

Position Paper in Favor of Resolution Supporting the Abolition of Policing

Endorsements for the Propositions in the Resolution:

It is our responsibility to listen to the views of those for whom we advocate, the boots on the ground. The boots on the ground recognize the need for the principles set out in the resolution. The authors of the resolution identified the support in their citations. I add to their list the following endorsements for the propositions set forth in the resolution.

Houston Abolitionist Collective (HAC) – HAC is a coalition of approximately 50 Houston organizations that support abolition representing multiple 1000s of boots on the ground. The coalition reviewed and deliberated the propositions and voted unanimously to support all propositions set forth in the resolution. HAC also asked me to convey their appreciation for the work past and future of the NLG.

Peaceful Streets Project and Founder Antonio Buehler - Mission of PCP: “Through community organizing, engaging in non-political and non-violent direct action tactics, and utilizing new technologies, the Peaceful Streets Project seeks to bring about a cultural shift where individuals understand their rights and hold law enforcement officials accountable, and communities protect and serve each other.” Antonio Buehler responded “hell yes” to a request for his position on the propositions in the resolutions. A blog he wrote in 2017 revealing his lack of support for body cameras is also attached.

My personal position:

Confessions of a white woman who has been complicit in the white supremacy pervasive in our existing system of addressing harm.

Last night at about midnight, a single shot was fired in my neighborhood. This never happens. It’s a hippie neighborhood inspired by its most famous former resident, Willie Nelson. Peace, love and music reign. There are deer that we feed, not eat, a herd. I have named many of them. A single shot at midnight is not going to be a snake or any other harmful animal. It’s going to be someone shooting a deer in violation of “hunting laws”. I step outside to see if I can hear the sounds of humans with fireworks or a car that could have backfired or any other explanation. There is none. I know I can dial 911. I know that will mean a police car will be dispatched to patrol, possibly with a game warden and possibly a deputy. Ten months ago, this would have been my limit to abolition. Dr. Seuss – “I speak for the trees for the trees have no tongues.” I would have felt I had to call. I would have wanted any person

who harmed an animal prosecuted. But now, after 10 months of unrest while at home due to a pandemic have allowed me to read and to explore abolition in ways I could not find time to do before, I feel differently. And so, I posted on nextdoor to see if anyone else heard the shot or if perhaps it was a snake. I took lots of deep breaths, and I thought, I thought real hard. A neighbor asked me to call 911. I still thought. I did not call. In the morning, I posted this: "If there are any neighbors who are suffering financially and need help with food, please let us know. This is a hood that will help. I will. Private message me if you do not want to speak publicly." I will not call the police. I have been changed by this movement. I can see the more sustainable world. It's in our grasp.

For almost 30 years, I have been a cog in the wheel of the government system of oppression as a white woman and as a criminal defense/civil rights lawyer. My role within the system has been in the courtroom formally opposing prosecutors and city attorneys before judges - first in the U.S. Navy with an additional duty as a Special Assistant U.S. Attorney, second in private practice in Mississippi and finally in private practice in Texas. During this time, I have mitigated the damage caused by the system to some people, but that is all that I have done.

I have been complicit in the existing system pleading people guilty to charges. I have been complicit in the system in following its procedures including jury trials, bond hearings, and deference to the role of judges. I have been complicit in the system in seeking the assistance of white males within the white male supremacy instead of standing up to them and the system.

I have searched discovery and issued stacks of subpoenas looking for grounds for suppression of any evidence and discrepancies for use in cross examination. I have filed and argued motions, tried cases before juries. Almost always for Black or brown or indigenous clients. Almost always before white juries. None of this work advanced the cause of eliminating the harm that resulted in the criminal charges. All of these clients suffered arrest, jail and many suffered prison time.

I have watched hundreds of cop video meticulously looking for discrepancies or any issue for use in cross examination. In all the video I have watched in a long career, I have never had a video from cops that benefited my client.

I have advocated for reforms to politicians and lawyers in positions of authority within the system, similar to many of those suggested by mass defense members as they discussed this resolution - video on always, cop has no control over video, video transfers immediately to station, double -checks of vehicles to make sure the video is running before taking the car on patrol. None of these reforms will ever be effective

because the power to control the video is always ultimately retained by the oppressors.

Examples from cases-

1. GB steps out of a bar on 6th street in Austin and turns around to ask the bouncer why the bouncer pushed him. A police officer approaches from no-where to inquire about the argument. The bouncer just wants GB and friends to leave. GB's friends say they are leaving, but the officer cannot accept that answer. He clocks GB on the side of the neck, knocking him out. GB falls down, off the sidewalk to the concrete street. Not surprisingly his passed out arms are not behind his back where it would be easy to handcuff him. He falls on one of the arms. Two officers proceed to throw punches all over GB's body to get the arm so they can arrest the unconscious body that has not even committed a crime. They finally get the arms, and carry the completely limp body down the street with GB's panicked friends crying, "You've killed him. Police abuse," in the hopes of getting the attention of someone to help them but knowing there will be no one to help them because it is the police who attacked their friend, the police who might have killed him. 6th street has video from sky cameras called Halo that are supposed to capture every inch of the street, but miraculously, there is no video from Halo of this attack. GB is an upper level manager at a plant in Houston. He has never been arrested before. He grew up poor and worked hard to get to this position. He does not want anyone in Houston to know, but he recognizes that it would be best for the public for him to try to hold the police accountable. Through tears, this big strong man testified to what happened before he was rendered unconscious, to what his family suffered believing their husband and father might be dead, to what he lost most importantly in terms of innocent belief in the system. A civil jury was unable to hold the police accountable because there is no video of the initial confrontation.

2. CC was stopped for DWI, driving home around the corner from 6th street. She does well on her field sobriety tests, but the officer still interprets the test as a failure and takes her to the police station. There is a video from the police car where the obstinate young lady who knows she has been wrongly arrested and feels righteously powerful enough throws a proper temper tantrum in the police car. At the station, she continues to stand on her rights and refuses a blood draw. The officer drags her to a kill chair, lashes her arms and legs to the chair, puts a hood over her head so she cannot see and has difficulty breathing. She is now over the temper tantrum and has moved into sheer terror that she is about to be murdered at the police station. She screams for help; she shakes uncontrollable. An officer she cannot see because of the hood reaches to her neck and chokes her. His plan is to

make her still. Dead people are pretty still. She doesn't die. She lives to tell the story. First, she tells a criminal jury because the Travis County attorney refuses to dismiss, clearly fearing the civil suit. Their civil attorney watched the entire trial. The criminal jury finds her not guilty. But of course, the burden shifts in civil court. There is no video of the attack, and so again the civil jury is unable to hold the police accountable because there is no video of the attack. After this incident, Travis County instituted a "reform", creating a new policy - All blood draws are to be recorded. That was many years ago, I asked the local criminal bar to let me know if they were provided videos of blood draws pursuant to this policy. Lawyers have received video of filling in the forms or answering questions or being told their blood will be drawn, but nobody has advised they were provided with the actual blood draw. The "Man" controls that video.

3. Antonio Buehler, former military member, educator, and now founder of the Peaceful Streets Project, was filling up his car with gas on New Years' Eve 2012. He was the designated driver. There was a DWI stop in the parking lot of the gas station. The passenger said something to the officer and the officer charged over to her side of the car and yanked her out of the car. He twisted her arms behind her back as she screamed in pain. Antonio was shocked. He recognized the officer's maneuver from his military training as one used to break someone's arms. Shaking in fear actually, he pulled out his cell phone and pointed it at the officer. In his fear, he didn't get the phone to record. He asked the officer to stop harming the woman. When the officer finished handcuffing the passenger, he charged Antonio. As he arrested Antonio for nothing but asking him not to harm the woman, he claims that Antonio spit upon him and therefore charged Antonio with felony assault on a police officer. The officer manipulated the video and his testimony to the Magistrate about the video in order to support the false arrest. The officer video is incomplete because it does not depict the entire incident and the scuffle as the officer assaults Antonio interferes with the body cam or that's what the officer claims. Fortunately, a bystander on the other side of the street was also shocked and video-taped the entire attack on Antonio. Still, the civil case was tossed on qualified immunity.

As we launched into this season of uprising resulting from the continuous violence against Black and brown peoples, I found myself engaged with several groups who were supporting the movement and many activists on the ground. There have been many tears. Many times that eyes and ears have turned to me as the older and purportedly wiser lawyer. I have struggled with how to comfort and what advice to give, whether to advise to correct the current deficiencies, what if anything to reform, what tools to keep and continue to use (body cameras or grand juries). None of the answers I contemplated; none of the answers I gave...felt right, none felt like they would achieve freedom for the oppressed. None felt like they would resolve

harm. Then, I read the resolution that simply and firmly abandoned the entire system; abandoned all reform and gave real meaning to abolition. It's complete. It's simple. It requires no balancing, no support for any existing techniques. "All gone," we say to a 2 year old who finishes his peas, "all gone." That's what we need to say to the system. I'm honored to support this resolution.

In solidarity,

Daphne Silverman

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2017

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BODY CAMS WORK FOR CRIMINAL COPS. NOT FOR THE PEOPLE.

Body cameras help cops, not the people. There are a multitude of reasons. Off the top of my head:

1. Cops (and their prosecutors) get to review them to build a case. Defendants never get to do that. This allows cops and prosecutors to redraft affidavits to justify illegal and corrupt policing.
2. In most places cops get to choose when to turn on and off their cameras. In many places they can do the same with dash cams. The drug planting Baltimore cop videos that have come out over the past week are just a tiny glimpse into the corruption of policing that body cameras have been used as a workaround for (the cops screwed up, but those body cams have been used to throw likely dozens or even hundreds of innocent people into prison).
3. The camera is looking at it from the perspective of the cop. Studies have shown that people are much more likely to judge the person being filmed than the person filmed. This is why the most progressive places have prohibited interrogation videos that film from behind the investigators.
4. Victims of police crimes do not get to see the videos. They need lawyers to be able to get them. FOIA rules allow cities to endlessly suppress video, especially if it is "part of an investigation" that they are dragging out.
5. Even when video shows the cops doing wrong, it doesn't matter. Cops still get away with their crimes. But if it shows the people doing anything marginally questionable they get nailed to the wall. The only type

of cameras we support are those in the hands of the people, pointing at the cops, with no ability for the police to “lose” or suppress the video.

6. There have been some great articles written by folks on the ground highlighting how body cameras are a way for cops to act like they're being oppressed with constant surveillance when they're just trying to “protect and serve,” while politicians can beat their chest and say that they're doing something to rein in out of control cops. It is a way to make people think, “finally, something has been done — now I can stop paying attention to terrorist policing.”