

MOVE: A Double Standard of Justice?

By Linn Washington*

An insignificant protest against the caging of animals at the Philadelphia Zoo in 1972 by a band of boisterous, profanity-spewing radicals known as MOVE marked the inauspicious beginning of a series of violent clashes between this increasingly lawless sect and brutal Philadelphia police officers. The confrontations culminated in a shoot-out between MOVE members and police on May 13, 1985, in which a police helicopter dropped a bomb on a heavily fortified row house occupied by MOVE. The bomb sparked a firestorm which killed 11 MOVE members and gutted 61 homes, leaving 250 people homeless. Although only three MOVE members were named in police arrest warrants, the dead included five children whose ages ranged from 7 to 14 years old. The series of conflicts between police and MOVE ultimately claimed a dozen lives and consumed close to \$50 million in city expenditures.

A driving force behind the violent confrontations was MOVE's belief that it was consistently victimized by a racist double standard of justice which quickly penalized them for any infraction but failed to punish law enforcement personnel for acts of illegal brutality. According to MOVE, the police, public officials and judicial authorities were co-conspirators in the campaign to suppress the organization's political and religious rights. "This is supposed to be a Court room of justice," said Conrad Hampton Africa, one of the MOVE members incinerated in the 1985 confrontation, during a 1976 trial for assault of police officers. "Who is going to speak of all the injustices that was poured down on the Organization . . . masochistic sheriffs and police officers beat me . . . slammed my face against concrete walls. When are these maniacs, these criminals going to be on trial?"¹

MOVE's unsuccessful \$26 million federal lawsuit filed against city officials in 1976 graphically demonstrates the distance between the positions of MOVE and Philadelphia officials. The complaint contended that MOVE was subjected to "systematic harassment" for its expression of constitutionally protected political and social views. The city's answer asserted MOVE was not interested in expressing legitimate political and social

views. "On the contrary, it is averred that the group known as MOVE are individuals who want to conduct themselves outside the law without any respect for proper and legal authority."²

MOVE's complaints against discriminatory practices by Philadelphia's police and judicial authorities coincide with charges of racism levelled by local Black leaders against city officials since colonial times. One historian noted that Black Philadelphians have experienced "constant discrimination" in the application of the laws. Whites who attacked Blacks usually "went unpunished; but if a Negro offended, the authorities smote him heavily."³ However, MOVE's anarchistic, anti-social behavior mitigates its claim of being a blameless victim. MOVE's propensity for physical assaults and disregard for the rights of its neighbors are as abhorrent as the police brutality it loudly denounces.

This article will explore the history of the confrontations between MOVE and Philadelphia City officials in the decade between 1975 and 1985, emphasizing the government's double standard of justice, particularly reflected in the results of the local grand jury investigation into the 1985 shoot-out.

- I. A revolutionary ideology is not merely negative — it is not a mere conceptual refutation of a dying social order, but a positive creative theory, the guiding light of the emerging social order . . .

Kwame Nkrumah⁴

MOVE was created by Vincent Leaphart, a handyman and third grade dropout whose affection for dogs earned him the nickname of "Vince the Dogman." Leaphart, who later took the name John Africa⁵, has

2. *MOVE v. City of Philadelphia*, Civil Action No. 76-1483.

3. Edward R. Turner, *THE NEGRO IN PENNSYLVANIA: 1639-1861*, 145 (1st ed. 1911, reprinted 1970). See also, A. Leon Higginbotham, Jr., *IN THE MATTER OF COLOR: RACE & THE AMERICAN LEGAL PROCESS - THE COLONIAL PERIOD*, 269 and 310 (1978).

4. Kwame Nkrumah, *AXIOMS OF KWAME NKUMAH* (1967).

5. All MOVE members adopt the last name "Africa."

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1. *Commonwealth v. Africa*, 466 Pa. 603, 353 A.2d 855, 859 (1976).

been described as a charismatic, compassionate man who had an uncanny calmative effect on young children and wild animals.⁶ "There's a fine line between genius and insanity and he crossed it," said MOVE's co-founder Donald Glassey during a 1985 interview.⁷ Glassey was an idealistic, white social worker and graduate student at the University of Pennsylvania. The two men founded MOVE in early 1972.

Within six months Leaphart had begun to recruit members into the organization he initially called the "Christian Movement For Life," then the "Community Action Movement," and finally MOVE. "The name MOVE is not an acronym and has no special meaning," stated a U.S. Commission on Civil Rights investigative memo prepared shortly after the 1985 confrontation. "MOVE's followers believe that technology is at the root of today's problems and that a more primitive approach to life — eating uncooked foods, spreading fecal matter and garbage in their yards, sheltering stray animals and rats, keeping their children out of school, and the like — offers a remedy."⁸ MOVE has never had more than 150 members, most of whom were part-time members known as supporters or sympathizers. Many of Leaphart's relatives became MOVE members.

MOVE is "absolutely opposed to all that is wrong" and is dedicated to the destruction of the American system, which it considers corrupt, decadent and racistly exploitative in economic, political and social terms.⁹ This stance against 'the system' led to the governmental persecution which MOVE alleged to involve "slander, conspiracy, intimidation, kidnap and incarceration, authorized brutality, legal attempted murder and statutory attempted extermination."¹⁰ "MOVE is a revolutionary organization, a family of clean, God serious people dedicated to stopping man's imposition on life . . . MOVE tells the truth about this rotten, corrupt system . . ." stated MOVE member Alberta Africa.¹¹ Alberta Africa was released from prison in May 1988 after serving her entire seven year sentence for riot charges. She had repeatedly rejected parole conditioned on her renouncing any affiliation with MOVE in exchange for early release.

According to a 1981 Third Circuit Court ruling, "MOVE endorses no existing regime or lifestyle; it yields to none in its uncompromising condemnation of a society that it views as 'impure,' 'unoriginal,' and 'blemished.'"¹²

Rejection of the social order and its legal authority is inherent in the MOVE ideology.¹³ Unlike some other political and religious dissidents, they hold themselves above the legal penalties that are a consequence of pursuing their particular convictions.

"You impotent mother fucker . . ." MOVE member Delbert Africa said to Philadelphia Judge Joseph P. Braig during a May 17, 1976 trial for assaulting a policeman. "I'm not here because I broke your so-called LAW. My purpose in this courtroom [is] to point out the imbalance, inequality, injustice, and inconsistencies comin' out of these courts of so-called LAW."¹⁴ MOVE sees no contradiction in proclaiming Constitutional protections for its campaign to destroy 'the system' while vehemently rejecting any responsibility to be bound by the laws of the land or to respect the rights of others — Black or white. "When MOVE first surfaced in the early seventies we were armed only with the truth. The system says that we are entitled to freedom of speech . . . (but) every time we opened our mouths we were beaten, bludgeoned, kicked, stomped, babies killed . . . Finally MOVE decided we weren't going to get beat anymore," said MOVE spokeswoman Louise James Africa, a sister of MOVE founder John Africa, during testimony before the Philadelphia Special Investigation Commission (PSIC), a legally non-binding blue ribbon citizens panel appointed by Philadelphia's Mayor Wilson Goode to investigate the May 13, 1985 confrontation.¹⁵ Louise James Africa owned 6221 Osage Avenue, the house bombed by police in the confrontation.

A central element in the series of clashes between MOVE and police was the use of profanity by MOVE members. Police predicated their early arrests of sect members on the use of obscene language. MOVE contended there was nothing profane in its use of curse words. According to John Africa's teachings the profanity was not in the word but in the profane action behind the word. "There is something downright backward with a society of people who get so upset about a word that cannot hurt," Louise Africa once noted.¹⁶ "While the cops threw a mouthful of motherfuckers at MOVE members on May 13, 1985, it wasn't the words that killed them . . . it was the action put behind the word bomb."¹⁷

The teachings of John Africa were compiled into

6. Philadelphia Inquirer, 1 (March 22, 1985).

7. 105 NEWSWEEK, 25 (May 27, 1985).

8. Interim Briefing Memorandum, June 3, 1985, from Civil Rights Analyst Tino Calabria to Regional Director Edward Rutledge of the U.S. Commission on Civil Rights. Philadelphia Special Investigation Committee, Files Box 2, Folder 20-1, Vol. II ("PSIC files"). The Commission's files are housed in the Urban Archives Department of Palley Library on the campus of Temple University in Philadelphia.

9. *Africa v. Commonwealth of Pennsylvania*, 662 F.2d 1025, 1026 (3d Cir. 1981).

10. *MOVE v. U.S. Department of Justice*, 555 F. Supp. 684, 685 n. 2 (E.D. Pa. 1983).

11. Letter to several Philadelphia judges (January 26, 1986). PSIC Files, Box 14, Folder 455.

12. *Africa v. Commonwealth*, 662 F.2d 1025, 1027 (3d Cir. 1981).

13. Concurrence of PSIC Commissioner Charles W. Bowser, 59 TEMPLE L.Q. 354 at 381 (1986). This volume of the TEMPLE LAW QUARTERLY contains a full text of the Commission's Report; the forward to the PSIC's Report written by its chairman, William H. Brown III; a concurrence to the Report written by PSIC Commissioner Charles W. Bowser and a dissent from two of the Report's thirty-one findings written by Commissioner Bruce W. Kauffman.

14. Verbatim transcript of proceeding prepared by MOVE members. See also, *Commonwealth v. Africa*, 466 Pa. 603, 353 A.2d 855 (1976).

15. Philadelphia Inquirer, Sect. C, 5 (October 28, 1985). Section C was a specially published section containing excerpted testimony from the public hearings held by the PSIC in October 1985.

16. Louise Africa, Statement in response to the Grand Jury Report, Press Conference (June 1988) (author has a written version on file).

17. Id.

"The Book" in January 1972 by MOVE co-founder Donald Glassey. "The Book" became the organization's Bible. A 41-page MOVE chronology written in late 1974 stated:

These guidelines completely undercut, disprove and substantiate that nothing in this system is working, or has ever worked since its inception What John Africa's guidelines have taught MOVE people is that when the roots are sadistically criminal, malignantly exploitative, the stems will not blossom, justice, equality, peace, love. The roots of this lifestyle are corrupt, diseased and people, as well as animals, have been viciously exploited . . . it has been made clear by our founder, John Africa, that you cannot be against the establishment and carry out any meaningful social change with the very same established principle you are said to be fighting against.¹⁸

Few outside of MOVE have ever seen "The Book." Some describe it as an eclectic mishmash of dialectical materialism, traditional African philosophy and Far Eastern religious thought. One writer in 1973 termed it a "long series of rhetorical, irrational and abusive exhortations."¹⁹

John Africa is regarded by MOVE members as a deity. John Africa's impact on Delbert Africa, a former Black Panther Captain of Defense in Chicago, is typical among MOVE members. "I thought I was heading in a revolutionary direction," Delbert Africa stated in 1976. "But upon reading the writings of John Africa, I realized that the four years I spent with the Black Panther Party, the armed confrontations with police, the attacking of the government, the deaths of comrades was all for nothing because nothing was changed and I see that all that had nothing to do with true revolution, but was only the theoretical so-called revolution of historical masturbators."²⁰

MOVE's doctrine, based on John Africa's vision of God-given natural law, shuns technology, formal education and products of 'the system'—like processed foods. "MOVE believes in Natural law," John Africa's sister LaVerne Sims stated in 1985. "The sun is MOVE Law, the rain is MOVE Law, the Hurricane, Tornado and Volcano *Everybody* is equal under MOVE Law, cause MOVE Law is God's Law. Man's law don't afford you the same equality"²¹ The group follows a "pure" communal lifestyle: they eat raw vegetables and fruits, avoid red meat, clean their teeth with roots instead of toothbrushes, wear their hair in uncombed dreadlocks and avoid doctors by treating themselves with herbal medications. Citing garlic's medicinal properties, MOVE

members eat cloves of it as others eat candy. MOVE women practice natural childbirth at home, biting off the umbilical cord and licking their babies clean.²²

MOVE members have a near fanatical commitment to calisthenics with all members doing 500 pushups and running 10 miles per day. The recognized physical prowess of MOVE members became a factor in the acquittal of three police officers charged with beating Delbert Africa following the 1978 shoot-out. "In the instant case, it is possible that the officers did use excessive force in subduing Delbert Orr Africa. But that is mere conjecture . . . They *knew of Delbert Africa's physical prowess*" stated the opinion in the 1981 case.²³

The group's members claim miraculous results from John Africa's lifestyle. "Merle Africa had cancer, Delbert Africa was crippled from a broken back suffered in a car accident and doctors told him he would never run, Debbie Africa was sterile," Alberta Africa stated in her 1986 letter. "Because of *John Africa* Merle don't have cancer no more, Delbert can run as long and as hard as he wants, Debbie and her husband have children. *John Africa* gave MOVE the solution to *all* our problems, took us off drugs, cleaned us up in mind *and* body, made us healthy, strong, *correct* [in] the wisdom of understanding of *Life's law*."²⁴ MOVE's lifestyle also includes keeping dozens of stray dogs and feeding them raw meat. Believing that "all life begets life," they compost their garbage

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and feces; thus their residences smell like pig farms. Because MOVE's doctrine "respects all life," nothing is done to curb the rats and roaches attracted by the raw meat and garbage. Since the mid-seventies MOVE has been repeatedly cited for violations of the city's health and housing codes.

MOVE's poor hygiene caused insects and rodents to invade the Osage Avenue neighborhood, making life unbearable for the residents.²⁵ "I pulled up the shades one day and the whole window was black with bugs. I almost vomited," said Lloyd Wilson, who lived next door to MOVE, during testimony before the PSIC. "We had bugs in the house that we could not identify. We had

18. This MOVE document provides a detailed chronology of the organization's activities from its inception in 1972 through early 1975 from MOVE's perspective. PSIC Files, Box 2, Folder 180 (pages unnumbered).

19. Philadelphia Evening Bulletin (April 29, 1975).

20. Letter from Delbert Africa to author (July 17, 1976) (author has document on file).

21. Letter from LaVerne Sims Africa to PSIC chairman William Brown (November 9, 1985), PSIC Files Box 22, Folder 448.

22. Philadelphia Inquirer, 1 (May 22, 1985).

23. *Commonwealth v. Geist*, 5 Phila. 210, 214 (emphasis added).

24. Letter from Alberta Africa to Judge Samuel Lehrer (January 26, 1986) in PSIC Files, Box 14, Folder 455.

25. Report of the County Investigating Grand Jury, Court of Common Pleas of Philadelphia County, No. 86-007363 at 17 (May 15, 1986) ("Grand Jury Report").

things that if you would hit it, it would get back up.”²⁶ In September of 1983 another neighbor who sought to rid his house of vermin by using an exterminator “was assaulted by MOVE members who objected to the killing of insects.”²⁷

The rats, roaches and lack of even rudimentary education for her children forced Valerie Brown to flee MOVE in 1981 after a nine year membership. One of the first MOVE members, Brown had been recruited by MOVE co-founder Donald Glassey who became the father of the oldest of her two daughters. Brown was attracted by MOVE’s “free and easy lifestyle where everybody was equal. No hassles.” But years of cult-like conformity in which the slightest variation from dogma, like combing her daughters’ hair, would spark all-night berating sessions, proved too much for Brown to endure.²⁸

Other ex-members share Valerie Brown’s less than idyllic view of the group. “MOVE is not about honesty. They are not the victims they portray themselves to be. MOVE is about breaking down the system at anyone’s cost,” stated ex-member Jeanne Africa in a 1986 op-ed article.²⁹ “The time has come to expose MOVE for what they are — a dangerous, destructive, fanatical organization bent on destroying the system.”

The conflicting views of former and current MOVE members is just one of the many contradictory facets of the cult. MOVE claims to be a peaceful group yet it has repeatedly directed violence against members and non-members. In December 1983, John Africa ordered his nephew Frank James Africa, 26, to attack Frank’s mother, Louise Africa, with an ax. Nearly a decade before the attack on Louise Africa, an elderly man living across the street from MOVE’s old headquarters, Monty Lis, filed a private criminal complaint with the District Attorney’s Office accusing MOVE member Conrad Hampton Africa of being among the group of MOVE members who had repeatedly attacked him. Lis died of a heart attack two weeks later. His complaint was dismissed two days after his death when he failed to appear in court. MOVE members later took credit for causing Lis’ death.

MOVE proclaims an unswerving commitment to “the truth” yet it has repeatedly demonstrated their dishonesty. Nine MOVE members were convicted for the fatal shooting of Police Officer James Ramp on August 18, 1978. The incident resulted from MOVE’s failure to vacate its North 33rd Street headquarters, as stipulated in an agreement it had signed with city officials in May 1978 to end an armed standoff which had begun a year earlier. In the days preceding the August shoot-out, MOVE publicly stated its failure to vacate the ramshackled headquarters resulted from its having no money to relocate. Yet in a federal lawsuit against city officials filed in August 1980 MOVE sought repayment of

\$25,000 it claimed was in the headquarters when police razed the building hours after the 1978 shoot-out.³⁰

Contrary to its stated Black revolutionary stance, MOVE has a history of assaulting Black individuals and castigating Black organizations from community-based anti-gang groups to the Black Panthers. When MOVE purchased 309 N. 33rd Street for its headquarters in the summer of 1973, it used dogs to force four low-income

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Black families from the adjacent building, which the group then illegally occupied. The PSIC found MOVE used threats, abuse and intimidation to terrify their Black neighbors on Osage Avenue in the year preceding the May 1985 confrontation. MOVE readily proclaimed this terror was a deliberate tactic to force neighbors to pressure Black elected officials to secure the release of imprisoned MOVE members. “MOVE’s deliberate use of terror included the intentional violation of the basic rights of those living in the Osage Avenue neighborhood.”³¹ On Christmas Eve 1983 MOVE conducted a 36-hour long invective-filled harangue of its neighbors over its roof-mounted public address system. Such amplified attacks became regular occurrences.³²

MOVE’s history of assaultive behavior repudiates its claim as a revolutionary group, said former Black Panther leader Bobby Seale during a 1986 college speech.³³ “MOVE violated the cardinal rule,” said Seale, now a professor at Temple University in Philadelphia. “You don’t alienate the people, particularly the people around you in the community. We (the Panthers) created too many programs to serve the people.” A revolutionary group, Seale added, must have “goals . . . objectives” and MOVE does not.³⁴

26. Philadelphia Inquirer, Sect. C, 4 (October 28, 1985).

27. Grand Jury Report at 17.

28. Philadelphia Inquirer, 1 (May 22, 1985).

29. Philadelphia Daily News, 32 (August 11, 1986).

30. Philadelphia Daily News, 9 (August 12, 1980).

31. Report of PSIC, 59 TEMPLE L.Q. at 354.

32. Philadelphia Inquirer, Sect. C, 6 (October 28, 1985).

33. Philadelphia Daily News, 16 (March 14, 1986).

34. Id.

II.

The rampant brutality pervading the Philadelphia Police Department during the seventies was a crucial causative element in MOVE's confrontations with city officials. Police violence — arrests without probable cause, physical assaults, dog attacks in non-threatening situations and fatal shootings — occurred with such frequency they could not "be dismissed as rare, isolated instances . . ."³⁵ In a suit against the Philadelphia Police Department, Federal District Court Judge John P. Fullam noted in his opinion that city officials did "little or nothing" to punish or prevent police abuse.³⁶

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Five months before the Justice Department lawsuit, Mayor Rizzo had vehemently denied the existence of police brutality during testimony before the U.S. Commission on Civil Rights. Rizzo contended that anarchists and an anti-police press had manufactured the issue of brutality.³⁹ The day before Rizzo testified, the president of Philadelphia's Chamber of Commerce told the Civil Rights Commission that the business community tolerated police brutality as a trade-off for safe streets.⁴⁰

The most likely targets of police abuse, Judge Fullam found in *Coppar*, were poor Blacks and persons who challenged their initial police contact. William Ware, confined to a wheel chair, was beaten by police on July 5, 1975 during an incident inside of a police station. He was later charged with assaulting the police officer. Cornell Warren was fatally shot in the face by a policeman on September 23, 1978 as he laid on a sidewalk — handcuffed. Warren was one of 162 persons fatally shot by Philadelphia police between 1970 and 1978, a period in which the fatality figure was five times higher than the decade between 1950 and 1960.⁴¹ Philadelphia police

shot and wounded 148 people in 1974,⁴² more than twice the number of police shootings that year in New York, a city with a population four times that of Philadelphia.

MOVE members fell into both of the categories of people whom Judge Fullam found most likely to be targets of police abuse: poor Blacks and individuals who challenged their initial police contact. From its inception MOVE protested against a potpourri of targets: the American Veterinarian Association, Buddhists, the Philadelphia School Board, Jane Fonda, Gulf Oil and NAACP head Roy Wilkins. These protests often resembled blockades with MOVE members using bullhorns to conduct hours-long profanity-punctuated harangues expounding their philosophy. These protests invariably led to encounters with police and arrests. Arrests of MOVE members skyrocketed from thirty-three in 1974 to 142 in 1975, with few if any arrests accomplished without scuffles between MOVE and police.⁴³

MOVE's complaints of police abuse rarely elicited any response. In a June 10, 1975 letter to the chairperson of the city's Human Relations Commission, MOVE complained of a series of injuries from alleged police assaults, including a miscarriage suffered by Alberta Africa "as a result of being *kicked* in the vagina by Matron Robinson, while being *held* by 4 cops" inside police headquarters on April 29 of that year. MOVE received no response to the five page letter charging it was being subjected to "schizophrenic lawlessness" in which they were locked up for breaking the "so-called law" while their tormentors escaped "*without reprisal*."⁴⁴

MOVE was not alone in criticizing local authorities for failing to respond to complaints of police abuse. "Philadelphians must look to the federal government for the protection of our human rights," the director of the local American Civil Liberties Union chapter stated in a May 26, 1977 letter to President Jimmy Carter. "The Philadelphia Police Department and the District Attorney's Office are largely unresponsive to citizens' complaints of police abuse."⁴⁵ A year earlier the U.S. Supreme Court had overturned Judge Fullam's 1973 order, upheld by the Third Circuit, requiring broad changes in the Police Department's procedures for handling citizen complaints. The Supreme Court's reversal was based in part on finding insufficient facts to show an affirmative link between incidents of abuse and an formal policy of support for the misconduct by city officials.⁴⁶

During the mid-seventies many MOVE members

35. *Coppar v. Rizzo*, 357 F.Supp. 1289, 1319 (E.D. Pa. 1973).

36. *Id.*

37. The case was dismissed for lack of standing, 482 F.Supp. 1248 (E.D. Pa. 1979), and lack of specificity, 482 F.Supp. 1274 (E.D. Pa. 1979), *aff'd* 694 F.2d 187 (3d Cir. 1980), four judges dissenting from denial of petition for rehearing, 644 F.2d 187, 206.

38. Speech by Michael Meyers, assistant director of NAACP, at symposium on "Police Practices & the Preservation of Civil Rights," sponsored by the U.S. Commission on Civil Rights held on Dec. 12, 1978. *ENCORE MAGAZINE*, 17 (February 1979).

39. *Philadelphia Daily News*, 3 (April 18, 1979).

40. *Philadelphia Inquirer*, 1 (April 17, 1979).

41. For an examination of Philadelphia police shooting between 1950-1960, see, Gerald D. Robin, "Justifiable Homicide

by Police Officers," 54 *JOURNAL OF CRIMINAL LAW, Criminology & Police Science*, 225, 226 (1963).

42. *Philadelphia Inquirer*, Sect. B, 1 (January 11, 1977), citing a compilation of complaints about police abuse assembled by the Coalition Against Police Abuse.

43. Statistics reflected in a graph prepared by the Civil Affairs Unit of the Philadelphia Police Department showing number of MOVE arrests and court appearances between 1973-1985. *PSIC FILES*, Box 17, Folder 179.

44. Letter from Merle Africa to Chairman Clarence Farmer (June 10, 1975) (author has a copy on file).

45. Spenser Cox, Executive Director, Philadelphia Chapter ACLU, to Jimmy Carter (author has a copy on file).

46. *Rizzo v. Goode*, 423 U.S. 362, 371 (1976).

were regularly incarcerated on charges including disorderly conduct, contempt of court and assault, but no law enforcement personnel were ever censured much less convicted for assaults alleged by MOVE members. For example, three male MOVE members were rebuffed when they sought to have criminal charges lodged against a group of Philadelphia prison guards arising from a violent fracas on February 24, 1978 in which they sustained serious injuries. The trio — including Conrad Hampton Africa — were charged with assault, riot and conspiracy for attacking the guards. In a departure from MOVE's stance of non-cooperation with authorities, the three men fully assisted in the investigation of the incident.⁴⁷ A probe by the District Attorney's Office determined that one of the trio had been assaulted by the guards.⁴⁸ Despite finding no wrongdoing by the MOVE members in the fracas, the District Attorney refused to bring charges against the guards and merely dropped the charges lodged against the MOVE members. "Typically, we were charged . . . in an attempt to obscure the truth and justify our extensive injuries," stated a caustic press release by MOVE a few days after the District Attorney's May 2, 1978 announcement of no prosecutions. "We see the deceptively oriented prejudice of the District Attorney's

MOVE members represent themselves because they feel they are better advocates for their viewpoint than lawyers whom they considered tools of 'the system.'

Office as being no different than the abusively sadistic behavior of the guards that they are trying to protect."

The most notorious assault on a MOVE member occurred during the August 8, 1978 shoot-out in which three police officers attacked Delbert Africa as he was surrendering. Widely viewed television and still camera coverage captured the police kicking the unarmed Africa in the groin, dragging him by the hair and beating him with a police helmet. Delbert Africa was one of nine MOVE members convicted of third degree murder for the August 8, 1978 shooting of Officer James Ramp and sentenced to 30-100 years in prison. The arrest of the

three officers was delayed for almost a year because the Police Department refused to provide their names to the District Attorney. In a November 29, 1978 interview at Philadelphia's Holmesburg Prison, Delbert Africa commented:

The City and the D.A. has yet to arrest the officers who stomped me in front of millions of TV viewers. They got me in here on \$150,000 bail but the cop who shot and killed Cornell Warren is out on the streets [without posting bail]. The cop who beats up [Congressman Robert N.C.] Nix's [elderly] cousin gets 2-23 months for aggravated assault. I've gotten two and a half years for a simple assault. Is that justice?⁴⁹

When the three officers were brought to trial in 1981 on assault charges, Philadelphia Judge Stanley L. Kubacki issued a directed verdict of acquittal — unrequested by either the defense or the prosecution — moments before the case was to be decided by a specially impaneled out of town jury. Judge Kubacki explained that his verdict resulted from the Commonwealth's failure to sustain its burden of disproving the officers' claims of self-defense. "The entire world saw photographs of the three defendants striking Delbert Africa . . . [but] . . . any conviction returned by the jury would have been the product of speculation . . . since evidence as to intent was legally insufficient," Kubacki wrote in his opinion.⁵⁰

Kubacki's verdict sparked widespread criticism for appearing to apply a more permissive standard of justice in the application of the law to police officers. "For Delbert Africa the decision was more evidence that the law doesn't protect unorthodox behavior," wrote Philadelphia Daily News columnist Chuck Stone in a February 6, 1981 column. "[F]or the majority of Philadelphians who believe in a system of laws, not men, Judge Kubacki's hip-pocket ruling trampled constitutional values."⁵¹ One member of MOVE proclaimed in a 1985 interview, "MOVE members have been labeled terrorist time and time again. If ever the word terrorist fit to a 'T' anybody, it is Philadelphia's 'finest' policemen. They have terrorized a whole city of people in the name of Law and outlaw, in the name of order and disorder . . . These "Modern Day Cowboys," Gestapo oriented henchmen have literally terrorized people to death."⁵²

Philadelphians familiar with MOVE contend the im-

47. MOVE had refused to cooperate with the investigation of the 1976 death of a MOVE baby which occurred during a midnight melee with police. MOVE claimed that the infant was trampled to death by a policeman after being knocked from its mother's arms. The group rejected requests from authorities to examine the dead baby although it had permitted the child's corpse to be viewed by two City Council members. Philadelphia Daily News 27 (May 24, 1985).

48. Memo Bernard L. Siegal, ADA, Investigations, to Philadelphia District Attorney Edward G. Rendell, 10 (April 27, 1978). ". . . there may be situations when guards assault inmates. . . Indeed, the situation involving Robert Moses Africa seems to us to involve exactly such a situation. . ." PSIC files, Box 14, Folder 37-D.

49. Interview with the author (November 29, 1978).

50. *Commonwealth v. Geist et. al.*, 5 Phila. 210. Judge Kubacki noted, "The Court could have allowed the case to go to the jury. . . to render a verdict under difficult circumstances. But if the jury had convicted the defendants, the law of the Commonwealth would require the reversal of that conviction. Therefore, this Court could not take what might have been the easier road, but was required by law to take the case from the jury and be the lightning rod for the great public controversy that has surrounded this tragic episode from beginning to end." *Id.* at 212, emphasis added.

51. Philadelphia Daily News (February 6, 1981).

52. Letter LaVerne Sims to PSIC chairman William Brown (November 9, 1985). PSIC FILES, Box 22, Folder 448.

pact of police brutality triggered increasingly violent responses from the organization. "Police brutality clearly was an element in MOVE moving from just an obnoxious group to low-grade terrorists," said Rev. M.L. Shepard⁵³, a prominent local clergyman whose history with MOVE dates from its founding in 1972 when members worshipped at his church. On the other hand, for attorney Charles Bowser, a PSIC member, it remains unresolved "whether the MOVE organization became more abusive as a result of violent attempts to suppress it by the police, or because of its violent resistance of legitimate law enforcement."⁵⁴ Although the report of the investigating grand jury noted that MOVE evolved from a "non-violent, back-to-nature organization, to an extremist group, well-practiced in the art of urban terrorism" it gave no reason for the transformation.⁵⁵

III.

While MOVE viewed actions by the city government as a coordinated campaign of official oppression, critics of the organization considered such actions to be legitimate responses to provocative behavior clearly exceeding the bounds of constitutionally protected conduct. MOVE, according to the grand jury report, frequently used "extreme profanity and engage[d] in unruly and other behavior which caused them to be arrested" during their frequent demonstrations in the mid-seventies. "Their subsequent court appearances were punctuated by both disruptions and contempt citations."⁵⁶

In an opinion frequently cited by Pennsylvania courts in MOVE cases, the U.S. Supreme Court recognized in *State of Illinois v. William Allen* that disruptive defendants jeopardize their constitutional rights: "[I]t would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes."⁵⁷ During a February 1977 trial of three MOVE members on disorderly conduct and resisting arrest charges, the defendants and their supporters harangued the trial judge, hurling invectives, ranging from "liar" to "sick ass mother fucker," which resulted in contempt citations. In its opinion upholding the contempt citations, the Pennsylvania Superior Court stated that MOVE members

... attempted to bait the trial judge to the point where he was compelled to hold them in contempt to maintain order, and they argue that he thus became incompetent to judge them fairly and the trial must be aborted . . . There is absolutely nothing in this record to demonstrate that the contempt find-

ings in any way prevented a fair and impartial trial on the merits . . . On the contrary, the not-guilty findings on many charges indicate that the court ruled in favor of defendants where any reasonable doubt existed.⁵⁸

MOVE's charges of systematic discriminatory treatment by the courts are less documentable than its charges of inappropriate conduct by police and public officials. John Straub, a former Assistant District Attorney assigned to the MOVE cases during the crucial 1977-78 period, dismissed MOVE's claims of discriminatory treatment by the judiciary as ludicrous. "MOVE demanded every right a defendant has," Straub said. "They used the system but they asserted no obligation to adhere to the responsibilities of the rights they demanded."⁵⁹ Nonetheless, the Pennsylvania Supreme Court overturned contempt of court convictions of seven MOVE members in 1976 expressing its disapproval of literally binding and gagging the defendants as a means of remedying their unruly and disruptive tactics.⁶⁰ The court discharged three of the defendants for insufficient evidence and ordered a retrial for the remaining four on the grounds that they were entitled to be tried before a court that had not been subjected to their abuse. The majority's opinion produced a bitter dissent by the Court's Chief Justice, who stated, "[t]he law has long recognized the need for permitting a judge to summarily find a person in contempt of court where that person directly and seriously affronts the judicial process."⁶¹

In a 1981 ruling, the U.S. Third Circuit Court of Appeals expressed sympathy for a MOVE member who sought to have prison officials supply him with the raw food diet required by MOVE religious precepts. The court nonetheless rejected the dietary request after finding that MOVE did not qualify as a religion within the purview and definition of the First Amendment.⁶² The Circuit Court questioned why prison officials could not consent to the dietary requests of MOVE "Naturalist

58. *Commonwealth of Pa. v. Africa*, 292 Pa.Super. 419, 433 A.2d 102 (1981). The opinion also noted that MOVE alleged "that their oral argument was improperly limited when they were not permitted to read the guidelines espoused by their founder, John Africa. This final allegation heavily underlines and is at the heart of the defendants' misunderstanding of our judicial system . . . Proselytizing may have its place in American life but, in a courtroom, it is disruptive and the antithesis of the trial's function."

59. Interview with the author (May 22, 1985).

60. *Commonwealth v. Africa*, 466 Pa. 603, 353 A.2d 855.

61. Id. at 867, Jones, C.J. dissenting.

62. *Africa v. Commonwealth of Pa.*, 662 F.2d 1025 (3d Cir. 1981). "MOVE does not claim to be theistic: indeed it recognizes no Supreme Being and refers to no transcendental or all-controlling force. Moreover, unlike other recognized religions, with which it is compared for first amendment purposes, MOVE does not appear to take a position with respect to matters of personal morality, human morality, or the meaning and purpose of life. . . . [T]he MOVE philosophy is not sufficiently analogous to more 'traditional' theologies." Id. at 1033.

53. Interview with the author (May 20, 1985).

54. 59 TEMPLE L.Q. at 381.

55. Grand Jury Report at 14.

56. Id. at 14-15.

57. *State of Illinois v. William Allen*, 397 U.S. 337, 346 (1970). Allen was repeatedly disruptive during his trial for armed robbery. The Court held it was not unconstitutional to remove defendant from the courtroom, after repeated warnings, and to continue the trial in his absence.

Minister" Frank James Africa, who later perished in the 1985 confrontation. "Especially in light of the apparent willingness of [prison officials] to accede to the dietary requirements of other prisoners, both for religious and for medical reasons, it is not clear from the record why special accommodations cannot be made in this instance for a prisoner who obviously cares deeply about what food he eats."⁶³

MOVE's problems with the judicial system result from a combination of racist repression by judges and from their disruptive behavior in court and their insistence on self-representation despite insufficient legal training. MOVE members represent themselves because they feel they are better advocates for their viewpoint than lawyers whom they considered tools of 'the system.' MOVE's lack of legal knowledge is evidenced by its consistent failure to have federal courts review factual allegations due to procedural defects in their complaints. U.S. District Judge James Giles handled three wide-ranging complaints filed by MOVE against various city, state and federal authorities between 1980-1983. Judge Giles noted in a 1981 opinion that "the amended complaint is patently insufficient to support jurisdiction under 28 U.S.C. §1332," demonstrating that the statute was "not read" before it was pleaded.⁶⁴ Two years later, flaws prevented consideration of the allegations contained in a new complaint:

Paragraph two alleges that a child of a MOVE member was 'trampled to death by cop Palermo and other maniac cops;' various MOVE members were brutalized by police, and no policemen charged with murder, all on March 28, 1976. Assuming all this to be true, the complaint states no cause of action against any named defendant Furthermore, no citizen has a right to have murder brought. Finally, the incidents are beyond the period of the statute of limitations.⁶⁵

The insufficiency of MOVE's legal aptitude has been most dramatically illustrated in cases in which MOVE members have chosen to put 'the system' on trial instead of attacking the sufficiency of the criminal evidence against them. In August 1988, the Pennsylvania Superior Court upheld a lower court's denial of a petition for a new trial filed by Dennis Sims Africa who claimed ineffectiveness of back-up counsel during a jury trial in which he represented himself on charges resulting from a May 20, 1977 armed standoff with police. The trial judge, in granting Africa's request for self-representation, warned, "[i]f the Court permits you to conduct your own defense, and you are not successful, then you have to suffer the consequences, you can't blame it on anybody else."⁶⁶ Africa was found guilty and sentenced to concur-

rent terms of 26 months to 7 years for the criminal conspiracy and riot charges and one to five years for the weapon and terroristic threats charges. The Superior Court, citing settled case law, termed Africa's petition frivolous because he could not shift responsibility for his own performance to stand-by counsel who occupied only an advisory role.⁶⁷

Nine MOVE members were convicted in 1980 for the August 8, 1978, death of Officer James Ramp in a 19-week non-jury trial — the longest in Philadelphia's history. They represented themselves before being barred from the courtroom for disruptive behavior. Two non-MOVE members and a female MOVE member, all of whom were represented by an attorney, were acquitted of the same charges. Representing the two non-MOVE members, attorney Oscar Gaskins won a pre-trial release for Devita Johnson and a jury acquittal for Sandra Davis on the same evidence used to convict the five female MOVE members who pled *pro se*. Police testimony stated that only the four MOVE men were armed and the bullet which killed Officer Ramp and seriously injured three officers came from one gun. "Sandra Davis was charged with murder and she walked clean. Ben Johnson represented [MOVE member Consuewella Africa] and got her off on the murder charge," Gaskin said. "The others may have gotten off if they were represented by lawyers. MOVE was not revolutionary in asking for a non-jury trial. No judge is going to let someone off who is accused of killing a cop."⁶⁸

IV. "While the conduct of City Officials in handling MOVE is entirely unacceptable, it is not the proper subject of criminal prosecution . . ."⁶⁹

Grand Jury Report

"Attention MOVE. This is America. You must obey the laws of the United States," Philadelphia Police Commissioner Gregore Sambor bellowed through a bullhorn at 5:35 a.m. on the morning of May 13, 1985. He announced that he had arrest warrants for four MOVE members believed to be inside of the heavily fortified house at 6221 Osage Avenue.

For more than a year MOVE members residing at 6221 had threatened city officials and had terrorized their neighbors in a desperate bid to gain release of thirteen imprisoned members — especially the nine jailed for the 1978 shoot-out. The warrants charged the four MOVE members with possession of explosives, terroristic threats, threats against officials, harassment, conspiracy, riot and disorderly conduct.

Sambor give the four named suspects fifteen minutes to surrender. His ultimatum was immediately rejected by an unidentified MOVE member using the organization's roof-mounted loudspeaker. "Come on in and get us," the MOVE member said. "You're going to be laying in the

63. *Id.* at 1037.

64. *MOVE Organization v. City of Philadelphia* 89 F.R.D. 521, 523 (1981).

65. *MOVE Organization v. U.S. Department of Justice* 555 F.Supp. 684, 688 (E.D. Pa. 1983).

66. *Commonwealth v. Sims*, PASUPER LEXIS 3004, 549 A.2d 1280, 1282 (Pa. Super 1988).

67. *Id.*

68. Interview with author (May 22, 1985).

69. Grand Jury Report at 279.

street. Bleeding in the street.”⁷⁰

At the end of the fifteen minute period Sambor ordered police to begin their assault on the fortified MOVE house which he knew contained a number of children. Sambor had failed to carry out Philadelphia Mayor Wilson Goode’s “poorly communicated” instructions to remove the children before assaulting the house.⁷¹

Gunshots rang out minutes after high pressure fire hoses were directed at MOVE’s rooftop bunker. MOVE members and police engaged in a ninety minute shoot-out in which police fired thousands of rounds from military weapons including M-60 and .50 caliber machine guns.

The two police SWAT teams assigned to attack the MOVE fortress from adjacent houses became pinned down by police gunfire.⁷² Mistakenly thinking the gunfire

Sambor ordered Bomb Squad members to spike the bomb with shrapnel “to get them motherfuckers.” [T]he bomb . . . contained C-4, a powerful military high explosive, which was surreptitiously supplied to police bomb squad members by an FBI agent in early 1985.

to be from the MOVE house, the teams detonated high explosive charges to cover their escape. The charges completely destroyed the front of the MOVE compound and heavily damaged three adjacent houses. The force of one explosion was “so great that a rear window air-conditioning unit was blown across the alley.”⁷³

After a five hour lull in the fighting, Commissioner Sambor ordered the construction of a bomb that he hoped would destroy MOVE’s rooftop bunker. Sambor ordered Bomb Squad members to spike the bomb with shrapnel “to get them motherfuckers.”⁷⁴ Both the bomb and the satchel charges used by the SWAT teams in the morning assault contained C-4, a powerful military high explosive, which was surreptitiously supplied to police bomb squad members by an FBI agent in early 1985.⁷⁵

Sambor later said that the bomb was needed to remove the bunker so that police could pump tear gas into the house through the roof. The necessity of that tactic was questionable since police could have thrown tear gas

through the front of the MOVE fortress which had been blown off in the morning battle. The bomb was dropped on the MOVE fortress from a State Police helicopter at 5:27 p.m. without prior warning or offers to surrender.⁷⁶ The bomb failed to destroy the bunker but sparked a fire.

Shortly after 6:00 p.m., with flames leaping from MOVE’s roof, Commissioner Sambor decided to let the house burn — opting to use the fire as a “tactical weapon” to destroy the rooftop bunker.⁷⁷ The fire was out of control within thirty minutes and soon engulfed adjoining homes. Temperatures inside the MOVE house reached 2,000 degrees Fahrenheit. MOVE members who attempted to flee the raging inferno were driven back inside the burning building by police gunfire.⁷⁸ One child and one MOVE adult managed to escape the inferno and were taken into police custody. Both were badly burned. The raging blaze eventually destroyed sixty-one homes on Osage Avenue and adjacent Pine Street, displacing over 250 people.

On the morning of May 14th, the charred remains of five children and six adults were recovered from the smoldering ruins of 6221 Osage Avenue. Only three of the six dead adults and none of the children were named in the arrest warrants. Authorities also recovered two .38 revolvers, two 12 gauge pump shotguns and a bolt action .22 caliber rifle from the ashes of the MOVE house. Police said that they had armed themselves with exotic military weapons like silencer equipped sniper rifles and an anti-tank gun, in order to out-gun MOVE and prevent a repeat of 1978 when a policeman was killed by MOVE members armed with semi-automatic carbines.

Philadelphia was stunned by the events of May 13, 1985. Many residents saw the assault as another example of police brutality. Police Commissioner Sambor justified the assault on everyone in the house on the ground that he considered the MOVE children to be combatants and not hostages of their fanatical adult guardians.⁷⁹ Blacks viewed the assault as another extreme act of racism and wondered how the brutal attack could have been approved by Philadelphia’s first Black mayor, Wilson Goode.⁸⁰ May 13, 1985, marked only the second time in history that an U.S. city had been subjected to an air raid. The first aerial attack occurred during the bloody race riot on May 31, 1921, in Tulsa, Oklahoma when white racists dropped dynamite from a bi-plane on that city’s Black community.

Formal demands for a grand jury investigation of the May 13th confrontation were first issued on May 20th by the predominately Black Ad-Hoc Committee of Concerned Philadelphians for Civil Liberties. Noted civil liberties lawyer William Kunstler volunteered his services to the Committee, calling the confrontation “murder” comparable to the state violence of South Africa. Philadel-

70. Id. at 101.

71. 59 TEMPLE L.Q. at 361-62. PSIC Finding #14. The PSIC criticized the mayor and other city officials for failing to remove the children prior to the assault. The Human Services Commissioner was specifically criticized for not demanding “any” information from police regarding protecting the children. The grand jury stated that the failure to adequately inform police officers of the mayor’s removal directive resulted in police allowing a car containing MOVE children to cross a police barricade and enter the compound two days before the confrontation.

72. Grand Jury Report at 113.

73. 59 TEMPLE L.Q. at 267-268.

74. Grand Jury Report at 154.

75. Id. at 258.

76. 59 TEMPLE L.Q. at 366.

77. Id. at 368.

78. Id. PSIC Finding #28 (“Police gunfire prevented some occupants of 6221 Osage Avenue from escaping from the burning house to rear alley.”) is its most controversial finding. PSIC Commissioner Bruce Kauffman dissented from this finding.

79. Id. at 388.

80. Based on interviews by author (May 15 - June 1, 1985).

phia's then District Attorney Ed Rendell rejected the demands for a grand jury probe. Three weeks after the confrontation Mayor Goode appointed the Philadelphia Special Investigation Commission (PSIC), an eleven member panel composed of community and corporate leaders, respected members of the clergy, renowned prosecutors, a former top FBI office and a retired state Supreme Court Justice. The PSIC was initially greeted with widespread skepticism as cronies selected to exculpate Mayor Goode, but the PSIC's public credibility was boosted when the city's police union mounted a legal attack to block the probe.⁸¹

PSIC staff, which included national experts in explosives, fires, medical pathology and criminal investigations, conducted over 900 interviews and gathered records from thirty-six governmental agencies before conducting five weeks of public hearings, in October 1985, in which testimony from ninety witnesses was broadcast live on public television and radio. In a scathing report issued on March 6, 1986, the PSIC repeatedly described the actions of city officials as grossly negligent and those of police as excessive and unconscionable.⁸² City officials, according to the findings in the PSIC's report, had adopted a non-confrontational, policy of appeasement toward the transgressions of MOVE which allowed the situation to fester for years and enabled MOVE to fortify the house. The report chided city officials for not using negotiation as a method of resolving the problem. When city officials finally decided to take action in April 1985 — after frustrated neighbors vowed to take matters into their own hands — the city hastily approved an ill-conceived assault plan which culminated in the unconscionable decision to drop the bomb and let the fire burn. The deaths of the five children, the PSIC concluded, appeared to be "unjustified homicides" which should be investigated by a grand jury.⁸³

In internal memoranda, the PSIC criticized the local U.S. Attorney and the FBI. Then local U.S. Attorney Edward Dennis, now head of the Justice Department's Criminal Division, rejected city requests that he intervene to resolve the MOVE dispute during a May 1984 meeting. He warned that he was unlikely to become involved in the city's dispute with MOVE; in fact, he would only intervene if the city violated civil rights norms in dealing with MOVE. The FBI, which had supplied the Police Department with thirty-eight pounds of C-4 explosive, endorsed the assault plan. "The U.S. Attorney contributed to the events of May 13 by asserting an artificial distance between his official duties and the events unfolding on Osage Avenue," one PSIC document stated.

"The FBI encouraged, promoted and protected the Philadelphia Police Department's offensive use of excessive force, and, for this, the FBI shares responsibility and culpability for the outcome of May 13, 1985."⁸⁴

Besides the PSIC report, a second major investigation of the bombing of MOVE was conducted by a local grand jury, which was belatedly convened on May 15, 1986. It heard testimony from over 125 witnesses. The grand jury's report, issued on May 3, 1988, mirrored many of the PSIC's findings on the chronology of events leading to the confrontation and on incompetence by city officials. On the question of criminal charges, however, the grand jury's report reached an opposite conclusion: "Our investigation has revealed considerable incompetence and ineptitude. It has not, however, disclosed any actions which we believe warrant the filing of criminal charges." While failing to indict, the grand jury stressed

It strains credibility to suggest that Sambor — who had two decades of law enforcement experience — did not know that dropping a bomb on a house containing children and allowing the ensuing fire to burn were reckless acts.

that it was not exonerating "those men responsible" for the disaster. "Rather than a vindication of those officials, this report should stand as a permanent record of their morally reprehensible behavior."⁸⁵ The grand jury's 279 page report termed the actions by city officials before, during and after the May 13th confrontation "an epic of governmental incompetence" marked by political cowardice, inexperienced planning and inept execution.⁸⁶

The grand jury considered a number of criminal charges ranging from reckless endangerment to murder. However, it adopted the recommendation of Philadelphia District Attorney Ronald Castille that after "applying the law to the facts . . .," criminal prosecutions were not proper, despite contradictory testimony of "dubious credibility" from top city officials and instances of outright perjury by police officers. The grand jury approved Castille's recommendation by a 16-4 margin. Defending the grand jury report, Castille said "[t]he pain we suffer in the death of the children and the destruction of the neighborhood would seem to lead to the conclusion that crimes must have occurred on May 13. Our society can-

81. Id. at 269. Chairman Brown observed that the PSIC's "first and most formidable adversary was public perception." The perception that the PSIC's purpose was to "white-wash" the May 13, 1985 confrontation began to shift with the attacks from the police union. "[The attacks] enhanced the Commission's credibility. The columnists began to ask: If the [police union] is attacking the whitewashers for conducting a witch hunt, then what is it the police have to hide?"

82. For complete text of the PSIC's Report, see, 59 TEMPLE L.Q. at 339-377. The Report contains findings and recommendations.

83. Id. at 369. PSIC Finding #29.

84. Memorandum from Emerson Moran, PSIC Communications Officer, to PSIC Chairman William Brown. PSIC FILES, Box 2, Folder 20-1, Vol. I. The Grand Jury Report also noted Dennis' rejection of requests for federal assistance from city officials during the May 1984 meeting. "Dennis said that simple loudspeaker threats did not warrant his intervention. He did acknowledge an outstanding federal warrant for John Africa, but refused to act on it without concrete evidence that Africa was in the house." See Grand Jury Report at 18.

85. Grand Jury Report at 279.

86. Id.

not condone prosecutions motivated solely by grief or rage."⁸⁷ The crux of Castille's rationale in not prosecuting city officials or police was his determination that none possessed a clear intent to harm MOVE members, a prerequisite for criminal culpability. "I was determined that the investigation would be exhaustive, that no one would be prejudged, that the law would be fairly applied, and that there would be no scapegoats. Applying these principles, I determined that no charges should be brought."

"Maddening as it may seem, MOVE grand jury is right" stated the headline of the lead editorial in Philadelphia's largest newspaper three days after the report's release. Quoting from the grand jury report, the Inquirer noted that Mayor Goode and other high officials might have been prosecuted under the old common law crimes of malfeasance, misfeasance and nonfeasance but those laws were abolished in Pennsylvania in 1973. "[T]here are no laws against stupidity, incompetence and neglect of government duties."⁸⁸

MOVE members blasted the grand jury's report as another link in the chain of repressive acts against the organization by Philadelphia officials. "To know that a house is inhabited by men, women and babies and make a *conscious* decision to let a fire *burn* is a *crime*! Anyone committing a *crime* . . . is a *criminal*! It cannot be otherwise!" Louise James Africa stated in a bitter forty-six page response to the grand jury's report issued during a press conference in June 1988.⁸⁹ Louise Africa castigated Castille's interpretation of criminal intent: "[Y]ou need to stop all this nonsense about lack of criminal intent . . . [.] [T]he bombing and burning up alive of men, women and children was malicious and deliberate. If that bomb had tore into *your* house . . . you wouldn't *rest* until you saw Wilson Goode and everybody connected with that bombing in jail."⁹⁰

MOVE was not alone in its criticism of Castille. Distinguished attorney William H. Brown, who chaired the PSIC, charged Castille with using a double standard of justice. "[T]he grand jury has confirmed the belief of many that in Philadelphia there are two standards of justice: one for the poor and minority and another for those who are white and economically more secure," Brown stated in an op-ed article in the Philadelphia Inquirer.⁹¹ For Brown, there was "more than sufficient evidence" to warrant indictments arising from dropping the bomb, allowing the fire to burn and permitting police to use exotic military weapons which "showed little if any concern" for the safety of the children. "I am ashamed to be a part of a legal system that treats the loss of life so cavalierly."

Clifford Bond, the block captain of the burned-out section of Osage Avenue whose pleas for relief from

MOVE's abuses were ignored by city officials for two years, stated,

I teach my children to respect adults and obey the laws. What if governmental officials lie while under oath? That is not a good example of fair and equal justice, especially in a land that proclaims itself a democracy and stresses protection of its people. Yet that is the example that was set by the grand jury when it decided not to indict any government officials or police officers involved in the events of May 13, 1985.⁹²

Only two people have been convicted on charges arising from the May 13th confrontation: the lone surviving MOVE member, Ramona Africa was convicted of riot and conspiracy charges, and Black developer Ernest Edwards, Jr. was convicted of stealing \$137,000 from his contract to rebuild the sixty-one homes destroyed in the blaze. The lack of police convictions deeply disturbed many Philadelphians. Echoing a sentiment frequently expressed on local radio talk shows and in personal conversations, Pulitzer Prize winning Philadelphia Inquirer Associate Editor Acel Moore wrote in an October 27, 1988 column: "It is ironic that our criminal justice system could easily indict and successfully prosecute a person for stealing \$137,000 in connection with rebuilding the destroyed homes but could not indict any public official or find anyone else guilty for creating the catastrophe that took 11 lives, including six children, and destroyed the homes."

Similarly, the only non-MOVE member jailed following the 1978 shootout was a Quaker named Richard Kanegis, a member of a Quaker peace-keeping team who was trying to defuse tensions between police and community residents following the morning confrontation on August 8th. Kanegis was charged with obstructing the law after being arrested for blocking a policeman from making an arrest when police suddenly charged the milling crowd. Like many of the thirty-eight people detained during the police riot, Kanegis claimed that he had been arrested falsely. Kanegis, however, was the only arrestee who refused to accept a deal to exchange a guilty verdict for a suspended sentence. He received a sentence of twenty-three months in jail. When he unsuccessfully appealed his Municipal Court conviction to Common Pleas Court, the judge leveled an anti-MOVE tirade before sentencing Kanegis. Kanegis spent 14 days in jail in early 1984 before being cleared during a special hearing in which his new lawyer located documentary film footage of the police riot which showed that Kanegis did not interfere with any officer. The D.A.'s Office opposed Kanegis' release claiming the film had been doctored despite testimony from the award winning filmmaker that the sequence was unedited.

87. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

88. Philadelphia Inquirer, 22 (May 5, 1988).

89. Louise Africa, Statement in Response to the Grand Jury Report, Press Conference (June 1988) (author has a written version on file).

90. Id.

91. Philadelphia Inquirer, 22 (May 5, 1988).

92. Id.

- V. "... the risk of harm to the children posed by the plan was not so significant as to mandate criminal liability."⁹³

Grand Jury Report

PSIC member Bruce W. Kauffman, a former state supreme court justice, did not agree with the conclusion of his ten fellow commissioners that the police firing of over 10,000 rounds of ammunition in under ninety minutes at a row house containing children was clearly excessive and unreasonable. Kauffman also disagreed with the majority that the failure of those responsible for the firing to control or stop such an excessive amount of force — including the use of military high explosives — was unconscionable. "[T]he police were entitled to use deadly force on May 13," Commissioner Kauffman stated in his dissent which cited Pennsylvania's Deadly Force Statute. "They were attempting to serve lawfully executed warrants upon persons this Commission has found to be armed, dangerous, terroristic, and dedicated to provoking a violent confrontation with authority Use of deadly force was lawful and appropriate."⁹⁴

Pennsylvania's Deadly Force Statute, Section 508(a)(1) provides, in pertinent part, that a police officer is:

(1) . . . justified in using deadly force only when he believes that such force is necessary to prevent death or serious bodily injury to himself or such other person, or when he believes both that:

(i) such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(ii) the person to be arrested has committed or attempted a forcible felony or is attempting to escape and possesses a deadly weapon, or otherwise indicates that he will endanger human life or inflict serious bodily injury unless arrested without delay.⁹⁵

PSIC chairman Brown vehemently disagreed with Commissioner Kauffman's application of Section 508(a)(1), arguing that the police assault was excessive under deadly force standards set by federal case law⁹⁶ and Philadelphia Police Department directives.⁹⁷ The Department's deadly force policy states that officers shall "exhaust all other reasonable means of apprehension and control before resorting to the use of deadly force."⁹⁸ "Clearly Section 508(a)(1) could never be interpreted to authorize the use of deadly force against children against whom no arrest warrants were pending and who were in no way attempting to prevent the execution of an arrest," Brown stated in the Temple Law Quarterly article accompanying the publication of the PSIC's report.⁹⁹ "[T]he dropping of high-powered military explosives onto

the house when children were known to be inside constituted excessive force. The deliberate decision to allow the fire to burn . . . recklessly endangered the lives of those persons within the house."¹⁰⁰

The grand jury, however, agreed with Commissioner Kauffman that Section 508(a)(1) negated charges like murder, aggravated assault, risking catastrophe, and recklessly endangering another person, which the grand jury felt "arguably could apply" to police actions.¹⁰¹ The grand jury determined that all of the "assaultive police conduct" began after MOVE initiated gunfire in response to the police "executing judicially approved" warrants.¹⁰² While "police probably fired far too many rounds," the police gunfire was a "justified response" to the provocation posed by MOVE's fortifications at 6221 Osage Avenue.¹⁰³ "Use of C-4 [explosives] to accomplish this goal cannot be deemed criminally excessive as this force was applied only against combatants."¹⁰⁴

The grand jury did agree with PSIC chairman Brown on the issue of the Police Department's failure to follow its own directives on deadly force and hostage situations. The Department's directive on hostage situations calls for using trained hostage negotiators and stalling techniques.¹⁰⁵ The grand jury report stated, "We are compelled to note at least that had the procedures . . . been followed, it is almost certain that fewer lives would have been lost. The failure of the Police Department's leadership to follow or implement its own directives, of course, is irrelevant to the issue of criminal liability."¹⁰⁶

The grand jury also agreed with Commissioner Kauffman's dissenting view that there was no credible evidence that any adult MOVE member was prevented from leaving the burning house by police gunfire. The grand jury and Commissioner Kauffman also discounted the vivid testimony of the only surviving child, Michael (Birdie Africa) Ward, 14, that Conrad Africa was driven back inside by gunfire when he attempted to carry the youngest child, 7 year old Tomaso Africa, to safety. Both the grand jury and the PSIC found that MOVE members did exit the burning building. PSIC concluded that six people tried to escape but the grand jury concluded that one adult and two children returned because of the mistaken belief that the police were firing at them and/or due to confused, irrational decision-making that included a possible desire to commit suicide.

The determination that police bullets did not block MOVE members from leaving the burning building was critical in the grand jury's decision to absolve Fire Commissioner William Richmond of culpability for his part in the decision to let the fire burn. "We find that Richmond could not foresee that MOVE members would remain inside and keep their children with them. We further find that this intervening action precludes criminal

93. Grand Jury Report at 86.

94. 59 TEMPLE L.Q. at 413.

95. 18 P. Cons. Stat. §508(a)(1) (1982).

96. 59 TEMPLE L.Q. at 274.

97. Id. at 276.

98. Id. at 288.

99. Id. at 274.

100. Id. at 276.

101. Grand Jury Report at 115.

102. Id.

103. Id. at 117.

104. Id. at 120.

105. Grand Jury Report at 89-90.

106. Id.

liability."¹⁰⁷

PSIC chairman Brown criticized Kauffman's dissent from the Commission's finding that police gunfire had prevented escape of MOVE members. In addition to Michael Ward's testimony, fire personnel and police officers, including a police inspector, also told the Commission they heard gunfire. "[O]ne of the questions that continues to nag my brain," Brown stated, "is how did the metal fragments that the FBI laboratory and the Commission's pathology expert indicated were consistent with 00 buckshot pellets get into the body of one of the children found in the rubble? The children were in the basement throughout the entire day and it seems inconceivable that buckshot pellets could have been fired into one child's body while she was in the basement of the house. I am convinced that she was shot at some point in time when she was outside of the house."¹⁰⁸

The grand jury heavily criticized many of the actions and sworn testimony of Police Commissioner Sambor but would not find that Sambor "committed any crimes for which the requisite mental state is intent, knowledge or recklessness."¹⁰⁹ As a result, Sambor, like Mayor Goode, was not held to be criminally liable for proceeding with the assault despite his knowledge that children were in the house. Sambor's decision to use the bomb also was not prosecutable because "the decision to let the fire burn, not the use of [a bomb], was the root cause of the loss of life and property."¹¹⁰ His decision to let the fire burn was acceptable because there was "insufficient evidence that Sambor intended that the fire do anything other than destroy the bunker which he was empowered to destroy."¹¹¹

The grand jury did criticize Sambor in a number of areas. It "completely discredit[ed]" Sambor's revised testimony that city Managing Director Leo Brooks played a key role in the decision to let the bunker burn. "We have no reason to believe that Sambor's memory three years after the event, on the eve of our decision with respect to possible criminal charges, is more accurate than it was closer in time to May 13, 1985."¹¹² Sambor's testimony that he was unaware that gas cans were on MOVE's roof was also discredited by the grand jury, citing testimony it received from top police and fire officials who said Sambor attended a May 11, 1985 meeting where they discussed the risk posed by the presence of the gas cans on the roof.¹¹³ Sambor's denial that he told Bomb Squad members to spike the bomb to "get them motherfuckers" was questioned but the grand jury rejected the statement as insufficiently corroborated.¹¹⁴ While the grand jury found evidence suggesting that Sambor participated in a cover-up of the fact that a plan to use a demolition crane to remove the bunker was rejected as too costly at \$6,500, no recommendation of filing charges for obstruc-

tion of the administration of law or other governmental function under 18 Pa. C.S.A. §5101 was made "because it is not clear what testimony is accurate and there is a lack of any evidence of criminal intent."¹¹⁵

The charges of recklessly endangering another person and risking a catastrophe were considered by the grand jury in connection with various actions and incidents on May 13th. Under Pennsylvania's reckless endangerment statute: a person commits a misdemeanor of the second degree if she recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.¹¹⁶ The risking catastrophe statute states that a person who causes a catastrophe by explosion, fire,

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or seven other means commits a felony of the first degree if she does so intentionally or knowingly, or a felony of the second degree if she does so recklessly and a person is guilty of a felony of the third degree if she recklessly creates a risk of catastrophe in the employment of fire, explosives or circumstances contained in the seven other categories.¹¹⁷

Although the events of May 13, 1985 were unprecedented, the Philadelphia District Attorney's Office has taken a stricter line in applying the reckless endangerment and risking catastrophe statutes when prosecuting persons not connected with city government. The D.A.'s Office appealed a Municipal Court judge's 1986 dismissal of charges against a street vendor charged with reckless endangerment and risking catastrophe in a case involving the theft of electric service. The judge dismissed the charges after finding that the D.A.'s Office had failed to present sufficient evidence at the preliminary hearing. The Superior Court approved the D.A.'s appeal to reinstate the charges in May, 1988.¹¹⁸ The vendor was operating a curb side variety store out of a bus which had an illegal electrical connection. An electric company representative had testified that due to the location of the illegal connection in a residential area and the manner in which it was installed "there was a potential there for injury to anyone who may have been in that area."¹¹⁹

D.A. Castille stated that fear of unsuccessful prosecutions was a factor in his recommending no indictments to the grand jury.¹²⁰ But the state's appellate courts have

107. Id. at 204.

108. 59 TEMPLE L.Q. at 282.

109. Grand Jury Report at 194.

110. Id. at 160.

111. Id. at 194.

112. Id. at 189.

113. Id. at 151.

114. Id. at 155.

115. Id. at 59.

116. 18 Pa. C.S.A. §2705 (1972).

117. 18 Pa. C.S.A. §3302(a)(b) (1972).

118. *Commonwealth v. Morman*, 373 Pa. Super. 360, 541 A.2d 356 (Pa. Super 1988).

119. Id. at 357.

120. Remark made in response to a reporter's question during a press conference (May 3, 1988).

shown no reluctance in strictly applying the reckless endangerment and risking catastrophe statutes in cases in which defendants claimed their actions accidentally caused deaths. In early 1988, the state's Superior Court upheld the conviction of a Philadelphia man who was found guilty of manslaughter, reckless endangerment and risking catastrophe for the 1984 death of a fireman resulting from a fire he set in a vacant rowhouse next door to his home which was frequently used by junkies as a shooting gallery.¹²¹ The Superior Court stated that the defendant should have known that firemen would respond to the blaze, and dismissed his claim that he was not directly responsible for the fireman's death since all fires set in urban areas eventually endanger firemen. The court chided the defendant for setting a fire in a building in which he knew people frequently slept. "The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence."¹²²

In a 1976 case, the Pennsylvania Supreme Court reversed the dismissal of charges against a Philadelphia man charged with the death of two firemen who died fighting a fire caused by a lighted cigarette which he accidentally dropped while he was working in a section of a plant where smoking was prohibited.¹²³ A Common Pleas Court judge had found that the word 'catastrophe' as used in the statute was not sufficiently precise and voided the statute for vagueness. The Supreme Court disagreed: "the degree of culpability required by Section 3302(b) is very specific; a *gross deviation* from the standard of conduct that a reasonable person would observe in the actor's situation. The 'risk' proscribed by this legislation is the use of dangerous means by one who 'consciously disregards a substantial and unjustifiable risk' and thereby *unnecessarily* exposes society to an extraordinary disaster."¹²⁴

Although there may be dispute as to the applicability of statutes that penalize failure to prevent a catastrophe — these state that a person commits the offense if she knowingly or recklessly fails to take reasonable measures to prevent or mitigate a catastrophe if she knows she is under an official or legal duty to do so.¹²⁵ However, there should be no such ambiguity in applying perjury charges against the police officers who gave false testimony to the grand jury. The criminal liability of policemen for their actions on May 13th may have been mitigated by the battle field conditions, but there were no such extenuating circumstances inside the grand jury room. "The grand jury determined that not only had various police officers committed perjury, but that they had engaged in a conspiracy to cover up their lies," PSIC chairman Brown stated. "The statement by the grand jury to the effect that the perjury committed by police officers was

merely '... a footnote to the tragedy that left 11 people dead,' is outrageous."¹²⁶

According to the grand jury, "the infantile deception engaged in by these officers after May 13th is a petty detail . . . [E]nding this massive investigation by charging a few front line officers would not serve any purpose or vindicate any interest when it was the City's high elected and appointed officials who were at least morally responsible for this great tragedy."¹²⁷

Brown's criticisms of the grand jury's failure to indict the officers for perjury were echoed by former Philadelphia U.S. Attorney David Marston. The failure to bring perjury charges, Marston stated, was a "startling conclusion" and one of the grand jury's central failures.¹²⁸ "Lying to a grand jury had always been known as perjury and the conviction of low-level figures on perjury charges has been the fundamental technique in every successful probe of crimes by public officials from Teapot Dome to Watergate," Marston stated. "Big crimes are solved by working up the ladder of smaller crimes, and if smaller crimes are dismissed as 'petty details,' it is axiomatic that the major crimes will never be solved."¹²⁹

- VI. "The primary issue to be examined is not the radicalism (of MOVE) but it is our ability to respond appropriately to radicalism without perpetrating a more extreme radicalism. PSIC Commissioner Bowser¹³⁰

The events of May 13, 1985 presented perplexing legal dilemmas in determining criminal culpability, but the actions of city officials and certain police officers transcended legally accepted standards of decency as surely as did the actions of MOVE precipitating the clash. "It is a crime in Pennsylvania to recklessly engage in conduct which places or may place another person in danger of death or serious bodily injury. Does anyone who watched television on May 13, 1985 doubt that someone committed that crime?" Marston asked.¹³¹

Charges of double standards in the administration of justice gain credibility in view of incidents in which different classes of individuals are blatantly accorded different treatment. "Fairness is what justice really is," former U.S. Supreme Court Justice Potter Stewart once stated. Absolving city officials for any criminal liability in the deaths of the six children by simply apportioning all of the blame to the adult MOVE members is not fair, just or honest. "Neither the excuse, the legality, nor the expediency can cleanse the stain of the blood of innocent children," PSIC Commissioner Charles Bowser wrote in his concurrence to the PSIC's Report.¹³² "The bomb and the unrestrained fire are conclusive evidence of a wanton and

121. *Commonwealth v. Dykes*, 541 A.2d 1 (Pa. Super 1988).

122. *Id.* at 3.

123. *Commonwealth v. Hughes*, 468 Pa. 502, 364 A.2d 306 (Pa. Supreme Ct. 1976).

124. *Id.* at 311 (emphasis original).

125. 18 Pa. C.S.A. §3303 (1972).

126. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

127. Grand Jury Report at 273, 276-277.

128. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

129. *Id.*

130. 59 TEMPLE L.Q. at 409.

131. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

132. 59 TEMPLE L.Q. at 391.

callous disregard for the lives and safety of the children."¹³³

The lenience Castille displayed towards former Police Commissioner Sambor is a clear example of a double standard when compared to Castille's application of *mens rea* doctrine in the case of Anthony Woodward. Legal experts throughout Pennsylvania contended that Woodward was deprived of a fair trial due to actions by the police, prosecutors and his court-appointed attorney. Woodward was sentenced to life in 1984 when he was convicted of being an accomplice in a fatal barroom stabbing in which, according to trial testimony, he did not participate. Castille's office vigorously opposed Woodward's motion for a new trial by strictly applying state case law which declares that criminal intent can be formed in a split second.¹³⁴ Such a standard of intent was never applied to Sambor.

It strains credibility to suggest that Sambor — who had two decades of law enforcement experience — did not know that dropping a bomb on a house containing children and allowing the ensuing fire to burn were reckless acts. If Anthony Woodward can allegedly form criminal intent in a split second — after seeing his cousin (who did the stabbing) attacked by two men — why did Sambor escape the same split second standard?

The exonerations granted by the grand jury reinforced the perception of double standards in the application of laws, and so left many with the view expressed by Osage Avenue block captain Clifford Bond that the grand jury made a "political decision, instead of a righteous and just one."¹³⁵ Almost 147 years to the day before the May 13, 1985 tragedy, a white mob, composed largely of "gentlemen of property and standing"¹³⁶ sacked and burned the newly built headquarters of the Pennsylvania Anti-Slavery Society in downtown of Pennsylvania. No arrests were made for the May 17, 1838 arson of Pennsylvania Hall because "the authorities declared that the mob had been composed of strangers, and that none were recognized."¹³⁷

Some argue that District Attorney Ronald Castille's recommendation against indictments was a proper exercise of prosecutorial discretion and not a political decision. But Castille's recommendation to the grand jury perverted the equal application of the law as surely as his predecessor's 1978 decision not to prosecute prison

guards for beating a MOVE member despite an undisputed finding of illegal conduct by the attacking guards. Castille's recommendation — like Judge Kubacki's directed verdict of acquittal in the 1981 Delbert Africa case — short circuited the orderly working of the justice system.

"The test to be applied in determining whether or not someone should be indicted is merely a reasonable belief in a crime has been committed," PSIC chairman Brown wrote in 1988 reaction to the grand jury's report. "I do not mean to suggest that *convictions* of persons who might have been indicted . . . would have occurred, but that determination should have been made by a jury charged with the responsibility of determining guilt or innocence."¹³⁸

Four months after the Philadelphia grand jury issued its findings, a federal grand jury — investigating possible civil rights violations, particularly regarding the death of the children — issued a press release stating its year-long probe "yielded no indictments."¹³⁹ Assistant Attorney General William Bradford Reynolds, head of the Justice Department's Civil Rights Division, praised the thorough and professional investigation of a complex case by the FBI, the very agency that had been criticized by the PSIC for supplying Philadelphia police with the C-4 explosive used in the excessive assault and bombing.

Much has been made of the battlefield-like conditions on May 13, 1985, yet the excessive force used against a house containing children would violate provisions of the Geneva Convention. Article 3, Part I of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 states that persons taking no active part in hostilities "shall in all circumstances be treated humanely." This section prohibits "violence of life and person, in particular murder of all kinds, mutilation, cruel treatment and torture."¹⁴⁰ Sadly, city, state and federal authorities abdicated their responsibilities to protect the lives and civil rights of the MOVE children.

"Our social order was profoundly tested on May 13, 1985, and I must conclude that we did not pass the test," the PSIC Commissioner stated in his concurrence.¹⁴¹

The dynamics that propelled MOVE's decade-plus confrontations with the city were rooted in the denial of the equal application of the law through exercises of double standards. While MOVE members were not the guiltless victims they claimed to be, they correctly criticized the double standards constraining equality in America's law enforcement and judicial apparatus. "The MOVE ORGANIZATION is saying there is nothing more disruptive, abusive or profane than a system that blesses upper class whites with a crown and poor whites,

133. Id. at 387.

134. For description of case see, Philadelphia Daily News, 50 (October 8, 1987). See also, case file: *Commonwealth v. Anthony Woodward*, Court of Common Pleas Case No.2053-54 (1984). The D.A.'s Office acknowledges that Jerry Woodward, Anthony's cousin, had the right of self-defense when he was attacked inside the bar but lost that defense when he used a knife against his unarmed attacker. As an accomplice, according to the D.A., Anthony Woodward was liable for the same life sentence. Legal experts who've reviewed the case say life sentences for the Woodward's are outrageous. A Philadelphia judge vacated Anthony Woodward's life sentence in January 1989 ordering new post-trial appeals after a finding that his original court-appointed attorney was woefully incompetent.

135. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

136. Julie Winch, PHILADELPHIA'S BLACK ELITE, 148.

137. Edward R. Turner, THE NEGRO IN PENNSYLVANIA: 1639-1861, 163 (1911, reprinted 1970).

138. Philadelphia Inquirer, Sect. F, 7 (May 8, 1988).

139. U.S. Justice Department press release (September 20, 1988). The press release quoted Assistant Attorney General William Bradford Reynolds, head of the Department's Civil Rights Division, stating the federal grand jury "will not issue a report."

140. See A. Roberts & R. Guelif, eds., DOCUMENTS ON THE LAWS OF WAR, 273 (1982).

141. 59 TEMPLE L.Q. at 409.

Blacks, Puerto Ricans with a blackjack."¹⁴²

Racism is an aspect of the double standard of justice, and the PSIC found racism to be operative in the 1985 confrontation. "The Commission believes that the decisions of various city officials to permit construction of the bunker; to allow the use of high explosives, and in a 90 minute period, the firing of at least 10,000 rounds of ammunition at the house; to sanction the dropping of a bomb on an occupied row house; and to let a fire burn in a row house occupied by children, would not likely have been made had the MOVE house and its occupants been situated in a comparable white neighborhood."¹⁴³

MOVE has vowed to return and continue its confrontation with city officials. Local and national governmental institutions remain susceptible to the type of paralysis presented by anarchists like MOVE because charges of racism find resonance among the have-nots and societally disenfranchised who also feel victimized by unequal treatment from 'the system.' Speakers at a rally outside of Philadelphia's City Hall on December 10, 1988 commemorating the United Nation's 40th anniversary of International Human Rights Day repeatedly expressed the view that the MOVE issue never will be resolved unless "justice is served." One speaker, William Meek, director of the American Friends Service Committee's community-relations division stated, "The City's action [on May 13, 1985] violated any definition of human rights or human being . . ."¹⁴⁴

Dr. Martin Luther King, Jr. once observed that justice, long deferred, has accumulated interest with costs that will be substantial for American Society in both financial and human terms. "White America must recognize that justice for Black people cannot be achieved without radical changes in the structure of our society."¹⁴⁵ Elimination of double standards in applying the laws of the land is an essential element in the radical restructuring envisioned by Dr. King.

142. PSIC Files, Box 2, Folder 180 (pages unnumbered).

143. 59 TEMPLE L.Q. at 377. This conclusion was not an official finding of the PSIC but was included in the section titled "Additional Comments." PSIC Commissioner Kauffman dissented from this conclusion. PSIC Commissioner Bowser stated in his concurrence, "Sambor testified that if the child of one of the other families who lived in the 6200 block of Osage Avenue had been in the house he would have made different decisions and employed different tactics." *Id.* at 391.

144. Philadelphia Inquirer, Sect. B, 7 (December 11, 1988).

145. Martin Luther King, Jr., *THE WORDS OF MARTIN LUTHER KING*, 55-56 (1983).