

Low Aid Proposed ASUC Structure Revised; On 'Urban Crisis' Replacement of UPFB

By SHARON FRUMKIN and DENNIS MAR
Regents Reporters

What We Must Do"—President Charles J. Hitch told the Board Regents in a lengthy report on the urban crisis at their open meeting Friday.

The report, "What We Must Do: The University and the Urban Crisis," covers three major areas—research, public service and education—as well as the University employment practices.

In hopes of reconciling the "urban crisis" in the University and the community, Hitch proposed a committee, including members of the academic Senate and student government, on the several campuses. Other proposals included increased funds for research and urban extension program.

Hitch sketched out the basic problems in his introduction: "The trouble of our time is rooted deeply in past inequalities and injustices, and we have to be serious enough to work for the elimination of the angry frustrations many, the indifference of many more, and the fears that are corroding the institutions of our democracy.

"This trouble will be with us until every man is allowed his full measure of human dignity," continued.

"More often than not, to be poor and to be the child of parents who have not had the advantage of education is also to be sick or to have a Spanish surname," Hitch pointed out.

Hitch also announced he has established in the office of the President the position of Fair Employment Coordinator, to be partly supported by extramural funds.

"We will need to be self-critical and understanding of other views. We know only too well the potential for violence that is in every man, including ourselves. Apathy and lack of vision have

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By STEVE DUSCHA
Staff Writer

Tentative agreement between ASUC Senate negotiators and the administration on a revised ASUC structure was announced Friday.

The agreement will set up a nearly all-student Activities Board to supervise traditional activities and an ASUC Facilities Board to

manage the physical assets and personnel of the Association.

The Senate will retain responsibility in such areas as education, community projects, the National Students Association, the Orientation Board, and the ASUC Housing Board.

The proposed Facilities Board will have seven student representatives

and five representatives of non-student groups. The Activities Board will consist of nine students and possibly one non-student representative.

The two new boards will replace the Union Program and Facilities Board (UPFB), composed of eight student representatives and nine representatives of non-student groups which presently has responsibility for administering all ASUC funds and the union complex.

Under the agreement an enlarged Senate of 30 students will be responsible for all other ASUC activities and will be guaranteed an income of \$55,000 a year by the Chancellor.

The \$55,000 is \$8,000 more than is presently allocated to the groups which will be under the authority of the Senate.

The agreement is contained in two memoranda as one, drawn up for the administration by William B. Boyd, vice chancellor for student affairs and the other for the ASUC Senate negotiating team by Ken Stahl, ASUC first vice president and Mark Lipton, chairman of the Student Community Relations Board.

The reorganization outlined in the agreement is not expected to take effect until January, 1969, by which time it can be approved by student vote.

Boyd and the Senate negotiators have agreed that graduate students will continue to be voting members of the ASUC "paying unequal fees until the new constitution is ratified and a plan can

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STAND UP, BE COUNTED . . . Before one of the largest crowds ever assembled on Sproul plaza, many of the 866 student draft resisters here stood up during the Vietnam Commencement Friday.

Alioto Talks On Cities At Noon

San Francisco Mayor Joseph L. Alioto will discuss views on urban problems at 12:10 p.m. today in the Heeler Auditorium.

His talk will conclude a series of lectures by prominent mayors in "The Future of Our Cities" sponsored by the Chancellor's Office, College of Environmental Design, and Institute of Governmental Studies.

Alioto, the son of an immigrant North Beach fisherman in San Francisco, worked his way through St. Mary's College, then earned a law degree at Catholic University in Washington, D.C.

Before entering World War II military service, he worked in the Anti-Trust Division of the Department of Justice. Since the war he has served as chairman of the San Francisco Redevelopment Agency and as a member of the Board of Education. He has been campaign leader for past mayors, such as John Shelley and George Christopher, as well as a candidate, the late Eugene McSteer.



JOSEPH ALIOTO
S.F. Mayor

Draft Resisters Are Honored At CDO Vietnam Commencement

By DEBBIE HEINTZ
Staff Writer

With all the dignity of a regular graduation ceremony, the Campus Draft Opposition's (CDO) Vietnam Commencement Friday honored the 866 male students who have pledged to refuse induction into the armed forces.

Standing beneath a painted banner reading "Vietnam Commencement," over 200 faculty members stood at the top of the Sproul Hall Steps facing an audience of almost 8,000 stretching back to the Terrace and Student Union, occupying every perch and cubbyhole on the roofs of these buildings.

Despite rumors that the program would be cancelled because of pressure on the campus administration from Gov. Ronald Reagan, the Commencement began on schedule at noon. Since it remained within the one-hour limit usually allowed for noon programs, there was no violation of campus rules.

Commenting upon the legality of the program, Earl Cheit, executive vice chancellor, said, "The meeting this noon was a good example of restraint by everyone concerned. It was an orderly meeting that stayed within campus rules. I am satisfied."

"I saw nothing that would indi-

cate that any action against the CDO was necessary," he added.

At a press conference in Los Angeles, Gov. Ronald Reagan said he would not comment on the Commencement until he had studied what transpired.

First, Reagan said, he wants to find out whether the program was "the type of meeting we voted they couldn't hold" or "just a free speech rally."

If the gathering on Sproul steps was just a rally, he said, then the students were only "guilty of their usual bad taste."

Before the end of the after-
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Sociologist Moynihan Speaks Today

Daniel Patrick Moynihan, former Assistant Secretary of Labor to John F. Kennedy, currently head of the M.I.T.-Harvard Joint Center for Urban Studies, and author of the still controversial 1965 Moynihan Report on the Negro family, will speak at noon today on Sproul steps.

His talk is being sponsored by the campus Students for Kennedy, and will be followed by an informal reception in the Stephens Lounge, Student Union.

Moynihan is one of a rapidly growing, but still small, group of "urbanologists" — scholars who have made it their life's work to study and improve conditions in America's cities.

Urbanology incorporates into one field a melange of academic disciplines — including sociology, economics, government, city planning, history, engineering and architecture. It deals with such varied urban problems as transportation, air and water pollution, police brutality, public recreation, lack of medical facilities, overcrowded and inadequate schools and rapidly burgeoning slums.



DANIEL P. MOYNIHAN
Urbanologist

ASUC Election Polling Starts Today; Voters to Choose All Officers, Senators

ASUC election will be held today through Wednesday. Voting will take place at six polling places across campus.

Eighty-three students have filed as candidates for the balloting which will elect new ASUC executive officers, Senators and class officers.

The candidates for ASUC President are: Bill Bennett, the New Slate; Chuck Everett, Independent; Danny Ihara, Anarchist; Edwin Munsen, Charlie Palmer, for a Creative Alternative (CCA); and Buddy Strick, Volition.

Contenders for the office of First Vice President are: Walter Caplan, the New Slate; Brian R. Galvin, Anarchist; Avram Katz; Dick Lerch, Doug Taylor, CCA; Stanley Douglas Taylor; and Doug

Turner, Union.

Those running for Second Vice President are: Ethel Chang, the New Slate; Jackie Harris; Mary Stewart, CCA; and Libby Sinclair, Union.

The four candidates for Student Advocate are: Sid H. Macias, Mexican-American Student Confederation (MASC); Charlie Perkins, CCA; Ron Pickard; and Bob Windsor, the New Slate.

In addition there are 40 candidates vying for ten vacant Senate seats.

Union; Don Severy, Committee

ASUC ELECTION
SUPPLEMENT

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'Free Huey': A White Man's View

'Nowhere to Run, Nowhere to Hide'

By HENRY WEINSTEIN

Just who is Huey P. Newton, the man whose case has taken on such paramount importance in the past several months? He is a 25-year old black man. He is the Minister of Defense and one of the founders of the Black Panther Party. He has been accused of murdering a white Oakland policeman, John Frey, on the morning of October 28, 1967. He, too, was shot—in the stomach—on the 28th. He is now imprisoned in Alameda County Jail, and is due to come to trial on June 10.

But Huey Newton is more than this—much more, and thus the significance of his case far transcends the "normal" case of a conflagration between a black militant and a white policeman. As Bobby Seale, Chairman of the Black Panther Party, puts it: "To us Huey P. Newton is a new Jesus. In the sense that John the Baptist preceded Jesus, Malcolm X preceded Huey. This is how deeply we feel." And because of these deep feelings, the fate of Huey P. Newton is a matter of grave concern to the black community. Fearing for his life, they have raised the rallying cry "Free Huey."

This slogan has created considerable public debate and much confusion. Most individuals in the white community, particularly students on this campus, who might be classified as "pro civil rights," are puzzled about the ramifications of the notion "Free Huey."

They contend that the slogan represents at the very least a lack of respect for the judicial process and

observe the police conduct as long as they stood ten feet away from the policeman while he was carrying out his duties. Thus, the Panthers were able to focus quite a bit of community attention on the activities of the Oakland Police Department. Not surprisingly the activities of the Panthers aroused considerable hostility within that department. The license numbers of all Panther cars were taken down by the police and individuals riding in these cars were subjected to considerable harassment by the police. Some of these disputes came to a head in May 1967, when the Panthers sent a delegation bearing unloaded shotguns to the state legislature in Sacramento. This delegation "protested the exploitation and oppression of the Afro-American community and publicly announced that henceforth such acts of oppression would not be tolerated." As time went on the harassment of the Panthers increased but their base of support in the Oakland ghetto also increased. As Hal Jacobs, graduate

similar to that of most black people in the country. I'm from a lower class, working class family and I've suffered abuses of the power structure and I've responded as black people are responding now, so I see very little difference in my personality than any other black person living here in racist America."

During February, the Panthers dropped the words "for self defense" from the official name of their organization. Newton explains this significant change thusly: "We ran into the problem of people misinterpreting us as political party. They use the words "for self defense" to define us a group that is para-military or body guards, or something of that nature. But we found that it was very difficult, even though in our program we described or defined ourselves as a political party, people seemed to misinterpret the definition of what self defense was all about. We realize that when we are assaulted in the community by the ges-

"Now for the evidence," said the King, "and then the sentence."

"No!" said the Queen, "first the sentence, and then the evidence!"

"Nonsense!" cried Alice, so loudly that everybody jumped, "the idea of having the sentence first!"

—Lewis Carroll, Alice in Wonderland



HUEY P. NEWTON
Minister of Defense, Black Panther Party

"Most individuals in the white community, particularly students on this campus, who might be classified as 'pro civil rights,' are puzzled about the ramifications of the notion 'Free Huey'."

perhaps an invitation to anarchy. These misimpressions are largely the result of a lack of knowledge about the Panthers and about the facts of Newton's particular case, and a lack of understanding about the meaning and significance of the demand "Free Huey." The inflammatory statements of the mass media, the Mayor of Oakland, and the Oakland Chief of Police have added heat not light to this question.

In this article I attempt to explore the various facets of the Huey Newton case, to put it into perspective with the general concept of black liberation, and to examine the difference between the slogans "Fair Trial for Huey" and "Free Huey." In short, I will argue that the "Fair Trial" position really does not come to grips with the issues and that Huey P. Newton is a political prisoner. Thus I support the demand "Free Huey."

I. NEWTON, THE BLACK PANTHER

Huey Newton's case is best put into context by first looking at the origins and nature of the Black Panther Party in Oakland, and by presenting some of Newton's ideas about the race relations in America. Shortly after the Watts riot in the summer of 1965 a group of black militants there formed the Community Alert Patrol. Its purpose was to patrol the Watts area in order to observe the way ghetto residents were being treated by the Los Angeles Police. The hope of the Patrol was that its efforts would help put an end to police brutality and would also serve an educational role by informing blacks of what their rights are when dealing with the police.

The need for a group like the Patrol has long been felt by the residents of Oakland's black ghetto. Early in 1966 the Oakland city fathers rejected a proposal for a Police Review Board, largely due to the lobbying of Oakland's Police Chief Charles Gains. It was against this backdrop that Huey P. Newton "and a handful of brothers" created the Black Panther Party for Self-Defense. Initially the major tactical device utilized by the Panthers was described as "armed self-defense of the Afro-American community against the white police force which was conducting itself like a rapacious occupying army." (See article by Richard Assegai in the January, 1968 issue of "Black Politics": A Journal of Liberation). The Panthers instituted "shotgun patrols" which patrolled the streets of the ghetto to observe police conduct, to prevent acts of police brutality, to inform blacks of their rights when dealing with the police, and "to preserve the community from harm."

As part of their efforts Panther leaders Huey Newton and Bobby Seale made a careful study of the California Penal Code which revealed that they could

in sociology here, commented, "The Panthers took the heat off the ghetto and put it on themselves." Since the group's inception, Huey Newton has been in the forefront of all their activities.

A good insight into some of Huey Newton's attitudes is given by the following comment he made explaining the meaning of the name Black Panther Party, which was originally used by the Lowndes County, Alabama, Freedom Organization. This and the rest of the remarks of Newton are quoted from a press conference he held on March 7 in the Attorney's Room of the Alameda County Jail:

"The Lowndes County Freedom Organization used the black panther as their symbol. They used the black panther because of the nature of a panther—a panther will not attack anyone but will back up first. But if the assailant is persistent, then the black panther will strike out and wipe out his aggressor thoroughly, wholly, absolutely, and completely. So we thought that the symbol would be very appropriate for us."

Although Newton has become a cause celebre, or perhaps because of it, he eschews talking about

"Huey Newton has laid his life on the line so that twenty million black people can find out just where white America is at."

himself in personal terms. I have the impression that he is attempting not to build a "cult of personality" around himself. When asked about his life before the Black Panther Party, he responded, "I think that before the Black Panther Party that my life was very

tapo tactics of the police, that is also a political thing. We are assaulted because we are black people, because the power structure finds it to their advantage to keep us imprisoned in our black community as colonized people are kept by a foreign power. So, the police is only an arm of the white power structure used very similarly to their military force. . . .

" . . . These police are used to occupy our community just as foreign troops occupy territory. The police don't live in our community, they have no respect for black people who do live in the community, yet they occupy the community. And they are not there occupying the community for the welfare and benefit of the people who live there. They are occupying it to make sure that the white businessmen who are systematically robbing our community are safe. So, this was part of our political stand—to make the Party basically clear for the intellectuals. The grass roots of the community, the people we're most concerned with, the lower class black who represents about 95 percent of the black population throughout this nation, understood very well what we stood for. But, to make it clear to every one we changed the name to the Black Panther Party . . ."

Huey Newton is very explicit when he talks about racism and violence and how these concepts have been distorted by the mass media. Concerning racism, he comments ". . . we're not racists. But we stand to protect the black community to rid America of racism. We're subject to the tactics of racists by the white establishment, but it's a very common thing for the people who are in control of the mass media to define the victim as a criminal, or to define the victim of racism as a racist. This is just a propaganda device that's used by the power structure so they will gain support throughout the white community, a small portion of which happens not to be racist. But to consolidate their troops, they will claim that we want racism, and therefore turn all white people against us."

In defending the practice of blacks arming themselves, Huey referred to Mao Tse-tung's assertion that "political power comes out of the barrel of a gun" and put it in the context of the racial situation in America. "Many people have spoken of violence or of our advocating violence. Well, we're not advocating violence. We're advocating that we defend ourselves from aggression."

Before organizing the Panthers, Newton attended night law school for a year and a half. One of the reporters at the March press conference asked Huey if he dropped his law studies because he was "disgusted with the system of law here." He responded: "Of course, I'm disgusted with the judicial system, but more than that I can only do so much, I can only be so many places at a certain time. And I felt it was more important to work to organize within the community than to continue law school."

II. HIS POLITICAL IMPACT ON BLACKS

The significance of Huey's case to the black community is vividly described in an editorial entitled "Huey Must Be Set Free" in the Black Panthers' newspaper:

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Why 'Free Huey' and Not 'Fair Trial for Huey'

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"Huey Newton's case is the showdown case. It marks the end of history. We cannot go a step beyond this point. Here we must draw the line. We say that we have had enough of black men and women being shot down like dogs in the street. We say that we have had enough of cops being set free with a verdict of justifiable homicide. We say that black people in America have the right to self-defense. Huey Newton has laid his life on the line so that twenty million black people can find out just where they are at and so that we can find out just where white America is at.

"We have reached the point in history where we must claim that a black man, confronted by a blood-thirsty cop who is out to take his life out of hatred for the black race, has a right to defend himself—even if this means picking up a gun and blowing that cop away. Make no mistake about it: that is where we are at today."

Perhaps the crucial factor in this case is that for a certain segment (an increasingly large segment) of the black community the only satisfactory result will be the total exoneration of Huey P. Newton—not so much being judged innocent but more importantly, being set free. That is not to say that this segment is opposed to Huey's being "judged innocent"; "Free Huey" means many things. However, for these people there is no question that Huey is innocent. He is believed innocent regardless of just what occurred (and

"That ole sayin', 'Them that's got are them that gets,' is something I can't see. If you gotta have somethin' before you can get somethin', how you get your firs' is still a mystery to me."

—Ray Charles, "Them That's Got"

no one really seems to know) on the night and early morning of October 28 when Huey allegedly killed Officer Frey. As the previously quoted editorial comments, "On the night that the shooting occurred, there were 400 years of oppression of black people by white people focused and manifested in the incident."

The basic reason why "Free Huey" and not "Fair Trial for Huey" is the rallying cry of the blacks is that in their opinion the judicial process merely represents another aspect of institutionalized white racism. Such a view is not surprising. Blacks have had nothing but bad treatment from the police; black defendants have consistently been convicted of crimes by juries which have systematically excluded blacks. Bobby Seale, Chairman of the Black Panther Party, refers to the "Fair Trial for Huey" position as the "old white liberal view." By saying this they are endorsing continued racism. The way the system is set up we can't trust the courts. . . . The power structure has had the power to maintain all white juries. We think it would be absurd to go the black community and just ask for a fair trial. Many of these people in the past have had associations with unfair trials. We want some new statements, some new action, leaving no stone unturned."

Recently, a significant step toward redressing this grievance was taken. Alameda County Superior Court Judge Spurgeon Avakian abolished an intelligence test for jurors on the grounds that it was culturally-biased against minority group members. There is little question that this step will make the system better. But merely throwing out a juror test is not going to be enough to restore the faith of the blacks in the judicial process. This lack of trust is expressed most poignantly by Mrs. Eldridge (Katherine) Cleaver, Communications Secretary of the Black Panther Party. "Asking whether a black man can get a fair trial in America is tantamount to asking if a Jew could get a fair trial in Nazi Germany, or whether Sitting Bull would have gotten a fair trial if Custer had lived."

The Grand Jury which indicted Huey P. Newton was hand picked by a white judge in Oakland. This grand jury consisted of eleven white middle-class, middle-aged individuals, and one Negro matron. The first count of the indictment charged homicide, the killing of Patrolman John Frey. The second count of the indictment charged assault with a deadly weapon, i.e., the shooting of Officer Heanes, the other officer present on October 28. According to the California Penal Code, before a defendant may be held to answer either of these two counts, some competent evi-

dence must be introduced before the Grand Jury that the defendant used a gun. No such evidence was introduced in the Grand Jury hearing, and as yet no murder weapon has been produced. The memorandum of Newton's attorney, Charles Garry, also notes, "Officer Heanes testified only that he heard shots coming from the 'direction' of defendant (Newton) at a time when defendant and Officer Frey were separated only by 'between an arm length or two arm lengths.'" (Newton was also shot at this time—in the stomach.)

Moreover, Heanes' "testimony did not exclude the possibility of others, in addition to defendant and Officer Frey, being in the same area the 'direction' from which he heard the shots. There was testimony that another unidentified individual, a passenger in the Volkswagen with the defendant, was also present."

Over and beyond the selection method and composition of the Grand Jury which made it suspect, there is the manner in which the Grand Jury failed to weigh the evidence and to deliberate before returning the indictment. The facts give considerable support to this assertion. The California Penal Code requires a Grand Jury to "weigh all the evidence submitted to it," to order further evidence to be produced if it has reason to believe there is other evidence that "will explain away the charge," and only to find an indictment "when all the evidence before it, taken together, if unexplained or uncontradicted, would in its judgment, warrant conviction by a trial jury."

In view of this statutory requirement, in view of the fact that no weapon was produced at the hearing, in view of the unclear testimony, it is rather astonishing that the Grand Jury, after hearing the evidence, convened only 27 minutes before returning the indictment against Huey Newton. Obviously, this is not the sort of action that builds faith in existing judicial processes.

III. WHY THE PEER SYSTEM IS INADEQUATE

Charles Garry has also challenged the grand jury indictment on the grounds that the U.S. Constitution guarantees a defendant the right to be indicted and tried by a "jury of his peers." The bedrock principle underlying the jury system (both grand and trial) is that a man should be judged by his "peers," in contrast to simply being tried by a judge or panel of judges. The debate on the meaning of the term "peers" is now a very heated one. In order to evaluate this debate, it must be noted that some of the assumptions underlying the jury system are no longer valid in the context of this case and others like it. Such a system assumes a certain kind of political structure, and a certain kind of society, a society where there is at least some fundamental notion of consensus as to what is fair.

Also, the system assumes that the concept of neutrality, that is the random selection of jurors, is the best means to effectuate justice. In the first place, there is nothing approaching a consensus in this society as to what is "fair." Moreover, neutrality (assuming its desirability) has not been the rule in cases involving blacks, particularly black political leaders, and it is unrealistic to think "neutrality" is anything more than an illusion in this case. The traditional legal notion of a jury of one's peers has been that it is a

"Huey Newton says that laws are made by mankind to serve mankind. And when they stop serving mankind they should be changed. And they stopped serving black people when we were put on the boats in Africa."

—Bobby Seale, Black Panther Party Chairman

cross-section of the geographic area in which the court has jurisdiction—in this case Alameda County, including Berkeley, Oakland, and Piedmont.

On the other hand, Bobby Seale eschews this notion. He says a peer is "one who comes from the same economic, social, religious, historical and racial background. . . . I think Huey should have an all-black jury. And by that I don't mean twelve Uncle Toms. . . . They would have to choose some of them mothers who have been working 20 years in Miss Anne's kitchen, scrubbing floors like my mother has done. They'd have to choose some of those hard working fathers, they'd have to choose some of those brothers who stand on the block out there wondering where they're going to get a gig. . . ."

"This is not racist. This is just to counter-attack all the racism on juries in the past—against black people."

It has long been recognized that excluding blacks from jury service because of their race is inconsistent with the doctrine of equal protection, and that the Constitution does not tolerate arbitrary discrimination against any political, social, religious, or geographic group of the community in jury selection procedures. (Thiel v. Southern Pacific, 328 U.S. 217 (1946).) However, it is also well established that the Constitution does not guarantee an accused the right to a jury

"This is a political problem—not just a legal problem—and thus one should expect political demands to be made. When opponents of the war in Vietnam demand immediate withdrawal they do not expect it will happen tomorrow; this is a means of demonstrating clearly and forcefully an attitude on an issue."

which contains members from all these various groupings, or even a single member of his race or sex. (Brown v. Allen, 344 U.S. 443 (1953).) Thus one can certainly conclude that Bobby Seale's opinion of what a jury of Huey Newton's "peers" should be is not congruent with the current state of the law.

Again I refer to Seale's remarks on the administration of justice in America: "Huey Newton says that laws are made by mankind to serve mankind. And when they stop serving mankind they should be changed. And they stopped serving black people when we were put on the boats in Africa." During a recent forum on "White Racism and Black Liberation," Richard Lichtman, assistant professor of philosophy, zoned in quite accurately on the problems of the jury system in a situation such as the Newton case. He asked, "What defines provocation? On whose threshold of provocation is the right to self-defense to be determined?" To answer this question, Lichtman noted the experience of whites and blacks in dealing with police is markedly different. "When a policeman approaches a white man he generally doesn't expect trouble; a black man in this situation does expect trouble. So in terms of a juror, whites don't have a 'sense' of how blacks react to a cop. Blacks have been killed by police when unarmed. The jury, however, comes out of the same context as the policeman. You know what the logic of the police is."

IV. THE IRRELEVANCY OF LEGALITY

Is the logical extension of these remarks that blacks should be tried by all-black juries? By my standards of "fairness" a jury of twelve blacks might not be the quintessence of objectivity in this case, but this certainly would not be any less desirable than a jury with no blacks, or token representation of one, such as on the grand jury that indicted Newton. But this simply brings into bold relief the fallacy of attempting to analyze the issues in this case from a purely legal standpoint. How is it possible to look at the case of a Black Panther accused of murdering a white policeman with any degree of objectivity? The Panthers simply say that Huey Newton is a "political prisoner." Considering his arrest in the context of his position, the work he was doing, and the harassment he had been subjected to, this assertion has considerable credibility.

In a recent interview with the Daily Californian, Elijah Turner, long active in Oakland CORE, commented on the Newton case, "Instead of the forces who are screaming 'Free Huey' throwing out slogans, they should be throwing out programs, tactical programs to free Huey. If rallies would free Huey, he'd be free now." Turner continued, "No one really knows who killed that cop. We have to have the power to change the whole attitude of the court. The Bobby Hutton case is a classic case of that. That's the reality of the situation."

Turner's analysis is fine as far as it goes. But rallies and slogans are just one part of the effort being made to free Huey. Everyone knows that the authorities are not going to just get up and free Huey. And anyone with any sophistication knows that Bobby Seale is not planning to use machineguns to get Huey Newton out of jail. The slogan "Free Huey" has been criticized on the ground that it implies going outside the judicial system and freeing Huey by force. This is a particularly unsophisticated analysis. The slogan can not be viewed in isolation from the efforts being made in Huey's behalf—including attorney Garry's defense of

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The Police, the Courts and Huey P. Newton

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Newton on the murder charge, and his lawsuit in the federal courts to quash the indictments against Newton and other Panthers on the grounds of racial prejudice.

Several critics seem to have the impression that the notion of "Free Huey" is a revolutionary one. This also is hardly the case. There is considerable precedent in the area of criminal law for releasing an individual because it has been determined that the circumstances of his case make a fair trial impossible, or that the trial, as held, was unfair, because certain constitutional rights were not insured. Examples of this include the areas of illegal search and seizure, wiretapping, unreasonable police interrogations of a suspect without counsel, and the prejudicial effort of pre-trial publicity in the news media. The cases of Escobedo, Miranda, and Sam Shepherd come to mind immediately.

It is to be noted that in this realm there are cases where a clearly guilty person has been exonerated because he could be convicted only if constitutional guarantees were denied. Let us recall the manner in which the Grand Jury proceeded; let us recall the fact that the Oakland press has already convicted Huey Newton; let us recall the recent vituperative statements made about the Panthers by Oakland's Mayor Reading and Police Chief Gain—the "Free Huey" demand looks increasingly more reasonable in this context.

Moreover, it must be emphasized that the demand "Free Huey" is phrased in an unequivocal way so that the desires and the intents of the persons using this phrase are absolutely clear. Proponents of the "Free Huey" position are committed to "freeing Huey by any means necessary." The lawsuit and the write-in candidacy of Huey for Congressman from the 7th District are presently among the "means necessary." This is a political problem—not just a legal problem—and thus one should expect political demands to be made. When opponents of the war in Vietnam demand immediate withdrawal they do not expect that it will happen tomorrow; this is a means of demonstrating clearly and forcefully an attitude on an issue.

Nor should one view the demand "Free Huey" in isolation from the totality of the Panther program and

the Black revolution in this country. Point 8 of the Panthers' platform, "What We Want," is "We want freedom for all black men held in federal, state, county, and city prisons and jails." Again it is obvious that the individuals who promulgated these positions do not expect this to happen overnight. It is a reflection of the discontent of all the injustices blacks have suffered in American society, including their treatment in the courts. There is a vast and important difference between ideal goals and expectations. In terms of fulfilling these expectations, there is the problem of developing support within the white community. Phillip Johnson, assistant professor of law, takes issue with the "Free Huey" position not only philosophically but strategically as well: "You have to win over support from a certain portion of the white community. 'The position (the advocates of the Free Huey position) you're taking that a black man is justified in shooting a white cop will make you a small group and things will get worse . . . This movement is likely to hurt whatever chances he has to get a valid legal defense."

" . . . The Free Huey campaign may make Huey Newton the first man to be railroaded into the gas chamber because of the efforts of the people supporting him."

At the moment it is too early to make an empirical analysis of Johnson's assertion. He may be absolutely right. However, it is hard to imagine that the efforts of the "Free Huey" campaign will be negative. If anything, this publicity has focused attention on the case that will make it subject to the most severe scrutiny. As Huey himself said in his jail press conference, "Well, I think that black people will make sure that I receive a fair trial."

The Panthers are a festering sore on the Oakland power structure. Hal Jacobs, graduate in sociology, has commented, "The Panthers are extremely dangerous to the power structure—much more dangerous than people starting spontaneous riots." The Oakland police are out to destroy the Panthers just as Bull Connor was out to destroy the protesters in Birmingham. Huey Newton and Eldridge Cleaver have been imprisoned, Bobby Hutton has been killed.

Yet the tide of dissent is rising: "You can kill a man but you can't kill an idea."

V. CONCLUSION

In view of Huey's harassment for a year by the Oakland police, his arrest, his treatment after arrest (he was manacled in the hospital while suffering from a severe wound), the manner in which he was indicted, the bad publicity and misinformation about the Panthers, and the inherent prejudices of whites, the slogan, and thus the expectation of a "Fair Trial for Huey" is a hollow mockery at best. Moreover, the "Fair Trial for Huey" slogan does not make people deal with the tough questions; it isolates the particular case and does not force individuals to come to grips with the broader issues of black liberation, and the need for re-examining the entire judicial process in the context of the racial situation in America. As an unidentified white male student succinctly observed at the recent campus forum on "Black liberation and White Racism," "We are going to define for ourselves new sources of authority because the old sources of authority are fraudulent. We don't want to accept their context when looking at this case. The 'Free Huey' slogan is chipping away at the structure and the context we are given."

Huey Newton was not indicted by a "jury of his peers." It remains to be seen if he will be tried by a "jury of his peers." It is safe to say that no jury of Huey Newton's "peers" has ever been impaneled in this country. If the legal system is to be administered in fashion that will make its results just and meaningful to those who are judged vast changes are necessary.

I can offer no prophecy of the results of the case. But if Huey P. Newton does not receive a "fair trial," we all had better turn on the record player and take a good listen to Ike and Tina Turner's "You should've treated me right; You wouldn't have to cry."

—Editor's Note: Mr. Weinstein is a second year law student at Boalt Hall and a Daily Californian reporter.

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