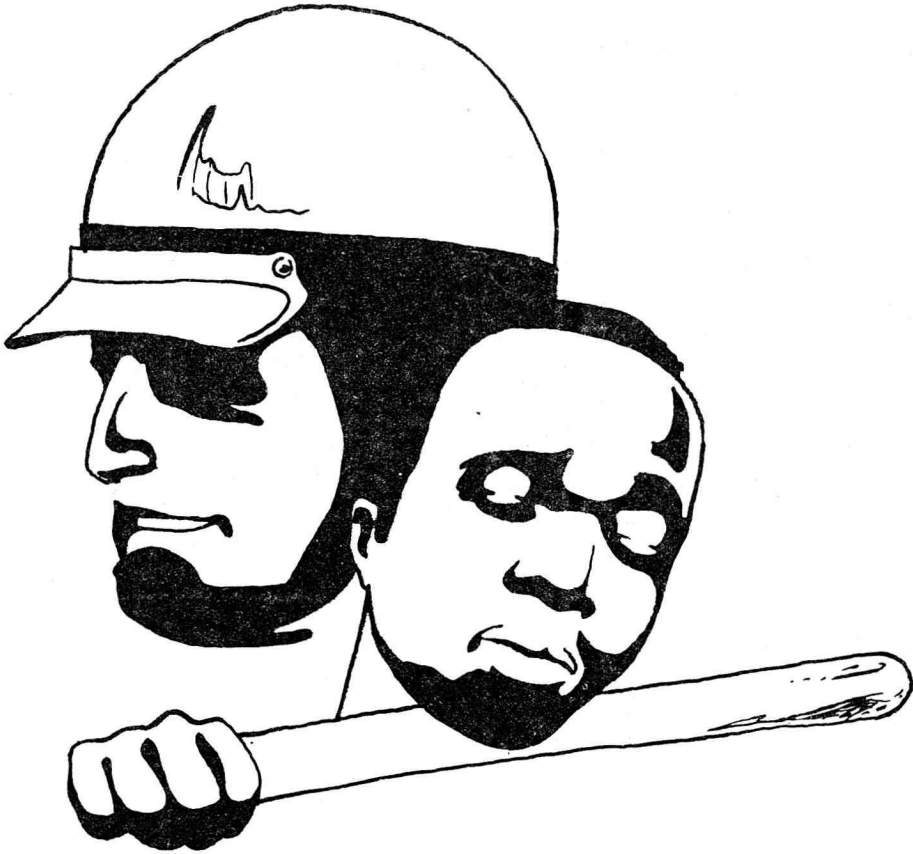


WHY



THE HUEY CASE

Statewide Peace and Freedom Party Organizing Committee
POLICY GUIDELINES

The Peace and Freedom Party is an independent, permanent radical political party, permanently separate and distinct from any other political party. We see the Democratic-Republican party as a part of the system in which the economic and social interests of a few determine the policies which bear major responsibility for the evils against which we are committed to fight. We are the beginning of a new national radical political movement, in clear opposition to these parties, rather than a mere pressure group upon them.

The Peace and Freedom Party stands for immediate, unconditional withdrawal from Vietnam and is in opposition to the entire thrust of American foreign and domestic policy, of which the war in Vietnam is one horrifying result and the brutal repression of dissent in this country is another.

The Peace and Freedom Party supports the Black Liberation movement in its struggle for equality and self-determination. We support similar movements among Mexican-Americans, Indians and other oppressed peoples.

The Peace and Freedom Party supports poor people, workers, students, and other groups in their struggle for economic justice and control over those institutions which dominate their lives. The right to unite for mutual protection, to strike and to demonstrate is an inviolable part of that struggle.

The Peace and Freedom Party was formed to unify these movements . . . and to create for these movements a focus and political expression. We believe electoral action is valid only in a context which includes political organizing, political education, direct action and other non-electoral forms of political action.

Adopted at Berkeley Planning Convention
Held the weekend of Jan. 28, 1968

OK

This presentation is made by individuals who feel very strongly that the San Francisco Peace & Freedom Movement must go on record in favor of a "FREE HUEY NEWTON" policy. This leaflet is the first presentation to the Peace and Freedom Movement by the Educational Caucus. We are committed to presenting the facts concerning issues which face all Americans, to drawing conclusions from those facts and to giving our opinion based upon those facts.

I HISTORICAL BACKGROUND

The oppression under which American citizens of African ancestry have lived need not be detailed. We are all aware that meaningful citizenship was denied even after our Constitution was amended to forbid this denial. Because of educational, economic and social deprivation the Afro-American of today carries a burden with which the majority of white America is not familiar. A recognition of this fact is a necessity to understanding the case of Huey P. Newton.

Following the uprising in Watts in 1965 the black community there organized the Community Alert Patrol (CAP). The CAP was funded in large part by Federal money and its function was to protect members of the black community from police harassment and brutality. Whenever a resident of the community observed police stopping black people for "investigation and interrogation" that resident was encouraged to call into a central CAP headquarters and report the location of the "investigation and interrogation." The CAP would then dispatch a CAP patrol vehicle to go to the scene and observe the conduct of the police officers. They also informed the black person under detainment of his legal rights vis-a-vis the police.

Quite naturally, this was not the sort of activity which Chief Parker of the Los Angeles Police Department thought proper. His Department, long the subject of criticism by the Los Angeles Human Rights Commission, was not brutal (according to Parker), was not biased against black people (according to Parker), and did not violate any individual's Constitutional rights (according to Parker). The black community in Los Angeles, as well as the Human Rights Commission, knew differently and welcomed the activity of the Community Alert Patrol.

Concurrently in the San Francisco area, two black students at Merritt College in Oakland -- Huey Newton and Bobby Seale -- embarked upon a venture similar to CAP. They determined that in light of the long history of oppression practiced by the Oakland Police Department in particular, and Bay Area police departments in general, it would be a good idea to initiate a similar program here. But they carried the CAP idea one step further when they formed the Black Panther Party for Self Defense. To dramatize their determination to curb the vicious and unrestrained use of police power against black people, the Panthers instituted armed patrols. Whenever police would arbitrarily harass ghetto residents, the Panthers would arrive at the scene bearing rifles and shotguns. Huey, Bobby and their brothers were scrupulous in their adherence to the law (for example, by remaining at least 10 feet from the police officers at the scene). On several occasions Huey, who spent a year at USF Law School, gave lessons to ignorant cops. The result of the armed patrols was a decrease in incidents of police harassment for the ghetto population at large, but an increase in incidents of harassment for the Panthers themselves.

Although defense against the police was initially the main focus of Panther activity, the Party recognized that the police do not make political decisions, but only enforce laws and policies which serve the interests of a minority Establishment. The Panthers therefore decided the basic idea of CAP should be expanded to encompass the political as well as the defensive needs of the black community. They made a 10 point program demand:

1. We want freedom, we want power to determine the destiny of our black community.
2. We want full employment for our people.
3. We want an end to the robbery by the white man of our black community.
4. We want decent housing, fit for shelter for human beings.
5. We want education for our people that exposes the true nature of this decadent American society; we want education that teaches us our true history and our role in the present day society.
6. We want all black men to be exempt from military service.
7. We want an immediate end to police brutality and murder of black people.
8. We want freedom for all black men held within federal, state, county and city prisons and jails.
9. We want all black people when brought to trial to be tried in court by a jury of their peer group or people from their black communities --- as defined by the Constitution of the United States.
10. We want land, bread, housing, education, clothing, justice and peace. "

The Black Panther Party for Self Defense organized black people around these issues, and specifically around the issue of police brutality, but the Party in turn suffered from harassment by the police. Every known Panther vehicle's license number was listed in every Bay Area patrol car and when police spotted a Panther automobile they automatically pulled the car over and harassed the drive about phony (but sometimes real, because Panthers aren't rich and don't have fancy cars) traffic violations.

Then, on May 2, 1967 the Panthers became spotlighted nationally when 23 of them entered the State Capitol building bearing rifles and shotguns. They came to protest the anticipated passage of the Mulford gun bill, which would have deprived citizens --- especially black people --- of the right to bear arms for self-defense (as provided for by the US Constitution). This "armed invasion" of the observers section of the Assembly resulted in no violation of any gun laws! The only thing that 8 Panthers were finally convicted of was "disruption of Assembly proceedings," and that even these charges were a travesty of justice can be inferred from the fact that there was nothing illegal about the actions of the Panthers --- and if members of the Assembly want to get up tight and be "disrupted" by the appearance of armed black men in an area of the building which is open to the general public, then it only reflects the paranoia of some Assembly members.

Following this incident, police harassment of Panthers increased to the point where Panthers could hardly go out in public without being stopped by a police car. This type of police harassment continued right up to the early morning of October 28, 1967 at which time two Oakland police officers confronted Brother Huey Newton, the Minister of Defense of the Black Panther Party for Self Defense. As a result of this confrontation, one Oakland policeman is dead; another was wounded; Brother Huey was wounded; and an unidentified man who allegedly was in the car with Brother Huey escaped apprehension by the police.

II. THE FACTS OF THE CASE

If you will turn to page 3 of Marvin Garson's "San Francisco Express Times," you will read about Oakland "justice" where Brother Huey is involved. At the last court hearing on the case, Jury Commissioner Edward Schnar was questioned by the defense attorney, Charles Garry. Schnar's first statements indicated that the Grand Jury was randomly selected from persons listed on the voters roll (as is required by law), but when pressed he conceded that the voters roll had in fact only been used to verify the qualifications of those selected by the 20 judges of the Alameda Superior Court.

Each of the judges selects three persons, and from the 60 so picked, 19 ultimately serve as the jurors. Judge Dieden followed Schnar to the stand and under oath testified as to how he had selected "his" three juror candidates. He said that he had chosen "responsible members of the community" who were, in his opinion, "of sound moral character." When pressed by Mr. Garry to be more explicit about the standards for selection, Judge Dieden reluctantly conceded he selected three of his personal friends whom he knew were of sufficient financial worth so as to suffer no hardship during their year of service. Coincidentally (naturally), the persons nominated were all retired people over the age of 50. Mr. Garry asked if it would be fair to say that all the judges nominated prospective jurors on the same basis, and if in fact all those selected were over 50 years of age. Judge Dieden admitted that would be a fair statement.

There was one black person --- a woman --- on the Grand Jury.

GARRY, DREYFUS, MCTERNAN & BROTSKY
 501 FREMONT BUILDING, 341 MARKET STREET
 SAN FRANCISCO 94105
 392-1020

11	THE PEOPLE OF THE STATE OF)	
12	CALIFORNIA,)	
13)	Plaintiff,
14	vs.)	
15	HUEY NEWTON,)	NO. 4 1 2 6 6
16)	
)	Defendant.

17 SUPPLEMENTARY MEMORANDUM OF POINTS AND
 19 AUTHORITIES IN SUPPORT OF MOTION UNDER PENAL
 18 CODE SECTION 995 TO SET ASIDE COUNTS ONE AND
 TWO OF THE INDICTMENT

20 I. THERE WAS NO PROBABLE CAUSE TO INDICT DEFENDANT IN
 21 THAT THERE WAS NO EVIDENCE BEFORE THE GRAND JURY
 22 THAT DEFENDANT FIRED OR EVEN POSSESSED A WEAPON AT
 THE TIME THE SHOTS WERE HEARD.

III. THE IMPORTANCE OF THE CASE

For the black community: The Huey P. Newton case has become a cause celebr in the black community, particularly in the Bay Area but also in the ghettos of Los Angeles, New York, Chicago, Detroit and other cities --- where this kind of news travels fast. Black people in the ghettos recognize that Huey Newton and the Panthers have raised the crucial issue --- control of their own communities --- and that they are dealing with that issue in a concrete, practical way. They recognize that it is the police who perpetrate violence on a daily basis in order to maintain their illegitimate control over black ghettos. They recognize that the actions of

EXCERPT FROM LEGAL BRIEF

The Panthers constitute legitimate self-defense against a police force more interested in political repression and "keeping the niggers in their place" than in catching criminals. And they recognize the indictment of Huey Newton as an attempt not only to wipe out an heroic black resistance leader, but to also intimidate and crush the movement for self-determination of all black people. If black political leaders are not assassinated --- as were Medgar Evers and Malcolm X --- then the Establishment finds ways of confining and neutralizing them, as in the cases of H. Rap Brown and LeRoi Jones.

That is why the black community stands as one man behind the concept "FREE HUEY". They mean that Huey Newton was harassed and threatened and finally wounded because he is a political leader; that he was arrested and thrown in jail because he is a political leader; that he faces the gas chamber because he is a political leader. They mean that Huey Newton will never be tried by a jury of his peers under the present judicial system . . . that he cannot, in other words, receive a fair trial.

For all these reasons, his imprisonment is illegal and illegitimate. And that is why the black community demands: "Huey P. Newton must be set free!"

For the white community: The right of any community to self-determination is a basic human right to which we are all entitled, and it is for asserting his community's right to self-determination that Huey Newton is now in jail. In this respect, the Huey Newton case affects us all. When police are allowed to extend their already excessive control over our lives, all of us are affected. The police must be "put in their place" --- which is to act as our protectors, not our oppressors.

If we are really committed to "Peace & Freedom" --- if our lofty pronouncements are to be more than hot air --- then our first duty is to resolutely resist all attempts by federal, state and local governments and their police arms to erode and destroy our basic rights and freedoms. Huey P. Newton and the Panthers, seeing their people's rights being violated daily in Oakland, did so act. They stood up with guns --- a right guaranteed by our Constitution --- and demanded: "You are the law breakers in this community; we are the law abiders. You police are the criminals; we are the upholders of meaningful law and order."

We have seen how the police harassed and arrested registrars of the Peace & Freedom Party during our push to get on the Ballot. We have seen how the police viciously assaulted peaceful anti-war demonstrators. And as our Movement becomes more effective in exposing the moral degeneracy of the Establishment, we can expect police repression and oppression to increase. When that happens we will have to redouble our efforts, but in the meantime we must recognize that the fight of the black people is our fight, too. We are natural allies in the fight for human freedom. Before long, white radicals will have their own Huey P. Newton, and the alliance to deal with that situation must be formed now.

Huey Newton and the Panthers fought and are fighting this battle --- legally --- for all of us. All whites who are not racists should recognize this and support Huey Newton, especially now, as the power structure illegally tries to crush him. Huey is a black man and a black political leader, but he is also a man and a political leader, whose principles are in harmony with the aims and aspirations of the Peace & Freedom Movement. His imprisonment and impending trial on a capital charge is a threat to all of us who oppose the Establishment politically.

We cannot support the cry to "Free Dr. Spock and Rev. Coffin," or the cry to "Free the Fairmont Nine," or the cry to "Free the Oakland Seven" without similarly supporting the cry to "Free Huey P. Newton."

IV. ARGUMENTS AGAINST A "FREE HUEY" POSITION

Argument #1: To say "Free Huey" implies that we advocate going outside the judicial system and freeing Huey by force.

This argument shows a failure to understand the intrinsic unfairness of the judicial system and the virtual impossibility of Huey Newton getting a fair trial. The U. S. Constitution guarantees an accused person a trial by a jury of his peers. It is safe to say that no jury of Huey Newton's peers has ever been empaneled in this country. The grand jury which indicted him was white (with the exception of the Negro matron), was over the age of 50, and was composed of affluent people. And Huey can expect little better of his trial jury. Additionally, we must recognize that the mechanics of our court system are weighted against a political defendant, particularly in this case. "Fair Trial For Huey Newton" is, in these circumstances, no demand at all.

This argument also shows a failure to understand the function and meaning of a political demand. When we say "Immediate Withdrawal From Vietnam" we do not mean that we expect all troops to be withdrawn tomorrow, or that we intend to force that withdrawal. Obviously, pulling out of Vietnam would require a certain lapse of time. On the other hand, what we do mean is that the principle of immediate withdrawal should be accepted at once and that steps should be taken to effect it as swiftly as possible.

Our demand is phrased in such a way that our desires and our intent are absolutely clear and unequivocal. By the same token, "Free Huey" does not mean that we intend to storm the jail with machineguns. It does mean that we believe Huey Newton is illegitimately imprisoned for political activity and for exercising his Constitutionally protected right of self-defense; that he will not receive a fair trial in Oakland; and that our desire is the immediate liberation of Huey and all other political prisoners (Spock, Coffin, the Oakland Seven, the Fairmont Nine, H. Rap Brown, LeRoi Jones, etc).

Saying FREE HUEY is our way of being clear about our fundamental beliefs.

Argument #2: It will alienate potential Peace & Freedom Movement members.

This argument would be more appropriate in the Democratic/Republican Party, where patterns of compromise with basic principles have led directly to their present moral bankruptcy. The Peace & Freedom Movement is committed to establishing new patterns of political discourse and above all to taking honest, forthright positions based upon our commitment to peace, freedom and social justice.

This argument also reveals a defensiveness about our ability to build a mass movement for social change. We will build the movement not by dodging the issues but by confronting them directly, and by educating people to the long-disguised realities of American life. We have a choice: either we cop out and cash in our principles for temporary (and probably negligible) political advantage... or, we go to work educating a brainwashed public about the inequities resulting from our economic imperialism abroad and our racism at home. Playing for a few thousand more votes, or for a few hundred more registrants, is no way to build a mass political movement. But educating people to strong, principled and well-argued political positions is a way to build a meaningful mass movement.

We must not assume that people who have been mis-educated to believe in racist or warhawkish positions can never be changed. In fact, the premise upon which the Peace & Freedom Party was founded is that many people will come over to our side once they have had the opportunity to understand our positions. Without that premise, political activity is meaningless. Robert Maynard Hutchins has said:

"A democratic community is a self-governing community. Every member of the community must have a part in his government. The real test of democracy is the extent to which everybody in the society is involved in effective political discussions.

"This leads me to say that I think the whole subject of a political community is to help the members of the community to learn how to govern themselves. From this point of view a political community is essentially an educational enterprise."

FREE HUEY may "alienate" some potential PFM members in the short run but in the long run it can only help clarify to our constituency the issues of racism and illegitimate police power. It is possible that those who voice this "alienation" argument are merely projecting onto a mythical electorate (which has not been sufficiently educated on the issues to make an intelligent choice) their own unwillingness to take a strong stand against racism and police brutality and harassment in America. In short, these people may be trying to pass the buck.

Argument #3: The Black Panther Party for Self-Defense is a violent group.

This argument ignores the fact that American government at all levels is, and always has been, violent in the expression of its desire for power; and that in particular this violence has long been directed against black people and other minority groups. The same day Huey Newton was wounded and Officer Frey killed, another incident took place in Palo Alto. An unarmed, 70-year old black man was shot from behind and killed by police. Here was a respected, law-abiding citizen, murdered by a policeman for doing nothing but being "suspicious" in the mind of the policeman. Yet this sort of unprovoked police terrorism is standard practice in this country's ghettos. In Oakland on February 5, 1968 an "automobile burglary" suspect was shot and killed by an Oakland policeman. The dead man was of Mexican-American extraction. Burglary does not carry the death penalty, but this matters little to the police. And it was precisely to put a stop to this kind of terrorism that Huey organized the Panthers --- around the issue of self-defense! If the Panther Party was out to "kill cops" then they have missed thousands of opportunities. But they were not out to kill police --- their entire thrust has been to educate ghetto residents to the need for self-defense... to prevent cops from killing them!

There is a general tendency to assume, with the mass media, that political violence is caused by the demonstrators, the black people, the union pickets, etc., when in fact it is almost invariably the police who are responsible for initiating the violence. There was violence in the labor movement during the early decades of this century, and it is true that some law enforcement officials (police, company goons, or National Guardsmen called up to serve the owners' interests) were killed but it was the police-company alliance, conspiring to deny the just demands of working men (including the right to strike), that initiated the violence and created the atmosphere where violence could occur. When strikers responded, they were very literally acting in self-defense. And it is precisely because we are against the use of violence that we denounce unjustified police violence, and affirm the right of citizens --- black and white alike --- to defend themselves.

Argument #4: We should focus all our energies on the Vietnam issue.

The Vietnam war, in several ways, is intimately linked to oppression of black people at home. First, is the racist character of this war against an Asian people. Second, the lack of educational and job opportunities for black youth leads them to enlist in the armed forces --- the ratio of black to white combat troops in Vietnam is more than twice what it is for the American population as a whole. Third, the very economic forces which permit economic exploitation and mass unemployment among black people encouraged the United States to move into Vietnam in the first place in the belief that a communist victory there would lead to diminution of the expanding American market and investments in Asia.

Tactically, support of the black liberation struggle is another weapon with which we can force U. S. withdrawal from Asia. Clearly, Washington cannot even begin to solve urban problems as long as the Vietnamese war continues. And, conversely, if we allow movements for self-determination to be crushed at home it will only strengthen the hand of those committed to crushing movements for self-determination abroad. If we cannot support freedom for all American citizens at home, we can hardly expect to export it abroad.

V. WHY WE SHOULD SUPPORT "FREE HUEY P. NEWTON"

We believe the Peace & Freedom Movement should adopt a "Free Huey" position for three basic reasons:

1. Which side are we on? In any confrontation between a freedom fighter and an oppressor there should be no question about which side we line up on. We must ask ourselves: if Huey had been killed defending himself, would the cop go on trial? Of course not---we all know the game is rigged ("justifiable homicide").

Nat Turner organized a revolt against slavemasters would we limit ourselves to recommending that he get a "fair trial" or would we demand that he be set free? Would we urge a "Fair Trial for Vietnamese Freedom Fighters" or do we demand that occupying forces withdraw immediately? When the British captured Nathaniel Hale, would we have demanded a "Fair Trial" or that he be set free?

In many respects, the U. S. occupation of Vietnam resembles police occupation of black (and Mexican-American) ghettos. In both cases the authority of the occupying power is not recognized as legitimate by the people in the occupied territory. In both cases the people living there have moved to resist the occupying forces and to achieve self-determination and self-rule. The position of the occupying forces is totally at variance with the principles established by the Declaration of Independence of the American colonies ---we must never forget that in the 1770's anglo-saxon Americans were freedom fighters, and as the recipients of that heritage we must never suppress other freedom fighters.

The Peace & Freedom Movement must be unwavering in its support of self-determination struggles everywhere --- whether that means the struggle of the Vietnamese Nation or the Black Nation here at home. At the present political juncture, this means taking a forthright FREE HUEY position.

2. In unity there is strength: an attack on one is an attack on all of us. Huey Newton is a political leader, not a common criminal. He was stopped and no doubt threatened by police and is now imprisoned on capital charges because he is

a political leader. In the same way, the indictments of Dr. Spock, Rev. Coffin, the seven Stop The Draft Week leaders, the Fairmont demonstrators and many others across the country are the direct result of their political activities. We should also keep in mind the cases of Tom Mooney and Sacco and Vanzetti, not to mention the Rosenbergs and Sobel. In all these cases the court system of America was used as a weapon to stifle political activity.

Anti-war leaders have been arrested because they protest murder abroad. Huey Newton was arrested because he led the fight against police murder and brutality here at home. We must unite and support all these victims of political repression. Each of us working for a truly free and democratic society needs the unequivocal support of all the rest of us. Fair weather friends are not friends at all.

3. The opportunity for a meaningful political coalition. It is crucial that the predominantly white Peace & Freedom Movement, which professes support for the black liberation struggle, put an end to its present isolation from the most vital anti-Establishment force in America. In practical terms, this should not mean giving 50% representation to a virtually non-existent black base within the Peace & Freedom Party. Pretending that this base exists would be a lie, and everyone in and out of the Party would see it as such. Moreover, we are committed to the concept that the Party belongs to the people who belong to the Party. This is a people's Party. We have seen what happens to organizations controlled by elites claiming to represent a non-existent base the elites eventually make deals for personal political advantage: they manipulate the supposed black representation and water down program demands (such as wanting to back "good" Democrats or Republicans).

The Peace & Freedom Party must not fall into this trap. We must remain a people's Party.

But more essentially, we must face the truth about ourselves---that we are presently a predominantly white movement, however actively we seek to recruit others to our banner. So we must go on from this beginning and make meaningful moves to implement our commitment to support black liberation. In practical terms, this means coalition with black and Mexican-American groups which share our basic values and objectives. What is important here is our program and our actions, for by our actions and our publically declared intentions the world will know if we intend to seriously strive to combat the effects of and exterminate racism or if we are in fact just another white liberal group.

Stokely Carmichael, SNCC and the Black Panther Party for Self Defense are the leaders most responsive to the aspirations of the black ghetto poor in this nation, and in turn they command the most grassroots allegiance. Carmichael, SNCC and the Panthers are also the militant black leadership most cognizant of the functional necessity of forming political alliances with white groups, and for them the burning political issue of the day is the case of Huey P. Newton.

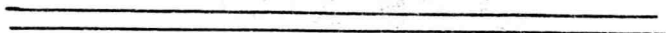
We need their support if we want to fulfill our commitment to support black liberation. We need their support if we hope to build a mass, grassroots political movement in California and across the nation. This is not "blackmail"---it is a reasonable political demand that if we want their support we must give them ours. We must join them in demanding, FREE HUEY NEWTON, a demand we know in our hearts is the only morally right position to take, and then go on to build---together---a significant grassroots movement for change. It is our moral obligation. It is to our political advantage.

The organization of any forward-going movement is helped tremendously by a penetrating, truthful presentation of the news such as given by The GUARDIAN. --Brian Heron.

It is always possible to find an incisive analysis of the political situation, the war in Vietnam, and the struggle for black freedom in The GUARDIAN. --Ed Terry, Finance Chairman, San Francisco Peace and Freedom Movement.

The Guardian is a MUST for Peace and Freedom members. David Welsh, San Francisco Peace and Freedom Movement

To understand the context in which all the required daily decisions exist, The Guardian is indispensable. Rick Hyland, Chairman of the Coordinating Committee, San Francisco Peace and Freedom Movement.



During the twenty years of its existence, The GUARDIAN (known as the National Guardian until Feb. 10, 1968, when the word "National" was dropped from the title) has contributed notably to the defense of numerous victims of injustice. The free distribution of 5000 copies of this pamphlet to members of the Peace and Freedom Movement, is in the public-spirited tradition of The GUARDIAN. We count on the readers to send us the money to cover the cost of printing of this and, hopefully, additional circulation of this important information. Please send to:

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