

# COPWATCH

## Report

BERKELEY, CALIFORNIA

WINTER, SPRING 1998

### ***BPD Runs Amok Again!***

By Ash Krey



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this report.**

**B**erkeley- In the early morning hours of December 15, Berkeley resident Jose Rubio had gathered with some of his friends in front of his apartment complex near 8th Street and University Avenue. Rubio had just gotten off work and was socializing with his friends at the end of his driveway.

"There was a guy who rode up on a bike and said 'The police are looking at you guys with binoculars.' Right at that instant the police hit, and they hit hard!" said Rubio. The bicyclist was right. According to the police report, the BPD had set up surveillance on these young men who the cops have labeled gang members.

"Officer Sabins, (#144) and I (Lindenau, #3) took position on the north/west corner of University/8th," read Lindenau's report. "Officer Sabins and I were using binoculars to watch the activity of the group. Officer Gardner (#116), took position on the roof of 920 University (Ramada Inn)."

In the blink of an eye, several police cars pulled up in front of his house. Berkeley officers jumped out and threw Rubio and his friends on to the ground. Rubio pleaded to the officers that he was not resisting arrest. But when he asked why he was receiving this harsh treatment, the officers mockingly replied, "because we can!" and gave each other a high five.

Despite his protest, Rubio's pleas fell on deaf ears. The police shoved his face into the concrete even harder. At this point Rubio spotted other BPD officers harassing his wife, Yolanda Fernandez.

"I was just coming off the stairs and stepping down the driveway when I saw three police officers running towards me. One of them yelled at me to get back inside the house and pushed me pretty hard two times up the driveway," recalls Fernandez. "I told them 'No, I live here and I want to know what's going on.'"

When she continued to rebuke the BPD's treatment of Rubio, "one of the officers grabbed me and threw me face front against a wet car and put handcuffs on me and took me down to the front where the other officers were detaining my husband and his friends," Fernandez said. "The (male) officer then pat-searched me and put me in the back of the police car."

After running a warrant check on Fernandez, the officers insisted that they be allowed to search Rubio's and her apartment. Fernandez asked if she had a choice. The officers said she did. She did not consent to the search. Then officer J.P. Williams (#4) stepped in saying that they could detain her while another officer got a search warrant.

"I told him that when he had the search warrant he could come and search the house, but he had no right to detain me," said Fernandez.

Officer Williams then rattled off a penal code number in an attempt to trick Fernandez into thinking that she had committed a crime and could be arrested.

"First the officer tells me that I have the right to say 'no,' but when I said 'no,' they were

(continued on page 11)

# Pepper Spray Struggles Continue

By Andrea Prichett

Although the Berkeley City Council stopped short of banning police use of pepper spray, the issue is far from being resolved. After almost two years of pressure and campaigning by Copwatch and other community organizations, the council rejected two proposals. Unofficially, the idea of actually banning pepper spray was blocked by Councilmember Linda Maio, who never seriously entertained the idea. Instead, at the November 5th meeting, she proposed a measure which would place pepper spray higher up on the continuum of force and restrict its use to those situations in which lethal force is justified. But Councilmember Maudelle Shirek had already made it clear that under no circumstances would she support the use of untested chemical weapons against the people of Berkeley. Since the two council members were unable to reach a compromise, no action restricting the use of pepper spray was taken by the council even though a majority of members recognized that the current situation is unacceptable.

At an earlier meeting however, Councilmember Dona Spring successfully called for interim measures intended to help the council keep track of the use of pepper spray by police. Now, each police use of pepper spray in Berkeley must be reported directly to the city council. Also, police canisters of pepper spray are to be fitted with seals that must be broken in order for the spray to be used.

## New Evidence of Pepper Spray Danger

Unfortunately, the city council considered the issue before the research findings of John and Hazel Coleridge were made known. The day after the large public hearing on October 22, COPWATCH received a letter from Ms. Coleridge explaining that she and her husband had been observing the effects of capsaicin (the active ingredient in pepper spray) for over 30 years. As Emeritus Professors of Physiology and as medical doctors, the Coleridges have conducted much of the research on capsaicin. According to their findings, capsaicin can provoke "...a sudden decrease in heart rate and cardiac output and a profound fall in blood pressure. In experiments in anaesthetized animals, the decrease in heart rate induced when the active agent, capsaicin, stimulates airway nerve endings is accompanied by slowing, or even block, of the normal sequence of electrical conduction through the heart. This change, although transient, may have the potential for inducing life-threatening arrhythmias (irregular heart beats), even in healthy people, especially if they are physi-

cally stressed in the immediate aftermath of pepper spray exposure." Although the council is aware of the fact that the Coleridges have offered to meet with them, they have yet to accept their offer.

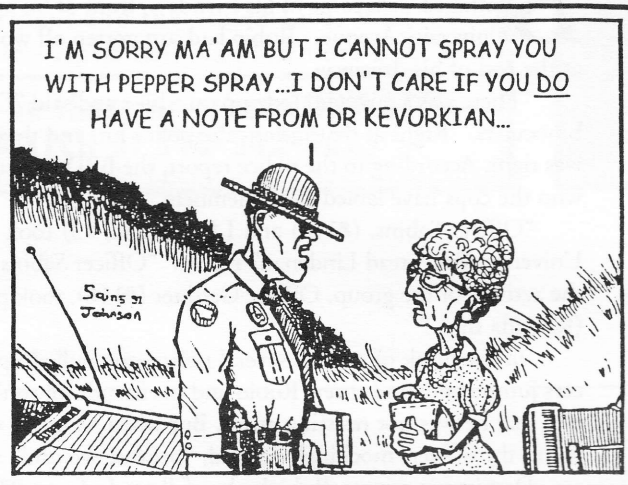
## Support For Ban Grows

Incidents of pepper spray use continue to provide evidence of its dangers. One incident stands out because of the unusual outcome of its use. On September 22, 1997, Dana Lecomte of Oregon went on a hunting trip. According to his wife, Georgianne, he was stopped by police for speeding and was taken into custody for outstanding warrants. While in a holding cell, he was approached by deputies. In the ensuing scuffle, he was beaten badly. He was then handcuffed and pepper sprayed. Apparently the spray caused his body to produce excessive mucous which suppressed his breathing. Today, Lecomte has severe brain damage as a result of oxygen deprivation. He is unable to care for himself, and his wife is struggling to go on while fighting for justice. In other developments:

- COPWATCH has been told that an inmate in an Oregon jail died after being exposed to pepper spray. There was no indication of drugs or alcohol in his body.
- COPWATCH provided Amnesty International with documentary evidence of abuse of young people in a detention facility in Kern County, CA. The investigation is ongoing and concerns facilities across the country.

Berkeley resident Freddy Frazier was scheduled to attend a Police Review Commission board of inquiry regarding their use of force (including pepper spray) against him last August. He never made it to the hearing because BPD officers detained him just before the hearing and drove him around in their car. He was never booked into the Berkeley jail, but he missed his hearing.

The struggle to ban pepper spray will be focusing on the case of Mark Garcia in San Francisco (see page 5). Almost two years ago, Garcia was beaten and pepper sprayed by SFPD officers. He died in custody, yet the San Francisco Office of Citizen Complaints still has not investigated the incident. The Garcia's family, along with the October 22 Coalition and Policewatch, are calling on supporters to attend Police Commission meetings to pressure the city to investigate the case and to take action. The movement to ban pepper spray has spread to San Francisco and far beyond. For more information call Police Watch at 415-543-9444



SPECIAL THANKS TO THE VANGAURD PUBLIC FOUNDATION FOR THE GRANT!



# The Death Of Robert Wayne Guy Jr. in Seattle

Robert Wayne Guy, Jr., was stopped for speeding in Seattle on December 27, and arrested for an outstanding misdemeanor warrant. The 20-year-old was then taken to King County Jail.

According to incident reports submitted by jail guards, Guy woke up around 12:30 a.m. on the morning of December 29, and began throwing himself head-first against the wall bunk. A total of 12 guards subdued him with leg irons and hand cuffs. He started struggling again and guards used pepper spray on him. Guards then stuffed a towel in Guy's mouth when he began spitting blood and strapped him face down to a restraint board. His breathing became shallow; soon he stopped breathing completely and had no pulse. Guards carried Guy, still strapped to the board, to the day room of the jail, where they finally untied him and allowed jail medical staff to work on him. They applied CPR and got him breathing again before medics transported him to Harborview Medical Center, where Guy later went into a coma.

His family made the tough decision to take him off of life support on December 31.

The guards' reports are a mountain of conflicting testimony. One report claims that Guy had "super human strength." Another guard claimed that he alone applied the leg irons to Guy.

Additionally, the time from when Guy stopped breathing to when he was taken to the hospital was approximately 30 minutes. Anyone trained in basic CPR knows that the human brain suffers greatly when it is denied oxygen for a short period of time, let alone the ten minutes that passed from the time guards discovered he wasn't breathing to the time they allowed jail medical staff to begin CPR.

Both the coroner's office and King County Executive Ron Sims have claimed that Guy's death was cocaine-related. The coroner made this initial claim, while at the same time said that Guy's cause of death was "undetermined." Now that his report has been published, the coroner now claims that cocaine and methamphetamines played a role in Guy's suffocation.

Guy's family has formed the Committee for Justice for the Death of Robert Wayne Guy, Jr., which Copwatch 206 (a group based out of Seattle) is a part of. The committee is demanding video tapes from the morning of December 29, from the parts of the jail that Guy was housed in. They are also demanding an inquest, which King County Executive Sims has promised due in large part to demonstrations at the King County Jail and the King County Courthouse organized by the committee, as well as coverage on KOMO-TV 4 news and in Seattle's weekly paper, The Stranger.

On March 3, members of the family and the committee attended the pre-inquest hearing at the King County Courthouse. The actual inquest might not appear until sometime in April.

Judge Chow, the presiding judge, has issued a gag order to both the prosecution and the defense on discussing intimate details of the case to the media and the general public.

*Information taken from the magazine - True Stories of CopWatch 206. For more information on seeking justice for Guy Jr. you can contact the committee at (206) 723-2829 or (206) 760-9437.*



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

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

# COPWATCH BLOTTER -

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

On New Year's Eve at San Francisco's Union Square, the SFPD were out in full force. Right after stepping out of the Powell Street BART Station, my friends and I were surrounded by groups of police. Powell Street was lined with groups of cops, helmets hanging from their belts. After walking around that area for awhile, we headed toward Union Square. The square was packed with some 15,000 people ready to ring in the new year. I overheard some people saying that as they were walking into the square the police had searched their bags. That made me so upset and I yelled to no one in particular, "they can't do that!" Before the clock struck twelve, we ran into some friends. They told us that as they were making their way toward Union Square, a cop pulled one of their friends over and said that she was going with him. Supposedly she was a little drunk and had been singing or laughing loudly, but that does not seem like a good reason to detain her until after 12, when she was released. As she was being pulled over, one of her friends yelled at the cops because they were taking their friend. The cop told her to shut up or he would take her too.

The clock on Macy's struck 12 and everyone cheered and hugged their neighbors, even if they were strangers. At about 12:25 a.m., cops wearing their helmets and carrying three-foot-long sticks surrounded the park on three sides. The crowd was slowly pushed to one edge where we were in a funnel created by police on both sides of us. We were funneled out onto Powell Street and forced down the street by cops on horses and the police that lined the streets. It was surreal how many police were out that night, the newspaper said 450. The cops were very aggressive and the way they acted made me feel like I had done something wrong even though I just wanted to celebrate the new year.

**12/4/97- Telegraph and Durant:** COPWATCH saw an ambulance, firetruck and police car at the scene. Witnesses said that police arrested a man who was drunk and combative. One officer said his blood alcohol content might be .04%. There was no known use of pepper spray at this time, however use of pepper spray by police in this incident would have been within department guidelines for subduing combative suspects. Use of pepper spray is potentially fatal on people under the influence of alcohol.

**12/11/97- People's Park:** COPWATCH observed BPD Officer Tucker (#73), on bicycle, approach two men who were sitting at a table. He shined his flashlight on them and began asking if the books were stolen. Officer Tucker was evidently familiar with one of the men, who was on probation, and invoked the search clause to search his person and belongings. The second man was subjected to questioning. When COPWATCHers asked if he was under suspicion of committing a crime, the officer responded by ordering COPWATCH not to interfere. The first man was arrested for three warrants after his identification check went through. Officer Tucker did not say what the warrants were for. When pressed by Copwatch, he said one was for a marijuana charge, the other for fare evasion, and the third unknown. Officer Tucker called for a police car to transport the man from the park to the police station.

**12/4/97- Telegraph near Dwight:** a man was being removed from Cafe Med. A COPWATCHer attempted to photograph the situation, but he was told not to take the photo by a fire fighter and threatened with arrest. He snapped the photo and was NOT arrested.

**12/18/97- Telegraph:** Officers on bikes approached some homeless youth and informed them of a "zero tolerance policy." According to these officers, merchants were complaining about the homeless youth. Officer Moore wrote a ticket to one man for litter that was not related to him.

**1/28/98- UC Berkeley:** A woman in a wheelchair entered Heller Lounge through an unlocked door at 9 a.m. Minutes later, a UC officer entered and said that an alarm had gone off. He asked to see her I.D. The woman refused, but offered her name and date of birth. The officer then tried to force her out of the room by pushing her chair. After his unsuccessful attempt, he allowed her to leave. She was not cited for any offense.

**2/4/98- Telegraph and Haste:** COPWATCH was informed of UC Officer Moore and BPD Officer Gardener hassling young people on the avenue. The kids were being told they can't sit next to buildings and subjected to random ID checks. The strategy seems to be to move them between Bancroft and Haste and the park, and to discourage the youth from being on the avenue.

# COPWATCH



# Crack Down On Telegraph Ave.

## Scapegoating of Homeless Youth Continues as Business on Telegraph Slows

By David

On December 18, 1997 COPWATCH was notified by a street vendor, John Vance, that youth on Telegraph Avenue were being harassed by Berkeley and UC cops. That evening Vance, local attorney Osha Neuman, approximately 25 youth, and members of COPWATCH held an emergency meeting on the corner of Telegraph and Haste. Numerous individuals informed us that the police had been threatening kids and warning them to leave town before the annual holiday street fair. As Neuman and COPWATCH informed people of their rights, many drew up impromptu signs and chanted, "We have a right to be here!" and vowed not to be intimidated by police threats.

Neuman contacted both the Berkeley and the UC police and alerted them to the fact that certain officers were violating department policy and the civil rights of the young people by such acts of harassment. For the next few weeks the police tended to leave people alone. However, on January 25, 1998, COPWATCH was informed that harassment tactics were again being utilized in an attempt to move out "undesirables." One of the street youths being targeted is Jerry, an outspoken advocate for the rights of those who choose to hang out on Telegraph. Jerry was recently cited twice in one day: once for not having a license for his dog and then twenty minutes later for littering - apparently for an orange peel that he had placed on the pavement next to him. Reports of harassment continued into the very rainy month of February with young people describing incidents such as:

- Officers waking people who were sleeping in doorways of stores at around 6:30 a.m. and forcing them out into the rain.

- Arbitrary detentions and illegal searches of young people who look homeless.

- Forcing street youth to leave the Channing Street mall under threat of arrest for trespassing (on property which "belongs to the city"), and being unable to use this otherwise public space during business hours

- Using the "move along" technique on the young people sitting next to buildings. Apparently, police are misinforming the public about their rights to sit on a sidewalk and despite the opinion of the city attorney that it is not illegal to sit next to a building, police continue to threaten the youth with arrest if they fail to move.

Many believe that the Telegraph Area Association (TAA) is the driving force behind the police effort to "clean up" the area by moving the youth out. While TAA's Executive Director Kathy Berger insists that she has only contacted the police when she has witnessed acts or threats of violence, several angry merchants recently attended a city council meeting to blame their slow sales on the presence of the street kids (ignoring the effects of the season's heavy rain) and demanding that action be taken. Coupled with a very high profile media campaign by the merchants, the council is feeling pressure to take action. In the meantime, police presence has increased and their posture is much more aggressive towards the youth.

While hostility from the cops and some merchants towards street people on Telegraph seems to be increasing, Berkeley police records indicate a steady decline in crime on the avenue. Regardless, the TAA has managed to push this before the council as a "quality of life" issue.

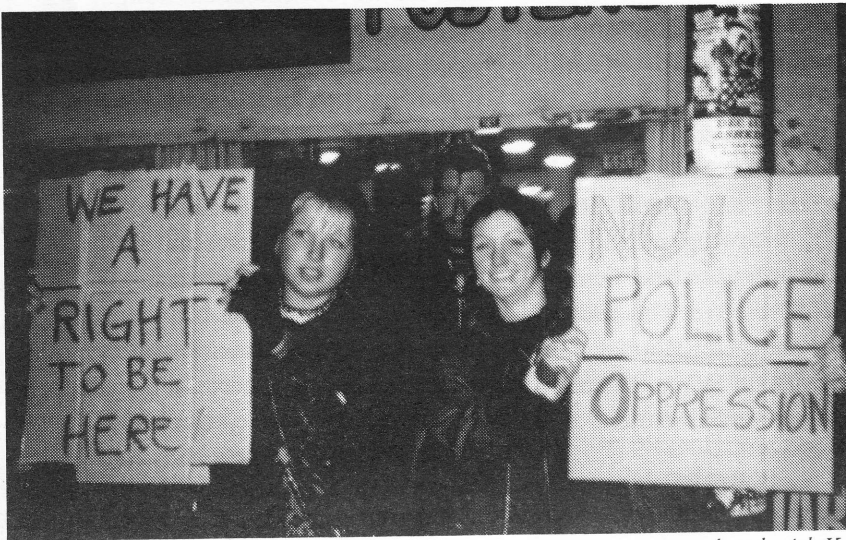


photo by Ash Krey



photo by Danielle Storer

# UCPD and the Struggle For Civil

By Andrew

Anticipating the release of the UC Police Review Board's report concerning its investigation of the violent confrontation between anti-Proposition 209 protesters and members of the UCPD, one might ask why it has taken so long for action to be taken on this issue. It should be apparent to anyone who has seen the videotape or was an actual witness to the events that took place on April 28, 1997 that this was an instance of police brutality calling for immediate and severe disciplinary action against the officers involved. An answer to the above question lies within the history and structure of the UCPRB itself.

The UCPRB has a long and unpraiseworthy history. Calls for a review board date back as far as the early seventies. In 1975 plans for the establishment of a review board were drawn up. But they were never implemented as a result of strong opposition from the UCPD as well as complaints of the plan's inadequacy by the City of Berkeley and others. It was more than ten years later in 1985, following several confrontations between the UCPD and anti-apartheid demonstrators, that a review board was finally created with roughly the same structure and procedures as the UCPRB today.

The board is currently made up of seven members appointed by the Vice Chancellor for Business and Administrative Services after nomination from various campus groups. Chaired by Stephen Bundy, a professor at Boalt Hall School of Law, board members also include Jess Bravin, the Graduate Assembly representative; two faculty members, Jewelle Taylor Gibbs and Sheldon Zedeck of the School of Social Welfare and the Psychology Department respectively; Hikari Kimura of the ASUC's Student Advocate's Office; John Matsui, a representative of the University Staff; and Harry Stern, a retired Berkeley police officer representing the Police Officer's Association.

Since its creation, the UCPRB has met very few times to look into complaints against the campus police. Prior to its current investigation, the review board last met in September of 1994, almost four years ago. The main reason for this is that the board does not hear every complaint filed against the department, but rather only those that are brought to them on appeal after going through the department's own internal complaint process. An exception to this policy occurs when the Vice Chancellor requests an assembly of the board, as is the case with the current issue under investigation. The fact that the board has convened so few times is not an indication that in ten plus years since its creation there have been few instances calling for external review. The fact of the matter is

that the existence of the review board has done little if anything to curb the apparent "us against them" attitude that seems pervasive in a great deal of the UCPD's interaction with the Berkeley community. No laundry list of instances of police brutality is needed here. The tension between the community and the UCPD is apparent to anyone who looks around them: from the offensive stance that many officers take during demonstrations to their everyday interactions with homeless people in and around the Berkeley campus. If the review board had lived up to its intended design, expressed through the overwhelming amount of support it received from the student referendum prompting its creation, the events that transpired last spring and others like them (though smaller in scale and publicity), could have been avoided. Instead of having a review board that has helped to shape law enforcement policy based on the special needs and circumstances of the Berkeley community, we have a review body that few even know exists. The fact that the UCPD is ill-equipped to deal with the community over which it presides is all too clear from the lame response offered as an explanation for last spring's confrontation offered by Captain Guillermo Beckford. Captain Beckford said the officers at the scene were surprised by the tactics that the demonstrators used. Given the history of demonstrations in Berkeley there should not be much that the UCPD has not had experience with. What Captain Beckford's statement seems to boil down to is that if the UCPD is confronted with a new situation or new tactic in defiance of sacred police authority, their first reaction will be to crack heads, break bones, and unleash chemical weapons. This will not do. The UCPD needs to realize that Berkeley is a mecca for activism on all fronts. Accordingly, this means that this community needs a police force that is trained to handle instances of civil disobedience by non-violent means,





# lian Reveiw on Campus

resorting to the use of aggressive force only as an absolute last resort and under extreme circumstances involving the immediate physical danger to people, or, to a much lesser degree, property. An active police review board will be an essential tool to bring this about.

Given this need for effective external review of the UCPD, COPWATCH joins in the call for revision of the UCPRB's make up and procedures.

1) The board needs to be changed so that it meets regularly to provide an open forum for students and members of the community at large to voice concerns over police activities and policies.

The fact that the current board is reactionary, meeting only when a complaint is brought to them on appeal or when called by the Vice Chancellor, means that it lacks the continuity to deal with problems as they arise, and renders it ineffective in influencing police policies on a regular basis. This is something that is echoed in the current situation. Upon speaking with board members Bundy, Bravin, and Kimura, all expressed the notion that the current board has had to spend a great deal of time familiarizing itself with its own powers and procedures. How can a review board be effective if its own members have to figure out what it is that the board does each time they are called together?

2) The board must have the power to compel officer testimony in its hearings, and to subpoena witnesses.

The board cannot be effective unless it is able to force cooperation by the police department. This will be an uphill battle given that existing California law, meant to protect the privacy of police officers, ties the hands of external review bodies in their ability to ensure full cooperation from the police. Additionally, this could also involve renegotiations of the contract between the University and the police union. This all boils down to a real knock-down, drag-out fight if this obstacle to review board effectiveness is to be overcome. This

is all the more reason for the public to get behind the call for change.

3) It is essential that the review board be changed so that it is an independent body from the Vice Chancellor's office. As it stands now, the board can only make recommendations to the Vice Chancellor, who then has the unbridled authority to follow or dismiss them as he/she sees fit. This means that the UCPRB has no teeth. There is nothing that enforces the powers that be to pay any attention whatsoever to the decisions and findings of the board. Furthermore, given that the Vice Chancellor appoints every board member, there is too much room for bias and lack of community representation on the board.

4) Finally, on the subject of community representation, it is appalling that the city of Berkeley at large does not have a single member, independent from the campus groups, on the board. Given that the jurisdiction of the UCPD extends well into the surrounding community, the citizens of Berkeley must have a voice on the board in order for it to adequately represent Berkeley's interests and concerns.

There can be no denial that changes to the review board are needed. Accordingly, COPWATCH calls for a rally of public support and involvement to meet this end. Regardless of political persuasion, everyone should agree that police brutality is not welcome in a civil, democratic society. An effective external police review board is an essential part of preventing such brutality. Come what may however, an external review process is not the only avenue by which police brutality can be discouraged. A public active in its observation of police activity and quick to report misconduct is by far the most essential weapon against abuse of law enforcement authority. This is why COPWATCH exists, and thus extends the invitation for you to join our cause.

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There will be a demonstration on Tuesday April 28th to commemorate the attack against non-violent student protesters last Spring in defence of affirmative action at UC Berkeley.

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Since this article was written Hikari Kimura was expelled from the UCPRB for making a statement to the Daily Cal.

# Voters Decision Highjacked - Get Ready for the New Downtown

by Suzanne Pegas

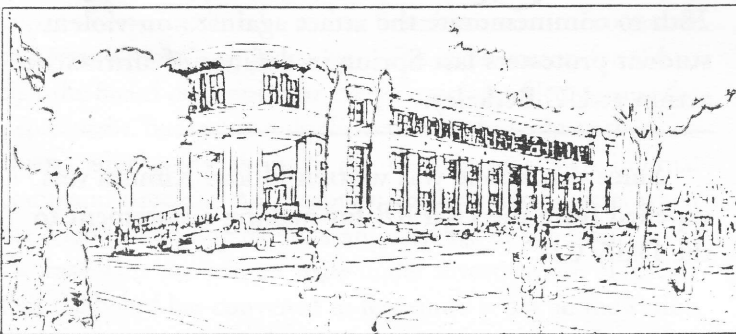
Berkeley's Police Station and Fire Administration Building needs retrofitting. Voters in 1992 agreed and approved Measure G, allotting \$12 million for that purpose. When Shirley Dean came to the helm as mayor in 1994, she brought her own interpretation of Measure G. Dean got the city council's approval on a Civic Center Task Force that she would appoint, to "decide" what really should happen.

Not surprisingly, the task force had overwhelming interests in downtown development. With this mindset, they appeared to see the apartment buildings, the BOSS Multi Service Center for homeless folks, and even the PG&E Building unsuitable in downtown sites. In 1995, the task force decided these would all be replaced by a new Public Safety Building. However, they had a problem. No money! So they began a convoluted process that allowed them to override the voters decision in Measure G, in effect hijacking the money that was to be used for retrofitting to fund their new project.

When they began making plans, it was thought to be a \$12 million project. Yet in the infinite wisdom of designing and redesigning, hiring and firing architects, the project is now thought to be around \$20 million. And they still aren't certain.

Simultaneously is the issue of a new six-story courthouse and parking structure that was initially slated to displace tenants of nine apartment buildings. Originally, neighbors and activists spoke out against both projects. As time went on however, the focus swayed by the idea of potentially 80 new homeless folks living in the apartment buildings. The attention went with the courthouse plan. The Council voted against the very unpopular displacement, and instead

chose the Hinks Garage site for the new Courthouse. This is where things stand. Who knows if this is where they will stay. But the travesty has already been committed when our elected government can choose whether they want to enact a measure that the voters already decided on.





# **Protest Sparks US Civil Rights Commission Hearing**

by Cornelius Hall

Due to pressure by family, friends and police accountability groups, a United States Commission on Civil Rights hearing was held in the Rattigan State Building in Santa Rosa, California. This hearing was held on police practices and police community relations in Sonoma County.

On February 20, 1998, at 9 a.m., the hearing room was filled to capacity. Most of the people in the room wore yellow buttons indicating they were police.

An overview of the situation in Sonoma County was given by Elizabeth Anderson from Sonoma County's Peace & Justice organization; Larry Shinagawa, PHD, Sonoma State Asian American Studies; and Judith Volkart of Sonoma County ACLU.

Speakers for community organizations were Tanya Brannan, Purple Berets; Steve Campbell, Outreach Coordinator, Face to Face; and Karen Aari, October 22 Coalition Against Police Brutality.

Aari's presentation concerned the 11 deaths in Sonoma County by police in the past two years. She also presented a press release from the Chicago Police Department taken off the internet stating Cornelius Hall, Keith Mchenery, and Iris Baez as being in Chicago on October 22, to "fan the flames of hate and racism." None of the people mentioned were in Chicago but are all highly committed to police accountability.

Law enforcement's practices and procedures were represented by Sonoma County Sheriff J. Piccinini, Santa Rosa City Police Chief M. DunBaugh and Rohnent Park City Police Chief Pat Rooney. None of these officials believed in police review. The families were able to get in at around 12:30 p.m., after the commission asked some police officers to leave. The victims' families were allowed in 10 at a time; due to the crowded room of mostly police. Pat Baldridge, mother of Kevin Saunders; Darlene Grainer mother of Dale Robbins; attorney Victor Huong representing Kuan Chung Kao; Danny Garcia, brother of Mark Garcia, Cornelius Hall, father of Jerrold Hall; and many other family members were present and made presentations.

A press conference was held by members of the victims' families in front of the Stolen Lives Wall, which was very impressive and brought light to the many people killed in this area and elsewhere in the U.S. each year by police. Most of these people were unarmed and not a threat to the police when they were killed. The press conference's objective was to impress upon the media the dignity of these people and the escalation of police killings.

# **Coalition Organizing Around Garcia Case & Pepper Spray Ban**

by David

In 1997, several organizations concerned with police accountability came together to fight for justice for the family of Aaron Williams. That campaign culminated with the firing of racist killer cop, Mark Andaya. As a result of that victory, the movement against police brutality has grown in both size and sophistication.

On January 8, 1998, representatives from several Bay Area police accountability groups met to discuss plans for the coming year. A steering committee was formed and priorities were outlined. First and foremost on the agenda is the campaign to hold accountable the San Francisco police officers responsible for killing Mark Garcia nearly two years ago.

The campaign began with a press conference on January 19, and was followed by a crowd of approximately 50 people who spoke out at the a police commission meeting on January 21. At both events, families, community members, and accountability activists demanded action from the Office of Citizen's Complaints, which has done next-to-nothing since the Garcias' complaint was filed over a year ago.

In addition to winning justice for the Garcia family, activists are confident that 1998 will be the year that San Francisco sets a nationwide precedent by banning police use of pepper spray. A committee to run that campaign is being formed. The coalition also discussed plans to involve more youth in the accountability movement. For more information or to get involved call Police Watch at 415-543-9444.



# Pepper Spray Used Against Non-Violent Protesters In Humbolt

By Lisa S.F.

On October 16, 1997, I was involved in a non-violent protest in defense of the Headwaters Forest in the office of Congressman Frank Riggs in Eureka, CA. Our objective was to find the congressman in his office and attempt to engage in dialogue about specific concerns surrounding the "Headwaters Deal" which Riggs supports. The action involved four women, a stump and some sawdust. The stump and the sawdust were symbolic of the fate of Headwaters at the hands of people like Riggs. The four of us "locked down" around the stump, meaning that we were locked to each other by means of devices that require a certain amount of concentrated effort to penetrate. Unfortunately, Riggs was not in and the secretaries were not amused.

The Eureka Police Department was on the scene within ten minutes. At first when they arrived, the officers discussed the situation without addressing us. The Humboldt County Sheriffs then arrived on the scene. They informed us that we were trespassing and asked us to unlock. We declined. They then informed us that they would use chemical agents if we did not unlock. We told them that they did not have to torture us, that they had other options. One officer replied that "chemical agents are safer... they have a temporary effect... it just hurts like heck." What followed was a systematic and sadistic method of administering pepper spray that was designed specifically for the purposes of getting protesters to "unlock." Pepper spray was sprayed into a Dixie cup and, using a Q-tip, applied directly to our eyelids. One woman had her eye pried open so the pepper spray was applied directly to the eyeball and another woman, after continuing to refuse to unlock, was sprayed at the close range of about 2 inches. After the direct spray was used, we unlocked ourselves and were arrested. We spent the next five days in jail. There are still misdemeanor charges pending against us.

This turned out to be the third time that this particular method had been used against locked-down protesters in Humboldt County. The first time was late in September at the headquarters of Pacific Lumber in Scotia, CA. In that incident, seven people were locked down, and four people were "Q-tipped" with pepper spray. The second incident occurred early in October on Pacific Lumber property, in the woods known as Bear Creek. Two protesters were locked down to a bulldozer, attempting to blockade a logging operation which was taking down old growth trees. After their support people were arrested and taken away, they were repeatedly pepper sprayed, both with

Q-tips and direct spray. This is the most brutal case of the three because the protesters were alone in the woods with the cops, who insulted them and laughed at them as they were tortured.

It is important to note that locking down has been a key component in many successful non-violent protests and blockades during the last several years in the Headwaters campaign. The methodical use of pepper spray against non-violent protesters is a deliberate escalation of excessive force by law enforcement in an effort to intimidate protesters from using this tactic. The police involved were so confident of their new strategy, that they video-taped each incident as they were applying the pepper spray. These videos were released to us during the criminal proceedings and have become the central evidence in a civil lawsuit which we are pursuing against the Humboldt County Sheriffs Department.

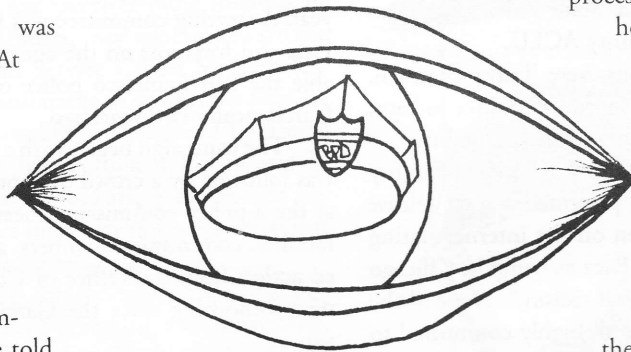
The first phase of our case was to apply for a preliminary injunction to immediately prevent Humboldt County Sheriffs from using pepper spray against non-violent protesters. This injunction was denied by Judge Vaughn Walker of the District Court in San Francisco on November 14.

At this point, our objectives in the lawsuit include injunctive relief and damages. Injunctive relief would mean a permanent injunction preventing Humboldt cops from using pepperspray against non-violent protesters in the future. In the process of trying to obtain injunctive relief we

hope to expose who were the real players in proposing and approving what appears to be a policy allowing excessive use of force by law enforcement. The damages we seek are based on civil rights violations as well as pain and suffering.

The next step is depositions, which will be happening over the next couple of months. Judge Walker has put us on the "fast track," which means if we're lucky we will be in court by mid-summer. But it looks

like a long road.





# BPD Runs Amok Again Cont.

...saying that they were going to arrest me. Now I don't think that's fair at all. If you ask me, I'd say that they were basically blackmailing me," she said. In a further attempt to search the house, the officers threatened Fernandez with Rubio's life. The BPD officers asked her, "How would you like to see Rubio shot by a BPD officer one day?" After all that had occurred between Fernandez and the Berkeley officers, they proceeded to search the house anyway, without Fernandez's permission. A police report, written by Officer Ross (#150) said "Fernandez gave Officer Williams and myself permission to search her and Rubio's common apartment."

After the search, Rubio and his friends were driven off to the Berkeley Police Department. There Rubio claims the officers abused their power over him while he was in handcuffs. "I was already cuffed up, and he forced me against the wall," he said. "Every time I'd say something he would twist my arm more and more. I asked them, 'does it make you feel good, what your doing to me?' They looked at each other and said, 'Yeah, It does make us feel good.'" The officers involved were Libed(#149) and Hyunh(#22). Another of the group who was arrested was subjected to a full strip search while several Berkeley police watched. Is this normal procedure or humiliation? Rubio was charged with possession of a firearm and assault on an officer. He feels he was falsely charged.

"First of all you have to understand I grew up in this neighborhood all my life,...I'm used to this kind of treatment," said Rubio. At one point a few years back, tension between the cops and the West Berkeley youth was so charged that mediation groups were formed. At weekly meetings, the youth including Rubio would come and voice their problems with the police. The Berkeley officers would also come to hear them out and state their own complaints.

This strategy worked well for only a while. Then one night when Rubio was out in his neighborhood, he came across BPD patrol officers in a heated dispute with some of his friends. Rubio approached the situation in an attempt to de-escalate it. The cops told Rubio to leave, but he refused. The end result was that Rubio visited Highland Hospital that night with a broken rib. He was charged with two counts of assault on an officer. The mediation groups ended soon afterward.

"I am known for sticking up for myself," said Rubio. "They (BPD) hate that part about me. They probably feel that if they could just take me down, there would be no one else to speak up for us, and they could step all over us. Because as long as I am around, I'll always have something to say."

The night after the incident on December 15, Rubio and a friend (who had also been arrested the previous night) stopped in to a local liquor store. Inside the store were three of the nine policemen who had arrested Rubio.

"Right when we walked in they saw us," said Rubio. "They got on their toes. My friend turned to me and said, 'Hey, there go the tough guys.' Immediately, Gardner(#116) ran up on my friend yelling, 'What? Do you want to go to jail?'"

When Rubio tried to decrease the tension, he encountered only belligerence from the cops. Only when another officer, who was on good terms with Rubio, came out from the back of the store, did the hostile officers back down. A supplemental report was filed the following day by Officer Gardner(#116), claiming Rubio and his

friend had come into the store seeking revenge.

Rubio has had several more unprovoked confrontations in the past weeks with these same officers, who patrol around 8th and University. However, Rubio has decided to fight these officers in the court, instead of in the streets.

"On December 15th, I feel like I was roughed up pretty good. I don't think I was really beaten, but I was a victim of excessive force," said Rubio. "All the time in their routine stops they are always going too far. It's like because we are Latinos we are already subject to search. They treat us like we don't mean anything to any one in society or to them. It's like no one cares what happens to us. That's the way it makes me feel."

At the moment COPWATCH is trying to organize with Rubio in his neighborhood, and is planning on having a weekly table in the area. Information on how to protect themselves from police will be available to residents. If there is anyway you can help, contact COPWATCH at (510) 548-0425

Jose Rubio filed a complaint with the Berkeley Police Review Commission about the December 15th incident and a few days later was severely beaten by the police. Contact COPWATCH for more details.

## **Bobby Hutton Day:**

***Celebrating the Life of a Young Revolutionary  
Speakers • Music • Entertainment • Poetry***

**Defremery Park (Bobby Hutton Park) 18th and Adeline  
West Oakland April 25th 1998  
Noon - 4pm**

**Lil' Bobby** dedicated his life to serving the people. He helped patrol the streets to protect our people from the brutality of the Oakland Police Department, which continues to be a problem today. Bobby was murdered by the OPD on April 6th 1968 in a famous shoot out in West Oakland. Bobby Hutton Day is a memorial to a slain warrior and a chance to remember those who have struggled before us. See you in the Park!!!

***Long Live the Spirit of Bobby Hutton!***

## **COPWATCH REMINDERS**

- ★ **COPWATCH Radio** Wednesdays 8:30 - 9p.m. - Tune into on Free Radio Berkeley 104.1 FM
- ★ **COPWATCH Movie Night** First Friday of every month
- ★ **Bobby Hutton Day** - *Celebrating the Life of a Young Revolutionary* - Speakers, Music, Entertainment and Poetry • April 25th 1998 in De Fremery Park (Bobby Hutton Park) 12-4 p.m.
- ★ **COPWATCH Birthday Party** - Sunday April 26th from 2-8p.m. Live music, entertainment and food. Bring stuff to grill. Suprise guests.
- ★ **COPWATCH Yard Sale** - May 9th 9am - 5pm
- ★ **COMIX JAM** - May 10th 1-6p.m. - Come draw and Design Comix for the upcoming COPWATCH Comic book.
- ★ **Rally On Spoul Plaza** at UC Berkeley to commemorate the UC Pepper Spray incident and the Stolen Lives Wall project. Tenetive date - April 28th call for more info.

**For more information on these or other COPWATCH events call COPWATCH at 510-548-0425**

**COPWATCH is looking for volunteers to help with COPWATCHING, editing and producing the COPWATCH Report, raising money and helping to run the office. If you are interested please contact us!**

### **COPWATCH**

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