

P.O. Box 15071
Berkeley, CA 94712-6071
April 14, 2003

Terence Hallinan
Office of the District Attorney
Hall of Justice
880 Bryant Street, Room 325
San Francisco, CA 94103

Via facsimile: 415-575-8815

RE: Please dismiss all charges, Incident Number 03-0509

Dear District Attorney Terence Hallinan:

I am writing to urge the dismissal of charges with regards to a group arrest of at least 13-15 bicyclists. Arrests of the bicyclists began Thursday, March 20, 2003 at approximately 7:00 PM after a larger group peacefully travelled with other traffic on Interstate 80 (I-80). Reference incident number 03-0509. Police arrived after the majority of those who rode on the freeway had exited onto city streets. I was one of those arrested at that time, after being contacted by San Francisco police officers while I stood on the sidewalk videotaping as a video legal observer. I am a first-year student at the New College School of Law.

As far as I know, the bicyclists are each charged with one count of P.C. 647(c) or 647c. My citation states 647(c), which concerns disorderly conduct: begging alms. Presumably 647c was intended, concerning disorderly conduct: maliciously obstructing free movement.

I strongly believe that these charges should be dismissed on multiple grounds:

1) Even if bicyclists rode on the freeway, they did so legally. The group that rode on I-80 entered at the 8th and Bryant onramp which had no sign prohibiting bicyclists, and therefore such a bicycle ride was legal. While freeways can be illegal for bicycles, in fact over 1,000 miles of California freeways are open to bicycles (source, CalTrans). Such prohibition "shall be effective when appropriate signs giving notice thereof are erected upon any freeway and the approaches thereto." CVC 21960(b). The group was not charged with disobeying such a sign under CVC 21561(a), which one would have expected the CHP to do had there been such a sign.

2) The bicyclists did not violate P.C. 647c. Video evidence proves that bicyclists on the freeway did not "willfully and maliciously [obstruct] the free movement of any person" while riding there. The bicyclists were travelling at the

normal speed of traffic at the time, which allows them to occupy any portion of the roadway. CVC 21202(a). Bicycles are defined as traffic, with a legal right to use public highways. CVC 620. Even if the group was so obstructing others, they reasonably should have been given an opportunity to cease and desist any obstructive activity, e.g., after a warning or dispersal order. There was never an order to disperse. The primary case law I found relating to duration of violation before arrest under P.C. 647c was *People v. Man*, 114 Cal.Rptr. 237, 238 (Cal. App. 1974), in which arrests commenced "after a lapse of about two minutes" after warnings had been issued.

3) It is unlikely that police would have witnessed any crime being committed. Even if any crime were committed, which I highly doubt, police arrived after the majority of the group had exited the freeway. A helicopter did briefly observe one portion of the group just before it exited the freeway at the fourth and Bryant off-ramp. This very brief four-block ride could not have resulted in any significant delay for other highway users. Again, bicyclists were travelling as fast as motor traffic had been prior to the bicyclists' entry of the freeway.

4) The CHP and SFPD have a history of violating bicyclists' rights to our public highways. Numerous citations and arrests are well documented which resulted in not guilty findings. There are numerous complaints as well. To proceed to trial with these cases would surely involve discovery of this history.

Based on the information I have regarding thirteen of the fourteen or more arrested (one of whom was reportedly a minor, for whom I do not yet have any specific information), I strongly urge your office to please dismiss the charges for all who were arrested under this incident number (03-0509). Please also contact the CHP and request that they undertake a thorough training on the rights of bicyclists as well as proper handcuffing techniques. A number of arrestees, including myself, were given plastic cuffs which were affixed in a manner which was dangerously over-tight, cutting off circulation quickly and resulting in alarming pain, tingling, blueness and purple coloration to the hands. The CHP has not yet identified which officer did this, despite numerous requests. I requested at the scene that CHP officers be given a retraining.

Please contact me at your earliest convenience with any questions. I can be reached by telephone at either (510) 486-1528 (home) or at (510) 816-2453 (mobile).

Sincerely,

Jason N. Meggs
Bay Area Coordinator
Bicycle Civil Liberties Union