

### III. PLANNING FOR THE SERVICE OF WARRANTS AT 6221 OSAGE AVENUE

Planning for the confrontation with MOVE, which the Mayor finally recognized was both inevitable and necessary, occurred at two levels. City officials (including the Mayor, the Police Commissioner, the City Solicitor and the District Attorney) initially met to discuss various strategies for dealing with MOVE, such as continuing the policy of nonconfrontation, pursuing civil remedies or initiating criminal process. Simultaneously, Police Department personnel met to develop a tactical plan to be implemented if the City elected to proceed criminally. The series of strategic and tactical meetings held in preparation for a confrontation are discussed first. Next, we detail the tactical plan ultimately devised for execution of the warrants, with brief consideration given to planning options which were explored but rejected. Lastly, we discuss the numerous deficiencies in the planning.

During our investigation we heard lengthy testimony from many witnesses about the City's development of the plan. This testimony revealed a blatant abdication of responsibility within the Police Department for formulating a plan, and a parallel abdication of responsibility within the Mayor's cabinet for executing the plan.

The responsibility for formulating a plan for a confrontation with MOVE was assumed by a non-ranking firearms instructor from the Police Academy, a sergeant from the Pistol Range, and

the commanding officer of the Bomb Disposal Unit. The supervisors of these men, the commanding officers of the Tactical Division and the Stake Out Unit, contributed virtually nothing. Similarly, the responsibility for executing the plan, although formally assumed by the Mayor and the Managing Director, was borne in reality by the Police Commissioner, who was at the center of almost every critical decision concerning May 13, 1985. The reasons for this amazing leadership void among the Police Department's command personnel, mirrored by a similar refusal to assume responsibility within the Mayor's cabinet, became apparent from the testimony offered to us.

**A. The City's Decision to Proceed Against MOVE and Its Development of the Plan**

**Development of the tactical plan by the Police Department**

In response to the escalating tensions on Osage Avenue, but entirely on his own initiative, Police Commissioner Gregore Sambor began at the end of April, 1985, to plan for a confrontation with MOVE, which had begun to appear likely. On or about April 30, 1985, Sambor convened a very brief meeting with Inspector John Tiers, the commanding officer of the Tactical Division; Captain Richard Kirchner, the commanding officer of the Stake Out Unit; Lieutenant Frank Powell, the commanding officer of the Bomb Disposal Unit; Detectives Nathan Benner and Thomas Boyd of the Major Investigations Division's Intelligence Unit; Sergeant Albert

Revel from the Pistol Range; and other officers. (The Stake Out and Bomb Disposal Units are subdivisions of the Tactical Division. Similarly, the Pistol Range personnel are part of the Tactical Division.) Sambor informed the officers that the City might take action against MOVE, and directed Revel to find the 1984 plan developed by his predecessor, Sergeant Kirk.

Revel, along with Powell (who had been involved in planning for the confrontation expected in August, 1984), searched unsuccessfully for a written copy of the 1984 plan. Subsequently, Powell sent Sambor a memo informing him that, in any event, MOVE's newly constructed bunker rendered the 1984 plan tactically infeasible. A few days later, on or about May 2, 1985, Powell, Revel, Kirchner, Benner and Boyd met informally at the Police Academy. Revel also asked one of his subordinate police officers, Michael Tursi, a firearms instructor at the Pistol Range who knew the weapons and personnel available at the Range, to attend the meeting. Powell then informed those present that the 1984 plan was not feasible, and that they should begin devising a new one.

According to Powell, "the real reason" that he and others arranged this meeting was to force Kirchner, whom Powell felt wanted to avoid making decisions, to assume responsibility for developing a plan. Powell said that he emphatically told Kirchner and Tiers at the meeting that it was their responsibility to devise a plan, and that if they needed any help from the Bomb Disposal Unit or Pistol Range to let them know. Powell recalled that Kirchner then responded: "Fuck it. Go in there

1. with two Stake Out Units and drag them out by the hair. If they give me any shit, we'll shoot them." Tursi testified to a similar recollection of this comment, adding that he had not regarded it as mere rhetoric and had expressed his concern to Revel (his superior) that the command structure of the Police Department was approaching the situation with the wrong mentality. According to Powell, after the meeting Tursi expressed his fears that any plan Kirchner devised would pose serious, unnecessary risks to the police. Tursi then persuaded Powell to help him formulate a plan.

5 In the subsequent days, Tursi, Powell and Revel went to Osage Avenue, spoke with neighbors and police assigned to the area, reviewed photographs, tested explosives and explored various options for the confrontation with MOVE. Powell said that, as they worked, he asked various Stake Out officers to review the plan and offer criticisms. He also discussed the plan with an agent from the Special Weapons and Tactics (SWAT) Unit of the Federal Bureau of Investigation (FBI), who told Powell he thought the plan he was developing was sound. Finally, Tursi and Powell repeatedly requested comments and criticisms in a series of meetings with Police Department personnel (detailed below), but none was offered.

On May 7, 1985, Tursi, Powell, Revel, Tiers, Kirchner, Benner, Boyd and other officers met again at the Police Academy. Tursi and Powell discussed the plan they were devising. According to Revel, no one expressed any objections or reservations; further,

neither Tiers nor Kirchner offered any help with the tactical planning.

Powell further testified that on Wednesday, May 8, 1985, immediately after being told to attend a meeting at Sambor's office the next morning, Tiers phoned him. Tiers asked him whether he had a plan, and then said "Well, we got to have a plan. The Commissioner [Sambor] wants a plan. We ain't got nothing and we're in trouble. Can we use your plan?" Revel agreed to let Tiers, his superior, use their plan.

The next morning, at Tiers' request, Powell, Revel and Tursi went to Stake Out Headquarters to show their plan to Tiers. Tursi testified that they gave Tiers a copy, "and if he had any input, that would have been the time that he would have given it to us. But all he did was take the plan and say 'OK, that's it. We'll go with this.' And then we went directly to [Sambor's] office around 9:00." There, Tursi presented the plan to Sambor as one "drawn up by the Police Academy," which would have included units under the command of Tiers, Kirchner and Powell.

On Thursday, May 9, 1985, Sambor convened another meeting at the Police Administration Building (PAB), attended by police command personnel, including Edward McLaughlin, the captain of the Major Investigations Division, Neil Shanahan, the captain of the Civil Affairs Unit, Tiers and Kirchner. Powell, Revel, Tursi, Benner and Boyd were also present. Two members of the FBI's SWAT team and an FBI bomb technician also attended at the Police Department's request. Tursi presented the plan. No one offered any

criticisms or comments. Powell testified "[Sambor] seemed to accept it as it was. I cannot even recall him asking any questions." Similarly, Tursi testified that "[W]e asked all the command personnel in the room to play the devil's advocate with this thing again to see if they saw anything wrong anywhere down the line, and not one change or suggestion was made." No date for the operation was set during the meeting, although Sambor asked everyone to return on Saturday, May 11, 1985.

Sambor held the next meeting on Saturday morning, May 11, 1985, at the PAB. Although the three FBI agents had been invited to attend, they did not. This was the first meeting to which any members of the Fire Department were invited; Fire Commissioner William Richmond, Deputy Fire Commissioner Frank Scipione and Deputy Fire Chief Walter Miller were present. Almost the entire command structure of the Police Department, from the Commissioner and his deputies down to the commanding officer of the police garage, were also present, as well as those who already had been involved in the planning discussions (Kirchner, Tiers, Shanahan, McLaughlin, Benner, Boyd, Powell, Revel, Tursi and Deputy City Solicitor Ralph Teti). Tursi briefed everyone on the plan. Despite his requests for input, no one offered any criticisms. To Tursi's recollection, only one question was asked during the entire meeting: Chief Inspector Craig asked whether the chemical agents to be used would harm the children. Additionally, Richmond and Scipione offered suggestions and information concerning use of the fire equipment.

Asked whether he thought it was apparent to Sambor that his tactical people were not having any input, Tursi testified:

[I]f you could picture it, there was just about virtually every police commander you could think of sitting around this table that had any importance at all in the command structure, and [Sambor] would say something like, "All right, somebody brief us on the plan here." And everybody turns around and looks at each other like, "Well, gee, I'm not going to do it." They're trying to hide under their damn chairs. Finally, he just turned around and said, "All right, Mike, get up here and brief us on this thing." That's basically the way it went.

When testifying before us, Sambor attempted to justify giving two individuals from the Range and one from the Bomb Disposal Unit the responsibility for formulating a plan. He said:

I had noticed on other times where the practical considerations of what the individuals on the street ... that actually had to do the job were not considered. And I wanted to make sure that those aspects of this operation, if it did occur, would be considered. So the people who actually had to do it, that would have been ... cranked into the plan from the beginning.

In any event, in accordance with the plan as outlined, by Saturday afternoon, a Philadelphia Common Pleas Court judge had signed arrest and search warrants, the houses to be used as police posts had been selected, and Powell had chosen at least some officers for the operation. Further, Sambor had arbitrarily selected Monday, May 13, 1985 as the date for executing the warrants in a meeting with the Mayor and others the preceding Thursday.

The final meeting before the plan's execution was held in the early morning hours of May 13, 1985, at the Geriatric Center

at 63rd and Walnut Streets. At that meeting, Kirchner, Powell and Sergeant Edward Connor briefed everyone on the plan, which was essentially unchanged from that which had been presented on Saturday morning.

#### Planning by City officials

While uniformed police personnel were devising a tactical plan during the early weeks of May, 1985, City officials held their own series of meetings to decide on a course of conduct to control the deteriorating situation.

On Friday, May 3, 1985, Goode met with Brooks, Sambor, District Attorney Edward Rendell, City Councilman Lucien Blackwell and City Solicitor Barbara Mather to discuss options for proceeding against MOVE. After reviewing the most recent neighborhood incidents, Mather offered her opinion that any civil action against MOVE would be slow, cumbersome and, in the end, would only result in the issuance of arrest warrants. As he had the year before, Goode asked Rendell to determine whether there was any legal basis for proceeding against MOVE criminally. Because those present conveyed a sense of urgency about the matter, Rendell agreed to interview police and Osage Avenue residents and review the evidence over the weekend, and to present his conclusions to Goode on Monday, May 6, 1985. On that day, Rendell informed Goode, as he had the year before, that there was sufficient evidence to support arrest and search warrants.



On Tuesday, May 7, 1985, Goode met with Brooks, Sambor, Rendell, Teti and others. The Mayor then asked Rendell to prepare the warrants as quickly as possible and instructed Sambor to prepare a plan for their execution. According to Rendell, Goode turned to Brooks and Sambor at the meeting's conclusion and said something to the effect that he had confidence in them and they need not keep him informed of all of the details.

Two days later, on May 9, 1985, Goode met with Sambor, Rendell and Mather. (Brooks was in Virginia on personal matters from Wednesday morning, May 8, 1985 until Sunday night, May 12, 1985; while absent, he was not contacted concerning the operation. Rendell informed Goode, Sambor and Mather that the warrants were ready. Sambor suggested serving them on Monday, May 13, 1985. Although Goode initially expressed reluctance to proceed then because of possible difficulties in evacuating the neighborhood on Sunday, May 12, 1985 (Mother's Day), Sambor wanted to proceed because he felt any delay would only give MOVE more time to prepare. Goode ultimately acquiesced, telling Sambor it was his operation and his call in the end. Rendell testified that when he asked Sambor whether the police intended to use water and tear gas as they had in 1978, Goode interjected that he had confidence in Sambor and did not need to know the details of the plan.

City officials did not meet all together again. Brooks, who had had no communication with anyone regarding the plan since May 7, 1985, returned to Philadelphia on the evening of May 12, 1985. At 9:00 p.m., he met with Sambor, who (in Brooks' words) briefed

him on the plan's "highlights." Next, Brooks called Goode to brief him. (Sambor had already briefed Goode privately on May 11, 1985, but Brooks called Goode nonetheless.) Brooks and Goode then agreed that Brooks would go to the Geriatric Center before 5:00 a.m., where he would remain, keeping Goode informed by phone. The Police and Fire Commissioners, the Commissioner of Licenses and Inspections and other City officials would also be there. Goode said that Brooks urged him "in the strongest manner possible" not to come to the Geriatric Center, but to remain in City Hall. Goode acquiesced.

The testimony heard by us revealed an abdication of responsibility among the Mayor's cabinet for executing the plan. Goode, Brooks, Sambor and Richmond, although responsible for executing the plan, were the players least familiar with it. This lack of familiarity with the plan, and the tactical considerations underlying it, contributed to the May 13, 1985 disaster. Had these key decision-makers sought a more intimate knowledge of the situation and the tactical operation, they presumably could have evaluated more knowledgeably the various suggested courses of action (such as bombing an occupied rowhouse), rather than merely deferring to subordinates' recommendations. Absent this hands-on knowledge, intelligent questions or thoughtful consideration of options was hardly possible. As a result, ultimate decision-makers were left with no course but to approve or reject subordinates'

recommendations based on their level of confidence in the subordinate rather than the wisdom of the recommendation.

Here, decision-makers such as Goode and Brooks lacked a real working knowledge of the situation and, thus, were ill-prepared to make decisions. Goode not only lacked the necessary knowledge but also declined to ask questions so as to acquire this knowledge. Finally, he appeared to insulate himself from such knowledge, instructing his subordinates (at least according to some witnesses) not to keep him informed of "details."

In sum, as the City's Chief Executive Officer and the man legally responsible for law enforcement in the City, Goode delegated too much, deferred too often, knew too little, and asked too few questions. He testified that he was not in charge of the operation, testimony which, although legally inaccurate, sadly is supported factually by all of the evidence. Goode did not participate in any of the operational planning sessions and told Brooks and Sambor that they need not keep him informed of the details. Sambor briefed Goode on the plan, incorrectly telling him that the Fire Department's squirt hoses would dislodge the bunker. Goode never grasped the significance of failing to remove the bunker, even though he later approved dropping a bomb to remove it.<sup>1</sup> Goode simply did not bother himself with information about

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<sup>1</sup>Goode testified that the significance of the bunker was a  
(Footnote Continued)

the nature of the police presence planned for the operation. As a result, he had no real idea how many officers would be involved or what kind of weapons they would be using. According to him, he was surprised by the large number of police at the scene (almost 570 officers); however, he was not surprised when he learned that they had automatic weapons because he "did not have any expectations of those kinds of details." Goode also said that he did not know how many people were inside the house ("As I asked questions, the numbers went from four to five to as many as perhaps fifteen"), and was not aware that MOVE children had crossed a

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(Footnote Continued)

"detail" of which he was not aware:

Q. [Were you] aware of the fact that as long as the bunker rested on top of the house ... the police felt that they could not safely approach that house in any manner to execute the plan?

A. I was really not aware of those kinds of details. I'm sure that the people in the field, the operational people who were involved understood that. But I was not into those kinds of details.

Q. Did you know that the MOVE members had been firing at the police officers and using the bunker as a shield?

A. Not specifically. I mean if you tell me that that was happening, I believe that was happening. But if you are going to ask me whether someone called me up and said they are using the bunker to fire at police officers, I don't recall anyone telling me that.

Q. Did you understand the urgency of knocking the bunker off?

A. I understood that they felt that they could not safely go onto the roof and into the house from the rooftop with that bunker being there.

police barricade, re-entering Osage Avenue just prior to the confrontation.

Furthermore, Goode claimed he did not know the police planned to use explosives to put holes in the party walls. He said Sambor told him the plan

called for them to insert tear gas through holes made in the walls through some type of poking of holes through the walls. He may have used the term point charge or something along those lines.

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But no one used the word explosives.

Additionally, Goode testified that Sambor told him police would put tear gas through the roof (as well as the walls). Finally, Goode also kept himself unaware of alternative plans. As a result, the first time he ever heard of the option of proceeding against MOVE by using a crane to remove the bunker was on the afternoon of May 13, 1985.

Goode's detachment from the decision-making process before May 13, 1985 was repeated during the operation itself. Goode was also in Virginia for part of the day on May 12, 1985. He deferred to Brooks' advice that he not join the Managing Director at the Geriatric Center. As a result, he encountered numerous problems in attempting to communicate with Brooks during the day. Similarly, although Goode told Sambor that it was his operation and his call in the end, Goode never spoke with Sambor on May 13, 1985. Finally, he approved the use of the satchel charge but, as

discussed in detail later, told us he was not aware that police planned to drop the charge from a helicopter.

Other top officials were also ill-informed during the planning phase. Brooks had virtually no involvement in the MOVE operation prior to taking charge of it as Managing Director on May 13, 1985. He was out of town from May 8 through May 12, 1985. He did not attend any of the planning meetings and did not know what was discussed there. Indeed, he first learned that the operation was underway on the evening of May 12, 1985, when he heard a news report as he drove back from Virginia that the Osage Avenue neighborhood was being evacuated. Shirley Hamilton, the Mayor's Chief of Staff, had not told Brooks about this when she spoke with him on May 11, 1985. Similarly, Richmond never knew that the City was planning a confrontation until May 11, 1985. No one from the Fire Department was even invited to the May 9, 1985 planning meeting.

Sambor, whose operation it was, appears to have misunderstood critical aspects of the plan. Some of his ignorance appears to be more convenient than real; nonetheless, his testimony leaves the Grand Jury with the impression that he did not fully grasp the situation. For example, Sambor claimed that he hoped that the Fire Department would be able to dislodge the bunker with its squirt guns. Indeed, Goode testified that Sambor told him the Fire Department was going to use water to knock the bunker off the roof. A Fire Department official had categorically stated at

the May 11, 1985 meeting, however, that the squirts were not capable of dislodging the bunker.

Similarly, Sambor's testimony was somewhat ambiguous as to his understanding of the tactical superiority conferred by the bunker and why it was absolutely critical to disable it. Although he said that he realized that it was critical to neutralize the bunker, his other testimony leaves the impression that he did not comprehend that the bunker was the pivotal factor in all planning. For example, Sambor testified:

I may have had general discussions with [Tursi, Revel and Powell, as they were formulating the plan] and asked them if they were encountering any specific problems or whatever. And I think that the only problem that they encountered was because of the structures on the roof that the ... scenario as developed in 1984 was impractical because of the two structures that were now on the roof.

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Well, at the time [the afternoon of May 13, 1985] we had decided ... and I had approached the subject that the bunker was now a very serious problem ... so that ... some means of eliminating [or] at least neutralizing the bunker had to be considered.

Sambor testified that he did not know the "extent of the structures [bunkers]" and did not find out until May 13, 1985. By contrast, Tursi was of the opinion even in the earliest stages of planning that the bunker's existence was critically important, so much so that when he was told they could not use a crane to remove it, he wanted to abandon any confrontation.

Similarly, Sambor testified (albeit with dubious credibility) that he was unaware of another factor of ultimately critical

importance: the presence of cans marked gasoline on the roof. Numerous witnesses present at the May 9 and 11, 1985 meetings in Sambor's office said that the presence of gas cans on the roof was discussed and, indeed, one of them (a Fire Department official) recalled that Sambor himself talked about the cans and whether they were filled with gasoline or water. Sambor, however, testified:

If a discussion of gas on the roof occurred at all, and I don't recall any discussion as to gasoline to any degree. The only discussion would have been is that there may be gasoline in the building or whatever, because they did have a generator.

Nonetheless, despite his lack of knowledge, it was Sambor who briefed both the Mayor and the Managing Director on the plan. Moreover, once the original plan had failed, Sambor did not solicit any input from either Tursi or Revel, even though they were two of the three who formulated the plan. (Sambor did ask Powell if he or his men [the Bomb Disposal officers] had any new ideas on the afternoon of May 13, 1985.)

The next two ranking officers in the command structure, Tiers and Kirchner, had virtually no part in the planning prior to May 13, 1985 or the decision-making during that day. Neither Tiers nor Kirchner was able to suggest any plan for May 13, 1985, although Kirchner did propose rushing the house. This lack of input may reflect a lack of experience or training: Tiers was the commanding officer of the Tactical Division but had never been a member of the Stake Out Unit, experience essential for such a command position. Although he was the commanding officer



of the Tactical Division, he did not know what types of explosives the Bomb Disposal Unit was planning to use, and was never part of the discussions regarding the decision to drop the bomb. Finally, Tiers also seemed to think that the squirts could remove the bunker.

Sambor's above-quoted testimony gives the impression that he purposely chose people from the Range (Tursi and Revel) because the commanders (Kirchner and Tiers) were too inexperienced in making plans. Although the MOVE Commission report criticized Sambor for "exclud[ing] from the formulation of the plan the entire police department command structure" (Finding No. 11, p.359), we conclude that such criticism overlooks the inherent inability of at least a significant part of that command structure to make any meaningful contribution. Indeed, it became apparent from the testimony we heard that assignments were made within the Police Department on the basis of rank alone and without regard for what the officer had any knowledge or expertise in that area. Because we are an investigating grand jury and not a public commission, we have not attempted in this report to recommend comprehensive changes in the internal operations of particular City departments. However, the consequences here of assigning personnel without regard for expertise or knowledge compel us to recommend review and revision of this policy. Specifically, we recommend that the Police Department require training or practical experience before assigning officers to technical or specialized command positions

## B. The Plan

### The plan devised by Powell, Tursi and Revel

The plan devised by the police in 1985 was simply a modification of their 1984 plan. However, one critical factor had changed since 1984: MOVE had constructed two bunkers on the roof of 6221 Osage Avenue. (The front bunker was the larger of the two and is what is meant by references to "the" bunker. From intelligence photographs, Tursi determined that this bunker was constructed from railroad ties, heavy plywood, and metal.) These bunkers afforded MOVE a tactical superiority and made the roof inaccessible to police. From their bunker on the roof of a rowhouse in the middle of the block, MOVE was able to control the street and the alley, thus preventing the police from gaining entrance by the street, the alley or the roof.

Tursi, Powell and Revel devised the 1985 plan. Tursi and Revel provided tactical expertise and Powell provided his knowledge of explosives. Because of the tactical problems posed by the fortified bunker, the 1985 plan centered on injecting tear gas through the party walls of 6221 Osage Avenue, rather than dropping it in through the roof. The 1985 plan provided that, after the neighborhood had been evacuated and the electricity and gas cut off to the 6200 block of Osage Avenue, the police would demand that MOVE surrender to the arrest warrants. If they did not, the police operation would begin. The Fire Department would train water from high-powered squirt guns on the bunker to

frustrate MOVE's ability to aim and fire at police. Simultaneously, police would fire smoke canisters into the street and the back alley to provide cover for two police teams (Insertion Teams A and B) while they entered the two houses on either side of the MOVE compound. (Ultimately, Insertion Team B entered 6217 Osage Avenue, not the uninhabited 6219 Osage Avenue, because police had reason to believe, from surveillance conducted on May 11, 1985, that MOVE had gone into and taken control of 6219 Osage Avenue.) Each insertion team would be comprised of members of the Bomb Disposal Unit and would be accompanied by members of the Stake Out Unit.

Team A, which entered 6223 Osage Avenue, included Bomb Disposal Officers Frank Powell, William Klein and Timothy Laarkamp, and Stake Out Officers Charles Mellor, James Berghaier, Lawrence D'Ulisse and Terrance Mulvihill.

Team B, which entered 6217 Osage Avenue, included Sergeant Edward Connor, a former commanding officer of the Bomb Disposal Unit who was assigned as a patrol sergeant in May, 1985, Bomb Disposal Officers Daniel Angelucci and James Muldowney, and Stake Out Officers Marshall Freer, Alex Draft, Michael Ryan and Sal Marcello.

Once inside the adjoining houses, the plan called for the insertion teams to place shape charges known as "jet tappers" against the party walls of 6223/6221 and 6219/6221 Osage Avenue. Two shape charges would be placed in the party walls of each house, one on the second floor and one in the basement. These charges

would be detonated to blow small, three-inch holes in the walls. (Tursi and Powell rejected the suggestion of an FBI SWAT team agent that they simply drill a hole in the wall, because they feared that a MOVE member could shoot through the wall while the officer was drilling. They also rejected the idea of putting tear gas through the windows because these had been heavily fortified.) The insertion teams would then inject tear gas through these holes into the basement and second floor of the MOVE compound, thereby forcing those inside to exit. A pepper fogger (a portable machine which vaporizes liquid tear gas) would be used to inject the tear gas so as to avoid any danger of fire which could result if exploding tear gas grenades were fired into the compound, and special computations were made to insure that the tear gas would not harm the children.

In addition to the jet tappers, the plan called for the teams to bring "hatch" or wall-breaching charges with them. These charges could be used to facilitate an escape: If the police became trapped in the adjoining houses, they could use the hatch charges to blow holes in the walls of adjoining houses. The remaining wall-breaching charges were to be used to enter the MOVE compound after its occupants had surrendered. Because the police feared that MOVE had booby-trapped the house, they would wait for twelve hours after MOVE's surrender and then, having gained entrance to the MOVE house with the hatch charges, would search the compound. Finally, the insertion teams would bring "flash-bangs," explosive devices which were intended to disorient

MOVE should MOVE come after the police or the police need to advance on MOVE.

The plan also provided for six police posts inside or on top of surrounding houses (two facing the front of the compound, two facing the back, and two rooftop posts) to provide cover for the insertion teams and to provide police with a vantage point from which to determine where MOVE gunfire was originating. See Appendix. It was hoped that, by concealing police officers inside these posts, MOVE would not have any specific, visible targets at which to shoot. In fact, Tursi testified that he never envisioned the gun battle that actually ensued, but instead had anticipated everyone inside the compound surrendering.

Gunfire was to be carefully controlled. No police officer was to return fire unless given specific permission to do so from his Stake Out Unit supervisor, who in turn had to seek permission from Stake Out Lieutenant Dominic Marandola. (Marandola was stationed in Post One, where Sambor spent most of May 13, 1985, and communicated by radio with Stake Out supervisors in the other posts.)

Finally, medical teams would be stationed at either end of the block to provide relief from the effects of the chemical agents and juvenile aid officers were on duty to take custody of the children.

### Planning options considered and rejected

Tursi, Powell and Revel considered at least three other possible plans for execution of the warrants: the use of a crane to remove the bunker, thereby destroying MOVE's tactical advantage and enabling police to insert tear gas through the roof of the compound; the use of high-pressured water to remove the bunker; and the use of an armored personnel carrier. These three options each received varying degrees of attention; however, all three ultimately were rejected. Nevertheless, it is worth examining these options and the consideration given them, in part because the plan which was pursued failed almost immediately, and in part because the consideration given these other options further exemplifies the miscommunication, misunderstanding and mishandling of the entire affair.

During the week preceding May 13, 1985, Revel and Powell explored the feasibility of using a crane to remove the bunker. However, the City ultimately rejected the offer of a demolition company to remove the bunker. We heard conflicting testimony as to whether the City rejected the offer because it was too expensive or because it was too risky to the occupants of the MOVE house.

Under immunity, Revel testified that, after the May 2, 1985 meeting, he contacted three demolition companies. Two rejected Revel's proposal based on his description. Richard Geppert, associated with a third demolition company, went to Osage Avenue

and then told Revel that he, too, could not do the job. (Although Geppert did think he possibly could drop a ball straight down through the roof, Revel rejected that idea as too risky.)

Powell testified that subsequently, on Friday, May 10, 1985, Geppert phoned for Revel. Revel was out, so Powell spoke with Geppert, who told him that, for \$6,500, he might be able to remove the bunker using a crane by swinging a 2,000-pound ball that would knock the bunker off the roof. Powell relayed Geppert's message to Sambor, leading Sambor to believe that Geppert could guarantee the job. Sambor told Powell he had to go to the Mayor for the money and would get back to Powell. About two hours later, Sambor called Powell and told him the crane option was out because he could not get the money.

Geppert's testimony is mostly corroborative of Revel's account. Geppert testified that, on May 9, 1985, Powell asked him whether he could remove the bunker. After going to Osage Avenue, Geppert told Powell he could remove the bunker for \$3,500, if the City would provide armor plating to protect the crane operator. When Powell rejected this option because MOVE was thought to have armor-piercing bullets, Geppert said he possibly could remove the bunker from Pine Street, using an up-and-down (not swinging) motion, for \$6,500. Subsequently, on May 10, 1985, Powell spoke with him again and told him that the Mayor had rejected the offer as too expensive.

Finally, Tursi testified that, before May 13, 1985, Powell told him that Geppert had said he could do the job, but that it would cost about \$3,500 and the City would not spend the money.

In sum, although the actions of Powell and Revel tend to blur in this testimony, and although there are some discrepancies, Geppert's testimony corroborated that of Powell, Revel and Tursi that, prior to May 13, 1985, Geppert told them that he could do the job but the City rejected his offer as too costly.

Sambor testified, however, that he rejected the idea of using a crane because of the danger to the occupants of the MOVE house of dropping a one-ton ball on the roof of the house. He testified that Powell and Revel investigated the option of removing the bunker with a crane and found that, had it been possible, it would cost between \$3,500 and \$6,500. However, Sambor explicitly testified that no one ever told him that it was possible, and that, had anyone told him it was feasible, he could have obtained the \$6,500 from his finance officer and his administrative officer without going to City Hall or the Mayor for approval. Goode testified that he was never contacted about this offer.

Some of the conflicts in the testimony are perhaps attributable to Sambor's possible misunderstanding of Geppert's proposal. When Sambor was asked before the grand jury whether he would consider dropping a ball onto the bunker "feasible," he replied no, because it could have gone right through the ceiling and the second floor, and endangered anyone on the second and possibly first floors. This method of using a crane (i.e., to drop a ball



on the roof of the house) sounds like that which Revel rejected initially. Geppert testified, however, that he proposed removing the bunker by using an up-and-down motion (which, by implication, suggests the wrecking ball would not be free-falling through the house and thus would pose a danger only to MOVE members electing to remain in the bunker itself). Moreover, the testimony of Revel and Powell referenced above suggests that Geppert called back, having initially suggested dropping a wrecking ball, to propose a less dangerous procedure. For whatever reason, by May 10, 1985, the use of a crane to dismantle the bunker was no longer considered an option by Tursi, Revel and Powell in their planning.

The crane option was nevertheless subsequently re-explored. Brooks testified that after he, Richmond, Licenses and Inspections Commissioner James White, and Health Commissioner Stuart Shapiro went with Sambor to see the fortifications on the afternoon of May 13, 1985, White suggested getting a wrecking company to use a crane and then left to work on the idea. Brooks said that Sambor was present when White mentioned this idea, and that Sambor did not indicate that this possibility already had been investigated and rejected as unworkable. In contrast, Sambor testified that, when the crane option was again suggested on the afternoon of May 13, 1985, he told them that his officers already had explored that option and determined that it was not feasible, and that they (Brooks and White) nonetheless wanted to try again anyway. Ultimately, White did contact a man from Hawthorne (a demolition

company) on May 13, 1985, who concluded that it was not possible to use a crane to remove the bunker.

We, the Grand Jury, are concerned that a possibly viable option was not pursued either because of a misunderstanding as to the proposal or because of an unwillingness to expend funds. There is also evidence to suggest that Police Department personnel apparently improperly generated false information after the fact to excuse their rejection of this option. We have concluded, however, that if false information was generated after the fact, it was done in an attempt to chronicle the gist of efforts which had been made in exploring this option, and not with the intent to obstruct any proceedings. For that reason, we do not recommend any charge, but do believe that the facts with regard thereto warrant public discussion.

Powell testified that he vaguely recalls Sambor calling him after May 13, 1985, and asking him to write a memo saying that the crane had not been feasible. Powell testified that, although the crane option had been workable, he remembers "thinking in depth, should I do it or shouldn't I do it, and I remember saying, well, maybe I will do it, because I didn't want the world to know that we burned down sixty-one houses because they wouldn't give us \$6,500. I can remember thinking that, but I cannot remember if I made the memo up or not."

Powell additionally testified that he spoke with Police Inspector Hendell several times, although he could not recall specific interviews. We reviewed a memo of an interview with

Powell by Hendell, dated June 10, 1985, which states that on May 2 and 3, 1985, Powell contacted Robert Thackaray, asked if it was feasible to use a crane to remove the bunker, and was told that the job was too big for his company. No cost was discussed. Powell, however, testified before us that he has never heard of Thackaray and never called him. The memo further states that on May 6 and 7, 1985, Powell contacted Andrew Hawthorne, who also said that he could not do the job. Again, however, Powell testified that he never contacted Hawthorne and never gave anyone that information. Finally, the memo states that on May 8 and 9, 1985, Powell contacted "Paul Geppert" who said that he could not do the job. The memo further states that Powell relayed the information personally to Sambor at a meeting on Saturday, May 11, 1985. Powell testified, however, that this was not true, and that if he were going to falsify information, he would have used Geppert's correct name (Dick, not Paul). Although Powell testified that the paragraph regarding Geppert was not true, he added that it was what Sambor wanted him to say when Sambor asked him to write the memo.

Sambor categorically denied instructing that a false memorandum be prepared. He testified that after May 13, 1985, he ordered the preparation of many reports and may have ordered Powell to prepare a memo regarding the crane. Sambor said, however, that he would not have asked Powell to lie in a report.

Nonetheless, this testimony suggests at best a disregard for accuracy by some Police Department personnel. Although one of

the planners (Revel, not Powell) did contact three construction companies, and although Sambor may have believed that use of a crane was not "feasible," Powell's unequivocal testimony, if credited, shows that the specifics of the memo resulting from his interview with Hendell were fabricated. We do not recommend charges for obstruction of the administration of law or other governmental function under 18 Pa.C.S.A. §5101, however, because it is not clear what testimony is accurate and there is a lack of any evidence of criminal intent.

A second method of disabling the bunker which was considered in the planning stages was the use of high-pressure water. In 1984, police and fire personnel had conducted tests and concluded that they could dislodge the free-standing wooden pallets on the roof of the MOVE compound by using high-power water hoses. The fortified bunker which existed in May, 1985, however, posed a problem of a different magnitude. Tursi, Powell and Revel testified that, as soon as they viewed the bunker, they were certain the bunker could not be dislodged with fire hoses. In their planning, therefore, they used water only as a diversionary tactic, although the idea of using water to dislodge the bunker was not formally rejected until the May 11, 1985 meeting at which Richmond confirmed their initial impressions. (The Fire Department did have a giant deluge gun which may have had sufficient power to remove the bunker, but that piece of equipment was not working in May, 1985, and would not have been useful in any event because

to be effective it would have to be placed where its operator would have been exposed to MOVE's gunfire.)

While the planners (Tursi, Powell and Revel) were certain from the earliest stages of their planning that water could not be used to dislodge the bunker, Sambor seemed confused about the feasibility of this option, just as he was about the use of a crane. Richmond testified that, at the May 11, 1985 meeting, he, Scipione and Miller made clear their doubt concerning the ability of the squirts to dislodge the bunker. Miller testified less equivocally, recalling that Richmond had told Sambor that the squirts would not be able to dislodge the bunker. Scipione testified that:

[T]hey wanted to know ... whether ... the squirt gun would knock the bunker off of the roof. It was my impression at the meeting that they pretty much felt it would work. The police already had it in their minds that we were going to be able to ... knock this bunker off the roof.

\* \* \*

I thought [it was] very clear to the Commissioner that when we left that meeting, the police understood that the Fire Department could not under any circumstances guarantee that we could knock the bunkers off the roof with the water. I thought that was absolutely clear.... [I]t was very doubtful in my mind that the bunkers would be knocked off the roof. And I think, after we finished that meeting, I can't believe that anybody there really felt that that would happen.

Finally, Revel testified that Richmond and Scipione had agreed at the May 11, 1985, meeting that the squirts could not dislodge the bunker. Nonetheless, Powell testified that while he, Tursi and

Revel were emphatic in their view that the bunker was immovable, "everyone else seemed to think differently." Indeed, Sambor testified that, on May 13, 1985, he thought the Fire Department would be able to dislodge the bunker with its squirt guns, and Mayor Goode testified that Sambor told him the Fire Department was going to use water to knock the bunker off of the roof.

A final option considered was the use of an armored personnel carrier against the MOVE compound. This was considered only briefly and was rejected because police believed that MOVE probably possessed explosives and gasoline which they might use against the carrier, causing serious injury to officers inside.

### **C. Deficiencies in Planning**

Numerous deficiencies in the City's plan resulted not only from the decision-makers' abdication of responsibility discussed above, but also from the City's imprudent haste in developing and executing a plan with artificial deadlines. Although the City waited two years before taking any action against MOVE, it waited only six days from its decision to act until its execution of the massive police operation of May 13, 1985. As previously discussed, the decision to act quickly was made in response to mounting public pressure and growing media attention. Additionally, Sambor said that he chose to act expeditiously because he felt that MOVE would be expecting a confrontation and would be preparing for one. Of course, MOVE had been expecting and preparing for a confrontation

for at least a year, so that the City's haste did not hinder MOVE's readiness, only its own.

The City's rush to meet the self-imposed deadline of May 13, 1985 resulted in its failure to gather more extensive intelligence on MOVE, to consider alternate plans, to adequately train and brief the officers, and to otherwise prepare for what very obviously might be a confrontation costing the lives of children, police and MOVE members. (Of course, some of these deficiencies resulted not only from the haste but also from the inability or unwillingness by City officials and Police Department personnel to seriously think through the plan or contribute to its formulation.) The various deficiencies in the City's preparations and plan are discussed immediately below. Another consequence of the City's hurry to resolve the confrontation once it was initiated -- the dropping of a satchel charge, which had not been tested, after only the briefest of consideration by Goode and his cabinet -- is discussed in Part VII of this report. Finally, a highly debated aspect of the City's needless haste and faulty preparations -- its decision to execute the warrants even though the children were still inside the MOVE compound -- is discussed in Part IV (together with other instances of the City's disregard for the safety of the MOVE children).

Insufficient intelligence  
to prepare an appropriate plan

The first of many shortcomings in the City's planning process is that the intelligence available to the City in preparing for the confrontation was grossly inadequate. (One officer even suggested that, had there been adequate intelligence, no assault would have been considered.) The police did not know what type of fortifications existed inside the MOVE compound, how many or what types of weapons MOVE possessed, whether MOVE had explosives and, if so, where they were kept, or how many adults and children were inside. Tursi testified "We had no real specifics." He explained that:

A lot of things we did were based on [MOVE's] past performance, some of the things they did in 1978, and a lot of the little things that went into the plan had to do specifically with the type of arms that they had in 1978, and that [was] the only real intelligence. We had no real specifics. Every time we asked ... how many weapons [MOVE possessed], we would never get real sound, concrete answers. When we asked ... how many people were in the place, we never got, 'Well, they have five adults and three children,' or anything like that. They would just give us guesstimates. And these ... are very important.... [I]t's tough to make intelligent decisions when you have poor intelligence, and ... we just wanted to know what we were going up against when we went in there.

Everyone present on Osage Avenue was surprised by the extent of the MOVE fortifications which were revealed on May 13, 1985. Brooks described the fortifications exposed in the morning assault on May 13, 1985:



It looked to be about four by four or six by six timbers inside the house, up against the windows on both floors, as well as the boards that were on the outside....

\* \* \*

And the slat [covering the windows] looked to be something like one by fours or one by threes....

Tursi said:

After the explosion ... [t]he front portion was exposed, and inside of the -- if you would, it looked like a log cabin within a house. It would almost be like taking the front wall down and having another wall inside of that. It was constructed basically of large timber, trees. They looked like trees. I'm not talking little fence posts or anything; I'm talking large trees.

Police planners had no idea that entire tree trunks had been dragged into 6221 Osage Avenue; while some suspected that MOVE had fortified the walls, they did not know how well fortified they were. Revel, Powell and Tursi admittedly had no sense of the magnitude of MOVE's fortifications when they developed the plan.

Benner and Boyd provided what intelligence there was. Powell testified that Benner was constantly updating them as they developed the plan. While Benner had been involved in the Police Department's monitoring of MOVE for several years, he did not actively participate in monitoring MOVE until immediately prior to the confrontation and did not even know of the existence of the front bunker until April 30, 1985.

The task of monitoring MOVE activities on Osage Avenue had been assigned to the Civil Affairs Unit. Officer George Draper

of that Unit, who was at the scene for an unspecified time period every day prior to May 13, 1985, submitted reports on the construction of the bunker, MOVE's acquisition of lumber and tree trunks, and other relevant topics. He testified that no one interviewed him prior to May 13, 1985, however, so as to gain intelligence from him. Further, he was not informed that a police operation to serve arrest warrants was set for May 13, 1985.

#### Lack of any contingency plans

Although Sambor discussed several possible scenarios at the May 11, 1985 meeting (MOVE would surrender; MOVE would blow up its own house; MOVE would use their children as hostages; MOVE would fight to their deaths), only one plan was presented. Thus, although the plan failed shortly after the operation began, there were no alternative plans. (There was a one-paragraph, unrealistic contingency plan. Powell prepared a typed outline of the plan at Sambor's request, including the paragraph: "If for some reason entrance is not gained through the walls for the gas teams, bomb men will go onto the roof and drop gas down the chimney or blow holes in roof and drop gas onto 6221.") Even had the initial phase of the plan succeeded (i.e., had the insertion teams been able to pump tear gas into 6221), there was no strategy for forcing armed MOVE members out of the bunker if the gas did not happen to waft up into the bunker from the second floor.

### Lack of any intermediate plan once shots were fired

There was no plan for reassessing the situation once a gun battle began. (Tursi, the primary planner, testified that he never envisioned any gun battle.)

### Lack of any fire-fighting plan

Despite MOVE's threat to burn down the block and despite the City's belief that MOVE possessed both explosives and gasoline, there was no contingency plan for fighting a fire because, as Scipione testified, "we were under the impression that there would be no fire. Our role was to provide diversionary water, ladders and medical services." Indeed, the Fire Department was not even notified of the pending operation until May 10, 1985, was not brought into any planning meetings until May 11, 1985, and was then told only to provide medical services, diversionary water and ladders. Moreover, the Fire Department was never told to prepare to fight a fire during an armed confrontation.

Furthermore, there was no discussion at the May 11, 1985 meeting concerning the possibility of fire if MOVE blew up the compound. (Had that happened, Miller said, the Fire Department simply would have remained in a defensive posture until the police said it was safe to move in.) Similarly, Miller testified that there was no discussion at the May 11, 1985 meeting concerning the danger of fire associated with the City's use of shape charges or the dangers of using shape charges when MOVE was thought to

have explosives. Scipione recalled, however, that Richmond asked whether the shape charges might start a fire but was told that the chance of that happening was negligible. Miller testified that the Fire Department was not prepared to fight any fire at the scene (let alone one in which it was being shot at). If the Department had expected to fight a fire, he said, it would have brought more equipment.

Given MOVE's threats and the City's belief that MOVE possessed explosives and gasoline, the lack of any fire-fighting plan is especially derelict because safety considerations would prevent the Fire Department from fighting in a conventional manner any fire which developed. Richmond testified that the squirts could be used to extinguish a roof fire, but would only exacerbate a fire which had spread to the second floor; such a fire must be fought instead with hand-held lines. Of course, from its rooftop bunker, MOVE could shoot at any fire fighters using hand-held lines on the ground. (In fact, Richmond was fully aware that MOVE had shot five fire fighters in the 1978 confrontation.) Moreover, because MOVE was rumored to have tunnels, it was speculated that MOVE could blow up its own house while escaping to adjoining houses from which it could shoot at fire fighters.

Charles King, a fire consultant who appeared as an expert witness before the grand jury, testified that the Fire Department should have developed a "pre-fire plan." King outlined a "surround and drown procedure," in which the Fire Department would

have placed heavy-caliber fire-fighting equipment across the street from the MOVE compound. This equipment would have been fortified with metal plates, and would not have been manned, but instead would have been operated remotely. Additionally, deluge guns would have been strategically stationed, ready to lessen radiant heat. Finally, squirt guns would be placed at either end of Osage Avenue. In contrast to King's pre-fire plan, however, the City had no plan to fight a fire on May 13, 1985, and did not even have the proper equipment at the scene to do so.

#### Failure to use trained hostage negotiators

In their testimony before us, Tursi, Powell and Revel made no reference to the possible use of professional hostage negotiators if the operation stalemated. Similarly, Goode, Brooks and Sambor did not indicate in their testimony that the use of professional negotiators was considered in the planning stages. Although professional negotiators were readily available both from within the Stake Out Unit and through the Crisis Intervention Network, a private agency which works under contract with the City, their use was not considered in planning for the operation.

Some efforts at mediation were made immediately prior to the confrontation and also on May 13, 1985 after the initial standoff. Professional mediators from the Crisis Intervention Network attempted to intervene -- on their own initiative, and not at the City's request -- on May 12, 1985. Local elected officials and residents also attempted to mediate. Most of their efforts were

also with the City's acquiescence, not at its instigation. All of these efforts were unsuccessful. Although MOVE's demand on May 13, 1985 was the release of MOVE members imprisoned for the 1978 murder of Officer James Ramp (not merely judicial review of their trials and convictions, which had been exhausted by that time), the City's legal inability to accede to this demand would not have necessarily precluded fruitful mediation. Clearly, the use of hostage negotiators during the stalemate on May 13, 1985 should have been considered.

Lack of any sure means of communication  
with MOVE during the stand-off on May 13, 1985

None of the witnesses testified that any thought was given to providing MOVE and City officials with a sure means of communication on May 13, 1985. Although MOVE had its bullhorn (with which it had responded to Sambor's demand, via his bullhorn, for their surrender), there apparently was no other means of communication more conducive to negotiation, such as a telephone link between the compound and officials.

Inadequate preparation of the  
officers assigned to the MOVE confrontation

Officers assigned to effectuate the plan on May 13, 1985, were given inadequate information about the operation and insufficient time to prepare for it. Several officers testified that they were not given any relevant tactical information and were

not even told whether there were children in the house. A Stake

Out officer assigned to Post Two testified:

For myself, I would have preferred to have practiced this operation, to have some extensive idea as to the physical plant, the location, the relative field of fire that we would be placed in, [and] any hazard relative to those fields of fire that we would have become involved in. [I] ... would have liked to have had greater medical support. [I] [w]ould have liked to have known how long we were going to be there, where our relief was coming from, areas of infiltration and exfiltration, a wide range of tactical information, which we were not given. I don't know if anyone possessed that at the time, but the briefing was extremely poor, and essentially, we were placed in a position where we did not know exactly where the [gunfire] would come from; how many people were in the house, what kind of offensive makeup they had in the house.

We were placed in a situation early in the morning, three of us in a position facing the MOVE house where we could receive fire from two fields of fire; that is, the front of the bunker, the side of the bunker and the front of the house, and our only protection was seventeen sand bags for three men. I would have to assume, based on the type of construction that I witnessed subsequent to the event, that the people in the MOVE complex had far greater cover and concealment than we could have had. We were left out on a limb under those conditions, given those seventeen sand bags and told to make the best of a bad situation, which I think we did.

As I said, things as rudimentary as picking our own weapons were left in someone else's hands. And we only knew what we were going to do, where we were going to be and what was going to occur only several hours before the event began, which I thought was extremely poor tactics. The leadership was non-existent, and my overall feeling of that was extremely negative and still is to this day, and will remain that way for the rest of my life.

Another officer, assigned to Insertion Team A, testified similarly concerning the lack of notice and briefing, and added that he and his team members were surprised when the police threw gas canisters in the alley as his team made its way to 6223 Osage Avenue; the team had not known about this and had to stop to put on gas masks.

Not only were police officers given little information about the assault, but they were given little time to prepare for it. Several Stake Out officers told us that they first learned of their assignment to the MOVE operation on Sunday night, May 12, 1985. Officers assigned to the insertion teams were instructed to meet at the Police Academy at 11:00 p.m. on May 12, 1985. (Some of the officers involved had already worked their shift on May 12, 1985.) At that time, Powell demonstrated how to use the hatch charges and the flash-bangs, so that the Stake Out officers could escape if necessary.

In addition to being presented with explosives with which they were not familiar, Stake Out officers were issued special weapons with which they were not familiar. Those officers who had had a few hours of advance notice went to the Range on their own time to practice; the other officers did not. Powell said that he asked Kirchner to give Stake Out officers time to train with the weapons, but Kirchner refused. Powell testified:

[W]e were trying to get the guys [on Team B] up to train, to function fire the weapons and sight them in, become familiar with them and make sure everything was all right, and Stakeout wouldn't give them the permission to come up.



\* \* \*

If I recall correctly ... I don't know if it was at [the May 11, 1985 meeting] or not -- [Kirchner] said, "They have other assignments. They know how to fire their weapons. They don't need to be trained. They have other assignments. We can't take them off the street. We can't allot for overtime."

Powell further testified that he thought the Team B officers were out on Osage Avenue all Saturday night and early Sunday morning, and that when they finished there they went to the Police Academy to be briefed and then function-fired their weapons Sunday morning on their own time.

#### Inappropriate weapons assigned to police officers

Stake Out officers were armed with the standard weapons issued to officers in that unit (i.e., Uzi submachine guns, shotguns, and M-16 automatic rifles). Additionally, police had a variety of other weapons at the scene, including an M-60 machine gun, an anti-tank gun, three Browning automatic rifles (BARs), suppressed .22 caliber rifles, a .50 caliber machine gun, and .357 caliber handguns. Generally, it is a crime under 18 Pa.C.S.A. §908 to possess a silenced weapon. However, the possession of these weapons by the police falls within one of the enumerated exceptions to this statute and, thus, was not a facial violation of the statute to be considered by us.

We note, however, that possession by the police of some of these weapons was, at the least, inappropriate. The acquisition

of heavy weapons not in the standard police armory, such as the M-60's and BARs, was explicitly (but unnecessarily) approved by Sambor. Powell was critical of the use of .50 caliber machine guns because the rounds would over-penetrate. Marandola, a lieutenant in the Stake Out Unit, was critical of the use of any special weapons. He told us that he viewed the MOVE problem as a barricade situation, and thought that the standard-issue weapons used by the Stake Out Unit in the fifty to sixty barricade situations it handles each year were adequate.

The Police Department evidently chose this arsenal because it expected MOVE to have an impressive arsenal. In the aftermath of May 13, 1985, police found only two shotguns, a .22 caliber rifle and two .38 caliber revolvers in the MOVE compound debris. The prior 1978 MOVE arsenal had included semi-automatic weapons, and MOVE had boasted in May, 1985, that they had better weapons than they had in 1978. (Indeed, the police thought that MOVE had armor-piercing bullets in 1985.) The physical evidence, however, suggests that their 1985 arsenal was less impressive than their earlier cache.

#### Insufficient provision for the safety of police and fire personnel

There was no first-aid equipment in the Posts, so that if anyone were shot or otherwise injured, he would have to be carried to Cobbs Creek Parkway to receive medical attention. There were not enough flak jackets or other protective vests for all of the

personnel involved. (One of the two officers hit by MOVE gunfire on May 13, 1985 was protected from serious injury because the bullet lodged in the protective vest under his shirt.) There were insufficient sandbags for the Posts.

#### Insufficient relief for police officers

The City's ill-planning went beyond insufficient provision for training and preparing the officers assigned to the confrontation. There was also insufficient provision made on May 13, 1985 for their relief at the scene. The initial plan was to have half of the Stake Out Unit work from midnight until noon, May 13, 1985, and the other half work from noon until midnight. This schedule could continue indefinitely until the operation was completed. On the morning of May 13, 1985, however, the members of the second half of the unit were called to the scene earlier, so that by noon, May 13, 1985, the entire Stake Out Unit was on Osage Avenue and remained there for the rest of the day. (This was done with the knowledge of Sambor and Tiers.) Individual Stake Out officers would relieve other officers, so that they were given what amounted to coffee breaks. No one went home, however, and supervisors in the Posts and their radio men were not relieved at all.

At 5:00 p.m. on May 13, 1985, Sambor told Kirchner that they were going to have to start relieving men; otherwise, there would be no officers available at midnight. Kirchner told a subordinate to begin ordering certain officers to leave and others to

stay. Very shortly thereafter, however, police dropped the satchel charge, with the result that ultimately no Stake Out officers left the scene. Moreover, Kirchner ordered the officers in Four Squad -- who had begun work at midnight, May 13, 1985, and many of whom were assigned to Post Two -- to remain at the scene until 7:00 a.m., May 14, 1985. Kirchner acknowledged that these men had reported to work at midnight, had been involved in a gun battle that morning and had been in the Posts virtually all day, but said he discussed the decision with that squad's sergeant, who felt his officers had rested sufficiently to remain there. Marandola did not want to send anyone home. Significantly, Klein (who, like the Stake Out officers, had been on the scene all day) testified that he was mentally and physically exhausted when he constructed the bomb.

#### Insufficient care in the selection of police personnel

Insufficient care was exercised in selecting officers for the police operation. Blackwell suggested to Goode that no officers involved in the 1978 confrontation be involved again in 1985, and Goode agreed. Nonetheless, a few officers in fact were involved. Indeed, one member of Insertion Team A had been criminally charged with assaulting Delbert Africa during the August, 1978 confrontation. That officer was acquitted at a trial for the assault on Africa, however, and there is no evidence that he acted in any way improperly in the 1985 operation. Nonetheless,

these officers should have been excluded from the operation pursuant to Goode's directive.

### Inadequate communication system

Provision for communication among City officials on May 13, 1985 was extraordinarily poor and was, in fact, a critical factor contributing to the conflagration that resulted that day. (See Part VIII.) Goode's decision not to be at the Geriatric Center, and the particular communication system in use that day, prevented Goode, Brooks, Sambor and Richmond from communicating quickly and easily with one another.

Acting on Brooks' advice, Goode stayed in his City Hall office on May 13, 1985, rather than coming to the Geriatric Center where Brooks and numerous Commissioners were. Ostensibly, Brooks and Goode would remain in telephone contact, while Brooks and Sambor would remain in radio contact. (Brooks and Goode also had M-band radios.) Of course, Brooks and Sambor did not remain in either the Geriatric Center or Post One throughout the day, and so were not always near a phone or a two-way radio. Predictable problems resulted. For example, Brooks testified that he tried for a long time, but without success, to reach Sambor on the radio when he could not see any water on the fire which resulted from the satchel charge. Similarly, the police officer assigned to assist Goode said he had problems reaching Brooks, and guessed that possibly Brooks could not return his call because he was not near a phone.

Communication between the Police and Fire Departments was also very poorly coordinated. Although Fire Department personnel were equipped with two-way radios, theirs were incompatible with police two-way radios. Additionally, although it was understood that this was a police operation and that Sambor was in charge, there was no specific Police Department liaison with whom Richmond was to have contact. Similarly, Tiers, a high-ranking police commander, said that, to his knowledge, no one had the specific responsibility of acting as a liaison with the Fire Department (specifically, the squirt operators). Predictable scenarios resulted: When Richmond radioed Scipione, asking him to check with the police to see whether the Fire Department could turn the squirts on the fire which resulted from the satchel charge, Scipione radioed back "Who's in charge of the police?" Richmond responded that he did not know. Scipione then tried to find someone he recognized as a police officer in charge.

Rather than having designated liaisons between the Police and Fire Departments, pursuant to standard procedure any police officer could direct a fire fighter, even if the fire fighter were of higher rank. A police officer could tell a fire fighter to shut off the squirts, and the fire fighter would comply and then inform the Fire Department command structure of his (the fire fighter's) action. If a fire fighter received an order from any police officer, Miller would ascertain whether the Commissioner or Deputy Commissioner knew of it, in accordance with the chain of command established at Osage Avenue by Richmond. When the

squirts went on or off without his knowledge, Miller just assumed that Richmond had given the orders if Miller had not.

Finally, the participants there that day did not communicate with each other. Sambor never notified Brooks of his and Richmond's decision to let the fire burn. (See Part VIII.) Similarly, Marandola said that no one in Post One, including Sambor, understood the morning explosion of police charges inside 6219 (see Part VI) -- it was not part of the plan and no prior approval was sought for it.

**Failure to test explosives before  
using them against the MOVE compound**

Neither the satchel charge nor the C-4 charges used in the morning against the party walls were tested before being used in 1985. The shape charges were tested for effectiveness and safety in both 1984 and 1985. Because the charges tested in 1985 succeeded in blowing holes three-quarters of the way through simulated cinderblock party walls, the Insertion Teams planned to use a sledgehammer and pipe to complete the hole. Later, police learned that the actual party wall was composed of brick and plaster, not cinderblocks. The shape charges, however, were not again tested against a wall composed of these materials.

Miscellaneous problems in execution of  
the plan possibly attributable to haste

Police encountered several problems in executing the plan which may have been attributable to the City's haste. For example, the plan called for the disconnection of electricity provided to Osage Avenue before the operation began. Ultimately, however, the electricity was shut off everywhere but to the MOVE compound and the adjoining houses which the police were attempting to enter surreptitiously. This endangered police not only at the beginning of the operation, but also at its conclusion. Tursi testified that in the evening, as he stood waist-deep in water in the alley when MOVE was coming out, he heard a burning transformer crackling overhead and worried that they might all be electrocuted if the live wires fell into the water.

In the City's haste, the plan was never practiced, and unanticipated problems occurred when the plan was executed. For example, because the squirts had insufficient water pressure, the insertion teams were soaked by the initial use of the squirt guns. The water caused Klein's second hatch charge to malfunction.

In sum, the City's planning for the confrontation was, in practically every significant regard, deficient if not abysmal. Thus, the debacle which followed, while not predicted, was certainly predictable.