

COPWATCH

Report

BERKELEY, CALIFORNIA

SPRING 1992

Abuse Victim Files Claim Against Police Chief

**Jury Acquits Carol Denney Despite
Testimony of Chief and City Manager**

A press release from David Beauvais, attorney for Carol Denney, says, "Carol Denney filed a claim on April 9 against the City of Berkeley, the City Manager, the Chief of Police and others, arising from her arrest and prosecution for committing a battery on police chief Dash Butler at a City Council meeting on November 5, 1991. She was acquitted of the charge by a Berkeley Municipal Court

jury on April 6, 1991, after the jury deliberated for less than two hours. Both Police Chief Dash Butler and City Manager Michael Brown testified that Denney had struck Butler in the groin with her elbow. In his closing argument, Deputy District Attorney Joe Eichorn told the jury that they should acquit Denney if they found that Brown and Butler had concocted the story that Chief Butler was as-

saulted. The jury also acquitted Denney of a charge of interfering with the arrest of another subject. Butler had testified that he witnessed Denney interfere, but photographs presented by the defense showed that it was physically impossible for her to have committed the crime. The claim seeks compensatory and punitive damages against Butler and Brown in the amount of \$5,000,000."

At the trial, Michael Brown testified that he saw Denney, from a standing position, strike Butler in the groin with a horizontal motion of her elbow.

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photos by SUSAN KAHN

▲ Carol Denney went to the November 5th Berkeley City Council meeting to speak against Berkeley Police use of plastic and wooden bullets for crowd control, but was forcibly removed and arrested.



◀ Butler.

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Dash Butler testified that he witnessed Carol Denney interfere with the arrest of Bob Sparks. However, the defense presented a videotape to the jury which showed two Berkeley police officers grabbing Carol Denney and hurling her to the ground, before Bob Sparks had been arrested. In his closing arguments to the jury, Deputy District Attorney Joe Eichorn said, "What it boils down to is an issue of credibility, because, obviously, somebody is not being totally candid with you. You cannot accept the testimony of Ms. Denney without saying that the officers, specifically Chief Butler, lied to you." ... "If you believe that they came in here and lied, then I ask you to acquit Carol Denney." After examining the photographs and the videotape, the 12 member jury voted to acquit Carol Denney of both charges against her.

In a recent KPFA interview with Dennis Bernstein, Attorney Beauvais said "This was not a case where there was any issue of self defense, any issue of mistake, or lack of intent, or any confusion either on the part of Michael Brown or Chief Butler that this offense had been committed. Our defense was that it did not occur."

The five million dollar claim against Butler and Brown says, "I was falsely arrested and charged with battery upon Police Chief Dash Butler and interfering with an arrest being made by Officer Hester of the Berkeley Police Department. The arrest occurred in the course of a meeting of the Berkeley City Council. I did not at any time commit a battery upon Chief Butler or interfere with the arrest of any other person. I was removed from the meeting through the use of pain compliance holds and held in jail for two days under excessive bail. I was tried in the Berkeley Municipal Court and acquitted on April 6, 1992."

COPWATCH Report

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

COPWATCH
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"Since November 5, 1991, I have been singled out for special attention by Officer Milner who has selectively cited me for jaywalking on Telegraph Avenue and has accused me of child neglect in Peoples Park."

The claim for damages includes compensation for attorney's fees for defense in the criminal action, a statutory civil penalty in the amount of \$25,000 pursuant to the Unruh Civil Rights Act, and additional damages calculated on the basis of the following tortious acts and constitutional violations: "(1) Violation of my rights under the First Amendment of the United States Constitution, (2) Violation of my rights under the Fourth Amendment of the United States Constitution, (3) Violation of my rights under the Eighth Amendment of the United States Constitution, (4) Violation of my rights under the Fourteenth Amendment of the United States Constitution, (5) assault and battery by Butler, Mansfield, and Lau, (6) False arrest and imprisonment by Brown, Butler, Mansfield, Lau and Hester, (7) Violation of Civil Code Section 51.7 by each of the above named City employees, (8) Abuse of process in that each of the named City employees caused the criminal action to be brought with an ulterior purpose, i.e., to discredit me for my political beliefs and associations and to advance their own political agenda, (9) Malicious prosecution based upon filing of the criminal action against me without probable cause and with malice, (10) Pain and suffering and emotional distress brought about by my arrest, incarceration, and criminal trial, (11) Punitive damages against each of the named City employees for conspiring to deprive me of each right enumerated herein."

In the KPFA interview, Carol Denney said, "I'm outraged that a city that agrees with the University to spend two million dollars on volleyball, would take civil rights so lightly. I was brutalized and humiliated, not just there in the City Council chambers, but this was carried on Channel 5 news. It went all over the Bay Area with no explanation that I had committed no crime."

On April 9, the same day that Denney filed her claim, a front page story in The Daily Californian quoted City Manager Michael Brown as saying, "Butler is doing a superb job and morale is up." Councilmember Carla Woodworth was quoted as saying, "He is unusual. I hope Berkeley can keep him."

COPWATCH T-SHIRTS

are available and can be purchased by mail. Send your order to our office, including \$12 per shirt and the size(s) that you want. Or call us to arrange getting one from our office.

Martial Law In Oakland?

BY SUSAN WELCH

On March 19th, Oakland Mayor Elihu Harris announced a handful of proposals to address the problem of the rising homicide rate in Oakland. They included declaring a local state of emergency, establishing a curfew, setting up police checkpoints, and erecting barricades in "high crime" areas. These proposals were drafted at a meeting on March 17, attended by numerous law enforcement officials from various federal, state, and local agencies. Among Harris' advisors was Richard Held, a representative from the FBI and, more notoriously, the chief engineer of COINTELPRO (Counterintelligence Program), a domestic covert operation targeted against activist movements inside the U.S.

Harris' proposals appeared to have come as an immediate response to a recent wave of violence in Oakland, which had reached a record high for the year during that week. Harris' aggressive proposals could have been predicted, given the national trends of increased surveillance and police power over the last 10 years. While the desperation and grief of the Oakland community should not be underestimated, neither should we assume, as Harris seems to, that people are ready to turn over their rights in exchange for more crime control.

On March 24, Harris backed off from his ideas of declaring a state of emergency and setting up police checkpoints. His "new improved" plan, however, still includes establishing a curfew, among other measures that border on the unconstitutional. While he acknowledges that long-term as well as short-term solutions are necessary, his short-term proposals are volatile and pose a serious threat to civil liberties. In this article I will comment on a few of Harris' proposed policies: curfew, weapons control, drug policy, and community policing. To find out more about Harris' full plan, you can get a free copy from the Mayor's office.

CURFEW: A VIOLATION OF THE FIRST AMENDMENT?

The Mayor has stated: "I am proposing that the City Attorney work with the Police Department and collect data on the number of juveniles (under 18 years of age) involved in crimes as suspects, victims and witnesses after 10 p.m.. Based on that data, I am requesting an appropriate curfew ordinance be drafted and presented to the City Council."

Harris claims that this "rational" curfew policy would not be unconstitutional because it would not bar so-called "legitimate activities". There is no doubt that the determination of "legitimate activity" will be

based upon the color of one's skin, if left to the Oakland Police Department, which has a poor track record of racist harassment, brutality and killings. (Over 700 complaints have been filed with the Citizens Complaint Board since 1980). In effect, Harris' curfew policy could criminalize legitimate recreation, the outcome of which would be many more innocent young black men hauled off to jail.

Besides being an ageist violation of the first amendment right to peaceable assembly, this is yet another way to transfer monies from low income parents to high income law enforcement agents. For now, Harris is merely "calling on parents to keep their children home after 10 p.m." Precedent has already been set in Atlanta, however, where, starting in November of 1990, parents were charged with misdemeanors and sentenced to 60 days in jail or fined \$1000 for failing to pick up their child who was in custody for a curfew violation, regardless of their efforts to keep their child at home. If a root of the crime problem is the dissolution of the family, as Harris himself has said, is this the way to improve family ties?

WEAPONS CONTROL: A VIOLATION OF THE SECOND AMENDMENT?

The Second Amendment of the Constitution states: "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

We have the second amendment for a reason. It insures the citizens that the state's armed forces will not be the only ones to have weapons.

The Oakland City Council has already adopted an ordinance that proponents say is "one of the toughest local gun control laws in the state." It is just one of a handful of measures city officials hope to enact in the coming months. Harris has signed on to these aggressive proposals and added some of his own. Among them are: fine or jail for parents of children using firearms, forfeiture of any vehicle in which a gun is illegally transported, and a prohibition on use of firearm or projectile weapon by any person within the City of Oakland (by "any person" does he mean to include cops?). He also intends to enact numerous regulations on buyers and sellers of weapons.

It is good to remember that the most elaborate of regulations will not address the fact that most homicides are committed with the use of illegal guns anyway. Each of Harris' policies is one more step toward further disarming the law-abiding public. How far away is that only cops and criminals (and criminal cops) will soon have guns?

DRUG POLICY: VIOLATION OF THE FOURTH AND FIFTH AMENDMENTS?

Harris proposes that we focus our street level enforcement efforts against buyers of drugs and

(continued on next page)

"...that the City sponsor legislation in Sacramento to allow for the forfeiture of any vehicle transporting any usable amount of drugs."

Imagine: someone has a marijuana cigarette in their car (it could even have been planted or prescribed), and their car (or perhaps their friend's car) is seized, regardless of its value. Such seizure of private property is unreasonable (i.e., violates the Fourth and Fifth Amendments). Such a policy could easily make people jobless (if they use their car to get to work), and possibly even homeless, once the downward spiral has been set in motion.

Harris' rationale for shifting the focus from drug sellers to drug buyers is that a "revolving door" has been created in the overcrowded courts, jails and prisons due to mass arrests of drug dealers; drug dealers are arrested and back on the streets the next day. So, he says, we need a change of strategy: "We need to clearly demonstrate that anyone who buys drugs in Oakland will be arrested." This makes no logical sense. He proposes to solve the problem of too many arrests by multiplying the number of arrests more than tenfold.

With the national "War on Drugs" and "Zero Tolerance" campaigns, we have seen the rise of urine tests, routine searches, unreasonable seizures, invasions and evictions. The Comprehensive Violent Crime Control Act of 1991, still in effect, permits the court to use evidence seized in violation of a person's Fourth Amendment rights if police made a "good faith" mistake about the search's constitutionality. In effect, this provision makes it legal to search and seize until you get lucky. If guns or drugs are found, no pretense of "good faith" is necessary. This combined with the May, 1991 Supreme Court ruling that people who are arrested without a warrant may be imprisoned for as long as 48 hours while awaiting a judicial determination of whether the arrest was legal or not, demonstrates that, as Ira Glasser, Executive Director of the ACLU in New York, has stated: "We have created a drug exception to the constitution."

COMMUNITY POLICING: VIOLATION OF THE FIFTH AND SIXTH AMENDMENTS?

The Fifth and Sixth Amendments insure that citizens need not bear witness against themselves, that they be informed of the nature and cause of accusations against them, that they be confronted with witnesses against them, and that they have a right to counsel for their defense. These protections were made moot, when, on March 26, 1991, the Supreme Court ruled that the use of coerced confessions in a criminal trial does not automatically invalidate a conviction. This undercut the precedent made by a 1967 Arizona case that was forced to retrial, in which a man charged with murder incriminated himself with a fellow prison inmate who was an informer of the FBI.

This new ruling means that there is now nothing to lose for an undercover FBI agent to force a confession. This is good to keep in mind as we evaluate Harris' new plan for "community policing" in Oakland.

Harris has requested 41 new police officers, based on a new law enforcement philosophy called "community policing." This method is growing in popularity across the country. Lee Brown, the president of the International Association of Chiefs of Police, advocates for it. The Christopher Commission, a commission calling for the resignation of Chief Gates after the Rodney King beating, is recommending it for L.A.. Oakland has been heralded a model of community policing around the country, and, says Harris, Oakland is a "national prototype for multiple agency coordination" (read: intimate FBI involvement).

The philosophy of "community policing" is to shift from crime control to crime prevention. Rather than basing police success on the number of arrests made, or the time responding to incidents through the 911 system, police officers would step out of their cars and into the neighborhoods. There they would solicit community help to prevent crime and solve community problems. On the face of it, it appears almost benevolent; there is a sinister side, however, that we should be on guard for:

1) PROPAGANDA CAMPAIGN: "COPS JUST WANNA BE YOUR FRIENDS" — Harris says of the foot patrol: "Their service could range from getting new street lighting to helping somebody get into a substance abuse program." That's nice, but why are police needed to do this? This is something communities could be organizing themselves to do, and are. It takes a lot of nerve for a city with closed City Council meetings to assert that it is now going to have police officers solve neighborhood problems in "alliance" with the community. Such a "friendship" between cops and citizens that is manipulated by and imposed by the Police Department just begs for corruption.

2) FERRETING OUT THE "CRIMINAL ELEMENT" — Harris says of the foot patrols: "Working with the Community Crime Prevention Councils, they could ferret out the criminal element before they commit their crimes." Who and what is the "criminal element"? (young black men?). For cops to try to catch crime before it happens means to make a lot of assumptions and a lot of mistakes. Just ask any of these Oakland citizens: Oakland Police jumped Barbara Dean and beat her head against the car for jogging; they beat Darrell Hampton for asking officers not to speed through the housing project because there were children present; they beat Marguerite Martin, for refusing to sign a jaywalking ticket; and they beat Robert Woods-Jones brutally with no provocation; and on and on... They will tell you that the "criminal element" can be anyone (especially anyone of color), doing anything.

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Rape and Assault Under Color of Law

**Police Officer Bernard Riley,
one of Oakland's finest?**

BY NINA KAY GELFANT

In August 1983, Oakland Police Officer Bernard Riley was terminated after having been found guilty of using excessive force—beating an already subdued, hand-cuffed prisoner—and for being untruthful in the subsequent Internal Affairs investigation. On April 1, 1985, Officer Riley was reinstated as an police officer, his termination being changed to a suspension without pay. In 1986 Officer Riley sued the city of Oakland for his back pay. The courts denied that request. At the time of his termination Officer Riley had sustained three disciplinary actions against him. In 1988, Officer Riley sustained two more disciplinary actions, bringing his total to six.

In January 1989, Oakland Police Officer Bernard Riley was arrested on five felony counts. Two counts sexual battery, two counts forced oral copulation and one count rape. I am the survivor of these attacks. Perhaps not surprisingly, the District Attorney decided, after a three month investigation not to press criminal charges. At the time, and to this day, the DA's office maintains that they always believed my claim, but they were unconvinced that they would get a jury conviction. Although discovery has produced documents which indicate that OPD intended to terminate Riley—again—he was retained by the department. He received a 20 day suspension without pay and was required to attend an employee assistance alcohol abuse program as "punishment" for this incident.

I filed a civil suit against both Officer Riley and the City of Oakland. The case is scheduled to be heard, shortly, in federal court. The city is claiming that they had no indication that this officer was predisposed to violence and that they are not responsible for his actions. Officer Bernard Riley is now patrolling the beat which borders mine. I see him driving around in his marked patrol car, in full uniform *protecting* my very own neighborhood!

Officer Riley's employment history is protected, as are all police employees, by layer upon layer of confidentiality. As an ordinary citizen, I have no right to privacy. All my psychological and medical records, as well as my personal history, are in the hands of the city attorney, Karen Silverstien, and Riley's attorney, Charles Triebel. Officer Riley was given my statement regarding this crime, as well as all the documents pertaining to the investigation prior to his making a statement to Internal

Affairs. His statement regarding the events reflects this "insider" information. His manipulation, transparent as it is, was clearly reflected in the sworn statement he made during the IA investigation.

The Oakland Police Department's history of hiring and retaining violent, dishonest police officers is well documented. Many of these officers have been disciplined and lost civil litigations brought against them, and still they are retained. This blatant disregard for the safety of the citizens of Oakland is a direct result of the pervasive attitudes of negligence and contempt for the law exhibited by Oakland Police Chief Hart. An attitude which trickles down to his subordinates. The atmosphere of violence and intimidation is also an absolutely clear reflection of the attitudes of Oakland Mayor Harris, the Oakland City Council, City Manager Gardner, and City Attorney Jayne Williams and staff. They are willing to allow the people of Oakland to remain vulnerable to the dangers of a band of outlaw police officers, who roam this city unsupervised and unchecked.

The city has no policy for pro-active intervention to assist cops who show all the signs of becoming abusers. Police officers who sustain disciplinary actions are not provided, or required to undergo, counseling. When these officers return from their suspensions they are given no special supervision but are, in fact, returned to their duties, often angry and bitter at the treatment they received from the department. No attention is given to the initial problems, of which their aberrant actions are only symptoms.

Without systemic and radical changes in the policies of our city leaders and the administration of the OPD, we will see a rise in violence by police against citizens. I have learned the hard way how the police department's ostrich approach is an endangerment. I live everyday with the trauma that a rape survivor faces, compounded by the fact that my assailant was a cop, a cop who is still on the streets with a gun and absolute power. We must, as a community and as individuals, muster the courage and commitment to speak up and out. We must demand that our elected and appointed officials work actively and quickly to halt the tide of violence which some of these police officers are perpetrating on our city.

COPWATCH is having a fundraiser

GARAGE SALE

**10am – 6 pm, Saturday, May 2
2022 Blake Street, Berkeley**

We need your donations of unwanted stuff: furniture, clothing, housewares, records, books, you name it...you call us, we'll pick it up and try to sell it to somebody. Call 548-0425 for info or to donate. See you there!

Cops Without Badges

A Chronology of PRC Complaint #1332

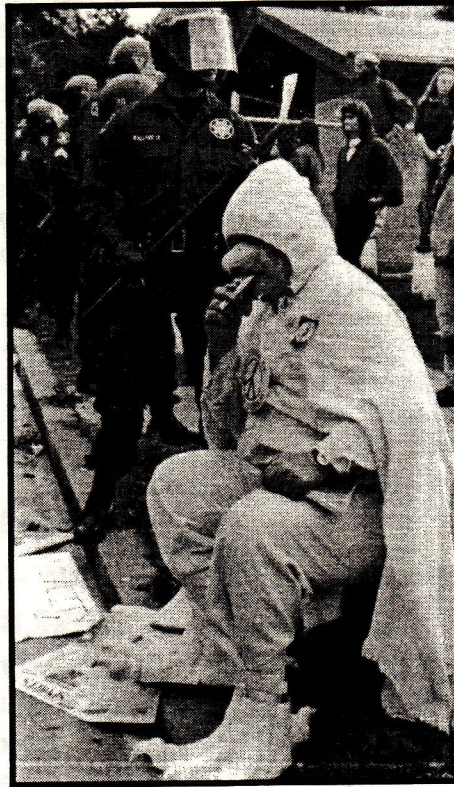
AUGUST 2, 1991, ABOUT 7:00 PM — The complainant, Aaron Handel, photographs several uniformed police officers from the Piedmont Police Department during the Peoples Park demonstrations who fail to wear visible identification, a violation of Penal Code Section 830.10. The complainant asks to see the officers' badges and name tags, but the officers do not respond.

AUGUST 2, ABOUT 12:00 MIDNIGHT — BPD Inspector Al Bierce, the liaison officer for the Piedmont police, is videotaped in close proximity with, and directing, the same Piedmont police.

AUGUST 3 — BPD Inspector Maloney, the liaison officer for the Hayward Police, is photographed and videotaped with his group of more than 10 Hayward officers. Inspector Maloney is told by Eileen Luna, former chief investigator of the Berkeley Police Review Commission, that the Hayward Police are without any identification and in violation of California Penal Code. Luna tells Maloney, "You've got to get them to put their badges back on." Maloney responds, "I can't do anything about it." Police from other departments, including Albany and the East Bay Regional Parks District, are photographed and videotaped without their identification.

OCTOBER 8 — Inspector Maloney, in his statement to the PRC officer, in reference to the Hayward Police who were without identification says, "I suppose you could say it was a bit of an attempt to conceal their identity."

OCTOBER 28 — Complaint #1332 is filed with the Police Review Commission, naming Inspectors Maloney and Bierce, and Police Chief Dash Butler as subject officers. The complaint charges these officers with "failure to exercise proper authority, supervision, and control" as well as failure to investigate, failure to make a police report, failure to arrest, and failure to intervene. An abuse of discretion charge is subsequently added. The complaint says "Most importantly, all commanding officers, including Chief Dash Butler, who knew, or should have known of this misconduct, bear a special burden because of their high positions of responsibility, to take the appropriate action necessary to prevent this misconduct and discipline those who engaged in it."



Cops with badges.

BRENDA PRAGER

OCTOBER 29 — The complainant is informed by PRC staff that his complaint has been "lost."

NOVEMBER 13 — Chief Butler tells the PRC, "OK, I that, that, well, a, there wasn't a lot of officers, it was one unit, so the police department that for a short period of time, did in fact take off their badges." Butler then said that these police had "another form, or another device" for identification.

JANUARY 13, 1992 — Inspector Bierce, in his statement to PRC officer Bob Bailey, was asked about the Piedmont police without identification and said "I may have seen it, but it never—it never registered." Bierce added, "What I'm saying if I looked at that guy, I would have to see that he didn't have a badge."

FEBRUARY 3 — Forty-one photographs and six videotape segments, and a list of witnesses are presented to the PRC investigator. Inspector Maloney and several witnesses are then interviewed by PRC staff. In his statement, Maloney says that Eileen Luna "told me it was a violation...I remember her wanting me to take some action."

FEBRUARY 11 — The complainant, represented by attorney Jim Chanin, appears before the PRC Board of Inquiry convened to hear the complaint. Two members of the Board, Polly Armstrong and Sally Power, vote for summary dismissal of the entire complaint without hearing any of the evidence. The third member of the Board, Arlene Irlando, strongly dissents.

FEBRUARY 19 — The complainant files a Petition for Re-Hearing on the grounds that the dismissal was not made "by unanimous vote," nor was the complaint

found to be "clearly without merit," both conditions being required by PRC regulations. The complainant requests that the two member of the board who voted to dismiss the complaint disqualify themselves from the new board "due to the obvious, apparent bias and prejudice exhibited."

FEBRUARY 26 — The PRC unanimously votes to grant the Petition for Re-Hearing. Commissioners Power and Armstrong agree to disqualify themselves from the new Board of Inquiry.

MARCH 17 — Complaint #1332 is heard before a reconstituted Board of Inquiry and the evidence is presented. Attorney Jim Chanin says that the Berkeley Police Department failed to do anything about the numerous officers without identification because they didn't want to do anything about the problem.

APRIL 1 — The PRC, on a 3-0

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Tien admits UC cops accountable only to administration

[What follows is an exchange of letters between COPWATCH and UC Berkeley's Chancellor regarding the existence of a mechanism to handle complaints against UC Police]

Dear Chancellor Tien,

It has come to our attention that, despite a 1985 campus-wide referendum supporting the creation of an External Review Board to oversee complaints of police abuse, and in violation of the trust of the community, the UC Berkeley Police Review Board has ceased to function.

We believe that the same, flawed internal review process that allowed officers involved in the "Moffitt Library Incident" of 1985 to cover up and lie about their misdeeds, remains today as the only process by which civilian complaints are addressed. This is intolerable.

Further, we believe that it was the intention of UC Officers appointed to the committee to subvert the process from the outset, and to prevent its successful implementation. As Officer Huff, one of the officers put on the board said, "The Chancellor will set something up, we will battle it for six months or a year, and then we'll go back to business as usual. Whatever happens, it's going to fail again because we don't want it." (Daily Cal, Jan. 31, 1986). He was suspiciously accurate.

In short, we demand an outside investigation of why the external review process failed, and further, we demand that an Independent Civilian Review Board be established which makes the UCPD accountable to the citizens of Berkeley and not just to each other.

COPWATCH

Dear members of Copwatch:

This is in response to your petition left with Vice Chancellor Boggan requesting establishment of a campus police review board.

Copwatch should know that the University of California at Berkeley already has a police review board, since the University periodically takes out advertisements in the Daily Californian to inform the campus community. The most recent was January 22 of this year.

The Police Review Board was established by Chancellor Heyman in 1986 to administer citizen complaints against officers of the University of California Police Department. The Board is chaired by a senior faculty member appointed by the Chancellor. The current chair is Jerome Skolnick of the Law School.

Membership consists of two additional faculty members recommended by the Academic Senate, two students selected by the ASUC and the Graduate Assembly respectively, a staff member recommended by the Staff Ombudsperson, and a retired police officer not previously employed by the UC Police Department.

Complaints may be filed at the UC Police Department, the ASUC Student Advocate's Office, or the Office of Student Activities and Services. All complaints are immediately forwarded to the Chair of the Board as well as to the Chief of Police. In the normal complaint process, a complaint is investigated internally by the police first, and the complainant is informed of the results within 45 days of the initial complaint. At that time, the complainant is informed that he or she can appeal the decision to the Chancellor's Police Review Board if not satisfied with the results. This appeal must be filed within 30 days. Although advisory in nature, the review board is authorized to initiate its own independent investigations and has done so.

With respect to other comments contained in your letter:

—*The Police Review Board has ceased to function.* The Police Review Board is a standing committee with full complement of members. Complainants are regularly notified of their right to appeal complaints to the Board, and the Board acts on these appeals.

—*It was the intention of UC officers appointed to the committee...* There are no UC officers appointed to the Board. The former police officer on the Board is a retired member of the City of Berkeley police force.

—*Officer Huff, one of the officers put on the Board...* Officer Huff was never on the Board. He was one of 13 members of the Committee on External Review, an ad hoc committee which proposed the current Police Review Board.

—*We demand an outside investigation of why the external review process failed...* The process has not failed, and I see no reason to appoint an outside investigator.

—*We demand that an independent Civilian Review Board be established which makes the UCPD accountable to the citizens of Berkeley and not just to each other...* The University of California Police Department is neither accountable to the citizens of Berkeley nor to "each other." It is a campus police force accountable to the campus administration. Our Board is comprised of members of the campus community—faculty, staff and students—and I believe it is eminently qualified to advise the administration on complaints against campus police officers.

Sincerely,
Chang-Lin Tien

Chancellor Tien:

Thank you for responding, however you seem to
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Cop Blotter

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

FEB. 22, 1:30 PM, NEAR PEOPLES PARK — Officer Goss, UCPD #72, approached a male who appeared to be homeless and reached for a brown bag next to him. Goss reached inside and found that it was a bottle of beer. At the same time, a couple having a picnic had a bottle of wine and nothing was done to them.

FEB. 25, ABOUT 6:00 PM, WEST BERKELEY — With guns drawn and the street closed off, an estimated 30 BPD officers were involved in the arrest of two brothers for allegedly stealing a car. Charges were later dropped when it was noticed that the "stolen car" was registered in their name and had been parked in front of their house.

FEB. 29, 11:00 PM — BPD Officers Kent (85) and Stern (74) were observing a conflict resolution between a vendor and a pedestrian. When things worked out, a COPWATCHer asked then unknown officer Stern for his name and badge number. He said he didn't have to identify himself to us. He got into his car, drove a few feet, then got out of his car, walked past the COPWATCHer mouthing his name and badge number, got back into his car and left.

MAR. 9, 11:00 AM, PEOPLES PARK — On the day construction of the basketball courts began, COPWATCH witnessed at least ten people who were not resisting arrest being subjected to pain compliance holds by UC cops during their arrests.

NOON — While a protester who had chained himself to a table in the park was being cut lose by Lt. Lopes, a woman got in position with her video camera to tape the arrest. Officer Roe, UCPD #81, tried to push the woman over and put his arm in her view. A COPWATCHer present asked Roe about the right to observe and he pulled back.

9:05 AM, HASTE ST., WEST OF BOWDITCH — Two police cars were blocking the street to auto traffic but allowing pedestrians through. A man tried to walk through and an unidentified cop grabbed him and pushed him to the police van. The man asked what he was being arrested for and the cop replied, "Being a dick. This is a no dick zone." The man was kept in jail seven hours, posted a \$1000 bail, and charges were dropped.

MAR. 20, 10:00 PM, TELEGRAPH AVE. — A man was arrested by BPD Officers Lyles and Meredith for posting flyers.

MAR. 30, 5:40 PM, HASTE AND BOWDITCH — Officers Cooke and Tejada (UCPD) stopped three Filipino men for urinating in public. They illegally searched their car and their persons. When a COPWATCHer asked what was going on, Cooke

instructed her to be quiet, that she was interfering. He told her to move down the street, and when she didn't, he pushed her.

MARCH 1992 — A man with a partially broken leg was put in jail. His crutches were taken away and he was given one very short crutch with only metal on the bottom. He slipped because of the crutch and completely broke his leg. He was denied medical attention for five days.

APR. 4, WEST BERKELEY — A BPD officer arrested a young African American man, who was sitting in his car. He was charged with being under the influence of alcohol. Police had no evidence of the alleged crime and the arrestee had to demand that the police give him a drug test to prove his innocence.

APR. 6, 11:30 PM, TELEGRAPH AVE. — Officers Presiado and Dunkle (UCPD), and Rateaver (BPD), stopped because Presiado saw a man passing what looked to her to be a marijuana cigarette. It turned out to be a tobacco cigarette. She then examined a bicycle at the scene on which she could find no serial number. Presiado put the bicycle into the trunk of her patrol car. A COPWATCHer approached and asked if it was suspected of being stolen property. After a verbal exchange with the COPWATCHer, Presiado removed the bike from her car.

APR. 9, 11:50 AM, STUDENT UNION STEPS, UC CAMPUS — Officer Macedo and a rookie officer approached a homeless man on campus and said "It's about time to do a warrant check on you." He was handcuffed after a few minutes and told that there was a warrant for him. When asked what the outstanding warrant was for, Officer Macedo simply responded "I don't know" and took the man to jail.

APR. 14, 10:00 PM, DWINELLE HALL, UC CAMPUS — UC officers entered Room 223 in order to arrest an African American man for trespassing. Even though the man explained that he was a student with the UC Extension Center, officers still arrested him. After detaining him for several hours, they told him they would "check on" his student status.



Communities Unite to Stop Police Abuse

Bay Area Coalition for Police Accountability Statement

In the wake of Rodney King's beating, incidents of brutality continue to rise rather than diminish. This is because the message being given to police officers from their supervisors is "Don't worry, we'll protect you." Instead of four cops on trial, every officer who witnessed that incident should be taken up on charges as an accessory.

It has become clear in this time of shrinking budgets that our politicians are unwilling to address social issues in any serious, solution oriented way. Rather they choose to make poverty a criminal offense, and try to control it with increased "law enforcement." Instead of housing, we get anti-sleeping ordinances. Instead of jobs, we get anti-panhandling laws. Instead of rehabilitation programs, we get mass incarceration and harsher laws.

Instead of education we are given more police to scatter, harass, and intimidate our young people. Instead of freedom, we are given more prisons and fewer opportunities to improve our communities.

We are tired of racist police being coddled and apologized for, but not fired. We are tired of police review boards that are so structurally flawed and subverted from above and within that their findings never actually improve the quality of the law enforcement or bring criminal officers to justice. We are fed up with police officers being allowed to function behind a blue wall of silence that enables them to act more like street thugs than civil servants.

It is the time to make not only police officers, but their commanders, politicians, and policy makers accountable for the wars they wage against our neighborhoods. We will put the issue of police accountability on the national agenda because we are determined to live in a free and open society where the rule of law applies to all people equally, even if they wear a badge.

We are calling on communities to unite to stop police abuse. Besides fighting legal battles against violent officers and unjust police policies, every citizen must take responsibility to keep an eye on the police. The Bay Area Coalition for Police Accountability wants to encourage all people to take an active interest in the quality of the law enforcement services they are currently receiving. We encourage people to stop, when they see the police at work, and watch how they conduct themselves. At times the police won't like it, but we must teach them that, like it or not, they must respect our right to observe them. At times it is a frightening proposition to pull up to a cop and begin watching, but if we are scared of our own police when we are acting within our rights, it surely indicates the necessity of making our police accountable to the communities they serve.

Mission Statement of the Bay Area Coalition for Police Accountability

The BACPA is a chapter of the National Coalition for Police Accountability. We have come together because we recognize that incidents of police brutality are on

the rise in the Bay Area and across the country. We attribute this not only to incidents of individual officers breaking the law or departmental rule, but also to governmental policies that institutionalize police violence as a means of social control.

We recognize that increasing crime rates are directly related to our declining economy. However, we are determined that systematic police violence and intimidation will not be

accepted as a substitute for crime prevention, social services, rehabilitation and community involvement.

As a network of concerned citizens, community groups and civil rights organizations, we are especially committed to supporting and coordinating grassroots political efforts to end police violence. Toward this end, we strive to become a clearinghouse for information both on incidents of police misconduct and the community groups attempting to stop these practices. We would also help coordinate community education and outreach by providing speakers and serving as a distribution hub for literature, information and ideas. Interested groups and individuals should contact BACPA c/o COPWATCH at (510)548-0425.



(continued from page 7)

have missed the point. While it is true that you periodically inform the campus community about the existence of the "Police Review Board," we have yet to see any proof of its existence.

The body which you currently refer to as a "Police Review Board" exists in name only, and performs none of the functions generally associated with a "Police Review Board." It does not meet regularly, it doesn't keep records, it does not make itself available to the public, it does not make policy recommendations and it does not publish minutes of its meetings. When police fail to inform individuals of the existence of the board, or when police investigations drag on for 10 months beyond the "required" 45 day limit, there is no board overseeing the process. Please correct us if we are wrong, but it seems the board has only met twice in its five year history. Most of all, the Police Review Board doesn't seek to improve the UC police force. Its overriding function is to prevent the force from having to change at all.

With respect to other comments contained in your letter:

1. "The PRB is a standing committee" - If it is a standing committee, where is it? How can we find it? There is no direct contact number, address, or meeting time for this so-called "board." Complainants, while given the "option" of appealing the decisions are given not one piece of literature describing how this so called body works.

2. "Officer Huff, one of the officers on the Board" - We stand corrected. Please strike the word "Board" and insert "Committee." Regardless, officer Huff set out to make the board useless through his participation on the committee charged with establishing external review. In his own words, "Whatever happens, it's going to fail because we don't want it."

3. "The Process has not failed." - When women are hog-tied in their jail cells and sexually harassed, when people filing complaints are themselves threatened, when Berkeley citizens are subjected to routine harassment including, but not limited to, the arbitrary confiscation of unlicensed bicycles, when a Berkeley Police Review Commissioner can be publicly beaten by your officers without any public review of the officers or policies involved, we consider the Review Process to have failed.

4. "The University of California Police Department is neither accountable to the citizens of Berkeley nor to each other. It is a campus police force accountable to the campus administration." - Well Chancellor, if the UC police officers are only accountable to the administration then maybe you should keep them where you can see them. It is disappointing to see that you have failed to grasp the concept that the UC force is part of State Institution and therefore, accountable to the people of California - i.e. the people of Berkeley and the students. In addition, regardless of legal loopholes,

we had hoped that you would be more open to public participation in finding ways to improve the department. If nothing else, we find it disturbing that you feel the UC force exists only to serve the "needs" of the UC administration and to, essentially, act as a private army to implement policy decisions of the administration.

Back in 1985, the Moffitt Library Incident forced the campus community and the people of Berkeley to take action to stop UC police from driving their cars into groups of protestors and drawing their guns on students. Chancellor Heyman promised the community that he would implement an External Review Board. After many months and even more maneuvers by UC, the police were able to subvert the process. When Dan Boggan, former City Manager and current Vice Chancellor decided to recast the External Review Board as a board of appeal to be utilized only after the internal investigation took place, the prospect of civilian oversight was doomed.

We believe this is a travesty and a breach of the public trust. Therefore, we repeat: Independent external review for the UCPD, now.

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vote, sustains the abuse of discretion allegation against Inspector Maloney. "The entire Board felt that Inspector Maloney was made well aware of what was, to the Board, shocking and frightening conduct by mutual aid officers. The evidence was overwhelming that a number of concerned citizens went to great lengths to point the illegal conduct out to Inspector Maloney, and his own admission that he allowed SEVEN HOURS to elapse before taking any real action to address the problem was very disturbing. The removal of badges by police officers is not only illegal but evokes a frightening specter of a totalitarian police state. It is precisely the type of conduct which the penal code forbids, and which Inspector Maloney was both legally and morally bound to address in a timely manner. It was disturbing to the Board that Inspector Maloney did not think that the removal of badges was a serious matter. It is to be hoped that this can be prevented in the future."

APRIL 3 - City Manager Michael Brown issues his findings and overturns the decision of the PRC. "I have investigated this incident and have determined that Inspector Maloney acted appropriately."

THE PRESENT - An entire section of the Berkeley Police Department, the "Special Enforcement Unit," continues to operate on a daily basis without any visible identification.

APRIL 22 - As this goes to press, Chief Butler claims, at the PRC meeting, that the Special Enforcement Unit's lack of identification was only recently brought to his attention, and that he is correcting this situation.

Homeless by Court Order

Dear Judge Conger,

My name is Cleveland [redacted] and I have lived at 1229 [redacted] St., my mother's house, all of my life. Recently, my mother became so ill that she was no longer able to continue living at home. She is now at the Fairmount Hospital. Meanwhile, my sister Barbara is acting as conservator of the property. My brothers and sisters and I were staying at the house when my mother became ill. A few months later, after she was hospitalized, Frank [redacted] moved into the house at my sister Barbara's request.

Frank [redacted] has consistently used drugs inside the house. He pays no rent. While Barbara is the legal conservator of the property, she does not yet have power of attorney. My sister, Opal, moved out of the house because she could no longer tolerate the situation.

On December 14, 1991 my brother Bill and I confronted Frank [redacted] about his drug use in the house. He responded by pulling a knife on us. Bill got a lawn edger to defend himself with. I convinced Bill not to fight Frank. Bill left the house. When the police arrived, Frank lied to the police and I was arrested. I pleaded no contest (on advice of the public defender) to charges of misdemeanor assault on 1-6-92 in order to get out of jail. After I entered my plea I was informed that I would no longer be able to go to my house.

I find this to be extremely irrational and unfair. I am now homeless because a drug abuser moved into my home, refused to leave, and called the police on me. In addition, I have reason to believe that items which I own and keep at my home have been sold by Frank [redacted].

I am asking the court to please reconsider my stay-away order. I believe that if you look closer at this situation you will find that Frank [redacted], a man that my mother specifically forbid to come to the house, is now essentially in control of the property.

Yours Truly,
Cleve [redacted]

COPWATCH Note: In addition to being barred from his house, Cleve has now been issued a stay-away order from the Berkeley Police Department in the so called "Hall of Justice." This judicial brutality unfolded after Cleve went to the Hall of Justice Feb. 26, 1992 at 8:30

a.m. to file a report against Frank for stealing Cleve's radio and hygiene supplies. After making a hasty report, Officer Cooke stated that maybe he would and maybe he wouldn't investigate the complaint. Concerned that Officer Cooke was going to ignore the stolen property report, Cleve returned to the Hall of Justice at 1:30 p.m. the same day and asked about the status of his complaint. Police officials would not give him any information and refused to let him see a copy of the report filed by Officer Cooke. When Cleve persisted, he was restrained, handcuffed, beaten and arrested by four to six officers. He was taken to a Berkeley Police Department holding cell, where he was hog-tied, beaten a second time, and held overnight. He was charged with assault on an officer and disturbing the peace. Two days later, Feb. 28, 1992, all charges were dropped and Judge Julie Conger issued a stay away from the Berkeley Police Department and continued the stay-away from Cleve's residence.

Berkeley Police departmental policy mandates that police reports should be available to the "responsible party" for an outrageous \$10.00 fee. When COPWATCHers went with Cleve in late March, to purchase the police report from Feb. 26, we found that Officer Cooke had indeed failed to take an itemized list of the stolen items and had checked status as case "closed." In other words, no investigation had been done of the theft.

Currently, COPWATCH is helping Cleve to: gather documents from various city offices; get a hearing to revoke the stay away order; and file complaints with the Police Review Commission.



**SAN FRANCISCO
COPWATCH FORMING**

**Are you interested in fighting
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COPWATCH

2022 Blake Street
Berkeley, CA 94704

Address correction requested

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

(continued from page 4)

3) **THE FBI AND COINTELPRO*** — With the Supreme Court behind them, making it legal (and even worthwhile) to search and seize until you get lucky, to arrest with no probable cause, and to force confessions, the FBI is in a prime position to, as Harris puts it "gain the eyes and ears of the street." Imagine how successful their infiltration could be with the help of our brothers and sisters. Soon we can all send for our FBI files, regardless of the level of our political involvement. (*Counter INTELLIGENCE PROgram: Through the methods of infiltration, psychological warfare, harassment through the legal system, and extralegal force and violence, the FBI attempted in the 60's and 70's to discredit and disrupt domestic activist movements that wanted to end U.S. intervention abroad or institute racial, gender and class justice at home.)

4) **MORE COPS EQUALS MORE BRUTALITY** — Just as violent crimes are on the rise, so is police brutality. Oakland lawyer John Burris, who handles many police brutality cases, said he received 55 calls about police abuse in 1989, 85 calls in 1990, and 128 calls as of February, 1991. Oakland community activists collected their own data through churches and community groups and gathered 102 complaints in just one week.

The attitude of the police department is that nothing is going to happen to them. The lack of accountability is almost complete. Recently an Oakland officer confessed to having killed his wife using an elaborate plan to point the blame on gang activity.

His stands in opposition to the assumption that citizens should unconditionally trust the police, because they are the police. The police are human, and trust must be earned. We are supposed to look to police chiefs to act on police misbehavior, but the chiefs themselves as above blame, as evidenced by the Rodney King beating and that of Dolores Huerta, a Latina United Farm Workers organizer who was beaten nearly to death by a San Francisco cop. Huerta said recently at a San Francisco forum on national police accountability: "In L.A., the cops nearly kill

YOU HAVE THE RIGHT TO OBSERVE!

COPWATCH encourages everyone to stop and watch the police. Often the cops on the street will tell you to move along or tell you that the incident is none of your business. But remember, the street is a public area and the police are supposed to be civil servants. Everyone has the right to observe the police at work. Police must also identify themselves to you. Write down officer names and badge numbers and a description of the incident. Also collect names and phone numbers of any witnesses in the area. Report your observations to COPWATCH and/or make a direct complaint to the police department involved.

someone and the police chief is asked to resign. In San Francisco, he is elected mayor."

Even a movement to increase civilian control over police does not give us much hope that the police can be reformed. All around the country, communities are lamenting the bankruptcy of civilian review boards, not the least of which are Oakland's Citizens Complaint Board (CCB) and Berkeley's Police Review Commission (PRC). And community policing only exacerbates the accountability problem; once out of their police cars, police are even less likely to be supervised and monitored.

Harris claims that his call for new foot patrols is a response to public pressure for more police presence in the neighborhoods. This kind of pressure makes the "solution" of more and more police a very safe one politically, even if it is not the most challenging or the best one. The popular cry for "more police" to solve what are very complex social problems, stemming largely from government deficiencies, only feeds what is already a lustful appetite for "law and order" by the power elites.

Weighing individual freedom against public "security," Harris has manipulated a frightened public into an even more frightening situation. With his new crime control package, Harris has tipped the scales toward a mini-authoritarian regime in a frightening echo of Bush's claim that constitutional rights are an impediment to crime control.

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

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