

Michael and Elana Laham
P. O. Box 5248
Orange, CA 92863-5248
FAX: (562) 982-5711

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September 8, 2003

U. S. Senator Barbara Boxer
1700 Montgomery St., Suite 240
San Francisco, CA 94111
E-mail: senator@boxer.senate.gov

SUBJECT: POLICE MISCONDUCT AND MALICIOUS PROSECUTION BY IRVINE, CA

Dear Senator Boxer,

Thank you for your e-mail reply of September 2, 2003, to my story. I now write to furnish you with my written consent so that you can open a formal inquiry into this case. This written and signed (see bottom of this letter) request for assistance summarizes the problems we have had with the Irvine Police Department (IPD) in Irvine, CA. Their continuous bias against my family resulted in their malicious prosecution for a ridiculous charge of making annoying phone calls, which cost me \$5,000 in attorney fees to defend myself. And their continuous bias against my family forced us to suddenly move from the home we owned for 16 years, which cost us \$2,392.64 in emergency moving costs.

According to California Civil Procedure Section 1021.7, malicious prosecution is a prosecution not done in good faith. According to *Crowley V. Katleman*, 34 Cal.Rptr.2d 386, 390 (1994), and *Sheldon Appel Co. v. Albert & Oliker*, 254 Cal.Rptr 336, 340 (1989), "not done in good faith" is defined as a case that is 1) brought without probable cause, 2) initiated with malice, and 3) pursued to a legal termination in the suspect's favor.

The annoying phone call case was brought without probable cause because the content of the annoying phone calls consisted of someone munching potato chips, a child playing with a toy, and inaudible mumbling.

The annoying phone call case was initiated with malice because the IPD did not appropriately investigate the annoying phone call case, since they, per Investigator Cristal Hayes, Badge Number 5293, refused to even contact me. See Irvine Police Report DR 01-19823. I only learned of the charges against me through a letter dated 12/27/01 from the District Attorney, Tony Rackauckas, notifying me of my arraignment. The IPD presented as their evidence two phone traps on my home phone that occurred when I was at work. The IPD refused to listen to the tape that contained the annoying phone calls to verify that it did not even sound like my voice. The IPD tampered with the evidence because the tape that contained the annoying phone calls repeated the same calls multiple times by presenting the exact same date and time stamp over and over again.

The annoying phone call case was pursued to a legal termination in my favor. Although the IPD insisted the District Attorney's Office prosecute this case, the case never even went to trial because of a lack of substantial evidence. See the Minute Order of Orange County Superior Court case IR02HM00216.

The motive behind the above outrageously absurd annoying phone call criminal charge against me is a long history of bias by the IPD against our family. We were forced to move out of our home that we owned for 16 years because the Irvine Police expressed bias against us by writing up police reports against us without substantial evidence or credible victims. However, when we had to file a police report against a violent next-door neighbor, the IPD refused to contact him. We shared the same stairwell to our front and only doors with this violent next-door neighbor. Because the IPD refused to do their job, and would not even contact this neighbor who threatened to batter my wife and vandalized our property, out of duress we moved.

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The IPD never contacted us regarding three police reports DR 00-23319, DR 01-02842, and DR 01-18508 that non-credible neighbors filed against us. But when we filed police report DR 02-06198 against a violent next-door neighbor, the IPD refused to contact him.

In Report DR 01-02842, a neighbor believed TEN MONTHS after her car was vandalized that we did it and accused us of other vandalism. She asked the police NOT to contact us! Officer Velarde, badge #294, wrote up the report and never contacted us, even though a crime took place.

Had Officer Miller, badge #5278, who wrote report DR 00-23319 accusing us of vandalism, contacted us, he/she would have learned via our plane and hotel receipts that we were on a business trip in Washington State when the crime occurred.

Had Officer Clanin, badge #296, who wrote report DR 01-18508 accusing us of vandalism, contacted us, he/she would have learned via hotel receipts that we were on a weekend trip when the crime occurred.

On 4/5/02 we filed police report DR 02-06198 against the next-door neighbor who tried to batter my wife and vandalized our property. Officer Peasley came to our home but refused to contact him.

On 4/7/02 the same neighbor harassed us. Officers William Russell and Hung responded to our call by warning us that WE would get arrested if we bother the next-door neighbor!

On 4/11/02 the same neighbor harassed us and we found a photo on our car communicating intent to vandalize or steal it. We believe this neighbor put the photo there. We called the IPD, but no one contacted this neighbor.

After this, for fear of her safety, 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 and because the IPD refused to do their job. On 4/16/02, for fear of our safety, we moved, accumulating emergency moving costs of \$2,392.64 per hotel and storage invoices.

Our copy of DR 02-06198, stamped "Controlled Document" by IPD, contained ONLY our own narrative. In letters of 9/19/02, 9/27/02, and 10/18/02, we requested a PROPER COPY of DR 02-06198. In letter of 9/25/02, Lt. Sam Allevato refused to give us a proper copy, in which we were the VICTIMS, in violation of CA Government Code Section 6254(f). The IPD refused to refund us the \$15.00 processing fee. Does the IPD not want us to know that this neighbor is an ex-convict that they never contacted and so won't give us a proper copy of DR 02-06198?

Throughout this two-year ordeal of bias, we wrote many letters of complaint to Chief of the Irvine Police Department Michael Berkow that the Irvine Police was biased against us. Michael Berkow either denied wrongdoing or made no response at all. We still have these letters of complaint.

I sent complaint letters on 4/24/03 and 5/24/03, both by certified mail, to the City of Irvine. These two letters described how the Irvine Police Department committed malicious prosecution against me, in violation of California Government Code Section 9149.22(c), presented my claim of \$5,000.00 for attorney fees to defend myself against that wrongful charge, and described IPD's history of bias against my family. I also submitted a claim-for-damages form in person on 6/23/03. My claim was denied in a letter dated 6/19/03 from the City of Irvine. The 6/19/03 letter DID NOT EVEN ADDRESS the issue of malicious prosecution or police misconduct. The City of Irvine assigned a file number of S 139440 PC to my claim.

I am very dissatisfied because the City of Irvine never gave a reason for their denial of my claim and never indicated if any internal investigation happened in the Irvine Police Department.

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I have therefore filed suit against the City of Irvine for their police department's malicious prosecution. Suit is filed in the Small Claims Division of the Orange County Superior Court, Newport Beach facility at 4601 Jamboree Road, Newport Beach, CA 92660-2595. The case number is 03HS01988, and the hearing is scheduled Friday October 3, 2003, at 1:30 PM, in Department H10.

I hope that you will open a formal inquiry into this case. No one in California should be maliciously prosecuted for a ridiculous charge or driven out of their home that they owned for sixteen years.

Sincerely,

Michael S. Laham
SSN 556-29-0298