| | |
|---|---|
| **From:** | Cary Andrew Crittenden |
| **To:** | joe.simitian@bos.sccgov.org |
| **Cc:** | Del Fava, Julie; david.anderson@usdoj.gov |
| **Subject:** | Fwd: Investigation |
| **Date:** | Tuesday, August 4, 2020 3:14:40 PM |
| **Attachments:** | ~$james-malloy-38-cases-in-38-years-linked-to-scott-malloy.xlsx<br>~$probate-docket-2013-1-PR-172495-events.xlsx<br>Habeas Corpus Cary Andrew Crittenden Civil Grand Jury Public Guardian.pdf |



Hello Joe.

I Haven't had the chance to fully look into these dockets on this spread sheet, but many of them seam suspicious to me. The identities may be synthetic. No records can be located on appellate court level which is very strange, but on Supreme Court, name appears to be changed to Maloy.

And look at this: https://trellis.law/rulings/party/Malloy,-Scott-A.?sort=relevance. ( So many hearings on the same day with different judges? That seams impossible.

As far as attorneys with the last name "Malloy", State Bar records do not seam consistant with records from judicial council. There is a Victoria Malloy who worked with judge James Towery on issues with Judicial Council. She is not showing up in State Bar attorney search.

Cary Andrew Crittenden

Begin forwarded message:

**From:** Cary Andrew Crittenden <caryandrewcrittenden@icloud.com>
**Subject: Investigation**
**Date:** August 4, 2020 at 2:39:24 PM PDT
**To:** Bill Robinson <bill@sdap.org>
**Cc:** Brian McComas <mccomas.b.c@gmail.com>, gjury@sonoma-county.org

## Hello Mr. Robinson,

Would you mind explaining to me the reason why Karleen Navarro , an attorney from Sonoma County was assigned to the appeal & the procedures filed pertaining to habeas corpus.

In the mock trial proceedings that occurred in judge Chatman's court room, a deliberate attempt was made to put on the record information relating to the Facebook page belonging to detective David Carrol's dog. , who's name happens to be " Sonoma Carroll".

Karleen Navaro, The attorney assigned happed to be from Sonoma County. Another Interesting coincidence?

## License Status, Disciplinary and Administrative History

Below you will find all changes of license status due to both non-disciplinary administrative matters and disciplinary actions.

| Date | License Status | Discipline | Administrative Action |
|---|---|---|---|

| Present | Active |
| --- | --- |
| 12/1/2010 | Admitted to The State Bar of California |

# C. SCOTT MALLOY – OF COUNSEL

Mr. Malloy has been practicing Family Law since 2010. Prior to becoming a resident of Sonoma County., Mr. Malloy had a solo practice in Silicon Valley, Santa Clara County and volunteered as a member of the Modest Means Panel.

In 2014, Mr. Malloy moved to Santa Rosa and was an Associate Family Law Attorney at Beck Law for over 4 years. In November of 2019, Mr. Malloy began a solo practice and is of counsel with Carroll Law Office.

At Carroll Law Office, Mr. Malloy provides representation and services in the areas of Divorce and Legal Separation, Parentage Actions, Spousal & Child Support, Child Custody & Visitation, Property Division & Settlement, Restraining Orders, Modification and Enforcement of Prior Orders, Limited Scope Representation and Unbundled Family Law Services.

A divorce, separation, and other family related issues are difficult for anyone to experience. Mr. Malloy works with closely with his clients to help them understand the process and their options regarding all aspects of the case.

Mr. Malloy believes understanding the legal process, your options, and being fully informed, helps to reduce client anxiety. He represents each client personally to insure your matter will receive the attention it deserves. Mr. Malloy takes the time to listen carefully to your concerns and asks the questions needed to assist you with your goals and keep legal costs affordable.

IN PROPRIA PERSONA

SIXTH DISTRICT COURT OF APPEALSE

STATE OF CALIFORNIA

| | |
|---|---|
| CARY ANDREW CRITTENDEN,<br><br>Petitioner,,<br><br>vs.<br><br>SANTA CLARA COUNTY PROBATION DEPARTMENT AND ,SUPERIOR COURT, COUNTY OF SANTA CLARA<br><br>RESPONDANT | Case H045195<br><br>Trial court: C1642778:<br><br>DECLARATION OF FACTS IN SUPPORT OF PETITION FOR HABEAS CORPUS RELIEF |

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IN PROPRIA PERSONA

Petitioner, Rev. Cary Andrew Crittenden is a well-established and nationally recognized social activist, which includes political activism and tenant rights advocacy at Markham Plaza Apartments, a HUD subsidized apartment complex located at 2000 / 2010 Monterey Road in San Jose, California. The concerns brought to my attention by Markham Plaza residents included violence, harassment and hostile living environment by Markham Plaza Property Management. Previously, Markham Plaza had a contract through San Jose Police Departments secondary employment unit and hired San Jose Police officers to work off duty, in San Jose Police uniform as security guards, which raised serious conflict of interest issues. Off duty officers were often assisting in HUD violations, Fair Housing Act and section C-1503 of the

San Jose Police Duty Manuel which required that they only enforce laws - not the policies of their employers.

In 2008, a complaint was filed by fellow Markham Plaza tenant rights activist, Dr. Christopher Ehrentraut with several law enforcement agencies including the U.S. Department of Housing and Urban Development, The U.S. Postal Service, The San Jose Police Department, The Santa Clara County District Attorney's office and the California Attorney General's office. I had been advocating for Markham Plaza resident Heidi Yauman, who I had a very close relationship with. Heidi Yauman is disabled and was conserved through the Santa Clara County Public Guardian in probate court case ( 1994-1-PR-133513 / 1990-1-PR-124467 ) The Public Guardian also has history of facilitating illegal evictions and committing HUD violations, some of which were exposed by ABC News I-Team (Dan Noyes & Jim O'Donnell) The ABC News Story, Investigating the Public Guardian, is featured at the following youtube URL: https://www.youtube.com/watch?v=y809jIIev5w

There was an incident involving San Jose Police Sergeant Michael Leininger and Heidi Yauman, where Heidi was in outside seating area outside her residence. Heidi Yauman was not violating any laws or lease conditions but was approached by Sergeant Michael Leininger and told to go to her apartment and not come out or she would be arrested. I went over Heidi Yauman's lease with her and the Markham Plaza House Rules and pointed out a section specifying that she, as a tenant was entitled to full enjoyment of all common areas of the complex, including the outside seating area where she was sitting when approached by Sergeant Michael Leininger. Heidi Yauman and I then returned to the outdoor seating area with copy of the house rules and lease where we were approached again by Sergeant Leininger, who said to Heidi Yauman "I thought I told you to go to your room!" I then attempted to show Sergeant

Leininger the lease and house rules. In response to my advocating for Heidi Yauman's fair housing rights, a federally protected activity, Sergeant Leininger commanded me to leave the property and not return or I would be arrested for trespassing. Sergeant Leininger and SEU reserve officer: Robert My name was then unlawfully entered into San Jose Police Department's STOP program database. Heidi Yauman and I were both maliciously targeted and harassed by Sergeant Michael Leininger and reserve officer Robert Alan Ridgeway, who worked under Leininger's supervision. Neighborhood residents approached me and complained that Leininger and his officers were also illegally targeting low income residents, and illegally banning them from "The Plant" shopping center, located across the street from Markham Plaza at the corner of Monterey Road and Curtner Avenue. These included residents of Markham Plaza Apartments, Markham Terrace Apartments, Peppertree Estates Mobile Home Park, and the Boccardo Reception Center, a neighborhood homeless shelter. What Sergeant Micheal Leininger and his officers were doing was very similar to the illegal practice of "red lining".

In 2008, Heidi Yauman submitted a complaint letter to Markham Plaza Property Management, Theresa Coons detailing the harassment and by Sergeant Michael Leininger. Chapter 4 of the HUD management agent handbook describes managements responsibility to be responsive to resident concerns. More info can be found at:

https://www.hud.gov/sites/documents/43815C4HSGH.PDF

Sergeant Leininger approached me at my place of employment and told me that because of Heidi Yauman's letter complaining about him, she was going to be evicted. Sergeant Michael Leininger also stated that I had been living at Markham Plaza and that he had video of me there. On the contrary, I had not been on the property for many months and had been residing in Palo Alto since June, 2007.

This matter was brought to the attention of deputy Santa Clara County Public Guardian Kanta Jindal, who at the time was Heidi Yauman's conservator. It was Jindal's responsibility to advocate for Heidi Yauman and to stop what was obviously very illegal abuse against her. Not only were Heidi Yauman's fair housing rights being violated, and she was being denied the extra care needed because of her disability, but the abuse by property management and sergeant Leininger also violated laws protecting dependent adults and seniors. Deputy Jindal demanded that I stay away from Heidi Yauman and stop advocating for her. Shortly thereafter, Heidi Yauman received a letter from supervising public guardian Dennis Silva alleging false unsubstantiated allegations, including there being video showing I was residing at Markham Plaza Apartments. The letter from Dennis Silver to Heidi Yauman told her she should expect an eviction notice in the near future. Neither Kanta Jindal, or her supervisor, Dennis Silva did sufficient research or follow up on the crisis at Markham Plaza Apartments and were not aware of the widespread abuses taking place, the tenant organizing efforts underway by myself and Dr. Christopher Ehrentraut, and the criminal complaint recently filed against Markham Plaza by Dr. Christopher Ehrentraut. (approximately April, 2008)

In a state of panic, Heidi Yauman wrote up a letter about what was happening regarding Markham Plaza and the public guardian. This letter, which contained a few errors, detailed abuses going back to approximately 2003 with the public guardian including another fraudulent eviction following a 25-month period in which Heidi Yauman was denied services by the public guardian. This letter also referenced abuses by deputy public guardian Rhondi Opheim and two San Jose Police officers : Gabriel Cuenca (Badge 3915) and Tom Tortorici (Badge 2635) This incident, which occurred on January 26th, 2006 is documented here:

https://www.youtube.com/watch?v=y5-Khy4bpH4 (Both of these officers were under the supervision of San Jose Police Sergeant Michael Leininger (Badge 2245)

**Copies of Heidi Yauman's letter was distributed to multiple social services agencies, law enforcement agencies, left under windshield wipers of police cars, and distributed to several court facilities in Santa Clara County. Heidi Yauman received a follow up letter from Santa Clara County Superior Court Judge Mary Anne Grilli, and an investigation was initiated by Santa Clara County District Attorney Elder Fraud Investigator: Detective Dennis Brookins, who was under the supervision of deputy district attorney Cheryl Bourlard (California State Bar ID #132044) We also met with San Jose City Council Member: Sam Liccardo, who confirmed that he would pass along a copy of Heidi Yauman's letter to the Santa Clara County Board of Supervisors. Council Member Sam Liccardo and I discussed the retaliatory incident involving Sergeant Michael Leininger, and I sent a follow up letter to Council Member Sam Liccardo , who then forwarded the concerns over to the San Jose Police Department's Internal Affairs Unit.**

**Heidi Yauman and I both met with San Jose's Independent Police Auditor office (Suzanne Stauffer & Shivaun Nurr) and Heidi Yauman obtained pro bono legal counsel from the Law Foundation of Silicon Valley (Melissa Antoinette Morris – California State Bar ID# 233393 )**

**Copies of documents were made available to Dr. Christopher Ehrentraut to supplement the existing criminal complaint which included violations of the Unruh Civil Rights Act. I called Supervising Public Guardian Dennis Silva to confront him on the letter he sent to Heidi Yauman and challenged him to verify or prove a single allegation stated on the letter. Dr. Christopher Ehrentraut also called Dennis Silva to brief him on the crisis at Markham Plaza, and the widespread abuse that had been occurring and pleaded with Mr. Silva to not participate in the attacks against Heidi Yauman and the other residents. Dennis Silva called me back and conceded that he was unable to prove or verify any of the allegations and stated that Heidi Yauman was not going to be evicted from Markham Plaza Apartments.**

**That same day, Markham Plaza Property Manager: Theresa Coons was terminated from her position. Deputy Public Guardian Kanta Jindal was also abruptly removed as Heidi Yauman's case. Theresa Coons was replaced by Markham Plaza Property Manager Katrina Poitras, and Deputy Public Guardian Kanta Jindal was replaced by deputy public guardian Rebecca Pizano-Torres.**

During the same time period in 2008, San Jose Police Officer Robert Ridgeway was arrested and convicted for domestic violence against his wife, Minette Valdes in Santa Clara County Superior Court Case CC891592. Following his arrest, and the complaint by Dr. Christopher Ehrentraut, Robert Ridgeway was no longer a San Jose Police officer. On October 22nd, 2008, Robert Ridgeway started a corporation called WifiSwat (Entity number: C3166900 ), Robert Ridgeway resumed working through contracts with Markham Plaza Apartments, and "The Plant" shopping center as a surveillance camera technician DBA: WifiSwat. Robert Ridgeway's supervisor, Sergeant Michael Leininger (badge no. 2245) retired from the San Jose Police Department and started his own security company: Safety First Security LTD (PI 27360 PPO 16683) Michael Leininger also continued to working with Markham Plaza Apartments and "The Plant" shopping center DBA "Safety First Security." Through his private company, he employed uniformed off-duty San Jose Police officers as security guards at both locations.

I continued to work with local and neighborhood residents and other community leaders in addressing neighborhood safety and redevelopment concerns and police misconduct related issues in the neighborhood and throughout the city. I also networked with activists and organizations from around the country to bring about public awareness to abusive conservatorships and to advocate for better laws protecting dependent adult / seniors and disabled. I worked very closely with San Jose City Council Member Madison Nguyen who set up an office at "The Plant" shopping center. Councilmember Nguyen and I to set up meetings with the residents at Markham Plaza Apartments, who asked us to help start a Neighborhood Watch Program. There were also discussions about starting a neighborhood association or joining forces with the nearby Tully / Senter Neighborhood Association. When the hostile living

environment at Markham Plaza Apartments became too overwhelming for Heidi Yauman to withstand, she would often hang out with Councilmember Madison Nguyen at her "Plant Shopping Center" campaign office.

I also worked closely with many others including San Jose Independent Police Auditor: Judge Ladoris Cordell (ret), San Jose Police Chief Christopher Moore, San Jose Police Internal Affairs Commander: Lieutenant Richard Weger and Jose Salcido, a retired sheriff department lieutenant and Public Safety advisor for Mayor Chuck Reed. In 2010, a police misconduct news story regarding initiated by me made international news and was featured on the television show: Good Morning America and in 2011, I received an invitation to meet with U.S. President Barack Obama. I been a professional activist for many years and have been invited as guest speaker at Stanford University and my video presentations have been used to teach law school students.

In April 2012, The San Jose Police Department's secondary employment unit was subject of scathing audit by the San Jose City Auditor's office under supervision of Sharon Erickson. San Jose Police chief Christopher Moore acted upon my recommendations to better supervise the Secondary Employment unit after my recommendations were echoed by auditor Sharon Erickson. Changes were made to San Jose Police departments organizational structure and the secondary employment unit was moved out of the bureau of administration and relocated to the office of the chief of police. Michael Leininger's security company (Safety First) lost it's contact with "The Plant" shopping center and San Jose Police Lieutenant Anthony Mata was assigned to oversee SJPD officers working SEU paid jobs at "The Plant" shopping center. San

Jose Police Chief Christopher Moore requested that Lieutenant Anthony Mata and I work together in resolving with the problems with the officers at "The Plant" shopping center.

Also, In April of 2012, Heidi Yauman was visited at her home by probate court investigator Yara Ruiz to review matters relating to her conservatorship. I attended this meeting as Heidi Yauman's advocate and at the meeting, I learned from court investigator Yara Ruiz that the public guardian had falsified documentation in Heidi Yauman's probate court file which falsely claimed that I was living at Markham Plaza in 2008 and that the public guardian had intervened to stop the eviction. I followed up in writing with the Public Guardian, probate court investigator Yara Ruiz and other government agencies, including the California Judicial Council and U.S. Department of Housing and Urban Development regarding this fraud and mentioned that I would be assisting Heidi Yauman in preparing a declaration contesting the fraudulent probate court records. Deputy Public Guardian Rebecca Pizano Torres began calling Heidi Yauman and showing up at Markham Plaza Apartments trying to persuade Heidi Yauman not to file a declaration contesting the false records and an emergency meeting was called by her supervisor: Carlotta Royal. Heidi Yauman was then contacted by probate court investigator: Yara Ruiz and told that deputy public defender George Abel was assigned to her case to assist her with the declaration contesting the false probate court records. Deputy Public Guardian Rebecca Pizano Torres told Heidi Yauman that I could not help her with her declaration because she now had an attorney (George Abel) assigned to handle it for her. I followed up with the public defender's office in writing regarding these issues and included public defender Molly O'Neal in the correspondences in hopes that she would hold those under her supervision

accountable. Deputy Public Defender George Abel did not assist Heidi Yauman with her declaration contesting the fraudulent probate court records.

Additionally, in April of 2012, another public guardian conservatorship: the conservatorship of Gisela Riordan – Probate court case 1-10-PR-166693 had been generating attention from activists and organizations from across the country for the isolation and poor living conditions at Villa Fontana retirement community in San Jose. These activists included Linda Kincaid, Janet Phelan, Marti Oakley, Latifa Ring, and Ken Ditkowski and other attorneys and organizations working to reform conservatorship laws, including active and retired law enforcement officers. The probate court judge was Thomas Cain, but Judge Socrates Peter Manoukian had presided over the eviction of Gisela Riordan's son, Marcus Riordan from her home in what many believed was to assist the public guardian in seizing her house and other property - Case -10-CV-190522. Deputy Public Guardian Rebecca Pizano-Torres was very involved in this issue as was probate court investigator: Yara Ruiz and others who were also involved in the matter involving the fraudulent probate court records in Heidi Yauman's probate court file. Linda Kincaid and others had contacted me after hearing of problems Heidi Yauman had with the public guardian leading up to the recent issue pertaining to the discovery fraudulent probate court records, and roadblocks we had encountered in attempt to address these issues. NBC News (Kevin Nios) and ABC News I-Team (Jim O'Donnell & Dan Noyes) had both began investigating the public guardian and conducting interviews with conservatees, their advocates, friends and family.

On May 7th, 2012 a homeless man was shot and killed at Curtner Avenue & Almaden Road, a short distance from Markham Plaza Apartments. Myself, Council members Madison Nguyen, Pierluigi Oliviero and other community leaders organized a neighborhood meeting on May 14th, 2012 which took place at "The Plant" shopping center across the street from Markham Plaza to address homeless related concerns. Though I worked closely with vice mayor / council member Madison Nguyen, I disagreed with her on her handling of the issue which I believed was being construed and framed as a homeless issue and being used to get federal funding from the U.S. Department of Housing and Urban Development to fund the San Jose Police Department. I believed officials were skewing data to obtain grant money and that once obtained, much of this money would be spent inappropriately. I suggested that instead of funding the San Jose Police Department, federal grant money should be directed to getting homeless people housed at Markham Plaza Apartments and helping to empower those who already lived there with better jobs and housing. Another idea was to provide a reseme workshop for the Markham Plaza residents, perhaps by expanding an existing program provided by the nearby Cathedral of Faith Church. I had difficulty getting neighborhood residents to attend the meeting because the San Jose Police officers working at "The Plant" shopping center had issued illegal "Stop orders: preventing neighborhood residents from being at "The Plant" shopping center. I brought suggestions and concerns of residents with me. Some residents were concerned that Robert Ridgeway was distributing guns at Markham Plaza & thought a neighborhood gun buyback program would be a good idea. Residents thanked me for their advocacy and support, and some warned me that Michael Leininger may try to retaliate against me for the audit that had taken place and him losing his business contract with "The Plant" Shopping center and causing 8 of his officers to be fired. San Jose Police Lieutenant Anthony Ciaburro was present at the May

14th, 2012 meeting and had been supervisor to Sergeant Michael Leininger who was supervisor to Robert Ridgeway, who was allegedly distributing guns. At the time, former SJPD officer Robert Ridgeway was also in charge of maintaining security cameras at "The Plant" shopping center where the meeting was held. Deputy Santa Clara County Public Guardian Rebecca Pizano-Torres continued to cause problems for Heidi Yauman, who was experiencing an increased level of harassment by Markham Plaza property manager Elaine Bouchard and other EAH Housing staff. Despite written follow up attempts, Deputy public defender George Abel was completely unresponsive and did not assist Heidi Yauman in her declaration contesting the fraudulent probate court records regarding Markham Plaza. Meanwhile, the public guardian did not intervene to stop the harassment against Heidi Yauman which placed me in the position where I would have to interne on Heidi Yauman's behalf. Markham Plaza property manager Elaine Bouchard would respond that she would work exclusively with the Public Guardian. We were caught in loop because public guardian would repeatedly fail to intervene, breaching their fiduciary duty. I would therefore repeatedly be forced to intervene to stop the perpetual abuse and harassment and the "script was flipped" to make it appear as it I was harassing them.

On June 10th, 2012, Linda Kincaid and I interviewed on national radio show (Truth Talk Radio, hosted by Marti Oakley) regarding the Public Guardian's office and

On June 15th, 2012 Heidi Yauman was served with "Notice of termination of tenancy" papers from the Law office of Todd Rothbard, which suspiciously accused her of having a person named "Andrew Crittenden" residing with her without authorization from management. "Andrew Crittenden" was named as co-defendant in Santa Clara County Superior Court case 1-12-CV226958. This attracted the attention of organizations from across the country

who were monitoring the public guardian's office and the developments at Villa Fontana retirement community. The name "Andrew Crittenden" appeared to be fictitious representation of myself, with attempt to create an illusion of consistency with the fraudulent probate court records created by the public guardian that deputy public defender: George Abel. In addition to organizations and activists from across the country focusing on the public guardian, and local efforts to obtain and allocate federal grant money from the U.S. Department of Housing and Urban Development, other organizations that dealt with housing rights and advocacy also became involved. These included the Affordable Housing Network and the National Alliance of HUD Tenants, who I had been working with in attempt to establish a Markham Plaza Tenant Association. I assisted Heidi Yauman in preparing an "answer to unlawful detainer" but there was no answer to unlawful detainer prepared for "Andrew Crittenden" since that was not my name and I was not living at Markham Plaza. Heidi Yauman's Answer to unlawful detainer to case 1-12-CV226958 referenced to a code enforcement complaint filed on June 4th, 2012, which should have afforded Heidi Yauman protections against eviction pursuant to the Fair Employment and Housing Act. Deputy Public Guardian Rebecca Pizano-Torres was replaced by Bruce Thurman for a very brief time period, then replaced by deputy public guardian: Arlene Peterson (AKA: Arlene Claude)

**After Heidi Yauman's answer to unlawful detainer was filed with the court, deputy Santa Clara County Counsel, Larry Kubo (State Bar ID 99873), acting as legal counsel for the Public Guardian, supposedly acting in Heidi Yauman's behalf. The Answer to unlawful detainer filed by Larry Kubo, which was accepted by Judge Socrates Peter Monoukian overrode the original answer to Unlawful detainer, created the illusion of consistency with the fraudulent records deputy public defender George Abel was supposed to help Heidi Yauman challenge 2 months earlier. It also made no mention of the June 4th, 2012 code enforcement complaint, effectively stripping Heidi Yauman of her retaliatory eviction protections established in the Fair Employment and Housing Act. (FEHA). It is important to emphasize that deputy county counsel Larry Kubo and Judge Socrates Peter Manoukian were both intimately involved in the public guardian's escalating crisis at Villa Fontana retirement which was subject to attention from all over the country, publicity and attention which would soon engulf Markham Plaza Apartments. Deputy County Counsel Larry Kubo was under the supervision of Santa Clara County County Counsel Lori Pegg (State Bar ID 129073), who, according to rule 3-110 (California Rules of professional conduct), was ultimately responsible for the conduct of all attorneys under her supervision and obligated by law to take corrective action in the event that any of them should fail to act competently.**

**I appeared in court with Heidi Yauman on case 1-12-CV226958 in department 19 (Judge Socrates Peter Manoukian) Deputy Public Guardian Arlene Peterson arrived accompanied by county counsel Larry Kubo. Markham Plaza was "represented" by attorney Ryan Mayberry, from the Law office of Todd Rothbard. Judge Socrates Peter Manoukian made a statement that the case was originally assigned to Judge Mary Greenwood, but that Judge Mary Greenwood recused herself for being personal acquaintance with "Andrew Crittenden" Judge Socrates Peter Manoukian accepted motion by deputy county counsel Larry Kubo to override the answer to unlawful detainer I had helped Heidi Yauman with, replacing it with a different answer unlawful detainer prepared for himself.**

**Deputy County Counsel Larry Kubo presented a "stipulation order" prepared by attorney Ryan Mayberry to deputy public guardian Arlene Peterson and myself. The language contained within the stipulation order was very confusing and contradictory and was not easy to fully understand. It was even more so difficult for Heidi Yauman, a traumatic brain injury survivor. This stipulation order contained language like "tenant must follow all rules that are or maybe in affect at any or all times) with many variables, (Is specific rule in effect or is it not) , etc. Deputy County Counsel Larry Kubo conned me into signing it, assuring that it would likely help to de escalate the situation. I was told me that it would be unenforceable on me because I was not a resident my true name was not the same as named on the order. I reluctantly signed the stipulation order after taking into consideration the following legal factors: Section 12 of the Markham Plaza house rules clearly stated that HUD laws supersede all rules and lease conditions, another section made clear that all new rules must be approved by HUD (Rendering matter outside jurisdiction of Judge Manoukian's court) also rules be equally enforced for all residents and may not be enforced arbitrarily.**

**Heidi Yauman did not sign the stipulation order, but deputy public guardian Arlene Peterson signed it on her behalf which I thought was a big mistake because the confusing and contradictory language contained within the stipulation order appeared to be in violation of California Welfare and institutions code §15656 prohibiting causing confusion or mental anguish on an elder or dependent adult.**

**That day, while returning home to Markham Plaza Apartments, I accompanied Heidi Yauman for her own safety. Immediately, upon entering the lobby to her own apartment building, Heidi Yauman was in "technically" in violation of the stipulation order because of a rule requiring all guests to "register" at the office. Markham Plaza however, did not have a registration process available and when we asked at the office, the staff had no forms or procedure to do with registration. Another thing that was unclear was the difference between "guest", and "visitor", and adding further to the confusion, the stipulation order defined me (or) "fictitious name: Andrew Crittenden" as resident, making me neither: visitor or guest.**

**The stipulation order was used as a weapon by Markham Plaza Property Management to harass, abuse and terrorize Heidi Yauman and the public guardian refused to intervene to stop the harassment. As before, I was put in position where I had to intervene and hit a wall when told by Markham Plaza Property Management that they deal exclusively with the public guardian. We were caught in the same loop as before, but the harassment and abuse had escalated dramatically, and despite constant pleadings to supervisors of various county agencies, nobody would lift a finger to help. Activists and organizations from across the country continued to monitor the Markham Plaza abuse crisis and ABC News continued to gather information on their investigative series: "Investigating the Public Guardian"**

**In early July, 2012, I assisted Heidi Yauman in filing 2 requests to property management requesting clarification on the confusing language in the stipulation order. This was proper way to go pursuant to the American's with Disabilities Act in regards to Heidi Yauman's traumatic brain injury, and also Chapter 4 of the HUD Management Agent Handbook. Markham Plaza Property Manager Elaine Bouchard ignored Heidi Yauman's ADA request for clarification, laughed in Heidi's face and told Heidi Yauman she loved to make her suffer.**

**I was also advocating for other residents,and caring for another disabled Markham Plaza resident: Robert Moss, in apartment 409. Robert Moss was in severe pain and could barely walk. He needed my assistance with basic house cleaning and errands to get groceries and other items, including getting his mail which included his medication. He was taking pain killers for condition with his feet, & I believe he also on antibiotics. One very hot day in July, 2012, Heidi Yauman was nowhere around. She was visiting with her mother who lives in Sunnyvale. I was attempting to deliver groceries to Robert Moss, and was confronted by Rudy, the Markham Plaza Property Manager at the front door and told that according to the stipulation order, I was not allowed to deliver the groceries to Robert Moss without Heidi being present. Robert Moss was of course unable to come downstairs to get his groceries and I was forced to sit outside in front of the building on hot day with perishable goods, including melting ice cream. Finaly I gave in and walked into the building and took the elevator up to the 4th floor to deliver the groceries and Robert Moss told me he was dizzy and about to pass out because the widow was closed and it was too hot for him. He was unable to walk to the window because of the condition on his feet and also because there was big pile of trash between him and the window. I could not help him with this issue because it was so difficult to get access to him. I brought this matter to the attention of public guardian Arlene Peterson who told me she was not Robert Moss's advocate and I would need to take the matter up with management, who told me that they deal exclusively with the public guardian.**

**Markham Plaza and the public guardian both interfered with me from helping Heidi Yauman clean her apartment and remove excess clutter. (they flipped the script and accused me of trying to move my belongings in – this had been going on for years) In the end, Heidi Yauman was charged for cleaning fees authorized by the public guardian who had control of her finances.**

**I was working at a nearby apartment complex / storage facility at 1650 Pomona Avenue, helping the elderly property owner with a federal lawsuit involving reverse foreclosure and bankruptcy. Markham Plaza Property Management would continue to create problems for Heidi Yauman. And I would have to repeatedly leave work to respond to the crisis and try to de-escalate the conflict. Several times I was assaulted trying to render aid to Heidi Yauman and Robert Moss. I was reluctant to defend myself for fear that I would be portrayed as the aggressor. This was documented to make it appear like I was coming to cause problems. Whenever possible, I would check in with Heidi in the evening after staff would leave to avoid conflict of having to interact with them. I was unable to perform my duties at work and the property owner lost his property, residential tenants had to move out and storage clients lost their personal belongings. On one occasion when I was unable to respond quickly to Heidi Yauman's cries for help, she tried to climb out her forth floor window and down the scaffolding equipment set up for painting the building. People outside and at nearby businesses ran up and urged Heidi Yauman to climb back in her window. They were confronted by Markham Plaza staff and told to mind their own business and that their was court order in effect.**

**On August 10th, 2012, Judge Socrates Manoukian's son Matt Manoukian who was marine was killed in combat in Afghanistan.**

**I wrote to Markham Plaza Property management pleading with them to not proceed with the attacks. I and requested a meeting to discuss ways to resolve the issues and my concerns about their collusion with the public guardian and being afraid that someone getting hurt. I wanted them to know about investigations going on and that the public guardian was being watched from all over the country for Villa Fontana, etc & that the same individuals in the middle of the spotlight were the ones they were in collusion with, and that Markham Plaza, like Villa Fontana was also being watched from all over the country, and I figured it would be in their best interest and the interest of everyone involved that they stay out of the spotlight and avoid the negative publicity. I thought it made perfect sense to sit down with them and discuss ways to coexist in peace and to collaborate on something some thing constructive, like directing some of the HUD funding discussed at May 2012 meeting in a way to benefit the residents, perhaps being channeled through non profits and churches such as Catherdral of Faith, Sacred Heart, Catholic Charities etc. The federal grant money was already available and all that needed to be done was designate proper use for it. It seamed so much more practical to direct energy in a constructive manner rather than destructive and to help people instead of hurting them. This was offer I thought they could not refuse especially since it would benefit EAH Housing as an organization to which they would also gain positive publicity instead of negative publicity. I included email with link to video exposing the isolation of Gisela Riordan at Villa Fontana which sparked the ABC News story. I wanted to put things in proper perspective by showing Markham Plaza that their isolation of Robert Moss and Heidi Yauman was very similar to the isolation of Gisela Riordan. Attorney Ryan Mayberry altered these documents and submitted them as exhibits to the court (Judge**

**Socrates Peter Manoukian) , these were accompanied by fraudulent, unsigned declarations from individuals including Robert Ridgeway, who alleged that he had video evidence and was able to testify that I was living at Markham Plaza and stayed overnight several nights. This was untrue. Since the original papers were served in June of 2012, I had only spent one night at Markham Plaza, which was the night before in order to ensure that myself and Heidi Yauman were able to get to court on time. On the bottom of one of the exhibits, there are the words: "See Youtube video: and the link to the video of Villa Fontana is showing, proving that the document was altered and demonstrating my intent in informing them of the isolation of Gisela Riordan.**

**When I tried to cross examine attorney Ryan Mayberry about the fraud concerning the altered documents, and how he knew they were from me (since my name was on the bottom was also cut off below the youtube link), Judge Socrates Peter Manoukian interrupted and diverted the conversation. Judge Socrates Peter Manoukian began interrogating me in court about Villa Fontana and my knowledge and involvement in FBI investigations into to the court system. I stated on the record that the documents had been altered, Judge Manoukian evicted Heidi Yauman on the alleged basis that the organizations and groups from around the county, members of the news media and those present at the May 14th meeting were conspiring together to attack Markham Plaza Apartments, a vast nationwide conspiracy supposedly being orchestrated by "Andrew Crittenden" and funded by the U.S. Department of Housing and Urban Development. I was denied my right to be heard in court and all the witnesses immediately rushed out of the court room. None of them signed their declarations or testified and I was not allowed to cross examine any of them. The only people who spoke were myself, and attorneys Larry Kubo and Ryan Mayberry, The proceedings were being monitored from all over the country and Markham Plaza Apartments plunged themselves headfirst into the spotlight.**

**The eviction proceedings occurred on October 3rd, 2012, only 53 days after the August 10th death of Judge Manoukian's son Matt Manoukian, who died fighting alleged "terrorists" When googling Judge Socrates Peter Manoukian, a lot of information comes up, but the two main incidents that stand out the most are the death of Judge Manoukian's son Matt Manoukian, and the fraudulent eviction of Heidi Yauman. It appears highly suspicious appears more than coincidental that that these major two events occurred only 53 days apart. One has to wonder if in addition to the fraud and perjury, there may be sanity issues at with Judge Manoukian and the vast number of people and organizations accused of conspiring to attack Markham Plaza Apartments without motive. The Cathedral of Faith church alone has an estimated 12,000 congregation members.**

**That same evening of October 3rd, 2012, Jim O'Donnell met with victims and their families and advocates at a Denny's restaurant, a few blocks away from Markham Plaza Apartments. National advocate Linda Kincaid, from the National Association Against Guardian abuse was present at the meeting and she announced she had pulled records from the court website regarding case 1-12-CV-226958. These records indicated that "Andrew Crittenden" had been evited twice from Markham Plaza Apartments. First by default for failing to file answer to unlawful detainer, When deputy public guardian Arlene Peterson's name was mentioned, Anthony Alaimo: mentioned that he two had dealt with Arlene Peterson and that she had shown up at his mothers home with forged eviction papers in what also involved corresponding court cases between department 19 (Judge Socrates Peter Manoukian /- 2008-1-CH-002010 ) and department 3 (Judge Thomas Cain / 1-10-PR-166693) After many people came forward bringing attention to the fraud and abuse, online records referencing docket no. 1-12-CV226958 vanished and no longer be found, other court cases in same court department during same time period were still searchable and accessible.**

**After Heidi Yauman's eviction, she was moved by the public guardian to Gainsville Road in San Jose and I had trouble accessing Robert Moss because of the harassment and being assaulted trying to enter Markham Plaza, and my cell phone had fallen from a ceiling wall outlet and had broken. I too was feeling broken and truly exhausted from this terrifying horrific ordeal. I followed up with Mr. (Duncan) Lee Pullen, director of Aging and Adult services on welfare check for Robert Moss and the money embezzled from Heidi Yauman by attorney Ryan Mayberry. Ryan Mayberry and Lee Pullen were neighbors, living a few short blocks from each other in San Rafael, where EAH Housing was headquartered. Lee Pullen authorized the public guardian to pay his neighbor Ryan Mayberry to commit fraud against Heidi Yauman (called attorney fees) payed for with Heidi Yauman's with Heidi Yauman's finances which the public guardian controlled. Lee Pullen was irresponsive to my requests for welfare check on Robert Moss and in early November of 2012, I learned that Robert Moss was discovered dead after Judge Manookian facilitated fraud (fabricated threats) and fake court declarations which Markham Plaza then used to deny Robert Moss accommodations pursuant to the American's with disabilities act. by isolating him like what had happened to Gisela Riordan.**

**In approximately, December 2012, Deputy Public Guardian Arlene Peterson terminated Heidi Yauman's tenancy on Gainsville Road in San Jose and threw her out on the street in the middle of winter. I then allowed Heidi to stay with me at 2700 Ash Street in Palo Alto where I had been illegally subletting since 2007. Since I did not have permission to allow Heidi Yauman to live with me, I also lost my housing on January 26th, 2013. Heidi Yauman and I moved across the street to 5 abandoned houses on Page Mill Road. Deputy Public Guardian also announced plans to terminate Heidi Yauman's conservatorship – closing any doors for opportunity to contest fraudulent documents which public defender George Abel was supposed to assist her with, tossing the ball to Robert Ridgeway who filed fake declaration to creating illusion of consistency with fake probate court records traceable to the earlier eviction attempt scandal from 2008 involving Markham Plaza Apartments, the Public Guardian and San Jose Police Department's Secondary Employment Unit.**

**I filed a complaint on behalf of Heidi Yauman with the U.S. Department of Housing and Urban Development (HUD Inquiry 345092) which was picked up by Jane C. Shandler at the San Francisco HUD office. Heidi Yauman authorized to act on her behalf pursuant to the American's with disabilities act. After short while, the investigation mysteriously grinded to a halt and HUD stopped responding. I emailed the San Francisco Police Department and told them that Heidi Yauman and I might need a Civil Standby at the San Francisco HUD office because HUD was refusing Heidi Yauman's complaint. I copied the email to the HUD Inspector General's office in Washington D.C. and a short time later, the HUD complaint was reinstated but no explanation was given as to why it had stopped. Soon after that, I was notified that the Public Guardian had intervened and had used their power of attorney to shut down Heidi Yauman's HUD complaint. I followed up meticulously via email with several county officials from across the board to reinstate the HUD complaint and included deputy public defender George Able, who was assigned to represent Heidi Yauman. I copied Public Defender Martha "Molly" O'Neal who, pursuant to rule 3-110 of the California Rules of Professional is ultimately responsible for taking corrective action for the incompetence of all attorneys under her supervision. Martha "Molly" O'Neal did nothing to assist with reinstatement of the HUD complaint, nor did she assist with the declaration to contest the fake probate court files, instead, she held the door open for the false declaration by Robert Ridgeway bringing about the illusion of consistency in the fake court records.**

**I also filed a whistleblower complaint against deputy county counsel Larry Kubo regarding him over riding the original "answer to unlawful detainer" and stripping out her protections in the Fair Employment and Housing act, basically setting up Heidi Yauman to lose her eviction case (1-12-CV226958). The Whistleblower blower complaint was received and handled by office of County Counsel, under supervision of Lori Pegg, who herself violated rule 3-110 in regards to the misconduct of subordinate attorney, deputy county counsel, Larry Kubo. I furnished the County Counsel Whistleblower program with solid proof supporting my allegations, including copy of the San Jose code enforcement complaint against Markham Plaza with case number, date it was filed and name of the investigator assigned.**

**County Counsel stonewalled the complaint and told me they could not give information on investigations. I then filed a public records act request on their policies and procedures which are public record. I used these policies and procedures to reverse engineer the whistleblower investigation and determined that they had violated a policy requiring that if a county counsel attorney is subject of whistleblower complaint, then it must be referred upward in the chain of command to the County Executive's office.**

**I brought the whistleblower complaint to the County Executive's office like I was supposed to do and presented them with the same proof given to county counsel. The county executive would either ignore the complaint or direct it back to county counsel and I would continue to send it back to the County Executive citing the policies requiring them to receive the whistleblower complaint. I also continued to follow up on reinstatement of the HUD complaint and was continually given the runaround.**

**Hundreds of people, myself included documented these improprieties and published them on the internet. These included web banners depicting Judge Socrates Peter Manoukian, (Duncan) Lee Pullen – head of Aging and Adult services who and his neighbor, Ryan Mayberry, the attorney for Markham Plaza Apartments. The ABC News story: Investigating the Public Guardian was also aired and Dan Noyes from ABC News interviewed (Duncan) Lee Pullen about the public guardian's practices of violating laws enforced by the U.S. Department of Housing and Urban Development.**

**Myself and others began receiving harassing and threatening phone calls from Santa Clara County Sheriff Detective David Carroll, who demanded that I stop pursuing the whistleblower complaint, and the HUD complaint (inquiry 345092) Detective David Carroll demanded that I stop advocating for Heidi Yauman, which included assisting her with medical attention. Detective David Carroll specifically told me not to put anything in writing regarding the EAH Housing Scandal, the abuse of Heidi Yauman and the circumstances surrounding Robert Moss's Death. Detective David Carroll also contacted documentary film producer William Windsor of the "Lawless America" project who was working an documentary film on government corruption which would feature Judge Socrates Peter Manoukian. The Sheriff department accused William Windsor of publishing pictures of himself with guns on social media and threatening judges, though there was never any evidence of this and no arrest was ever made regarding these claims. Web Banners and Information on Judge Socrates Peter Manoukian and detective Detective David Carroll were published on Lawless America sites and were distributed to thousand of people, including organizations that deal with police misconduct and police accountability related issues. Despite claims by Santa Clara County Sheriff deputy Robert Eng, the Lawless America project did not become involved because they were contacted by me, They had signed onto the project much earlier, 2010 or 2011 through the Public Guardian's Gisela Riordan's conservatorship case which had also sparked the ABC News story. Lawless America had been following the developments ever since, including when Markham Plaza Apartments plunged themselves into the middle of the scandal.**

**In 2014, focus began to shift to Robert Ridgeway, who filed a fake court declaration in case 1-12-CV226958. Like all the other witnesses in case 1-12-CV226958, Robert Ridgeway's declaration was unsigned, he never testified, and I never got the opportunity to cross examine him. Hundreds of people, including myself decided to "put him on the stand" and confront him on his statements, ask him to show the video evidence proving that "Andrew Crittenden" had been living at Markham Plaza and ask him to site the specific nights "Andrew Crittenden" had stayed overnight, etc. Banners were published along with descriptive text with Robert Ridgeway and his new wife, Santa Clara County Sheriff Deputy Aleksandra Ridgeway. The sole focus was to address the false statements in his declaration which he refused to sign and testify to. Robert Ridgeway was offered the opportunity to simply deny making the unsigned allegations contained within his false declaration. Robert Ridgeway was no longer a police officer and the declaration had nothing to do with his duties as police officer and his wife, deputy Aleksandra Ridgeway was not a party or witness to case 1-12-CV226958, and no involvement whatsoever. Affiliated organizations addressing police accountability issues had combined distribution channel capacity to distribute the banner to over 1,000,000 people if designed according to their policies, which would be a "police accountability theme", Robert Ridgeway was therefore depicted with his wife, deputy Aleksandra Ridgeway suggesting that perhaps, he was able to avoid prosecution for the fake declaration in part, because he was married to a law enforcement officer.**

**On September 16th, 2014, I was arrested by the Palo Alto Police Department on a $5000.00 warrant issued by the Santa Clara County Sheriff department. (California penal code § 653(2)a. The prosecutor was deputy district attorney James Leonard, who was a homicide prosecutor 2 years earlier when Markham Plaza Resident Robert Moss died. The public defender assigned to the case was Jeffrey Dunn and the judge was Rodney Jay Stafford. Jeffrey Dunn lied to me about the required elements to the charge and told me I was being charged with "publishing someone's personal information in a manner which could potentially make them feel harassed" which while I pled, an additional "victim" was added, that being deputy Aleksandra Ridgeway. I was also lied to about the terms and conditions of probation and was not allowed to see the police report, read the actual statute or the terms of my probation. The Santa Clara County Superior Court Docket number was C1493022. Also, Santa Clara County Sheriff department bailiff's seized from me the phone number for outside attorney: Aram Byron James.**

**I was not aware at the time that deputy district attorney James Leonard was homicide prosecutor when Robert Moss died, and it had not yet occurred to me the significance of deputy public defender George Abel's failure to assist Heidi Yauman with her probate court declaration, and the possible collusion involving the civil court declaration by Robert Ridgeway, and that George Abel's failure to assist with probate court declaration may have actually been a contributing factor to causing Robert Moss's death. (The district attorney's office covering up public defender's involvement in homicide) The public defender's office should have immediately declared a conflict of interest and recused. There is also the important question regarding proper as to whether the court system in Santa Clara County may be covering up for their own liability by allowing Judge Socrates Peter Manookian to preside over court cases so soon after his son Matt Manookian was shot and killed.**

**When I finally received a copy of the criminal complaint and the police report, signed by Santa Clara County Sherriff detective David Carroll under penalty of perjury, I noticed another problem besides the false and fabricated statements in the report. County Counsel Lori Pegg, who supervised the fraud by Deputy County Counsel Larry Kubo, and also the mishandled whistleblower complaint regarding Larry Kubo, and had failed to take corrective action pursuant to CRPC 3-110 had since become a Superior Court Judge. Judge Lori Pegg had handled search warrants into my face book account to illegally gather "evidence" in a situation she had been directly involved in when she was on County Counsel – A conflict of interest matter requiring her to recuse pursuant to California Code of Civil Procedure § 170.**

**Detective David Carroll's falsified police report contained many untrue, misleading and fabricated statements. Some of them are as followed:**

- **The police report had falsely claimed that Robert Ridgeway had testified at 1-12-CV226958. Which is untrue.**
- **The police report claimed that I was evicted in case 1-12-CV226958, which is untrue.**
- **The police report implied that I had created a crime spike in the area of Robert Ridgeway's residence (Yellow-5) and covered up crime at Markham Plaza apartments (Lincoln-4) .Records obtained from San Jose Police Department's bureau of technical services showed no measurable crime spike in (Yellow-5) and confirmed the crime at Markham Plaza (Lincoln-4) Furthermore, interviews conducted with Robert Ridgeway's neighbor's revealed that none of them were aware of any crime spike or suspicious activity. Markham Plaza residents reported that many young adults and teen agers were carrying guns.**
- **The police report claimed that I (or the banners) accused Robert Ridgeway and his wife (they) of committing fraud against a brain damaged woman. That is also untrue. The accusation was directed exclusively at Robert Ridgeway (not his wife)**
- **The police reports claimed that the web banners spoke negatively about their duties (Robert and Aleksandra Ridgeway) as police officers. This is untrue. The banners were directed specifically at the false declaration Robert Ridgeway had filed. This was long after his arrest and he was not a police officer. Aleksandra Ridgeway had nothing to do with the declaration and the declaration had nothing to do with her duties as police officer. Only her husband's criminal activity. Adding further to the irony is that through my work reforming the San Jose Police Department's Secondary Employment Unit, I was the one who defined the parameters of Robert Ridgeway's duties were, and were not and because of that fact, I would know better than anyone, including Robert Ridgeway himself, what his duties were.**
- **The false police report also fabricated a statement I made in response to a congressional investigation into Lodi Police Department and the chief of police Mark Helms (Crapping in his panties about the congressional investigation) Instead, the police report misrepresented this statement as if I were trying to instill fear into Lodi Chief of Police Mark Helms.**
- **The police report implied I have antigovernment ideology and claimed I had been "videoed 'attending antigovernment protests. This is also untrue. I am neither anti-government or anti-police and have never attended to an anti-government protest, nor have I ever been videoed at one.**
- **Though not directly stated, fabricated statements contained within the police report implied that the campaign was controlled and directed by me alone and that I were somehow controlling all the different churches, investigators, organization, s law firms, designers, etc. and that none of them communicated or collaborated with one another and everything came from me and was directed by me and that all communications between the various players passed through my hands. The report portrayed me as a master puppeteer controlling what people did. Or master**

**ventriloquist telling everyone what to say. (I was only a spoke in the wheel – not the axil) and though I may have asked some people to share information (protected under first amendment) hundreds of other people had asked thousands of others to do the same and some of the lead project directors had pages with millions of followers. People were not so much responding to me as they were to Robert Ridgeway simply to get him to answer for his statements. If he did not want to answer for his statements and was not prepared to, then he should never filed the false declaration in 1-12-CV-226958 – Robert Ridgeway was obligated**

- **The false police report misrepresented sequences of events and rearranged timeframes in which events occurred and circumstances relating to those events.**
- **The false police report portrayed me with false persona.**

**In addition to numerous other fraudulent, false and fabricated statements detective David Carroll's police report, proper report writing procedure was not adhered to nor was proper investigative procedure adhered to. Detective David Carroll's investigation was illegal and abusive – not supported by probable cause and outside the scope of his duties as a law enforcement officer.**

**Another issue I found was that of "front line supervision" detective David Carroll was a "front line" deputy, a rookie detective on his very first investigative assignment. Similiar to the obligations for attorneys in California rules of professional conduct - rule 3-110 for attorneys, Police Sergeants have specific responsibilities for supervising the front-line officers to ensure, among other things that all proper procedures are followed. If the sergeant fails to do so, the sergeant is accountable to his supervising lieutenant for failing to supervise the officers on the front line. Likewise, the lieutenant is accountable to his captain and so forth , so on through the chain of command all the way up to the Sheriff (or police chief, or commissioner – depending on the department) This is an essential vital function in any department to ensure proper policies and procedures are adhered to and also harmonic coordination throughout the rank and file.**

**In my professional experience, it is would be highly unusual for a police report as bad as this to slip through the cracks and make it past the level of sergeant. If this were to ever happen, the sergeant would be harshly disciplined, possibly suspended or demoted to a lower rank. While examining the report, I noticed it had been reviewed by supervisor: "Riccardo Urena", who I assumed to be a sergeant. After following up I discovered that sergeant Urena was a high-ranking division captain, and head of the court security division. If a report like this were unusual to make past the rank of sergeant, it is virtually unheard of for it to get to or past the rank of captain. If the court security unit were instead a patrol division, like the West Valley division for example, the division captain is equivalent to the police chief for that specific municipality and would report to the city manager, and also be accountable to the chain of command up to sheriff.**

**The court security division, however, is through contact with the courts as opposed to individual cities so therefore the division commander, Captain Riccardo Urena would likely answer to court officials and the orders passed down through chain of command would be coming from the court officials rather than higher ranking brass such as undersheriff, assistant sheriff or sheriff.**

**Since Santa Clara County Sheriff Captain Ricardo Urena appears to have been reporting to court officials on the matter, and the orders passed downward through the chain of command appear to have come from court officials to Captain Riccardo Urena, this is another indication that the detective David Carroll's falsified report and my arrest and conviction were to cover up liability of the courts for Robert Moss's death. Furthermore, another very significant irregularity I noticed is that since Captain Riccardo Urena's responsibility is specifically and exclusively limited to matters involving the court, then what business had he involving himself with a case that was:**

1) **Within the limits of the city of San Jose under the jurisdiction of the San Jose Police Department / Bureau of field operations / Southern Patrol Division / District Yellow / Beat 5 (Yellow-5)**
2) **Involving a sheriff deputy (Aleksandra Ridgeway) who was at the time, not a court security officer (I believe she was patrol officer in Burbank, unincorporated Santa Clara County.**
3) **Assigned to detective David Carroll, who was not even assigned to the court security division or in the same chain of command as Captain Riccardo Urena. Detective David Carroll was assigned to the investigative division. Why then was he receiving orders from a captain from a different division who was receiving his orders from court officials? The Ridgeway residence where the fabricated crime spike did not occur was not a court facility, had nothing to do with the courts.**

**These inconsistencies and irregularities and Captain Riccardo Urena's involvement indicates that the issues fabricated and presented within the reports were no as they appeared or claimed to be. They had nothing to do with crimes committed against Robert Ridgeway or his wife, deputy Aleksandra Ridgeway. They were in fact court related issues. They would have had to be otherwise they would not have been supervised and directed by Court Security Division commander who reports to court officials.**

**There also appears to be breach of contact issues (Sheriff court security contact between the courts and county of Santa Clara) and issues that may be of interest to the State Controller office in that these county sheriffs being supported by state funds, and these state funds appear to be financing federal crimes such as witness intimidation, USC Title 18 Section 4, USC Title 42 Section 3631, USC Title 18 section 241 & 242, etc.**

**In October of 2014, I worked on preparing a Marsden Motion and motion to withdraw plea of no contest. I had been following up with deputy public defender Jeffrey Dunn and others including Public Defender Molly O'Neal, who, pursuant to CRPC 3-110, was responsible for the taking corrective action for all attorneys under her supervision including Jeffrey Dunn and George Abel and these emails cross referenced cases C1493022 and 1-12-CV226958. Molly O'Neal did not take corrective action as required, further violating my due process rights. I followed regarding the way Deputy Public Defender Jeffrey Dunn misled me, the falsified reports and the events leading up to them, and the court security bailiff seizing the phone number to outside attorney Aram James, making it so that I could not consult with him on the true meaning of the statute, etc. Deputy Public Defender Jeffrey Dunn assured me that the court security videos would be secured, and that an investigation would be conducted into the theft of the phone number for attorney Aram James. I was stonewalled and given the runaround on other issues such as being conned and coerced into false plea, the falsified police reports, and the stalking, harassment, and threats by Santa Clara County Sheriff Detective David Carroll, who through this falsified report, created an illusion of consistency between fake court cases: 1-12-CV226958 & C1493022**

**I also published a news article about the facts of the case and how I had been railroaded by the public defender's office and district attorney James Leonard, who was homicide prosecutor in 2012 when Markham Plaza resident Robert Moss was discovered dead after Jeffrey Dunn's colleague refused to assist with declaration contesting fake probate court records.**

**On October 16th, 2014, I arrived at the Santa Clara County Superior Court Hall of justice for my Marsden Motion & Motion to Withdraw plea with my paperwork in hand showing the email correspondences with Jeffrey Dunn and others since being released. I was met by deputy public defender Jeffrey Dunn and others. As soon as I walked into the court room, deputies seized my paperwork and I was placed in hand cuffs and arrested. Deputy District attorney James Leonard smirked and Judge Rodney Stafford Laughed and declared: "Let the record reflect that the defendant is now in custody" I lost my composure while attempting to argue my motion, which was denied by Judge Rodney Stafford. I did not get to submit my paperwork on the court record because it had seized by sheriff deputies. Deputy District Attorney James Leonard whispered into the ear of one of the bailiffs, and I was then led from the court room where I was tortured in a holding cell. Another alleged victim of Judge Manookian, Mr. Tedd Scarlett claims he was also tortured by sheriff deputies in holding cell which resulted in him suffering a heart attack. Ted Scarlett has medical records and other documents supporting his claims.**

**I still had not received the terms and conditions of my probation, but 20 days later, while returning to court for alleged violation of probation hearing in department 42. While waiting in court holding cell, a deputy outside the cell told me was calling out what sounded like my last name: Crittenden, only pronouncing it QUITTenden! QUITTenden! With emphasis on the word/syllable "QUIT" & saying Heidi needs you out there to protect her. You need to ger out of custody as quickly as possible or she is going to get raped, beaten up and killed.**

**I appeared in department 42 before Judge Rodney Stafford and was represented by deputy public defender Thompson Sharkey who employed similar tactics like Jeffrey Dunn had. Thompson Sharkey told me that by accepting the terms of probation, I had forfeited my first amendment right to freedom of speech regarding criticizing public officials established by the supreme court decision: New York Times vs. Sullivan and that by publishing information online about facts the case including the article about James Leonard and Jeffrey Dunn, I had violated probation and to be released from jail, I would have to accept a fake CR-161 criminal protective order naming deputy district attorney James Leonard (Who was homicide prosecutor when Markham Plaza resident Robert Moss was found dead after fraud was used to deny him accommodations pursuant to the American's with disabilities act. I asked deputy public defender Thompson Sharkey what the purpose of the fake criminal protective order was. Thompson Sharkey replied "To get out of jail" The fake criminal protective order issued also prevented me from publishing information about Deputy District Attorney James Leonard on the internet. Thompson Sharkey told me to admit to publishing the news article and "the other stuff" and be released in a few days.**

**After I was released, I discovered that while in custody, someone had published detective David Carroll's falsified police report online using my name. It could not have been me because I was in custody. Over the course of time, several hundred people, many whom I did not know and never heard of came forward as witnesses that the police report was falsified. These included individual activists and members of various organization who had signed onto the project, people who were not signed onto the project, but were neighbors and friends from Palo Alto that knew I was had been living there and people who knew me and disagreed with the way I was portrayed in the fake police report, knowing that I do not behave as described, etc. It has generally been the case that when court or police records are published online, they are quickly refuted and discredited by the public, but to this date, to the best of my knowledge, no one has been able to refute or discredit a single coalition web banner has been published and put into circulation regarding this issue and although the internet is flooded with conspiracy theories, in my professional experience and extensive research, I know of no other situation where such extreme measures were taken to censor the free flow of information. If the coalition web banners were in fact without merit, and not supported by factual evidence, then logic would dictate that it would be left alone and the coalition web banners would discredit themselves.**

**After being released I also checked in with probation officer Douglas Davis, at the probation office inside the Palo Alto Court house. Officer Douglas Davis gave me a copy of the terms and conditions of my probation which showed I had given up my second and fourth amendment constitutional rights, I did not give up my first amendment rights, and in no way, shape or form did I violate probation by publishing facts about the cases online. Again, I was denied my right to due process and there is now I now have a fake probation record which falsely claims I had violated probation which I had not. Attorney Thompson Sharkey has since been caught railroading and defrauding another defendant: Mr. Victor Meras in Santa Clara County Superior Court Case C1769315. Attorney Thompson Sharkey has also, on at least 3 occasions been sued for professional negligence. Santa Clara County Superior Court docket numbers are 1994-1-CV-739331, 1995-1-CV-754610, 2006-1-CV-066347.**

**In January of 2019, I contacted the Santa County Sheriff Department's Internal Affairs Unit to file a formal misconduct complaint against Detective David Carroll, deputy Aleksandra Ridgeway and Captain Riccardo Urena. I spoke with internal affairs sergeant Alfredo Alanis, who issued me Internal Affairs Case number 2015-09. Sergeant Alfredo Alanis immediately lied to me and told me that internal affairs had one year to investigate the complaint. I corrected Sergeant Alfredo Alanis by explaining to him that pursuant to California Government Code § 3304, the one year he was referring to applied to allegations, not complaints and that an allegation was an individual component to a complaint.**

**During the time I worked with the San Jose Independent Police Auditor's office, I developed a formula to ensure that internal affairs investigations were properly processed. Generally, I would submit each allegation separately to ensure that they were handled separately, and I would usually submit each allegation a few days or 1 week apart but not until I had first tried and tested the evidence. If inadequate findings are returned, then it is more efficient to trouble shoot the investigation for procedural flaws etc. I could also better identify when a procedural mishap occurred by specific timeframes. By having copies of the investitive procedure on hand, investigations can be reverse engineered much like computer programs.**

**Each allegation would then be forwarded to the public defender investigative unit, along with Internal Affairs Case number, officer name and badge number, etc. IA and PDO would both be provided with witness information, evidence, etc. This measure is taken so that in the event that a pitches motion is ever filed against the same officer, the public defender is better equipped to track whether documents are missing from officer's personnel files or if the records do not match.**

**Before I could barely begin the process with internal affairs, received a from lieutenant Neil Valenzuela claiming that "the matter" was determined unfounded. Evidence and witnesses were ignored, etc. There was no investigation. It was a sham.**

**I received an email from lieutenant Neil Valenzuela saying the that the investigation was done by himself and Sergeant Albedo Alanis. This was a confession to botched investigation because Captain Ricardo Urena was named in the complaint for either failure to supervise or handing down unlawful orders. A sergeant or lieutenant may not investigate a captain because a captain outranks them both. It is common knowledge that the allegations against Captain Ricardo Urena would have to be investigated by undersheriff, assistant sheriff or sheriff.**

**The Santa Clara County Public Defender's office is very well resourced, having a team of about 30 investigators. A higher than average attorney/investigator ratio than you would normally find. It is the responsibility and obligation of these investigators to scrutinize every jot & tittle of police report and verify whether or not the information contained therein is accurate, and whether proper procedures were followed. This is like the obligation of a police sergeant to supervise front line officers in filing reports. The Sergeant would generally know that he would have to catch these things because if not, the public defender would, their credibility would be shattered, and the sergeant's ass would be on the line.**

**Each and every time and allegation were systematically passed to the public defender to be handled accordingly and each and every time they dropped the ball and ignored it. I literally had to beg and plead to investigate what myself, and hundreds of others claimed were false and fabricated reports. They were presented with before and after versions of altered Facebook transcripts, shown where exculpatory statements were stricken from police reports. Etc. I was being prosecuted by the public defender's office and the district attorney's office, playing "good cop / bad cop" I did everything I could think of to defend myself, emailed top supervisors in regards to (CRPC RULE 3-110) Judges regarding (Canon 3D) and even emailing district attorney with evidence that the public defender was acting incompetently and maliciously thinking that perhaps this would be exculpatory evidence that could be withheld. I was terrified of thought of filing a Marsden motion because when I tried that previously, I was arrested, tortured and re-railroaded by attorney Thompson Sharkey on fake probation violation.**

**By refusing to investigate the false reports and to their job, The public defender denied me these public services that I am automatically entitled to, and repeatedly my due process rights were violated. The public defender bent over backwards to not defend me and to preserve the false narrative created by the district attorney's office and sheriff department. With unbridled discretion, the incompetent and dangerous officers continued to hammer out false reports and no agency or official lifted a finger to stop them.**

**Approximately March 20th, 2015, Attorney Thompson Sharkey payed me a visit in Palo Alto and offered to pay me money to violate fake CR-161 criminal protective order naming deputy DA James Leonard. I recorded the conversation. District Attorney investigator James Leonard. I also received a call from detective Dennis Brookins asking me to please testify in court for him that his mishaps from 2008 investigation were accidental, not intentional. I have recordings voicemail messages from detective Dennis Brookins.**

**On March 24th, 2015, A San Jose Patrol officer by the name of Michael Johnson was shot and killed in the line on duty. I was very saddened by the news, and yet concerned because this occurred in patrol district Lincoln, very close proximity to Markham Plaza Apartments, and the gun issue I tried to address there 3 years earlier. I tried brushing it off as coincidence. The very next day, on March 25th, 2015 I was on the phone with a friend of mine who is retired Los Angeles Police officer, when Santa Clara County Sheriff detective Samy Tarazi and Lieutenant Elbert Rivera came to arrest me on more bogus trumped up probation charges because an organization called "Copblock" published a web banner on line with deputy Aleksandra Ridgeway's picture saying that she falsified a report covering up a murder committed by her husband. This kind of thing is to be expected with such a high-profile case that has generated a lot of public attention. There was no evidence linking this web banner to me. The publisher's contact information and court case information were published along with the banner, but I sat in jail for 40 days and neither the public defender or sheriff department made any effort to contact the publisher.**

**Deputy District Attorney Amanda Parks tried to railroad me in another fake probation violation by refusing to let any exculpatory evidence into record. Would not contact witnesses who were in ABC news story: Investigating Public Guardian, Alleged victims of Judge Manookian, others who claimed to have been targeted by sheriff detective David Carroll, etc. She even filed a motion to disqualify district attorney making false statements in "declaration of facts', preserving the false narrative that had been created. The Judge was Michele McKay-McCoy, who was also a homicide prosecutor when Robert Moss was found dead. I finally got the charges dismissed after having to email board of supervisors, state bar, everyone I could think of begging to PLEASE assign investigators and interview witnesses and allow me to present evidence.**

**I met deputy public defender Amanda Parks outside department 42 (Judge David Cena) Amanda Parks announced that the charges were dismissed, and my case was being moved to Palo Alto court. She was in tears that I had emailed so many people and supposedly embarrassed her (trying to get her to do her job) begging and pleading to be allowed to have evidence and witnesses. I said quietly, "Amanda I could bring this to the state bar" at which she shrieked out and screamed in front of witnesses: "Don't you dare threaten me!", and she then rushed into an elevator after deputy district attorney James Leonard.**

**Deputy Public Defender Gary Goodman was assigned to misrepresent me, and Deputy District Attorney Barbara Cathcart was assigned as new prosecuting attorney. The judge was Aaron Persky.**

**Deputy Public Defender Gary Goodman did nothing to address the false police reports and Public Defender Martha "Molly" O'Neal did not take corrective action pursuant to California Rules of Professional conduct 3-110. The top of an organizational chart is "The People" and going above the public defender to the county executive and board of supervisors did not help. The only resort remaining was to make the matter public and expose it online to as many people as possible. The fact that such extensive effort was made to censor the information was indication that it must be working. If it was not having some sort of positive effect, then officials would not be so bothered by it. This taken as encouragement to publish as much as possible. There was accurate record of events online to offset the false police reports and court records.**

**Publishing on the internet about the facts of the case was protected by the first amendment to the U.S. Constitution, used for protection, and to redress legitimate grievances. The falsified police reports and fake court records were criminal acts of fraud and perjury used as weapons to harass and attack. It was ironic how so much effort was being made to censor free speech, but nobody was taking effort to censor the fraud and perjury in the false police reports, and this is the point I was trying to make in the email sent to detective David Carroll which led to my arrest on December 25th, 2015 on felony stalking charge and 4 misdemeanors (I do not have original docket, but refiled as Docket C162778 and appellate case number is H045195 )**

**Nothing was intended as a threat and I have not ever attempted to incite violence against anyone ever. I was upset about and frustrated and terrified by these false reports and helpless to stop them. I was emotional about the holidays and the anniversary of the death of my sister Connie who died at the age of 44. If not upset and frustrated, I would have given more forethought and would not have sent the email. Not because detective Carroll would interpret it as a threat, but if I given it forethought, I would have known that the District Attorney's office could easily spin it to make it appear as a threat to validate their false narrative.**

**One of the things mentioned in the report about my felony arrest was the repeated emails I had sent to detective David Carroll. This was worded in a way to make me look bad but in my opinion, this is his Detective David Carroll's fault not mine. Detective David Carroll falsified reports about me and said things he knew were not true. Emailing him repeatedly should not have been necessary. I should not have had to ask him more than one time to correct the false reports. It is my first amendment right to redress grievances and that's exactly what I was doing, yet sergeant Samy Tarazi acted as if this were a crime.**

**When I brought this to the attention of deputy public defender Gary Goodman and mentioned the fictitious names such as "Andrew Crittenden" and the swapping of names and roles that took place, and the public defender not following up as required, and investigating the reports, he called "a doubt" (penal code 1368) alleging "Andrew Crittenden" and "Cary Crittenden" may be multiple personalities. I had made a joke with him once about how the reports placed me in 3 locations simultaneously making me 3 people so therefore, I should have 3 attorneys. Obviously, this was in jest, but Gary Goodman suspended the proceedings for mental health evaluation. Never did he address Judge Manookian's mental state when Judge Manookian accused hundreds of people of plotting terrorist attack against Markham Plaza Apartments, a HUD subsidized apartment complex (53 days after his son Matthew Manookian was killed in combat.**

**Gary Goodman also never addressed the mental state of Santa Clara County Sheriff Deputy Aleksandra Ridgeway who claimed to see prowlers and suspicious characters pacing back and forth and creeping around her house, yet she was the only person who could see these "imaginary people." Gary Goodman himself is notorious for making bizarre statements even on record, with his office in Palo Alto, Gary Goodman makes statements on the record referring to the San Jose Public Defender's office as "The Mothership" that will "Beam the discovery papers to him", yet Gary Goodman is not locked up for speaking with aliens & everyone knows he is joking and using metaphor.**

**I was denied my due process rights, and speedy trial because my own attorney, deputy public defender Gary Goodman deliberately chose to twist my words around just like a district attorney prosecutor.**

**Deputy Public Defender Jenifer Bedola submitted a false evaluation report saying that Doctor David Berke had determined I was incompetent to stand trial. No evaluation was ever done of me by Doctor David Berke, and the evaluation report was also fabricated evidence. This is like extracting my fingerprints from an item that I had never touched. I met with another doctor afterward who determined I was competent.**

**I took medication while in custody: "Risperdal" Not for mental illness, but to deal with the stress of incarceration and being powerless and helpless. I had taken some another inmate had given me, then asked for doctor prescription. It helped me to sleep while in jail but had nothing to do with my behavior. Only dealing with the situation. When I was released on O.R. however, one of the terms was to take the medication. Even though it no relevance to the charges against me, etc. When I went to trial, I was not able to adequately testify because of being too "doped up" on the medication. My response time was slow in contemplating what to say and how to answer during cross examination and direct examination.**

**Deputy District Attorney lied to the court during prelim and lied to the jury during trial presenting the false narrative, which defense attorney William Bennet did not object to and did not strike. Deputy District Attorney Barbara Cathcart also lied to the jury about the false police reports which William Bennett did not object to. Nor was their motion to strike,**

**Attorney William R. Bennett did excellent job defending my first amendment right to redress grievance and make public my allegations about fraud, falsified reports and corruption, but he failed to directly address the fraud and false police reports in that he did not investigate the falsified reports, procedural violations, etc, nor did he effectively cross examine Detective David Carroll about the false police reports. He did not address other due process violations about the earlier cases – not for purpose of relitigating past issues, but rather to validate that their were indeed legitimate issues that I did have first amendment right to redress.**

**Attorney William Bennet failing to object to statements by Barbara Cathcart claiming that the police reports were not falsified, and that I was living at Markham Plaza when I was not, and this helped Barbara Cathcart sustain her narrative and convince the jury that I had lied and made things up, and falsely prove the element of "no legitimate purpose" and then go on to make the argument that I had no constitutional right to lie about detective David Carroll, - thus subject matter jurisdiction was fraudulently procured over constitutionally protected activity, and I was denied right to fair trial. The court acted in excess of jurisdiction, and though I do not recall ther specific case law, the supreme court has ruled that their can be no punishment for exercising a constitutional right.**

**One of the exhibits pertained to Family Court Case JD20223/JD20224 in which I advocated for parents Ashley Stevens and Scotty Harris regarding their daughter Ashley Harris. Ashley had interviewed in a video series in which she alleged abuse under the care of Santa County Child Protective Services. In at least one video, Ashley Harris alleged she may be victim of sexual abuse. Soon after the videos were published online, Ashley Harris disappeared, and her social worker Anthony Okere filed a missing persons report.**

**Santa Clara County Detective David Carroll had been transferred to juvenile missing persons unit which I found highly suspicious. I was familiar with detective David Carroll and his history of covering for department of social services because of what happened with Heidi Yauman and what he did to me for trying to advocate for Heidi Yauman. For these reasons, I suspected that Detective David Carroll may be involved in Ashley Harris's disappearance bit I did not him. In advocating for the family, I was involved in creation of a web banner suggesting detective David Carroll may be involved which I believed was highly likely. It turned out that Ashley Harris had run away and she eventually turned up.**

**My actions were not out of malice, but out of legitimate fear for Ashley's safety, When asked if I believed all allegations I made, I said "I don't know' or "I;m not sure" I was presented with web banner relating to JD20223/JD20224 and asked if I believed Detective Carroll abused her & I said no. Had Ashley Stevens and Scotty Harris been allowed to testify, then the history would have been clear. Francine Stevens had even told be she had seen a man she believed to be detective David Carroll observing her at the Martin Luther King Library in downtown San Jose and thought he had been following her. Barbara Cathcart was able to use this to persuade the jury that I had lied about, and that "lying" was not constitutionally protected activity, thus fraudulent jurisdiction was procured over my constitutional rights – and I was further denied my right to due process.**

**I had stated in an email that Detective David Carroll was violent. I stand by that statement as the supreme court has ruled that color of law abuse is violence and he committed these abuses against Heidi Yauman, and me also for advocating for her. Heidi Yauman was a dependent adult and very vulnerable and his abuses against her, though not by direct contact caused her injury and great suffering. Few would argue that Charles Manson and Adolf Hitler were violent, even if they did not have direct contact with their victims. The legal dictionary may not consider this violence but I do and legal dictionary is different from Websters and others. Deputy District attorney Barbara Cathcart had convinced the jury that had lied about detective Carroll being violent and in her closing argument was that I must have lied about everything, and therefore that non statements were constitutionally protected. William Bennett should have cross examined Detective David Carroll in this manner about the false statements in his reports. It was not me who maliciously lied about detective David Carroll, It was Detective David Carroll and attorney Barbara Cathcart who lied about me.**

**Barbara Cathcart lied about the perjury in detective David Carroll's report, claiming he was "doing his job" and fraudulently procured jurisdiction over my first amendment rights to speak out the perjury and fraud, and redress my grievances.**

SINGED INDER PENALTY OF PERJURY

CARY ANDREW CRITTENDEN: _____

**From:** Emily Watkins
**To:** Human Relations Commission
**Subject:** Questions regarding #PaloAltoSpeaks
**Date:** Wednesday, August 12, 2020 12:37:18 PM

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Hello,

My name is Emily Watkins and although I no longer live in Palo Alto, I was born and raised there and try my best to stay involved.

I am hoping to get some clarity on #PaloAltoSpeaks. From what I can see on the website, it seems City Council knows that Black and Brown community members' stories need to be heard and written down, however, I cant help but notice and question the lack of information on the site. There is no statement regarding who will read these stories and what they will be used for. What are you trying to find by reading stories we already know exist (Palo Alto is not anti-racist). These stories often re-traumatize the individual sharing the story and I wonder if we can find examples that have already been shared and written down. I hope we one day find a way to stop asking for stories if they are available elsewhere.

I would appreciate any and all information you're willing to share in regards to #PaloAltoSpeaks that is not already written on the site.

Thanks so much,
Emily

| | |
|---|---|
| **From:** | Aram James |
| **To:** | Kniss, Liz (internal); Cecilia Taylor; Anna Griffin; Rev. Lorrie Owens; Rebecca Eisenberg; madhumita@gmail.com; Greer Stone; greg@gregtanaka.org; Winter Dellenbach; Human Relations Commission; Ayoola Mitchell; Anna Griffin; Jeff Moore; Jeff Rosen; Molly.ONeal@pdo.sccgov.org; Stump, Molly; paloaltofreepress@gmail.com; Tony Dixon; Bill Johnson; cindy.chavez@bos.sccgov.org; Supervisor Simitian; supervisor.ellenberg@bos.sccgov.org; Raj; rkonda@asianlawalliance.org; alphonse9947@gmail.com; james_michele@hotmail.com; Keith Mccord; Fine, Adrian; Alison Cormack; DuBois, Tom; Kou, Lydia; David Angel; Daniel Kottke; Marina Lopez; pushpinder.lubana@gmail.com; Courtney Elyse Cooperman; wilpf.peninsula.paloalto@gmail.com; Roberta Ahlquist; michael.gennaco@oirgroup.com; GRP-City Council; Donna Wallach; Asian Law Alliance; chuck jagoda; Sandy Perry-HCA |
| **Subject:** | A very important read re how white history books, and even so-called white suffragists, heroes, have attempted to exclude and diminish the role of the many black women who made the suffragist movement happen. Time to tell the truth! Did white women su... |
| **Date:** | Monday, August 17, 2020 2:48:40 AM |

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FYI: ( Sunday NYT, August 16, 2020

https://www.nytimes.com/2020/08/15/opinion/19th-amendment-centennial-suffrage.amp.html

Sent from my iPhone

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|---|---|
| **From:** | Fellissa Richard |
| **To:** | Aram James |
| **Cc:** | Kniss, Liz (internal); Cecilia Taylor; Anna Griffin; Rev. Lorrie Owens; Rebecca Eisenberg; madhumita@gmail.com; Greer Stone; greg@gregtanaka.org; Winter Dellenbach; Human Relations Commission; Ayoola Mitchell; Jeff Moore; Jeff Rosen; Molly.ONeal@pdo.sccgov.org; Stump, Molly; paloaltofreepress@gmail.com; Tony Dixon; Bill Johnson; cindy.chavez@bos.sccgov.org; Supervisor Simitian; supervisor.ellenberg@bos.sccgov.org; Raj; rkonda@asianlawalliance.org; alphonse9947@gmail.com; james_michele@hotmail.com; Keith Mccord; Fine, Adrian; Alison Cormack; DuBois, Tom; Kou, Lydia; David Angel; Daniel Kottke; Marina Lopez; pushpinder.lubana@gmail.com; Courtney Elyse Cooperman; wilpf.peninsula.paloalto@gmail.com; Roberta Ahlquist; michael.gennaco@oirgroup.com; GRP-City Council; Donna Wallach; Asian Law Alliance; chuck jagoda; Sandy Perry-HCA |
| **Subject:** | Re: A very important read re how white history books, and even so-called white suffragists, heroes, have attempted to exclude and diminish the role of the many black women who made the suffragist movement happen. Time to tell the truth! Did white women... |
| **Date:** | Monday, August 17, 2020 12:05:41 PM |



Thanks, I'll check it out.

On Mon, Aug 17, 2020, 2:48 AM Aram James <abjpd1@gmail.com> wrote:

> FYI: ( Sunday NYT, August 16, 2020
>
> https://www.nytimes.com/2020/08/15/opinion/19th-amendment-centennial-suffrage.amp.html
>
> Sent from my iPhone

| | |
|---|---|
| **From:** | Aram James |
| **To:** | Fellissa Richard |
| **Cc:** | Kniss, Liz (internal); Cecilia Taylor; Anna Griffin; Rev. Lorrie Owens; Rebecca Eisenberg; madhumita@gmail.com; Greer Stone; greg@gregtanaka.org; Winter Dellenbach; Human Relations Commission; Ayoola Mitchell; Jeff Moore; Jeff Rosen; Molly.ONeal@pdo.sccgov.org; Stump, Molly; paloaltofreepress@gmail.com; Tony Dixon; Bill Johnson; cindy.chavez@bos.sccgov.org; Supervisor Simitian; supervisor.ellenberg@bos.sccgov.org; Raj; rkonda@asianlawalliance.org; alphonse9947@gmail.com; james_michele@hotmail.com; Keith Mccord; Fine, Adrian; Alison Cormack; DuBois, Tom; Kou, Lydia; David Angel; Daniel Kottke; Marina Lopez; pushpinder.lubana@gmail.com; Courtney Elyse Cooperman; WILPF.peninsula.paloalto@gmail.com; Roberta Ahlquist; michael.gennaco@oirgroup.com; GRP-City Council; Donna Wallach; Asian Law Alliance; chuck jagoda; Sandy Perry-HCA |
| **Subject:** | Re: A very important read re how white history books, and even so-called white suffragists, heroes, have attempted to exclude and diminish the role of the many black women who made the suffragist movement happen. Time to tell the truth! Did white women... |
| **Date:** | Monday, August 17, 2020 3:54:06 PM |



Great! I think you will find the article of interest. Let me know your thoughts. Aram

Sent from my iPhone

> On Aug 17, 2020, at 12:05 PM, Fellissa Richard <fellissarichard@gmail.com> wrote:
>
> Thanks, I'll check it out.
>
> On Mon, Aug 17, 2020, 2:48 AM Aram James <abjpd1@gmail.com> wrote:
>
> > FYI: ( Sunday NYT, August 16, 2020
> >
> > https://www.nytimes.com/2020/08/15/opinion/19th-amendment-centennial-suffrage.amp.html
> >
> > Sent from my iPhone

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| **From:** | Aram James |
| **To:** | Human Relations Commission |
| **Subject:** | Why police reform won't work absent a clear system of police accountability and police crime units in every DA's office in America..... Its not the policies that need change its the entire police culture. |
| **Date:** | Tuesday, August 18, 2020 11:43:36 PM |



https://www.sanjoseinside.com/opinion/op-ed-the-time-has-come-for-das-to-create-police-crimes-units/

Shared via the Google app

Sent from my iPhone

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|---|---|
| **From:** | Aram James |
| **To:** | Jeff Rosen |
| **Cc:** | wilpf.peninsula.paloalto@gmail.com; chuck jagoda |
| **Subject:** | Silicon Valley De-Bug \| James and Konda: The Time Has Come for a |
| **Date:** | Thursday, August 20, 2020 9:36:50 PM |

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FYI: A substantially expanded version of our
original piece on the possibility of Police Crimes Units. Just published tonight by De-Bug. Aram

https://www.siliconvalleydebug.org/stories/james-and-konda-the-time-has-come-for-a-police-crimes-unit

Sent from my iPhone

| | |
|---|---|
| **From:** | herb |
| **To:** | Council, City; Clerk, City |
| **Cc:** | Human Relations Commission |
| **Subject:** | August 24, 2020 Council Meeting, Item #4: Direction to City Manager Regarding Revisions to Police Policies |
| **Date:** | Sunday, August 23, 2020 3:31:57 PM |



Herb Borock
P. O. Box 632
Pal Alto, CA 94302

August 24, 2020

**AUGUST 24, 2020 CITY COUNCIL MEETING, AGENDA ITEM #4**
**DIRECTION TO CITY MANAGER REGARDING REVISIONS TO POLICE POLICIES**

Dear City Council:

A direction by the City Council to the City Manager to revise Police Department policies does not interfere with the Police Department's authority to revise policies that are not addressed by the City Council's direction to the City Manager.

Therefore, the prohibition on carotid holds (carotid artery restraints) should be included in the Council's direction to ensure that the prohibition can only be removed from that policy by the City Council.

The Council and the Human Relations Commission (HRC) should consider the definitions for "deadly force", "use of force", and "less lethal force" included in H.R. 7120, the "George Floyd Justice in Policing Act of 2020" approved by the House of Representatives shown below.

The Police Department once had a detailed demographic data collection effort that produced quarterly reports.

I could find only brief summaries of that information on the City's website.

The Council and the HRC should consider the prior detailed quarterly demographic data information reports as a guide to determine how much of that data should be collected now.

# H. R. 7120
# AN ACT

To hold law enforcement accountable for misconduct in court, improve transparency through data collection, and reform police training and policies.

(a) SHORT TITLE.—This Act may be cited as the ‘‘George Floyd Justice in Policing Act of

2020''.

SEC. 2. DEFINITIONS.

In this Act:

(10) DEADLY FORCE.—The term ''deadly force'' means that force which a reasonable person would consider likely to cause death or serious bodily harm, including—

(A) the discharge of a firearm;

(B) a maneuver that restricts blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neckholds, and carotid artery restraints; and

(C) multiple discharges of an electronic control weapon.

(11) USE OF FORCE.—The term ''use of force'' includes—

(A) the use of a firearm, electronic control weapon, explosive device, chemical agent (such as pepper spray), baton, impact projectile, blunt instrument, hand, fist, foot, canine, or vehicle against an individual;

(B) the use of a weapon, including a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy device, or firearm, against an individual; or

(C) any intentional pointing of a firearm at an individual.

(12) LESS LETHAL FORCE.—The term ''less lethal force'' means any degree of force that is not likely to cause death or serious bodily injury.

Thank you for your consideration of these comments.

Sincerely,
Herb Borock

cc: Human Relations Commission

| | |
|---|---|
| **From:** | MIDPEN ACLU |
| **To:** | Council, City; City Mgr; Human Relations Commission |
| **Subject:** | MidPen ACLU submission on police reform in Palo Alto |
| **Date:** | Sunday, August 23, 2020 3:56:12 PM |
| **Attachments:** | PA_ MidPen Sub on police reform 08_23_2020.pdf |



Hello City Council, HRC, Mayor Fine, Vice Mayor Dubois, Manager Shikada and Chief Jonsen,

Our first submission on police reform was sent to the city council on June 15th. Our chapter has significantly developed the reforms proposed in that email and thought it wise that those in Palo Alto's government directly working on this national issue receive the same document at the same time.

In light of the somewhat daunting length of our document and the immediacy of the city council's meeting this Monday night, August 24th, we would like to direct your attention to the section that discusses 8CantWait, as this is on the agenda for Monday. It is located in Section 1(b), in the middle of Page 2. It is also fairly easy to scroll the entire document and grasp the range of reforms we discuss.

We want to thank all of you for tackling this issue, for repeatedly involving and listening to the public and being willing to make significant improvements at this critical moment in history.

We look forward to discussing these reforms with you.
Lauren Cory, Chair
Mid-Peninsula ACLU Volunteer Chapter

City Council, Mayor Fine, City Manager Shikada, Chief Jonsen, and HRC,

Palo Alto is one of the cities in the Mid-Peninsula ACLU Chapter's region. We want to begin a continuing dialogue about Palo Alto's police practices in light of the national concern about police brutality. We offer suggestions on several topics, not as definitive answers but rather as a basis for discussion. The topics are:

1. Police Department Policy
2. Police Transparency and Accountability
3. Alternative Responses to Mental Health Crises
4. Training: Race Relations
5. Unconscious Bias and Police Practices

## 1. Police Department Policy

### a. Use of Force—Minimum Necessary

Many uses of non-deadly force cause significant injuries, both physical and emotional.

**Recommendation**: Limit use of force to the minimum necessary to accomplish a legitimate law enforcement purpose; the special circumstances for which deadly force is authorized would still apply.

As written, the Policy Manual covers use of force reasonably well. But it could be improved considerably.

Section 300.3, Use of Force, states "Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose."

At the very least, "perceived" should be "reasonably perceived."

Section 300.3 further states "Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving."

Although this closely matches wording from *Graham v. Connor* (1989), it makes absolutely no sense in circumstances that are *not* tense, uncertain, and rapidly evolving.

**Recommendation:** Revise the first two paragraphs in § 300.3 to the effect of

> Officers shall use the minimum amount of force necessary to accomplish a legitimate law enforcement purpose.
>
> The reasonableness of force used will be judged from the perspective of a reasonable officer on the scene at the time of the incident rather than in hindsight; facts later discovered but unknown to the officer at the time can neither justify nor call into question an officer's decision regarding the use of force. Evaluation of reasonableness will consider the totality of the circumstances and will take into

> account, when appropriate, the need for officers to make split-second decisions about the amount of force necessary in a particular situation, sometimes with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

This would provide a clear, succinct statement of what is required while ensuring a fair assessment of the reasonableness of a use of force.

More concerning are the third and fourth paragraphs in § 300.3:

> Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.
>
> Not withstanding any other section of this policy, it is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, techniques or methods provided or taught by the [Department/Office]. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting.

The first paragraph is very similar to language in SB 230, but the second seems to invite doing whatever an officer wants when it is inconvenient to adhere to restrictions in the Policy Manual.

**Recommendation:** Eliminate the second paragraph above or substantially revise it so that it does not imply exemption from stated use-of-force policy whenever an officer sees fit to do so.

**b. Compliance with 8 Can't Wait Recommendations**

Several MidPen volunteers have independently examined Palo Alto's current compliance with the 8 Can't Wait recommendations, and we generally agree with the Human Relations Commission's analysis.

**Recommendation:** Revise the appropriate sections of the Policy Manual to comply with the recommendations of the HRC to the City Council, with the following exceptions:

1. **Ban Chokeholds & Strangleholds**
   Add language to ban chokeholds and strangleholds. Have Council's Policy Manual Ad Hoc Committee work with the PAPD and HRC on language that would prevent incidents like that which killed George Floyd while still allowing police to do their jobs. In doing so, use clear, simple language that avoids needless weasel words.

6. **Ban Shooting at Moving Vehicles**
   Change all instances of "should" to "shall"; *shall* is mandatory, but *should* is merely advisory. Like shooting at moving vehicles, advisory language is seldom effective.

8. **Require Comprehensive Reporting**
   Policy Manual § 344.2.2 appears to require reporting any time a firearm is pointed at a person; move this requirement to § 300.5 so that it is clear that it is considered a use of force. We also think that drawing a firearm when directly confronting a person should be a reportable use of force, and suggest working with the PAPD and HRC on appropriate language to address this.

Recognize that implementation of the 8 Can't Wait recommendations is only a good first step toward meaningful police reform.

**c. Stops**

People of color who have spoken at recent City Council and Human Relations Committee meetings have said they have felt consistently and unfairly targeted by police for decades.

Policy for detention of suspects on reasonable suspicion of involvement in crime is given in the euphemistically titled Policy 440, Field Interview and Photographing of Field Detainees. In aggregate, this section probably gives sufficient guidance on complying with constitutional safeguards, but while this might work for a court, we don't think it provides sufficient guidance to a typical police officer or sufficient information to the average person.

**Recommendations:** Revise Policy 440—and especially § 440.3—so that it is clear that a person may not be detained unless there are specific and articulable facts that tie the particular person to a specific crime. Have the policy make clear, as does San Francisco's DGO5.03, that the refusal or failure of a person to identify himself or herself or produce identification upon request of a police officer cannot be the sole cause for arrest or detention, except when the driver of a motor vehicle refuses to produce a driver license upon the request of an officer enforcing the Vehicle Code.

Revise the title of Policy 440 so that it is more obvious that it deals with detentions. The Racial Identity and Profiling Act of 2015 (AB 953) requires that certain stop data be collected, starting in 2022 for smaller police departments. We recommend that Palo Alto begin collecting and compiling the most important data as soon as possible, and make them available on the city's website. Such data can help ensure compliance with policy and ensure that the process works smoothly by the time the data are required to be reported.

**d. Policy Manual Redactions**

The public version of the Policy Manual dated 2019/10/21 has 19 sections completely redacted, giving vague reference to several sections of the Government Code as justification. But it is not obvious how the cited sections justify most of the redactions. No explanations are given, and the sections of the GC that justify redaction are not specifically cited for each redacted section.

**Recommendation:** For each redacted section of the Policy Manual, cite the specific section of the GC that allows redaction and provide at least a one-sentence explanation of why this is the case. Reexamine each redaction and consider making only a partial redaction where reasonable.

### e. Online Version of Policy Manual

Several sections of the Policy Manual were revised on 2020/06/17, but were posted online separately from the 2019/10/21 full version of the manual, making the revised sections difficult to find.

**Recommendation:** When any part of the Policy Manual is revised, post the entire updated version so that people can easily find it.

## 2. Police Transparency and Accountability

### a. Independent Oversight

Palo Alto arguably provides better oversight of police actions than many cities its size. A Use of Force Review Board reviews significant uses of force, but all members are from law enforcement. Although such a composition undoubtedly brings considerable expertise, it does not provide the benefit of arms-length analysis.

Complaints from the public and significant uses of force are reviewed by the city's Independent Police Auditor. Although the auditor appears to be well respected, reports have been slow to be released, and seem subject to considerable filtering by city legal staff and police representatives. Perhaps some review is necessary to ensure that the IPA has complied with procedural and confidentiality provisions of state law, but the current process hardly gives the impression of timeliness or transparency. And the IPA has no community involvement; perhaps the Chief's Advisory Council somewhat fills this gap, but it's not an official agency and the meetings are not made public.

**Recommendation:** At a minimum, involve the Human Resources Commission in drafting of Police Department policy and empower them to review complaints against police officers. Preferably, establish an independent body that would work with, yet not be answerable to, the Police Department on setting policy and reviewing complaints. The body should broadly represent the demographics of the City, including its racial, ethnic, cultural, gender, socio-economic, and geographic diversity.

Such a body might be a Police Commission with 5 or 7 members, with at least the standing as other city commissions; ensuring that a commission is inclusive of all members of the community might argue for the larger size.

An implementation similar to the San Francisco Police Commission might grant the commission

- Authority to set police policy and issue general orders, and set limits for the Memorandum of Agreement with the Police Officers Association

- Authority to investigate complaints, either first look or on appeal from the Police Department adjudication, with at least a minimal paid staff
- Authority to fire officers, subject to the Public Safety Officers Procedural Bill of Rights and the MOA between the city and the POA

## 3. Alternative Responses to Mental Health Crises

Mental health crises make up a significant percentage of calls for police service. Police departments carry a heavy burden having to respond to mental health calls and the presence of armed police can unnecessarily escalate a crisis. We need to re-imagine public safety and include alternative responders, such as crisis and mental health workers, in the 911 response continuum. Mental health professionals—not police—should be the primary responder for a majority of people with mental health crises.

The CAHOOTS program[1] in Eugene, OR is a successful program in which a medic and crisis worker respond to non-violent crises so police don't have to. The program has received national press coverage[2] and have been estimated to result in $15 million cost-savings. Several cities across the US are establishing similar programs including Oakland and West Sacramento. The Oakland City Council approved to divest $1.35 million away from Oakland's Police budget to fund the Mobile Assistance Community Responders of Oakland[3] (MACRO) pilot. West Sacramento City chose not to hire five vacant police positions and use that money to develop a "Community Outreach and Support Division"[4] (mental health and crisis intervention team). We believe Palo Alto should reconsider the budget to create a similar program or division.

**Recommendations:**

1. Revise 911 system so non-violent, non-criminal mental health calls are directed to crisis intervention specialists or mental health workers rather than law enforcement. This will require establishing an alternative crisis response team.
2. Track calls for service and responses to people in a mental health crisis. Conduct regular assessments to determine the effectiveness of response efforts.
3. Appoint a mental health coordinator to manage this process. Cover it in the current police budget.

[1] https://whitebirdclinic.org/services/cahoots/
[2] https://www.npr.org/2020/06/10/874339977/cahoots-how-social-workers-and-police-share-responsibilities-in-eugene-oregon
[3] https://oaklandside.org/2020/06/29/call-911-for-a-counselor-oakland-will-pilot-an-alternative-to-police
[4] https://sacramento.cbslocal.com/2020/07/28/west-sacramento-police-crisis-intervention-team/

## 4. Training: Race Relations

### a. History of Race Relations

Police training on race relations needs to be much more robust than implicit-bias training. It needs to include not only the historic events but also the devastating emotional impact these events have had on both the recipients and those holding the power.

Young recruits, as well as veteran officers, more often than not lack this historical knowledge. The story of race relations in our country begins with the genocide of Native Americans. With regards to Black Americans, the training would begin with slavery and its relationship to economic expansion, slave patrols, through Reconstruction and Jim Crow, redlining, onto voter suppression in all communities of color, and the current school-to-prison pipeline. The training should also include items like the Mexican–American War, the Chinese Exclusion Act, the imprisonment of Japanese Americans during World War II, and other significant events between non-White communities and the dominant White culture.

This approach to police training is doable and is absolutely essential given the expense of doing nothing or continuing to do the same. This is not to say that some past attempts have not been created with good intentions but instead to say it is time for serious reevaluation and serious change.

Some of what is suggested above is already required by the Racial Identity and Profiling Act of 2015 (AB 953).

### b. Examples of Racial Bias Training

**Montgomery, Alabama**

Police Chief Kevin Murphy, currently their deputy sheriff, created a class for new recruits as well as established officers. It went back to the Dred Scott case and the Emmit Till case and moved through the Civil Rights movement. In an interview[5] on the PBS NewsHour, Chief Murphy said it was added to the police academy's training. Its intention was to educate and also inform young officers of historical issues Black persons might bring to an interaction with a White officer. He also included civilians. The class finished with a "values" segment that demonstrated the benefit of the class by shedding new light on the power of the badge to all officers. Interview approximately 7 minutes long.

[5] https://www.tpt.org/pbs-newshour/video/how-one-chief-tried-to-reverse-past-police-injustices-1463098038/

**Stockton, California**
Mayor Michael Tubbs and Chief of Police Eric Jones of Stockton, California, have initiated a range of progressive changes for their city. In an interview[6] with Michael Krasny on Forum, Mayor Tubbs briefly speaks of these improvements. *The first 8 minutes* of this interview are very helpful and we strongly urge its viewing.

**Houston, Texas**
Police Chief Art Acevedo briefly mentions teaching empathy and de-escalation in a PBS segment on policing[7]. It offers a new awareness and relevant perspective . It also includes contributions by Tracey Meares, professor and founder of Justice Collaboratory at Yale, on national standards and cultural changes, and Sam Sinyangue of Campaign Zero on police accountability and police unions.

When we called the Houston Police Department we also found out about their new "Respect for Culture" training to bring awareness to their officers of economic and social issues community members bring to any interaction with police.

**Journal of Criminal Justice Education**
A 2012 study[8] evaluated the positive impact of NYC police officers taking an ethnic studies class.

**University of Illinois at Urbana-Champaign**
The University of Illinois Police Training Institute tried a course[9] that covered critical race theory.[10]

**National Museum of African American History and Culture**
In 2018, this museum offered a new training course[11] that also stressed critical race theory.[12] The course was designed to teach officers about "African American history and culture in the U.S., and more specifically in Washington."

**c. White Supremacy in Police Departments**
We include the articles and links below to call attention to the systemic racism and White supremacy that permeates our culture. Without a clear awareness of this reality it

[6] https://www.kqed.org/forum/2010101878047/stockton-mayor-tubbs-on-police-accountability-and-guaranteed-income-during-a-pandemic
[7] https://www.pbs.org/video/policing-in-america-1591218301/
[8] https://www.researchgate.net/publication/232830065_Critical_Race_Theory_Meets_the_NYPD_An_Assessment_of_Anti-Racist_Pedagogy_for_Police_in_New_York_City
[9] https://www.sascv.org/ijcjs/pdfs/schlosseretalijcjs2015vol10issue1.pdf
[10] https://phys.org/news/2016-08-police-racial-biases.html
[11] https://www.si.edu/newsdesk/releases/national-museum-african-american-history-and-culture-hosts-metropolitan-police-department-0
[12] https://www.washingtonian.com/2018/04/16/dc-police-critical-race-theory-nmaahc-bernie-demczuk-sharita-thompson/

is easy to think of this as purely fringe and that it's thinking cannot enter our local systems.

A recent article[13] in The Daily Beast noted the long-standing influence of White supremacists in American policing:

> In 2006, the Federal Bureau of Investigation knew America's police forces had a white-supremacist problem. But the internal report the agency compiled that year was so heavily redacted that almost no one knows what it contained.
>
> Now, amid national protests over police brutality against Black Americans and new scrutiny of racist cops, lawmakers are pushing for the report's full release.
>
> A nearly blank version of the October 2006 report, titled "White Supremacist Infiltration of Law Enforcement," has circled the internet for years, after it was released in a Freedom of Information request. The few unredacted lines are worrying: In addition to warning of historic attempts by groups like the Ku Klux Klan to gain employment with police, it refers to white-supremacist leaders' "recent rhetoric" calling on followers to infiltrate police forces.
>
> As the country grapples with racist policing—both overt and in the form of unconscious but often deadly biases—28 members of Congress are calling on the FBI and Justice Department to release the full, unredacted document, which some experts say is more relevant than ever.

**Recommendations**:

1. Seriously examine the current training, recognize shortcomings in light of current research and commit to creating an innovative training that could actually change officers' beliefs towards communities of color. Acknowledge the pervasive White supremacy that has been systemic.
2. Allocate funds for a pilot curriculum as mentioned above that would cover our country's past-to-present dismal history of race relations. It would be part of the police academy's basic training for all new recruits. Include existing officers the first season. Have refresher courses every year for everyone.
3. Reach out to Montgomery, Stockton, Houston, and other cities to explore new approaches that other police departments are using to re-imagine race and cultural awareness training.

## 5. Unconscious Bias and Police Practices

Dr. Jennifer Eberhardt,[14] professor of psychology at Stanford, has done extensive research on the relationships between racial imagery and the public at large and then

[13] https://www.thedailybeast.com/inside-the-new-push-to-expose-americas-white-supremacist-cops
[14] http://web.stanford.edu/~eberhard/

more specifically with police practices. In her TED talk, "psychologist Jennifer L. Eberhardt explores how our biases unfairly target Black people at all levels of society—from schools and social media to policing and criminal justice—and discusses how creating points of friction can help us actively interrupt and address this troubling problem."

The Oakland Police Department has been under federal monitoring for more than a decade since the so-called Riders case involving police misconduct. A team of Stanford researchers, led by Dr. Eberhardt, were engaged to assist Oakland in complying with the federal order to collect and analyze stop data by race. Among the findings, Black men were four times more likely to be searched than Whites during a traffic stop. Blacks were also more likely to be handcuffed, even if they ultimately were not arrested.

Dr. Eberhardt's team produced a report with 50 specific recommendations for police agencies to consider to mitigate racial disparities.

Her work led to a dramatic reduction in the number of stops by the Oakland Police Department by simply having officers ask "Do I have information that ties this particular individual to a specific crime?" before making an investigatory stop. In the year before this question was added, there were approximately 32,000 stops; in the following year, there were approximately 19,000 stops. It should be noted that asking this question is required for even minimal compliance with the constitutional standard established in *Terry v. Ohio* (1968). It should also be noted that many of the data that Dr. Eberhardt had police record are required by AB 953 (2015).

As quoted in the first paragraph of this section "Dr. Eberhardt explores how our biases unfairly target Black people at all levels of society—from schools and social media …" At every city council and HRC meeting MidPen has joined since George Floyd was killed and during which residents of color spoke of the biases in Palo Alto's culture, the Euro-centric curriculum was frequently referenced with great frustration and hurt. An honest eye cannot be turned towards police reform without also examining how we educate our children and how they receive a constant diet of European, and therefore White, supremacy.

**Recommendations**:

1. Watch Dr. Eberhardt's TED talk: How racial bias works—and how to disrupt it.[15] Review Dr. Eberhardt's 50 recommendations for the Oakland PD and see if any can be used in Redwood City. Improve and rewrite the police policy manual and forms to include any applicable recommendations.
2. Commit to establishing an immediate dialogue with the school board and school principals about re-imagining the curriculum of K-12 as one that truly recognizes Brown and Black cultures and includes their significant contributions.

[15] https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it

## Summary of Recommendations

1. **Police Department Policy**
   - Limit use of force to the minimum necessary to accomplish a legitimate law enforcement purpose; the special circumstances for which deadly force is authorized would still apply. Clarify the assessment of the reasonableness of the use of force.
   - Implement the 8 Can't Wait recommendations as recommended in the HRC report to City Council, with the several exceptions noted above, and recognize that they represent only a good first step toward police reform.
   - Revise Policy 440 so that it is clear that a person may not be detained unless there are specific and articulable facts that tie the particular person to a specific crime. Revise the title so that it is obvious what the section covers. Begin collecting stop data required by AB 953 (2015) as soon as possible rather than waiting until 2022. Make the data available as soon as possible after beginning collection.
2. **Transparency and Accountability**
   - Establish an independent body that could work with, yet not be answerable to, the police department concerning complaints. The body's funding must be independent of the police department. Give the body at least the same standing as existing city boards and commissions.
3. **Alternative Responses to Mental Health Crises**
   - Establish and expand partnerships with mental health agencies and community-based organizations to allow mental health experts—rather than police—to handle mental health crises.
   - Track calls for service and responses to people in crisis. Conduct regular assessments to determine the effectiveness of response efforts and opportunities for improvement.
   - Appoint a mental health coordinator to manage this process. Cover it in the current police budget.
4. **Training: Race Relations**
   - Establish a small committee that includes an educator to develop a curriculum for a pilot program on the history of race relations.
   - Reach out to Stockton; Houston; Eugene, OR; Montgomery, AL and other cities to explore innovative programs.
5. **Unconscious Bias and Police Practices**
   - Listen to Dr. Eberhardt's TED talk, paying special attention to improvements she helped incorporate into the Oakland police department's stop policy. Reach out to her for additional improvements in basic police practices.
   - Review Dr. Eberhardt's 50 recommendations for the Oakland PD and see if any can be used in Redwood City. Improve and rewrite the police policy manual and

forms to include any applicable recommendations. Reach out to her for additional suggestions.

- Recognize that an officer asking "Do I have information that ties this particular individual to a specific crime?" before making an investigatory stop is required for even minimal compliance with the constitutional standard established in *Terry v. Ohio*, and ensure that this is standard practice.
- Commit to establishing an immediate dialogue with the school board and school principals about re-imagining the K–12 curriculum.

We look forward to discussing these items with you.
Mid-Peninsula ACLU Volunteer Chapter

| | |
|---|---|
| **From:** | Cary Andrew Crittenden |
| **To:** | Christopher Welsh |
| **Cc:** | Brian McComas; Bill Robinson; sixth.district@jud.ca.gov; supreme.court@jud.ca.gov; Stump, Molly; jjerome.nadler@scscourt.org |
| **Subject:** | B1903942 ( Clean hands doctrine ) |
| **Date:** | Tuesday, August 25, 2020 9:04:42 AM |
| **Attachments:** | MC 410 YAUMAN C1493022.pdf<br>Habeas Corpus Cary Andrew Crittenden Civil Grand Jury Public Guardian.pdf<br>Crittenden - Remittitur.pdf |



Hi Chris,

Brian McComas is lying. He falsified the court record and claimed my position has changed. My position has not changed.

All judgements from this case are VOID .( Fraud on the court ) The police reports and court records are fake.

I am not sure what you received, but in respect to clean hands doctrine, in discovery package, but you will be needing copy of Hridxi's MC-410 from C1493022
.

Corresponding civil grand jury
investigation https://www.cityofpaloalto.org/civicax/filebank/documents/48489

The Pala Alto Police Department did not protect Heidi from the abuse by the Santa Clara County Sheriff department..

On September 11th of last last year, I was arrested by PAPD for tending to the injuries caused to Heidi by Court System, public Defender, DA & Sheriff department.

Cary Andrew Crittenden

> Begin forwarded message:
>
> **From:** Brian McComas <mccomas.b.c@gmail.com>
> **Subject: Remittitur on Appeal**
> **Date:** August 12, 2020 at 10:12:52 AM PDT
> **To:** Cary Andrew Crittenden <caryandrewcrittenden@icloud.com>
> **Cc:** Bill Robinson <bill@sdap.org>
>
> Cary,
>
> The Court of Appeal issued remittitur today. See attached. That means your

appeal has concluded. It also terminates my and SDAP's representation. This our final correspondence on the subject.

We wish you the best going forward,

Brian C. McComas, Esq.
Law Office of B.C. McComas, LLP
PMB 1605, 77 Van Ness Ave., Ste. 101
San Francisco, CA 94102
Cell: 208-320-0383
Fax: 415-520-2310

# ORIGINAL

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

RE: THE PEOPLE,
Plaintiff and Respondent,
v.
CARY ANDREW CRITTENDEN,
Defendant and Appellant.
H045195
Santa Clara County Super. Ct. No. C1642778

*** * REMITTITUR * ***

I, Baltazar Vazquez, Assistant Clerk of the Court of Appeal of the State of California, for the Sixth Appellate District, do hereby certify that the attached is a true and correct copy of the original opinion or decision entered in the above-entitled cause on June 5, 2020, and that this decision has now become final.

Costs are not awarded in this proceeding.

Witness my hand and the seal of the Court affixed at my office on August 12, 2020.

BALTAZAR VAZQUEZ
Assistant Clerk/Executive Officer

By: J. Segura
Deputy Clerk

Filed 6/5/20

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

| | |
|---|---|
| THE PEOPLE,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>CARY ANDREW CRITTENDEN,<br><br>Defendant and Appellant. | H045195<br>(Santa Clara County<br>Super. Ct. No. C1642778) |

A jury found appellant Cary Andrew Crittenden guilty of stalking a deputy sheriff, electronically distributing the deputy sheriff's personal identifying information, and publishing the residential address of another deputy sheriff to obstruct justice. The trial court sentenced Crittenden to three years in prison for the felony stalking conviction and six-month terms in the county jail for the other two convictions.

On appeal, Crittenden claims the evidence was insufficient to support the stalking conviction. In addition, he contends the trial court erred in several ways when instructing the jurors on stalking. Finally, he claims, based on *People v. Dueñas* (2019) 30 Cal.App.5th 1157 (*Dueñas*), the trial court violated his constitutional rights by imposing restitution fines, fees, and assessments without assessing his ability to pay the ordered amounts.

In a supplemental opening brief, Crittenden claims the $150 restitution fine imposed on one of his misdemeanor convictions was unauthorized, and his defense counsel was ineffective for failing to object to it.

For the reasons explained below, we modify the judgment to strike the $150 restitution fine and affirm the judgment as modified.[1]

## I. FACTS AND PROCEDURAL BACKGROUND

A. *Procedural Background*

On August 15, 2016, the Santa Clara County District Attorney filed an information charging Crittenden with one count of stalking (Pen. Code, § 646.9, subd. (a)[2]; count 1), two counts of misdemeanor electronic distribution of personal identifying information (§ 653.2, subd. (a); counts 2 & 4) and two counts of misdemeanor disseminating the address or telephone number of a public safety officer to obstruct justice (§ 146e, subd. (a), counts 3 & 5). The district attorney alleged the crimes in counts 1, 2, and 3 were committed against Santa Clara County Deputy Sheriff David Carroll on or about December 11, 2015, and the crimes in counts 4 and 5 were committed against Santa Clara County Deputy Sheriff Reyna Andalon on or about August 21, 2015.

In October 2016, the district attorney presented the case to a jury. On October 27, 2016, the jury found Crittenden guilty of counts 1, 2, and 5, not guilty of count 4, and could not reach a verdict on count 3, resulting in a mistrial on that count.[3]

On September 8, 2017, the trial court sentenced Crittenden to the aggravated term of three years in state prison on count 1 (with 601 days of presentence credit for time served), six months in county jail on count 2 (concurrent to count 1), and six months in

[1] Crittenden, representing himself, has filed a petition for writ of habeas corpus (H046743). This court ordered that the petition would be considered with this appeal, and we have disposed of it by separate order filed this day. (See Cal. Rules of Court, rule 8.387(b)(2)(B).)

[2] Unspecified statutory references are to the Penal Code.

[3] Although it does not appear that the trial court dismissed count 3 on the record, the minute order for the sentencing hearing indicates a dismissal of that count.

county jail on count 5 (consecutive to count 1). The trial court also imposed various fines, fees, and assessments on each count.

B. *The Evidence Presented at Trial*

1. The Prosecution Evidence

a. Counts 1-3

In 2013, Deputy Sheriff David Carroll was assigned to investigate Crittenden for e-mails he sent to a superior court judge. The judge had presided over eviction proceedings concerning Crittenden's friend Heidi Yauman. Carroll called Crittenden about the e-mails. Crittenden said he was lobbying to have the eviction overturned and felt it was unlawful. Carroll told Crittenden that the judge found the e-mails to be harassing and he should stop sending them. Carroll completed his investigation without taking additional action against Crittenden.

Carroll later investigated Crittenden for disseminating on the Internet photographs, the home address, and the phone number of Aleksandra Ridgeway, a Santa Clara County deputy sheriff, and Robert Ridgeway, her husband and former reserve police officer (collectively, the Ridgeways).[4] Carroll learned through investigation that Robert Ridgeway had installed a surveillance camera system at Yauman's apartment complex. Carroll also learned that Crittenden had worked with others, including the person who administered a website called "uglyjudge.com," to disseminate the information about the Ridgeways.[5] Carroll's investigation culminated in misdemeanor charges against Crittenden for electronic harassment under section 653.2, subdivision (a). In September

[4] Crittenden had included information about the Ridgeways in what Carroll and the parties at trial called "web banners." The web banners were digital graphics that contained images and text.

[5] Carroll testified that "uglyjudge.com" was operated by Robert Gettinger. Gettinger claimed to be a former police officer dedicated to exposing government corruption. Gettinger posted graphics, photos, and articles about police officers, lawyers, and judges whom Gettinger believed were corrupt.

2014, Crittenden pleaded no contest to the charges and was placed on probation. Several months later, Carroll arrested Crittenden for violating his probation by posting harassing material on Facebook about the Ridgeways.[6]

Crittenden complained to the county sheriff's internal affairs division that Carroll lied about him in police reports. Crittenden also began sending e-mails to various people about Carroll and eventually posted information about him on the Internet.[7] On March 6, 2015,[8] Crittenden sent an e-mail with the subject "False Statements by Detective David Carroll" to an internal affairs lieutenant and several other people. In the e-mail, Crittenden mentioned the city in which Carroll lived and that Carroll had displayed a political campaign sign on his lawn in 2014. Most of the people included on the e-mail were affiliated with various Santa Clara County agencies, but Carroll did not know who was associated with a certain Gmail address included on the e-mail. Although Crittenden did not send this e-mail to Carroll, Carroll was aware that Crittenden had made a complaint to internal affairs and the e-mail was shared with Carroll. Carroll was concerned about the dissemination of his personal information and wondered how Crittenden knew about the campaign sign and location of his home.

In another short e-mail to the internal affairs lieutenant on March 18, Crittenden said Carroll was "subject to prosecution" under federal civil rights law and a lien might be placed on his property. Although Crittenden did not send this e-mail to Carroll, Carroll was alerted about the e-mail and viewed it around the time it was sent. The e-mail included Carroll's home address, which was concerning to Carroll. Crittenden sent a copy of this e-mail to an attorney with the Santa Clara County Counsel's office

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[6] Evidence regarding Crittenden's prior offenses was admitted under Evidence Code section 1101, subdivision (b).

[7] Carroll voluntarily recused himself from any further investigation of Crittenden because of the Internet posts.

[8] All dates are in 2015 unless otherwise indicated.

who was assigned to the sheriff's office and a blind copy ("BCC") to a person at the county's social services agency.

The next day, March 19, Crittenden sent an e-mail with two attached web banners that included Carroll's photograph. The e-mail asserted Carroll fabricated evidence and a was a "Disgraced sheriff detective scrambl[ing] to create illusion of continuity to fake court records." Crittenden addressed this e-mail to Joseph Camp, whom Carroll did not know, and sent a copy of it to an e-mail address associated with Gettinger at "uglyjudge.com" and to two other people unknown to Carroll. In the e-mail, Crittenden said that if anyone criticized the judge who evicted Yauman, the judge would send "Carroll out to stalk, harass and threaten the whistleblowers, terrorize the victims and their families and frame them." Crittenden wrote further: "While bringing the heat down on [the judge], it is critical to also put pressure on others in his inner circle." Carroll testified that these web banners appeared in his search results when he searched for his name on the Internet. Carroll felt harassed by the web banners. Carroll believed they publicly tarnished his reputation and potentially jeopardized his future employment opportunities. They also were "unnerving" to him because they might provoke someone to seek him out and attempt to harm him.

On May 8, Crittenden sent an e-mail to Gettinger at "uglyjudge.com," copying on the e-mail two e-mail addresses that Carroll did not recognize. Crittenden attached to the e-mail a Facebook photograph of Carroll and his sister. This image of Carroll was used in the two web banners that were attached to Crittenden's March 19 e-mail.

On June 5, Crittenden sent an e-mail to a Gmail address asking the otherwise unidentified recipient to share an attached web banner on Facebook. The web banner alleged a "child abuse cover up" in Santa Clara County, included Carroll's picture, and noted his "history of false reports and fabricating evidence" and "target[ing] whistle blowers." (Capitalization omitted.)

On July 8, Crittenden sent an e-mail to a friend of his named Joy Birnie and copied it to Carroll's work e-mail address. Carroll did not know Birnie. The e-mail began, "Detective David Carroll is not a spirit filled Christian." This e-mail caused Carroll concern because nothing posted on the Internet mentioned his faith, and he did not know how Crittenden learned about it. The e-mail also referred to Carroll's house, truck, and dog in the context of suing Carroll in federal court and "tak[ing] everything from him." Carroll had no idea how Crittenden knew that he owned a truck or a dog. This information furthered Carroll's fear. Carroll pondered whether Crittenden or someone else might have been observing his home or talking to someone who knew him to obtain this information. The e-mail concluded, "Detective David Carroll is a vicious brutal and VIOLENT criminal & Heidi is fortunate she was not killed by him. He would have thought nothing of it." Carroll testified that he had never met or interacted with Heidi Yauman, though he did see her in court. Carroll said the e-mail caused him to feel scared, "on edge," and unnerved.

On July 23, Crittenden sent an e-mail to Gettinger at "uglyjudge.com" and copied it to a person who promotes herself as an Internet reporter at large. The e-mail included a web banner that depicted Crittenden, Carroll, and another detective, Samy Tarazi, and alleged that "police file false reports to frame innocent man." (Capitalization omitted.)

On December 11, Crittenden e-mailed Carroll twice at his sheriff's department e-mail address and included several other people on those and other e-mails he sent that day.[9] In the first e-mail Crittenden sent to Carroll that day at 1:24 p.m., Crittenden included Carroll as a copied recipient. Crittenden addressed this e-mail to an employee of Santa Clara County's social services agency. In addition to copying Carroll on the

[9] The December 11 e-mails were admitted into evidence as People's exhibit No. 9. Carroll did not testify about his receipt of the first of the two e-mails sent to him that day. Based on People's exhibit No. 9, it appears that Crittenden resent the first e-mail to Carroll with the second e-mail.

e-mail, Crittenden copied Detective Tarazi, a public defender, the prosecutor in this case, a person associated with the Santa Clara County Superior Court, the "CustodyOpCommission," and a person apparently associated with an organization called Momentum for Mental Health In the e-mail, Crittenden listed Yauman's home address in San Jose, but said he did not wish to disclose his current address and wrote "If I am arrested for defending [Yauman's rights], I will not plead." He also said, "Come arrest me anytime. It will go to [the] Supreme Court & I promise that federal legislation will be named for [Yauman]." (Capitalization and underlining omitted.)

In the second e-mail, which Crittenden sent directly to Carroll at 7:47 PM on December 11 (second e-mail), Crittenden accused Carroll of filing false police reports that included Crittenden's name and social security number. Crittenden attached to this second e-mail some prior e-mails he had sent to various people that day, several web banners, and multiple weblinks to ADT home security system user and installation manuals. Crittenden wrote to Carroll, "I retain my [F]irst [A]mendment right to publish your name anyway, shape or form that I please. [¶] It is YOU, NOT I THAT WILL LIVE THE BURDEN [*sic*] OF YOUR ACTIONS, and since you committed identity theft, I need to be able to point the finger at you so that everyone understands that these records are yours / not mine. [¶] Like my [social security number], you do not have the right to ADT security trademark. [¶] Any legal issues regarding ADT are with them."

One web banner Crittenden sent to Carroll twice on December 11 (and to others in e-mails that day) included Carroll's home address and a map of Carroll's neighborhood with a red arrow pointing to Carroll's home. This web banner said that Carroll "believes that he retains the unalienable right to create a fake court record using my real name, photo and S.S.N. using fake address, fake events and circumstances . . . I therefore have [the] unalienable First Amendment right to publish his real name and real address: [redacted address] [arrow pointing to a map] The public has the right to know that a criminal lives here who commits identity theft." (Capitalization omitted.) Another web

banner Crittenden sent to Carroll twice on December 11 (and to others in e-mails that day) included the ADT logo and said, "Download user manu[a]l to Detective David Carroll's home security alarm system."[10] (Capitalization omitted.)

Carroll testified that the recipients of the second e-mail included Gettinger, an attorney involved in the Yauman eviction case, a person who claimed to have been a judge and currently blogged on the Internet about government and law enforcement corruption, a person who appeared to be an attorney, the purported Internet reporter at large, and a person for whom Carroll could not find any information. Carroll considered Crittenden's e-mail and web banners to be "an invitation to go to [his] house and break in" and "a direct and intentional act to instill fear in [him]."

The second e-mail and web banners Crittenden sent on December 11 placed Carroll and his family in fear for their safety and "altered the course of [his] family's life. Especially over the next week." Because of the e-mail, Carroll contacted his local police department and asked if officers could periodically drive by his home. Carroll and his wife also started keeping the curtains in their home shut. Carroll's wife kept the alarm system on all day and did not allow their children to play in their yard. The night after he received the e-mail, Carroll heard his dog barking around 3:00 a.m. Later that morning, Carroll armed himself and did "a tactical walk around [his] house to make sure everything was okay." About a week later, Carroll saw a person in front of his house sitting in a car and talking on a phone. Carroll called the police about this suspicious vehicle and then armed himself and observed the person. It turned out that the person was just delivering food that Carroll's wife had ordered.

In addition, Crittenden sent another e-mail at 2:24 p.m. on December 11 that included the 1:24 p.m. e-mail and the web banner listing Carroll's home address and depicting his home on a map (but not the ADT web banner). Crittenden directed this

[10] We refer to this web banner as the "ADT web banner."

e-mail to several people with government and news media e-mail addresses and a few other persons.

On cross-examination, Carroll testified that he had never seen Crittenden in his neighborhood. During and after his investigation of Crittenden, Carroll did not have any reason to believe Crittenden had any weapons. In addition, Carroll did not have any knowledge of Crittenden having committed acts of violence.

b. Counts 4-5

Deputy Sheriff Reyna Andalon was assigned to the sheriff's office risk assessment unit and investigated an e-mail Crittenden sent on August 21 to, among others, a superior court judge at her personal e-mail address. Andalon determined that there were no threats in this e-mail but forwarded it to Detective Tarazi, who had been investigating Crittenden. Later than night, Crittenden sent an e-mail to Andalon's work e-mail account. Crittenden copied it to four e-mail addresses.

In the e-mail, Crittenden "advised" Andalon that she was "subject to prosecution" under federal civil rights law and said, "I am legally entitled to collect for damages and I may therefore place a lien against your home at [Andalon's home address]. [¶] You are at risk of losing your home and forfeiting all your assets to me. [¶] . . . [¶] If you deprive me of my rights, I will deprive you of your home, and I will prevail in Federal Court." (Capitalization omitted.) Crittenden included recipients on this e-mail whom Andalon did not know. This scared Andalon because the e-mail contained her home address. Andalon upgraded her home security system and requested a criminal protective order after she received Crittenden's e-mail. Andalon believed that Crittenden was trying to get her to stop doing her job by publishing her home address and threatening to go after her home.

2. The Defense Evidence

Crittenden was the sole defense witness.[11] Crittenden admitted sending the e-mails introduced by the prosecution. He also acknowledged creating some of the web banners about Carroll—including the one depicting Carroll's home address and the map—and providing information and material (including photographs) to Gettinger for other web banners. However, Crittenden said that he "[a]bsolutely" did not send the e-mails with the intent to cause Carroll or Andalon to fear for their safety or the safety of their families.

Crittenden testified that he expressed "anger and frustration" in his e-mails because Carroll had falsified reports and other documents by including his name, social security number, and driver's license number, and he had not been able to redress his grievance about Carroll's acts of fraud. Because Crittenden was not able to counter Carroll's fraud or "effectively bring about [his] side of the story," he "put [his] version of the story on the net to where it's burned on the internet." Crittenden believed he "was pretty much blown off" when he communicated his grievances about Carroll to supervisors and internal affairs "did a terrible job" investigating his complaint. Crittenden acknowledged sending information about his grievances to the news media but said he was not satisfied with the "mainstream" media's response (as compared to the response of some "non-mainstream" media that covered the situation). Crittenden denied that he tried to obstruct justice when he disseminated Carroll's home address because, by that time, he believed Carroll was no longer investigating him.

Crittenden knew Carroll was a Christian through a friend from church who also knew Carroll. Crittenden said he did not specifically search for Carroll's home address,

[11] The trial court admitted two photographs as defense exhibits during the prosecution's case. Defense exhibit A depicted Carroll's home with Christmas lights strung on it. Defense exhibit B depicted Carroll's home, his truck, and an ADT home security sign in his front yard.

but he could not remember how he obtained it and noted "it was out there in the internet."[12] He knew that Carroll owned a truck from a Google Earth picture and social media. He learned that Carroll had a dog through the Facebook page of Carroll's wife, which was linked to their dog's own Facebook page. Crittenden said he happened to learn about the campaign sign in Carroll's yard because someone had mentioned it on the Internet in regard to Carroll's support for the candidate. Crittenden obtained a photograph of Carroll from Carroll's sister's Facebook account, although Crittenden could not recall how he found her Facebook page.

Regarding the second December 11 e-mail to Carroll, Crittenden said it was still in draft form when it was sent accidentally after his computer crashed. At the time, Crittenden was frustrated that there were "restraints put on [his] First Amendment rights but no restraints put on Detective Carroll and his reports." Crittenden was "trying to make a point to him." Crittenden admitted "it was stupid the way [he] did it" and he regretted it. Crittenden included Carroll's home address in the e-mail "to show the extremity of what [Carroll] was doing." Crittenden felt he "basically had to say something extreme to show -- to demonstrate what [Carroll] was doing was extreme."

Crittenden testified that he did not intend to cause Carroll fear, but he could "see how looking back at it in retrospect, how it could have that effect." Crittenden identified the people to whom he had sent the second December 11 e-mail and said he did not intend for any of them to harm Carroll. Crittenden said he was "being sarcastic" when he included the information about Carroll's home security system but was "trying to make a point" that the law "should be equal" and "apply to everybody." Crittenden learned that

[12] Other than Crittenden's statement, there was no evidence about whether Carroll's home address was publicly available on the internet. Carroll, however, testified that he took steps to ensure that his home address was not public knowledge. He said he kept his address private with the Department of Motor Vehicles and did not list his address on websites.

Carroll had an ADT security system from a Google Earth picture. Crittenden said he had never been in the vicinity of Carroll's house.

Crittenden described an occasion when he believed a certain Facebook correspondent who identified himself as "Steven Hall" was trying to entice him to violence. Crittenden reported the person to the authorities. At some point Crittenden learned the person was actually Carroll using a pseudonym.[13]

Regarding his e-mail to Deputy Sheriff Andalon, Crittenden felt Andalon was trying to report him and helping to fabricate a probation violation by forwarding his initial e-mail to Detective Tarazi. Crittenden said he was "simply reporting misconduct" in his initial e-mail and he could not figure out why that e-mail was sent to the sheriff's department—the very people he was complaining about. Crittenden included Andalon's home address in his e-mail to her "to show that [he] was serious about following through with" his threat to sue her and to cause her to have "respect for her duties." Crittenden said that, after learning that Andalon had forwarded his initial e-mail, he searched for her name online and found her home address. He denied trying to prevent Andalon from investigating him or charging him with a crime.

## II. DISCUSSION

Crittenden's claims of error relate to his conviction for felony stalking and the restitution fines, fees, and assessments imposed at his sentencing. Crittenden contends that the evidence was insufficient to support the conviction on count 1, stalking under section 646.9, subdivision (a). He claims further that the trial court erred by permitting the jurors to consider his constitutionally protected activity, refusing to provide the jurors an instruction concerning Carroll's fears about third parties, and giving a legally incorrect answer to a jury question posed during deliberations. Regarding the fines, fees, and

[13] Carroll testified that, as part of his investigation of the Ridgeway matter, he created an undercover Facebook account and had "a very lengthy conversation with Mr. Crittenden."

assessments, he asserts his constitutional rights were violated because the trial court failed to assess his ability to pay the amounts ordered. He further contends the $150 restitution fine on count 5 was unauthorized and his defense counsel should have objected to it.

A. *Sufficiency of the Evidence for Count 1*

Crittenden contends that his conviction for stalking rested on "protected speech aimed at public redress of his grievances about perceived official misconduct." He maintains that, "[w]ithout consideration of the protected speech, the evidence is insufficient to establish that [he] stalked Carroll." He argues specifically that "[a] repeated course of harassment and credible threats were not established by the prosecution when 'the communication[s] and the surrounding circumstances are considered together.' " He urges this court to independently review the trial record to ensure that his free speech rights were not infringed by the jury's determination that his actions constituted stalking.

The Attorney General counters that "[u]nder any standard of review, sufficient evidence supports [Crittenden's] conviction for stalking. His conviction did not infringe his First Amendment rights." The Attorney General does not agree that this court should engage in independent review of Crittenden's conviction for stalking but contends we need not decide the appropriate standard of review because the proof at trial satisfied the elements of section 646.9 whether reviewed independently or for substantial evidence.

1. Legal Principles

a. Elements of Section 646.9

As applicable to the prosecution against Crittenden, section 646.9 provides in relevant part: "Any person who . . . willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of

stalking." (§ 646.9, subd. (a).)[14] To convict Crittenden of stalking Carroll, the prosecution had to prove beyond a reasonable doubt that Crittenden (1) harassed Carroll and (2) made a credible threat (3) with the intent to place Carroll in reasonable fear for his safety or the safety of his immediate family. (See *People v. Ewing* (1999) 76 Cal.App.4th 199, 210; see also *People v. Carron* (1995) 37 Cal.App.4th 1230, 1238.)

Under section 646.9, a person " 'harasses' " when he or she "engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose." (§ 646.9, subd. (e).) The statute defines " 'course of conduct' " as "two or more acts occurring over a period of time, however short, evidencing a continuity of purpose." (§ 646.9, subd. (f).) A " 'credible threat' " "means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section." (§ 646.9, subd. (g).)

Both the definitions of " 'course of conduct' " and " 'credible threat' " in section 646.9 expressly exclude "[c]onstitutionally protected activity." (§ 646.9, subds. (f), (g).) Crittenden's challenge to the sufficiency of the evidence rests on his contention that there

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[14] Section 646.9 also criminalizes the willful, malicious, and repeated following of another person, but the prosecution did not argue this theory of liability against Crittenden.

was insufficient evidence of conduct that was *not* constitutionally protected to support his conviction.

b. Standard of Review

Ordinarily, " '[w]hen considering a challenge to the sufficiency of the evidence to support a conviction, we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.' " (*People v. Powell* (2018) 5 Cal.5th 921, 944; see also *Jackson v. Virginia* (1979) 443 U.S. 307, 318–319.) A reviewing court "presumes in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence." (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) "[A]n appellate court may not substitute its judgment for that of the jury. If the circumstances reasonably justify the jury's findings, the reviewing court may not reverse the judgment merely because it believes that the circumstances might also support a contrary finding." (*People v. Ceja* (1993) 4 Cal.4th 1134, 1139.)

Crittenden acknowledges the substantial evidence standard of review and urges us to independently review the evidence because he raises "a plausible First Amendment defense." As support for his argument, Crittenden relies on *In re George T.* (2003) 33 Cal.4th 620, 632 (*George T.*), a case reviewing a conviction for making criminal threats under section 422.[15]

[15] Section 422, subdivision (a), states: "Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment."

In *George T.*, our Supreme Court concluded that "a reviewing court should make an independent examination of the record in a section 422 case when a defendant raises a plausible First Amendment defense to ensure that a speaker's free speech rights have not been infringed by a trier of fact's determination that the communication at issue constitutes a criminal threat." (*George T.*, *supra*, 33 Cal.4th. at p. 632.) "[U]nder independent review, an appellate court exercises its independent judgment to determine whether the facts satisfy the rule of law. Accordingly, [appellate courts] defer to the [trier of fact's] credibility determinations, but will ' " ' make an independent examination of the whole record' " ' [citation], including a review of the constitutionally relevant facts ' "de novo, independently of any previous determinations by the [trier of fact]" ' [citations] to determine whether [the accused's communication] was a criminal threat entitled to no First Amendment protection." (*Id*. at p. 634.)

The California Supreme Court explained that "[i]ndependent review is not the equivalent of de novo review 'in which a reviewing court makes an original appraisal of all the evidence to decide whether or not it believes' the outcome should have been different." (*George T.*, *supra*, 33 Cal.4th. at p. 634.) Moreover, "credibility determinations are not subject to independent review, nor are findings of fact that are not relevant to the First Amendment issue." (*Ibid*.) Under this standard, findings that do not pertain to the nature of the speech at issue, such as the intent element of the crime, are reviewed only for substantial evidence. (*People v. Lopez* (2015) 240 Cal.App.4th 436, 447 (*Lopez*).)

The Attorney General contends that independent review is not necessary for a stalking conviction. Citing *People v. Borrelli* (2000) 77 Cal.App.4th 703, 716–717, the Attorney General argues that section 646.9 is different than section 422, because section 646.9 " 'does not regulate the *content* of speech insomuch as the *manner* in which the communication is made.' " The Attorney General asserts that, because "a stalking conviction is always dependent on a course of conduct rather than a single expressive

statement, the danger that First Amendment rights may be impinged by a stalking prosecution is minimal compared to a criminal threats prosecution."

Under the facts of this case, we believe Crittenden has the better argument. The evidence supporting the stalking conviction against Crittenden consisted solely of Crittenden's speech in the form of web banners and his e-mails to Carroll and others. The proof Crittenden challenges as insufficient unquestionably occurred in a "First Amendment context" (see *George T.*, *supra*, 33 Cal.4th at p. 632) in which Crittenden asserts he was lawfully speaking against governmental overreach. Therefore, we will conduct an independent review of the trial record under the standard articulated in *George T.*

2. Analysis

Crittenden claims the evidence was insufficient in that "[t]he jury was unfairly permitted to consider [his] emails as evidence of repeated harassment, when the speech was mostly protected because it concerned [his] internal affairs claim and civil and criminal cases and association with the 'Markham Plaza Tenants Association.' " Crittenden contends further that, "[e]ven though [he] may have been incorrect, misguided, or even offensive, the bulk of his speech was not a basis for punishment in the absence of repeated conduct without reference to protected speech, any explicit reference to violence, or some implicit incitement of such violence." He argues that "none of [his] communications were sufficiently specific, or directed to [the e-mail recipients] in such a manner, 'as to convey a gravity of purpose and imminent prospect of execution' " of a threat to Carroll.

We are not persuaded that the evidence of stalking is insufficient to uphold Crittenden's conviction.

a. Harassment

Regarding the element of harassment, the prosecutor had the burden to prove that Crittenden knowingly and willfully committed two or more acts that evidenced a

continuity of purpose (i.e., a course of conduct), were directed at Carroll, seriously alarmed, annoyed, tormented, or terrorized him, and served no legitimate purpose. (§ 646.9, subds. (a), (e), (f).) Further, "[c]onstitutionally protected activity is not included within the meaning of 'course of conduct.' " (§ 646.9, subd. (f).)

Crittenden argues that "the prosecution's case rested upon a series of emails that Carroll found harassing" and "[t]he jury was unfairly permitted to consider [his] emails as evidence of repeated harassment, when the speech was mostly protected." After providing "examples" of allegedly protected speech, Crittenden asserts that his "protestations about official wrongdoing was [*sic*] not repeated harassment, but rather, protected speech made over the course of a year."

We disagree. Over a period of nine months, Crittenden sent multiple e-mails containing personal information about Carroll to various people, some of whom were unknown to Carroll. Crittenden began this conduct in March 2015 by sending an e-mail to an internal affairs lieutenant and other people that mentioned Carroll's hometown. After sending six more e-mails about Carroll to various people (and including Carroll on one of those e-mails) and posting web banners on the Internet, Crittenden sent the December 11 e-mails. As we explain below, Crittenden's acts on December 11 alone satisfy the harassment element of stalking.[16]

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[16] We note that the date of the stalking offense charged in count 1 of the information is "[o]n or about December 11, 2015." When instructing the jurors at the close of evidence, the trial court read count 1 of the information and instructed that "[t]he People are not required to prove that the crime took place exactly on that day, but it happened reasonably close to [December 11, 2015]." The prosecutor argued to the jury that the harassment here included Crittenden's posts about Carroll on the Internet prior to December 11. Referring to Crittenden's sending the second e-mail on December 11, 2015, the prosecutor said the "[h]arassment turned into a threat" and that e-mail "changed things." Crittenden did not object at trial to the prosecutor's argument and reference to the pre-December 11 acts or to the trial court's instructions. Although we are not precluded from examining the evidence from March through December 11, as explained

On December 11, Crittenden sent two e-mails to Carroll. In the first e-mail, sent at 1:24 p.m., Crittenden copied Carroll, including the web banner depicting Carroll's home address and a map of his neighborhood and the ADT web banner.[17] The former banner also referenced Carroll's alleged creation of "a fake court record" and said the public had a "right to know" where "a criminal lives [] who commits identity theft." (Capitalization omitted.) The ADT web banner invited viewers to download an ADT manual to "Detective David Carroll's home security alarm system." (Capitalization omitted.)

In the second e-mail, sent to Carroll directly at 7:47 p.m., Crittenden included the two web banners again and said Carroll would "live [with] the burden of [his] actions." (Capitalization omitted.) Crittenden also provided weblinks for ADT manuals in his e-mail. Crittenden included Gettinger at "uglyjudge.com," among others, on the second e-mail he sent to Carroll.

Carroll testified about the concern and fear he had for his safety and that of his family as a result of Crittenden's e-mails and web banners. Regarding the second e-mail on December 11, Carroll testified he was concerned that Crittenden or someone who saw what Crittenden was disseminating might attempt to do him harm. Carroll said that he had found some of Crittenden's other web banners when he searched the Internet. Carroll specifically described to the jury his and his family's fearful reactions after he received Crittenden's e-mail and web banners on December 11. Crittenden himself

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further below, we conclude the evidence of Crittenden's acts on December 11 is sufficient to support the conviction for stalking.

[17] We note that no witness at trial testified specifically about the first e-mail Crittenden sent on December 11. However, the e-mail was included in People's exhibit No. 9, which contained all of the December 11 e-mails sent by Crittenden. This exhibit was admitted into evidence. During the final instructions after closing arguments, the trial court told the jurors that the exhibits would be provided for their deliberations and the jurors can "use them as [they] see fit." We therefore infer that the jury received all admitted exhibits, including exhibit No. 9.

acknowledged "how [his December 11 e-mail] could have th[e] effect" of causing Carroll fear.

Based on the evidence of Crittenden's two December 11 e-mails, the jurors could have reasonably concluded that Crittenden willfully engaged in two acts directed at Carroll that seriously alarmed and annoyed him. Crittenden's actions on December 11 displayed a continuity of purpose to cause Carroll concern and fear by making him aware that his home address and home security information were known and would be disseminated to others. (See *People v. Uecker* (2009) 172 Cal.App.4th 583, 594 (*Uecker*).) Although Carroll did not testify about the first e-mail Crittenden sent to him on December 11, the jury could reasonably have inferred from Carroll's testimony about the second e-mail that the first one also seriously alarmed and annoyed him because both e-mails included the same web banners listing Carroll's home address and inviting people to download information about Carroll's home security system. Carroll testified about the fear generated by the two web banners themselves, in addition to the content of the second e-mail. Carroll said the web banners "implie[d] harm further" and "absolutely serve[d] as an invitation to break into [his] house." Thus, the evidence was sufficient to prove that Crittenden's act of copying Carroll on the first e-mail and including the web banners in that e-mail harassed Carroll in a manner similar to the second e-mail.

Further, the jury also could have reasonably found that Crittenden's acts served no legitimate purpose. When determining whether Crittenden's purpose for including Carroll's home address and home security information in the web banners sent with his e-mails could be considered "legitimate," the issue is considered from "the view of the victim or a reasonable person," not Crittenden. (*People v. Tran* (1996) 47 Cal.App.4th 253, 260.) Crittenden's stated desire to seek redress for his grievances about Carroll cannot be reasonably viewed as being served or furthered by his inclusion of Carroll's home address and security system information with his e-mails. This information bears no relationship to the alleged official misconduct that Crittenden claimed Carroll had

committed. Crittenden certainly could have fully aired his complaint to government officials and otherwise expressed his views about Carroll to others without mentioning where Carroll lived or inviting people to download a manual to Carroll's home security system.

In addition, exercising our independent review under *George T.*, we are not persuaded that the evidence of Crittenden's acts on December 11 comprises "[c]onstitutionally protected activity" that cannot be "included within the meaning of 'course of conduct.' " (§ 646.9, subd. (f).)

"The First Amendment affords protection to symbolic or expressive conduct as well as to actual speech." (*Virginia v. Black* (2003) 538 U.S. 343, 358 (*Black*).) The protections afforded by the First Amendment, however, "are not absolute," and the United States Supreme Court has "long recognized that the government may regulate certain categories of expression consistent with the Constitution." (*Ibid*.) The categories include incitement, obscenity, defamation, speech integral to criminal conduct, fighting words, child pornography, fraud, true threats, and speech presenting grave and imminent danger. (*United States v. Alvarez* (2012) 567 U.S. 709, 717–718 (plur. opn. of Kennedy, J.) (*Alvarez*).)

" 'True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. [Citations.] The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats 'protect[s] individuals from the fear of violence' and 'from the disruption that fear engenders,' in addition to protecting people 'from the possibility that the threatened violence will occur.' " (*Black, supra,* 538 U.S. at pp. 359–360.) "When a reasonable person would foresee that the context and import of the words will cause the listener to believe he or she will be subjected to physical violence, the threat falls outside First Amendment protection." (*In re M.S.* (1995) 10 Cal.4th 698, 710 (*M.S.*); see also *id*. at p. 714 ["Violence and threats of

violence . . . play no part in the 'marketplace of ideas.' As such, they are punishable because of the state's interest in protecting individuals from the fear of violence, the disruption fear engenders and the possibility the threatened violence will occur."].)

Further, the state "may constitutionally criminalize speech which threatens to take the life of or to inflict bodily harm upon a government official in view of the state's valid and overwhelming interest in protecting the safety of its public officials and permitting them to perform duties without interference from threats of physical violence." (*People v. Gudger* (1994) 29 Cal.App.4th 310, 316–317; see also *Watts v. United States* (1969) 394 U.S. 705, 707 (*Watts*).)

The California Supreme Court has emphasized that whether ambiguous speech is a true threat—and thus falls outside the category of protected speech—often depends on context. "When the words are vague, context takes on added significance [] care must be taken not to diminish the requirements that the communicator have the specific intent to convey a threat and that the threat be of such a nature as to convey a gravity of purpose and immediate prospect of the threat's execution." (*George T.*, *supra*, 33 Cal.4th at p. 637.) A history of animosity between the communicator and the recipient can provide evidence of such a specific intent. (*Ibid*.) The evidence here showed that Crittenden had collected and distributed Carroll's personal information through e-mails and web banners over several months. Crittenden had previously sought to have the web banners he created (or in which he assisted in the creation) posted on the Internet, including on "uglyjudge.com" and Facebook, to garner publicity and create pressure on Carroll. Crittenden's earlier web banners combined Carroll's photograph with allegations that he falsified documents and fabricated evidence. This evidence provides context for a reasonable conclusion by any juror that Crittenden's actions on December 11 amounted to a true threat.

Moreover, the threat need not contain "overt suggestions of violent intent" to constitute a "credible threat" that falls outside of constitutionally protected activity.

(*Lopez, supra*, 240 Cal.App.4th at p. 453; see also *Black, supra*, 538 U.S. at p. 360 [cross burnings fit within true threats].) As detailed above, Crittenden's December 11 e-mails included web banners listing Carroll's home address and inviting people to download information about his home security system. In addition, the second e-mail said Carroll would live with the burden of his actions, provided weblinks for ADT manuals, and included Gettinger and others as recipients. Crittenden's statements, moreover, were unlike the "political hyperbole" (*Watts, supra*, 394 U.S. at p. 708[18]) or expressions of "jest or frustration" that are protected by the First Amendment. (*People v. Lowery* (2011) 52 Cal.4th 419, 427 (*Lowery*) [construing section 140(a) as applying only to true threats].) Rather, Crittenden's actions can reasonably be viewed as engendering fear that Carroll or his family will be subjected to harm. (See *People v. Halgren* (1996) 52 Cal.App.4th 1223, 1231–1232 (*Halgren*) [in the context of a series of phone calls, the First Amendment did not protect defendant's statements to victim that "she would be sorry she had been rude to him," "she would pay for being rude to him," and he was going to " 'fix her' " or " 'fix this.' "]; see also *In re Ernesto H.* (2004) 125 Cal.App.4th 298, 303–304, 313 [minor's statement " ' "Yell at me again and see what happens," ' " along with his step toward the victim and threatening stance was a true threat].)

Crittenden's actions with regard to the two e-mails he sent to Carroll on December 11 amount to a true threat because "a reasonable person would understand the allegedly threatening statements—when considered in their context and surrounding

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[18] "In *Watts*, a young man attending a political rally in Washington, D.C., during the time of the Vietnam War, informed a group of attendees that he had just received his draft notice to report for induction and declared he would not go. 'If they ever make me carry a rifle,' he stated further, 'the first man I want to get in my sights is L.B.J.' His listeners laughed. [Citation.] In reversing Watts's conviction for threatening the life of the president, the United States Supreme Court considered the context and expressly conditional nature of the statement, as well as the listeners' reaction. The high court concluded the statement, rather than a threat, was merely a ' "very crude offensive method of stating . . . political opposition." ' " (*M.S., supra*, 10 Cal.4th at p. 711.)

circumstances—'to communicate a serious expression of an intent to commit an act of unlawful violence.' " (*Lowery*, *supra*, 52 Cal.4th at p. 422.) For these reasons we conclude that the prosecutor presented sufficient evidence to establish the harassment element of stalking.[19]

b. Credible Threat and Reasonable Fear

We turn next to the credible threat element of stalking. As noted above, a "credible threat" under section 646.9 is not limited to explicit threats of violence. (See *Lopez*, *supra*, 240 Cal.App.4th at p. 449; see also *Uecker*, *supra*, 172 Cal.App.4th at p. 596.) Rather, the credible threat element may be implied from "a pattern of conduct or a combination . . . of statements and conduct." (§ 646.9, subd. (g).) "[I]n determining whether a threat occurred, the entire factual context, including the surrounding events and the reaction of the listeners, must be considered." (*People v. Falck* (1997) 52 Cal.App.4th 287, 298; see also *People v. McPheeters* (2013) 218 Cal.App.4th 124, 138 (*McPheeters*).) Moreover, when the defendant's acts are undertaken with the intent to place the target in reasonable fear for his or her safety and with the apparent ability to carry out the threat so as to cause the target to reasonably fear for their safety (§ 646.9, subd. (g)), "[s]uch threats 'pose a danger to society and thus are unprotected by the First Amendment.' " (*Lopez*, at p. 453, quoting *Falck*, at pp. 296–297.)

As discussed above, when Carroll received Crittenden's e-mails and web banners on December 11, he knew that Crittenden's prior dissemination of his photograph and personal information was done in a way to maximize the dispersal and exposure of the information. The web banners sent with the December 11 e-mails reiterated that Crittenden knew Carroll's home address. Further, Crittenden implied that Carroll's

[19] Because we conclude that Crittenden's acts on December 11 amount to a harassing course of conduct and unprotected true threats, we do not address whether the evidence regarding Crittenden's allegedly harassing actions prior to December 11 may include constitutionally protected activity.

security system could be figured out and defeated. Based on these facts, it is proper to conclude that Carroll reasonably feared Crittenden might travel to his home and commit an act that would harm him or his family in retaliation for the wrong Crittenden perceived he had committed. In sum, Crittenden's actions on December 11 caused Carroll to reasonably fear that he or his family would be subjected to physical violence by Crittenden, notwithstanding the lack of an explicit threat of violence in those e-mails and web banners. (See *Lopez*, *supra*, 240 Cal.App.4th at p. 453 [defendant's conduct "reveal[ed] an obsession that a reasonable person would understand as threatening"; *id*. at p. 454 [and had "an ominous tone"].)

In addition, the evidence provided a substantial basis for the jurors to conclude that Crittenden acted with an intent to put Carroll in fear and with the apparent ability to carry out the threat. On December 11, Crittenden listed Carroll's home address, pinpointed Carroll's home on a map, and encouraged people to download information about Carroll's home security system. Although there was no evidence that Crittenden had been violent in the past, it was reasonable for the jury to deduce that Crittenden was free to move about the community and could make his way to Carroll's house and expose Carroll to harm. Despite Crittenden's testimony that he did not intend to cause Carroll to fear for his safety or that of his family, the jurors could reasonably have rejected his testimony and concluded from the evidence that Crittenden intended the result he actually caused. (See *Lopez*, *supra*, 240 Cal.App.4th at p. 454.)

Crittenden's actions on December 11, when viewed objectively, would cause a reasonable person to fear for his or her safety or the safety of their family. Accordingly, we are satisfied that Crittenden's conduct and communication amount to a credible threat that falls outside First Amendment protection.

For these reasons, Crittenden's conviction for stalking is supported by substantial evidence and, based on our independent review of the evidence, does not infringe Crittenden's First Amendment rights.

B. *Jury Instructions on Stalking*

Crittenden asserts the trial court erred when it instructed the jurors regarding stalking by permitting them to consider constitutionally protected speech, declining Crittenden's proposed instruction on Carroll's generalized fears about third-parties, and telling the jurors, in response to a jury question, that Carroll's generalized fear of third-parties was sufficient to find Crittenden guilty if Crittenden "had the apparent ability, or simply encouraged someone else, to cause harm."

1. Background

After the evidence had been presented, Crittenden requested that the stalking instruction (CALCRIM No. 1301) include the following language: " 'The person is not guilty of stalking if his conduct is constitutionally protected activity. Speech that is directed at exposing law enforcement corruption [] is constitutionally protected.' "[20] The trial court declined to provide this instruction. The trial court said the determination of whether Crittenden's speech is constitutionally protected is one for the court, not the jury. The trial court stated further that the language was misleading and would confuse the jury.

Regarding the credible threat element of stalking, Crittenden requested the jurors be instructed "that the jury has to find that it was [Crittenden] who made the threat, and that the threat cannot consist of generalized fear about third parties and what they may or may not do." The prosecutor responded that the stalking statute was not "limited to threats where the defendant says he is going to be the one to hurt the victim." The

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[20] A bracketed portion of CALCRIM No. 1301 states: "A person is not guilty of stalking if (his/her) conduct is constitutionally protected activity. _____ <*Describe type of activity; see Bench Notes below*> is constitutionally protected activity." The Bench Notes state: "If there is substantial evidence that any of the defendant's conduct was constitutionally protected, instruct on the type of constitutionally protected activity involved. (See the optional bracketed paragraph regarding constitutionally protected activity.) Examples of constitutionally protected activity include speech, protest, and assembly. (See Civ. Code, § 1708.7(f) [civil stalking statute].)"

prosecutor acknowledged that this case involved "an implied threat" and "so it's a little bit less clear where those lines are, but there's absolutely no case law that's limiting the threat to one where the defendant is going to personally do it." The prosecutor continued, "So it's not that he has to personally go to the home, but rather that he can get somebody else to go to his home or he can personally go to the home."

The trial court declined Crittenden's requested pinpoint instruction, finding it confusing and misleading. The trial court explained that a "big part of harassment is sending both the e-mails and also the web banners to third parties, and the course of conduct is two or more acts over a period of time, however short, demonstrating a continuous purpose. And even though not all the e-mails or all the web banners came in, because I limited that based upon the Defense request, the jury may find that that was sufficient continuous purpose and course of conduct. And so I think that given your instruction, the way it is currently drafted would be very misleading and confusing to the jury; so I'm going to decline to give it."

The trial court instructed the jury on stalking with a modified version of CALCRIM No. 1301—leaving out the language regarding "willfully, maliciously, and repeatedly follow[ing]" another person (as there was no evidence Crittenden had ever physically followed Carroll) but otherwise using the language of the pattern instruction.

Regarding the statutory requirement that the threat be " 'one that the maker of the threat appears to be able to carry out' " (§ 646.9, subd. (g)), the prosecutor argued to the jury that "all that means is that something that it seems like the person could do." The prosecutor provided some examples to illustrate her point. She described scenarios in which Crittenden both was personally able to carry out the threat and able to have someone else carry out the threat.

When explaining that the People did not have to prove that Crittenden actually carried out or even intended to carry out his threat, the prosecutor argued further, "So it doesn't matter whether or not Mr. Crittenden was actually planning to go to Dave

Carroll's home or to send someone to Dave Carroll's home. What matters is that he meant to place him in fear by making the threat. Furthermore, the defendant does not have to actually carry out the threat nor does anyone else have to carry it out. And that's an important distinction. If Mr. Crittenden had actually gone to Dave Carroll's home or someone had gone at his direction, this would be a very different case, and there would be much more serious charges." The prosecutor said, "The focus here is fear: Was David Carroll in fear for his safety or his family's safety and was that fear reasonable, given all of the circumstances."

The prosecutor also drew the jury's attention to the specific threat underlying the stalking charge, focusing on the second e-mail from December 11. The prosecutor pointed out that the e-mail was sent to Carroll, disclosed his home address and security system information, and was copied to Gettinger at "uglyjudge.com," "a person who has disseminated information like this for Crittenden in the past."

Defense counsel argued that the evidence did not prove that Crittenden acted without a legitimate purpose or made a credible threat when he included Carroll's home address and home security information in the December 11 e-mail.

The jury began deliberations late on October 25, 2016. In the late afternoon of October 26, 2016, the jury asked the following questions in a jury note: "Re: CALCRIM 1301. In determining credible threat, does the 'maker' of the threat have to appear to be able to carry it out himself? Or can it include the maker of the threat inciting a 3rd party to carry it out?"

On the following morning, October 27, 2016, the parties and the trial court discussed the jury's questions. Crittenden argued that the answer to the first question had already been provided to the jury in CALCRIM No. 1301, because it said a credible threat is one that "the maker of the threat appears to be able to carry out." As for the second question, Crittenden argued that the answer "should be no" based on CALCRIM

No. 1301 and because a credible threat as defined by the statute cannot be "read [] to allow the threat to be one that can be acted out by a third party."

The trial court agreed with Crittenden as to the first question. On the second question, the trial court found that, based on its analysis of the evidence and law (including cases interpreting section 422), "not only can [the threat] include [the] ability of Mr. Crittenden to carry it out, but also, it can also include the ability of third parties to carry it out, because Mr. Crittenden was the initiator of the threat." The trial court noted that Crittenden was selective about the recipients of his e-mails and "a big part of [Crittenden's] threat included . . . the combination of working with the administrator of uglyjudge.com, it also included the residential address . . . of this complaining witness."

The trial court provided the following answer to the jury, in writing: "The maker of the threat must appear to be able to carry it out. However, the credible threat can also include encouraging a 3rd party to carry it out." The jury returned its verdicts on the stalking and misdemeanor counts later that day.

2. Legal Principles

"In criminal cases, even in the absence of a request, a trial court must instruct on general principles of law relevant to the issues raised by the evidence and necessary for the jury's understanding of the case." (*People v. Martinez* (2010) 47 Cal.4th 911, 953.) That obligation includes instructing on all elements of a charged offense. (*People v. Cummings* (1993) 4 Cal.4th 1233, 1311, overruled on another ground in *People v. Merritt* (2017) 2 Cal.5th 819, 831.)

Regarding defenses, a "trial court is required to give a requested instruction on a defense only if substantial evidence supports the defense." (*People v. Panah* (2005) 35 Cal.4th 395, 484; see also *People v. Salas* (2006) 37 Cal.4th 967, 982 (*Salas*) [trial court has a sua sponte duty to instruct on an affirmative defense that is not inconsistent with the defendant's theory of the case if there is substantial evidence to support the defense].) Moreover, "a criminal defendant is entitled to pinpoint instructions that relate particular

facts to an element of the charged offense and highlight or explain a theory of the defense if the instructions are supported by substantial evidence." (*People v. Nelson* (2016) 1 Cal.5th 513, 542.) However, a court should not give a requested instruction "if it incorrectly states the law, is argumentative, duplicative, or potentially confusing [citation], or if it is not supported by substantial evidence." (*People v. Moon* (2005) 37 Cal.4th 1, 30 (*Moon*).)

Regarding the standard for our review of Crittenden's claim of error, Crittenden contends generally that instructional error claims are reviewed de novo, citing *People v. Guiuan* (1998) 18 Cal.4th 558, 569; *People v. Waidla* (2000) 22 Cal.4th 690, 733; and *People v. Johnson* (2010) 180 Cal.App.4th 702, 707. The Attorney General does not address the relevant standard of review. Although the California Supreme Court has stated "the independent or de novo standard of review is applicable in assessing whether instructions correctly state the law" (*People v. Posey* (2004) 32 Cal.4th 193, 218), it recently applied abuse of discretion review to a claim challenging the denial of a pinpoint instruction. (*People v. Mora and Rangel* (2018) 5 Cal.5th 442, 497.) As the Attorney General does not argue for abuse of discretion review, we will independently review Crittenden's entire claim of instructional error.

3. Analysis

a. Exclusion of Constitutionally Protected Activity

We begin by addressing the trial court's denial of Crittenden's request at the close of evidence for an instruction that a person " 'is not guilty of stalking if his conduct is constitutionally protected activity' " and " '[s]peech that is directed at exposing law enforcement corruption [] is constitutionally protected.' "

Crittenden argues that, without this language, "the jury was erroneously permitted to consider an abundance of protected speech as somehow evincing [Crittenden's] repeated efforts to stalk Carroll." He asserts that "[m]ost of the allegations of misconduct" in the three e-mails he sent to Carroll between July and December 2015

"were protected speech because they concerned appellant's efforts to obtain public redress of his grievances without violence." He claims further that the constitutionality of his speech was central to his defense and "[w]ithout instruction on the First Amendment, appellant could not fully present his defense, pursue his theory of the case, or fully inform the jury of the elements of the charge." Regarding prejudice, Crittenden argues that the error here concerns an element of the offense and the Attorney General must convince this court, beyond a reasonable doubt, that the failure to instruct did not contribute to the verdict.

The Attorney General counters, citing *McPheeters*, *supra*, 218 Cal.App.4th at p. 141, that because Crittenden's "course of conduct and implied threats were not protected by the First Amendment, it necessarily follows that the court did not err in declining to give the instruction requested by [Crittenden]." He argues further that the question whether certain conduct is constitutionally protected is "predominantly a question of law" for the court. He notes that no case holds that the specific instruction requested by Crittenden should be given to the jury. Further, the Attorney General maintains the stated exclusions of constitutionally protected activity in subdivisions (f) and (g) of section 646.9 do not add to or subtract from the "elements the jury must find under the statute." The Attorney General also asserts that the requested language was an incorrect statement of the law and confusing because the jurors were required to consider the entire context of Crittenden's conduct and statements and Crittenden could not "immunize himself" from prosecution by including in his communications "some expression of complaint about law enforcement." Finally, the Attorney General argues that, because there was sufficient evidence for Crittenden's conviction under independent review, "no additional prejudice analysis is needed or appropriate for the asserted failure to instruct on constitutionally protected activity."

We agree with the Attorney General that the trial court correctly declined to give the instruction proposed by Crittenden. The second sentence of Crittenden's proposed

instruction (i.e., that speech "directed at exposing law enforcement corruption" is constitutionally protected) was incorrect and potentially confusing and misleading because it was too broad in scope. Under that instruction, the jurors could have reasonably concluded that speech falling within the recognized categories of expression that the state may regulate (see *Alvarez*, *supra*, 567 U.S. at pp. 717–718) could not be used to find Crittenden guilty of stalking. As relevant here, such a conclusion would have incorrectly precluded consideration of a true threat included within speech that Crittenden expressed with the design to expose corruption.

*McPheeters* is instructive. In that case, the Court of Appeal rejected defendant's argument that the trial court erred by not instructing the jury that defendant was not guilty of stalking if his conduct was a constitutionally protected activity. (*McPheeters*, *supra*, 218 Cal.App.4th at p. 141.) The instructional issue related to defendant's statements to a police officer about shooting the victim. The Court of Appeal found that defendant's statements were "speech beyond the pale of the First Amendment." (*Ibid*.) In another part of its opinion, the court also found that a credible threat against the victim could be implied from defendant's entire course of conduct rather than merely his statements to the police officer. (*Id*. at p. 139.)

Although Crittenden's proposed instruction was flawed and properly denied, the question remains whether, given the evidence, the trial court had a sua sponte duty to appropriately instruct on the exclusion of constitutionally protected activity. While it is clear that subdivisions (f) and (g) of section 646.9 exclude constitutionally protected activity from the reach of the statute, neither Crittenden nor the Attorney General cites a case that addresses whether such an exclusion is an element of the offense or an affirmative defense. Our independent research has not yielded any case discussing the question.

"When a statute first defines an offense in unconditional terms and then specifies an exception to its applicability, the exception is generally an affirmative defense to be

raised and proved by the defendant." (*People v. Lam* (2004) 122 Cal.App.4th 1297, 1301.) Applying this general principle of statutory construction, we conclude the exclusion of constitutionally protected activity is a defense rather than an element of section 646.9.

We are not persuaded by the Attorney General's argument that Crittenden's principal defense—that his activities were constitutionally protected—was a question solely for the trial court in light of the facts here. Other jurisdictions have held that such questions may be matters for the jury. (See *State v. Lessin* (1993) 67 Ohio St.3d 487, 494 [620 N.E.2d 72, 78 ["hold[ing] that when a criminal offense charged arises from conduct that encompasses both a constitutionally protected act and an act that is not constitutionally protected, failure of the trial court to instruct the jury that it may not consider evidence of the constitutionally protected act as proof of the defendant's guilt is reversible error"]; see also *United States v. Viefhaus* (10th Cir. 1999) 168 F.3d 392, 397 [whether a defendant's statement is a true threat or protected speech is a question for the jury; if there is no question that defendant's speech is protected, the court may dismiss the charge as a matter of law].)

Much of Crittenden's conduct arguably involved expression about a public official on a matter of public concern, which " 'is "at the heart of the First Amendment's protection." ' " (See *Snyder v. Phelps* (2011) 562 U.S. 443, 451–453; see also *Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 297 & fn. 7.) This circumstance separates Crittenden's case from one like *McPheeters*, where defendant, after being placed under arrest, cursed at a police officer, told the officer "he was 'just as fucked up as the justice system,' " said he intended to return to the victim's home upon release from jail, and twice said nothing could be done if he shot the victim. (*McPheeters, supra*, 218 Cal.App.4th at pp. 130–131.) Unlike the "[d]efendant's offhanded comment" about the justice system in *McPheeters* (*id*. at p. 141), Crittenden's conduct included several complaints to various public officials and

news media about Carroll's alleged professional misconduct. We do not suggest that the trial court in a stalking case must instruct the jury on the exclusion of constitutionally protected activity any time a defendant asserts his or her conduct is protected. But given the nature and extent of the evidence supporting Crittenden's defense that his actions were constitutionally protected activity, we decide that the jury should have been specifically instructed on it.

Although we conclude that the trial court should have instructed the jury on Crittenden's defense that his activity was constitutionally protected, we conclude that its failure to do so was harmless beyond a reasonable doubt.[21] (See *People v. Aledamat* (2019) 8 Cal.5th 1, 9 [discussing applicability of the harmless error standard of *Chapman v. California* (1967) 386 U.S. 18, 24 (*Chapman*)]; cf. *People v. Watt* (2014) 229 Cal.App.4th 1215, 1219 [collecting cases noting that *Watson* applies to failure to instruct on a lesser included offense, mistake of fact, and self-defense].)

The record here demonstrates that the People satisfied the elements of section 646.9 even when excluding consideration of evidence that might have been constitutionally protected speech directed at exposing law enforcement corruption. As described above, Crittenden's e-mails to Carroll and others on December 11 (the date of the charged crime) included the web banners with Carroll's home address and home security information. Crittenden's actions on that date amount to a harassing course of conduct, a credible threat, and true threats that are not subject to constitutional protection.

The evidence also supports the conclusion that Crittenden sent those e-mails with the intent to place Carroll in reasonable fear for his safety or the safety of his family and with the apparent ability to carry out the threat so as to cause Carroll to reasonably fear.

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[21] The California Supreme Court has not yet determined the test of prejudice for failure to instruct on an affirmative defense: the test of *Chapman*, *supra*, 386 U.S. at p. 24, which applies to federal constitutional error; or the test of *People v. Watson* (1956) 46 Cal.2d 818 (*Watson*), which applies to state law error. (*Salas*, *supra*, 37 Cal.4th at p. 984.)

Although Carroll testified extensively about Crittenden's pre-December 11 conduct, it was the dissemination of Carroll's home address and home security information contained in the December 11 e-mails that had a significant impact on him. For Carroll, Crittenden's actions with regard to the December 11 e-mail were "the straw that broke the camel's back," because they went beyond including "more of the same rhetoric which [Carroll] already received" from Crittenden. Moreover, although the prosecutor discussed Crittenden's conduct prior to December 11 and argued about the "[h]arassment turn[ing] into a threat," Crittenden's conduct on December 11 was a more prominent feature of her closing argument.

Furthermore, defense counsel argued to the jury that the People could not prove the harassment element of stalking beyond a reasonable doubt because Crittenden engaged in this behavior with the legitimate purpose of trying "to draw attention to what he saw as the misconduct of David Carroll and other entities within the government." Thus, Crittenden was able to present his defense to the jury, even though the jury was not specifically instructed on it. That the jurors found Crittenden guilty based on the evidence and in light of counsel's arguments demonstrates that they rejected the notion that Crittenden's conduct was protected speech that could not serve as a basis for finding him guilty.

On this record, we are convinced beyond a reasonable doubt that the failure to instruct about constitutionally protected activity did not contribute to the verdict. Crittenden would have been convicted of stalking even if the jury had been told that certain speech is constitutionally protected and Crittenden could not be found guilty if his conduct is constitutionally protected activity.

We turn next to Crittenden's two arguments concerning section 646.9's requirement that the threat be "made with the apparent ability to carry out the threat so as to cause" the target to reasonably fear for his safety or that of his family.

b. Apparent Ability to Cause the Target to Reasonably Fear

Crittenden asked the trial court to instruct that the credible threat element could not be satisfied with proof "of generalized fear about third parties and what they may or may not do." Based on this request, Crittenden argues on appeal that "the jury should have been informed that Carroll had to reasonably fear [the] third-parties [included on Crittenden's e-mails], and that they or [Crittenden] must have had the apparent ability to carry out the threats through those persons." He points out that the evidence only showed that the web banner listing Carroll's home address and depicting his home on a map was attached to e-mails Crittenden sent, and there was no evidence that Carroll's address was actually posted on the World Wide Web.

Citing *George T.*, *supra*, 33 Cal.4th at p. 637, Crittenden claims that, by failing to instruct the jury as requested, "the trial court 'diminish[ed] the requirements that the communicator have the specific intent to convey a threat and that the threat be of such a nature as to convey a gravity of purpose and immediate prospect of the threat's execution.' " This failure left the jury "incorrectly informed on the 'principles of law relevant to the issues raised by the evidence' " and amounts to a constitutional violation through "misinstruction on the elements of the offense and the defense's theory of the case."

We are not persuaded that the instruction given was defective under the circumstances of this case or that the trial court erred by refusing Crittenden's pinpoint instruction as misleading and confusing. The definition of a credible threat in CALCRIM No. 1301 has been upheld as a correct statement of the law. (*People v. Ibarra* (2007) 156 Cal.App.4th 1174, 1196.) We discern no reason to depart from that conclusion. The language in CALCRIM No. 1301 explaining that a credible threat is " 'one that the maker of the threat appears to be able to carry out' "—along with the other language in the instruction—properly describes that element of section 646.9. (*Ibid.*; see also *Halgren*, *supra*, 52 Cal.App.4th at pp. 1228–1231 [rejecting a void-for-vagueness challenge to the

definition of "credible threat"].) On its face, the language informed the jury about the requisite intent to place the target in reasonable fear and the apparent ability to carry out the threat so as to cause the target to reasonably fear for safety. (See *Ibarra*, at p. 1196 ["the crime focuses not on the definition of the conduct but on the perpetrator's 'intent to place the victim in reasonable fear' "].) CALCRIM No. 1301 as given sufficiently informed the jurors that they had to find Crittenden himself had an apparent ability to carry out the threat and cause reasonable fear. Accordingly, the instruction fully and fairly provided the general principles of law that were relevant and necessary for the jury's understanding of the case.

Regarding the potential for the target to reasonably fear the threat based on involvement of potential third parties, neither Crittenden nor the Attorney General cite any case that directly interprets section 646.9's requirement of an "apparent ability to carry out the threat" under those circumstances. When interpreting a statute, "our 'fundamental task . . . is to determine the Legislature's intent so as to effectuate the law's purpose. [Citation.]' [Citation.] 'Because the statutory language is generally the most reliable indicator of that intent, we look first at the words themselves, giving them their usual and ordinary meaning.' " (*People v. Ruiz* (2018) 4 Cal.5th 1100, 1105.) Moreover, "[u]nder general rules of statutory construction, we may consider the judicial interpretation of similar words used in another statute dealing with analogous subject matter." (*Estate of Maron* (1986) 183 Cal.App.3d 707, 713; see also *Williams v. Superior Court* (1993) 5 Cal.4th 337, 352.)

Although apparently no published decision has considered this question in the context of section 646.9, there is precedent interpreting similar "apparent ability" language in other statutes. In *M.S., supra*, 10 Cal.4th 698, the California Supreme Court construed section 422.6, a "hate crime" statute that includes an apparent ability element. "Under section 422.6, for a conviction based on speech alone, the prosecution must prove the speech itself threatened violence and the defendant had the 'apparent ability' to carry

out the threat." (*Id*. at p. 714.) In upholding the statute against a First Amendment challenge, the Supreme Court concluded: "[W]hether section 422.6 is violated in a given case should not depend on the robustness or susceptibility of the victim. We therefore construe the phrase 'apparent ability' objectively, as implying the threat must be one that would reasonably tend to induce fear in the victim." (*Id*. at p. 715.)

The Supreme Court further concluded that section 422.6 "is not unconstitutional for lacking a requirement of immediacy or imminence." (*M.S.*, *supra*, 10 Cal.4th at p. 714.) The Court explained: "As long as the threat reasonably appears to be a serious expression of intention to inflict bodily harm [citation], and its circumstances are such that there is a reasonable tendency to produce in the victim a fear the threat will be carried out [citation], the fact the threat may be contingent on some future event (e.g., 'If you don't move out of the neighborhood by Sunday, I'll kill you') does not cloak it in constitutional protection."[22] (*Ibid*.)

Furthermore, two cases cited by the Attorney General, *People v. Avila* (2013) 212 Cal.App.4th 819, 826–827 (*Avila*) and *People v. Gudger* (1994) 29 Cal.App.4th 310, 322, footnote 6—discuss the "apparent ability" element in section 76.[23] The Attorney General

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[22] We note that the California Supreme Court subsequently upheld another statute, section 140, subdivision (a), which prohibits "willfully threatening violence against a crime witness or victim, against a First Amendment challenge grounded on the lack of any apparent ability or immediacy requirement in the statute. (*Lowery*, *supra*, 52 Cal.4th at p. 428.) The Court explained: "Nothing the high court said [in *Black*, *supra*, 538 U.S. 343] suggests that speech threatening bodily harm is entitled to First Amendment protection, and thus is immune from criminal prosecution, absent proof that the speaker intended to inflict the threatened harm immediately, or had the apparent ability to do so." (*Lowery*, at p. 428.)

[23] Section 76, subdivision (a), provides: "Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff, immediate family, or immediate family of the staff of any elected public official . . ., with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat

relies on these cases to argue that that an apparent ability "does not mean *present* ability, or *actual* ability, or even *personal* ability to carry out the threat."

In *Avila*, the court considered whether an incarcerated prisoner who did not have a stated release date could nevertheless have the apparent ability to carry out a threat. The court reasoned that an apparent ability "could [] exist because the incarcerated person is known to have an accomplice acting on his or her behalf." (*Avila*, *supra*, 212 Cal.App.4th at p. 828.) The court explained, "where the defendant, though incarcerated, retains the apparent ability to make good on his or her threats by . . . persuading an accomplice to do the dirty work," liability can be established under section 76. (*Ibid*.; see also *People v. Mendoza* (1997) 59 Cal.App.4th 1333, 1341 (*Mendoza*) [holding under section 422 that "[a] rational juror could reasonably find a threat to bring a person to the attention of a criminal street gang as someone who has 'ratted' on a fellow gang member presents a serious danger of death or great bodily injury"].)

In our view, based on the language of section 646.9 and the cases interpreting similar statutes, the apparent ability element can be satisfied with evidence demonstrating that the maker of the threat appeared to have the ability to carry out the threat he made and cause reasonable fear, either through potential action by himself or through action by others.[24] Nevertheless, a " 'credible threat' " within the meaning of section 646.9 also

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by any means, is guilty of a public offense." Subdivision (c)(1) of section 76 states further: " 'Apparent ability to carry out that threat' includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date." Subdivision (c)(5) of section 76 provides: " 'Threat' means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family."

[24] We note, in addition, that section 646.9, subdivision (g), says a threat-maker's "present incarceration" "shall not be a bar to prosecution under this section." (§ 646.9, subd. (g).) This subdivision further reinforces our conclusion that the apparent ability element can be satisfied through the potential actions of others.

requires the prosecution to prove that the perpetrator's actions caused the "target of the threat to reasonably fear for his or her safety." (§ 646.9, subd. (g).) We must therefore determine whether the trial court erred by refusing to instruct the jury, using the language requested by Crittenden, more specifically about its consideration of reasonable fear based on the potential for third-party action, rather than solely on potential actions taken by Crittenden.

To answer this question we focus on the language Crittenden actually requested. (See *Moon*, *supra*, 37 Cal.4th at pp. 30–32.) We agree with the trial court that instructing the jurors that "the [credible] threat cannot consist of generalized fear about third parties and what they may or may not do" could have confused or misled the jurors. As we have explained, the apparent ability component of the credible threat element is broader than Crittenden's language suggests, in that it is an objective standard tied to whether the threat "would reasonably tend to induce fear in the victim." (*M.S.*, *supra*, 10 Cal.4th at p. 715; see also *id*. at pp. 715–716 ["Both 'apparent ability to carry out a threat' and 'having a reasonable tendency to induce fear in a victim' are essentially two aspects of the same idea."].) Under the statute, the potential for third-party involvement related to the threat-maker's ability to carry out the threat can be a source of the target's reasonable fear for her or his safety.

Crittenden's proposed instruction, through its language instructing that a conviction could not be based on "generalized fear," would have conflicted with this standard and incorrectly narrowed the jury's consideration of Carroll's fear about third parties and what they might do as a result of Crittenden's conduct. In essence, the proposed language would have told the jurors that a threat-maker's seeming ability to carry out a threat by involving others in execution of the threatened conduct could not fulfill the "reasonable fear" element of section 646.9. For the reasons we have explained, we do not agree that this is an accurate statement of the law. A trial court can refuse a proffered instruction that incorrectly states the law. (*People v. Peoples* (2016) 62 Cal.4th

718, 768.) Here, the trial court correctly concluded that Crittenden's pinpoint instruction was misleading and confusing and properly declined to give it.

We also are not persuaded by Crittenden's argument that the trial court erred when it answered the jury's question about CALCRIM No. 1301 during deliberations.[25] Crittenden maintains that "the import of the jury's question was the reasonableness of the threat posed by third-parties as perceived by Carroll." He asserts the trial court "incorrectly framed" the issue as whether a third party could carry out the threat and further erred by instructing that a credible threat can include "encouraging" a third party to carry it out. Crittenden claims that "[i]n the absence of express threats or violence, the incomplete answer to the jury's question relieved the prosecution of its burden to prove that any threat posed by [Crittenden] via third-parties was credible."

We conclude that the trial court did not err when it answered the jury's question. The trial court appropriately reiterated the relevant language in CALCRIM No. 1301 about the requirement that Crittenden, as the maker of the threat, had to have made it with the apparent ability to carry it out. (§ 646.9, subds. (a), (g).) As for the second sentence of the trial court's answer, the language accords with a correct interpretation of the statute. As explained above, the maker's apparent ability to carry out a threat so as to cause reasonable fear can rest on the possibility that a third party would be persuaded to act on the threat. (See *Avila*, *supra*, 212 Cal.App.4th at p. 828; *Mendoza*, *supra*, 59 Cal.App.4th at p. 1341.) Further, that the trial court used the word "encouraging," as compared to "inciting"—which the jury used in its question—does not amount to error

[25] Recall, the jury asked: "Re: CALCRIM 1301. In determining credible threat, does the 'maker' of the threat have to appear to be able to carry it out himself? Or can it include the maker of the threat inciting a 3rd party to carry it out?"

The trial court answered: "The maker of the threat must appear to be able to carry it out. However, the credible threat can also include encouraging a 3rd party to carry it out."

here. In this context, encouraging and inciting are synonymous. (Black's Law Dict. (10th ed. 2014) p. 644, col. 1 [encourage means "to incite to action"].)

For these reasons, defense counsel's argument that a credible threat cannot be "read [] to allow the threat to be one that can be acted out by a third party" was flawed, and his recommended "no" answer to the second part of the jury's question was incorrect. Moreover, defense counsel did not ask for any additional instruction in response to the question. So, to the extent Crittenden now argues that the trial court's answer was incomplete and should have included further instruction, that argument is forfeited. (See *People v. Davis* (2009) 46 Cal.4th 539, 616–617.)

C. *Fines, Fees, and Assessments*

Relying on *Dueñas, supra*, 30 Cal.App.5th 1157, Crittenden asks us to remand this case for a hearing on his ability to pay the restitution fines, fees, and assessments imposed by the trial court. He asserts that a hearing is required under due process principles and the fines, fees, and assessments were "excessively cruel, punitive measures in light of his indigence." He acknowledges that his defense counsel did not object at his sentencing on these grounds, but argues that he did not forfeit this claim because the trial court made a legal error and any objection would have been futile.

The Attorney General responds that the restitution fine imposed here is not unconstitutionally excessive, and neither the restitution fine nor the fees and assessments were imposed in violation of due process. The Attorney General specifically argues that the imposition of the minimum restitution fine without consideration of an ability to pay survives rational basis review. Further, the Attorney General asserts that, although due process requires an ability-to-pay hearing, upon request before imposition of nonpunitive fees and assessments, the lack of a hearing is harmless here because there is nothing in the record to indicate that Crittenden did not have the present ability to pay the relatively small amount imposed.

At Crittenden's sentencing, the trial court imposed the following fines, fees, and assessments: on count 1, a restitution fine of $300 (§ 1202.4, subd. (b)), a $300 parole revocation restitution fine (which was suspended) (§ 1202.45), a court operations assessment of $40 (§ 1465.8), a criminal conviction assessment of $30 (Gov. Code, § 70373), and a criminal justice administration fee of $129.75 (Gov. Code, §§ 29550, 29550.1, 29550.2); on count 2, a court operations assessment of $40 (§ 1465.8) and a criminal conviction assessment of $30 (Gov. Code, § 70373); and on count 5, a restitution fine of $150 plus 10 percent administrative fee (§ 1202.4), a court operations assessment of $40 (§ 1465.8), and a criminal conviction assessment fee of $30 (Gov. Code, § 70373). We note that, although the trial court imposed the $150 restitution fine on count 5 when it orally pronounced judgment on September 8, 2017, neither the sentencing minute order nor the abstract of judgment reflects its imposition.

We first address the propriety of the $150 restitution fine imposed pursuant to section 1202.4 on count 5. The Attorney General maintains that the trial court erred by including separate restitution fines on counts 1 and 5 and recommends that we strike the $150 restitution fine. Crittenden joins this argument in his reply brief and in a supplemental opening brief. We agree with the parties that the trial court should not have imposed the restitution fine on count 5.[26] (See *People v. Sencion* (2012) 211 Cal.App.4th 480, 483.) Accordingly, we modify the oral pronouncement of judgment to strike the $150 restitution plus 10 percent administrative fee imposed by the trial court on count 5.

Turning to Crittenden's argument that a hearing on his ability to pay the fines, fees, and assessments is required, we assume arguendo that Crittenden's failure to object on this ground does not forfeit his appellate claim. Nevertheless, we reject Crittenden's request for a hearing to assess his ability to pay.

---

[26] Because we reach the merits of this issue, we need not address Crittenden's alternative claim that his defense counsel was constitutionally ineffective for failing to object to the restitution fine on count 5.

Panels of this court and other Courts of Appeal have reached differing conclusions on whether *Dueñas* was correctly decided, and the issue is pending before the California Supreme Court. (See, e.g., *People v. Kopp* (2019) 38 Cal.App.5th 47, review granted Nov. 13, 2019, S257844[27]; *People v. Hicks* (2019) 40 Cal.App.5th 320, 325–329, review granted Nov. 26, 2019, S258946.) For the reasons set out in opinions by other panels of this court, we conclude that *Dueñas* was wrongly decided. (See, e.g., *People v. Adams* (2020) 44 Cal.App.5th 828, 831–832; *People v. Petri* (2020) 45 Cal.App.5th 82, 92.) Further, we reject Crittenden's cursory argument that the restitution fine, fees, and assessments are excessive under the Eighth Amendment. Crittenden has not demonstrated that the aggregate amount imposed (approximately $640) is grossly disproportionate to his level of culpability and the harm he caused, even assuming the validity of his assertion of indigency. (See *People v. Lowery* (2020) 43 Cal.App.5th 1046, 1058; *People v. Aviles* (2019) 39 Cal.App.5th 1055, 1072.)

## III. DISPOSITION

The oral pronouncement of judgment is modified to strike the $150 restitution plus the 10 percent administrative fee imposed on count 5. As modified, the judgment is affirmed.

[27] The Supreme Court granted review of *Kopp* limited to the following issues: "(1) Must a court consider a defendant's ability to pay before imposing or executing fines, fees, and assessments? (2) If so, which party bears the burden of proof regarding defendant's inability to pay?"

_____
Danner, J.

WE CONCUR:

_____
Elia, Acting P.J.

_____
Grover, J.

**H045195**
***People v. Crittenden***

APPLICANT'S INFORMATION TO BE KEPT CONFIDENTIAL

**MC-410**

| | |
|---|---|
| **APPLICANT** *(name):* Heidi Yauman<br>APPLICANT is ☑ Witness ☐ Juror ☐ Attorney ☐ Party ☐ Other *(Specify)* Victim<br>Person submitting request *(name):* Cary Andrew Crittenden<br>APPLICANT'S ADDRESS: P.O. Box 213, Palo Alto, CA.<br>TELEPHONE NO.: 650-701-3202 | *FOR COURT USE ONLY* |
| **NAME OF COURT:** Superior Court of California, County of Santa Clara<br>STREET ADDRESS: 190 W Hedding St, San Jose, CA 95110<br>MAILING ADDRESS: 191 N. First St., San Jose, CA 95113<br>CITY AND ZIP CODE: San Jose,<br>BRANCH NAME: Hall of Justice (HOJ) Court House | |
| JUDGE: David Cena | |
| CASE TITLE: The People V. Cary Crittenden | DEPARTMENT: 42 |
| **REQUEST FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES AND RESPONSE** | CASE NUMBER: C1493022 |

**Applicant requests accommodation under rule 1.100 of the California Rules of Court, as follows:**

1. Type of proceeding: ☑ Criminal ☐ Civil ☐ Other:
2. Proceedings to be covered (for example, bail hearing, preliminary hearing, trial, sentencing hearing, family, probate, juvenile):
   Probation Hearing
3. Date or dates needed *(specify):*
   08/03/15 (Subpoena served Friday Evening, 06/29/15) - insufficient prep. time
4. Impairment necessitating accommodation *(specify):*
   Traumatic Brain Injury / Post Traumatic Stress Disorder
5. Type or types of accommodation requested *(specify):* ADA Advocate present and other - Will need to consult Deputy Public Guardian: Susan Fowle and Doctor Karin Huffer
6. Special requests or anticipated problems *(specify):* See accompanied documentation - Seeking County of Santa Clara's compliance to Board Policy 3.8 and Ord. No. NS-300.809 § 1,3-23-10

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August, 2, 2015

Heidi Yauman
(TYPE OR PRINT NAME)

Heidi Yauman
(SIGNATURE)

**RESPONSE**

The accommodation request is **GRANTED** and the court will provide the

☐ requested accommodation, in whole

☐ requested accommodation, in part *(specify below):*

For the following duration:

☐ For the above matter or appearance

☐ From *(dates):* to

☐ Indefinite period

The accommodation is **DENIED** in whole or in part because it

☐ fails to satisfy the requirements of rule 1.100.

☐ creates an undue burden on the court.

☐ fundamentally alters the nature of the service, program, or activity.

For the following reason *(attach additional pages, if necessary):* [See Cal. Rules of Court, rule 1.100(g), for the review procedure]

☐ The court will provide the alternative accommodation as follows:

Date response delivered in person or sent to applicant:

(TYPE OR PRINT NAME)

(SIGNATURE)

☐ SIGNATURE FOLLOWS THE LAST PAGE OF THE RESPONSE.



Form Approved for Optional Use
Judicial Council of California
MC-410 [Rev. January 1, 2010]

**REQUEST FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES AND RESPONSE**

Cal. Rules of Court, rule 1.100
www.courtinfo.ca.gov

From: Cary-Andrew Crittenden [mailto:southsfbayarea@gmail.com]
Sent: Wednesday, February 25, 2015 1:32 PM
To: Susan Fowle
Cc: Carlotta Royal; Alfredo Alanis; Cheryl Stevens; Internal.Affairs@pro.sccgov.org; ari manoukian; klindsey@stanford.edu; Complaint, ADA (CRT); ada.complaintadmin@usdoj.gov; Burns, Dennis; Simitian, Joe; michele.martin@pro.sccgov.org
Subject: HEIDI YAUMAN MEDICAL

Heidi has gone deaf. Please do not delay in providing the paperwork needed so that I may get her the treatment that she needs.

This is not a crime & I cannot be arrested for getting her medical treatment that she needs. Please make sure that the Sheriff's Department complies with board policy 3.8 and make sure that they do not impede her from getting the medical treatment that she needs.

If Detective Carroll comes near her or me, we will call 911 and file for a federal injunction.

Regards,

Cary-Andrew Crittenden | 650-701-3202



---

---------- Forwarded message ----------
From: Cary-Andrew Crittenden <southsfbayarea@gmail.com>
Date: Thu, Feb 26, 2015 at 9:35 AM
Subject: Joe Simitian - Pattern and Practice / ADA
To: "Simitian, Joe" <joe.simitian@bos.sccgov.org>
Cc: "Complaint, ADA (CRT)" <Ada.complaint@usdoj.gov>, ada.complaintadmin@usdoj.gov,

Cheryl Stevens <Cheryl.Stevens@cco.sccgov.org>, Internal.Affairs@pro.sccgov.org, Alfredo Alanis <alfredo.alanis@sheriff.sccgov.org>, michele.martin@pro.sccgov.org

Joe, These are serious color of law abuses by the Santa Clara County Sheriff's Department with excessive force resulting in injury. They have exhibited a pattern and practice of these abuses and abused the CLETS Law enforcement database to interfere with her right to advocacy.

Because of detective Carroll, Heidi has lost much of her ability to speak and her computer is necessary for her to communicate and stay connected to the public. She has expressed that it feels to her as if they are stepping on her trying to force her into a hole in the ground which represents the coma state she emerged from. She tries to speak and the words do not come out.

Heidi is featured in this video:

https://www.youtube.com/watch?v=yvE19gAEAco

and Detective Carroll used excessive force to interfere with Heidi's complaint to the US. Department of Urban Development,

We are planning to sue the county pursuant to USC Title 42 Section 1983 an put liens against the properties of those responsible., perhaps seize their homes if corrective action is not taken as board policy 3.8 guarantees that a procedure is in place to prevent this obsessive stalking and harassment. I have seen no evidence that this procedure exists or that it is being enforced

This has been happening for about 2 years and they will not stop.

Respectfully Sir,

Please help.

Cary-Andrew Crittenden | 650-701-3202

On Wed, Feb 25, 2015 at 4:48 PM, Cary-Andrew Crittenden <southsfbayarea@gmail.com> wrote:
Kate, the Sheriffs department took Heidis computer. If anything happens to me, please watch out for her. My PFN Number is DRJ927 and bithdate is June14 1969. Please post on facebook that I was arrested. (If it happens)

Ask people to protest

On Wednesday, February 25, 2015, Joy Birnie <joybirnie@gmail.com> wrote:
Hey Andy,

Thank you for the update.

Where are you now?

So, Heidi cannot hear at all right now?

Sent from my iPhone

On Feb 25, 2015, at 2:34 PM, Cary-Andrew Crittenden <southsfbayarea@gmail.com> wrote:

Still waiting for confirmation about getting her to Kaiser. I am Heidi's Legal Advocate pursuant to the American's with Disabilities act and they cannot do this to her. They reported me to the District Attorney's office for trying to help her get her pain medication.

On Wed, Feb 25, 2015 at 2:20 PM, Kate Lynn Lindsey <klindsey@stanford.edu> wrote:
Andy, I'm so sorry to hear all this news - this is awful! I will try to help you any way I can. Unfortunately, I'm not in Palo Alto until Monday. Can I help you find a place to stay tonight? Do you need a ride somewhere? I need some more information.Kate

On Feb 25, 2015, at 1:59 PM, Cary-Andrew Crittenden <southsfbayarea@gmail.com> wrote:

Kate, we may need your help today.

---------- Forwarded message ----------
From: Cary-Andrew Crittenden <southsfbayarea@gmail.com>

Date: Wed, Feb 25, 2015 at 1:31 PM
Subject: HEIDI YAUMAN MEDICAL
To: Susan Fowle <susan.fowle@ssa.sccgov.org>
Cc: CARLOTTA.ROYAl@ssa.sccgov.org, Alfredo Alanis <alfredo.alanis@sheriff.sccgov.org>, Cheryl Stevens <Cheryl.Stevens@cco.sccgov.org>, Internal.Affairs@pro.sccgov.org, ari manoukian <ari.manoukian@gmail.com>, "klindsey@stanford.edu" <klindsey@stanford.edu>, "Complaint, ADA (CRT)" <Ada.complaint@usdoj.gov>, ada.complaintadmin@usdoj.gov, "Burns, Dennis" <dennis.burns@cityofpaloalto.org>, "Simitian, Joe" <joe.simitian@bos.sccgov.org>, michele.martin@pro.sccgov.org

Heidi has gone deaf. Please do not delay in providing the paperwork needed so that I may get her the treatment that she needs.

This is not a crime & I cannot be arrested for getting her medical treatment that she needs. Please make sure that the Sheriff's Department complies with board policy 3.8 and make sure that they do not impede her from getting the medical treatment that she needs.

If Detective Carroll comes near her or me, we will call 911 and file for a federal injunction.

Regards,

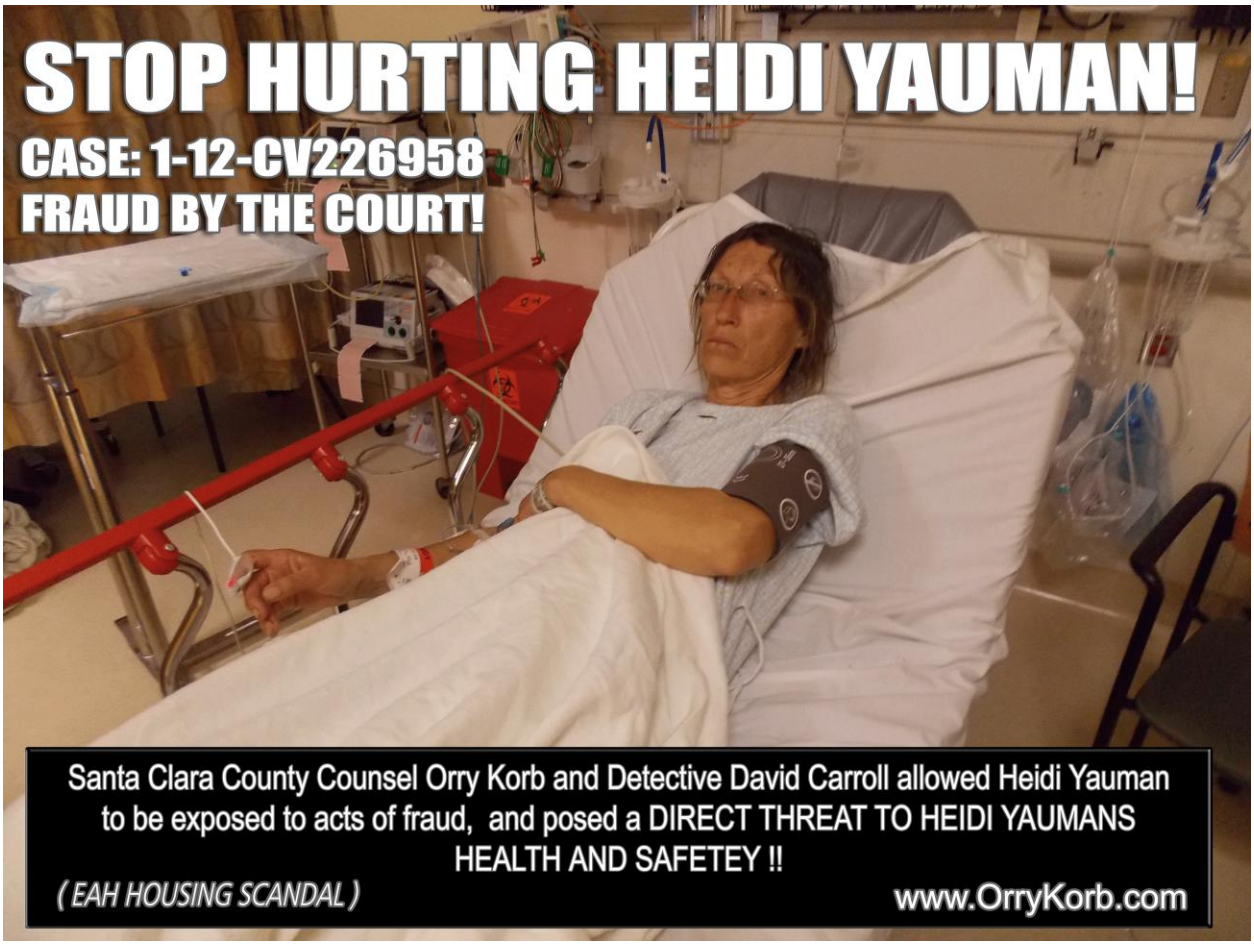
Cary-Andrew Crittenden |

----------+----------

Mr. Crittenden,

Thanks for the email. I hope it works out ok. Happy New Years to you and yours. Dennis

Dennis Burns | Police Chief
275 Forest Avenue | Palo Alto, CA 94301
D: 650-329-2103| E: dennis.burns@cityofpaloalto.org




From: Crittenden [mailto:southsfbayarea@gmail.com]
Sent: Saturday, December 28, 2013 6:33 PM
To: Burns, Dennis
Cc: judgebullock1949@gmail.com; Jocelyn.Samuels@usdoj.gov; LaDoris Cordell; Aram James; info@calbar.ca.gov
Subject: PAPD Chief Burns. / PC 148

Hello Chief Burns,

Sheriff Detective David Carroll has told me that I could be arrested if I tried to assist Heidi with legal advocacy or getting her medical assistance. She was feeling sick last night and I facilitated getting her to Stanford E.R. a doctor ran tests and believes that Heidi may have cancer.

I did what I needed to do, and what the doctor learned may have saved her life. She has a follow up appointment January 2nd with a private doctor. If detective Carroll or any other S.O. deputy attempts to arrest me for getting her the medical attention she needed, this arrest would be

unlawful, and my understanding of PC 148 is that as it is ONLY UNLAWFUL to RESIST A LEGAL ARREST & I may therefore LEGALY RESIST an UNLAWFUL ARREST.

I am letting you know that if they try to arrest me for getting her medical attention I MAY NEED TO RESIST & I may have no choice but to solicit the assistance of the Palo Alto Police Department if a situation develops within PA city limits.

I believe that by doing these things, not only is detective Carroll following unlawful orders, but also that he is doing so under advice of County Counsel, Orry Korb in violation of CPRC: 3-210, U.S.C. TITLE 18 Sections 241, 242, Penal Code 368, WIC 15656, TITLE 42 SECTION 3631, A.D.A, and multiple sections of the Civil Code and California Government Code.

Though I believe these most.likely to be void threats intended to intimidate & silence us from speaking out about the acts of fraud committed against her in case: 1-12-CV226958, I still do not want to make any assumptions & our best defense, and as a precaution, I think it best that these things be documented which is why I am bringing this before your attention.

Thank You & Have a happy New Year.

Respectfully,
Cary-Andrew Crittenden
408-401-0023

www.SantaClaraCountySheriff.com

Copied to senior staff at U.S. DOJ, PDO and State Bar.

---

---------- Forwarded message ----------
From: Cary-Andrew Crittenden <southsfbayarea@gmail.com>
Date: Sat, Oct 19, 2013 at 1:52 PM
Subject: Re: Detective David Carroll
To: dcoffey@pdo.sccgov.org
Cc: Ada.complaint@usdoj.gov, "Shandler, Jane C"
<Jane.C.Shandler@hud.gov>, "jrosen@da.sccgov.org"
<jrosen@da.sccgov.org>, "san.francisco@ic.fbi.gov"
<san.francisco@ic.fbi.gov>, "judicialcouncil@jud.ca.gov"
<judicialcouncil@jud.ca.gov>, "info@calbar.ca.gov"
<info@calbar.ca.gov>, Phyllis.Cheng@dfeh.ca.gov,
"criminal.division@usdoj.gov" <criminal.division@usdoj.gov>,
david.carroll@sherriff.sccgov.org, "JKAPP@pdo.sccgov.org"
<JKAPP@pdo.sccgov.org>, "MONEAL@pdo.sccgov.org"
<MONEAL@pdo.sccgov.org>, jeff.rosen@da.sccgov.org,
kristen.tarabetz@sheriff.sccgov.org, frank.damiano@sheriff.sccgov.org,

sheriff@cupertino.org, Laurie.Smith@sheriff.sccgov.org, Susan Fowle <susan.fowle@ssa.sccgov.org>, Cheryl Stevens <Cheryl.Stevens@cco.sccgov.org>, Orry Korb <orry.korb@cco.sccgov.org>, "smanoukian@scscourt.org" <smanoukian@scscourt.org>, yruiz@scscourt.org, sfein@da.sccgov.org, "O'Donnell, Jim" <jim.odonnell@abc.com>, "Heather.Falkenthal@asm.ca.gov" <Heather.Falkenthal@asm.ca.gov>, cory.wolbach@sen.ca.gov

▼ Hide quoted text
Mr. Coffey,

I want it on the record that Detective David Carroll has told me that I was under criminal investigation by the Santa Clara County District Attorney's Office because I had emailed Mr.Korb requesting Orry Korb to reinstate Heidi Yauman's HUD Complaint (#345092), which was shut down by the Public Guardian for the purpose of preserving the fraudulent court record that was created in Department 19 (CASE: 1-12-CV=226958) - The false accusations of criminal activity stated as FACT in these fraudulent pleadings submitted by attorney Ryan Mayberry were nothing but made up lies with ZERO FACTUAL BASIS IN REALITY.

I cannot state as fact, that this led to the death of Mr. Robert Moss who was found dead at Markham Plaza Apartments in Early November of 2012, but I CAN STATE AS FACT that Markham Plaza had used this fraudulent false statements as "justification" to prevent me from assisting Mr. Moss who was disabled & Mr. Moss was found dead very shortly thereafter.

In the event that a pitchess motion is ever filed against Detecteve Carroll, I would like to offer my services as a witness in court.

Not only does it appear that Detective Carroll was following unlawful orders, but that the orders that are directed pursuant to department procedure are to be passed down through the chain of command through the rank to the file within the Santa Clara County Sheriff's Department

Additionally, It appears that by issuing these unlawful orders to the Santa Clara County Sheriff's Department, Mr. Korb may be in violation of Rule 3-300 (California Rules of Professional Conduct) - In conjuction with violations of ADA,FHA, etc.

BTW:

http://www.youtube.com/watch?v=ecLeuPNgFpY

( I have no personal knowledge of the events described in the above testimony of Ms. Debra Grant, but it is clear that the Sheriff's Department does employ tactics such as are describes, and the sabotaging of Heidi Yauman's HUD complaint does indeed qualify as a PROTECTION RACKET, with EAH Housing and their attorney being a protected party & the Santa Clara County Sheriff's Department acting as a band of thugs to enforce that protection that EAH Housing has been granted.

Regards,
Cary-Andrew Crittenden | 408-401-0023

On Sat, Oct 19, 2013 at 12:40 PM, Cary-Andrew Crittenden <southsfbayarea@gmail.com> wrote:
> The kind gesture is appreciated Susan, and thus far, you have shown
> yourself to be very genuine and sincere. Among other things, this may
> be a conflict of interest since you are with the Public Guardian's
> office and represented by the County Counsel who orchestrated these
> attacks against us, and destroyed Heidi's Housing. It would be
> extremely helpful however, if either you or Mr. Dames could please
> obtain a hard copy of the court transcript to case: 1-12-CV226958, as
> we have credible reason to suspect that the court transcripts to this
> case have also been altered, as appears to be a common trend in civil
> court cases that have gone through department 19.
>
> I believe that any legal advise directed by the county counsel to the
> Public Guardian that conflicts with PAG fiduciary duty
> would be unlawful as an attorney may not advise in the violation of
> any law, as he has clearly done repeatedly, in effect, using the
> Sheriff's Department as if he was "yielding a sword" to attack us.
> This is remarkably similar to the events of 2006 with the San Jose
> Police Department ( http://www.youtube.com/watch?v=y5-Khy4bpH4 ) which
> caused Heidi permanent physical injuries to her vision. I am not a
> doctor or a lawyer, but does not common sense suggest that inflicting
> this kind of emotional trauma on her may injure her more because of
> her traumatic brain injury?
>
> She is frightened and terrified right now, though less disoriented
> than she was a few months ago. One element of Korbs tactics at
> employing the Sheriff's Department to harass and intimidate us is not

> only purposed to place us in a state of durress, (and with Heidi,
> Undue Influence as defined in Civil Code: 1575 ) it is also a form of
> witness intimidation & obstruction of justice & retaliation against
> whistle blowers for reporting crimes by County and State Court
> Officials.
>
> In all due respect to you, we cannot ignore the possibility that
> County Counsel may use Deputy Public Guardians to play: "Good Cop /
> Bad Cop" , which at this point, would be a tactic that he would
> probably employ as this has also been done in the past.
>
>
> Not only was Heidi deprived of her due process rights, her fair
> housing rights, her ADA rights, She was also degraded harassed,
> humiliated and stripped of her human dignity, In the cruel manner in
> which Heidi has been treated, Mr. Korb has exhibited characteristics
> of a cruel sadistic psychopath.
>
> You are welcome to call if you like. It is always a pleasure talking with you.
>
> Thank you for your kindness & concern for her well being & safety.
>
> Respectfully,
> Cary-Andrew Crittenden | 408-401-0023 / 650-701-3202
>
> On Sat, Oct 19, 2013 at 7:55 AM, Susan Fowle <Susan.Fowle@ssa.sccgov.org> wrote:
>> Hi Cary
>>
>> Does Heidi want me to attend her meeting with her? Please remember to have her pick up extra personal needs fun this week.
>>
>> Susan
>>
>> Sent from my iPad
>>
>>> On Oct 19, 2013, at 2:46 AM, "Cary-Andrew Crittenden" <southsfbayarea@gmail.com> wrote:
>>>
>>> Hello Susan. Heidi is scheduled to interview early next week with a representitive from U.S. Government about the events that happened to her & it is very difficult for her to have to re-live this ordeal. She is also very frightened & having some panic attacks due to the recent threats & intimidation tactics used against us by the Santa Clara County Sheriff's Department and this is upsetting her abit and she is affraid that they may arrest her or retaliate against her if she cooperates with an investigation. She was allready very shaken and tramatized which is why I kept on pleading with Orry Korb to stop hurting her & it appears these inflictions are calculated, delibeberate & intentionaly purposed to break her down as much as possible, scramble her senses

and exploit her brain injury & emotional trauma - much like what Larry Kubo did when he had dismantled the protections I had established for Heidi in her "answer to unlawful detainer" - to stop the harrassment from Markham Plaza Property Management.
>>>
>>> So far, you have treated her very well & I am very grateful for this.
>>>
>>> I am asking you to please take steps to ensure that the Sheriff's department does not try to create any more difficulties for her, as her life has allready been difficult enough for her already and she is very shaken and fragile from this scairy ordeal & lately she has began crying in her sleep & these "Shock" methods that they used against her are devestating to her & have set her back years of rehabilitation from her re-emerging from her coma.
>>>
>>> One of the most difficult things for her is trying to speak & it has upset her deeply. I have an obligation to protect her from this kind of treatment, which equates to violence & I am doing my very best to guide her to peace & safety without her being hurt any more & this path must be clear of obstructions, ambushes and detours! She deserves to be safe & needs to heal & I'm asking you to please make do whatever you can to ensure that Orry Korb, Detective Carroll or anyone else does not hurt her any more or try to further obstruct her recovery /rehabilitation, etc.
>>>
>>>
>>> Thanks You,
>>> Cary-Andrew Crittenden | 408-401-0023 / 650-701-3202
>>>
>>>
>>>
>>>

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From: Cary-Andrew Crittenden <southsfbayarea@gmail.com>
Date: Wed, Jun 5, 2013 at 9:58 AM
Subject: Inquiry - Re: Detective Carroll

To: kristen.tarabetz@sheriff.sccgov.org
Cc: Ada.complaint@usdoj.gov, jguzman@pdo.sccgov.org, sfein@da.sccgov.org

Good Morning Lieutenant Tarabetz.

I believe that the phone call received yesterday from Detective David Carroll may be have been in violation of U.S.C. Title 42 Section 3631, the American's With Disabilities Act, and California Penal Code Section: 368(c)
California Penal Code 386(c) States that: Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

My understanding is, that this call was directed by County Counsel: Orry Korb, which may render Mr. Korb in violation of California Rules of Professional Conduct - Rule 3-210. (Advising the Violation of Law.)

A member shall not advise the violation of any law, rule, or ruling of a tribunal unless the member believes in good faith that such law, rule, or ruling is invalid. A member may take appropriate steps in good faith to test the validity of any law, rule, or ruling of a tribunal.

This correspondence is an inquiry - it is not a formal internal affairs complaint.

Respectfully,
Cary-Andrew Crittenden | 408-401-0023

From: Cary-Andrew Crittenden <southsfbayarea@gmail.com>
Date: Sun, Jul 7, 2013 at 9:07 PM
Subject: Arlene Peterson's continued abuse of Heidi Yauman
To: "McCabe, Lara" <lara.mccabe@bos.sccgov.org>
Cc: yruiz@scscourt.org, gabel <gabel@pdo.sccgov.org>, JKAPP@pdo.sccgov.org, MONEAL@pdo.sccgov.org, Orry Korb <orry.korb@cco.sccgov.org>, BOARDOPERATIONS@cob.sccgov.org, kristen.tarabetz@sheriff.sccgov.org, ken.yeager@bos.sccgov.org, dave.cortese@bos.sccgov.org, tcain@scscourt.org, "jrosen@da.sccgov.org" <jrosen@da.sccgov.org>, Dennis Brookins <dbrookins@da.sccgov.org>

Hello Lara. Please let me know what is being done to resolve this crisis situation with Deputy Public Guardian, Arlene Peterson.

Months are dragging by and Heidi Yauman still needs her HUD complaint reinstated, her medicine, and her court records corrected. It is the responsibility of the County to take care of these things, & Heidi is unable to recieve services from Arlene Peterson.

Not only is action NOT BEING TAKEN to stop Arlene from hurting Heidi Yauman, she is in essence being refused services because the decicions Arlene Peterson is making are hurting Heidi so bad. She needs her medicine and other care and NOBODY IS STEPPING UP TO STOP THIS ABUSE!!!!!

HEIDI CANNOT RECEIVE CARE FROM SOMEONE WHO IS ABUSING HER!

AS LONG YOU ALLOW THIS ABUSE TO CONTINUE, YOU ARE REFUSING HEIDI YAUMAN THE CARE AND SERVICES YOU ARE OBLIGATED TO PROVIDE FOR HER!!!!

Cary-Andrew Crittenden

On Jun 4, 2013 1:42 PM, "Cary-Andrew Crittenden" <southsfbayarea@gmail.com> wrote:
On Jun 4, 2013 1:22 PM, "Cary-Andrew Crittenden" <southsfbayarea@gmail.com> wrote:
Hello Detective Carrol. Thank you for your phone call today at approximately 12:00 P.M. Would you please explain to me in writing what you said over the phone regarding me emails to Orry Korb requesting that he take corrective action for the actions of those under his supervision which is his obligation according to law. I do not understand how this can possibly be considered a violation of Penal Code: 653m. Not is it my first amendment right to petition the government for change, I am legaly obligated by law to not allow Heidi Yauman to be deprived as it appears is happening. 653m does not appy to correspondences made in good faith, and my correndences are. How is this NOT a vioiation of USC Title 18 sections 241 and 242. ( possibly the American's with disabilities act also, since Heidi Yauman has designated me to act in her behalf on these matters.

Please explain in writing these things to me, and tell me who it was that advised you to call me today, and what you were told to say to me and why.

Respectfully,
Cary-Andrew Crittenden | 408-401-0023

IN PROPRIA PERSONA

SIXTH DISTRICT COURT OF APPEALSE

STATE OF CALIFORNIA

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|---|---|
| CARY ANDREW CRITTENDEN,<br><br>Petitioner,,<br><br>vs.<br><br>SANTA CLARA COUNTY PROBATION DEPARTMENT AND ,SUPERIOR COURT, COUNTY OF SANTA CLARA<br><br>RESPONDANT | Case H045195<br><br>Trial court: C1642778:<br><br>DECLARATION OF FACTS IN SUPPORT OF PETITION FOR HABEAS CORPUS RELIEF |

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IN PROPRIA PERSONA

Petitioner, Rev. Cary Andrew Crittenden is a well-established and nationally recognized social activist, which includes political activism and tenant rights advocacy at Markham Plaza Apartments, a HUD subsidized apartment complex located at 2000 / 2010 Monterey Road in San Jose, California. The concerns brought to my attention by Markham Plaza residents included violence, harassment and hostile living environment by Markham Plaza Property Management. Previously, Markham Plaza had a contract through San Jose Police Departments secondary employment unit and hired San Jose Police officers to work off duty, in San Jose Police uniform as security guards, which raised serious conflict of interest issues. Off duty officers were often assisting in HUD violations, Fair Housing Act and section C-1503 of the

San Jose Police Duty Manuel which required that they only enforce laws - not the policies of their employers.

In 2008, a complaint was filed by fellow Markham Plaza tenant rights activist, Dr. Christopher Ehrentraut with several law enforcement agencies including the U.S. Department of Housing and Urban Development, The U.S. Postal Service, The San Jose Police Department, The Santa Clara County District Attorney's office and the California Attorney General's office. I had been advocating for Markham Plaza resident Heidi Yauman, who I had a very close relationship with. Heidi Yauman is disabled and was conserved through the Santa Clara County Public Guardian in probate court case ( 1994-1-PR-133513 / 1990-1-PR-124467 ) The Public Guardian also has history of facilitating illegal evictions and committing HUD violations, some of which were exposed by ABC News I-Team (Dan Noyes & Jim O'Donnell) The ABC News Story, Investigating the Public Guardian, is featured at the following youtube URL: https://www.youtube.com/watch?v=y809jIIev5w

There was an incident involving San Jose Police Sergeant Michael Leininger and Heidi Yauman, where Heidi was in outside seating area outside her residence. Heidi Yauman was not violating any laws or lease conditions but was approached by Sergeant Michael Leininger and told to go to her apartment and not come out or she would be arrested. I went over Heidi Yauman's lease with her and the Markham Plaza House Rules and pointed out a section specifying that she, as a tenant was entitled to full enjoyment of all common areas of the complex, including the outside seating area where she was sitting when approached by Sergeant Michael Leininger. Heidi Yauman and I then returned to the outdoor seating area with copy of the house rules and lease where we were approached again by Sergeant Leininger, who said to Heidi Yauman "I thought I told you to go to your room!" I then attempted to show Sergeant

Leininger the lease and house rules. In response to my advocating for Heidi Yauman's fair housing rights, a federally protected activity, Sergeant Leininger commanded me to leave the property and not return or I would be arrested for trespassing. Sergeant Leininger and SEU reserve officer: Robert My name was then unlawfully entered into San Jose Police Department's STOP program database. Heidi Yauman and I were both maliciously targeted and harassed by Sergeant Michael Leininger and reserve officer Robert Alan Ridgeway, who worked under Leininger's supervision. Neighborhood residents approached me and complained that Leininger and his officers were also illegally targeting low income residents, and illegally banning them from "The Plant" shopping center, located across the street from Markham Plaza at the corner of Monterey Road and Curtner Avenue. These included residents of Markham Plaza Apartments, Markham Terrace Apartments, Peppertree Estates Mobile Home Park, and the Boccardo Reception Center, a neighborhood homeless shelter. What Sergeant Micheal Leininger and his officers were doing was very similar to the illegal practice of "red lining".

In 2008, Heidi Yauman submitted a complaint letter to Markham Plaza Property Management, Theresa Coons detailing the harassment and by Sergeant Michael Leininger. Chapter 4 of the HUD management agent handbook describes managements responsibility to be responsive to resident concerns. More info can be found at:

https://www.hud.gov/sites/documents/43815C4HSGH.PDF

Sergeant Leininger approached me at my place of employment and told me that because of Heidi Yauman's letter complaining about him, she was going to be evicted. Sergeant Michael Leininger also stated that I had been living at Markham Plaza and that he had video of me there. On the contrary, I had not been on the property for many months and had been residing in Palo Alto since June, 2007.

This matter was brought to the attention of deputy Santa Clara County Public Guardian Kanta Jindal, who at the time was Heidi Yauman's conservator. It was Jindal's responsibility to advocate for Heidi Yauman and to stop what was obviously very illegal abuse against her. Not only were Heidi Yauman's fair housing rights being violated, and she was being denied the extra care needed because of her disability, but the abuse by property management and sergeant Leininger also violated laws protecting dependent adults and seniors. Deputy Jindal demanded that I stay away from Heidi Yauman and stop advocating for her. Shortly thereafter, Heidi Yauman received a letter from supervising public guardian Dennis Silva alleging false unsubstantiated allegations, including there being video showing I was residing at Markham Plaza Apartments. The letter from Dennis Silver to Heidi Yauman told her she should expect an eviction notice in the near future. Neither Kanta Jindal, or her supervisor, Dennis Silva did sufficient research or follow up on the crisis at Markham Plaza Apartments and were not aware of the widespread abuses taking place, the tenant organizing efforts underway by myself and Dr. Christopher Ehrentraut, and the criminal complaint recently filed against Markham Plaza by Dr. Christopher Ehrentraut. (approximately April, 2008)

In a state of panic, Heidi Yauman wrote up a letter about what was happening regarding Markham Plaza and the public guardian. This letter, which contained a few errors, detailed abuses going back to approximately 2003 with the public guardian including another fraudulent eviction following a 25-month period in which Heidi Yauman was denied services by the public guardian. This letter also referenced abuses by deputy public guardian Rhondi Opheim and two San Jose Police officers : Gabriel Cuenca (Badge 3915) and Tom Tortorici (Badge 2635) This incident, which occurred on January 26th, 2006 is documented here:

https://www.youtube.com/watch?v=y5-Khy4bpH4 (Both of these officers were under the supervision of San Jose Police Sergeant Michael Leininger (Badge 2245)

**Copies of Heidi Yauman's letter was distributed to multiple social services agencies, law enforcement agencies, left under windshield wipers of police cars, and distributed to several court facilities in Santa Clara County. Heidi Yauman received a follow up letter from Santa Clara County Superior Court Judge Mary Anne Grilli, and an investigation was initiated by Santa Clara County District Attorney Elder Fraud Investigator: Detective Dennis Brookins, who was under the supervision of deputy district attorney Cheryl Bourlard (California State Bar ID #132044) We also met with San Jose City Council Member: Sam Liccardo, who confirmed that he would pass along a copy of Heidi Yauman's letter to the Santa Clara County Board of Supervisors. Council Member Sam Liccardo and I discussed the retaliatory incident involving Sergeant Michael Leininger, and I sent a follow up letter to Council Member Sam Liccardo , who then forwarded the concerns over to the San Jose Police Department's Internal Affairs Unit.**

**Heidi Yauman and I both met with San Jose's Independent Police Auditor office (Suzanne Stauffer & Shivaun Nurr) and Heidi Yauman obtained pro bono legal counsel from the Law Foundation of Silicon Valley (Melissa Antoinette Morris – California State Bar ID# 233393 )**

**Copies of documents were made available to Dr. Christopher Ehrentraut to supplement the existing criminal complaint which included violations of the Unruh Civil Rights Act. I called Supervising Public Guardian Dennis Silva to confront him on the letter he sent to Heidi Yauman and challenged him to verify or prove a single allegation stated on the letter. Dr. Christopher Ehrentraut also called Dennis Silva to brief him on the crisis at Markham Plaza, and the widespread abuse that had been occurring and pleaded with Mr. Silva to not participate in the attacks against Heidi Yauman and the other residents. Dennis Silva called me back and conceded that he was unable to prove or verify any of the allegations and stated that Heidi Yauman was not going to be evicted from Markham Plaza Apartments.**

**That same day, Markham Plaza Property Manager: Theresa Coons was terminated from her position. Deputy Public Guardian Kanta Jindal was also abruptly removed as Heidi Yauman's case. Theresa Coons was replaced by Markham Plaza Property Manager Katrina Poitras, and Deputy Public Guardian Kanta Jindal was replaced by deputy public guardian Rebecca Pizano-Torres.**

During the same time period in 2008, San Jose Police Officer Robert Ridgeway was arrested and convicted for domestic violence against his wife, Minette Valdes in Santa Clara County Superior Court Case CC891592. Following his arrest, and the complaint by Dr. Christopher Ehrentraut, Robert Ridgeway was no longer a San Jose Police officer. On October 22nd, 2008, Robert Ridgeway started a corporation called WifiSwat (Entity number: C3166900 ), Robert Ridgeway resumed working through contracts with Markham Plaza Apartments, and "The Plant" shopping center as a surveillance camera technician DBA: WifiSwat. Robert Ridgeway's supervisor, Sergeant Michael Leininger (badge no. 2245) retired from the San Jose Police Department and started his own security company: Safety First Security LTD (PI 27360 PPO 16683) Michael Leininger also continued to working with Markham Plaza Apartments and "The Plant" shopping center DBA "Safety First Security." Through his private company, he employed uniformed off-duty San Jose Police officers as security guards at both locations.

I continued to work with local and neighborhood residents and other community leaders in addressing neighborhood safety and redevelopment concerns and police misconduct related issues in the neighborhood and throughout the city. I also networked with activists and organizations from around the country to bring about public awareness to abusive conservatorships and to advocate for better laws protecting dependent adult / seniors and disabled. I worked very closely with San Jose City Council Member Madison Nguyen who set up an office at "The Plant" shopping center. Councilmember Nguyen and I to set up meetings with the residents at Markham Plaza Apartments, who asked us to help start a Neighborhood Watch Program. There were also discussions about starting a neighborhood association or joining forces with the nearby Tully / Senter Neighborhood Association. When the hostile living

environment at Markham Plaza Apartments became too overwhelming for Heidi Yauman to withstand, she would often hang out with Councilmember Madison Nguyen at her "Plant Shopping Center" campaign office.

I also worked closely with many others including San Jose Independent Police Auditor: Judge Ladoris Cordell (ret), San Jose Police Chief Christopher Moore, San Jose Police Internal Affairs Commander: Lieutenant Richard Weger and Jose Salcido, a retired sheriff department lieutenant and Public Safety advisor for Mayor Chuck Reed. In 2010, a police misconduct news story regarding initiated by me made international news and was featured on the television show: Good Morning America and in 2011, I received an invitation to meet with U.S. President Barack Obama. I been a professional activist for many years and have been invited as guest speaker at Stanford University and my video presentations have been used to teach law school students.

In April 2012, The San Jose Police Department's secondary employment unit was subject of scathing audit by the San Jose City Auditor's office under supervision of Sharon Erickson. San Jose Police chief Christopher Moore acted upon my recommendations to better supervise the Secondary Employment unit after my recommendations were echoed by auditor Sharon Erickson. Changes were made to San Jose Police departments organizational structure and the secondary employment unit was moved out of the bureau of administration and relocated to the office of the chief of police. Michael Leininger's security company (Safety First) lost it's contact with "The Plant" shopping center and San Jose Police Lieutenant Anthony Mata was assigned to oversee SJPD officers working SEU paid jobs at "The Plant" shopping center. San

Jose Police Chief Christopher Moore requested that Lieutenant Anthony Mata and I work together in resolving with the problems with the officers at "The Plant" shopping center.

Also, In April of 2012, Heidi Yauman was visited at her home by probate court investigator Yara Ruiz to review matters relating to her conservatorship. I attended this meeting as Heidi Yauman's advocate and at the meeting, I learned from court investigator Yara Ruiz that the public guardian had falsified documentation in Heidi Yauman's probate court file which falsely claimed that I was living at Markham Plaza in 2008 and that the public guardian had intervened to stop the eviction. I followed up in writing with the Public Guardian, probate court investigator Yara Ruiz and other government agencies, including the California Judicial Council and U.S. Department of Housing and Urban Development regarding this fraud and mentioned that I would be assisting Heidi Yauman in preparing a declaration contesting the fraudulent probate court records. Deputy Public Guardian Rebecca Pizano Torres began calling Heidi Yauman and showing up at Markham Plaza Apartments trying to persuade Heidi Yauman not to file a declaration contesting the false records and an emergency meeting was called by her supervisor: Carlotta Royal. Heidi Yauman was then contacted by probate court investigator: Yara Ruiz and told that deputy public defender George Abel was assigned to her case to assist her with the declaration contesting the false probate court records. Deputy Public Guardian Rebecca Pizano Torres told Heidi Yauman that I could not help her with her declaration because she now had an attorney (George Abel) assigned to handle it for her. I followed up with the public defender's office in writing regarding these issues and included public defender Molly O'Neal in the correspondences in hopes that she would hold those under her supervision

accountable. Deputy Public Defender George Abel did not assist Heidi Yauman with her declaration contesting the fraudulent probate court records.

Additionally, in April of 2012, another public guardian conservatorship: the conservatorship of Gisela Riordan – Probate court case 1-10-PR-166693 had been generating attention from activists and organizations from across the country for the isolation and poor living conditions at Villa Fontana retirement community in San Jose. These activists included Linda Kincaid, Janet Phelan, Marti Oakley, Latifa Ring, and Ken Ditkowski and other attorneys and organizations working to reform conservatorship laws, including active and retired law enforcement officers. The probate court judge was Thomas Cain, but Judge Socrates Peter Manoukian had presided over the eviction of Gisela Riordan's son, Marcus Riordan from her home in what many believed was to assist the public guardian in seizing her house and other property - Case -10-CV-190522. Deputy Public Guardian Rebecca Pizano-Torres was very involved in this issue as was probate court investigator: Yara Ruiz and others who were also involved in the matter involving the fraudulent probate court records in Heidi Yauman's probate court file. Linda Kincaid and others had contacted me after hearing of problems Heidi Yauman had with the public guardian leading up to the recent issue pertaining to the discovery fraudulent probate court records, and roadblocks we had encountered in attempt to address these issues. NBC News (Kevin Nios) and ABC News I-Team (Jim O'Donnell & Dan Noyes) had both began investigating the public guardian and conducting interviews with conservatees, their advocates, friends and family.

On May 7th, 2012 a homeless man was shot and killed at Curtner Avenue & Almaden Road, a short distance from Markham Plaza Apartments. Myself, Council members Madison Nguyen, Pierluigi Oliviero and other community leaders organized a neighborhood meeting on May 14th, 2012 which took place at "The Plant" shopping center across the street from Markham Plaza to address homeless related concerns. Though I worked closely with vice mayor / council member Madison Nguyen, I disagreed with her on her handling of the issue which I believed was being construed and framed as a homeless issue and being used to get federal funding from the U.S. Department of Housing and Urban Development to fund the San Jose Police Department. I believed officials were skewing data to obtain grant money and that once obtained, much of this money would be spent inappropriately. I suggested that instead of funding the San Jose Police Department, federal grant money should be directed to getting homeless people housed at Markham Plaza Apartments and helping to empower those who already lived there with better jobs and housing. Another idea was to provide a reseme workshop for the Markham Plaza residents, perhaps by expanding an existing program provided by the nearby Cathedral of Faith Church. I had difficulty getting neighborhood residents to attend the meeting because the San Jose Police officers working at "The Plant" shopping center had issued illegal "Stop orders: preventing neighborhood residents from being at "The Plant" shopping center. I brought suggestions and concerns of residents with me. Some residents were concerned that Robert Ridgeway was distributing guns at Markham Plaza & thought a neighborhood gun buyback program would be a good idea. Residents thanked me for their advocacy and support, and some warned me that Michael Leininger may try to retaliate against me for the audit that had taken place and him losing his business contract with "The Plant" Shopping center and causing 8 of his officers to be fired. San Jose Police Lieutenant Anthony Ciaburro was present at the May

14th, 2012 meeting and had been supervisor to Sergeant Michael Leininger who was supervisor to Robert Ridgeway, who was allegedly distributing guns. At the time, former SJPD officer Robert Ridgeway was also in charge of maintaining security cameras at "The Plant" shopping center where the meeting was held. Deputy Santa Clara County Public Guardian Rebecca Pizano-Torres continued to cause problems for Heidi Yauman, who was experiencing an increased level of harassment by Markham Plaza property manager Elaine Bouchard and other EAH Housing staff. Despite written follow up attempts, Deputy public defender George Abel was completely unresponsive and did not assist Heidi Yauman in her declaration contesting the fraudulent probate court records regarding Markham Plaza. Meanwhile, the public guardian did not intervene to stop the harassment against Heidi Yauman which placed me in the position where I would have to interne on Heidi Yauman's behalf. Markham Plaza property manager Elaine Bouchard would respond that she would work exclusively with the Public Guardian. We were caught in loop because public guardian would repeatedly fail to intervene, breaching their fiduciary duty. I would therefore repeatedly be forced to intervene to stop the perpetual abuse and harassment and the "script was flipped" to make it appear as it I was harassing them.

On June 10th, 2012, Linda Kincaid and I interviewed on national radio show (Truth Talk Radio, hosted by Marti Oakley) regarding the Public Guardian's office and

On June 15th, 2012 Heidi Yauman was served with "Notice of termination of tenancy" papers from the Law office of Todd Rothbard, which suspiciously accused her of having a person named "Andrew Crittenden" residing with her without authorization from management. "Andrew Crittenden" was named as co-defendant in Santa Clara County Superior Court case 1-12-CV226958. This attracted the attention of organizations from across the country

who were monitoring the public guardian's office and the developments at Villa Fontana retirement community. The name "Andrew Crittenden" appeared to be fictitious representation of myself, with attempt to create an illusion of consistency with the fraudulent probate court records created by the public guardian that deputy public defender: George Abel. In addition to organizations and activists from across the country focusing on the public guardian, and local efforts to obtain and allocate federal grant money from the U.S. Department of Housing and Urban Development, other organizations that dealt with housing rights and advocacy also became involved. These included the Affordable Housing Network and the National Alliance of HUD Tenants, who I had been working with in attempt to establish a Markham Plaza Tenant Association. I assisted Heidi Yauman in preparing an "answer to unlawful detainer" but there was no answer to unlawful detainer prepared for "Andrew Crittenden" since that was not my name and I was not living at Markham Plaza. Heidi Yauman's Answer to unlawful detainer to case 1-12-CV226958 referenced to a code enforcement complaint filed on June 4th, 2012, which should have afforded Heidi Yauman protections against eviction pursuant to the Fair Employment and Housing Act. Deputy Public Guardian Rebecca Pizano-Torres was replaced by Bruce Thurman for a very brief time period, then replaced by deputy public guardian: Arlene Peterson (AKA: Arlene Claude)

**After Heidi Yauman's answer to unlawful detainer was filed with the court, deputy Santa Clara County Counsel, Larry Kubo (State Bar ID 99873), acting as legal counsel for the Public Guardian, supposedly acting in Heidi Yauman's behalf. The Answer to unlawful detainer filed by Larry Kubo, which was accepted by Judge Socrates Peter Monoukian overrode the original answer to Unlawful detainer, created the illusion of consistency with the fraudulent records deputy public defender George Abel was supposed to help Heidi Yauman challenge 2 months earlier. It also made no mention of the June 4th, 2012 code enforcement complaint, effectively stripping Heidi Yauman of her retaliatory eviction protections established in the Fair Employment and Housing Act. (FEHA). It is important to emphasize that deputy county counsel Larry Kubo and Judge Socrates Peter Manoukian were both intimately involved in the public guardian's escalating crisis at Villa Fontana retirement which was subject to attention from all over the country, publicity and attention which would soon engulf Markham Plaza Apartments. Deputy County Counsel Larry Kubo was under the supervision of Santa Clara County County Counsel Lori Pegg (State Bar ID 129073), who, according to rule 3-110 (California Rules of professional conduct), was ultimately responsible for the conduct of all attorneys under her supervision and obligated by law to take corrective action in the event that any of them should fail to act competently.**

**I appeared in court with Heidi Yauman on case 1-12-CV226958 in department 19 (Judge Socrates Peter Manoukian) Deputy Public Guardian Arlene Peterson arrived accompanied by county counsel Larry Kubo. Markham Plaza was "represented" by attorney Ryan Mayberry, from the Law office of Todd Rothbard. Judge Socrates Peter Manoukian made a statement that the case was originally assigned to Judge Mary Greenwood, but that Judge Mary Greenwood recused herself for being personal acquaintance with "Andrew Crittenden" Judge Socrates Peter Manoukian accepted motion by deputy county counsel Larry Kubo to override the answer to unlawful detainer I had helped Heidi Yauman with, replacing it with a different answer unlawful detainer prepared for himself.**

**Deputy County Counsel Larry Kubo presented a "stipulation order" prepared by attorney Ryan Mayberry to deputy public guardian Arlene Peterson and myself. The language contained within the stipulation order was very confusing and contradictory and was not easy to fully understand. It was even more so difficult for Heidi Yauman, a traumatic brain injury survivor. This stipulation order contained language like "tenant must follow all rules that are or maybe in affect at any or all times) with many variables, (Is specific rule in effect or is it not) , etc. Deputy County Counsel Larry Kubo conned me into signing it, assuring that it would likely help to de escalate the situation. I was told me that it would be unenforceable on me because I was not a resident my true name was not the same as named on the order. I reluctantly signed the stipulation order after taking into consideration the following legal factors: Section 12 of the Markham Plaza house rules clearly stated that HUD laws supersede all rules and lease conditions, another section made clear that all new rules must be approved by HUD (Rendering matter outside jurisdiction of Judge Manoukian's court) also rules be equally enforced for all residents and may not be enforced arbitrarily.**

**Heidi Yauman did not sign the stipulation order, but deputy public guardian Arlene Peterson signed it on her behalf which I thought was a big mistake because the confusing and contradictory language contained within the stipulation order appeared to be in violation of California Welfare and institutions code §15656 prohibiting causing confusion or mental anguish on an elder or dependent adult.**

**That day, while returning home to Markham Plaza Apartments, I accompanied Heidi Yauman for her own safety. Immediately, upon entering the lobby to her own apartment building, Heidi Yauman was in "technically" in violation of the stipulation order because of a rule requiring all guests to "register" at the office. Markham Plaza however, did not have a registration process available and when we asked at the office, the staff had no forms or procedure to do with registration. Another thing that was unclear was the difference between "guest", and "visitor", and adding further to the confusion, the stipulation order defined me (or) "fictitious name: Andrew Crittenden" as resident, making me neither: visitor or guest.**

**The stipulation order was used as a weapon by Markham Plaza Property Management to harass, abuse and terrorize Heidi Yauman and the public guardian refused to intervene to stop the harassment. As before, I was put in position where I had to intervene and hit a wall when told by Markham Plaza Property Management that they deal exclusively with the public guardian. We were caught in the same loop as before, but the harassment and abuse had escalated dramatically, and despite constant pleadings to supervisors of various county agencies, nobody would lift a finger to help. Activists and organizations from across the country continued to monitor the Markham Plaza abuse crisis and ABC News continued to gather information on their investigative series: "Investigating the Public Guardian"**

**In early July, 2012, I assisted Heidi Yauman in filing 2 requests to property management requesting clarification on the confusing language in the stipulation order. This was proper way to go pursuant to the American's with Disabilities Act in regards to Heidi Yauman's traumatic brain injury, and also Chapter 4 of the HUD Management Agent Handbook. Markham Plaza Property Manager Elaine Bouchard ignored Heidi Yauman's ADA request for clarification, laughed in Heidi's face and told Heidi Yauman she loved to make her suffer.**

**I was also advocating for other residents,and caring for another disabled Markham Plaza resident: Robert Moss, in apartment 409. Robert Moss was in severe pain and could barely walk. He needed my assistance with basic house cleaning and errands to get groceries and other items, including getting his mail which included his medication. He was taking pain killers for condition with his feet, & I believe he also on antibiotics. One very hot day in July, 2012, Heidi Yauman was nowhere around. She was visiting with her mother who lives in Sunnyvale. I was attempting to deliver groceries to Robert Moss, and was confronted by Rudy, the Markham Plaza Property Manager at the front door and told that according to the stipulation order, I was not allowed to deliver the groceries to Robert Moss without Heidi being present. Robert Moss was of course unable to come downstairs to get his groceries and I was forced to sit outside in front of the building on hot day with perishable goods, including melting ice cream. Finaly I gave in and walked into the building and took the elevator up to the 4th floor to deliver the groceries and Robert Moss told me he was dizzy and about to pass out because the widow was closed and it was too hot for him. He was unable to walk to the window because of the condition on his feet and also because there was big pile of trash between him and the window. I could not help him with this issue because it was so difficult to get access to him. I brought this matter to the attention of public guardian Arlene Peterson who told me she was not Robert Moss's advocate and I would need to take the matter up with management, who told me that they deal exclusively with the public guardian.**

**Markham Plaza and the public guardian both interfered with me from helping Heidi Yauman clean her apartment and remove excess clutter. (they flipped the script and accused me of trying to move my belongings in – this had been going on for years) In the end, Heidi Yauman was charged for cleaning fees authorized by the public guardian who had control of her finances.**

**I was working at a nearby apartment complex / storage facility at 1650 Pomona Avenue, helping the elderly property owner with a federal lawsuit involving reverse foreclosure and bankruptcy. Markham Plaza Property Management would continue to create problems for Heidi Yauman. And I would have to repeatedly leave work to respond to the crisis and try to de-escalate the conflict. Several times I was assaulted trying to render aid to Heidi Yauman and Robert Moss. I was reluctant to defend myself for fear that I would be portrayed as the aggressor. This was documented to make it appear like I was coming to cause problems. Whenever possible, I would check in with Heidi in the evening after staff would leave to avoid conflict of having to interact with them. I was unable to perform my duties at work and the property owner lost his property, residential tenants had to move out and storage clients lost their personal belongings. On one occasion when I was unable to respond quickly to Heidi Yauman's cries for help, she tried to climb out her forth floor window and down the scaffolding equipment set up for painting the building. People outside and at nearby businesses ran up and urged Heidi Yauman to climb back in her window. They were confronted by Markham Plaza staff and told to mind their own business and that their was court order in effect.**

**On August 10th, 2012, Judge Socrates Manoukian's son Matt Manoukian who was marine was killed in combat in Afghanistan.**

**I wrote to Markham Plaza Property management pleading with them to not proceed with the attacks. I and requested a meeting to discuss ways to resolve the issues and my concerns about their collusion with the public guardian and being afraid that someone getting hurt. I wanted them to know about investigations going on and that the public guardian was being watched from all over the country for Villa Fontana, etc & that the same individuals in the middle of the spotlight were the ones they were in collusion with, and that Markham Plaza, like Villa Fontana was also being watched from all over the country, and I figured it would be in their best interest and the interest of everyone involved that they stay out of the spotlight and avoid the negative publicity. I thought it made perfect sense to sit down with them and discuss ways to coexist in peace and to collaborate on something some thing constructive, like directing some of the HUD funding discussed at May 2012 meeting in a way to benefit the residents, perhaps being channeled through non profits and churches such as Catherdral of Faith, Sacred Heart, Catholic Charities etc. The federal grant money was already available and all that needed to be done was designate proper use for it. It seamed so much more practical to direct energy in a constructive manner rather than destructive and to help people instead of hurting them. This was offer I thought they could not refuse especially since it would benefit EAH Housing as an organization to which they would also gain positive publicity instead of negative publicity. I included email with link to video exposing the isolation of Gisela Riordan at Villa Fontana which sparked the ABC News story. I wanted to put things in proper perspective by showing Markham Plaza that their isolation of Robert Moss and Heidi Yauman was very similar to the isolation of Gisela Riordan. Attorney Ryan Mayberry altered these documents and submitted them as exhibits to the court (Judge**

**Socrates Peter Manoukian) , these were accompanied by fraudulent, unsigned declarations from individuals including Robert Ridgeway, who alleged that he had video evidence and was able to testify that I was living at Markham Plaza and stayed overnight several nights. This was untrue. Since the original papers were served in June of 2012, I had only spent one night at Markham Plaza, which was the night before in order to ensure that myself and Heidi Yauman were able to get to court on time. On the bottom of one of the exhibits, there are the words: "See Youtube video: and the link to the video of Villa Fontana is showing, proving that the document was altered and demonstrating my intent in informing them of the isolation of Gisela Riordan.**

**When I tried to cross examine attorney Ryan Mayberry about the fraud concerning the altered documents, and how he knew they were from me (since my name was on the bottom was also cut off below the youtube link), Judge Socrates Peter Manoukian interrupted and diverted the conversation. Judge Socrates Peter Manoukian began interrogating me in court about Villa Fontana and my knowledge and involvement in FBI investigations into to the court system. I stated on the record that the documents had been altered, Judge Manoukian evicted Heidi Yauman on the alleged basis that the organizations and groups from around the county, members of the news media and those present at the May 14th meeting were conspiring together to attack Markham Plaza Apartments, a vast nationwide conspiracy supposedly being orchestrated by "Andrew Crittenden" and funded by the U.S. Department of Housing and Urban Development. I was denied my right to be heard in court and all the witnesses immediately rushed out of the court room. None of them signed their declarations or testified and I was not allowed to cross examine any of them. The only people who spoke were myself, and attorneys Larry Kubo and Ryan Mayberry, The proceedings were being monitored from all over the country and Markham Plaza Apartments plunged themselves headfirst into the spotlight.**

**The eviction proceedings occurred on October 3rd, 2012, only 53 days after the August 10th death of Judge Manoukian's son Matt Manoukian, who died fighting alleged "terrorists" When googling Judge Socrates Peter Manoukian, a lot of information comes up, but the two main incidents that stand out the most are the death of Judge Manoukian's son Matt Manoukian, and the fraudulent eviction of Heidi Yauman. It appears highly suspicious appears more than coincidental that that these major two events occurred only 53 days apart. One has to wonder if in addition to the fraud and perjury, there may be sanity issues at with Judge Manoukian and the vast number of people and organizations accused of conspiring to attack Markham Plaza Apartments without motive. The Cathedral of Faith church alone has an estimated 12,000 congregation members.**

**That same evening of October 3rd, 2012, Jim O'Donnell met with victims and their families and advocates at a Denny's restaurant, a few blocks away from Markham Plaza Apartments. National advocate Linda Kincaid, from the National Association Against Guardian abuse was present at the meeting and she announced she had pulled records from the court website regarding case 1-12-CV-226958. These records indicated that "Andrew Crittenden" had been evited twice from Markham Plaza Apartments. First by default for failing to file answer to unlawful detainer, When deputy public guardian Arlene Peterson's name was mentioned, Anthony Alaimo: mentioned that he two had dealt with Arlene Peterson and that she had shown up at his mothers home with forged eviction papers in what also involved corresponding court cases between department 19 (Judge Socrates Peter Manoukian /- 2008-1-CH-002010 ) and department 3 (Judge Thomas Cain / 1-10-PR-166693) After many people came forward bringing attention to the fraud and abuse, online records referencing docket no. 1-12-CV226958 vanished and no longer be found, other court cases in same court department during same time period were still searchable and accessible.**

**After Heidi Yauman's eviction, she was moved by the public guardian to Gainsville Road in San Jose and I had trouble accessing Robert Moss because of the harassment and being assaulted trying to enter Markham Plaza, and my cell phone had fallen from a ceiling wall outlet and had broken. I too was feeling broken and truly exhausted from this terrifying horrific ordeal. I followed up with Mr. (Duncan) Lee Pullen, director of Aging and Adult services on welfare check for Robert Moss and the money embezzled from Heidi Yauman by attorney Ryan Mayberry. Ryan Mayberry and Lee Pullen were neighbors, living a few short blocks from each other in San Rafael, where EAH Housing was headquartered. Lee Pullen authorized the public guardian to pay his neighbor Ryan Mayberry to commit fraud against Heidi Yauman (called attorney fees) payed for with Heidi Yauman's with Heidi Yauman's finances which the public guardian controlled. Lee Pullen was irresponsive to my requests for welfare check on Robert Moss and in early November of 2012, I learned that Robert Moss was discovered dead after Judge Manookian facilitated fraud (fabricated threats) and fake court declarations which Markham Plaza then used to deny Robert Moss accommodations pursuant to the American's with disabilities act. by isolating him like what had happened to Gisela Riordan.**

**In approximately, December 2012, Deputy Public Guardian Arlene Peterson terminated Heidi Yauman's tenancy on Gainsville Road in San Jose and threw her out on the street in the middle of winter. I then allowed Heidi to stay with me at 2700 Ash Street in Palo Alto where I had been illegally subletting since 2007. Since I did not have permission to allow Heidi Yauman to live with me, I also lost my housing on January 26th, 2013. Heidi Yauman and I moved across the street to 5 abandoned houses on Page Mill Road. Deputy Public Guardian also announced plans to terminate Heidi Yauman's conservatorship – closing any doors for opportunity to contest fraudulent documents which public defender George Abel was supposed to assist her with, tossing the ball to Robert Ridgeway who filed fake declaration to creating illusion of consistency with fake probate court records traceable to the earlier eviction attempt scandal from 2008 involving Markham Plaza Apartments, the Public Guardian and San Jose Police Department's Secondary Employment Unit.**

**I filed a complaint on behalf of Heidi Yauman with the U.S. Department of Housing and Urban Development (HUD Inquiry 345092) which was picked up by Jane C. Shandler at the San Francisco HUD office. Heidi Yauman authorized to act on her behalf pursuant to the American's with disabilities act. After short while, the investigation mysteriously grinded to a halt and HUD stopped responding. I emailed the San Francisco Police Department and told them that Heidi Yauman and I might need a Civil Standby at the San Francisco HUD office because HUD was refusing Heidi Yauman's complaint. I copied the email to the HUD Inspector General's office in Washington D.C. and a short time later, the HUD complaint was reinstated but no explanation was given as to why it had stopped. Soon after that, I was notified that the Public Guardian had intervened and had used their power of attorney to shut down Heidi Yauman's HUD complaint. I followed up meticulously via email with several county officials from across the board to reinstate the HUD complaint and included deputy public defender George Able, who was assigned to represent Heidi Yauman. I copied Public Defender Martha "Molly" O'Neal who, pursuant to rule 3-110 of the California Rules of Professional is ultimately responsible for taking corrective action for the incompetence of all attorneys under her supervision. Martha "Molly" O'Neal did nothing to assist with reinstatement of the HUD complaint, nor did she assist with the declaration to contest the fake probate court files, instead, she held the door open for the false declaration by Robert Ridgeway bringing about the illusion of consistency in the fake court records.**

**I also filed a whistleblower complaint against deputy county counsel Larry Kubo regarding him over riding the original "answer to unlawful detainer" and stripping out her protections in the Fair Employment and Housing act, basically setting up Heidi Yauman to lose her eviction case (1-12-CV226958). The Whistleblower blower complaint was received and handled by office of County Counsel, under supervision of Lori Pegg, who herself violated rule 3-110 in regards to the misconduct of subordinate attorney, deputy county counsel, Larry Kubo. I furnished the County Counsel Whistleblower program with solid proof supporting my allegations, including copy of the San Jose code enforcement complaint against Markham Plaza with case number, date it was filed and name of the investigator assigned.**

**County Counsel stonewalled the complaint and told me they could not give information on investigations. I then filed a public records act request on their policies and procedures which are public record. I used these policies and procedures to reverse engineer the whistleblower investigation and determined that they had violated a policy requiring that if a county counsel attorney is subject of whistleblower complaint, then it must be referred upward in the chain of command to the County Executive's office.**

**I brought the whistleblower complaint to the County Executive's office like I was supposed to do and presented them with the same proof given to county counsel. The county executive would either ignore the complaint or direct it back to county counsel and I would continue to send it back to the County Executive citing the policies requiring them to receive the whistleblower complaint. I also continued to follow up on reinstatement of the HUD complaint and was continually given the runaround.**

**Hundreds of people, myself included documented these improprieties and published them on the internet. These included web banners depicting Judge Socrates Peter Manoukian, (Duncan) Lee Pullen – head of Aging and Adult services who and his neighbor, Ryan Mayberry, the attorney for Markham Plaza Apartments. The ABC News story: Investigating the Public Guardian was also aired and Dan Noyes from ABC News interviewed (Duncan) Lee Pullen about the public guardian's practices of violating laws enforced by the U.S. Department of Housing and Urban Development.**

**Myself and others began receiving harassing and threatening phone calls from Santa Clara County Sheriff Detective David Carroll, who demanded that I stop pursuing the whistleblower complaint, and the HUD complaint (inquiry 345092) Detective David Carroll demanded that I stop advocating for Heidi Yauman, which included assisting her with medical attention. Detective David Carroll specifically told me not to put anything in writing regarding the EAH Housing Scandal, the abuse of Heidi Yauman and the circumstances surrounding Robert Moss's Death. Detective David Carroll also contacted documentary film producer William Windsor of the "Lawless America" project who was working an documentary film on government corruption which would feature Judge Socrates Peter Manoukian. The Sheriff department accused William Windsor of publishing pictures of himself with guns on social media and threatening judges, though there was never any evidence of this and no arrest was ever made regarding these claims. Web Banners and Information on Judge Socrates Peter Manoukian and detective Detective David Carroll were published on Lawless America sites and were distributed to thousand of people, including organizations that deal with police misconduct and police accountability related issues. Despite claims by Santa Clara County Sheriff deputy Robert Eng, the Lawless America project did not become involved because they were contacted by me, They had signed onto the project much earlier, 2010 or 2011 through the Public Guardian's Gisela Riordan's conservatorship case which had also sparked the ABC News story. Lawless America had been following the developments ever since, including when Markham Plaza Apartments plunged themselves into the middle of the scandal.**

**In 2014, focus began to shift to Robert Ridgeway, who filed a fake court declaration in case 1-12-CV226958. Like all the other witnesses in case 1-12-CV226958, Robert Ridgeway's declaration was unsigned, he never testified, and I never got the opportunity to cross examine him. Hundreds of people, including myself decided to "put him on the stand" and confront him on his statements, ask him to show the video evidence proving that "Andrew Crittenden" had been living at Markham Plaza and ask him to site the specific nights "Andrew Crittenden" had stayed overnight, etc. Banners were published along with descriptive text with Robert Ridgeway and his new wife, Santa Clara County Sheriff Deputy Aleksandra Ridgeway. The sole focus was to address the false statements in his declaration which he refused to sign and testify to. Robert Ridgeway was offered the opportunity to simply deny making the unsigned allegations contained within his false declaration. Robert Ridgeway was no longer a police officer and the declaration had nothing to do with his duties as police officer and his wife, deputy Aleksandra Ridgeway was not a party or witness to case 1-12-CV226958, and no involvement whatsoever. Affiliated organizations addressing police accountability issues had combined distribution channel capacity to distribute the banner to over 1,000,000 people if designed according to their policies, which would be a "police accountability theme", Robert Ridgeway was therefore depicted with his wife, deputy Aleksandra Ridgeway suggesting that perhaps, he was able to avoid prosecution for the fake declaration in part, because he was married to a law enforcement officer.**

**On September 16th, 2014, I was arrested by the Palo Alto Police Department on a $5000.00 warrant issued by the Santa Clara County Sheriff department. (California penal code § 653(2)a. The prosecutor was deputy district attorney James Leonard, who was a homicide prosecutor 2 years earlier when Markham Plaza Resident Robert Moss died. The public defender assigned to the case was Jeffrey Dunn and the judge was Rodney Jay Stafford. Jeffrey Dunn lied to me about the required elements to the charge and told me I was being charged with "publishing someone's personal information in a manner which could potentially make them feel harassed" which while I pled, an additional "victim" was added, that being deputy Aleksandra Ridgeway. I was also lied to about the terms and conditions of probation and was not allowed to see the police report, read the actual statute or the terms of my probation. The Santa Clara County Superior Court Docket number was C1493022. Also, Santa Clara County Sheriff department bailiff's seized from me the phone number for outside attorney: Aram Byron James.**

**I was not aware at the time that deputy district attorney James Leonard was homicide prosecutor when Robert Moss died, and it had not yet occurred to me the significance of deputy public defender George Abel's failure to assist Heidi Yauman with her probate court declaration, and the possible collusion involving the civil court declaration by Robert Ridgeway, and that George Abel's failure to assist with probate court declaration may have actually been a contributing factor to causing Robert Moss's death. (The district attorney's office covering up public defender's involvement in homicide) The public defender's office should have immediately declared a conflict of interest and recused. There is also the important question regarding proper as to whether the court system in Santa Clara County may be covering up for their own liability by allowing Judge Socrates Peter Manookian to preside over court cases so soon after his son Matt Manookian was shot and killed.**

**When I finally received a copy of the criminal complaint and the police report, signed by Santa Clara County Sherriff detective David Carroll under penalty of perjury, I noticed another problem besides the false and fabricated statements in the report. County Counsel Lori Pegg, who supervised the fraud by Deputy County Counsel Larry Kubo, and also the mishandled whistleblower complaint regarding Larry Kubo, and had failed to take corrective action pursuant to CRPC 3-110 had since become a Superior Court Judge. Judge Lori Pegg had handled search warrants into my face book account to illegally gather "evidence" in a situation she had been directly involved in when she was on County Counsel – A conflict of interest matter requiring her to recuse pursuant to California Code of Civil Procedure § 170.**

**Detective David Carroll's falsified police report contained many untrue, misleading and fabricated statements. Some of them are as followed:**

- **The police report had falsely claimed that Robert Ridgeway had testified at 1-12-CV226958. Which is untrue.**
- **The police report claimed that I was evicted in case 1-12-CV226958, which is untrue.**
- **The police report implied that I had created a crime spike in the area of Robert Ridgeway's residence (Yellow-5) and covered up crime at Markham Plaza apartments (Lincoln-4) .Records obtained from San Jose Police Department's bureau of technical services showed no measurable crime spike in (Yellow-5) and confirmed the crime at Markham Plaza (Lincoln-4) Furthermore, interviews conducted with Robert Ridgeway's neighbor's revealed that none of them were aware of any crime spike or suspicious activity. Markham Plaza residents reported that many young adults and teen agers were carrying guns.**
- **The police report claimed that I (or the banners) accused Robert Ridgeway and his wife (they) of committing fraud against a brain damaged woman. That is also untrue. The accusation was directed exclusively at Robert Ridgeway (not his wife)**
- **The police reports claimed that the web banners spoke negatively about their duties (Robert and Aleksandra Ridgeway) as police officers. This is untrue. The banners were directed specifically at the false declaration Robert Ridgeway had filed. This was long after his arrest and he was not a police officer. Aleksandra Ridgeway had nothing to do with the declaration and the declaration had nothing to do with her duties as police officer. Only her husband's criminal activity. Adding further to the irony is that through my work reforming the San Jose Police Department's Secondary Employment Unit, I was the one who defined the parameters of Robert Ridgeway's duties were, and were not and because of that fact, I would know better than anyone, including Robert Ridgeway himself, what his duties were.**
- **The false police report also fabricated a statement I made in response to a congressional investigation into Lodi Police Department and the chief of police Mark Helms (Crapping in his panties about the congressional investigation) Instead, the police report misrepresented this statement as if I were trying to instill fear into Lodi Chief of Police Mark Helms.**
- **The police report implied I have antigovernment ideology and claimed I had been "videoed 'attending antigovernment protests. This is also untrue. I am neither anti-government or anti-police and have never attended to an anti-government protest, nor have I ever been videoed at one.**
- **Though not directly stated, fabricated statements contained within the police report implied that the campaign was controlled and directed by me alone and that I were somehow controlling all the different churches, investigators, organization, s law firms, designers, etc. and that none of them communicated or collaborated with one another and everything came from me and was directed by me and that all communications between the various players passed through my hands. The report portrayed me as a master puppeteer controlling what people did. Or master**

**ventriloquist telling everyone what to say. (I was only a spoke in the wheel – not the axil) and though I may have asked some people to share information (protected under first amendment) hundreds of other people had asked thousands of others to do the same and some of the lead project directors had pages with millions of followers. People were not so much responding to me as they were to Robert Ridgeway simply to get him to answer for his statements. If he did not want to answer for his statements and was not prepared to, then he should never filed the false declaration in 1-12-CV-226958 – Robert Ridgeway was obligated**

- **The false police report misrepresented sequences of events and rearranged timeframes in which events occurred and circumstances relating to those events.**
- **The false police report portrayed me with false persona.**

**In addition to numerous other fraudulent, false and fabricated statements detective David Carroll's police report, proper report writing procedure was not adhered to nor was proper investigative procedure adhered to. Detective David Carroll's investigation was illegal and abusive – not supported by probable cause and outside the scope of his duties as a law enforcement officer.**

**Another issue I found was that of "front line supervision" detective David Carroll was a "front line" deputy, a rookie detective on his very first investigative assignment. Similiar to the obligations for attorneys in California rules of professional conduct - rule 3-110 for attorneys, Police Sergeants have specific responsibilities for supervising the front-line officers to ensure, among other things that all proper procedures are followed. If the sergeant fails to do so, the sergeant is accountable to his supervising lieutenant for failing to supervise the officers on the front line. Likewise, the lieutenant is accountable to his captain and so forth , so on through the chain of command all the way up to the Sheriff (or police chief, or commissioner – depending on the department) This is an essential vital function in any department to ensure proper policies and procedures are adhered to and also harmonic coordination throughout the rank and file.**

**In my professional experience, it is would be highly unusual for a police report as bad as this to slip through the cracks and make it past the level of sergeant. If this were to ever happen, the sergeant would be harshly disciplined, possibly suspended or demoted to a lower rank. While examining the report, I noticed it had been reviewed by supervisor: "Riccardo Urena", who I assumed to be a sergeant. After following up I discovered that sergeant Urena was a high-ranking division captain, and head of the court security division. If a report like this were unusual to make past the rank of sergeant, it is virtually unheard of for it to get to or past the rank of captain. If the court security unit were instead a patrol division, like the West Valley division for example, the division captain is equivalent to the police chief for that specific municipality and would report to the city manager, and also be accountable to the chain of command up to sheriff.**

**The court security division, however, is through contact with the courts as opposed to individual cities so therefore the division commander, Captain Riccardo Urena would likely answer to court officials and the orders passed down through chain of command would be coming from the court officials rather than higher ranking brass such as undersheriff, assistant sheriff or sheriff.**

**Since Santa Clara County Sheriff Captain Ricardo Urena appears to have been reporting to court officials on the matter, and the orders passed downward through the chain of command appear to have come from court officials to Captain Riccardo Urena, this is another indication that the detective David Carroll's falsified report and my arrest and conviction were to cover up liability of the courts for Robert Moss's death. Furthermore, another very significant irregularity I noticed is that since Captain Riccardo Urena's responsibility is specifically and exclusively limited to matters involving the court, then what business had he involving himself with a case that was:**

1) **Within the limits of the city of San Jose under the jurisdiction of the San Jose Police Department / Bureau of field operations / Southern Patrol Division / District Yellow / Beat 5 (Yellow-5)**
2) **Involving a sheriff deputy (Aleksandra Ridgeway) who was at the time, not a court security officer (I believe she was patrol officer in Burbank, unincorporated Santa Clara County.**
3) **Assigned to detective David Carroll, who was not even assigned to the court security division or in the same chain of command as Captain Riccardo Urena. Detective David Carroll was assigned to the investigative division. Why then was he receiving orders from a captain from a different division who was receiving his orders from court officials? The Ridgeway residence where the fabricated crime spike did not occur was not a court facility, had nothing to do with the courts.**

**These inconsistencies and irregularities and Captain Riccardo Urena's involvement indicates that the issues fabricated and presented within the reports were no as they appeared or claimed to be. They had nothing to do with crimes committed against Robert Ridgeway or his wife, deputy Aleksandra Ridgeway. They were in fact court related issues. They would have had to be otherwise they would not have been supervised and directed by Court Security Division commander who reports to court officials.**

**There also appears to be breach of contact issues (Sheriff court security contact between the courts and county of Santa Clara) and issues that may be of interest to the State Controller office in that these county sheriffs being supported by state funds, and these state funds appear to be financing federal crimes such as witness intimidation, USC Title 18 Section 4, USC Title 42 Section 3631, USC Title 18 section 241 & 242, etc.**

**In October of 2014, I worked on preparing a Marsden Motion and motion to withdraw plea of no contest. I had been following up with deputy public defender Jeffrey Dunn and others including Public Defender Molly O'Neal, who, pursuant to CRPC 3-110, was responsible for the taking corrective action for all attorneys under her supervision including Jeffrey Dunn and George Abel and these emails cross referenced cases C1493022 and 1-12-CV226958. Molly O'Neal did not take corrective action as required, further violating my due process rights. I followed regarding the way Deputy Public Defender Jeffrey Dunn misled me, the falsified reports and the events leading up to them, and the court security bailiff seizing the phone number to outside attorney Aram James, making it so that I could not consult with him on the true meaning of the statute, etc. Deputy Public Defender Jeffrey Dunn assured me that the court security videos would be secured, and that an investigation would be conducted into the theft of the phone number for attorney Aram James. I was stonewalled and given the runaround on other issues such as being conned and coerced into false plea, the falsified police reports, and the stalking, harassment, and threats by Santa Clara County Sheriff Detective David Carroll, who through this falsified report, created an illusion of consistency between fake court cases: 1-12-CV226958 & C1493022**

**I also published a news article about the facts of the case and how I had been railroaded by the public defender's office and district attorney James Leonard, who was homicide prosecutor in 2012 when Markham Plaza resident Robert Moss was discovered dead after Jeffrey Dunn's colleague refused to assist with declaration contesting fake probate court records.**

**On October 16th, 2014, I arrived at the Santa Clara County Superior Court Hall of justice for my Marsden Motion & Motion to Withdraw plea with my paperwork in hand showing the email correspondences with Jeffrey Dunn and others since being released. I was met by deputy public defender Jeffrey Dunn and others. As soon as I walked into the court room, deputies seized my paperwork and I was placed in hand cuffs and arrested. Deputy District attorney James Leonard smirked and Judge Rodney Stafford Laughed and declared: "Let the record reflect that the defendant is now in custody" I lost my composure while attempting to argue my motion, which was denied by Judge Rodney Stafford. I did not get to submit my paperwork on the court record because it had seized by sheriff deputies. Deputy District Attorney James Leonard whispered into the ear of one of the bailiffs, and I was then led from the court room where I was tortured in a holding cell. Another alleged victim of Judge Manookian, Mr. Tedd Scarlett claims he was also tortured by sheriff deputies in holding cell which resulted in him suffering a heart attack. Ted Scarlett has medical records and other documents supporting his claims.**

**I still had not received the terms and conditions of my probation, but 20 days later, while returning to court for alleged violation of probation hearing in department 42. While waiting in court holding cell, a deputy outside the cell told me was calling out what sounded like my last name: Crittenden, only pronouncing it QUITTenden! QUITTenden! With emphasis on the word/syllable "QUIT" & saying Heidi needs you out there to protect her. You need to ger out of custody as quickly as possible or she is going to get raped, beaten up and killed.**

**I appeared in department 42 before Judge Rodney Stafford and was represented by deputy public defender Thompson Sharkey who employed similar tactics like Jeffrey Dunn had. Thompson Sharkey told me that by accepting the terms of probation, I had forfeited my first amendment right to freedom of speech regarding criticizing public officials established by the supreme court decision: New York Times vs. Sullivan and that by publishing information online about facts the case including the article about James Leonard and Jeffrey Dunn, I had violated probation and to be released from jail, I would have to accept a fake CR-161 criminal protective order naming deputy district attorney James Leonard (Who was homicide prosecutor when Markham Plaza resident Robert Moss was found dead after fraud was used to deny him accommodations pursuant to the American's with disabilities act. I asked deputy public defender Thompson Sharkey what the purpose of the fake criminal protective order was. Thompson Sharkey replied "To get out of jail" The fake criminal protective order issued also prevented me from publishing information about Deputy District Attorney James Leonard on the internet. Thompson Sharkey told me to admit to publishing the news article and "the other stuff" and be released in a few days.**

**After I was released, I discovered that while in custody, someone had published detective David Carroll's falsified police report online using my name. It could not have been me because I was in custody. Over the course of time, several hundred people, many whom I did not know and never heard of came forward as witnesses that the police report was falsified. These included individual activists and members of various organization who had signed onto the project, people who were not signed onto the project, but were neighbors and friends from Palo Alto that knew I was had been living there and people who knew me and disagreed with the way I was portrayed in the fake police report, knowing that I do not behave as described, etc. It has generally been the case that when court or police records are published online, they are quickly refuted and discredited by the public, but to this date, to the best of my knowledge, no one has been able to refute or discredit a single coalition web banner has been published and put into circulation regarding this issue and although the internet is flooded with conspiracy theories, in my professional experience and extensive research, I know of no other situation where such extreme measures were taken to censor the free flow of information. If the coalition web banners were in fact without merit, and not supported by factual evidence, then logic would dictate that it would be left alone and the coalition web banners would discredit themselves.**

**After being released I also checked in with probation officer Douglas Davis, at the probation office inside the Palo Alto Court house. Officer Douglas Davis gave me a copy of the terms and conditions of my probation which showed I had given up my second and fourth amendment constitutional rights, I did not give up my first amendment rights, and in no way, shape or form did I violate probation by publishing facts about the cases online. Again, I was denied my right to due process and there is now I now have a fake probation record which falsely claims I had violated probation which I had not. Attorney Thompson Sharkey has since been caught railroading and defrauding another defendant: Mr. Victor Meras in Santa Clara County Superior Court Case C1769315. Attorney Thompson Sharkey has also, on at least 3 occasions been sued for professional negligence. Santa Clara County Superior Court docket numbers are 1994-1-CV-739331, 1995-1-CV-754610, 2006-1-CV-066347.**

**In January of 2019, I contacted the Santa County Sheriff Department's Internal Affairs Unit to file a formal misconduct complaint against Detective David Carroll, deputy Aleksandra Ridgeway and Captain Riccardo Urena. I spoke with internal affairs sergeant Alfredo Alanis, who issued me Internal Affairs Case number 2015-09. Sergeant Alfredo Alanis immediately lied to me and told me that internal affairs had one year to investigate the complaint. I corrected Sergeant Alfredo Alanis by explaining to him that pursuant to California Government Code § 3304, the one year he was referring to applied to allegations, not complaints and that an allegation was an individual component to a complaint.**

**During the time I worked with the San Jose Independent Police Auditor's office, I developed a formula to ensure that internal affairs investigations were properly processed. Generally, I would submit each allegation separately to ensure that they were handled separately, and I would usually submit each allegation a few days or 1 week apart but not until I had first tried and tested the evidence. If inadequate findings are returned, then it is more efficient to trouble shoot the investigation for procedural flaws etc. I could also better identify when a procedural mishap occurred by specific timeframes. By having copies of the investitive procedure on hand, investigations can be reverse engineered much like computer programs.**

**Each allegation would then be forwarded to the public defender investigative unit, along with Internal Affairs Case number, officer name and badge number, etc. IA and PDO would both be provided with witness information, evidence, etc. This measure is taken so that in the event that a pitches motion is ever filed against the same officer, the public defender is better equipped to track whether documents are missing from officer's personnel files or if the records do not match.**

**Before I could barely begin the process with internal affairs, received a from lieutenant Neil Valenzuela claiming that "the matter" was determined unfounded. Evidence and witnesses were ignored, etc. There was no investigation. It was a sham.**

**I received an email from lieutenant Neil Valenzuela saying the that the investigation was done by himself and Sergeant Albedo Alanis. This was a confession to botched investigation because Captain Ricardo Urena was named in the complaint for either failure to supervise or handing down unlawful orders. A sergeant or lieutenant may not investigate a captain because a captain outranks them both. It is common knowledge that the allegations against Captain Ricardo Urena would have to be investigated by undersheriff, assistant sheriff or sheriff.**

**The Santa Clara County Public Defender's office is very well resourced, having a team of about 30 investigators. A higher than average attorney/investigator ratio than you would normally find. It is the responsibility and obligation of these investigators to scrutinize every jot & tittle of police report and verify whether or not the information contained therein is accurate, and whether proper procedures were followed. This is like the obligation of a police sergeant to supervise front line officers in filing reports. The Sergeant would generally know that he would have to catch these things because if not, the public defender would, their credibility would be shattered, and the sergeant's ass would be on the line.**

**Each and every time and allegation were systematically passed to the public defender to be handled accordingly and each and every time they dropped the ball and ignored it. I literally had to beg and plead to investigate what myself, and hundreds of others claimed were false and fabricated reports. They were presented with before and after versions of altered Facebook transcripts, shown where exculpatory statements were stricken from police reports. Etc. I was being prosecuted by the public defender's office and the district attorney's office, playing "good cop / bad cop" I did everything I could think of to defend myself, emailed top supervisors in regards to (CRPC RULE 3-110) Judges regarding (Canon 3D) and even emailing district attorney with evidence that the public defender was acting incompetently and maliciously thinking that perhaps this would be exculpatory evidence that could be withheld. I was terrified of thought of filing a Marsden motion because when I tried that previously, I was arrested, tortured and re-railroaded by attorney Thompson Sharkey on fake probation violation.**

**By refusing to investigate the false reports and to their job, The public defender denied me these public services that I am automatically entitled to, and repeatedly my due process rights were violated. The public defender bent over backwards to not defend me and to preserve the false narrative created by the district attorney's office and sheriff department. With unbridled discretion, the incompetent and dangerous officers continued to hammer out false reports and no agency or official lifted a finger to stop them.**

**Approximately March 20th, 2015, Attorney Thompson Sharkey payed me a visit in Palo Alto and offered to pay me money to violate fake CR-161 criminal protective order naming deputy DA James Leonard. I recorded the conversation. District Attorney investigator James Leonard. I also received a call from detective Dennis Brookins asking me to please testify in court for him that his mishaps from 2008 investigation were accidental, not intentional. I have recordings voicemail messages from detective Dennis Brookins.**

**On March 24th, 2015, A San Jose Patrol officer by the name of Michael Johnson was shot and killed in the line on duty. I was very saddened by the news, and yet concerned because this occurred in patrol district Lincoln, very close proximity to Markham Plaza Apartments, and the gun issue I tried to address there 3 years earlier. I tried brushing it off as coincidence. The very next day, on March 25th, 2015 I was on the phone with a friend of mine who is retired Los Angeles Police officer, when Santa Clara County Sheriff detective Samy Tarazi and Lieutenant Elbert Rivera came to arrest me on more bogus trumped up probation charges because an organization called "Copblock" published a web banner on line with deputy Aleksandra Ridgeway's picture saying that she falsified a report covering up a murder committed by her husband. This kind of thing is to be expected with such a high-profile case that has generated a lot of public attention. There was no evidence linking this web banner to me. The publisher's contact information and court case information were published along with the banner, but I sat in jail for 40 days and neither the public defender or sheriff department made any effort to contact the publisher.**

**Deputy District Attorney Amanda Parks tried to railroad me in another fake probation violation by refusing to let any exculpatory evidence into record. Would not contact witnesses who were in ABC news story: Investigating Public Guardian, Alleged victims of Judge Manookian, others who claimed to have been targeted by sheriff detective David Carroll, etc. She even filed a motion to disqualify district attorney making false statements in "declaration of facts', preserving the false narrative that had been created. The Judge was Michele McKay-McCoy, who was also a homicide prosecutor when Robert Moss was found dead. I finally got the charges dismissed after having to email board of supervisors, state bar, everyone I could think of begging to PLEASE assign investigators and interview witnesses and allow me to present evidence.**

**I met deputy public defender Amanda Parks outside department 42 (Judge David Cena) Amanda Parks announced that the charges were dismissed, and my case was being moved to Palo Alto court. She was in tears that I had emailed so many people and supposedly embarrassed her (trying to get her to do her job) begging and pleading to be allowed to have evidence and witnesses. I said quietly, "Amanda I could bring this to the state bar" at which she shrieked out and screamed in front of witnesses: "Don't you dare threaten me!", and she then rushed into an elevator after deputy district attorney James Leonard.**

**Deputy Public Defender Gary Goodman was assigned to misrepresent me, and Deputy District Attorney Barbara Cathcart was assigned as new prosecuting attorney. The judge was Aaron Persky.**

**Deputy Public Defender Gary Goodman did nothing to address the false police reports and Public Defender Martha "Molly" O'Neal did not take corrective action pursuant to California Rules of Professional conduct 3-110. The top of an organizational chart is "The People" and going above the public defender to the county executive and board of supervisors did not help. The only resort remaining was to make the matter public and expose it online to as many people as possible. The fact that such extensive effort was made to censor the information was indication that it must be working. If it was not having some sort of positive effect, then officials would not be so bothered by it. This taken as encouragement to publish as much as possible. There was accurate record of events online to offset the false police reports and court records.**

**Publishing on the internet about the facts of the case was protected by the first amendment to the U.S. Constitution, used for protection, and to redress legitimate grievances. The falsified police reports and fake court records were criminal acts of fraud and perjury used as weapons to harass and attack. It was ironic how so much effort was being made to censor free speech, but nobody was taking effort to censor the fraud and perjury in the false police reports, and this is the point I was trying to make in the email sent to detective David Carroll which led to my arrest on December 25th, 2015 on felony stalking charge and 4 misdemeanors (I do not have original docket, but refiled as Docket C162778 and appellate case number is H045195 )**

**Nothing was intended as a threat and I have not ever attempted to incite violence against anyone ever. I was upset about and frustrated and terrified by these false reports and helpless to stop them. I was emotional about the holidays and the anniversary of the death of my sister Connie who died at the age of 44. If not upset and frustrated, I would have given more forethought and would not have sent the email. Not because detective Carroll would interpret it as a threat, but if I given it forethought, I would have known that the District Attorney's office could easily spin it to make it appear as a threat to validate their false narrative.**

**One of the things mentioned in the report about my felony arrest was the repeated emails I had sent to detective David Carroll. This was worded in a way to make me look bad but in my opinion, this is his Detective David Carroll's fault not mine. Detective David Carroll falsified reports about me and said things he knew were not true. Emailing him repeatedly should not have been necessary. I should not have had to ask him more than one time to correct the false reports. It is my first amendment right to redress grievances and that's exactly what I was doing, yet sergeant Samy Tarazi acted as if this were a crime.**

**When I brought this to the attention of deputy public defender Gary Goodman and mentioned the fictitious names such as "Andrew Crittenden" and the swapping of names and roles that took place, and the public defender not following up as required, and investigating the reports, he called "a doubt" (penal code 1368) alleging "Andrew Crittenden" and "Cary Crittenden" may be multiple personalities. I had made a joke with him once about how the reports placed me in 3 locations simultaneously making me 3 people so therefore, I should have 3 attorneys. Obviously, this was in jest, but Gary Goodman suspended the proceedings for mental health evaluation. Never did he address Judge Manookian's mental state when Judge Manookian accused hundreds of people of plotting terrorist attack against Markham Plaza Apartments, a HUD subsidized apartment complex (53 days after his son Matthew Manookian was killed in combat.**

**Gary Goodman also never addressed the mental state of Santa Clara County Sheriff Deputy Aleksandra Ridgeway who claimed to see prowlers and suspicious characters pacing back and forth and creeping around her house, yet she was the only person who could see these "imaginary people." Gary Goodman himself is notorious for making bizarre statements even on record, with his office in Palo Alto, Gary Goodman makes statements on the record referring to the San Jose Public Defender's office as "The Mothership" that will "Beam the discovery papers to him", yet Gary Goodman is not locked up for speaking with aliens & everyone knows he is joking and using metaphor.**

**I was denied my due process rights, and speedy trial because my own attorney, deputy public defender Gary Goodman deliberately chose to twist my words around just like a district attorney prosecutor.**

**Deputy Public Defender Jenifer Bedola submitted a false evaluation report saying that Doctor David Berke had determined I was incompetent to stand trial. No evaluation was ever done of me by Doctor David Berke, and the evaluation report was also fabricated evidence. This is like extracting my fingerprints from an item that I had never touched. I met with another doctor afterward who determined I was competent.**

**I took medication while in custody: "Risperdal" Not for mental illness, but to deal with the stress of incarceration and being powerless and helpless. I had taken some another inmate had given me, then asked for doctor prescription. It helped me to sleep while in jail but had nothing to do with my behavior. Only dealing with the situation. When I was released on O.R. however, one of the terms was to take the medication. Even though it no relevance to the charges against me, etc. When I went to trial, I was not able to adequately testify because of being too "doped up" on the medication. My response time was slow in contemplating what to say and how to answer during cross examination and direct examination.**

**Deputy District Attorney lied to the court during prelim and lied to the jury during trial presenting the false narrative, which defense attorney William Bennet did not object to and did not strike. Deputy District Attorney Barbara Cathcart also lied to the jury about the false police reports which William Bennett did not object to. Nor was their motion to strike,**

**Attorney William R. Bennett did excellent job defending my first amendment right to redress grievance and make public my allegations about fraud, falsified reports and corruption, but he failed to directly address the fraud and false police reports in that he did not investigate the falsified reports, procedural violations, etc, nor did he effectively cross examine Detective David Carroll about the false police reports. He did not address other due process violations about the earlier cases – not for purpose of relitigating past issues, but rather to validate that their were indeed legitimate issues that I did have first amendment right to redress.**

**Attorney William Bennet failing to object to statements by Barbara Cathcart claiming that the police reports were not falsified, and that I was living at Markham Plaza when I was not, and this helped Barbara Cathcart sustain her narrative and convince the jury that I had lied and made things up, and falsely prove the element of "no legitimate purpose" and then go on to make the argument that I had no constitutional right to lie about detective David Carroll, - thus subject matter jurisdiction was fraudulently procured over constitutionally protected activity, and I was denied right to fair trial. The court acted in excess of jurisdiction, and though I do not recall ther specific case law, the supreme court has ruled that their can be no punishment for exercising a constitutional right.**

**One of the exhibits pertained to Family Court Case JD20223/JD20224 in which I advocated for parents Ashley Stevens and Scotty Harris regarding their daughter Ashley Harris. Ashley had interviewed in a video series in which she alleged abuse under the care of Santa County Child Protective Services. In at least one video, Ashley Harris alleged she may be victim of sexual abuse. Soon after the videos were published online, Ashley Harris disappeared, and her social worker Anthony Okere filed a missing persons report.**

**Santa Clara County Detective David Carroll had been transferred to juvenile missing persons unit which I found highly suspicious. I was familiar with detective David Carroll and his history of covering for department of social services because of what happened with Heidi Yauman and what he did to me for trying to advocate for Heidi Yauman. For these reasons, I suspected that Detective David Carroll may be involved in Ashley Harris's disappearance bit I did not him. In advocating for the family, I was involved in creation of a web banner suggesting detective David Carroll may be involved which I believed was highly likely. It turned out that Ashley Harris had run away and she eventually turned up.**

**My actions were not out of malice, but out of legitimate fear for Ashley's safety, When asked if I believed all allegations I made, I said "I don't know' or "I;m not sure" I was presented with web banner relating to JD20223/JD20224 and asked if I believed Detective Carroll abused her & I said no. Had Ashley Stevens and Scotty Harris been allowed to testify, then the history would have been clear. Francine Stevens had even told be she had seen a man she believed to be detective David Carroll observing her at the Martin Luther King Library in downtown San Jose and thought he had been following her. Barbara Cathcart was able to use this to persuade the jury that I had lied about, and that "lying" was not constitutionally protected activity, thus fraudulent jurisdiction was procured over my constitutional rights – and I was further denied my right to due process.**

**I had stated in an email that Detective David Carroll was violent. I stand by that statement as the supreme court has ruled that color of law abuse is violence and he committed these abuses against Heidi Yauman, and me also for advocating for her. Heidi Yauman was a dependent adult and very vulnerable and his abuses against her, though not by direct contact caused her injury and great suffering. Few would argue that Charles Manson and Adolf Hitler were violent, even if they did not have direct contact with their victims. The legal dictionary may not consider this violence but I do and legal dictionary is different from Websters and others. Deputy District attorney Barbara Cathcart had convinced the jury that had lied about detective Carroll being violent and in her closing argument was that I must have lied about everything, and therefore that non statements were constitutionally protected. William Bennett should have cross examined Detective David Carroll in this manner about the false statements in his reports. It was not me who maliciously lied about detective David Carroll, It was Detective David Carroll and attorney Barbara Cathcart who lied about me.**

**Barbara Cathcart lied about the perjury in detective David Carroll's report, claiming he was "doing his job" and fraudulently procured jurisdiction over my first amendment rights to speak out the perjury and fraud, and redress my grievances.**

SINGED INDER PENALTY OF PERJURY

CARY ANDREW CRITTENDEN: _____

| | |
|---|---|
| **From:** | MIDPEN ACLU |
| **To:** | Council, City; City Mgr; Human Relations Commission |
| **Subject:** | CORRECTED MidPen ACLU submission on police reform in Palo Alto |
| **Date:** | Wednesday, August 26, 2020 6:28:46 AM |
| **Attachments:** | PA_ MidPen Corrected Sub on police reform 08_23_2020.pdf |



Hello City Council, HRC, Mayor Fine, Vice Mayor Dubois, Manager Shikada and Chief Jonsen,

Attached is the corrected submission of our chapter's work on police reform. We found a few embarrassing typos and have now taken care of them. Apologies for not catching them before sending it on the 24th.

Volunteers from our chapter attended as well as spoke at the last city council meeting that included the HRC's recommendations on 8 Can't Wait. We found every person genuinely concerned about making serious reforms and the entire discussion on 8CantWait valuable and informative.

Our chapter would like to have a meeting with any or all of you to discuss items in this submission that we think would greatly improve police practices and therefore the relationship between communities of color and the PAPD. All of us have heard many community members speak about their personal experiences with the police in Palo Alto over decades and though practices have improved every one of us knows in our hearts that there is much work to do. Now. We have included links and references that support our suggestions and, although we know you don't have the time to dig deep into many of them, we include them to show the depth of our research and our commitment to significantly improving our community.

We look forward to hearing from you. Many thanks.
Lauren Cory, Chair
Mid-Peninsula ACLU Volunteer Chapter

City Council, Mayor Fine, City Manager Shikada, Chief Jonsen, and HRC,

Palo Alto is one of the cities in the Mid-Peninsula ACLU Chapter's region. We want to begin a continuing dialogue about Palo Alto's police practices in light of the national concern about police brutality. We offer suggestions on several topics, not as definitive answers but rather as a basis for discussion. The topics are:

1. Police Department Policy
2. Police Transparency and Accountability
3. Alternative Responses to Mental Health Crises
4. Training: Race Relations
5. Unconscious Bias and Police Practices

## 1. Police Department Policy

### a. Use of Force—Minimum Necessary

Many uses of non-deadly force cause significant injuries, both physical and emotional.

**Recommendation**: Limit use of force to the minimum necessary to accomplish a legitimate law enforcement purpose; the special circumstances for which deadly force is authorized would still apply.

As written, the Policy Manual covers use of force reasonably well. But it could be improved considerably.

Section 300.3, Use of Force, states "Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose."

At the very least, "perceived" should be "reasonably perceived."

Section 300.3 further states "Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving."

Although this closely matches wording from *Graham v. Connor* (1989), it makes absolutely no sense in circumstances that are *not* tense, uncertain, and rapidly evolving.

**Recommendation:** Revise the first two paragraphs in § 300.3 to the effect of

> Officers shall use the minimum amount of force necessary to accomplish a legitimate law enforcement purpose.
>
> The reasonableness of force used will be judged from the perspective of a reasonable officer on the scene at the time of the incident rather than in hindsight; facts later discovered but unknown to the officer at the time can neither justify nor call into question an officer's decision regarding the use of force. Evaluation of reasonableness will consider the totality of the circumstances and will take into

> account, when appropriate, the need for officers to make split-second decisions about the amount of force necessary in a particular situation, sometimes with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

This would provide a clear, succinct statement of what is required while ensuring a fair assessment of the reasonableness of a use of force.

More concerning are the third and fourth paragraphs in § 300.3:

> Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.
>
> Not withstanding any other section of this policy, it is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, techniques or methods provided or taught by the [Department/Office]. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting.

The first paragraph is very similar to language in SB 230, but the second seems to invite doing whatever an officer wants when it is inconvenient to adhere to restrictions in the Policy Manual.

**Recommendation:** Eliminate the second paragraph above or substantially revise it so that it does not imply exemption from stated use-of-force policy whenever an officer sees fit to do so.

**b. Compliance with 8 Can't Wait Recommendations**

Several MidPen volunteers have independently examined Palo Alto's current compliance with the 8 Can't Wait recommendations, and we generally agree with the Human Relations Commission's analysis.

**Recommendation:** Revise the appropriate sections of the Policy Manual to comply with the recommendations of the HRC to the City Council, with the following exceptions:

1. **Ban Chokeholds & Strangleholds**
   Add language to ban chokeholds and strangleholds. Have Council's Policy Manual Ad Hoc Committee work with the PAPD and HRC on language that would prevent incidents like that which killed George Floyd while still allowing police to do their jobs. In doing so, use clear, simple language that avoids needless weasel words.
6. **Ban Shooting at Moving Vehicles**
   Change all instances of "should" to "shall"; *shall* is mandatory, but *should* is merely advisory. Like shooting at moving vehicles, advisory language is seldom effective.

8. **Require Comprehensive Reporting**
   Policy Manual § 344.2.2 appears to require reporting any time a firearm is pointed at a person; move this requirement to § 300.5 so that it is clear that it is considered a use of force. We also think that drawing a firearm when directly confronting a person should be a reportable use of force, and suggest working with the PAPD and HRC on appropriate language to address this.

Recognize that implementation of the 8 Can't Wait recommendations is only a good first step toward meaningful police reform.

**c. Stops**

People of color who have spoken at recent City Council and Human Relations Committee meetings have said they have felt consistently and unfairly targeted by police for decades.

Policy for detention of suspects on reasonable suspicion of involvement in crime is given in the euphemistically titled Policy 440, Field Interview and Photographing of Field Detainees. In aggregate, this section probably gives sufficient guidance on complying with constitutional safeguards, but while this might work for a court, we don't think it provides sufficient guidance to a typical police officer or sufficient information to the average person.

**Recommendations:** Revise Policy 440—and especially § 440.3—so that it is clear that a person may not be detained unless there are specific and articulable facts that tie the particular person to a specific crime. Have the policy make clear, as does San Francisco's DGO5.03, that the refusal or failure of a person to identify himself or herself or produce identification upon request of a police officer cannot be the sole cause for arrest or detention, except when the driver of a motor vehicle refuses to produce a driver license upon the request of an officer enforcing the Vehicle Code.

Revise the title of Policy 440 so that it is more obvious that it deals with detentions. The Racial Identity and Profiling Act of 2015 (AB 953) requires that certain stop data be collected, starting in 2022 for smaller police departments. We recommend that Palo Alto begin collecting and compiling the most important data as soon as possible, and make them available on the city's website. Such data can help ensure compliance with policy and ensure that the process works smoothly by the time the data are required to be reported.

**d. Policy Manual Redactions**

The public version of the Policy Manual dated 2019/10/21 has 19 sections completely redacted, giving vague reference to several sections of the Government Code as justification. But it is not obvious how the cited sections justify most of the redactions. No explanations are given, and the sections of the GC that justify redaction are not specifically cited for each redacted section.

**Recommendation:** For each redacted section of the Policy Manual, cite the specific section of the GC that allows redaction and provide at least a one-sentence explanation of why this is the case. Reexamine each redaction and consider making only a partial redaction where reasonable.

### e. Online Version of Policy Manual

Several sections of the Policy Manual were revised on 2020/06/17, but were posted online separately from the 2019/10/21 full version of the manual, making the revised sections difficult to find.

**Recommendation:** When any part of the Policy Manual is revised, post the entire updated version so that people can easily find it.

## 2. Police Transparency and Accountability

### a. Independent Oversight

Palo Alto arguably provides better oversight of police actions than many cities its size. A Use of Force Review Board reviews significant uses of force, but all members are from law enforcement. Although such a composition undoubtedly brings considerable expertise, it does not provide the benefit of arms-length analysis.

Complaints from the public and significant uses of force are reviewed by the city's Independent Police Auditor. Although the auditor appears to be well respected, reports have been slow to be released, and seem subject to considerable filtering by city legal staff and police representatives. Perhaps some review is necessary to ensure that the IPA has complied with procedural and confidentiality provisions of state law, but the current process hardly gives the impression of timeliness or transparency. And the IPA has no community involvement; perhaps the Chief's Advisory Council somewhat fills this gap, but it's not an official agency and the meetings are not made public.

**Recommendation:** At a minimum, involve the Human Resources Commission in drafting of Police Department policy and empower them to review complaints against police officers. Preferably, establish an independent body that would work with, yet not be answerable to, the Police Department on setting policy and reviewing complaints. The body should broadly represent the demographics of the City, including its racial, ethnic, cultural, gender, socio-economic, and geographic diversity.

Such a body might be a Police Commission with 5 or 7 members, with at least the standing as other city commissions; ensuring that a commission is inclusive of all members of the community might argue for the larger size.

An implementation similar to the San Francisco Police Commission might grant the commission

- Authority to set police policy and issue general orders, and set limits for the Memorandum of Agreement with the Police Officers Association

- Authority to investigate complaints, either first look or on appeal from the Police Department adjudication, with at least a minimal paid staff
- Authority to fire officers, subject to the Public Safety Officers Procedural Bill of Rights and the MOA between the city and the POA

## 3. Alternative Responses to Mental Health Crises

Mental health crises make up a significant percentage of calls for police service. Police departments carry a heavy burden having to respond to mental health calls and the presence of armed police can unnecessarily escalate a crisis. We need to re-imagine public safety and include alternative responders, such as crisis and mental health workers, in the 911 response continuum. Mental health professionals—not police—should be the primary responder for a majority of people with mental health crises.

The CAHOOTS program[1] in Eugene, OR is a successful program in which a medic and crisis worker respond to non-violent crises so police don't have to. The program has received national press coverage[2] and have been estimated to result in $15 million cost-savings. Several cities across the US are establishing similar programs including Oakland and West Sacramento. The Oakland City Council approved to divest $1.35 million away from Oakland's Police budget to fund the Mobile Assistance Community Responders of Oakland[3] (MACRO) pilot. West Sacramento City chose not to hire five vacant police positions and use that money to develop a "Community Outreach and Support Division"[4] (mental health and crisis intervention team). We believe Palo Alto should reconsider the budget to create a similar program or division.

**Recommendations:**

1. Revise 911 system so non-violent, non-criminal mental health calls are directed to crisis intervention specialists or mental health workers rather than law enforcement. This will require establishing an alternative crisis response team.
2. Track calls for service and responses to people in a mental health crisis. Conduct regular assessments to determine the effectiveness of response efforts.
3. Appoint a mental health coordinator to manage this process. Cover it in the current police budget.

[1] https://whitebirdclinic.org/services/cahoots/
[2] https://www.npr.org/2020/06/10/874339977/cahoots-how-social-workers-and-police-share-responsibilities-in-eugene-oregon
[3] https://oaklandside.org/2020/06/29/call-911-for-a-counselor-oakland-will-pilot-an-alternative-to-police
[4] https://sacramento.cbslocal.com/2020/07/28/west-sacramento-police-crisis-intervention-team/

## 4. Training: Race Relations

### a. History of Race Relations

Police training on race relations needs to be much more robust than implicit-bias training. It needs to include not only the historic events but also the devastating emotional impact these events have had on both the recipients and those holding the power.

Young recruits, as well as veteran officers, more often than not lack this historical knowledge. The story of race relations in our country begins with the genocide of Native Americans. With regards to Black Americans, the training would begin with slavery and its relationship to economic expansion, slave patrols, through Reconstruction and Jim Crow, redlining, onto voter suppression in all communities of color, and the current school-to-prison pipeline. The training should also include items like the Mexican–American War, the Chinese Exclusion Act, the imprisonment of Japanese Americans during World War II, and other significant events between non-White communities and the dominant White culture.

This approach to police training is doable and is absolutely essential given the expense of doing nothing or continuing to do the same. This is not to say that some past attempts have not been created with good intentions but instead to say it is time for serious reevaluation and serious change.

Some of what is suggested above is already required by the Racial Identity and Profiling Act of 2015 (AB 953).

### b. Examples of Racial Bias Training

**Montgomery, Alabama**

Police Chief Kevin Murphy, currently their deputy sheriff, created a class for new recruits as well as established officers. It went back to the Dred Scott case and the Emmit Till case and moved through the Civil Rights movement. In an interview[5] on the PBS NewsHour, Chief Murphy said it was added to the police academy's training. Its intention was to educate and also inform young officers of historical issues Black persons might bring to an interaction with a White officer. He also included civilians. The class finished with a "values" segment that demonstrated the benefit of the class by shedding new light on the power of the badge to all officers. Interview approximately 7 minutes long.

[5] https://www.tpt.org/pbs-newshour/video/how-one-chief-tried-to-reverse-past-police-injustices-1463098038/

**Stockton, California**
Mayor Michael Tubbs and Chief of Police Eric Jones of Stockton, California, have initiated a range of progressive changes for their city. In an interview[6] with Michael Krasny on Forum, Mayor Tubbs briefly speaks of these improvements. *The first 8 minutes* of this interview are very helpful and we strongly urge its viewing.

**Houston, Texas**
Police Chief Art Acevedo briefly mentions teaching empathy and de-escalation in a PBS segment on policing[7]. It offers a new awareness and relevant perspective . It also includes contributions by Tracey Meares, professor and founder of Justice Collaboratory at Yale, on national standards and cultural changes, and Sam Sinyangue of Campaign Zero on police accountability and police unions.

When we called the Houston Police Department we also found out about their new "Respect for Culture" training to bring awareness to their officers of economic and social issues community members bring to any interaction with police.

**Journal of Criminal Justice Education**
A 2012 study[8] evaluated the positive impact of NYC police officers taking an ethnic studies class.

**University of Illinois at Urbana-Champaign**
The University of Illinois Police Training Institute tried a course[9] that covered critical race theory.[10]

**National Museum of African American History and Culture**
In 2018, this museum offered a new training course[11] that also stressed critical race theory.[12] The course was designed to teach officers about "African American history and culture in the U.S., and more specifically in Washington."

**c. White Supremacy in Police Departments**
We include the articles and links below to call attention to the systemic racism and White supremacy that permeates our culture. Without a clear awareness of this reality it

[6] https://www.kqed.org/forum/2010101878047/stockton-mayor-tubbs-on-police-accountability-and-guaranteed-income-during-a-pandemic
[7] https://www.pbs.org/video/policing-in-america-1591218301/
[8] https://www.researchgate.net/publication/232830065_Critical_Race_Theory_Meets_the_NYPD_An_Assessment_of_Anti-Racist_Pedagogy_for_Police_in_New_York_City
[9] https://www.sascv.org/ijcjs/pdfs/schlosseretalijcjs2015vol10issue1.pdf
[10] https://phys.org/news/2016-08-police-racial-biases.html
[11] https://www.si.edu/newsdesk/releases/national-museum-african-american-history-and-culture-hosts-metropolitan-police-department-0
[12] https://www.washingtonian.com/2018/04/16/dc-police-critical-race-theory-nmaahc-bernie-demczuk-sharita-thompson/

is easy to think of this as purely fringe and that it's thinking cannot enter our local systems.

A recent article[13] in The Daily Beast noted the long-standing influence of White supremacists in American policing:

> In 2006, the Federal Bureau of Investigation knew America's police forces had a white-supremacist problem. But the internal report the agency compiled that year was so heavily redacted that almost no one knows what it contained.
>
> Now, amid national protests over police brutality against Black Americans and new scrutiny of racist cops, lawmakers are pushing for the report's full release.
>
> A nearly blank version of the October 2006 report, titled "White Supremacist Infiltration of Law Enforcement," has circled the internet for years, after it was released in a Freedom of Information request. The few unredacted lines are worrying: In addition to warning of historic attempts by groups like the Ku Klux Klan to gain employment with police, it refers to white-supremacist leaders' "recent rhetoric" calling on followers to infiltrate police forces.
>
> As the country grapples with racist policing—both overt and in the form of unconscious but often deadly biases—28 members of Congress are calling on the FBI and Justice Department to release the full, unredacted document, which some experts say is more relevant than ever.

**Recommendations**:

1. Seriously examine the current training, recognize shortcomings in light of current research and commit to creating an innovative training that could actually change officers' beliefs towards communities of color. Acknowledge the pervasive White supremacy that has been systemic.
2. Allocate funds for a pilot curriculum as mentioned above that would cover our country's past-to-present dismal history of race relations. It would be part of the police academy's basic training for all new recruits. Include existing officers the first season. Have refresher courses every year for everyone.
3. Reach out to Montgomery, Stockton, Houston, and other cities to explore new approaches that other police departments are using to re-imagine race and cultural awareness training.

## 5. Unconscious Bias and Police Practices

Dr. Jennifer Eberhardt,[14] professor of psychology at Stanford, has done extensive research on the relationships between racial imagery and the public at large and then

[13] https://www.thedailybeast.com/inside-the-new-push-to-expose-americas-white-supremacist-cops
[14] http://web.stanford.edu/~eberhard/

more specifically with police practices. In her TED talk, "psychologist Jennifer L. Eberhardt explores how our biases unfairly target Black people at all levels of society—from schools and social media to policing and criminal justice—and discusses how creating points of friction can help us actively interrupt and address this troubling problem."

The Oakland Police Department has been under federal monitoring for more than a decade since the so-called Riders case involving police misconduct. A team of Stanford researchers, led by Dr. Eberhardt, were engaged to assist Oakland in complying with the federal order to collect and analyze stop data by race. Among the findings, Black men were four times more likely to be searched than Whites during a traffic stop. Blacks were also more likely to be handcuffed, even if they ultimately were not arrested.

Dr. Eberhardt's team produced a report with 50 specific recommendations for police agencies to consider to mitigate racial disparities.

Her work led to a dramatic reduction in the number of stops by the Oakland Police Department by simply having officers ask "Do I have information that ties this particular individual to a specific crime?" before making an investigatory stop. In the year before this question was added, there were approximately 32,000 stops; in the following year, there were approximately 19,000 stops. It should be noted that asking this question is required for even minimal compliance with the constitutional standard established in *Terry v. Ohio* (1968). It should also be noted that many of the data that Dr. Eberhardt had police record are required by AB 953 (2015).

As quoted in the first paragraph of this section "Dr. Eberhardt explores how our biases unfairly target Black people at all levels of society—from schools and social media …" At every city council and HRC meeting MidPen has joined since George Floyd was killed and during which residents of color spoke of the biases in Palo Alto's culture, the Euro-centric curriculum was frequently referenced with great frustration and hurt. An honest eye cannot be turned towards police reform without also examining how we educate our children and how they receive a constant diet of European, and therefore White, supremacy.

**Recommendations**:

1. Watch Dr. Eberhardt's TED talk: How racial bias works—and how to disrupt it.[15] Review Dr. Eberhardt's 50 recommendations for the Oakland PD and see if any can be used in Redwood City. Improve and rewrite the police policy manual and forms to include any applicable recommendations.
2. Commit to establishing an immediate dialogue with the school board and school principals about re-imagining the curriculum of K-12 as one that truly recognizes Brown and Black cultures and includes their significant contributions.

[15] https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it

## Summary of Recommendations

1. **Police Department Policy**
   - Limit use of force to the minimum necessary to accomplish a legitimate law enforcement purpose; the special circumstances for which deadly force is authorized would still apply. Clarify the assessment of the reasonableness of the use of force.
   - Implement the 8 Can't Wait recommendations as recommended in the HRC report to City Council, with the several exceptions noted above, and recognize that they represent only a good first step toward police reform.
   - Revise Policy 440 so that it is clear that a person may not be detained unless there are specific and articulable facts that tie the particular person to a specific crime. Revise the title so that it is obvious what the section covers. Begin collecting stop data required by AB 953 (2015) as soon as possible rather than waiting until 2022. Make the data available as soon as possible after beginning collection.
2. **Transparency and Accountability**
   - Establish an independent body that could work with, yet not be answerable to, the police department concerning complaints. The body's funding must be independent of the police department. Give the body at least the same standing as existing city boards and commissions.
3. **Alternative Responses to Mental Health Crises**
   - Establish and expand partnerships with mental health agencies and community-based organizations to allow mental health experts—rather than police—to handle mental health crises.
   - Track calls for service and responses to people in crisis. Conduct regular assessments to determine the effectiveness of response efforts and opportunities for improvement.
   - Appoint a mental health coordinator to manage this process. Cover it in the current police budget.
4. **Training: Race Relations**
   - Establish a small committee that includes an educator to develop a curriculum for a pilot program on the history of race relations.
   - Reach out to Stockton; Houston; Eugene, OR; Montgomery, AL and other cities to explore innovative programs.
5. **Unconscious Bias and Police Practices**
   - Listen to Dr. Eberhardt's TED talk, paying special attention to improvements she helped incorporate into the Oakland police department's stop policy. Reach out to her for additional improvements in basic police practices.
   - Review Dr. Eberhardt's 50 recommendations for the Oakland PD and see if any can be used in Redwood City. Improve and rewrite the police policy manual and

forms to include any applicable recommendations. Reach out to her for additional suggestions.

- Recognize that an officer asking "Do I have information that ties this particular individual to a specific crime?" before making an investigatory stop is required for even minimal compliance with the constitutional standard established in *Terry v. Ohio*, and ensure that this is standard practice.
- Commit to establishing an immediate dialogue with the school board and school principals about re-imagining the K–12 curriculum.

We look forward to discussing these items with you.
Mid-Peninsula ACLU Volunteer Chapter