

EMAJ EDUCATORS FOR MUMIA ABU-JAMAL

12 Years Educating and Organizing for Abu-Jamal and Justice

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

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

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

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

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

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

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

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

Before commenting on these revelations more, recall the basics of the case. Abu-Jamal, previously Wesley Cook, a noted journalist and political activist in Philadelphia, was found on the sidewalk along with his brother, Billy Cook, when police arrived on the scene to find the dying Faulkner. Abu-Jamal had also been shot, was beaten by arriving police, and was arraigned in the hospital during recovery from his own critical injuries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) testimony from defense witnesses Dessie Hightower and Veronica Jones (and reports by others) claiming that they saw one or more other persons running from the crime scene after the shooting;
- (b) testimony at a 1995 Post-Conviction Relief hearing that a driver’s “license” document found in Officer Faulkner’s shirt pocket after the crime, had been lent to one, Kenneth Freeman, Billy Cook’s business partner and friend who often rode with him in his car. (Freeman, an African-American with dreadlocks, could easily have been confused by police with Mumia when he was emerging from the passenger seat of the VW.)
- (c) testimony by one of the prosecution’s own star witnesses, Cynthia White, that *two* distinct figures, both a driver *and* a passenger, emerged from Billy Cook’s Volkswagen when it was stopped by Faulkner. This testimony is in the transcript of the earlier March 1982 trial of Billy Cook.

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

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

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

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

7 KEY POINTS ON THE POLAKOFF PHOTOS

Researcher Michael Schiffmann of the University of Heidelberg discovered photos on the internet, taken by photo-journalist, Pedro Polakoff, the first photos of the crime scene where Officer Faulkner was shot. These photos never received formal judicial review. "7 KEY POINTS" summarizes these photos' importance. They can be further researched in Schiffmann's book, *Race Against Death*. These photos constitute only part of potentially exculpatory evidence for Mumia, and gives further support to claims that Mumia should never have been convicted. See also the EMAJ Press Release of September 16, 2007. (*Educators for Mumia Abu-Jamal - EMAJ, 2007, www.emajonline.com*).

- 1 - Polakoff's photos were the earliest taken at the crime scene, preceding even those taken by the police and used at trial.
- 2 - The DA's office not once, but twice ignored Polakoff's attempts to make the photos available to them.
- 3 - Polakoff found the crime scene to be surprisingly and unusually unsecured and unprotected by authorities.
- 4 - Many of Polakoff's photos appear to show both *manipulation of evidence* (e.g. changed position of Faulkner's hat) and *corruption of the crime scene* (e.g. police touching of guns' metal parts).
- 5 - Two Polakoff photos show that the cab of prosecution key witness Robert Chobert was not parked at the point from which he says he witnessed the crime.
- 6 - A full six of the Polakoff photos challenge prosecutors' claim that Faulkner was on his back and shot by a killer standing above him.
- 7 - Polakoff reports that the police's own earliest theory of the shooting focused on a person who emerged from the passenger seat of Billy Cook's VW. Police mistook this passenger/shooter for Mumia, when it was likely Kenneth Freeman, who other evidence suggests, rode with Cook.