

From: Laham, Michael S
Sent: Wednesday, May 14, 2003 7:30 AM
To: 'nobrutality@cs.com'
Subject: Police Misconduct and Malicious Prosecution by the City of IRVINE, CA
May 14, 2003

To the Los Angeles Chapter of the October 22nd Coalition to Stop Police
Brutality, Repression, and the Criminalization of a Generation

We write to you because we thought you would be interested in knowing that we adamantly believe and have solid evidence that the Police Department of IRVINE, CALIFORNIA performed POLICE MISCONDUCT against us in the following manner:

- 1) We are victims of MALICIOUS PROSECUTION by the Irvine Police Department, which has cost us over \$5,000.00 for needless attorney expenses for a groundless, absurd and ridiculous charge.
- 2) We are victims of the Irvine Police Department's BREAKING THE LAW AND REFUSING TO GIVE US OUR LEGAL RIGHTS AS CITIZENS. They denied us a proper copy of a police report of a crime in which we were victims and would not refund us the money we spent for a proper copy of the above police report that they refused to give us.
- 3) We are victims of the Irvine Police Department's BIASED ACTIONS AGAINST US, which caused us TO BE FORCED TO MOVE out of the home we owned for 16 years.

Below is the text of our letter to the City of Irvine protesting our above mistreatment by the Irvine Police Department. Upon your request, we will be happy to furnish you with our evidence. Should we have to pursue legal action against the city of Irvine, we invite you and anyone who is a member of your organization or web site to attend any court actions, of the dates of which we will inform you. We very much appreciate any help and support you can give us!

Would you please post this outrage on your web site? Also, would you please let us know whether or not you are going to post this outrage on your web site? Also, if there is any you can do to help us, or any suggestions of what we can do about this outrage, please let us know in your response.

Most Sincerely Yours,

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----- TEXT OF LETTER TO CITY OF IRVINE -----

April 24, 2003

Allison Hart, City Manager
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SUBJECT: CLAIM AGAINST THE CITY OF IRVINE, DUE TO IRVINE POLICE
DEPARTMENT'S MISCONDUCT/MALICIOUS PROSECUTION

Dear City Manager Hart,

I write to contend that the Irvine Police Department committed malicious prosecution against me by charging me with a ridiculous annoying phone call accusation and therefore I demand reimbursement of the \$5,000.00 from the City of Irvine that I had to spend for attorney fees in my defense. If I do not receive a satisfactory response from the City of Irvine within two weeks of the date of this letter, I will pursue legal action against the City of Irvine for Malicious Prosecution.

According to California Government Code Section 9149.22(c), it is illegal for any employee of the city to perform malicious prosecution. According to California Civil Procedure Section 1021.7, malicious prosecution is a prosecution **not done in good faith**. The legal definition for Malicious Prosecution is a case that **"was pursued to a legal termination in plaintiff's favor, was brought without probable cause, and was initiated with malice."** This definition is from the case of Crowley v. Katleman (34 Cal.Rptr.2d 386, 390 (1994)) and Sheldon Appel Co. v. Albert & Oliker (254 Cal.Rptr.336, 340 (1989)).

1. Pursuant to the definition of malicious prosecution, the Irvine Police Department's case against me was **"brought without probable cause"** because the Irvine Police Department had no evidence against me. In police report DR 01-19823, in which I was wrongfully accused of making harassing phone calls, the victim and other people wrongfully state that

- a) I was stalking her.
- b) I am unemployed.
- c) I key cars.
- d) I do acts of vandalism.
- e) I make excessive noise.
- f) I take medication.
- g) I am forcing neighbors to move.
- h) I sent her "hate" mail.
- i) I made harassing phone calls to her.

I have evidence to prove that the above claims are false.

On 12/13/02 investigator Cristal Hayes, badge #5293 recommended that the District Attorney prosecute me for harassing phone calls **without ever even contacting me**. Had she contacted me, she would have learned via indisputable evidence that the above claims against me were false and that I could not have made any annoying phone calls to the alleged victim.

The only reason we even knew that the above case against me existed was because I received a letter from the District Attorney's office signed by District Attorney, Tony Rackauckas.

2. Pursuant to the definition of malicious prosecution, this case, Case # IR02HM00216, was **"pursued to a legal termination in plaintiff's favor"**. The District Attorney dismissed the charges on 6/28/02 without ever taking it to court.

The evidence that was presented by the District Attorney for the above case were two phone traces and a tape recording of the harassing phone calls. I could not have made those calls

at the time they were documented by the phone traps because I have evidence that I was at work at that time. The voice of the caller on the tape was not my own.

3. Pursuant to the definition of malicious prosecution, this case "**was initiated with malice whether expressed or implied, ranging anywhere from open hostility to indifference**". We have the following evidence that the Irvine Police Department initiated the above harassing phone call case against me out of malice.

The only evidence against me in the above case was a tape recording of sounds of

- a) someone munching potato chips,
- b) a child playing with a toy, and
- c) inaudible messages from someone who was mumbling.

How could items (a) and (b) be considered annoying phone calls when the content of the calls are not obscene, annoying, or harassing in nature at all? How can item (c) be considered an annoying phone call when I could not even make out what the caller was saying? Therefore, how could the victim make out what the caller said to discern that it was annoying?

Had anyone at the Irvine Police Department **listened** to the tape, they would have **easily** discerned that the caller's voice did not even sound like my voice.

Had anyone at the Irvine Police Department **contacted** me, they would have learned via indisputable evidence that I could not have made the alleged annoying phone calls.

The victim claims she received **repeated** calls in which she was called a "F***ing b***h whore. According to the police report, the F***ing b***h whore calls were made **after** the potato chip and child-playing-with-a-toy calls, so why does the victim not have this as evidence also on tape? In addition, where is the victim's evidence that annoying phone calls took place on the day the phone tracers were made? Why didn't the Irvine Police Department evaluate the validity of this case?

Some of the calls on the District Attorney's tape of evidence were **repeated**. They have the exact same date and time stamp. For example, Friday 6:45 PM is repeated on the above tape three times. Saturday 6:42 PM is repeated twice. Saturday 6:32 AM is repeated twice. The District Attorney's tape of evidence came from the Irvine Police Department. It appears to be tampered with, to make look like there were more calls than there actually were. Since the Irvine Police Department recommended this case for prosecution, why didn't they review the evidence to make sure it was accurate?

Investigator Cristal Hayes communicates in the police report that she is suspicious that I, Michael Laham, not only made harassing phone calls but also sent the victim "derogatory post cards." Why didn't she ever contact me to verify her suspicions?

We have the following additional evidence to claim that the Irvine Police Department is generally biased against me and my wife and therefore we believe they initiated the above annoying phone call case against me out of malice.

The Irvine Police Department refused to give us a preliminary proper copy of a police report DR 02-06198 that we requested. This report documented an incident in which we were victims, and we are legally entitled to have it according to Government Code Section 6254(f). Instead of giving us a preliminary proper copy of the above police report, they told us misleading information about our lawful rights to obtain a proper copy of this report per Government Code Section 6254(f) above. In addition, they refused to refund us our \$15.00 processing fee for this above report that they refused to give us.

On 9/19/02 we wrote to the Chief of the Irvine Police Department, Michael Berkow, requesting a proper copy of the above police report. On 9/25/02 we received a reply back from a Sam Allevalo. He wrongfully declared the following:

- 1) That my wife requested a "full" report. But in fact, my wife requested a "proper" copy.

2) That my wife received two copies of the police report already. But in fact, my wife received one copy, and that copy **only** had her own narrative in it and nothing else!

3) That my wife received all the information that was releasable to her as the victim of the above report. And that all other documents related to the case were considered "investigatory" and are exempt from disclosure per Government Code Section 6254(f).

Nowhere does it say in the above Government Code that we have to be a specific party, such as a victim, in order to obtain a proper copy of a police report. The actual text of Government Code Section 6254(f) states the following: "Records of complaint to...any state or local agency...shall disclose the names and addresses of persons involved in...the incident...statements of parties involved in the incident...and any person suffering bodily injury, property damage or loss, as the result of the incident caused by...vandalism. However, nothing in this division shall require the disclosure of the portion of those investigative files that reflect the analysis or conclusions of the investigation."

My wife did **not** receive her proper copy of the above police report from the Irvine Police Department. Instead, all that the copy, which the Irvine Police Department gave my wife, contained was **her own narrative**. She never got the information to which Government Code Section 6254(f) states that she is entitled. This would include the names and addresses of the suspect or statements of parties involved.

4) On 9/27/02 and 10/18/02, my wife requested **again** of Lt. Sam Allevato a proper copy of the above police report and told him that he had given us misinformation about the above Government Code. We **never received any reply** from him or anyone else in the Irvine Police Department.

This was not the first time that the Irvine Police Department refused to give us a copy of police reports that, according to the above Government Code, we are legally entitled to have.

On 10/17/01, 11/24/01, 1/24/02, and 2/20/02, we requested a copy of police report DR 00-7755 from the Irvine Police Department. On 1/14/02, and 2/12/02 we received responses back from Chief of the Irvine Police Department, Michael Berkow, declaring that we were not allowed to have a copy of the above report because

1) We were not suspects in it. However, nowhere does it state in the above Government Code that we have to be a certain party in order to receive a copy of the report.

2) The report is under investigation. However, the report was about two years old and we were not even requesting the investigative part of it.

3) We need to read the above Government Code to find out what kind of reports we are allowed to receive. However, the above Government Code states that we are allowed to receive records of complaint, which the above report was.

We believe that the Irvine Police Department is generally biased against us because of the following history we have with them and therefore we believe they initiated the above annoying phone call case against me out of malice. Although the following incidents are absolutely true, we only have solid evidence regarding some of them and therefore for our own legal protection we declare that the following statements below are based upon our own opinion.

We were forced to move out of our home that we owned for 16 years because the Irvine Police Department enacted double standards against us as reflected in the following incidents:

4/00 - A neighbor initiated untrue slander against us to other neighbors. Included in this slander were false accusations that we were doing criminal activity in the neighborhood and

to some of these false allegations we have proof that we could not have done them. Instead of the Irvine Police Department doing their job, they believed this unsubstantiated gossip. When the neighbors could not get us into legal trouble, they started committing criminal activity against us, backed by the Irvine Police Department's attempts to frame us.

8/9/01 - We were told by a neighbor that the Irvine Police Department knocked on our door at the ungodly hour of 2:00 AM because we had been blamed for putting a pile of dirt on someone's door step. On 8/10/01 a neighbor was screaming obscenities at us. So we called the Irvine Police Department out to our home, but the three Irvine Police officers, led by a Sergeant Davis, refused to speak to the neighbor because it was 10:00 PM even though he was home and awake.

8/22/01 - My wife spoke to a Sgt. Jeff Noble regarding making a complaint about the above double standard biased incident. During her conversation with him he expressed biased against my wife. In addition, he refused to answer her question as to why the Irvine Police Department came to our home at 2:00 in the morning regarding a harmless pile of dirt, but refused to speak to our neighbor who was screaming obscenities at her when it was only 10:00 at night and he was home and awake. **We have my wife's conversation with Sgt. Jeff Noble on tape, which substantiates that he was biased towards her.**

8/29/01 - My wife wrote Michael Berkow a letter of complaint regarding Sgt. Jeff Noble's bias against her. On 9/19/01 Michael Berkow responded by denying any bias from any of the Irvine Police officers who were involved in the above dirt incident.

12/3/00 - A neighbor filed a police report DR 00-23319 accusing us of spilling blue paint on his gate. We did no such thing. We were on a business trip in Seattle, Washington at that time and we have documentation to prove it. In addition, the neighbor stated in the above report that he does not even know our names and we do not even know him by face or name, yet the Irvine Police Department did not even question his credibility nor did they ever contact us for further investigation.

2/10/02 - Our downstairs neighbor was banging on the wall with his hammer at 3:00 every morning for a month. We asked him to stop banging so early in the morning but he continued to do so. We called the Irvine Police Department regarding this disturbance of the peace. An officer Fischer justified the neighbor's excessive noise by stating that he was deaf. I informed her that I have first hand experience with deaf people because my mother is profoundly deaf, and thusly deaf does **not** mean **stupid** or **inconsiderate**.

3/16/02 - A neighbor whom we don't even know was demonstrating threatening behavior and yelling obscenities at my wife for no reason right in front of our home. When we called the Irvine Police Department regarding this incident, an officer William Russell responded to our call by coming to our home with his siren on, invited himself into our home and told my wife that he thought she was lying about this neighbor harassing her. My wife and I refused to allow the officer to enter our home because we thought this was an unusual request, since no other police officer had ever made one before, and there was no apparent reason for him to come in. We believe his overall strange behavior was an attempt to plant false evidence in our home, especially since our case with the above harassing phone calls (Report DR 01-19823, Case IR02HM00216) was in progress.

4/7/02 - This same officer William Russell answered our call to the Irvine Police Department because our next-door neighbors were yelling obscenities at us and banging on our door. He attempted to accuse us of bothering the neighbors and threatened that we were going to get arrested for disturbing them!!! Officer William Russell also claimed that our downstairs neighbor said my wife was jumping up and down on the floor in our home making excessive noise. We believe he is lying because the downstairs neighbor is deaf.

4/8/02 - We wrote a letter of complaint to Michael Berkow that Officer William Russell was treating us in a biased manner. On 4/22/02 Michael Berkow responded to the above letter with denial.

4/5/02 - We filed a police report DR 02-06198 against our next door neighbor who vandalized our property, threatened to vandalize our car, threatened physical bodily harm to my wife, and was disturbing the peace with loud violent outbursts of screaming obscenities at my wife. We called the Irvine Police to come out to our home survey the property damage and speak to

our neighbor. Officer Peasley came to our home but refused to go talk to our neighbor.

4/11/02 - The next door neighbors were harassing us again. They repeatedly jerked our doorknob back and forth as if trying to get in and yelled obscenities at my wife through it. We called the Irvine Police Department, again, requesting they talk to our neighbor, but they refused.

5/16/02 - We wrote a letter to Michael Berkow Chief of the Irvine Police Department stating our concern that every police officer we contacted from the Irvine Police Department refused to go talk to our next door neighbor who was continually threatening us. We never received any response to the above letter from anyone at the Irvine Police Department.

After this, my wife refused to ever leave the house even to dispose of the trash or get the mail because of the violent threatening next door neighbors. Since the Irvine Police Department refused to do their job and even go talk to this neighbor, out of duress we moved.

Whenever we complained about a neighbor, the Irvine Police Department made excuses for the neighbor's behavior towards us and/or refused to talk to the neighbor. However, whenever a neighbor complained about us, the Irvine Police Department would write up a report.

Everything we state above is true. We will gladly furnish you with evidence upon your request. If you don't like this long letter, in our opinion you can blame it on the Irvine Police Department. We are forwarding a copy of this letter to the following media sources below. We will be inviting each and everyone of them to participate in any court action we will pursue if the City refuses to compensate us for the financial damage done to us as a result of the malicious prosecution by the Irvine Police Department.

Most Sincerely Yours,

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