

RAIDER NATION

volume 1

**from the january rebellions
to lovelle mixon
and beyond**



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Photography, Raider Nation Collective

Cover Photograph - Fruitvale Barricade, Oakland rebellions, January 7, 2009



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Introduction

We hope that this pamphlet will provide an account of the recent past, a handbook for strategic action in the present, and a manner of projecting revolutionary energies into the future. As we move forward with the murder trial of Johannes Mehserle, who gunned down Oscar Grant in the early morning of the first day of the year, we must bear in mind what we have learned in these short months. Consciousness develops by leaps and bounds in moments of crisis, and the purpose of this pamphlet is both to track and document those leaps as well as to make possible further advances.

The texts reproduced here represent what we feel to be some of the most insightful accounts and analyses of what happened, what we have learned, and where we are going. The first three texts, originally published in *Counterpunch*, track the minute details of the three moments comprising the January Rebellion, but we reproduce them here because we feel that they each distil the primary lessons we should have drawn from each of those rebellious moments:

- On January 7th, we learned of our own power, we learned that in catching the state off-guard, our popular militancy in the streets could force a response from those in power. The unprecedented indictment of Mehserle on murder charges was the result.
- On January 14th, we learned how important the element of surprise is, as within a short week a whole host of non-profit organizations would intervene in an effort to channel and control the undeniable power of popular mobilization, thereby providing the state with an indispensable stabilizing force.
- On January 30th, this lesson was repeated, as we learned that the state was not far behind the nonprofits, and as soon as the political tide had shifted, the strategy of Ron Dellums and the OPD followed suit, with passive containment giving way to repressive attacks on public demonstrations.

These are our central lessons from January, and they will be fundamental to

our ability to move forward in full consciousness both of our own potential and of the forces arrayed against us (the state in both its repressive and nonprofit forms).

To these, we add two texts. Our text, written in late March, calls attention to an extension of the dangers revealed on January 30th. The Lovelle Mixon incident, aside from revealing a deep-seated racism of the press, the OPD, and much of the population of Oakland—manifested in the all-too-traditional image of the black man as rapist—also has a lesson for the future, marking the moment at which OPD regained the upper hand. This political leverage sank the city into several weeks of oppressive silence, with the threat of police violence looming large as a very real possibility. Thankfully, the political capital OPD gained in the incident has been largely squandered since, as both the details of the day in question and a continuous stream of corruption and violence inevitably whittle away at their credibility once again.

The final piece, contributed by the Bring the Ruckus Oakland local, looks forward by complicating our understanding of the abolition of the prison-industrial complex. At a moment where it is utterly imperative that Johannes Mehserle go to prison, further discussion on this subject is crucial if decisive action is to be taken. We must craft a more complex view of the prison-industrial complex, one sensitive to its history, racist character, and social function, which allows us to say: to send a cop to jail is to support abolition, especially when this results from popular mobilization. Yes, we must be aware of the dangers of focusing too much on Mehserle at the expense of the systematic critique that abolition requires, but we cannot reach the horizon that is abolition without the bridge of popular action, and a central rallying cry for this action at present is the conviction of Mehserle.

But this complex and dynamic view—according to which Mehserle's conviction gains a new meaning through popular pressure, becoming a stepping-stone to more revolutionary measures—is no more and no less than the incessant movement required of any truly radical change.

Let's get on with it.

Raider Nation Collective
Oakland, California
March 2010

Oakland's Not for Burning?

Popular Fury at Yet Another Police Murder ¹

GEORGE CICCARIELLO-MAHER

In 1968, Amory Bradford penned a volume entitled *Oakland's Not For Burning*, documenting the tinderbox that the city had become, and the lamenting the inevitability with which it would explode. But the assertion contained in the book's title was hardly credible, coming as it was from a Yale-educated former Wall Street lawyer and *New York Times* general manager whose only business in Oakland came via the U.S. Commerce Department.² Some forty years later, in the early hours of this year of ostensible hope, the reality of the persistence of racism in Oakland became devastatingly clear, sparking a powerful response the likes of which this city hasn't seen in years. But luckily, the condescending voices of moderation, like that of Bradford a generation prior, seem have little traction with those who have seen enough police murder.

A New Year's Execution

After responding to reports of "a fight" on a Bay Area Rapid Transit (BART) train, BART police detained the train at the Fruitvale station, forcibly removing several young men from the train as dozens of bystanders watched. Several of the men, all young and mostly black, were lined up, seated, along the platform. Some were cuffed, Oscar Grant was not. As he was attempting to defuse the situation, BART police decided to detain him, placing him face-down on the platform, with one officer kneeling near his neck, and another straddling his legs. For some still unexplained reason, one officer, now identified as Johannes Mehserle stood up, pulled his gun, and fired a shot directly into Oscar Grant's back.

The bullet went through Grant's back, ricocheting off the platform and puncturing his lung. There are gasps from the bystanders and shock on the face of the other officers, who clearly didn't expect the shot to be fired.

1 This article originally appeared in *Counterpunch* (January 9-11, 2009).

2 <http://query.nytimes.com/gst/fullpage.html?res=9506E3D6173EF935A3575AC0A96E958260>.

Grant, who was begging not to be Tasered at the time of the shot, clearly didn't expect it either. But this surprise notwithstanding, the decision was then made to cuff the young man as he lay dying. As an added precaution, BART police then sought immediately to confiscate all videophones held by the train passengers, in an effort to cover up the murder. Luckily for everyone but the BART P.D. and Mehserle, several videos managed to make it into the public domain, where they went viral and were viewed on Youtube hundreds of thousands of times in the following days. In a rare show of journalistic integrity, local Fox affiliate KTVU aired one of the videos in its entirety.³

The standard protocol---deny, distort, cover-up---had clearly been disrupted, and BART spokesman Linton Johnson even went so far as to criticize the leaking of the video, arguing that rather than clarifying events, public access to the video would "taint" the investigation.⁴ BART was on a back foot, and popular anger was on the offensive.

A Corporate Police Force

BART Police are a notoriously problematic organization, existing in a gray area between public and private, funded by taxpayers but operating under a corporate structure which lacks all accountability and oversight. According to the *San Francisco Bay Guardian*:

The structure of the BART police force is a recipe for disaster. BART's general manager (who is not an elected official and has no expertise in law enforcement) hires the BART police chief... There is no police commission, no police review board, not even a committee of the elected BART board designated to handle complaints against and issues with the BART police... There is, in other words, no civilian oversight.⁵

And this "disaster" has been more than merely hypothetical: in 1992, a BART cop shot unarmed Jerrold Hall in the back of the head with a shotgun

3 <http://www.ktvu.com/video/18409133/index.html>.

4 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/01/07/MNOV154P0R.DTL>.

5 http://www.sfbg.com/entry.php?entry_id=7813&catid=4&volume_id=398&issue_id=413&volume_num=43&issue_num=15.

as he walked away, *after* firing a warning shot. In 2001, BART police shot a mentally ill man who was unarmed and naked. And according to Tim Redmond, writing in the same paper, “BART made a monumental effort to cover [the Hall slaying] up,” and in the end, “Nothing happened... BART called the shooting justified.”⁶ As of yesterday, BART hadn’t yet interviewed the officer, Johannes Mehserle, who insisted on invoking Fifth Amendment rights not to speak. And just when they claim to have compelled him to do so, he abruptly resigned, thereby ending any internal affairs investigation that may have taken place. There still remains, according to BART, a criminal investigation, but if the past is any indicator, this won’t get far.

But let’s not fool ourselves. Even publicly-run organizations like the Oakland Police Department, which has all the ties in the world to elected power, operates with an informal shoot-to-kill policy for black teenagers. This was as clear in the 2007 murder of Gary King as it is with Oscar Grant today.⁷ And since the district attorney responsible for bringing charges against the police works closely with these same police on a daily basis and in a shared enterprise of delivering convictions, we should not be surprised that *not a single police murder in recent years has even seen disciplinary action*. “No one we talked with,” writes the *Chronicle*, “from the district attorney’s office to lawyers who work either side of police shootings - could remember a case in the last 20 years in which an on-duty officer had been charged in a fatal shooting in Alameda County.”⁸

Does It Matter What Really Happened?

We have all seen the video, and rumors are swirling about how to interpret its contents. The officer clearly fires a fatal shot into Oscar Grant’s back while the latter is face-down on the floor. A flurry of “experts” have intervened to give their analysis. While such expert testimony usually functions to justify the police, even among these experts some are shocked and disgusted by what they see. One expert, after concluding that the gun had accidentally gone off, watched video from another angle, after which he changed his conclusion: “Looking at it, I hate to say this, it looks like an

6 http://www.sfbg.com/entry.php?entry_id=7814&catid=4&volume_id=398&issue_id=413&volume_num=43&issue_num=15.

7 <http://www.counterpunch.org/maher09242007.html>.

8 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/01/06/BAVT154HIG.DTL&tsp=1>.

execution to me.”⁹

Others are insisting that Mehserle meant to pull out his (less fatal) Taser, but this theory has since been discredited. Firstly, a Sig-Sauer handgun weighs three times what a Taser weighs, and the shape is completely distinct, and another expert noticed in the tape that the officer had *previously* withdrawn his Taser, located for safety reasons on the *other side* of his belt. In other words, he knew he was going for the gun. Hence the claim of accidental discharge, but this too raises a serious question of plausibility: when Mehserle drew his gun, Grant couldn't see it, and so there could be no claim that it was meant to threaten the victim into passivity. In the end, if Mehserle is ever forced to give a statement, he will likely turn to the tried-and-true excuse that he “suspected” Grant had a gun in his pants.

But none of this matters, all the debate of the officer's “intention” only serves to reinforce the fact that, while white cops are allowed to have intention, this is a quantity denied to their victims. This fact of racist double-standards is not lost on those who, realizing that there will be no “justice” in this case, have taken to the streets to demonstrate their rage at the unprovoked execution.

“I’m Feeling Pretty Violent Right About Now”

While friends and family were gathered for Grant's funeral, a number of organizations called a demonstration where he was killed, at Fruitvale BART station. Circulating by internet and Facebook, the call reached many thousands, and in the end some 500-600 protestors and mourners came together to make speeches and lament this murder. At a makeshift memorial behind the BART station, candles are burning, and hand-written messages appear: “Oscar, we watched you grow up from a lil' boy down the street into a man,” and “O., RIP, peaceful journey, God only pick da best.”

As an indication of the contrasting sentiments that divided the crowd, where someone had scribbled “Fuck the police,” another had covered the expletive with another message: “Forgive.” But forgiveness wasn't on the minds of many. Several of the more radical protestors climbed onto the BART turnstiles, displaying a red, black, and green flag. One shouted:

I've got the mentality of my parents who were Black Panthers, I'm tired of talking, I'm thinking like L.A. in 1992. Y'all can have your megaphone speeches, I been through that, I'm black, I don't need more speeches. Let's take a stand today, because tomorrow ain't promised!

While some on the mic attempted to soothe the crowd, insisting that burning up the city was “too easy” and “useless,” the message didn't seem to resonate much with the crowd. And why should it? We were standing in the middle of “Fruitvale Village,” a corporate paradise in the middle of a historically Latino district, which clearly doesn't belong to the local residents. It was clear where the momentum was going, as the biggest cheers went up for the more radical voices who seized the mic:

“I'm feelin pretty violent right now,” one insisted, “I'm on some Malcolm X shit: by any means necessary. If I don't see some action, I'ma cause a ruckus myself.”

Oakland Burning

While some remained to hear additional speakers, including hyphy hip-hopper Mistah FAB and the recently-founded Coalition Against Police Executions (CAPE), several hundred set out on a militant and rapidly-moving march north on International Boulevard. The police response was initially hands-off, despite the tenor of the chants: “No Justice, No Peace: Fuck the Police,” and “La Migra, La Policia: La Misma Porqueria.” If those in the passing cars and stuck in traffic were of any indication, the local population knew exactly what was going on, why we were protesting, and were largely sympathetic.

As the march wound around Lake Merritt, it turned sharply to the left, a shortcut to BART headquarters. This seems to have thrown off the police, who were clearly unprepared for what came next. A single police car, parked sideways at 8th and Madison to prevent access to the BART headquarters, became the target of the crowd's increasing fury. Sensing the tone of the crowd, a cop reached in and grabbed her helmet before scurrying away. Within moments, the police car was destroyed and nearly flipped over, and a nearby dumpster was burning.

A few seconds later, the air was thick with teargas. Evidently, seeing their own property destroyed was too much for the police to stomach. (Note: there is no truth to the CNN report that tear gas was deployed to protect a surrounded officer¹⁰). I get a noseful of teargas, and a protestor near me is shot in the stomach with a rubber bullet, and needs to be helped off, as the crowd quickly sprints north toward downtown. Passing through Chinatown, dumpsters full of fresh produce are emptied into the street to slow the march of a line of riot police. When the crowd reaches Broadway, there is momentary confusion, with some continuing straight to Old Oakland, some pushing left toward Jack London Square, and others urging a move rightward toward the city center.

The police took advantage of this momentary indecision, with a full line charge that send many of the furious demonstrators sprinting and left many arrested. When the crowd regrouped, it was promptly encircled at 14th and Broadway, and a standoff ensued. Either by design or by a predictable quirk of the police organization, nearly every riot cop in the street was white, some sneering defiantly. And if the crowd of demonstrators was largely multiethnic, it was clear by this point that the functional vanguard was composed largely of the young, black teenagers most acutely aware of their relationship to the police. There were chants of “We are all Oscar Grant!” and several protestors lay in the middle of the street with their hands behind their backs, mimicking the position in which Grant was executed.

Some small fires were set, and the police moved in again, pushing the crowd down 14th toward Lake Merritt. The spearhead of the demonstrators rushed forward to shouts of “We the police today!” smashing and torching vehicles, and while this was done out of anger it was far from irrational, as the press will certainly present it. Rather, it was the result of a very clear line of reasoning that goes something like this: we have to do something, and in the face of police impunity, this is all we can do. Nothing would be more irrational than a blind faith that the police will do the right thing, given all the historical evidence to the contrary. While the press is doing its best to find bystanders to decry the “vandalism” involved, it couldn’t ignore the testimony *Oakland Post* reporter Ken Epstein, who was writing an article on the killing when he looked out his office window to see his Honda CRV in flames: “I’m sorry my car was burned,” Epstein admitted, “but the issue is very upsetting.”¹¹

10 <http://www.cnn.com/2009/CRIME/01/08/BART.shooting/index.html>.

11 http://www.mercurynews.com/ci_11401338?source=most_viewed.

The crisp wintry air swirled and the lights twinkled along the surface of Lake Merritt as demonstrators demolished a local McDonalds, at which point a line had clearly been crossed: a police armored personnel carrier came tearing down the street at 45 miles per hour, firing rubber bullets and sending the crowd scattering. The scene was surreal, with padded riot cops leaping off the vehicle in an effort to win an impossible footrace with younger and fitter demonstrators.

Dellums Steps In, Steps Out

From the early moments of the demonstration, the position of the mayor, Ron Dellums, was at issue. Here was a mayor with a great deal of popular respect, with longstanding civil rights credentials, but who had done little to slow the pace of police killing, among the other ongoing ills plaguing postindustrial Oakland. With tear gas swirling and the APCs circling, the mayor decided to make his appearance at around 9pm, walking the few blocks from City Hall down to 14th and Jackson to address the angry crowd himself. Several times he attempted to scurry away under hard questions that he could not answer, with the standard responses: we should all take it down a notch; there will be an investigation.

I don't remember what it was exactly that I yelled at the mayor, but it certainly got to him. As he was leaving the crowd, he turned and walked directly up to me, putting his face a mere inches from my own.

Dellums: What I want people to do now is calm down. I've told the police to stand down, and I hope you all can do the same. Both sides need to be peaceful right now so we can find out exactly what happened.

Me: But we know what happened! We've all seen the video: A cop pulled his gun and shot an unarmed black man in the back. And you know there are reasons that certain people have guns pulled on them and others don't.

Dellums: There are two processes currently underway...

Me: The process is if I shoot someone, I'm arrested. But if a cop shoots someone, he gets put on paid administrative leave until everyone forgets about it.

Dellums: I'm asking both sides to be peaceful...

Me: Both sides? I haven't killed anybody, this crowd hasn't killed anybody. The police *have* killed somebody, and you're in charge of the police! Who runs this city? When will the prisoners be released?

Dellums: Soon...

Dellums then returned to City Hall, surveying the damage. But as he entered, the angry crowd booed thunderously. And despite his claim that the police had been ordered to stand down, clashes broke out immediately on the same block, more fires broke out, and more teargas was deployed. The mayor's intervention could do little to calm Oakland's frazzled nerves. His claim that the people have lost faith in the police rings empty for people who never had such faith in the first place, people who have seen vicious police murder after police murder without so much as an indictment.

The demonstrators continued to express their pent-up rage, engaging in running battles until nearly 11pm, when a mass arrest seems to have quelled the resistance for the moment. All in all, official numbers show 105 arrests (including 21 juveniles), more than 80 of which occurred *after* Dellums claims to have told OPD to stand down. Who knows if his promise of a speedy release means anything at all. Support and solidarity demonstrations are scheduled this week for the prisoners' arraignments, and with another mass mobilization scheduled for next Wednesday, this is far from over.

Intention as Privilege

As I have said, and at the risk of controversy I will repeat: it doesn't matter if Mehserle meant to pull the trigger. He had already assumed the role of sole arbiter over the life or death of Oscar Grant. He had already decided that Grant, by virtue of his skin color and appearance, was worth less than other citizens. And rather than acquitting the officer, all of the psychological analyses and possible explanations of the shooting that have been trotted-out in the press, and all the discussion of the irrelevant elements of Grant's criminal history, have only *proven* this fundamental point.

If a young black or Latino male pulls a gun and someone winds up dead, *intention is never the issue*, and first-degree murder charges are on

the agenda, as well as likely murder charges for anyone of the wrong color standing nearby. If we reverse the current situation, and the gun is in Oscar Grant's hand, then racist voices would be squealing for the death penalty regardless of intention. And yet when it's a cop pulling the trigger, all the media and public opinion resources are deployed to justify, understand, and empathize with this unconscionable act. One side is automatically condemned; the other automatically excused.

For now, the fires are out. But despite the soothing words of Barack Obama and Ron Dellums, there is no lack of fuel and no lack of spark in Oakland.



Oakland rebellions, January 7, 2009



Oakland rebellions, January 7, 2009

“Oakland is Closed!”

Arrest and Containment Fail to Blunt Anger in the Streets¹

GEORGE CICCARIELLO-MAHER

Writing in the context of the Algerian Revolution, Frantz Fanon was a merciless critic of the moderating efforts of self-appointed political leaders. When confronted with mass rebellion, such leaders will immediately use the threat of violence as a bargaining chip in negotiations with the oppressors, promising to pacify the masses if reforms are made. As Fanon describes it in *The Wretched of the Earth*:

Nonviolence is an attempt to settle the colonial problem around the negotiating table before the irreparable is done... But the masses, without waiting for the chairs to be placed around the negotiating table, listen to their own voice and begin committing outrages and setting fire to buildings...

Of course, between colonial Algeria and postindustrial Oakland, there are undeniable differences. But while Fanon's context is not our own, the acuity of his understanding of revolutionary political dynamics is unparalleled, and two weeks on from the police murder of Oscar Grant III by transit police officer Johannes Mehserle, his words bear heeding if we are to avoid succumbing to the divide-and-conquer strategies of the oppressors.

“An Intentional Act”

The rebellion which shook the streets of Oakland a week ago has irreversibly changed the political equation surrounding the murder, as rebellions tend to do. The Midas touch of popular action leaves little intact. Several days ago, rumors swirled that California Attorney General Jerry Brown was leaning hard on Alameda County District Attorney Tom Orloff to conclude his investigation and charge Mehserle quickly in order to head off any potential disruption at a scheduled Wednesday rally. This pressure

¹ This article originally appeared in *Counterpunch* (January 16-18, 2009).

yielded quick results: Orloff issued a warrant for murder, claiming that “the evidence indicates is an unlawful killing done by an intentional act, and from the evidence we have there is nothing that would mitigate that.”² Moreover with the Grant family claiming that he and other officers used racial slurs the night of the execution, many will no doubt push for a hate crime enhancement.³ Mehserle was duly arrested, not in California, but across state lines in Nevada. While this was ostensibly for security in the face of death threats, state lines are more effective against police jurisdiction than death threats.

It would seem that all was well in Oakland, but it’s worth asking how such pressure came to bear on the Attorney General and D.A. in the first place. Protest organizers insist on avoiding this thorny question, for fear that they may be painted with the brush of violence, but only those in bad faith could realistically deny that it was the street-level resistance of a week ago that led the state to act. Could anyone actually argue with a straight face that Mehserle’s arrest resulted from anything but the threat of continued rebellion on the streets?

“Listening to George Jackson”

But it is this most basic of truths that protest organizers from the newly-formed Coalition Against Police Executions (CAPE) have insistently ignored. After the events of last week, the ostensible organizers of the demonstration at Fruitvale BART were among the first to attack the anger expressed later that night. One organizer was brought to tears by the scenes on the television, claiming that his hard work had been “destroyed by a group of anarchists.”⁴ There is a distinct irony here, as those who peddling the “outside agitators” line were almost without exception *absent on Wednesday*, admitting that they watched events unfold on television. The insistence that it was “anarchists” who led the youth astray that night has been thoroughly discredited by those actually present,⁵ including KPFA reporter and Prisoners of Conscience Committee (POCC) Minister of Information JR, who insists that: “I have seen many reports talking about white invaders

2 <http://www.allheadlinenews.com/articles/7013716089>.

3 <http://abcnews.go.com/TheLaw/story?id=6647338&page=1>.

4 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/01/08/MNON15696D.DTL&tsp=1>.

5 <http://counterpunch.org/kara01122009.html>; <http://www.counterpunch.org/maher01092009.html>.

taking over the rebellion, which is b.s.” He adds:

I’m proud of Oakland people in general and youngstas specifically for standing up to the occupying army in our community: the police and the city officials that support the system that lets the police kill us wantonly. The rebellion was just the beginning of a longer political education class in Amerikkkan politics and how it fails to meet the needs of its Black and Brown low income dwellers.⁶

Where did the “outside agitator” sound byte, with all its paternalistic and racist implications, come from in the first place? As one might suspect, it was the police who first deployed it, the media who followed, and the unwitting organizers who followed. At a “town hall meeting” led by black clergy and community leaders, CAPE organizers and other speakers were tacitly criticized for their criticism of the black youth who took to the streets to express a righteous fury, and for using the “anarchist” line to divide the movement. Representatives of both Baptist churches and the Nation of Islam pointedly emphasized that anger at Grant’s murder was justified, with Reverend Kane thunderously insisting that we shouldn’t blame the youth in the streets for “listening to George Jackson” and “uncompromising revolutionaries” instead of the prophets of nonviolence.

And another truth was affirmed at that meeting, which it should be noted represented a largely middle-class segment of Oakland’s black community: much like at the Fruitvale BART protest, it was these most militant voices who received the loudest applause. But while this was obvious to many onlookers, the lesson was not reflected in CAPE’s subsequent organizing efforts.

A Culture of Fear

In the run-up to Wednesday’s official demonstration, it became clear that those dissenting from CAPE’s strategy of moderation were unwelcome. While the organizing committee said that they welcomed a broad range of participants, all major decisions had been made beforehand, and the politics of reconciliation endorsed by the coalition was hidden behind an appeal to the

desires of the Grant family (although a member of that family had expressed a different view at the previous town meeting). Those who dissented from the now-discredited claim of “outside agitators” were shouted down, and efforts to add an amnesty for all those arrested last Wednesday to CAPE’s list of demands were rejected out of hand.

Things became more serious on the topic of security, which organizers deemed the “top priority.” While you might have thought this meant securing the well-being of the marchers in an atmosphere of rampant police violence, this was in reality more about securing the public image of CAPE from public and media criticism. Security was placed in the hands of a self-selected committee, and headed by a private security officer with a private security mentality: surround the march entirely and intersperse unidentified informants to root out possible troublemakers. A solitary protest, insisting that we not “recreate police structures” or facilitate a “culture of fear,” was ruled out-of-order on procedural grounds and met with a deafening consensus of silence.

But one error stood out above all others: the organizers’ open neglect for the obvious fact that the attention paid by Mayor Dellums and D.A. Orloff to the case, the national media attention it garnered, and the subsequent arrest of Mehserle were *only the result of last week’s rebellion*.

“I See A Lot of Warriors Out There”

The official march gathered outside City Hall in Frank Ogawa Plaza, with speakers including Mayor Ron Dellums, rapper Too \$hort, and CAPE leadership, all of whom emphasized the “peaceful” nature of the gathering. Much like last Wednesday night, Dellums was greeted by a mixture of sparse applause and booing, despite being introduced by CAPE leader Dereca Blackmon as an ally in the struggle for change. More than 1,000 outraged Oaklanders then proceeded down 14th Street, walking in the footsteps of those who had taken to the streets in a more militant fashion a week prior. After gathering outside the office of the D.A. and hearing several more speakers, the crowd turned to return to City Hall, led by the roaring engines of several motorcycles blaring hyphy hip-hop for an energized crowd. Police and march security darted here and there, attempting to defuse any disruptions.

Upon returning to City Hall, marchers were corralled by CAPE security into Frank Ogawa Plaza once again, and all remained calm for the moment. But despite the best efforts of the CAPE organizing committee, it was clear that not all speakers shared their analysis of the events leading up to the state's decision to arrest Mehserle. The final speaker insisted that not even arrest or conviction was sufficient, since "that pig was just doing what pigs do." It was police *policy* that needed to be changed, and continued militant action was the only way that this could be accomplished. As he concluded, the speaker added a knowing observation alongside a plea: "I see a lot of warriors out there," he said, "and I just want to ask you to make sure that the babies and the children get home safely tonight."

But this radical message would be redirected and distorted through CAPE's nonviolent lens, as a representative would immediately insist that, "you heard the man, let's all go home with our children and keep it peaceful."

Repressive Tolerance

As the crowd left the plaza, CAPE security cordons sought to direct people across Broadway on 14th and onward toward home, but many had not finished for the evening. As the crowd poured into the street and made clear its intention to remain, a line of riot police formed behind the security cordon. The same chants heard a week ago made an encore appearance, specifically, "No Justice, No Peace, Fuck the Police!" In an ingenious display of pageantry the security force channeled this unrest into a gesture of victory, convincing the police to stand down momentarily.

But this symbolic victory was to be short-lived. The street remained crowded with even more protestors than a week prior, and those gathered had clearly not been pacified by Mehserle's arrest. When it became clear that the crowd would not disperse voluntarily, it was announced that the police would return in 10 minutes, and that the streets needed to be cleared. And when this still didn't work, march security took it upon themselves to move the crowd, forming cordons, linking arms, and physically pushing the angry demonstrators off the streets. If Herbert Marcuse was concerned with "repressive tolerance," here was a case of repression under a scarcely tolerant veneer.

Not all of the security team agreed with these tactics. Some had even broken from the “official” security orientation in disagreement, and when the streets were being cleared, others removed their vests and refused to participate in this policing of the streets. The clear irony of the situation was this: here were representatives of those same “community leaders” who had a week prior denounced the “manipulation” of the city’s youth, physically pushing those same young people off the street.

“Security” Withdraws

If the effort required to physically push peaceful demonstrators off the street was not proof enough that the self-appointed security apparatus did not represent the will of those angry youth present at the rally, then what happened a moment later would make this astonishingly clear. After a conflict between protestors and fundamentalist Christian provocateurs, the security force made the amateurish mistake of leaving unattended those whom they had just put so much effort into moving off the streets.

Without a minute’s delay, the crowd returned to the street, this time at 13th and Broadway. A few more sweeps with security cordons proved ineffective, and seemed only to agitate some of the protestors, who entered into open conflict with the security team (with the mainstream press claiming that there was even a physical confrontation at one point). As a last-ditch effort, some security officials were seen consulting directly with police and a city councilperson, but toward what end it remains unclear. Realizing that they had clearly lost control of the situation, and in an effort to publicly wash their hands of the rebelliousness, CAPE’s security detail made a very public retreat.

To be clear: the internal security team were neither infiltrators nor police (as some had suggested last week), but merely an unfortunate example of what happens when well-meaning, nonviolent organizers adopt a police mindset and step in to play the role of the oppressors in an effort to blunt popular rage. And to be even clearer: there is nothing wrong with popular security or revolutionary discipline, but when imposed on those most affected against their will, popular sentiment will either prevail or suffer repression.



Oakland rebellions, January 14, 2009

“Oakland Is Closed, Go Home”

After the security team withdrew, it was only a few short minutes before a young black protestor took five flying kicks at a bus stop window, thereby setting the tone for what would follow. As the first glass disintegrated onto the pavement, a crowd of youths of all colors rushed in as if on cue, venting its rage on a nearby Wells Fargo. Within seconds, a half dozen teargas canisters landed in the vicinity, and the crowd scattered. Either by design or sheer contingency, most ran into the City Center Mall, demolishing a number of storefronts, but these were not the “mom and pop” businesses that had borne the brunt a week ago, but instead mostly large chains. (The press, never above even the most ridiculous of contradictions, would later refer to the destruction of “Oakland landmarks, like Jamba Juice and Radio Shack”).

The best among the security volunteers had remained, encouraging the crowd to stay smart, to stay in groups, and to avoid arrest. After the police had enforced a degree of calm, heated debates broke out on the sidewalks, which clearly reflected the class cleavages that divided the majority of the

marchers from those who took to the streets afterward. One man was enraged by the efforts of well-dressed black onlookers to disarm his anger: “you can’t tell me shit! These motherfuckers sent me to the hospital, I had tubes coming out all over my body! We’re the ones that are suffering!” Another, who identified himself as a close friend of the late Gary King, confronted an apparently middle-class black woman who attempted to restrain him.⁷ Infuriated, he singlehandedly confronted an entire line of riot cops, cursing and spitting on their visors, and was very nearly assaulted in response.

If age and class clearly distinguished those who attended the march from those who remained in the streets, then we are right to wonder which of these groups has a more acute awareness of police violence. While many in “the community” more generally certainly hoped for a peaceful response to the murder of Oscar Grant, those who voted with their feet for militant action were largely those most affected by police repression in Oakland.

OPD again decided to make a tactical withdrawal, hoping a hands-off approach would defuse tensions, circling the city in cruisers with their right rear doors slightly open for easy deployment. But when the remaining protestors refused to disperse, police returned on motorcycles, one making the apocryphal loudspeaker announcement: “Oakland is closed, go home.”

A small group of police gathered near a crowd of young black men, and when the signal was given they advanced into the crowd, dividing it in two and arresting a young man for no reason whatsoever, in what appeared to be an open provocation. The rest of the night, small lines of riot police physically pushed small groups of protestors up the street, back and forth, until one-by-one they relented and decided to call it a night. Some 18 arrests have been reported in total, with some bystanders claiming to have been arrested for no reason.

“The Bullet or the Bullet”

In a written response to the murder of Oscar Grant, revolutionary Bay Area rapper Paris had the following to say on the subject of a “peaceful” response to police murder:

7 <http://www.counterpunch.org/maher09242007.html>.

“Hopefully we won’t see the same course of events takeplace that always seem to happen --brutality/murder, the violence...and I disagree... If an eye for an eye will make the whole world blind, then I guess we’ll all be bumpin’ into shit, ‘cause this has to stop *now*.”

Whether we agree or not with Paris’ strategic prescriptions, at the very least he has grasped better than many the political dynamics that have unfolded in the case of Oscar Grant. The city only responded when threatened with continued militant action in the streets: it is this that explains the sudden interest that Mayor Dellums , the District Attorney, and the state Attorney General showed in the case, and it is this alone that explains the hasty arrest carried out Tuesday.

There is little that the moderate leaders fear more than “this impatient violence of the masses,” and they will go out of their way, according to Fanon, to dismiss and discredit it: “The official leaders, draped in their years of experience, will pitilessly disown these ‘adventurers and anarchists’.” Fanon himself was no friend of anarchists, but nor did he approve of a self-appointed leadership that would kidnap the popular will. While initially effective, those leaders promoting the strategy of moderation and conciliation would soon find themselves obsolete, outpaced by the action of the masses, who discover their own strength by using it. “The consciousness of the people rebels against any pacification. From now on the demagogues, the opportunists, and the magicians have a difficult task.”

The events of the last week are but a warning, both to the powers that be in Oakland and the United States and to the self-appointed leadership of resistance movements. To the city, county, state, and nation: arrest is not enough, conviction will not be enough. And to the CAPE leadership, in the Fanonian spirit of unity: don’t be so rigid as to be outpaced by the masses in the street, and if you are, accept your obsolescence with grace.

“Fired Up, Can’t Take It No More”

From Oakland to Santa Rita, the Struggle Continues⁸

GEORGE CICCARIELLO-MAHER

“Town Bizness”

Efforts at the moderation and cooptation of the Oscar Grant movement had failed in the face of revolutionary pressure and state weakness. The various radical organizations that dot the Oakland landscape had slipped the yoke of the official organizations with links to Mayor Dellums’ campaign and enmeshed in the non-profit industrial complex.⁹ The place was the historic Black Dot Café in West Oakland; the event, a “Town Bizness” town hall meeting hosted by the Prisoners of Conscience Committee (POCC) with the presence of Chairman Fred Hampton Jr. and a number of others, former and current Black Panthers included. “This ain’t like the other town halls where a preacher talks for three hours,” said POCC Minister of Information JR by way of introduction, in oblique reference to the weekly meetings held at Olivet Baptist Church.

Those gathered at the Black Dot were among the few organizations and individuals still insisting, with the unequivocal support of all the events that had come to pass in recent weeks, that organized rebellion in the streets had been fundamental in the arrest of Johannes Mehserle for the murder of Oscar Grant. Many of those present took aim at the “opportunists” and the self-appointed leadership which, by virtue of city contracts and non-profit status, had been perceived as hijacking a city’s anger and turned it down the path of institutional power (some hoping, no doubt, to ride the masses all the way to elected power themselves). As an alternative, those gathered at the Black Dot agreed on a list of demands, and on a strategy of mobilizing for the bail hearing of Johannes Mehserle, to be held on January 30th.

New Video, New Pressure

8 This article originally appeared in *Counterpunch* (February 3, 2009).

9 <http://www.counterpunch.org/maher01162009.html>.

But in the intervening days, the political balance of forces had shifted dramatically, with the legitimacy of both the BART police and the OPD seemingly in free-fall. First, it was announced that the head of OPD internal affairs, Ed Poulson, had been suspended and that the FBI is currently investigating the force over the death in custody of Jerry Amaro some nine years ago. This combined with a threatened no-confidence vote for Police Chief Wayne Tucker partly over handling of the investigation into the murder of journalist Chauncey Bailey, led Tucker to announce his unceremonious resignation, leaving a gaping power vacuum at the head of this force, which would make itself felt later.¹⁰

In addition, BART police chief Gary Gee, who seems hell-bent on infuriating the public as much as is humanly possible, was circulating a memo instructing all BART officers on how they could show their solidarity with Mehserle by making a donation to his defense. “You have our full support,” writes Gee, who went on to blame “public abuse and the media’s reporting” for placing undue stress on his department. As Grant family attorney John Burris put it, “It is unacceptable for the police chief, who ostensibly is investigating Mehserle and other officers, related to their conduct on the night that Oscar Grant was killed, to encourage officers to visit and make financial contributions to Mehserle.”¹¹

But perhaps the most important element in this new upsurge in public anger and disillusionment with the police was a new cellphone video release by KTVU news, and taped on the BART platform the night Oscar Grant was executed. The recording shows a different officer, now identified as Tony Pirone, who would later have his knee on Oscar Grant when he was shot by Mehserle, punching Grant in the face for no apparent reason, and clearly escalating the tone of the situation. While those in the streets have been demanding the arrest of the other officers as accessories to murder, this demand had been largely ignored until it gained a degree of tangible reality in that video, at which point BART officials announced an investigation would be opened.

“We Fired Up, Can’t Take it No More”

10 http://www.insidebayarea.com/oaklandtribune/ci_11563667.

11 http://www.sfgate.com/cgi-bin/blogs/sfgate/detail?blogid=61&entry_id=35227.

On January 30th, an overflow crowd filled the hallway of the Rene Davidson Courthouse in an effort to gain access to the bail hearing. Family members and an undisclosed number of BART officers had been escorted into the courtroom by a back door, and the nearly 100 gathered in the hallway were promised 44 available seats for the hearing. After some 20 had entered, the crowd was told that the courtroom was full. Spontaneous chants of “We are all Oscar Grant!” filled the hall, clearly audible to those within the courtroom itself, and at one point county police attempted to forcibly remove the crowd, seizing people one-by-one and pushing them into the elevators.

Inside the hearing, Mehserle’s newly-contracted attorney Michael Rains, who previously got corrupt OPD officers off in the Riders case, was making the case for bail.¹² Mehserle had yet to open his mouth about what happened that night on the BART platform, a refusal that many interpreted as individual cowardice given the protests rocking the city. But if he wanted bail he would have to say something, and in the end, that “something” was not convincing at all. Mehserle’s lawyer simultaneously suggested that Mehserle meant to deploy his Taser against Grant, while adding that he thought Grant was reaching for a gun. Again, both claims have been thoroughly discredited: Mehserle had removed his Taser, which bears no resemblance to his gun, from the opposite side of his belt earlier, and Grant was face-down with Pirone holding his neck, showing no signs of struggle.

Moreover, if Grant were reaching for a gun, surely Mehserle would admit to purposefully pulling his own weapon. But there was a method to this madness, and it was this: Mehserle had to mention the Taser defense to leave open the possibility of a reduced charge, but he had to add that he thought Grant may be armed to leave open the possibility for a total acquittal under the tried-and-true police defense of “justifiable homicide.” Luckily, Judge Morris Jacobson noticed the ambiguity and wasn’t buying it: Mehserle, Jacobson acknowledged, did indeed represent a flight risk, and his contradictory story made him a potential danger to the community.¹³ However, under California guidelines, and since this was not a capital murder case, the judge nevertheless granted Mehserle a bail of \$3 million. But concealed beneath this seemingly “technical” bail decision was a more

12 <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2004/12/14/BAG75ABBIT1.DTL&type=printable>.

13 http://www.mercurynews.com/ci_11591101?source=most_email.

important one: certainly, Mehserle has not been charged with a capital offense, but this is because he was white and a cop to begin with.

It was this fact more than anything that motivated the angry crowd that streamed from the courtroom, infuriated that this murderer would be released with a bond payment of only \$300,000, surely not too much for someone from a well-off family with the full support of BART-PD and the police union. The crowd exited the court past a hungry press corps, eagerly sniffing out a controversial quote, which was delivered soon enough, as a young man insisted before the cameras that “if the court doesn’t get him [pauses] we’ll get him.” But while the press was quick to paint popular anger with the racist brush of vigilantism, he insisted that this wasn’t a threat, but instead an indicator of the fact that few have faith in the even-handedness of the court system.

Immediately, those gathered took up positions to block the exits to prevent Mehserle’s departure, with chants of “No Justice, No Peace, Fuck the Police!” But after a few minutes, representatives of the Panthers and POCC decided to set out on a march that would retrace the path of the street rebellion some three weeks prior. The crowd of around 100 surged up 14th to Broadway, where the intersection was closed and an AC Transit bus taken over, with a Black Panther addressing the crowd from the roof. After a few minutes, we moved down Broadway toward the OPD station, and as we arrived, a small contingent of police was hurriedly setting up a cordon to protect their home. After a brief standoff, the crowd began to move back up Broadway, by now 150-strong as passers-by and young students spontaneously joined in. Now, the chant was: “We fired up, can’t take it no more!”

As we stream past vehicles, some in the crowd notice a small, unmarked SUV full of cops, and the crowd showed its contempt in no uncertain terms. From a few feet away, I saw the rear window of the vehicle explode, revealing an officer pointing a rubber-bullet gun from inside the vehicle. Immediately, half a dozen flash-bang grenades were lobbed into the crowd, weapons which even the manufacturers admit are deadly and should only be used as a last resort. Now, of course, they were used as a first resort, and several protestors were on the ground screaming for medics from the impact of the explosions. People scattered, taking refuge behind cars as the officers climbed out of the vehicle, each tossing several more grenades in all

directions to disperse the crowd.

“I’m Gonna Fuck You Up”

By now, the new OPD strategy was in full force, either on orders from Mayor Dellums or due to the power vacuum created by Tucker’s abrupt exit: heavy and prominent presence, blocking streets and repeatedly cutting the march into smaller and smaller segments in the hopes that it would disperse. At one point, we were completely blocked-in on 14th near Jackson, and the only exit appeared to be through the parking lot of the same McDonalds that was smashed three weeks prior. But upon reaching the other side, this path too was quickly blocked by a contingent of particularly aggressive cops with a bone to pick.

To be clear: no order to disperse had yet been read, and we were in the parking lot of a private business. As the crowd approached the police line, a fairly massive black officer named Smith began to taunt a much smaller demonstrator, urging him to give the cop reason to arrest him. When no reason was forthcoming, Smith grabbed the young man by his bandana and threw him into another officer, who then proceeded, along with some comrades, to brutally pound the young man and his friend for a number of minutes. When the crowd began to loudly protest the brutality they were witnessing, the cops made their intentions clear. As Smith himself promised me with a swipe of his baton: “I’m gonna fuck you up.”

And it wouldn’t be long before this hefty soldier made good on his promise. About 20 minutes later, after a dispersal order had been read at another intersection, the crowd was ordered to move to the sidewalks, and as a friend and I crossed a crosswalk (with the light green, no less) Smith and friends saw their chance. My friend was tackled from behind, his forehead smashed into a light pole. I hadn’t taken but two steps toward him when five officers flattened me. Skillfully navigating the avenues of pain and skirting the fine line separating a broken bone from a soft tissue injury, these portly knights of order made the most of their 30 seconds of absolute sovereignty, twisting and wrenching shoulder, elbow, wrist, and individual finger, kicking and punching me in the face and back.

In the back of the wagon, we were a sorry-looking lot, my friend bleeding profusely from the forehead, and one of the McDonald’s arrestees

with a smashed nose. Our cellphones had been confiscated as “evidence” (as this article is published, we are told that these will not be returned until we consent to police downloading their contents). Our transporting officer, Miller, immediately promised that we were all “CRs,” cite and release, so no worries, we would be out soon. This, of course, was a lie for all but one, but it served another purpose: if any of the arrested wished to complain about excessive force and injuries (we all had suffered excessive force and were all injured to some degree), we would need to be transported to Santa Rita County Jail, where we would be spending the night so as to receive “proper treatment.” Such was the blackmail to prevent complaints.

Around the same time, we overheard an officer speaking to several black juveniles in the compartment in front, in a display of unmitigated racism urging them to hand over any “crack pipes” or weapons they might have. And in response to several officers persistently referring to him as a “body,” a Latino minor shouted angrily and in disbelief, “I am not a body! I am a human being!”

Preaching at the Bully Pulpit

More painful than any injuries, more uncomfortable than the concrete slabs we slept on, more disgusting than the food, was the preaching we were forced to endure from police. I guess it’s easy to think you’re right when you only lecture to a handcuffed audience, but even so, the hypocrisies were breathtaking.

This began with the case of Oscar Grant himself, who a vast majority of the public agree was brutally murdered by BART cop Johannes Mehserle. All the fine Miller had to say was that “the media played a large role in the problem.” Evidently, “the problem” was the fact that Mehserle had been arrested, not that Grant had been murdered. To claims of racism, both against Grant and as an unspoken rule of policing, he appealed to demographics: sure, in Oakland his drug arrests were mostly of black and Latino men, but when he had worked in (mostly white) Hayward, he arrested mostly whites. Only the barest of logic is necessary to convince someone of something they already believe.

I brought up the 2007 murder of Gary King, shot in the back on Miller’s own beat as he fled. He insisted that while many argued King didn’t have

a gun, he was sure that he did, and not just that, but he was “going for it.” When I asked how he could possibly “know” that there was a gun, and more to the point, “know” that King was “going for it,” when only Pat González, the murdering officer was present, the debate is over: he mutters “justifiable homicide” and changes the subject. We are quite simply speaking different languages.

Still worse was the lengthy lecture one imprisoned protester was given at fingerprinting. A young cop, insisting that he defends the right to protest, launched into a condescending explanation of the lessons of Martin Luther King Jr. It was tempting to point out that he had clearly failed to grasp the dynamics of the Civil Rights Movement, the necessary dialectic of militancy and nonviolence, of MLK and Malcolm, that had driven political change. It was tempting to suggest that someone in his position 50 years ago would likely have seen King as a communist and a terrorist, and most certainly as violent, as was the public perception and press portrayal before the Black Power Movement entered the scene and liberals rushed to the cause of moderate change. It was tempting, too, to note that the government and even some clergy turned again on King near the end of his life for his increasingly radical views and criticism of the Vietnam War and capitalism, reserving for this prophet of nonviolence an assassin’s bullet. But concrete walls, uniforms, and guns don’t generally make for productive debate.

When one of the arrestees requested food after being held for 9 hours, the response was gleefully insulting: “you should always make sure you’re full if you’re gonna get arrested,” one officer chirped with proud condescension, “maybe next time you should stop at Chili’s on the way to the protest.”

“Damn Another Santa Rita Weekend” --The Coup

At around 3am, after being systematically shifted between holding cells for more than nine hours to cultivate disorientation and prevent what little sleep was possible on a concrete bench or a filthy floor, we are transported to Santa Rita. They had lied to us about citing and releasing us, and without reading us our rights, without even telling us we were arrested, without telling us what the charges were or the bail amount, we were shipped out. There, the holding cell is even filthier, and while we are the first to arrive, by

8am the room is full to capacity with some 30 new inmates. Most, it seems, were grabbed on incorrect warrants or bogus charges that are unlikely to stick, but it doesn't matter much: for those unable to post bail or bond, there is little recourse, and many were resigned to spending a month, or at least a "Santa Rita weekend" at the facility only for the charges to be dropped or to be found innocent. There's no presumed innocence when you're poor.

As day breaks, we are issued our 2XL county blues and fish-kits, and as we are preparing to be moved yet again, we begin to discuss the Oscar Grant case. Unsurprisingly, everyone in our holding cell knows about it, everyone has seen the video. Even less surprising, perhaps, is the fact that everyone knows what side they are on. One Latino inmate stands on the bench and begins an impromptu speech: "what we need to do is to attack the code of silence that binds these cops to each other, they know who kills who, and we need to get them to snitch on each other, that's the only way we'll get justice." He ends his speech by advocating a generalized and indefinite hunger strike until the other officers on the platform when Grant was murdered are arrested as accessories to the crime.

After inmates are strip-searched, we move into the general housing unit bunk areas, or "pods." We are disoriented from lack of sleep, but as soon as our pod-mates find out what our charges are, their support is immediate and unwavering. When I mention that I'm a writer, it is not but a few short moments before I am handed the small pen and the disheveled stack of paper with which I am writing this very document. "At least you in here on some real shit," one remarked, fist in the air.

The Ambivalent Silences of the Left:

Lovelle Mixon, Police, and the Politics of Race/Rape

RAIDER NATION COLLECTIVE

We began discussing this on a day dripping with hypocrisy. Local Fox affiliate KTVU is among many television channels broadcasting live and in its entirety the funeral for four Oakland Police officers who were killed in a pair of shooting incidents a week ago. News anchors speak at length, and with little regard to journalistic objectivity (a commodity which, dubious in general, disintegrates entirely in times such as these) about the lives of these “heroes,” these “angels,” and the families they leave behind. Trust funds for fatherless children are established, their existence trumpeted loudly at 6 and 11; one can only assume with such publicity that donations are rolling in. There is not a dry eye in the house, it would appear: the “community” has rallied around its fallen saviors.

Or so initial press coverage would have us believe. But while the press was on the streets pushing the message of unity in mourning, live shots from the scene found somber and serious reporters disrupted by words and gestures suggesting little sympathy for the police, and reports emerged (notably in the *New York Times*¹⁴) that bystanders had been mocking and taunting police after the shooting. When the local Uhuru House hosted a vigil *not* for the fallen police, but for the *other* victims, Lovelle Mixon and his family, the press was forced to abandon its tune of unity, deploying instead outrage and shocked disbelief (especially by Bill O’Reilly), only to later realize that such sympathy was rather widespread and worthy of discussion.

Liberal Hypocrisy

The hypocrisy should be clear, but for some reason, it has gone largely unmentioned, with those suggesting anything of the sort booed and hissed into anguished silence. Any and all mentioning, however quietly, the name “Oscar Grant,” with reference to the young black man murdered in cold

14 http://www.nytimes.com/2009/03/22/us/22oakland.html?_r=1.

blood by BART police in the first hours of the New Year, have been made to regret it, but it is Grant above all others whose case shows this hypocrisy in all its clarity. After all, Grant was not deemed a “hero” or an “angel” by the mainstream press when he was gunned down by BART officer Johannes Mehserle, and despite all of the outrage at the shooting, liberal or otherwise, we have seen how the press and local officials were bending over backwards to justify or at least understand Mehserle’s actions.¹⁵ Oscar Grant’s funeral was not carried live on local television, and what meager trust fund was established for Grant’s daughter exists thanks to a small group of sympathizers, most in the local black religious community, and not thanks to the state, the media, or BART.

This hypocrisy began with Oakland Mayor Ron Dellums, whose rapid reaction to the deaths of the four police speaks volumes in and of itself, since Dellums’ own week-long silence following Oscar Grant’s killing played a role in sparking the January 7th rebellion. In this case, however, Dellums was on television within a few hours preaching the inherent equality of all human life. But this was a magnificent display of liberal doublespeak, as Dellums’ declaration was meant to silence, not encourage, comparisons to Oscar Grant. But even this would not be enough to earn Dellums the support of the police union or the families, and the mayor was even refused permission to speak at the police funeral that had become the year’s must-attend political event, featuring such state political powerhouses as Governor Schwarzenegger, Attorney General Jerry Brown, and Senators Feinstein and Boxer. The reason remains unclear, but it is possible that even Dellums’ tepid sympathy for the life of Oscar Grant was too much for the families of the police, and it has even been suggested that Dellums’ equally tepid opposition to Blackwater-style privatizing policing in East Oakland is to blame.¹⁶ However, since no other black elected official was allowed to speak either, it seems that race was the deciding factor.

Kristian Williams, author of *Our Enemies in Blue* and *American Methods*, who was recently invited to give a public talk on the subject at the historic Continental Club in West Oakland, insisted that police funerals “have less to do with the grieving process of individual families, and everything to do with legitimizing past and future police violence.”

15 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/01/09/MNQV156LHC.DTL&tsp=1>.

16 <http://cbs5.com/local/mayor.ron.dellums.2.970066.html>.

According to Williams, policing is the only occupation which regularly exaggerates its own dangerousness (which statistically comes in just below garbage collectors). But constant reference to the danger and heroism of policing has the effect of stifling any and all criticism: police funerals as a public spectacle, according to Williams, “tell the public to shut up.” And shut up they have.

Farewell To the Spineless Left

Historically speaking, there is always a point at which the liberal and white left loses its nerve. As Ward Churchill demonstrates in his *Pacifism as Pathology*, it was a moment such as this one at which the white left abandoned the Black Panthers:

When [Black Panther] party cadres responded (as promised) by meeting the violence of repression with armed resistance, the bulk of their “principled” white support evaporated. This horrifying retreat... left its members nakedly exposed to “surgical termination” by special police units.¹⁷

Under the cover of pacifism, the spineless left paradoxically cleared the way for the violent extermination campaign that the Panthers would face. Certainly, the case of Lovelle Mixon and OPD is not the same as that of the Panthers, but the response on much of the left has been the same: *silence*. And this at a time when speaking and acting and questioning are more necessary than ever, when the police have been granted a political *carte blanche* to step-up attacks on the black and brown community in Oakland. Fearing association with a “cop killer” (a phrase which itself betrays the unequal value placed on different lives) or a “rapist” (an allegation the OPD’s PR machine was quick to deploy), fearing being inevitably painted as supporting Mixon’s actions, much of the local left has refused to even ask the most basic of questions. In what follows, we will address the most pressing of these.

A “Routine Stop”?

We recently had the opportunity to see some of OPD’s so-called

17 Ward Churchill, *Pacifism as Pathology* (Oakland: AK Press).

“routine stops” alongside members of Oakland’s nascent Copwatch organization. We spoke with two young, black men on the 98 block of Macarthur Boulevard who had been cuffed and detained for “matching the description” of subjects suspected to be in possession of a firearm. That is to say, they were young and black, and wearing black hoodies and jeans, just like everyone else around that night. Five minutes after Copwatchers arrived to document the stop, they were released.

We also observed more “routine stops,” in the guise of illegal DUI checkpoints by California Highway Patrol running the full length of International Boulevard and targeting largely Latino men. Several tow trucks were lined up to line their pockets with another’s misfortune, as CHP officers would stop vehicles, run their licenses and registration, perform on-the-spot DUI tests, and impound vehicles. We spoke with a young woman who was abandoned on the street at 2am after officers arrested her sister-in-law, towed their car (with the keys to her apartment inside) and sped off after telling her they would get her a ride home.

Such are the status of “routine stops,” and in a country where racial profiling is all but accepted practice among police, we should be wary of any claim to “routine-ness.” The only thing “routine” about such stops is the harassment that the black and brown community suffer at the hands of the police every day.



Memorial for Lovelle Nixon, March, 2009

What Happened? Who Was Mixon?

What little we know is this: it was at a “routine stop” that Mixon allegedly shot officers Mark Dunakin and John Hege, before taking refuge in his sister’s nearby apartment. We also know that it was when the OPD SWAT team stormed into said apartment that Mixon, now allegedly armed with an AK-47, killed Daniel Sakai and Ervin Romans, wounding as well Patrick Gonzalez. We also know, thanks to interviews with Mixon’s family, the circumstances he was facing at the time: released from prison after serving time for a felony and previous parole violation, unemployed and unable to find work as a felon, and increasingly frustrated with his slim prospects for the future.¹⁸ According to his grandmother, equally frustrating was the shabby treatment Mixon received from his probation officer, who she claims had missed several appointments. Mixon, she says, had even volunteered to return briefly to prison if it would mean he could change probation officers.

In the face of such frustration, according to his grandmother, Mixon had himself missed a probation appointment, and so was facing a no-bail warrant and some jail time. Also, if it is true that he was carrying a gun, he would have been facing even more. These are the circumstances that Mixon faced when stopped, circumstances common to all too many under the regime of “Three Strikes” and the structure of policing in general. As Prisoners of Conscience Committee Minister of Information JR puts it: “To all the Three Strikes supporters, police sympathizers and prison industry businessmen, how does it feel when the rabbit has the gun? Welcome to East Oakland.”¹⁹

Fast forward to his sister’s Enjoli’s apartment, where there is an additional question that needs to be asked: what was the SWAT team thinking when they stormed in, tossing stun grenades which injured 16 year old Reynete Mixon in the process? What seems to have clearly been a bad decision in retrospect brings us back to where we started: their fury at the news of dead police led them to risk the lives of many others rather than attempting to de-escalate. In all likelihood, the SWAT team expected to meet Mixon with the same handgun that had been used against Dunakin and Hege; in all likelihood, they expected to be at a tactical advantage in

18 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/22/BAAU16L4OI.DTL&tsp=1>.

19 <http://www.sfbayview.com/2009/police-2-oakland-residents-4/>.

firepower terms, and to have an excuse to kill Nixon in response.²⁰

An Occupying Army?

Despite the efforts by the mainstream media, in close alliance with OPD, to paint a picture of a community unified in mourning four cops and equally unified in its hatred for Lovelle Nixon, this image of unity has been inevitably cracked, forcing a discussion of the very real divisions that exist in Oakland and the central position of the police as an instrument of that division. This position is best summarized in two words, drawn from the logic of colonialism: “occupying army.”

This certainly is the perception of many who were at the scene, telling police to “get the fuck out of East Oakland.” What is most striking is the fact that such spontaneous reactions by young black men in East Oakland are, in point of fact, quite true, because here is something else the press isn’t saying: *not one of the officers killed lived in Oakland*; all were residents of the suburbs. It’s difficult to find out exactly what percentage of OPD actually live in the city (the Uhuru House puts the number at only 18%), but with salaries beginning at \$87,000 and often exceeding \$200,000 with overtime, we could assume that the percentage is very low. It’s difficult to argue with the claim that OPD functions as an occupying army, since even the younger members of the black and brown community know full well that they are, as Fanon defined the colonizer, “from elsewhere.”

If this recognition of the role played by OPD was clear in the “taunting” at the scene, it has also played out in the more generalized racial breakdown of responses to the deaths of the four officers. A friend who works in the Eastmont area, but a block or two from the shootings, recently told us that:

I have seen that white co-workers are speaking about it as if they were heroes, even ones who were pissed and annoyed by cops were suddenly sympathetic. Social workers of color, on the other hand, were talking about the 40-ish black youth killed in the last few years, and how suddenly, a few cops die (none of whom live here), and people act like their grandpa got shot.

20 <http://www.kcra.com/news/18997968/detail.html>.

Rape and Race?

As the press discourse of community outrage began to disintegrate, it now appears as though OPD found it necessary to reinforce its waning sympathy. To do so, the police turned to the most traditional of means: accusing a black man of rape. These rape accusations have provided liberals and even so-called radicals a convenient excuse to distance themselves from the case of Lovelle Mixon, and the irony of the “discovery” of a “probable” (read: inconclusive) DNA link the day before the shootings provides a fulfilling belief that the shooting was tragically unnecessary as, supposedly, Mixon would have soon been arrested and taken off the streets.²¹ But it is here that we find the most disturbing of maneuvers by the police and the most infuriating silences on the left.

This is because few have felt the need to wonder aloud about this alleged “DNA evidence” which has miraculously circumvented indictments and jury trials. This begs a clear question: was Lovelle Mixon guilty until proven innocent? Even if there was “DNA evidence,” most in our society at least pretend to believe that the job of evaluating evidence belongs to the district attorney, judge, and jury, and not to the police and media. And it begs a further question: if OPD was so devoted to the safety of women in East Oakland, why were neighbors never notified that a serial rapist was possibly on the loose?²² Quite simply because OPD does not protect poor and marginalized women: the record speaks for itself (see also).²³

One woman who attended the Uhuru vigil and rally last week describes her outrage and disgust at how white reporters treated the many women present at the march, essentially insinuating they were there in support of a rapist:

The fact that many people were at the vigil to show support for Mixon’s family and community--who are largely women--did not cross any of the reporter’s minds... The serious issue of rape does not nullify the issue of a failed prison system. If we think historically, protection against

21 <http://cbs5.com/crime/oakland.officer.shootings.2.966215.html>.

22 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/26/MN3516N0KN.DTL>.

23 <http://www.nytimes.com/1990/09/20/us/203-rape-cases-reopened-in-oakland-as-the-police-chief-admits-mistakes>.

sexual violence is a key reason often given to escalate the most racist and oppressive policing practices, yet violence against women continues unabated. We need to stand against violence against women *and* a racist police system equally, and not let one get used as an excuse to justify the other. The Nixon hysteria is going to be used to put East Oakland, women and men, on police lockdown and justice for the most vulnerable women who live there is NOT going to be a priority.

As Angela Davis reminds us,

In the history of the United States, the fraudulent rape charge stands out as one of the most formidable artifices invented by racism. The myth of the Black rapist has been methodically conjured up whenever recurrent waves of violence and terror against the Black community have required convincing justifications...[Black women] have also understood that they could not adequately resist the sexual abuses they suffered without simultaneously attacking the fraudulent rape charge as a pretext for lynching... In a society where male supremacy was all pervasive, men who were motivated by their duty to defend their women could be excused of any excesses they might commit.

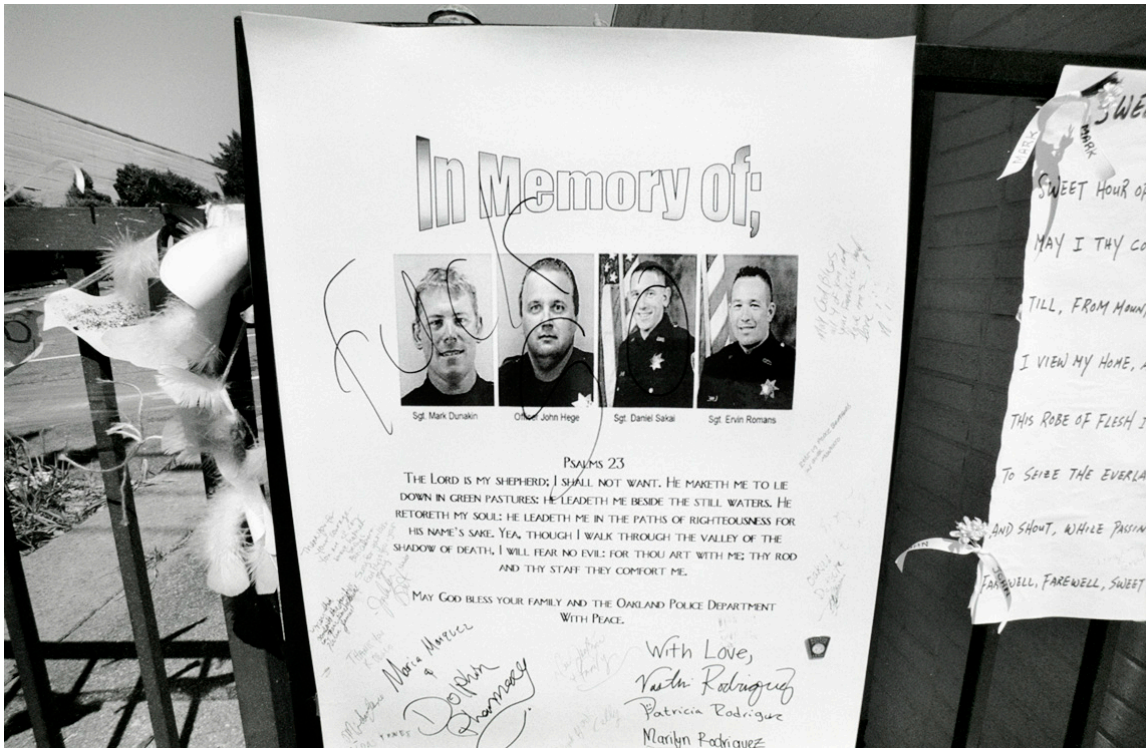
Painting black men as inevitable rapists represents a historical response to the sublimated guilt of white society, a society which for more than a century participated in the systematic rape of enslaved women. This much was recognized in a chant at the Uhuru rally:

Thomas Jefferson was a rapist!
George Washington was a rapist!
Let's get that shit straight!

Who Were the Officers?

This question certainly feels taboo in a context in which the press refers openly to the “angels” that protect the community, who were in the words of a

San Francisco Chronicle cover story (words cited verbatim from acting OPD Chief Howard Jordan) “Men of Peace.” But here again hypocrisy is palpable: we are told it is disrespectful to wonder aloud who the involved officers were, and yet racist slander directed at a dead man is somehow acceptable and expected. And while a couple of weeks ago, anyone would have told you that the OPD was a corrupt, inefficient force that routinely broke the law and brutalized city residents, such sentiment has faded into the background.



OPD memorial, March, 2009

As (very limited) records from Oakland’s Citizen’s Police Review Board and the grassroots organization PUEBLO indicate, the officers involved are not the “angels” and “men of peace” that many have been suggesting. Officer Hege, for example, was listed in a 1995 CRPB complaint that involved breaking down a door less than 10 blocks from where Mixon was killed, and assaulting a resident who was kneeling on the ground, leaving him with a detached retina, broken ribs, a concussion, and missing teeth. Officer Romans is among those named in a pending lawsuit (docket #C 00-004197 MJJ) for assault and battery, civil rights violations, and conspiracy. Further, as JR puts

it, Dunakin “long patrolled North Oakland, wreaking hell on young Black males,” and records indicate that he was implicated in a 1999 false arrest lawsuit which the city settled, and was more recently involved in the shady practice of towing cars under the city’s “sideshow ordinance.”²⁴

But perhaps even more interesting than the records of those officers who died is the record of the one who survived, and who has been only communicating with the press through his lawyer (with good reason): Patrick Gonzalez. Those paying attention will recognize the name instantly, since his rap sheet is far longer than was Lovelle Mixon’s: it was Gonzalez who murdered Gary King in 2007, shooting him in the back as he fled after being assaulted and repeatedly tased (King was suspected of being a “person of interest” in a case, nothing more, and his father suspects that the tasing would have killed him if the bullets didn’t²⁵). It was Gonzalez as well who shot another young black man dead, and left another paralyzed and in a wheelchair (all of these victims being under the age of 20).

But as a local community activist told me, “everyone focuses on the shootings, but he did some messed up shit with his gun holstered, too.” Specifically, Gonzalez has had a long list of complaints against him, and in one notable incident he was accused of assaulting 18 year old Andre Piazza in 2001. As the *San Francisco Bay Guardian* described the incident at the time:

Piazza said that Officer Gonzales next turned to the front of Piazza’s body and “lifted and was looking under my sacks and stuff.” Piazza confirmed that what he meant was that the officer lifted and felt around under his testicles... During the search, Piazza asked the officer if he was “fruity.” Shortly thereafter, Gonzales reportedly smacked him in the face, dislocating his jaw. Docs in Highland Hospital had to put it back in place. The photos of Piazza taken in the ER aren’t pretty. Despite the photographic proof, charges against the cop were eventually dropped because of a lack of corroborating witnesses – it was Piazza’s word versus that of the cops.

These are the men paraded as “angels” in times such as these.

24 <http://www.sfbayview.com/2009/police-2-oakland-residents-4/>.

25 <http://eastbaywestonline.org/2008/11/25/2331/>.

In short, there are those who are automatically guilty and those who are automatically innocent, those who are automatically heroes and, to use a term frequently applied to Lovelle Mixon in recent days, those who are automatically “monsters.” If the mainstream press was unwilling to make Oscar Grant a monster, it certainly did its part in digging up his police record and cultivating sympathy for Mehserle. The rest is left to the public, and as a recent commenter on the *San Francisco Chronicle* website puts it: “Mixon and Grant could interchange lives and there would be no difference. The only difference in their end is that Grant was taken out (however accidental) before he got a chance to murder someone.” And this comment, which has since been removed, was more than the ranting of an individual: by the time we saw it, it had received 250 votes from readers, more than any other response to the article.

As Crea Gomez has shown, even the Columbine shooters, who engaged in a premeditated massacre of fellow students, garnered more sympathy than has Lovelle Mixon, with a host of commentators struggling to grapple with what went wrong with these poor boys and to blame prescription drugs and bullying, while the very simple desire of someone like Lovelle Mixon to not spend one’s life in prison makes someone a “monster.”²⁶ Interestingly, a similar effort to explain the inexplicable is currently being deployed to explain the massacre of immigrants in Binghamton, whose deaths have not led to their killer being labeled a “monster.”

To the inevitable accusation of disrespecting the dead, we must respond with a simple question: *Where were you when Oscar Grant was murdered?* There are some who are automatically respected in their death; there are others who are automatically disrespected and, in the case of Lovelle Mixon, demonized by a racist police department and press complicity. While some see moral equivalence, there was a difference between Grant and Mixon: the latter was able to foresee his impending death and fight back, so as to not meet Grant’s fate of catching a bullet in the back.

Do the Right Thing:

New Start for Abolitionism in Oakland

BRING THE RUCKUS, OAKLAND

“Fuck the police,
hold court in the streets.”

—Turf Talk

The scene at the Fruitvale Bay Area Regional Transit station early in the morning of January 1st, 2009 is now familiar to millions: Oscar Grant, an unarmed Black man, laying face down with a knee on his neck, was shot at point blank range by a BART police officer. The cellphone and camera footage that were recorded and replayed electronically have become the basis for a murder trial and several lawsuits. The murder of Oscar Grant, seemingly before our eyes, is an image that, like the funeral photos of Emmett Till or the beating of Rodney King, will continue to resonate. Every new bit of footage adds to our understanding of what happened, both in the short life of Grant and in the long life of white supremacy in the United States.¹

For us, as part of a movement to abolish police and prisons and to change society, what happened on the other side of the cameras may have as much or more significance. It is important to look for a moment not at Oscar Grant or at the police who killed Grant and terrorized his friends, but at those who were on the BART train and what they did. Here is what we know about the multi-racial crowd of about fifty people who were in the BART cars at the Fruitvale platform at 2 AM²:

- They challenged the cops while Oscar and his friends were being detained. Taunts coming from the cars can be heard on the various tapes as the BART police harass the group of men - none of whom were ever charged with any crime, since there was no crime committed until the police arrived.
- They photographed and filmed the scene, using cell phones

and videocameras even before the shooting occurred. Most of the passengers, as with the police themselves, did not initially realize or believe that a shooting had occurred. The shock of recognition led to a change in the attitude of the crowd, which, until then, had not been directly confrontational.

- They continued filming. And then hid the cell phones and cameras from the BART police who attempted to come onto the cars and confiscate the evidence.
- They left the scene when the train doors closed and the train moved 3, shortly after the shooting, but they did not brush off what they had witnessed. Within hours after the first story about the shooting—the “official” BART version—appeared on local Bay area media, many of the passengers posted the evidence on YouTube and other “free” mass media and gave copies to local TV stations (at least one person sold their footage; another had their video footage confiscated by a BART cop).
- They appeared on TV programs to narrate the footage and challenge the BART version, which had been a variation of “Black youth fighting cops, goes for gun in waistband, is shot.”
- They posted comments on Bay Area discussion boards such as SFGate which were carrying the “official” story embedded within articles.⁴
- They have appeared in court, with further court appearances to come. In every case, either through their video footage or their oral testimony, they have disputed or destroyed the official police version of what happened at the Fruitvale BART station.

Why is all of this striking? Why should it pose a rebuke not only to standard sociological notions of what a “crowd” does, but also a challenge to current radical organizing in the Bay Area and elsewhere?

It should immediately catch our attention that the police let this crowd go. In violation of every basic police procedure, they let the witnesses

leave. In defiance of what even a six year old knows from watching one episode of Law and Order, they let the witnesses go. Any one of them could have disappeared into the anonymity of the Bay area. When they were not met by BART police or Oakland police at any of their further stops, it would have been obvious that that the police DID NOT WANT them to be witnesses. None of them had to come forward later. But they did.

Second, it must be repeated, the police did not want witnesses. No one reading the testimony of the BART police can draw any other conclusion - as did the first judge to see all of the videos and hear many of the witnesses - but that the police were initially confused after the shooting and did not know what to do. They knew how to harass and arrest a group of young men, but they did not know how to treat a gunshot wound or to secure a shooting site.⁵

This is also the conclusion of the Meyers Nave report. However, in the moments after the BART cops realized that one of their number had shot and possibly killed an unarmed civilian, they fell back on common knowledge among police: you can win in court against one or two eyewitnesses, especially if they were young men of color, but not against millions. Several cops attempted to confiscate the cellphones (which was of course illegal on their part, but as anyone from Iran to Oakland can tell you, that doesn't stop the cops) and to intimidate the crowd. Then they let the train go.

Third, within minutes after the shooting of Oscar Grant, it had become apparent, even to the still befuddled police, that what had been a "crowd" was becoming cohered by their actions into an angry collection of witnesses and perhaps more. At the preliminary hearing before a judge, one of the police attempted to argue that "she feared for her life" when she arrived at the Fruitvale station. When she stated that she was ready to shoot someone, the judge interrupted to ask, "Who were you going to shoot?"

Her non-response was equivalent to yelling in the courtroom. She wasn't really threatened, but merely attempting to justify the shooting. If the crowd became dangerous, it was because the police had just shot an unarmed man and were doing nothing to save his life. By letting the train go and not holding it on the tracks or at the later stations, the police were both dispersing the witnesses and doing what Richard Daley Sr. explained as the role of the police so many years earlier, "they were preserving disorder."

What can we learn from the actions of these witnesses?

All of them were united at first merely by being passengers on a BART train at 2 AM on New Year's Eve, probably because they were without the money to drive a car or pay a cab fare. They were on a train with Oscar Grant, but in the space of minutes they recognized him as brother, son, lover, friend, co-worker and father. None of them have come forth as political activists, journalists or anything other than the party-goers that they were, yet they challenge us. Without exhortation from any group other than each other, they did the right thing.

The first challenge is their demand for justice. Running throughout the words of those who yelled at the cops and those who came forward with footage are these phrases: "This isn't right. This isn't fair." A broad sector of the Bay Area community, led by African-American leadership based in Oakland, translated that initial phrase into demands. Those started off with "arrest the officer," jumped rapidly to "jail and arraign him, then put him on trial," and now, after winning those initial victories, have moved to "give him a fair trial, convict and imprison him." There exists, for the first time in most people's memories, the very real possibility that a uniformed police officer in California will go to prison for killing a civilian. In this case, a white cop who shot an unarmed, young Black man.

The challenge of the demand for justice is the choice it seemingly places before abolitionists. Those of us who argue against the continued existence of a prison industrial complex, whether we are members of Critical Resistance or not, have some explaining to do. How has it come about that we seem to support the Alameda County DA, Tom Orloff, who filed murder charges against Mehserle?⁶

Orloff (and the judge who held the preliminary hearing) were forced to take the position that was established in the streets of Oakland, January 7th, 2009: Justice for Oscar Grant. We are not taking the political position of the district attorney or the current rulers of Oakland; from Jerry Brown to Ron Dellums; rather, they have been forced to take up the political demands that arose in the street.

As to the question of whether it is hypocritical to call for a trial and imprisonment of an individual and simultaneously call for abolition of a system, we must answer: No. The movement, led by the African-American

community in Oakland, has always called for ‘justice’ for Oscar Grant, not for any particular punishment. From the beginning, the family of Oscar Grant held open the opportunity for Johannes Mehserle and BART to apologize or say that he made a mistake.⁷ The evidence of the South African Truth and Reconciliation Commission is also before us: the most oppressed have always been the most forgiving when mercy is asked for.

The defense strategy of BART, Mehserle, and the police around him has been to reject admissions of mistakes or that an atmosphere which led to the shooting was created, both by the training of BART police and the actions of individual police on the platform. As the trial proceeds, wherever that might be, there will inevitably be an attempt to point fingers everywhere but at the truth.⁸

Second, because of the refusal to admit any mistakes, the movement has insisted on equality of treatment. The rhetorical question “If I shot someone, what would happen to me?” has been raised at every rally and protest in the Bay Area, with the quick response: “I’d be arrested and facing trial.” Short of turning Mehserle over to the family and community for people’s justice, forcing the state to try its own guardians is the strongest position that the movement for abolition has achieved.

Further, placing a cop on trial for shooting someone, particularly an African-American youth, is a massive blow to the prison industrial complex, and all the more when this trial is itself the result of popular pressure from below. Put simply: the prison industrial complex was not created to cage white cops. The ability of police to function as police, particularly in a setting such as Oakland or any major U.S. city, depends on their knowledge that they can shoot someone without having it come back at them.⁹ Police without guns or police without the ability to use those guns almost whenever they choose - this is a real step towards abolition.

It should challenge us that a crowd of strangers on a BART train moved, in a matter of seconds, to become more radical than groups such as Copwatch. They would have confronted the police if they had been allowed to stay. They have done as much, with no acclaim, as anyone else in seeking justice for Oscar Grant. The basis for a new society lays in actions such as theirs.

(Endnotes)

1 More footage of the shooting and the incidents leading to the shooting will be shown during the upcoming trial. So far, because of the withholding of footage by BART police, among the few people who have seen all of the available angles and footage is the judge who ordered the murder trial based on his decision that Mehserle meant to shoot Oscar Grant. There are several articles that lay out the sequence of events that happened on January 1, 2009 at the Fruitvale BART station. The many shortcomings of the BART police are laid out in two reports commissioned by the BART board of directors, the Meyers Nave report and the NOBLE report. The public portions of those reports, along with reporting on their implications, are here: <http://blog.spot.us/2009/08/25/oscar-grant-shooting-report-lifts-veil-on-transit-police-work/>. For almost \$400,000, the board learned what the community attending their meetings for over six months had told them: BART police are incompetent, racist and their actions created the climate which led to Oscar Grant's death. One man is on trial, but, as these two reports make clear, a system created the conditions that led to the shooting.

2 This is not meant as a sociological exercise. We have not interviewed these people; all these observations are from the public record.

3 Almost nothing has been said about the actions of the BART train conductor/engineer. If she or he had been threatened by the alleged shoving match on the train or perceived a threat, they have not stepped forward to testify.

4 The first articles on Oscar Grant that appeared in SFGate brought forth thousands of comments. Among them were a flood of outright racist remarks. Among those who first responded to question or counter the "official" BART story were those who stated that they had been on the train that night. We corresponded briefly with two of them. Not surprisingly, six months later, when the potential jurors' survey was done by Mehserle's attorney, similar statements came forth, along the lines of 'One dead n----r. Good.'

5 There are a number of useful things to do by way of first aid to attempt to save a life when someone has been shot with a handgun. The police did none of them. Oscar Grant was struck at close range by both the .40 caliber initial shot and the ricochet; his chances of survival were minimal after the shot was fired. However, yelling at someone "Stay with me," as officer Pirone did, has no value. There was at least one paramedic on the BART train who would have provided assistance, but the police wanted the train gone. As well, they called for more cops, but they did not immediately call for an ambulance. Further, even if there had been attempts by qualified personnel on the train to step forward, there is no guarantee that the BART police would have allowed them to assist.

In a similar incident in Portland, Oregon in 1998, the police beat and pepper-sprayed Dickie Dows, then hand-cuffed him. He stopped breathing. Bystanders offered to begin CPR - the police threatened them with arrest. Dows died.

6 Orloff resigned 9/9/09, nine months before the end of his term. His hand-picked successor, Nancy O'Malley, was selected as interim DA on 9/15/09. She is now prosecuting Mehserle.

7 BART officials have issued written and oral condolences to the Grant family. As of this writing (10/19/09), BART has neither reprimanded nor punished any officer who was on the Fruitvale platform or anyone in the chain of command. Mehserle resigned. Others, including Tony Pirone, who struck Oscar Grant in the face, remain on "administrative assignment." No one within BART has received any sanctions for what happened. The head of the BART police, Gary Gee, who, a month after the shooting and after Mehserle's resignation from BART and arrest, had sent a memo to his officers informing them how to send food, books, and money to Mehserle, is resigning at the end of the year.

8 Mehserle's attorney, Michael Rains, has thrown forth conflicting theories to both the media and in court as to why the shooting occurred, ranging from the "Grant seemed to be going for a gun," which would justify the shooting, to "he meant to draw his Taser," which would draw Mehserle a "not guilty" verdict on a murder charge. This is the function of a defense attorney. As is common knowledge among criminal defense attorneys, your choices are obvious: If the facts are on your side, argue the facts. If the law is on your side, argue the law. If both are against you, pound your shoe on the table and throw up so much confusion that the jury won't know what to think. Or, in the case of a cop shooting, blame the victim. Rains is earning his considerable fee.

9 Kristian Williams' excellent book *Our Enemies in Blue* makes this case.

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