



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission

**FROM:** Commission Secretary's Office <sup>DCB</sup>

**DATE:** April 18, 2017

**SUBJECT:** Comments on Draft AO 2016-23 and Notice of Intent to Appear  
(Socialist Workers Party)

Attached are timely submitted comments received from Michael Krinsky, Esq. and Lindsey Frank, Esq. on behalf of the requestor. This matter is on the April 20, 2017 Open Meeting Agenda, for which Counsel has provided notice of their intent to appear.

Attachment

**From:** Lindsey Frank  
**To:** [Cheryl Hemsley](#); [Joanna Waldstreicher](#)  
**Cc:** [Michael Krinsky](#); [AO](#); [Adav Noti](#); [Robert Knop](#); [Anthony Bell](#)  
**Subject:** FEC Advisory Opinion Request 2016-023 (Socialist Workers Party and Socialist Workers National Campaign Committee)  
**Date:** Sunday, April 16, 2017 9:53:38 AM  
**Attachments:** [SWP COMMENTS on Drafts B and C of AO 2016-23\\_04.16.17.pdf](#)

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Dear Ms. Waldstreicher and Ms. Hemsley:

Attached please find Comments to Drafts B and C of Advisory Opinion 2016-23 submitted by the Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party (collectively, the "SWP").

As we previously advised, the SWP intends to appear at the public meeting at which the Commission will consider Advisory Opinion Request 2016-23.

I would greatly appreciate your confirming receipt of this email.

Very Truly Yours,  
Lindsey Frank

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April 16, 2017

Federal Election Commission  
Office of General Counsel  
999 E Street, N.W.  
Washington, DC 20463

Dear Commissioners:

On behalf of our clients, the Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party (hereinafter collectively, for convenience, “SWP”), we respectfully request that the Commission grant Draft C of Advisory Opinion Request 2016-23, and reject Drafts A and B.

The SWP focuses its comments here only on Drafts B and C, as it has already provided comments on Draft A, which comments it incorporates herein by reference. *See* SWP Comments, Feb. 16, 2017.

**A. By Failing To Identify Any ‘Compelling’ or ‘Sufficiently Important’ Government Interest In Disclosure With a ‘Relevant Correlation’ or ‘Substantial Relation’ to the Information To Be Disclosed, Draft B Would Subvert Established Supreme Court and the Commission’s Own Legal Framework for Granting Exemption**

Because Draft B, like Draft A, fails to identify any “compelling” or “sufficiently important” government interest in disclosure here, much less one with a “relevant correlation” or “substantial relation” to the information required to be disclosed, it would represent a significant and alarming break with well-established precedent. This alone warrants rejection of Drafts A and B.

1. Under well-established Supreme Court precedent which has been faithfully applied to the SWP by the Commission for more than 40 years:

The right to privacy in one’s political associations and beliefs will yield only to a ‘subordinating interest of the State [that is] compelling,’ and then only if there is a ‘substantial relation between the information sought and [an] overriding and compelling state interest.’

*Brown v. Socialist Workers '74 Campaign Committee (Ohio)*, 459 U.S. 87, 91-92 (1982) (internal citations omitted); (quoting *Gibson v. Florida Legislative Comm.*, 372 U.S. 539, 546 (1963)); see also *Buckley v. Valeo*, 424 U.S. 1, 64 (1976) (there must be “a ‘relevant correlation’ or ‘substantial relation’ between the governmental interest and the information required to be disclosed.”); *John Doe No. 1 v. Reed*, 130 S.Ct. 2811, 2818 (2010) (“‘exacting scrutiny’” applied to First Amendment challenges to compelled disclosure requirements “requires a ‘substantial relation’ between the disclosure requirement and a ‘sufficiently important’ governmental interest.”) (quoting *Citizens United v. Federal Election Comm’n*, 130 S.Ct. 876, 914 (2010))

The Supreme Court demands that the alleged governmental interests “must survive exacting scrutiny” before it can overcome “significant encroachments on First Amendment rights of the sort that compelled disclosure imposes.” *Buckley*, 424 U.S. at 64 (emphasis added). These “significant encroachments on First Amendment rights ... cannot be justified by a mere showing of some legitimate governmental interest.” *Id.* (emphasis added.)

2. Draft B simply does not -- and cannot -- survive this constitutionally required “exacting scrutiny.” Draft B’s only purported government interest is that the SWP theoretically “*may be* encouraged by major-party interests in order to divert votes from other major-party contenders.” Draft B, at 11 (emphasis added).

However, as shown in the SWP’s February 16, 2017 Comments and as rightfully stated in Draft C, there is not a scintilla of evidence of any vote diversion, nor has there ever been in the more than 75 years of the SWP’s participation in elections.

i. The SWP’s vote total in 2016 was not nearly enough to change the election results in any state. It was also significantly below its vote totals in several prior election cycles when the Commission granted exemption and represents only 0.009% of the entire vote total in 2016. See SWP February 16, 2017 Comments, at 6-8. These facts alone are sufficient to establish that there is no “compelling” or “sufficiently important” government interest to justify disclosure, let alone one with a “relevant correlation” or “substantial relation” to the information required to be disclosed.

Draft B’s statements that the SWP candidate had “the ninth-widest ballot access among the 31 presidential candidates who qualified for the ballot in at least one state” and “received more than 12,000 votes, which ranked 11th out of the 31 presidential candidates, and which was nearly triple the 4,100 votes the SWP’s candidate received in 2012” represent a meaningless numbers game that fails to make the constitutionally required analysis of whether the SWP’s candidate could have had any impact on the election’s outcomes – which it clearly could not. Draft B, at 10-11.

ii. In addition, such diversion is entirely contrary to the reason the SWP runs election campaigns, which is to advocate its own, entirely distinct and independent political positions. *See* AOR 2016-23, at Ex. 34.

iii. Moreover, Draft B's casual references to the success of Bernie Sanders' Democratic primary campaign and alleged increase in the number of individuals self-identifying as socialists seriously misconceives Supreme Court requirements, which demand an individualized analysis and determination. The required individualized analysis and determination reveals that the SWP has consistently represented a "definite and publicized viewpoints" that are so obviously contrary to – not "materially similar to" – those of Senator Sanders and that the government's interest in disclosure here remains *nil* or almost *nil*. *See* SWP's February 16, 2017 comments, at 12-13.

Indeed, the fact that the SWP's vote totals and contributions remained below totals the SWP's candidates had received in prior election cycles (e.g. vote totals in 1980, 1984, 1988, 1992) in which exemption was granted, despite the fact that Senator Sanders received millions of votes and hundreds of millions of dollar in contributions in the Democratic Party primaries, and there was a substantial portion of the public in New Hampshire and Iowa identifying as socialists, only reinforces the fact that the public views the SWP as separate and distinct from Senator Sanders and socialists more generally. *See id.*

3. In the past 26 years in which the Commission has granted the SWP exemption, it has never, and cannot now, assert an augmented government interest in disclosure based on potential vote diversion merely because of some completely speculative conjecture that has absolutely no historical or current support in fact.

Although the SWP recognizes that Supreme Court precedent does not grant minor political parties, such as the SWP, *per se* exemption, it also does not grant the government a *per se* interest in disclosure.

Draft B never describes how, given these facts, the government's interest in weeding out vote diversion is in any way "compelling" or "sufficiently important" to justify disclosure here, nor does it establish the required "substantial relation" between such a government interest and the disclosure requirement here.

4. If Draft B were to be accepted on the basis of the SWP's vote total and other factors involved here, it would establish the precedent, fundamentally at odds with the Supreme Court's holding in *Buckley v. Valeo*, 424 U.S. 1 (1976), that there is always a "compelling" or "sufficiently important" governmental interest in disclosure merely because there is always the theoretical possibility of a minor political party being used as a "vehicle for diversion."

Draft B cannot simply rely on the theoretical possibility of vote diversion to try to suggest, wrongly and contrary to the facts, that "the public interest in disclosure of SWP's financing is significantly greater than it has been at any other time that the Commission

considered the SWP's reporting exemption." *See* SWP's February 16, 2017 comments, at 8-11 (detailing how facts presented here are substantially similar to facts the SWP has presented to the court and this Commission in the past).

As the Supreme Court held in *Socialist Workers '74 Campaign Committee (Ohio)* "the mere possibility that minor parties will resort to corrupt or unfair tactics [or, in the case at hand, vote diversion] cannot justify the substantial infringement on First Amendment interests that would result from compelling the disclosure of recipients of expenditures." *Socialist Workers '74 Campaign Committee (Ohio)*, 459 U.S. at 95, n.11 (emphasis added). In *Socialist Workers '74 Campaign Committee (Ohio)*, the Supreme Court rejected the dissent's "suggest[ion] that the government interest in the disclosure of recipients of expenditures is not significantly diminished in the case of minor political parties, since parties with little likelihood of electoral success might nevertheless finance improper campaign activities merely to gain recognition."

5. As shown above, Draft B simply does not -- and cannot -- survive the constitutionally required "exacting scrutiny." Indeed, even if the standard were lesser, the result would be the same on the facts presented here.

**B. Exemption Is Required Because the Government's Interest In *Nil* or *Almost Nil* and the SWP Has Established a Reasonable Probability of Threats, Harassment or Reprisals**

By failing to satisfy the constitutional requirements as described above in Point A, Draft B's remaining argument -- that recent incidents of threats, harassment and reprisals are less severe than in the past and that prior incidents of threats, harassment and reprisals are now less relevant -- even if accurate, which it is not, would not be sufficient to deny exemption here, as Draft C rightfully recognizes. *See* Draft C, at 12-14.

Indeed, where there is no "compelling" or "sufficiently important" government interest with a "substantial relation" to the information sought, as is the case here, there is no justification for the "significant encroachments on First Amendment rights" here, even without evidence of threats, harassment or reprisals.

Of course, the SWP has presented evidence of both past and present threats, harassment and reprisals against SWP supporters -- a record long recognized as unmatched by any other applicant for exemption -- and so, even under the three factors balancing test that Drafts A, B and C recognize, exemption from disclosure must be granted:

- On the one side

(1) the history of violence or harassment, or threats of violence or harassment, directed at the SWP or its supporters by governmental authorities, including law enforcement agencies, or by private parties; and

(2) evidence of continuing violence, harassment, or threats directed at the SWP or its supporters since the prior exemption was granted on the one side.

- On the other side

(3) the governmental interest in obtaining identifying information of contributors and recipients of expenditures.

See SWP February 16, 2017 Comments, at 13-14.

Because the government's interest in disclosure in this case is *nil* or *almost nil*, there can be no doubt that "the historical pattern of previous actions against the SWP ... [that] may [continue to] discourage individuals from getting involved with the SWP for fear of harassment or surveillance by government agencies," as Drafts A, B and C all recognize, plus even a diminished number or different type of recent instances of threats, harassment and reprisals is more than sufficient to warrant granting exemption.

**C. Draft B's Unprecedented Requirement That the SWP Submit Evidence of "Serious" Harassment and Reprisals Would Break With Supreme Court and the Commission's Own Precedent and Chill the Exercise of Important First Amendment Rights**

Without citation to any legal support, Draft B would impose, for the first time, a requirement that minor political parties provide evidence of "serious" harassment and reprisal in order to receive exemption from disclosure. See Draft B at 19 & n.22.

Such a requirement runs counter to long-standing Supreme Court and the Commission's own precedent which has never required the applicant to provide evidence of "serious" harassment and reprisal, but rather only that they establish "a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment or reprisals from either Government officials or private parties." *Buckley*, at 74.

For this additional reason, Draft B must be rejected.

Accepting this new requirement would add an additional hurdle that would make it significantly more difficult for minor political parties to obtain exemption and thus would further chill the exercise of important First Amendment rights.

Draft B, just like Draft A – as well as Draft B of Advisory Opinion 2012-38, at 19, which was rejected – relies upon no case law or Commission precedent to support this novel and unwarranted legal requirement.

#### **D. Draft B Does Not Properly Recognize Government Harassment by Prison Officials of SWP Supporters**

Draft B must be rejected for still another reason – it does not properly account for the severity of the harassment that the SWP and its supporters continue to face from the government.

Draft B improperly dismisses as merely “actions by corrections officers that were reversed” the nine (9) separate documented incidents in which both state and federal prison officials throughout the U.S. singled out issues of *The Militant*, the newspaper that editorially supports the SWP, and refused to permit inmates to receive these issues of *The Militant*. See Draft B, at 19.

The fact that these periodicals were in most -- but still not all -- cases released, after intervention by attorneys and statements of protest by various organizations and individuals, in no way detracts from the fact that supporters of the SWP from different parts of the country regularly are singled out and subjected to government harassment and that this provides significant proof of the reasonable probability that the supporters of the SWP will be subject to threats, harassment and reprisals in the future. It also does not negate the harassment and disruption that SWP supporters experienced in the first place.

Indeed, the review board for Attica Correctional Facility in New York State has failed to timely respond, in clear violation of New York state regulations, to timely challenges by *The Militant* through its attorneys back in November and December 2016 to the improper confiscation and censorship of three (3) issues of *The Militant* (dated October 3, October 31 and November 21, 2016) by government officials at this facility. This challenge remains pending, despite several requests by *The Militant*'s attorneys for the timely resolution of this matter.

*The Militant*'s challenge, through its attorneys, to the improper confiscation and censorship of three (3) issues (dated October 31, November 28 and December 12, 2016) by government officials at the Illinois River Correctional Center in Illinois also has remained pending for more than two (2) months.

These instances exhibit the continued, deep-seated government hostility toward supporters of the SWP. These actions by the prison officials were contrary to law and the prisons' own regulations and, in addition, violated *The Militant*'s and the prisoners' First Amendment rights.

The government officials' animus against the SWP has been demonstrated not only by their repeated violation of the law and the prisons' own regulations but also by the fact that the banned issues merely contained articles reporting on events that had been covered widely by media across the country, including *Time* magazine, *Ebony* magazine, and daily papers from *The New York Times* to the *Miami Herald*, none of which had any difficulties with prison authorities.



**E. Evidence of a Reasonable Probability that Disclosure Would Deter Individuals from Supporting the SWP Strongly Supports Exemption**

The SWP has provided evidence of “an increasingly pervasive and reasonable **fear** among potential SWP supporters that their support for, or association with, the SWP will subject them to threats, violence or harassment.” SWP’s February 16, 2017 comments, at 17. This alone can strongly support granting of exemption. *See Doe No. 1 v. Reed*, 697 F.3d 1235, 1247 (9th Cir. 2012) (Smith, J., concurring) (cited favorably by Draft B) (as applied challenge would be successful if Plaintiffs made a showing that the disclosure laws deter individuals who would prefer to remain anonymous from participating in the ballot measure) (internal citation omitted); *Buckley*, 424 U.S. at 68 (“fears of reprisal may deter contributions to the point where the movement cannot survive”).

Draft B’s counter-argument that “[t]o the contrary” the “evidence presented in the SWP’s request does not show ‘increasing[]’ harassment of the SWP’s supporters.” Draft B, at 18 (citing SWP’s February 16, 2017 Comments, at 17) misses the SWP’s point.

The SWP’s point is not that “an increasingly pervasive and reasonable fear among potential SWP supporters that their support for, or association with, the SWP will subject them to threats, violence or harassment” is the same thing as increasing number incidents of harassment itself. It is that evidence of an increasingly pervasive and reasonable fear can alone strongly support granting of exemption.

Draft B must be rejected for this issue as well.

**F. The SWP’s Incidents of Recent Threats, Harassment and Reprisals Are Particularly Significant Compared to Its Contributions and Vote Totals**

As shown in the SWP’s February 16, 2017 Comments, even though, under the Supreme Court and the Commission’s balancing test, no evidence of recent government or private harassment or disruption need be established because the SWP has shown that the government interest in disclosure is *nil* or almost *nil* and the history of threats, harassment and reprisals weighs in favor of renewing the partial reporting exemption, the SWP, nonetheless, has provided significant evidence of such recent threats, harassment and reprisals.

The SWP notes that the 25 recent incidents of threats, harassment and reprisals, plus nine (9) declarations demonstrating a persistent widespread fear of associating with, or even appearing to be interested in, the SWP (1 of these 9 declarations is submitted here, see below), are particularly significant proportional to the 86 individuals nationwide who contributed over \$200 and the 12,465 votes the SWP’s presidential candidate received in 2016.

### **G. Sharp Political Polarization**

This Request comes at a time when there is significantly less tolerance for individuals with views outside of the mainstream on both the right and the left of the political spectrum. There are an increasing number of threats and violent attacks against a number of personalities and parties that remain outside the mainstream, aimed at intimidating members, supporters, and potential supporters and at having a chilling effect on their space to speak freely and engage in constitutionally protected political activity. *See Ex. 37.*

This only further reinforces the fact that there is a reasonable probability that SWP supporters would also be subject to threats, harassment and reprisals and the reasonableness of potential supporters' fears of supporting the SWP were an exemption from disclosure not granted.

It also raises the stakes for the Request at hand as the consequences of failing to grant exemption for the first time in 38 years are much greater.

Indeed, at least one SWP supporter has decided to stop contributing to the SWP because of this intolerant atmosphere and the possibility that his affiliation may become public. *See Ex. 38.* There can be no doubt that others feel the same way, thus further threatening support for vital minor political parties.

### **CONCLUSION**

Based on the foregoing, on the SWP's filing dated November 14, 2016 and its Comments dated February 16, 2017, the SWP respectfully requests that the Commission approve Draft C and grant the SWP a partial reporting exemption until December 31, 2020.

Thank you for your attention to this matter.

Sincerely yours,

Michael Krinsky  
Lindsey Frank

# **EXHIBIT 37**

## **Neo-Nazi Richard Spencer Got Punched—You Can Thank the Black Bloc**

*A dispatch from inside the J20 protests.*



**Activists race after being hit by a stun grenade while protesting against US President-elect Donald Trump on the sidelines of the inauguration in Washington, DC, on January 20, 2017.**

**By NATASHA LENNARD**

The transcendental experience of watching Roger Federer play tennis, David Foster Wallace wrote, was one of "kinetic beauty." Federer's balletic precision and mastering of time, on the very edge of what seems possible for a body to achieve, was a form of bodily genius. What Foster Wallace saw in a Federer Moment, I see in a video of neo-Nazi Richard Spencer getting punched in the face.

You may have seen it, it's a meme now, set to backing tracks of Bruce Springsteen, New Order, even a song from Hamilton. The punch, landed by a masked protester on Inauguration Day, lends itself perfectly to a beat. Spencer, who states that America

belongs to white men, was in the midst of telling an Australian TV crew in DC that he was not a neo-Nazi, while pointing to his neo-Nazi Pepe the Frog lapel pin. A black-clad figure then jumps into frame, *deus ex machina*, with a perfectly placed right hook to Spencer's face. The alt-right poster boy stumbles away, and his anonymous attacker bounds out of sight in an instant. I don't know who threw the punch, but I know by his unofficial uniform that this was a member of our black bloc that day. And anyone enjoying the Nazi-bashing clip (and many are) should know that they're watching anti-fascist bloc tactics *par excellence*—pure kinetic beauty. If you want to thank Spencer's puncher, thank the black bloc.

The black bloc is not a group but an anarchist tactic—marching as a confrontational united force, uniformed in black and anonymized for security. Once deployed, the tactic has an alchemic quality, turning into a temporary object—*the* black bloc. On Friday, the bloc I joined in DC numbered well over 500, the largest of its kind since the antiwar protests over a decade prior. As I wrote in advance of the inauguration, if we recognize fascism in Trump's ascendance, our response must be anti-fascist in nature. The history of anti-fascist action is not one of polite protest, nor failed appeals to reasoned debate with racists, but direct, aggressive confrontation. While perhaps best associated in the United States with the anti-globalization movement's major summit protests nearly two decades ago, the black bloc is part of the longstanding visual language of international anti-fascism, or *antifa*. For example, bloc tactics have been used by European anti-fascists marching against neo-Nazis since the 1990s in Germany. The symbolic value of a large black-bloc presence at Trump's inauguration resided in drawing a connection between anti-Trumpism and anti-fascism.

he "anti-capitalist, anti-fascist bloc," Friday's black-bloc march, was just one among a number of direct actions called by organizers of the Disrupt J20 Inauguration Day protests. Unlike Saturday's vast Women's March, Disrupt J20 aimed to directly impede, delay, and confront the inaugural proceedings. This message was delivered with human blockades, smashed corporate windows, trash-can fires, a burning limousine, "Make America Great Again" caps reduced to ashes, and a blow for Richard Spencer. The police responded with fountains of pepper spray, flash-bang grenades, and the mass arrest of over 200 people, most of whom now face felony riot charges. Along with the Women's March's joyful scenes of togetherness, the disruptions of J20 should be celebrated as an opening salvo of resistance in the era of Trump.

The black bloc I joined met at Logan Circle, some two miles north of the inauguration parade route. We peered through bandanas to find friends. We gathered in bloc formation behind wood-enforced banners, filled the street, and began to march. The bloc takes care to stay together, move together, and blend together. Within minutes, bottle rockets were shooting skyward and bricks were flying through bank windows. You don't know who does what in a bloc, you don't look to find out. If bodies run out of formation to take a rock to a Starbucks window, they melt back to the bloc in as many seconds. Bodies reconciled, kinetic beauty. If that sounds to you like a precondition for mob violence, you're right. But this is only a problem if you think there are no righteous mobs, or that windows feel pain, or that counter-violence (like punching Richard Spencer) is never valid.

We were heading south when riot cops cut us off just a few blocks from the unimpressive inauguration

crowds. We ran, altogether, for some short minutes, which felt long. The Metropolitan Police Department doused us with pepper spray and dispensed flash-bang and smoke grenades, and finally trapped a large section of the bloc against a wall. These members of the black bloc were kettled there for over four hours, forced at various times to form human cubicles around those detainees who could no longer hold their bladders. The bloc never found full force en masse again, but clashes with cops, mild altercations with rowdy Trump supporters, and attacks on property continued throughout the afternoon and evening in fits and starts. At some point, someone punched Spencer. While the over 200 arrestees were held for 24 hours, jail support volunteers waited for them patiently while the Women's March filled DC streets and then dispersed. The J20 detainees have been released, some with felony rioting charges to be tried in DC Superior Court next month—a harsh prosecutorial reaction that seasoned DC activists had not expected.

Not everyone can participate in a black bloc. Those with a vulnerable immigration status, or arrest records, or good reasons to fear police repression because of the color of their skin, often don't participate in activities where the risk of arrest is high. Friday's bloc was by no means all white, but it was predominantly white. If bearers of white privilege can do one thing, it is put ourselves on the line and take risks where others can't. This was just one tactic. And numerous white participants I knew from Friday place racial justice front and center of their activist work. Disrupt J20 actions also included a series of temporary blockades at inauguration security check points, each representing different points of struggle, from the movement for black lives, to activists declaring "the future is feminist," to

Standing Rock and Indigenous rights, to queer resistance and more. A number of Trump supporters walk sheepishly from a line of blockading protesters shouting, "This checkpoint is closed." These were small acts, but disobedient ones and the call to be "ungovernable," which echoed through the Women's March, will not be answered with obedient behavior.

To talk with any romance for the black bloc risks falling into the worst tropes of bombastic revolutionary writing. We don't don black masks and become instant revolutionary subjects. We don't necessarily *achieve* more with property damage than a larger, more subdued rally *achieves*. In every case, the standard of achievement depends on the aims of the action, and all of us are far from creating the rupture we want to see in the world. One broken window, or a hundred, is not victory. But nor is over half a million people rallying on the National Mall. Both gain potency only if they are perceived as a threat by those in and around power. And neither action will appear threatening unless followed up again and again with unrelenting force, in a multitude of directions. You don't have to choose between pink hat and black mask; each of us can wear both. You don't have to fight neo-Nazis in the street, but you should support those who do.

*Natasha Lennard is a British-born, Brooklyn-based writer of news and political analysis, focusing on how power functions and how it is challenged. She writes regularly for The Intercept, Al Jazeera America, and Fusion.*





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Vol. 81/No. 7 February 20, 2017

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(commentary, special feature)

## **Anarchist ‘black bloc’ politics pose threat to working class**

**BY EMMA JOHNSON  
AND NAOMI CRAINE**

Claiming to be fighting fascism, anarchist groups in the U.S. have carried out numerous actions in recent weeks that pose a deadly danger to the working class — from sucker punching rightist Richard Spencer as he was speaking to a reporter, to assaulting workers who express support for President Donald Trump, to disrupting and shutting down campus speeches by individuals they disagree with.

These thuggish “black bloc” actions flow from the petty-bourgeois view that a minority of adventurers can substitute themselves for mass actions and change society. But the result is their actions close down political space, hand the government and its police agencies a golden opportunity to clamp down on political freedoms, and become a hotbed for provocateurs.

That’s the opposite of what the Socialist Workers Party stands and fights for: mobilizing the working class to organize politically independent of the capitalist rulers and their parties, joining today’s labor and political struggles seeking to build a revolutionary party capable of overthrowing capitalist rule and its dog-eat-dog social relations.

Rich articles about the destructive effects of the anarchists can be found in the works of Karl Marx, Frederick Engels, V.I. Lenin, Leon Trotsky and Farrell Dobbs.

One of the most striking things about the anarchists’ actions — such as the riot they organized in Berkeley, California, (see article below) — is that they reduce workers to bystanders, erasing any possibility of mass protest.

Writing in *The Nation* Jan. 22, Natasha Lennard gives a graphic description glorying in the black bloc she joined in Washington Jan. 20 during Trump’s inauguration. “Disrupt J20 aimed to directly impede, delay and confront the inaugural proceedings,” she writes. “This message was delivered with human blockades, smashed corporate windows, trash-can fires, a burning limousine, ‘Make America Great Again’ caps reduced to ashes, and a blow for Richard Spencer.”

Spencer is a white supremacist and president of the National Policy Institute. He was speaking to a reporter on the street when a black-clad assailant sucker punched him in the face and ran away. A video of the blow went viral on the internet, accompanied by tweets such as, “We all have to stay strong and survive so that we too can have the chance to punch Richard Spencer in the face.”

### **‘A righteous mob’**

That video shows “anti-fascist bloc tactics par excellence — pure kinetic beauty,” Lennard declares. She waxes lyrical about bottle rockets flying, bricks hurled through bank windows, clashes with cops and “mild altercations with rowdy Trump supporters.” She says, “If that sounds to you like a precondition for mob violence you’re right. But this is only a problem if you think there are no righteous mobs.”

Anarchist black blocs have targeted speaking engagements of Milo Yiannopoulos, an editor for Breitbart News, at many campuses. At the University of Washington in Seattle, they forced their way to the front of a Jan. 20 protest, throwing bricks and paint to try to stop people from attending his talk. A member of the anarchist Industrial Workers of the World was shot and wounded in the confrontation. A man who had come to hear Yiannopoulos later turned himself in to the cops, claiming he fired in self-defense.

Similar groups tried to stop an event organized by the College Republicans at New York University Feb. 2 for comedian Gavin McInnes, who calls himself a “Western chauvinist.” McInnes was pepper sprayed on the way in.

In all these incidents, targets have included individuals wearing pro-Trump hats or signs. The anarchists join the liberals in slandering workers who voted for Trump, fed up with the grinding depression conditions that world capitalism is producing, those Hillary Clinton called “deplorables.”

Neither Trump nor the workers who voted for him are part of a fascist movement. (See article on front page.) But as the class struggle deepens and the danger of fascism *is* posed, the stakes for working people in rejecting anarchism and its methods will only grow.

### **An anti-working-class course**

Attempting through violent attacks to silence those you disagree with from expressing their views is a method that can and will be used against the workers’ movement. Groups that carry out such attacks are fertile ground for provocateurs, and to breed actual fascists. And their provocations allow rightists such as Spencer and Yiannopoulos to appear to stand on the moral high ground as defenders of freedom of speech.

“If you start by attempting to hastily gather together a vanguard force and crush fascism in the egg, you are playing into the hands of the fascists,” said Socialist Workers Party leader Farrell Dobbs in a 1975 discussion titled *Counter-Mobilization: A Strategy to Fight Racist and Fascist Attacks*, published by Pathfinder Press. “You are losing ground in the mobilization of the real class that can do away with fascism.”

The workers movement has a long history of experience with anarchist currents, going back to the political battles of communist leaders Karl Marx and Frederick Engels against Joseph-Pierre Proudhon and Mikhail Bakunin in the 1800s. (See Marx's *The Poverty of Philosophy* and an 1873 article "The Bakuninists at Work" by Engels.) The anarchists destroyed the International Workingmen's Association led by Marx. They bore much of the responsibility for the disastrous defeat of the working class in the Spanish Revolution of the 1930s. Those and many other examples are the political continuity of today's black blocs.

The anarchist perspective is marked by opposition to political action by the working class. They favor the action of small groups to the mobilization, education and organization of the working class to take power out of the hands of the capitalist rulers and begin to reorganize society in the interests of the toiling majority — as both the 1917 Bolshevik Revolution in Russia and the 1959 Cuban Revolution showed was possible.

Other recommended reading on anarchism and its deadly record in the working class includes Dobbs' two-volume series *Revolutionary Continuity: Marxist Leadership in the U.S.* and *The Spanish Revolution (1931-39)* by Leon Trotsky.

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Vol. 81/No. 12    March 27, 2017

(lead article)

## **Debate rages over attack on political rights at Middlebury**

**BY MAGGIE TROWE**

MIDDLEBURY, Vt. — Discussion and debate was still raging on the Middlebury College campus and among working people when members of the Socialist Workers Party visited the area March 9-10 after conservative author Charles Murray was shouted down by a large group of students, professors and middle class radicals during a public talk the week before.

The break-up of the March 2 meeting and the physical attack by a small group of thugs on Murray and professor Allison Stanger afterwards gained national and international attention. Stanger, who had moderated the meeting and challenged Murray's views, which she strongly disagreed with, had to go to the hospital for treatment.

We came armed with the March 20 issue of the *Militant*, which has an editorial explaining how the “shut them down” strategy promoted by many liberal and leftist students and faculty is a deadly threat to the working class.

The pages of the *Middlebury Campus* weekly paper were full of articles debating the attack on Murray, who works for the American Enterprise Institute and is co-author of *The Bell Curve: Intelligence and Class Structure in American Life*.

Murray was invited to speak by the Middlebury College American Enterprise Institute Club. Student organizations — including College Democrats, Resistance and Wonderbread: White Students for Racial Justice — labeled Murray a “white supremacist” and demanded the event be canceled.

Hundreds of alumni signed a letter printed before Murray arrived, marked by the hysteria about the Donald Trump administration and the anti-working-class view that racism and opposition to women's rights are on the rise among working people. It said *The Bell Curve* presents “the same thinking that motivates eugenics and the genocidal white supremacist ideologies which are enjoying a popular resurgence under the new presidential administration.”

When the college administration declined to cancel the meeting, some students and faculty

organized to stop it.

Students shouted, “Your message is hatred; we cannot tolerate it!” Another chant was, “Racist, sexist, anti-gay, Charles Murray, go away,” which ignored the libertarian’s well-known support for legalization of abortion and same-sex marriage.

In *The Bell Curve* Murray posits that the rich are rich, and deserve to be, because of their high intelligence, in contrast with low-paid, low-IQ workers. “What’s at issue in *The Bell Curve* is an attempt to defend the wealth and class privilege of a so-called meritocratic social layer — ‘the cognitive elite’ is the euphemism chosen by the authors,” Socialist Workers Party National Secretary Jack Barnes writes in *Are They Rich Because They’re Smart? Class, Privilege, and Learning Under Capitalism*. “It’s even more about social class than race.”

College officials moved Murray to a studio to broadcast a live-streamed video of the discussion between him and moderator Stanger. Protesters tried to break this up too. Some wearing facemasks held a banner that read, “Choke on your silver spoon, you f---king Nazi.” These were some of those who attacked Murray and Stanger as they left the building.

We talked with students outside the student union and were invited to come inside and continue the discussion over lunch. Our table attracted a number of students with a variety of views. One was wearing a homemade button saying, “Free expression.” He said a number of his friends had asked him to make copies for them.

“I oppose Murray’s politics,” Alyson Kennedy, who ran as the Socialist Workers Party candidate for president in 2016, told Andrew Hennings, showing him the book by Barnes. “This is not an abstract discussion of ‘rights,’” Kennedy said. “It’s a life-and-death question for the working class and its allies, who need the political space to discuss and debate how to build a revolutionary movement capable of taking political power. Shouting down speakers we disagree with, not to mention physically attacking them, closes that space down.

“We lose the opportunity to confront and debate reactionary ideas that are a danger to working people,” she said. “And it introduces censorship over politics that can lead to attacks among us by those who say someone else’s ideas are wrong.”

Working people whose doors we knocked on in town were alarmed by the attack on the meeting. One woman, a group home attendant, said she felt strongly that different opinions should be heard out and debated.

“It was horrible what those students did,” two cashiers at the college bookstore told us. Most students we met said they opposed the physical attack, but many argued that the actions were understandable, saying Murray’s ideas are dangerous and must be suppressed.

“I’ve heard, ‘everyone has a right to their freedom of speech,’” wrote Juan Andrade-Vera in the *Campus*. “With that, I disagree. Allowing everyone to speak freely, especially on matters of race, creates that power imbalance my peers agreed existed, thus, not providing marginalized groups

equal paths to success.”

An op-ed signed by several dozen students studying abroad backed breaking up Murray’s meeting, and charged that criticisms “have de-legitimized this expression of student will, clinging to flimsy free speech arguments.” They demanded the administration “recognize attacks on POC humanity” and “demonstrate a tangible commitment to this college’s marginalized communities.” POC stands for people of color.

Others we talked to disagreed. “Some students say speakers like him should be shut down,” Nathalia González, 21, a psychology student who grew up in the working-class Pilsen area of Chicago, said. “Others say that attending his talk or protesting it just gives him legitimacy. I think different points of view should be heard.”

“I am not convinced by arguments for shutting down this event,” wrote political science professor Erik Bleich in the *Campus*. “It is all the less persuasive amid assertions that students were just exercising their free speech rights of ‘simultaneous dialogue’ when they impeded Murray from delivering his lecture. This is a fundamental and troubling misconception of free speech.”

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[Suppression of rights inevitably targets the working class](#)

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Vol. 81/No. 7    February 20, 2017

## **Berkeley: Anarchists shut down speaker, attack workers**

**BY JOEL BRITTON**

BERKELEY, Calif. — A protest here Feb. 1 against the self-styled “libertarian, gay, Trump-supporting provocateur” Milo Yiannopoulos became national news after a large contingent of black flag waving anarchists marched into the rally of more than 1,000 University of California students and attacked the Martin Luther King Student Union where he was scheduled to speak.

The anarchists tore down metal police barriers and used them along with clubs and hammers to break plate glass windows. They toppled a portable lighting fixture and set it on fire. Fireworks were aimed at police, who responded with “nonlethal” projectiles. Some of the hundreds of curious onlookers who had gathered nearby were hit by the police fire.

Many protesters cheered when campus officials soon announced that the meeting to hear Yiannopoulos, an editor at the conservative Breitbart News, was cancelled. Many other students who were opposed to the violence left the scene not long after the anarchists appeared.

Claiming that Yiannopoulos is a “white supremacist” who engages in “hate speech” while touring college campuses, the Berkeley Against Trump Coalition organized to prevent him from speaking at the meeting sponsored by the Berkeley College Republicans.

The coalition — formerly called the J20 Coalition for the date of President Donald Trump’s inauguration — was involved in earlier actions protesting the results of the November election.

Some of the demonstrators carried “Punch a Nazi” posters, encouraging thuggery. One woman wearing a Trump hat was pepper sprayed in the face as she was interviewed by a TV reporter. Others who had lined up to hear Yiannopoulos were assaulted.

More windows were broken and fireworks shot at police after the meeting was called off. After repeated orders to disperse, campus and Berkeley police, joined by cops from Oakland and elsewhere, cleared everyone out of the plaza by the student center. U.C. officials imposed a “shelter in place” lockdown on the entire campus.

Some of the protesters joined anarchists in rampaging through nearby streets, trashing banks and other businesses.

Two days later, students were discussing what lessons should be drawn.

“I supported the protest but don’t agree with what the anarchists did,” said Landon Sorci, an economics major who left when the action turned violent. Yiannopoulos got what he wanted, Sorci said, becoming “a free speech martyr.” Referring to Yiannopoulos’ campaign against the liberals’ “political correctness,” Sorci said, “You do have a kind of forced liberalism here at Cal.”

Rudra Reddy, whose family is from India, was one of those gathered at the campus Republicans table. He said he disagrees with Yiannopoulos but wanted to hear him speak. Reddy said he was most upset when he saw some of the student protesters egging on the anarchists.

Jordan, a political science major who asked not to have his last name used, told the *Militant*, “I don’t agree with demeaning people,” citing Yiannopoulos’ crudities and reactionary insults aimed at Muslims and others. But, he added, “Silence one person and anyone can be silenced.”

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# **EXHIBIT 38**

## DECLARATION

I, Stephen Gabosch, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the Committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge.

1. On April 4, 2017, I met with John Doe, an individual who has contributed regularly to the Socialist Workers Party for the last four years.
2. John Doe informed me that, because of recent changes in the general political situation for the worse, he has decided to stop contributing money to the SWP. He said he has been particularly disturbed by recent violent attacks on public speakers on several college campuses, such as Middlebury, and especially the attack in Berkeley. He fears attacks on democratic rights whether from the left or right - and backed by forces in the government (a point he stresses) - may escalate in the coming period, making it more dangerous for individuals to have open political affiliations, including making donations to the Socialist Workers Party that might become public.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed in Seattle, Washington, April 8, 2017.

  
\_\_\_\_\_  
Stephen Gabosch