

# The Many Problems With The Ballistics Evidence Used To Convict Mumia Abu-Jamal

## Petition Filed For Habeas Corpus Relief

Robert R. Bryan, the lead attorney for Mumia Abu-Jamal, writes that "on April 20, 2009, we filed a Petition for Habeas Corpus Relief in the trial court, the Pennsylvania Court of Common Pleas. At issue is the fact that Mumia was con-

victed on the basis of unreliable and incomplete expert ballistics testimony presented by the prosecution during the 1982 trial. We have also moved for discovery of all related evidence possessed by the prosecution."

## The Fatal Bullet Was Officially Too Damaged To Be Directly Matched To Abu-Jamal's Gun

*The arresting officers claimed that when they arrived at the scene, Abu-Jamal's legally registered .38 caliber, Charter Arms revolver (which Abu-Jamal says he carried while driving his taxi, after he was robbed several times on the job) was laying at his side with five spent cartridges.*

**\*Deeply Troubling:** Police never officially performed the standard "wipe test" checking for gunshot residue on Abu-Jamal's hands and clothing, or the "smell test" on his gun, which *Amnesty International* has criticized as "deeply troubling."

J. Patrick O'Connor, author of *The Framing of Mumia Abu-Jamal*, writes that these tests "are so routine at murder scenes that it is almost inconceivable the police did not run them. It is more likely that they did not like the results."

**\*.44 Or .38 Caliber:** The original medical examiner's report (never seen by the 1982 jury) stated that the deadly bullet was a .44 caliber. Later, police ballistics expert Anthony Paul concluded that the bullet was actually a .38 caliber. Philadelphia Tribune columnist and Temple University journalism professor, Linn Washington Jr, argues that the .44 caliber notation "is significant in showing the shallowness of the case against Abu-Jamal. A .44-caliber-magnum bullet is more than twice the size of a .38-caliber bullet. This size difference between these two bullets is clear to the naked eye of anyone irrespective of their level of understanding of bullets and/or ballistics. Remember, in Philadelphia, Medical Examiners perform hundreds of gun shot death autopsies annually, constantly seeing various size bullets, thus being easily able to identify bullets."

**\*Particular Rifling Traits:** Even if the medical examiner made a legitimate mistake, the evidence presented about the alleged .38 bullet is also contradictory and inconclusive. "Particular rifling traits" identify a

bullet as coming from one specific gun. Police experts concluded that the fatal bullet was too damaged to link the particular traits to Abu-Jamal's gun.

**\*General rifling traits:** General traits can only link a bullet to a particular type of gun. In his report, Anthony Paul first identified the bullet's general traits as "indeterminable." Contradicting himself in the same report, Paul later noted a general trait: a "right-hand direction of twist." Then, Paul's 1982 trial testimony went even further by identifying another general trait never mentioned in his written report: "8 lands and 8 grooves." Suspiciously, after deeming the general traits "indeterminable," Paul then alleged two general traits that served to further implicate Abu-Jamal's gun type.

**\*Multiples of Millions:** Even if these general traits cited by Anthony Paul did exist on the bullet, it was still not a reliable link to Abu-Jamal's gun. Paul was asked at the 1982 trial, "approximately, how many millions of guns have eight lands and grooves and how many would provide this bullet?" He acknowledged that it could have come from "multiples of millions," including guns not manufactured by Charter Arms.

**\*The Behavior of an Innocent Man:** In 2001, Abu-Jamal's defense filed two affidavits demanding that the fatal bullet be retested by modern methods to determine whether it came from Abu-Jamal's gun. In one affidavit, medical examiner Robert H. Kirschner states: "Newer technology may provide evidence as to the class or individual characteristics of the bullet specimen recovered from Officer Faulkner permitting a determination of whether or not it was fired from the recovered Charter Arms revolver."

**Would a guilty man have called for a new ballistics analysis?**



## Newly Discovered Crime Scene Photos Document Police Manipulating Evidence

In 2006, German author Michael Schiffmann discovered crime scene photos taken by freelance press photographer Pedro Polakoff, who told Schiffmann that he had approached the DA's office with his crime scene photos in 1981/1982 and 1995, but that the DA completely ignored him.

Because Polakoff believed Abu-Jamal was guilty, he had no interest in approaching the defense, and never did. Consequently, neither the 1982 jury nor the defense ever saw Polakoff's photos.

Robert R. Bryan, lead attorney for Abu-Jamal, says Polakoff's photos "reveal the fact that the police were actively manipulating evidence at the homicide scene."

In several of Polakoff's photos (including the one above, displayed at a 2007 slide-show presentation), Officer James Forbes is seen compromising ballistics evidence by holding two guns in his bare hand, which Robert R. Bryan says is "unthinkable."

Schiffmann argues that Forbes is seen repeatedly touching the guns' metal parts, contradicting his 1982 trial testimony that he had not touched the metal parts.

When *National Public Radio* asked Officer Faulkner's widow, Maureen Faulkner, about the photo of Officer Forbes holding the two guns, Faulkner said: "At that time, I'm sure the evidence was somewhat contaminated."

## Abu-Jamal Has Always Proclaimed His Innocence

Death-row journalist and former Black Panther, Mumia Abu-Jamal, was convicted of first-degree murder in the shooting death of white Philadelphia Police Officer, Daniel Faulkner, at a 1982 trial deemed unfair by *Amnesty International* and others.

### The case is highly contested, but all sides agree that:

\*Abu-Jamal was working as a taxi-driver on Dec. 9, 1981, when, shortly before 4:00 a.m., he saw his brother, William "Billy" Cook, in an altercation with Officer Faulkner after Faulkner had pulled over Cook's car at the corner of 13th and Locust Streets.

\*Abu-Jamal exited his taxi and approached the scene.

\*Minutes later when police arrived, Faulkner had been shot dead, and Abu-Jamal had been near-fatally shot in the chest.

### At the 1982 trial, prosecutor Joseph McGill argued that:

(1) Abu-Jamal approached and shot Faulkner in the back.

(2) Faulkner then spun around and shot Abu-Jamal in the chest, from below, while Faulkner was falling to the ground.

(3) Abu-Jamal responded by standing over Faulkner and shooting down at him until all five rounds were used --shooting Faulkner once in the head, and missing Faulkner several times.

### Now, turn this flyer over to learn why the prosecution's theory is ballistically impossible...

This flyer, released July 2009, was written by **Journalists for Mumia Abu-Jamal**, an independent news organization. For more information: [www.Abu-Jamal-News.com](http://www.Abu-Jamal-News.com)

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## 'Missing Divots' Disprove The Prosecution's Theory

German author Michael Schiffmann argues that the newly discovered crime scene photos taken by Pedro Polakoff disprove the prosecution's theory of the shooting. Schiffmann argues that in Polakoff's photos of the sidewalk where Faulkner was found, there are no large bullet divots, or destroyed chunks of cement, which should be visible in the pavement if the prosecution scenario was accurate.

The prosecution argued that Abu-Jamal shot down at Faulkner -- and allegedly missed several times -- while Faulkner was on his back. While also citing the lack of bullet marks in the official police photo (*shown on the right side of this flyer*), Schiffmann writes that the prosecution's theory must be false because "it

is physically and ballistically impossible."

Schiffmann then takes this conclusion one step further, and argues that the three prosecution witnesses supporting this scenario must have been lying. Even ignoring previous evidence that witnesses Robert Chobert and Cynthia White falsely testified, "the absence of any bullet traces or bullets in the sidewalk in front of 1234 Locust is irrefutable physical evidence that these two, plus witness Michael Scanlan did not tell the truth at Mumia's trial. By that simple observation a central part of the prosecution's theory is simply blown out of the water -- and new evidence is on the table thereby for the coaching, coercion and manipulation of witnesses."

## NASA scientist enhances photo to look for bullet marks and concludes that the pavement looks: "completely smooth."

To further analyze the pavement for bullet marks, journalist Dave Lindorff hired Robert Nelson, a senior research astronomer at NASA's Jet Propulsion Laboratory in Pasadena, CA, who is an expert in photo analysis and enhancement, currently assigned to enhance and analyze the photos taken by the Cassini space probe that is orbiting Saturn.

Lindorff explains that he sent Nelson one of the photos taken by Pedro Polakoff, showing "the bloody spot where Officer Faulkner had

been lying on the sidewalk," asking Nelson to try and "spot any divots in the area, such as one would certainly see if someone were firing high-velocity bullets from just a few feet above the cement directly into the ground."

Nelson utilized the "same edge enhancement and contrast enhancement work that he does typically with the photos that are sent back from the Cassini probe, and replied to me that the concrete appeared to be 'completely smooth' with no pitting or divots."



**Official Police Photo:** Further supporting the 'missing divots' observation made about the Polakoff photos, this police photo also shows no bullet marks.

## Downward trajectory of the bullet in Abu-Jamal contradicts DA's theory

At the 1982 trial, the prosecution argued that Abu-Jamal had been shot in the chest from below by a falling Officer Faulkner. However, the bullet (officially linked directly to Faulkner's gun) entered Abu-Jamal's chest at a downward trajectory, suggesting that he was actually shot from above.

Attempting to explain the bullet's problematic downward trajectory, the prosecution claimed that the bullet ricocheted off bone within Abu-Jamal's torso and then tumbled downward. Challenging this far-fetched theory, medical examiner John Hayes testified at the 1995 PCRA hearings, that x-rays proved the bullet traveled without any deflection.

This downward trajectory strongly suggests that Abu-Jamal was actually shot while running, bent slightly forward, from across the street towards Faulkner, who was standing above, on the curb.

## Trajectory of bullet shot in Faulkner's back contradicts the DA's theory

The bullet shot into Faulkner's back traveled upwards at a 33 degree angle, exiting below his throat.

This bullet has never been definitively recovered.

In fact, neither the bullet, copper bullet jacket, or bullet fragments found at the scene (*as shown in the diagrams on the left*) were definitively tied to either Faulkner's gun or Abu-Jamal's gun.

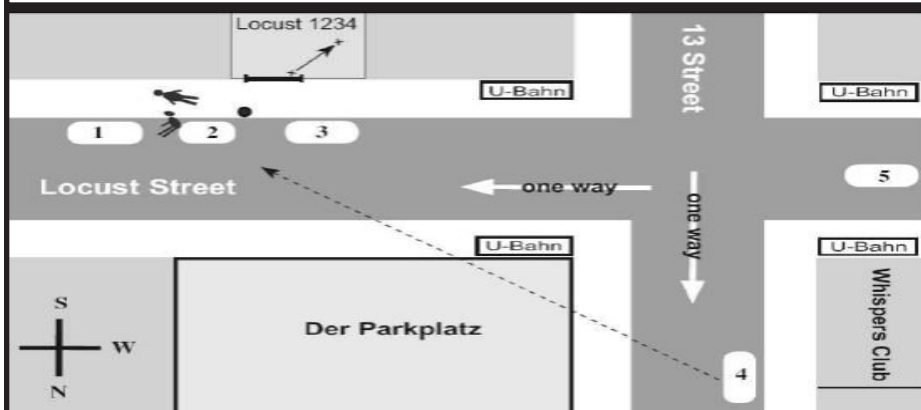
Schiffmann argues that only the small bullet fragment found inside the 1234 Locust vestibule (weighing 39.4 grains) could have possibly related to the shot through Faulkner's back. Notably, this fragment traveled southwest, in sharp contrast to the southeast direction of Abu-Jamal's likely approach.

Furthermore, there were no bullets or fragments found east down Locust--where it would have been had Abu-Jamal shot Faulkner in the direction he was likely approaching. Thus, Schiffmann writes with "a certainty of almost 100 percent" that Abu-Jamal did not fire the shot into Faulkner's back.

Schiffmann concludes that the bullet was actually fired by a third person, who was on the curb, behind Faulkner, as Faulkner faced northwest towards Abu-Jamal. Schiffmann argues that this "third person" was Billy Cook's friend and business partner, named Kenneth Freeman, who was in Cook's car when it was pulled over, and who shot Faulkner in response to Faulkner first shooting Abu-Jamal.



(1) Inserted police photo at far left of diagram, in front of Billy Cook's VW, designates where Faulkner's body was found (2) Billy Cook's VW (3) Faulkner's police car (The "X"-Marks, From Left to Right) X Entry location of bullet fragment, weighing 39.4 grains, found inside doorway vestibule, 6 ft., 10 in. south of the front door X unexplained copper bullet jacket on sidewalk X .38/.357 whole bullet, weighing 151.3 grains, with officially indeterminable rifling traits, found in the frame of entrance door, 3 ft., 7 in. up from the sidewalk (Schiffmann argues that the bullet is too low and too far away from Faulkner's body, to have exited Faulkner's throat) X 7 small lead fragments, total weight 18.2 grains, found in the lower wall, seven inches up from the sidewalk.



(1) Parked Ford sedan, officially unrelated (2) Billy Cook's VW (3) Faulkner's police car (4) Abu-Jamal's taxi (5) Michael Scanlan's car (Short Arrow at 1234 Locust) The trajectory of the bullet fragment, weighing 39.4 grains, inside the vestibule. The trajectory is based upon the alignment of the hole in the glass where the bullet entered and where it stopped in the wall. (Long Arrow From 4) Abu-Jamal's most likely direction when he approached from his car. Abu-Jamal's direction contradicts the trajectory of the bullet fragment in the wall. Faulkner was more likely shot through the back by someone standing on the curb next to Billy Cook's car, with the bullet traveling North, away from 1234 Locust, after exiting Faulkner's body.