

**The Past on Trial:  
The Sixteenth Street Baptist Church Bombing and Civil Rights History**

Willoughby Anderson  
Schiff Hardin LLP

This paper discusses the events of Birmingham, 1963, the Sixteenth Street Baptist Church bombing, and subsequent trials. In the larger project I am thinking through how Birmingham's story fits within a national narrative of the post-civil rights era, the differing citizen and academic perspectives on civil rights and its meanings, and how the criminal justice system is an integral part of the civil rights story. To that end I have included a brief second section that summarizes these thoughts. I look forward to your comments.

In September 1963, Robert Chambliss warned his niece, "You just wait until after Sunday morning, and they will beg us to let them segregate."<sup>1</sup> A few days later, a bomb blew apart the Sixteenth Street Baptist Church, killing four little girls and striking at the heart of the civil rights movement. That bombing galvanized public opinion behind national civil rights legislation and forever changed Birmingham, Alabama, into a symbol of opposition to desegregation. Despite national horror at the crime, local and federal officials made no arrests and closed the case in the 1960s. Robert Chambliss did not stand trial for the bombing until 1977; the final suspects were convicted in 2001 and 2002. During the first bombing trial, one Alabama editorial explained, "Chambliss represents a part of our past which many people would just as soon not remember."<sup>2</sup> As the southern states tried to reshape themselves into a part of the American mainstream after the 1960s, much of the violence of the civil rights struggle was overshadowed by boosterism and economic development. Yet these crimes in defense of segregation, never prosecuted, festered in local communities. This long-unsolved bombing came

to haunt Birmingham, provoking questions about racial justice and the lived legacy of the movement's promises of change.

In both the popular imagination and most historical treatments, Birmingham, Alabama is frozen at the moment in 1963 when television cameras brought images of police dogs attacking civil rights demonstrators to a shocked national audience. The product of decades of local organizing, as well as the media savvy of national leaders, these protests and the violent white reactions they provoked propelled Birmingham to the forefront of the civil rights movement. Just months later, the deaths of four children in the Sixteenth Street Baptist Church bombing, an event that many see as assuring the passage of key civil rights legislation, cemented the city's position as a symbol of white resistance to desegregation. Histories, films, and television series have helped to enshrine a standard narrative arc of the civil rights movement in popular memory, with Birmingham taking its place as a necessary dark before the dawn of the Civil Rights Act of 1964.<sup>3</sup> Scholarly treatments of the city often suffer from the same stasis; Birmingham becomes a symbol in the larger civil rights struggle rather than the subject of its own history.<sup>4</sup> Even the fullest and most thoughtful analyses stop when media attention swung away from Birmingham and on to other flashpoints of the movement.<sup>56</sup> By looking at the demonstrations, bombing, and subsequent trials, we get a broader picture of the fight over equal protection in Birmingham. We can see this historical moment as a struggle between segregation and civil rights, of the meanings of federalism, and over the criminal justice system itself. Ignoring the continuing fight over desegregation and the changing forms of racialized inequality does not allow for an evaluation of the most contentious part of the movement—the implementation of promised rights—and serves to trap Birmingham, in history and memory, under the weight of its own infamy.

### *Demonstrations & School Desegregation*

Before Martin Luther King, Jr. arrived in Birmingham, Fred Shuttlesworth, pastor of the Bethel Baptist Church, had waged a long fight against the city's segregation laws. By the beginning of April, 1963, with the national movement underway, Shuttlesworth decided to invite the Southern Christian Leadership Conference to make Birmingham their next target, much to the dismay of other, more conservative civil rights groups and the elite black leadership of the city. Anxious for a dramatic victory, King came to Birmingham, calling it the "most thoroughly segregated city in America" and saying that if they could crack Birmingham, they could crack the South.<sup>7</sup>

Selective buying campaigns, sit-ins, and mass demonstrations prompted violent repression by Eugene "Bull" Connor, Birmingham's Commissioner of Public Safety. As jail time and the threat of job loss began to whittle down the numbers of adult marchers, King and Shuttlesworth recruited school children to participate in the downtown demonstrations. International outrage at the sight of children being pummeled by fire hoses, the continuing economic pressure of the selective buying campaign during the Easter season, and the intervention of the federal government eventually convinced leaders of Birmingham's business community to negotiate with the civil rights leaders.<sup>8</sup>

On May 10, the agreement was announced. The end of the internationally publicized demonstrations would be met with desegregation of facilities and hiring of African Americans in downtown department stores; the release of the jailed protesters; and the creation of a biracial committee to oversee the end of segregation in the city. Shuttlesworth read the accords aloud, which stated: "The city of Birmingham has reached an accord with its conscience. The acceptance of responsibility by local white and Negro leadership offers an example of a free

people united to meet and solve their problems.”<sup>9</sup> In fact, black and white leadership did not agree among themselves or with one another about the extent and implementation of the accords.<sup>10</sup> Earlier that spring, these same white business leaders and progressive lawyers had, in an attempt to stave off just these kinds of mass demonstrations and media attention, orchestrated a change-of-government election, in essence a coup d’état, to replace the three-man commissioner system, within which Bull Connor wielded so much power as Commissioner of Public Safety, with a city-council system.<sup>11</sup> Yet they could not persuade new mayor Albert Boutwell and the government they had installed to honor the agreement with the civil rights leaders. Parks and other outdoor municipal facilities remained closed. Segregation ordinances stayed on the books and federal school desegregation orders loomed.<sup>12</sup>

Anti-integration activity increased as the start of the school year approached – at least five locations were bombed during the summer. Birmingham had a long history of racially-motivated bombings prompted first by African Americans moving into formerly all-white neighborhoods after WWII. By 1965, there would be 50 such unsolved bombings on the books.<sup>13</sup> The question of how Birmingham’s various factions would respond to the desegregation order, and how city leaders could hold those groups in check, hung over that fall. Expecting additional Klan activity, police and civil defense volunteers patrolled the schools to be desegregated.<sup>14</sup> While crying out against violence, white civic leaders made their personal and official opposition to desegregation clear. Mayor Boutwell reiterated that the school board “made the best out of that bitter choice. They carried out the court order—hateful as it was to them and hateful as it is to us.”<sup>15</sup> Levels of support for compliance with school desegregation among average white residents in Birmingham remains difficult to gauge; however, many white leaders, including the President of the Birmingham League of Women Voters, supported keeping

the schools open, at least until alternative solutions could be found.<sup>16</sup>

Others worked against school desegregation. Local women were particularly active, campaigning, organizing parents to transfer their children, petitioning the School Board, and participating in the larger segregationist groups and their demonstrations.<sup>17</sup> The furor attracted organized hate groups from around the region. The Ku Klux Klan held well-attended public speeches and rallies in the area.<sup>18</sup> On the Monday night before the schools opened Wednesday, approximately one thousand people gathered near the Graymont National Guard Armory to listen to Imperial Wizard Robert Shelton brag that he would defy local law enforcement and appear in Birmingham during the first days of school desegregation.<sup>19</sup>

Adding to the confusion, Governor George Wallace chose Birmingham as one of the battlegrounds in his latest showdown on state's rights.<sup>20</sup> Around eighty of his troopers entered the city the day before schools opened.<sup>21</sup> In stump speeches across the state, Wallace addressed Labor Day gatherings, preaching his militant resistance to desegregation couched in terms of federalism. In Birmingham, he announced: "We are in battle. We are not fighting against the Negro people . . . we want local government to prevail and we want the Constitution of the United States to prevail. We are fighting for local government and states rights."<sup>22</sup> An indignant Birmingham City Council issued a resolution asking Wallace not to enter the city and to allow the local school board to proceed with desegregation as planned.<sup>23</sup>

On Wednesday, September 4, two black students, Dwight and Floyd Armstrong, began school at Graymont Elementary in a previously all-white neighborhood. They entered the school by a side door, accompanied by their father, attorneys, and Reverend Fred Shuttlesworth. Ten minutes after enrolling in the principal's office, they left unnoticed by the crowd of two hundred white protestors gathered out front.<sup>24</sup> Despite heavy rains that day, demonstrators had gathered

at the three schools to be desegregated, waving Confederate flags and throwing rocks.<sup>25</sup> Five white men were arrested for attacking police.<sup>26</sup> Ramsey High and West End High did not open on Wednesday, delaying the enrollment of all students, including the three new black students.<sup>27</sup>

Bombings of prominent African American leaders' homes continued throughout the week and the school board closed the schools over some parents' protests.<sup>28</sup> When the schools reopened Monday, Wallace's state troopers and then the Alabama National Guard turned away five black children attempting to attend the formerly all-white schools as the legal dance continued in the courts.<sup>29</sup> With the exception of many elementary students at Graymont, most Birmingham children reported to the reopened schools.<sup>30</sup> White protests were minimal.<sup>31</sup>

Desegregation went forward across Alabama the next day after Kennedy federalized and withdrew the National Guard from schools in Tuskegee, Mobile, and Birmingham.<sup>32</sup> While the five black pupils attended school—Dwight and Floyd Armstrong at Graymont Elementary, Patricia Marcus and Josephine A. Powell at West End High School, and Richard A. Walker at Ramsay High—the only major confrontation involved white protestors at West End High.<sup>33</sup> There, one thousand students boycotted classes, and, along with nearly two hundred adults, mostly members of the National States' Right Party, staged a loud demonstration that ended in nine arrests.<sup>34</sup>

That Friday, September 13, despite a week of desegregation, Wallace announced: “We’ve just begun to fight.”<sup>35</sup> Yet school attendance climbed steadily. Of course, the majority of white school children in Alabama would not even experience desegregated schools that year: in these two weeks, twenty-four African American children had entered nine schools across the state.<sup>36</sup>

In a stump speech for his newly launched presidential campaign, Wallace wondered, “it

looks mighty funny to me that there have been forty-seven such bombings in Birmingham in the last ten or fifteen years and yet no one has been hurt . . . And these bombings have led to the raising of millions of dollars for civil rights causes.”<sup>37</sup> As the school year got underway, the Birmingham World, the city’s African-American owned bi-weekly newspaper, continued its call for investigations into the spate of bombings. Although a federal grand jury had been assembled to investigate obstruction of school desegregation in the city, local officials had not brought any of the suspected bombers to light.<sup>38</sup>

#### *The Sixteenth Street Baptist Church Bombing*

At 10:22 a.m. Sunday morning, September 15, 1963, twenty sticks of dynamite exploded against a sidewall of Birmingham’s Sixteenth Street Baptist Church.<sup>39</sup> The bomb went off during Sunday school, when much of the congregation had gathered in the building.<sup>40</sup> Denise McNair, Addie Mae Collins, Carole Robertson, and Cynthia Wesley were killed while preparing for Youth Day in the church basement. Sarah Collins, Addie Mae’s sister, survived but lost her right eye.<sup>41</sup> Twenty-two other members of the congregation were wounded.<sup>42</sup> The force of the explosion crushed parked cars. As news of the bombing spread, riots broke out across Birmingham, pitting angry African American community members against whites and city police.<sup>43</sup>

The Sixteenth Street Baptist Church was the symbolic center of Birmingham’s civil rights movement, acting as both an organizational backbone and a site of mass demonstrations.<sup>44</sup> Other key locations of the movement, such as activists’ homes and other churches, had been bombed, but most of those bombings were never reported by the white-owned newspapers.<sup>45</sup> This bombing, a public and vicious act of terrorism, literally exploded the city’s posture of peaceful desegregation, revealing the hollowness of that carefully constructed image. A defiant

gesture by a small group of segregationists, the bombing represented the culmination of that summer's escalating campaign of violent resistance to desegregation.

Residents of Birmingham responded with shock and horror. Editorials and city leaders expressed their grief, and the local paper reported that Mayor Boutwell wept.<sup>46</sup> Although the Birmingham News reported Reverend John H. Cross, the pastor of the Sixteenth Street Baptist Church, as expecting that the church would eventually be bombed, other articles wondered how this kind of violence could have happened in Birmingham.<sup>47</sup>

Politicians and the media tried to portray the bombing as an isolated event perpetrated by outsiders. That night, Mayor Boutwell assured the city, "All of us are victims, and most of us are innocent victims."<sup>48</sup> Boutwell's comment attempted to distance white leadership from its long-standing tolerance of violence in defense of the racial status quo.

As Birmingham and the nation grieved, local and federal agencies quickly launched investigations. During the days and weeks following the bombing, Birmingham officials pledged to bring the vigilantes to justice.<sup>49</sup> But while the FBI took the lead in the investigations, in a surprise move two weeks after the bombing the Alabama State Police arrested the FBI's three main suspects, including Robert Chambliss, on an unrelated dynamite possession charge. Fined and given six-months jail time for this misdemeanor, the men appealed and saw their sentences suspended.<sup>50</sup> One source close to one of the defendants speculates that the arrest of these men was engineered to keep their files away from the FBI, frustrating a federal indictment.<sup>51</sup> After five years of investigations, the statute of limitations on civil rights violations expired. The FBI had made no arrests and the Justice Department decided to close the case, convinced that a successful prosecution could not be obtained in Birmingham at that time.<sup>52</sup>

*1977: The First Bombing Trial*

Like countless other civil rights-era atrocities, the Sixteenth Street Baptist Church bombing might have lingered unprosecuted and forgotten. Instead it was resurrected in 1977 by a young, politically ambitious attorney general, William J. “Bill” Baxley.<sup>53</sup> When Robert E. Chambliss, one of the original four suspects, faced trial that year for murder in the Sixteenth Street Baptist Church bombing, he was already seventy-three years old.<sup>54</sup> The jury returned a guilty verdict within hours in a trial that lasted less than a week.<sup>55</sup>

“Just wait until after Sunday morning, and they’ll beg us to let them segregate.” These words, recounted by his niece during the 1977 trial, helped to convict Robert Chambliss of murder in the Sixteenth Street Baptist Church bombing.<sup>56</sup> When the witness hesitated to repeat Chambliss’s racist epithets, the judge ordered her to speak.<sup>57</sup> Birmingham had changed—racially-charged rhetoric, so common in Alabama in the early 1960s, was now an ugly and damning reminder of white resistance to desegregation. “Chambliss represents a part of our past which many people would just as soon not remember,” explained one newspaper editorial, and trial observers and newspaper articles attempted to depict the defendant as a symbol of an obsolete order.<sup>58</sup>

Many white people questioned Bill Baxley’s motives at the time, asking him “Why are you doing this civil rights case? Why are you dragging this up?”<sup>59</sup> Trying to separate the bombing from its civil rights context, he answered, “Look, if four little white girls were picked up and murdered, then you would want that case pursued to the ends of the earth so you could find a murderer that killed those little girls. Now why can’t you feel that way about this murder? What is it about good people like you?”<sup>60</sup> The trial, like Chambliss’s words, carried a heavy symbolic weight for the citizens and city of Birmingham. The delayed prosecution drew into

relief the inequalities of the criminal justice system of 1963 and questioned its progress since.

When Chambliss was convicted, Mrs. Alpha Robertson, mother of one of the girls killed, rejoiced, concluding that the verdict “kind of renews my faith in people and Birmingham.”<sup>61</sup> Reverend John Cross, minister at the Sixteenth Street Baptist Church in 1963, said “I breathed a sigh of relief that after 14 years, someone has finally been convicted.”<sup>62</sup> Yet Chambliss was only one of five original suspects. Expressing the belief of many in Birmingham that no one would ever be prosecuted, Reverend Cross continued, “I thought I’d be ready to go on to glory when that happened, but now, I’m just ready for somebody to dig up some more dirt.”<sup>63</sup> Other citizens expressed frustration at the long delay; yet after Baxley left office the following year, the case was closed. It was not until the 1990s that preparations to try the final suspects began in earnest.

#### *2001 and 2002: The Final Bombing Trials*

The final bombing trials resulted from a meeting in 1993 called by Rob Langford, the newly appointed Special Agent in Charge of the FBI office in Birmingham, and civil rights leaders who pressed the Agency to reopen the case.<sup>64</sup> Langford promised to review the Bureau’s files on the bombing, and eight years later the trials began.<sup>65</sup>

The new prosecutions relied on newly discovered FBI surveillance tapes recorded in the early 1960s; the cases also hinged on witnesses, many friends and acquaintances of the suspects, who had previously been unwilling to testify.<sup>66</sup> The defendants, Thomas E. Blanton, 62, and Bobby Frank Cherry, 71, had been among the FBI’s initial suspects.<sup>67</sup> A fourth original suspect, Herman Frank Cash, had died in 1994 without standing trial.<sup>68</sup> Each defendant’s individual role in the bombing has never been established conclusively. Blanton’s trial lasted a week, and the jury deliberated for only two and a half hours before rendering a guilty verdict on all four counts of first-degree murder.<sup>69</sup> Cherry’s trial, delayed a year for competency hearings, proceeded

similarly quickly and also ended in a conviction.<sup>70</sup>

I returned to Birmingham, Alabama in 2001 to watch the trial of Thomas Blanton. Images and faces I had studied for my senior honors thesis flickered across a screen set up in the biggest downtown courtroom. Many of the same archival photographs that I had examined at the public library punctuated the prosecution's opening statement as the trial got underway. The whole affair had a strange, almost eerie quality of rewinding to a moment in the past; the conceit was broken only by the advanced age of the defendant and the victims' family members. Sandwiched in the back of the balcony beside a retired *Birmingham News* reporter and a school kid on a field trip, I couldn't help but think that I was witnessing history being rewritten. The past itself, not just past crimes, was here on trial. Returning to watch my hometown attempt to lay this almost forty-year old crime to rest, I thought about the deep symbolic importance of this trial, but also about the way it brought the stark inequalities of that time into focus and prompted questions about equality under law today.

#### *Equal Protection and Equal Justice*

The response to the guilty verdicts in the 2001-2002 bombing trials was overwhelmingly positive. Both Birmingham residents and the victims' families heralded them as a welcome relief.<sup>71</sup> Yet the sense that justice had been only partially served lingered. It was widely believed in Birmingham that state and federal authorities knew who the perpetrators were in the 1960s, and had let them get away with their crimes for almost forty years. One observer commented, "[i]t was too-long delayed . . . Cherry met his judgment day. He did not meet justice."<sup>72</sup> This sense of "too little, too late" ran through comments from members of the Sixteenth Street Baptist Church congregation.<sup>73</sup> Courtroom testimony could not address these larger concerns. Fundamental questions of fairness and the criminal justice system remained.

Why did it take so long to prosecute these men? What did this long delay say about Birmingham law enforcement then and now? Outside observers saw the trials as an attempt by city leadership to rewrite history and redeem the city's reputation,<sup>74</sup> but individual community members saw something more at stake. For better or for worse, the Sixteenth Street Baptist Church bombing served as the capstone of the civil rights movement in Birmingham. And while the national legislative victories of equal protection might not have occurred "but for Birmingham," the city itself would have to confront the mobilization of the criminal system in defense of segregation and its legacy of unequal justice.

Following his indictment, the last bombing suspect, Bobby Cherry, argued that he was not competent to stand trial, due to dementia and advanced age. The judge found Cherry incompetent, but ordered further psychiatric tests.<sup>75</sup> This sparked demonstrations. Approximately fifty people gathered outside of the courthouse when the ruling came down and protests continued sporadically for the next two weeks. Eventually over 250 people marched from downtown Birmingham to the Sixteenth Street Baptist Church, where national civil rights leaders joined the crowd in calling for Cherry to be confined until he was found fit to stand trial.<sup>76</sup> Protests were led by long-time local civil rights leader Reverend Abraham Woods, who told the press: "[t]he world's spotlight was going to be on Birmingham and Alabama—some of us was hoping we were ready to join the 21st century. . . . But this verdict makes the statement loud and clear that the justice system is not blind, that there isn't always justice for black folks."<sup>77</sup>

The civil rights demonstrators interpreted the competency ruling as an affront, a clear denial of justice in a system that now promised equal justice. Despite their best efforts to bring Cherry to trial, the prosecutors themselves were stymied by the required additional mental health evaluations of the defendant.<sup>78</sup> While civil rights activists saw yet another facially race-neutral

way that justice would be denied, the legal advocates, similarly frustrated by the procedural gamesmanship, accepted the ground rules of the trial itself.<sup>79</sup> These two conflicting views pitted the Bar's understanding of justice with the larger community's sense of fairness, and affected the personal relationships between civil rights supporters and the prosecution. Even five years later, the protests and competency controversy evoked an emotional reaction: hurt and betrayal at the response of the other side on what had been presumed to be a common goal.<sup>80</sup>

Outside observers and some community members felt that the trials themselves delivered only partial closure because, despite the best intentions of history-minded prosecutors, these trials could not really expose the interwoven nature of official and individual resistance, the use of law enforcement in support of segregation, and the alignment of the criminal justice system with white supremacy.<sup>81</sup> In 1963 when Mayor Albert Boutwell said in response to the bombing, “[w]e are all victims, and some of us are innocent victims,” he was expressing the classic understanding of crime as perpetrated against the peace and dignity of the entire community.<sup>82</sup> Yet this framing of the city and its leaders as victims rang false because it failed to reflect that the city was both a victim and a perpetrator of the crime. Stung by what he sees as unwarranted criticism of the resolution of an old crime that has haunted the city, former U.S. Attorney Doug Jones insists, “Justice delayed doesn’t have to be justice denied.”<sup>83</sup> And he is right that these trials, the product of decades of hard work by many people—including community members, investigative reporters, undercover agents and attorneys—are enormous victories in and of themselves. Yet, we must take seriously community members’ reactions because in them we find what individuals and communities expected from the civil rights movement—their understandings of equal protection and of equal justice—and this can lead us to a better appreciation of the unfulfilled possibilities of that time.

### *Conclusion*

In the context of unresolved civil rights-era violence, one murder or bombing inevitably expands outward, to the larger story of segregation and massive resistance; into the systemic, racially-based injustices of southern law enforcement; and to the New South's willingness to move quickly forward without reconciling its troubled past.<sup>84</sup> More than that, understanding the demonstrations, resistance, and bombing prosecution as one long era of the constitutional conflict in Birmingham helps us to see the limitations and unfulfilled nature of the work begun in the 1960s. The struggle over the meanings of "the equal protection of the laws" did not end with the resolution of the Birmingham demonstrations or the Sixteenth Street Baptist Church bombing. Activists in the city continued to press their demands—for welfare rights and voting rights, against police brutality. Since the Civil Rights Act, equal protection has had a somewhat tortured trajectory, but looking to community expectations, how individuals define equal justice, can help us to see the opportunities for action today and find new arenas in which we—just as Birmingham activists did in 1963—can change the conscience of the nation.

### *Thoughts on the Larger Project*

In the larger project, I hope to use Birmingham, a flashpoint of civil rights, to explore the aftermath of our nation's conflict over desegregation. Beginning with the dogs and fire hoses of 1963, I will look forward to chart political and economic changes in the city. Voting rights, welfare rights, and police brutality animated civil rights activists throughout the 1960s and 1970s, while white flight and deindustrialization reshaped the urban landscape. By the 1980s and 1990s, the centers of power in the city had shifted, and local leaders began to view their civil rights past as a source of pride and tourist dollars. The Sixteenth Street Baptist Church bombing

reappears over and over in Birmingham's history and its long-unsolved status became a locus for politicians and residents to dispute the substance of constitutional change.

First I will position Birmingham within the struggle over integration and racial inequality that continues to the present.<sup>85</sup> In our national narrative of the movement, Birmingham still symbolizes the very worst of white resistance; yet, Birmingham's history after 1963 looks remarkably like that of the rest of the country: faltering school desegregation, the rise of African-American political leaders, questions about the extent of change. By looking beyond the dogs and fire hoses, this project will examine the untidy legacy of the movement for an iconic city and press readers to question their assumptions about the static nature of the civil rights story, with its set villains and victories.

The memory of the civil rights movement—its goals, its failures—is all around us, bandied about by politicians, used as cultural leverage. Within this narrative, Birmingham stands for violence, eclipsing other aspects of its importance as the first major victory of Martin Luther King's nonviolent campaign. After the 1960s, the image of "Bombingham" weighed on Birmingham residents in particularly palpable and intimate ways. As the unsolved Sixteenth Street bombing resurfaced again and again in public discussions, Birmingham residents reinterpreted and reengaged the meaning of the civil rights movement. These recurring discussions mark moments where Birmingham residents used the unsolved bombing to challenge political assurances of equal justice. At the same time, city leaders and citizens deserve credit for confronting what Odessa Woolfolk, president *emerita* of the Birmingham Civil Rights Institute, has called "the elephant in the room"—the city's history of white supremacy and violence. By examining residents' struggle with their civil rights past, this project will prompt readers to consider the moral and political implications of movement memory.

Finally this project uses a criminal case to tell a civil rights story. Violent white resistance to desegregation currently stands as an important counterpoint to civil rights activism—it was the spark for Selma and Freedom Summer and Birmingham, 1963. Yet the structural injustices of law enforcement in the South formed an integral part of the legal mechanism of Jim Crow, something the NAACP recognized early in the century in their anti-lynching campaigns and King relied on when provoking Bull Connor’s dogs. While legislation promised African Americans equal access, local and federal officials closed the bombing case, allowing its perpetrators to remain at large for almost forty years. Police hiring and police brutality controversies in Birmingham through the 1980s and 1990s revealed the vestiges of the segregated legal system. In interpreting and contextualizing the terms of the trials themselves, as well as community reaction to this long-overdue official intervention, I am consistently struck by the disconnect between legal or academic understandings of the achievements of the civil rights movement and popular assumptions about what change was promised or possible. Reactions to this criminal trial underline citizens’ frustrations with the movement itself and allow us to see how equal protection in the criminal law context was always a connected and vitally important civil rights concept.

---

<sup>1</sup> State of Alabama v. Robert Edward Chambliss, Case No. CC 77-01954, transcript (10<sup>th</sup> Cir. 1977), 275.

<sup>2</sup> “Never again,” editorial, *Montgomery Advertiser*, 20 November 1977.

<sup>3</sup> For this popular narrative of the movement, see Jacquelyn Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History*, vol. 91, no. 4 (March 2005).

<sup>4</sup> See Taylor Branch, *Pillar of Fire: America in the King Years 1963-1965* (New York: Touchstone, 1998) and Andrew Young, *An Easy Burden: The Civil Rights Movement and the Transformation of America* (New York: HarperCollins, 1996).

---

<sup>5</sup> David Garrow, *Birmingham, Alabama, 1956-1963: The Black Struggle for Civil Rights* (Brooklyn: Carlson Publishing, 1989); Glenn T. Eskew, *But for Birmingham: The Local and National Movements in the Civil Rights Struggle* (Chapel Hill: University of North Carolina Press, 1996).

<sup>6</sup> Increasingly civil rights movement historians push the chronological boundaries of this narrative. For a look forward into the 1970s, see Timothy B. Tyson, *Blood Done Sign My Name: A True Story* (New York: Crown Publishers, 2004). Studies of the radical and labor origins of the movement have pushed the timeframe backwards, see most recently, Glenda E. Gilmore, *Defying Dixie: The Radical Roots of Civil Rights, 1919-1950* (New York: W. W. Norton, 2008).

<sup>7</sup> For Shuttlesworth's long fight for desegregation in Birmingham, see Eskew, *But for Birmingham*, passim. For the quote from King, see Martin Luther King, Jr., *Why We Can't Wait* (New York: Penguin, 2000), 66; Eskew, 213.

<sup>8</sup> See Eskew, 217-43, 259-92.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid., 286-89.

<sup>11</sup> Eskew, 180-88.

<sup>12</sup> Ibid., 313.

<sup>13</sup> "Bombings or Attempt Bombings in Birmingham, 1950-1965," Finding Aid For Birmingham, Alabama Police Department Surveillance Files 1947-1980, Birmingham Public Library Archives, Birmingham, Ala. (1999); Eskew, 53-69.

<sup>14</sup> "Two Nabbed with Effigy at School," *Birmingham News*, 1 Sept. 1963, 13; "Some Urge Shutdown Before Mixing," *Birmingham News*, 1 Sept. 1963, 4. Civil defense work was the only opportunity for African Americans to participate in law enforcement in Birmingham before the late 1960s. Often veterans, these men worked patrolling black neighborhoods, protecting black homes, and calming the crowds that often formed after residential bombings. Memo from W. A. Noles and E. E. Hayes to Chief Moore, 23 Dec. 1963, Law Department Civil Rights Files, file 987.1.11, Birmingham Public Library Department of Archives and Manuscripts, Birmingham, Ala.; J. Mills Thornton, III, *Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma* (Tuscaloosa: University of Alabama Press, 2002), 164. In the newspaper coverage of the Sixteenth Street Baptist Church bombing, civil defense workers populate photographs of the immediate aftermath.

<sup>15</sup> "Up to You to Keep Peace, Boutwell Tells People."

<sup>16</sup> Letter enclosing report "Close Our Schools?" by League of Women Voters of Alabama, 1 May 1964, Boutwell Papers, 20.37.

<sup>17</sup> "Boutwell Commends School Closers For Acting Within the Framework of Law. Personally Strongly Supports Open Schools," press release, 1 September 1963, Boutwell Papers, 20.38; Mrs. Layle Samford to "Sir," enclosing form "Petition for Transfer," 16 August 1963, Boutwell Papers, 20.38. Mary Lou Holt, secretary of the United Americans for Conservative Government, led protests at the schools. Tom Lankford, "Yelling Whites Set off Melee at Graymont," *Birmingham News*, 4 September 1963, 4. Holt was married to Bill Holt, a known Klansman, and her name was often mentioned by the bombing suspects as associated with the radical fringe of Birmingham vigilantism. See Sikora, *Until Justice Rolls Down*, 160; McWhorter, *Carry Me Home*, 425, 428.

<sup>18</sup> For Robert Chambliss's attendance at one such meeting led by the Reverend Ferrell Griswold, see Eskew, 319.

<sup>19</sup> "Klan Leader Says He Will Defy Warning," *Birmingham News*, 3 September 1963, 14.

<sup>20</sup> Since his "stand in the schoolhouse door" at the University of Alabama in June, Wallace had become a national symbol of resistance to desegregation. For Wallace's direct encouragement of National States' Rights anti-

---

integration organizers in Birmingham, see Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995), 142. Studies of Wallace, his political evolution, and his effect on national politics include: Stephan Leshner, *George Wallace: American Populist* (Reading, MA: Addison-Wesley Publishing, Co., 1994) and Marshall Frady, *Wallace* (New York: World Publishing Co., 1968). For Wallace's own narrative of his life, written just after the assassination attempt, see George C. Wallace, *Stand Up For America* (New York: Doubleday & Co., 1976).

<sup>21</sup> "Troopers Move on Birmingham; Keep Them Out, Council Urges," *Birmingham News*, 3 September 1963, 1.

<sup>22</sup> "The Fight is For Alabama, Wallace Says," *Birmingham News*, 3 September 1963, 26.

<sup>23</sup> "Council's Resolution to Wallace," *Birmingham News*, 3 September 1963, 1.

<sup>24</sup> "Six Arrested; High School Mix Delayed," *Birmingham News*, 4 September 1963, 1, 4.

<sup>25</sup> "Yelling Whites Set off Melee at Graymont," *Birmingham News*, 4 September 1963, 1.

<sup>26</sup> "Six Arrested; High School Mix Delayed."

<sup>27</sup> Ibid.

<sup>28</sup> Civil rights attorney Arthur Shores's house was bombed for the second time. "Shores' Home Blasted; 1 Dead, 21 Hurt in Riot," *Birmingham News*, 5 September 1963, 1. The home of A.G. Gaston was also bombed. An ironic target, Gaston is considered by historians to have been an accommodationist and constant conservative voice regarding desegregation. Gaston had a corporate worth of \$35 million at the end of his career. Eskew, *But for Birmingham*, 74, 324. For his own version of the events of Birmingham, 1963, see A. G. Gaston, *Green Power: The Successful Way of A. G. Gaston* (Birmingham: Birmingham Publishing Co., 1968). "Keep City Schools Open, Residents Ask," *Birmingham News*, 7 September 1963, 1. "Federal Panel Refuses to Delay School Mix: Says Local Board Must Comply with U.S. Court's Order," *Birmingham News*, 6 September 1963, 1.

<sup>29</sup> "Schools are Desegregated in Huntsville," *Birmingham News*, 9 September 1963, 10; "White House to Hold Off at Least Day," *Birmingham News*, 3 September 1963, 1; "Negroes are Barred at Graymont School," *Birmingham News*, 9 September 1963, 1; Eskew, *But for Birmingham*, 319. After the federal district courts ordered Wallace to remove the state troopers from the schools, he substituted National Guard troops. Ibid.

<sup>30</sup> "Schools Are Desegregated in Huntsville," 10.

<sup>31</sup> "Negroes are Barred at Graymont," 10.

<sup>32</sup> "Negroes Admitted to Nine Schools," *Birmingham News*, 10 September 1963, 1. Department of Justice official Burke Marshall and Attorney General Robert Kennedy were in contact with Birmingham Police Chief Jamie Moore during the federalizing of the National Guard, inquiring as to the level of protests around the schools and the ability of local police to maintain control of the situation. "Birmingham Police Department Inter-Office Communication, Re: Telephone Conversation between Chief Jamie Moore & Burke Marshall & Attorney General Robert Kennedy," 10 September 1963, Boutwell Papers, 20.38.

<sup>33</sup> "Identification Given of Five Negro Enrollees," *Birmingham News*, 10 September 1963, 5.

<sup>34</sup> "West End Mixing Protested: 1,000 Skip Classes; Nine Adults Arrested," *Birmingham News*, 10 September 1963, 1.

<sup>35</sup> "Protestors Crowd into Mayor's Office," *Birmingham News*, 13 September 1963, 7.

<sup>36</sup> "Negroes Admitted to Nine Schools," 5.

---

<sup>37</sup> “Wallace Ends Doubts, He’s Running Openly,” *Birmingham News*, 13 September 1963, 1; “Wallace Claim: FBI Ordered to Withhold Bomb Probe Findings,” *Birmingham News*, 13 September 1963, 6.

<sup>38</sup> “U.S. Jury to Probe School Incidents,” *Birmingham News*, 13 September 1963, 1.

<sup>39</sup> Tom Lankford & Irving Beiman, “The Day a Church Became a Tomb,” *Birmingham News*, 16 September 1963, 6; “Council Asks All Facts on Two Deaths,” *Birmingham News*, 16 September, 1963, 1. See also Frank Sikora, *Until Justice Rolls Down: The Birmingham Church Bombing Case* (Tuscaloosa: University of Alabama Press, 2005), 11-13 and Rev. Dr. Christopher M. Hamlin, *Behind the Stained Glass: A History of the Sixteenth Street Baptist Church* (Birmingham: Crane Hill, 1998), x.

<sup>40</sup> Sikora, 9-10; Hamlin, x.

<sup>41</sup> Sikora, 3-4, 15.

<sup>42</sup> Lankford & Beiman, 6.

<sup>43</sup> Sikora, 14. Later that afternoon two other black children were killed in separate incidents. A policeman responding to a report of “negroes throwing rocks at whites” shot James Robinson, aged sixteen, in the back. That same day, on his way home from a segregationist rally, a sixteen-year-old Eagle Scout shot Virgil Ware, aged thirteen, twice in the head while Virgil and his brother were riding a bicycle near their home. Lankford & Beiman, 1.

<sup>44</sup> See Hamlin; also see Wilson Fallin, Jr., *The African American Church in Birmingham, Alabama, 1815/1963: A Shelter in the Storm* (New York: Garland Publishing, Inc., 1997), 31-32, 41, 58-59, 83, 89-90, for the history of the Sixteenth Street Baptist Church and the importance of black churches in Birmingham generally, and Lynne B. Feldman, *A Sense of Place: Birmingham’s Black Middle-Class Community, 1890-1930* (Tuscaloosa: University of Alabama Press, 1999), for the evolution of the black middle class that comprised the church’s main membership).

<sup>45</sup> By contrast, the *Birmingham World*, an African-American-owned and -operated bi-weekly paper, often featured extensive coverage of such bombings. See “18 Unsolved Racial Bombings in Six Years,” *Birmingham World*, 7 September 1963, 1.

<sup>46</sup> “City Leaders Express Grief, Shock Over Church Bombing,” *Birmingham News*, 16 September 1963, 3; “Allgood Asks Indictments in Disorders,” *Birmingham News*, 16 September 1963, 4; Editorial, “The Shock and the Shame,” *Birmingham News*, 16 September 1963, 14.

<sup>47</sup> Jules Loh, “Knew Blast Would Come, Pastor Says,” *Birmingham News*, 16 September 1963, 6.

<sup>48</sup> “City’s People All Victims, Mostly Innocent, Boutwell Says,” *Birmingham News*, 16 September 1963, 21.

<sup>49</sup> “City Pledges All-Out Pursuit of Bomber,” *Birmingham News*, 16 September 1963, 5; “City’s People All Victims,” 21.

<sup>50</sup> Sikora, 31-32; John Herbers, “Alabama Surprises F.B.I. By 2 Arrests In Bombings,” *N.Y. Times*, 1 October 1963.

<sup>51</sup> Elizabeth Cobbs reports this incident in her memoir. Elizabeth H. Cobbs/Petric J. Smith, *Long Time Coming: An Insider’s Story of the Birmingham Church Bombing that Rocked the World* (Birmingham: Crane Hill, 1994), 100-02. Elizabeth Cobbs, Robert Chambliss’s niece, was the key witness for the prosecution in the 1977 bombing trial. She speculates that these arrests were the collusion of the Klan and the Alabama state government to delay or avoid the arrest of these men for the bombing. See also Diane McWhorter, *Carry Me Home*, 548-52.

<sup>52</sup> William J. Baxley, interview by author, tape recording Birmingham, Ala., 8 Sept. 1999.

<sup>53</sup> See Anthony V. Alfieri, “Retrying Race,” 101 MICH. L. REV. 1141 (2003) (providing an interesting analysis of prosecutorial discretion and its potentially redemptive role in civil rights-era crimes). Baxley would later attribute his lost 1978 gubernatorial bid, in part, to the Chambliss prosecution. Baxley interview..

---

<sup>54</sup> Andrew Kilpatrick & Frances Spotswood, “Lawyer: Chambliss to Plead Innocent to Church Slayings,” *Birmingham News*, 27 September 1977, 1.

<sup>55</sup> Ron Casey & Frances Spotswood, “In Bomb Death of Girl: Chambliss Guilty, Gets Life,” *Birmingham News*, 18 November 1977, 1. Chambliss received a sentence of life in prison and died there in 1985. He maintained his innocence until the end and never named any possible accomplices. Sikora, 159-62.

<sup>56</sup> Transcript of Record at 275, *Alabama v. Chambliss*, Case No. CC 77-01954 (1977).

<sup>57</sup> *Ibid.*, 260.

<sup>58</sup> Editorial, “Never Again,” *Montgomery Advertiser*, Nov. 20, 1977.

<sup>59</sup> Baxley interview.

<sup>60</sup> *Ibid.*

<sup>61</sup> Jerry Mitchell, “Chambliss Trial,” Associated Press Rep., 19 November 1977.

<sup>62</sup> Ron Casey, “Chambliss Jury was Stuck at 11-1 Till Finally: Guilty,” *Birmingham News*, 19 November 1977, 3.

<sup>63</sup> *Ibid.*

<sup>64</sup> Reverend Abraham Woods, interview by author, digital recording, Birmingham, Ala., 30 March 2007; Jay Reeves, “Meeting in ’93 was Prelude to Bombing Investigation,” *Birmingham Post-Herald*, 19 May 2000, A4; see also Sikora, 168, regarding the role that the FBI’s investigation of Birmingham’s first black mayor, Richard Arrington, played in the black community’s distrust.

<sup>65</sup> Steve Reeves, “Federal-State Cooperation Tight,” *Birmingham Post-Herald*, 18 May 18 2000, A6.

<sup>66</sup> Sikora, 185-88; Adam Goldman, “Complex Chain of Events Delayed Blanton’s Trial Date Until Today,” *Birmingham News*, 24 April 2001, 7A. FBI Director Louis Freeh subsequently testified before Congress that this case was “a disgrace to the FBI” that should have been prosecuted in 1964. Mary Orndorff & Adam Goldman, “Freeh Says Bombing Case Delay A Disgrace,” *Birmingham News*, 18 May 2001.

<sup>67</sup> “Complex Chain of Events,” 7A; Kevin Sack, “Ex-Klansman Is Found Guilty in ’63 Bombing,” *N.Y. Times*, 2 May 2001, A1.

<sup>68</sup> John Archibald & Jeff Hansen, “Death Spares Scrutiny of Cash in Bomb Probe,” *Birmingham News*, 7 September 1997.

<sup>69</sup> Marlon Manuel, “1963 Birmingham Church Bombing; Guilty on All Counts,” *Atlanta Journal-Constitution*, 2 May 2001, A1; *Blanton v. Alabama*, 886 So.2d 850 (Ala. Crim. App. 2003).

<sup>70</sup> See Jamie Kizzire, “Beginning Strategies,” *Birmingham Post-Herald*, 15 May 2002, A1; Rick Bragg, “38 Years Later, Last of Suspects Is Convicted in Church Bombing,” *N.Y. Times*, 22 May 2002, A1.

<sup>71</sup> See Taylor Bright, “Tears of Joy, Pain Follow Verdict,” *Birmingham Post-Herald*, 23 May 2002, A1.

<sup>72</sup> *Ibid.*, A3 (internal quotations omitted). See, e.g., Reverend Fred Shuttlesworth’s comment regarding the likely collusion of the local government and the Klan. “Friend Recalls Loss of Denise,” D2.

<sup>73</sup> “Large Jury Pool Picked for Church Bombing Trial,” CNN.com, 16 April 2001, <http://archives.cnn.com/2001/LAW/04/16/church.bombing.trial.03/index.html> (last visited Mar. 17, 2008).

---

<sup>74</sup> See Renee C. Romano, “Narratives of Redemption: The Birmingham Church Bombing Trials and the Construction of Civil Rights Memory” in *The Civil Rights Movement in American Memory*, eds. Renee C. Romano and Leigh Raiford (Athens: University of Georgia Press, 2006; Margaret M. Russell, “Cleansing Moments & Retrospective Justice,” 101 MICH. L. REV. 1141, 1247 (2003).

<sup>75</sup> Val Walton & Chanda Temple, “Cherry Not Competent, Judge Rules,” *Birmingham News*, July 17, 2001.

<sup>76</sup> Chanda Temple, “Protestors Want Cherry’s Bond Revoked,” *Birmingham News*, July 25, 2001, at 1C; Chanda Temple, “King Leads Cherry Ruling Protest,” *Birmingham News*, Aug. 9, 2001, at 2A (from 50 to 250 demonstrators, including members of SCLC, the NAACP, and the Nation of Islam, converged on the courthouse throughout the week).

<sup>77</sup> Jay Reeves, “Accused Church Bomber Incompetent to Stand Trial,” *Associated Press*, July 16, 2001 (internal quotations omitted).

<sup>78</sup> Doug Jones, interview with author, digital recording, Birmingham, Ala., 29 March 2007.

<sup>79</sup> *Ibid.*; Woods interview.

<sup>80</sup> *Ibid.*.

<sup>81</sup> As journalist Tina Rosenberg succinctly put it: “Trials, in the end, are ill suited to deal with the subtleties of facing the past.” Quoted in Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998).

<sup>82</sup> See “City’s People All Victims,” 21. For the complicated concept of “community” in southern legal culture, see Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009).

<sup>83</sup> Jones interview.

<sup>84</sup> My analysis in this paper is informed by restorative justice theory and its concepts of expanded harm, victim, and remedy. Restorative justice theory is a reform movement within the criminal justice system. Reconceptualizing the effects of crime, the goal of restorative justice is to implement processes, considered fair by all involved, to repair the relationships damaged by crime. This paradigm shift in our understanding of criminal law, away from retributive, punishment-based methods to reparative and reintegrative methods, still maintains offender acceptance of responsibility as its central tenant. A surprisingly widespread reform, some type of restorative justice process is used with both juvenile and adult offenders in many states throughout the U.S., most often in the form of victim-offender mediation. This area of legal theory subsumes some varieties of mediation and can assume several names, including “transformative justice,” “relational justice,” “restorative community justice,” and bleeds into other reform concepts such as restitution for historical injustices and truth and reconciliation commissions. For an introduction to restorative justice theory, see Gerry Johnstone, ed., *A Restorative Justice Reader* (Portland, OR: Willan Publishing, 2003); Daniel W. Van Ness and Karen Heetderks Strong, *Restoring Justice* (Cincinnati, OH: Anderson Publishing, 2002); and Howard Zehr, *Changing Lenses* (Scottsdale, PA: Herald Press, 1995).

<sup>85</sup> Jacquelyn Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History*, vol. 91, no. 4 (March 2005): 1236-63; Nikhil Pal Singh, *Black is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge: Harvard University Press, 2004).