

The Oscar Grant Committee

Against Police Brutality and State Repression

web: www.oscargrantcommittee.org • email: oscargrantcommittee.ogc@gmail.com

September 22, 2015

U.S. Attorney General Loretta Lynch
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
askdoj@usdoj.gov

OPEN LETTER TO THE U.S. ATTORNEY GENERAL

Dear Attorney General Lynch,

We understand you will be visiting Richmond, California on September 25, 2015, as part of your effort “to alleviate an epidemic of mistrust between citizens and law enforcement.”

We hope that you will look into the case of Richard “Pedie” Perez, an unarmed young man who was shot dead by Richmond Police Officer Wallace Jensen on September 14, 2014. Although the Contra Costa County District Attorney has called this a “justifiable homicide,” it is clear that evidence and witnesses were ignored in reaching this conclusion. It is also clear that the police and DA’s office are withholding evidence and denying the facts.

The Perez family appealed to the Richmond Police Commission for an independent investigation, but the City Attorney denied this appeal in an edict described by the former Chair of the Police Commission as follows:

“This edict is not only out of order, it’s absolutely reprehensible for the City Attorney to suggest that investigations into police shootings by the District Attorney and police department render independent citizen review unnecessary, especially in a city that established a board specifically for that purpose.” (see enclosed)

This denial of justice to the Perez family has contributed to a growing sense of distrust of the police in Richmond and surrounding Bay Area communities.

We are enclosing some background material on the Pedie Perez case so that you may form a clearer picture of this miscarriage of justice in the City of Richmond.

Sincerely,

The Oscar Grant Committee Against
Police Brutality and State Re[ressopm

ATTACHED: Background Materials

BACKGROUND MATERIALS

**Sent to U.S. Attorney General Loretta Lynch in preparation
for her visit to Richmond on Friday, September 25, 2015**

Background and Supporting Materials exposing the systematic cover-up of the murder of Richard Pedro “Pedie” Perez III by Richmond Police Officer Wallace Jensen on September 14, 2014. Pedie was 24 years old and the only son of Rick and Julie Perez. Pedie was unarmed and not guilty of any crime. Local officials have blocked the efforts of the Perez family to expose the truth and obtain justice in the murder of their son.

1. Open Letter to the U.S. Attorney General (1 p)
2. List of Background Materials (1 p)
3. Executive Summary (1 p)
4. Leaflet: Justice for Pedie (1 p)
5. Leaflet: The DA Calls it “Justifiable Homicide” (1 p)
6. East Bay Express Article “Two Eyewitnesses Contradict Cop” (2 p)
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8. The Killing of Pedie Perez (2 pp)
9. Editorial: Justice Denied in Richmond (2 p)

**“I just want flat out justice . . . If the facts are that the cop did
what I think he did, well, we don’t need cops like that.”**

— Rick Perez, Pedie’s father

For more information about Pedie and his case, see:

**View the YouTube Video of the Pedie Perez shooting at
<https://www.youtube.com/watch?v=RRA9oQmVgb4>**

The website maintained by the Perez Family: www.justice4pedie.com

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Executive Summary

Richard Pedro “Pedie” Perez III, 24, a white male, was shot dead by Richmond Police Officer Wallace Jensen on September 14, 2014. Mr. Perez was unarmed and not guilty of any crime other than intoxication. Within hours, Richmond Police Chief Chris Magnus issued a statement stating that Mr. Perez attacked Officer Jensen and attempted to take his gun. This police statement was immediately disputed by the Perez family and eyewitnesses.

On January 20, 2015, the local District Attorney cleared Officer Jensen, calling this a “justifiable homicide.” This finding has been criticized as being based on false and misleading statements. The Perez family appealed to the Richmond Police Commission for an independent investigation, but the City Attorney denied this appeal, citing a lawsuit the Perez family has filed in civil courts.

The Perez family is turning to the U.S. District Attorney and the Department of Justice for justice in the police shooting of their son. Specifically, they are asking for:

1. A full and impartial hearing to establish the facts of the case and clear the good name and reputation of their son,
2. The disarming and dismissal of Officer Jensen from the Richmond Police Department as a threat to public safety, and
3. Criminal prosecution of Wallace Jensen for the murder of their son.

JUSTICE FOR PEDIE

"I just want flat out justice . . . If the facts are that the cop did what I think he did, well, we don't need cops like that."

– Rick Perez, Pedie's father

The Perez family is still grieving over the death of their son, Richard "Pedie" Perez, who was shot and killed by Richmond Police Officer Wallace Jensen during the early hours of September 14, 2014, outside a liquor store in Richmond's rough Iron Triangle district. "Kids out here are getting shot up all the time just by drive-bys and stuff," said Rick Perez. But no one expected that Pedie would be killed by the very police who are sworn to protect the public,



Richard 'Pedie' Perez

Within hours of the killing, Police Chief Chris Magnus released an official report saying that Perez was "aggressive" and reaching for the officer's gun. "The suspect grabbed and held on to one of the officer's hands, while using his other hand to simultaneously go for the officer's gun." However, police and eyewitnesses give conflicting accounts, so that what actually happened that fateful night is still unclear, months after Chief Magnus promised "the greatest degree of transparency possible involving this critical incident."

What is clear is that 24 year old Pedie Perez, described as Latino but his family identifies as White, is dead, shot by police but guilty only of intoxication and resisting a police officer. "The killing of an unarmed man by a Bay Area police officer last week deserves equal attention to other controversial examples of cops using deadly force," the victim's father said, referring to the massive protests in Ferguson and around the country.

"It's a unique time in our country," said Attorney John Burris, who represented the families of Oscar Grant and many other grieving families, and is now representing the Perez family in a federal wrongful death lawsuit. "The object is to turn that into something positive." "Have no doubt [Perez] was resisting [arrest], but he was not

threatening," Burris said. "That's no justification for shooting anyone. Period."

An unidentified woman who was with Perez just moments before the incident agreed with Burris: **"That boy don't hurt nobody. He might have been drunk or whatever, but there's no use for that police officer to even have a gun pulled on that boy."** Another witness said that: "From this point on I don't think nobody is going to look at cops the same way."

Richmond is not Ferguson. A decade ago, Richmond was little more than a company town run by Chevron and known as the most dangerous city in California. In 2006, Richmond hired a liberal, openly gay Police Chief, Chris Magnus, from Fargo, ND. Described as the antithesis to the rugged cop archetype, Chief Magnus has dramatically reduced crime rates in Richmond with his community-based, crime-fighting model. As a result, Pedie Perez is the first person killed by Richmond police since 2007, but police from other jurisdictions have killed six people in Richmond during this period.

At the same time, Richmond has seen a political transformation led by the Richmond Progressive Alliance, so that the New York Times wrote in 2013, "This small, blue-collar city best known for its Chevron refinery has become the unlikely vanguard for anticorporate, left-wing activism in recent years, having seized the mantle from places like Berkeley, just south of here, or San Francisco, across the Bay."

All of this can bring little comfort to the Perez family unless there is justice for their only child. **We believe that the people of Richmond want to stop police violence and support the national movement inspired by the killings in Ferguson, MO and Staten Island, NY.** But even the most enlightened police force will not prosecute one of its own unless the people demand it. That's why the Oscar Grant Committee is holding a Rally outside the Richmond City Council meeting on Tuesday, March 17, 2015. Join us in the struggle to achieve justice for Pedie Perez.

JOIN US—DEMAND JUSTICE, FIGHT FOR IT.

We meet at 7:00 PM on the First Tuesday of every month at the
Niebyl-Proctor Marxist Library
6501 Telegraph Avenue in North Oakland

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The Shooting of Pedie Perez

The DA Says “Justifiable Homicide” • Ignores Evidence and Witnesses

On Jan 20, 2015, the Contra Costa County District Attorney’s office released a 3-page report completely exonerating Officer Wallace Jensen of any wrongdoing in the shooting of Pedie Perez:

“We conclude that ... the officer acted in lawful self- defense, Based on our review, we believe the officer’s actions constitute Justifiable Homicide.”

However, **the District Attorney’s report contains too many false and misleading statements to be taken at its face value as a fair and objective report on what really happened during the early morning hours of Sunday, Sept 14, 2014.**

The first glaring misrepresentation is the DA’S assertion that Pedie initiated the violence: **“The evidence indicates that Mr. Perez, who was very intoxicated at the time of the incident, instigated the attack on the officer.” THIS IS FALSE.**

According to Officer Jensen’s own testimony at the Coroner’s inquest (Dec 10, 2014), it was Jensen that attacked Perez while Perez was walking away:

While Jensen tried to contact another officer on police radio, he said Perez got up and walked away, even though the officer said he had told Perez he was not free to go.

“Fuck this. I’m out of here,” Jensen said he recalled Perez saying.

Jensen grabbed Perez from behind and swept out his legs, knocking him to the ground, he said.

Perez got back to his feet. The officer said he radioed for backup and knocked Perez down again, this time from the front with something like a “judo throw.”

Did Pedie Perez grab Officer Jensen’s Gun?

The District Attorney writes that: “Officer Jensen testified that during the fight Mr. Perez grabbed the officer’s holstered firearm and attempted to remove it. The officer said that he believed that he was in a fight for his handgun, and that he shot Mr. Perez before Mr. Perez was able to get the gun from him and use it against the officer. **No information was developed which would refute the officer’s description of the events.”**

Again, this is false. There is information that refutes Officer Jensen’s description of events. The District Attorney just refused to consider it.

Within days of the shooting, the Perez family disputed Officer Jensen’s account:

“The family of a man shot and killed by a Richmond police officer last week believes the officer is lying about what happened.” “Relatives of Richard “Pedie” Perez say **witnesses dispute the officer’s claim that Perez tried to grab the officer’s gun during a struggle outside a liquor store. They said the officer should be prosecuted for murder.** “ CBS News, 2014-09-17

Clearly, there are two narratives about what happened during the Perez/Jensen shooting.

The first is Officer Jensen’s. Unlike the other witnesses, Officer Jensen was sequestered at a local hotel and met with his attorney from the Legal Defense Fund before giving his statement. This was accepted without question by the District Attorney.

The second narrative is given by civilian eyewitnesses at the scene, which are ignored by the District Attorney.

However, as Chief Magnus notes, “During any critical incident, different people see or perceive things differently.... **The job of a good investigator is to evaluate all the evidence, assess the credibility of the witnesses, and reach the best possible conclusions.”**

Instead of a careful evaluation of ALL the evidence, the District Attorney simply ignored the eyewitness reports and said they didn’t exist.

The Oscar Grant Committee is in process of gathering evidence and interviewing some of the witnesses in this case. **None of the witnesses report Pedie making any efforts to take Officer Jensen’s gun, and none of them believe that the shooting was justified.** When specifically asked, **“Did Pedie try to reach for the officer’s gun?” Witness #1 replied: No, I didn’t see him.**

Clearly, the report of the District Attorney is inadequate, and we do not know if the police report will be any better.

Officer Jensen was returned to full patrol duty just a few weeks after the shooting, before any official investigation was completed. This is a clear indication that officials already knew the outcome of their investigations before they even began.

Officials have selectively released information supportive of Office Jensen and damaging to Pedie Perez, even slanderous.

Some may think that the Richmond Police Department is just doing a good job of public relations.

Police shootings are not just a PR problem. They are a matter of justice, and justice requires truth.

The Way Forward

With a progressive City Council supported by grassroots organizing, even taking on Chevron, one of the world’s largest and nastiest corporations, the City of Richmond has gained national recognition for progressive social change in a number of areas, including policing.

We look to the City Council and people of Richmond to take a leading role in ensuring that the truth comes out and that justice is done in the case of the shooting of Pedie Perez.



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Two Eyewitnesses Contradict Cop in Police Killing

Witnesses Steven Clark and Mohammed Delik say they never saw Pedie Perez grab for Richmond police Officer Wallace Jensen's gun before Jensen shot Perez to death.

In the early morning of September 14, 2014, 24-year-old Richard "Pedie" Perez III was shot three times through the torso by Richmond police Officer Wallace Jensen in front of Uncle Sam's Liquors on Cutting Boulevard. Perez was unarmed at the time, and the killing was the first involving Richmond police in seven years. An investigation by the Contra Costa County District Attorney's Office completed in January concluded that Officer Jensen acted in self-defense and that his actions therefore constituted a justifiable homicide.

The conclusion was based on Jensen's assertion that Perez grabbed the officer's gun during their physical altercation. "The officer said that he believed that he was in a fight for his handgun, and that he shot Mr. Perez before Mr. Perez was able to get the gun from him and use it against the officer," reads a report written by Contra Costa Deputy District Attorney Barry Grove that was addressed to Richmond Police Chief Chris Magnus. "No information was developed which would refute the officer's description of the events.

"Officer Jensen testified that during the fight Mr. Perez grabbed the officer's holstered firearm and attempted to remove it," the report adds. "Once he had disengaged from Mr. Perez, Officer Jensen said he had his weapon at 'low ready' when Mr. Perez lunged at him and the officer fired his weapon one time. Mr. Perez then charged at him again and the officer fired his weapon two more times."

But two eyewitnesses — a customer walking into the store during the altercation and a clerk at Uncle Sam's, both of whom are shown in security footage watching the events unfold — said they never saw Perez grab the officer's gun during the altercation. Investigators from the Contra Costa County District Attorney's Office interviewed both eyewitnesses following the incident, and both men said they told law enforcement officials that they did not see Perez grab Jensen's gun or try to remove it from the officer's holster.

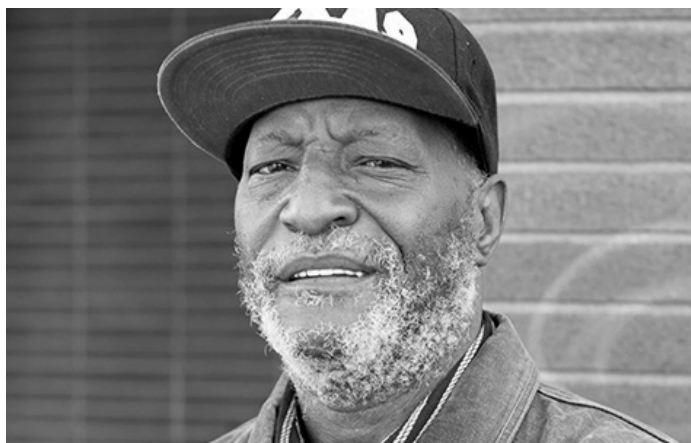
The first witness, Steven Clark, was stopping into Uncle Sam's on his way home from work. Clark said in an interview with the *Express* that as he pulled up to Uncle Sam's, he saw Officer Jensen "put" Perez on the ground with Perez's hands behind his back. Clark said he recalls that Perez's friend told Perez at the time to stop resisting arrest, and that Officer Jensen told Perez's friend to back up and that he didn't need any help making the arrest.

Clark said he kept walking into the store, not wanting to get involved. He said that from the doorway, he saw the officer

"with Pedie [Perez] still on the ground. ...The way they were struggling, [Perez's] hand might have slid up the side of the officer because he was struggling, but he couldn't reach the officer's gun or anything because the officer had him pinned down.

"Like I told the officer [who questioned Clark after the incident], his hand might have slipped on the gun while they were tusslin', but [Perez] was still face down. He was always face down when I was seein' him."

Clark said he took several more steps inside the store, and then looked back through the store window to see Officer Jensen backing up and firing his weapon. "All of a sudden I see the officer backin' up, shooting," Clark said. "I said to myself, 'He must have shot him [Perez] in the legs or something.' Instead, Clark watched Perez stumble into the store, doubled over, holding his chest, walking toward Clark and eventually falling to the ground. "He never moved again," Clark recalled.



Steven Clark.

Although Clark said he did not have a clear view of Perez for about a second before Perez was shot (he said he could only see Officer Jensen from the window after he walked into the store), Mohammed Delik, the store clerk, said he was watching the entire time. Speaking through an interpreter, Delik, who said he had earlier asked Officer Jensen to escort the intoxicated Perez home, told me that he never saw Perez reach for the officer's weapon during the altercation. "I didn't see [Perez] reach for the officer's gun," he said in Arabic through an interpreter. "And I was standing in the doorway the entire time."

Delik's recollection of what happened before the shooting differs from that of Clark, however. Delik said he remembers the officer tackling Perez from the front, at which point, Perez landed on his back and he and the officer struggled face-to-face. Delik said he then saw Perez push the officer off of him and raise his hands, which is when the officer shot him. Delik said this is what he told both officials from the District Attorney's Office and the Richmond Police Department after the incident. It differs from the report's assertion that Perez lunged at the officer.

Delik said he never thought the situation would escalate to such violence when he asked the officer to escort Perez home. He said that although Perez was resisting arrest, he felt the officer's use of force was excessive, given the circumstances. And, as someone who watched the incident unfold, he felt the officer had alternatives. "After this incident, I don't feel I can trust the police," he said, also explaining that he feels guilty about the event.

It's also unclear whether Delik could express himself completely or understand all the questions law enforcement officials asked him after the incident. Delik, who isn't fluent in English and needed an interpreter when he spoke to me, said he didn't have one while being questioned by the district attorney or police. He said he didn't understand all their questions, and wasn't exactly clear about who was questioning him at the police department.

For his part, Deputy District Attorney Barry Grove, who oversaw the investigation, maintains that Clark and Delik's accounts do not refute Officer Jensen's version of the events. Grove said in an interview that, according to his records, Clark told investigators that he walked by the fight and "couldn't tell one way or another whether Perez grabbed the officer's gun." According to Grove, cellphone footage supports Officer Jensen's assertion that Perez and Jensen struggled face-to-face before Perez was killed. Grove, however, said that Clark's interview transcripts and the cellphone footage are not available to the public, because he said the investigation is still active.

"Are we actively doing anything? No, we're not," he admitted. "But an investigation is technically ongoing until the statute of limitations runs out."

Grove also maintains that Delik had an obstructed view of the altercation, making him unable to determine whether Perez attempted to strip Officer Jensen of his gun. Grove said that the fact that Delik did not see Perez grab the officer's gun doesn't mean that Perez did not do so, adding that witnesses' memories of the events erode over time and can become influenced by community pressure.

Grove also noted that in order to prosecute Jensen, Delik's account must prove "beyond a reasonable doubt" that the officer wasn't acting in self-defense. "Delik not seeing Perez grab the officer's gun is as useless as me saying I didn't see Perez grab the officer's gun," Grove argued.

Regarding Delik's language barrier, Grove asserted that Delik was able to express himself to law enforcement officials, and that if Delik did not understand the investigators' questions, he should have said so. "He had the option to ask for clarification," Grove said. "If he kept it to himself, there's not much we can do about that."

John Burris, a civil rights attorney representing the Perez family in a civil lawsuit against Officer Jensen, said he gives "very little credit to the DA's report. The DA will always favor the police, and if they can discredit individual witnesses, that's what they'll do."

Burris said that soon after the incident, his office interviewed many of the witnesses at the scene, including Delik and Clark, and that these witnesses all saw different aspects of what transpired. Burris said that each witness consistently supports the assertion that Perez never grabbed the officer's gun. "It seems that the officer overreacted," Burris said. "This is a situation where an officer created a conflict and then shot his way out of it."

And Delik's version of the story, Burris emphasized, has remained consistent in his version of what happened from the beginning. Delik told the same story he told me to the *Contra Costa Times*, in a report published last week that did not include an interview with Clark.

At a recent Richmond City Council meeting, members of the community expressed their sorrow and frustration over the loss of Pedie Perez. Many were concerned about what they felt was a lack of transparency in the investigations by police and the district attorney. "The key to good policing is having a good relationship with the community," said Mike Parker, a 2014 Richmond mayoral candidate and a member of the Richmond Progressive Alliance, during public comments at the council meeting. "In the case of the Pedie Perez death, that confidence is being badly shaken."

"We have to assume that there should be a thorough investigation that convinces the community that whatever took place was justified or at least carefully examined — and that hasn't happened," he added.

Both a civil and an internal police investigation into the incident are ongoing. The Richmond Police Department has hired private investigator J.P. Badel, a former captain of the Lodi Police Department, to conduct the civil investigation. The internal investigation, which is being conducted by RPD's professional standards unit, is examining the incident through a "policy and training" perspective. The burden of proof for both investigations, a "preponderance of evidence," is lower than that of the district attorney's probe. The Richmond Police Department has not responded to inquiries addressing when the findings of the investigation will be released.

Burris said that he is not seeking a settlement, as the *Contra Costa Times* reported in its story. "I am doing a case," he said. "The case is underway."

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ILWU

Motion for Local 10 Executive Board 5/12/15

Defend Local 10 Families Against Police Killings and Educate Workers

Whereas, the May 1st rally and march against police killings was an inspiring show of union power united with the community protesting the police killings of “innocent and unarmed minorities” was initiated by Local 10 calling a stop work meeting to which PMA initially disagreed, and

Whereas, PMA eventually recognized the ironclad commitment of Local 10 to this historic protest called on May Day, International Workers Day, and agreed to the stop work meeting, and

Whereas, Local 10 has been commended by both South Carolina AFL-CIO and ILA Local 1422 in Charleston for our “courageous actions of solidarity with the families and communities of the many police killings” and

Whereas, two Local 10 members’ families, Perez and Moore, have been the victims of these police killings here in the Bay Area should have their cases publicized in our union newspaper, The Dispatcher, and to offer whatever concrete support the families may request like attending the court trials, and

Furthermore, Local 10 will follow up our May Day success with a labor forum on police killings for our A and B members, casuals, San Francisco Labor Council delegates and other union members to be organized by the Local 10 May Day Organizing Committee.

THE KILLING OF PEDIE PEREZ

THE DA'S STATEMENT DOESN'T HOLD UP!!

On September 14 2014 Richmond Police officer Wallace Jensen shot Richard "Pedie" Perez III to death outside Uncle Sam's Liquors on Cutting Blvd. Officials, after a (very questionable) investigation, said that Pedie had attacked the officer and tried to take his gun. But the witnesses say that's not what they told the police, and citizen investigators from the Oscar Grant Committee have recorded their statements and gotten a copy of the store's surveillance video. None of this evidence supports the official story.

To their credit, several news media reported witnesses disputing this story within days: *Richmond Confidential* reported that Mohammed Delik, the store clerk, "said he did not see Perez reach for the officer's gun." (9/16/14) The *San Jose Mercury News* wrote that John Burris, representing Pedie's family in a civil suit against the city, said that he has witnesses who dispute that Perez was reaching for Jensen's gun. (9/19/14, more in reference list) Richmond Police Chief Chris Magnus said that "at least one independent witness" confirmed their story, but we've never seen that witness. (Magnus statement 9/14/14)

Officials contradict each other

The cops can't even get their own story straight: District Attorney Mark Peterson wrote, "Mr. Perez, who was very intoxicated at the time of the incident, instigated the attack on the officer." But according to Jensen's own testimony at the inquest, "Jensen pursued, grabbed Perez from behind, and swept his legs out from under him. 'I fell on top of him, I was struggling to gain control of his hands,' Jensen said." (*Richmond Confidential* 12/12/14) Also: "[W]hen Perez kept resisting, Jensen pulled him to the ground, falling on top of him." (*Patch* 12/11/14) Witnesses Mohammed Delik, Steve Clark, and another (whose family asks that we not name him) have all told us that Jensen tackled Pedie from behind as he was walking away. The store's surveillance video also shows Jensen tackling Pedie from behind. (video & transcripts)

The DA claims that "Mr. Perez lunged at him and the officer fired his weapon one time. Mr. Perez then charged at him again and the officer fired his weapon two more times." (*East Bay Express* 5/20/15) But the video shows none of this; instead it shows Jensen backing away, drawing his gun, and shooting Pedie from several feet away. Pedie never got near Jensen when Jensen shot him.

Police twist witness statements

Mohammed Delik speaks very little English, and a friend explained to the cops that he could not give them any details without a translator, but they declined his offer to translate. Chief Magnus told Bay Area News Group that "translation services are offered to anyone who needs them. 'I'm sure we wouldn't disregard speaking with someone because of a language barrier.... This is a diverse community. We do it all the time'" (*Contra Costa Times* 5/8/2015). But not this time, according to Mohammed; he says they never got an interpreter, that he didn't understand all their questions, and wasn't exactly clear about who was questioning him. Deputy District Attorney Barry Grove blithely assumes that he didn't want a translator. "He had the option to ask for clarification." (*East Bay Express* 5/20/15) It seems the cops want to keep their option of putting words in Mohammed's mouth by getting him to say "yes" to something he didn't understand.

Steve Clark, another witness, said that police "were trying to say that I seen, I seen Pedie trying to take the gun." But Clark told them, "I didn't see none of that.... I didn't see that, I was inside." Although the other two witnesses were close to the action and had a clear view, none of the witnesses told OGC that Pedie made any attempt to take Jensen's gun. In fact, they both said that he had his hands in the air when Jensen shot him.

There's a killer cop loose in Richmond, and the system is protecting him. The system is built on lies. We must not let murderous lies stand! Demand justice for Pedie Perez!

Officials won't release any of their evidence, saying they can't while the investigation is ongoing. But Grove admitted they weren't "actively doing

anything," just that "an investigation is technically ongoing until the statute of limitations runs out." (*East Bay Express* 5/20/15) In plain English, they're going to use this excuse to hide their "evidence" as long as they have to.

City government hides from the people

The city has a Police Review Commission, but it seems to be a "stealth" commission: Pedie's family didn't find out about it for months, and when they filed their complaint the City Attorney dismissed it because it was more than 45 days after the incident (letter to Perez family).

The Human Rights Commission planned to hear a report from Magnus about police policies on the use of force, but when OGC and Richmond Progressive Alliance organized people to show up and speak out, Mayor Butt told Commission members that "groups may be looking to hijack" the meeting "for their personal cause." Butt moved Magnus's report to the next City Council meeting, and for whatever reason, so many members missed the Human Rights Commission meeting that there was no quorum – so the Commission couldn't even officially hear the people who came. Butt wrote that RPD "is receiving national praise for its progressive policies" and that in Richmond, "police brutality, abuse, and terror is largely accepted as a thing of the past." (*Richmond Standard* 4/23/15) Butt seems more concerned about his image than about people's lives—he parades Chief Magnus around as long as he can talk about Richmond's "kindler, gentler" police force, but when he has to face tough questions about a police killing, Magnus vanishes.

These "investigations" didn't investigate anything beyond how they could twist the facts to fit Jensen's story. We applaud the great strides RPD has made in the past few years, but Pedie's killing shows that we still have work to do.

There's a killer cop loose in Richmond, and the system is protecting him. The system is built on lies. We must not let murderous lies stand! Demand justice for Pedie Perez!

References:

The surveillance video and interviews with Steve Clark, Mohammed Delik, and one other witness are at www.oscargrantcommittee.org/pedie-video-witnesses
"Witness provides new details in deadly Richmond police shooting." *Richmond Confidential* 9/16/14
<http://richmondconfidential.org/2014/09/16/what-went-wrong-in-the-richmond-officer-involved-shooting/>
STATEMENT FROM RICHMOND POLICE CHIEF MAGNUS REGARDING THE OFFICER-INVOLVED SHOOTING ON SEPT 14th. Chris Magnus 9/14/14
www.oscargrantcommittee.org/static/actions-events-and-documents_files/STATEMENT-FROM-RICHMOND-POLICE-CHIEF-MAGNUS-REGARDING-THE-OIS_2014-09-16.pdf
"Richmond: Police identify officer who shot, killed man during fight." *San Jose Mercury News* 9/19/14
www.mercurynews.com/my-town/ci_26567521/richmond-police-identify-officer-who-shot-killed-man see also "Family of Man Shot, Killed by Richmond Police Officer Plans to Sue: Attorney" www.nbcbayarea.com/news/local/Family-of-Man-Shot-by-Richmond-Police-Plans-to-Sue-275905601.html

"An Injury to One Is An Injury to All"

The Oscar Grant Committee was born from the struggle for justice for Oscar Grant, murdered by BART police on Jan 1, 2009. We organize working class resistance in support of families whose loved ones were murdered by police.

Join us, our meetings are at 7:00 PM on the First Tuesday of every month at the Niebyl-Proctor Marxist Library, 6501 Telegraph Avenue in North Oakland
www.oscargrantcommittee.org • oscargrantcommittee.ogc@gmail.com

View the YouTube Video of the Pedie Perez shooting at
<https://www.youtube.com/watch?v=RRA9oQmVgb4>
Also see the Perez Family website: Justice4Pedie.com

"Without Struggle There Is No Justice."

Justice Denied In Richmond

Editorial from Radio Free Richmond, posted by Felix Hunziker on September 14, 2015

Justice for victims of questionable police shootings has been the focus of an intense national dialogue that is slowly bringing greater scrutiny and transparency to police departments across the country. Richmond is ahead of the curve as a national role model for community policing, a pioneer in alternative crime reduction programs and a regional leader for social justice.

However, for the family of Richard “Pedie” Perez, the unarmed young man killed by Richmond police on September 14, 2014, that justice may never come. The Richmond City Attorney has unlawfully blocked independent review of the Perez shooting by the Richmond Police Commission, a civilian oversight board that itself suffers from an inability to fulfill its purpose.

The Richmond Police Commission (RPC) was founded in 1984 in the wake of abuses by a group of cops known as the “Richmond Cowboys.” The Commission consists of nine unpaid residents appointed by the Mayor and is assisted by its own Confidential Investigator and Appeals Officer (CIAO). The CIAO, who is appointed by the City Council and answers only to the Council and RPC, conducts independent investigations which include collecting evidence and interviewing witnesses and police officers.

Per the RPC ordinance, citizens have 45 days following an incident to file a complaint alleging racial abuse and unnecessary or excessive force. This is an extraordinarily short timeframe to file a complaint to a board that most residents have never heard of or believe is associated with the Police Department. Fortunately the statute contains a saving clause, allowing the CIAO to accept and investigate late complaints if *“the complainant establishes to the Investigative Officer's satisfaction that the failure to file the complaint within the required time limit was due to mistake or excusable neglect.”*

Mistake or excusable neglect — such as not knowing the Police Commission existed? According to their numerous public statements, that’s precisely what happened with the Perez family. They did not file a complaint with the RPC until March 2015, six months after the death of their son. And that’s where our system of independent civilian oversight broke down, beginning with the City Attorney’s unlawful subversion of the Police Commission’s authority.

The City Attorney represents the Police Department. He has neither the incentive to sustain nor the authority to deny Police Commission complaints from citizens, actions that clearly fall under the powers and duties of the Commission. And yet on June 3, 2015, the City Attorney denied the Perez complaint and opined that an independent investigation was unnecessary:

“I am writing in response to your recent Citizens' Complaints filed with the Richmond Police Commission concerning the fatal Officer Involved Shooting on

September 14, 2014. Richmond Municipal Code Section 3.54.080(b)(3) provides that no complaint may be accepted, investigated or heard if it is not filed within forty-five (45) days of the incident. Moreover, this incident has already been investigated both by the District Attorney and by a neutral investigator retained by the City. Additionally, this matter is the subject of active litigation by attorney John Burris. Even if these complaints were timely, and they are not, I am doubtful that a third investigation, in addition to Mr. Burris's efforts, would add any value.”

This edict is not only out of order, it’s absolutely reprehensible for the City Attorney to suggest that investigations into police shootings by the District Attorney and police department render independent citizen review unnecessary, especially in a city that established a board specifically for that purpose. DA’s are prosecutors and, not surprisingly, have generally positive relationships with cops. No sane person believes a complaint against a police officer would receive an objective review unless every fragment of doubt was removed.

Following the denial letter several Commissioners attempted to agendize the Perez complaint for discussion but were warned by the City Attorney not to discuss the case publicly, citing ongoing litigation and restricted speech of city officials:

“Absolutely NOT a discussion item...Federal court litigation pre-empts ALL city officials discussing incident in city meetings or otherwise in public (Chief, City Manager, Council, Police Commission)”

This is yet another unlawful decree by the City Attorney since Commissioners are not city employees and because the very purpose of the board is to represent citizen interests, not those of the City of Richmond (see *Marez v. Bassett* which specifically protects the First Amendment rights of non-employee committee members). If the City Attorney had his way, the Police Commission would be powerless to discuss any complaint that involved a lawsuit!

Unfortunately for the Perez family, the Police Commission itself has also proved to be an (con’t on back)

(con't from front) impediment to justice. At the July 2015 RPC meeting the CIAO was asked why he had not interviewed the Perez family to determine if their late submittal was due to "mistake or excusable neglect." His response, despite an ordinance which clearly provides citizens this avenue of relief and makes him responsible for this adjudication, was that the RPC Operations Manual didn't specifically tell him how to proceed and there were no written criteria. Furthermore, in violation of this same manual, the CIAO failed to notify the Commission that the complaint was ever received and instead collaborated solely with the City Attorney.

This behavior is hardly the "*fair, objective, and ethical manner*" in which the CIAO is charged with assisting the Commission and complainants. More importantly, there is precedent for the Commission accepting late complaints. Several years ago a previous CIAO presented a late submittal to the Commission and the board voted to accept it and proceed with the investigation. As a sitting Commissioner I've informed the City Attorney of my desire to review all past case files to determine how many other late complaints were investigated — they are currently reviewing my request. Why the most recent CIAO, a former police chief-turned-investigator, chose not act in the interests of the public will remain a topic of speculation; he resigned in August.

The Police Commission must overcome many more challenges if it is to provide justice to the Perez family and other citizen complainants, and operate effectively outside the influence of the City Attorney's office. I urge our City Council to take decisive action on the following:

- Direct the Police Commission to investigate all pending late complaints involving use-of-force or racial abuse.
- Immediately hire a new, independent, full-time CIAO and include the Commission in the interview process. The

CIAO, not the City Attorney, should be managing the day-to-day operations of the Commission.

- Rewrite ordinance 3.54.080 to clarify acceptance of late complaint submittals, reinforce the CIAO's duty to the RPC and City Council, and consider removing antiquated sections no longer applicable under current State law.
- Require the Police Department to inform any citizen involved in a significant use-of-force incident about the Police Commission and its purpose.
- Provide the Commission with a full-time secretary instead of overloading an administrative aide who already has a full time job in another department. Currently emails are not being answered, investigative reports are incomplete, and minutes are no longer being recorded properly or posted to the City website.
- Provide a larger budget for RPC outreach materials to raise public awareness.

I don't know what happened that night one year ago at Uncle Sam's Liquors but as a Police Commissioner I have questions, and the Perez family deserves answers. Has all witness testimony been recorded and cross-examined? Did an intoxicated Pedie Perez really try to grab the officer's gun or was he (still wrongly) just grappling with him? Is there clear and convincing evidence that excessive or unnecessary force was used against Perez? I've participated in RPD "Force Options" training and have witnessed the remarkable restraint and training our patrol officers possess as they consistently deploy less-lethal options to control assailants. Did Officer Jensen, who shot and killed Pedie, carry his Taser, mace, or nightstick that night, in accordance with the RPD Policy Manual? If so, why didn't he use them instead of his sidearm?

Ultimately it comes down to this: a young, unarmed resident has died in what began as a minor altercation with a police officer. The family has asked the Police Commission to investigate while the City Attorney is attempting to block them. Who do you think is right? What is justice in Richmond?

Felix Hunziker is a Richmond Police Commissioner and Past Chair. These opinions are his own and do not represent an official position of the Richmond Police Commission.

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Join Us! We meet at 7:00 PM on the First Tuesday of every month at the Niebyl-Proctor Marxist Library, 6501 Telegraph Avenue in North Oakland

WEB: www.oscargrantcommittee.org EMAIL: oscargrantcommittee.ogc@gmail.com

**View the YouTube Video of the Pedie Perez shooting at
<https://www.youtube.com/watch?v=RRA9oQmVgb4>
Also see the Perez Family website: Justice4Pedie.com**

The Oscar Grant Committee Against Police Brutality and State Repression