

COPWATCH

Report

BERKELEY, CALIFORNIA

WINTER 1992

Civilian Review in Berkeley: PRC, R.I.P?

"Our study revealed an investigative and hearing process characterized by shoddy, halfhearted investigations, lengthy delays and inadequate documentation and record keeping," the report said, with the result that the process is 'unfairly skewed against those bringing a complaint.'" (New York Times, January 15, 1992) The above quote describes the Internal Affairs Department of the Boston Police Department. Berkeley has the immense advantage of being one of the few places in the U.S. where complaints against local police personnel are investigated and heard through a civilian review board, the Police Review Commission. But how does it compare, in actual fact, with Boston Internal Affairs as delineated in the quote? Well, here are some of COPWATCH's findings.

The nine Commissioners on the PRC are appointed by one City Council member each; the Office staff, including the investigators, are appointed by the City Manager. The Commission has an advisory role in their appointment. The general status of the Police Review Commission is that of an advisory board.

There are two types of complaint: allegations against a specific officer and policy allegations. The latter type are heard by a policy board which makes policy recommendations based upon the testimony of the complainant and police officers involved. Allegations against a specific officer are investigated by the PRC Office. The investigator interviews the complainant and the subject officer (i.e. the officer against whom allegations are made), plus any witnesses on either side. When the complainant has been

unable to identify the police officer(s), the investigator endeavors to identify him/her through the evidence available. Transcripts or summaries of interviews have to be submitted to the complainant and the subject officer. The first investigative report has to be submitted

no later than 75 days after the complaint has been filed. Later interviews are included in supplemental reports. All evidence must be submitted to both parties no later than 48 hours before the hearing. This means that complainants should turn in evidence such as photos or videotapes in time for that rule to be respected. The public hearing takes place before a Board of Inquiry made up of three Commissioners. The complainant has to produce "clear and convincing evidence" of officer misconduct. The complainant and subject officer both testify, as well as any witnesses. Either party may be represented by an attorney (people should know that police officers usually have one). The complainant (or his/her attorney) has a chance to cross-examine the officers and to make a closing statement. Finally, the Board deliberates and delivers its findings: allegations are either sustained or not sustained. Findings are sent to the City Council and the City Manager. The City Manager may sustain or overrule the Board's findings. Only the City Manager has disciplinary powers and disciplinary actions are kept confidential.

As soon as allegations have been filed by the investigator with the

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Police Department, the Internal Affairs Bureau starts its own investigation of the case, which is kept strictly confidential. So there are two parallel tracks that both end in the City Manager's Office. Failure, on the part of the PRC Office, to file allegations with the Police Department within the 20 day deadline, results in a dismissal of the complaint. There is also a 120 day deadline, after the complaint has been filed, for any disciplinary action to result from the PRC's findings. If that deadline is not met, the case can be heard by the Board, but no disciplinary action can result from the Board's findings. *The 120 day rule stands regardless of who is responsible for the delay.*

We see then that the process is one of the best in the nation, since it allows the complainant to cross-examine officers before a civilian board. It is also the only one in the nation where officers can be compelled to testify before civilians. However, the police have obtained significant concessions and guarantees over the years, such as the absence of disciplinary powers on the part of the Commission, and a set of stringent rules (deadlines) that may jeopardize complaints over technicalities; the complainant is at the mercy of any slackness or shoddiness on the part of the Office, even minor clerical mistakes.

COPWATCH has been following very closely the processing of the complaints arising from the People's Park events of July 31 to August 3, 1991. Our findings are provisional, since some of those complaints are still pending. Our report is updated as of January 29, 1992.

Fifty five complaints have arisen out of the People's Park events. Of these, 14 have been summarily dismissed, three withdrawn, and 16 have gone to the

Board. Another six hearings are scheduled for the near future. This leaves 16 complaints awaiting a decision whether they will be granted a hearing or dismissed. Of the 16 that have gone to the Board, two have been dismissed or withdrawn, so that 14 have actually been heard. Three have been sustained. Thus, out of a total of 33 cases that have been resolved (either dismissed, withdrawn, or heard), 9% have been sustained. Of the complaints that have actually been heard, 21% have been sustained. The only allegations that have been sustained have involved individual encounters. Allegations involving direct encounters with a crowd, like excessive use of batons or munitions in dealing with a crowd or a group of people, have not been sustained thus far. One reason is that it is difficult to prove individual guilt on the part of an officer in such situations. Another is that in the cases heard thus far, no allegations have been properly framed against higher command; and even intermediate officers like field commanders have been able to get away with the allegation that they were following orders and policy.

Commissioners have put a great number of hours into the Boards of Inquiry lately, and we want to commend them for their dedication. They have generally been fair, even though we feel that the outcome depends a lot on who sits on the Board and especially who chairs it. There have been cases where the officers have been put in a favorable position through strict enforcement of decorum vis-à-vis the complainant while police officers were allowed to intervene out of order. There has even been a remark associating the complainant with an unrelated incident where "skunk oil" was poured on City Council members; such an improper remark could well have prejudiced the Board against the complainant.

While Commissioners have generally done their best, we cannot, unfortunately, say the same of the PRC Office. Very little has been done in the way of collecting hard evidence, and videotapes have been underused. There have been some good cases where the investigator has been able to locate a subject officer that had not been identified by the complainant. We want to commend all the investigative efforts that have been put into those People's Park events. Yet, we do not feel that the investigators have been going out of their way to respond to the complainants' concerns. The initiative basically rested with the complainant, who has to be very cognizant of the process in order to make the right request at the right time. Areas where the complainant has to be very active in order to be properly heard include the framing of the allegations, the naming of the subject officer(s) and the inclusion of evidence. Turning in such vital items as photos or videotapes might not be enough; one has to make sure they are included in the evidence submitted to all parties. The PRC Office does not tend to facilitate things.

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Report

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

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Rodney King: One Year Later

National Coalition Forms; Sets National Day of Action for March 3

On Nov. 22, representatives from groups across the nation met in Chicago for a National Conference on Police Accountability. By the end of the two day meeting it was decided that these organizations would form a National Coalition for Police Accountability (NCPA).

The Conference included presentations by various groups and individuals including Don Jackson, a former Hawthorne police officer whose efforts to expose police brutality in Los Angeles resulted in his head being forced through a plate glass window by an LA police officer (the incident was

recorded on video and received national attention). Eileen Luna, former head of the San Francisco Office of Citizen's Complaints spoke about the civilian review process and its limitations.

COPWATCH also gave a presentation on the Peoples Park demonstrations, including video footage of officers

shooting protesters with rubber bullets. As a result, the Coalition passed a resolution condemning the use of these munitions and calling for their immediate ban. In addition, a resolution was also passed calling for the immediate firing of Chicago Police Lieutenant Jon Burge for his systematic use of torture (electric shock, plastic bags, Russian roulette, etc.) on prisoners in order to extract confessions.

In addition to speakers, delegates participated in

workshops on racism, community policing, monitoring of federal agencies, and other topics. Representatives from Mothers Against Police Harassment (MAPH) of Seattle, National Black Police Association, ACLU,

National Lawyers Guild, Minneapolis Coalition for Police Accountability, and many others, reconvened in the afternoon and a structure for the Coalition was decided.

The Coalition has a steering committee made up of representatives from each of the six regions which make up the nation. Berkeley is part of the West Coast Region and Eileen Luna was elected to be our representative. It was decided that March 3 will be a National Day of Protest against police brutality because it marks one year's passing since Rodney King was visibly and cruelly beaten by LAPD.

Organizing efforts for March 3 have begun and people are encouraged to participate. As of this

writing, the Western Region has been focusing on organizing a mass rally on Biko (Sproul) Plaza on the UC Berkeley campus and an evening forum and speak-out at Mission Cultural Center in San Francisco (see back cover for details).

If you would like to sign your organization up as part of the National Day of Protest effort or if you would like more information about the National Coalition, please contact our office.

January 3, 1992

Dear Friend,

On March 3, 1992 it will have been one year since this country witnessed the videotaped beating of Rodney King by Los Angeles police. Despite the flurry of attention that was immediately given to the issue of police brutality, the fact is that no real change has occurred over the past year. Instead, during the ten months since then, the following incidents have taken place in the Bay Area:

- In Berkeley, police attempted to disperse peaceful demonstrators at People's Park by using rubber bullets.
- In San Jose, police responded to a minor disturbance at an African American fraternity party by sending 97 officers and a helicopter to the scene. Officers attacked bystanders, shouted racial epithets, and beat people who were not resisting arrest.
- In Alameda, police officers were discovered routinely making racist remarks, jokes and threats over their radios.
- In Solano County, six people were killed by police in 1991, though none were killed the previous year.
- In San Francisco, brutality complaints in the first three quarters of 1991 soared 34% compared to the first three quarters of 1990.

On November 22, 1991 a National Conference for Police Accountability was created in Chicago. The coalition selected the week of March 3, 1992 to make a national call for police accountability. The exact dates and types of events were left to local communities to determine.

In response to that call COPWATCH has joined with the ACLU, CUAV. SHARP. CD Inc, Asian American Law Caucus, African American Coalition, Real Alternatives Project, Delores Huerta Coalition and a number of other Bay Area organizations to plan a march and forum for March 8, 1992. Please join us and help plan the Bay Area response. This anniversary is too important to let pass without a visible community action.

Judicial Brutality: UC Plays Legal Hardball With Park Supporters

by Andrea Pritchett

On January 23, 1992, four well known Peoples Park activists were named as defendants in a lawsuit by the firm Crosby, Heafy, Roach and May, which represents the Regents of the University of California. It is alleged by the Regents that these four people are "primarily responsible" for damage which has been done to the volleyball courts in Peoples Park. If this lawsuit is successful, these four people will be forced to compensate the University for, not only the cost of repairing damage done by persons unknown, but will also force these people to pay punitive damages to the University.

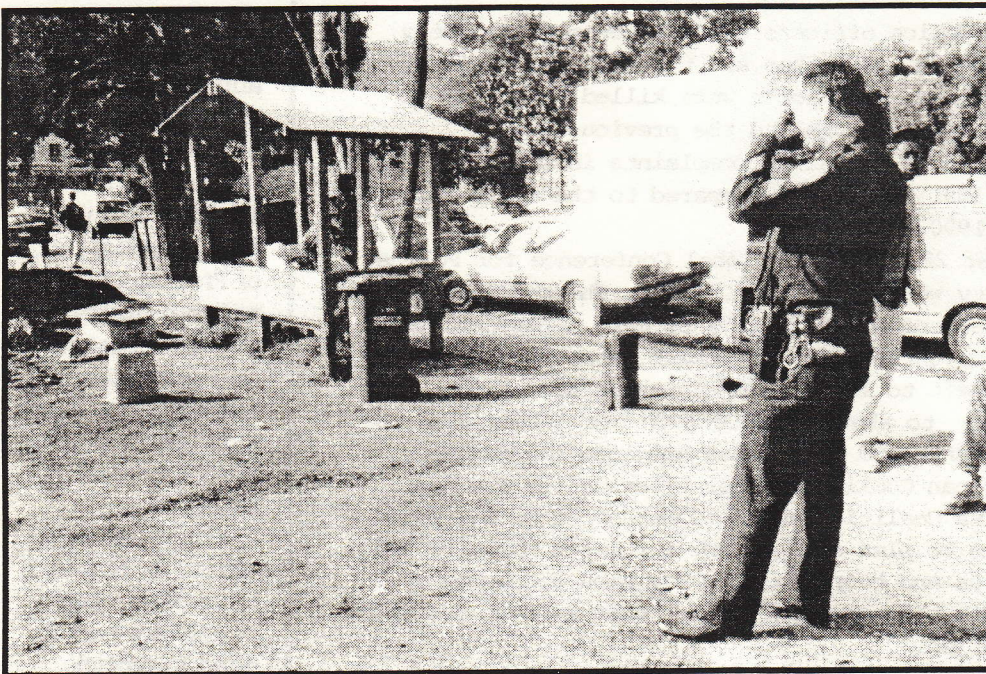
In addition to the lawsuit, a temporary restraining order (TRO) has been requested by the University to

At an initial court date, where the TRO was set to remain in effect until March 4, the judge explained that "one man's user development is another man's vandalism." The fight for user development is on. What could be a landmark case for community development will have repercussions nationwide. When poor people, communities or neighbors of an area seek to improve, without government "assistance," a small park, can it really be called vandalism?

The courts will decide. That is the problem. At this point, these four defendants plus "John and Jane Does 1-50" may become victims of judicial brutality.

Homeless and poor people have long been victimized by what amounts to brutality from our court system. People fined \$65 for "illegally lodging" (sleeping in public) because they are without any legal place to rest their bodies understand what is meant by judicial brutality. Those who have been beaten by police and then arrested for "assaulting a peace officer" understand as well. Everyday, public defenders (AKA "public pretenders") plea bargain away weeks, months, and years of poor peoples' lives because the court system is "overburdened" and the judge will "go easy on you" if you just plead guilty.

In South Africa, brutality is called the apartheid



BRENDA PRAGER

prevent these four people and fifty unnamed "John and Jane Does" from engaging in certain types of behavior—freedom of speech, for example. Since the park defenders continued to express their desire for user developed toilets by continuing construction on their own geodesic design, the University has expanded the list of prohibited activities to include "digging trenches, bringing construction materials or implements onto park property."

Police videotape Park supporters at work digging the foundation for a user-developed bathroom. The University considers any user development in the Park to be a violation of the Temporary Restraining Order, and participants in such activities may become the victims of the Regents' legal retribution.

"system" because it encompasses not only the violence of the police and military, but also that of the judicial system. Just like South Africa, our Berkeley Courts authorized a search on the home of a Peoples Park activist in which UC police officers stormed the house with guns drawn and handcuffed the residents. Supposedly searching for a chainsaw, videotapes, and verification of the activist's address, they left with

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What You Should REALLY Know About Your Constitutional Rights

by Kim Nemirow

We are living in an era of an ever-increasingly conservative Court. This is not news. What is newsworthy is that most people don't fully understand their rights (or, what remains of them). If you want to empower others by informing them how they should act in contacts with the police, or if you want to be of aid in your own defense, *you need to know what to do, what not to do, and what to look out for and take note of.*

In the last three years, no singular California or Supreme Court decision has effectively demolished or enlarged the general principles of the 4th, 5th and 6th Amendments to the Constitution. What has occurred in the areas pertaining to these Amendments (Search and Seizure, Self-Incrimination, and Right to Counsel) is a predominantly conservative 'reading' of pre-existing law. There are, of course, exceptions. Here is a sampling.

Prior to Proposition 115, defense attorneys could not be compelled to hand over to the prosecution a list of witnesses they intend to call at trial and a copy of the witness's statements prior to trial. Defense attorneys claimed that to forfeit such material violates the defendant's right to be free of self-incrimination prior to trial. Unfortunately, the court in *Izazaga v. Superior Court* (1991) disagreed, believing that kind of information does not involve the defendant personally and therefore does not violate the 5th Amendment. Another California case, *Ahmad A. v. Superior Court* (1989) held that while pre-trial 'detainees' have a right to privacy in jail (Penal Code 2600), if the police violate that right by tape-recording them, such recordings are still admissible in court. A Supreme Court case, *Michigan v. Harris* (1990) severely diminished the principle of an earlier Supreme Court case, *Michigan v. Jackson* (1986). While *Jackson* held evidence inadmissible which was obtained through police-initiated questioning (after a detainee had asked for the assistance of counsel), *Harris* held such evidence admissible for impeaching the suspect once s/he gets into court (assuming the suspect testifies and contradicts prior statements to the police).

Regardless of how restricted our rights may now be, there is certain information which any person should know about how to act with the police and

what to look out for in police actions. This information really can help, so here it is broken down into each Amendment.

The 4th Amendment (Search and Seizure)

The 'general rule' of this Amendment is that a citizen is to be free of unreasonable search and seizure of their person, effects, papers, and houses, and that searches which do occur must be pursuant to a warrant describing the places to be searched and the persons or things to be seized. There are five exceptions to the warrant requirement and one broad exception of "exigent (emergency) circumstances." To protect yourself against 'unreasonable' seizures and to be able to keep those things which are seized out of court, try to follow these 'pointers.'

POINT ONE - POLICE DON'T NEED A WARRANT TO SEARCH AREAS WHICH THE COURT SAYS AREN'T REASONABLY PRIVATE. So far, the Court has determined the following areas are not private and therefore can be searched without a warrant:

1. Garbage Cans - If you put contraband or evidence of a crime in the garbage, the police can seize it and on that basis work to get a warrant to search your home.
2. Open Fields - If, for example, someone grows pot in their yard and the yard is fenced, even if the police have to trespass to get it, that area is not considered private. (Only the area very close to your house is private)
3. Navigable Air Space - Any part of your property which can be viewed in air space where commercial aircraft are allowed to fly is not considered private. For example, if the police have high tech camera equipment to spot pot plants being grown in bushes, the fact that they discover this in a plane means that no 'search' has occurred.
4. Anything in 'Plain View' - If the police see evidence of a crime from a vantage point they are allowed to be at, whatever they see is not the result of a search. For example, if you are measuring out some cocaine in your front window and the police happen to walk by they very well can use what they saw to get a warrant to search your house.

POINT TWO - IF YOU CONSENT TO A SEARCH YOU ARE NOT PROTECTED. Unless you don't mind if the police search you, never tell the police it's alright for them to search you, your bags, etc. The only action the police can take if you are not being arrested is a 'Pat Down' for weapons and this can only be done lawfully if the police have reasonable suspicion to believe you are armed and dangerous.

That the police must have reasonable suspicion to detain you and pat you down is not insignificant. If you are about to be "patted down" tell the police (politely)

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that you are not consenting to this action. Also, if the police are attempting to get you to agree to a search of your bags on a bus, clearly refuse your consent.

If a court finds that the police didn't have reasonable suspicion to stop you or detain you, all evidence resulting from that search should be inadmissible in court.

NOTE - The court believes that just because the police chase you doesn't make the contact with the police non-consensual (*California v. Hodari B.*). However, if a person being chased is told, for example, "Stop, Police", then the chase is considered a detention (*People v. Verin*).

It is important to remember that just because the police chase you doesn't mean once they stop you they have a lawful right to "pat you down". So unless you have an incredible arm, it is foolish to throw contraband off of your body during a chase. The reason it is foolish is that the law won't necessarily protect you from that evidence even if the police had no business chasing you to begin with.

POINT THREE - ANY PERSON WITH JOINT ACCESS TO YOUR HOME/ROOM CAN ALLOW THE POLICE TO SEARCH and even if the person giving consent to the police doesn't really have joint access, the police will get away with the search if they "reasonably relied" on that person having access. The main point here is to know who your housemates, relatives, etc., are and to tell them how you feel about police searching your premises. Further, a lock on your door (whose combination is known only to you) is recommended to show your non-consent to any other party's entrance.

POINT FOUR - THE POLICE MUST KNOCK PRIOR TO ENTERING YOUR HOME WITH A WARRANT. Unless the police see/hear destruction of evidence, have reason to believe that evidence is being destroyed, or see someone inside in a position ready to destroy evidence, they must knock and announce who they are prior to entry. So: Listen for the knock and remember to check to see how long it took for the police to enter before you open the door (if this is how it happens). Failure to give 'knock notice' could cause the evidence seized to be suppressed.

The 5th Amendment (Self Incrimination)

The general rule of this amendment is that a person suspected of a crime cannot be made to answer for the crime prior to indictment. Further, a suspect cannot be compelled to take the stand once in court. The important facts to remember about this Amendment regard 'confessions'; perhaps the single most important fact to realize is the following: Just because the police don't read you your 'rights', doesn't mean that what

you say won't be used against you in court.

RULE #1 - THE POLICE ONLY HAVE TO READ YOU YOUR RIGHTS IF THEY PROCEED TO INTERROGATE YOU. Even though you are not read your rights, as long as you are not interrogated, anything you say can and will be used against you in court.

The definition of interrogation ("words or actions which the police should know is likely to elicit an incriminating response") is potentially helpful to keep in mind. Should you get into a situation where you forget or feel coerced into making statements to the police, try to keep in mind (and tell your attorney) what they said or did to make you feel that they were trying to get you to speak. The best thing to do, if you feel safe doing so, is to always tell the police once you are arrested: "I want to remain silent AND I want to see an attorney." These statements should always be made regardless of whether you are read your rights or have been asked any questions by the police.

NOTE - The court has decided that you are only protected from the statements you make to the police in custody where you might feel potentially fearful of the power of "the State". What this means is that a person can be asked questions by an undercover agent in the prison setting (for example, an agent can pose as a cell mate) and any statements made can and will be used against that person. The reasoning here is that because an agent is 'undercover' no person need feel threatened into confessing and therefore any statements made are considered 'voluntary'.

RULE #2 - 'VOLUNTEERED INFORMATION' TO THE POLICE IS NOT PROTECTED. Just like 'voluntary' searches, voluntary confessions are not 'suppressible', i.e. they can and will be used against you. You have the right, absolutely, to refuse to give any statements to the police (except your name and one piece of ID). Although the police often try to make people feel that speaking is in their 'best interest', it is usually in a person's worst interest.

If the police ask you a question you think you shouldn't answer (most questions), ask them (1) if you are free to leave and (2) if you can refuse to speak because you don't want to speak with them. If the police are holding you for a short time (detaining you), it is good to make this clear by asking. It is also good to make it clear that your presence is not voluntary.



City Manager Overturns PRC Finding on Complaint

[On December 23, 1991, citizen Michael Ruth wrote a letter to Berkeley City Manager Michael F. Brown protesting Brown's overruling the finding of the Police Review Commission, which had sustained Ruth's complaint of assault by a BPD officer. Brown responded, in a letter dated January 16, 1992. What follows are excerpts from these two letters.]

Dear Mr. Brown,

I recently read and studied your response and opinion regarding my complaint filed with the Berkeley Police Review Commission No. 1272. This complaint resulted from an incident that happened to me early in the morning on August 2, 1991. (...)

In regard to you not sustaining two of the three charges filed by me against Officer Thorton in PRC complaint No. 1272 charges unanimously sustained by a Berkeley PRC Hearing Officers on Nov. 7, 1991, I have these comments: Why is it that the rationale for your opinions is based entirely on Officer Thorton's statements? No where in your writing are my statements given weight and consideration. (...)

Since this may be the only occasion for me to address you I find it necessary, Mr. Brown, to remind you of certain facts. Martial Law was not declared that morning in Berkeley. I got no closer than 2 and 1/2 blocks to the cordoned off area of People's Park. I was not there to demonstrate. I was there as an observer. This is where I live. I was there for less than 45 minutes and was not warned to disperse by any officer. I met Officer Thorton for the first time as he restrained and assaulted me.

(...) Certainly the process of filing the complaint and the hearing itself was valuable therapy for me. However, there are other losses that remain for me. I had faith, trust and confidence in the police. Officer Thorton replaced this suddenly and violently with mistrust, fear and horror. Thank goodness the City of Berkeley has the government function of the Police Review Commission. Their investigative skills enabling them to identify Officer Thorton and their care for fairness and deliberation in the hearing process was very much appreciated by this citizen. It restored greatly, my shaken confidence in the rights of a citizen to make a governmental employee more responsible to the tax payer.

I am sorry I cannot say the same for you Mr. Brown.

Your inability to consider my testimony credible in contrast to your blanket trust in Officer Thorton's recollections rekindles my mistrust and fear of government.

(...) Certainly a police officer's job is terribly difficult, demanding, and stressful. I normally would have great respect for an officer like Mr. Thorton. (...) I am saddened however, that Officer Thorton never in a gesture, manner or word showed regret, apology or even an after thought for his cowardly acts that evening. His disdain on that dark street for my rights as a citizen transformed in his latter testimonies into paternal arrogance. I would like to not think it so, but my experience with Mr. Thorton leads me to assure you Mr. Brown, Officer Thorton will do this again. You as the City Manager of Berkeley will have encouraged this problem with your opinion of Nov. 2.

As a citizen and tax payer I would like to remind you of your responsibilities. You are a servant of the people and are accountable to me. In this particular case, you did not serve this citizen properly nor fairly. It is also my opinion that you made decisions on that day which do not show wise leadership. (...) As I suggested earlier you are not leading forward you are stepping backwards.

Respectfully: Michael Ruth

Dear Mr. Ruth:

This is in response to your letter of December 23, 1991. According to your statements, you perceive me as unfair and illogical in my findings on your complaint against Officer Thornton filed with the Police Review Commission. (...)

You went into an area in which rioting had taken place and subsequently took place. By doing so you endangered yourself, added to the traffic problems, and added to the number of people in the area. Some of the people carried rocks, rebar, nails and incendiary devices, which they used to hurt the police. There is no way for a police officer to know which person is an observer and which person might commit the next assault. When you go to an area which has a public safety problem such as a riot, fire, mass casualty event, etc., you become part of the problem. In this case your presence drew at least this officer away from more serious problems. You now have the audacity to complain about the officer and me because you did not exhibit good judgment and citizenship by staying away from a serious public safety problem. Even the people whose homes were burning in the fire in October stayed away from their own property for days so they would not aggravate the situation. Finally, as you know, I in fact did sustain the excessive force finding and did not agree with Officer Thornton's action. I stand by my decision in this matter and

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Cop Blotter

*A sampling of the more egregious examples
of police misconduct, gleaned from
COPWATCH Incident Reports*

NOV. 13, 1991, OAKLAND – An Oakland Motorcycle Officer pulled over two youths for speeding. A COPWATCHer (off shift) observed that the officer had no readily visible badge. When the officer was asked why he had no visible badge number or nameplate, the officer said in a contemptuous and challenging tone, "Why don't you wait here until I'm done and I'll explain it to you."

NOV. 24, 1991, 2:40 PM, PEOPLES PARK – UCPD Sergeant Martin (wearing no name tag) cited someone for drug-related charges and then loudly said to park activists "Thanks for the info," (i.e., snitch-baiting of park supporters).



BATON ENVY – The new Berkeley Crowd Control Team shows off their 36" long-batons. We are concerned that their use, the longer length generating higher tip velocity in a swing, will result in an increase in the incidence of severe injuries.

NOV. 27, 1991, 3:50 PM – BPD Officers Rateaver (#78) and J.C. Jones approached two white males (apparently homeless) who were leaning against a store window and asked them to move. The two men complied. Officer Rateaver told COPWATCH that there is no law against people leaning against store windows, but that he was trying to "keep the street clean" and facilitate "community relations" because "there is aggressive panhandling and the like."

DEC. 1, 1991, 12:10 AM, TELEGRAPH, SOUTH OF DWIGHT – UCPD officers arrested a young Black male in relation to the assault of a young white woman.

Police were looking for a "group on Dwight and Telegraph. Police refused to tell COPWATCHers what the chargers were; their only comment was: "Back off!"

DEC. 16, 1991, 1:10 PM, SHATTUCK AND STUART – BPD Motorcycle Officer Ralands (#50) was in hot pursuit of four Black youths in a car because they had made an illegal turn. The motorcycle started the chase at Carleton and Milvia. By the time COPWATCH caught up with them, the car had gone through a stop sign at Stuart and Shattuck, resulting in a three car accident. Three of the young men ran from the scene on foot. Ralands caught the forth and handcuffed him to the motorcycle. When asked if police policy prohibits high speed chase in a congested area, over a petty crime, such as a traffic violation, Ralands stuttered and turned away. Suggestion: The officer could have taken down the car's license number and sent an "illegal turn" ticket in the mail.

JAN. 8, 1992, EVENING, TELEGRAPH – Four Black men in a car were pulled over by three UCPD officers, in response to a report of three men at Blondie's. COPWATCH witnessed Officer Sifuentes search one of the men and the car. The driver was ticketed for having no driver's license. Sifuentes told a licensed driver who volunteered to drive the car, at the driver's request, that he would not be allowed to drive the car to a legal spot. The car was towed. Later that evening the four young men went to file a complaint at UCPD, and the car was eventually released to their sister (licensed driver).

JAN. 8, 1992, 11:30 PM, PEOPLE'S PARK – UCPD Officer Maloney came to the vigil and was looking for candles that were lit. A construction pylon was sheltering a lit candle on the sidewalk. Maloney put it out. He told people that they could have candles but they were required to hold them.

JAN. 11, 1992, 11:00 PM, BLAKE AND TELEGRAPH – COPWATCHers arrived at the scene while UCPD Officer Bloch was searching inside an African American male's mouth with a flashlight. The handcuffed man was "suspected of being intoxicated." When COPWATCH asked what the officer's badge numbers were, UC Tejada's only response was to call COPWATCH racist. (i.e. discrediting COPWATCHers).

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No Justice In Assault of Oakland Jail Employee

by G. Blood

On Friday April 13, 1990 Jimmie Bass, a civilian employee of the Oakland Police Department, was viciously assaulted by a cop inside the Oakland jail. Jimmie had finished his shift and was leaving for home. As he was leaving he was confronted by Task Force Officer, Vic Woods, who asked who he was. Jimmie responded verbally that he was a jail utility worker and produced his ID for Woods. In spite of that, the officer pushed, shoved and punched Jimmie in the face without provocation.

Then a more serious crime began—the police cover-up. Jimmie immediately reported this incident to his supervisor, Sergeant Williams. An OPD Internal Affairs investigation was conducted and, lo and behold, Officer Woods was exonerated of all wrong doing and Jimmie was suspended for three days without pay! Despite the fact that according to Jimmie's union (Local 790 SEIU) grievance:

- a) The internal affairs investigation was incomplete and erroneous. For example Jimmie's statement was ignored by the Internal Affairs "investigator": the Internal Affairs "investigator" intentionally excluded inmate witnesses from providing incriminating evidence against Officer Woods on frivolous grounds.
- b) The various police statements were contradictory. For example some officers in their statement to the Internal Affairs "investigator" said that Jimmie had snatched his ID back from Woods, others said it fell to the floor. Actually Officer Woods refused to return Jimmie's ID to him and gave it to Jailer Duarte.

The sad fact is that this criminal cop Vic Woods conducted himself more like a street thug than an officer of the law. Woods was so sure that he could get away with this gangsterous behavior that he continued to threaten Jimmie after the assault.

It is our hope that Jimmie will be exonerated of all wrong doing, and criminal cop Woods will be brought to justice. All of the other OPD officers that lied in their statements to the Internal Affairs investigation should be fired.

VIDEO ALERT

OUR 8MM CAMCORDER IS BROKEN AND WE CAN'T AFFORD THE \$250 REPAIR. HELP US KEEP WATCHING THE COPS. YOUR CHECK TO COPWATCH CAN PUT OUR CAMERA BACK ON THE STREET WHERE IT BELONGS! WE SO NEED A VHS VCR TO COPY TAPES. IF YOU HAVE ONE YOU DON'T USE, CONSIDER A DONATION OR LOAN.

Takaoka Exonerated

Officer Alex Takaoka is back on the beat. The officer, accused of sexual assault and battery by two female arrestees in the People's Park demonstrations, patrols the campus and southside neighborhood again, having been absolved of all charges by the University of California's internal complaint process.

The investigative finding admits that a female arrestee was intimately searched by Takaoka and another male officer, but found this to be "proper, lawful, and justified." The report admits that Takaoka used a dull pocketknife to cut through plastic wrist restraints but found this to be lawful and proper as well. Finally, the report admits that Takaoka used force and leather restraints on a woman alone in a holding cell but says "the use of force was necessary to overcome her resistance." Her resistance consisted of making noise to protest the inappropriate search of another female arrestee.

"I'm not surprised," said one complainant. "The complaint process is a sham." [See COPWATCH Report, Summer 1991]. She plans to file a lawsuit this week.

The complaint process, which should take at most 30 days, took over three months to complete. The investigative report claims this was because the complainants three phone numbers had no answering machines. "All three phone numbers have answering machines and each machine has been operating perfectly," the complainant responded to this claim.

The finding on Officer Alex Takaoka was released the same week Vice Chancellor Dan Boggan, in a paid supplement called "The Berkeley Undergraduate" lauded the safety of the UC Berkeley campus. Vice Chancellor Boggan is responsible for overseeing the University of California Police Department and has not responded to any letters from the complainants about their treatment.

PEER SUPPORT FOR VICTIMS OF POLICE ABUSE

I am interested in forming a peer support group for persons brutalized by police. If you are also interested in this, or are considering or engaged in a civil suit against the police, or you have experience with a suit to discipline police officers, contact Brian Stanley at 252-0759. Note that information about other types of support groups can be obtained from California Self Help Center (800) 222-5465.

(continued from page 2)

There have been some serious failures. One complaint had to be dismissed because the Office failed to meet the 20 day deadline for the filing of the allegations with the Police Department. Several cases have gone over the 120 day deadline for disciplinary action to ensue from the PRC findings. In two of those cases, this has occurred without any failure on the part of the complainant to meet appointments with the investigator. In one case, the hearing date had to be postponed twice because of confusions over the subject officer's vacation and shift schedule; those schedules are supposed to be available at any time to the Office. In the other case, it took the investigator more than the 120 days to identify the subject officer, even though only two officers could possibly be involved. And on at least three occasions, the Office failed to notify the complainant of the hearing date 48 hours in advance as required; one at least could be reached through a beeper phone number.

The most serious case of mismanagement, though, is one in which the complainant turned in a videotape well in advance, and the investigator chose not to submit it as evidence because it was allegedly not relevant to the case. More precisely, the Office split the complaint into two and submitted the tape only for the second complaint. At the hearing of the first complaint, the complainant argued for the relevance of the tape and requested the Board to waive the 48 hour rule and include it as evidence. Even though the subject officer and his attorney had no objection, the Board ruled not to include the tape as evidence; the complaint was not sustained due to the lack of clear and convincing evidence arising out of the testimony.

Some of these problems may be attributed to overwork due to the People's Park case load. However, during a public meeting of the PRC on September 11, 1991, PRC Officer Robert Bailey, who is the chief investigator, was offered additional staff to help him cope with this situation. He responded that he did not see the need at that moment. Never at any subsequent time did he make any request for temporary staff. In the midst of all this, one of the three investigators, an African-American woman, has recently left the job amidst allegations of racial and gender discrimination. Both remaining investigators, including Bailey, are white males.

We also see a structural problem in all this: the PRC Office is answerable to the City Manager, who also oversees the Police Department. This fact diminishes the independence of the PRC, which was one of the founding ideals of the institution in 1973. City Manager Michael Brown was responsible for determining Berkeley's Mutual Aid request during the People's Park events of last summer, and he has made no secrets of his disregard for allegations of wide-scale police misconduct during those demonstrations.

The City Manager is also the only person with

disciplinary powers over police personnel. Even when a Board of Inquiry issues a strongly worded finding sustaining a complaint, this does not have any teeth in and of itself. Of the three People's Park complaints that have been sustained by the PRC thus far, we know of two where City Manager Michael Brown has ruled, sustaining the allegations in one case, overruling them in the other. In that last case, Michael Brown basically went along with the subject officer's version of events, disregarding the complainant's testimony and the Commission's findings. The complainant, Michael Ruth, replied with a letter of protest and indignation to City Manager Michael Brown (see page 7).

Another structural problem of the PRC is that it is not legally entitled to deal with complaints against police personnel of other jurisdictions. Only the Berkeley Police Department comes under its review. In a city where the University of California employs a substantial police force known for its brutality, this is a real problem. The UC Police complaint process is a sham. And when Mutual Aid forces are brought into town at the request of the BPD, they are accountable to no one. Most of the People's Park complaints that have been dismissed involved Mutual Aid forces (mostly Oakland Police Department) or UC police.

In its scheduling, the PRC has heard complaints against specific officers before policy allegations. If findings against specific officers are important as a deterrent to police brutality, policy boards play a vital role in viewing the larger picture of the wide-scale police violence that occurred last summer. Only one such board has been held thus far, to hear about five different incidents. We hope the PRC will have time to hear all of the policy complaints before it submits its final recommendations to the City Council about crowd management. We are glad that a one-day workshop took place last November around that issue, and COPWATCH was able to show a compilation of videotaping of the most outrageous incidents over People's Park. The tape showed munitions being fired at a crowd while no rocks or bottles were being thrown. In blatant contradiction with the official instructions, munitions were fired straight ahead and not toward the ground. A temporary munitions ban was voted upon by the PRC and rejected twice by the City Council last fall. This time, the PRC is scheduled to make a final recommendation on that matter and other items related to crowd management.

People who have lived through the four days of military occupation and terror in the Southside last summer will certainly find it incredible that only three complaints have been sustained five months later. Will the PRC throw its weight in favor of significant policy changes? Will the City Council listen at last to the Commissioners it has appointed? Certainly not without public pressure. Make public appearances at PRC meetings (second and fourth Wednesdays each month) and at City Council meetings.

(continued from page 8)

JAN. 18, 1992, 11:40 AM, IN FRONT OF CODY'S BOOKSTORE - A well-known homeless person (white male) was sitting on the ground. Two officers (UC ing and BPD Milner) approached and accused the man of being a crack dealer. The officers put on black gloves and threatened to hit him. Milner grabbed the man's right arm and twisted it, and threw him to the ground. Both officers roughed him up and pulled his hair. The man's friend verbally protested the beating and thus was also beaten up by the officers.

JAN. 20, 1992, 6:30-7 PM - CHATEAU CO-OP (Hillegass and Parker) - Several UC Police wearing bulletproof vest brought a search warrant to search the room of recently arrested Sayed Ali Wajihuddin (I-House). COPWATCHers were not permitted to observe. Police confiscated receipts for guns, an "explosive device," a smoke bomb, a calendar, and a housing contract among other things.

JAN. 25, 1992, 6:50 PM, PEOPLE'S PARK - Three people were digging in the park when UC officers Buchanan, Silverman and Victorian detained, IDed and videotaped them. The people were warned "not to dig."

JAN. 25, 1992, 8:20 PM, DURANT AND TELEGRAPH -

Berkeley Police Dept. Officer Parker stopped two white women in a car; they were cited for speeding and having no driver's license. Parker warned them to drive carefully, and they were free to drive away.

Note: When Black and Latino youths are found to have no license, their car is generally towed, even if someone with a valid license arrives to help move their car.

JAN. 25, 1992, 11:20 PM, TELEGRAPH and HASTE - UC Officer Jones (#5) was citing a white male (charges unknown). When COPWATCHers approached BPD Officer Meredith, who was sitting in his patrol car near by, started shining his flashlight in their eyes. When they asked why, Meredith said, "To better watch you!" When COPWATCH asked the officer to divert his light, an unidentified UC officer said in a daring tone, "These guys want to talk to us." The COPWATCHers did not feel safe staying in the area and thus retreated.

JAN. 28, 1992, 4:30 PM, SHATTUCK (near Vine) - BPD Officer Brezee (#69) told a man who was panhandling that he would be arrested if he continued. NOTE: Standing still and asking for money is not illegal. Berkeley has a city ordinance which prohibits "aggressive panhandling" (defined as approaching someone while demanding money.) (ie. threatening homeless people.)

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frankly find your assertions to be hypocritical and dishonest.

Very truly yours, MICHAEL F. BROWN, City Manager

[Comment: In this case, it would seem that City Manager Michael Brown's "assertions" are "hypocritical and dishonest". As long as one does not interfere with the police, the right to stand there and observe is covered by the First Amendment, and is also part of Berkeley Police Department's official policy. In its findings on the case, the PRC's Board of Inquiry expressly mentioned the right to observe, or, in the words of Commissioner Polly Armstrong,

"the right to gawk".

According to the City Manager, "when you go to an area which has a public safety problem such as a riot, fire, mass casualty event, etc., you become part of the problem". This sounds like an undeclared curfew. In his statements to the PRC at the November 13, 1991 meeting, Chief of Police Dash Butler emphasized that anything that amounts to a curfew would be "against the Constitution".

Michael Brown's track record is one of consistent contempt for the citizens of Berkeley and their constitutional rights. The serious consequences of his power in city government should be understood and his immediate dismissal demanded.]

SUPPORT COPWATCH

- ☐ Yes. I want to support COPWATCH with a donation so that you can continue to publish COPWATCH Report, purchase video tape and other essential supplies, and, yes, pay the rent on your office.

I am enclosing \$ _____ to help out.

- ☐ I would like to get COPWATCH Report by mail. Please add my name to your mailing list.

Name _____

Address _____

Phone _____

Return to: COPWATCH, 2022 BLAKE ST., BERKELEY, 94704

(continued from page 4)

some old phone bills. This blatant harassment is initiated by the court system itself.

One of the defendants in the slapsuit is alleged to have "thrown thorns into the volleyball court." Those who witnessed the incident recall the defendant dropping roses into the sand in an expression of tribute to the concept of open space. Regardless of how ridiculous the accusation against the four defendants are, they are required to appear in court and defend themselves against these charges. The University of California has fifty more, as yet unnamed, individuals that it intends to also drag into this process.

We must recognize that our local judges, district attorneys and public defenders all play a part in the misuse of our court system as an instrument to intimidate and control the poor, punish dissenters, and maintain an absurdly inequitable social and economic order.

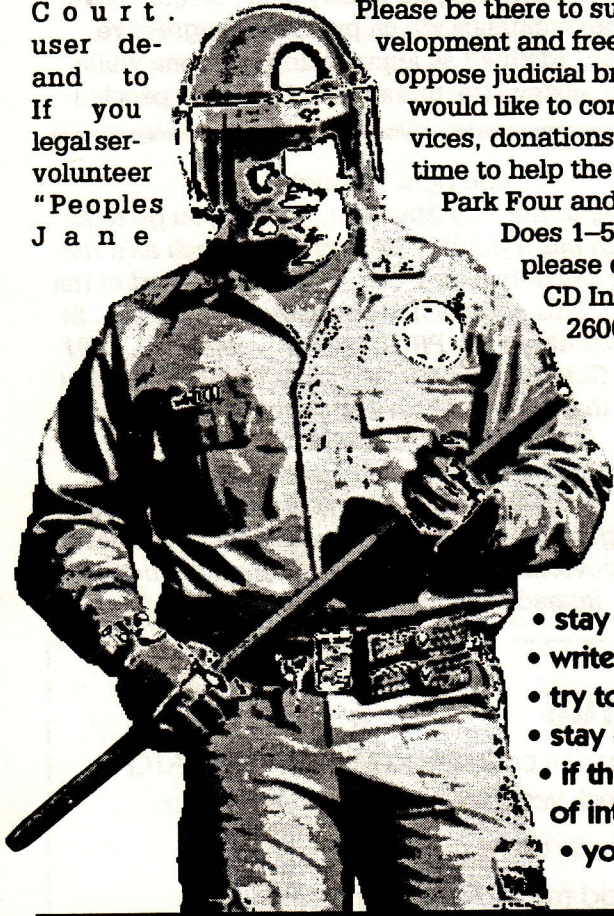
The next court date for the preliminary hearing on the TRO will be at 2PM, March 4 in Oakland Superior Court.

user de-
and to
If you
legal ser-
volunteer
"Peoples
Jane

Please be there to support
velopment and free speech,
oppose judicial brutality.
would like to contribute
vices, donations, or
time to help the

Park Four and John &
Does 1-50"

please contact
CD Inc. at 644-
2606.



IT'S YOUR RIGHT TO WATCH THE COPS!

If you see the police stop someone:

- stay there and watch
- write down badge numbers, names, the time, date, and place
- try to find out why the person was stopped
- stay close enough to hear what is being said
- if the police ask you to move, explain that you have no intention of interfering with their work and that it is your right to observe
- you can send or phone any information you get to COPWATCH

Rodney King ~ One Year Later

COMMUNITIES UNITE TO STOP POLICE ABUSE

National Day of Action
Tuesday, March 3, 1992

EAST BAY RALLY

Noon March 3

Biko (Sproul) Plaza
UC Berkeley Campus

SAN FRANCISCO FORUM

7-9 PM March 3

Mission Cultural Center
2868 Mission St.
(near 24th St. BART)

For info or to endorse call:
COPWATCH (510)548-0425

Sponsored by Bay Area Coalition for Police Accountability ~
Member Organizations: ACLU, CD Inc., Real Alternatives Project
(RAP), Copwatch, Dolores Huerta Coalition, Asian Law Alliance,
Communities United Against Violence (CUAV), SHARP, Racial
Violence Project of SFLCUA, Coalition for African American
Agenda, SF Human Rights Commission, Roots Against War,
Rock Against Racism

COPWATCH

2022 Blake Street
Berkeley, CA 94704

You are invited to our weekly COPWATCH meetings
Every Monday at 8 PM, 2022 Blake Street (near Shattuck)