## Adam Bereki - complaint to Lieutenant Wadkins

## Recording Name: [E30 CMPD- COMPLAINT TO LT WADKINS 071122]

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All right, wonderful. 1 Wadkins: 2 Bereki: So are you the IA lieutenant? Is --3 Yeah, so I'm in charge of our Professionals Standards Wadkins: 4 Bureau, which actually handles our Internal Affairs, 5 uh, administrative investigations. In fact, um, I was already kind of aware of the phone call because we're 6 7 the ones that reviewed, um, your public records 8 request to get that c- -- recording of that phone 9 call. 10 Bereki: Oh, okay. 11 Wadkins: So we were the ones that approved that and sent that 12 to you, and then, of course, uh, then when the chief gets complaints, he just forwards them over to me, so 13 14 I got your letter. 15 Bereki: Okay, great. 16 Wadkins: So, um, I -- I've listened to your -- the conversation 17 on the phone, so I feel like I kinda got an understanding of, you know, uh, of that explanation. 18 19 I think the phone call was -- let me see here, was it -- it was, uh, 15 minutes. So I listened to that 20 21 whole thing, and kind of an understanding of -- of --22 of what your issue is and complaint. Uh, the fact 23 that, um, we refused to take some kind of a criminal, 24 uh, report from you, is that correct? 25 Bereki: Well, it's not just a criminal report.



1 Wadkins: Mm-hmm.

2 Bereki: Um, although criminal activity, I believe is

3 definitely afoot.

Wadkins: Mm-hmm.

Bereki:

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It -- it also is a matter of, uh, deprivation of constitutionally protected rights, which the constitution protects the right to life, liberty, and property, which often show up in many, uh, penal codes, for example, right? Where someone can't take your property without lawful authority. They can't use force and fear to take it, uh, that type of thing. Um, so, um, yeah, it may turn out to be a criminal issue, um, because I -- uh, it's clear to me that a lot of California penal codes protect those rights and properties, but also, um, you know, there is -- uh, I think it's called the Tom Bane Civil Rights Act, and also protections that occur under the Federal Constitution, and, uh, kinda more specifically, just the general doctrine of separation of powers that when one branch is, uh, usurping its role under the Constitution that another branch has a duty to, uh, intervene. Um, and so, uh, basically because the judiciary in this instance is acting without lawful authority, and I've gone through the le- -- the, uh, judicial process, as well as the 1- -- legislative

process to get a remedy that, uh, the Executive Branch 1 2 also has a duty to investigate and intervene. Does 3 that make sense? 4 Wadkins: I -- I understand, um, I mean, I understand what 5 you're saying. Uh, you know, I disagree with, you 6 know, the specifics of -- of the issue. And so --I'll make it (inaudible - 00:02:43) --7 Bereki: I -- I guess what -- I guess what -- you know, I'll 8 Wadkins: 9 just cut to the chase, and, you know, unfortunately 10 we're not gonna be able to take a -- a report and investigate, um, your complaint. Uh, the i- -- some 11 12 of the issues, obviously, we don't investigate judges based upon, uh, court decisions, upon, uh, civil 13 decisions. The -- the place to obviously appeal or to 14 15 point out the flaw in a judge's, uh, decision would be 16 in the appellate process. So if you've already gone 17 through that and you've now -- and you've voiced your 18 concerns to the -- the appellate court, which is, uh, 19 multiple judges sitting on the appellate court, then -20 - and they -- they've stood by the ruling, then 21 unfortunately, you've had your due process, and you've gone through the -- you know, you've had the ability 22 to -- to appeal and point out the error in the 23 24 judge's, uh, um, ways in his legal decision. But -- but not -- it's not due process if they're not 25 Bereki:



executing the process that is due, right? 1 2 because you show up in a -- in a -- in a room that has the Great Seal of the State of California on it and 3 4 one or three people come out wearing black robes 5 doesn't mean that the Constitution's been followed, right? The -- the Constitution places limits and 6 7 boundaries with the -- the scope of what judges are authorized to do. And one of those things they're 8 9 forbidden from doing is taking property without lawful 10 authority or excessively fining people, um, and 11 conducting, uh, prosecutions in a civil context that 12 were intended to be taken -- or prosecuted by the executive power of the state. So --13 14 Wadkins: Well, then the next process in your due process Okay. 15 would be, after this appellate court, would be to 16 appeal this to the California Supreme Court, and that 17 18 Bereki: Been there. 19 Wadkins: -- that would be your next step. 20 Bereki: Been there. 21 Wadkins: Okay. So --22 Been there, done that. So there is no court in Bereki: 23 California that I can go to for a remedy --24 Wadkins: Then -- then --25 Bereki: -- for this situation.



Then if you -- then if you have a federal violation, 1 Wadkins: 2 then you would -- you could appeal it obviously to a federal -- higher federal authority. Um --3 Bereki: Been there, done that. 4 5 Wadkins: Okay. Well, I mean, again, sir, I -- I -- I'm sorry 6 that we're not -- we're not the answer. We're only 7 just a tool, we're not the tool for this issue. You know there are things set up for this process, for the 8 9 court process, and it sounds like you've --10 Bereki: So --11 Wadkins: -- you've -- you've gone through every avenue, and now 12 you're kinda going backwards to the lowest level. And, you know, I understand listening to your 13 14 recording that you've contacted two other police 15 agencies, and all sorts of other agencies. But 16 unfortunately, you know, I -- I -- I mean, it sounds 17 like a terrible situation you're goin' through, and I have empathy for you for that. Um, but court process 18 19 has been --So, I don't understand how --20 Bereki: 2.1 Wadkins: -- been done. -- you're characterizing yourself -- uh, 22 Bereki: 23 characterizing what I'm doing as going backwards, or 24 you as the police department in the city that I live 25 in being the lowest level. I mean, as far as I



understand, you have a duty, and each of your officers takes a -- a duty to support and defend the Constitution against all enemies, foreign and domestic. I mean, it's -- it's verbatim language in your oath of office. So you have a -- a sworn duty, and your -- your officers have a sworn duty to protect and defend my rights against (inaudible - 00:05:56).

I understand that, and I will gladly -- I can -- I can, um -- it's not to say I don't -- I can't open a criminal investigation against a judge. I can open up a criminal investigation of -- of -- against a judge if the judge has committed a crime not -- you're talking about a crime associated with his ruling.

This is different. That is -- that is not -- that is not something that we're gonna open up a criminal investigation on. So, if a judge --

Bereki: Well so --

Wadkins:

Wadkins:

If a judge goes and gets in a car wreck, DUI, of course we're gonna investigate a judge. We're gonna conduct a criminal investigation and follow that through. I'm not saying a judge is above the law. But what I'm saying is, the judge's ruling, the way to appeal those things, there's a process set up for that. And it sounds like you've gone through that process, and you're not getting the answer that you



want, unfortunately. 1 2 Bereki: Well, it is not --3 Wadkins: So I -- I'm just saying I'm not the answer to --4 Bereki: It's not --5 Wadkins: -- we are not the answer to that remedy. 6 Bereki: It's not a matter of the answer that I want, although 7 it is an answer that I want. I'm just asking for what's due to me under our state and national 8 9 constitutions. And, in essence, what you're saying is 10 that you are placing the judge above the law, because you're saying that anything that they do essentially 11 12 on the bench when they're wearing that robe cannot be examined by another authority that is given the --13 Wadkins: No, there's a -- there's a presiding judge. 14 think the judge has done misconduct in their court, 15 16 you can speak to the presiding judge of the court, you 17 I've -- in my own persona life, I've -- I've know. 18 been -- felt like I was wronged in a court process, 19 uh, noncriminal, and, uh, I wrote a letter to the 20 presiding judge, and the presiding judge responded to 21 And I felt like -- like I -- like I was heard, and like it -- the issue that I was presented would be 22 addressed. Um, obviously, you know, what you're 23 24 talking about is the decision of the judge, so the presiding judge isn't -- can't overrule the judge, 25



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only the appellate court can do that, only the Supreme
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              -- California Supreme Court can do that.
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    Bereki:
              Right.
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    Wadkins:
              So again, just -- you know, these other bra- -- these
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              other layers of the due process -- again, and I mean,
              I -- we're gonna go around and around about this, and
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              I -- you know, and I'm -- you obviously are very well-
              versed on this and very educated, and I don't want to,
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              you know, belittle you with -- with my -- my
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              understanding of th- -- this circumstance. But what
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              I'm explaining to -- what I'm trying to explain is our
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              agency is not going to take a criminal investigation
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              for this. Um, we have accepted your complaint against
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              Sergeant Manson, um, and we'll deal with that, uh,
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              situation appropriately as we deem fit. Um, and as
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              far as --
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    Bereki:
              Well --
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              -- we're concerned (inaudible - 00:08:23).
    Wadkins:
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    Bereki:
              -- let -- let me just say.
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    Wadkins:
              Oh, go ahead.
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    Bereki:
              That I -- although I filed in that fashion, if you're
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              not going to investigate --
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    Wadkins:
              Mm-hmm.
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    Bereki:
              -- the issue that I'm reporting, then it's pointless
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              for you to even begin a criminal -- or even begin an
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administrative investigation against Sergeant Manson. 1 2 Because if you go -- uh, they're like opposite sides 3 of the same coin. 4 Wadkins: Mm-hmm. 5 Bereki: So essentially, you'll find that he didn't do anything 6 any -- uh, he wasn't guilty of any misconduct, so to 7 speak, because you're not actually investigating the 8 thing that you have a duty to investigate. So that --9 that -- that's gonna be clearly unfounded. 10 Wadkins: Okay. Um, so there's -- you can drop that if you're -- if 11 Bereki: 12 you're telling me right now that the -- the -- are you -- in what you're saying to me, are you speaking on 13 14 behalf of the Chief of Police --15 Wadkins: Yes. 16 Bereki: -- in -- in that this is the decision of the City of 17 Costa Mesa, that you, uh, are not going to investigate 18 my complaint or intervene at all? 19 Wadkins: Yes, we're not gonna take a complaint. 20 Bereki: Okay. 21 Wadkins: We're not gonna take a criminal c- -- uh, a criminal 22 report on this matter. 23 Bereki: Okay, how 'bout a deprivation of rights report? 24 Wadkins: W- -- we are not going to take a report regarding the 25 instances -- the -- the issues that you're bringing up



regarding, uh, investigating a duly, uh -- uh, the due 1 2 process of your court procedure in a civil court, 3 which has gone through multiple layers of appeal. 4 Bereki: Right, okay. So even though the California Penal 5 Codes clearly say -- like for example, um, you know, 6 484, 487 says whoever, uh, they apply to judges, um --7 Wadkins: It's not unlawful taking if it's done with a court 8 order. 9 Bereki: But if the court doesn't have authority to do that, 10 (inaudible - 00:10:07) --11 Wadkins: Then -- then the appellate court --12 Bereki: So it's --13 Wadkins: Then the appellate court or the Supreme Court would've 14 ruled on your behalf, and if you -- if you and your 15 attorney argued the point correctly, they would've 16 ruled on your behalf. 17 Bereki: No, no. 18 Wadkins: If they felt there was merit in your argument, they 19 would've overturned the decision or sent it back down 20 21 Bereki: N- -- that's not --22 -- for a retrial with a different court. Wadkins: 23 Bereki: That's not what has happened. What I'm saying is 24 that's not what's happened. And so there was a clear 25 egregious deprivation of rights --



Wadkins: Okay.

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Bereki: -- that I can give you, just undeniable evidence of,
that has gone on, even though I have gone through all
of those court processes. I -- I hear you when you
say that those processes should've worked, and they
should've done those things.

Wadkins: Mm-hmm.

Bereki:

But the reason I'm coming to you at this point is because those processes haven't worked. And -- and when you say that the -- the, uh, you know, the judgment was made e- -- essentially by a duly appointed judge acting with lawful authority, that's not the case, because a judge has no authority, any more than a police officer does, to violate the fundamental law of our state and nation. So you can't say that a judge has authority to issue a -- a -- a near million-dollar fine, when the Constitution expressly forbids that. Like, so -- so there's basic things that before -- like w- -- as a police officer, you have certain procedures that you have to follow when you're -- when you're taking someone's property or -- or you make an arrest. Otherwise it could be deemed an unlawful arrest, and you may've not had authority to do it. Like -- like for example, you can't pull someone over because you don't like the

| 1  |          | color shirt they're wearing. So if you did that, and |
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| 2  |          | then fined or imprisoned them, you would be          |
| 3  |          | essentially guilty of false imprisonment, um, or an  |
| 4  |          | unlawful seizure. But (inaudible - 00:11:52)         |
| 5  | Wadkins: | Yeah, but you but that but that person can't now     |
| 6  |          | go to another police agency and file a criminal case |
| 7  |          | against us.  |
| 8  | Bereki:  | (Inaudible - 00:11:59).                              |
| 9  | Wadkins: | What that person has to do is to go federal go to    |
| 10 |          | court and file, uh, a criminal, uh, a federal civil  |
| 11 |          | action against us, and that's what you have to do.   |
| 12 |          | You have to use the court process to to the b        |
| 13 |          | to, you know, to                                     |
| 14 | Bereki:  | Right, but what I'm sharing with you, and I realize  |
| 15 |          | this is a unique situation                           |
| 16 | Wadkins: | Mm-hmm.  |
| 17 | Bereki:  | is that process is not working for me. And so, not   |
| 18 |          | because my argument is BS, but because that's the    |
| 19 |          | that is what is transpiring in this case right now.  |
| 20 |          | And so that does not no matter what is going on in   |
| 21 |          | the court  |
| 22 | Wadkins: | Mm-hmm.  |
| 23 | Bereki:  | th we have a a system of co-equal branches           |
| 24 |          | of government. That's why the powers were separated, |
| 25 |          | so one branch acts as a check and balance on the     |



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other. And I'm not asking you to perform a judicial
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              duty and declare that the judgment is void.
                                                             What I'm
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              asking you to do is investigate my complaint,
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              determine from an Executive standpoint, because every
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              officer of the government has the duty to interpret
              the Constitution, and do so, and to -- if this
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               judgment turns out to where the sheriff shows up at my
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              doorstep and tries to steal my home, that the Costa
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              Mesa Police Department may be there intervening
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              saying, "No, this is not how this is gonna go." Or,
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              there's another issue that is here --
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    Wadkins:
              We don't -- we don't even have the legal expertise to
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              even review a civil case of this matter, nor would we.
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              So --
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    Bereki:
              You absolutely do.
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    Wadkins:
              So -- so -- we're --
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    Bereki:
              You absolutely do.
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    Wadkins:
              Okay, so Mr. -- Mr., uh, Bereki, uh --
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    Bereki:
              Mm-hmm.
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    Wadkins:
              -- we're -- again, I -- I -- you know --
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    Bereki:
              So look, I can talk --
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    Wadkins:
              -- you're not gonna get the answer from me that you
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              want --
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    Bereki:
              Look --
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    Wadkins:
              -- and I'm not gonna convince you otherwise,
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1 unfortunately. 2 Bereki: Well, here's the deal, I was a cop for 10 years here 3 in Southern California. I'd probably have, if I were 4 still a cop, I'd probably have the same time on that 5 you do right now. So, granted, I have had a little bit more time, uh, studying on this exact matter, but 6 7 I've taken all the legwork out of it for anyone to be able to look at the facts of the case very plainly and 8 9 simply, and discover whether there is a violation of a 10 deprivation of rights. 11 Wadkins: So if it's that clear to look at, then why didn't the 12 appellate court recognize that? I -- I -- I can't tell you that. I don't know. 13 Bereki: That 14 is --15 Wadkins: And why didn't the S- -- the California Supreme Court 16 recognize that this judge was acting outside his 17 authority? 18 Bereki: They -- okay, so the California Supreme Court has 19 actually held that the judgment that was against me is 20 penal. Okay? It is punitive. 21 Wadkins: Mm-hmm. 22 I don't know why the, uh, trial judge and the Bereki: 23 appellate court justices did not follow the Supreme 24 Court, but they have a duty to do that. When my case 25 went to the -- the, uh, California Supreme Court, the



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justices there had a duty to take my case, because I did not have a full fair and impartial trial and But they violated their duty by not taking my It was not a determination on the merits of the case, because they never took the case. ordinarily, when you go to the California Supreme Court at that level, the court is assuming that you've already had a fair trial and a fair appeal, and that their taking of your case is discretionary, right? But that's not what happened in my case. Both the trial and appellate court judges completely violated the Constitution, and when the case went up to the California Supreme Court, for whatever reason, I was not privy to their decision, and they did not give a written decision, other than they were not taking the But again, that's not a decision on the merits of the case. They have already spoken in numerous previous cases and said that this action is indeed penal. And I have a decision from the United States Supreme Court saying exactly what I'm saying in the context of a different case. So, and that negates, if you will, the -- the determination made by the trail court judge and the appellate court judges. So my -my -- what I'm saying here is not -- I'm not a lone voice in the wilderness. I have the highest court in



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the nation, the U.S. Supreme Court, saying what I'm saying pertaining to my case. But that's the problem. I- -- I can't -- th- -- there- -- there's no remedy after going through all of the courts in California, there is no remedy. That's it. That's why I went to the legislature and said, "Hey, what is going on with this law? You need to do an investigation. This is highly unconstitutional." And they refused to do something about it. So now there are -- there are judgments that are being enforced upon me. As a re- -- as a result of that judgment, one of them is that my -- my license to act as a general contractor has been suspended indefinitely. I got no hearing. That -that's required, that there be a judicial hearing on There was no hearing for that suspension. was automatic. That's another violation of the separation of powers. So now this judgment's illegal, my license has been suspended. Now I can't work to pay my mortgage or property taxes that -- for the property that -- that's held in my estate. And now they're -- the mortgage company is threatening to foreclose on the property. And I suspect that the county tax re- -- collector is not -- is on their heels as well. And so what I'm -- what I'm reporting is that everything that's been done to me in this case



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has been egregiously unconstitutional and illegal. There's no authority for any of it. And every time I go to a branch of government that says that -- and I report this to them. I s- -- over and over, I'm saying, "Look, here's the case law on this subject. Here it is. It's clear as day." And everyone points a finger at someone else, and no one is willing to take the responsibility to do the duty of their office to protect my rights and property. I -- i- -- it's that simple. So I -- I -- I'm -- I realize the situation is unique, but as a former police officer, what I can remember is that when I went to the Academy, I got explicit training on protecting the constitutional rights of all people. And I don't care who it was, if someone came to me and told me that another public official or another citizen had taken their prop without lawful authority, I would undoubtedly, undeniably have known that it was my duty to begin an investigation of some kind, even if I didn't understand completely what was going on, the fact that there was something that was so egregious of a near million-dollar fine tells me -- would've told me that there's something seriously wrong here. Now, from a patrol perspective, where I worked most of my career, maybe my duty at that point may've just been



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to take a report and send it up to the detectives and let them sort it out. But from a detective standpoint, where I also worked, it would've been my duty to investigate this citizen's, uh, complaint to see if there in fact was a criminal violation. Because even though judges are sitting on a bench, and they are close with the -- close with authority in the same way that police officers are, they have to stay within the bounds of the law. And we can't say just because a police officer is wearing a uniform and he's a police officer doesn't mean he can commit a criminal act, and that -- that if I went to some other authority and made a criminal complaint, they'd absolutely have a duty to investigate that. And in the same context, if I brought a civil action, then the courts would have a duty to do that as well. when it comes to deprivation of constitutional right, there is no discretion by public officials. Because if you had a discretion to say, "Ah, well, you know, Adam, we don't wanna investigate that, "essentially you're overruling the Constitution, because it says right there that you're bound to do these things. And if I'm reporting to you that the government, which -which you are employed, is doing something illegal, you have a duty to do something about it, period.



1 I am -- I am just blown away at the fact that, you 2 know, y- -- you guys, as well as the other agencies that I've contacted, including the courts, are so --3 4 so -- just -- just refusing to do what is so blatantly 5 obvious in the Constitution. Um, so I'll -- I'll 6 leave it at that. 7 Wadkins: All right, Mr. Bereki. Again, I -- I apologize. I --I feel bad for your situation, and, you know, I hope -8 9 - um, and I don't mean this -- this -- I'm not saying 10 this in a snide manner. Um, you know, it looks -- you 11 could -- you know, it sounds like you could start -everything you've learned, you should, you know, look 12 into going into law, or in some -- some manner in 13 14 that, and -- I hope that that -- this inspires you to 15 find some, you know, possibly some new avenue to, um, 16 to find in your life. 17 Bereki: Oh, oh. I -- yeah, no. I -- I actually hope to 18 change the law. But one of the ways that I'm doing --19 well, let me just -- let me just clarify. 20 Wadkins: Mm-hmm. 2.1 Bereki: I wanna make certain that you have the authority of 22 the Chief of Police to make this policy determination 23 that -- that City of Costa Mesa is not going to 24 investigate or intervene. You -- you -- you were 25 given that authority?



Well, th- -- this isn't a policy decision. I'm just 1 Wadkins: 2 saying, we are not going to -- we have the discretion 3 to -- to take reports, to not take reports. 4 dis- -- we have discretion in -- in our job, and I'm 5 telling you, based upon my understanding of it, and listening to your phone calls, and listening to you 6 7 now, uh, we are not gonna take a criminal, uh, 8 criminal report regarding this issue. 9 Bereki: Right. So -- so --10 Wadkins: Okay? 11 Bereki: -- so as I explained, you don't have discretion when 12 it comes to a matter of -- of rights violations. But if you wanna -- that's fine if you want to believe 13 14 that, but --15 Wadkins: And again, I mean, I, um, you know -- I --16 Bereki: Right, at this point we disagree, but I -- I do 17 believe that it is a policy of the Costa Mesa Police 18 Department not to investigate deprivation of rights 19 complaints and complaints of suspected criminal 20 activity by judges or other public officials acting 21 without lawful authority. 22 Wadkins: In this specific case, yes. In the matter that you've 23 explained, so yes. 24 Bereki: Yeah, that is, uh, that is a -- a policy 25 determination. And so that's what I'm clarifying with



1 you, because that's why I sent my -- my complaint 2 directly to the Chief of Police. 3 Wadkins: Okay. 4 Bereki: Because it is my understanding that he has the policy-5 making authority for the City of Costa Mesa as the 6 Chief of Police, and so I wanted a determination from 7 him on that issue. So that's why I asked you, are you -- have you been given that authority by the chief to 8 9 make this policy determination in my case about this 10 issue? 11 Wadkins: Uh, I'm -- I'm telling you what I'm telling you from 12 my perspective a- -- as the lieutenant of our Professional Standards Bureau, that this is -- you 13 14 know, we are not gonna take this report. Uh, I've 15 accepted your complaint, uh, which you said to go 16 ahead and rescind, but I -- and I will do that as 17 well. Right, okay. But you still -- you haven't answered my 18 Bereki: 19 question. I've -- I've just told you. 20 Wadkins: We're -- we're not -- the 21 Costa Mesa Police Department is not gonna take a 22 criminal report in -- in this instance. 23 Bereki: Okay. 24 Wadkins: Okay. 25 Could you -- could you please, um, I -- I -- I Bereki:



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will accept that, although I disagree. But could you
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 2
               please have the Chief put that in writing in an email
 3
               to me?
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    Wadkins:
              No, we are not.
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    Bereki:
               You're not going to do that?
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    Wadkins:
               I'm -- I'm -- I'm handling this via phone call. We're
 7
               not --
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    Bereki:
               Okay.
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               So, and -- you know, again, I'll be happy to send you
    Wadkins:
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               a letter regarding your complaint, um, if you'd like.
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               That -- but, uh --
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    Bereki:
              No, what -- what I'm asking for is -- is a -- is a
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               determination by the Chief, and so you're not --
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               you're not going to give that to me?
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    Wadkins:
               No.
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    Bereki:
               Okay.
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    Wadkins:
              All right?
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    Bereki:
               Okay.
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    Wadkins:
               All right.
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    Bereki:
               Well, I -- I thank you for your time.
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    Wadkins:
               I appreciate it.
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    Bereki:
               What -- what was your -- what was your name again?
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    Wadkins:
               Lieutenant Brian Wadkins, W-A-D-K-I-N-S.
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    Bereki:
               Brian Wadkins. Okay, thank you, lieutenant.
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    Wadkins:
               All right. Bye-bye.
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Bereki: Okay, bye.



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