

# COPWATCH

## Report

BERKELEY, CALIFORNIA

WINTER 1993

### "Yeah, It Would Be Nice If Someone Finds the Gun"\*

**No justification for killing of youth by BART Police Officer, but D.A. declines to prosecute**

On Nov. 15 1992, BART Police Officer Fred Crabtree fatally shot 19-year-old Jerrold Hall in the back of the head, outside the Hayward BART station. The papers printed the lies that the BART spokesperson, Michael Healy, told them. BART first claimed that Hall was shot in the chest after he "attacked" the BART Officer. Not until weeks later did they admit the truth: Hall was shot in the *back of the head*, as he was *walking away*. The BART internal review panel ruled Dec. 4 that the shooting was a "justified use of lethal force." But Tim Redmond, a reporter for the Bay Guardian who has been concerned about the BART Police for years, asked some pointed questions. He broke the story soon thereafter: Officer Crabtree was responding to an alleged armed robbery of a "Walkman" from a BART train passenger but Hall was *unarmed*, and he might not have "attacked" the cop. Also, the 6'4" BART cop was armed with a 12-gauge shotgun, had a German attack dog with him, as well as a knife and pistol. The use of lethal force was not even remotely justified and the story had just begun. . .

#### JOHN HENRY OWENS SCAPEGOATED

Meanwhile, John Henry Owens, present with Hall at the scene of the killing, sat in a maximum security cell at Santa Rita jail for two months, unable to afford the \$10,000 bail, on charges of felony robbery (of a "Walkman") that under any normal circumstances would have been thrown out. Prosecutors had no robbery victim, no identifiable stolen object, and no gun. The odds of winning a felony conviction are slim. Yet the D.A.'s Office has refused to accept anything less than a felony plea from Owens, who pled "not guilty." He still faces 6 years.

Why is BART and the D.A.'s Office pushing this prosecution? They need this conviction. If Owens is convicted as a "violent felon," Officer Crabtree would have a much easier time (if he ever went to trial) convincing the jury that his life was in danger and therefore the shooting was "justified."

#### CRABTREE'S TESTIMONY

When Officer Crabtree was put on the stand at Owens' preliminary hearing, he made some revealing admissions (see Crabtree's Testimony, page 9).

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\*statement of Officer Crabtree.

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His admissions indicate that his life could not have been threatened, and that he had little reason to believe (after he approached them) that Hall or Owens were armed or that they possessed the allegedly stolen "Walkman." And any confrontation that might have occurred between Hall and Crabtree is irrelevant to the murder charge, as Hall was more than 40 feet away from Crabtree with his back to him when Crabtree shot him; any "confrontation" would had to have occurred well before the time of the shooting.

### BART BLOWS OFF THE PUBLIC

The BART Board's response to the murder of Jerrold Hall was insensitive and embarrassing. After urging the Hall and Owens family, and other angry speakers, to "save it" for a "special hearing," BART officials failed to even show up for the hearing. Then they refused to answer questions and passed the buck to the District Attorney. Far from being jailed or at the very least fired, Officer Crabtree is now back on active duty, after a few days of paid leave. He hasn't even been disciplined for firing the alleged "warning shot" that was found lodged about 4 1/2 feet high in a nearby tree (suggesting lethal intention), which is itself against BART Policy, aside from being simply irrational. Remember, this was a highly public place; Crabtree fired a shotgun in an area where several people were standing nearby. This matter is still "pending," says BART.

### D.A.'S SHAM "INDEPENDENT INVESTIGATION"

Despite Officer Crabtree's own admissions, the Alameda County District Attorney's Office concluded in their falsely named "independent investigation" that "the display of deadly force was lawful since the

reported armed robbery was a 'forcible and atrocious' crime." Yet according to BART Police policy, discharge of a firearm is only justified "to stop a fleeing suspect when there exists reason to believe that the suspect has committed a violent felony, one which threatens death or serious bodily harm, and that the suspect is likely to continue to threaten death or serious bodily harm to another human being." The conjunctive "and"

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## BART Police: Armed, Dangerous, and Getting Away With Murder

For years, the BART police have been a disaster waiting to happen. The department has no civilian oversight. Its chief, Harold Taylor, reports to no elected official or commission. There are no public hearings on BART police procedures. There's no independent citizen complaint agency. When citizens complain about BART police, their charges are routinely dismissed: Not once in five years has BART's Internal Affairs Division upheld a citizen complaint against a BART cop.

Recently, a complaint was made against a gang of BART Officers for beating up what appeared to be a homeless man at the 24th Street BART station in San Francisco. BART responded by running a warrant check on the complainant. The complainant videotaped the incident as he was on his way home around midnight, and was told by a BART ticket agent to "get the fuck out of here". When he protested that he had the right to observe, she responded "You have no rights, this is private property."

When they aren't killing us or beating us, they aren't protecting us either. In another circumstance, a man, who also happened to be a man of color, reported to a BART Police Officer that someone had stolen his bag. The Officer accused this man of trying to get away without paying his fare and wrote him a citation. When a BART ticket agent defended him, saying that he indeed had paid and had reported his bag stolen, the Officer said the ticket was already written and he would not retract it.

Less than 5 percent of the crimes reported on BART property in 1992 involved any form of violence; most things were things like vagrancy, fare evasion, computer fraud, and public drunkenness. Yet BART Police, with jurisdiction in every county in California, wields as much power as the Highway Patrol. BART Police carry 12-gauge shotguns, drive around in cars, use attack dogs, and operate undercover. And they make it exceptionally difficult for the press and public to find out even the basic information about what they're doing. How many other cover-ups have there been? How many other "justified" fatal shootings? The entire community served by BART must raise a loud, large and sustained uproar until the BART Police are reined in, disarmed, or disbanded. The BART Board isn't going to do it. The DA's Office isn't going to do it. It is up to us.

## COPWATCH Report

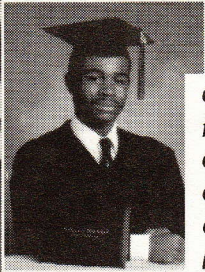
COPWATCH Report is published by COPWATCH, a community-based volunteer organization which monitors police activity in Berkeley neighborhoods in an effort to defend the rights of all citizens, including those who live on the street, to fair treatment under the law.

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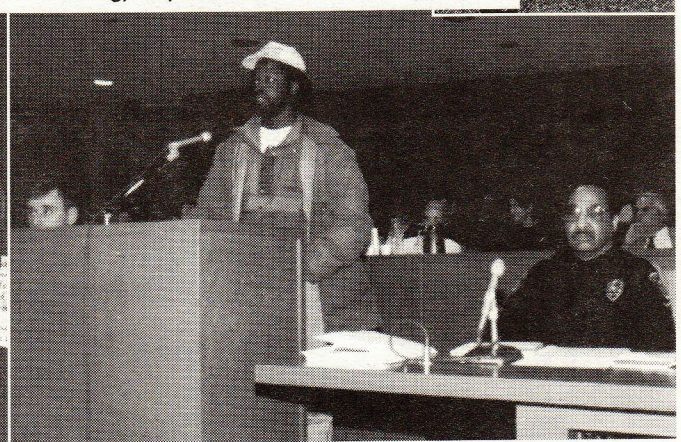


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Clockwise from top left: Lionel Polk (John Owens' father); John Owens graduation photo; Polk and Cornelius Hall (father of Jerrold Hall) speak to media at Owens' preliminary hearing; attorney for the Hall and Owens families; Officer Crabtree; public speaks out at BART Board meeting; rally outside BART meeting.



## More Money for the Police

**Mayor's Task Force  
Recommendations for Telegraph Ave.**

BY ANDREA PRICHETT

Heralded by local media (and even by some local activists) as the dawn of a new era for Telegraph, the Mayor's Task Force on Telegraph Avenue published its findings in mid-December.

It is interesting to note that entire constituencies such as youth, homeless, service providers and street vendors (also a representative from the Police Review Commission) were excluded from the Task Force. These are the people, coincidentally, who stand to be most affected by a changed Telegraph.

The anticipated cost of implementing the Task Force recommendations include construction of a mental health facility, a detoxification facility, a teen center and a day time drop-in center. Costs to imple-

ment the recommendations is projected to be \$38 million. For a City Council that has had public bathrooms on its list of "fast track" proposals for over 2 years, envisioning these facilities in place taxes the limits of one's imagination.

The truth is that these aspects of the proposal were simply approved in order to sugar coat the harsher measures recommended in the report such as a new police substation, paving People's Park, requiring permits for all demonstrations and bringing a "community values" campaign to Berkeley. Money will be spent on police and city workers and very little will be

(continued on page 10)

### CUSTOMERS DETAINED, SEARCHED FOR MISSING SUNGLASSES

JAN. 29, 2 PM, TELEGRAPH & HASTE – Upon discovering that a pair of sunglasses were missing, the proprietor of a store immediately locked the door, trapping all customers inside the store, and called the police. 3 or 4 squad cars arrived and began questioning customers. The only customers searched were 2 black men, the only people of color in the store. No sunglasses were recovered.



# Close Encounters

## Advice on How to Handle the Police If You Are Stopped

BY KEITH ELLISON

*[Keith Ellison is an attorney and a member of the  
Twin Cities Coalition for Police Accountability  
in Minneapolis-St. Paul, Minnesota]*

During the last several weeks the number of incidents of police harassment reported to the Twin Cities Coalition for Police Accountability has increased. Therefore, now more than ever, it is important to learn, based on common sense and knowledge of your legal rights, how to handle encounters with the police.

Here are just a few tips to reduce the possibility of being killed, maimed, abused or insulted by the police:

- 1) **Be a rich white man.** Even this may not save you, but your best chances are in this category.
- 2) **Remain calm.** It doesn't matter how innocent you are, or how rude, ignorant and wrong the cops behave. If the cops approach you, the best response in this case is no response. Keep cool, remain calm, and don't let the police provoke you into raising your voice or cursing. If you want the cop's badge number, get it calmly. If you want the cop to loosen the cuff, say so calmly. If you think the cop has stopped you, searched you, or spoken to you in a dehumanizing way, say so calmly. Remember, we're dealing with insecure, moody, controlling people—who have guns.
- 3) **Remain silent.** The police have a right to talk to you without showing any justification. Just like any normal person, a cop can walk up to you and talk. You have the right to refuse to talk to them without any justification. Only a court and a grand jury can make you talk, and then only after you've been lawfully served with a subpoena. The best thing to do is to calmly inform the officer that you're not interested in making any conversation and that you would like to leave. If the cop agrees to let you leave, then leave—as quickly as you can without drawing attention to yourself. If the cop refuses, demand a lawyer, shut up, and prepare yourself for a long wait.
- 4) **Pedestrians:** For police to stop you for questioning or a search for weapons, like a pat down, requires only a weak justification. For the police to stop you and begin questioning you, they must have some articulable justification for the stop. It doesn't have to be probable cause, but the police must provide some basis to suspect you might be dangerous or about to commit a crime. It cannot be that you're African-American, or that you're in a high crime area. Of course, even the dumbest cop can think of some justification for the stop, to cover his racist or arbitrary

reason. But this justification must be based on your behavior—not your neighborhood, nationality or something unrelated to your actions. A stop for questioning is not necessarily an arrest. Always calmly tell the police officer that you do not want to talk, and calmly ask the officer for permission to leave.

5) **While Driving:** Cars are special in the law. If you're stopped by a cop while you are operating a motor vehicle, you must (meaning you'll be violating the law if you don't):

- a) Submit to a cursory search for weapons or contraband in the area in the car which you could conceivably reach or grab. If you have something you do not want the police to see, carry it in the trunk. If you interfere, you could be charged with obstructing legal process or disorderly conduct.
- b) You should remain silent, seated and ready to produce your driver's license, proof of insurance and registration. There are specific statutes you will be violating if you cannot or will not do this. Let the officer come to you. If you get out of the car before you're asked, trouble will probably follow. Stay seated, stay silent.

Note: the rules vary with respect to alcohol-related offenses. Consult a lawyer concerning your rights for a DUI stop.

6) **Demand to see a lawyer.** You have a right to have a lawyer present during police questioning, and after you've invoked that right, the police aren't supposed to ask you any more questions. They probably will try to get you to talk, but don't. You can believe a cop who tells you, "anything you say can be used against you." If you must say something, calmly invoke your right to talk to an attorney immediately after the first question.

7) **You are under no obligation to produce identification unless you are operating an automobile.**

Pedestrians and automobile passengers do not have to produce a license or anything else. However, even if you're not driving, it's a good idea to carry identification because the police have a right to positively identify you if there's probable cause to suspect you committed a crime.

Note: If you refuse to produce identification, then you may be arrested and you may spend some time downtown.

8) **Arrest:** Calmly ask whether you can go. You can consider yourself under arrest if a reasonable person in your position would conclude that he or she could not leave, so says the U.S. Supreme Court. For the police to arrest and take you into custody, they must have probable cause to believe that you have committed a crime. You have the right to know which crime you supposedly committed.

If the police have a probable cause to believe you committed a misdemeanor, generally they must have seen you commit the crime to arrest you. If you did not commit the offense in their presence, the police ordi-

*(continued on page 6)*



# Transsexuals Organize Against SFPD Harassment

BY ANNE OGBORN

San Francisco — With COPWATCH technical assistance, Transgender Nation is planning to organize a COPWATCH-style police monitoring patrol in the Tenderloin. This patrol will focus on police harassment of transgendered women and all sex workers. Transgender Nation is gathering volunteers, funds, and legal assistance for this effort.

Transgender Nation is a focus group of Queer Nation San Francisco. Queer Nation promotes queer empowerment through confrontation and direct action. Transgender Nation works within Queer Nation to promote the rights of transgendered people — all people who live outside of the dominant culture's narrow definitions of, and restrictions on, gender. This includes transsexual women, among other groups.

A large number of transsexual women live in San Francisco's Tenderloin neighborhood. Currently the San Francisco Police Department is operating a "mapping" project, allegedly to reduce the number of street prostitutes in the area.


The recent anti-sex worker crackdown has seriously infringed on the rights of the transsexual women in the area. Police Officers often assume that any transgendered woman moving about in the Tenderloin is a sex worker. While this crackdown is misogynist, racist, and classist, as all attacks against sex workers are, this is affecting transsexual women who are not sex workers as well. Transsexual women are being stopped, harassed, or arrested on a variety of bogus charges simply for being transsexual. Transsexual women have told us that they have been raped and assaulted by police officers, but are, not surprisingly, reluctant to come forward publicly.

At 8:00pm on Oct. 23, Victoria Eckman and Barbara Mattia were leaving Motherlode (a bar frequented by transsexual women) when they were accosted by a SF police officer and cited for jaywalking and hitchhiking. They say that they cooperated with the officer and were respectful and courteous to him until he made transphobic comments. Upon returning her ID, the officer said to Ms. Mattia, "Here Barbara — or whatever." Ms. Mattia believes he was implying that he did not approve of her change of name and female ID. When Ms. Mattia protested that they were neither hitchhiking nor jaywalking, the officer responded that he, "knew what sort of place this was."

On December 30 Transgender Nation responded with a demonstration to what one of their members

called, "a very typical case of police harassment." They picketed outside the Hall of Justice and then torpid inside to observe the trial en masse. The case was dismissed due to lack of evidence.

Transgender Nation is currently working with Community United Against Violence (CUAV) to extend their services to the Tenderloin. CUAV and Transgender Nation are working with SFPD and the mayor's office to find a political solution to the problem and had a meeting with Capt. Patrini, head of the police department's Tenderloin Task Force on February 3.

Transgender Nation says that they will respond to continued police harassment of transgendered people with a "variety of tactics." The harassment of transgendered people and the continual violation of their human rights must stop. Transgender Nation exists to fight transphobia whenever and wherever it occurs and are prepared to stop it by any means necessary. 

*Now Available*

## *The* **COPWATCH TRAINING VIDEO**

**If you're tired of police harassment and brutality in your area, get organized — start your own COPWATCH.**

This 45 minute video produced by Berkeley COPWATCH provides an in depth look at how ordinary citizens organized themselves to hold the police accountable to the people of Berkeley.

### **The video includes tips on:**

1. Techniques for effective and safe street observation
2. How to do your own investigation of police crimes
3. How to guard your organization from retaliation

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For additional information call 510-548-0425.

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Return to: COPWATCH, 2022 Blake St., Berkeley, CA 94704



# Police Rough Up Bicyclists at I-80 Protest

BY JASON MEGGS

I was having a friendly discussion with other cyclists after the January protest against the widening of the Interstate 80 route. I had just said goodbye and was riding away when officer Milner and a motorcycle cop drove up to the individuals I was departing from.

According to these witnesses, the cycle cop said "Is that the one you want?" and Milner said "Yeah, get him!" The cycle cop then led the charge. When the officers shouted for me to stop, I did so and calmly faced them to talk. I had done nothing wrong. Milner grabbed me and put me in a "complacency" hold wherein my arm was extended and twisted behind me, and then demanded I take off my tightly worn courier bag. However, he would not allow me to free



*An unidentified police officer defends the sanctity of our internal combustion society by confiscating this subversive apparatus. It's all in a day's work for our boys in blue.*

my arm first, so it was difficult and I scraped my face.

The police demanded ID and demanded to see the contents of my bag "to check for rocks you would throw at police officers." They threatened that I would be arrested and jailed if I had rocks in my bag. This is ridiculous: my tightly worn and bound bag is inaccessible, and the very idea that I would carry rocks, especially to throw at police, is ludicrous. And since when is it illegal to carry rocks?

After searching my bag and my person and finding no rocks, and after my ID checked out having no warrants, they released me. The bruise from the handcuffs did not go away for two days.

As the officers had surrounded me and put me in a hold, witnesses took pictures and wrote down Milner's name and badge number (BPD 92). The motorcycle cop (license # 57A55) refused to be identified, wore no name tag, and kept his badge, if that was what it was, turned away from me. My continued insistence that it was illegal for him to remain clandestine led to his lying that he had nothing to do with the event, and he immediately left. In fact, this officer had led the chase.

Meanwhile, not three blocks away, my friend Leor was assaulted and arrested without cause as he was leaving the protest. A BPD officer yelled "Stop!" as he almost simultaneously shoved his nightstick into Leor's rear spokes, causing him to fall and bruise himself. Leor had to pay \$340 bond, of which \$200 will be refunded, to get out of jail. His bike was confiscated and not returned for six days. (For a most captivating account of his ordeal, replete with quotes from Kafka's *The Trial*, write to Gozar, Box 15071, Berkeley, CA, 94701.)

When I expressed my wariness of BPD due to their history of abuses, Milner offered the sardonic explanation that the BPD doesn't abuse people because they are "professionals." This event proves the contrary. ●

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(ENCOUNTERS, from page 4)

narily must issue you a citation (Exception to "in the presence" rule: domestic assault, admissions by the suspect, or very reliable probable cause).

9) Searches: To search you for weapons, or "frisk" you, the police need to furnish a reason to suspect you might have a weapon. To search further, the police must have probable cause to believe that you have contraband that could be destroyed before making it out to the station.

If evidence is obtained illegally after you've been stopped, questioned, arrested, taken into custody and charged with a crime, you have the right to either sue or have the illegally obtained evidence excluded from a trial. To stand and argue your legal rights with a cop is poor judgment. The best approach is to calmly invoke your rights, but to offer no physical resistance or hostility at the time, unless you reasonably believe force is necessary to protect yourself or someone else from serious injury or death.

This is not to say that should abandon your right to self-defense if you are assaulted by an officer. By all means, do what's necessary to protect yourself, but understand that once the confrontation becomes physical, you, in all probability, are going to lose. If you physically repel the police, you'll be looking at charges for assault and obstructing legal process or worse. If you cannot physically repel the officer(s), you'll be looking at all those charges, plus a severe beating. The best thing to do is to remain calm and say as little as possible. ●



## National Conference leads to Police Accountability Awareness Week March 1 - March 7, 1993

More than 50 people attended the Second Annual National Conference on Police Accountability, held in Minneapolis, Minnesota, October 30th to November 1, 1992. Representatives of organizations from Washington, D.C., Texas, Washington, Illinois, Ohio, Wisconsin, California, and Minnesota presented reports of police crimes and organizing efforts for police accountability in their localities; and nation-wide action was planned to take place the week of March 1st through March 7th.

The conference was organized by the Twin Cities Coalition for Police Accountability, a member organization of the National Coalition for Police Accountability (NCPA), which was formed at the first national conference in Chicago, November 1991. Six members of Berkeley COPWATCH attended the conference and gave a presentation about police retaliation against citizen complainants to the Police Review Commission.

On the third day of the conference, the NCPA voted to declare the first week of March "National Police Accountability Awareness Week," (March 3rd being the second anniversary of the beating of Rodney King in Los Angeles). It was decided that the NCPA will present a non-binding resolution to Congress calling for the week of March 1 - 7, to be officially recognized as National Police Accountability Awareness Week. At the same time, each member organization of the coalition will be lobbying their local constituencies to declare police accountability week at the city level. COPWATCH has asked Berkeley Councilmember Maudelle Shirek to place this item on the city council agenda as soon as possible. At press time, Shirek had not yet committed to supporting the proposed Police Accountability Week. (see events calendar on back cover)

## Police Officer Accused of Rape No Charges Filed

At the national conference (see box above) a presentation was given by an attorney and representative of the Minneapolis organization, WHISPER. She presented a detailed synopsis of the case of Frankie Harris who has attempted to charge officer John Moorman with rape and sexual assault. Upon hearing the facts of the case, the NCPA passed a resolution supporting Ms. Harris and demanding that Officer Moorman be held accountable for his behavior.

This is a short description of the case as described by WHISPER: "On August 27th, a 24 year-old African American woman, courageously appeared on the evening news stating that she was sexually assaulted by her former fiancé, a Minneapolis police officer. She said that the officer armed and in full uniforms, broke into her apartment while she was asleep, handcuffed and raped her. She also asserted that he had assaulted her on six other occasions; that he forced her to perform public sex acts, raped her with a flashlight and made pornographic videos of some of the assaults. John Moorman, a 35 year-old white police officer with the 4th precinct, has had 7 complaints brought against him in 5 years. All but two were dismissed. In 1990, he was involved in an off duty shooting incident in which he had been drinking, was armed, and had forcibly detained a woman in his car. Official details of the

other six complaints are unavailable to the public, however Moorman has a reputation for soliciting African American women on the North side for sex...."

At the time, no charges had been brought against Officer Moorman. Hoping to influence officials in Minneapolis, the NCPA unanimously passed a resolution expressing support for Ms. Harris and demanding that Officer Moorman be fired and prosecuted for rape. ●

### JOIN THE NCPA

**Mission Statement:** The National Coalition for Police Accountability (NCPA) is an organization of religious, community, and legal groups, and progressive law enforcement representatives working to hold police accountable to their communities through public education, community organizing, legislation, litigation, and the promotion of empowered civilian oversight.

Current membership includes representatives of the ACLU Northern California Police Practices Project, Twin Cities Coalition for Police Accountability, Berkeley COPWATCH, American Friends Service Committee-ILEMP, National Black Police Officers Association, Seattle Mothers Against Police Harassment, Greater Dallas Council of Churches...

The Third Annual National Conference on Police Accountability will be held in Dallas, Texas, in late 1993.


For more information, call COPWATCH or write to the National Coalition for Police Accountability, 59 E. Van Buren, Suite 2418. Chicago, Illinois, 60605, (312)663-5392



(BART, from page 2)

here is significant. (see "Response to the D.A." below)

### COMMITTEE FOR JUSTICE FOR JERROLD HALL AND JOHN HENRY OWENS

Understanding that we cannot look to the BART Board, BART Internal Affairs, BART Police, the DA's office, or the courts, for police accountability or for justice, we have turned to the people. A number of community organizations and individuals have come together in a committee to demand justice for Jerrold Hall and John Henry Owens. Together, we demand that there be an *authentic* (non-governmental) independent investigation, that the charges be dropped against John Henry Owens, and that Officer Crabtree be jailed and tried for the racist murder of Jerrold Hall. We have spoken out against this horrifying injustice at BART Board hearings, in the courtroom, at the D.A.'s Office, to the media and in the streets. We have written letters, solicited union support, and we are spreading the word. Help us, together with the Hall and Owens families, build this case into a national campaign for justice. Join us! Call 510-548-0425. 

## Response to the D.A.

*[The following is an open letter dated 1-27-93 from COPWATCH to Senior Deputy District Attorney Rick Harmon and Senior Investigator John Whitson of the Alameda District Attorney's Office]*

Dear Harmon and Whitson,

The "independent investigation" you conducted on the case of BART Police Officer Crabtree's fatal shooting of Jerrold Hall on the night of November 15, 1993 at the Hayward BART station, is an insult to thinking people. Far from "independent," it colludes with the BART Board and the BART Police Department in covering up a clear case of murder. It cannot by professional standards be considered a proper "investigation."

Your "Police Shooting Investigation Report" claims that "there do not appear to be any significant questions about the events which led to the confrontation between Jerrold Hall and Officer Crabtree." We have numerous significant and unanswered questions: Why did Officer Crabtree kill Jerrold Hall? Why did BART lie about the facts of the case? If there is no victim, no identifiable stolen object, and no gun, why is Hall assumed to have committed a "forcible and atrocious crime" and why is Owens still charged with armed robbery? Why was a 12 gauge shotgun fired two times in a public place, against BART Police policy and against reason?

According to BART policy, discharge of a firearm is only justified "to stop a fleeing suspect when there exists reason to believe that the suspect has committed a violent felony, one which threatens death or serious bodily harm, and that the suspect is likely to continue to threaten death or serious bodily harm to another human being."

In your "Summary" statement on page two, second paragraph, [of the D.A.'s Report] you state that "Hall physically attacked Officer Crabtree and attempted to wrestle the officer's shotgun from him." This does not match Crabtree's own testimony. Crabtree testified that Hall approached Crabtree with his arms outstretched, palms up, and at no time touched him, swung at him or struck him. Hall never physically *threatened* to strike him. Meanwhile, John Owens complied with Crabtree's orders not to move, and kneeled with his arms outstretched before him on a bench. Crabtree testified that at no time did he see a weapon or a "walkman" in the hands of either Hall or Owens.

In your conclusion, you state that "the display of deadly force was lawful since the reported armed robbery was a 'forcible and atrocious' crime". Since the killing, it has been revealed that there is no victim, no identifiable stolen object, and no gun that can definitively prove that either Hall or Owens committed a crime. Neither Hall nor Owens can be said to be violent felons, yet throughout your report you use terms such as "the victim" and "the suspect(s)", the "robbery victim" and the "battery victim". These should always be prefaced by "alleged", as you should well know.

Regardless of whether or not Crabtree had reason to believe that Hall or Owens had committed an armed felony, there was no justification to kill Hall. Neither Hall nor Owens had a gun, and neither attempted to flee the scene, as Crabtree himself testified. Six witnesses concur that Hall was walking away at the time of the fatal shooting.

According to Crabtree, he was under physical threat because Hall several times tried to grab his shotgun, but Crabtree successfully knocked Hall to the ground or pushed him away each time. It could not have been hard for him, a 6'5", 250 lb. man with 17 years of police experience and armed with a 12 gauge shotgun, a pistol, a knife, and a German attack dog against an unarmed 5'6", 135 lb, 19-year-old kid. This is unrelated to the time of the shooting, anyway, when Crabtree admitted that Hall was walking away over 40 feet away from him at the time he shot the fatal shot. The alleged "confrontation" between Officer Crabtree and Hall is irrelevant to the murder charge; it occurred well before the time of the shooting.

Crabtree later claimed to the District Attorney that he was afraid that Hall would return and shoot him. Yet several witnesses heard sirens as he discharged

*(continued on page 10)*



# Excerpts from testimony of BART Police Officer Crabtree at the preliminary hearing of John Henry Owens

Tuesday, December 29, 1992

[These clips are not intended to tell the entire story but to point out some revealing admissions on the part of Officer Crabtree. The questioner is Ed Xavier, the attorney of John Henry Owens. The answerer is Officer Crabtree.]

Q. And you were able to see both (Owens') hands on the concrete bench?

A. Correct

Q. Did you see him remove anything from his jacket pocket?

A. No.

Q. Now Mr. Hall is approaching you. Did you see Mr. Hall's hands?

A. Yes.

Q. Where are they?

A. He was holding them out to either side.

Q. Arms out to either side, palms open?

A. Correct

Q. Did you see him carrying anything?

A. Not in either hand, no sir.

Q. Did you see a walkman radio?

A. I don't recall a walkman.

Q. Did you smell any odor of alcohol on his breath?

A. No.

Q. Did you ever see any signs of intoxication in his gait, his walking, the way he walked?

A. No.

Q. As you were retreating, what does Mr. Owens do?

A. Mr. Owens had remained by the bench there.

Q. Didn't move?

A. Not to my knowledge.

Q. At some point in time did Mr. Hall physically touch you?

Q. Wait, let's slow down. I asked you if he had ever touched you.

A. Touched me personally? No.

Q. Now, when Mr. Hall fell, did you notice if he had anything in either one of his hands?

A. I didn't see anything in his hands.

Q. Did you see any weapon on him?

A. I did not see a weapon on him.

Q. At any point up to point No. 3, had Mr. Hall made a fist threatening to hit you with a fist?

A. I don't recall

Q. Or make any type of martial art stance to threaten you with his body?

A. I was not aware of any martial art stance, no, but like I say, I was focused on Mr. Hall's hands and his eyes.

Q. At any point between your movement from point No. 4 to point No. 2, did Mr. Hall strike you?

A. Mr. Hall never struck me.

Q. At any point between your movement between points 4 and 2, did Mr. Hall threaten to strike you?

A. Mr. Hall continued to challenge me asking me what I was going to do, challenging me to shoot him.

Q. Did you ever see Mr. Owens take anything out of his pockets?

A. No.

Q. Did you ever see a walkman in Mr. Hall's possession?

A. No.

Q. Did you ever see a walkman in the vicinity of Mr. Hall's body?

A. No.

Q. Did you ever see a walkman in the possession of Mr. Owens?

A. I saw a walkman on the ground adjacent to the bench that I indicated up there where Mr. Owens had been standing. I had not actually seen him holding it.

Q. You discharged your shotgun twice?

A. Yes.

Q. The second time you discharge it, you see Mr. Hall drop?

A. Yes.

Q. The first time you discharge your shotgun,

where is Mr. Owens?

A. Mr. Owens and Mr. Hall were standing together slightly facing away from me. They were at their bus bench.

Q. First time you discharge your shotgun, Mr. Owens is still in the same position he's been all along?

A. In that vicinity, yes.

Q. Where was Mr. Hall the second time you fired your shotgun?

A. Mr. Hall started to walk toward "B" Street. So he was 20, 25 feet.

Q. Now, Mr. Owens, had he moved between the first time and second time you fired your shotgun?

A. Not significantly.

Q. Was Mr. Owens in your line of fire to Mr. Hall?

A. Yes, he was.

Q. Were you aiming at Mr. Owens?

A. No, I wasn't.

Q. Were you aiming at Mr. Hall?

A. Yes, I was.

Q. How far away was Mr. Owens from you when you fired the second time?

A. Twenty-five feet, approximately.

Q. And Mr. Hall was...

A. Forty, 45.

Q. How many seconds elapsed between the time you fired your second shot until the arrival of the second officers?

A. Five to ten.

Q. Seconds?

A. Yeah.

Q. They were right there?

A. Yeah.

Q. Did you observe anybody search Mr. Owens?

A. I was in the vicinity and was real concerned in them finding the weapon that was allegedly used in the robbery. I asked the officers had they found the weapon, and that's about as much into the search as I got.



## OFFICER SEIZES FILM FROM PHOTOJOURNALISM STUDENT

Last November 6th, SFPD Officer Darby Reid seized film from a photojournalism student at SF State, Eric Rottenberg, who caught him in action making an arrest. Initially, Rottenberg refused to give up the film, but Officer Reid threatened to take and hold his camera and film until after the suspect's trial. Rottenberg believes that the officer feared the photos might show him using excessive force. Reid claimed that he wanted the film in case he was accused of beating or choking the suspect he was arresting. Rottenberg's attorney says that his First and Fourth Amendment rights were violated. Rottenberg has filed a complaint with the S.F. Office of Citizen Complaints.



(LETTER TO D.A., from page 8)

his weapon and Crabtree saw a backup police unit pull into the scene within 5-10 seconds. Why didn't Crabtree wait 5 seconds for the backup?

In conclusion, there is more than ample evidence to put Officer Crabtree on trial for murder. There was clearly no threat to Crabtree's life at the time of the shooting, objective or otherwise. There is no solid evidence to suggest that Hall committed a violent felony, nor did he flee the scene. Therefore, the shooting could not in any way have been justified; it was murder.

In addition to your erroneous conclusion, we object that much of your report consists of hearsay and irrelevancies. You also omitted the testimony of several witnesses and of key parts of Officer Crabtree's testimony. None of the first six witness statements you summarize are related to Crabtree's charge. None of them gave accounts of what transpired between the police and the suspects in the Hayward station.

You see fit to include Hall's recent juvenile criminal history, yet you include nothing about Officer Crabtree's history to conclude that he is an "objectively reasonable officer," as you say he must be in order to determine that "the discharge of the weapon was lawful under the circumstances."

We do not accept your report, your conclusion, nor your decision not to prosecute Crabtree. We demand that Officer Crabtree be jailed and tried for murder. We demand that the charges against Owens be dropped. In short, we demand Justice for Jerrold Hall and John Henry Owens!

Signed,

The Committee for Justice for  
Jerrold Hall and John Henry Owens

### **CLINTON'S CAMPAIGN PLEDGE: TWENTY PERCENT MORE COPS!**

During his campaign, President Clinton promised to put 100,000 new cops on the streets of the nation. According to an Associated Press article from Nov. 23, 1992, the FBI counted 535,600 city, county, and state police officers employed in 1991. Where does Clinton plan to find these new officers?

1. The National Peace Corps. Like ROTC, college scholarships would be available for students who agree to spend four years as state or local officers after they graduate.
2. The Military. Retrain those people with 10 or more years of service who are losing their jobs because of Pentagon cutbacks.
3. National Service Trust. College loan recipients could repay their debts by working as police officers.
4. Increased aid to state and local police agencies.

(TASK FORCE, from page 3)

spent on the people who actually need assistance.

Some of us remember previous city sponsored efforts to "clean-up" Telegraph Avenue. In 1986 the Coalition to Save Our Southside was formed out of a similar concern that black youth and homeless people were ruining the Avenue and discouraging business. The Coalition, a collection of merchants, city and U.C. officials, made many "humane" proposals alongside calls for "stricter enforcement and a campaign to discourage loitering."

"Although Coalition members proposed a number of on-going projects that would have provided young people with alternative activities, few of these schemes were ever realized because of a lack of resources and community support." (Daily Cal 4-14-88)

Is the situation today so different than it was in 1986? Why should we expect that in this day of fiscal crisis and city deficits, our city is going to miraculously find the \$38 million needed to build these facilities and implement these programs.

### **CITY PRIORITIES:**

Make no mistake - the Telegraph Plan is intended to generate money for the City. By "upgrading" the retail market on Telegraph, the city gets greater tax returns. In order to attract upper income businesses and shoppers, Telegraph must be cleansed of homeless and poor people who seem to scare unaccustomed shoppers by their very presence.

In addition, more police = more citations = more money for City Hall. The logic of the City Manager is that if one motorcycle cop hands out a certain number of tickets per day, s/he pays their own salary plus that of 2 or 3 more cops. Therefore, if the city wants more money, all it must do is hire more motorcycle cops to give tickets out to unlicensed bicyclists and other threats to the public safety.

City priorities are to squeeze money out of the public and to make full use of the police to do so. The City has decided to allocate \$10,000 for employment opportunities for the homeless while \$615,000 is earmarked to pay overtime costs for extra cops on Telegraph.

### **IMMEDIATE COSTS OVER 5 YEAR PERIOD**

- \$ 1.04 million Social alternatives for youth
- \$ 1.80 million Physical amenities on  
pedestrian promenade
- \$ 3.50 million Police Services

Establishing recycling bins and information kiosks for tourists seems to be a higher priority than develop-

### **WE WANT YOUR FEEDBACK.**

Please send us letters about things you have experienced/seen or your opinions about the COPWATCH Report.



ing alternative social opportunities for our young people. But the highest priority is, of course, the police. Once again, the city is opting for a military solution to a social problem.

### PEOPLE'S PARK PLAZA?

The U.C. and City have decided that a car-free Telegraph would increase retail desirability as well as the ability of the police to control the area.

Consider Sproul Plaza. At one time, Telegraph went all the way to Sather Gate. After traffic was stopped, Sproul became a plaza. Heavily patrolled by U.C. police, this part of town is downright hostile to homeless and other non-student types. Now that the U.C. and City police forces have for all intents and purposes merged, U.C. will extend its heavy handed jurisdiction over the Telegraph area as well.

Since U.C. police operate essentially free from the constraints of external review, there is no reason to expect the quality of police services in the area to improve. In fact, the Telegraph plan calls for joint training and briefing of U.C. and City police officers. Only city officers are obliged to account for their actions before a Review Board. U.C. Officers are immune and the Police Review Commission currently has no jurisdiction over U.C. police. To provide training for officers and yet have no influence over how these officers utilize and represent that training is foolhardy and reckless.

### AND NOW FOR THE REAL PLAN: MORE MONEY FOR POLICE

In addition to joint training of U.C. and City police, the Telegraph Plan calls for police to "control demonstrations". This includes requiring permits for ALL DEMONSTRATIONS. So much for the birthplace of the Free Speech Movement.

The recommendation for a joint U.C./Berkeley police substation in the area would be almost humorous if it weren't our tax money being spent. **THERE IS AN 80 MEMBER POLICE DEPARTMENT** at Bancroft and

Telegraph (in the basement of Sproul Hall). Where could a substation possibly be put to provide more support to officers in the area than the fully equipped U.C. Department on Bancroft? This seems to be just another political posture rather than a serious effort to improve social conditions in the area.

The main problem with the Task Force Plan for Telegraph is that people don't believe that the social services and facilities proposed in the plan will ever come into existence. So many promises, from low income housing at the Berkeley Inn to jobs for homeless people, have been broken that many people are skeptical. How can we believe that you Ms. Hancock, are sincere about job development when you can't even support 10 people trying to wash car windows? How can we believe that a detox, mental health, teen center and other facilities will be built when we have been told that Berkeley is a "fully-developed city" with no more room for additional shelter facilities.

Here is a proposal for Mayor Hancock: Before you spend one more penny on police, build a teen center. Create the jobs. Provide the housing. Improve educational opportunities. Before you spend one more penny of our money on police, spend some time listening to the youth themselves.

Everyone knows that simply declaring a curfew and making Telegraph a battleground is much more exciting than consulting with young people and their leaders. A curfew is cheaper and quicker than actually building and staffing a teen center and understanding the roots of violence and protest. Who can say how many more broken promises it will take before Berkeley government has lost every shred of legitimacy, and the credibility gap widens beyond repair? **☛**

### COUNCILMEMBER FRED COLLIGNON CALLS FOR 20 MORE POLICE

Number of police per thousand residents in:

Oakland - 1.8	Berkeley (with U.C.) - 2.5
San Francisco - 1.9	Berkeley (with 20 more) - 2.7

Here's my contribution to help COPWATCH keep going strong and support the continued publication and mailing of the COPWATCH Report...

- |   |  |
|---|--|
| <input type="checkbox"/> add my name to your mailing list and send me 2 free issues | <input type="checkbox"/> send _____ T-shirts @ \$12/each |
| <input type="checkbox"/> \$5/year - low income                                      | <input type="checkbox"/> \$20/year - supporter           |
| <input type="checkbox"/> \$35/year - sponsor  | <input type="checkbox"/> \$50/year - m(p)atron           |
| <input type="checkbox"/> _____ other  |  |
- (contributors of \$35 or more get one free)
- Circle size(s): XL L M S

Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

Organization \_\_\_\_\_

Comments \_\_\_\_\_

Return to: COPWATCH, 2022 Blake Street, Berkeley 94704. Contributions are NOT tax deductible.



## EVENTS CALENDAR

**March 3** - Evening memorial for Jerrold Hall on 2nd anniversary of Rodney King beating. Hayward BART.

**March 16** - Trial date will be set for John Henry Owens at Oakland Superior Court, 1225 Fallon St. Dept. 4, 9am.

**April 8** - Benefit for Hall-Owens campaign with Motor Dude Zydeco at Ashkenaz, 8:30pm.

For additional information, call COPWATCH.

## Volunteer/Internship Positions Available

UC Berkeley students can get internship credit for working with COPWATCH through the **Peace and Conflict Studies** program. Internship positions are available in the following areas:

- **Community Outreach Workers** to inform communities about their rights regarding the police and help people file complaints or law suits. This also includes tabling and coalition work
- **Office Workers** to do filing, phone work, working with the media, fundraising, making flyers...
- **Researchers/Writers** for in depth studies of police department budgets and policies, UC-City relations, research of laws and rights, and successful law suits
- **Caseworkers** to help individuals with their complaints, go with them to court dates, find lawyers, press and community support, follow up
- **COPWATCHers** to do street observation and take incident reports
- **PRC/City Council/UC Monitors** to go to meetings, stay informed of actions taken regarding the police, reporting back to COPWATCH, making statements at the meeting for COPWATCH

For credit take **PACS 197** for 1-3 units (3-9 hours of work per week).

For additional information, or to sign up, call Danielle or Sam at 548-0425.

## NEW BI-WEEKLY COPWATCH WORKSHOP ORIENTATION AND TRAINING

**WHERE:** COPWATCH office, 2022 Blake St.  
(between Shattuck and MLK)

**WHEN:** 1st & 3rd Saturday of each month

**WHAT:** 6:00 - 7:30 orientation/discussion  
7:30 - 9:00 street training and observation

If you want to find out more about COPWATCH, are interested in joining, want to discuss police issues, or have information that you think COPWATCH should know about, this is the place for you.

**ADDITIONAL ORIENTATION  
SESSION ADDED WITH MORE  
IN-DEPTH COVERAGE**

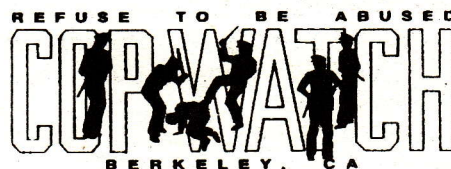
**Saturday, Feb. 27**

time & place as noted above

## Thanks to COPWATCH Interns!

Four U.C. Berkeley students participated in the "COPWATCH for Credit" Internship Program last semester. They worked in every capacity of the organization, from filing, to copwatching, to casework, to producing the COPWATCH training video.

We want to publically acknowledge our appreciation for all the work that the interns have done to help strengthen COPWATCH and challenge social injustice in our community. ☺



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