historian but who also at various times took part in it, summarizes the mood developing in the fifties among many blacks and the consequences the subsequent actions would later have:

If racial segregation was going to come to an end, if the century of humiliation that followed two centuries of slavery was going to come to an end, black people would have to do it themselves, in the face of the silence of the federal government. And so they did, in that great campaign called the civil rights movement, which can roughly be dated from the Montgomery Bus Boycott of 1955 to the riot in Watts, Los Angeles, in 1965, but its roots go back to the turn of the century and it has branches extending forward to the great urban riots of 1967 and 1968.⁵¹

1.2 From Montgomery 1955 to Watts 1965

On December 1, 1955, Rosa Parks was arrested for violation of the segregation code of the city of Montgomery, Alabama. As she was riding home in the middle, “racially neutral” section of the municipal bus, the front section reserved for whites filled up, and when the bus driver ordered her to give up her seat for a white passenger, she refused. At the time, Rosa Parks had already been a member of the NAACP for a long time, but her transgression of the local segregation laws had not been preplanned in advance. The NAACP in Montgomery had, however, already been experimenting with similar plans for quite a while. The general idea of putting an end to segregation by direct action was very much in the air, and Parks’ spontaneous act proved to be the single spark that can ignite a prairie fire.⁵²

During the rest of December and most of the following year, there was a general boycott by blacks of the local buses in Montgomery, a boycott that according to one source was followed by about 95 percent of the black population. It was during this boycott that the young Reverend Dr. Martin Luther King Jr. emerged as an internationally renowned leader of the black emancipation movement in then U.S.A. On a local level, he successfully advocated the tactic

⁵⁰ Howard Zinn, *Postwar America 1945-1971* (Boston: South End Press, 1973/2002), p. 127.

⁵¹ Zinn, *Declarations of Independence*, p. 240-241.

⁵² This description is based on the biography by Douglas Brinkley: *Rosa Parks* (New York: Viking, 2000), p. 103-110.

of non-violent civil disobedience in the face of brutal harassment by white police and state officials, and on a world plane, almost overnight he “became the charismatic symbol of the political aspirations of millions of colored people across the world.”⁵³

On November 13, 1956, another major legal victory of the movement followed; the U.S. Supreme Court outlawed the segregation practices on Montgomery buses. Later, the Montgomery bus boycott was emulated in a number of places in the United States, among them Tallahassee, Florida and Birmingham, Alabama.⁵⁴ In 1957 and again in May 1960, Congress passed two packages of measures towards desegregation and guarantees for the right of blacks to vote called Civil Rights Acts.

In terms of everyday life, however, the progress was still very slow. Virtually nothing that was signed into law was put into practice without a bitter fight. Moreover, white supremacists initiated a counter-mobilization to defend segregation. There were strong segregationist factions in both big political parties, and even outside of traditional institutions. In 1956, the segregationist States’ Rights Party carried 7,2 percent of the vote in Louisiana, 17,3 percent in Mississippi, and a stunning 29,5 percent in South Carolina.⁵⁵ The NAACP, as an organization certainly a voice of moderation within the ranks of the black struggle, was declared a “subversive organization” in South Carolina. And the activities of the defenders of the racial status quo were not in vain. As late as 1965, eleven years after the 1954 school desegregation decision of the Supreme Court and ten years after an additional Supreme Court decision that ordered the state authorities to carry out desegregation with “all deliberative speed,” “more than 75 percent of the school districts in the South were still segregated.”⁵⁶

At the same time, the largely white American unions associated in the AFL-CIO didn’t do much to further the black struggle, although veteran black labor leader A. Philip Randolph and another black union leader, Willard S. Townsend, were appointed to the Executive Council when AFL and CIO merged into the new organization AFL-CIO in 1955.⁵⁷

The passivity of the unions reflected a deeper social, and even more so, racial division in the United States of the 1950s. For the white middle classes as well as for the huge majority of white blue collar workers, the fifties were a decade of economic success. There was a hitherto unknown feeling of economic and job security and access to consumer goods. Together with the stifling political climate in the first decade after World War II, this contributed to a climate hostile to far-reaching social change.

⁵³ Marable, *Race, Reform, and Rebellion*, p. 42.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*, p. 43.

⁵⁶ Zinn, *Postwar America*, p. 124-25.

⁵⁷ Marable, *Race, Reform, and Rebellion*, p. 51.

The situation and the feeling of the black population were quite different. Between 1947 and 1952, the gap between non-whites and whites in terms of median income had diminished considerably; in the latter year, the median income of non-whites was 57 percent of that of whites. But in 1959, that percentage had by and large reverted to the previous level, namely, 52 percent. Only a tiny percentage of non-whites could be found in the highest income category, while a full fifth of all non-white families had an *annual* median income of about \$ 1,200 and were thus living in extreme poverty. Similar differences could be found in unemployment statistics: in 1958, the percentage of unemployed non-whites stood at 12,6 percent, double the number of whites. These numbers added up to a situation where in 1960, “55,9 percent of all non-whites lived below the ‘poverty level,’ a federal government index which indicates a severe lack of the income necessary to provide food, clothing and shelter for any family.”⁵⁸ While political progress for blacks came at snail’s pace, their economic situation as compared to the white majority did little to lift their spirit. In 1962, the median income of non-white males had fallen even *in absolute terms* below the 1960 level. The summary by Manning Marable, who assembled the figures given above, says it all:

It was no victory for black men to be allowed to sit in a formerly white-only theater or rent hotel accommodation which had been segregated, when they had no jobs. It was cruel to permit black children to sit in all-white schools, when their mothers had no money to provide their lunches.⁵⁹

All these difficulties and setbacks notwithstanding, the mainstream of the civil rights movement from 1955 to 1965 steadfastly pursued a strategy of non-violence and peaceful civil disobedience. Until at least the great March on Washington in the year 1963 and arguably way beyond, the movement was dominated by religious forces. In organizational terms, it was led by the Southern Christian Leadership Conference (SCLC), founded in 1957 and with Reverend Martin Luther King, Jr. at its top. In 1960, however, the SCLC was supplemented by a youth organization affiliated with it and founded with the help of SCLC member Ella Baker, the Student Non-violent Coordinating Committee (SNCC), as well as by a rejuvenated and reinvigorated CORE.⁶⁰

It was at that time that a new drive for desegregation and voter registration spearheaded mainly by young people began. One of the first events that once again, like the Montgomery bus boycott, drew international attention is described accurately and graphically by Abu-Jamal’s biographer Terry Bisson:

⁵⁸ *Ibid.*, p. 54.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, p. 63

The rules were changing. [...]

In North Carolina, a few bold college students decided they'd had enough of Jim Crow; of Yessir and Nosir; of stepping aside and looking away first; of segregation's myriad humiliations, large and small, like the Chinese "death of a thousand cuts."

So the students sat in at the [segregated] Woolworth Dime Store lunch counter, receiving vicious beatings – and international press attention – for their efforts.⁶¹

The student's North Carolina action in February 1960 served as an example for the "sit-in movement" across the whole country, often engendering the already well-known reaction on the part of the state authorities and segregationist whites: "Nonviolent black protestors were beaten and cut with razors and knives; hot cigarettes and cigars were burned in their arms and faces; they were spat upon and kicked to the floor; policemen locked them by the thousands into cramped, unsanitary jails."⁶²

The next step was a revival of the challenge to the segregation in interstate bus transportation. In December 1960, the Supreme Court had ruled once more on the matter, and the ruling was first put to test by an interstate bus journey from Washington, DC, into the South organized by members of CORE, SNCC and the SCLC in May 1961. The segregationist reaction to the action as well as to the many subsequent other "Freedom Rides" followed the usual pattern of violent obstruction by white racists and sabotage by the police.⁶³

The same was true of the new wave of voter registration drives that also began at around this time and went on well into the sixties. These efforts at voter registration proved to be of enormous importance for the cause of civil rights as many thousand mainly young people were drawn into the movement.⁶⁴ Increasingly, the sit-ins, the Freedom Rides, and the voter registration drives also attracted the support of young white sympathizers who were alienated by the injustices of American society. Many of them began to perceive

what blacks had always understood: the hypocrisy, the contradiction of America's democracy which was based on the continuous subjugation of the Negro. "They captured and held on to the traditional democratic ideals they had been taught, eliminating the inconsistencies between doctrine and reality that they felt had crept into the preceding generation's practical values in relation to those ideals."⁶⁵

⁶¹ Bisson, *On a move*, p. 25.

⁶² Marable, *Race, Reform, and Rebellion*, p. 62.

⁶³ *Ibid.*, p. 64.

⁶⁴ This is described in considerable detail, with a focus on Mississippi, Georgia and Alabama, in Howard Zinn, *SNCC. The New Abolitionists* (Boston: South End Press, 1964/2002).

⁶⁵ Cited in Marable, *Race, Reform, and Rebellion*, p. 65. The quote is from Debbie Louis, *And We Are Not Saved: A History of the Movement as People* (Garden City, New York: Anchor, 1970), p. 51.

A peculiar role was played by the federal government. For a long time, the world witnessed the spectacle of a state institution that did not enforce its own laws that, in theory, had long abolished many forms of racial segregation. While thousands of primarily young people went to the South during the Freedom Rides or in order to help organize black voter registration drives, more often than not the federal government played the role of an innocent bystander. Not only did the US government refuse to enforce the laws adopted by Congress, it even denied the activists who had taken it upon themselves to put these laws into practice protection by federal marshals. In the southern states, black voters were denied registration under the flimsiest pretext or no pretext at all,⁶⁶ civil rights workers and Freedom Riders were threatened, beaten, wounded and occasionally murdered. Under the doctrine of “states rights,” the forces that opposed racism and apartheid in the United States were not to be granted federal protection, and local police and vigilantes were given free hand “to secure the interests of the country against innovation” in their own peculiar way.

Nevertheless, in response to the massive black protests centering on the question of voter registration, the registration pattern underwent a dramatic reversal during the time. Black voter registration in the whole of the South climbed from 20 per cent of all eligible blacks in 1952 to 40 per cent in 1964. In a later phase, it jumped to 60 per cent in 1968, an increase over 1964 of 50 per cent in just four years.⁶⁷ During the same time, the number of black elected officials climbed from a paltry 100 to 1,400 in 1970.⁶⁸

A high point in the struggle for civil rights was the year 1963. It saw the famous march of 200,000 black and white people on Washington in protest against the indifference of the federal government to the ordeal of the black population. As usual, the March on Washington took place in the midst and in defiance of an atmosphere of segregationist violence. It was preceded by the use of clubs, fire hoses and dogs against black demonstrators by the Birmingham police just three months before, and “just eighteen days after the march, on September 15, a bomb exploded in the basement of a black church in Birmingham; four black girls attending a Sunday school class were killed.”⁶⁹

⁶⁶ One of those engaged in these practices was present U.S. Supreme Court judge William Rehnquist, Jr. The following description is taken from Dennis Roddy’s article on Rehnquist “Just Our Bill,” December 2, 2000 in the *Pittsburgh Post-Gazette*. “The guy called himself Bill. He knew the law and applied it with the precision of a swordsman. He sat at the table at the Bethune School, a polling place brimming with black citizens, and quizzed voters ad nauseam about where they were from, how long they’d lived there – every question in the book. A passage of the Constitution was read and people who spoke broken English were ordered to interpret it to prove they had the language skills to vote.” See <http://www.commondreams.org/views/120200-101.htm>.

⁶⁷ Zinn, *Postwar America*, p. 128.

⁶⁸ Marable, *Race, Reform, and Rebellion*, p. 113.

⁶⁹ Zinn, *Postwar America*, p. 130.

Nevertheless, in terms of the symbolic meaning it acquired over the years and the world-wide attention it garnered, it was a stunning success. Martin Luther King's famous "I have a dream" speech was a succinct summary of the definitions of the goals of the civil rights movement that had enabled it to gain such a large following: "I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slave-owners will be able to sit together at the table of brotherhood."⁷⁰ As James Reston, an observer from the *New York Times*, remarked at the time, each time King referred to his dream, "the dream was a promise out of our ancient articles of faith; phrases from the Constitution, lines from the great anthems of the nation, guarantees from the Bill of Rights, all ending with the vision that they might one day all come true."⁷¹

The elation engendered by the festive atmosphere of the Washington march was, however, not shared by everyone. A harsher line demanding much less deference to the authorities and much more militancy was already very much in evidence. It was articulated most forcefully by Malcolm X, then still spokesman for the Muslim – and black nationalist – Nation of Islam (NOI), a group that, during the 1950s, had struck firm roots among the lower strata of the African American population:

No, it was a sellout. It was a takeover. When James Baldwin came in from Paris, they wouldn't let him talk, because they couldn't make him go by the script. [...] They controlled it so tight, they told those Negroes what time to hit town, how to come, where to stop, what signs to carry, what song to sing, what speech they could make, and what speech they couldn't make, and then told them to get out of town by sundown. And every one of those Toms was out of town by sundown. Now I know you don't like my saying this. But I can back it up. It was a circus, a performance that beat anything Hollywood could ever do, the performance of the year.⁷²

In the years from 1963 to 1965, the unity that had allowed a large variety of black organizations like SCLC, NAACP, CORE, and SNCC to mobilize for events such as the one in Washington began to crack. The pressure for change, for immediate change of the political and, even more so, social situation had been building up too long. The once moderate and anti-communist organization CORE moved to the left, and its membership became blacker. SNCC, which had been founded under the auspices of the SCLC and used to be, in a sense, the latter's youth organization, radicalized and increasingly turned to black nationalism.⁷³

⁷⁰ Quoted from Leslie H. Fishel, Jr. and Benjamin Quarles, *The Black American. A Documentary History* (Glenview, IL: Scott, Foresman and Company, 1967/1970), p. 533-34, here p. 534.

⁷¹ Quoted in *ibid.*, p. 530. In his speech (a speech short enough to be reprinted on countless leaflets, posters, postcards ever since), King also quoted from the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal." *Ibid.*, p. 534.

⁷² Zinn, *Postwar America*, p. 131.

⁷³ For the development of both CORE and SNCC, see Marable, *Race, Reform, and Rebellion*, p. 67-69.

In retrospect, although Martin Luther King continued by far the most prominent and respected leadership position, the years between 1963 and 1965 can be seen as a period in which the vanguard of the black struggle was changing. During these years, there actually emerged two factions of the movement whose differences became increasingly more pronounced. The spokesperson for the first of these currents, which was clearly predominant until 1963, was King, the most important speaker, in terms of personal charisma and fame, for the rapidly increasing second current was Malcolm X. The split developed along two closely connected dimensions that were both of equal importance, namely method and content. King stood for non-violent civil disobedience as the most radical method, and for the brotherhood of black and white as sketched in the “I have a dream” speech quoted above. Malcolm X, on the contrary, advocated black liberation “by any means necessary,”⁷⁴ and in contrast to King he emphasized black identity and nationhood.

In general, there is no doubt that the movement for black emancipation as a whole had gained considerable ground during the early sixties. More rights had been won, the voter registration drive in the South was proving increasingly successful and the federal government had finally been drawn into the struggle. Already in October 1962, the U.S. government had sent federal marshals to enforce the enrollment of black Mississippi resident James Meredith at the segregated University of Mississippi. The massive resistance put up by local forces, including Mississippi governor Ross Barnett brought the federal government close to losing its face, and at times, it had to station several thousand soldiers in Oxford, Mississippi, to break the resistance – and finally broken it was.⁷⁵ Even more importantly, President Kennedy put his power and prestige behind the cause of civil rights and, on June 12, 1963, announced that he would submit to Congress a strong and comprehensive civil rights bill.⁷⁶ It seemed that for the federal government, there was no turning back anymore on the issue of black civil rights.

But the events that were soon to follow showed that all that progress was not enough; that was too slow and came too late. For one thing, at the time of the assassination of Kennedy in November 1963, the bill had still not been passed. In the meantime, the violence continued. To cite just one of the more prominent cases, on June 21, 1964, two white and one black civil rights workers, Andrew Goodman, Michael Schwerner, and James Earl Goodman, were abducted, tortured and murdered in the vicinity of the town of Philadelphia, Mississippi, by

⁷⁴ These famous words were uttered in an interview with Claude Lewis in December 1964: “*By any means necessary! By any means necessary!* I’m for freedom. I’m for a society in which our people are recognized and respected as human beings, and I believe we have the right to resort to *any means necessary* to bring that about.” See [www](#) etc.

⁷⁵ Marable, *Race, Reform, and Rebellion*, p. 67.

⁷⁶ *Ibid.*, p. 73

white extremist with the complicity of the local sheriff.⁷⁷ In addition to this, there were countless examples of racist brutality against civil rights activists, more often than not tolerated, supported, sponsored or instigated by the police. Moreover, the black movement had long spread to the North, where it didn't have to confront the Jim Crow laws of the South, but had to deal with political, social, and economic issues that were no less serious. Critics of the movement's mainstream felt that these issues were being insufficiently addressed. They requested that demands for affordable housing, decent and desegregated jobs, and an end to the ever-present police brutality against the black communities and black political activists be put on the agenda. Towards the mid-sixties, the situation between the forces fighting for black emancipation and the forces of institutionally and politically entrenched racism in the U.S.A. increasingly resembled the one described by the image of "the irresistible force and the immovable object." In other words, a situation that had started with legal battles after World War II and had continued with nonviolent boycotts, marches, and civil disobedience had become downright explosive.

Interestingly, one of the first rumblings of the coming explosions was heard in Philadelphia. It is certainly not an accident that they were triggered by a traffic incident. Exactly as in other American cities, the Philadelphia police was predominantly white, and also exactly as in other cities, by then traffic controls of blacks by the police had become an extremely sensitive issue.⁷⁸ In August 1964, the arrest of a black woman for a traffic violation in the black "ghetto" of North Philadelphia led to three days of violent confrontation between enraged African Americans and a police that barricaded the whole area.⁷⁹

The general background of the disturbances in Philadelphia was also the same as in the other big American cities that were to experience black uprisings during the sixties: "All these disorders had a common history: long-standing grievances in the black ghetto based on poverty, unemployment, dilapidated housing, recurring instances of police brutality."⁸⁰ As for the latter, Philadelphia, too, was the site of one of the first in a long series of urban rebellions which fit exactly into the pattern described by Howard Zinn: "In almost all the urban riots, the pre-

⁷⁷ For a detailed description, see Florence Mars: *Witness in Philadelphia* (Baton Rouge/London: University of Louisiana Press, 1977).

⁷⁸ The issue has not been resolved in the meantime. Police harassment of blacks in general and black motorists in particular continues to be a contested issue under the headings of "racial profiling" and "DWB" ("driving while black"), the latter being a creative and ironic modification of the official traffic offense DWI (driving while intoxicated). For more on this topic, see Tim Wise, "Racial Profiling and Its Apologists," *Z-Magazine*, March 2002. It is also ironic that the event that gave rise to the shooting death of officer Daniel Faulkner and the subsequent ordeal of Mumia Abu-Jamal was a traffic stop.

⁷⁹ The event is described in detail below, 2.2.

⁸⁰ Zinn, *Postwar America*, p. 132.

precipitating incident was police action against a black man, woman, or child.”⁸¹ As it turned out, the clashes in Philadelphia were just for starters. Soon after the violent days on Columbia Avenue, the black nationalist leader Malcolm X, who had split from the Nation of Islam with its narrow black separatism and turned to increasingly revolutionary positions, was murdered in New York on February 21, 1965. Characteristically, although the evidence pointed to hit-men sent by the Nation of Islam as perpetrators, there were immediate rumors about government complicity, rumors that haven’t died down to this day. Then, another six months after the assassination of Malcolm X, came the rebellion of one of the poorest neighborhoods of America’s second largest city, Los Angeles, the so-called riots in Watts. What sparked the events was a repeat performance of what had happened in Philadelphia the year before:

August 11, 1965, the night the controls snapped in Watts, was hot and humid. The precipitating incident was commonplace. Officer Lee. W. Minikus of the California Highway Patrol stopped a ten-year-old gray Buick at the corner of 116th and Avalon, in the heart of the ghetto area. At the wheel was Marquette Frye, twenty-one, a black. Next to him was his brother Ronald, twenty-two. Both had been drinking.⁸²

In the instance, the two brothers were not treated with particular brutality, but the hassle that followed the arrest of the driver nevertheless quickly turned into several days of violent streetfighting, with people chanting slogans like “Get out, Whitey,” “Motherfucking white cops,” and the by now famous “Burn, baby, burn.”⁸³ In the analysis of one of the chroniclers of the politically turbulent sixties in the U.S.A., former *Washington Post* and *New York Post* reporter Milton Viorst,

the best answer to “Why Watts?” may be “Why not?” Rioting could have started in any of a dozen cities in 1965, and by chance, circumstances conspired to select Watts. Nobody wanted the riot, nobody plotted to start it, nobody led the marauding bands into battle. But, as if they had been coiled for a signal, ten thousand blacks took to the street that week to loot and burn, a few of them to maim and kill.

When the rioting was over, 34 persons were dead, almost all of them black. Whole blocks of buildings were burned to the ground, and 3,500 adults and 500 juveniles had been arrested. An army of 14,000 National Guardsmen, in addition to 1600 police officers, had been required to restore order.⁸⁴

There can be no doubt that the rebellion in Watts signaled the end of an era. Peaceful demonstrations, non-violent protest, and civil disobedience of course continued, but no longer

⁸¹ *Ibid.*, p. 131.

⁸² Milton Viorst, *Fire in the Streets. America in the 1960's* (New York: Simon and Schuster, 1979), p. 330.

⁸³ *Ibid.*, p. 331.

⁸⁴ *Ibid.*, p. 311.

commanded the headlines. The long fought-for Civil Rights Act banning racial segregation (signed into law by President Johnson on July 2, 1964) and the August 6, 1965 Voting Rights Act giving federal guarantees against the discrimination of blacks in elections were overtaken by the events. Among millions of African Americans in the United States, a new spirit of militancy had taken over. A journalist from the West Coast of the U.S.A., Robert Connot, vividly captured this change in his book *Rivers of Blood, Years of Darkness*: “The Los Angeles riot symbolized the end of the era of Negro passivity – passivity that took the form of the doctrine of nonviolence, and the acceptance of white leadership in the civil rights struggle. In Los Angeles the Negro was going on record that he would no longer turn the other cheek. That, frustrated and goaded, he would strike back, whether the response of violence was an appropriate or no.”⁸⁵ As such, this shift had little to do with the various political programs advanced in the black liberation movement. But Watts 1965 ushered in a whole period where the points of reference for any discussion of the next steps towards black emancipation were radically altered. That change also had much to do with the fact that the focus of the black struggle had shifted to a considerable degree to the urban North and cities in the West like Los Angeles, San Francisco, and Oakland. And thus, according to Manning Marable, even before the assassination of Malcolm X

many social critics sensed that nonviolent direct action, a tactic of protest used effectively in the South, would have little appeal in the Northern ghetto. Far more likely were a series of urban social upheavals which could not be controlled or channeled by the civil rights leadership ... In the spring and summer months of 1964, 1965, 1966, 1967 and 1968, massive black rebellions swept across almost every major US city in the Northeast, Middle West and California. In Watts and Compton, the black districts of Los Angeles, black men and women took to the streets, attacking and burning white-owned property and institutions. The [1965] Watts rebellion left \$ 40 million in private property damage and 34 persons killed. Federal authorities ordered 15,000 state police and National Guardsmen into Detroit to quell that city’s uprising of 1967. In Detroit 43 residents were killed; almost 2,000 were injured; 2,700 white-owned businesses were broken into, and 50 per cent of these were gutted by fire or completely destroyed; fourteen square miles of Detroit’s inner city were torched; 5,000 black persons were left without homes. Combining the total weight of socio-economic destruction, the ghetto rebellions from 1964 to 1972 led to 250 deaths, 10,000 serious injuries, and 60,000 arrests, at a cost of police, troops, and other coercive measures taken by the state and losses to business in the billions of dollars.⁸⁶

That change in the general mood prevailing among African Americans in the United States was most succinctly expressed in the slogan of “Black Power,” a slogan that stood for a whole and very complex political current that was now taking over. Although the political

⁸⁵ Quoted in Zinn, *Postwar America*, p. 132.

⁸⁶ Marable: *Race, Reform, and Rebellion*, p. 92-93.

programs of its proponents would soon be at odds with each other or even mutually exclusive, the slogan had sufficiently strong roots in a sense of urgency in the black communities to play a defining role in the agenda of the five next years to come.

1.3 “Black Power”

The concept of Black Power, closely associated as it was with an increased militancy and a stress on the right of self-defense had, of course, strong historical roots. For the postwar period, the most fitting point of reference is probably the movement for black armed self-defense that developed at the end of the 1950s under the leadership of Robert Williams, an ex-marine who had become the leader of the Monroe chapter of the NAACP in one of the bastions of segregationism, North Carolina. The events in Monroe are widely regarded as the first prelude to the full-fledged Black Power movement of the mid-sixties.

1.3.1 Monroe, 1957: Negroes With Guns

In the summer of 1957, Robert Williams organized an armed group set up in the form of a rifle club in order to protect the black community in Monroe against nightriding attacks on the black community organized by the Ku Klux Klan. At first, this was limited to armed vigils, but when, after three months the attacks still hadn't stopped, on October 5, 1957, Williams and his armed comrades decided to fight back. The Klansmen were caught off-guard by the un-expected action on the part of “Negroes with guns”⁸⁷ and scattered. Williams, who continued similar actions for another four years, became a legend among the members of the radical fringe of the black movement.⁸⁸

Given the spirit prevailing then, this couldn't last long. In 1959, Williams was forced out of the NAACP for his remark that henceforth violence should be met with violence.⁸⁹ In August 1961, after a brutal attack on Freedom Riders by white vigilantes he was charged with the kidnapping of a white couple and finally had to leave the country to preserve his freedom.⁹⁰ But before he fled to Canada, by his action he had “saved the lives of 17 passive demonstrators who were

⁸⁷ This is the title of the autobiographical account by Robert Williams himself, *Negroes With Guns* (Detroit: Wayne State University Press, 1962/1998).

⁸⁸ The story is recounted in a very illuminating way in Hugh Pearson, *Shadow of the Panther. Huey Newton and the Price of Black Power in America* (Cambridge, MA: Perseus Publishing, 1993), p. 25-26.

⁸⁹ Marable, *Race, Reform and Rebellion*, p. 58; for a fuller account, R. Williams, *Negroes With Guns*, p. 24-37.

⁹⁰ Viorst, *Fire in the Streets*, p. 353. In his book, Williams makes a compelling case that the kidnap accusation was fraudulent and that his two white accusers had in fact been part of the violent white mob that had attacked the Freedom Riders. See R. Williams, *Negroes With Guns*, p. 46-53.

threatened at Monroe's county courthouse by armed gangs of white racists," and given the support this way of dealing with the Klansmen found among many blacks, the oldest and by now most conservative of the bigger civil rights organizations, the NAACP, could only "banish Williams, but [...] could not silence him; neither could they stop the escalation of nationalist sentiment within the black rural South, and urban North."⁹¹ As time went on, the political consequences of this escalation in the struggle could also only be delayed, but not really checked.

In the context of the debate about non-violence and self-defense, it is important not to overlook a feature that would be recurrent in all the many later discussions about the strategy and tactics of the black emancipation movement. Already in 1962, the last chapter of William's book *Negroes With Guns* was titled "Self-Defense: An American Tradition," and after his return to the United States, he said in an interview: "I had always considered myself an American patriot. [...] I have always stressed that I believed in the Constitution of the United States and that I thought it was the greatest document in the world. The problem is [the government and many citizens] didn't respect it."⁹² It was not the general (and vague) ideas contained in the founding documents of the United States that Williams and his militant co-workers rejected. What they objected to was the limited interpretation of these documents and, most of all, the fact that they did not apply to African Americans.

1.3.2 The Deacons of Defense and the Lowndes County Freedom Organization

Several years later, with the escalation of the battle for real, not only legal black freedom, the conditions were ripe for a renewed attempt at organized black self-defense. The organizers of the first such groups drew a direct line back to Robert William's militant group in Monroe:

In 1964, black veterans in Jonesboro, Louisiana, organized the Deacons for Defense and Justice, a self-defense organization that soon claimed between fifty and sixty chapters in five Southern states. Though these figures were vastly inflated to intimidate the Ku Klux Klan and the police, the legend of the Deacons encouraged similar groups to spring up across the South. "We had to arm ourselves because we got tired of the women, the children being harassed by white night-riders," Deacon spokesperson Charles Sims told an interviewer. Your doctrine of self-defense set the stage for the acceptance of the Deacons for Defense and Justice," Lawrence Henry wrote to Williams in the spring of 1966. "As quiet as it is being kept, the Black man is swinging away from King and accepting your tit-for-tat philosophy."⁹³

⁹¹ Marable, *Race, Reform, and Rebellion*, p. 58.

⁹² Quoted in William's biography by Timothy B. Tyson: *Radio Free Dixie. Robert F. Williams and the Roots of Black Power* (Chapel Hill & London: University of North Carolina Press, 1999), p. 304.

⁹³ Tyson, *Radio Free Dixie*, p. 291.

And that was in effect what was happening. A year before the “Deacons” were founded, Stokeley Carmichael, one of the young radical leaders who were increasingly taking over SNCC, decided to permanently set up camp in the South to do voter registration. But this was not because Carmichael believed in elections; rather, he saw the voter registration as an opportunity for blacks “to stand up and defy the white-run system. It was not the ballot itself, he said, but infusing blacks with this kind of courage that was the road to transferring power.”⁹⁴ He also later recalled that during those days one of his heroes and that of the SNCC militants was none other than Robert Williams.⁹⁵ Carmichael had extraordinary talents as an organizer and therefore great standing within SNCC, and together with his more and more open endorsement of armed self-defense, this line of struggle increasingly gained prestige.

Despite the political differences that had developed between the militants of SNCC and Martin Luther King, Carmichael and the SNCC activists took part in the five-day protest march of King and three-thousand other marchers from Selma to Montgomery in March 1965. Once again, the idea behind this was “infusing blacks with the kind of courage” that was necessary for the conquest of power.

In the same year, Carmichael was already busy putting together a new organization: the Lowndes County Freedom Organization (LCFO), founded in the summer of 1965 in the particularly segregationist Alabama county of Lowndes. It was in part modeled on the Deacons for Defense, with which it shared a crucial feature: the readiness for armed black self-defense against assaults by white racists.

What was new was that it also reached out into the political sphere and combined a militant organizational approach with a readiness to participate in elections. In fact, it was designed specifically to counter the influence of the racist Alabama politician (and later candidate for the Democratic presidential nomination) George Wallace, who dominated the Democratic Party in the South and peddled slogans like “White Supremacy.” The LCFO registered as an independent political party scheduled to take part in the primary elections in May 1966 and the following regular elections on November 8. In a county where in autumn 1965 the percentage of eligible black voters on the voter rolls had still been in the single digits, the LCFO scored a spectacular victory in May 1966, when it managed to meet the Alabama twenty-percent quorum required to be put on the ballot for the general election in the county.⁹⁶

⁹⁴ Viorst, *Fire in the Streets*, p. 355.

⁹⁵ *Ibid.*, p. 353.

⁹⁶ Some of the details are described in the authoritative account of the history of SNCC by Clayborne Carson: *In Struggle. SNCC and the Black Awakening of the 1960s* (Cambridge, MA: Harvard University Press, 1981/1995), p. 164-166. In absolute numbers, after five months of diligent work, SNCC workers had managed to get no more than 250 blacks on the registration rolls. Viorst, *Fire in the Streets*, p. 363, gives the even lower number of 50-60.

The spirit of the new organization was captured very well by the emblem that was prominently on display wherever there was a chapter, namely, the snarling black panther that was later to be adopted by the Black Panther Party. What the emblem stood for was eloquently explained by John Hulett, a SNCC worker who had participated in organizing it:

The black panther is an animal that when it is pressured moves back until it is cornered; then it comes out fighting for life or death. We felt we had been pushed back long enough and that it was time for Negroes to come out and take over.⁹⁷

On election day, November 8th, 1966, the LCFO was of course beaten by the county organization of the Democratic Party, but it did remarkably well. Given the fact that in 1961, according to a study by the U.S. Civil Rights Commission, not a single African American had been registered to vote, the average results of the Black Panther candidates of sixteen hundred votes were quite an achievement.⁹⁸

In the meantime, another significant event took place in the summer of 1966. When one of the pioneers of the civil rights movement, James Meredith⁹⁹ was shot and wounded by white gunmen while he was on a lone “March Against Fear” from Memphis, Tennessee, to Jackson, Mississippi, designed to encourage voter registration in the South, King’s SCLC, CORE and SNCC sprang into action to continue the march. After all the organizing it had done in the South, SNCC quickly dominated the marathon demonstration; significantly, it also arranged, over King’s objection, to have the Deacons for Defense as armed protection for the march. This armed protection, however, didn’t prevent the newly elected SNCC chairman Carmichael from being arrested on June 17, 1966, by white police for one of the innumerable allegedly illegal acts black protesters could commit in the South, in the instance, erecting a tent for the marchers on the premises of a black high school in the town of Greenwood, Mississippi.¹⁰⁰ This time, after his release from prison, Carmichael exploded in rage before a crowd of several hundred already angered by the arrests:

This is the twenty-seventh time I have been arrested. I ain’t going to jail no more. The only way we gonna stop them white men from whuppin’ us is to take over. We been sayin’ ‘freedom’ for six years and we ain’t got nothin’. What we gonna start sayin’ now is – Black Power!¹⁰¹

⁹⁷ *Ibid*, p. 166.

⁹⁸ The numbers are from Viorst, *Fire in the Streets*, p. 361, 368.

⁹⁹ For Meredith, see above, p. 23.

¹⁰⁰ The events are described in Viorst *Fire in the Streets*, p. 370-375.

¹⁰¹ Carson, *In Struggle*, p. 209-210, and Viorst, *Fire in the Streets*, p. 374.

The slogan was taken up eagerly by an electrified crowd, and from there, went on to make its way into an equally receptive audience all over the country, especially among the youth. If one notes Carmichael's primordial role in preparing the way for the slogan and finally formulating it, it is, however, important not to confuse the message and the messenger. The point is beautifully made in Carson's "biography" of SNCC, *In Struggle*:

Like the four Greensboro students who ignited the lunch counter protest movement, Carmichael was not an exceptional prophetic figure. He became a symbol of black militancy because he sensed a widespread preparedness among blacks to reject previous habits of accommodation. His attitudes, shaped by experiences in the southern struggle, coincided with the unarticulated feelings of many other blacks, especially in northern centers, whose hopes were raised but not fulfilled by the civil rights movement.¹⁰²

1.3.3 From South to North and West

It is typical for the developments at the time that the oldest of the action-oriented civil rights organizations, CORE, also underwent a radicalization in the direction of "Black Power." One observer, Robert Allen, "described this metamorphosis from biracial pacifism to black militancy in CORE as an attempt to respond to and organize the new militancy which had infected certain parts of the black middle classes, as a result of the rebellions initiated by the black masses."¹⁰³ Within a month of Carmichael's speech, the delegates at the national CORE congress endorsed "Black Power" as well as SNCC's position concerning the right of armed self-defense.¹⁰⁴ This certainly also had to do with the fact that CORE was predominantly northern-based. And CORE (which actually at that time had already lost much of its former importance as a vibrant force in the black movement) was far from being alone. Disappointment and anger at the slow progress towards equality, at the terrible conditions blacks were still forced to live in, and at the brutality with which blacks in general and those fighting for a better future in particular were treated by white racists and the official guardians of the law, i.e., the police and the courts, were building up like a pressure-cooker among African Americans in the cities of the North and also the West.

Different from the situation in the South, with the victories over the openly racist Jim Crow laws and segregationist practices, the civil rights movement could point to few achievements that the blacks in the northern and western cities did not already have. What did their own traditionally entrenched right to vote amount to if blacks in these regions faced the fact that none of

¹⁰² Carson, *In Struggle*, p. 215.

¹⁰³ Marable, *Race, Reform, and Rebellion*, p. 84.

¹⁰⁴ Carson, *In Struggle*, p. 223.

the two big parties championed their pressing social interests and concerns and that therefore, in effect, for them there was nothing to vote for? As for the civil rights movement itself, Viorst writes that “in the belief that its proper target was the South, [it] had never established inner-city projects.”¹⁰⁵ Moreover, the turn of blacks in the North and West towards solutions other than legalist struggles, non-violence, and civil disobedience was accelerated by their own observations as they were described by Stokeley Carmichael: “Each time the people in those cities saw Martin Luther King get slapped, they became angry; when they saw four little black girls bombed to death, they were angrier, and when nothing happened, they were steaming. [...] We had nothing to offer that they could see, except to go out and get beaten again.”¹⁰⁶

At the same time, the African American ghetto dwellers knew only too well that there was segregation in their cities, too, a segregation, in which official policy, private companies and corporations, banks, real-estate brokers, builders, state and federal agencies, and city residents all conspired. The most visible aspect of all this was the ghettoization of American cities itself, and what is more, “neighborhood segregation was a condition that would not be easy to uproot from American culture, nor was it likely to yield victories to nonviolent direct action.”¹⁰⁷ And of course, just as it had been since the 1896 *Plessy v. Ferguson* Supreme Court decision, segregation was always *separate but unequal*, and always to the detriment of the blacks. As the uprisings emanating from the urban ghettos in Rochester, Philadelphia, and Harlem in 1964 and in Los Angeles in 1965 clearly showed, the “Black Power” slogan was not the match in the tinder box but simply served as the rallying cry of a rage that had been simmering since at least World War II. Its imprecise and volatile essence was once more best captured by Stokeley Carmichael. In his 1967 tract *Black Power. The Politics of Liberation in America*, co-authored with political scientist Charles V. Hamilton, he wrote of it as:

a political framework and ideology which represents the last reasonable opportunity for this society to work out its racial problems short of prolonged destructive guerilla warfare. [...] This book is about why, where and in what manner black people in America must get themselves together. It is about black people taking care of business – the business of and for black people. The stakes are really very simple: if we fail to do this, we face continued subjection to a white society that has no intention of giving up willingly or easily its positions of authority. If we succeed, we will exercise control over our lives, politically, economically and psychically.¹⁰⁸

¹⁰⁵ Viorst, *Fire in the Streets*, p. 365.

¹⁰⁶ Stokeley Carmichael, “What We Want,” *New York Review of Books*, September 22, 1966, quoted in Carson, *In Struggle*, p. 219.

¹⁰⁷ Viorst, *Fire in the Streets*, p. 366.

¹⁰⁸ Stokeley Carmichael and Charles V. Hamilton, *Black Power. The Politics of Liberation in America* (Harmondsworth: Penguin, 1967/1969), p. 10, 11.

But anyone who expected the creator and first proponent of the slogan to give a clear program that would clarify the political direction black empowerment should take in the future was in for a disappointment. As it turned out, black power meant many things to many people. This is not the place for an investigation of the manifold political ramifications that the movement – or rather movements – animated by the idea of “Black Power” had. The range of “Black Power” advocates went from supporters of an equal opportunity black capitalism as evidenced by two national Black Power Conferences in Newark in July 1967 and Philadelphia in June 1968 to the black cultural nationalism of Maulana Karenga’s US organization on the West Coast to the revolutionary socialism of the League of Revolutionary Black Workers in Detroit and the organization of which Mumia Abu-Jamal became a member and to which I want to turn in the next section, the Black Panther Party. It was one of several groups that tried to give the concept of black power in the United States a concrete meaning, and finally turned out as the only one that, as an organization, left an enduring legacy that others still try to emulate.

1.4 The Black Panther Party

The Black Power movement was still brand new and on the rise when on October 15, 1966, two students of Merritt College in Oakland, California, Huey P. Newton and Bobby Seale founded the Black Panther Party for Self-Defense. The name “Black Panther” was inspired by none other than the emblem of the Lowndes County Freedom Organization.¹⁰⁹ (As we shall see shortly, the party soon tried to establish direct relations with the proponents of “Black Power” around Stokely Carmichael and SNCC.) The themes that occupied the professional and political attention of Newton and Seale were all too typical. Both worked in a federal anti-poverty program, and their immediate concern as far as political activity was concerned was to find ways to deal with the aggressive behavior of the police. After a long period of experimentation with various other radical black political groups, they resolved to build their own political organization.

The founding of the Black Panther Party was recounted by Bobby Seale in his book *Seize the Time*, a book that was used as a propaganda and fundraising tool for the party at the time, and later, after he had left the party, in his autobiography *A Lonely Rage*. The following account is taken from the latter book:

¹⁰⁹ See Carson, *In Struggle*, p. 278: “After reading a pamphlet about ‘how the people in Lowndes County had armed themselves,’ Newton and Seale adopted the symbol of the LCFO as the name for their organization in Oakland, California.”

Huey and I racked our brains as to how to get some community-based organization going, and especially how to properly deal directly with the police. We decided we would need to watch the police, patrol the police; black brothers were getting brutalized and arrested. Huey and I knew we could do it, but we'd have to do it armed.

"A law book, a tape recorder, and a gun," Huey said. "That's what we would need. It would let those brutalizing racist bastards know that we mean business."

At the poverty program office [where Seale worked as a counselor], Huey and I drew up a ten-point platform and program for our new organization, which we agreed to name the Black Panther Party for Self-Defense.¹¹⁰

1.4.1 A Program for Black Liberation

The outcome of this soul-searching was a "platform and program" that electrified millions of African Americans, especially among the youth. Radical-reformist in content, given the stalemate racial relations had reached at the time, its implications were nothing short of revolutionary. It consisted of ten statements, respectively, about "What We Want" and "What We Believe," where the professed beliefs serve to justify the demands to the white "power structure." The "What We Want" section constitutes the BPP platform in the narrower sense:

1. We want freedom. We want power to determine the destiny of our black community.
2. We want full employment for our people.
3. We want an end to the robbery by the white man of our Black Community.
4. We want decent housing, fit for shelter for human beings.
5. We want education for our people that exposes the true nature of this decadent American society. We want education that teaches us our true history and our role in present-day society.
6. We want all black men to be exempt from military service.
7. We want an immediate end to POLICE BRUTALITY and MURDER of black people.¹¹¹
8. We want freedom for all black men held in federal, state, county, and city prisons and jails.
9. We want all black people when brought to trial to be tried in court by a jury of their peer group or people from their black communities, as defined by the Constitution of the United States.
10. We want land, bread, housing, education, clothing, justice and peace. And as our major political objective, a United Nations-supervised plebiscite to be held throughout the black colony in which only black colonial subjects will be allowed to participate, for the purpose of determining the will of the black people as to their national destiny.¹¹²

At first the BPP represented no more than a few angry young black men in the city of Oakland. But the organization started its program of armed police observation immediately, and in the

¹¹⁰ Bobby Seale, *A Lonely Rage. The Autobiography of Bobby Seale* (New York: New York Times Books, 1978), p. 153.

¹¹¹ Capital letters in the original.

¹¹² Quoted in Bobby Seale: *Seize the Time. The Story of the Black Panther Party and Huey P. Newton*, 1991 edition with a new introduction by the author (Philadelphia: Temple University Press, 1968/1991), p. 66-68.

process acquired a reputation as “hard, street-wise dudes, men who were not afraid to face down the cops on an armed and equal base.”¹¹³ This reputation served them well when they were invited as bodyguards for Malcolm X’s widow Betty Shabbaz on the occasion of her visit to the San Francisco office of the radical journal *Ramparts*, where she was interviewed by Eldridge Cleaver, an ex-convict and articulate spokesman for black nationalism. Just as the organizers had suspected, after the interview, Shabbaz, Cleaver, and the Panther bodyguards were confronted by the police, but as on the occasions that had gained them their reputation, the Panthers faced the police boldly without being drawn into a violent provocation. Soon after the event, Cleaver joined the BPP and become one of its most influential leaders.

1.4.2 Exercising the Constitutional Right of Armed Self-Defense

In Oakland itself, the organization of Panthers grew like a wildfire after it exposed the role the Oakland police had played in the killing of a black teenager, Denzil Dowell. The police had claimed to have caught Dowell in an act of burglary and to have shot him while he was trying to flee; an investigation initiated by the fledgling Panther organization, however, demonstrated that the disabled boy was all but unable to get away from the scene of his alleged crime and had in all probability been executed in cold blood by the police.¹¹⁴

These actions of “armed niggers,” however, soon triggered counteraction at the state level, where they had not gone undetected. Up to that time, as in many states of the U.S.A., the laws of California allowed the citizens to carry arms in public space, and the Panthers had made ample use of this. It is an indication of the shock that their armed police observation patrols had caused that just a few months after the party had come into existence, the California state assembly promulgated a law against the public display of loaded weapons. The action the BPP took against this bill (which was later adopted by the assembly) catapulted them to world fame when party leader Bobby Seale and several other Panther members entered the State Capitol with their loaded guns and, instead of finding their way to the visitor’s gallery as planned found themselves on the floor of the assembly itself. The Panthers were arrested and later on charged with contempt of the assembly.¹¹⁵

¹¹³ Quotation and following account from Michael Newton, *Bitter Grain. Huey Newton and the Black Panther Party* (Los Angeles, CA: Holloway, 1980/1991), p. 23. There is no relation between Huey P. Newton (whose brother *Melvin* was also involved in his political activities) and author Michael Newton.

¹¹⁴ Michael Newton, *Bitter Grain*, p. 26-28.

¹¹⁵ The event and its aftermath are described vividly in Marion Van Peebles, Ula Y. Taylor and J. Tarika Lewis, *Panther. A Pictorial History of the Black Panthers and the Story Behind the Film* (New York: Newmarket Press, 1995), in the chapter “Sacramento,” p. 35-40. The first and, in fact, larger part of that book, written by historians

It is impossible here to recount the history of the Black Panther Party in any detail, or even to give a summary of the most important events. One of the important points in connection with the topic of this thesis, however, is the legalistic and constitutional approach of the BPP.

If one takes a look at the features of the new party most obvious to the public eye, it is true that the Panthers were armed and insisted on the right of self-defense against armed attack, but this approach was unmistakably framed in terms of a long *American* tradition. In *written* law, every American citizen had the right of self-defense, and therefore, in many parts of the country, the right to carry a gun, but the *unwritten* law held that these rights applied only to white citizens. The appearance of a penchant for violence notwithstanding, with its insistence on the right to bear arms and to use them if necessary the BPP, in the name of the black citizen of the United States, reclaimed no more than the renowned black poet Langston Hughes had done nearly a half century before: “I, too, am America.”¹¹⁶ But in the context of the racial struggles of the 1960s threatening to tear apart the United States, this particular form of insistence on being “America, too” was certainly as radical as anyone could imagine.

On the ideological plane, another fact is even more significant. The last two paragraphs of the BPP program, the one representing the “what we believe” section of the summarizing point 10, were lifted straight out of the Declaration of Independence. What is interesting here is not only that this overlaps with Martin Luther King’s quotation from the Declaration of Independence in his August 28, 1963 Washington speech.¹¹⁷ Even more striking is the way in which the words once directed by the founding fathers of the United States against “the present King of Great Britain” are now turned against the U.S.A. of close to two hundred years later: “When [...] it becomes necessary for one people to *dissolve* the political bonds which have connected to another, and to assume [...] the separate and equal station to which the laws of nature and nature’s God entitle them, a decent respect [...] requires that they should declare the causes which impel them to their *separation*.”¹¹⁸

By quoting this passage, the designers of the BPP platform made explicit that what was good for the white citizens of the American colonies in 1776 was also good for the “black colonial subjects” of the United States in 1966. The BPP demanded for blacks all the civil and human rights that whites had taken for themselves when the United States were formed and taken for

Taylor and Lewis, is devoted to the history of the BPP. J. Tarika Lewis can claim particular insight into the party’s history since, under the name “Matabila,” she was the first female member of the party. See *ibid.*, p. 192.

¹¹⁶ In Fisher/Quarles, *The Black American*, p. 445.

¹¹⁷ Compare footnote 70 above. The sentence cited by King “We hold these truths to be self-evident, that all men are created equal” is from the beginning of the second paragraph of the Declaration.

¹¹⁸ For the full text of Declaration of Independence, see Udo Sautter, *Die Vereinigten Staaten. Daten, Fakten, Dokumente* (Tübingen: Franke, 2000), p. 145-48, here p. 145; text of the final paragraphs of the BPP program in Seale, *Seize the Time*, p. 68/69. Emphasis mine.

granted ever since, and it asserted the right of African Americans in the U.S.A. to form a separate national entity if the majority of the black community in the United States determined that that was their wish.

1.4.3 Continuities and Differences with Black Power

With its reference to the black community in the United States as a colonized entity under “foreign” occupation, the BPP displayed a remarkable ideological closeness to the proponents of Black Power. In terms of building the party around a practical program and, later on, its expressed willingness to work with allies among all oppressed sectors of the population in the United States, it was distinctively different from many, if not most, currents in the Black Power movement.

These similarities and differences were once more epitomized in the person of the secretary of SNCC from 1966-1967, Stokeley Carmichael. In the summer of 1967, when the BPP was still mainly based in Oakland, California, he was appointed “field marshal” of the party for the eastern part of the United States by Huey Newton, a move that seems to have had little more than symbolic value.¹¹⁹ Later on, Carmichael’s successor as SNCC chairman, H. Rap. Brown and leading SNCC member James Forman were also drawn into the party, and there were even plans of a merger of the two organizations, but these designs never got very far. The tenuous and mainly leader-based alliance hovered on until July 1968 when “SNCC’s central committee voted to terminate the alliance with the Panthers.”¹²⁰ The last act, Carmichael’s resignation from the party in June 1969,¹²¹ was basically a mere formality that put an end to a project that had, by and large, been still-born.

Apart from personality problems between the leaders of the two organizations and differences concerning organizational questions, the main stumbling block for a merger or closer cooperation proved to be the issue of cooperation with “progressive” whites. While the BPP, itself consciously being a purely black organization, moved increasingly in that direction, the trend in SNCC had been the exact opposite for years, and finally the split between the two became inevitable. Significantly, while SNCC was dying a prolonged death and held its last staff meeting in June 1969,¹²² the BPP was still continuously on the rise. For a few short years, it became a beacon of hope for millions of blacks, especially among the young.

¹¹⁹ Carson, *In Struggle*, p. 278-279.

¹²⁰ *Ibid.*, p. 285.

¹²¹ Michael Newton, *Bitter Grain*, p. 108.

¹²² Carson, *In Struggle*, p. 295.

1.4.4 The “Survival Programs” of the BPP

The most vivid image of the BPP that has survived the party itself is the image of gun-slashing blacks with military-style berets and of shootouts of party members with the police. Indeed, many of the few histories of the party that have appeared so far are almost exclusively filled with the violent battles the organization was involved in,¹²³ as well the court proceedings that followed these battles (proceedings in which the charges were dropped or overturned surprisingly often¹²⁴). The BPP’s altercations with the law enforcement agencies and criminal justice were all too real,¹²⁵ but the impression they left of the party and its goals and politics is highly misleading.

Much more than about gun-toting, the BPP was about black *organization*. After its inception at the end of 1966, it spread primarily in California (with Los Angeles an important and prominent party chapter), and from there, to the Northeast and North. What SNCC, CORE and other black organizations had done in the South in terms of organizing radical (and mostly young) blacks, the Black Panther Party now did in the rest of the country. The BPP quickly struck roots in the impoverished African American ghettos of Oakland, Los Angeles, Chicago, New York, and Philadelphia. There were no Jim Crow laws to rally around; rather the burning issues were the ones summarized, in a somewhat old-fashioned, still southern-oriented fashion, in point ten of the party’s platform, namely “land, bread, housing, education, clothing, justice and peace.”¹²⁶ The party consciously based itself on the poorest and most oppressed strata of the black population,¹²⁷ but most importantly, the lengthy piece in the platform directly quoted from the Declaration of Independence clearly demonstrates another feature: One of the main goals of the party was to infuse a measure of self-respect and black pride in the demoralized ghetto population. In this, they succeeded to a surprising degree. While the core of the party was always small – estimated at somewhat more than 5.000 members in 1969,¹²⁸ at the height of its influence –, at the turn of the decade it enjoyed an enormous reputation among African

¹²³ Michael Newton’s book *Bitter Grain* is a case in point.

¹²⁴ On his internet website <http://www.bobbyseale.com>, former party chairman Bobby Seale claims that the party “won over ninety-five percent of all our political courtroom cases.” I haven’t been able to check this number, but Churchill/Vander Wall, *The COINTELPRO Papers* (chapter 5) and other sources recount a veritable litany of high profile cases where Panthers were jailed for prolonged periods and brought to trial, only to be acquitted in the end.

¹²⁵ The battles both in the streets and in the courts will be dealt with in chapter 4.

¹²⁶ See above, p. 34, and also the other issues mentioned in the platform, e.g., full employment and a decent treatment of African Americans by the police and the courts.

¹²⁷ This is attested by many sources, first and foremost Huey P. Newton’s book *Revolutionary Suicide* (New York: Writers and Readers, 1973/1995), but also by Seale, *Seize the Time* and *A Lonely Rage*, as well as by both Seale’s and Newton’s long-time friend and comrade David Hilliard (in co-authorship with Lewis Cole), *This Side of Glory. The Autobiography of David Hilliard and the Story of the Black Panther Party* (Boston: Little, Brown and Company, 1993).

¹²⁸ Van Peebles, Taylor & Lewis, *Panther*, p. 97.

Americans in the U.S.A. A June 1970 Special Report for the President by FBI president J. Edgar Hoover noted that “a recent poll indicates that approximately 25 per cent of the black population has a great respect for the BPP, including 43 per cent of blacks under 21 years of age.”¹²⁹ This reputation had not been earned just by “picking up the gun,” but first and foremost by the community organizing the party did, culminating in a whole series of so-called “survival programs” that were initiated since January 1969. These programs proved immensely popular and successful, and many of them were to have a lasting impact at the municipal and state level, since they were at least in part adopted as official politics.

The first of these programs was the Free Breakfast for Children Program (FBCO) in Oakland, organized for poor ghetto children who had to go to school hungry. The central newspaper of the party, *The Black Panther*, at the time sold at a rate of 105,000 copies a week,¹³⁰ was employed to advertise for supplies and volunteers from the black community in order to provide “a free, hot, nutritionally-balanced breakfast to school age children.” The FBCO soon spread all over the country, and by the end of 1969 “breakfasts were served by twenty-three [BPP] chapters in nineteen cities. More than 20,000 children received a meal.”¹³¹

The other survival programs of the BPP were modeled after the image of the FBCO program. In addition to the continued practice of Panther-organized community surveillance of the doings of the police, there were free clothing, free shoes, and free health programs, in addition to educational, criminal justice, and other similar programs, all designed to use black self-help in order to come closer to the fulfillment of point ten of the party program: “We want land, bread, housing, education, clothing, justice and peace.” Long before the start of the Panther-inspired forms of community self-help called survival programs, party leader Huey P. Newton had already reflected on what he considered as the core of radical black politics: “The masses of the Black people have always been deeply entrenched and involved in the basic necessities of life. They have not had time to abstract their situation. Abstractions come only with leisure, the people have not had the luxury of leisure. Therefore, the people have been very aware of the true definition of politics. Politics is merely the desire of individuals and groups to satisfy their basic need first: food, shelter and clothing, and security for themselves and their loved ones.”¹³²

¹²⁹ Quoted by Noam Chomsky, Introduction to Nelson Blackstock, *COINTELPRO. The FBI's Secret War on Political Freedom* (New York: Pathfinder, 1988), p. 17.

¹³⁰ Van Peebles, Taylor & Lewis, *Panther*, p. 48. In May 1970, FBI headquarters observed that “the BPP newspaper has a circulation of [...] 139,000.” Quoted in Churchill, *The COINTELPRO Papers*, p. 159.

¹³¹ *Ibid.*, p. 100. It is characteristic for the political approach of the BPP that although “most of the programs were located in predominantly black communities, [...] the Panthers also fed children of other ethnic groups. One Seattle program operated in a predominantly white neighborhood.” *Ibid.*

¹³² “In Defense of Self-Defense” II, July 3, 1967, in Huey P. Newton, *To Die for the People. Selected Writings and Speeches* (New York: Writers and Readers, 1973/1999, p. 87-91, here p. 89. For the survival programs in general, see JoNina M. Abron “‘Serving the People’: The survival Programs of the Black Panther Party,” in

As will be shortly discussed in chapter 5 (note 532), very early in the life of the party, on October 28, 1967, Huey Newton was involved in a shootout with the Oakland police, was charged with murder and, until his trial in 1968, was in imminent danger to be sent to the gas chamber. After this, the “Free Huey” campaign became one of the central and most popular tenets of the BPP propaganda, at times superseding all others. It is not, however, out of an engrained preference for personality cults on the part of the party and certainly not on the part of the black population as a whole that the mood of African Americans in large parts of the country resembled the one expressed by a black man who testified before the National Advisory Commission on Civil Disorders that investigated the uprising and riots at the end of the sixties:

You can't go through any community without seeing black youth with Huey P. Newton buttons and “Free Huey.” Many of them who have no connection with the Panthers officially wear the Panther uniform. We all groove on Huey. No two ways about it. We dig him. And I use that rhetoric because that's the way it is. Not for any exotic reason.¹³³

The genius of the party and its leaders lay in their capacity to first express and formulate the deeply felt needs, desires and hopes of the oppressed black population in the U.S.A., and then to try and organize them and lead them into action.

Right at that time, at the end of the sixties, this capacity of the BPP also drew a group of militants in Philadelphia into the party, among them a young man then in his teens. As one of the organization's co-founders in his hometown, this teenager would many years later explain his enduring attachment to the legacy of the BPP and its leader Huey P. Newton in the following terms:

While it is undeniable that HPN [Huey P. Newton] played a seminal role in BPP history, one cannot discount or diminish the powerful forces of radical change and revolutionary transformation that permeated this period; the forces, in fact, that motivated a HPN to seize the moment, to coalesce, to build, and to dare.¹³⁴

Charles E. Jones (ed.), *The Black Panther Party Reconsidered* (Baltimore: Black Classic Press, 1998), p. 177-192. Abron was a BPP member for nine years (*ibid.*, p. 469). The fact that Newton's quote contains no reference to freedom should not be misconstrued. It is abundantly clear from Newton's contributions in the rest of the volume that the struggle for black *freedom* was the overarching motive and *raison d'être* of the BPP.

¹³³ Quoted in Zinn: *Postwar America*, p. 209.

¹³⁴ Mumia Abu-Jamal, “A Life in the Party,” in Cleaver and Katsiaficas (eds.), *Liberation, Imagination, and the Black Panther Party*, p. 40-50, quote p. 43.



6. Headquarter of the Panthers in Lowndes County, 1966.



7. Election night in Lowndes County, 1966.



8. Philadelphia - first Citizen Day in the early 1050s.



9. Map of Philadelphia, showing the location of the Church of the Advocate at 18th and Diamond Streets.



10. Philadelphia police during the disturbances on Columbia Avenue, August 28, 1964.

2. The City of Brotherly Love

It is hard to imagine a city with deeper roots in specifically American traditions than Philadelphia. Even the meaning of the – originally Greek – name of the city founded in 1682 by the immigrant Quaker William Penn is telling of the spirit that moved thousands of people to leave Great Britain (and to a lesser extent continental Europe) to seek a brand-new world across the Atlantic: “the City of Brotherly Love.” But this brotherly love and the ideas of freedom which prominent citizens like Benjamin Franklin tried to found their city on was always tainted right from the start by an evil Philadelphia shared with most of the rest of the United States: the exclusion of and the discrimination against blacks.

For a long time, black Philadelphians did not play a great role in the city in demographic terms, although their mere presence was always significant in shaping the city’s history. From the time when the famous black sociologist W.E.B. DuBois undertook his path-breaking study *The Philadelphia Negro* to the 1990 Census, the percentage of African Americans rose from a mere 3.8 percent of the population to 39.9 percent.¹³⁵ But even in the 19th century, when the percentage of blacks in the city hovered somewhere well below ten percent most of the time,¹³⁶ they were by no means simply ignored. Since the theme of race relations is so persistent in the history of Philadelphia up to this day, it is well worth taking a closer look at the historical backgrounds of these relations.

2.1 Race Relations: Historical Backgrounds

“There is not perhaps anywhere to be found,” wrote ex-slave and famous later abolitionist Frederic Douglass in February 1862, “a city in which prejudice against color is more rampant than in Philadelphia. [...] It has its white schools and its colored schools, its white churches and its colored churches, its white Christianity and its colored Christianity [...], and the line

¹³⁵ Elijah Anderson, Introduction to W.E.B. DuBois, *The Philadelphia Negro. A Social Study* (Philadelphia: University of Pennsylvania Press, 1899/1996), p. xxxiv. The percentage of 3.8 is for 1890. Nevertheless, although numerically small, “Philadelphia’s free black community, numbering 2000, was the largest in the United States.” See Jim Mendelson, “Philadelphia, Pennsylvania,” http://www.africana.com/Articles/tt_220.htm. (Africana.com is a website covering a wide variety of cultural and historical themes concerning African Americans.) In 1820, slavery had disappeared altogether, and “among the city’s 100,622 inhabitants, 12,110 were free blacks,” a percentage that was never reached again in the 19th century. By 1900, the black community in Philadelphia – numbering 62,613 – was still the largest in the North. (*Ibid.*) Only in the 20th century, it was superseded by black communities in New York, Chicago, and other cities.

¹³⁶ For comprehensive population statistics of Philadelphia as compared with other cities of the United States, see Sautter, *Die Vereinigten Staaten*; for racial distribution, see especially Antonio McDaniel, “The ‘Philadelphia Negro’ Then and Now: Implications for Empirical Research,” in Michael B. Katz & Thomas W. Sugrue (ed.), *W.E.B. DuBois, Race, and the City. The Philadelphia Negro and Its Legacy*, (Philadelphia: University of Pennsylvania Press, 1998), 155-194.

is everywhere tightly drawn between them. Colored persons, no matter how well dressed or how well behaved, ladies or gentlemen, rich or poor, are not even permitted on the many railways through that Christian city. [...] The whole aspect of city usage at this point is mean, contemptible and barbarous.”¹³⁷

The statement may perhaps be surprising in the light of the role Philadelphia had played as the cradle of the freedom of the country and the fact that it was one of the first important cities in the newly-born U.S.A. to take steps toward the abolition of slavery.¹³⁸ But as for the first aspect, in the northern and western urban regions of the United States the sharp contradiction between formal freedom and actual racial segregation and oppression showed up once more in an even more dramatic form in the second half of the 20th century. As for the second aspect, the Douglass quote itself shows that in Philadelphia at least, segregationism also took a legal form not altogether different from the southern states.

Black moves towards more rights or even mere self-assertion often sparked anti-black riots by white mobs, for example in 1834, 1838, and 1871, and blacks were deprived of their right to vote for a full 33 years: their disenfranchisement, an immediate consequence of the racist riot of 1838, lasted from then on until 1871, i.e., while a Civil War raged that was supposedly fought for black emancipation – and afterwards, the reinstatement of black suffrage immediately sparked a new riot during which four blacks were murdered.¹³⁹

Nor did the race relations significantly improve in the new century as Philadelphia grew to be one of the most important industrial cities, not only of the United States but the whole world. On the contrary, while white workers, including many immigrants from Europe and the rural areas of the U.S.A., were able to make modest gains, Philadelphia’s “black population sank lower into poverty, despair and resentment,” mainly because although “the factories were hungry for labor, [...] blacks were frozen out of industrial jobs.” For many decades into the rapid and thorough industrialization of Philadelphia, blacks overwhelmingly worked as “unskilled laborers and service workers,” while white Philadelphia natives and immigrants held the factory (and in the case of the natives, of course, the white collar) jobs. This led to a situation where “in his 1899 study, W.E.B. DuBois declared that 90 percent of Philadelphia’s African American fell below the poverty line,”¹⁴⁰ and it took the decades until World War II “before blacks were hired in any numbers in Philadelphia’s factories and mills.”¹⁴¹ And even

¹³⁷ Russell F. Weigley (ed.), *Philadelphia. A 300-Year History* (New York: W. W. Norton, 1982), p. 386.

¹³⁸ Slave trading was banned in 1780, but only the offspring of slaves were to be freed at the age of 28. See Ron Avery, *A Concise History of Philadelphia* (Philadelphia: Otis Books, 1999), p. 82.

¹³⁹ *Ibid.*, p. 83.

¹⁴⁰ *Ibid.*, p. 84.

¹⁴¹ *Ibid.*, p. 85.

then, the federally ordered introduction of blacks into the workforce of the public transportation system triggered a massive wildcat strike by the white workers that could only be broken when President Roosevelt sent troops into the city.¹⁴²

These very clear signs of racial tension and oppression of the black population in Philadelphia should not, however, lead to the bleak picture of a faceless, downtrodden black mass without any cultural and social identity of its own. Despite all discrimination, Haverford College historian Emma Lapsansky describes Philadelphia's black population of the 1830s as "the largest, most aggressive, and wealthiest free black population of the western world."¹⁴³ Philadelphia also played a prominent role in setting the "Underground Railroad," the secret network that was organized to help fugitives from the southern states of the U.S.A. to escape from slavery. The existence of a black elite in Philadelphia was described at length in DuBois' seminal study on the black population in Philadelphia. Furthermore, there can be no question that alongside the economic depression and racial oppression of the majority of its members, the black community in Philadelphia always managed to keep alive a vibrant civil society. It commanded sufficient resources to enable its black citizens to reject a status as mere victims and to play an active role in defending their own interests, as evidenced already in the 19th century in black "insurance societies, cemetery associations, building and loan associations, labor unions, and branches of fraternal organizations such as the Old Fellows and Masons."¹⁴⁴

Desegregation measures notwithstanding, the picture painted by Frederick Douglass of a sharp dividing line between the races in Philadelphia did not change very much over the years. The accomplishments of the ghettoized black community did not alter the fact that African Americans as a group were regarded as outsiders in Philadelphia, and constituted an oppressed and disadvantaged minority. Although in terms of violent racial outbursts Philadelphia never came close to cities like Chicago after World War I and Los Angeles, Detroit, or Newark after World War II, it certainly also persistently proved DuBois' dictum according to which America's main problem in the 20th century would be the color line.¹⁴⁵

2.2 A History of Decline: Glimpses of Philadelphia after World War II

For a long time, Philadelphia had been the third largest city in the U.S.A. As for its African American citizens, a matter upon which I want to concentrate here, after a steady growth of

¹⁴² *Ibid.*, p. 84.

¹⁴³ "Emma Lapsansky on Philadelphia," Africans in America, <http://www.pbs.org/wgbh/aia/part3/3i3116.html>.

¹⁴⁴ Weigley, *Philadelphia*, p. 352. As elsewhere in the United States, the communal life of black citizens was often centered around one of the many black church congregations of the city.

¹⁴⁵ W.E.B. DuBois, *The Souls of Black Folk* (New York: Dover Publications, 1903/1994), p. v.

Philadelphia's black population from 1890 to 1940, World War II and its aftermath brought an even more massive expansion. Between 1940 and 1980, the percentage of African Americans among Philadelphia's citizens rose from about 15 to close to 40 percent.¹⁴⁶ Right at that time, the post-depression economic boom in the U.S.A. and the absence of formal segregation lured millions of blacks from the South to the North. The general development – which was already observable in a weaker form since the imposition of the Jim Crow laws in the South and especially after World War I – is described in Abu-Jamal's authorized biography. After 1877,

the American apartheid called segregation was imposed through Jim Crow laws and regular lynchings, and the South sunk back into the new and partial slavery of sharecropping until even that was stripped away. After World Wars I and II the farms were mechanized, and black people moved to the cities of the North in one of the greatest migrations in world history. [...] Young and old, educated and ignorant, eternally hopeless and hopelessly poor, clutching their belongings in cardboard boxes and paper bags, millions of black southerners came north to claim the meager legacy America had set aside in return for hundreds of years of unpaid labor and privation.¹⁴⁷

One of those immigrants from the South was Abu-Jamal's mother, Edith Cook who, on her way north to New York with her brother, decided to stay in Philadelphia, a city which at the time was still booming.¹⁴⁸ But as had been so often the case for African Americans in the United States, history once more took a tragic turn. Just as in many other big cities, in Philadelphia, too, the hopes of the black newcomers for a better future were soon to be dashed.

2.2.1 Economics

Postwar Philadelphia, the town in which Mumia Abu-Jamal was born in 1954, was in many respects typical for the northern and western urban areas of the United States after World War II. When the blacks from the South arrived there en masse, it had already started to become part of the Rust Belt. The quasi-official short history of Philadelphia puts it the following way:

In 1950, the wisest prophet could not predict that Philadelphia's glory days were numbered. But within a decade the trends were clear: population was declining, industry was vanishing, urban renewal had failed. Large sections of "the city of homes" were characterized by abandoned homes and a hopeless underclass.¹⁴⁹

¹⁴⁶ McDaniel, "The 'Philadelphia Negro' Then and Now," in *W.E.B. DuBois, Race, and the City*, p. 166.

¹⁴⁷ Bisson, *On a Move*, p. 3-4.

¹⁴⁸ *Ibid.*, p. 4.

¹⁴⁹ Avery, *A Concise History of Philadelphia*, p. 75.

The heydays of industrialization were over – just at the moment blacks were beginning to gain access to industrial jobs.¹⁵⁰ As more and more blacks moved into the inner cities, a massive process of suburbanization set in where large parts of the white population moved towards the outer areas of the city or altogether outside the city limits. In this process, the shift towards a service-oriented, de-industrialized economy and a deeply rooted anti-black racism were inextricable intertwined. Throughout the history of the United States, and Philadelphia as well, whatever the most promising and progressive economic development was at any given time, blacks tended to be excluded from it. As elsewhere, the massive concentration of blacks in the inner city areas, or in the “ghettoes,” as they soon came to be called, was not simply the natural consequence of great numbers of people clustering around economic opportunities:

The growth of the black ghetto, however, cannot be explained by the proximity to work. In 1930 more than 80 percent of the black population lived in areas that were within one mile of five thousand or more industrial jobs, yet less than 13 percent of black workers were employed in manufacturing. Blacks were more likely to be employed as laborers, servants, and waiters. Unlike the white ethnic communities whose neighborhoods were “ghettoes of opportunity,” black communities tended to be “ghettoes of last resort” – residential areas that had been rejected or abandoned by other ethnic groups.¹⁵¹

After the “golden years” of industry that lasted until the beginning of the 1950s, the economy of Philadelphia proper (that is, minus the suburbs)¹⁵² went into free fall.¹⁵³ “Three out of every four industrial jobs were lost over a twenty-year span,” namely, between 1955 and

¹⁵⁰ “Between 1940 and 1960, the percentage of blacks involved in farm labor had declined sharply, 32 to 8 percent: 38 percent of all black workers were classified as blue-collar workers, up 10 percent [from 28 percent] in twenty years,” writes Manning Marable. “The political economy of black America was being rapidly transformed. Marable, *Race, Reform, and Rebellion*, p. 53.

¹⁵¹ Carolyn Adams, David Bartelt, David Elesh, Ira Goldstein, Nancy Kleniewski, and William Yancey, *Philadelphia. Neighborhoods, Division, and Conflict in a Postindustrial City* (Philadelphia: Temple University Press, 1991), p. 11.

¹⁵² The city limits of Philadelphia were already fixed in 1854 and have not significantly changed since then. Together with seven suburban counties (Bucks, Montgomery, Chester and Delaware in the State of Pennsylvania, as well as Burlington, Camden, and Gloucester in New Jersey), it forms the Standard Metropolitan Statistical Area (SMSA) of Philadelphia. (City boundaries: Avery, *A Concise History of Philadelphia*, p. 58; composition of SMSA: Adams et al., *Philadelphia*, p. 16.)

¹⁵³ The suburban population of the SMSA area, very different from the city itself, continued to grow from 4.824 million in 1970 to 5.681 million in 1980 to 5.899 million in 1990. Meanwhile, the population share of Philadelphia in the SMSA dropped sharply, from 56.4 % in 1950 to 40.4 % in 1970 to 35.8 % in 1980. Significantly, the decline in Philadelphia’s employment share was even greater, from 67.5 % in 1951 to 38.6 % in 1980, with a drop from 51.2 % to 38.6 % in the ten years from 1970 to 1980 alone. Still more important, the average growth rate of per capita income (in 1967 dollars) in the seven non-Philadelphia counties was 36.1 %, as compared with Philadelphia’s growth rate of 17.7 %. In 1960, Philadelphia’s per capita income was by and large in a league with the per capita income in the seven other counties with the exception of Montgomery, but by 1980, the income of Philadelphians had fallen far behind and constituted, on average, only about 75 % of the per capita income in the seven counties. (Population data of SMSA: Sautter, *Die Vereinigten Staaten*, p. 116; population and employment percentages in SMSA: Adams et al., *Philadelphia*, p. 17; average income growth rate of 36.1 % for the seven counties and 75 % share figure for Philadelphia: my own computation.)

1975. “In the 1950s, the eventual depth of Philadelphia’s postwar decline was only glimpsed. [...] In actuality, of course, the decline of stable employment was accelerating during these years.” One of the city’s traditional economic pillars, textile mills, “had been closing and moving out of town. Associated industries began to be hit as well. The first danger signals were felt in the shipbuilding and shipping industries, as the Port of Philadelphia shrank in absolute and relative terms. Warehouses and factories alike emptied out [...] Jobs emptied out of the traditional neighborhoods.”¹⁵⁴ Philadelphia’s population, which stood at more than 2 million in 1950 (and still, even, in 1960) and was projected at the time to grow to three million in fact declined to 1.688 million in 1980, and to less than 1.5 million in 1996.¹⁵⁵ Small wonder then that in the standard sociological work on postwar Philadelphia its history between 1955 and 1975 is described as “the decline of the city: despair and exodus.”¹⁵⁶

2.2.2 Housing

The exodus of the white population to the more privileged outer city and suburban regions left behind an increasingly black population that, on average, had never been very well off in the first place. In her memoir *A Taste of Power*, Black Panther Party chairwoman from 1974-77 and Philadelphia native Elaine Brown describes what life was like in the 1950s on 2051 York Street, North Philadelphia, which is not directly in the neighborhood of 718 Wallace Street¹⁵⁷ where the Cook family lived, but in the same city area which was, in social terms, very much alike:

York Street was buried in the heart of the black section of North Philadelphia. Its darkness and its smells of industrial dirt and poverty permeated and overwhelmed everything. There were always piles of trash and garbage in the street that never moved except by force of the wind, and then only from one side of the street to the other. Overhead utility wires in disrepair ribboned the skyline. Cavernous sewage drains on the street corners spit forth their stench. Soot languished on the concrete walkways, on the steps and sides of the houses, and even in the air. Rusted streetcar tracks from another time, a time when people who were alive occupied the territory, ran up and down York Street. And there was the nighttime quiet. As the dark approached each night, houses were sealed tight in fear and York Street

¹⁵⁴ Adams et al., *Philadelphia*, p. 81, p. 81-82.

¹⁵⁵ Population in 1950: Avery, *A Concise History of Philadelphia*, p. 75, later data: Sutter, *Die Vereinigten Staaten*, p. 188-119.

¹⁵⁶ Adams et al., *Neighborhood, Division, and Conflict*, p. 81.

¹⁵⁷ Quoted from the files the FBI kept on Abu-Jamal. Abu-Jamal’s defense obtained 700 pages of these files under the Freedom of Information Act (FOIA) and presented them at Abu-Jamal’s PCRA hearing in 1995. See Leonard Weinglass (ed.), *Race for Justice. Mumia Abu-Jamal’s Fight Against the Death Penalty* (Monroe, ME: Common Courage Press, 1995), p. 208-211. See <http://www.whatreallyhappened.com/rancho/politics/cointelpro.html> under the heading “Mumia’s COINTELPRO file” for some excerpts, which also contain Abu-Jamal’s Wallace Street address in the sixties.

became overwhelmed by the quiet, a silent voodoo drum, presaging nightly danger, a gang fight, a stabbing, a fire.¹⁵⁸

It should be noted that Abu-Jamal's biographer Terry Bisson describes the particular area where Abu-Jamal grew up in different, almost idyllic terms.¹⁵⁹ But Bisson, too, doesn't leave any doubt that on average, the African American ghetto population of North Philadelphia and the other "black" regions of the city was desperately poor.

The economic processes described above set into motion a vicious circle of ever-deepening segregation in the city as well as in the metropolitan area as a whole. The pattern is well known from many other urban areas in the United States from Chicago's Southside to South Central in Los Angeles: As already briefly described above, an interplay of economic factors on the one hand and racism¹⁶⁰ on the other leads to a situation where the deterioration of industry in the inner city leads to the phenomenon of so-called "white flight."¹⁶¹ This is the move of white Americans to the suburbs, while the most disadvantaged sectors of society, i.e., mainly blacks, Puerto Ricans, and other people of color as well as a by now increasing sector of poor whites remain in (or move to) the inner city areas, areas that are already economically dying. The agglomeration of blacks or other ethnic groups in these areas then leads to more white flight and the circle of an increasing concentration of disadvantaged ethnic groups in those urban areas without an economic future and of an ever stronger white suburbanization is complete. In the last two decades, this has been supplemented by the refurbishing of the central areas of the cities,¹⁶² leading to a concentric structure of many cities with a sound economic base in the center and the outer limits and suburbs, and the areas in between increasingly depleted of their economic lifeblood.

As two important studies on the "city of brotherly love" make clear, Philadelphia is a typical, even extreme example of this development.¹⁶³ The results of the process are very visible already on superficial inspection, since its economic and demographic/geographic features are mirrored in another existential aspect of human existence, namely, housing. In Philadelphia

¹⁵⁸ Elaine Brown: *A Taste of Power. A Black Woman's Story* (New York: Anchor Books, 1993), p. 18-19.

¹⁵⁹ Bisson, *On a Move*, p. 4-10.

¹⁶⁰ Because of the overlap of race and class factors one could add class bias, and sometimes, in the absence of a large black population, it is surely class bias alone. Given the situation in Philadelphia, there is no need to consider this topic separately.

¹⁶¹ See the article by Robert McIlvaine, "Quiet Exodus. Fear Fueling White Flight," *Progressive Review*, April 1997, <http://www.princeton.edu/~progrev/96-97/apr97rm.html>. The whole issue was first pointed out to me in numerous conversations in September 2001 and September 2002 by our host in the Puerto Rican area of North Philadelphia, Fernando de Soto. Another source was a long interview with community activist and chairperson of the Puerto Rican community center Centro Pedro Claver, Roger Zepernick, in September 2002. See also Adams et al., *Philadelphia*, p. 84.

¹⁶² Adams et al., *ibid.*, p. 105-123.

¹⁶³ See *ibid.*, p. 39-65; Katz/Sugrue, *W.E.B. DuBois, Race, and the City*, p. 155-194 and, for background, p. 217-258.

to even the most casual of observers, the charm of refurbished row-houses in gentrified and historically certified neighborhoods pales next to the wholesale abandonment found in many of the neighborhoods inhabited by black, Hispanic, and white as well. The quiet splendor of central city high-rise apartments and condominiums gives way to the noise and crowding of the vertical ghettos of public housing. Homebound suburbanites push and crowd by the sprawled, often incoherent figures of women and men without homes, whose address is a steam vent and whose roof may well be of cardboard, if that.¹⁶⁴

In this, “the housing of contemporary Philadelphia [...] reflects the set of economic, social, and political forces that divide the city.”¹⁶⁵ The studies just mentioned show that the rate of residential segregation of blacks in Philadelphia has historically been very high¹⁶⁶ and has risen sharply throughout the 20th century, reaching an all-time high of 83 percent in the census years 1980 and 1990.¹⁶⁷ It is also clear from statistics that there is a distinct difference in the attitude between blacks and whites as far as the issue of racial integration is concerned,¹⁶⁸ and that it is not simply mutual racial animosity but white racism that is the subjectively contributing factor to geographical separation and segregation.

At least since 1960, large parts of the city are simply falling apart. At the beginning of the twenty-first century, taking a drive from the relatively small area of Center City that has been rebuilt, since the end of the 1970s, by multi-billion investments, to the areas immediately to the North of it is like the abrupt transition from a rich industrialized country right into the third world, entering an area, large pockets of which are a nightmare of poverty, abandonment and hopelessness.¹⁶⁹ The low income of those living in these areas heavily contributes to the decline of the housing as “the housing stock of the city suffers” because “the workers’ hardships cause them to defer needed maintenance. Similarly, reduced tax revenues force the city to choose between needed social services and maintenance of its physical infrastructure. In Philadelphia, as in a number of other eastern and Midwestern cities, maintenance has been deferred so long that the issue is often not maintenance, but replacement.”¹⁷⁰

¹⁶⁴ Adams et. al, *Philadelphia*, p. 66.

¹⁶⁵ *Ibid.*, p. 67.

¹⁶⁶ *Ibid.*, p. 93-98; Katz /Sugrue, *W.E.B. DuBois, Race, and the City*, p. 164.

¹⁶⁷ Katz /Sugrue, *ibid.* The scale ranges from zero to one hundred percent, and the highest percentage ever reached by any other of the ethnic groups for which data were collected was 61 percent for Italians in 1910. Since 1930, the percentage for African Americans has been consistently higher, mostly much higher than that of all other ethnic groups. It should be said, however, that this refers to *white* ethnic groups, since the table in Katz/Sugrue contains no data about Puerto Ricans and Asians.

¹⁶⁸ E.g., in a 1976 poll 92.8 percent of the black respondents agreed to the statement that “if necessary, black and white children should be bussed to schools outside their neighborhood in order to achieve racial integration,” as compared to 27.5 percent of the white respondents. Among the whites polled, 12,3 percent objected to having “a member of their family bring a black friend home to dinner.” The reverse figure was practically zero. Adams et al., *Philadelphia*, p. 23.

¹⁶⁹ Personal observation in September 2001 and September 2002. The differential development of these two areas is described in *ibid.*, p. 107-113; for the general developmental difference between the immediate center of the city and the rest of the inner city, see *ibid.*, p. 87-92.

¹⁷⁰ *Ibid.*, p. 63-64. Also, personal observation in wide areas of Philadelphia.

The public reinvestment schemes enacted during the last quarter century to stem the decline of the city only served to create a situation where

the simultaneous emergence of gentrification and displacement, speculative activity, and large-scale abandonment provides a schizophrenic image of a city half-phoenix and half ashes. In the midst of the ashes stand not only empty houses but unhoused people, truly a paradox of the new order.¹⁷¹

In tune with that development, “the city suffered a dramatic loss of its stock during the 1970-78 period” that was only partially offset during the following seven years. But even the increase after 1978 did not lead to more housing for the poor: “On the one hand, the demand for higher cost housing drives an increase in new housing stock, while on the other, growing abandonment at the low end of the market increases the vacancy level.”¹⁷² Due to the flight of the better-off to the suburbs, the value of the housing in many regions of the city itself plummeted, and so it was only a logical outcome when Annual Housing Survey (AHS) interviewers reported in 1977 that one in three residents in the city had boarded-up dwellings in their blocks.”¹⁷³

The process of dilapidation is described beautifully in Pennsylvania author John Edgar Wideman’s novel *Two Cities*:

These skimpy bricks and boards. [...] A narrow, cobblestoned alley of back fences and back yards and back lots and back doors. Some of the back doors also front doors for the row houses that lined two blocks of Cassina, skinny two-story houses sharing a spine like Siamese twins so one family’s dwelling opened onto a street, the other into the alley. Cassina Way had been sitting here all this time and he had ignored it, aging and falling apart like the rest of the neighborhood. Like him. Cassina Way a skin he’d shed and discarded. [...]

At the beginning of the second block, row houses that had formed one wall of the narrow corridor he remembered as Cassina Way were gone. Now, from the cement steps of 7215 where he used to sit and daydream, making up lives for the people who never seemed to come out of their back doors, you could see straight to Tioga’s far side and beyond. Few houses on Tioga Street remained intact, most of them gone now like the ones once forming a wall that had made Tioga’s far side invisible when he was a kid on his steps. Tioga’s houses boarded up or shells or bulldozed into vacant lots, craters, mounds of rubble. The row of six or seven houses standing on one side of Cassina the last stale slice of a cake somebody had gobbled up a long time ago.¹⁷⁴

Summarizing the housing situation, it can be said that beginning in the mid-1970s at the latest, huge parts of the population, primarily blacks and Puerto Ricans had stopped to live in

¹⁷¹ *Ibid.*, p. 68.

¹⁷² *Ibid.*

¹⁷³ *Ibid.*, p. 72.

¹⁷⁴ John Edgar Wideman, *Two Cities* (Boston/New York: Houghton Mifflin, 1998), p. 27-28. Tioga Street actually exists in the far North of Philadelphia.

regions that were poor but orderly, like the public housing projects described by Abu-Jamal's biographer Bisson. By then, they lived in "the city of despair. There is no other way to speak of the core areas of the city surrounding the gentrified center of Philadelphia."¹⁷⁵

In the seventies, this very situation was to be one of the most important areas of coverage for the young radio reporter by the name of Mumia Abu-Jamal.

2.2.3 Politics

Politics in Philadelphia had long been dominated by a Republican Party organization whose corruption had become legendary over the years. During the New Deal era under the presidency of F.D. Roosevelt, this state of affairs slowly began to change, and since the mayoral election in 1952, the city has been firmly in Democratic hands. What did not change, however, was the entrenched system of corruption and patronage that had, early in the 20th century, led famous journalist Lincoln Steffens to scorn the entire city as "not merely corrupt, but contented" and the worst governed city in the country."¹⁷⁶ Thus, Philadelphia chronicler Ron Avery writes: "Even the change at City Hall meant a continuation of one-party rule. The corrupt and complacent GOP was simply replaced by an all-powerful Democratic organization that would produce its own scandals and scoundrels."¹⁷⁷ Over the years, the Democratic city government oversaw the closing down of hundreds of factories, of the ship-producing Naval Yards, the Philadelphia-based Pennsylvania Railroad with its formerly more than 150,000 employees, and the *Philadelphia Bulletin*, which had once been the largest evening newspaper of the nation. It certainly did little to stem or reverse the social processes described above that were beginning to tear the city apart, and even less to support those hit hardest by these processes, namely the socially disadvantaged, primarily the blacks. The answer from below proved to be not long in coming.

The following vignettes of some of the responses of the city's African Americans to the situation in Philadelphia can provide of course no more than a few glimpses into Philadelphia's postwar politics. My intention here is to give a flavor of the political conditions in which a man like Mumia Abu-Jamal grew up and which he later actively dealt with, first as a member of radical groups and organizations and then professionally as a journalist.

¹⁷⁵ *Ibid.*, p. 99.

¹⁷⁶ Committee of Seventy, *Philadelphia Police Department Governance Study*, 1998, <http://seventy.org/cops.htm>, Part 2. The Committee of Seventy is a political watchdog organization with seventy board members drawn from the Philadelphia region's business, professional, and academic elite dedicated to the promotion of "good government." In the subchapter below devoted to the police in Philadelphia, I will quote extensively from the Committee's report.

¹⁷⁷ Avery, *A Concise History of Philadelphia*, p. 75.

2.2.3.1 Revolt in Columbia Avenue

When Father Paul Washington, who was to be head of an Episcopal Church in one of the poorest regions of the city from 1962 to 1987, arrived in North Philadelphia, his wife wept.

“Is this where we are going to live?” she asked.

“Yes, this is where we are going to live,” I said.

“Paul, there’s not even a blade of grass between the concrete slabs,” she said through her tears.

In the description of the couple’s arrival, Washington then goes on to recount that “there was reason for fear because of the explosive combination of social pressures that racism had created here. There was poverty, joblessness, broken homes, overcrowding, and landlord neglect.”¹⁷⁸ This is the general area where, in the summer of 1964, a riot broke out that has been described as a symbolically most important event in the development of the city. “For three nights and two days the North Philadelphia neighborhood that had experienced some of the worst overcrowding, highest unemployment, and most intense policing was the site of substantial violence and physical destruction. Newspapers reported the destruction as racially polarized; they emphasized the selective nature of property destruction, that is, against white merchants rather than the black barber shop. Additionally, when officials sealed off the neighborhood, they chose boundaries that seemed to assume a conspiracy of virtually all of the North Philadelphia black community against the city.”¹⁷⁹

Main scene of the events was Columbia Avenue, where at various times offices of Marcus Garvey’s United Negro Improvement Association, the NAACP, and later on the Philadelphia chapter of the Black Panther Party were located. The area is still desolate and desperately poor today.¹⁸⁰ Once more, the rebellion “was sparked by a confrontation between police and residents of North Philadelphia. It began with the arrest of a woman named Odessa Bradford for a traffic violation. A fight with police following her arrest led to large scale looting and attacks on property on Columbia Avenue.”¹⁸¹

Quite independently of the particular event that sparked the explosion, Father Washington’s conclusion was that the police “too often behaved like an army of occupation and not a pro-

¹⁷⁸ Paul Washington (with David McL. Gracie), “*Other Sheep I Have.*” *The Autobiography of Father Paul M. Washington* (Philadelphia: Temple University Press, 1994), p. 25. It should be noted, however, that the picture he paints is not entirely bleak: “But there were then, just as there are today, proud blocks with well tended row houses, churches full on Sunday morning and active in good works during the week, and neighbors who looked out for neighbors.” *Ibid.*

¹⁷⁹ Adams et. al, *Philadelphia*, p. 83.

¹⁸⁰ Personal observation on the occasion of a visit at the home of former Black Panther Party captain Reggie Schell. The street is now named after Philadelphia NAACP leader Cecil B. Moore.

¹⁸¹ Washington, “*Other Sheep I Have,*” p. 33.

tective force.” One of the direct action groups that used to meet in the Church of the Advocate then decided to fight brutal behavior by the police and illegal arrests by acting as citizen observers. It is very interesting how similar the actions of that group were to the methods later employed by the Black Panther Party:

On Friday and Saturday evenings these volunteer members of “Operation Alert” would gather in the parish house to listen to radios that picked up the police band. When they heard of arrests being made, they rushed to the scene in automobiles to observe. It did not take the police long to realize how closely they were being observed.¹⁸²

Equally characteristic, particularly for the methods of the Philadelphia police, was the reaction, since shortly afterwards, the possession of radios capable of receiving police band by persons not active in law enforcement was made illegal by the City Council.

At any rate, the 1964 disturbance in Philadelphia and the almost simultaneous urban rebellions in Rochester and Harlem were significant enough to earn the condemnation of Martin Luther King, who warned that “lawlessness, looting and violence cannot be condoned whether used by the racist or the reckless of any color.”¹⁸³ In only a few years later that King would unequivocally adopt the stance of revolutionary pacifist A.J. Muste, according to which radical reformers should first and foremost “denounce the violence on which the present system is based, and all the evil [...] this entails for the masses of men throughout the world. [...] So long as we are not dealing honestly and adequately with this ninety percent of the problem, there is something ludicrous, and perhaps hypocritical, about our concern over the ten percent of violence employed by the rebels against oppression.”¹⁸⁴ In the years after 1964, an increasing number of activists would be driven to the conclusion that for them, non-violence was not an absolute principle, but only a tactic, and that instead black liberation had to be reached “by any means necessary.”

2.2.3.2 A Neighboring Town Explodes: Newark 1967

The social and racial forces that, in the 1960s and far beyond, made the city of Philadelphia an area of high tension were visible in an even sharper form in Newark, a town that is located only 60 miles away from Philadelphia in the state of New Jersey. Its 1950 population of only

¹⁸² *Ibid.*, p. 34.

¹⁸³ Marable, *Race, Reform, and Rebellion*, p. 79.

¹⁸⁴ Quoted in Noam Chomsky, “The Revolutionary Pacifism of A.J. Muste: On the Backgrounds of the Pacific War” in Noam Chomsky, *American Power and the New Mandarins. Historical and Political Essays* (New York, Vintage, 1967/1969), p. 161.

about one quarter of that of Philadelphia declined even more drastically over the following decades. In 1950, it stood at 438,776, in 1970, at 381,930, and in 1990, at 275,221, a dramatic loss of 37 percent that has since continued. During the same time, the racial composition underwent an even sharper reversal from an 83 percent white majority to a 59 percent majority of blacks. Just as Philadelphia and “like many northeastern cities, it has experienced severe economic dislocation caused by disinvestments, structural changes in the economy [...], and the demise of old industries.” With a “long history as New Jersey’s dominant economic center,” it has entered a period of decline and is now, while still playing a very important role in the state’s economy, “an island of poverty in a sea of wealthy suburbs.”¹⁸⁵

Moreover, given the familiar dynamics of de-industrialization and blackening of the city, Newark’s African American community was soon concentrated “into one of the country’s poorest ghettos. In 1967, Newark had the nation’s highest percentage of substandard housing, and the second highest rates of crime and infant mortality.” As was so often the case in the sixties and early seventies, it was a situation that needed only a spark to explode. And once again, the uprising in Newark followed the typical pattern: “That July [1967], purported police brutality involving the arrest of an African American cab driver charged with assaulting a police officer plunged the city into four days of violence and destruction. [...] The riots began as a crowd of around 200 assembled outside the Fourth precinct station house to protest the arrest of the cab driver with chants of ‘police brutality.’” When the ensuing unrest couldn’t be quelled, after three days “National Guardsmen and state troopers opened fire on rioters.”¹⁸⁶ There is a very insightful account of the events by the novelist, Newark resident and crime novel writer Valerie Wilson Wesley, who has described what happened in a marvelously evocative way through a dialogue of her two main protagonists:

“The city has always been corrupt. Politicians were robbing this city blind before the first brick was ever thrown. [...] The riot was nothing but the last straw. Whites not wanting to live near black folks, anywhere near black folks [representing the same one-sided racism as in Philadelphia]. And black folks sick and tired of a racist city hall that ignored their neighborhoods, and cops who beat their sons and brothers and husbands for no good reason at all.”

“The riot started over some cop killing a kid, didn’t it?”

“That was the rumor, anyway. But that’s how it always starts, isn’t it, over some stupid cop shooting someone’s kid? The white folks left the city overnight it seemed, taking the

¹⁸⁵ Project Community/Center for Urban Policy Research, May 12, 1997, „Strategic Revitalization Plan for the West Side Community of Newark, NJ; Volume I: Islands of Strength, Reasons for Hope,“ subchapter „Research Problem,“ <http://policy.rutgers.edu/cupr/community/organizations/projcomm/srp/vol1/problem.htm>.

¹⁸⁶ See <http://www.thirteen.org/newark/history3.html>: “A Walk Through Newark with David Hartman and Historian Barry Lewis: History of Newark. The Riots.”

tax base and what was left of the money with them. And all the places you could take your kid to for a milk shake on a Saturday afternoon disappeared.”

“All I remember about the riots was how my eyes burned from the smoke, and how my grandma rocked back and forth like she was in a trance when the national guardsmen swore they saw a looter in the apartment downstairs and let loose a round of ammo in the building. They killed a lady, a pregnant lady, pulled some forty bullets out of her” [...] “They kept Johnny overnight in jail. Said he didn’t have the proper identification to be walking down the street. That and the way they killed that pregnant woman drove my grandma to her bed.”¹⁸⁷

During the four days of violence (whose victims were, as usual, mainly black) 26 people were killed and more than 1,000 injured, and the damage in property amounted to more than ten million dollars.¹⁸⁸ The significance of the explosion in Newark for all the urban areas in the Northeast, North, and West of the U.S.A. lay in the fact that it clearly showed what was potentially in store for cities plagued by similar problems, among them neighboring Philadelphia. As we will see below, in Philadelphia, politicians and a particularly tough Police Commissioner, Frank Rizzo, took the violence in Newark and its relative absence in Philadelphia as proof that harsh police repression of dissent and social protest were the recipe against threatening unrest. But that is hardly convincing. There is every reason to believe that the situation in Newark exploded because the city presented all the contradictions that were typical for most urban areas in the United States at the time in a glaring, almost laboratory-like fashion: racism, race and class-biased government corruption, de-industrialization, white flight, suburbanization, ghettoization, and last but not least heavy-handed state repression to keep the tinder box from blowing up. It was certainly not a *lack* of police repression and brutality that was responsible for the outburst.

2.2.3.3 “Get Their Black Asses”: Philadelphia, November 17, 1967

November 17, 1967 was another important date in the racial history of the United States as well as that of Philadelphia – and certainly in the personal history of Abu-Jamal, since it was the first, or one of the first, mass demonstrations in which he took part.¹⁸⁹ The day saw a public display of police brutality against defenseless schoolchildren that shocked the nation. The protest had been widely announced in the black community of the city. The students demanded black history courses and other reforms towards more racial equality in the public

¹⁸⁷ Valerie Wilson Wesley, *No Hiding Place* (New York: HarperCollins, 1997) p. 58-59.

¹⁸⁸ “A Walk Through Newark,” *ibid.*

¹⁸⁹ The event is described at some length in Bisson, *On a Move*, p. 27-30. According to Bisson, Abu-Jamal did not take part in the demonstration until its bloody end.

schools. About 3,500 pupils assembled in a peaceful manifestation on and before the steps of the offices the Board of Education. Liberal school superintendent Mark Shedd was ready to listen to the complaints of the students and had asked police commissioner Frank Rizzo to send only plainclothes officers of the Civil Disobedience Squad under Lt. George Fencil. The prevailing atmosphere and the shock triggered by the events was described by Father Paul Washington, whose own son asked him before the demonstration: “Dad, do you really believe that this country intends for *us* to be included in this ‘liberty and justice for all’?”:

The rising black consciousness was everywhere. It was certainly being felt in the public schools, where it would come to a head in one of the most polarizing events in recent Philadelphia history – a demonstration by black city high school students in front of the offices of the Philadelphia Board of Education at 21st and the Parkway on November 17, 1967. When Police Commissioner Rizzo ordered a brutal billy club charge against those young people, it set back race relations in the City of Brotherly Love for years.¹⁹⁰

At first, the manifestation was indeed handled only by Fencil’s squad, but demonstrators who arrived later in the day faced “‘vans, cars, police everywhere. They were standing like uniformed soldiers with helmets and sticks in their hands.’”¹⁹¹ After some apparently only minor provocations on the part of the students, the billy club attack was ordered by Rizzo personally, and the police commissioner became notorious for the words with which he had ordered the action: “Get their black asses!”¹⁹² What followed is recounted graphically by Terry Bisson:

Immediately an army of cops charged into the crowd, nightsticks swinging.
Soon the streets were echoing with the nightmarish thwack of oak clubs on young skulls,
and the gutters were spattered with blood.
Girl? Boy? It didn’t matter to the men in blue.
They were just kids, true. But they were black and they were outta line.
Dozens were injured [...]. Dozens more were charged with “Disorderly Conduct” and with
“Resisting Arrest.”

¹⁹⁰ Washington, “*Other Sheep I Have*,” p. 62.

¹⁹¹ According to then seventeen-year-old participant Deborah Sawyer, quoted in S.A. Paolantonio, *Rizzo. The Last Big Man in Big City America* (Philadelphia: Camino, 1993), p. 92.

¹⁹² The history of this quote is also quite interesting. In the account he gives in a book he wrote on his work in Philadelphia, veteran journalist and talk show host Larry Kane not only claims that Rizzo “demonstrated considerable patience” before events took a violent turn, and that the “fight” that ensued “was not particularly brutal,” but also quotes Rizzo with the race-neutral words “Get their asses.” Larry Kane, *Larry Kane’s Philadelphia* (Philadelphia: Temple University Press, 2000), p. 12, 13, and 12. This was indeed Rizzo’s version himself who, on the next day, denied ever having yelled the incriminating order to his troops. But on the same day he was shown film footage of the protests at a local TV station, in the presence of a young TV journalist. The latter was none other than Larry Kane, who at the time unexpectedly had access to a big story, but many years later chose to give a thoroughly sanitized version of the events. See Paolantonio, *Rizzo*, p. 93. Father Washington also omits the “black” in Rizzo’s words, but in contrast to Kane, Washington vividly recounts the shock and horror many citizens, black and white alike, felt at the police attack, and also leaves no doubt about the message that was sent to the schoolchildren, and the fact that the message was understood only too well.

None of the police were ever charged or disciplined.¹⁹³

In a nutshell, Rizzo had made clear what the confrontation was about. Black pupils and students had marched to protest against being treated as “black asses,” at school and in their history books and in the city, and the city’s police commissioner sent them a violent message, saying that they were just that. As Rizzo’s biographer Paolantonio writes, “the incident left an indelible impression on blacks everywhere in Philadelphia. Fifteen protesters were hospitalized. Five police officers were slightly injured. Dozens [...] were arrested.”¹⁹⁴ Still worse, in terms of its brutality and its racial overtones, the altercation on November 17, 1967 was by no means an isolated incident. At the time, the Philadelphia police had already piled up quite a record of brutality, particularly against blacks, and as we shall see shortly, in the so-called “Rizzo years,”¹⁹⁵ the record did not only get worse, but much worse.¹⁹⁶

2.2.3.4 The Revolutionary People’s Constitutional Convention in 1970

In 1970, Philadelphia was the scene of a highly significant event, the Revolutionary People’s Constitutional Convention (RPCC) organized by the Black Panther Party. In the words of one participant, it was

A multicultural public gathering of between 10,000 and 15,000 people who answered the call by the Black Panther Party (BPP) and assembled in Philadelphia on the weekend of September 5, 1970. Arriving in the midst of police terror directed against the BPP, thousands of activists from around the country were determined to defend the Panthers. They also tended to redo what had been done in 1787 by this nation’s founding fathers in the City of Brotherly Love – to draft a new constitution providing authentic liberty and justice for all.¹⁹⁷

The author of these lines even goes on to claim that this “self-understood revolutionary event,” coming “at the high point of the 1960s movement in the United States” was “arguably the most momentous event in the movement in this critical period in American history.”¹⁹⁸

¹⁹³ Bisson, *On a Move*, p. 30.

¹⁹⁴ *Ibid.*, p. 93.

¹⁹⁵ Rizzo was put in charge of the Central Division of the PPD in August 1960, deputy police commissioner in charge of the 6,000 uniformed police officers from October 1963 to February 1966 and had already played a role in the suppression of the Columbia Avenue rebellion. He became acting police commissioner in 1966, was formally reappointed to the post on May 22, 1967, and was mayor of Philadelphia from 1972-1980. Paolantonio, *Rizzo*, p. 69 (Central Division), p. 73 (deputy commissioner), p. 79 (acting commissioner), p. 87 (reappointment in 1967).

¹⁹⁶ See below, especially 2.3.

¹⁹⁷ Katsiaficas, “Organization and Movement,” in Cleaver/Katsiaficas, *Liberation, Imagination and the Black Panther Party*, p. 142.

¹⁹⁸ *Ibid.*

Whatever its actual importance may have been, it was certainly not lost on the city's police department, whose leaders, especially Police Commissioner Frank Rizzo, were in a state of virtual panic and acted accordingly. According to Father Washington, "in the week prior to the convention, Police Commissioner Frank Rizzo had staged dawn police raids on all the Black Panther Party offices in the city, putting the leaders behind bars."¹⁹⁹ The murder of a police officer and unrelated attacks on two other policemen provided the PPD with the long-sought pretext to stage heavily armed raids on the Philadelphia offices of the Black Panther Party at 1928 Columbia Avenue, 3625 Wallace Street, and 428 W. Queen Lane.²⁰⁰

As if to underline the necessity of a brand-new, non-white, multiethnic constitution with inclusive rights for all, the police action against the Panthers revealed the utter contempt that the powers that be held in store for them, aimed as it was at the maximal humiliation that was possible. At the Wallace Street office, the Panthers were forced to publicly strip to their underpants, with a photograph of the action appearing in one of the city's leading tabloids, *The Philadelphia Daily News*, several days later.²⁰¹ What happened to the other Panthers was described later by the leader of the Philadelphia chapter of the BPP, Captain²⁰² Reggie Schell:

At five o'clock that morning I was asleep, and somebody woke me up (we used to pull guard duty in the Panthers anyway) and said, "They're here." I looked out of the window, and they're lined up across the street with submachine guns, shotguns; they're in the alley. I saw the head man clearly, he had a pistol and a gas mask strapped to his leg; he was bending down, and then all hell broke loose. Finally, we had children in there and the gas got to them too much so we had to come out.

Each cop took an individual Panther and placed their pistol up the back of our neck and told us to walk down the street backward. They told us if we stumble or fall they're gonna kill us. Then they lined us up against the wall and a cop with a .45 sub would fire over our heads so the bricks started falling down. Most of us had been in bed, and they just ripped the goddam clothes off everybody, women and men. They had the gun, they'd just snatch your pants down and they took pictures of us like that. [...] We were handcuffed and running down this little driveway; when we got to the other end of it, a cop would come by

¹⁹⁹ Washington, "*Other Sheep I Have*," p. 126.

²⁰⁰ *Ibid.*, p. 132. The party thus had offices in North Philadelphia, West Philadelphia, and Germantown still farther in the North of the city. The Columbia Avenue office address is from *TP*, July 3, 1982, p. 25.

²⁰¹ Donner, *Protectors of Privilege*, p. 214-215; Paolantonio, *Rizzo*, p. 102. Although he would once again later try to deny it, at the time Rizzo was barely able to suppress his glee. "Rizzo savagely brushed aside objections to this humiliating procedure. A policeman had been killed; this was no time to waste sympathy on the Panthers. 'Imagine,' he gloated, 'the big, black Panthers with their pants down!'" Donner, *ibid.*, p. 215. One of the photographs taken at the opportunity is reprinted in Washington, "*Other Sheep I Have*," p. 108, another one in Bisson, *On a Move*, p. 95.

²⁰² In order to stress the necessity of discipline as well as its organizational prowess, the BPP bestowed military titles on its leading members, e.g., Minister of Defense for the actual party leader Huey P. Newton. The practice had little to do with militarism, although the accusation has been made very often. In a conversation with me in September 2002, Reggie Schell called Abu-Jamal "a soldier." It was evident that he did so not in order to point to any military capabilities, but to stress that in his view, Abu-Jamal was far too disciplined to lose his head and kill a police officer.

with a stick and he'd punch us, beat us. Some of us were bleeding; I know I was bleeding, but really I thought it would [eventually] be a lot worse.²⁰³

But with all the furious repression, the PPD did not succeed in preventing the Revolutionary Convention from being held. Father Washington provided the facilities of his Church of the Advocate at 18th and Diamond Street in North Philadelphia and arranged for premises of the nearby Temple University for the larger meeting of the convention.

The opening session quickly made clear how the BPP had, during the hardly four years of its existence, been able to capture the imagination, not only of so many black people all across the country, but of many members of other oppressed groups and strata of society as well. When hundreds of gay people entered McGonigle Hall at Temple University and began chanting slogans demanding gay power for gay people and black power for black people, “everyone rose to their feet and joined in, repeating the refrain and using the appropriate adjectives: Red, Brown, Women, Youth, and Student.”²⁰⁴

But the appeal of the BPP was not limited to coalition politics. On the one hand, it was clear that the BPP continued to be a black nationalist organization. Any coalitions were to be based on the independence of blacks, supplemented by non-paternalistic relations to other oppressed groups striving for self-determination and self-empowerment. And according to the article on the Convention that appeared in the party paper *The Black Panther*, the approach taken in writing the constitutions was strictly grassroots and bottom-to-top:

The pre-literate black masses and some few saved post-literate students were going to finally write the new constitution. [...] The aristocratic students led by the women, and the street bloods, they were going to do the writing. [...] In the schools and churches [i.e., Temple University and the Church of the Advocate] – the rational structures of the past – the subversive workshops of the future met to ventilate the private obsessions of the intellectual aristocrats and the mad hopes of the damned.²⁰⁵

Their widely held image as violent outlaws of society notwithstanding, the Panthers demonstrated once more their deep roots in a certain *American* tradition, albeit a radical one. It was entirely in the spirit of the Declaration of Independence when, rather than insisting on the sanctity and eternal validity of the Constitution, the Panthers and their allies at the Revolutionary People's Constitutional Convention close to two hundred years later thought about instituting “new government, laying its foundation on such principles, and organizing its pow-

²⁰³ Washington, “*Other Sheep I Have*,” p. 132-133.

²⁰⁴ Katsiaficas, “Organization and Movement,” in Cleaver/Katsiaficas, *Liberation, Imagination and the Black Panther Party*, p. 147.

²⁰⁵ *The Black Panther*, September 26, 1970, quoted in *ibid.*, p. 149.

ers in such form, as to them shall seem most likely to effect their safety and happiness.”²⁰⁶ The changes suggested by the documents produced by the RPCC all went into the direction of a radicalized, enlarged, much more inclusive democracy, stressing the idea that the democratic forms developed at any one given time can become quite insufficient or even anti-democratic as time moves on and the lives of the people change. The RPCC documents leave the ten-point-platform of the Black Panther Party far behind, another demonstration of the vibrant, lively, and future-oriented revolutionary spirit that animated the BPP. The reports generated by various workshops on different constitutional questions were aptly summarized a week later in the party organ:

All the people would control the means of production and social institutions. Black and third world people were guaranteed proportional representation in the administration of these institutions as were women. [...] Sexual self-determination for women and homosexuals was affirmed. A standing army is to be replaced by a people’s militia. [...] The present racist legal system would be replaced by a system of people’s courts where one would be tried by a jury of one’s peers. Jails would be replaced by community rehabilitation programs.. [...] Adequate housing, health care, and day care would be considered Constitutional Rights, not privileges. Mind expanding drugs would be legalized. These are just some of the provisions of the new Constitution...²⁰⁷

It is not hard to see that in the years since 1970, U.S. society has moved in exactly the opposite direction, with the partial exception of women’s and gay rights. This goes a long way to explain the fact, noted by Abu-Jamal in his own work on the topic, that “the BPP stimulated, sparked, and inspired a number of successive, and strikingly similar radical formations, some of which continue their work, drawing on models over three decades old.”²⁰⁸ Because of its firm roots in the radical democratic tradition of the United States, the BPP was able to leave a “remarkable legacy”²⁰⁹ that is still very much alive for thousands of political activists in the U.S.A. and around the globe.

2.3 An Endemic Problem: Corruption and Brutality in the Philadelphia Police Department

Significantly, the RPCC documents also demanded community control over the police as a means to end violence and abusive behavior on the part of the police, a topic to which I want to turn now. The twin problems of corruption and brutality have plagued the Philadelphia Po-

²⁰⁶ Declaration of Independence, in Sautter, *Die Vereinigten Staaten*, p. 146.

²⁰⁷ *The Black Panther*, September 12, 1970, quoted in Katsiaficas, “Organization and Movement,” in Cleaver/Katsiaficas, *Liberation, Imagination and the Black Panther Party*, p. 149-150.

²⁰⁸ Mumia Abu-Jamal, “A Life in the Party,” in *ibid.*, p. 50.

²⁰⁹ *Ibid.*

lice Department (PPD) from its inception. In the middle of the 19th century, the American “melting pot” did not work well even among whites, and there were brutal clashes between Protestants and Catholics throughout the 1830s and 1850s. The continual rioting and the general uncontrolled criminal gang activity in the counties surrounding Philadelphia proper led to two very important events, namely, the integration of the surrounding counties into the city area itself, expanding Philadelphia’s size from about ten to 130 square miles, and the creation of a single professional police force for the entire city, whose population now doubled to approximately 400,000 people.²¹⁰ However, the police were often “recruited from the kind of toughs who came out of the street gangs and were accustomed to beating up Irishmen and blacks,” and as part of the general picture, “the early police specialized in legalized violence as their weapon against the unlegalized kinds.”²¹¹ This legalized but unlawful violence, a form of corruption of authority in itself, was a legacy that would continue to haunt the PPD for many decades to come. This violent legacy was soon supplemented by a corruption of the police from the outside, as “the department’s effectiveness was severely limited because employment and promotions were eventually all determined by political loyalties rather than by merit, and officers were often called upon to punish the [governing Republican] party’s enemies and reward its friends.”²¹² By the turn to the 20th century, the Philadelphia police was described as “systematically intimidating voters while permitting other citizens to vote many times, beating and arresting any election officials who attempted to stop them.”²¹³ There was no real change in this situation until, at the beginning of the 1950s, the Democratic Party took over from the Republicans.

But the police reforms instituted by the new masters of Philadelphia’s City Hall led to new problems. As the PPD was more or less successfully isolated from the machinations of party politics, it turned inward and developed into a closed system accountable to no one. This process was strengthened by the rise of the Fraternal Order of Police (FOP), a professional association that was granted exclusive collective bargaining rights in 1950.²¹⁴ At the same time, corruption and violence continued. The spirit of reform proved to be short-lived, and all

²¹⁰ Committee of Seventy, *Philadelphia Police Department Governance Study*, 1998, <http://seventy.org/cops.htm>, Part 2: “A History of the Philadelphia Police Department.” In fact, the unified police force had been founded even before the consolidation of the city borders, on May 3, 1850. In 1854, it was confirmed in the new charter for Philadelphia.

²¹¹ Weigley, *Philadelphia*, p. 370.

²¹² Committee of Seventy, *Philadelphia Police Department Governance Study*, Part 2. The study describes this as phenomenon that pervaded the whole rule of the Republican Party, which lasted from the 1850s to the 1950s. Fairness also demands that I quote the study’s remark that during this time, the PPD of course “did provide some benefits to the city,” too.

²¹³ Sometimes, these practices took quite extreme forms: “During the 1917 election, in the ‘bloody fifth’ ward, a candidate at a polling place was badly beaten by a police officer who was then shot and killed by another police man. The ensuing investigation ultimately led to the arrest of the Mayor and the head of the party.” *Ibid.*

²¹⁴ *Ibid.* Also, all sworn members of the uniformed police force are automatically members of the FOP. *Ibid.*, Part 1.

but disappeared in many areas of police work with the meteoric rise of Frank Rizzo. Not only did Rizzo conclude a non-aggression pact with mafia mobster Angelo Bruno,²¹⁵ but “his determination [...] to eliminate the Police Review Board as a check on possible police brutality was widely criticized by the black community and others. Despite efforts to eliminate the feeling, the police were widely regarded as enemies in the most blighted areas of the black community. The proportion of blacks on the police force, after rising in the 1950s and 1960s, began to decline, and blacks sued the city to compel broader recruitment.”²¹⁶

As for Frank Rizzo himself, the “cop who would be king”²¹⁷ and dominated Philadelphia’s police work for two decades, specialists Jerome H. Skolnick and James J. Fyfe report in one of their books on the topic of police brutality:

When the late Frank Rizzo was Philadelphia’s hard-line Police Commissioner and Mayor, he also made headlines with provocative statements. “I’m gonna make Attila the Hun look like a faggot after this election,” he told one reporter. “The way to treat criminals is *spacco il capa*” – bust their heads – he told another. During his term as Mayor, Rizzo informed a national television audience, he had armed his officers so well that “we could invade Cuba and win.”²¹⁸

Rizzo’s personal stance towards and use of police brutality is exemplified well in the following episode from the year 1967, when Rizzo was already Police Commissioner:

Like two weeks ago he gathered a small audience of reporters behind City Hall Courtroom and told them with great glee the story of a man he had beaten up. He told how he had chased the man, caught him, and finally threw him to the ground. “Then I come down with the good old number twelve,” Rizzo said, stamping his foot on the floor, “and the guy ain’t walking right today.” Then Rizzo did an imitation of a man who cannot walk right.²¹⁹

The “Rizzo years,” as many commentators called the era, lasted approximately from 1960 to 1980. With the unchecked rise of Rizzo in the city’s hierarchy, corruption and brutality within the PPD reached monumental proportions.

²¹⁵ The pact was concluded in 1960 when Rizzo was appointed chief of the Central Division of the PPD. In exchange against a curbing of mob violence by Bruno, “Rizzo did very little to investigate the illegal activities of the mob’s senior members. And when the federal government broadened its national investigation into the mob, it expanded into Philadelphia because local law enforcement agencies were doing nothing.” See Paolantonio, *Rizzo*, p. 69-70; for quote, p. 70.

²¹⁶ Weigley, *Philadelphia*, p. 675.

²¹⁷ This is the title of one of the three books on Rizzo: Joseph R. Daughen and Peter Blinzen, *The Cop Who Would Be King* (Boston: Little, Brown & Company). I have not used this book here.

²¹⁸ Jerome H. Skolnick and James J. Fyfe, *Above the Law. Police and the Excessive Use of Force* (New York: The Free Press, 1993), p. 139.

²¹⁹ Donner, *Protectors of Privilege*, p. 198.

As for the killing of unarmed people by police officers, Skolnick and Fyfe write: “In a study conducted for the U.S. Justice Department, one of us reported that, while individual Philadelphia cops were no more likely than New York cops to make arrests or to come face to face with armed people, they were *thirty-seven times* as likely as New York cops to shoot unarmed people who had threatened nobody and who were fleeing from non-violent crimes.”²²⁰ Skolnick and Fyfe then proceed to give a few examples, some of which I want to mention here to convey a general impression:

- 75-86: 17-year-old black male who stole 3 bath mats and one toilet seat cover from a store was shot in the back and killed as he tried to run away.
- 75-119: 22-year old black male involved in consensual homosexual act in an alley was shot in the back of the leg as he ran from the police who were responding to a burglary call. [...]
- 78-13: 19-year-old white male was killed while running away from a traffic violation.
- 78-62: 19-year old black male was killed while running from police headquarters while handcuffed with hands behind him [...].²²¹

In terms of absolute numbers, “during the seventies, shootings by Philadelphia police resulted in 162 deaths according to a report issued in April 1979 by the Police Project of the Public Interest Law Center in Philadelphia. (PILCOP).”²²² And the data show that matters grew worse instead of better when Rizzo moved up from Police Commissioner to Mayor:

Persons Shot by Philadelphia Police 1970-1974²²³			
Year	Shot	Killed	Victim Had No Gun*
1970	36	13	26
1971	30	9	18
1972	45	9	31
1973	55	26	27
1974	70	24	41

* According to police, but actual number could be higher

It is all but impossible to avoid the conclusion that the sharp rise in police killings was in large measure due to the fact that in 1973 O’Neill, the Police Commissioner appointed by the newly

²²⁰ Skolnick/Fyfe, *Above the Law*, p. 140. Emphasis in the original. It is important to note that their study can hardly be dismissed as the work of outsiders. Skolnick has written two other books on the subject, and Fyfe, apart from his post as Professor of Criminal Justice at Temple University, was a member of the New York City Police Department for sixteen years as patrolman, sergeant, and lieutenant, and also taught at the New York Police Academy.

²²¹ *Ibid.*, p. 140-141. The figures before each example are from the Philadelphia “Police Shooting Files” and refer to the year and to the number of the case in that year; the higher figure of 119 for 1975 is thus the minimum of the number of people shot that year.

²²² Linn Washington Jr., “The Reign of Frank Rizzo: Brutality Explodes,” in *Resource Book on the Case of Mumia Abu-Jamal*, p. 16.

²²³ Taken from C. Clark Kissinger, “Philly’s Killer Elite,” in *ibid.*, p. 20.

elected Mayor Rizzo, “suspended the department’s restriction on officers’ use of deadly force.”²²⁴ As a result of this suspension and other signals sent to ordinary policemen, not least among them the assurance of a virtually guaranteed immunity against accusations concerning the excessive use of force, the exponential growth of police brutality that followed was not very surprising. In a hearing before the U.S. Civil Rights Commission in Philadelphia on April 16-17, 1979, O’Neill said that if an officer “did shoot if [he] felt that he was doing that which is right, I’d most certainly defend him.”²²⁵ As a result, during the eight years of the reign of Rizzo at the helm of the city, fatal shootings by officers of the Philadelphia police increased on average by 20 percent *annually*.²²⁶ These numbers about the deadly shootings of course did not even include the non-fatal shootings, the beatings, the arrests, the humiliations, and the general *macho* behavior of the Philadelphia police, a behavior that was, as usual, mainly directed against the poorer strata of the population, especially against the blacks. Or as veteran Philadelphia journalist Linn Washington Jr. describes the situation: “From paupers to house painters to prominent pastors, blacks were the predominate target of police abuse.”²²⁷

But violence was not all. Police brutality as such is a criminal act that carries with it, at least in theory, a corresponding punishment, including loss of job. Lying in order to protect the perpetrators from punishment is thus an integral and inevitable part of it. The corruption of proper procedure inherent in the use of excessive force against the citizens whose *protection* from abuse is the most important task of the police is necessarily supplemented by a further variety of corruption in the form of false reports, false denials, and false counter-accusations in the case of any complaint. It is logical to assume that once police brutality has reached a certain level, the door is therefore wide open to a myriad of other forms of corruption, and report after report shows that this conclusion is fully borne out.²²⁸

In Philadelphia, long-standing traditions such as the corruption in politics could only serve to aggravate the problem. Arguably, in the first three decades after 1952, the abolition of the system of interference in the affairs of the PPD via political patronage finally led to the reverse phenomenon of the police exercising undue influence over city affairs. The election of the long-time “top cop” to the position of Mayor represented the highly visible culmination of this proc-

²²⁴ Skolnick/Fyfe, *Above the Law*, p. 139.

²²⁵ Quoted in *ibid.*, p. 140.

²²⁶ *Ibid.* The authors also note a short dip in this growth rate at a time when there was a federal injunction to reduce police violence on the part of the PPD (in 1976). When the injunction was redrawn, the growth in shootings continued unabated. *Ibid.*, p. 140, note 17.

²²⁷ Linn Washington, “The Reign of Frank Rizzo,” *Resource Book on the Case of Mumia Abu-Jamal*, p. 16.

²²⁸ For a recent very extensive report see Human Rights Watch (HRW), *Shielded from Justice. Police Brutality and Accountability in the United States* (New York: HRW, 1998). On this and other topics, see also amnesty international, *United States of America: Rights for All* (New York: ai, 1998). These reports are also available on the websites of HRW, <http://www.hrw.org>, and <http://www.amnesty.org>, respectively.

ess. Under Mayor Rizzo, a culture of virtual impunity took root in the PPD, with Police Commissioner O’Neill being not much more than the faithful executioner of these politics.

The 1974 findings of the Pennsylvania Crime Commission, a state level investigative panel, were symptomatic for this state of affairs. The conclusions of the report were devastating:

The Commission found that police corruption in Philadelphia is ongoing, widespread, systematic, and occurring at all levels of the Police Department. Corrupt practices were uncovered during the investigation in every police district and involved police officers ranging in rank from policeman to inspector.²²⁹

The response of the Philadelphia police to the mere fact of being the subject of such an investigation was also interesting and, as we shall see later, grimly foreshadowed the behavior of the police during the Faulkner/Abu-Jamal murder case – and what is more, was a harbinger of some of the things that were brought to light in documents filed by Abu-Jamal’s defense many years later:²³⁰

Three state troopers working with the commission were arrested on traffic violations by Philadelphia police officers and severely beaten in police custody. Another was dragged into a Center City bar, beaten and, while struggling to regain consciousness, chained to a chair for hours. The commission fought through security leaks, harassment and stonewalling. [...]

In its report, the commission described payoffs to cops by gamblers, racketeers, bar owners, businessmen, nightclub owners, and prostitutes. The report named more than 400 police officers [out of a force of 8,100] by first name, last initial, and badge number – all of them, the commission alleged, involved in some form of wrongdoing.²³¹

And the 1974 investigation into corruption and the 1979 PILCOP investigation into violence were by no means the only ones.²³² In Philadelphia, both aspects of police abuse have been firmly entrenched for a very long time, and as I will show in later chapters, continue to be so. It is important to note that given the important role of professional pressure groups like the nationally 300,000-member-strong FOP, the structural problems leading to corruption and violence are by no means limited to the direction given from the political top: “In police agencies such as Philadelphia’s, where stringent civil service rules and a militant union have limited the chief’s ability to reward the stars on his staff, the opportunities to reward excellence and reducing police violence in this way have been virtually non-existent.”²³³

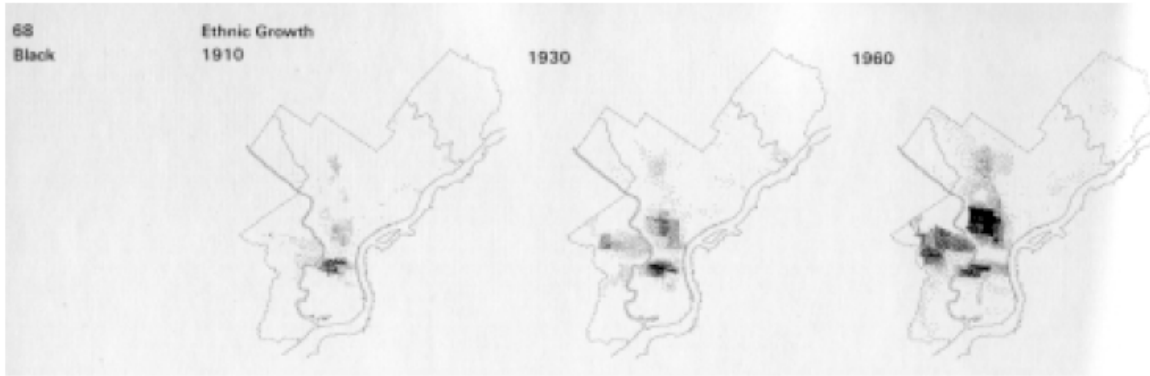
²²⁹ Quoted in Paolantonio, *Rizzo*, p. 176.

²³⁰ Concerning the extent of police corruption at the time of Abu-Jamal’s arrest in 1981. See subchapter 7.5 below.

²³¹ Paolantonio, *Rizzo*, p. 177.

²³² For more material on the various investigations, see the articles by Linn Washington and C. Clark Kissinger in *Resource Book on the Case of Mumia Abu-Jamal*, cited above, as well as the HRW report *Shielded from Justice*.

²³³ Skolnick/Fyfe, *Above the Law*, p. 236.



11. Ethnic Growth in Philadelphia from 1910 – 1960.



12. Members of the Black Panther Party, stripped and handcuffed following Philadelphia police raids on Panther headquarters in August, 1970.



13. Mumia Abu-Jamal as fifteen-year-old information minister of the Panthers in Philadelphia

3. A Black Revolutionary in White America

3.1 Family Background

Wesley Cook, later known as Mumia Abu-Jamal, was born in Philadelphia on April 24, 1954, as the fourth child of his mother Edith and the first child of his father William.²³⁴ Like millions of other African American children in the United States, he grew up in the “projects,” or “PJs” for short, public housing projects for the poor, primarily blacks, that were built en masse since the partial institution of a welfare state in the U.S.A. under the New Deal presidency of Franklin Delano Roosevelt. Among the friends of the Cook children were two boys, Kenneth Freeman and Arnold Howard, who, many years later, were heavily involved in the murder case brought to bear against Abu-Jamal.

Exactly as elsewhere in the black ghettos, the social situation in black North Philadelphia was determined by racism, poverty, deteriorating homes and an ever present primarily white police force to keep the black population in their place and in check. While Abu-Jamal himself was a child of (formally) non-segregated Philadelphia where racist discrimination was less rooted in the law than in economic, geographical, social, and political discrimination, his mother, who came to Philadelphia from North Carolina, also provided him with a southern background. Since the Carolinas were bastions of both white segregationism and black resistance, it would be highly interesting to know to what extent Edith Cook shared her experiences in her original home in the South with her children.

Different from many other black families, the family of young Wesley Cook was a stable one. His father held a job, and “was a quiet man, hard working and ‘respectable,’ a quality that meant a lot in those days when drugs and alcohol were just beginning to feed on the despair that poverty generates.”²³⁵ More generally, according to Abu-Jamal’s biographer Terry Bisson the Cook children grew up in the stable atmosphere of a functioning neighborhood. Learning was high on the agenda even before the children went to school, and school itself “was important. It was a doorway that Edith was determined her kids would pass through. And all of them did.”²³⁶

²³⁴ Bisson, *On a Move*, p. 6-7. William Cook was Edith’s second husband; she brought two older boys, Keith and Ronnie, and a daughter, Lydia, with her from her first marriage. The younger siblings fathered by William Cook were Wesley, his twin brother Wayne, and his “baby brother” William, called “Billy,” who later on was to play a fateful role in his brother Wesley’s life.

²³⁵ *Ibid.*, p. 6.

²³⁶ *Ibid.*, p. 22.

Apart from the fact that he was an unusually intelligent boy and a quick learner, Wesley spent an unremarkable childhood²³⁷ in a northern city that was equally normal, where in theory segregation did not exist, but in actual fact “desegregation was a myth.”²³⁸ The Cook boys went to Benjamin Franklin High School, and Lydia Cook to Pennsylvania High, and both schools were *de facto* segregated, i.e., “ninety percent African American, in spite of the Supreme Court’s famed ruling the year Wes [short for Wesley] was born.”²³⁹ Judging from his later essays, the one thing that stuck out in Wesley Cook’s childhood was his deeply emotional and loving relationship to both of his parents. In two essays about them that appeared in his second book, he wrote:

He was a relatively old man when he seeded these sons, over fifty, and because of his age, he was openly affectionate in a way unusual for a man of his time. He kissed them, dressed them, and taught them, by example, that he loved them. He talked with them. And walked and walked and walked with them.²⁴⁰

Relatively tall, mountainous cheekbones, dimples like doughnuts, and skin color of Indian corn, she left life in the South for what was then the promised land “up Nawth.” Although she lived, loved, raised a family, and worked over half her live “up Nawth,” the soft, lyrical accents of her southern tongue never really left her. [...] She, and her children, lived in the “peejays” (the projects), but it wasn’t until years later (when we were grown) that we understood we had lived in poverty, for our mother made sure that our needs were met.²⁴¹

This stable, loving family background is certainly to no small extent responsible for the fact that up to now, Abu-Jamal has been able to withstand the horrifying conditions on death row with astonishing resilience. In October 1996, his spiritual advisor²⁴² at the time, Steve Wiser, wrote about how at his first visit to Abu-Jamal in May 1995 he had met

²³⁷ In fact, in an interview on February 8, 1996, Abu-Jamal made the point himself. Asked for a description of his childhood, he said: “Average – absolutely unremarkable. Except, one would have to admit, for my exposure to the Black Panther Party, there’s nothing remarkable about my childhood that distinguishes me from millions of other young kids of my generation. I grew up in a poor neighborhood, in what’s commonly called the ‘peejays’ or the projects, and spent most of my educational years in Philadelphia, in elementary schools, junior high schools, and high schools. What makes it really unremarkable is the context of the times we’re talking about – the late sixties and early seventies, which was the explosion era of the black liberation movement. So there were many people of my generation who were active in the Black Panther Party the Republic of New Africa [a black nationalist movement mainly in the American South], the Student Nonviolent Coordinating Committee, the Nation of Islam, and other organizations that were overtly active at that time.” Abu-Jamal, “Interview with Allen Houglund,” in Abu-Jamal, *Death Blossoms*, p. 124-125. The unusual thing, and for many one of the most important points of attraction, about Abu-Jamal is obviously that he has never denied the radical heritage of the late sixties and early seventies, but has rather chosen to uphold it even in the face of terrible odds.

²³⁸ Bisson, *On a Move*, p.22.

²³⁹ *Ibid.*

²⁴⁰ Abu-Jamal, “Father Hunger,” in *Death Blossoms*, p. 85-86.

²⁴¹ Abu-Jamal, “Mother-loss,” in *ibid.*, p. 89.

²⁴² Ministers or “spiritual advisors” represent one of the few ways, and often the only one, of prisoners to keep a regular contact with the world outside of the prison.

A tall, athletically-built African-American whose *joie de vivre* filled his tiny visiting compartment and seemed to overflow, through the Plexiglas partition separating us, into mine. Sitting there opposite him, I discovered a brilliant, compassionate, hearty, articulate man – a man of rare character, tempered and profoundly deepened by suffering.²⁴³

William Cook suddenly died when his son Wesley was in his very early teens,²⁴⁴ but the very fact that later on Abu-Jamal was able to convey to his biographer that “it was several years before he forgave his father for dying without saying goodbye”²⁴⁵ is telling of the openness and honesty of the feelings Wesley Cook had for his parents, his family, and his friends,²⁴⁶ certainly a good pre-condition for meeting the particular mental, emotional and material challenges he would have to face as a youthful black political militant – and even the later ones, as an adult on death row.

3.2 Politicization by Nightstick

However orderly his family life may have been, as a young teenager Wesley Cook could not escape the political storms that ravaged the U.S.A. in the sixties – and he would not. He was one of the marchers in the famous November 17, 1967 demonstration, although he was not pre-

²⁴³ Steve Wiser, “To the Reader,” in *Death Blossoms*, p. xxvii-xxxii. Steve Wiser visited Abu-Jamal in his function as a member of the Bruderhof, “a community grounded in New Testament teachings” located not far from the prison in the far West of Pennsylvania where Abu-Jamal was transferred to in 1995. *Ibid.*, p. xxviii.

²⁴⁴ Abu-Jamal, “Father Hunger,” in *ibid.*, p. 86-87.

²⁴⁵ Bisson, *On a Move*, p. 25.

²⁴⁶ Next to nothing about any of this was heard at Abu-Jamal’s murder trial in 1982. For the details of the lack of preparations by his trial lawyer Anthony Jackson in terms of putting powerful character witnesses with an intimate familiarity with Abu-Jamal on the stand, see chapter 5. At the PCRA hearing 13 years after Abu-Jamal’s conviction, his sister Lydia Wallace (now Barashango) was able to present a picture that was radically different from the portrait of Abu-Jamal as a violence-prone hate-monger eager to kill a cop painted by prosecutor Joseph McGill. Not only did her testimony about her brother as a peaceful, tolerant child and youth extend to his adult years, but rather, it was also confirmed by a host of other very credible witnesses like his former school director at Benjamin Franklin High School, Kenneth Hamilton, and Philadelphia State Assembly representative David Richardson. The following is an excerpt from Lydia Wallace’s testimony:

A. Oh. Mumia was loving. He was loving towards all of us. But he was very loving towards my mother. He, he adored my mother [...]. He would never come in the house without hugging and kissing her. He was always bringing her things, like bean sprouts and fresh vegetables and fresh fruit, because he was always concerned about her health. But, always bringing her gifts, berry gifts and things like that. He was always just very loving.

Q. You said he always greeted your mother with a hug and a kiss. Did he greet other people like that?

A. Yes, as we got older, being the only girl out of the whole family, my mom and I might be sitting in the kitchen talking, Mom and myself, and one of her neighbors would be sitting in the kitchen talking, and Mumia would come in, he would hug Mom and kiss her, and we also would get a hug and a kiss. He was a real emotional, real whooshy, real mushy, very emotional.

Q. Just for the benefit of the record: Could you describe what you mean by mushy?

A. Oh, you know, like teenage kids, you know, they don't -- c'mon, you know, c'mon with the kissing, come off with the hugging. But he was like I loves you, sis, I loves you, that's why I'm hugging you. He would just jokingly tell you why he was hugging and kissing you. He would always like to touch. He was like a people kind of person around the family, even around the neighbors.

Q. So he was the kind of person, if I am hearing you right, that was not afraid to show his affections?

A. He always did, he was always very affectionate. (*PCRAH*, July 26, 1995, p. 151-152. Hamilton and Richardson testified on the same day.)

sent at the bloody melee at the end.²⁴⁷ And after that, he did not have to wait long for his own first violent confrontation with white racism and the police. At the age of fourteen, he and three teenage friends went to a demonstration against a rally of racist presidential candidate George Wallace of the American Independence Party in South Philadelphia. As Abu-Jamal would recall ironically many years later, their intention was to exercise their First Amendment rights of “freedom of speech, freedom of assembly, freedom of speaking your opinion”²⁴⁸:

In retrospect it was kind of crazy to think that we would go down to a demonstration in South Philadelphia, which is predominantly white, and protest against George Wallace coming to Philadelphia. But at that time we believed it was our city as well. And everyone of us got our ass kicked by the plainclothes policemen. You’ve probably heard the tale, “I’ll beat you so bad your own Mama won’t know you.” Well, it has particular relevance to me because as I was lying in the Hospital, charged with assault, and aggravated assault, and beating of a police officer, my own mother walked by me, looked me dead in the eyes and kept walking because she couldn’t recognize me.²⁴⁹

Undoubtedly, the event made a lasting impression on the boy, and in fact, Abu-Jamal has recounted it in several places and on several occasions. In a piece written especially for his first book *Live from Death Row*, he summarized what was the most important consequence of the experience for him. In it, he describes how, while being beaten up, and still believing in his first amendment rights, he saw a uniformed police officer and reflexively yelled for help: “The cop saw me on the ground being beaten to a pulp, marched over briskly – and kicked me in the face. I have been thankful to that faceless cop ever since, for he kicked me straight into the Black Panther Party.”²⁵⁰ But even before, the impact of black nationalism all across the nation had led to another decision in the life of Wesley Cook. Under the influence of a young schoolteacher from Kenya who told his pupils the rudiment of the African language Swahili and “assigned the boys *Kikuyu* (Kenyan) names to use in class,” he changed his name permanently to “Mumia.”²⁵¹

3.3 Militant Youth in the Black Panther Party

After having met a vendor of the BPP party newspaper and after having waited in vain for the BPP to show up in Philadelphia, sometime in the spring of 1969, Cook himself took part in the

²⁴⁷ Bisson, *On a Move*, p. 28, 30.

²⁴⁸ C. Clark Kissinger, “Mumia Abu-Jamal: A Life of Resistance,” interview with Abu-Jamal, 1994, RWNos. 784 and 785, on the website of the radical civil rights organization Refuse & Resist <http://www.refuseandresist.html>.

²⁴⁹ Mumia Abu-Jamal, “Interview from Death Row,” Huntingdon prison, Pennsylvania, late in 1989, in Dhoruba Bin-Wahad, Mumia Abu-Jamal, Assata Shakur, *Still Black, Still Strong. Survivors of the War Against Black Revolutionaries* (New York: Semiotext(e), 1993), p. 122.

²⁵⁰ “Philly Daze: An Impressionistic Memoir,” in *Live from Death Row*, p. 150-151.

²⁵¹ Bisson, *On a Move*, p. 32.

founding of the Philadelphia branch of the party. The city's BPP chapter "was born on a hot afternoon in a tiny South Philly apartment near 15th and South. The meeting was called by community activists and intellectuals. [...] They were fed up with the brutal routines of the Rizzo regime. [...] Less than a dozen men gathered for the first meeting. Most were in their twenties. A few were older."²⁵² Shortly after that, a self-educated ex-GI by the name of Reggie Schell became the leader of the new organization. Rosemary Mealy, a long-time Panther activist who met Mumia/Wesley Cook in 1970 during his party work in New York recalls:

Under the leadership of Reggie Schell, Wes Cook²⁵³ was commissioned as Lieutenant of Information. In that position he was responsible for the writing, production, layout and distribution control of newsletters, the Panther paper and all of the other propaganda emanating from the chapter offices. The chapter grew with new recruits. Sections were opened in other parts of the city, which carried out the programs of the Party such as the Free Breakfast Program for Children.²⁵⁴

The Philadelphia chapter of the BPP was active in the whole state, and "Mumia traveled to Pittsburgh, Harrisburg and many other cities helping to build the Party."²⁵⁵ One does not have to take the word of Abu-Jamal's ex-comrade in the BPP alone for this. It is ironic that much of what is known about the BPP and its members' activities comes from the surveillance files of the various local Police Departments, particularly those of the FBI, since many of the latter have been released under the Freedom of Information Act (FOIA). In October 1969, one of the confidential FBI reports had the following to say:

AIRTEL To Director, FBI; from SAC, New York, 10/7/69 A highly placed, sensitive source ~~xxxxxx~~ reported that Cook was in contact with ~~xxxxxx~~ from the Harlem Branch and advised them that they had opened a Breakfast Program in Harrisburg and were planning another for Reading...²⁵⁶

In the surveillance system of the FBI, every political organization had its own code number, but the extensive cross-referencing system the FBI had developed under J. Edgar Hoover also extended to individual persons; in a report from Philadelphia on a Hiroshima memorial dem-

²⁵² Bisson, *On a Move*, p. 52.

²⁵³ In the party, "Mumia became Wesley again ('Wes Mumia' for his comrades)" because Panthers were subjected to such constant surveillance that they couldn't afford the added hassle of dealing with African names or nicknames when calling the precinct house to try to locate their cadre." *Ibid.*, p. 56. On the other hand, in the New York chapter of the party, the use of African names was very frequent.

²⁵⁴ Rosemari Mealy, "Mumia's Panther Years," in *Resource Book*, p. 19.

²⁵⁵ *Ibid.*

²⁵⁶ Bisson, *On a Move*, p. 54. The parts crossed out are deletions insisted on by the FBI to remove the name of informers and agents, a common practice in the release of documents obtained under the FOIA. For details of the practice, see Churchill/Vander Wall, *The COINTELPRO Papers*, chapter 1: "Understanding Deletions in FBI Documents," *ibid.*, p. 23-32. "SAC" stands for "Special Agent in Charge."

onstration, organizations like the “Fort Dix Free Speech Movement” (1-100-50294), the “Young Americans for Freedom” (1-100-46112), “Women Strike for Peace” (1-100), and the Socialist Worker Party (1-100-2036) are listed as participants, together with the Black Panther Party (1-157-2004) and an individual, Wesley Cook (1-157-3937).²⁵⁷ It didn’t matter to the FBI and its counterpart in the PPD, the Civil Defense (CD) Squad under the leadership of Lieutenant (later Inspector) Fencl, that all these organizations as well as the protests and demonstrations they staged were perfectly legal. As the specialist on this type of political monitoring by local Police Departments, Frank Donner, writes, “Meetings and demonstration sites bristled with CD men whose very numbers were intended to be oppressive. Some were armed with tape recorders and cameras, either actively photographing or pointing empty cameras at targets in order to intimidate them.”²⁵⁸

There is little doubt that in addition to the hundreds of pages of surveillance files on Abu-Jamal assembled by the FBI at the time, there is considerable material on him in the archives of the Philadelphia police. The point is of special importance, since, while writer E.L. Doctorow wrote in an article in the *New York Times* that “to uniformed men in mourning of one of their own,” at the time of his arrest Abu-Jamal “was an enemy delivered to their mercies,”²⁵⁹ the idea that he was a known quantity in Philadelphia’s law enforcement circles has been ridiculed time and again by the supporters of Abu-Jamal’s execution.²⁶⁰ Be that as it may, as far as the FBI is concerned, there is no question that Wes Cook/Mumia’s activities were taken quite seriously. After an FBI report from Philadelphia in June 1969 had recommended that files be opened on Wesley Cook and 13 other “Negro males identifying themselves as the BPP of Philadelphia,” just four month later another report demanded that Cook be placed on the FBI’s index for people to be rounded up and detained in case of a national emergency:

SUBJECT: Wesley Cook aka RM-BPP
Report of SA ~~xxxxxx~~ 10/24/69 at Philadelphia
Name: Wesley Cook; Aliases: Wes; West; Mumia X
[...]
Name of employer and Union affiliation if any: Student, Benjamin Franklin High School, Broad and Green Streets, Philadelphia PA Residence address: 718 Wallace Street, Philadelphia PA.²⁶¹

²⁵⁷ Mumia Abu-Jamal, FBI files, see note 157.

²⁵⁸ Donner, *Protectors of Privilege*, p. 202.

²⁵⁹ *New York Times*, July 14, 1995. Reprinted as introduction to Weinglass (ed.), *Race for Justice*, p. 4-6; quote p. 4

²⁶⁰ One example among many of this is the article by the biographer of former Philadelphia District Attorney Ed Rendell, Buzz Bissinger, in the August 1999 issue of the magazine *Vanity Fair*, “The Famous and the Dead.” See <http://www.danielfaulkner.com/vanity.html>.

²⁶¹ This part of the report is from the source quoted in note 157.

[...] In spite of the subject's age (15 years), in view of COOK's position of authority in the BPP it is recommended that he be included in the Security Index. [...] Copies of this report are being designated to NISO, OSI, SS and MI [all various national intelligence services].²⁶²

Moreover, police activity concerning the BPP was by no means limited to mere monitoring. Nearly every move of the party or its members was accompanied by constant harassment, by "tickets for loitering, for littering, for jaywalking. There were midnight raids and searches"²⁶³ as the head of the local surveillance unit Lieutenant "Fencl and his Philadelphia cops used to get a kick out of fucking everybody; I guess that was the way he got his,"²⁶⁴ in the description BPP Captain Reggie Schell gave of the situation. Apparently, sometimes there were coordinated FBI/PPD operations against the Panthers. One of the FBI reports recounts how "simultaneous hits were made at the Web Bar," a café in Columbia Avenue that was often frequented by the Panthers and their supporters, "and the BPP Office at about 11 pm led by the SAC and ASAC. SCHELL was found at the Web Bar." In this operation, Schell was targeted by the FBI, and other party members by the CD Squad of the PPD who, according to the report, "subsequently arrested HEARN, CRAIG WILLIAMS, PETERSON, RENE JOHNSON, and WESLEY COOK, thus clearing the area of all BPP officers and undoubtedly greatly decreasing the chance of the BPP creating a disturbance in the area."²⁶⁵

Evidently, the FBI and the local police tried to force the Panthers to back down or else draw them into a confrontation which they could only lose: "The times I was arrested," says Schell, "they seemed to put emphasis on the fact that, 'We know you all got guns, motherfucker, but we got the firepower, and we'll kill you.' Just like the FBI told us, 'We got the superior firepower, you can't win.'"²⁶⁶ But the pressure of the security forces did not prevent the Philadelphia BPP from doing what was really its *raison d'être*, that is, community work. As usual, one focus of the party's work was the struggle against the police violence directed against the organization itself as well as against the city's African Americans in general:

Even though we knew that the system and the police, especially, didn't want us to set up shop, we didn't have any idea about how fast something would come our way. But it didn't stop us from dealing with the police. We did extensive work around police brutality, organizing different agencies that could funnel these problems through.

²⁶² This part quoted in Bisson, *On a Move*, p. 64. For the FBI's National Security Index, see Churchill/Vander Wall, *Agents of Repression*, p. 54, 79, 81. This index was even subdivided further; thus, Los Angeles BPP leader Geronimo Pratt was assigned "Priority I" status within the index in summer 1969. *Ibid.*, p. 81.

²⁶³ Bisson, *ibid.*, p. 54-56

²⁶⁴ Reggie Schell, "A Way to Fight Back: The Black Panther Party," in Dick Cluster (ed.), *They Should Have Served That Cup of Coffee. 7 Radicals Remember the Sixties* (Boston: South End Press, 1978), p. 64.

²⁶⁵ Abu-Jamal, FBI files, see note 157.

²⁶⁶ Schell, "A Way to Fight Back," in Cluster (ed.), *They Should Have Served That Cup of Coffee*, p. 54.

Probably the most classic example of the way the police acted here was their murder of a young guy, Harold Brown. He was shot and killed in West Philadelphia. He was killed by four highway patrolmen; and the highway patrol in Philadelphia has always had the reputation for being the most vicious and most murderous of all the police. They had stopped this young brother and killed him, shot him. People heard him begging on his knees. Witnesses heard him begging the cops not to kill him, but they just shot him.

[...] By now the Party had gotten itself organized to the point where we could organize a hell of a campaign. We started circulating leaflets, we went up into the area where he was killed and talked with people, with witnesses. We had tape recordings of conversations with witnesses who saw certain things, who had heard the police tell them to “Get the fuck back in the window before we blow your heads off,” and stuff like that. We had taped conversations with his mother and his father and we’d done a 16-page-booklet on police brutality; and we spearheaded this by putting out wanted posters on the four police.²⁶⁷

As a consequence of this activity, the BPP enjoyed a tremendous upsurge in community support, and “people who once feared the Black Panther Party because of the shootouts across the country, began to see it as a legitimate organization that wanted to try to make some fundamental changes.”²⁶⁸ According to Rosemary Mealy, it was none other than the party’s young Lieutenant of Information, Wes Cook, who “spoke to the murdered youth’s family and began to write in such a prolific manner of this and other wrongdoings of the Philadelphia police. [...] George Fencl, who was the head of Philadelphia’s Civil Disobedience Unit, commonly referred to in the streets as the ‘Red Squad,’ knew who was responsible for writing these clarion calls of truth. He knew that the information coming out of the Columbia Avenue office about the men in blue was every bit the truth, and to add insult to injury, a fifteen-year-old was calling the shots.”²⁶⁹

But the Philadelphia Panthers did much more than fight police brutality; as in successful chapters elsewhere the core of their work was the attempt to bring about self-organization in the African American community. As Father Washington writes in his sympathetic account of the group in Philadelphia, “along with the demonstrations, the other distinguishing activity of the Panthers was their free breakfast program for children, which had begun in September, 1969, in a building near their Columbia Avenue office.”²⁷⁰ Despite their declared and Panther-typical readiness for armed self-defense against racists and the police he also describes

²⁶⁷ *Ibid.*, p. 52-53.

²⁶⁸ *Ibid.*, p. 53.

²⁶⁹ Mealy, “Mumia’s Panther Years,” in *Resource Book*, p. 19. Mealy’s account is somewhat inconsistent with Schell’s and the one by Washington (“*Other Sheep I Have*,” p. 128) in that she refers to the killed youth as “mentally retarded.” Schell doesn’t mention any mental deficiency, and according to Washington, Brown was a high school student. It is, however, clear from the rest of her description that she is referring to the same event. As an outside observer, she has probably erroneously added this particular bit of information.

²⁷⁰ Washington, “*Other Sheep I Have*,” p. 127. Chapter 10 of the book is entirely devoted to the Philadelphia BPP. The location Washington refers to was at 1916 Columbia Avenue, just six houses away on the same side of the street from the Panther office. See *TP*, July 3, 1982, p. 30.

them as an essentially non-violent movement. The party was seeking political, not military solutions. It held educational community classes and discussions, its members sold the party newspaper *The Black Panther* all around the clock, it organized the black community to protest against the abysmal state of the public services in the black ghettos.²⁷¹ For a time, it was able to attract many young men and women who dedicated themselves selflessly to the improvement of the life of their black fellow citizens.²⁷²

3.3.1 A Fateful Piece of Reporting

As for Wesley Cook, he was soon making something of a career in the national BPP. Soon after he had joined the party, he began to write articles for the party newspaper in Oakland.²⁷³ Already a short while later, he dropped out of school in order to do party work in other parts of the country. It started with an important journalistic assignment in Chicago, whose results were to haunt him for the rest of his life:

Chicago. New York. San Francisco/Oakland.

Philadelphia was one thing, but the wide world was quite another. Panthers were under attack around the country, but especially in those cities – their most important centers. And even at fifteen, Mumia was considered important enough to visit all three.

[As another FBI report noted:] 12/18/69 to SAC Philadelphia from SAC Chicago. A highly confidential source reported Wes Cook was in contact with ~~xxxxx~~... Wes indicated he was in Chicago and remarked he would probably return to Philadelphia shortly.²⁷⁴

It is impossible to determine from the cleansed FBI report with whom “Wes Cook” was in contact and why the source that reported the contact was so “highly confidential,” but the reasons for W. Cook’s visit in Chicago are hardly obscure. In the morning hours of December 4, 1969, a detail of more than a dozen heavily armed policemen had raided the private home of Chicago BPP chairman Fred Hampton under the pretext of a weapons search, killing Hampton himself and his bodyguard Mark Clark, and wounding three other inhabitants of the apartment. The surviving Panthers were arrested and charged with attempted murder and aggravated assault. On the day after the raid, the Chicago Tribune ran a photograph depicting several broadly grinning police officers apparently delighted with the results of the nightly at-

²⁷¹ At one time, the BPP organized a protest over the sewers in Columbia that had backed up. Schell, “A Way to Fight Back,” in Cluster (ed.), *They Should Have Served That Cup of Coffee*, p. 51.

²⁷² For a general impression, see Schell’s whole article-interview, *ibid.*, p. 41-69, and Washington, “*Other Sheep I Have*,” chapter 10.

²⁷³ Bisson, *On A Move*, p. 58.

²⁷⁴ Bisson, *On A Move*, p. 71-72.

tack, as they carried the dead Hampton's body from the apartment. The police version of the event according to which the persons present in Hampton's home had fired at the police first who then had no other chance than to resort to self-defense quickly unraveled under the scrutiny of the local press, and the Panther's contention that this had been a case of outright murder on the part of the police was soon vindicated.²⁷⁵ The purpose of Wesley Cook's presence in Chicago was to report on the bloody events on December 4, and accordingly,

as Lieutenant of Information, Mumia was led on a tour of the assassination site. He was one of those who personally examined the holes in the door (all one-way, outside-in), the blood-stained bed (a well-thumbed Lenin on the nightstand), the entire unforgettable, horrific scene.²⁷⁶

The events must have an indelible impression on the young man. Even before his visit to Chicago, he had already been the keynote speaker at a memorial service for Hampton and Clark in Philadelphia's Church of the Advocate,²⁷⁷ whose atmosphere Paul Washington describes in the following way: "When 1,000 people attended the service, we could see the level of sympathy and support the Panthers were gaining from people who believed their message and from others who were simply revolted by the nature of the police repression they faced."²⁷⁸

A short while after the memorial service and after his return from Chicago, Cook was interviewed by reporter Acel Moore at the party office in Columbia Avenue. On January 4, 1970 Moore's article appeared on the front-page of the *Philadelphia Inquirer*. The article deals largely with the violent confrontations between the Panthers and the police, but the interviewee was also able to talk about the larger goals of the BPP:

Although there have been no shootouts between Philadelphia Panthers and police, Cook who ranks behind defense Capt. Reggie Schell and Sister Love, who is field lieutenant in the Philadelphia leadership, says there could have been.

On September the 28th, the FBI arrested Schell [...] and City police raided the Party Headquarters confiscating some office equipment.

They would have shot us then, Cook recently told a visitor to the Headquarters, speaking with deliberate conviction. "Except we were all out in the community at the time."

[...]

²⁷⁵ The events and their background are recounted in detail in Churchill/Vander Wall, *Agents of Repression*, p. 64-77. Photos of the dead Hampton, first in his apartment, and then being carried by grinning policemen, are on p. 72.

²⁷⁶ Bisson, *On a Move*, p. 72.

²⁷⁷ A photograph of Wesley Cook speaking from the pulpit of the church is reprinted in Mumia Abu-Jamal, *All Things Censored*, (New York: Seven Stories Press, 2000), p. 184. Also in Bisson, *On a Move*, p. 79.

²⁷⁸ Washington, "Other Sheep I Have," p. 127. Washington adds: "The deaths of Hampton and Clark were widely believed to have been political assassinations carried out by the Chicago police in conjunction with the FBI. A federal grand jury ruled in May, 1970, that 'the police fired eighty-three shots into the apartment while only one shot was fired at the police.'"

[...] Wes stressed the aim of the Black Panther Party of helping black Americans gain a sense of dignity and of the Party's insistence on self-defense.

[One of the 26 rules for Party members] stipulates that no Panther member will use, point or fire a weapon of any kind unnecessarily, or accidentally hurt anyone.

[...]

In Philadelphia at least the Panthers have been more socially activist than militant. Their rhetoric [...] has been angrier than their actions.

Like other Panther chapters, the Philadelphia Black Panther Party has established a free breakfast program for needy children. Cook estimates that the Philadelphia Panthers feed about 80 children daily.²⁷⁹

But the article also contained a statement where Cook, in obvious reaction to the killing of Hampton and Clark just a month before, quoted Mao Zedong with the phrase "Political power grows out of the barrel of a gun."²⁸⁰ At Abu-Jamal's 1982 murder trial, the fact that this statement referred to the behavior of the police in Chicago and elsewhere and was by no means intended as a political guideline for BPP practices did not deter prosecutor Joseph McGill from first introducing it into the evidence and then, in his summation where he argued for the death penalty, using it to stress the alleged violent mentality of the defendant.²⁸¹

3.3.2 The Decline of the BPP in Philadelphia

The prosperous time of the Black Panther Party proved to be short-lived, however. In the years 1969-1970, it had reached the height of its influence. Wes Cook spent a few months in New York working for the party, and later on was assigned to the Oakland national headquarters of the BPP. In New York, he was once again witness to the intense persecution of the party by the police. On April 2, 1969, nearly all the top cadre had been arrested on a variety of conspiracy charges that threatened them with life sentences in prison, and most of them spent long months in prison before they were finally acquitted of all charges in the spring of 1971.²⁸² As Terry Bisson describes it, "the Panther 21 trial was national news," and Cook "wrote and sold papers with the certain feeling that he was doing important work."²⁸³ From New York, Cook was soon transferred to Oakland to work directly with the BPP's Minister of Culture, Emory Douglas, and his wife Judi Douglas, who edited *The Black Panther*.²⁸⁴

²⁷⁹ *Philadelphia Inquirer*, January 4, 1970. Quoted in *TP*, July 3, 1982, p. 28-30.

²⁸⁰ *Ibid.*, p. 22 and again p. 26.

²⁸¹ *Ibid.*, p. 68. See below, chapter 5.

²⁸² A very accessible account is given in Edwin Kennebeck, *Juror Number Four. The Trial of 13 Black Panthers as Seen from the Jury Box* (New York: W.W. Norton, 1973). The original number of defendants was 21, hence the widely circulating slogan "Free the Panther 21!"

²⁸³ Bisson, *On a Move*, p. 77.

²⁸⁴ *Ibid.*, p. 85. From the FBI files, it is known that the transfer took place on March 16, 1970. Quoted in *ibid.*, p. 82.

Several weeks later, he returned to Oakland and to Benjamin Franklin high school, after he had once more been arrested, essentially for selling the party paper. Being arrested was of course nothing new, but this time, he was also sent to a juvenile facility, and his mother insisted that he return to Philadelphia.²⁸⁵

He came back just in time to assist in the preparations for the Revolutionary People's Constitutional Convention scheduled for September 1970. During this period, the Philadelphia BPP had to weather the pre-Convention wave of police harassment and terror parts of which I have described above, but the Convention finally took place, and for Wes Cook, it was also a highpoint in personal terms: "Huey P. Newton was there, out of jail, and he requested Information Lieutenant Wes Mumia Cook as one of his personal bodyguards."²⁸⁶ But while the RPCC was a victory in terms of winning against the attempts of the police to prevent it, as well as an exciting political and communal event for all its many thousand participants, by many accounts²⁸⁷ it also marked the zenith of the BPP, whose coherence and influence began to decline rapidly towards the end of the year 1970. It was as if the party, weakened by innumerable arrests and prolonged prison terms of its top leaders, had grown too weak to handle the energy it had generated among its members and sympathizers. Despite all the remarkable ideas produced at the RPCC, the party now proved unable to give direction, to lead, and to unify. As Schell comments, before that period, "we had tremendous numbers [...]. After the police raided our office a second time in August, 1970, and shot it up, within a week or two weeks, hundreds of people had joined the Party."²⁸⁸ But on the whole, the leadership was not up to the task. Party leader Huey P. Newton's eagerly awaited speech at the RPCC was a total disaster. Schell has described the reasons for this very perceptively:

I think the U.S. has got a system that people have got to be very, very conscious of. That is, it projects leaders, and then it breaks leaders. I was out in California that summer when Huey P. Newton got out of jail, and I watched it when people from the community came up and talked with him [...]. And I saw that he couldn't talk to them. His conversation was gone, he was a million miles away from them.

At the plenary session [of the RPCC] what he said just lost people.²⁸⁹

In addition, there was heavy political dissension in the party, which was in part instigated by the COINTELPRO program of the FBI.²⁹⁰ The difficulties were obliquely hinted at by Schell

²⁸⁵ *Ibid.*, p. 87-88.

²⁸⁶ *Ibid.*, p. 98.

²⁸⁷ Among these are the ones by Abu-Jamal, Bisson, Schell, and Paul Washington.

²⁸⁸ Schell, "A Way to Fight Back," in Cluster (ed.), *They Should Have Served That Cup of Coffee*, p. 54.

²⁸⁹ *Ibid.*, p. 61.

²⁹⁰ For more on this program and the murderous factional infighting it help to generate in the BPP, see chapter 4.

in 1978, when he said that “internally, there were certain things happening that left a lot of people across the country dissatisfied. There was drug use, there were problems at the top. [...] The party just started falling, people just started leaving it. The desire was gone.”²⁹¹

Among those who left were Schell himself and Wesley Cook who now started to call himself “Mumia” again. Once more, we would not know as exactly when he left the Black Panther Party, were it not for the files the FBI kept on him:

COOK left the Black Panther Party in mid-October, 1970, having resigned. He was not the object of party discipline. He along with several other individuals long associated with the Party, ceased their BPP affiliation...²⁹²

The BPP chapter in Philadelphia operated until around 1973, when the BPP stopped being a national organization and called its cadres outside of California to Oakland to help transform the city into a bastion of the Panthers.²⁹³ But for Wes/Mumia and Schell, leaving the BPP was not yet the end of it. Together with others, they “set up an organization called the Black United Liberation Front to fundamentally do the same things around police brutality, a free breakfast for children program, a free clothing program, a bus that used to take people to visit relatives and friends in prison. For the first time that I know in my political activity we took a militant stand against drugs and on crime, Black crime, gangs,”²⁹⁴ certainly not least because of their negative experiences with these phenomena in the BPP.

It appears that Abu-Jamal participated in the organization with varying intensity;²⁹⁵ the organization itself folded in early 1976 due to a lack of funds and outside help.²⁹⁶ At the beginning of the seventies, Abu-Jamal faced the same situation as many other disillusioned young party cadres. A decisive period of his life was now over, and he had to decide how to go on.

3.4 Abu-Jamal

Abu-Jamal himself has given a marvelous description of his state of mind at the beginning of what one might call his “life after the party.” The loss and disappointment clearly shine through:

²⁹¹ *Ibid.*, p. 62. At the time, in 1978, remnants of the BPP still existed in Oakland, California. Remarkably, throughout the interview Schell avoids any hostile criticism of his former comrades.

²⁹² Quoted in Bisson, *On a Move*, p. 100.

²⁹³ Schell, “A Way to Fight Back,” in Cluster (ed.), *They Should Have Served That Cup of Coffee*, p. 66.

²⁹⁴ *Ibid.*, p. 67.

²⁹⁵ For Abu-Jamal’s participation in the BULF, see Abu-Jamal, “A Life in the Party,” in Cleaver and Katsiaficas (eds.), *Liberation, Imagination, and the Black Panther Party*, p. 49, note 26, and Bisson, *On a Move*, p. 102-103, 127.

²⁹⁶ *Ibid.*, p. 67-68

There I was in the 1970s, a bored, slightly petit bourgeois, burnt-out ex-Black Panther who distrusted organizations and still simmered in a stew of generational rebellion. I felt all dressed up with no place to go. The Panthers, to whom I had loaned my life, were sputtering in an internecine bicoastal, and bloody feud, East Coast against West Coast. [...] The prospect of us fighting one another sickened me. “I didn’t join the BPP to get in a goddamn gang war!” I thought angrily to myself, “Shit! “I could’ve stayed in North Philly for this dumb shit!””²⁹⁷

As things turned out, he soon left “North Philly” again to complete his education at Goddard College in Vermont, where he stayed for two years, from 1972-1974. Shortly before, he fathered a child and acquired a new name that was to stay with him until today – Mumia Abu-Jamal, where Mumia is his proper name, Arabic “Abu” stands for “father of,” and Jamal is the name of the son that was born to him and his partner Francine Hart on July 18, 1971.²⁹⁸ The typical “slave name” Cook and the given name Wesley that came out of that same slave tradition were thus done with once and for all, and Abu-Jamal joined a long tradition of blacks who changed their names, most often into African and/or Arabian ones, in order to break with the colonial past where the master’s power extended to the right to give their subjects names – Malcolm X for Malcolm Little (where the “X” stands for an unknown original African name), Kwame Sekou Touré for Stokeley Carmichael, Amiri Baraka for LeRoi Jones etc. Abu-Jamal’s second child with Francine Hart also got an Arabic name, Latifah, and the same was true for his third child (with his second wife Marilyn), his son Mazi, who was born in September 1977.²⁹⁹

3.5 On the Air

At around 1974, Abu-Jamal returned home to Philadelphia to take care of his new family and to take up a new profession – as a radio reporter. His studies in Goddard, which he didn’t complete, had at the very least led him to discover “a new love, one that combined his writing skills with the voice, the ‘pipes’ that would later make him famous. Radio was more immediate than print. [...] It drew on his talents in a new and different way.”³⁰⁰

For the next seven years until his arrest in December 1981, radio journalism would be his main area of work. Years later, in prison, on the very day he was served his second death warrant, he would compare the craft of writing to that of radio reporting:

²⁹⁷ Abu-Jamal, “Philly Daze,” in *Live from Death Row*, p. 152-153.

²⁹⁸ Bisson, *On a Move*, p. 106.

²⁹⁹ *Ibid*, p. 143.

³⁰⁰ *Ibid*, p. 116. Goddard had a small campus radio station..

I learned the craft well, except for one thing: I never learned to kowtow to state power. I wrote and reported, not from the perspective of the privileged, not from the position of the established, but from the consciousness of oppression, and from the awareness of resistance. [...]

[...] I brought my old skills to the new job, and learned some new skills while there. From the old job, I learned perspective; from the new job, I learned phrasing, brevity, clarity, and formatting. From the old job came writing skills that captured the voice of the down-trodden, and from the new job came a knowledge of the power and potential of radio.³⁰¹

The first station where he began to develop these new skills was Temple University's radio station WRTI-FM, where, in line with his past activities as a journalist, in 1973 he started with a community affairs talk show, "Black Times Audio."³⁰² His skills, his resonant voice that was to make him famous, and his "bottom-up, as opposed to top-down, perspective"³⁰³ won him wide support among the hearers. He got offers from other, larger radio stations, among them the predominantly black radio station WDAS that started its operation in 1950, and the talk show radio station WHAT-AM where he worked as news director,³⁰⁴ proudly presenting "black action radio news."³⁰⁵ But on the other hand, "working on black radio was a dream – except for the money. The relatively meager pay was a factor in accepting a job in 'white' radio."³⁰⁶ But entering this sphere had its problems, too. The station manager of the popular top 40 station WPEN told him:

"Mumia, we like your sound. You've got great delivery! We just think your name is... uh... uhhh... We beam our signal to South Philly, the Great Northeast, parts of Kensington, and what not, see? We kinda think your name is just a... ahh... a bit too ethnic for our audience, you understand?"³⁰⁷

There it was again, the racial division of the city. Abu-Jamal took the job, and once again, he changed his name, this time in the opposite direction – his new name on air was "William Wellington Cole" –, but he rejected to change his tune: "I used my white voice, but I kept my black soul."³⁰⁸ Moreover, "through numerous contacts in the progressive and radical movements, it was possible to cover press conferences or demonstrations from a wide range of so-

³⁰¹ "Words From an Outcast of the Fourth Estate," in Mumia Abu-Jamal, *All Things Censored* (New York: Seven Stories Press, 2000), p. 106. The date the article was written was October 13, 1999. See *ibid.*, p. 281.

³⁰² Ely, "Mumia Abu-Jamal: Enemy of the State," *RW*, No 1076, for date, Christopher Hepp, "The accused. Friends can't fathom 'brilliant' newsman as murder suspect," *Philadelphia Daily News*, December 10, 1981, name of show Bisson, *On a Move*, p. 144.

³⁰³ "Words from an Outcast of the Fourth Estate," in *All Things Censored*, p. 107

³⁰⁴ Ely, "Mumia Abu-Jamal: Enemy of the State," *RW*, No 1076.

³⁰⁵ In Bisson, *On a Move*, p. 125, there is a photograph of Abu-Jamal "by the end of 1975," "smiling for a publicity shot as news director at WHAT."

³⁰⁶ Abu-Jamal, "Words From an Outcast of the Fourth Estate," in *All Things Censored*, p. 106.

³⁰⁷ *Ibid.*

³⁰⁸ *Ibid.*, p. 107.

cial change communities.”³⁰⁹ He interviewed representatives of national liberation movement like Zedi Labib-Tursi of the PLO and Theo Gurerab of SWAPO, and what is more, he gave the voices of the militant naturalist group MOVE a frequent hearing, a decision that was quite unpopular with his management. The compromise of a black revolutionary working for a decidedly white establishment station could not last long.

3.6 Meeting MOVE

The attraction of John Africa’s MOVE family, especially of the family’s founder himself, was impressively described by author John Edgar Wideman in his novel *Philadelphia Fire*, a work that was inspired by a confrontation in 1985 between MOVE and the police that led to the killing of eleven MOVE members, including MOVE founder John Africa:

Didn’t realize it kind of started as a joke. Didn’t realize by calling him we was making him something. He [John Africa] was different. You acted different around him so he’d know you knew he was different. Then he was different.

He taught us about the holy Tree of Life. How we all born part of it. How we all one family. Showed us how the rotten system of this society is about chopping down the Tree. Society hates health. Society don’t want strong people. It wants people weak and sick so it can use them up. No room for the Life Tree. Society’s about stealing your life juices and making you sick so the Tree dies.

He taught us to love and respect ourselves. Respect Life in ourselves. Life is good, so we’re good. He said that every day. We must protect Life and pass it on so the tree never dies. Society’s system killing everything. Babies. Air. Water. Earth. People’s bodies and minds. He taught us we are seeds. [...] He taught us to praise Life and be Life.

We loved him because he was the voice of Life.³¹⁰

According to its official pamphlet, “the MOVE Organization surfaced in Philadelphia during the early 1970s.”³¹¹ It centered around the teachings of Vincent Leaphart, a black handyman who worked as a carpenter for a community housing cooperative in the Powelton Village section of West Philadelphia.³¹² Later, he changed his name into John Africa, and Africa was to become the surname of all followers of MOVE. The organization started out with a few family members of Leaphart’s, and later expanded into a group of several dozen members committed to a naturalistic lifestyle and to fighting a system that they saw as hopelessly deformed and corrupt. Judging from their writings, the beliefs of MOVE do

³⁰⁹ *Ibid.*

³¹⁰ John Edgar Wideman, *Philadelphia Fire* (New York: Henry Holt, 1990), p. 11-12.

³¹¹ *Twenty-five years on the MOVE* (Philadelphia: 1996/1997), p. 3.

³¹² Hizkias Assefa and Paul Wahrhaftig, *The MOVE Crisis in Philadelphia. Extremist Groups and Conflict Resolution* (Pittsburgh: University of Pittsburgh Press, 1990), p. 10.

not seem to have changed much over the years, although some of their practices have.³¹³ A statement apparently written by imprisoned female MOVE members in 1986 summarizes the general views of the organization well:³¹⁴

MOVE's belief is life, natural law. We don't believe in man's reform world system.³¹⁵ Life, natural law, which is synonymous with God, made pure air, clean water, fertile soil, made babies healthy and made the principle of freedom, equality for all life without prejudice. This is the law MOVE believes in and obeys, not man's so called laws. It is man's law that has created and sanctioned industry that is polluting the air, poisoning the water, the soil; causing the retarded babies, diseased adults; and lying to the people to cover up this filth. [...] People compromise health and pollution for money and their life-styles.³¹⁶

Abu-Jamal recalls that his "first impressions of MOVE were extraordinarily negative. [...] They weren't talking about Marxism-Leninism-Mao-Tse-Tung thought as the Panthers were doing."³¹⁷ But since the groups militant agitation for its beliefs and it's then still radically back-to-nature life-style were not being tolerated in the city, myriads of violent confrontations with the police were the outcome, in which the organization paid a terrible price in loss of life and long-term prison sentences.³¹⁸ Abu-Jamal comments: "So, again, in the same way that the Philadelphia Police Department beat me into the BPP, the Philadelphia Police Department's repression attracted me to MOVE."³¹⁹ However, as he vividly recounts in his article "Philly Daze" already

³¹³ In an informal discussion with long-time MOVE member Mo Africa in September 2001, I asked him how the MOVE members were able to reconcile their naturalistic beliefs calling for life-style maximally close to nature with their use of cell phones, computers, cars etc. He explained to me that since it took "the system" thousands, perhaps millions of years to corrupt nature, it would perhaps take an equally long time to revise the process. The same was true for the changed lifestyle of the MOVE members, which by now, apart from the prominent role assigned to children and animals, is hardly distinguishable from that of their neighbors. From my conversations with MOVE members in September 2001 and September 2002, I conclude that MOVE still pursues its stated goals, but has changed its strategy from frontal attack to long-term agitation.

³¹⁴ There is another feature of the organization's ideology which is quite remarkable in the light of the thesis about the historical traditions of American radicalism I'm presenting here. On the first page of the MOVE pamphlet *Twenty-five Years on the MOVE*, immediately below a summarizing statement about the goals of the organization, the Declaration of Independence is quoted with the words to the effect that under despotism, the patience of the governed may run out and that "it is then their right, it is their duty, to throw off such government and to provide new guards for their future security." *Ibid*, p. 3.

³¹⁵ The term "reform world system" refers to the transformation – or "reform" – of nature by man, particularly to the industrial form of the process. Mo Africa, personal communication, September 2001.

³¹⁶ Quoted from Assefa/Wahrhaftig, *The MOVE Crisis in Philadelphia*, p. 10-11.

³¹⁷ Mumia Abu-Jamal, "The Prison-House of Nations," interview from death row in Huntingdon prison, Pennsylvania, October 1992, in Bin-Wahad/Abu-Jamal/Shakur, *Still Black, Still Strong*, p. 151.

³¹⁸ This is not the place to recount the history of these confrontations, of which there were many, and their consequences. Just to give an impression, Mo Africa (see notes 313 and 315) spent five years in prison, Ramona Africa, who I interviewed in September 2001, served a seven-year sentence from 1985-1992 for aggravated assault for her alleged role in the violent 1985 confrontation between the police and MOVE, where the police dropped a bomb on the organization's center on 6221 Osage Avenue, setting the house on fire and incinerating eleven MOVE members, including five children and founder John Africa. In September 2002, I was also able to talk to Consuewella Africa, who served fifteen and a half years of a ten-to-twenty years sentence for her participation in the 1978 confrontation mentioned above. She reported continuous sexual harassment, torture and brutal beatings in jail.

³¹⁹ Abu-Jamal, "The Prison-House of Nations," in Bin-Wahad/Abu-Jamal/Shakur, *Still Black Still Strong*, p. 151.

quoted above, it took him quite a while to develop real sympathies for the group. On April 2, 1976,³²⁰ MOVE member Louise Africa called him to invite him to a press conference to evaluate claims by MOVE that in one of their confrontations with the police a baby, Life Africa, had been killed. Abu-Jamal declined the offer, in a friendly manner, but unhesitatingly:

MOVE charged brutality. The cops, of course, denied it. Standard stuff. MOVE even claimed that the cops killed a baby. Cops claimed that MOVE was lying. Standard stuff. Lies from the cops. MOVE media overkill. Mumia was no green kid; I was too hip to believe either side.³²¹

But as it turned out, at the press conference the dead baby whose very existence had been denied by the Philadelphia police was presented, its life and death henceforth undeniable. Abu-Jamal recalls how he cursed himself: “Quite a few times. [...] I thought of my son, about Life Africa’s age. I wept hot tears of shame.”³²² Terry Bisson reports that few weeks later, Abu-Jamal interviewed an eyewitness who watched the deadly event from across the street:

“I saw the baby fall,” the old man said. “They were clubbing the mother; I knew the baby was going to get hurt. I even reached for the phone to call the police, before I realized that it *was* the police. You know what I mean?”
“I know what you mean,” said Mumia.³²³

From then on, Abu-Jamal got closer and closer to MOVE, a development that finally ended his career at the popular – and at the time predominantly white – radio station WPEN. After another police/MOVE confrontation that took place on May 20, 1977, when MOVE members paraded with guns on the fortified front porch of their headquarters at 309 North 33rd Street in West Philadelphia in order to show their readiness for self-defense,³²⁴ he was fired from his lucrative job because he insisted on including the MOVE member’s view on the event and the ensuing police blockade of their building in his reports.³²⁵ Nevertheless, Abu-Jamal continued his news reporting for other

³²⁰ The date is from *Twenty-five years on the MOVE*, p. 12.

³²¹ Abu-Jamal, „Philly Daze,” in *Live from Death Row*, p. 160.

³²² *Ibid.*, p. 161.

³²³ Bisson, *On a Move*, p. 157.

³²⁴ For the events on May 20, 1977, see Assefa/Wahrhaftig, *The MOVE Crisis in Philadelphia*, p. 26-27 and *Twenty-five Years on the MOVE*, p. 19. See also Abu-Jamal, “Philly Daze,” in *Live from Death Row*, p. 161: “After the death of Life Africa, MOVE became more and more militant. Their confrontation with police became more frequent, their assertions of their own rights and way of life more aggressive.

“On May 20, 1977, the assertion became total. MOVE men and women were seen on a wooden platform on the outside of their Powelton Village (West Philly) headquarters, armed and uniformed. Shotguns, semi-automatic weapons, dark khaki uniforms... armed black folks! Niggas with guns!” The latter words, the same as in the title Robert William’s book *Negroes With Guns*, are certainly not used by accident here.

³²⁵ Kissinger, “Mumia Abu-Jamal: A Life of Resistance,” *RWNos.* 784 and 785. In his other writings, and also in Bisson’s *On a Move* (p. 166), it is unclear when the loss of his job at WPEN occurred, but in the Kissinger interview, Abu-Jamal says: “This was [...] a full year before the August 8, 1978 raid,” the latter an event to which I return immediately.

stations, and he continued to report on MOVE. One important instance of this reporting occurred on August 8, 1978, when the escalation of the conflict between MOVE and the City of Philadelphia led to a police raid of the MOVE headquarters during which a police officer was killed, probably in the crossfire of his colleagues.³²⁶ After the raid on the MOVE headquarters was successfully completed, something strange happened that was to repeat itself, *mutatis mutandis*, three years later after the shootout on Locust Street that led to the arrest of Abu-Jamal:

Within an hour after MOVE members had been taken away, police at the scene started to systematically destroy the place, and the evidence. Weapons taken from the MOVE house were cleaned up and put on display at the Rizzo press conference – destroying any forensic evidence. Two hours after the raid, demolition crews tore down the whole house – before homicide detectives, reporters, and (more important) MOVE’s attorneys could gather evidence.³²⁷

The press conference held by Mayor Frank Rizzo was an extremely heated affair. When asked about the future of MOVE, Rizzo exploded: “The only way we’re going to get rid of them is to get the death penalty back in, and I’ll pull the switch myself.”³²⁸ A police officer at the time added: “There’s no way the police can win in a thing like this. They should have killed all of them.”³²⁹ Undeterred, the journalists at the press conference, Abu-Jamal among them, raised questions about the unseemly haste in the destruction of the crime scene, and once again Rizzo exploded: “They [the people] believe what you write, and what you say, and it’s got to stop. And one day – and I hope it’s in my career – you’re going to have to be held responsible and accountable for what you do.”³³⁰ Four years of reporting the news on various radio channels clearly had not made Abu-Jamal the darling of Philadelphia’s establishment.

3.7 “Voice of the Voiceless”

According to Ely, towards the end of the seventies, Abu-Jamal “continued his work in radio journalism. He broadcast for the classical music station WUHY-FM. He did an occasional stint at his old station WDAS. In 1979, he got a full time job at WHYY, the local public radio

³²⁶ Veteran Philadelphia reporter Linn Washington who was present at the scene and did research on the matter told *Revolutionary Worker* author Michael Ely that “the police know who shot Officer Ramp. And they know it was one of their guys. I have had a source in the Police Department to tell me this.” Ely, “Mumia Abu-Jamal: Enemy of the State,” *RW* No 1076. Washington told me the same thing when I interviewed him in September 2001.

³²⁷ Ely, *ibid.*, based on interview with Washington. In his interview with me, Washington corroborated Ely’s account.

³²⁸ “The Mayor: Grief Filled With Rage,” *Philadelphia Inquirer*, August 9, 1978, quoted in Margot Harry, “*Attention MOVE! This is America!*,” (Chicago: Banner Press, 1987), p. 101.

³²⁹ “Their Pain Becomes Anger for the Death of a Colleague,” *Philadelphia Inquirer*, August 9, 1978, quoted in *ibid.*

³³⁰ Bisson, *On a Move*, p. 166. Bisson and Ely claim that this statement was personally directed at Abu-Jamal. In Abu-Jamal, *All Things Censored*, there is a photograph of the press conference showing an attentive Abu-Jamal, standing just a few meters away from Mayor Rizzo. *Ibid.*, p. 189.

station in Philadelphia, and was part of the staff putting together *911*, the local version of *All Things Considered*. As a reporter for Channel 12, WHYY-TV he interviewed [basket ball star] Julius Erving as the 76ers fought for the NBA championship.”³³¹ In 1979, he did a long interview with Bob Marley, with questions and comments that apparently were quite typical of his reporting: what kind of feeling do you get when you come through a city like Philadelphia, with almost a million Black people?” “Until Rhodesia is free, South Africa is free,³³² Philadelphia is free [...] wherever we are, that’s the message...” What’s your hope, brother, for the future of Black people in America, and Black people in the world?”³³³

However, his troubles with his employers continued, and the complaints were always the same, with his news copy being accused of being too “black,” too anti-establishment, and too friendly towards the MOVE Organization. As for the latter point, Abu-Jamal commented in 1989: “I remember one program director at a talk show station I used to work for who forbade me from mentioning MOVE on the air. ‘If you say MOVE once more,’ he said, ‘you’re going to get fired!’ I quit.”³³⁴ Towards the end of his career as a radio journalist, there were two additional events around MOVE that certainly had a big influence on him. In May 1979, nine of the MOVE participants in the August 8, 1978 confrontation were put on trial. The trial lasted a whole year, and its results were later described by MOVE in the following way:

On May 8, 1980, after 67 days of trial, judge Malmed pronounced Janine, Debbie, Janet, Merle, Delbert, Mike, Edward, Phil and Chuck Africa guilty of third degree murder, conspiracy, and multiple accounts of attempted murder and aggravated assault. Each defendant was given a sentence of 30 to 100 years.

Several days after the verdict, Malmed was a guest on a local talk radio show. Journalist Mumia Abu-Jamal called in and asked the judge, “Who shot James Ramp?”³³⁵ Malmed replied, “I haven’t the faintest idea,” and went on to say that since the MOVE members wanted to be tried as a family, he convicted them as a family.³³⁶

Abu-Jamal had reported the trial for the radio, surprising “other reporters by showing up with his hair braided in the familiar dreadlock style of MOVE members.”³³⁷ Years later, he commented:

³³¹ Ely, „Mumia Abu-Jamal: Enemy of the State,“ *RW* No. 1076.

³³² This refers to the line in Marley’s song “War”: “Until the ignoble and unhappy regimes that hold our brothers in Angola, and Mozambique, South Africa, in subhuman bondage, there will be war,” where the names of the countries were replaced in tune with the political developments and at one time included Zimbabwe/Rhodesia.

³³³ “Interview by Mumia on [sic] Bob Marley,” http://www.terravista.pt/portosanto/4330/interview_Mumia_bob.htm.

³³⁴ Bin-Wahad/Abu-Jamal/Shakur, *Still Black, Still Strong*, p. 136.

³³⁵ The name of the police officer who was killed.

³³⁶ *Twenty-five Years on the MOVE*, p. 37. Consuewella Africa was tried separately and given a lesser sentence. See note 318.

³³⁷ Hepp, “The accused,” *Philadelphia Daily News*, December 10, 1982.

“It’s impossible for me to say what my feelings were at the time, sitting in a courtroom, seeing that kind of naked injustice. It rankled me to the core. [...] Sitting in a trial, in an official capacity, objective as a journalist, and seeing that the law really didn’t matter, that it didn’t matter whether a man was considered guilty, it didn’t matter what the law says your rights were.”³³⁸

The second event also concerned MOVE, whose founder John Africa had been arrested on May 13, 1981, on bomb making and weapon charges. Together with his co-defendant, Alphonso “Mo” Africa, he elected to defend himself in the ensuing trial in July. In a move that stunned most observers, after five and a half days of deliberation the jury found both men innocent of all charges. John Africa had said nothing during most of the trial, confining himself to an impassioned appeal to the jury in the summation phase.³³⁹ Also present in the courtroom and reporting on the event was Abu-Jamal,³⁴⁰ who was as amazed as everybody else and would only months later have to again ponder the advantages of self-defense in court over a defense by trained attorneys.

Abu-Jamal’s other reportage during the years 1977 – 1981 included a wide variety of community affairs, ranging from the struggle against “the efforts to remove Black people from Whitman Park, one of the few integrated communities in South Philadelphia”³⁴¹ to the challenge to Mayor Rizzo’s 1977-78 attempt to change the city charter to enable him to run for a third term.³⁴² During Abu-Jamal’s post-conviction hearings in 1995, his friend and erstwhile colleague E. Steven Collins gave a few examples of Abu-Jamal’s reporting, saying that he was most interested in

people who needed a voice. People who were out of work. People who were protesting cuts in subsidies for, you know, all sorts of things. From children’s meals in schools. He did a story once I remember on the public school system and it’s lacking in relationship to academic expectation and achievement levels. And predominantly low-income schools in the Philadelphia area. It went beyond a report. It was a passionate series of reports on that particular issue.³⁴³

At the same hearing, Democratic State Representative David Richardson, who had known Abu-Jamal for a long time, had quite similar things to say.³⁴⁴ For Collins, who knew the dif-

³³⁸ “Interview from Death Row,” in Bin-Wahad/Abu-Jamal/Shakur, *Still Black, Still Strong*, p. 123. Moreover, Ely quotes Abu-Jamal with the words “Nine people can’t kill one man.” Ely, “Mumia Abu-Jamal: Enemy of the State,” *RW* No 1076.

³³⁹ See John Anderson and Hilary Hevenor, *Burning Down the House. MOVE and the Tragedy of Philadelphia* (New York: W.W. Norton, 1987), p. 49-54.

³⁴⁰ Bisson, *On a Move*, p. 171.

³⁴¹ Ely, “Mumia Abu-Jamal: Enemy of the State,” *RW* No. 1076, referring to an interview with Linn Washington.

³⁴² *Ibid.*

³⁴³ PCRAH, August 26, 1995, p. 92.

³⁴⁴ *Ibid.*, p. 42, among others places.

facilities black reporters had to face in Philadelphia well, Abu-Jamal's preferential treatment of African American themes did not cast any doubt on his professional integrity:

I think the thing that separated him at that time [...] was a serious concern for people which transcended just reporting a news story. He wanted to know the condition of people. And he told stories. I mean that's basically what he did. He did it in a very professional way. He had an eloquent style, and he had, has a commanding voice. But essentially, he wanted to tell the story of people. All people and specifically African-American people in the City³⁴⁵

As a third general theme, Abu-Jamal also continued his reporting on police brutality. Countering claims by *Vanity Fair* writer Buzz Bissinger according to which this aspect of Abu-Jamal's work had been all but non-existent, Abu-Jamal's reporter colleague Linn Washington who had known him since 1974 remembers that he "won awards from community groups for his coverage of police brutality. I know that because I won one too, and I was at the program with him."³⁴⁶ Elsewhere, Washington has the following to say about the point:

Philadelphia's mainstream media sparingly covered police brutality until the mid-seventies when the enormity of daily abuses could not be easily ignored. The rise in incidents involving white victims of police brutality helped prompt increased media coverage.

[...]

Mumia Abu-Jamal was among the handful of reporters who consistently reported on instances of police brutality. This reportage of clearly newsworthy abuses perpetrated by a governmental entity earned these reporters the antipathy of the Rizzo Administration officials and ostracism from their peers in the mainstream media who considered police brutality to be an isolated phenomenon impacting individuals who deliberately provoked police.³⁴⁷

An important example where Abu-Jamal's work on the issue is available in print is the case of a young black man called William Green who was shot and killed by the Philadelphia police on August 28, 1980. "Those who had seen the killing were outraged; to them it was murder. It was the hottest time of the year, and the August heat further heightened the tempers in the black community," Father Paul Washington writes about the atmosphere prevailing at the time.³⁴⁸ Immediately afterwards, the September issue of the magazine *Philadelphia's Community* published an article of its free-lance author Abu-Jamal, "Nights of Rage in North Philly." In it, he reported how the 17-year-old young man had fled a police control in his car, and was brutally beaten and shot dead after he had crashed into a tree while trying to escape. He quoted the testimony of eyewitnesses which showed that the killing had in all likelihood

³⁴⁵ PCRA, August 26, p. 82.

³⁴⁶ Quoted in Ely, "Mumia Abu-Jamal: Enemy of the State," *RW*, No. 1076. For Bissinger, see note 260.

³⁴⁷ Linn Washington, "The Reign of Frank Rizzo: Brutality Explodes," in *Resource Book*, p. 18.

³⁴⁸ Washington, "Other Sheep I Have," p. 212.

been an outright execution, and he also reported on the ensuing rebellion including an attack on a police station at 17th and Montgomery Street in North Philadelphia. Also included in the coverage was the fact that the police officer had only been fired, not arrested. “In the meantime,” Abu-Jamal concluded, “the community is still waiting for justice.”³⁴⁹

All said, there is extensive testimony indicating that towards the end of the 1970s and the beginning of the 1980s, Abu-Jamal was known to the city establishment, in particular the police. In fact, while working for a radio station he had been stationed right next door to the PPD’s headquarters for the better part of a year.³⁵⁰ In January 1981, the city journal *Philadelphia Magazine* mentioned him as one of 81 “people to watch” in the following year, citing the “special dimension” his show at the music station WUHY projected in terms of radio reporting. After his arrest in December 1981, even critics lauded his “incredible voice,” his capacities as “a very good writer and an excellent producer” who “could do wonders with sound.”³⁵¹ Moreover, in 1981 Abu-Jamal was president of the Philadelphia chapter of the Association of Black Journalists, and “his work on the show ‘911 Report’ won several local broadcasting awards, including one from the Society of Professional Journalists, Sigma Delta Chi.”³⁵² The content of his broadcasts had earned him the honorary title “voice of the voiceless.”³⁵³

But functioning in that role did not bring only advantages. Despite all his credentials, in 1981 his professional career had taken a downward turn. His reportage on explosive themes, first and foremost on the MOVE Organization, had brought him in continuous conflict with his less radical or establishment employers. As seen from the perspective of MOVE (and probably his own), “rather than compromise his integrity as a journalist, he began freelance reporting while driving a cab at night to support his family.”³⁵⁴

When Abu-Jamal had his date with fate on December 9, 1981, he still was what he had always been since the early days of his youth, an indigent African American committed to radical change against all odds: a black revolutionary in white America.

³⁴⁹ The article is quoted and summarized at length in Jürgen Heiser, “‘Recht ist Politik mit anderen Mitteln.’ Die explosive Atmosphäre in Philadelphia zum Zeitpunkt der Verhaftung von Mumia Abu-Jamal und die frühe Geschichte der Kampagne,” in Leonard Weinglass, *Freiheit für Mumia! Hintergründe eines Fehlurteils und juristische Fakten gegen einen drohenden Justizmord* (Bremen: Atlantik, 1997), p. 294-297.

³⁵⁰ Abu-Jamal, “The Prison-House of Nations, in Bin-Wahad/Abu-Jamal/Shakur, *Still Black, Still Strong*, p. 154. The fact can hardly have escaped notice at the PPD, since he often passed it several times a day.

³⁵¹ Hepp, “The Accused,” *Philadelphia Daily News*, December 10, 1981. The last quotes were taken from his news director Nick Peters at WUHY. Abu-Jamal “worked at the station from July 1979 to March 6 of this year [1981], when he agreed to leave the station after a dispute with Peters” over objectivity in reporting. *Ibid.*

³⁵² *Ibid.*

³⁵³ During the 1995 PCRA hearings, E. Steven Collins was asked by Abu-Jamal’s attorneys: “Have you ever heard Mr. Jamal described as the voice of the voiceless?” and the answer was: “Sure.” *PCRAH*, August 26, 1995, p. 92-93.

³⁵⁴ *Twenty-five Years on the MOVE*, p. 43.



14. John Africa after his acquittal.



15. MOVE members addressing neighbors at 6221 Osage Avenue.

Memorandum to Mr. W. C. Sullivan
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(BLACK PANTHER PARTY)

SCOPE OF PROPOSED COUNTERINTELLIGENCE PROGRAM:

As stated above, the attached letter will instruct the field to submit positive suggestions as to actions to be taken to thwart and disrupt the BPP. Instructions are and will be reiterated that no action is to be taken without prior Bureau authority.

These suggestions are to create factionalism between not only the national leaders but also local leaders, steps to neutralize all organizational efforts of the BPP as well as create suspicion amongst the leaders as to each others sources of finances, suspicion concerning their respective spouses and suspicion as to who may be cooperating with law enforcement. In addition, suspicion should be developed as to who may be attempting to gain control of the organization for their own private betterment, as well as suggestions as to the best method of exploiting the foreign visits made by BPP members. We are also soliciting recommendations as to the best method of creating opposition to the BPP on the part of the majority of the residents of the ghetto areas.

RECOMMENDATION:

That attached letter, in accordance with the above, be approved.

WCS

4. Police Corruption and Brutality in the United States

4.1 Introductory Remarks: Lawbreaking by Law Enforcement

In the United States, police corruption and brutality have a long and essentially uninterrupted tradition. The history of this phenomenon cannot be treated here in depth. As I elaborated in section 2.3, I regard the use of excessive force by police officers as but one particular form of the wider problem of police corruption. But there are three reasons why this form of corruption is more important than others. For one thing, the illegal, brutal treatment of the very citizens whose protection is the assigned task of the police has often been the first step into the wider morass of other improper and illegal activities on the part of the police. Second, police brutality is *openly* illegal behavior and, as a most fundamental human rights violation, destroys the basic trust in the rule of the law on the part of the individuals and groups who are subjected to it. Not surprisingly, those affected most are society's most disadvantaged groups, that is, the poor, and among them, particularly African Americans.

Because of the enormous political impact of this latter role of police brutality, in the following I shall concentrate on those aspects of police corruption that involve physical violence, including the use of torture at police precincts in order to extract confessions. On the other hand, recent developments in the case of Mumia Abu-Jamal have once more brought to light a whole series of corrupt activities in the PPD that go beyond mere "street" brutality, ranging from bribery and the pimping of prostitutes to racketeering and blackmail as well as the accompanying death threats against anyone suspected of being prone to blowing the whistle.³⁵⁵

I will therefore also be dealing with these other aspects of police corruption, too.

And finally, corrupt behavior on the part of the police in the United States has also had a heavy political component in the narrower sense. The national police of the U.S.A., the FBI, has often been described as the United States' political police,³⁵⁶ and indeed its first big expansion was in large measure a consequence of the various anti-communist and anti-anarchist campaigns after World War I.³⁵⁷ The FBI has continued to play such a political role to this day,³⁵⁸ and as a Congressional investigation and the ensuing report³⁵⁹ as well as a vast literature on the subject

³⁵⁵ For the details, see chapter 7.

³⁵⁶ See, among many other examples, Churchill/Vander Wall, *Agents of Repression*, Part I: "The FBI as Political Police: A Capsule History," *ibid.*, p. 15-99.

³⁵⁷ *Ibid.*, p. 17-27.

³⁵⁸ For documentation of this point from a variety of sources, see the website <http://cointel.org>, which is devoted to domestic political surveillance in general and the past and present activities of the FBI in this realm in particular.

³⁵⁹ U.S. Congress, Senate, *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Agencies*, 94th Congress, 2nd session, 1976. The report consists of three voluminous books, of

have conclusively shown, this role has been closely connected to a multiplicity of criminal and unconstitutional activities.³⁶⁰ Moreover, this political role of the FBI has been accompanied by the repressive political activities of local police departments, and as I will show below, these departments have often conspired with the FBI to monitor, subdue and destroy legal and constitutional forms of political dissent. In section 4.5, I will therefore give a short summary of the FBI's so-called COINTELPRO Program as it operated in conjunction with local police. Because of the fateful role it played in the case of Abu-Jamal, I will then examine one particular example of one of these joint FBI/local operations, the assassination of Fred Hampton and Mark Clark, in a more detailed fashion.

4.2 The U.S. Police as an Occupation Army

“America,” write criminologists Skolnick and Fyfe in remarks introducing a discussion of the famous case of the abuse of black motorist Rodney King by officers of the Los Angeles Police Department, “is, culturally speaking, two countries. One is urban, cosmopolitan, and multicultural. It suffers disproportionately from crime, gang violence, poverty, and homelessness. The other is suburban, relatively safe, relatively prosperous, and – most important – unicultural. [...] It is predominantly white and middle class.”³⁶¹

Given the desperate conditions of abject poverty in many African American sections of the inner cities in the United States it is hardly surprising that “crime rates are highest in the most disadvantaged neighborhoods.”³⁶² Because of the overlap of poverty and minority status, it has also always been clear that “crime and drug abuse do disproportionately affect disadvantaged minority communities.”³⁶³ The members of these communities are thus not just saddled with being poor but also with coming to terms with a high crime rate in their residential area.

At the same time, until very recently, the vast majority of the police officers patrolling these areas were whites.³⁶⁴ On their part, many of them saw the black community as a jungle they were sent to control, and as a matter of fact, many of them set out to do so “by any means

which the third documents the various domestic FBI operations aimed at the disruption and destruction of political dissent that were carried out from 1956 to 1971 under the codename COINTELPRO. For extensive excerpts, see <http://www.cointel.org>.

³⁶⁰ E.g., Churchill/Vander Wall, *Agents of Repression*, Churchill/Vander Wall, *The COINTELPRO Papers*, and the valuable study of former BPP leader Huey P. Newton, *War Against the Panthers. A Study of Repression in America* (New York/London: Harlem River Press, 1996).

³⁶¹ Skolnick/Fyfe, *Above the Law*, p. xi.

³⁶² Michael Tonry, *Malign Neglect. Race, Crime, and Punishment in America* (New York: Oxford University Press, 1995), p. 41

³⁶³ *Ibid.*, p. 39.

³⁶⁴ To quote just one example, in 1966 in Oakland “96 percent of the police department was white, while 45 to 50 percent of the population it served was not.” Van Peebles, Taylor and Lewis, *Panther*, p. 18.

necessary.” As Skolnick and Fyfe write, commenting on Los Angeles in the 1990s but with more general implications, communities lacking in work as a socially and economically stabilizing factor “rely more heavily on police to maintain public order. Policing such turf is unquestionably tough, hazardous, and frustrating. One response is to abuse the authority of law to control the ‘gorillas in the mist,’ as one of the Los Angeles cops called those he had recently encountered.”³⁶⁵

That higher crime rates in the ghetto were not the unchangeable feature of some supposed black culture but simply a means of survival for people placed in a situation of social and – until the 1950s and 1960s – legal apartheid was never understood by a large part of the police force, and more importantly, their superiors. A very good description of the situation in the 1960s in one not untypical northern city is given in Tamar Jacoby’s book *Someone Else’s House*:

Detroit cops were known as the toughest and meanest of a tough, mean, white working class. Some had been recruited in the South specifically for their experience handling blacks; others were hardened by the job and the brutality it required, particularly in the city’s increasingly poor, black, crime-prone neighborhoods. In the 1930s, police officers had formed the backbone of the Detroit KKK. [...] For decades, the department screened out most black applicants, and well into the fifties those who were admitted were shunned by fellow officers. In the sixties, when other whites’ racial attitudes began to soften, many cops’ experience of soaring crime rates bred still more mistrust, and by then, the antipathy was mutual. Two-thirds of all offenses in Detroit were committed by blacks, and as in all cities, the black communities needed the cops as much or more than anyone. But policemen didn’t need to be racist for ghetto kids to fear and resent them. Whether or not the cops wielded a brutal hand, blacks bristled at the idea of a white man in authority giving them orders.³⁶⁶

A quite similar situation obtained in New York at the time of the 1964 Harlem rebellion, which was sparked by the shooting death of a fifteen-year-old teenager at the hands of a police officer. “Police attitudes toward the ghetto were no secret in New York: city cops were rough and ready, if not racist and downright brutal. The overcrowded slums were thought to breed all manner of crime, and police did not expect to have to answer questions about what they did there – whatever it took to maintain public safety.”³⁶⁷

“Harlem’s unofficial poet laureate” Langston Hughes, summed up the situation: “The cops, unfortunately being white, represent visually that world below Central Park that controls life in Harlem.”³⁶⁸ Just as “the Man,” as many blacks then generically used to call whites in gen-

³⁶⁵ Skolnick/Fyfe, *Above the Law*, p. xvi.

³⁶⁶ Tamar Jacoby, *Someone Else’s House. America’s Unfinished Struggle for Integration* (New York: The Free Press, 1978), p. 246.

³⁶⁷ *Ibid.*, p. 73-74.

³⁶⁸ Quoted in *ibid.*, p. 74.

eral,³⁶⁹ was seen as a colonial master who, long after the formal end of slavery, continued to dominate, exploit, and control, many blacks had no more affection for the predominantly white and in any event white-controlled police than their ancestors had had for the armed guards of the slave owners.

And the driving force behind police brutality was hardly simple *crime* control. Indeed, many thoroughly documented forms of brutal behavior on the part of the police can impossibly be attributed to the pursuit of that goal. Even under non-riot conditions, a good part of the excessive use of police force seems to have been designed specifically to instill fear, terror and a sense of submission in the black ghetto population. Thus, the former New Haven, Connecticut BPP chapter member Kiilu Nyasha reports how in the 1960s “police used to drive through neighborhoods in Harlem and just shoot into apartment building windows and kill people, you know, and wound people. It was just outrageous, the kind of brutality that was allowed to go down at that time.”³⁷⁰

Until the civil rights movement and later on the Black Power movement changed things, police brutality was consciously and unconsciously used to keep people regarded as second-class citizens in line and to show them their place. Very many observers in the nineteen-sixties could give descriptions of the general situation quite similar to the one by Kiilu Nyasha:

Of course, police brutality in the sixties was rampant, and the police, much as today, were able to brutalize black people with impunity. [...] In fact that was the original reason the Panthers became the Black Panther Party *for Self Defense*. That was the original title when it was formed in 1966 in Oakland. *And that same problem was prevalent all over the country, in all the big areas especially.*³⁷¹

What had made such a state of affairs possible in the first place was of course not the behavior of the police as such but the policies pursued in the United States at the local and national level. It was the social, cultural, and political discrimination against African Americans that forced the police into its role. Thus, in this larger context, the description of police brutality by a radical opponent of this racially charged status quo, such as Nyasha, as “the front line of the fascist system” is complemented by the point of view of those who stand in between the contending forces: “Oddly enough, it may be precisely this sense of mission [that policing is not just a job], this sense of be-

³⁶⁹ See Newton, *Revolutionary Suicide*, among many other examples.

³⁷⁰ Interview with Phillip Babich, National Radio Project, Oakland CA, *Making Contact* #28-98, “Race and Justice Highlights,” July 15, 1998. See <http://www.radioproject.org/transcripts/9828.html>.

³⁷¹ *Ibid.* Emphasis mine. See also Van Peebles, Taylor and Lewis: *Panther*, p. 18: “A 1966 Gallup poll found that 35 percent of African American men believed there was police brutality in their community; only 7 percent of whites agreed. In 1966, a U.S. Senate survey in Watts found that 60 percent of African American youth believed that there was police brutality; half said they had actually witnessed and experienced it firsthand.”

ing a ‘thin blue line’ pitted against forces of anarchy and disorder, against an unruly and dangerous underclass, that can account for the most shocking abuses of police power.”³⁷²

Paradoxically, as we have already seen alleged or actual instances of police brutality often led to a second and much larger round of violent clashes where the brutal treatment of the ghetto population multiplied: the so-called “riots,” or urban rebellions. In the sixties, these numbered in the hundreds, if not thousands: “The U.S. Civil Disorder Commission [the so-called “Kerner Commission] found that, in the first nine months of 1967 alone, there were 164 disorders of varying intensity. Of these, 41 outbreaks in 39 cities were considered to be major.”³⁷³ Given the distribution of the means of violence between white population and the various police departments on the one hand and the rebelling African American ghetto population on the other, the latter invariably paid a heavy price. In all the major rebellions that cost human lives, the huge majority of the victims were black.³⁷⁴

It is important to note that even while highly qualified observers such as Skolnick and Fyfe conclude that there is probably less police brutality today than there used to be thirty to forty years ago,³⁷⁵ the problem has by no means stopped to be a major one – on the contrary. Although to this day, and despite the repeated demands of human rights organizations, there is no official statistical documentation of police abuse and brutality, there is no doubt that the problem persists and continues to play its traditional role in showing socially disadvantaged and politically marginalized groups their place in society. The continued existence of the phenomenon is forcefully documented by the two 1998 reports on human rights in the United States by the two internationally most important human rights organizations, amnesty international and Human Rights Watch cited above.³⁷⁶ The fact that racially disadvantaged groups like African Americans and Hispanics are still in disproportionate measure targets of the practice is also hardly in doubt. In fact, in 1999 the foreword to one of the most extensive data collections on killings by the police stated: “The main targets of police brutality are Black and Latino people.”³⁷⁷ Data on the social status of the victims are harder to come by, but from the available material it seems quite clear that most of them, independently of their racial category, belong to what Skolnick and Fyfe call “the underclass.”³⁷⁸

³⁷² Skolnick/Fyfe, *Above the Law*, p. 93.

³⁷³ *Ibid.*, p. 75.

³⁷⁴ Various examples for this are given in Zinn, *Postwar America*, p. 132-133; for 1967, he cites the report of the Civil Disorder Commission according to which 10 percent of those killed or injured were public officials, while “an overwhelming majority of the civilians killed or injured were Negroes.” *Ibid.*, p. 133.

³⁷⁵ Skolnick/Fyfe, *Above the Law*, p. 18.

³⁷⁶ See note 228.

³⁷⁷ *Stolen Lives. Killed by Law Enforcement* (New York: October 22nd Coalition, 1999), p. iv. The volume lists and comments on about 2,000 police killings, mostly from 1990 to 1999.

³⁷⁸ The topic of the “underclass” as target is treated in Skolnick/Fyfe, *Above the Law*, p. 103-106.

4.3 False Confessions, Faked Testimony: Two Case Studies

“False confessions and false eyewitness testimony,” Abu-Jamal’s host lawyer in Philadelphia Michael Farrell told Annette Schiffmann and myself in his office in Philadelphia’s Center City, “are two of the most important reasons leading to the wrongful conviction of innocent people. False confessions and false eyewitness testimony. And the new development in recent years is that by now we have the scientific means to prove it. By the means of DNA testing, the guilt or innocence of a person, and therefore the truth or falsity of confessions and eyewitness testimony, can be scientifically proven.”³⁷⁹

Evidently, false – as well as true – confessions and testimony fall in large part into the domain of police work. Of course, confessions can be made and testimony be given to other agencies than the police, but nevertheless the police still remains the one institution to which statements about a crime will most likely be reported. It is exactly for that reason that the famous 1966 *Miranda* ruling of the Supreme Court of the United States was specifically designed to prevent false self-incrimination of suspects in the strained situation prevailing immediately after their arrest.³⁸⁰

But here, too, we find that the police often acts as if it were “above the law.” In this, the behavior ranges from violent coercion of suspects to conscious deception of witnesses. There is a vast literature on the topic,³⁸¹ and I will constrain myself here to giving just two examples from opposite poles of the range just sketched: confessions obtained by torture and manipulated testimony. As we will see in detail in chapter 7, there are all sorts of combinations in between, with coercion of and the threat of violence against witnesses being the most prominent one in the case of Abu-Jamal.

4.3.1 “House of Screams”

On February 9, 1982, exactly two months after the death of Philadelphia police officer Daniel Faulkner, two policemen were brutally and deliberately murdered in Chicago. Five days after the deed, two brothers, Andrew and Jackie Wilson, were captured, arrested, indicted and subsequently sentenced to life in prison. Apparently, there is no doubt about the guilt of the two, and therefore, as Chicago reporter John Conroy comments in his book devoted in part to this case

³⁷⁹ Interview with J. Michael Farrell, Philadelphia, September 2002. Several such cases are documented in Scheck/Neufeld/Dwyer, *Actual Innocence*.

³⁸⁰ See the short description in Irons, *A People’s History of the Supreme Court*, p. 418.

³⁸¹ See the chapters “seeing Things and “False Confessions” in *ibid.*, p. 41-106, various chapters in Radelet/Bedau/Putnam, *In Spite of Innocence*, as well as many of the city reports in the HRW report on police brutality, *Shielded from Justice*.

aptly comments that were it not for other factors, today the Wilson brothers should merely “be a tragic footnote in Chicago’s history.”³⁸² But the story did not stop there, since one of the brothers, Andrew Wilson, claimed that he was massively abused by the police and that the confession he had made shortly after his arrest had been the result of torture. In fact, when the Supreme Court of Illinois granted Wilson a second trial, the judges wrote in their decision:

The evidence here shows clearly that when the defendant was arrested at 5.15 am on 14 February, he may have received a cut above his right eye but that he had no other injuries; it is equally clear that when the defendant was taken by police officers to Mercy Hospital sometime after 10 o’clock that night he had about 15 separate injuries on his head, chest and leg. The inescapable conclusion is that the defendant suffered his injuries while in police custody that day.³⁸³

The Andrew Wilson case triggered a series of investigations into wrongdoings, i.e., physical abuse and torture, in the Chicago Police Department’s Area 2, a district of more than 60 square kilometers, and Area 3, the district officer mainly responsible for these acts, Jon Burge, later moved into. At the time these matters were brought to court, Burge “had been promoted repeatedly, and when he took his seat in Judge Duff’s courtroom he was commander of the Area 3 detective division and outranked 99 percent of the policemen in the city.”³⁸⁴ While the Chicago chapter of the Fraternal Order of Police (FOP) fought tooth and nail against any disciplinary measures against Burge and other officers also accused of committing or tolerating acts of torture, the truth of these allegations later became undeniable as they were confirmed by several police board investigations and court decisions.³⁸⁵ But tragically, the consequences were very limited apart from the final dismissal of officer Burge. According to the HRW report *Shielded from Justice*, there were no less than sixty-five cases where torture was alleged,³⁸⁶ but still, Conroy writes that “the knowledge that torture had occurred [...] was not translated into any organized attempt to provide relief for the Area 2 victims, 10 of whom sat on death row.” Had it not been for his own reports regularly published from 1990-1997 in the Magazine *Chicago Reader*, beginning with an extensive investigation into the Wilson case under the title “House of Screams,” most of the details of what happened at the police precincts in Area 2 and Area 3 would probably be essentially unavailable to the public. In its own report on human rights violations in the U.S.A., amnesty international concludes:

³⁸² John Conroy, *Unspeakable Acts, Ordinary People. The Dynamics of Torture* (London: Vision, 2001), p. 25.

³⁸³ *Ibid.*

³⁸⁴ *Ibid.*, p. 59.

³⁸⁵ *Ibid.*, p. 212-227.

³⁸⁶ HRW, *Shielded from Justice*, section on Chicago.

Ten men who were allegedly tortured and signed confessions in a Chicago police station remain on death row. Allegations of systematic torture in one police station over a 20-year period came to light in 1989, involving at least 65 suspects who reported torture including electric shocks and having plastic bags placed over their heads. The cases were reopened by Chicago's Office of Special Investigations in the 1990s and the area's commander [Jon Burge] was dismissed. Other officers, however, were allowed to retire with full benefits.³⁸⁷

Thus, the Chicago Area 2/Area 3 case served not only to show to what length some police officers were prepared to go to obtain confessions by whatever means, but also that it was possible for them to do so with relative impunity in one of the biggest police departments in the country.

4.3.2 “A Kafkaesque Nightmare”

A case that combines the issue of a false confession with manipulated eyewitness testimony is the one of Philadelphia furniture salesman Neil Ferber. Ferber falsely spent 1,375 days on death row after he was sentenced to death in the summer of 1982 for the execution-style killing of an organized crime figure, Steven Bouras, and Bouras' companion, Jeannette Curro, by two masked gunmen.³⁸⁸ The mechanism that had made this possible was explained in a speech by the representative of the American Civil Liberties Union (ACLU) at Penn State University, Teresa Kaltz:

The principal evidence against him [Ferber] was the testimony of a jailhouse snitch, who claimed Ferber confessed to him while they were both serving time in a Philadelphia Detention Center for petty crimes. Ferber spent 3-1/2 years in prison before the snitch recanted, meaning he admitted he lied about Ferber's confession. When the District Attorney asked for a new trial, the judge threw the case out and Ferber went free.

But the true story came out when Ferber sought damages for his wrongful imprisonment. It turns out that the police sergeant and the sketch artist conspired to frame Ferber. [According to the judge who presided over Ferber's suit] the police manipulated witnesses, “withheld important evidence, tampered with identification evidence, and mislead judicial officers.”³⁸⁹

Apparently, after the shooting death of Bouras and Curro the police deliberately set out to “nail” Ferber, who had already served time on minor charges. In Linn Washington's description “one phase of framing Ferber involved tricking the Egans [the couple who had witnessed the crime] into identifying Ferber as the man they saw momentarily” even though “Ferber bore little physical resemblance to any of the scant descriptions of the gunmen.” In order to convince the wit-

³⁸⁷ Amnesty international, *United States of America: Rights for All* (New York: ai, 1998), chapter 3 on police brutality.

³⁸⁸ Linn Washington, “Frame-Ups and Kafkaesque Fiction. Tales of Mumia Abu-Jamal and Neil Ferber,” unpublished manuscript, 2002/2003. I am grateful to Linn Washington for making this manuscript accessible to me.

³⁸⁹ See <http://www.clubs.psu.edu/aclu/dpac/talk.html>.

nesses that the man they had seen and Ferber were one and the same person, the investigating officers got the police sketch artist “to use a mug shot of Ferber from an earlier drunk-driving arrest for preparing a portrait that would be presented as the gunman.” Based on the similarity between the manipulated portrait and Ferber himself, the witnesses then identified Ferber as the shooter. Later on, this identification was supplemented by the testimony of a certain Jerry Jordan, a prison inmate who had met Ferber but who “initially told detectives Ferber said nothing. But Jordan later told detectives Ferber admitted guilt *and he would testify against Ferber if a deal could be cut where charges against him were dropped in exchange for his testimony.*”³⁹⁰

According to Washington, Ferber was only able to escape Pennsylvania’s death row – or even worse, execution – because one police inspector, Frank Friel, decided to reinvestigate the case after one of his informants had told him that Ferber was innocent. When Friel started his investigation, he was told by his superiors that it was his task to “arrest people, not to un-arrest them.” As Judge John Herron who awarded damages in the seven digit realm to Ferber in October 1994 noted in his opinion, attempts to cover up evidence favorable to Ferber reached as high up as to then Police Commissioner Greg Sambor. Summarizing the case and its larger significance for law enforcement and criminal justice, Herron wrote:

Factually, this case presents a Kafkaesque nightmare of the sort which we would normally characterize as being representative of the so-called justice system of a totalitarian state. Unfortunately, as the trial evidence showed, it happened here in Philadelphia.³⁹¹

Ferber was arrested in November 1981, one month before Abu-Jamal’s arrest for the murder of police officer Daniel Faulkner on December 9, 1981. Like Abu-Jamal, he was tried and sentenced to death in summer 1982. His conviction and the methods it was achieved with therefore evidently also throw a light on what happened in the case of Abu-Jamal. So does the aftermath of the conviction where the city and the police strenuously fought against admitting any wrongdoing or responsibility, and where “none of the police personnel found liable for framing Ferber in a 1993 jury verdict were ever disciplined by the Police Department. The sketch artist was [still] working for the Police Department when the City agreed to settle with Ferber in 1996. One of the detectives faulted by the jury in Ferber’s case, who retired from the Police Department, is captain in the Philadelphia Housing Authority Police Force.”³⁹²

³⁹⁰ Washington, “Frame-Ups and Kafkaesque Fiction.” Emphasis mine.

³⁹¹ Quoted in *ibid.*

³⁹² *Ibid.*

4.4 A Short Excursion on Other Corrupt Police Practices

In his study on “police and prisons in the age of crisis,” Christian Parenti describes the state of the police in the United States in the early seventies in the following way: As a result of the lack of any nationally binding coordination, “whole regions of the country’s law enforcement infrastructure were submerged in quagmires of nepotism, corruption, and incompetence; many metropolitan departments, despite decades of reform, were still ruled by recalcitrant, provincial, good ol’ boys or corrupt municipal machine thugs.”³⁹³

This proved to be a legacy that was very hard to overcome, and some Police Departments apparently never really did. At least half of the thirteen Police Department investigated in the 1998 HRW report *Shielded from Justice* experienced at least one big corruption scandal during the 1990s.³⁹⁴ One of the worst crises recorded was the one in New Orleans, a city that

has been rocked by successive scandals during the past several years: an officer was convicted in April 1996 of hiring a hit man to kill a woman who had lodged a brutality complaint against him and another officer was convicted in September 1995 for robbing a Vietnamese restaurant and shooting, execution style, a brother and sister who worked there, as well as an off-duty officer from her precinct working as security at the restaurant. In addition, at least fifty of the 1,400-member force have been arrested for felonies including homicide, rape, and robberies since 1993. As astutely noted by police abuse expert Prof. James Fyfe, some cities’ police departments have reputations for being brutal, like Los Angeles, or corrupt, like New York, and still others are considered incompetent. New Orleans has accomplished the rare feat of leading nationally in all categories.³⁹⁵

It is thus far from unheard of that parts – and in all fairness it must be stressed that it is always only parts – of the police departments of major cities in the United States degenerate into a *modus operandi* where they are hardly distinguishable from an ordinary criminal gang. Quite significantly for the topic of this thesis, in recent years this has happened more than once in the city of Philadelphia. The “Rizzo years” with their countless brutality complaints had just drawn to a close when another huge police scandal shook the city. I will discuss this 1981/1982 police corruption scandal which occurred exactly at the time of Abu-Jamal’s arrest and conviction and where major players in his case were directly involved in the addendum to chapter 7. As it turned out, the next huge police scandal in Philadelphia was also closely connected to the Abu-Jamal case. On this “latest scandal,

³⁹³ Christian Parenti, *Lockdown America*, p. 15.

³⁹⁴ HRW, *Shielded from Justice*, chapters on thirteen cities in the United States.

³⁹⁵ *Ibid.*, chapter on New Orleans.

which emerged fully in 1995” and involved “officers primarily from the 39th District,” the HRW report states the following:

Philadelphia's police are grappling with the latest of the corruption and brutality scandals that have earned them one of the worst reputations of big city police departments in the United States. The persistence and regularity of the cycles indicate that between the front-page news stories the city and its police force are failing to act to hold police accountable. The result is an undisturbed culture of impunity that surfaces and is renewed with each successive scandal, as each new generation of police officers is taught through example that their leadership accepts corruption and excessive force.³⁹⁶

The report then goes on to detail some of the activities of the corrupt officers, of whom “as of 1997, five had been convicted on charges of making false arrests, filing false reports, and robbing drug suspects”:

Officers raided drug houses, stole money from dealers, beat anyone who got in the way and, as a judge trying one of the ringleaders stated, generally “squashed the Bill of Rights into the mud.” Due to exposure of the officers' actions, thousands of drug convictions were under review as of the end of 1997, with between 160 and 300 cases already overturned because the suspects were arrested by officers known or believed to have been involved in misconduct.³⁹⁷

One of the cases that helped to trigger the scandal involved the prostitute Pamela Jenkins who on November 3, 1994, testified against her boyfriend, police officer Thomas Ryan, and another corrupt officer, Jack Baird, “admitting that he [Baird] and Ryan had frequently paid her to perjure herself to secure criminal convictions.”³⁹⁸ In this first case she had implicated a black Temple University student in a drug charge, with Baird later admitting that he had also put a gun to the student’s head to coerce a confession. The student’s case was “the 23rd misconduct allegation to be filed against the 20 year veteran” Baird.

But then there was a second case that brought Pamela Jenkins’ name into the headlines, and then a third. On December 28, 1996, the *Philadelphia Inquirer* reported the release of convicted murderer Raymond Carter from a prison in Pennsylvania. According to the report, “in September [1996], Common Pleas Court Judge Joseph I. Papalini threw out Carter’s first-degree murder conviction, stating that it was simply impossible to determine whether Carter shot Robert ‘Puppy’ Harris of North Graz Street at the Pike Bar on Sept. 18, 1986.

³⁹⁶ *Ibid.*, chapter on Philadelphia.

³⁹⁷ *Ibid.*

³⁹⁸ Equal Justice (EJ) USA, “Trampling the Public Trust. Philadelphia Police Abuses Reveal Systemic Injustice,” see the “Mumia Archive” of Equal Justice, <http://www.quixote.org/ej/archives/mumia/corr.html>.

“The judge said he was ordering a new trial because [police officer Thomas] Ryan had paid the prosecution’s star witness, Pamela Jenkins, \$ 500 to testify against Carter.”³⁹⁹

On December 27, 1996, the charge against Carter was thrown out by Philadelphia Common Pleas Judge Carolyn Temin, and Carter, who had “maintained from the start that he was framed by the District Attorney’s office and former 39th District Officer Thomas Ryan,” immediately announced through his lawyer that he was planning “to sue the city for wrongful arrest.”⁴⁰⁰ Carter had spent ten years in prison, eight of them with a sentence for life.

The third case involving prostitute and false witness Pamela Jenkins concerned none other than Mumia Abu-Jamal. Not long after the dismissal of the murder charge against Raymond Carter, in January 1997, Abu Jamal’s defense contacted Pamela Jenkins and were told by her “that in late 1981 police pressured her to falsely identify Jamal as the shooter in this case – despite the fact that she was not present at the shooting.”⁴⁰¹ We shall later see that hers was one of the most hotly contested statements by post-conviction defense witnesses for Abu-Jamal, but given the background just sketched, it was hard to dismiss it out of hand for any objective observer. The matter will therefore be taken up again in chapter 7.

4.5 The FBI’s COINTELPRO

In liberal and radical circles, the one FBI activity during recent decades most people probably have heard of is the program codenamed COINTELPRO (shorthand for “Counterintelligence Program”). Curiously, for many COINTELPRO has come to stand for all FBI programs aimed at the surveillance and disruption of dissident political activity in the U.S.A.⁴⁰² That is very far from the truth. The FBI has always operated, and continues to operate, myriads of such programs,⁴⁰³ and the particular program called COINTELPRO has always been only a tiny part of them.

COINTELPRO itself was operational from 1956 to 1971 and was at first directed primarily against the Communist Party (CP) and the Trotskyite Socialist Workers Party (SWP).⁴⁰⁴ Looking back at past activities of the FBI, the document that initiated the program states that

³⁹⁹ Mark Fazlollah, “Man to walk in tainted murder case,” *Philadelphia Inquirer*, December 28, 1996.

⁴⁰⁰ *Ibid.*

⁴⁰¹ “Supplemental Statement of Jurisdiction,” statement of Abu-Jamal’s defense in the context of the PCRA Hearings 1997, August 29, 1997, <http://www.refuseandresist.org/mumia/1997/083097supbrief.html>.

⁴⁰² For instance, on the website containing the excerpts from Abu-Jamal’s FBI files (see note 157), these are listed as “Mumia’s COINTELPRO files” even though the last entry excerpted is from 1990, long after the program had been discontinued.

⁴⁰³ For some of these, see the website <http://www.cointel.org> and the preface to Churchill/Vander Wall, *The COINTELPRO Papers* by Brian Glick, *ibid.*, p. x-xvi.

⁴⁰⁴ See Churchill/Vander Wall, *The COINTELPRO Papers*, chapters 2 and 3, p. 33-62.

“during its investigation of the Communist Party, USA, the Bureau [i.e., the FBI] has sought [...] to foster factionalism, bring the Communist Party (CP) and its leaders into disrepute before the American public and cause confusion and dissatisfaction among rank-and-file members of the CP.” But this was, the document goes on to explain, only “harassment” from without while what was now recommended was “disruption” from within, “feeding and fostering from within the internal fight currently raging.”⁴⁰⁵ This fostering of disruption from within was the essence of the program, regardless of whether the individual operations were directed against the CP, the SWP, Puerto Rican independence movements or, later, against so-called “Black Hate Groups.”

In the 1960s and early 1970s, this move from surveillance and harassment to active disruption from within with the help of spies, agents provocateurs, forged documents and other means routinely used by intelligence services was to have deadly consequences. As is by now well documented, at that time the national police of the United States stoked the fires of dissension within and between legal black political organizations in such a manner that its member started to violently attack and murder each other. This long and complicated story which arguably at least heavily contributed to the death of about a dozen members of the Black Panther Party cannot be told here.⁴⁰⁶

In connection with ex-Panther member Abu-Jamal it must be noted, however, that the Black Panther Party was the most prominent target⁴⁰⁷ of the COINTELPRO operation “Black Nationalist Hate Groups” from 1967 to 1971, where “the purpose of this new counterintelligence endeavor” was “to expose, disrupt, misdirect, discredit, or otherwise neutralize the activities of black nationalist, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and disorder.”⁴⁰⁸

Also important in connection with the case of Abu-Jamal is the fact that the FBI’s activities,

⁴⁰⁵ “Office Memorandum,” August 28, 1956. The first page of the document, from which I quote, is reproduced facsimile in *ibid.*, p. 40. The internal fight in the CP referred to in the document to had been sparked by Khrushchev’s revelations about Stalin’s terror in the Soviet Union at the 20th Congress of the CPSU in February 1956.

⁴⁰⁶ For details, see Churchill/Vander Wall, *ibid.*, chapter 5 (p. 91-164). Six BPP members fell victim to a strife between the California-based black nationalist organization US (as opposed to “THEM,” the whites) and the BPP. This quarrel was consciously exacerbated by the FBI by means of forged cartoons, letters, and documents in which one organization threatened and ridiculed the other. The deadly results were expected in advance and by no means unwelcome. After San Diego BPP member Sylvester Bell had been killed by US gunmen on August 14, 1969, an August 20, 1969 FBI field report boasted that “shootings, beatings, and a substantial amount of unrest” in the ghetto area of Southeast San Diego were to “substantial amount” attributable to the CONTELPRO program and then continued to report that “in view of the recent killing of BPP member SYLVESTER BELL, a new (strife-provoking) cartoon is being considered in the hope that it will assist in the continuance of the rift between the BPP and US.” The document is reproduced in part in *ibid.*, p. 131. For more on the FBI’s role in the BPP/US conflict, see *ibid.*, p. 130-135, 149.

⁴⁰⁷ According to the 1976 Senate *Final Report*, book III, note 4, there were 233 separate COINTELPRO operations against the BPP alone. Various websites devoted to this and similar topics give the aggregate number as 295. I was not able to determine the original source for the latter figure.

⁴⁰⁸ Facsimile of document in *ibid.*, p. 92.

whether carried out under the codename COINTELPRO or not, were not limited to harassment and disruption. Just as the FBI forged documents in order to set “enemy organizations” against each other, it arranged for forged criminal evidence against black leaders deemed dangerous in order to have these leaders disappear behind prison bars.

Apart from the case Dhoruba Bin-Wahad, co-author with Abu-Jamal of the book *Still Black, Still Strong*, who was convicted for the 1971 shooting of two New York police officers and spent 19 years in prison before his conviction was thrown out because the FBI had tampered with the evidence,⁴⁰⁹ the best-known case is undoubtedly the one of Geronimo Pratt.⁴¹⁰ Pratt was arrested on December 8, 1970 and charged with the murder/assault of a white couple in Santa Monica back in 1968 in the so-called “Santa Monica tennis court case.” In this instance, not only did the FBI draw on the whole arsenal of manipulate techniques it had developed in the course of its COINTELPRO operations like witness coaching, the use of false testimony by an informer, and fiddling with the ballistic evidence, but what is more, the Bureau’s agents knew perfectly well that Pratt had been at a BPP conference in the San Francisco Bay area, *more than 400 miles away from Santa Monica*, at the time of the shooting, since like most higher-level conferences of the BPP, this one, too, had been subjected to electronic surveillance.⁴¹¹ The account of the events by former FBI agent Wesley Swearingen, a source uniquely placed to acquire inside knowledge of what had happened, leaves no doubt that the FBI consciously and cold-bloodedly framed Pratt for a murder it knew he did not commit.

⁴⁰⁹ In his contribution to the volume *Liberation, Imagination, and the Black Panther Party*, the most important researcher on the topic, Ward Churchill, writes: “The conviction was finally overturned, and Bin-Wahad released on bond pending possible retrial in March 1990, after it was proven that the FBI and [the NYPD’s political surveillance squad Bureau of Special Services] BOSS had collaborated to suborn perjury from the state’s major witness, and had jointly suppressed ballistic test results indicating that the strongest piece of physical evidence, a gun found in Bin-Wahad’s possession at the time of his arrest, was *not* the weapon used to shoot the police.” See “‘To Disrupt, Discredit and Destroy.’ The FBI’s Secret War Against the Black Panther Party,” in *ibid.*, p. 103-104. The state later declined to further prosecute Bin-Wahad who thus succeeded in winning his freedom.

A similar case but with practical relevance continuing to this day is the one of New York BPP chapter members Herman Bell, Jalil Abdul Muntaquin (aka Anthony Bottom) and Albert Washington. These three were “sentenced to serve 25-year-to-life prison terms in 1975 for the 1971 shooting deaths of NYPD patrolmen Waverly Jones and Joseph Piagentini. Only much later, during the early ’80s, did it begin to come out that the FBI had carefully concealed significant exculpatory material such as ballistic reports showing conclusively that the crucial piece of ‘physical evidence’ introduced at trial – a .45 caliber automatic pistol in Bell’s possession at the time of his arrest – was *not* (as the prosecutors claimed) the weapon to kill the policemen.” Other forms of abuse of due judicial process on the part of the FBI and the police included the torture, blackmail and bribery of witnesses as well as systematic lying to the courts in order to cover these abuses. See Churchill/Vander Wall, *The COINTELPRO Papers*, p. 157. Albert Washington has since died in prison in 2000; Bell and Muntaquin remain in jail as of this writing.

⁴¹⁰ Now Geronimo ji Jaga. I have used his former name here since he still used it at the time of his arrest.

⁴¹¹ This case description is based on M. Wesley Swearingen, *FBI Secrets. An Agent’s Exposé* (Boston: South End Press, 1995), p. 83-87 and Churchill/Vander Wall, *Agent of Repression*, p. 77-94, especially p. p. 87-93. See also the vastly more detailed account in Jack Olsen, *Last Man Standing. The Tragedy and Triumph of Geronimo Pratt* (New York: Doubleday, 2000).

4.6 The Assassination of Fred Hampton

In section 3.3.1, I have already mentioned an extreme example for the repressive practices of local police departments in their struggle against black militancy, namely, the killing of Chicago Panther leader Fred Hampton and his bodyguard Mark Clark. Interestingly, after the FBI was subjected to intense scrutiny in the context of the 1975/1976 congressional investigation of its activities, it turned out that Hampton had been the target of a potentially deadly COINTELPRO operation even before December 1969. As “one of the most promising leaders of the Black Panther Party – particularly dangerous because of his opposition to violent acts or rhetoric and his success in community organizing,”⁴¹² Hampton soon aroused the ire of the FBI whose assigned task it was to prevent “the rise of a ‘messiah’ who could unify, and electrify, the militant black nationalist movement.”⁴¹³ As many accounts make clear, he fit into that category exactly. Later BPP chairwoman Elaine Brown recounts a 1969 speech by Hampton before hundreds of Chicago Panthers that BPP leader David Hilliard had asked her to listen to in order to lift her out of a depression:

“I’m gon’ die for the People!” the chairman [Hampton] continued, his fist high, the steam of his breath bursting into the bitter early-morning cold.

“I’m gon’ die for the People!” came the echo.

[...]

“Power to the People! Power to the People! Power to the People!”

Tears were streaming down my face, stinging my frozen cheeks. This young, twenty-one-year-old Fred Hampton had aroused in me a surge of love for my people stronger than I had ever felt. David had had the right idea. He had heard Fred before.⁴¹⁴

Another feature of Hampton’s work that was apparently intolerable to the FBI was his work to politicize the Chicago street gangs, urging them to stop gang warfare and calling for a united front against racism and the living conditions in the ghettos of West and South Chicago instead. In response to the BPP’s arrangement of at least a working alliance with an important black street gang called the Blackstone Rangers, the FBI soon resorted to its tried technique of sending false anonymous letters, one of them warning Rangers leader Jeff Fort that Hampton had “a hit [murder contract] out on” him. The propensity of the Rangers for violence was well known to the FBI agents, but that didn’t stop

⁴¹² Chomsky, Introduction to Blackstock, *COINTELPRO*, p. 16. This characterization of Hampton was corroborated by the leading member of the civil rights organization Refuse and Resist, Clark Kissinger, when I interviewed him in September 2002 in New York. At the time, Kissinger had been active in the Chicago chapter of the SDS (Students for a Democratic Society). In fact, Kissinger’s admiration for Hampton’s leadership qualities was still palpable.

⁴¹³ Telegram from the Director of the FBI to the field offices, March 4, 1968. Reproduced in Churchill/Vander Wall, *The COINTELPRO Papers*, p. 108-111, here p. 110.

⁴¹⁴ Brown, *A Taste of Power*, p. 200.

them. On the contrary, in a memo to FBI Director Hoover on January 10, 1969, the local agent in charge wrote:

It is believed that the [letter] may intensify the degree of animosity between the two groups and on occasion Forte [will] take retaliatory action which could disrupt the BPP or lead to reprisals against its leadership [...] Consideration has been given to a similar letter to the BPP alleging a Ranger plot against the BPP leadership; however, it is not felt that this would be productive principally because the BPP [...] is not believed to be as violence prone as the Rangers, to whom violent type activity – shooting and the like – is second nature.⁴¹⁵

It is hard to avoid the conclusion that for the FBI, the “violent type activities” of the Rangers constituted less of a problem than the prospect of the Rangers working together with the BPP along the lines of the Panther program for constructive community work. As it turned out, in Chicago the FBI’s attempts to set the black groups against each other by and large failed, but as noted above in section 3.3.1, the problem of Fred Hampton was taken care of later in the year by a fourteen-man assault squad of the Chicago police.⁴¹⁶ It turned out very soon that contrary to the reports of the police there had been no firefight, but that the police had fired dozens of shots without provocation, and that the one shot that was fired by a Panther came from the dying Mark Clark who had a shotgun in his lap which he apparently triggered reflexively.⁴¹⁷ Significantly, the two shots that killed Hampton probably came from a handgun and were fired at close range, while one of the attack crews “directed a pattern of cross-fire [from the front room through the rear bedroom wall, at the location where the floor plan [that the attackers had been able to obtain through an informer] showed the head of Hampton’s bed.”⁴¹⁸ There is thus massive circumstantial evidence that the purpose of the raid was to finish Hampton off once and for all, and the circumstantial evidence is corroborated by the testimony of Panther survivors of the raid, e.g., Hampton’s widow Deborah Johnson, who testified that she overheard a policeman saying “He [Hampton] is barely alive, he’ll make it,” after which she heard two shots and one of the policemen’s voice stating, “He’s good and dead now.”⁴¹⁹ What was not known in the years following the shooting death of Fred Hampton and Mark Clark was the origin of the floor plan that had guided the raiders into the Hampton apartment. For years, it was assumed that the raid of the Hampton home had simply been the work of the

⁴¹⁵ Churchill/Vander Wall, *The COINTELPRO Papers*, p. 135-136.

⁴¹⁶ The basic facts as far as the police operation itself is concerned are described in Michael J. Arlen, *An American Verdict* (New York, Doubleday, 1973). The book, which captures the atmosphere of the time beautifully, is devoted to trial for “obstructing justice” of the State’s Attorney who ordered the raid and the policemen who took part in it.

⁴¹⁷ Churchill/Vander Wall, *Agents of Repression*, p. 71

⁴¹⁸ Kenneth O’Reilly, *Racial Matters. The FBI’s Secret File on Black America, 1960-1972*, (New York: The Free Press, 1989), p. 312.

⁴¹⁹ Churchill/Vander Wall, *Agents of Repression*, p. 71-73.

Chicago police, and that is indeed the assumption that formed the base for all work, detailed or not, on the topic, like Michael Arlen's *An American Verdict*. Only years later, it was disclosed to the public that the procurer of the floor plan had been an FBI informer, and that the whole operation had been set up by the FBI in close cooperation with commanding officers of the Chicago Police Department.

In this connection, the account by former FBI agent Wesley Swearingen of a conversation with a long-time buddy and colleague of his, Gregg York, is worth quoting at length:

I told York that some agents in Los Angeles had informants who had assassinated Black Panther members and I told him how Geronimo Pratt had been framed for murder and had been sentenced to life in prison.

York grinned and said he had a better story than that.

York told me about the December 1969 raid on the Chicago Panther headquarters in which Fred Hampton and Mark Clark had been killed by the Chicago police. He said the FBI had arranged for the raid by telling the police that the Panthers had numerous guns and explosives, and that they would shoot any police officer who entered the building.

As York outlined the details of what had happened during the pre-dawn raid on December 4, 1969, directed by the state attorney's office, his smile went away. His mouth tightened. York looked about as if he was about to confess to a horrible sin.

[...]

York explained that agent Roy Mitchell had an informant in the Chicago Black Panther Party and that the informant had given Mitchell a detailed floor plan of the Panther headquarters along with a description of their weapons cache. He explained that the Chicago FBI office had held a conference with the Chicago police and had detailed the violent background of the Panthers and their collection of firearms. He said, "We gave them a copy of the detailed floor plan from Mitchell's informant so that they could raid the place and could kill the whole lot."⁴²⁰

Swearingen notes that after these words by York, he was speechless, but that when they began to talk again, York said: "We expected about twenty Panthers to be in the apartment when the police raided the place. Only two of those black nigger fuckers were killed, Fred Hampton and Mark Clark."⁴²¹

In at least some respects, the struggle for black emancipation in the United States in the later decades of the 20th century resembled less a simple struggle for more democratic rights than a fight to tear down a vicious, specifically American form of apartheid.

⁴²⁰ M. Wesley Swearingen, *FBI Secrets. An Agent's Exposé* (Boston: South End Press, 1995), p. 88-89.

⁴²¹ *Ibid.*, p. 89.



17. Fred Hampton.



18. Fred Hampton in the early morning of December 4, 1969.



19. Chicago police remove Hampton's body during the predawn hours of December 4, 1969.



20. Crime scene: 1234 Locust Street, Philadelphia, Dec. 9, 1981.

Did trial strategy lead to conviction?

ABU-JAMAL, from 1C
but was manslaughter instead, involving "passion," "provocation" and "diminished capacity." Marchaughter carries a much lesser penalty.

The evidence suggesting that Abu-Jamal then Frazier was strong — two eyewitnesses said they saw him do it, and two others said they saw part of the shooting — but the evidence suggesting that it was a pre-meditated, cold-blooded murder was much weaker.

And because of the great respect accorded Abu-Jamal by many in Philadelphia — particularly in the black community — there may be strong reason to believe that an active defense against the death penalty could have succeeded in at least saving him from the electric chair, had a different strategy not prevented the jury from convicting him of murder in the first degree.

Instead, Abu-Jamal — who entrusted his defense even though Sabo removed him from serving as his own attorney because of his "disruptiveness" — offered little evidence to exonerate the charge of first-degree murder, simply relying on his attorney to try to trip up the key prosecution witnesses in detail. And Abu-Jamal did not call a soul to testify on his behalf against the death penalty, even though many prominent journalists and politicians were prepared to speak for him — he was president of the Philadelphia Association of Black Journalists at the time of the shooting.

He did not even claim to be innocent of the charge until after the jury convicted him of murder.

Because of his courtroom antics, some friends and observers believe that Abu-Jamal may be committing an indirect suicide, or that the pressure and disappointments of his life had grown so great that he literally lost touch with reality. He had, after all, been named a "man to watch" in Philadelphia Magazine in early 1981 because of his powerful news reporting; only to find himself fired from two prominent news jobs at the time of Daniel Frazier's death in Dec. 9.

Others say that his decision to identify himself and his defense with the MOVE group reflected instead a need to align himself with an all-black world view that might give him strength and unequalled support.

"I believe that Mumia saw MOVE as people who were family. Who were totally loyal to him," said NEUMAN.

Mumia Abu-Jamal in earlier days, with the Black Panthers, he was known as Wesley Cook.

reporter K. Steven Collins, a longtime friend of Abu-Jamal's. "They were capable of giving him the interior strength he needed for the ordeal."

Still others believe that the whole idea of embracing MOVE was a strategy itself, devised by a clever Abu-Jamal to create a moral imperative the kind of whom that MOVE came being to court with rousing gusto, helps create an environment in which judicial error is more likely, and so the verdict would be overturned on appeal. Prosecutor McGill, for one, believed that there was definitely method behind Abu-Jamal's apparent courtroom madness.

And finally, some in his family believe that in attacking "the system," he was working to expose its failings, even at the cost of his own life.

"Sometimes there are principles bigger than life," said his sister, Lydia Wallace. "I believe Mumia is trying to show that there can be no justice for a black man in this system."

lost — in all these explanations, however, is the complex personality that many people found irresistible, attractive and infuriating to begin with.

Born Wesley Cook, he grew up in a housing project at Seventh and Fairmount Streets with four brothers — including his twin brother Dwayne — and a sister. The family was poor and the father died young, when Abu-Jamal was 12, but it was a strong and apparently cohesive unit. His sister, Lyda, said recently that the arrest of Abu-Jamal was the first street ever in her family.

Indeed, the family appeared to be quite a story of success. The eldest son is now a major sergeant in the Marine, Abu-Jamal's twin brother is also serving in the army in Germany, and Abu-Jamal was a rising journalist.

Abu-Jamal was married about 12 years ago to a schoolteacher, with whom he had three children — a fact that rarely surfaced during the trial. (David Owens, who is now superintendent of the prison where Abu-Jamal is held, was a guest at the wedding.) Friends say that he also had "accepted responsibility" for two other children, apparently those of another woman with whom Abu-Jamal lived during the year before his arrest.

In his many admirers, Abu-Jamal was probably best known as a man with a clear and unusual insight into the black experience. His strong feelings on the subject, broad-based, made him a radical at Ben Franklin High School, later led him to the Black Panther Party, persuaded him to change his name to reflect his "Africanism," and finally allowed him to flourish as a radio newsmen reporting on the minority community, winning awards and gaining recognition.

His strong feelings, however, also led to frequent problems with authority, though not with the police. He was expelled from Franklin High for his activities, and was fired from numerous jobs because of his refusal to abide by the rules of the workplace. Yet even those who expelled or fired him could not help but respect his tenacity.

By the time of his trial, however, some of the poetry and insight that friends had seen in Abu-Jamal was visible. Instead, there was defiance, rhetoric, and the growing antagonism with MOVE and its absolute view of the world. (As one juror during the trial Abu-Jamal said, "Any right that isn't absolute isn't a right at all.")

This bond with MOVE grew so strong during the trial that at least one of the ranting and at times

incumbent suggestions that Abu-Jamal delivered to the judge was actually written by a MOVE member in the audience. This from a man who started his living writing.

Yet even now that he has been convicted of murder, the attraction of Abu-Jamal remains — according to incumbent prison superintendent Owens, Abu-Jamal had received more guests than any other inmate in Philadelphia history. "The stream has been so steady in times," he said, that it has created "operational problems."

Abu-Jamal's conviction also has done nothing to temper his defiance. Just two days after being sentenced to death, he was sent into isolation for interfering with prison guards who were trying to move another inmate out of Abu-Jamal's cell block.

Although his trial is over and he is sentenced to die, the strange and explosive saga of Mumia Abu-Jamal is far from over.

An opinion held by many in Philadelphia's black community

Daniel Frazier
Murdered by Abu-Jamal

21. Philadelphia Inquirer, July 11, 1982.

5. December 9, 1981 and Its Aftermath

Mumia Abu-Jamal's by now famous 1982 murder trial fell into a time where a process had begun that has continued since at an accelerated pace. In the 1970s the political climate in the United States was quite different from the one at the beginning of the eighties. Many civil rights had been won, not least among them affirmative action regulations designed to secure greater access of racial minorities to privileges already enjoyed by the white majority. As we will see in chapter 6, in the mid-seventies the number of prisoners in the United States was at an all-time low. The percentage of African Americans in prison was disproportionate, but in a much smaller measure than in the years to come. The use of the death penalty had been suspended by the Supreme Court of the United States in 1972. In fact, not one person was executed in the U.S.A. from 1968 to 1977. Well into the 1980s, guarantees contained in the 1867 federal Habeas Corpus Act were used extensively by prisoners for preventing their death sentences from being carried out. But by the time the Faulkner murder case went to trial, a conservative backlash was already in full swing. Civil rights legislation including affirmative action came under attack from all quarters. At the lower scale of the social ladder, a process had set in that would finally lead to the incarceration of two million people, close to half of them black, and execution rates unheard of since the 1950s. Federal and state guarantees against unjust execution or incarceration were set aside and thrown out altogether one by one.⁴²²

The raw facts of the case are quickly recounted: On December 9, 1981 at around four o'clock in the morning, police officer Daniel Faulkner of the Philadelphia Police Department was killed in a shootout on Locust Street in Philadelphia's center city area. The locally well-known radio journalist Mumia Abu-Jamal was arrested on the scene as the presumed killer. For the next few months, "the killing of Officer Daniel Faulkner, and the life and times of the presumed killer, would be fixtures in the local papers and television news broadcasts."⁴²³ In the following year, Abu-Jamal was indicted for murder and sentenced to death in a short trial that lasted only from June 17 to July 3, 1982.

But evidently, there is much more to the story. When Abu-Jamal was found lying in his own blood right next to the killed officer and arrested immediately afterwards, for the police and the "law and order" forces he was the ideal suspect. He was poor, black, and an unruly and

⁴²² See chapter 6 for details and sources.

⁴²³ Daniel R. Williams, *Executing Justice. An Inside Account of the Case of Mumia Abu-Jamal* (New York: St. Martin's Press, 2001), p. 8. Until March 2001, Williams was Abu-Jamal's defense lawyer as well as the chief legal strategist of his defense team. Apart from Philadelphia investigative journalist Dave Lindorff's *Killing Time. An Investigation into the Death Row Case of Mumia Abu-Jamal* (Monroe, ME: Common Courage Press, 2003), *Executing Justice* is the only book-length treatment of Abu-Jamal's criminal case so far apart from collections of legal documents.

rebellious journalist⁴²⁴ who was well known as an enemy of the police. With these characteristics, he fit perfectly well into the agenda of those who arrested him. As has been amply documented above, the Philadelphia Police Department had no place in their city for dissenters and political organizers, particularly when they were black. Moreover, eight years of “tough on crime” politics under “the nation’s top cop,” Mayor Frank Rizzo, had also left their mark in the District Attorney’s (DA’s) office and the courts. District Attorney Ed Rendell, who served in that function from late 1977 to late 1985, projected the aura of an energetic anticrime fighter⁴²⁵ and was a vigorous supporter of the death penalty.⁴²⁶

In this chapter, I want to give a sketch of the claims and counterclaims about the events as presented at the time, especially at the murder trial. We will later see that much of what happened – or did not happen – in that fateful night of December 9 can actually only be determined with hindsight. However, I will refrain from bringing in the full array of facts at this point, since it is important to understand how the issues presented themselves at the time to the defendant, his lawyer, as well as his friends and foes. An integral part of this is the way the court was set up, the manner in which the jury was selected, and the means the defendant had at his disposal to achieve an acquittal. The picture that emerges from that perspective is by no means unique and has a significance that goes far beyond this particular defendant and his efforts to defend himself against the accusation of murder. It is the picture of the defendant as a man who is to fix a broken watch, but who is expected to do so with boxing gloves on his hands.

For exactly this reason, it is well worth delving more deeply into the details of this individual case. Years after the original trial, many thousand people all over the world have used this case to educate themselves on the question about how the police, the courts, the prisons, and the machinery of the death penalty in the United States actually work. As the official political climate of the country moved towards a punitive approach to crime and a more repressive approach towards po-

⁴²⁴ As the Philadelphia Inquirer reported on the day after the shooting, Abu-Jamal “was a gadfly among journalists and easily recognizable because of his dreadlock hair style, revolutionary politics and deep baritone voice.” Moreover, “during the 1979-80 MOVE trial for the murder of police officer James Ramp, Jamal complained that police harassed him when he entered the heavily guarded courtroom because his dreadlocks gave him the appearance of a MOVE member. ‘You know how they treat you,’ he said angrily to another reporter at the time.” Terry E. Johnson and Michael A. Hobbs, “The suspect. One who raised his voice,” *Philadelphia Inquirer*, December 10, 1981.

⁴²⁵ In his capacity as District Attorney (DA) “Rendell reviewed and approved all major prosecutions, while protecting Philly’s cops. For Rendell, more jails were the solution to all social problems. He once complained that the juvenile detention facilities ‘are only 80 % full when they should be 160 % full.’” Kissinger, “Philly’s Killer Elite,” *Resource Book*, p. 20.

⁴²⁶ From 1978, when the death penalty was reinstated in Pennsylvania, until the end of Rendell’s term as DA in 1985, 20 persons were sentenced to death. See “Current Execution List,” on the death penalty section of the website of the Pennsylvania Department of Corrections, <http://www.cor.state.pa.us/death.html>. Rendell may well be ultimately responsible for more sentences since the formal announcement of the sentence by the judge often comes many months after the sentence hearing of the trial. In fact, researcher Dave Lindorff puts the number of death sentences Rendell was responsible for as DA at over 40; see “Race and the Death Penalty in Pennsylvania. Will Rendell Act?,” *Counterpunch*, March 8, 2003, at <http://www.counterpunch.org>.

litical and civil rights, Abu-Jamal’s case became one of the focal points of a countermovement for which, in the many injustices perceived in this particular case, the concepts of liberty and justice themselves were at stake. The fact that – despite these injustices as they were perceived later – Abu-Jamal’s original conviction in 1982 had barely created a ripple only contributed to the sense of urgency with which the case was later subjected to unprecedented scrutiny.

5.1 The Basics

I’ll start out with what is undisputed. According to the radio transcript of the police radio, on December 9, 1981, at 3:51:08 am Police Officer Daniel Faulkner, then working the night shift alone in his police car No. 612 in the Center City area of Philadelphia, made a call for back-up:

Faulkner: “I have just stopped – ah – 12, 13th and Locust.”

Radio: “Car to back 612, 13th and Locust.”

Faulkner: “On second thought, send me a wagon, 1234 Locust.”

Patrol Car: “I’ll take a ride over.”⁴²⁷

At 3:52:27 two Police Officers, Gary Wakshul and Steve Trombetta, reported information from a passerby of a policeman shot, and two other Police Officers, James Forbes and Robert Shoemaker, arrived at the scene at 3:52:36, eighty-eight seconds after Faulkner had called for back-up.⁴²⁸ There, they found three persons: Officer Faulkner lying on his back with a bullet wound between his eyes. Journalist Wesley Cook, by then already better known as Mumia Abu-Jamal, sat nearby at the curb with a gunshot wound in his chest. Standing on the sidewalk was Abu-Jamal’s youngest brother William (“Billy”) Cook. Immediately thereafter, the shot police officer was transported to Jefferson Hospital, which is just a few blocks away from the crime scene.⁴²⁹ There, Officer Faulkner was pronounced dead at around 5 o’clock in the morning.⁴³⁰ Somewhat later than Faulkner, Abu-Jamal was also brought to Jefferson where he was “oper-

⁴²⁷ This timing and dialogue is from “Myths about Mumia,” paragraph “Chronology of Events on 12-9-81” on the website <http://www.danielfaulkner.com> (in the following: *WSDf*), which is operated by forces close to the PPD and the Fraternal Order of Police. In the following, this source is quoted as “Myths.” The website contains a lot of very valuable information, e.g., the transcripts of the 1982 trial and of some of the pre-trial hearings, the transcripts of the PCRA hearings 1995-1997, as well as a useful collection of press articles that appeared at the time of the trial and later during Abu-Jamal’s appeals process. Much of the rest, especially the “Myth” section, is however riddled with egregiously obvious errors of fact and interpretation, some of which I will take up below. The facts cited above are not in dispute, however, and in fact in part corroborated in filings of the defense. See *Mumia Abu-Jamal v. Commonwealth of Pennsylvania, First Redrafted and Amended Petition for Writ of Habeas Corpus* (August 6, 2001), § 27.18 for 3:51:08 as the time for Faulkner’s call. This latter source is quoted in the following as *HC II*.

⁴²⁸ “Myths, Chronology,” *HC II*, § 27.18.

⁴²⁹ “Myths, Chronology.”

⁴³⁰ *HC II*, § 27.19.

ated for two and a half hours to repair damage caused by bullet”⁴³¹ and during the following days and weeks recovered from a condition that had been described as critical in the press.⁴³² After his operation, Abu-Jamal was “arraigned at his hospital bedside on charges of murder, possession of an instrument of crime and possession of an offensive weapon” and “ordered held without bail pending a hearing” a week later.⁴³³ As for Abu-Jamal’s brother Billy Cook, he was charged with “aggravated assault and simple assault” as well as with resisting arrest and held “in lieu of \$ 150,000 bail.”⁴³⁴

Stripped to its bare bones, the case thus consisted of three basic elements: One man, a police officer, was dead, another man was indicted for murdering him, and the third, who was the second man’s brother, was accused of triggering the incident.

5.2 The Prosecution’s Case

The case of the Philadelphia District Attorney’s office against Mumia Abu-Jamal emerged only piecemeal and was not presented in full before the suppression hearing immediately preceding the murder trial and the trial itself. Nevertheless, in order to simplify I give a sketch here of the events leading to the killing of Officer Faulkner as they were described by Assistant District Attorney Joseph McGill at the trial. According to McGill,

Mr. Jamal was observed on the night of December 9, 1981 shooting to death Officer Daniel Faulkner. Officer Faulkner was stopping an automobile, a Volkswagen, and the driver of that automobile was Mr. Jamal’s brother William Cook.

William Cook and Officer Daniel Faulkner then walked back from where the Volkswagen was to the side of 13th and Locust, on the south side of 13th and Locust Streets. [...]

During the time while officer Faulkner was discussing with William Cook the reason for the stop, William Cook turned around and hit in the face Officer Faulkner with his right hand. At that point on the right side of his face he was hit and injured a bit. Our witnesses will testify that at that point Mr. Jamal ran over from the parking lot and he had a weapon, and there

⁴³¹ Williams, *Executing Justice*, p. 7.

⁴³² Joyce Gemperlein and Thomas J. Gibbons Jr., “Tests on bullets inconclusive in officer’s death,” *Philadelphia Inquirer*, December 12, 1981.

⁴³³ Robert J. Terry, Michael A. Hobbs, and Marc Schogol, “Policeman shot to death; radio newsman charged,” *Philadelphia Inquirer*, December 10, 1981.

⁴³⁴ *Ibid.* Abu-Jamal’s bail was set at \$ 250,000 on January 8, 1982 and revoked altogether three days later. The apparent practice in Philadelphia at the time was that the prisoner had to deposit ten percent of the bail in order to be released. Joyce Gemperlein, “Abu-Jamal’s bail revoked despite Street’s plea,” *Philadelphia Inquirer*, January 12, 1982. Of course, if the person didn’t show up at the trial, he/she and all those who vouched for the person would be held liable for the whole amount. On the whole question of bail, former New York assistant district attorney Steve Phillips has the following to say: “Our bail system discriminates against the poor. A wealthy man, faced even with a serious crime, can post bail, however high, and retain his pre-trial freedom. A poor man, facing even relatively minor charges, may languish in jail for months awaiting trial because he lacks a few hundred dollars.” Steven Phillips, *No Heroes, No Villains. The Story of a Murder Trial* (New York: Vintage, 1977), p. 51.

Mr. Jamal, as he went directly toward the position where Officer Faulkner was attempting to subdue William Cook who had just hit him, Mr. Jamal with a gun drawn and loaded, goes up and within a very short distance from the back of officer Faulkner, for it was his back that was facing Mr. Jamal at this time, shoots officer Faulkner right in the back.

The one or two times that the Defendant Mr. Jamal shot at that time, at least one hit the back of Officer Faulkner And you will hear the testimony that as he fell down, officer Faulkner was grabbing for something, and then Mr. Jamal, the Defendant, takes a few steps over as Officer Faulkner was down and was shot himself during the course of this.

After he had shot Daniel Faulkner and while Officer Faulkner was reaching and grabbing for something, then Mr. Jamal was shot himself during the course of this by Officer Faulkner. Officer Faulkner now is on the ground, and then you will hear the testimony of various witnesses that this Defendant walks right over to Officer Faulkner, who at this point is on his back, and within twelve inches of his head he points the gun that he had that was loaded and unloads that gun. One makes contact, and that was the fatal shot, right between the eyes, literally blowing his brains out.⁴³⁵

The theory, then, was that Abu-Jamal, working as a taxi-driver at the time to supplement his meager income as a freelancer for the radio station WDAS,⁴³⁶ had parked his cab across the street from the building in front of which the altercation between P.O. Faulkner and Billy Cook took place, Locust Street 1234 in the center city area of Philadelphia. After he became aware of the struggle between a police officer and his brother, he rushed across the street and, from behind the back of the officer, started a shoot-out from close range that left both of them wounded. After the policeman fell down on his back, Abu-Jamal then stood over the prone officer and killed him in cold blood, once again at very close range.

5.2.1 Some Obvious Question Marks

I will present the evidence used to bolster the prosecution's version of the events immediately. But it should be noted that right from the beginning, this theory had some difficulties, one of which was that any well-founded motive on the part of Abu-Jamal was sorely lacking. Although there is evidence that Billy Cook was not just "injured a bit" but severely beaten by Faulkner and bled profusely after he was hit,⁴³⁷ it is clear that such occurrences were not uncommon in confrontations between the police and ordinary citizens, particularly African Americans. Moreover, the part of center city where the incident happened was a red light area

⁴³⁵ Assistant District Attorney Joseph McGill, opening statement, *TP*, June 19, 1982, p. 10-12.

⁴³⁶ That he worked as an occasional contributor for WDAS is reported in many of the *Philadelphia Inquirer* reports after the shooting on December 9. That it was hard to make a living as a freelancer critical of Philadelphia's establishment is recounted by Abu-Jamal himself in an interview in the 1996 HBO film *A Case for Reasonable Doubt*.

⁴³⁷ According to a police witness, there was blood in Billy Cook's face (*TP*, June 19, p. 167), and according to another police witness, apparently also in his car (*TP*, June 19, p. 79-80). Several witnesses saw how he was beaten by Faulkner, and in his affidavit of May 2001, he said that he bled "profusely."

with many night clubs,⁴³⁸ and was naturally subjected to police controls on a regular basis. Given the sort of patrons that frequented the area, more or less violent confrontations in the course of such controls were surely not unusual. Why, then, would somebody simply draw a gun and proceed to kill a police officer? Of course, in Philadelphia as well as elsewhere a white police officer beating a black pedestrian, or in the case of Billy Cook, a motorist, was very likely to arouse the anger of a black passerby, and even more so if that passerby saw a friend or relative being beaten. But even on the face of it, proceeding from that anger to armed violence and cold-blooded murder seemed wildly out of proportion.

A second question that was raised immediately in the press was the by all accounts of witnesses peaceful character of Abu-Jamal, reported from many sources at the time. Even when his high school principal at Benjamin Franklin High School, Dr. Leon Bass, said that Abu-Jamal “was very radical” and that “his radical views were disruptive,” the same newspaper report made the point that “Jamal’s friends described him as a gentle man, a good reporter with an excellent radio voice and a social activist who never preached violence or carried a gun.” The article continued to report that not only his personal friends, but also many of his professional friends “were left in shock and searching for words.” Acel Moore, the man who had done that fateful piece of reporting on Wes Cook/Mumia and Philadelphia’s Black Panther Party that had appeared in the *Philadelphia Inquirer* on January 4, 1970 and that would be used by prosecutor Joseph McGill in the penalty phase of Abu-Jamal’s murder trial to demand a death sentence for the defendant was quoted as saying: “Mumia, whom I have known professionally for several years and as a news source because of his activities since 1970, was a gentle man who I would not consider capable of a violent act. He was a great talent, fine writer and had a natural radio voice.” Similar observations were made by Nick Peters who, as news director of the radio station WUHY, severed the station’s professional relation because of disagreements over reportorial integrity: “I have never detected anything in him that would suggest violence.”⁴³⁹ For a man with as clearly expressed opinions about law enforcement and the police in the United States as Abu-Jamal’s who, at the same time, didn’t have a criminal record despite his militant political activities stretching back over more than a dozen years, a sudden outburst that allegedly led him to kill a police officer just to prevent his brother from being clubbed a few times more with a police nightstick also appeared incongruent.

⁴³⁸ This was a well known fact, so much so that prosecutor McGill in an interview for the HBO-film *A Case for Reasonable Doubt* said: “Of course, the witnesses were not nuns and priests. You don’t see many nuns and priests at four o’clock in the morning at 13th and Locust.”

⁴³⁹ All quotes from Johnson/Hobbs, “The suspect,” *Philadelphia Inquirer*, December 10, 1981.

The final *prima facie* difficulty with the prosecution's scenario of the events was its forensic implausibility. Why would an attacker allegedly armed with a 5-shot revolver at first shoot an officer of the law from behind merely to prevent him from beating someone, and then wait for that officer to spin around and shoot back?

The initial shock and utter disbelief in the press as well as among the friends and acquaintances of Abu-Jamal was thus not very surprising. But apart from these incongruities, there was evidence brought to bear against Abu Jamal as well. And by June 1982 when Abu-Jamal's trial for murder began his prosecutors had assembled an array of incriminating evidence against him that was likely to outweigh the plausibility considerations just given in the eyes of the public.

5.2.2 Three Pieces of Damning Evidence

The evidence presented against Abu-Jamal basically consisted of three different points. For one thing, the prosecution said that four independent witnesses whose testimony was taken down within hours of the incident itself had either seen him kill Faulkner or had reported observations that pointed to him as the killer. The second major source of incriminating evidence against Abu-Jamal was testimony by police officers as well as security guards at Jefferson Hospital according to which he had confessed to having killed Faulkner. And third, Abu-Jamal's gun, which according to a press report he "was authorized to possess but not to carry,"⁴⁴⁰ was allegedly found at the crime scene, just feet away from its owner. As for the eyewitnesses, the most important two who testified against Abu-Jamal at the trial were⁴⁴¹

- Cynthia White, a young black prostitute working Philadelphia's Center City area with a criminal record of 38 arrests (at the time, prostitution was, albeit largely tolerated in practice, formally illegal in Pennsylvania and many other states of the U.S.A.). She claimed to have stood right at the corner of Locust and 13th Street and thus to have had an unblocked view on what happened on the sidewalk. At the trial, White testified that she saw Abu-Jamal run across the street from the parking lot located opposite to the building Locust 1234, draw a gun and shoot Faulkner in the back. According to White, Faulkner then spun around and, while stumbling and falling back on the sidewalk in front of Locust 1234 "grabbed after something." After he had fallen Abu-Jamal stood over him and fired several shots at him at point blank range, hitting him once, and deadly, in the face.

⁴⁴⁰ Terry/Hobbs/Schogol, "Policeman shot to death," *Philadelphia Inquirer*, December 10, 1981.

⁴⁴¹ For the summarized presentation of the prosecution's case given here and in the rest of this section, see amnesty international, *A Life in the Balance*, p. 17-23. It directly reflects the trial record and is not controversial. For that reason, I won't give a source here for every single detail. This doesn't mean, however, that there are no public misrepresentations of that case. Thus, in the "Summary of the Case" section of "Myths," WSDf says that there were "four eyewitnesses to the crime who stated that Jamal was the killer." As we shall see immediately in the testimony of Michael Scanlan and Albert Magilton, this is untrue.

- Robert Chobert, a twenty-two-year-old taxi driver who claimed to have been right behind Faulkner's police car while writing a fare and to have seen a scene very similar to the one Cynthia White had described. Other than White, Chobert never claimed to have seen a gun in Abu-Jamal's hand, but apart from this – not minor – point his testimony at the trial supported the one of White.

White and Chobert were the only two eyewitnesses at the trial who claimed to have seen the incident in its entirety *and* to have recognized Abu-Jamal as the person who ran across the street and shot Police Officer Faulkner.⁴⁴² Their testimony on behalf of the prosecution was complemented by the statements of two other persons whose presence near the scene has not been contested so far, motorist Michael Scanlan and pedestrian Albert Magilton:⁴⁴³

- Motorist Michael Scanlan testified that he was waiting at a stoplight on Locust Street at the crossing 13th Street and Locust when he saw a person run across the street, firing at Faulkner from behind and then killing the prone Faulkner execution-style in the way White and Chobert had said Faulkner had died. *Scanlan, however, did not claim to have been able to recognize the person running across the street and shooting Faulkner.* In fact, right after the event he had mistaken Abu-Jamal's brother for the man who had run across the street and shot Faulkner.
- According to his own testimony, pedestrian Albert Magilton had just started to cross Locust Street right in front of Scanlan when he saw Faulkner's police car stop Billy Cook's VW. Then, on the other side of 13th Street, he saw a person who he later identified as Abu-Jamal start crossing Locust Street in the opposite direction and stopped paying attention. As Magilton reached the middle of the street, he heard shots, turned toward the direction of what was later identified the crime scene, where he saw nobody at all apart from Abu-Jamal's brother Billy Cook who was standing on the sidewalk. *Magilton never claimed to have seen the shooting itself.*

The testimony of these four eyewitnesses, of whom two identified Abu-Jamal as the shooter and one identified him as being near the scene immediately before the events, was, of course, damning evidence against the defendant.

Perhaps even more important in terms of the influence it had on the jury that found Abu-Jamal guilty and sentenced him to death was a confession by Abu-Jamal that police officers and a hospital security guard alleged he had uttered when he was brought into the emergency section of Jefferson Hospital. The amnesty international report on the Abu-Jamal case summarizes this piece of evidence in the following way:

⁴⁴² White testified on the fourth and fifth day of the trial, that is, June 21 and June 22 (see *TP*, June 21, 1982, p. 79-204 and *TP*, June 22, 1982, p. 24-246), Chobert on the third day, June 19 (*TP*, June 19, 1982, p. 229-279).

⁴⁴³ Both testified on June 25 (for Scanlan, see *TP*, June, 25, 1982, p. 4-74, for Magilton, *ibid.* p. 75-112 and 137-138).

During the trial, the jury heard testimony from hospital security guard Priscilla Durham and police officer Gary Bell. According to both witnesses, when about to receive treatment for his bullet wound at the hospital, Mumia Abu-Jamal stated: “I shot the motherfucker, and I hope the motherfucker dies.”⁴⁴⁴

These two witnesses were in fact presented at the trial,⁴⁴⁵ with a devastating effect on Abu-Jamal’s case. According to information from a member of Abu-Jamal’s pre-2001 defense team related to an amnesty international researcher, “ a number of the jurors have told defense investigators that they had taken into consideration Abu-Jamal’s ‘confession,’ not just in deciding his guilt but also in sentencing him to death, since the statement portrayed him as aggressive and callous.”⁴⁴⁶

Confessions by the defendant or the defendants are of course among the most damning sorts of evidence imaginable. Abu-Jamal’s former attorney Daniel William writes in his book on the case: “Prosecutors love confessions. It makes their job so much easier. [...] The defendant convicts himself through his own words.” But even more importantly in a jury trial

juries feel good about confessions, too. Jurors don’t want to convict innocent people. They want to make sure that their verdicts of guilt don’t compound a tragedy with an equally horrific tragedy of sending an innocent man [or woman, at that] to death at the hands of law. So when they hear evidence that a defendant confessed to the crime, their job is made that much easier also, and their consciences are not racked with nagging questions whether they had done the right thing.⁴⁴⁷

With not one but two witnesses testifying that indeed Abu-Jamal had made the incriminating utterances, the scales were already heavily tipped against Abu-Jamal even without the witnesses’ testimony from the crime scene.

The third element of evidence against Abu-Jamal was that the police claimed to have found his revolver at the crime scene. Moreover, the five-shot revolver contained five spent cartridges apparently of the same caliber as the bullet which was removed from the dead police officer’s brain,⁴⁴⁸ and five was also the approximate number of shots three of the prosecution witnesses

⁴⁴⁴ See amnesty international, *A Life in the Balance*, p. 17.

⁴⁴⁵ Durham’s testimony is to be found at *TP*, June 24, 1982, p. 27-128, Bell’s at *ibid.*, p. 133-176.

⁴⁴⁶ Amnesty international, *A Life in the Balance*, p. 18.

⁴⁴⁷ Williams, *Executing Justice*, p. 22.

⁴⁴⁸ The correct caliber of the bullet found in Faulkner’s brain has not been determined to this day. The Medical Examiner who removed it at the autopsy estimated it at .44 in his report while Abu-Jamal’s revolver was a .38 caliber model. The jury in Abu-Jamal’s original trial never saw this report and thus couldn’t evaluate it on its own. At the PCRA hearings in 1995, based on the 1981 ballistics report of the police defense expert George Fassnacht determined that the caliber of the bullet removed from Faulkner was closer to .38 cal, namely .40, and that hollow bullets like the one found in Faulkner could expand upon firing, so the question of the true caliber of the bullet remained unsolved. Fassnacht also said that a fragment of the bullet that was found in Faulkner’s head had apparently been lost, making it even more difficult to determine the caliber. See *PCRAH*, August 2, 1995, p. 74-78.

(White, Chobert, Scanlan) claimed to have heard. Even though Abu-Jamal was legally entitled to own that gun and even though the police never established that it even had been fired during the events,⁴⁴⁹ its alleged presence in a distance of three feet from Abu-Jamal when he was found at the scene⁴⁵⁰ was certainly suggestive enough in the mind of any juror.

It was clear from the start that winning an acquittal under such circumstances would be far from easy. Initially Abu-Jamal and the defense were not even aware of all of the evidence finally brought out against the defendant. But it is exactly the way the evidence was handled up to the trial that suggests something less than confidence on the part of the prosecution. And what is more, a closer inspection of the facts of the case will show that the murder accusation against Abu-Jamal was riddled with inconsistencies and contradictions right from the beginning, and that, contrary to their assigned constitutional task, the police, the prosecution, and the court all did their very best to suppress these contradictions and to achieve a conviction. In post-Rizzo Philadelphia at the beginning of the 1980s, a radical black journalist and ex-Black Panther Party member who was moreover decried as a MOVE sympathizer even among sympathetic colleagues and was now accused of having killed a white police officer could hardly expect that the judicial system, which was after all part of the overall political and social climate prevailing in the city, would open him many doors to prove that he was innocent of the crime he was accused of.

In some places, e.g. in the selection of the prosecutor and the judge, the evidence I present below clearly indicates that Abu-Jamal was singled out for treatment as a special enemy who it was particularly important to convict. To a large extent, however, what happened to Abu-Jamal during the months before his trial and even more so during the trial itself was exactly what an indigent and black defendant could expect from the criminal justice system in Philadelphia, and as we will see in chapter 6, largely also in the United States in general.

5.3 Heads I Win, Tails You Lose

5.3.1 Stacking the Bench

In every criminal trial, it is of primary importance who is assigned to preside over it as judge. Contrary to appearance, this is also true of jury trials, which in the United States form the large majority of all those murder trials which are not settled by arbitration between prosecution and

⁴⁴⁹ On this point and related points, see below.

⁴⁵⁰ According to the testimony of one of the two officers who arrived first, Robert Shoemaker. *TP*, June 19, 1982, p. 136.

defense. While the judge in Abu-Jamal's trial, Albert F. Sabo, tried to fend off criticism by contending that he was "only the mechanic through which the jury verdict was carried out,"⁴⁵¹ in actual fact the powers of a judge in a criminal trial go much farther. According to Jane Henderson who has done the definite study on the person and professional record of Judge Sabo, Sabo's description of his role "ignored the immense power a presiding trial judge exerts as the chief arbiter of both the law and the facts that the jury is instructed to consider."⁴⁵²

And what is true for the phase of the actual trial is also true for the pre-trial phase. Many important decisions are made there by the judge, not least of them the decision how the defense is funded, how the evidence is handled, etc. In the case of Abu-Jamal, the pre-trial judge was Paul Ribner, a jurist whose non-biased treatment of the case was seriously in question since he had made some unusually heavy-handed decisions against three members of MOVE. After another altercation between MOVE and the police in November 1976 which ended with pregnant MOVE member Rhonda Africa's going into premature labor and giving birth to a dead baby, these three MOVE members had been charged with assault and resisting arrest, and Ribner, "instead of the usual jail county time, gave them longer state prison sentences. They were soon shipped off to Graterford prison, about 30 miles outside of Philadelphia."⁴⁵³ Given the high value the MOVE Organization assigned to being a family and living together, it was clear that MOVE was, in their own words, "outraged at such a blatant set-up and rail-roading" of its imprisoned members, who they referred to as "political prisoners."⁴⁵⁴

Even more revealing is the fact that Ribner later assembled quite a record as a judge whose trials were likely to end in a death sentence. Of the 244 prisoners who are presently on Pennsylvania's death row, nine were sentenced to death by Judge Paul Ribner. Among the judges in Pennsylvania – a state with an unusually large death row – with the most death sentences, Ribner ranges in the fourth position, together with another judge.⁴⁵⁵

But as if having a harsh judge with a possible anti-MOVE bias presiding over the pre-trial hearings were not enough, the trial itself was assigned to the man who was later to break all records in sending people to death row. Albert F. Sabo had been "an Undersheriff of Philadelphia County for 16 years before becoming a judge in 1974. As such, he was an automatic

⁴⁵¹ Quoted by Jane Henderson of the organization Equal Justice USA in "Philadelphia's Judge Sabo: The Judge Who Became Death Row's King," <http://www.quixote.org/ej/archives/mumia/saborep.html>.

⁴⁵² *Ibid.*

⁴⁵³ *Twenty-five Years on the MOVE*, p. 17.

⁴⁵⁴ *Ibid.*

⁴⁵⁵ Own calculations from "Current Execution List" (see note 426). These numbers, as well as those given below for Judge Albert Sabo, refer only to death sentences that were not later overturned. Since indeed a good number of death sentences were thrown out (a full eleven in the case of Judge Sabo alone), the actual number of death sentences meted out is much higher than 244. Also added must be the three prisoners that were executed in Pennsylvania as well as those who died on death row.

member of the Fraternal Order of Police; moreover, his official biography listed him as “a former member of the National Sheriffs Association [...] and as associated with the Police Chiefs’ Association of South East Pennsylvania.”⁴⁵⁶ Sabo alone was responsible for 32 death sentences, of which eleven were reversed – which makes for a rate of 34 %, “one of the highest of any judge in Pennsylvania or the rest of the country.”⁴⁵⁷ Among the 244 Pennsylvania death row prisoners whose sentences were not reversed, 21 were sentenced by Sabo.⁴⁵⁸ Among these, Sabo was also the first to formally announce a death sentence, namely the one against Leslie Beasley on December 8, 1981, the day before the killing of Police Officer Faulkner.⁴⁵⁹ Of the twenty of these prisoners who were sentenced to death during the office term of Ed Rendell as DA, seven, that is, a full third, were sentenced by Sabo.

Of the 104 judges who announced death sentences in the period from December 8, 1981 to November 4, 2002, five apparently particularly death-penalty-prone judges were responsible for more than a quarter (65) sentences. Among these Judges Albert Sabo and Paul Ribner alone accounted for 30 sentences (not much less of one eighth).

With his 32 death sentences, in 1996 “Sabo’s ‘personal’ death row,” as Henderson aptly calls it, was “larger than the death rows of 13 of the 38 states with the death penalty.”⁴⁶⁰ Four years later the amnesty international report on the Abu-Jamal case stated that Sabo presided over more trials ending in the death penalty “than any other US judge as far as amnesty international is aware.”⁴⁶¹

Nor was this all. A closer inspection of the data by Henderson revealed that of Sabo’s 32 death sentences, a full thirty were against people of color: 27 against blacks, two against Asians, and one against a Latino. Only two of the sentences were pronounced against whites. Sabo thus contributed heavily to the racial death penalty bias in Philadelphia, where in 1996 of the 112 Pennsylvania death row prisoners who were sentenced in the city 94 (84 %) were black, 5 (4 %) Hispanic, 2 (2 %) (both sentenced by Sabo) Asian, and 11 (or 10 %) white.⁴⁶²

That Sabo was anything but a simple “mechanic through which the jury verdict was carried out” is well documented even beyond the telling statistics just quoted. As Henderson remarks,

⁴⁵⁶ Amnesty international, *A Life in the Balance*, p. 9.

⁴⁵⁷ Henderson, “Philadelphia’s Judge Sabo.” The number of death sentences meted out by Sabo is often erroneously given as 31, but Henderson lists all the 32 cases by name.

⁴⁵⁸ *Ibid.* and “Current Execution List.”

⁴⁵⁹ “Current Execution List.”

⁴⁶⁰ Henderson, “Philadelphia’s Judge Sabo.”

⁴⁶¹ Amnesty international, *A Life in the Balance*, p. 9. See also Henderson, “Philadelphia’s Judge Sabo”: “Data compiled for this report by the NAACP Legal Defense and Education Fund reveal that Sabo has sentenced *more than twice* as many people to death than any other judge in the country.”

⁴⁶² All numbers from Henderson, “Philadelphia’s Judge Sabo.”

the goal of any court should be to seek truth and serve justice. Hence, judges are expected to be impartial and fair, free of bias, committed to providing indigent defendants the resources necessary for an adequate defense, and informed and precise in how they instruct juries on the application of the law.

Sabo fails on every count. “Many defense attorneys, judges and prosecutors agree,” the [*Philadelphia Inquirer*’s] Tulsy reports. “Sabo ran trials different from most judges.”⁴⁶³

Just to give a flavor of what this difference consisted of, I want to quote another few selected findings from Henderson’s report:

“A trial in front of Sabo means that the prosecution has the home court advantage,” explains Norris Gelman, the Philadelphia defense attorney who has won the most capital case reversals in the city (9 in total). In a sworn affidavit which names seven defense attorneys – six of whom are former prosecutors – ready to testify the same, Philip I. Weinberg, Esq. charges:

“Judge Sabo is reported to offer assistance to the prosecution in the course of criminal proceedings, going so far as to suggest that the prosecution proffer evidence that has been omitted against defendants.”

Similarly, a 1992 Philadelphia *Inquirer* review of 35 of Sabo’s trial found that “through his comments, his rulings and his instructions to the jury, [Sabo] has favored prosecutors.” Reporter Tulsy quotes another judge as calling Sabo’s trials a “vacation for prosecutors.”⁴⁶⁴

Henderson also explains that “Sabo served with a select group of judges that heard only homicide cases,” a practice which is apparently unconstitutional: “‘The state constitution makes it very clear there should be no class of cases heard by one judge,’ notes Bruce Ledewitz, a nationally known constitutional scholar,” who refers to this Philadelphia practice as highly unusual and unwarranted and goes on to conclude: “It’s too easy to become ground down, [...] a rubber stamp for the prosecution. Death cases especially must be spread around.”⁴⁶⁵

Thus the pool of judges available for the Abu-Jamal case was sharply limited and stacked with pro-prosecution judges to begin with. Since with the killing of a police officer, his was quasi-automatically a capital case, it was clear that a judge of the select group that heard only homicide cases would preside at the trial. But moreover, the prominence of the case with a self-declared revolutionary and supporter of the outlawed MOVE group allegedly pitted against an officer of the law in a deadly shootout more or less guaranteed that the case would be referred to the toughest law-and-order judge Philadelphia had to offer, because “for years [...] the Philadelphia District Attorney (D.A.) worked the assignment judge to assure that Sabo got the most brutal and high profile cases,”⁴⁶⁶ undoubtedly because of Sabo’s efficiency

⁴⁶³ *Ibid.*

⁴⁶⁴ *Ibid.*

⁴⁶⁵ *Ibid.*

⁴⁶⁶ *Ibid.*

in dispensing the defendants to Pennsylvania's death row. The assignment of Judge Ribner as pre-trial judge then simply complemented this picture of a system bent on eradicating a perceived threat to law and order⁴⁶⁷ in the city with maximum efficiency.

5.3.2 The Choice of the Prosecutor

A second decision of extraordinary importance for the likely outcome of a trial is the choice of the prosecutor. If Judge Sabo was “a defendant's nightmare,”⁴⁶⁸ according to researcher Dave Lindorff who spoke to him in 2001 when he was already in private practice, the prosecutor in the case, Joseph McGill, “was a prosecutor's dream. A tough but soft-spoken Scottish-American with a flair for the dramatic, McGill is a master at playing to a jury.”⁴⁶⁹ As Lindorff writes, the District Attorney's office under the future mayor and present Pennsylvania Governor Ed Rendell was not prepared to take any chances in the high-profile trial against Abu-Jamal and “authorized seeking the death penalty in the case.” It was therefore only natural for him to assign the case to Assistant District Attorney McGill who “had already prosecuted six death penalty cases successfully, making him one of the D.A.'s most experienced homicide prosecutors.”⁴⁷⁰ Given the relatively low number of death sentences meted out in Pennsylvania up to the time of Abu-Jamal's trial, there is a strong likelihood that in the majority of these cases the prosecutor was Joseph McGill.⁴⁷¹

5.3.3 The Defense Attorney

According to public defender and author David Cole, there has always been a huge gap between what criminal proceedings in American courts were supposed to be in theory – an “adversarial process [...] predicated on an even fight” where “the truth is supposed to emerge from a fair struggle” – and what too often they were in actual fact, namely, heavily biased against the defense. The reason for this is that “the vast majority of criminal defendants are too poor to hire an attorney. In 1992, about 80 percent of defendants charged with felonies in the country's sev-

⁴⁶⁷ According to Dave Lindorff, “on the day that murder defendant's cases went to the jury (including Abu-Jamal's), he routinely wore a tie plastered with the phrase ‘law and order.’” Lindorff, *Killing Time*, p. 86-87.

⁴⁶⁸ “Death Row's King: Philadelphia's Judge Albert Sabo,” a shorter version of Henderson's study which contains some additional information. The original source of the “defendant's nightmare” quote is an article in the *Philadelphia Inquirer*.

⁴⁶⁹ Lindorff, *Killing Time*, p. 90.

⁴⁷⁰ *Ibid.* Moreover, he has won, by his own estimate, all but three of about 150 jury trials he served in. *Ibid.* p.30.

⁴⁷¹ Since the Pennsylvania Department of Correction's “Current Execution List” only gives the dates of the formal announcement of the death sentence by the trial judge which, as already explained in note 426, often only occurs many months after the sentencing by the jury at the end of the actual trial, the point cannot be conclusively made.

enty-five largest counties were indigent.”⁴⁷² This vast majority of defendants then has to be represented by a public defender. Even the right of defendants too poor to pay for a lawyer to be at least represented by an attorney paid for by the state was not established before the famous Gideon case in 1962, in which the indigent defendant Clarence Earl Gideon won a Supreme Court decision entitling poor people charged with a crime to a publicly paid attorney at their side.⁴⁷³ But while the Gideon decision was hailed as a major breakthrough in securing equal justice for all, the large gap between theory and practice remained. Even before the prison population started to grow almost exponentially with the onset of the Reagan presidency (i.e., at around the time of Abu-Jamal’s arrest and trial in 1981/1982), all defense efforts from the public defender’s office were always hampered by the severely inadequate funds allotted to the task. The sharp cuts in these funds that were administered during the last two decades have only served to make an already critical problem much worse.⁴⁷⁴ The resulting problem is described by Cole in the following terms:

When a rich person hires an attorney, she does not hire the first lawyer who comes along. Rather, she seeks referrals for someone skilled in particular kinds of lawyering she needs, much as she would in looking for a medial specialist. She may interview several attorneys and check references before choosing one to represent her. *The poor person facing charges, by contrast, not only has no choice in the matter, but has no right to be represented by a lawyer experienced in his kind of case, in criminal work generally, or even in trial work. For all practical purposes, he has only the right to be represented by an individual admitted to the bar. Defendants facing the death penalty have found themselves represented by attorneys who have never tried a criminal case before in their lives, who are fresh out of law school, and who are wholly unaware of the complex law governing death penalty trials.* Too often, assistance of counsel for the poor can be like getting brain surgery from a podiatrist.⁴⁷⁵

The description given here of a person a poor defendant is likely to get as a lawyer certainly fits Abu-Jamal’s attorney, Anthony Jackson. Abu-Jamal’s family⁴⁷⁶ and supporters didn’t have any lavish funds to contribute, and according to a press report, one month after Abu-Jamal’s arrest the organized efforts of the Philadelphia Association of Black Journalists to collect money for his defense had yielded no more than \$ 1,500.⁴⁷⁷ Apparently, Jackson was initially chosen be-

⁴⁷² David Cole, *No Equal Justice. Race and Class in the American Justice System* (New York: The New Press, 1999), p. 66.

⁴⁷³ The case is described in the equally famous book by Anthony Lewis, *Gideon’s Trumpet* (New York: Random House, 1964).

⁴⁷⁴ These processes are described at length and put into perspective in chapter two of Cole, *No Equal Justice*, “A Muted Trumpet,” *ibid.*, p. 63-100.

⁴⁷⁵ *Ibid.*, p. 76-77. Emphasis mine. The pronouns are as in the original.

⁴⁷⁶ Abu-Jamal’s mother Edith as well as his brother Billy still lived in the public housing projects on Wallace Street in poor North Philadelphia. See Roger Cohn, “Cook given 6 months for assaulting officer,” *Philadelphia Inquirer*, May 13, 1982.

⁴⁷⁷ Joyce Gemperlein, “Higher bail sought for Abu-Jamal,” *Philadelphia Inquirer*, January 10, 1982.

cause he was available and because he “had developed quite a reputation in the city’s African American community for taking on the hot issue of police brutality,”⁴⁷⁸ having served with Public Interest Law Center in Philadelphia. (PILCOP) for three years.⁴⁷⁹ His actual trial experience has later been the subject of intense controversy, and sources close to the PPD have claimed that “prior to taking on Jamal’s case, Anthony Jackson had previously represented no less than 20 defendants accused of first-degree murder. Of those cases, he had lost only 6. Additionally, prior to the Jamal case, Mr. Jackson had never had a client sentenced to death.”⁴⁸⁰ These numbers, for which no source is given, are apparently simply invented. At Abu-Jamal’s PCRA hearing, Jackson *couldn’t cite a single death penalty case apart from Abu-Jamal’s in which he had been the lead attorney*,⁴⁸¹ and both former Abu-Jamal defense attorney Daniel Williams and author Dave Lindorff show convincingly that with the death penalty having been re-instituted in Pennsylvania only in 1978, and Jackson having had a full-time job as a civil rights attorney for PILCOP from 1978 until the time he took on Abu-Jamal’s defense, it was all but impossible for him to have acted as lead attorney in any death penalty case during that time.⁴⁸² At any rate, as will be seen below, his performance during Abu-Jamal’s trial clearly demonstrated that his legal abilities to handle such an important case were woefully lacking. In addition to that, there may have been other problems which may in part explain his often erratic and incoherent performance at Abu-Jamal’s trial:

Jackson also apparently had a substance abuse problem. A number of journalists, prominent attorneys and black officials in Philadelphia unrelated to the Abu-Jamal case have said that it was well known among those circles that Jackson was “into the sauce” and a cocaine user. [...] Billy Cook’s attorney, Daniel Alva, spoke to the matter directly: “I wouldn’t have hired that guy to fix a traffic ticket for me.”⁴⁸³

With the powerful machine of Philadelphia’s District Attorney’s office, anti-MOVE judge Paul Ribner, the “prosecutor in robes” Albert Sabo, and the “prosecutor’s dream” Joseph McGill arrayed against him, and a defense lawyer like this, Abu-Jamal’s chances to punch sufficiently deep holes into the at least seemingly powerful evidence presented by the prosecution were slim indeed.

⁴⁷⁸ Lindorff, *Killing Time*, p. 91.

⁴⁷⁹ Williams, *Executing Justice*, p. 53.

⁴⁸⁰ See “Myths, Facts of the Case.”

⁴⁸¹ *PCRAH*, July 27, 1995, p. 30-223, particularly p. 104, where he does mention a death penalty case where he claims to have played a minor role. Also *PCRAH*, June 28, 1995, p. 7-213 and *PCRAH*, June 31, 1995, p. 74-170.

⁴⁸² See Williams, *Executing Justice*, p. 53, 242; Lindorff, *Killing Time*, p. 30, 91. An inspection of the trial records of the relevant years should be able to lay these claims to rest once and for all. Resource limits have so far prevented me from checking these records.

⁴⁸³ Lindorff, *Killing Time*, p. 92.

5.3.4 The Pre-Trial Period

The pre-trial period in Abu-Jamal's case lasted from his arrest on December 9 until May 13, 1982, the last hearing before his pre-trial judge, Judge Paul Ribner. For the trial, which began on June 1 with the customary suppression hearing and continued with the jury selection process before the actual criminal proceedings began on June 17, 1982, the case was referred to Judge Sabo. In this important phase before the proceedings themselves, there were already some important decisions from the bench that stacked the deck further against the defense.

5.3.4.1 The Denial of a Line-Up

In the initial phases of a criminal trial, a line-up where the defendant is presented in an array of roughly comparable persons where putative eyewitnesses have to pick him or her as the person who committed the crime can be of utmost importance. Because of the impact such a line-up can have on the credibility of the prosecution as well as of the defense, chances are that a guilty defendant would try everything to evade such a line-up, while an innocent person would be expected to do the opposite. The fact of the matter is that at the time when Abu-Jamal and his lawyer were still on good terms with each other,⁴⁸⁴ they fought strenuously for a line up where the most important prosecution witness Cynthia White (see p. 111) would have been asked to pick out and identify the shooter she claimed to have seen on December 9 from among several persons. What happened instead was delineated close to twenty years later by Abu-Jamal's current defense team: "At the outset of the Petitioner's [i.e., Abu-Jamal's] prosecution, the stance of the District Attorney's Office was that none of the alleged eyewitnesses could identify the Petitioner [...]. Indeed, it was on these grounds that the Assistant District Attorney actually opposed and, in the even, successfully opposed the Petitioner's application for a line-up."⁴⁸⁵ And of course, the denial made the prosecution's task proportionally more easy: "Having thus successfully protected the prosecution's witnesses⁴⁸⁶ from a line-up [...], ADA McGill brazenly brought Cynthia White into court thereafter to 'identify' Mr. Jamal at the counsel table."⁴⁸⁷

The hearing at which Abu-Jamal was, without any line-up procedure to check the result, identified by prosecution witness White took place on January 8, 1982. The denial of the line-up in

⁴⁸⁴ For the reasons why this relation later deteriorated to the point of break-up, see below.

⁴⁸⁵ *HC II*, § 77.78.

⁴⁸⁶ As we shall see immediately, line-up demands for the other witnesses who at the trial claimed to have identified Abu-Jamal at the crime scene, i.e., taxi driver Robert Chobert and pedestrian Albert Magilton, were later also denied.

⁴⁸⁷ *Ibid.*, § 77.79.

White's case was all the more important since "uniquely for a prosecution's alleged eyewitness, Cynthia White was the only one who does not seem to have been asked to identify the Petitioner whilst he was in the back of the police wagon [which transported Abu-Jamal to Jefferson Hospital shortly after the shootout on Locust Street] whilst she was still on the scene."⁴⁸⁸ For her, it would thus have been particularly difficult to pick out the right person from a line-up.

While at this hearing which was for once presided by Municipal Court Judge Mekel, bail for Abu-Jamal was also fixed at \$ 250,000, which meant that he could be freed for \$ 25,000,⁴⁸⁹ but at the next hearing three days later, Abu-Jamal's bail was revoked by Judge Ribner, "even though State Senator Milton Street (R., Phila.) [and brother of the current Mayor of Philadelphia, John Street] had vouched for the defendant and had offered to take him into his own custody."⁴⁹⁰ And this set the tone for the rest of Ribner's decisions. Before the hearing, Jackson, once more with the possibility of future line-ups in mind, had "asked newspaper photographers and television camera crews to refrain from photographing Abu-Jamal. When they declined, Jackson asked Ribner to order that the photographs not be printed or aired. Ribner refused."⁴⁹¹

For the other prosecution witnesses who claimed to have been able to identify the shooter, there would of course have been a tendency to pick out Abu-Jamal from a line-up since they had already seen him in police custody immediately after the crime and, according to the prosecution, identified him. Still, Abu-Jamal insisted on the line-ups, and lost once again: On a hearing on April 1, Ribner rejected the request that "two people," namely Robert Chobert and Albert Magilton, "who identified Abu-Jamal at the scene of Faulkner's shooting Dec. 9 be ordered to identify him again in a police line-up."⁴⁹²

5.3.4.2 Hampering Defense Efforts

On March 19, 1982, the *Philadelphia Inquirer* reported that Ribner had refused the day before "to order that the names and addresses of prosecution witnesses to the shooting of police officer Daniel Faulkner be handed over to the attorney for Mumia Abu-Jamal." Given the problems the defense was already saddled with, namely, the lack of funds and the problems of defense attorney Jackson, this decision was devastating for the prospects of Abu-Jamal. Judge Ribner told Jackson that "such an action would not be in the best interest of any wit-

⁴⁸⁸ *Ibid.*, § 77.77.

⁴⁸⁹ Joyce Gemperlein and Robert J. Rosenthal, "Abu-Jamal shot officer in back, witness says," *Philadelphia Inquirer*, January 9, 1982.

⁴⁹⁰ Gemperlein, "Abu-Jamal's bail revoked despite Street's plea," *Philadelphia Inquirer*, January 12, 1982.

⁴⁹¹ *Ibid.*

⁴⁹² Fredric N. Tulskey, "Abu-Jamal loses bid for police lineup," *Philadelphia Inquirer*, April 2, 1982.

ness in any case, especially one in which a police officer had been slain.”⁴⁹³ The best interests of a defendant whose life was on the line were apparently not to be taken into account.

An interesting sidelight may illuminate the state of the defense at the time of the decision and the probable consequences the decision had for the future workings of the defense. At the hearing, defense attorney Jackson claimed that prosecutor McGill “had not supplied him with all documents being used to prepare the case against Abu-Jamal,” which led to a denial and, even more interestingly, a counterclaim on the part of McGill that “Jackson has not complied with his duty to give the prosecution any investigative materials he had amassed in the case.”⁴⁹⁴ If Jackson’s answer that so far, he had “no such material” was true, it is stunning indeed, since the statement was made more than three months after Abu-Jamal’s arrest and less than three months before the beginning of his trial. In this connection, it is also significant that “in an interview after the hearing, Jackson said he did not know yet what his defense would be in the trial.”⁴⁹⁵ This statement would be less intriguing, had it been offset by other statements during the following weeks leading up to the trial, but as far as I was able to determine it was not.

5.3.4.3 The Denial of Funds

In a criminal trial, the costs for the defense are by no means limited to the defense lawyer’s fee. It is often very important for the defense to bring independent expert testimony into court, especially since the prosecution has institutionalized access to experts it can call on to testify for its cause. Also, the prosecution can rely on a powerful state apparatus for all the investigations it deems necessary. The defense, however, faces the same problems as with the public funding of defense lawyers.⁴⁹⁶ As noticed in a May 1992 special report by the Death Penalty Information Center, this problem was particularly severe Philadelphia.⁴⁹⁷ Not unexpectedly, in its report on the Abu-Jamal case, amnesty international thus has the following to say:

Mumia Abu-Jamal’s lack of meaningful legal representation was compounded by the refusal of Judge Ribner, the pre-trial judge, to grant the defense adequate funds to employ an investigator, pathologist or ballistics expert.⁴⁹⁸

⁴⁹³ Joyce Gemperlein, “Abu-Jamal is denied information on witnesses,” *Philadelphia Inquirer*, March 19, 1982.

⁴⁹⁴ *Ibid.*

⁴⁹⁵ *Ibid.*

⁴⁹⁶ For details, see again Cole, *No Equal Justice*, p. 63-100.

⁴⁹⁷ Michael Kroll, “Justice on the Chap: The Philadelphia Story,” <http://www.deathpenaltyinfo.org/dpic.r09.html>, section on “Experts and Investigators.”

⁴⁹⁸ Amnesty international, *A Life in the Balance*, p. 14.

In accord with the usual practice of many judges in Philadelphia at the time, Ribner “allocated \$ 150 for each expert. On three occasions, the defense attempted to have this amount increased as it was proving impossible to obtain expert evaluation of the evidence for this fee.”⁴⁹⁹ Because of the well-known practice of the Philadelphia courts to pay only paltry additional sums over the amount initially approved and to then delay the payment indefinitely, Jackson was even unable to put a ballistics or pathology expert on the stand at the trial.⁵⁰⁰

There is hardly any question that with a total sum of \$ 1,312 for experts and investigators⁵⁰¹ which moreover for the most part had to be pre-financed out of the defense attorney’s private pocket, the defense was hopelessly outgunned in comparison to the police and the prosecution, who “interviewed more than 100 witnesses during their investigation of the crime.”⁵⁰²

5.3.4.4 The Denial of Legal Assistance

In the same vein, on April 29 “the court also refused defense attorney Jackson’s requests for a second attorney to aid the defense.”⁵⁰³ After Judge Ribner rejected Jackson’s motion to grant additional counsel, the pre-trial hearing on this day saw the defense attorney literally pleading with the judge to assign a second lawyer, and finally getting bitter:

MR. JACKSON: [...] As your Honor can imagine, I have reams and reams of material to go through – [...]

Physically, your Honor, I can do only so much. As your Honor well knows, I do have other trials. [...]⁵⁰⁴

THE COURT: You’ll have to [...] really show me that you can’t possibly handle this by yourself.

MR. JACKSON: And the only way I can show you is to suggest that I am ineffectual. That’s it. [...]

Your Honor, there must be at least 125 statements that I have, possibly 150 statements, sir, of witnesses.⁵⁰⁵

⁴⁹⁹ Amnesty international, *A Life in the Balance*, p. 14.

⁵⁰⁰ *Ibid.* Jackson finally managed to get a sum of \$ 350 for al ballisticians, George Fassnacht, but later at the post-conviction hearing testified that “Mr. Fassnacht was never going to take the stand. I couldn’t afford to put him on the stand.” (*PCRAH*, July 28 1995, p. 44) And indeed, later at this hearing Fassnacht put his daily rate at “750 a day.” (*PCRAH*, August 2, 1995, p. 154) Investigator Robert Greer who indeed did work for the defense that was, even if totally insufficient under the circumstances, valuable finally got a sum of \$ 562. (*PCRAH*, July 28, 1995, p. 30) But according to his testimony at the 1995 hearing, he worked almost 70 hours for that sum, and his normal fee for such an amount of work would have been “probably three times that much.” (*PCRAH*, August 1, 1995, p. 242)

⁵⁰¹ For total sum see *PCRAH*, July 28, 1995, p. 30.

⁵⁰² Amnesty international, *A Life in the Balance*, p. 14.

⁵⁰³ *Ibid.*

⁵⁰⁴ Pre-trial hearing (quoted as *PTH*) April 29, 1982, p. 8.

⁵⁰⁵ *Ibid.*, p. 9.

But Ribner stuck with his rejection. It is not very hard to imagine Abu-Jamal's feelings while listening to all this. At the next – and last – hearing before Judge Ribner, he acted in accordance with the conclusions he had drawn. The specific way in which this played out because of the intervention of the judge was to lead to a total breakdown of his relation to his lawyer.

5.3.4.5 The Sabotage of Self-Defense

During the hearing on May 13, 1982, Abu-Jamal petitioned the court to be allowed to defend himself. Since this is a constitutionally guaranteed right, the motion was granted immediately. At the same time, Judge Ribner drove an irreparable wedge between defense attorney Anthony Jackson and his client. Immediately after granting Abu-Jamal's right to be his own attorney, he told the defendant:

I am going to order Mr. Jackson to be present at all times as backup counsel to assist you if you wish.⁵⁰⁶

It was one of the most fateful sentences spoken during the whole trial. Jackson immediately protested strenuously, saying that he was neither trained nor prepared to do so. Indeed, in his rejection he even stated that “slavery has been abolished,” and that therefore he could not be “required to be backup counsel.”⁵⁰⁷ As for Abu-Jamal himself, he stated that after having “worked very closely with Mr. Jackson” he now felt it was time for him to defend himself, while at the same time protesting that

I am faced now with an attorney who has said in full court that he is not functioning as backup counsel. I need an attorney who's comfortable doing that.⁵⁰⁸

Both Abu-Jamal and Jackson protested the backup assignment for the rest of the hearing, but as usual with motions of the defense, in vain. For the rest of the trial, Abu-Jamal would unsuccessfully try to get rid of the unwilling Jackson, as well as to be allowed to have MOVE founder John Africa as assistant at the defense table instead.

At the following four-day-suppression hearing,⁵⁰⁹ the man who was to become Abu-Jamal's nemesis, Albert Sabo, was already the presiding judge. It was at these suppression hearings

⁵⁰⁶ *PTH* May 13, 1982, p. 54.

⁵⁰⁷ *Ibid.*, p. 57.

⁵⁰⁸ *Ibid.*, p. 62.

⁵⁰⁹ The purpose of the suppression hearing before a trial is threefold: First, it has to determine if physical evidence against a defendant was unlawfully collected, second, whether proper identification procedures against

that Abu-Jamal's demand that Anthony Jackson be replaced by John Africa was made for the first time. Just as on the May 13 hearing, Abu-Jamal time and again stated that he could not work with a backup counsel who rejected the task and insisted that he didn't know what was expected of him in that function. There is no reason to doubt Jackson's sincerity in the matter, and even at the post-conviction hearings thirteen years later he continued to stick to this latter claim.⁵¹⁰ During each of the four suppression hearings Abu-Jamal made a motion on the matter,⁵¹¹ which was each time denied. In fact, the suppression hearings were a very good illustration of the confusion engendered by the decision to appoint Jackson as Abu-Jamal's backup counsel against both his own and his client's will. Now it was sometimes Abu-Jamal, sometimes his lawyer who spoke to the court, to the point where it was all but impossible to determine who was in charge. At the same time, Jackson's long and rambling speeches, with the arguments he wanted to make buried somewhere along the line, often compared unfavorably to Abu-Jamal's, who spoke succinctly and very much to the point.⁵¹²

5.3.5 Stacking the Jury

This was the situation when the trial against Abu-Jamal moved into the extremely important phase of jury selection, which is also – derived from French – called *voir dire*. In that process, both prosecution and defense can challenge prospective jurors “for cause,” i.e., demonstrable bias for one or the other side, and both have each twenty “peremptory challenges,” which they can use to strike a juror without giving any reason.⁵¹³ The process of *voir dire* spelled further disasters for Abu-Jamal, and these didn't result from the fact that here a layman was acting as his own lawyer. According to former prosecutor Steven Phillips,

the defendant were used, and third, whether any alleged confessions were given under coercion or freely. See Phillips, *No Heroes, No Villains*, p. 117.

⁵¹⁰ *PCRAH*, July 27, 1995, p. 69-70 and especially p. 150, in response to Assistant District Attorney Hugh Grant: “Mr. Grant, you could call it primary [counsel], backup, assistant, you start using all these different names, but, Mr. Grant, and I'm sure you know, *to this day, to this day I don't think anyone could give you a definitive answer to what a backup counsel is supposed to do*. A backup counsel is supposed to do almost anything that the client or the court or somebody else may want them to do. And I have never been in that situation. And it's like I've got to be ineffective at the point where I'm being backup counsel. What do I do?” Emphasis mine.

⁵¹¹ Suppression hearing (*SH*) June 1, 1982, p. 18; *SH*, June 2, 1982, p. 79; *SH*, June 3, 1982, p. 40; *SH*, June 4, 1982, p. 114. Source: CD produced by Refuse and Resist, in possession of author.

⁵¹² A good example for this is the final day of the suppression hearings. Abu-Jamal's speech consists of barely eight widely-spaced pages in the protocol (*SH*, June 4, 1982, p. 43-51) but covers the whole range of issues at the hearing (the alleged eyewitnesses and the alleged confession), while Jackson's speech is quite incoherent but consists of 41 pages (*ibid.*, p. 51-92). In favor of Jackson it must be said, however, that in a display of extreme bias, Judge Sabo continuously interrupted him, while during the final speech of prosecutor Joseph McGill (*ibid.*, p. 92-105) on that day, he intervened only once to ask a clarifying question.

⁵¹³ See the chapter “*Voir Dire*” in Phillips, *No Heroes, No Villains*, p. 130-140.

there is much more to a voir dire than the simple process of questioning and selecting jurors. In addition to the gamesmanship and psychology, a voir dire is an opportunity for the attorneys to educate their juries about the theories of their cases. It is also an opportunity to plant seeds of doubt that they hope will produce a favorable verdict. It is a chance to predispose jurors to be receptive to the attorney's cause.⁵¹⁴

And apparently, Abu-Jamal did quite well in this respect. According to press reports, Abu-Jamal was "intent and business-like"⁵¹⁵ as well as "subdued"⁵¹⁶ during the first two days of voir dire, an assessment which is corroborated by the protocols.⁵¹⁷ Nevertheless, on the evening of the second day of the jury selection in this highly important process with potentially decisive implications for the outcome of the trial, prosecutor McGill made a motion to prevent Abu-Jamal from selecting any further jurors,⁵¹⁸ and on the morning of the third day, Abu-Jamal was stripped of his right of self-representation without having been warned during the two days before that this might happen. One of the reasons given was that the jury selection process proceeded too slow, but if one compares the forty percent of the jury pool that had been questioned by Abu-Jamal in two days⁵¹⁹ with the "full eight days" of jury selection in the New York murder trial recounted by Phillips in his book *No Heroes, No Villains*, this argument sounds quite capricious.⁵²⁰ Apart from that, prosecutor McGill incredibly argued that being questioned by a defendant accused of the "heinous crime" of shooting a policeman, first in the back and then in the face, tended "to create in the venireperson [prospective juror] an unsettling feeling, as a matter of fact in a few jurors outright fear."⁵²¹ As Dave Lindorff, who devotes many pages of his book to the voir dire in Abu-Jamal's trial, points out

this second argument should have been laughed out of court. If jurors were "accepting as fact" that the man questioning them had actually committed those two "heinous" acts, they should have been automatically excluded from the jury; which is exactly what the defendant was attempting to discover.⁵²²

Indeed, it would have been the presiding judge's duty to exclude such jurors as obviously biased. Judge Sabo did the opposite. He used the opportunity to try to drive a further wedge between the defendant and his backup counsel and "instructed Jackson to take over the task of

⁵¹⁴ *Ibid.*, p. 136-137.

⁵¹⁵ Mark Kaufman, "Jury for Abu-Jamal may be sequestered," *Philadelphia Inquirer*, June 8, 1982.

⁵¹⁶ Mark Kaufman, "Lesser role sought for Abu-Jamal," *Philadelphia Inquirer*, June 9, 1982.

⁵¹⁷ Voir dire (VD), June 7, 1982 and June 8, 1982. Source: CD produced by Refuse and Resist, in possession of author.

⁵¹⁸ VD, June 8, 1982, p. 138-140.

⁵¹⁹ According to prosecutor McGill, VD, June 9, 1982, p. 3.

⁵²⁰ Phillips, *No Heroes, No Villains*, p. 140.

⁵²¹ VD, June 9, 1982, p. 2. Also quoted in Lindorff, *Killing Time*, p. 107.

⁵²² *Ibid.*

voir dire questioning, warning that if Abu-Jamal disagreed with that plan, the judge would take over the process for both sides.”⁵²³

Since he knew well that Jackson was unprepared and wanted to be removed from the case because he didn't understand what his task as backup counsel was supposed to be, Abu-Jamal did disagree and instructed Jackson not to participate. When Jackson obeyed his client, he was threatened with a six month prison sentence for contempt of court, but in this instance, Jackson stood firm with his client. Apparently, Sabo was ready to send Jackson to prison right from the courtroom and backed off from this plan only when even prosecutor McGill intervened on Jackson's behalf.⁵²⁴ Finally, Sabo conducted the questioning for several hours until Abu-Jamal agreed to Jackson's participation, which was then constantly riddled by additional questions and remarks that came from the bench of Judge Sabo. The voir dire process had clearly degenerated into a travesty.

What Sabo's constant intervention in the questioning of prospective jurors meant for the final jury composition⁵²⁵ is amply illustrated in the seating of white alternate juror Edward Courchain who later ended up in the actual jury after the only juror that had been selected during the period when Abu-Jamal conducted the questioning for the defense, a black woman, was dismissed from the jury on the second day of the trial.⁵²⁶ After most of the jury had already been selected and a substantial number of prospective jurors who were opposed to the death had been excused,⁵²⁷ prospective juror Edward Courchain was asked by Jackson, who was for the time being acting again as *de facto* lead counsel:

MR. JACKSON: We need to know in your best judgment, whether or not you could be objective in this matter, stay in the middle, don't lean towards the prosecution, don't lean towards the defense, whether or not you could objectively determine the facts of this case?
THE PROSPECTIVE JUROR: Do you want an honest opinion?
MR. JACKSON: Yes, sir.
THE PROSPECTIVE JUROR: No.⁵²⁸

That should have been the end of the story, and indeed, after some more questioning which produced the result that “unconsciously, I don't think I could be fair to both sides,” Jackson

⁵²³ *Ibid.*, p. 108. Knowing Sabo's anti-defense bias, ADA McGill had no objections.

⁵²⁴ For the whole discussion on who should conduct the questioning for the defense, see *VD*, June 9, 1982, p. 1-45, for the intervention of Mc Gill and Sabo's acceptance, see *ibid.*, p. 44-45. See also Lindorff, *Killing Time*, p. 105-110.

⁵²⁵ In the end an 83 % white jury (two blacks and 10 whites) decided the fate of a black defendant from an overwhelmingly black neighborhood in a city that was 40 % black. See note 535 below.

⁵²⁶ Juror Jenny Dawley was dismissed for the trivial offense of bringing her sick cat to the veterinarian although the jury was sequestered during the time of the trial. *TP*, June 18, 1982, p. 35-47. This happened at a time when Abu-Jamal was already stripped of his right of self-defense (see below); Jackson who had by then again been put into the position of lead counsel by Judge Sabo didn't object to the dismissal. *Ibid.*, p. 45.

⁵²⁷ For this process of the so-called “death penalty qualifying” of a jury, see Lindorff, *Killing Time*, p. 95-96.

⁵²⁸ *VD*, June 16, 1982, p. 134-135.

asked that Courchain be struck for cause.⁵²⁹ At this point, Sabo took over again and subjected the prospective juror to a prolonged series of questions all designed to bring out the result that after all, he *was* able to be fair. Jackson then aptly characterized Sabo's procedure by stating that his objection to the juror was "based on the totality of his remarks where he said no, he couldn't dismiss it [his bias], and it's like we had to beat him to say he would try."⁵³⁰

But once again, arguments of whatever sort didn't help the defense. McGill and Sabo who had argued that Abu-Jamal had been "too slow" during voir dire spent considerable time to prevent the dismissal of this particular jury candidate, and Courchain was not only seated as alternate juror but finally ended up as one of the regular jurors who decided over Abu-Jamal's fate.

It is quite instructive to compare what happened to Abu-Jamal in this case to the behavior of another conservative judge. But this was at a time when the radical wing of the black emancipation movement had not yet been defeated but was still in ascendancy. When BPP co-founder Huey P. Newton was brought to trial for murder in 1968 under circumstances that were eerily similar to those in Abu-Jamal's case,⁵³¹ his lawyer Charles Garry brought an expert into court before the voir dire had even begun in order to challenge the inherent unfairness and empirically proven pro-prosecution bias of "death qualified" juries. Although Garry's motion for a "ruling allowing people opposed to the death penalty to be on the jury panel"⁵³² was denied, the support for this motion by in-depth expert testimony apparently didn't fail to impress Judge Monroe Friedman who presided over the trial:

When [prosecutor] Jensen challenged a juror the judge would ask, "Aren't there any circumstances upon which you would ever vote for the death penalty?" If the answer was no, he would ask further, "Can't you think of some outlandish situation in which you could vote for the death penalty? What if someone killed your child?" If there was a slight hesitation, or if the person said he might consider it, Friedman would deny Jensen's challenge for cause.⁵³³

⁵²⁹ Quote *ibid.*, p. 135, Jackson asking to strike p. 136.

⁵³⁰ *Ibid.*, p. 141.

⁵³¹ Newton was also critically wounded after a traffic stop in the middle of the night, and one dead and one wounded police officer were found at the scene. For details, which cannot be given here, see Michael Newton, *Bitter Grain*, p. 42-65, and Charles Garry and Art Goldberg, *Streetfighter in the Courtroom. The People's Advocate* (New York: E.P. Dutton, 1977), p. 97-152. Newton spent close to three years in jail, but the murder charge against him was finally thrown out after the murder charge was downgraded to manslaughter, upon which two juries could reach no decision. *Ibid.*, p. 152. According to the other BPP co-founder Bobby Seale, Newton, different from his testimony at the trial, did fire shots that night, but only in response to having been shot by one of the police officers first. The source for this information is a taped roundtable talk with former BPP members Kathleen Cleaver, Jamal Joseph, and Bobby Seale, Berlin, May 2001. Tape in possession of author, in the following quoted as *Roundtable Talk With BPP Members*.

⁵³² Garry, *Streetfighter in the Courtroom*, p. 108.

⁵³³ *Ibid.*, p. 109.

Garry's observations with respect to the voir dire at the Newton trial are doubly important since, on the one hand, they show the importance of a top-quality defense equipped with the funds to present appropriate expert testimony, and, on the other hand, illustrate how conservative but fair-minded judges can sometimes react to such moves on the part of defense attorneys. It was certainly no accident that this didn't happen in the court of Judge Sabo in the city of Philadelphia. In general, by attacking and harassing the defense at every turn, in collaboration with ADA McGill Sabo succeeded in achieving a jury composition most unfavorable for Abu-Jamal where one juror was "the close friend of a police officer who had been shot while on duty" and another (alternate) juror was "the wife of a serving police officer."⁵³⁴ With respect to race, the fact that McGill used 11 of his total of 15 peremptory challenges to strike African Americans from the jury panel certainly contributed heavily to a jury which was initially three fourths, and from the second day of the trial, five sixths white.⁵³⁵

To summarize, before the actual trial had even started, many fateful decisions had already irrevocably been made. As far as the court was concerned, apart from Abu-Jamal himself the players were an unwilling, inexperienced and unprepared defense lawyer not up to the task, a furiously right-wing judge who just made the first steps that would earn him his later reputation as death row's king, one of the most successful prosecutors of the whole District Attorney's office, and a jury that was heavily leaning towards law and order and composed of a vast majority of whites.

5.4 The Exclusion of John Africa

Up to the point when the actual trial began on June 17, 1982, Abu-Jamal had repeatedly insisted that the relation to his attorney Anthony Jackson was by now irreparably damaged and that neither did he want Jackson nor did Jackson want to serve on the case anymore.

Since the first day of the suppression hearing and then again during the first three days of the jury selection, he had demanded that backup counsel Jackson be replaced by MOVE founder John Africa, a request that was in an equally stubborn manner denied by Judge Sabo. At the

⁵³⁴ Amnesty international, *A Life in the Balance*, p. 16. Details and more examples for the prosecution-biased jury selection process are to be found in Lindorff, *Killing Time*, p. 95-111, particularly p. 102-103 where he quotes an example, in which, radically different from the treatment by Judge Friedman, a juror was successfully challenged for cause simply because she expressed doubts in the death penalty.

⁵³⁵ Amnesty International, *A Life in the Balance*, p. 15; the four alternate jurors were all white. The amnesty calculation erroneously ignores the dismissal of Dawley and the promotion of Courchain and thus arrives at an aggregate number of "two blacks and 14 whites." Initially, three blacks (all in the actual jury) and 13 whites (9 in the actual jury and four as alternates) were selected, with one of the white alternates replacing the black juror that was dismissed.

first day of the trial, the time had come for Abu-Jamal to fight the matter out and insist on what he considered as an integral part of his right to represent himself and act as his own lawyer. Pointing to the fact that ADA McGill had time and again had the help of police officers at the prosecutor's table, he stated:

Judge, what you know is that there is no order or procedure to bar anyone from sitting at this table once that's agreed upon. Throughout the Motion to Suppress, throughout the jury selection, he [McGill] kept someone assisting him in making decisions. [...] He spent hours conferring with several detectives.⁵³⁶

McGill's answer, where he claimed the existence of a court agreement that there would only be two people at a time at the table of each sides, was almost ridiculously besides the point. Of course, in Philadelphia as well as everywhere else in the country there had been trials with half a dozen or more people at the defense – as well as the prosecution's – table, and no one had ever come up with some supposed court rule that limited that number. Abu-Jamal was perfectly right in holding against Sabo that

There is no law that that prohibits you from allowing someone to assist me at the defense table. This is done all the time. I cited cases during that Motion to Suppress, a number of cases, that happened right here in this City Hall where there was assistance from non-lawyers at the defense table, and there's no reason [...] for you or the Commonwealth to deny me access to assistance that I have states a number of times that I need in my defense.⁵³⁷

"Access to assistance" was the crux of the matter. Although in many of his requests Abu-Jamal had demanded to instate John Africa as his "backup counsel" instead of Anthony Jackson, which would indeed have been impossible since Africa was no member of the bar, no legal genius was required to recognize that the most simple solution would have been to keep Jackson as an advisor for Abu-Jamal in matters requiring knowledge in legal technicalities, while having John Africa sit at the defense table simply as a friend of the defendant because Abu-Jamal thought he needed Africa's counsel now that his life was at stake. There is no way around the conclusion that Judge Sabo's repeated decision to deny that assistance was not a matter of law, but of bad

⁵³⁶ *TP*, June 17, 1982, p. 96-97.

⁵³⁷ *Ibid.*, p. 113-114. In his speech during the penalty phase of the trial, Abu-Jamal would make this point even more powerfully: "A man ordered not to fight for his life. Every so-called 'right' was deceitfully stolen from me by Sabo. My demand that the defense assistance of my choice, John Africa, be allowed to sit at the defense table was repeatedly denied. While, meanwhile, in a City Hall courtroom just 4 floors directly above, a man charged with murder sits with his lawyer, *and his father, who just happens to be a Philadelphia policeman*. The man, white, was charged with beating a black man to death, and came to court to have his bail revoked, after being free for several weeks. His bail was revoked after a public outcry in the black community about the granting of bail, [while for me] a ransom of \$250,000.00 was revoked one day after it was issued." *TP*, July 2, 1982, p. 12-13. Emphasis mine.

faith. Sabo's decision to exclude Africa and Abu-Jamal's insistence on demanding his inclusion again and again finally had the consequence that neither of them was allowed to play a role at the trial. On June 17, Abu-Jamal was stripped of his role as lead attorney in his own case, and backup counsel Jackson was instructed by the court to replace him in that role.⁵³⁸ On the next day, that decision, as well as the decision not to allow the assistance of John Africa at the defense table, was sustained by the justice to which it had been appealed,⁵³⁹ which in turn led to a series of verbal courtroom confrontations between Abu-Jamal and Judge Sabo over the rest of the trial, with the consequence that Sabo excluded Abu-Jamal from his own trial for about half the total time on the pretext that the defendant had been "disruptive."⁵⁴⁰

Thus at the start of Abu-Jamal's trial, of the original five players, there remained only four: the judge, the prosecution, Abu-Jamal's newly re-promoted lead attorney, Anthony Jackson, and the jury, minus the defendant himself. In Abu-Jamal's place, another player entered the game, namely the police, in the shape of the witnesses it produced and the rest of the evidence it had garnered as a result of its investigation.

In the next section, I want to give a presentation of the performance of all these players at the trial of Mumia Abu-Jamal. I will try to supplement the static picture that I gave above of the accusation and the evidence brought to bear against Abu-Jamal by a picture in motion, in which the interaction between the performance of the prosecution and the efforts of the defense is shown. I will also try to show how, and why, the outcome of that interaction was all but preordained. This approach involves a certain amount of redundancy. But just as in an actual criminal trial, it is next to impossible to keep even the most important players in mind without such repetition. For the same reason – to make the account easier to survey – at various points I have summarized the evidence from the trial record, giving sources at the end of the section on each witness, and additional ones as I go along.⁵⁴¹

⁵³⁸ *Ibid.*, p. 123.

⁵³⁹ *TP*, June 18, 1982, p. 2.

⁵⁴⁰ Lindorff, *Killing Time*, p. 136, among others.

⁵⁴¹ A good and extensive summary of the trial as a whole is given in Lindorff, *Killing Time*, p. 83-175. Many aspects of the trial are also covered in the amnesty report *A Life in the Balance*. This report, however, takes some of the facts as "undisputed" which are not undisputed at all, e.g., the presence of taxi driver Robert Chobert "as closest to the scene of the prosecution witnesses." *Ibid.*, p. 20. Actually, the location of the various alleged eyewitnesses at various points in time is not really clear to this day. A gripping account of the trial is given by Abu-Jamal's former lawyer Daniel Williams in his book *Executing Justice*, p. 9-197. Williams' ample use of drama is however, in part problematic, since at times it leads him to present fanciful accounts invented from hindsight as fact. A good example is an extensive description of Abu-Jamal sitting "in his cab in a parking lot across the street from where Officer Faulkner was struggling with the driver of the Volkswagen [i.e., Billy Cook]" (*ibid.*, p. 13), while actually the cab was *not* in this parking lot but on 13th Street, a fact that is of no minor importance for any attempt to sort out what actually happened on December 9, 1981. For the actual location of Abu-Jamal's cab, see testimony of the officer in charge of the investigation, Detective William Thomas, *TP*, June 26, 1982, p. 72, also *HC II*, § 921.

5.5 The Trial

Because of the setting sketched in the preceding sections, the story of the criminal trial against Abu-Jamal in the proper sense is a relatively short story. There was no meaningful adversarial process to speak of, although it is exactly this process that is supposed to be the essence of a constitutionally valid trial. The lack of an aggressive defense was visible right from the start of the criminal proceedings themselves when attorney Jackson failed to counter ADA McGill's highly charged opening statement with a statement of his own. As a matter of fact, Panther leader Huey P. Newton's defense lawyer Charles Garry is hardly alone in his preference in this regard when he states: "In California, the defense attorney can make his opening statement right after the prosecutor or later on when he opens the defense case. I always like to follow the district attorney, to take the sting out of his remarks."⁵⁴² At Newton's trial, Garry then proceeded to talk for two hours.⁵⁴³

What made matters worse was the fact that for the whole duration of the trial, Jackson never found a way to offset the impression that the array of evidence against Abu-Jamal sketched above and, at least in its outlines, introduced by the prosecution right from the start had made on the jury. Instead he stumbled through his performance holding out from one day to the next. The trial transcript certainly conveys the image of a man who is trying to do his best, but it also leaves little doubt that, even irrespective of the outward obstacles he had to face, his best was simply not good enough.

5.5.1 The Prosecution

After the opening, the prosecution brought its evidence before the jury for one week, from June 19 to June 26. Just to recapitulate, this evidence basically consisted of

- eyewitness testimony by prostitute Cynthia White, taxi driver Robert Chobert, motorist Michael Scanlan, and pedestrian Albert Magilton, all of whom claimed to have seen at least part of the events and two of whom (White and Chobert) incriminated Abu-Jamal as the shooter
- testimony by Police Officer Gary Bell, a friend of Faulkner who had worked with him for years, and Jefferson Hospital Security Guard Patricia Durham, to the effect that while waiting to be treated in the hospital, Abu-Jamal had shouted a confession: "I shot the motherfucker, and I hope he dies!"

⁵⁴² Garry/Goldberg, *Streetfighter in the Courtroom*, p. 111.

⁵⁴³ *Ibid.*, p.112.

- the fact that the police claimed to have found Abu-Jamal’s gun, a five-shot 0.38 caliber snub-nosed revolver, lying at the scene just a few feet away from Abu-Jamal and the dead Faulkner.

Taken as a whole, the evidence at first sight seemed overwhelming, but a closer look at the individual pieces should have shown that each of them was weak, and some of them embarrassingly so. As the trial unfolded, Jackson nibbled away at each of them without ever being able to instill “reasonable doubt” in the minds of the jurors, and he missed several golden opportunities to decisively show the strong likelihood that important parts of the evidence were in fact the result of the exertion of undue influence on witnesses, deliberate lies and suppressions, or both. An inspection of the trial transcript shows indeed that Abu-Jamal’s long-time colleague, journalist Linn Washington was right on target when, 19 years later, he said: “Right from the start, Mumia’s case was full of holes, like a Swiss Cheese.”⁵⁴⁴ Jackson’s problem was that even though he was able to detect many of these holes, he proved unable to make them visible to the jury in a convincing manner. We will see now, as well as in the following section on the presentation of evidence by the defense, what the most important of these holes were. In the process, I will also highlight some moments during the trial when Jackson missed the opportunity to drive potential points home in front of the jury.

- The first important eyewitness who testified was taxi driver Robert Chobert. He claimed to have parked behind Officer Faulkner’s police car when he heard a shot and looked up. According to his testimony, he recognized Abu-Jamal standing over the prone Faulkner, firing several more shots at him.⁵⁴⁵ As Jackson correctly remarked during cross examination, this claim was highly curious, since in his first statement after the shooting, Chobert had said that the shooter had run away “and didn’t get far, maybe thirty five or thirty five steps and then he fell.”⁵⁴⁶ This could impossibly refer to Abu-Jamal who had collapsed right at the scene and, by all accounts, was found just a few feet away from the dying Faulkner.⁵⁴⁷ At the trial, Chobert patched over this by saying that he really had meant that the shooter ran about ten feet. At the trial, Jackson noted quite correctly that Chobert had a good motive to testify for the prosecution, since for one thing he had been convicted for firebombing a school and was now on probation, and secondly, he drove his cab without a license, which had been rescinded because of two DWI instances (driving while intoxicated). He thus ran the risk to be sent to prison for a very long time. But typically, prevented the defense from making the jury aware of Chobert’s convictions (which were discussed in court in the absence of the jury).

⁵⁴⁴ Interview with Annette Schiffmann and myself, Philadelphia, September 2001.

⁵⁴⁵ See amnesty international, *A Life in the Balance*, p. 20.

⁵⁴⁶ A facsimile of this statement is reprinted in Weinglass, *Race for Justice*, p. 230.

⁵⁴⁷ See, for example, the testimony of one of the two first officers at the scene, Robert Shoemaker, *TP*, June 19, 1982, p. 115-116.

At this point, Jackson missed the opportunity to pose the obvious question why under such circumstances Chobert would have been where he claimed to have been at all. For a convicted criminal on probation, driving a cab with his license rescinded, to pull up behind a police car with its flashlights on was certainly a most absurd thing to do. This would have been an avenue for Jackson to cast serious doubts on Jackson's claim to have parked behind Faulkner, and ipso facto on all his other claims.⁵⁴⁸

It is also odd, to say the very least, that Chobert apparently didn't have any difficulties because of his probation violation, and that he even continued to drive his taxi without harassment from the police.⁵⁴⁹

- The second eyewitness was Cynthia White, a woman working in the red light district of Philadelphia's Center City with 38 former arrests for prostitution who at the time of the trial served an 18 month sentence for the same offence in Massachusetts. Given that record, and given the well-documented practices of the police in Philadelphia, she was highly susceptible to witness coaching or even coercion by the police, pressuring her to identify the favorite suspect of the police as the actual shooter of officer Faulkner.

Indeed, exactly as in the case of taxi driver Robert Chobert, prostitute Cynthia White's testimony at the trial stood in sharp contradiction to what she had said in earlier statements to the police. Thus, in her very first statement she had claimed that the shooter – whom she later identified at the January 8, 1982 hearing as Abu-Jamal, without being forced to pick him out in a lineup – “fired the gun at the police officer about four or five times. The police officer fell to the ground, starting screaming.”⁵⁵⁰ This was no minor difference to her trial testimony, which had the shooter first fire the officer in the back, and then fire several times after the officer had already fallen to the ground.

Indeed, White's testimony given at various times was rife with such contradictions. To give just one example, at the suppression hearing, Abu-Jamal had himself confronted White with one of these contradictions. Since in her initial statement she had described the shooter as “short,” Abu-Jamal, who is taller than 6 feet, asked her: “Do you think I'm short?”⁵⁵¹ At the trial Jackson spent hours to attempt to pin the contradictions down, but as in his whole performance, he didn't manage to focus on the most important points. His cross examination of White is recorded on no less than 244 pages of the trial transcript (as compared to 91 pages of direct examination by ADA McGill).⁵⁵² But the impression his attempts probably left on the jury is one of a man rummaging in the dark for something important, but unable to find it.

And once again, Jackson missed an important angle to impeach White's testimony. Why would a prostitute who is constantly harassed by the police and sent to prison by the courts voluntarily offer herself to be a witness, rather than disappear from the scene as quickly as possible? And if she did indeed voluntarily remain at the scene, what did that mean for her testimony?⁵⁵³

- As for motorist Michael Scanlan and pedestrian Albert Magilton who both testified towards the end of the presentation of the prosecution's case, their testimony would not have carried much weight without the rest of the evidence. As noted above, Scanlan was unable to identify the shooter, and even identified Abu-Jamal, who he was shown in the back of a police wagon, as “the driver of the Volkswagen,” i.e.,

⁵⁴⁸ I discovered this point while reading the trial transcripts, and it is independently, and compellingly, made by Lindorff in *Killing Time*, p. 122.

⁵⁴⁹ For Chobert, see *TP*, June 19, 1982, p. 229, and Lindorff, *Killing Time*, p. 118-122.

⁵⁵⁰ Quoted by defense attorney Jackson, *TP*, June 21, 1982, p. 160.

⁵⁵¹ *SH*, June 2, 1982, p. 36.

⁵⁵² Calculated from *TP*, June 21, 1982, and *TP*, June 22, 1982.

⁵⁵³ This is again a point raised by Lindorff in *Killing Time*, p. 125-126. For White's testimony and role in general, see *ibid.*, p. 122-130; also *TP*, June 21, 1982, p. 79-204 and *TP*, June 22, 1982, p. 24-226.

Billy Cook. Magilton on his part never claimed to have seen the incident itself. As before, at the trial he said he saw Abu-Jamal begin to cross the street, apparently not in a particularly threatening manner, since he looked away and continued to cross the street in the opposite direction until he heard shots.

An important point in Magilton's testimony is that it contradicted the trial testimony of Chobert and White. Different from these two, he said he heard a rapid sequence of at first three, and then two shots. White and Chobert had said at the trial they had heard one shot, or maximally two shots at first and then saw Abu-Jamal fire several shots at the incapacitated Faulkner.⁵⁵⁴

From the point of view of the prosecution, there was thus a lot of potential trouble with the testimony of these four witnesses. There was even more concerning the first two, Robert Chobert and Cynthia White. According to their testimony at the trial, they hadn't seen each other at the scene of the shooting, even though their testimony, put together, yields a picture that has them within a few yards of each other. An inexplicable mystery concerning Cynthia White was even more important: *none of the witnesses of either the prosecution or the defense had seen her where she claimed to have been standing during the events*, namely, at the south-eastern corner of the intersection of 13th and Locust Street.

Interspersed between the testimony of White on June 22 and the one by Scanlan and Magilton on June 25 was another pillar of the prosecution's case against Abu-Jamal: the claim that he had confessed to the deed. Quite curiously, there hadn't been a single reference to this alleged confession in the press,⁵⁵⁵ although one would have expected the prosecution to make frontline news out of it, and the circumstances under which it entered the prosecution's array of evidence were very strange. I will once again give a short summary of what transpired during the trial.

- Police Officer Gary Bell, the friend and professional partner of the slain officer, testified to the effect that Abu-Jamal had confessed to the crime by shouting the words already cited above. But for the prosecution there was a huge difficulty with Bell's claim: He had waited until February 11 to report it to the police. At the trial, he said he had been so emotionally overwrought that he had had repressed the memory of that confession.⁵⁵⁶
- The testimony of Hospital Security Guard Priscilla Durham corroborated Bell's statement, but curiously shared the same problem with it: It was reported to the police only

⁵⁵⁴ For these two witnesses, see *TP*, June 25, 1982, p. 4-74 (Scanlan), and *TP*, June 25, 1982, p. 75-112 and 137-138. For commentary, see Lindorff, *Killing Time*, p. 130-132 (Scanlan), and p. 132-134 (Magilton).

⁵⁵⁵ An apparent exception is January 1982, where there was a reference to a confession. At that time, the highest police officer at the scene, Inspector Alphonso Giordano, had testified "that he has asked Abu-Jamal, who was lying in a police van after the incident, where the defendant had put the gun. Giordano testified that Abu-Jamal had said, 'I dropped it beside the car after I shot him.'" Gemperlein/Rosenthal, "Abu-Jamal shot officer in back, witness say," *Philadelphia Inquirer*, January 9, 1982. Giordano also testified on the first day of the suppression hearing (see *SH*, June 1, 1982, p. 67-98), but his testimony was later quietly dropped by the prosecution, and he didn't testify at the trial. Why this was the case will be seen in the addendum to chapter 7. That the prosecution refrained from feeding details of the other confession claims to the press naturally raises the suspicion that it did not want them investigated too closely.

⁵⁵⁶ For Bell, see *TP*, June 24, p. 133-176, Lindorff, *Killing Time*, p. 138.

only on February 11, 1982, fully 64 days after the confession was allegedly made. At the trial, Durham claimed to have reported the confession to a Hospital Superior the day after it was allegedly made, and at the initiative of prosecutor McGill, a police officer was sent to the hospital, and after a short while, came back with a typed document that recorded Durham's report of Abu-Jamal's confession. By then, even Durham herself was surprised, since she had claimed her statement had been taken down in handwriting. The natural suspicion was that fraud was being perpetrated here upon the court, and any competent defense attorney should have acted accordingly. But in a monumental blunder, Jackson refrained from having the document authenticated and did not call the chief of Jefferson Hospital's Security Department on the stand.⁵⁵⁷ There is every indication to believe that at this point, the prosecution's confession claims against Abu-Jamal could have been blown out of the water by Jackson, but for whatever reason, he did not manage to do so. Unfortunately for Abu-Jamal, this mistake cannot be corrected anymore, since in the meantime, Durham's hospital superior has died.⁵⁵⁸

In principle, the claims on the part of the prosecution that Abu-Jamal had made a confession would thus have been weak and unbelievable, even embarrassing, all the more so because the Bell/Durham testimony used to bolster this claim was recorded only after Abu-Jamal had filed a brutality complaint against the police in which he claimed to have been brutally beaten by police officers during as well as after his arrest.⁵⁵⁹ And we shall see immediately that during the presentation of the defense's case, Jackson missed a further opportunity to unravel the confession claim, and with it possibly the whole case against his client.

The third pillar of the prosecution's case consisted of little more than Abu-Jamal's empty gun that the arriving two police officers claimed to have found and collected at the scene just a few feet away from Abu-Jamal. In itself, even if true, this was not particularly compelling evidence, since the bullet that killed Police Officer Faulkner could never be matched to Abu-Jamal's revolver.⁵⁶⁰ Also, the investigation by the police showed some very striking omissions:

- Abu-Jamal's gun was not tested as to whether it had recently been fired, or if it had been tested, the results were kept under wraps. This is even more strange since the test can be done very easily for several hours after the firing of a gun by simply sniffing at its barrel.

⁵⁵⁷ Again, a simple reading of the trial transcript made me wonder how Jackson could not do so. The point is also made in a more detailed fashion in Lindorff, *Killing Time*, p. 139-140.

⁵⁵⁸ Lindorff, *Killing Time*, p. 19. For Durham in general, see *ibid.*, p. 137-138 and *TP*, June 24, 1982, p. 27-128.

⁵⁵⁹ That he was indeed severely beaten was confirmed at the trial by witness Dessie Hightower (*TP*, June 28, 1982, p. 130-132, p. 161-165), and before the trial even by Cynthia White (in a statement made on March 24, 1982 quoted by Jackson, in *TP*, June 21, 1982, p. 192-193). Additional corroboration comes from Abu-Jamal's sister Lydia Barashango, who says in the HBO documentary *A Case for Reasonable Doubt* that she was barely able to recognize her brother when she came to the hospital early in the morning of December 9, 1981, and from witness Sharon Smith, who, at the post-conviction hearing in 1995, testified to shocking violence against Abu-Jamal (*PCRAH*, August 9, 1995, p. 112-134).

⁵⁶⁰ According to the ballisticsian presented by the prosecution, the bullet in Faulkner's brain was too badly mangled and was, as elicited by questioning from Jackson, consistent with having been fired from "millions" of other guns. *TP*, June 23, 1982, p. 169.

- There were no identifiable fingerprints on Abu-Jamal’s gun, and Abu-Jamal’s hands were not tested to find out whether he had fired a gun. The police officers questioned at the trial claimed that the tests that were customarily used at the time to make this finding were either unavailable or unreliable. But years later, the claim was proven to be fraudulent, since it turned out that the police *had* tested the hands of other suspects during the same night.⁵⁶¹

In his cross examination, Jackson tried to make the jury aware of the suspicious nature of these striking omission of test which were a staple of normal police work, but as in the rest of his performance, he often lost himself in arcane details and left an unfocused, confused impression, rarely attacking what was at stake – the suspicion of fraud and fakery in the criminal investigation by the police – head on.⁵⁶²

On the whole, Dave Lindorff’s assessment that “McGill’s case as presented to the jury must have been devastating. Not so much because it proved the case, as because there was so much of it”⁵⁶³ is certainly correct. As for defense attorney Jackson who had to defend a client whose relation to him had broken down and who was absent from the courtroom half of the time, he lacked the resources as well as experience in such high profile cases to withstand the pincer attacks by McGill and Sabo, seconded by highly questionable testimony given or organized by the Philadelphia police. His attempt to present a case for the defense would prove this once again.

5.5.2 The Case of the Defense

The core of the defense case, which was presented from June 28 to July 1, 1982, was the testimony by a young black college student by the name of Dessie Hightower and black prostitute

⁵⁶¹ For lacking evidence from the gun, see amnesty international, *A Life in the Balance*, p. 22; for the hand test, see the testimony of Arnold Howard at the post-conviction hearing, *PCRAH*, August 9, 1995, p. 7-9.

⁵⁶² When the defense did attack during its own presentation, putting the detective in charge of the investigation on the stand again to investigate the matter further, Jackson was cut short in a striking display of pro-prosecution bias by Judge Sabo:

MR. JACKSON: What I am attempting to do, Your Honor, is the very thing he just admitted, that there were tests that could be performed and weren’t for whatever reason.

THE COURT: So what good is it? They weren’t done. That is it.

MR. JACKSON: To show if the police and the prosecution are on the same side.

THE COURT: Let me say this, it is the responsibility of the district attorney to convince the jury beyond a reasonable doubt that this Defendant committed the crime. Now, they do that by positive evidence and not by negative evidence. Not what they didn’t do. The fact that they have done something that would hang your client is immaterial. They didn’t do it. They have to rise or fall on what they actually did. *Negative evidence is not really evidence.* (TP, June 29, 1982, p. 54-55. Emphasis mine.)

On that principle, there is of course no need to ever discuss any omission in police work in court, because it is not “evidence.”

⁵⁶³ Lindorff, *Killing Time*, p. 142.

Veronica Jones who, like Cynthia White, had worked the area during the night of the crime. These two were the only witnesses the defense had been able to contact before the trial, although Jackson had not talked to them personally. They were supposed to be testifying to the presence of one or more person(s) at the scene who fled immediately after the shooting. Since the prosecution's theory of what had happened was predicated on the assumption that only three persons, Abu-Jamal himself, Faulkner, and Abu-Jamal's brother Billy Cook had been present and that the latter had had nothing to do with the shooting, leaving only Abu-Jamal as the perpetrator of the crime, their testimony was of critical importance for the defense.

- Hightower, like Magilton, testified that he had heard three consecutive gunshots and then another two. He had been in a parking lot next to a building diagonally across the street from the scene and said that after the shot, he had looked around the building and saw a man fleeing the scene very fast in the direction of 12th Street on the same side of Locust Street where the shooting had occurred. Hightower also testified that Abu-Jamal had been beaten by the police. This was a promising beginning, but the presentation of the other major defense witness proved an unmitigated disaster.⁵⁶⁴
- The young prostitute Veronica Jones, who had not seen the shooting itself but observed the aftermath had testified before that trial that she had seen two men run away from the scene in the direction of 12th Street. At the trial however, Jackson was just a few minutes into the direct examination of his own "star witness" when he discovered that Jones now stubbornly denied anything she had said before about the two men running away from the scene.⁵⁶⁵

But as it turned out, Jones had an even more stunning surprise in store. When Jackson asked Jones whether she had given any other statement to the police than the one in which she had said she saw two men run away, she blurted out the following answer:

I had got locked up [together with other prostitutes] I think it was in January [1982]. [...] I think sometime after that incident. They were getting on me telling me I was in the area and I seen Mumia, you know, do it, intentionally. They were trying to get me to say something that the other girl [Cynthia White] said. I couldn't do that.⁵⁶⁶

⁵⁶⁴ For Hightower's testimony, see *TP*, June 28, 1982, p. 120-189, and *TP*, June 29, 1982, p. 8-11.

⁵⁶⁵ *TP*, June 29, 1982, p. 99-136. Even ADA McGill was surprised, but by no means by Jones' denial of her former statement, but conversely by the fact that the denial could come so unexpected for Jackson:

MR. MCGILL: Are you telling me you never talked to her?

MR. JACKSON: I never talked to her.

MR. MCGILL: Or anybody in your office?

MR. JACKSON: No. Never. (*Ibid.*, p. 100-101.)

⁵⁶⁶ *Ibid.*, p. 129.

If there were ever a clear indication of witness coaching, this was it. Over prosecutor McGill's objections, Jackson continued his line of question, and only a little later, there was following exchange:

MR. JACKSON: In January did they question you about December the 9th?

V. JONES: It more so came about when we had brought up Cynthia [White]'s name and they told us we can work the area [as prostitutes] if we tell them.

MR. MCGILL: Objection, Your Honor.

THE COURT: Sustained.

MR. JACKSON: I am not responsible for her answers.

THE COURT: I know that.⁵⁶⁷

After this, there was a long sidebar conference out side the hearing of the jury. There, once again Sabo deliberately blocked a line of questioning whose extreme importance with respect to the fairness of the police investigation was all too obvious. Preventing Jackson from further delving into the topic, he said: "She is your witness. What she saw on Locust Street that night you can go into as thoroughly as you want to. All this other stuff is not relevant."⁵⁶⁸

In this one incident, there were many of the features of this trial rolled into one: strong indications of the manipulation of eyewitnesses⁵⁶⁹ and other evidence by the police, strenuous efforts by the Assistant District Attorney to keep them under the rug, the willing collaboration of the judge in these efforts, and a defense attorney who was all but powerless to do anything about it. Had the defense enjoyed anything resembling a level playing field in terms of funds and personnel, this would have been the point to call a press conference and alert the media to a major scandal. That nothing of the sort happened is indication enough of the sorry state the defense had fallen – and been bludgeoned – into by the second half of the trial.

The final blow for the defense came after a desperate last minute intervention by Abu-Jamal himself, when he instructed Jackson to put another Police Officer, Garry Wakshul, on the stand. Just as Faulkner's friend and partner in police work Gary Bell and Security Guard Priscilla Durham, in February 1982 Wakshul had also given a statement claiming Abu-Jamal had confessed to killing Faulkner, although the prosecution did not call him as a witness. But on the morning of December 9, 1981, Wakshul had given a statement saying quite the opposite, namely, that during the time he was guarded by Wakshul, which included the time of the alleged confession in the hospital, "the Negro male made no comment."⁵⁷⁰ Incredibly, defense attorney Jackson had not thought himself

⁵⁶⁷ *Ibid.*, p. 136.

⁵⁶⁸ *Ibid.*, p. 140-141. Definite denial *ibid.*, p. 145.

⁵⁶⁹ Even if this, in the case of Jones, obviously worked only halfway. Under pressure of future harassment in her work on the street, she chose to retract her statement, but not to implicate Abu-Jamal as the shooter: "I couldn't do that."

⁵⁷⁰ *TP*, July 1, 1982, p. 33. The statement is reproduced in facsimile in Lindorff, *Killing Time*, p. 176f-176g.

of calling Wakshul and had to be alerted to this point by his client. When chided by Sabo for not calling Wakshul earlier, he explained: “I was forced to try and remember everything that everybody said and I couldn’t do it.”⁵⁷¹ He couldn’t have given a better description of the mental state he had reached when the trial entered the decisive stage of the summations before the jury.

In another bizarre exchange with Jackson and Abu-Jamal, Judge Sabo then denied the relevance of Wakshul’s testimony and denied to interrupt the trial for even a half day to find the witness (who, as it turned out at the 1995 PCRA hearing, was actually available and could have been called easily).

In the end, the jury had heard close to nothing in defense of Abu-Jamal, and whenever the danger arose that it *might* hear something of the sort, Judge Sabo had intervened powerfully to prevent that from happening. When the time for the defense’s and the prosecution’s summations for the guilt phase of the trial⁵⁷² had come on July 1, there was little left to do for prosecutor Joseph McGill than to go in for the kill. Speaking after another long, confused and incoherent speech⁵⁷³ by attorney Jackson in which he, incredibly, at one time even said “You have heard all of the evidence,”⁵⁷⁴ in his own speech McGill didn’t have much time for the details of the case. He had every reason to believe that in terms of evidence, he had managed to outgun his opponent Anthony Jackson by sheer firepower in the course of the trial. Rather than arguing the evidence, he concerned himself with minimizing its weaknesses and contradictions, and hammered away at the law and order theme:

This is one vicious act. This is one uncompromising vicious act. This is one act that the people of Philadelphia, all of them, all of you everywhere is outraged over. This act demands action. This act demands a reasonable view and the result of responsibility and courage.⁵⁷⁵

Not unexpectedly – at least not for Abu-Jamal –, on the next day the jury announced its guilty verdict. In a furious speech that he had already prepared for that same day but was prevented to read by Judge Sabo, he summarized his own view of the trial on its very last day:

⁵⁷¹ *TP*, July 1, 1982, p. 34.

⁵⁷² The guilt phase is the period of the trial from the beginning to the first decision of the jury, namely, whether the defendant is guilty of the crime he or she is accused of. After the guilt phase comes the so-called sentencing phase where the jury has to consider mitigating and aggravating factors and must make a decision on the penalty which is to be meted out.

⁵⁷³ *TP*, July 1, 1982, p. 59-143.

⁵⁷⁴ *Ibid.*, p. 64.

⁵⁷⁵ *Ibid.*, p. 172.

It was a legal, trained lawyer who told the jury, “You have heard all the evidence”⁵⁷⁶ – knowing that wasn’t so. The jury heard merely what Sabo allowed – nothing more. Many jurors were told I would cross-examine witnesses, make opening and closing arguments, and explore evidence. What they also heard was I would act as my own attorney, my own lawyer. What they saw was a man silenced, gagged by judicial degree. So what they heard was nothing.⁵⁷⁷

[...]

I am innocent of these charges that I have been charged of and convicted of, and despite the connivance of Sabo, McGill and Jackson to deny me my so-called rights to represent myself, to assistance of my choice, to personally select a jury who's totally of my peers, to cross-examine witnesses, and to make both opening and closing arguments, I am still innocent of these charges.⁵⁷⁸

[...]

This jury is not composed of my peers, for those closest to my life experiences were intentionally and systematically excluded, peremptorily excused. Only those prosecution prone, some who began with a fixed opinion of guilt, some related to City police, mostly white, mostly male remain. May they one day be so fairly judged.⁵⁷⁹

5.6 The Uncanny Return of the Hampton Assassination

The sentencing phase of the trial, which saw Abu-Jamal finally sentenced to death, was by and large a repeat performance. Jackson, apparently shell-shocked by the guilty verdict, didn’t even ask for additional preparation time. Nor did he put mitigation witnesses on the stand, since he simply had prepared no strategy for the worst-case scenario in which his client now found himself. McGill, however, was as usual on top of things and used the opportunity Abu-Jamal’s statement gave him to cross examine him on the stand.⁵⁸⁰ Once again, this time in the literal sense, McGill went in for the kill.

In fact it appears that he had eagerly awaited Abu-Jamal’s speech, since he had come to the court fully prepared with copies of publications and newspaper articles.⁵⁸¹ Right at the beginning, he taunted Abu-Jamal with the question why he didn’t stand up for the judge, upon

⁵⁷⁶ Before that passage, Abu-Jamal had already castigated his lawyer Jackson, Judge Sabo, and Police Officer Wakshul in the following terms:

It was a legal, trained lawyer who followed Sabo’s direction not to introduce the testimony of Policeman Gary Wakshul, a cop who, according to his statement of 12-9-82, arrested me, carried me to a wagon, accompanied me to Jefferson Hospital, guarded me and returned to Homicide later that morning to make a statement. According to Wakshul, quote: “We stayed with the male at Jefferson until we were relieved. During this time, the Negro male made no comments.” According to Wakshul’s statement of February the 11th, 1982, over two months later, Wakshul recalls, “Oh, yeah, Jamal said: ‘I shot him, I hope the M.F. dies’.” Did he not consider that a “comment”? *TP*, July 3, 1982, p. 11-12

⁵⁷⁷ *TP*, July 3, 1982, p. 12.

⁵⁷⁸ *Ibid.*, p. 14-15.

⁵⁷⁹ *Ibid.*, p. 15.

⁵⁸⁰ A defendant has the right not to take the stand, and it is a sacred tradition of the law that the jurors must not hold this against him. If, however, a defendant makes a statement, the prosecutor can ask him or her questioned regarding that statement.

⁵⁸¹ *Ibid.*, p. 17.

which Abu-Jamal answered: “Because he is an executioner.” This was exactly the answer McGill had needed to enter into an apparently preplanned game:

MCGILL: You are not an executioner?

DEFENDANT: No. [...] Are you?

MCGILL: Mr. Jamal, let me ask you if you can recall saying something sometime ago and perhaps it might ring a bell as to whether or not you are an executioner or endorse such actions.

“Black brothers and sisters – and organizations – which wouldn’t commit themselves before are relating to us black people that they are facing – we are facing the reality that the Black Panther Party has been facing, which is – Now, listen to this quote, You’ve often been quoted saying this: “Political power grows out of the barrel of a gun.” Do you remember saying that, sir?

DEFENDANT: I remember writing that. That’s a quotation from Mao Tse-Tung.⁵⁸²

The article from which McGill quoted was the one Acel Moore of the *Philadelphia Inquirer* had written after interviewing the young BPP cadre Wes/Mumia, who had just returned from Chicago where he had covered the assassination of Chicago BPP leader Fred Hampton by the police.⁵⁸³ Among blacks in North Philadelphia, the outrage over what was regarded as a blatant act of police violence even beyond the usual brutality was still palpable. Abu-Jamal had just been the speaker before a crowd of one thousand people that had gathered in Father Paul Washington’s Church of the Advocate to mourn the killed Panther leader.⁵⁸⁴ Indeed, the article by Moore left no doubt concerning the question of whose “barrel of a gun” the adolescent Panther cadre had been talking about. Abu-Jamal then tried to put the message about the barrel of a gun into perspective by reading the whole article aloud. Among many quite uncontroversial things and even positive comments about Panther activities, it said

Murders, a calculated design of genocide, and a national plot to destroy the party leadership is what the Panthers and their supporters call a bloody two year history of police raids and shootouts. The Panthers say 28 party members have died in police gunfire during that period, two last month.⁵⁸⁵

But the reality and the state of siege that was felt in these days in militant black North Philadelphia was lost on the nearly all-white, conservative jury. It was another time, and another place. Abu-Jamal had just been found guilty of killing a police officer, and McGill’s skillfully introduced connection between the executioner of today and the gun-sloganeering teenager of the 1970s was sure

⁵⁸² *Ibid.*, p. 21-22.

⁵⁸³ *Philadelphia Inquirer*, January 4, 1970.

⁵⁸⁴ See above, 3.3.1.

⁵⁸⁵ *TP*, July 3, 1982, p. 27-28.

to be far more powerful in the minds of the jurors than any reflection on the actual meaning of the “Political power grows out of the barrel of a gun” statement back then. Didn’t the slogan (and in that context, the rest of the article) prove that a boastful, violence-prone, police-hating youth simply had developed into an arrogant, cold-blooded cop killer? Once again, in his summation McGill had merely to harp on the themes he had already carefully introduced before, time and again:

Order, ladies and gentlemen, that you may not have seen [on the part of the defendant]; order that this defendant has decided is not good enough for him. Order that he says, I don’t care about standing [for the judge], I have no respect for him. I don’t agree with this. So, I’m going to do this. Completely in violation of any law and order is what you have seen and what you have seen in this very courtroom.

The arrogance, the defiance, all present; the grandiose defiance, continuously present.⁵⁸⁶

Even though the jury during its deliberations on the sentence for Abu-Jamal asked for the definition of manslaughter, it took its members less than two hours to reach the verdict of death. The introduction of the quote from Moore’s article on the Philadelphia Panthers may or may not have contributed to that decision; what is not in doubt is that it was highly misleading and unconstitutional. But that ranked low on the agenda of prosecutor McGill when it came to the task to dispense with a self-proclaimed enemy of the established order. His own stance on law and order was visibly confirmed by the law-and-order tie of the judge.⁵⁸⁷

As for the opponents of the order preferred by McGill and Sabo, the FBI and the Chicago police had dispensed with Fred Hampton by the “barrel of the gun.” The critic of that assassination, Abu-Jamal, was now being dispensed by means of a merciless judicial machinery. Of course, the one was accused of murder while the other was not. But I think that the anatomy of the murder trial of Abu-Jamal sketched above shows that there was also an important feature that the two cases shared: Once targeted, both men never had a chance.

5.7 Lock Down

Almost one year after the conviction, the death sentence against Abu-Jamal was formally announced by presiding judge Albert F. Sabo on May 25, 1983. As before in the trial, the sentencing announcement saw an undeterred and defiant defendant. This time, however, he did not interrupt the proceedings to assert his right of self-representation or to the presence of John Africa, but waited until he was given the last word.

⁵⁸⁶ *Ibid.*, p. 66.

⁵⁸⁷ See note 467.

After he had watched Anthony Jackson – who was much more composed than during the original trial – once again loosing miserably in a duel with Judge Sabo, Abu-Jamal subjected both, and district attorney Joseph McGill as well, to an acerbic critique:

I think that this motion for arrest of judgment, motion for a new trial, the trial itself, and the motion to suppress, has supported my argument from the first day that I appeared before you, that your intention from day one was execution. Your intention from day one was conviction. And this shyster to the left of me has proven, numerous times, his inability, his incapability of defending me.⁵⁸⁸

Some of the points with which he illustrated this assessment would later be part of the appeals briefs Abu-Jamal filed to various courts:

I have demanded from day one the assistance of John Africa. You have denied him. I have told you that I have no faith and no trust in this man. I think, if anything, he has proven that. You have defended him. Mr. McGill has defended him. It is very clear that you have faith in him, because he is working for you. [...] For instance, I have had several days of this trial. I have not seen the motions, motions of testimony, the notes of testimony.⁵⁸⁹

The court's denial of Abu-Jamal's wish to be aided in his defense by John Africa, his claim that Anthony Jackson was unwilling and unable to represent him, and the fact that he was not provided with the means to follow the trial from which he was excluded so often were later to reappear as point 30, 7, and 12 of his two federal habeas corpus petitions.⁵⁹⁰ But that was nearly a generation later, in October 1999.

But even at the formal sentencing hearing, Abu-Jamal's exclusion from the arguments and counterarguments that led to his death sentence continued: "THE DEFENDANT: 'I have not seen that motion he just filed before you, that motion for arrest of judgment, and motion for –' THE COURT: 'That was a brief, he submitted.' THE DEFENDANT: 'That brief, whatever it is, I have not seen it.'"⁵⁹¹

With no jury present to restrain him, Sabo did not hesitate to reduce the hearing to an irrelevant footnote to the original trial. To no one's surprise and in the frozen language of official judicial protocol, he ruled that the death penalty against Abu-Jamal was to be carried out by "either the warden or deputy warden" of whatever "state correctional institu-

⁵⁸⁸ *TP*, May 25, 1983, p. 161-162.

⁵⁸⁹ *Ibid.*, p. 162.

⁵⁹⁰ *HC I* (October 14, 1999) and *HC II* (August 6, 2001). The first petition contained only 29 points of constitutional violations; the second, which is not a new one but a revised version of the first, contains these in an enlarged and significantly changed form and adds ten others, among which the claim that Abu-Jamal's constitutional rights were violated by the exclusion of John Africa is the first, point 30.

⁵⁹¹ *Ibid.*, p. 163.

tion prescribed or designated by law, and that the execution be [...] by causing to pass through your body a current of electricity of intensity sufficient to cause death and the application of such current of electricity to be of such intensity and volume and of such continuity that you are to expire or until you are dead. May God in His Infinite Wisdom have mercy on your soul.”⁵⁹²

Equally unsurprising were Abu-Jamal’s furious remarks immediately preceding and following the pronouncement: “This trial, from the very beginning, is a farce and a sham. I told you what the outcome would be. I told the jury what the outcome would be.” “Long live John Africa. On the move. Fuck you, Judge. Fuck you.”⁵⁹³

With these words, Abu-Jamal, like so many other death row prisoners in the United States, began his long journey through the judicial appeals process, a journey during which he was constrained to a six to eight single-detention cell, first at the State Correctional Institute in Huntington and later at SCI Greene.

There is a whole mythology, based on campaign speeches of politicians as well as on reports in the mass media and presentations of the issue in movies and on TV according to which the criminal justice system in the US has become clogged because prisoners have so many possibilities to appeal their sentences, and that for every harsh sentence a defendant may receive, there is a long and efficient appeals process that combs through every court decision. Supposedly, this process not only sorts out every possible false conviction, but also opens the prison doors for many who are, in fact, guilty of the crime they are charged with. In fact, none other than district attorney Joseph McGill had played this card in an oft-quoted passage during the summation phase of Abu-Jamal’s trial:

If your decision of course were to acquit, to allow the Defendant to walk out, that is fine. There is nothing I can do and there is nothing that the judge or anyone could do that would affect that in any way.

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. Nonetheless, the action which you have is immense, extremely important.⁵⁹⁴

Indeed, in the course of its history, the American court system has developed into a huge structure that is so complicated that even many trained and experienced lawyers don’t understand its basic aspects in many areas. This is especially true for the area of capital cases. But as study upon study have demonstrated, the generally prevailing impression that this

⁵⁹² *Ibid.*, p. 164.

⁵⁹³ *Ibid.*, p. 163, 168.

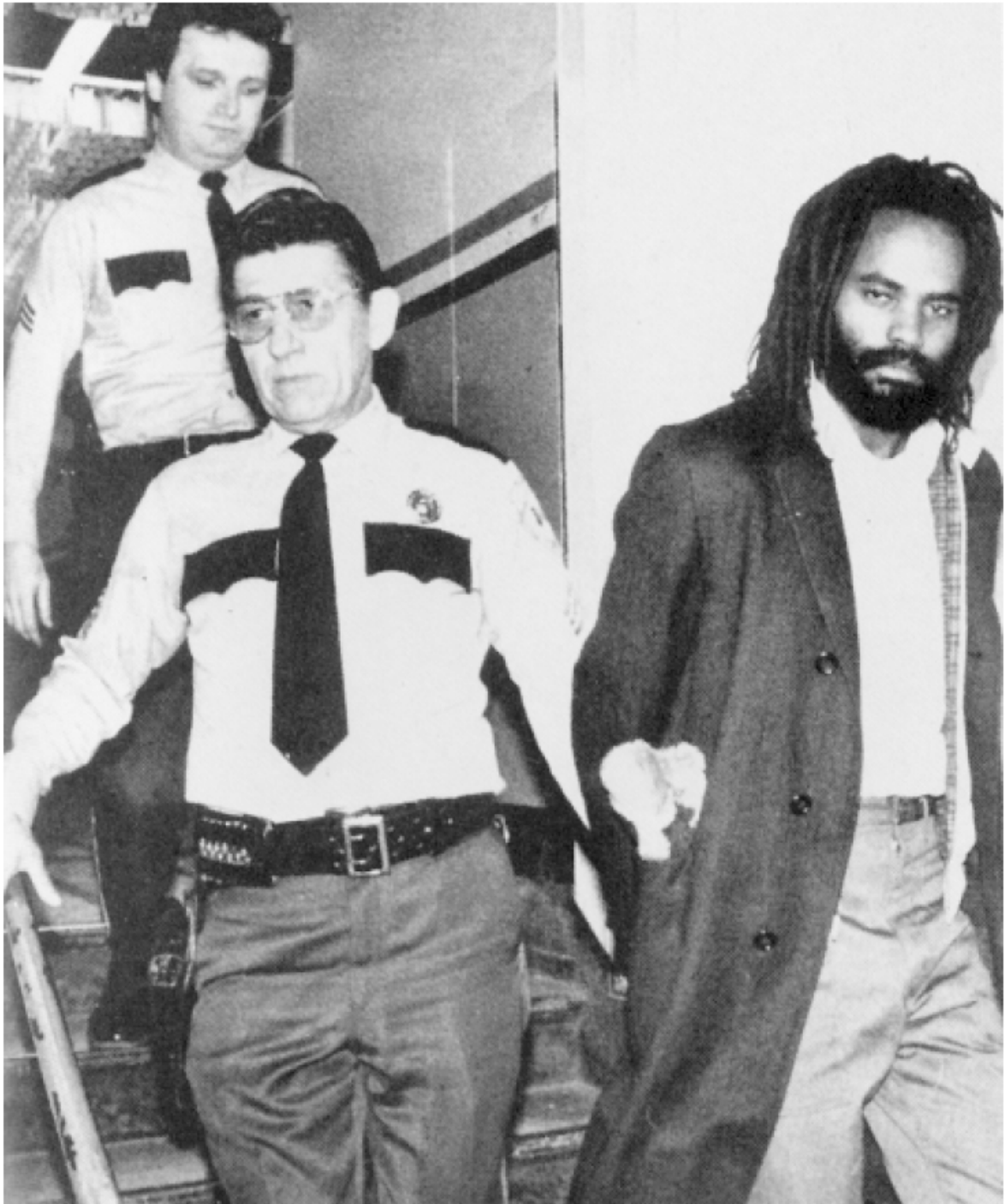
⁵⁹⁴ *TP*, July 1, 1982, p. 146.

works in the favor of the defendant is simply false. In the highly acclaimed book *Machinery of Death* co-edited by him, death row inmate advocate and death penalty specialist David R. Dow writes:

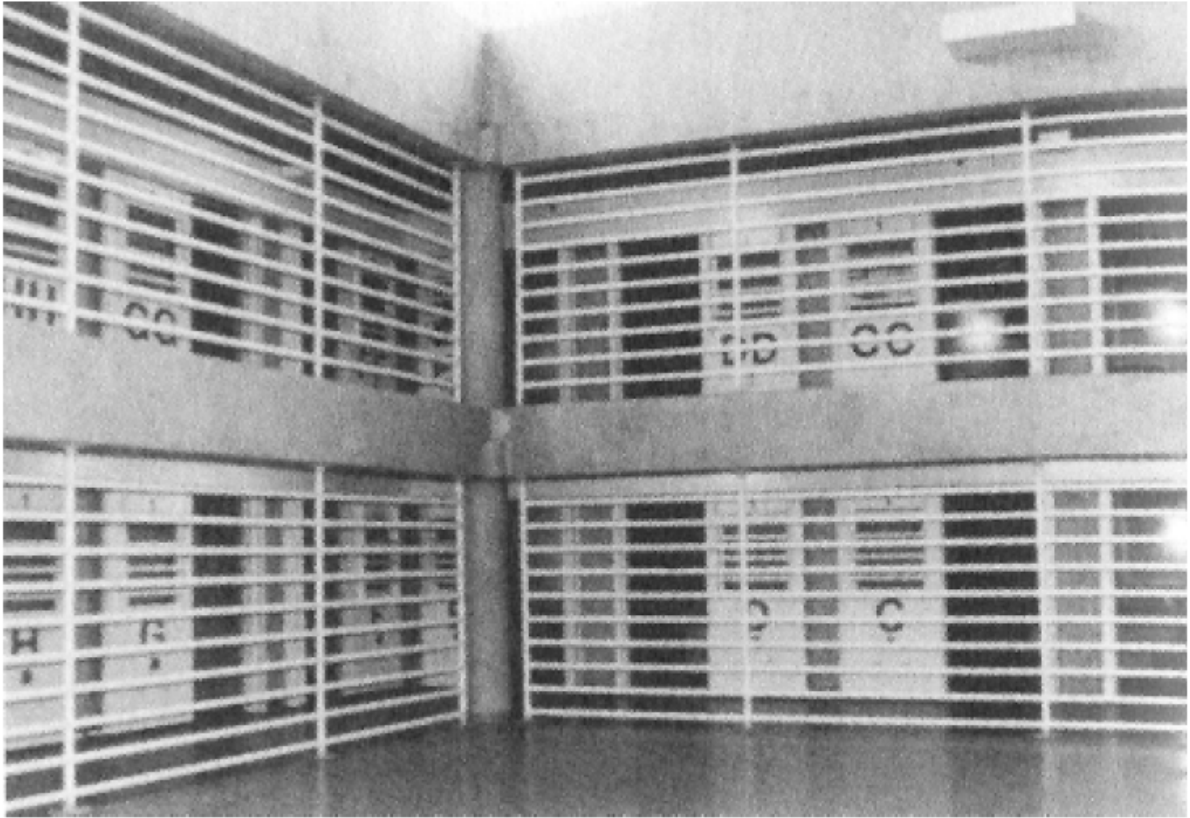
After his trial and direct appeal are over, an inmate might ask a federal court five times or five hundred times to consider the merits of his case. These requests are referred to as “appeals” in the popular media, and thus has developed the popular perception that the appellate process in death penalty cases is unduly lengthy. That perception is based on a myth, and it is also erroneous. There is in America an elaborate appellate machinery, and although this machinery can be exploited by large corporate defendants (like tobacco companies), hostility from the courts and Congress has rendered it unusable by death row inmates. To be sure, many of these inmates ask repeatedly for some court to pass on the merits of their case, but the answer is almost always no.⁵⁹⁵

There are literally thousands of people on death row now who have indeed had “appeal upon appeal upon appeal,” but whose case was never seriously investigated after their original conviction. In this as well as in other regards Abu-Jamal’s case was all too typical, too.

⁵⁹⁵ David R. Row: „How the Death Penalty Really Works,“ in David R. Dow, Mark Dow (eds.): *Machinery of Death. How the Death Penalty Really Works* (New York: Routledge, 2002), p. 19.



22. Mumia being transported to court after his recovery from a gunshot wound from Officer Faulkner's gun.



23. Death row in Oklahoma State.



24. Visiting cell in York, Pennsylvania.

6. The Punitive Trend in the American Criminal Justice System

As noted at the beginning of the preceding chapter, Abu-Jamal was arrested, tried, and sentenced to death during a quite peculiar phase in American history. In the 1980s the political climate in the United States changed definitely. Even long before, as the rebellious 1960s drew to a close with the election of Richard Nixon for president, the political establishment in the U.S.A. had sought for ways to reestablish order and to contain unrest. As a result of the preceding rebellions, the decade in between was a period of reorientation which saw the integration of a substantial number of African Americans into the political and cultural life of the country.⁵⁹⁶ The days of legally inscribed American apartheid were irrevocably over.

At the same time, in the 1970s the post-New Deal welfare state model started to be replaced by the current neo-liberal model which then struck deep roots under the presidency of Ronald Reagan. The claim of its supporters that this model stands for a “lean state” is highly misleading. Under the neo-liberal model of the last two decades, what was cut back and sacrificed were the welfare components of the state, while its military, and even more so, its repressive components were strengthened to a possibly unprecedented degree. While many blacks of the middle class enjoyed much more social mobility than before, there was also a huge increase in economic inequality, which has been described in the following terms by Noam Chomsky:

The Reagan years accelerated processes already underway. Income inequality had declined until 1968, then rose steadily, surpassing the figures for the Great Depression by 1986. In the two decades, average income of the bottom fifth of American families declined about 18 percent while it increased about 8 percent for the richest fifth.⁵⁹⁷

It comes as no big surprise that the sector of the population that was hit hardest by this development was the black ghetto population. The absolute impoverishment ravaging growing sections of the black ghetto communities went hand in hand with rising crime rates there, a massive increase in state power in terms of the state’s ability and willingness to crack down on crime and lock up the offenders, and, starting with the latter half of the Reagan era, with a so-called “war against drugs” that targeted blacks in hugely disproportionate measure.

⁵⁹⁶ For this process, see Marable, *Race, Reform and Rebellion*, chapter 6, *ibid.*, p.114-148)

⁵⁹⁷ Noam Chomsky, *World Orders, Old and New* (London: Pluto Press, 1994), p. 141. Chomsky continues that the U.S. record with respect to inequality was “particularly bad for more vulnerable sectors: the elderly, children, and single-mother families (most of them in the paid labor force, the U.S. ranking third highest in that category, contrary to floods of right-wing propaganda).” 47 percent of black families were headed by single mothers in 1993, as compared to 14 percent of the white families. See Nancy Folbre, *The New Field Guide to the U.S. Economy. A Compact and Irreverent Guide to Economic Life in America* (New York: The New Press, 1996), p. 4.16.

6.1 The Race Towards Incarceration

What this has meant for the role of prisons in the life of the nation has been summarized in Christian Parenti's study on the topic:

The law-and-order buildup of the late sixties and early seventies did not immediately translate into higher incarceration rates. In fact, it was not until the early eighties that imprisonment and prison construction surged. For most of the century the nations incarceration rate hovered between 100 and 120 per 100,000 citizens.⁵⁹⁸ In 1975 and 1976, as relative calm returned to America's previously riotous cities, the rate of imprisonment began to increase. It then plateaued until the succession of Ronald Reagan to the presidency [...]. Since that time, the U.S. has been on a frenzied and brutal lockup binge.⁵⁹⁹

The change in the direction and purpose of the correctional system itself over the decades is captured well in two quotes. The first statement is by a former assistant to the Director of the California Department of Corrections and was made circa 1960: „The point of view of the institutional staff is treatment. [...] Actually, the hopes of the prison employees resemble yours for the well-being of your loved-one while he is in prison and for his welfare and happiness later on when paroled.“⁶⁰⁰

The prevailing mood several decades later is encapsulated in a statement by Democratic Congressman Mack McInnis from Mississippi, made circa 1997: “We want a prisoner to look

⁵⁹⁸ By European standards, this was high, but not extraordinarily so. In 1992-1993, *all* of ten sampled Western European countries had incarceration rates substantially lower than 100 per 100,000 citizens. The rate was 93 for the U.K., 80 for Germany, and 69 for Sweden. Japan had a rate of 36. See Bruce Western and Katherine Beckett, “How Unregulated Is the U.S. Labor Market? The Penal System as a Labor Market Institution,” *American Journal of Sociology*, Vol. 4, No. 4, January 1999, p. 1036. But in Europe, there has also been a substantial and continual increase between 1983 and 1998. For concrete numbers, see Wacquant, *Elend hinter Gittern*, p. 94.

⁵⁹⁹ Parenti, *Lockdown America*, p. 163.

⁶⁰⁰ Dr. Norman Fenton, addressing family members of prisoners in order to encourage them to help in achieving the goal of rehabilitation, quoted in Parenti, *Lockdown America*, p. 193. At the time, remarks such as these expressed by no means an isolated sentiment. In the mid-sixties, psychiatrist Karl Menninger published a book with the telling title *The Crime of Punishment*. In its preface, Menninger castigated the traditional punitive approach to law as a “dumb show” and a “social monstrosity” and went on to explain:

It is a well-known fact that relatively few offenders are caught, and most of those arrested are released. But society makes a fetish of wreaking “punishment,” as it is called, on an occasional captured and convicted one. This is supposed to “control crime” by deterrence. The more valid and obvious conclusion – that getting caught is thus made the unthinkable thing – is overlooked by all but the offenders. We shut our eyes likewise to the fact that the control performance is frightfully expensive and inefficient. Enough scapegoats must go through the mill to keep the legend of punitive “justice” alive and to keep our jails and prisons, however futile and expensive, crowded and wretched. (Karl Menninger, *The Crime of Punishment* (Harmondsworth: Penguin, 1966/1968), p. viii.)

The book was hailed in no less a source than the *New York Times* as “a thunderous plain-speaking indictment of traditional law enforcement.” As for getting caught being made the unthinkable thing, there are, of course, many well-documented cases where the worst crime of an offender, usually murder, was committed in order to conceal another crime, i.e., out of fear of punishment.

like a prisoner, to smell like a prisoner. When you see one of these boogers a-loose, you'll say, 'I didn't know we had zebras in Mississippi.'"⁶⁰¹

As for the rise in per-capita numbers of people imprisoned at any given time, the “frenzied and brutal lock-up binge” described by Parenti has probably few historical precedents apart from countries like the Soviet Union during the Stalin era. After having declined for nearly two decades to hit a low of 380,000 prison inmates, the prison population in the U.S.A. then more than quintupled “to over two million in 2000 even as crime levels remained stagnant.”⁶⁰² This is a per-capita rate of prisoners of about 700 in 100,000. Since the overwhelming majority of these are males, this means that about 1.3 % of the male population of the United States are now in prison. Subtracting children and the elderly, that means close to two percent, an enormous rate, reached nowhere else in the world.⁶⁰³ Not unexpectedly, closer inspection of these figures shows an immense racial disparity. One of the leading researchers in the area, Michael Tonry, notes that

American crime policies since 1980 have had disastrous consequences for black Americans. On any given day, blacks are six to seven times more likely than whites to be in jail or prison. Astonishingly high percentages of young black males are under the control of the criminal justice system. The patterns, all of which have worsened steadily since 1980, do not result from increases in the proportions of serious crimes committed by blacks.⁶⁰⁴

While the incarceration rate of white Americans has also sharply grown since the mid-seventies, the rate for blacks has grown much faster, and from 1960 to 1991 the percentage of African American inmates in state or federal prison and local jails has risen from well under forty to close to fifty percent, with a sharp rise beginning in the mid-eighties with the onset of the Reaganite drug war.⁶⁰⁵ According to Tonry, “in 1991, the black [incarceration] rate was 6,47 times higher than the white rate.” That rate has not changed much since, and if so, for the worse. In 2001, 46 % of prison inmates were black and 16 % were Hispanic, which means that *in absolute numbers*, more African Americans were incarcerated than whites.⁶⁰⁶ A major reason for this was the largely unsuccessful “war against drugs” begun in the mid-eighties, a war that especially targeted drug trafficking somehow related to African Americans, like the trafficking of crack cocaine:

The tough-on-crime juggernaut picked up under President Reagan accelerated qualitatively by a new campaign against illegal drugs, in particular, crack cocaine. Spending for

⁶⁰¹ *Ibid.*, p. 163.

⁶⁰² Loïc Wacquant, “From Slavery to Mass Incarceration. Rethinking the ‘Race Question’ in the US,” *New Left Review* 13, Jan./Feb. 2002.

⁶⁰³ The Sentencing Project, “Facts About Prisons and Prisoners,” <http://www.sentencingproject.org>, report section.

⁶⁰⁴ Tonry, *Malign Neglect*, p. 28.

⁶⁰⁵ *Ibid.*, p. 60-61.

⁶⁰⁶ The Sentencing Project, “Facts About Prisoners and Prisons.”

the war on drugs skyrocketed. In 1980, the federal budget for the war was \$ 1 billion. Today [2002], it's more that \$ 17 billion. In the Reagan and Bush years, spending on employment programs was slashed in half, while spending on corrections increased by 521 percent. In this same period, the chances of being arrested for a drug offense increased by 447 percent – although statistics showed a considerable decline in drug use.⁶⁰⁷

In 1986 and 1988, Congress passed two federal sentencing laws creating a 100:1 quantity ratio between the amount of the “poor man’s drug” crack cocaine – five grams – and the expensive powder cocaine – 500 grams – needed to trigger mandatory sentences of five years for possession “with intent to distribute.” As noted by the prison organization “Sentencing Project,” defendants convicted of possession of crack in 1994 “were 84.5 % black, 10.3 % white, and 5.2 % Hispanic,” while “defendants convicted of simple possession of cocaine powder were 58 % white, 26,7 % black, and 15 % Hispanic.”⁶⁰⁸ One of the consequences of such priorities in the drug war was that by 1991, the percentage of drug offenders among the white state prisoners “had increased by half to 12 percent, and the black percentage had increased by three and one-half times to 25 percent” since 1986.⁶⁰⁹ One of the main props in the punitive trend in American politics that has driven the race to incarceration since 1975, the war against drugs, thus proved to be far from color-blind.

In his foreword to Abu-Jamal’s first book *Live from Death Row* which appeared in 1995 and dealt primarily with the issues crime and punishment, prisons, and the death penalty, the renowned African American author John Edgar Wideman wrote

In 1981, to connect with my younger brother who was serving a life term without parole in a Pennsylvania prison, I wrote a book with him called *Brothers and Keepers*. In my research for the book I discovered a chilling fact. My country, the United States of America, ranked third among the nations of the world in the percentage of its citizens it imprisoned. Only Russia and South Africa surpassed us.

Who would have guessed that, thirteen years later, the powerful governments of two of the top three incarcerating nations would have been overturned by internal revolutions. We’re number one now. And in spite of the warning implicit in the fate of the governments that choose repression over reform, we’re building more prisons as fast as we can.⁶¹⁰

As I have just tried to show, that was not yet all. As the numbers demonstrate, the race to incarcerate during the last quarter century was in large measure a war targeting a particular race.

⁶⁰⁷ Joan Parker, “Throwing Away the Key. The World’s Leading Jailer,” *International Socialist Review*, January/February 2002. On the website http://www.thirdworldtraveler.com/Prison_System/ThrowingAwayKey.html.

⁶⁰⁸ The Sentencing Project, “Crack Cocaine Sentencing Policy: Unjustified and Unreasonable,” on the report section of the website <http://www.sentencingproject.org>.

⁶⁰⁹ Tonry, *Malign Neglect*, p. 42.

⁶¹⁰ John Edgar Wideman, Introduction to Abu-Jamal, *Live from Death Row*, p. xxvi.

6.2 The American Way of Death

Quite strikingly, the process of the return of the death penalty in the United States unfolded in close parallel with the development of mass incarceration. Before, in a 1972 decision the Supreme Court had suspended the death penalty under then existing law as “cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments,” since it found the results of its application so “harsh, freakish and arbitrary” as to render the penalty unconstitutional. The states were ordered to overhaul their death penalty statutes before capital punishment could be applied again, but with a 1976 Supreme Court decision that upheld the new Georgia death penalty statute, the death penalty returned.⁶¹¹

Beginning in 1977 with the execution of Gary Gilmore on January 17 by a firing squad in Utah, the death penalty became an increasingly more prominent factor in the political life of the United States and was soon an integral part of the new wave of law and order politics that began with the election of Richard Nixon and went into high gear under the Reagan/Bush presidencies. Just as law-and-order politicians, which included in ever increasing measure leaders of both parties, projected the idea that the answer to the question of how to deal with offenders against the law was to “lock them up and throw away the key,” their solution for capital offenders was to simply exterminate them. By the beginning of the 1990s, death had become, in the apt formulation of Mumia Abu-Jamal, “a campaign poster.”⁶¹²

The raw statistics of the application of the death penalty are as follows. Up to the end of March, 2003, there have been 839 executions since 1977. This is in fact the number for the period from 1968 to 2003, since no one was executed between 1968 and the reinstatement of the death penalty in. There were only a few executions until 1983, but during the rest of the years under Reagan and Bush, on average about twenty persons were executed every year. The process of actually executing people sentenced to death then accelerated very quickly to reach an all-time high since the 1950s in 1999, with 98 people executed in that year and still higher numbers expected for the new millennium. Actually, the number of executions dropped to 85 in 2000 and 66 in 2001 with a slight increase to 71 in 2002,⁶¹³ arguably, as we shall see in the next chapter, to a large extent because of the dedicated efforts of anti-death penalty activists over the preceding decade that created a movement in which Abu-Jamal’s case also played an important role.

⁶¹¹ This summary including Supreme Court quotes is based on the presentation on the website of the Montana Abolition Coalition <http://www.aclumontana.org/abco/writings/brigitteanderson.html>. For more detailed information on the history of the death penalty in the United States, see “The History of the Death Penalty” on the DPIC <http://www.deathpenaltyinfo.org>.

⁶¹² Abu-Jamal, “De Profundis,” in Abu Jamal, *All Things Censored*, p. 195.

⁶¹³ For numbers, see various sites in the “Race” section of <http://www.deathpenaltyinfo.org>.

At the same time, the years since 1977 have also seen a huge increase of the number of prisoners who are on death row, waiting, often for long years, for their execution. That number rose from 423 in 1977 to 3,692 in 2002,⁶¹⁴ but here, too, there has been a considerable slowing down since the turn of the century, most spectacularly when in February 2003, Governor Ryan of Illinois pardoned all prisoners on Illinois' death row before leaving office, essentially for the same reasons that had led the Supreme Court to suspend the death penalty in 1972.⁶¹⁵

Why did the U.S. Supreme Court in 1972 characterize the use of the death penalty as “freakish and arbitrary”? There are a number of answers, one of them being enormous geographical differences, but they all boil down to one overriding factor: racial disparities.

First, there are again the raw numbers. Of the 839 persons executed until March 20, 2003, 35 percent were black, 7 percent Hispanic, and 57 percent white (with 2 percent Asian and other races). Of those on death row, 1,600 were black, 1662 white, 350 Hispanic, and 80 of other categories. Just as in the prison population as a whole, African Americans are very clearly over-represented. But studies have shown that there are still other racial differences.

In 1986, Professor David Baldus of the University of Iowa completed a study in which he investigated more than 2,500 Georgia murder cases. The results of his study are recounted in Jesse Jackson's book *Legal Lynching*:

Controlling for 230 nonracial factors in the cases, Baldus found that defendants accused of murdering a white victim are 4,3 times more likely to receive the death penalty than defendants accused of killing blacks. Baldus determined that the race of the murderer was less important than the race of the victim. Fewer than 40 percent of the homicide victims in Georgia are white, yet fully 87 percent of the cases resulting in the death penalty involved white victims.⁶¹⁶

Later studies have shown that race of victim disparities in the same racial direction exist in all but two of the states for which data are available. Interestingly, another study also conducted under the direction of David Baldus covering data from Philadelphia

found that, even after controlling for case differences, blacks in Philadelphia were substantially more likely to get the death penalty than other [i.e., white] defendants who committed similar murders. Blacks faced odds of receiving a death sentence that were 3.9 times higher than other similarly situated defendants.⁶¹⁷

⁶¹⁴ *Ibid.*

⁶¹⁵ This has even led to a decrease, for the first time since 1975. See DPIC, “The History of the Death Penalty.”

⁶¹⁶ Jesse L. Jackson Sr., Jesse L. Jr., and Bruce Shapiro, *Legal Lynching. The Death Penalty and America's Future* (New York: The New Press, 2001), p. 74.

⁶¹⁷ Dieter, “The Death Penalty in Black and White.”

Just as race of victim disparities are not limited to Georgia, race of defendant disparities are not limited to the city of Philadelphia. Because of the large number of defendants sentenced to death in Philadelphia, statistics for the state of Pennsylvania necessarily also show a race of defendant disparity. But even beyond Pennsylvania, the same disparity in the direction of more death sentences for black defendants was also found in nine other states (two states had a disparity in the opposite direction). But in the judgment of former amnesty international Secretary General Pierre Sané, Pennsylvania's death penalty sticks out as "one of the most racist and unfair in the U.S."⁶¹⁸

In the introduction I have already noted that of 1794 District Attorneys in the United States, only 22 are black and another 22 are Hispanic, while the rest of the DAs are white. Once again, Pennsylvania ranks in the top category in the percentage of white DAs; just as in half of the other 38 death penalty states in the U.S.A., *all* District Attorneys in that state are white. As for judges (and officials in the judicial apparatus in general), Philadelphia journalist Linn Washington who has edited a book containing the voices of fourteen *Black Judges on Justice* notes in his introduction:

All of those interviewed for this book felt there is a need not only for more Black jurists but for more Blacks in the decision-making positions within the justice system. African American and other nonwhite employees are underrepresented at all levels of the justice system nationwide, according to a number of studies on race and bias in the courts released in recent years.⁶¹⁹

We have seen above that in addition to a disproportionately white bench, some cities – such as Philadelphia – also have a group of – very likely predominantly white – judges who hear only homicides. It comes as no big surprise that such a racial composition of the judicial apparatus is reflected in the racial composition of the decision making body in death penalty cases. Here, once again study after study has shown enormous racial disparities in jury composition. There are many counties in the South of the United States where for many decades not a single African American served as juryperson in *any* case, let alone a case where the life or death of a defendant was at stake. The Supreme Court of the United States has condemned this form of discrimination in several decisions, most notably its 1986 *Batson v. Kentucky* decision concerning a burglary case against a black defendant where "the prosecutor struck all four black jurors to obtain an all-white jury." But while the Supreme Court "held that race-based peremptory challenges violate the Equal Protection Clause" of the Constitution, it was once again, as already so

⁶¹⁸ *Ibid.*

⁶¹⁹ Linn Washington, *Black Judges on Justice. Perspectives from the Bench* (New York: the New Press, 1994), p. xvi.

often in the past, satisfied with “pronouncing strong equal protection principles” while “failing to ensure their realization in practice.”⁶²⁰

6.3 The Gutting of Habeas Corpus

Historically, one of the most important legal means of protection against abuses of state power is the right to “habeas corpus.” Actually, it is even enshrined in the Constitution: “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it.”⁶²¹ Habeas corpus (literally “render the body”) derives from British jurisprudence where it was formalized in 1679 in the Habeas Corpus Act and was imported to North America by the English settlers even before the founding of the United States. It was conceived as a legal guarantee for the citizens against unjust imprisonment, giving them the right to demand to be rendered up in person (“body”) before a court who would then decide whether they were rightfully imprisoned or not. In the apt description on a very popular website on constitutional questions, it gives

convicted criminals the right to challenge their convictions and sentences on the grounds that his or her right to due process was violated in some way. In death penalty cases, habeas corpus challenges are one of the most common types of challenges.⁶²²

While habeas corpus was guaranteed in the Constitution right from the start, it was made into specific law after the Civil War, in 1867. As noted by prominent NAACP attorney Steve Hawkins, also a one-time defense attorney of Abu-Jamal, the 1867 U.S. Habeas Corpus Act

came about because the Reconstruction Congress knew that there had to be some way that when the new southern states tried to force newly freed Blacks back to the plantation through imposing long prison sentences [...], the people could use the federal courts as a sanctuary to be able to go in and press their rights. The Habeas Corpus Act of 1867 was passed right at the same time as the 14th Amendment. The 14th Amendment made sure people had equal rights in the civil context. And the [purpose of the] Habeas Corpus Act was to make sure that people’s rights as citizens of the United States were protected in the criminal context.⁶²³

⁶²⁰ Cole, *No Equal Justice*, p. 120, where whole issue of jury composition is discussed in chapter 3, “Judgment and Discrimination,” p. 100-131. On p. 115-123, Cole shows that the use of the peremptory challenge that played such a big role in the voir dire at the beginning of the Abu-Jamal trial (where prosecutor McGill used 11 of 15 peremptory strikes to excuse potential black jurors) is still the central mechanism to achieve a jury as white as possible. Because of their statistical under-representation, minorities are simply easier to eliminate from a jury pool.

⁶²¹ The Constitution of the United States,” Article one, Section 9, in Sautter, *Die Vereinigten Staaten*, p. 171.

⁶²² See “The United States Constitution Online,” FAQ Section, http://www.usconstitution.net/constfaq_a2.html.

⁶²³ “Attacks on Habeas Corpus: The System’s Rush to Execute,” interview with Steve Hawkins, *RW* No. 885, December 8, 1996.

Since the law-and-order offensive begun under Richard Nixon really struck roots during the Reagan presidency this legal guarantee for prisoners, especially those whose life was being threatened by the state, against judicial abuse has been under attack in ways too numerous to go into here. However, the most serious attack on habeas corpus to date came in the wake of the right-wing terrorist Oklahoma bombing in 1995 when in its aftermath a new so-called “Anti-Terrorism and Effective Death Penalty Act” (AEDPA) was promulgated and signed into law in 1996. While until the validity of the AEDPA prisoners could in theory file an unlimited number of habeas corpus appeals on the state and federal levels, a very well informed source noted at the time that

under the new law, state prisoners will be limited to only *one* federal court appeal. And the appeal would have to be filed within one year – in some cases within six months – after the state conviction becomes final. Often, [however,] it is years before new evidence comes to light or new witnesses appear, giving prisoners legal ammunition to challenge their convictions.⁶²⁴

Further, the standards for overturning state-level convictions by higher, primarily federal courts were made so strict that it became virtually impossible to meet them under ordinary circumstances, that is, without water-tight scientific proof such as DNA analysis. The probable result of these extremely high new standards were summarized in a chilling if implicit forecast by the same source:

What effect will the gutting of habeas corpus have on prisoners, especially those on death row? *Since 1970, almost half of the state court death sentences reviewed by the federal courts have been reversed.* If the “counter-terrorism” law had been in effect, most of these people would not be alive today.⁶²⁵

⁶²⁴ *Ibid.* Emphasis in original. The *Revolutionary Worker* is the weekly newspaper of the Revolutionary Communist Party (RCP) and has been following these developments very closely over the years. The RCP has also been the driving force behind the civil rights organization Refuse & Resist which devotes considerable attention to the topic and has been, like the RCP itself, a major force in defending Mumia Abu-Jamal.

⁶²⁵ *Ibid.* Emphasis in original. The implicit prediction that innocent prisoners would be executed in the future has turned out to be true. One of the well-documented cases was the execution of Shaka Sankofa (aka Gary Graham), in which the denial of habeas corpus through the application of the AEDPA played a major role. Although there was close to no evidence for his guilt and almost overwhelming evidence for his innocence, and despite an international outcry, Sankofa was executed on June 22, 2000. For his case, see Mandy Welch and Richard Burr, “The Politics of Finality and the Execution of the Innocent: The Case of Gary Graham,” in Dow/Dow (ed.), *Machinery of Death*, p. 127-143.



26. Death row Kentucky.



27. Abu-Jamal being transported to court for the PCRA hearing 1996.



28. Demonstration in Paris, 1999.

7. On the Move

It is against the backdrop sketched in the preceding chapter that the movement for the life and freedom of Mumia Abu-Jamal finally developed. But as noted in the introduction, the news about Abu-Jamal's conviction was the last thing most of the outside world heard from him in years. After the formal announcement of his death sentence by Judge Sabo on May 25, 1983, Abu Jamal was transferred from Holmesburg Prison right inside Philadelphia to one of the state's death rows in the State Correctional Institution (SCI) Huntingdon 200 miles to the West of Philadelphia. At the time, he was one of about 1,200 death row prisoners in the U.S.A. But given his personal history and his close association with the MOVE Organization,⁶²⁶ his incarceration also had an additional, political dimension.

It is clear that from the outset, Abu-Jamal conceived of himself as a political prisoner, and as such, he suffered the fate of many dozens of militants who had participated in the black nationalist movement, particularly the black Panther Party, the American Indian Movement (AIM), the Puerto Rican independence movement and other radical offshoots from the emancipation movements in the 1960s and 1970s. After the end of these rebellious years, dozens of those men and women ended up with long prison sentences, accused of having resorted to either armed struggle against the political system or to individual criminal acts against representatives or symbols of that system.⁶²⁷ During the 1980s, public attention to these cases was generally close to zero – a state of affairs that for the most part has not changed much to this day.

The case of Mumia Abu-Jamal was at first not different in this respect. After his arrest, a collection of tiny groups had lined up in support for him, but apparently they didn't manage to get their message across to a larger public. As mentioned above, the defense fund established by the Association of Black Journalists (ABJ) immediately at the day of the shooting⁶²⁸ did not collect more than \$ 1,500 in the first month, despite the fact that among the groups supporting Abu-Jamal, the ABJ was presumably one of the more potent, and certainly the one with the best means to publicize its views. Other groups taking part in the defense effort included the National Black Independence Party, the Black Teachers Caucus of the Philadelphia Federation of Teachers, the Committees United Against Police Abuse and the National

⁶²⁶ Contrary to some misconceptions, Abu-Jamal has always been a MOVE supporter, not a member of the organization. Interview with Ramona Africa in September 2001.

⁶²⁷ Some of them, like Herman Bell and Jalil Abdul Muntaquin, are mentioned above (note 409); a collection of other cases is assembled in *Can't Jail the Spirit. Political Prisoners in the U.S. A Collection of Biographies*, 3rd edition (Chicago: Editorial El Coquí, 1992). An exceptional case that became famous relatively early one was the one of Leonard Peltier, an American Indian activist accused of shooting two FBI agents during an armed confrontation in 1975. Details as well as compelling arguments for Peltier's innocence are contained in Matthiessen, *In the Spirit of Crazy Horse*.

⁶²⁸ Terry/Hobbs/Schogol, Policeman shot to death," *Philadelphia Inquirer*, December 10, 1981.

Lawyers Guild,⁶²⁹ but the participation of the latter probably didn't amount to much, since otherwise it should have been possible to come up with a better attorney for Abu-Jamal than Anthony Jackson. The one group that formed the backbone of support for Abu-Jamal was of course MOVE, and it has continued to play this role for over twenty years. Several press reports of the pre-trial hearings as well of the trial itself refer to MOVE members in the audience, who generally made their views vocally known.⁶³⁰ But at the end of the trial they had had to helplessly watch as the jury pronounced its death verdict.

7.1 Oblivion

Apparently, between the formal announcement of Abu-Jamal's death sentence by Judge Sabo on May 25, 1983 and the rejection of his appeal to the Pennsylvania Supreme Court on March 6, 1989, there was not a single report on Abu-Jamal in the big newspapers in Philadelphia.⁶³¹ During that time, even the radical press was largely silent on Abu-Jamal. This is not particularly surprising, since basically, there was nothing to report. According to Ward Churchill and Mike Willuweit, who have written one of the most detailed investigations of Abu-Jamal's case, Anthony Jackson's successor on the Abu-Jamal case, an attorney by the name of Marilyn Gelb, "displayed an even more remarkable lack of enthusiasm for the job than her predecessor." Gelb had been appointed to the case by Judge Sabo for the mandatory appeal of the conviction, probably on the basis that she was a personal friend of Anthony Jackson whom she had encouraged to go to law school.⁶³² The authors note that

while Ms Gelb eventually did make a filing, it consisted merely of a typed version of a draft – or, more accurately, notes – Mumia himself had prepared on the racial bias evident in jury selection and the inappropriate nature of the prosecutions closing argument.⁶³³ Despite the plethora of reversible errors revealed by even a cursory review of the trial record, she made no effort to expand upon her client's limited foray, not even attaching a statement of facts to Mumia's motion. This was undoubtedly because, by her own admission, Gelb was so disinterested in the case that she failed to order transcripts of

⁶²⁹ Robert J. Terry and Terry E. Johnson, "Chamber gives slain officer's wife \$ 1,000," *Philadelphia Inquirer*, December 11, 1981.

⁶³⁰ See for example Gemperlein/Rosenthal, "Abu-Jamal shot Faulkner in back, witness says," *Philadelphia Inquirer*, January 9, 1982, Gemperlein, "Abu-Jamal is denied information on witnesses," *Philadelphia Inquirer*, March 19, 1982 (pre-trial hearings), Marc Kaufman, "Jury selection completed for Abu-Jamal's murder trial," *Philadelphia Inquirer*, June 17, 1982 (voir dire period of the trial).

⁶³¹ The two articles framing that period are Marc Kaufman, "Abu-Jamal, sentenced to die, threatens the judge," *Philadelphia Inquirer*, May 5, 1983, and "Abu-Jamal loses appeal in '81 killing," *Philadelphia Inquirer*, March 1989.

⁶³² Williams, *Executing Justice*, p. 302.

⁶³³ This refers to the introduction by prosecutor McGill of Abu-Jamal's statement according to which "political power grows out of the barrel of a gun."

several important pre-trial hearings or read the main trial transcript provided automatically by the court.⁶³⁴

The appeal was in due course denied by the Pennsylvania Supreme Court, and a petition for a rehearing of the appeal was also denied. The same was true for a petition for writ of certiorari (a petition asking the court to consider a case) to the United States Supreme Court, which was rejected on October 1, 1990. With this, the conviction was legally binding, and Abu-Jamal might have entered the ranks of thousands of other prisoners on death row who, after their conviction becomes valid with the rejection of a hearing by the Supreme Court, for the most part do not even have “appeal after appeal after appeal” since they are no longer entitled to a lawyer paid for by the state. Even if there are further appeals, more often than not this simply means that the judicial machinery is going through the motions without moving a single bit.

7.2 The Legal Arena

The movement for the life and freedom of Mumia Abu-Jamal, all but non-existing at the end of the 1980s, thus literally started from scratch. But in 1987, an attorney who was a member of the small but very active legal defense organization Partisan Defense Committee (PDC), Rachel Wolkenstein, began to work for Abu-Jamal, at first “on matters primarily relating to his prison conditions.” After his appeal was denied, she assisted him “in finding new counsel to represent him in post-conviction proceedings.”⁶³⁵ In mid-1991, Wolkenstein managed to bring a first-rate civil rights attorney into the case. Abu-Jamal’s new defense lawyer, Leonard Weinglass, had already been an attorney in a number of highly visible political cases like the Chicago Conspiracy Trial and the murder trial of Angela Davis. Moreover, he had participated in a number of capital cases and had never lost one.⁶³⁶ Also on the case were now Steve Hawkins from the staff of the NAACP Legal Defense and Education Fund, Jonathan Piper, who was, like Wolkenstein, associated with the PDC, and the young attorney Daniel Williams, who was brought into the team by Weinglass.⁶³⁷

Evidently this team was quite different from the representation Abu-Jamal had had until then. At the same time, it was equally clear that the new team would have to fight an uphill battle. On

⁶³⁴ Ward Churchill and Mike Willuweit, “The International Tribunal on the Case of Mumia Abu-Jamal,” Dark Field Notes No. 11, <http://www.refuseandresist.org/mumia/1995/weinglasscv.html>.

⁶³⁵ “Affidavit of Rachel Wolkenstein, 28 July 2001,” Partisan Defense Committee, *Mumia Abu-Jamal Is an Innocent Man! New Evidence Explodes Frame-Up* (New York: PDC, September 2001), p. 8.

⁶³⁶ For more information on Weinglass, see <http://www.refuseandresist.org/mumia/1995/weinglasscv.html>: “Curriculum Vitae of Leonard Weinglass.” Weinglass himself made the statement about never having lost a death penalty case in an interview for the 1996 HBO Documentary *A Case for Reasonable Doubt*.

⁶³⁷ “Affidavit of Rachel Wolkenstein,” PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 9.

the one hand, it was already known then that many of the death sentences handed out after the mid-seventies had been overturned on state-level post-conviction and federal review, but Weinglass and his colleagues also knew full well that the attacks on these reviews were already in full swing. Moreover, Abu-Jamal did not only want his death sentence repealed. At the end of the trial, he had loudly and clearly proclaimed his innocence, and according to Wolkenstein,

Mr. Jamal confirmed his innocence to me in unequivocal and categorical terms. He made it very clear that his goal was to overturn his conviction in order to obtain his freedom, and not only to overturn the death sentence.⁶³⁸

As a comprehensive study of 5,760 death sentences handed down between 1973 and 1995 shows, fully 41 %, or 1,885, were thrown out on direct appeal because of serious error. Abu-Jamal's case had of course already passed this phase, and while, according to the study, a sizable portion of verdicts also belonging to Abu-Jamal's category was still overturned at the state post-conviction level or the federal level, only 7 percent of the defendants in these cases were finally found innocent.⁶³⁹ For the new top-gun defense team, there began a period of several years of legal and factual research that culminated in the filing of a petition for post-conviction review in June 1995. As for Abu-Jamal himself, on May 13, 1989⁶⁴⁰ he published the first piece of his by now famous columns "From Death Row."

7.3 Recapturing the Offensive: The Human Face of Death Row

This first piece, published in the Atlanta Inquirer, later in a revised form became the preface to Abu-Jamal's book *Live from Death Row*. In it, he wrote:

⁶³⁸ *Ibid.*, p. 8.

⁶³⁹ James S. Liebman, Jeffrey Fragan, and Valerie West, *A Broken System: Error Rates in Capital Cases, 1973-1995*, p. 3-7, <http://www.justice.policy.net/jreport/liebman2.pdf>.

⁶⁴⁰ The date chosen for the publication is no accident. On May 13, 1985, there was another confrontation between MOVE and the police in Philadelphia. The whole nation as well as TV viewers all over the world watched in horror as the Philadelphia police as well as firefighters attacked the new MOVE headquarters on 6221 Osage Avenue in West Philadelphia with high-pressure water hoses, a fusillade of 10,000 bullets, and finally a bomb consisting of illegal plastic explosives, thrown from a helicopter. Since the bomb was aimed at a defense installation (or "bunker," as the police called the unimpressive structure) MOVE had built on the roof of the house, and the installation was not destroyed immediately, "the decision was made to let the bunker burn," the latter the words by City Commissioner Greg Sambor who was responsible for the coordinated action of the police and the Philadelphia Fire Department. This tragedy which cost the lives of eleven MOVE members and during which a whole block of adjoining row houses was burned down sparked the publication of several books, among them the volume *Attention MOVE! This is America!* by Margot Harry. That book also served as one of the first opportunities for Abu-Jamal to publish again; in the instance, his views on the MOVE incident were reprinted in an Appendix along with those of prominent artists and writers like Richie Havens, Florynce Kennedy, and Alice Walker.

Don't tell me about the valley of the shadow of death. I live there. In south-central Pennsylvania's Huntington County a one hundred year old prison stands, its Gothic towers projecting an air of foreboding, evoking a gloomy mood of the Dark Ages. I and some seventy eight other men spend about twenty two hours a day in six by ten foot cells. The additional two hours may be spent outdoors, in a chain link fenced box, tinged by concertina razor wire, under the gaze of gun turrets.

Welcome to Pennsylvania's death row.⁶⁴¹

His feelings about the Pennsylvania Supreme Court's decision to uphold his conviction are recounted in the same article:

I'm a bit stunned. Several days ago the Pennsylvania Supreme Court affirmed my conviction and sentence of death, by a vote of four justices (three did not participate). As a black journalist who was a Black Panther way back in my yon teens, I've often studied America's long history of legal lynchings of Africans. I remember a front page of the Black Panther newspaper, bearing the quote, "A black man has no rights that a white man is bound to respect," attributed to US Supreme Court judge Roger Taney, of the infamous Dred Scott case, where America's highest court held that neither Africans nor their "free" descendants are entitled to the rights of the Constitution. Deep, huh? It's true.

Perhaps I'm naïve, maybe I'm just stupid, but I thought that the law would be followed in my case, and the conviction reversed. Really.⁶⁴²

Little did Abu-Jamal know that more than thirteen years later, his conviction would still not be overturned. During the following years, he produced a veritable stream of essays on a continent unknown to most Americans apart from the population of the black, Hispanic, Puerto Rican, and, to a minor extent, also white ghettos. It was a continent that was, geographically speaking, right in their midst: the continent that many observers and many of its inhabitants had already started to call the "American Gulag," in allusion to the vast network of prison camps in Soviet Russia that had been described in Solzhenitsyn's famous work *The Gulag Archipelago*. And just like the revelations contained in that book had come as a shock for many citizens of the USSR who had themselves lived through all those years but had shut out the existence of this parallel prison world from their daily consciousness, news from that "fastest growing public housing tract in America"⁶⁴³ bore an enormously explosive potential. A huge number of politicians had built their careers on the "tough-on-crime" theme since the Nixon era, but apart from the poor and the very poor, few Americans had any idea what these programs really meant in terms of mercilessness in the courts, human rights violations in the

⁶⁴¹ Quoted slightly altered after Abu-Jamal, *Live from Death Row*, p. xv. There, the second sentence begins with the words "several years ago," since the book appeared in 1995.

⁶⁴² *Ibid.*, p. xvi. The text in this book version says "several years" in the second sentence.

⁶⁴³ Mumia Abu-Jamal, *All Things Censored*, booklet for the CD contained in the book with the same title, text of CD tract 3, "From Death Row."

prisons, and destruction of hope for human beings now once and for all bearing the incriminating stamp of an “offender.”

Public discussion of the death penalty was dominated by the same ignorance. In the public mind, the archetypical capital offender was a Ted-Bundy-style serial killer or the incorrigible repeat offender who was falsely given the chance to do it again.⁶⁴⁴

Abu-Jamal’s essays countering these images now began to appear in papers, magazines, and journals all over the country. His article “Teetering on the brink between life and death” was printed in the renowned *Yale Law Journal* in January 1991.⁶⁴⁵ At around the same time, the Equal Justice Campaign, an affiliate of the Catholic liberation theology based Quixote Center, linked up with Abu-Jamal and “made his case a centerpiece of its ongoing campaign against the death penalty.”⁶⁴⁶ A basic idea in taking up his case was what was formulated years later by South Carolina attorney David Bruck. Although he didn’t talk about Abu-Jamal, in his statement the various strands making up the potential force of the case are woven together beautifully:

Unyielding insistence on the individuality of each condemned man and woman is the heart of the legal struggle against the death penalty. It is also the heart of all democratic feeling and life. Its clearest antithesis is racism. One can thus see why the history of capital punishment should have been, and still is, so inextricably intertwined with race.⁶⁴⁷

In the same vein, but from a different angle Co-director of the Quixote Center and Coordinator of Equal Justice Jane Henderson elaborated:

We decided that this was an important case in an important city for opposition to the death penalty. When we got involved in Mumia’s case back in December 1990, our goal was to build a base of support for him, but it was never just about him. We said that his case was a microcosm of the way the criminal justice system worked in the U.S.⁶⁴⁸

The next step to get wide publicity for Abu-Jamal’s views as well as for his case was a cooperation between Equal Justice and the Prison Radio Project, which began to air Abu-Jamal’s commentaries.

⁶⁴⁴ The 1988 “Willie Horton” campaign by presidential candidate George Bush is a good example for this category. Willie Horton was a convicted murderer in Massachusetts who had used a temporary prison leave to commit various violent crimes; the Bush campaign staff used the theme to paint Bush’s competitor in the presidential race, Massachusetts Governor Michael Dukakis, as soft on crime and ultraliberal.

⁶⁴⁵ It is reprinted as the first essay in Abu-Jamal’s book *Live from Death Row*, *ibid*, p. 3-18.

⁶⁴⁶ Lindorff, *Killing Time*, p. 179.

⁶⁴⁷ Quoted in Dow/Dow (ed.), *Machinery of Death*, p. 99.

⁶⁴⁸ Quoted in Lindorff, *Killing Time*, p. 179. Henderson made similar statements in the HBO documentary *A Case for Reasonable Doubt*.

7.3.1 On the Air Again

The recordings of Abu-Jamal's commentaries began on July 15, 1992, at a time when Abu-Jamal "had not recorded for radio broadcast in over then and a half years."⁶⁴⁹ Nevertheless Noelle Hanrahan, who did the recording, writes that as she began taping his essays, she immediately realized that

the potential for these essays was unlimited: Mumia has the sheer talent to be a commentator on any national network. Of the hundreds of individuals I have interviewed for radio, Mumia was by far the most seasoned, professional, and frankly, talented person I had recorded.⁶⁵⁰

Since then, statements like these have been repeated by many listeners, professionals and non-professionals alike, and it would soon turn out that Abu-Jamal's potential did not go unnoticed by those seeking to execute him. The commentaries Hanrahan produced were first played by smaller radio stations. In February 1993, Hanrahan and Henderson contacted the programming director of National Public Radio (NPR), Ellen Weiss, and subsequently arranged for the broadcasting of Abu-Jamal's vignettes from prison life via NPR.⁶⁵¹ According to Hanrahan, Weiss was very impressed, saying: "The American public needs to hear these essays. People have no idea how mass incarceration affects this country. This is a unique perspective that needs to be heard."⁶⁵² Hanrahan then produced tapes with ten of Abu-Jamal's essays, which were nationally advertised by NPR, with the airing of the first scheduled for May 15, 1994. Abu-Jamal's commentaries would then have reached "10 million NPR listeners at over 410 stations in the United States, Canada, Mexico, South Africa, and Europe."⁶⁵³

But it was not to be. The public promotion campaign for the Abu-Jamal series had provoked outrage on the part of the Fraternal Order of Police as well as of senator and 1996 presidential candidate Robert Dole. One day before its scheduled beginning, the series was cancelled as a result of massive political pressure, and on the following day Dole took the Senate floor to comment that "those commentaries would have sent the wrong message. [...] This episode raised sobering questions, not only for the NPR but for the taxpayer-funded Corporation for Public Broadcasting, which has oversight authority over NPR and provides much of its fund-

⁶⁴⁹ Noelle Hanrahan, Director of the Prison Radio Project, "Lethal Censorship," introduction to *All Things Censored*, in *ibid.*, p. 21-30, quote p. 23.

⁶⁵⁰ *Ibid.*, p. 23-24.

⁶⁵¹ Noelle Hanrahan, "Media Bows to Power. Will Mumia's Voice Be Silenced Forever?," in Daniel Burton-Rose (ed.), *The Ceiling of America. An Inside Look at the U.S. Prison Industry* (Monroe, ME: Common Courage Press, 1998), p. 32-33.

⁶⁵² Hanrahan, "Lethal Censorship," in *All Things Censored*, p. 25.

⁶⁵³ *Ibid.*, p. 26.

ing.”⁶⁵⁴ After this open threat to withdraw funding, the recordings made by Hanrahan were locked up in an NPR safe; they have never been aired.

That was, however, not the end of the story since other stations took over, most prominently the California-based alternative radio station Radio Pacifica, which is syndicated all over the country. Radio Pacifica has been able to air the rest of Hanrahan’s recordings of altogether 72 Abu-Jamal commentaries taped between July 1992 and October 1996, when the Pennsylvania Department of Corrections “issued a general ban on recording, videotaping, or photographing of any inmate in Pennsylvania.”⁶⁵⁵ Ironically, Abu-Jamal had once again become the “voice of the voiceless,” although from a depth of suffering he could not formerly have imagined, “speaking from a place we fear to know.”⁶⁵⁶

7.4 The Battle in the Streets

In the meantime, the political battle to prevent the execution of Mumia Abu-Jamal and to win him a new trial or even to force his release from prison was moving into high gear. By 1994, the radical left in the United States had rallied firmly around Abu-Jamal. He was publishing in the left-liberal *Nation*, the Trotskyite *Against the Current*, and the independent leftist *Covert Action*⁶⁵⁷ and gave a long interview to the Maoist weekly *Revolutionary Worker* towards the end of 1994.⁶⁵⁸

This rallying itself had been brought about by the diligent and untiring work that individuals and tiny groups, first and foremost the MOVE-inspired Family and Friends of Mumia Abu-Jamal in Philadelphia, had been carrying out since 1989, when the Pennsylvania Supreme Court upheld Abu-Jamal’s death sentence. It is impossible to go into details here, but it is important to note that the Philadelphia-based Family and Friends changed their name into International Concerned Family and Friends at the beginning of the 1990s as the support for Abu-Jamal spread from the United States to other countries, most notably to Italy, Spain, France, and Germany,⁶⁵⁹ but also to South America and places as remote as South Africa.

By 1994, the support movement for Abu-Jamal was already beginning to spread beyond the far left. In reaction to the banning of Abu-Jamal’s radio broadcastings, in July 1994 Equal

⁶⁵⁴ Quoted in *ibid.*

⁶⁵⁵ *Ibid.*, p. 28.

⁶⁵⁶ The phrase is Alice Walker’s, quoted in the booklet for *All Things Censored* (see note 643).

⁶⁵⁷ Decision of the United States Court of Appeals for the Third Circuit, No. 96-3756, *Jamal v. Price*, August 25, 1998. The decision referred to Abu-Jamal’s right to be active as a journalist from prison, which the Pennsylvania Department of Corrections had attempted to deny but which was upheld in the Appeals Court decision. The decision can be found at <http://www.refuseandresist.org/mumia/1998/082698ap ruling.html>.

⁶⁵⁸ Kissinger, “Mumia Abu-Jamal: A Life of Resistance,” *RW* No. 763 and 769.

⁶⁵⁹ A good description of the beginnings of the movement in Germany (and the United States as well) is given in Heiser, “Recht ist Politik mit anderen Mitteln,” in Weinglass, *Freiheit für Mumia!*, p. 294-307.

Justice and Prison Radio initiated the publication of Abu-Jamal's essays in book form and enlisted the renowned publisher Addison & Wesley for the publication of *Live from Death Row*, which came out in 1995.

As the defense "began drafting the petition for a new trial pursuant to Pennsylvania's Post-Conviction Relief Act (PCRA), the statute authorizing inmates to challenge their convictions even after their original appeals have been exhausted,"⁶⁶⁰ the support movement for Abu-Jamal had already begun to take the battles to the campuses, into the Unions, and into the streets. Abu-Jamal's former defense attorney Dan Williams, who was mainly responsible for drafting the legal document, describes the developments that took place in the public sphere:

Meanwhile, Len and Rachel stoked up the political movement, which blossomed at around this time. Rallies for Mumia were regular events throughout the United States (many on college campuses), and in France, Germany, Denmark, Holland, and Italy. For example, two thousand protesters took to the street in front of the U.S. Cultural Institute in Berlin. T-shirts, bumper stickers, mouse pads, buttons, posters – all bearing Mumia's internationally recognized face appeared everywhere. I couldn't go on vacation without seeing "Free Mumia" slogans. Fund raisers were commonplace as well, and they went beyond those sponsored or endorsed by celebrities such as Ed Asner, Ossie Davis, Michael Farrell, Danny Glover, Alice Walker, and others. Nine San Francisco high schools in the spring of 1994, for instance, held a ten-kilometer race to raise money for us. There existed at least twenty national and international groups devoted to supporting our efforts to secure a new trial.⁶⁶¹

The participation of figures like Asner, Farrell, and Walker, who can scarcely be described as members of the hardcore left, signified that the movement was making gains way beyond its natural allies among MOVE sympathizers, former BPP members, and organizations whose ultimate goal was a revolutionary transformation of America. Perhaps even more significant was the approach that had made such a result possible. Most of the "national and international groups" mentioned by Williams were conceived as broad coalitions with no political strings attached, i.e., they were based on the simple and almost unassailable demand of a new trial for Abu-Jamal alone. Certainly, most of the activists in these groups were essentially fighting to "free Mumia," but neither was this demand made a precondition for participating, nor was it pushed front and center at all costs. The activists' approach was a flexible one: the absolute baseline to decide between friend and foe was the demand to stop Abu-Jamal's execution, the second baseline was the demand for a new trial, and the third, defining the core of the movement, was the demand for his freedom. It was this flexible approach that enabled political groups that were bitterly divided over almost every conceivable practical and theoretical political issue, like the CPUSA, the Maoist RCP, the various Trotskyist organizations like the

⁶⁶⁰ Williams, *Executing Justice*, p. 212.

⁶⁶¹ *Ibid.*

litical issue, like the CPUSA, the Maoist RCP, the various Trotskyist organizations like the Socialist Workers Party or Spartacist League (the force behind the Partisan Defense Committee), anarchist groups,⁶⁶² and all sorts of other political forces to unite around a single goal that was defined in more or less specific fashion depending on the circumstances. The movement was thus well prepared when the first round in Abu-Jamal's legal challenge of his conviction began on the first of June, 1995.

7.5 The Return of Judge Sabo

The proceedings were introduced by a hammer blow. The Governor of Pennsylvania, Thomas Ridge, knew that a petition for post-conviction relief would be filed soon, since lead attorney Leonard Weinglass had informed him of the intention of the defense to do so.⁶⁶³ In his book, Williams comments that

we felt that this notification would foreclose the governor from issuing a death warrant before the PCRA petition was litigated, lest he appear to be overly bloodthirsty. Len's letter didn't tell the governor *when* we were filing the PCRA petition, because we had not yet decided on a date.⁶⁶⁴

As things turned out, Governor Ridge didn't mind appearing bloodthirsty. The defense had planned to file its post-conviction appeal on June 5, but in a surprise move, the governor preempted them⁶⁶⁵ and, on June 1, signed a death warrant for Abu-Jamal's execution, which was now scheduled for August 17, 1995. It was enough to throw the defense in disarray, as the clock was now ticking towards Abu-Jamal's execution. Since according to Pennsylvania law, the judge in the post-conviction hearings would be the same as the one who presided over the original trial, i.e., none other than Albert F. Sabo, the defense knew well that the judge would use the active death warrant as an argument to rush through the proceedings as quickly as possible, just as he had done at the original trial. It is the subject of some controversy how seriously Abu-Jamal's life was actually in danger then,⁶⁶⁶ but Rachel Wolkenstein cites the case of a Delaware prisoner, Kenneth DeShields, who was rushed through "the entire round of [...] post-conviction and fed-

⁶⁶² Since the at times furious hostility between many of these groupings hardly needs proof, I refrain from giving references here.

⁶⁶³ Williams, *Executing Justice*, p. 213.

⁶⁶⁴ *Ibid.*

⁶⁶⁵ It was later revealed that since August 1994, the prison authorities had secretly opened legally protected attorney-client mail and passed it on to the Governor's Office. *Ibid.*, p. 213-214.

⁶⁶⁶ Williams denies any actual danger in his account, arguing that after the post-conviction appeal, Abu-Jamal still had a right to a federal habeas corpus petition. *Ibid.*, p. 215.

eral habeas corpus proceedings within a few weeks under the shadow of a death warrant⁶⁶⁷ and was executed in 1993. Be that as it may, for Abu-Jamal the experience must have been one of almost unbearable terror, straining his nerves to the utmost during a very important phase in his appeals process.

7.5.1 Several Feet Closer to Hell

Judge Sabo, by contrast, clearly relished the experience. He repeatedly refused to grant the defense petition for a stay of the execution,⁶⁶⁸ arguing that no such stay was necessary until it turned out definitely that the post-conviction hearing could not be completed before August 17, 1995. He thus knowingly put the defendant in an absurd situation, where he was placed in “Phase II,” a regime of intensified supervision in almost empty cells equipped with “24-hours remote cameras which monitor each man’s every movement.”⁶⁶⁹ At the same time, the defendant lost his access to the prison’s law library just at the moment he needed it most.⁶⁷⁰

There is no doubt that this decision was quite to the liking of the forces close to the Fraternal Order of Police (FOP), who had already been actively campaigning for Abu-Jamal’s execution since his case had begun to reappear in the public realm. Already a year before, Michael Lutz, then president of the Philadelphia FOP, had commented that he felt “that Mumia Abu-Jamal has lived 12 years too long” and was “making a mockery of the judicial system.”⁶⁷¹ At the second PCRA hearing, the day when Judge Sabo for the first time refused to grant Abu-Jamal a stay of his execution, one of the police officers who appeared in court to cheer for the carrying out of Abu-Jamal’s death sentence “wore a T-shirt with Abu-Jamal’s name on it in a circle with a slash through it.”⁶⁷² Over the years, the forces grouped around the Philadelphia FOP would upgrade this a bit; since at least 1999, the most prominent internet website out of this spectrum advertises a T-shirt carrying the text “Officer Danny FAULKNER was MURDERED by Mumia Abu-Jamal who shouldn’t be in an 8 x 10 foot cell... He should be 6 feet closer to HELL! WWW.DANIELFAULKNER.COM.”⁶⁷³

⁶⁶⁷ “Affidavit of Rachel Wolkenstein,” PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 19.

⁶⁶⁸ On July 14 (*PCRAH*, July 14, 1995, p. 36-72), July 31 (*PCRAH*, July 31, p. 23-31), and August 3, just two weeks before the scheduled execution date (*PCRAH*, August 3, 1995, p. 8). Sabo finally granted the stay on August 7.

⁶⁶⁹ Mumia Abu-Jamal, “Walkin’ in the Shadow of Death,” in S.E. Anderson and Tony Medina, *In Defense of Mumia* (New York: Writers and Readers, 1996), p. 2.

⁶⁷⁰ “Conversation between Mumia and Noelle Hanrahan Minutes After the 1995 Death Warrant Was Read to Mumia in His Cell,” in Abu-Jamal, *All Things Censored*, p. 274-275.

⁶⁷¹ Kevin L. Carter, “A voice of death row to be heard on NPR,” *Philadelphia Inquirer*, May 16, 1994.

⁶⁷² Julia Cass, “Abu-Jamal gets hearing, but not a stay,” *Philadelphia Inquirer*, July 15, 1995.

⁶⁷³ As of March 2003, the T-shirt is still being advertised. See <http://www.danielfaulkner.com/Tshirt.html>.

7.6 Making the Facts Known: The PCRA Hearings 1995-1997

If Governor Ridge and Judge Sabo had expected their respective decisions to have an intimidating effect on the support movement for Abu-Jamal, it was a miscalculation. Based on the work the movement had been doing in the U.S.A. and the already fledgling support network in many parts of the world, both moves sparked an international outcry. Thousands took to the streets to focus public attention on the Abu-Jamal case. On June 3, 1995, there were smaller rallies and demonstrations in Boston, Detroit, Santa Cruz, Ann Arbor, Minneapolis, and Honolulu. On the following Monday, June 5, there were rallies and demonstrations no longer counting in the dozens but in the hundreds in Oakland, New York, and Philadelphia. In Philadelphia, apart from defense attorney Len Weinglass, forces as varied as Jane Henderson of Equal Justice USA, former BPP prisoner Dhoruba Bin-Wahad, Ron Hampton from the National Black Police Association, Ed Jarvis from the PDC, Clark Kissinger from Refuse & Resist, and Phil Berrigan from the Atlantic Life Community spoke. There were support messages from actor Dick Gregory, state representative David Richardson, and author John Edgar Wideman.⁶⁷⁴

On June 8, 1995, 120 people rallied in Frankfurt, Germany. On June 19, 200 demonstrated in Leipzig. On June 26, there was a gathering of 700 in San Francisco. On July 4, over 100 people demonstrated in Dublin, Ireland, in front of the U.S. Embassy. As the PCRA hearings began on July 12, the demonstrations and rallies in wide and varied parts of the United States and the globe continued and intensified, and there was an outpouring of support messages from extremely varied sources, not least among them “500 writers from over the world who sent a statement to save the life of Mumia Abu-Jamal and for a retrial. The petition was sent on Tuesday, July 25, by the parliament of the International PEN-Club. Among the various writers who signed the petition [were] Günther Grass (Germany), Peter Handke (Austria), Jorge Amado (Brazil), and Harold Pinter (Great Britain).”⁶⁷⁵

Even before, on July 22, there had been a huge demonstration in Berlin, Germany, with 4,000 to 5,000 people participating, which was addressed by Peter Gingold, an activist once prosecuted by the Nazi regime who was then well into his eighties⁶⁷⁶ and made a speech in which he recounted how he had become a revolutionary at the age of fifteen when he took part in a demonstration in defense of Sacco and Vanzetti.⁶⁷⁷

⁶⁷⁴ For this account, see “News from the growing struggle to Free Mumia!,” compiled by Refuse and Resist, on the website <http://refuseandresist.org/mumia/actions>, with various sub-sites for various dates.

⁶⁷⁵ *Ibid.*

⁶⁷⁶ Gingold, who lives in Frankfurt, still uses every opportunity to speak on behalf of Abu-Jamal. One of the most recent rallies where he spoke took place in front of the U.S. consulate in Frankfurt on December 8, 2001.

⁶⁷⁷ *Ibid.*

7. 6.1 The Courtroom Spectacle

What happened in the courtroom from July to September 1995 during the PCRA hearings themselves is characterized very well by a dialogue that took place between the chief legal strategist for the defense, Dan Williams and presiding Judge Albert F. Sabo. Immediately before, Sabo had asked Williams about the purpose of a motion the latter had just made. The exchange went as follows:

MR. WILLIAMS: To seek justice.

THE COURT: What do you mean by justice?

MR. WILLIAMS: To insure that an innocent person is not executed.

THE COURT: How about when it [sic] is guilty.

MR. WILLIAMS: If I could demonstrate through this witness actual innocence.

THE COURT: It's already been demonstrated to a prior jury. Counselor, justice is an emotional feeling. That's all it is. If I win my case –

All right, quiet in the room or you will be asked to leave. You are going to go out.

Justice is an emotional feeling. When I win my case, it's justice. When I lose my case, I didn't get justice, you know. So take it from there.⁶⁷⁸

Reminiscent of the quarrels between Judge Sabo and Abu-Jamal himself at the original trial, there were repeated clashes between members of the defense team and the judge, who fined Weinglass for alleged contempt,⁶⁷⁹ and at one opportunity even went as far as sending attorney Wolkenstein to a jail cell.⁶⁸⁰

But in contrast to the original trial thirteen years before, there were now dozens of national and international observers in the courtroom, and hundreds, at times even thousands, of Abu-

⁶⁷⁸ *PCRAH*, August 2, 1995, p. 216.

⁶⁷⁹ *PCRAH*, August 11, 1995, p. 191-192. The reason for the fine was simply that Weinglass didn't follow an order of the court quickly enough for the taste of the judge. This is the whole episode:

THE COURT: Give me back the photos. They are not your photos.

MR. WEINGLASS: Let the record show that the Court is raising his voice.

THE COURT: And let the record show that Counsel is not doing what I tell him to do. Counselor... You are in contempt of Court. I am fining you a thousand dollars because you wouldn't do what I wanted you to do.

MR. WEINGLASS: I was walking up to the bar.

THE COURT: No, you weren't walking up. You were standing over there arguing with me. One thousand dollars, okay. Where is the Clerk? Make out an order for that and I will sign it.

MR. WEINGLASS: Let the record show that the Court was shouting and pointing its finger –

THE COURT: Yes.

MR. WEINGLASS: – in a threatening manner to defense Counsel.

THE COURT: Not a threatening manner, a promising manner.

MR. WEINGLASS: Threatening.

THE COURT: Promising. One thousand dollars, Counselor.

In his whole career, Weinglass had been held in contempt of court before only once, and that order had been repealed. See *PCRAH*, August 14, 1995, p. 8.

⁶⁸⁰ *PCRAH*, August 2, 1995, p. 8.

Jamal's supporters outside. Sabo's behavior that had gone all but unnoticed in 1982 was becoming an embarrassment, so much so that at one time even the *Philadelphia Daily News*, a tabloid that was normally not known for its support for Abu-Jamal, ran an article with the title "Sabo Must Go."⁶⁸¹ An observer from the renowned law journal *American Lawyer*, Stuart Taylor, wrote that the accusation against Sabo of unfairness and partiality was "an understatement," and that "throughout the internationally scrutinized post-conviction hearing, which ran from July 26 to August 15, and the closing arguments on September 11, Judge Sabo flaunted his bias, oozing partiality toward the prosecution and crudely seeking to bully [lead attorney] Weinglass, whose courtroom conduct was as correct as Sabo's was crass."⁶⁸² Even though Taylor opined that Abu-Jamal was probably guilty of at least second-degree murder, he stated that in his view the facts were "complicated enough that I'm joining the 'Save Mumia' movement, here and now."⁶⁸³ Nothing could have given a better impression of what had happened in Judge Sabo's courtroom in 1982 than the reenactment in 1995 staged by Sabo himself.

7.6.2 New Revelations

The continuing obstruction of its efforts by the presiding judge notwithstanding, the defense did make headway in presenting new facts that cast a different light on Abu-Jamal's conviction. During the 1995 PCRA hearings and two additional sets of hearings in 1996 and 1997 as well, the holes in the case against Abu-Jamal that defense attorney Jackson had failed to make visible to the jury became yawning gaps in front of an international audience.⁶⁸⁴ And of course, the new revelations stoked the outrage of Abu-Jamal's supporters over the injustice that had been committed in their eyes. The most important points in 1995 were

- The testimony of Arnold Howard, a childhood friend of the Cooks (see p. 65), established the probability that a second person had been in Billy Cook's car on December 9, 1981, since Arnold Howard's license was found in the shirt of the dead Faulkner, *a fact that the prosecution had suppressed for thirteen years*. Howard, who had an alibi, testified he had given the license to Kenneth Freeman, another childhood friend of the Cooks who operated a newsstand with Billy. Who should have given Faulkner the license if not Freeman?

⁶⁸¹ Quoted in Clark Kissinger, "Mumia Habeas Filing Exposes Injustice, Part 6: The Hanging Judge of Philadelphia," *RW* No. 1049, April 9, 2000.

⁶⁸² Stuart Taylor, "Guilty and Framed," *The American Lawyer*, December 1995. See <http://www.courtroomtv.com> under the Heading "Case Files."

⁶⁸³ *Ibid.*

⁶⁸⁴ At this point, I'm giving only a very summary account of the evidence presented, since my primary intention is to show the influence of the hearings on the movement in support of Abu-Jamal. For a more thorough discussion from different angles and points of view, see Lindorff, *Killing Time*, chapters 7 and 8, and Williams, *Executing Justice*, chapter 13-16.

Clearly, the revelation would have been a smashing success for the defense had Freeman and Cook been available to testify. But they were not. Freeman had died in 1985, and Cook, according to the defense, could not be found.⁶⁸⁵

Despite its difficulties, the Howard testimony was an opening for the defense. It had established the likely presence at the scene of a third person with a motive to get involved, and what is more, the prosecution's highly suspicious attempt to hide that fact. The attempted and successful suppression of eyewitness testimony was the theme in

- the testimony of Dessie Hightower,⁶⁸⁶ who had already testified for the defense in 1982, and the testimony of William Singletary,⁶⁸⁷ *who had not*. Both testified to having been subjected to endless chicanery by the police. Singletary said that immediately after the shooting he testified to the police *that he saw another person, not Abu-Jamal, shoot Police Officer Faulkner*, but that his statement was not accepted. According to Singletary, he was threatened with violence that night and days later, and continued to be harassed by the police until he left Philadelphia.

And finally, there was testimony that was simply fraudulent. In 1995, the defense elicited

- the testimony of Gary Wakshul, the police officer who had written in his report after the shooting that “the Negro male [Abu-Jamal] made no comment” while he guarded him. In the face of this report, his testimony, resembling that of his fellow officer Gary Bell at the 1982 trial, that he had “forgotten” to report Abu-Jamal’s alleged confession for two months made him look like a fool, pointing to the near certainty that there had never been any confession on the part of Abu-Jamal in the first place.⁶⁸⁸

The 1995 hearing had shown comprehensively how weak the evidence against Abu-Jamal really was, and also, perhaps even more importantly, to which lengths police and prosecution had been willing to go to have the jury find him guilty. On the part of the national and international audience watching the proceedings, the worst fears concerning miscarriage of justice as soon as a person had “three strikes” – being poor, black, and radical – against him or her were thus confirmed.

In 1996 and 1997, two women whose name had already appeared in public testified. The 1996 hearings were entirely devoted to the testimony of Veronica Jones, the prostitute who at first had testified to have seen two men jogging away from the scene but had denied to have seen anything of importance at the 1982 trial.

⁶⁸⁵ For his testimony, see *PCRAH*, August 9, 1995, p. 4-109.

⁶⁸⁶ See *PCRAH*, August 3, 1995, p. 16-107.

⁶⁸⁷ See *PCRAH*, August 11, 1995, p. 204-308.

⁶⁸⁸ See *PCRAH*, August 1, 1995, p. 3-152.

- Veronica Jones now testified that at the time she had been blackmailed by police officers to withdraw her testimony about the two men running away from the scene and to incriminate Abu-Jamal as the shooter instead. According to her testimony, she was in jail at the time and threatened with a long prison sentence and the loss of custody over her three children. At the trial, she couldn't bring herself to name Abu-Jamal, but she recanted her testimony about the fleeing men. According to her new testimony, what she had blurted out inadvertently at the trial was also true: She had been offered the same deal as Cynthia White, the prosecution's main witness. There was now even more evidence that White's testimony at the trial was also fraudulent.⁶⁸⁹

The second woman, who testified in 1997, was none other than Pamela Jenkins, known because of her prominent role in one of Philadelphia's numerous police corruption scandals.

- What Jenkins said once more pertained to the testimony of Cynthia White. Jenkins testimony was basically a repeat performance of the one given by Jones. According to Jenkins, White had worked, like herself, as a police informant and had told her that she had been coached and cajoled by the police to testify against Abu-Jamal. She also claimed that just as in the Carter case (see p. 98/99), her boyfriend, Police Officer Thomas Ryan had offered her \$ 500 to "finger" Abu-Jamal. When Jenkins claimed to have seen White shortly before the hearing in the company of police officers, the hearing took a bizarre turn as the prosecution in a surprise move presented documents supposedly proving that White was dead, and the defense vigorously denied the authenticity of the documents.⁶⁹⁰

All those hearings, of which I have given only a very rough sketch here, were accompanied by a rising wave of protests by a variety of forces, all the more so as all motions by the defense were denied by Judge Sabo.⁶⁹¹ Just as Abu-Jamal had begun to report the reality of the dark recesses of America's prison archipelago in his *Live from Death Row*, hundreds of thousands of people were now being taught lessons about the realities of the criminal justice system "live from the courtroom." From their perspective, one defense witness after another had testified to the most egregious misconduct in the collection of evidence, while the prosecution was seen as simply stonewalling with the support of the judge. For the more privileged members of the movement, the question of injustice in the criminal justice system and systematic miscarriage of justice had stopped to be an academic question or the theme of fictional Hollywood dramas and had become a real life issue instead. The less privileged saw what they had known or suspected for a long time made into a topic of intense national and even international debate for the first time.

⁶⁸⁹ See *PCRAH*, October 1, 1996, for Jones' own testimony; *PCRA*, October 1, 2 and 3, 1996, for additional testimony.

⁶⁹⁰ *PCRAH*, June 26, 1997 for Jenkins' testimony; *PCRAH*, June 26, June 30, and July 1, 1997 for additional testimony.

⁶⁹¹ One of the signs was E.L. Doctorow's article in the *New York Times* on July 14, 1995, "From Here to Death Row." It appeared on the second day of the 1995 hearing, two days after Judge Sabo had denied the motion to remove himself from the case and is reprinted as introduction to Weinglass, *Race for Justice*, p. 4-6 (see notes 157 and 259).

What the defense had failed to do in the original trial vis a vis the jurors, it had now achieved brilliantly before sizable parts of the national and international public. It had punched the potential holes in the case wide open, and it had shown the public what was truly going on in American courts. A man had been convicted and sentenced to death on the basis of evidence that all but evaporated under close scrutiny. The police had not done the forensic tests that could have either proven his guilt or exonerated him. The police had coached and pressured witnesses to lie on the stand. Police officers had committed perjury in court. And what is more, they had done so with the active support of the prosecutor and the judge, who had not only not intervened to prevent these abuses but had done their best to aid and abet the perpetrators. At the same time, it was clear right from the start, that this was not simply about the Abu-Jamal case. The individuality of the case gave it a face, made it imaginable and conceivable, but it was the fact that Abu-Jamal stood for thousands, and if the issue of the death penalty was subtracted, for hundreds of thousands, that made his case really important.

7.7 The Breadth of the Movement

As before, the protests were most vocal in the streets. On August 12, 1995, in Philadelphia a crowd of several thousands converged on City Hall and moved on to Liberty Bell. On the same day, 1,000 people marched in San Francisco. Other rallies took place in Burlington, Halifax, Calgary, and close to a dozen other cities in the U.S.A.⁶⁹² In these cities, the demonstrations and meetings continued through the rest of the year.⁶⁹³ In November, former BPP Minister of Information Kathleen Cleaver, the daughter of the late writer Richard Wright, Julia Wright, and Abu-Jamal attorney Weinglass spoke to huge crowds, collecting money for the defense and taking with them tens of thousands of signatures for a new trial for Abu-Jamal.⁶⁹⁴ Further demonstrations and rallies occurred in 1996 and 1997.

The final denial of Abu-Jamal's post-conviction appeal by the Pennsylvania Supreme Court on October 29, 1998⁶⁹⁵ led to a new round of world-wide protest, since it was clear now that the state litigation of the case had come to an end, and that it would soon move to the final level of a petition for habeas corpus, a legal step which by the rules of the 1996 AEPDA could by now be taken only once. Immediately after the court ruling, on Saturday, October

⁶⁹² Refuse and Resist, "News on the growing struggle to Free Mumia," August 1 – 12, 1995.

⁶⁹³ *Ibid*, September – December, 1995.

⁶⁹⁴ Kathleen Cleaver, "Mobilizing for Mumia Abu-Jamal in Paris," in Cleaver Katsiaficas (ed.), *Liberation, Imagination, and the Black Panther Party*, p. 51-68.

⁶⁹⁵ For a scathing analysis of the decision, see Clark Kissinger, "Justice Denied. Analysis of the Pennsylvania Supreme Court Decision on Mumia Abu-Jamal," *RW* No. 982, November 15, 1998.

31, 1,000 protesters gathered at Grand Central Station in New York and marched to Times Square. A parallel demonstration on the West Coast of the country was organized by the San Francisco Mobilization to Free Mumia Abu-Jamal and drew 1,200 participants. On the same day, there were rallies in Ann Arbor and Washington DC. In November and December, the movement showed its by now international character again, with rallies in Volta Redonda (Brazil), Rome, Oslo, London, Hamburg, Sao Paulo, Honolulu, Stockholm, Vienna, Montréal, and Edinburgh. In the United States, there were meetings, demonstrations, and rallies in cities where there had been none before.⁶⁹⁶

But the streets were not the only place where things were happening. For one thing, most public meetings and demonstrations were staged by groups specifically devoted to the support of Abu-Jamal. There was a vast network of such groups all over the United States, and in foreign countries as well. Individually and jointly, these groups published hundreds of different leaflets, brochures, booklets, and videos with the purpose of educating the public about the details of Abu-Jamal's case and its importance for the larger fight for justice.

Moreover, this grassroots organizing which has always formed the essence and the backbone of the movement was now being complemented by other forms of disseminating information as well. In 1996, two films on the case of Abu-Jamal were made independently from each other. The first was the HBO documentary *A Case for Reasonable Doubt*, featuring Abu-Jamal himself, the defense witnesses Dessie Hightower, William Singletary, and Veronica Jones, but also Faulkner's partner and prosecution witness Gary Bell, spokespersons of the Fraternal Order of Police, and Assistant District Attorney Joseph McGill. Broadcast by a wide variety of stations, this film has reached millions of citizens in the U.S.A. and is regularly shown at meetings organized by Abu-Jamal solidarity groups. The second film, *Behind These Walls (Hinter diesen Mauern)* was produced by two German filmmakers active in the Abu-Jamal solidarity movement, Jule Bürjes and Heike Kleffner, and used the same general approach of giving a hearing to both sides. But of course, *Behind These Walls* took a clear pro-Abu-Jamal stance. It was widely broadcast by TV stations in German-speaking countries, and, like the German version of the HBO documentary, widely used by Abu-Jamal supporters in Germany.⁶⁹⁷

In addition to Abu-Jamal's own book, *Live from Death Row*, there was another book containing Abu-Jamal's legal filings for the PCRA proceedings, *Race for Justice*, which appeared in late 1995 with an introduction by E.L. Doctorow.⁶⁹⁸ *Live from Death Row* had soon sold 75,000 copies

⁶⁹⁶ Refuse and Resist, "News on the growing struggle to Free Mumia," January - December, 1998.

⁶⁹⁷ Own observations and personal communication.

⁶⁹⁸ See notes 157 and 259.

and was translated into eight languages,⁶⁹⁹ and a second book, *Death Blossoms*, followed in December 1996,⁷⁰⁰ published by the Christian community Bruderhof. In addition the descriptions of prison life, this second book also contained many spiritual musings and philosophical reflections and contributed once more to show that unknown quantity, “the prisoner,” as a human being.

The dissemination of Abu-Jamal’s books also contributed to gain him access to important cultural and intellectual circles. The first outcome of this was a full-page ad in the *New York Times* that appeared on August 9, 1995, calling for a new trial for Abu-Jamal. Supporters included artist Laurie Anderson, poet Maya Angelou, actor Alec Baldwin, model Naomi Campbell, linguist and activist Noam Chomsky, Executive Director of the Center for Constitutional Rights Ron Daniel, Congressman Ron V. Dellums, former New York Mayor David Dinkins, historian Henry Louis Gates, economist Edward S. Herman, political columnist Molly Ivins, film director, producer, and actor Spike Lee, staff member of the paper *Socialist Action* Jeff Mackler, singer Bobby McFerry, actor Paul Newman, author Salman Rushdie, publisher Andre Schiffrin, writer Alice Walker, theologian Cornel West, historian Howard Zinn, and many others. A second full-page ad with the names of even more supporters appeared on October 16, in the same paper,⁷⁰¹ and a third one appeared in 2000.⁷⁰²

This very broad support was also translated into the political sphere, as many political officials and bodies issued formal declarations of support for a new trial for Abu-Jamal and condemned the plans to execute him.⁷⁰³ The important role they have played notwithstanding, I will not examine these declarations here, since in my view, they are a secondary phenomenon brought about by an unusually broad, powerful, and multifaceted mass movement with few ties to official politics. At first glance, the various strands of this movement seemed to have little in common, but its radical-democratic roots were only strengthened by its diversity. It is to the character of this mass movement that I now want to turn by looking at some of its most prominent voices.

7.8 The Motives of the Movement

As the legal struggle against Abu-Jamal’s execution and for a new trial headed for the federal level, the solidarity movement prepared for two national mass demonstrations in Philadelphia

⁶⁹⁹ “Mumia Faces New Prison Persecutions,” *RW* No. 896, March 2, 1997.

⁷⁰⁰ *Ibid.*

⁷⁰¹ This information is from the website of the Grand Lodge of the Fraternal Order of Police, where all supporters are listed in order to denounce them. See <http://www.grandlodgefop.org/faulkner/projamal.html>.

⁷⁰² *New York Times*, May 7, 2000.

⁷⁰³ A long list of declarations and actions in support of Abu-Jamal is “Stop the Legal Lynching of Mumia Abu-Jamal, on the website <http://www.refuseandresist.org/mumia/sol.html>. It is mainly devoted to “grassroots support,” but also contains much information on support from politicians, parliaments etc.

and San Francisco under the characteristic heading “Millions for Mumia,” that were to take place on Abu-Jamal’s 45th birthday on April 24, 1999. Millions did not demonstrate, but on that day, many, many thousands filled the narrow streets of Philadelphia’s Center City, where Abu-Jamal had been shot, arrested, indicted and convicted for murder⁷⁰⁴ almost two decades before. The crowd was estimated at 25,000 people, and the same number assembled in San Francisco to demonstrate for a new trial for Mumia Abu-Jamal. The turbulent atmosphere of the march in Philadelphia has recently been described by a participant, who writes that years after his participation in the first solidarity events for Abu-Jamal, he

went into the Millions for Mumia March in Philadelphia. Intervening years of organizing bore fruit with the large multi-racial crowd, respectfully treated by police. It seemed like tens of thousands clogged the streets. Bus after chartered bus came from New York and other cities, and I even ran into a couple of friends who had flown up from Florida. I remember a festive and chaotic atmosphere, bowls smoked among friends; a fiery speech by Zach de la Rocha;⁷⁰⁵ and Mumia’s deep voice⁷⁰⁶ sounding eerily from speakers as a hush descended from the crowd. Another thing I remember about my friends is that our sketchy knowledge about the case did not dampen our readiness to agitate for his freedom. Abu-Jamal’s partisans put out compelling flyers highlighting the oddities and injustices of this trial; listed together on a page, these glaring facts strongly suggested a frame-up.⁷⁰⁷

Although by then there were thousands of people who could recount even the most arcane details of Abu-Jamal’s case, it is certainly true that it was not primarily these details that brought about the “readiness to agitate” for Abu-Jamal’s freedom. The deeper reasons for this readiness were formulated very well by black activist and social scientist Manning Marable, who spoke for the Black Radical Congress and was one of the keynote speakers at the event:

Sisters and brothers and comrades – without struggle there can be no progress. [...] Power concedes nothing without a demand, it never did and it never will. With these words the great abolitionist Frederick Douglass tells us that the oppressed must liberate themselves, in the pursuit of justice. [...]

We stand for Mumia, because our brother never received a fair trial, was tried by a racist judge, in a racist court, in a racist city, in a racist state, in a racist capitalist country.

[...] We stand for Mumia, because we know ethically and morally, that the death penalty is wrong, that it cannot be justified, and that it must be abolished. [...]

⁷⁰⁴ Courtroom 253 of the Court of Common Pleas, where Abu-Jamal was tried and sentenced, is located in City Hall, which in turn is just a few blocks from the intersection 13th and Locust Street, where both Faulkner and Abu-Jamal were shot.

⁷⁰⁵ De la Rocha is the leader of the well-known band Rage Against the Machine.

⁷⁰⁶ Recorded from telephone calls from prison.

⁷⁰⁷ Scott Handleman, “At Last: The Book We’ve Been Waiting for. The Mumia Case in True Colors,” *Counterpunch*, print edition, April 1, 2003.

We stand for Mumia, because [...] more than 40 percent of all people on death row now are people of African descent, and because one third of all young black males in their twenties are in jail, on probation, parole and awaiting trial.

The Black Radical Congress stands for and embraces Mumia, because we share his vision of a just society. Our vision of justice is a court system where the death penalty does not exist. Our vision of democracy is where black people have the right to self-determination, and where the wealth is shared by all those who produce it. Our vision of community is where there is no police brutality, no hunger and homelessness, no poverty and unemployment.

The Black Radical Congress says stop to state terrorism and police brutality now. Stop all executions now. Free all political prisoners now. We demand a new trial now. The Black Radical Congress says Free Mumia Now!⁷⁰⁸

In a speech of less than ten minutes, Marable addressed the central themes of a radical version of democracy. Speaking of a vision of a just society without racial and class oppression, and without the inhumanity of capital punishment, he stressed right at the beginning that this would never come about as concession of some benevolent master. Racism, police brutality and injustice, as they had shown themselves so clearly in the case of Abu-Jamal, could only be overcome by the actions of those affected by it, that is, by the population itself.

Marable's speech, with its insistence on equality and its defiance of state power, was all the more fitting since the next stage of Abu-Jamal's battle was to be a habeas corpus petition in federal court. With this petition, Abu-Jamal challenged all the violations of his constitutional rights he claimed to have suffered. They were laid down in a document listing 29 such claims, which all referred to violations of the Fifth, Sixth, Eighth, and Fourteenth Amendment.⁷⁰⁹ The first three of these refer to protective rights of the citizen vis a vis state power, in that they guarantee the right of a defendant to due process before a jury of his or her peers (Five and Six) and protect against cruel and unusual punishment (Eight). The Fourteenth Amendment, which like the Thirteenth Amendment (which abolished slavery) became valid at the beginning of the period of Reconstruction after the Civil War essentially aims at the equality of the citizens before the law.⁷¹⁰

Based on these constitutional claims, Abu-Jamal argued against the death penalty, the denial of a competent lawyer, the denial of a jury of his peers, the evidence of racist bias during his trial, and his special punishment for the exercise of the right of free speech as violations of the Constitution. The essence of the petition was a defense against illegitimate encroachments of state power into the sphere of the citizens and the insistence on the right to equal treatment before the law. In the meantime, in the streets of the United States as well

⁷⁰⁸ Speech at the "Millions for Mumia" rally. http://www.geocities.com/freemumianow_2000/marable.html.

⁷⁰⁹ A summary of the document is given by Clark Kissinger in "Summary of the Constitutional Claims in Mumia's Petition for a Writ of Habeas Corpus," <http://www.refuseandresist.org/mumia/1999/120399habscorpsum.html>. For the document itself, see <http://www.refuseandresist.org/mumia/1999/101699petitiontoc.html>.

⁷¹⁰ For the exact wording, see Sautter, *Die Verfassung der Vereinigten Staaten*, p. 177 (Fifth and Sixth Amendment), p. 178 (Eighth Amendment), and 179-180) (Fourteenth Amendment).

as elsewhere in the world, thousands complemented that demand for freedom and equality with their demonstration of brotherhood, or, to use a more modern and appropriate word, solidarity.

The signing of a second death warrant by the Governor of Pennsylvania, Thomas Ridge, on October 13, 1999, signaled that the battle for Abu-Jamal's life and freedom was now entering its final and most dangerous round. The defense filed his Petition for Habeas Corpus immediately afterwards.⁷¹¹ As in June 1995, Ridge's move triggered a new and higher level of support and solidarity for Abu-Jamal. Looking back from the year 2001, Abu-Jamal's former lawyer Dan Williams gives a flavor of the situation at the time:

The support for Mumia has grown over the past few years as his case enters this most important phase. His face has become the "new face of the death penalty in the United States," according to a May 21, 2000 piece in the Sunday *New York Times* "Week in Review" section. On May 7, 2000, six thousand people packed the Madison Square Garden Theater in Manhattan for a teach-in on Mumia's case.⁷¹² Similar events were held in other cities around the world. A few years ago, Mayor Willie Brown of San Francisco, backed by the city council, declared one day in August Mumia Abu-Jamal Day. In a similar vein, the Central District of Copenhagen (Nordre), Denmark, and Palermo, Italy, anointed Mumia an honorary citizen. On October 15, 1999, Representatives Chaka Fattah and John Conyers, speaking on behalf of the entire thirty-eight-member Congressional Black Caucus, called for a new trial. "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.," Representative Fattah announced. The European Parliament and thirty-eight members of the Japanese Diet [parliament] have raised deep concerns over Mumia's case.⁷¹³

The May 7, 2000, Madison Square Garden event showed the whole range of support Abu-Jamal had now rallied behind him. A committee of "Educators for Mumia," consisting of Jonathan Kozol, Toni Morrison, Noam Chomsky, Cornel West, Rudolfo Anaya, Frances Fox Piven, Angela Davis, Manning Marable, Leslie Marmon Silko, Marty Hittelman, Howard Zinn, and Sonia Sanchez had organized the publication of another full-page ad in the *New York Times* on the same day.⁷¹⁴ Once again, hundreds of prominent figures called for a new trial for Abu-Jamal. On the evening of the same day, thousands listened as speaker after speaker explained his or her particular reasons to support the cause of Abu-Jamal.

⁷¹¹ On October 4, the U.S. Supreme Court had once again denied a hearing of the case. For the sequence of events, see Clark Kissinger, "The Case of Mumia Abu-Jamal," in Abu-Jamal, *All Things Censored*, p. 295.

⁷¹² Within the American left, the event was assigned great importance. The leading International Action Center (IAC) anti-war activist Jon Catalinotto, who was then on a tour through several European countries, scheduled his journey back to the United States for May 4, specifically in order to participate in the rally. Personal communication, May 2000.

⁷¹³ Williams, *Executing Justice*, p. 366.

⁷¹⁴ For the text of the ad, see <http://lauaaen.dk/mumia/mumiadk/arkiv/andre/educators.html>.

The most prominent themes were the struggle against racism, the struggle against poverty and exploitation, and the struggle against government repression. Many speakers explained how closely these themes were tied to the problem of police brutality, mass incarceration of the black and the poor, and the increasing use of the death penalty. None other than former New York City Mayor David Dinkins, one of the first African American mayors in a metropolis, made that connection forcefully and enumerated three focal points in the struggle for the life and freedom of Mumia Abu-Jamal:

One, the issue of abuse of police power. Two, the issue of a biased system of criminal justice. And three, the death penalty issue. It doesn't take a genius to see how each of those fuels the next. Too often young Black men enter the criminal justice system through one end, victims of their race and poverty, and exit on the other as dead men walking.⁷¹⁵

Former BPP members Safiya Bukhari and Kathleen Cleaver focused on the political nature of Abu-Jamal's ordeal, which was most succinctly expressed in Cleaver's comment "COINTELPRO is still in operation. We know the police and the government are still working hand-in-hand to get rid of us."⁷¹⁶ Political activist Monica Moorehead and union representative Richard Levy spoke on the necessity to organize, actor Ed Asner and former Attorney General Ramsey Clark elaborated on the significance of the struggle to free Abu-Jamal for the general freedom struggle, death penalty abolitionist Njeri Shakur commented that "Texas prisons are overflowing with Mumias" since "George W. Bush learned genocide from his father, the butcher of one-and-a-half million people,"⁷¹⁷ and Johnnie Cochran, the lawyer of both celebrity defendant O.J. Simpson and former BPP cadre Geronimo Pratt, told the crowd: "It's about struggle. We have to have the courage to stand up as Mumia stands up."⁷¹⁸

The Madison Square Garden event made clear that the movement for the life and freedom of Mumia Abu-Jamal had taken up the challenge that his case presented. By focusing on this one case and examining it in the most detailed fashion, the movement had managed to bring a myriad of issues related to the case to the attention of a larger public. And this attention was not limited to the most immediate aspects, like the death penalty and the problem of mass incarceration. Rather, these issues were embedded in the larger context of a

⁷¹⁵ Quoted in Debbie Lang, "Mumia at Madison Square Garden," *RW*, No. 1055, May 21, 2000.

⁷¹⁶ A report of the event, as well as short excerpts from the speeches by Cleaver and most other speakers are available on the website <http://www.mumia2000.org/May7>.

⁷¹⁷ *Ibid.*

⁷¹⁸ *Ibid.*

social system that was based on the oppression of disadvantaged minorities, primarily African Americans, and the poor, and therefore necessarily had to resort to brutal measures like police violence to keep the lower orders of society in check. Seen from that angle, prisons and the prerogative of the state to kill its citizens were no longer seen as isolated phenomena, separate or at least separable from the rest of the social order. Through its many different spokespersons and the many different voices that contributed to its articulation, the movement had woven together many strands of social experience into a larger whole, which was, in turn embedded in a still larger picture of movements for radical change. The resulting imperative was perhaps best formulated by Michael Albert, a long-time activist in social movements since the 1960s:

If you demonstrated for Civil Rights, or against the Vietnam War, for Women's Rights, or against Nukes, for Gay Rights, or against Racism, for higher wages or better conditions, or against the Gulf War, for a union, or against the Contras, for affirmative action, or against the Death Penalty – or if you didn't partake any of those demonstrations or any of countless others, but wish you had – or if you are younger, weren't around, or hadn't awakened, but are now on the side of hope and caring and not fear and hate, you must act. We must act. Mumia Abu-Jamal is going to die unless popular resistance ties the hands of his executioner. To demonstrate for Mumia is to try to save his life, to try to expand the realm of prisoner rights and justice, to try to build movements and amass power that can go on to wider and broader agendas. Sometimes it is very hard to dissent because it is very hard to find a way to act that isn't so isolated and so meager that it feels and maybe even is, at times, ineffectual. At other moments, conjunctures of chance and activity and history create a moment when every effort that one adds to the mix is undeniably and without question worth it. This is such a moment. Free Mumia.⁷¹⁹

7.9 Addendum: A Still Deeper Abyss

In May 2001, a wholly new and unexpected perspective on the case of Mumia Abu-Jamal emerged. Two months before, in a surprise move Abu-Jamal had fired his long-time attorneys Leonard Weinglass and Daniel Williams. As it turned out, Abu-Jamal fired Williams because he was in the process of publishing, against the will of his client, a book called *Executing Justice. An Inside Account of the Case of Mumia Abu-Jamal*. Lead attorney Weinglass was fired, too, because he didn't take more than timid steps to prevent the book publication by his long-time associate Williams.

Abu-Jamal was allowed to hire new lawyers by federal judge William Yohn Jr., but given no more than thirty days to find a new legal team to take over his defense. Fortunately for him,

⁷¹⁹ Michael Albert, on <http://www.zmag.org/Crises/CurEvts/Mumia/Mumiacomments.htm> (see note 4).

there was a number of trained lawyers who were already acquainted with his case since they had been among the filers of so-called *Amicus Briefs* during the previous autumn.⁷²⁰

7.9.1 The Protagonists Talk

On May 4, 2001, Abu-Jamal's new lawyers revealed information about the case unheard of before. For the first time, Abu-Jamal himself told in public how he had experienced the few minutes just before 4 o'clock on December 9, 1981, that had led to his arrest and subsequent ordeal. The gist of Abu-Jamal's statement is recounted quickly:

I did not shoot Police Officer Daniel Faulkner. I had nothing to do with the shooting of Officer Faulkner. I am innocent.⁷²¹

Moreover, Abu-Jamal claimed to have run to the scene only *after* he had "heard what sounded like gun shots." And then, according to his statement, Abu-Jamal was shot himself:

16. As I came across the street I saw a uniformed cop turn toward me gun in hand, saw a flash and went down to my knees.

17. I closed my eyes and sat still trying to breathe.

18. The next thing that I remember I felt myself being kicked, hit, and being brought out of a stupor.⁷²²

Also for the first time, his brother Billy Cook testified to what, according to him, had happened that night: He corroborated the long-held suspicion that his childhood friend and business partner Kenneth Freeman had been with him in his car that, and that Freeman had par-

⁷²⁰ *Amicus Briefs* are briefs filed by "friends [amici] of the court," persons and/or institutions who are not directly involved in the case, but claim to represent the interests of a larger public in the case in one or another form. Four such filings were made in autumn 2000. One was filed on behalf of the Pennsylvania affiliate of the American Civil Liberties Union (ACLU) and the Philadelphia branch of the NAACP and dealt with an alleged violation of Abu-Jamal's First Amendment rights by the injection of his January 1970 statements as a BPP member into the trial; the second was filed on behalf of a number of legal associations and argued that Abu-Jamal should be given an evidentiary hearing under habeas corpus since the legal procedures on the state level had been inadequate in Abu-Jamal's case; the third, filed on behalf of 22 British MPs referred to a long tradition of British law in order to state that it had been wrong for the court to deny Mumia the help and counsel of his friend, John Africa, during the trial; and the fourth, on behalf of the Chicano/Chicana Studies Foundation raised a whole battery of claims of constitutional violations in the case. The latter two briefs were filed by the British attorney Nick Brown, and U.S. lawyers Eliot Grossman and Marlene Kamish, respectively. Together with Philadelphia lawyer J. Michael Farrell, from April 4, 2001, these three made up Abu-Jamal's new legal team. For the text of the briefs, see <http://www.refuseandresist.org/mumia> under the section "The Amicus Briefs."

⁷²¹ Abu-Jamal's affidavit and the other affidavits mentioned below are reprinted in Partisan Defense Committee (PDC), *Mumia Abu-Jamal Is an Innocent Man! New Evidence Explodes Frame-Up* (New York: PDC, September 2001). Here, p. 23.

⁷²² *Ibid.*

ticipated in the shooting that led to the death of Daniel Faulkner. Moreover, he said that Freeman had told him about a preordained plan to shoot officer Faulkner.⁷²³

But the bombshell was that, seemingly out of the blue, another person now claimed to have killed Police Officer Daniel Faulkner. Arnold Beverly, a career criminal residing in North Philadelphia⁷²⁴ who went underground after the publication of his testimony for fear of reprisals, testified to having murdered Daniel Faulkner together with accomplice “on behalf of the mob and corrupt police”⁷²⁵ who were afraid that Faulkner would interfere with their joint illegal business operations.

7.9.2 Background to a Corrupt Investigation

These three stunning revelations were bolstered by two other highly instructive affidavits: In one, the long-time friend of Abu-Jamal and veteran journalist Linn Washington described how as a police reporter for the *Philadelphia Daily News* he went to the crime scene early in the morning on December 9, 1981, expecting the place to be teeming with police. What he found instead was very different, so different that the most relevant points are worth quoting in full:

18. When I arrived at the 13th and Locust crime scene, the first thing that struck me was the absolute absence of any police. When I arrived at the crime scene around 8:30 AM, there were no police officers in sight. There were no uniformed officers, no detectives, no special detail officers (like crime scene investigators) at the location of the shooting.

19. I found this total lack of police presence at a crime scene to be highly unusual.

As a veteran of much police beat reporting then, I knew it was generally standard practice to at least assign a uniformed officer to guard the crime scene. I found it highly unusual that no police were maintaining the integrity of this crime scene, particularly since this incident involved the shooting of a police officer. I had covered previous shootings, includ-

⁷²³ For Cook’s testimony, see *ibid.*, p. 24-25. Cook also said that death threats by the police had prevented him from testifying earlier.

⁷²⁴ On Beverly’s record as a criminal, see Dave Lindorff, *Killing Time*, p. 326: “His Pennsylvania rap sheet includes at least 19 arrests for everything from criminal trespass to kidnap, rape and ‘terrorist threats.’ He has six convictions for burglary, seven convictions for theft, two convictions for stolen property, three convictions for criminal conspiracy, and one conviction for weapons possession, as well as at least six separate jail sentences, including two for up to 10 years.” On his whereabouts before his testimony in the Abu-Jamal case, an MSNBC report “On 20th anniversary of police officer’s death, his convicted killer remains a flash point” on the occasion of December 9, 2001, says that Beverly “moved out of a North Philadelphia rooming house a few months ago.” See <http://www.danielfaulkner.com/newsarticles/others/20thannmsbnc/20thannmsbnc.html>. Abu-Jamal’s wife Wadiya Jamal, who also lives in North Philadelphia, says that Beverly, who she later had the opportunity to talk to, lived “just a few blocks away.” (Interview with Wadiya Jamal, Philadelphia, September 24, 2002).

⁷²⁵ More on Faulkner as a possible secret source on police corruption below. On Beverly going underground, see Kamish et al., *Motion For Reconsideration of the Memorandum and Order dated 19th July 2001 Denying the Petitioner’s Emergency Motion for an Order Authorizing the Deposition of Arnold Beverly*, July 30, 2001, point 386: “The District Court wrongly assumes that no measures have been taken to protect Mr. Beverly pending his testifying before the Court. They have.” For Beverly’s testimony, see PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 22.

ing some non-fatal shootings of police officers, where police kept the crime scene cordoned off from the public for days.⁷²⁶

As with many of the peculiar features of the supposed police investigation of the case already mentioned before, this curious sloppiness again raised the question: Were the police officers in charge of the investigation really interested in finding out what had happened? And if, as was apparently the case, they were not, why not? One possible reason for this lack of interest had been suggested all along by the support movement for Abu-Jamal: It was a clear and easily documented fact that the Philadelphia police harbored a special hatred for Abu-Jamal, who had been notorious in certain circles as a supporter of MOVE, a group that for the police had counted as “public enemy number one” for quite a while. Later, in prison, he has drawn attention to the fact that “for several months – the better part of a year, when I worked at a public radio station – I was actually stationed right next door to the Philadelphia Police Department’s headquarters, so that every day, for several times a day, I had to go that route to work. That said, I think that the work that I did put me down as a target to be neutralized.”⁷²⁷

But the new revelations in May 2001 pointed to even darker interests as the motive for the total lack of diligence in that particular murder investigation, as well as for the zeal with which the investigating police tried to pin the killing of Faulkner on Abu-Jamal. In his affidavit, Arnold Beverly claimed that he

was hired, along with another guy, and paid to shoot and kill Faulkner. I had heard that Faulkner was a problem for the mob and corrupt policemen because he interfered with the graft and payoffs made to allow illegal activity including prostitution, gambling, drugs without prosecution in the center city area.⁷²⁸

If indeed there was an alliance in Philadelphia’s center city between criminal elements and corrupt police, the officers involved would have had every interest to prevent discovery. Given the long history of violence in the PPD, it is certainly imaginable that these officers would have even resorted to deadly force to protect their operations, even if that violence was directed against another member of the PPD. The fifth new affidavit presented by the defense supported the conclusion that this might have been the case. If so, trying to pin the murder on a “fall guy” who was accidentally also present at the scene was a perfectly natural thing to do.

⁷²⁶ PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 29.

⁷²⁷ Mumia Abu-Jamal, “The Prison-House of Nations,” in Bin-Wahad/Abu-Jamal/Shakur, *Still Black, Still Strong*, p. 154.

⁷²⁸ PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 22.

The said affidavit was a long statement by former FBI agent Donald Hersing, in which gives a detailed description of the things he found out about the Philadelphia Police Department while doing undercover investigative work for the FBI during the years 1981-82. He describes how from May 1981 to November 1982 he ran a sting operation set up by the FBI against corrupt elements of the Philadelphia police. In the course of this activity, he operated after-hours prostitution clubs and paid bribes to a number of – in part high-ranking – officers of the Philadelphia police’s Central Division⁷²⁹ “for protection of these activities and operations. Central Division police officers also sought and received free sexual favors from the prostitutes.”⁷³⁰ Summarizing the findings of the same FBI investigation, an independent observer, journalist Dave Lindorff, says that quite possibly

during the [early] 1980s the entire Central Division [which was entrusted with the investigation of the Faulkner murder case], rather than being a genuine police department, was little more than a criminal enterprise. This became apparent on November 4, 1982, just months after the conclusion of Abu-Jamal’s trial. On that date, the division commander, Inspector John DeBenedetto – *the man who was Officer Faulkner’s boss and who had the ultimate authority for overseeing the entire investigation of the crime* – resigned from the police department. So did the head of the division’s vice squad, Lt. John Smith. Both men had been called before a federal grand jury investigating corruption in the district.⁷³¹

Interestingly, two other persons closely involved with the Abu-Jamal case also played a prominent role. In point 9 of his affidavit, Hersing mentions that he learned from DeBenedetto that “the individual street prostitutes were also run and controlled by the police who demanded money, sexual favors *and information* from them in order for them to continue to work the streets with less frequent arrests.”⁷³² And the one prostitute he mentions by name in this connection is none other than Cynthia White, the “star witness” in the murder prosecution against Mumia Abu-Jamal. White, who had been constantly arrested for prostitution during the years before, was of course an easy target for blackmail by the police, and the testimony of Veronica Jones and Pamela Jenkins at the PCRA hearings in 1996 and 1996 strongly suggests that White’s testimony at Abu-Jamal’s trial was indeed blackmailed. Since then, it had already been more than likely that corrupt center city police officers used White at the 1982 trial to blame the Faulkner murder on Abu-Jamal; with the new affidavits pre-

⁷²⁹ The Central Division includes 6 of the 25 police districts into which Philadelphia is divided. The Center City district is also within that Division. See the organizational chart on the website of the Philadelphia Police Department, <http://www.ppdonline.org>.

⁷³⁰ The affidavit is reprinted in PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 26-28; here p. 26.

⁷³¹ Lindorff, *Killing Time*, p. 53. Emphasis added.

⁷³² PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 27. Emphasis added.

sented by the defense, the question arose whether those corrupt officers had done so to distract from their own guilt.

The second person mentioned by Hersing is police Inspector Giordano, the highest ranking police officer at the crime scene on Locust Street, who by all accounts had no particular professional business being there, since another officer, William Thomas, was already in charge of the investigation.⁷³³ Dave Lindorff notes that Giordano “showed up at the scene of the crime only minutes after the shooting of Faulkner and went over to the van holding the wounded Abu-Jamal.”⁷³⁴ According to Hersing, Giordano was also part of the clique of corrupt police officers who ran an extortion racket in Philadelphia’s center city area. Interestingly, after Abu-Jamal’s arrest, Giordano tried to implicate him in the killing of officer Faulkner by claiming that he had confessed to the murder right then and there. His testimony was, however, not used at the trial since at that time his participation in the corrupt practices of the Central Division was already officially being investigated.⁷³⁵ He resigned from the police department directly after the conclusion of the Abu-Jamal murder trial and was found guilty of extortion charges in 1986.⁷³⁶ What if Giordano had manufactured a confession by Abu-Jamal to hide his own role in the killing of Faulkner?

In his affidavit, Hersing says that during the time he carried out his undercover activities, “there were also, at minimum, two other ongoing investigations of Philadelphia police personnel concurrent to the investigation I was involved in.”⁷³⁷ Dave Lindorff’s own research has led him to the conclusion that *nearly a third* of the officers who participated in the investigation of the murder of their colleague Daniel Faulkner were involved in exactly the sort of police corruption that the FBI was probing into the time.⁷³⁸ The natural question is whether Faulkner had indeed, as claimed by Arnold Beverly, become “a problem for the mob and corrupt policemen,” i.e., whether these forces had a motive to kill him.

7.9.3 Reflections on the Code of Silence

Had Officer Faulkner been part of the FBI investigation of the PPD? During the rest of the year 2001, Abu-Jamal’s new defense team has presented material that strongly points to the possibil-

⁷³³ For the fact that Thomas was in charge, see *TP*, June 26, 1982, p. 116.

⁷³⁴ Lindorff, *Killing Time*, p. 55.

⁷³⁵ See note 555.

⁷³⁶ Lindorff, *Killing Time*, p. 55.

⁷³⁷ PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 26.

⁷³⁸ Lindorff, *Killing Time*, p. 33. Lindorff also notes that the percentage may be even higher, since “in the late 1970s and early 1980s, the entire chain of command of both Homicide and Vice were being investigated by the FBI,” and “these were the very units that were investigating Abu-Jamal’s case.” *Ibid.*

ity that Faulkner participated in the same FBI operation as agent Donald Hersing. In an additional affidavit, former defense team member Rachel Wolkenstein testified that in an interview with a member of the defense, “the former lead prosecutor who prosecuted [former Central Division inspector] DeBenedetto for corruption [...] confirmed that Philadelphia police officers were sources in the investigation, including one source who had a brother who was also a police officer.”⁷³⁹ As is known from many press reports, one of Faulkner’s brothers *is* a police officer, although the prosecutor could not definitely say whether Faulkner had been an informant. Wolkenstein further found that after the death of Faulkner, the FBI had subpoenaed his army records, and she was advised by “former FBI agents then working as investigators on the [1981/82 corruption] case that the most plausible explanation for this was that Faulkner was *an informant, confidential source or an investigation target.*”⁷⁴⁰ Since no one has ever suggested that Faulkner had himself been an investigation target, the conclusion seems obvious. And finally, author Dave Lindorff obtained a copy of Daniel Faulkner’s FBI file under the Freedom of Information Act (FOIA). It turned out that it was full of deletions, and while deletions are not unusual in FOIA files, in the case, *most* of material was deleted. Lindorff reports that 25-year FBI veteran I.C. Smith told him that

the lengthy deletions in the deceased Faulkner’s file “suggest that there is probably a good chance that the officer had a relationship with the FBI.” He notes that the FBI has historically gone to great lengths to avoid revealing its confidential sources – even dead ones. “You may have hit on something here,” he says.⁷⁴¹

The motive to silence Faulkner may thus very well have existed, and as the record of brutality and corruption in the Philadelphia Police Department makes clear there were many officers on the force who had few inhibitions to resort to illegal and violent methods if they felt that somebody “messed” with them. And if the protection of an enterprise was at stake that was itself illegal, there would have been even fewer inhibitions. A long history of impunity had taught police officers in Philadelphia that they could practically never do any wrong, especially during the years up to 1980 under the reign of Frank Rizzo. Rizzo himself had made it repeatedly clear, first as police commissioner and then as mayor, that for him, police officers stood above the law, and that he would defend them against public accusations under almost any circumstances.⁷⁴²

⁷³⁹ “Affidavit of Rachel Wolkenstein, 28 July 2001,” in PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 7-22, here p. 13 (in point 40).

⁷⁴⁰ *Ibid.* (in point 41). Emphasis mine.

⁷⁴¹ Lindorff, *Killing Time*, p. 331.

⁷⁴² This is amply documented in the sympathetic biography by S.A. Paolantonio, *Rizzo*, e.g., p. 218-219, p. 240-243.

One might still object that recklessness and brutality on the one hand and carefully planned murder on the other are not one and the same thing. Were members of the Philadelphia Police Department also capable of the latter? Actually, there is no need to speculate about this, since at least one former member of the PPD has publicly boasted about his ingenuity in the matter. In his memoirs *A Cop's Life. Philadelphia, 1953-1983*, retired police officer Thomas M. Grubb recounts how he arranged for the murder of a man who he says was a drug dealer who had murdered an informant of the PPD by subjecting him to an overdose. Conversing with his co-author Allan "Lucky" Cole, Grubb remembers that

it took six months, maybe a little longer, but we found the guy that used to supply him, and his street name was "Black Cat." And eventually we went out lookin' for Black Cat. And we got 'im.

We got 'him, and of course he wasn't gonna go for that, but we took him in the car, and we paraded him around all over downtown Center City, and let everybody get a look at 'im.

'Cause I sat in the back of the car with him and held him up while he was tryin' to fall on the floor to hide. [...]

That was the first trip.

And then the following day, we lay around and waited for him, and we got him again. *Did the same goddam thing with him, rode him around, made sure everybody saw him.* We even took 'him outta Center City – North Philadelphia, we took 'im all over.

By then, most people usin' or pushin' drugs knew our cars.

And it wasn't until maybe, oh, two weeks later, somebody did Black Cat.

Same deal, he himself a hot shot. [...]

So that made me happier, that he got the same thing he did to the other kid.⁷⁴³

In the same book, this "thirty-year veteran of the Philadelphia police" who "worked everything from undercover narcotics to gang control"⁷⁴⁴ proudly describes how he blackmailed prostitutes to get useful testimony, and the possibility that his methods might have been illegal and unconstitutional never seems to trouble him.⁷⁴⁵ From Grubb's account, it is quite

⁷⁴³ Thomas M Grubb and Allan „Lucky“ Cole, *A Cop's Life. Philadelphia, 1953-1983* (San José: Author's Choice Press, 2000), p. 228-229. Emphasis mine.

⁷⁴⁴ Quoted from back-flap of *ibid.*

⁷⁴⁵ In fact, as the following quote makes clear, it does not even occur to him that it might be wrong to coerce information:

There were several bars in and around Center City that I knew, that I had gone to and made arrests on prostitutes there. They never used to take me for a cop, Lucky. You know, you go in, you make your proposition, and then you pinch 'em.

Well, there were a couple there that I didn't arrest, I didn't do anything with 'em. Caught them, y'know, a right deal, they give you the price for this and that, and then you arrest them.

But with these two women, I didn't arrest 'em, I told 'em, "You got to walk.

It's funny, with a prostitute, when you do that, they owe you. They will give you something eventually, 'cause they're the kind of women that get around to all the bad guys, and they know a lot of stuff. (*Ibid.*, p. 225-226.)

Of course, this account immediately calls to mind the testimony of defense witnesses Veronica Jones and Pamela Jenkins, who had both also worked as prostitutes, claimed to have been subjected to the same pressures, and

clear that he regards the actions he describes as normal, and even as virtuous. He, for one, had apparently learned the lessons of the Rizzo time quite well.

Moreover, FBI agent Hersing confirms that there were PPD officers who were ready to kill in order to protect their interests. According to his affidavit, during a meeting with Hersing and another corrupt high-ranking police officer, Inspector Giordano became upset and told the officer that he shouldn't have brought Hersing with him, "because he probably works for the f-cking FBI." And apparently, these suspicions translated into more than simple uneasiness. A further claim by Hersing is that, on the occasion of a meeting with a certain Lt. John Smith and Inspector DeBenedetto, not only was he "physically searched [for bugging devices] by Smith prior to this March 1982 meeting", but it was also clear to him that "I would be in serious physical danger, possibly even killed, if my role as an FBI CSI would be revealed."⁷⁴⁶

All this leads to the conclusion that the corruption rampant among the ranks of the police in Philadelphia's Center City was complemented by a considerable amount of criminal energy to silence anybody who might interfere with that corruption by any means necessary, including deadly violence. It is a well documented fact, corroborated in this case, that with respect to large criminal enterprises, it doesn't matter whether they are operated by the mafia or officers of the law. It seems that *omerta*, or the code of silence, always operates in similar ways.

7.9.4 The Nail in the Coffin

Thus, for the first time ever, Abu-Jamal's defense presented an alternative theory of what had happened during that fateful night on December 9, 1981. On the face of it, all of this sounds fictional and like a Hollywood thriller, but I have tried to show that on second inspection it makes much sense and is quite plausible. Conversely, the defense has also presented evidence that conclusively demonstrates that the *prosecution scenario* on which Abu-Jamal was convicted and sentenced to death is false. That proof consists of a very simple observation, and it is intriguing that it could go unnoticed for such a long time.

In 1982, three prosecution witnesses (Cynthia White, Robert Chobert, and Michael Scanlan) testified that when the shooter fired his deadly shot, he stood over Faulkner, who had fallen on his back, and fired at him several times. One of the bullets from these shots was said to have hit Faulkner. At the trial or afterwards, nothing was ever said about what happened to the other bullets, which, if the testimony of the witnesses was true, should have hit the pave-

most importantly, insisted that the star witness of the prosecution in Abu-Jamal's case, Cynthia White, has been coerced in the same way.

⁷⁴⁶ PDC, *Mumia Abu-Jamal Is an Innocent Man!*, p. 28. CSI is for "conspirational source of information."

ment. But there were no bullets in the pavement in front of 1234 Locust, nor was the pavement damaged in any way. Moreover, a press report based on police statements two days after the shooting gave a picture radically different from what the three witnesses claimed at the trial. In it, Captain Jerrold Kane of the homicide squad said that

one of the bullets was removed from Faulkner's head, that a second apparently passed through his body and struck a nearby building [namely, Locust 1234] and that two others missed him and lodged in the same building."⁷⁴⁷

Moreover, the same police officer said that "initial tests by police ballistics experts, who compared four bullets recovered at the shooting scene to a test bullet fired from the gun [belonging to Abu-Jamal] proved inconclusive."⁷⁴⁸ According to Kane, the police "did not know what happened to the fifth bullet."⁷⁴⁹

It is thus no question anymore whether the scenario presented by the prosecution at Abu-Jamal's trial is true. It is clearly not, because it is *impossible*. That it took close to twenty years for this information to leak out to the public should be given due consideration by those who think that apart from some minor and perhaps inevitable flaws the American criminal justice system is fundamentally fair.

The second, alternative scenario presented by Abu-Jamal's new defense team has the advantage over the first that it *is* possible and, on closer inspection, has a considerable amount of plausibility, and that there is a very simple way to put it to test, namely, by granting Abu-Jamal's defense the opportunity to present its witnesses and other evidence before a court. Given the glaring inconsistencies of the evidence on which Abu-Jamal was sent to death row, the fact that this has not happened so far may be seen as another comment on the state of justice in the United States today, as soon as it is judged from the angle, not of Constitutional theory, but of social reality.

⁷⁴⁷ Joyce Gemperlein and Thomas Gibbons Jr., "Tests on bullets inconclusive in officer's death," *Philadelphia Inquirer*, December 12, 1981.

⁷⁴⁸ *Ibid.*

⁷⁴⁹ *Ibid.*



29. Crime scene: Locust Street, Philadelphia, Dec. 9, 1981.



30. 1234, Locust Street, Philadelphia, Dec. 9, 1981. No bullets in the pavement.



31. Demonstration in Frankfurt, December 8, 2001.

8. Conclusion: The Power of the People

So why did the death penalty case of Mumia Abu-Jamal become the center of a mass movement that went far beyond that single individual in its implications? The answer is, in short, that Mumia Abu-Jamal, both in his own actions and in what happened to him, had come to represent the radical current in American democracy, the current that stands for a democracy “of the people, for the people, and by the people.” Some of the primary reasons for this can certainly be found in his biography.

Mumia Abu-Jamal was born in a year in which the U.S. Supreme Court came down with a ruling whose importance can scarcely be exaggerated, since it marked the beginning of the end of America’s legalized apartheid. He grew up as the child of poor African Americans in the nation’s cradle of freedom, Philadelphia, which, while founded with the claim to be the City of Brotherly Love, has been one of the racially most segregated cities of the United States.

Like many young black men and women of his generation, he joined the radical wing of the black emancipation movement and became a member of the Black Panther Party, of which he actually was one of the co-founders in the city of Philadelphia at the age of fourteen. In the party, he learned how official white America reacted to the threat that emanated from the simple demands of black people ready to fight for equality and freedom.

In the party, Abu-Jamal witnessed the furious repression African Americans fighting for these rights were subjected to. He reported on the assassination of the 21-year-old Chicago leader of the BPP, Fred Hampton, and spoke at his memorial service in Philadelphia. He experienced the harassment of the Panthers by Rizzo police first-hand, and he saw uncounted numbers of his BPP comrades all across the nation disappear for long years behind prison bars.

As a reporter, the brutality with which the police, fired on by the establishment, attacked his friends in the MOVE Organization rankled him to the core. In his own words, he had “seen every substantive so-called Constitutional tight twisted, shredded and torn”⁷⁵⁰ when it came to MOVE. And he was fired from several jobs because he insisted on reporting what he saw as the truth, rather than bending to institutional pressures and to the lure of the paycheck.

Later on, after he was drawn into a fateful confrontation when he saw a police officer beat his brother, he was indicted for murder but was never given a chance to defend himself in court, simply because he insisted to have a trusted friend with him at the defense table while he was fighting for his life.

⁷⁵⁰ See “May 13 Remembered,” in Abu-Jamal, *All Things Censored*, p. 148.

After his conviction, he was imprisoned on death row and disappeared from the sight of the public for many years. Stigmatized as an unrepentant “cop-killer,” he continued to raise his voice in defiance of the powers that be, defending those whose voice was even more unlikely to be heard than his own. When his sentence became legally valid in 1990, the state’s design to proceed to kill him finally provoked a massive movement that would not tolerate the final silencing of a long-time opponent of the status quo.

Against the backdrop of this biography, for those who participated in the movement to prevent Abu-Jamal’s execution and to win him a new trial (which the overwhelming majority of the participants in the movement assumed would result in his acquittal), Mumia Abu-Jamal had thus become a symbol for the continued and renewed struggle for the unredeemed promises of the civil rights era, which had in turn taken their inspiration from a radical interpretation of the founding documents of the United States.

On the other hand, Abu-Jamal became a symbol for what the establishment forces were capable of in keeping minorities, poor people, and radical dissenters in their place. Abu-Jamal belonged to all three categories, and over the years, the spectacle of how, of all places in a courtroom, he was stripped of all constitutional rights including the most essential and precious right, the right to life, became a lesson in the actual workings of American democracy for the many thousands who studied the details of the case.

At the same time, Abu-Jamal was only one of a swelling legion of the damned, an inhabitant of the dark and growing prison continent in the U.S.A., and he resided in one of the most terrible places on that continent, namely, on death row. Attention for his ordeal could not fail to also focus attention on the ordeal of thousands of others also waiting to die at the hands of the government, and of hundreds of thousands who were, like him, denied their freedom and locked up in prison for many years.

The unfairness of the courts, the brutality of the prisons, and the inhumanity of the death penalty were all given a face and a voice in the person of Mumia Abu-Jamal, who had, by his own political and professional activities until the time of his arrest, represented the very antithesis to all these developments. Through the paradox that he was now being subjected to the most extreme forms of the very oppression he had fought against since the age of fourteen, he inspired a movement consisting of many different strands with different emphases, whose common denominator is the struggle against injustice and for democracy.

In the United States, there is a long and powerful tradition that time and again sparks movements that object to the arrogation of rights by the state that in their view should belong exclusively to the citizens. The movement for the life and freedom of Mumia Abu-

Jamal clearly represents a current form of this tradition, a form that specifically holds that the state should not have the right to kill its citizens; that the state's right to violate the privacy of the citizens or to encroach on their privileges, to arrest them and hold them behind bars should be as restricted as possible; and that if the state decides to initiate criminal procedures against them, they should have powerful protections available against that. That the state should have powers such as those it has continued to accumulate during the last twenty to thirty years stands in stark contradiction to a "democracy of the people" as it is understood in widely held interpretations of the American democratic tradition and the U.S. constitution such as these.

This movement thus clearly represents a conception of democracy different from, and opposed to, the prevailing one, namely, a democracy from below. Its diversity reflects a principle of the Black Panther Party that had often been promoted in the speeches of Fred Hampton, and that had reverberated (although in slightly different form) at the Revolutionary People's Constitutional Convention 1970 in Philadelphia: "Black power to black people, red power to red people, yellow power to yellow people, white power to white people, all power to all the people!"⁷⁵¹

A final and decisive factor that enabled the development and growth of the movement in support of Abu Jamal is certainly the personality of Abu-Jamal himself. As documented by three books, countless newspaper and internet columns and essays, and not least by his work as a radio journalist, which with the help of the Prison Radio Project he has been able to continue even from death row, Abu-Jamal is an unusually articulate man who is able to speak brilliantly on all the issues mentioned here and above, and many more.

But eloquence and brilliance alone do not explain the attraction, which brings to mind the word one of his most ardent supporters, actor Ossie Davis, has said about another young African American who inspired the love and admiration of millions of blacks in the United States and all around the world, and not few whites who supported the struggle of African Americans out of a sense for decency and justice:

Many will ask what Harlem finds to honor in this stormy, controversial and bold young captain – and we will smile. They will say that he is of hate – a fanatic, a racist. [...] And we will answer: [...] Did you ever talk to Brother Malcolm? Did you ever touch him or have him smile at you? Did you ever really listen to him? Did he ever do a mean thing? Was he ever himself associated with violence or any public disturbance? For if you did you would know him [...]. Malcolm was our manhood, our living, black manhood. This was his meaning to his people. And, in honoring him, we honor the best in

⁷⁵¹ E.g., in the 1971 documentary film *The Murder of Fred Hampton* by Michael Gray.

ourselves. And we will know him then for what he was and is – a Prince – our own black shining Prince! – who didn't hesitate to die, because he loved us so.⁷⁵²

These words were spoken at Malcolm X's funeral 1965 in Harlem. It is striking how similar Jamal Joseph, who has known Abu-Jamal since their time as teenagers when they worked together for the Black Panther Party on the East Coast of the United States, has expressed Abu-Jamal's relation to the community he comes from during a roundtable talk in 2001 in Berlin. Joseph recalled the presentation of a film on the BPP of which he was quite critical, because he said the decisive thing was missing. The thing it was all about. The thing without which the Black Panther Party would have had no reason to exist. He started to make phone calls among former party members to find out whether they felt the same way and he asked them all only one question: "If there was one thing we were taught to believe above all other things, just one thing, and I don't talk about the ten point program or the rules of discipline or the ideology or dialectical materialism, just one thing, what would it be for you?"⁷⁵³ The answer to the question couldn't have been more unequivocal:

And although this is about 25 years later, everyone answered the question the same way. They said, we were taught to have an undying love for the people.

This is the motivation, and this is why Mumia still inspires people, excites people, connects with people, even though he is as much in prison as you can be.

How was he able to touch thousands and thousands of people?

Is he brilliant? Yes!

Is he articulate? Yes!

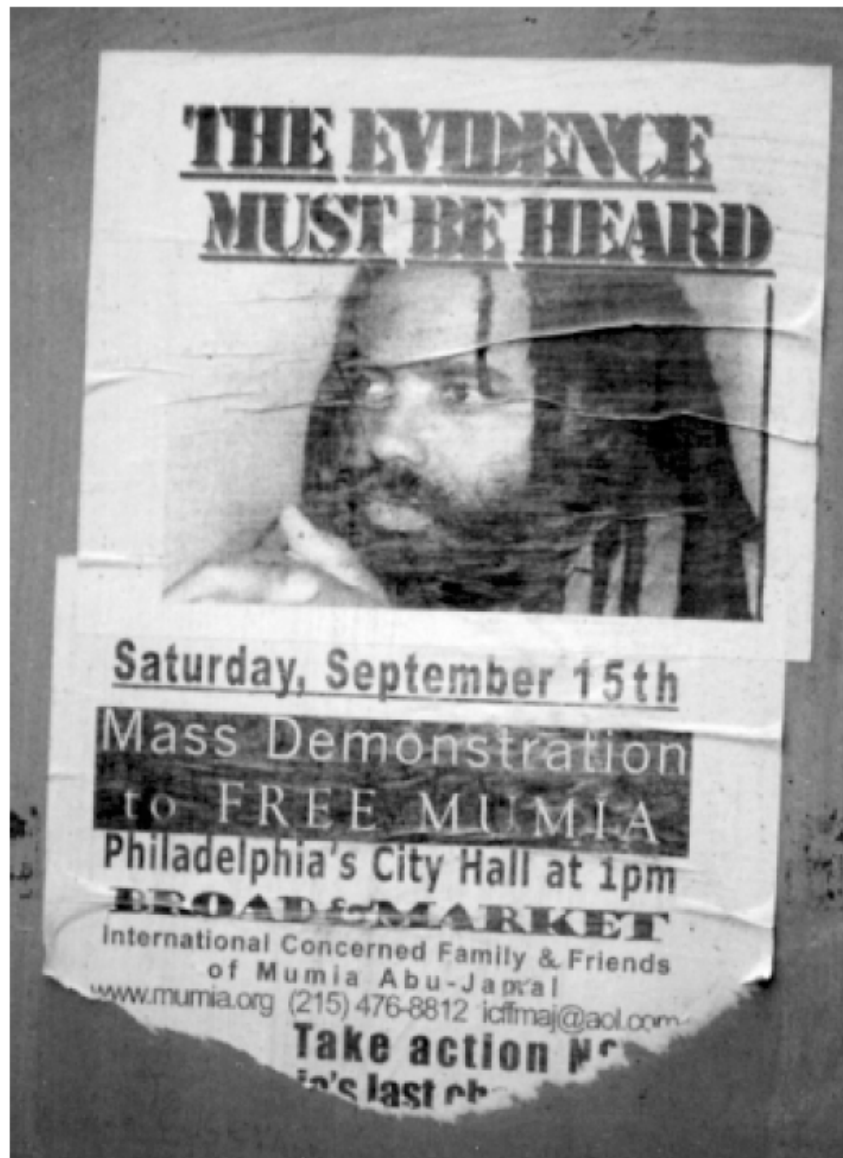
Is he charismatic? Yes!

But it's the love that comes through all of the steel, all of the dreads, all of the isolation, that connects with people. And that's the connection for which he is our brother, why he is our comrade, and why we don't see his case as separate and apart from the liberation struggle that is happening in the United States, and all around the world.⁷⁵⁴

⁷⁵² Quoted in Marable, *Race, Reform, and Rebellion*, p. 92.

⁷⁵³ Jamal Joseph, *Roundtable Talk With BPP Members* (see note 531).

⁷⁵⁴ *Ibid.*



32. Philadelphia, September 2001.



33. „Millions for Mumia“ in Philadelphia, April 24, 1999.



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The Truth About SACRAMENTO

To get a clear picture of the significance of Black Panther Day - May 2, 1967 - we will quickly run it down, since the mass media has indulged itself in an orgy of distortion, lying, and misrepresentation seldom equalled in the history of racist U.S.A. Moreover, the mass media has refused to report the chain of events that led up to the visit of the Black Panthers to the hospital.

April 2, 1967, Dennis Dowell, age 22, was killed by a racist cop on the Contra Costa Sheriff's Department force. The press has repeatedly failed to incorporate the outrage experienced in the black community with the subsequent actions of the Black Panther Party. The facts of Dowell's murder, as prepared by the Dowell's attorney, are as follows: 1) The doctor on the case told the relatives that Dowell must have been shot with his hands raised. 2) The coroner's report stated there were 6 bullet holes, while the newspapers called the Richmond Independent said there were only 3 bullet holes. White America appears content as a whole to buy the Three Bullet Theory in the Kennedy murder, but black people will not buy the Three Bullet Theory in the Dennis Dowell murder. 3) The Coroner said that death was due to bleeding, yet

no blood was found at the site of the body. The Dowell family was denied the right to take photographs of the body, or to take away both the Richmond police and Justice police have refused to return Dowell's clothes for further necessary evidence pertinent to the findings. No clearer case of unjustifiable homicide exists. No entry had been made into the building that the killer-cop accused Dowell had robbed. Dowell had a hip injury which the cop was aware of, as he had arrested him before. Dowell did not have a gun, and this could have been detected by a trained protector of society. So how could 6 bullets have ever been justifiable? (continued on page 2)



THESE ARE THREE OF THE THIRTY-THREE C HUNGERS WHO WERE AT THE CAPITOL. THEY ARE DEMONSTRATING OF THE BIRTH OF 67. "IS HONORABLY ASKED AND READY FOR ACTION."

TO BLOODS

If any cop brutalizes you or violates your Human Rights, beats you, threatens you, or tries to intimidate you, please, please, get his picture or his name if he is civilized enough to give it to you; or get his badge number. As soon as you get all this information, turn it over to the Black Panther Party for Self Defense and the Party will deal with it in an appropriate manner.

TO COPS

We don't like the way you cops have been mistreating the law and mistreating the people. You are civil servants, which means that the people - all the people - have delegated to you the task of securing the people in the daily exercise of their rights. For example: the function of removing waste material from our comrades was delegated by the people to those we call

(continued on page 2)



BOBBY SEALE, CHAIRMAN AND HUEY P. NEWTON, MINISTERS OF THE B.P.P.

Statement BY MINISTER OF DEFENSE TO THE BLACK WORLD

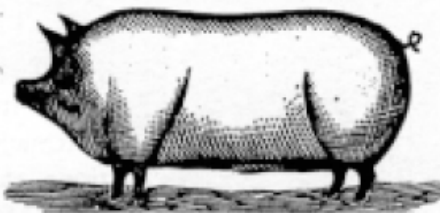
Below is the statement prepared by Huey P. Newton, Minister of Defense, and delivered by Bobby Seale, Chairman, of the Black Panther Party for Self-Defense, May 2, 1967, at the state capitol in Sacramento, California. When this statement is read carefully, it becomes obvious that all that is here is TRUTH. Insuing full well they were legally exercising their constitutional rights, the Panthers made fools of the cops who tried to take the guns away from them, and suffered the humiliation of having to give them right back. The dumb Capitol cops didn't even know their own gun laws. (Continued on page 2)



TO RACIST SHERIFF THOMAS DENNIS DOWELL IS JUST ANOTHER DEAD NEGRO.

THE WHITE COMMUNITY

THE BLACK COMMUNITY



SUPPORT YOUR LOCAL POLICE

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