

THE CASE OF CLARK SQUIRE: COMPUTER PROGRAMMER, BLACK PANTHER, PRISONER — INTERIM REPORT

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Note

For prior discussion of this case, see:

- The Life and Times of Clark Squire: Computer Programmer,
Black Panther, Prisoner
— article in C&A, November, 1970, p. 36
Responsible Journalism
— editorial in C&A, November, 1970, p. 7
"Responsible Journalism" -- Comment
— in Forum in C&A, January, 1971, p. 8

1. ACTION BY THE COUNCIL OF THE ACM: ANNOUNCEMENT

George Capsis
Association for Computing Machinery
1133 Ave. of the Americas
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In response to a plea to help raise bail for imprisoned computer programmer Clark Squire, the Council of the Association for Computing Machinery, on December 3, 1970, agreed that while individual members might respond, ACM action was outside of its constitutional purposes.

The Council further urged members of the Association as individuals to familiarize themselves with the facts in this case and to take whatever action they regard as appropriate.

The request for aid came from "Computer People for Peace" during ACM's September conference in New York.

In an effort to give the Council information on which to make a judgement, Council member Herbert Grosch had requested of President Walter Carlson the formation of a fact-finding committee.

The chairman of that committee, Dr. Kenneth King, delivered his report on December 3 to the Council.

The 40-page report (including appendices) was based on interviews with: former employers of Squire; the District Attorney's offices of Bronx and New York County; the American Civil Liberties Union; the attorney for the defendant; representatives of the CPP; attorneys for ACM; and a written interview with Clark Squire obtained during the trial in New York.

The report is available at ACM Headquarters in New York City.

2. REPORT OF THE ACM AD HOC COMMITTEE — INTRODUCTION

Kenneth M. King
c/o ACM

In brief, this Committee was invoked as a result of the following circumstances. At ACM 70, a group of ACM members and non-members identifying themselves as members of "Computer People for Peace", distributed a flier calling on attendees to aid them in raising bail for a computer programmer named Clark Squire (included as Appendix I is a copy of the flier). At a press conference at ACM 70, Mr. Edward Elkind, an ACM member and member of CPP, issued a statement on Clark Squire (a rough transcript of this statement is included as Appendix II). At a public town hall meeting at ACM 70, members of CPP issued a plea for funds to be used for bail for Clark Squire and passed a basket through the audience soliciting contributions. Subsequently, a member of the Council expressed the view that ACM had an obligation to determine whether or not "Clark Squire in fact existed" and I was asked by Walter Carlson to head an ad hoc committee to answer the question and to report at the next ACM Council meeting.

With the help of Professor Monroe Newborn of Columbia University and Gordon Smith and George Capsis of the ACM staff, the following information has been elicited.

Clark Squire "in fact exists" and is presently on trial with 20 other defendants in New York City on a variety of charges. The defendants have been collectively referred to in the press as the "Panther 21". A copy of the indictment handed down by a New York County Grand Jury which includes the charges against Clark Squire and 21 other defendants is included as Appendix III. (One of the defendants in this indictment, Fred Richardson, had his bail reduced to \$25,000 and has subsequently disappeared according to Assistant DA Weinstein). Clark Squire has been in jail since April 2, 1969. His bail has been set at \$50,000 and he has been unable as of this date to raise that amount. Attorneys representing a variety of organizations, including the American Civil Liberties Union, have attempted to get bail reduced and, according to Assistant DA Weinstein, have appeared before 42 judges, all of whom have refused to reduce bail. Appeals have been carried unsuccessfully all the way to the Supreme Court. Included as Appendix IV is a copy of a brief filed with the U.S. Supreme Court on behalf of Clark Squire and 13 other defendants in this case requesting a reduction of bail. (This brief was supplied by Barbara Shack of the New York Civil Liberties Union.)

George Capsis and Gordon Smith were asked by me to contact the attorneys prosecuting Clark Squire to obtain whatever information they could about Clark Squire. Since the case was about to go to trial, these attorneys stated they were unable to divulge any details not already made public. Mr. Weinstein, an Assistant District Attorney, stated that the following was recorded on Squire's police record:

1. 8/9/65 - Arrested for drug violation - convicted.

The Association for Computing Machinery, a professional society of more than 26,000 computer specialists, is dedicated to advancing the science and art of computer usage. Through its publications, educational programs, chapters, and committee activities, ACM promotes and provides for the dissemination of technical and non-technical computing information to its members and the public.

2. 5/3/66 - Queens County - arrested for possession of drugs and a gun - convicted - placed on probation - probation to expire on 11/6/69.
3. 1/18/69 - Arrested for possession of drugs.
4. 2/6/69 - Arrested for attempted robbery, possession of weapon and reckless endangerment - charges still pending.
5. 4/2/69 - Arrested on charges including conspiracy, attempted murder, and arson - trial commenced 10/19/70.

Clark Squire is presently represented by Attorney Charles T. McKinney of 401 Broadway, New York City. A search of ACM records by Irene Hollister reveals that Clark Squire has apparently never been a member of ACM.

Monroe Newborn was asked by me: to attempt to obtain biographical data on Clark Squire; to obtain from Clark Squire, his attorney, or friends, Clark Squire's version of the events leading to his present indictment; to obtain from Computer People for Peace a statement of what they think ACM should do about this case; and what their plans were with respect to any bail money raised; and to develop any other information he could elicit on the character of Clark Squire. His report follows:

3. REPORT OF THE ACM AD HOC COMMITTEE — CONTINUED

Monroe Newborn
c/o ACM

Preface

The following information was gathered in one week of effort.

While there are still several points that could use greater elaboration, I believe it presents a reasonable picture of Clark Squire as gathered by (1) communicating with him via his attorney (see Appendix V), (2) talking with his Attorney, Charles McKinney, (3) talking with one of his former employers, George Langnas, (4) observing the trial in person on the day of November 10, 1970, (5) receiving background information from the CPP (Computer People for Peace).

Perhaps three points should have been investigated in greater detail. (1) To my understanding, (based on the CPP), his present employer is willing to have him return to his job when he becomes free. I would have liked to confirm this by direct communication with his employer but was unable to contact his employer. (2) I would like to have had a better explanation of his narcotics background. From all that I can gather, he never used hard drugs. (3) I would have liked to have had knowledge of several other similar court cases so that I could have, in fact, confirmed the charge that bail was extremely high. In discussions with the CPP, it was discussed that in some cases where bombings had actually occurred, bail was much less.

The material is presented by me in as unbiased a manner as possible. The activities of the last week have been quite rewarding. The witnessing of the trial was an action that I would encourage others to take.

Brief Resume of Clark Squire
(source: Squire and CPP)

Age: 33

Born: Decatur, Texas

College: At 15 (or maybe 16) went to Prairie View
ACM College of Texas (affiliated with
Texas A&M). Graduated at age of 19
(1956). Slightly above average student
(in his own words). Degree in math.

Work Record:

According to Squire, he worked for NASA in California, November 1956-November '57. Had "Secret Clearance" then and for subsequent work at Rome Air Dev. Center at Griffus AFB, Rome, N.Y. Had clearance until age of 26.

Subsequently employed by Comp. App. Inc. 1964-66. Then Real Time Systems, Inc. (1966-68), then Computer Decisions Inc. (now called Computer Deductions, Inc.) until now (about 2-1/2 months).

According to Squire, his salary while at CAI was about \$14,000. At time of arrest, was making about \$17,000.

Former employer at CAI, George Langnas, stated that Squire was "very competent, personable, highly regarded, dependable, worked long hours. No problems with the law or drugs." He also stated salary figure of \$14,000.

Work was described by Squire as in the area of "systems analysis, systems design, proposal writing and estimations, programming and project leader."

Activities in the Black Panther Party
(as indicated by Squire)

He was "active in community control, school programs, hospitals, made and distributed survey forms asking Black community what were their important problems and suggestions for solutions, also breakfast for children's program."

He was also "finance officer - keep financial records and money transactions. Attend political education classes, sell papers, assist in laying out community programs, attend meetings with other organizations, and general party work."

His attorney, Charles McKinney, stated that Squire was a member of the BPP for less than 4 or 5 months.

Arrest Record

According to the information gathered by George Capis, Squire was arrested four times, twice on narcotics charges (1965, 1966) and twice in 1969.

Narcotics charges: In discussions with Squire's attorney and former employer, both stated that they knew of no hard drug use by Squire.

Squire stated in response to a badly asked question that "the narcotics involved in my '66 arrest were a few leaves of marijuana scraped from my jacket pocket following a strip-down search at JFK airport upon returning from overseas. The narcotics charge was subsequently dropped."

The following statement appeared in a letter to members and friends from the CPP Squire Committee. "He was arrested in January 1969 because a car he had rented was being driven by another defendant, Miss Joan Bird, at the time of her arrest. Miss Bird was accused of shooting at the police in an incident on the Harlem River Drive in New York City. Squire was arrested for complicity. Two weeks later, charges in this case were dropped for lack of evidence; and Squire was rearrested in the courtroom for armed robbery of a subway change booth in the Bronx. This robbery was alleged to have occurred three months earlier and was totally unrelated to the initial charge." This case is still pending.

The present arrest for conspiracy occurred on April 2, 1969. (A copy of the indictment is included as Appendix III). It appears that his name is mentioned explicitly in regard to:

1. Possessing a 38 caliber Smith and Weston [sic] revolver and a 308 automatic rifle;
2. Possessing a bomb;
3. Being Lieutenant for Finance in New York City.

He appears implicated by his involvement in the party, to be charged with other crimes and the conspiracy to commit other crimes.

**What the CPP Would Like the ACM
To Do About Clark Squire**
(as obtained from the CPP Squire Committee)

CPP feels ACM should become involved in the Clark Squire case because ACM has responsibility for the well-being of members of the profession. In this case, a member in good standing of the profession is having his constitutional rights violated.

In particular:

1. An individual is assumed to be innocent until proven guilty, and further,
2. One is entitled to a speedy trial.

In this case, Squire has been deprived of his freedom for 18 months and in violation of both points (1) and (2).

3. His bail is extremely excessive (\$50,000) and far out of line for a person with Squire's background. His bail effectively guarantees that he will remain in jail - which is not the purpose of bail. Other individuals in political groups have actually bombed buildings and received less bail. (Jane Alpert bombed a building in New York City and received \$20,000 bail).

4. While in prison, his rights have also been violated. Most importantly, he has effectively been denied the opportunity to prepare his case. His visitors are limited to his own relatives and lawyers. Reporters cannot visit him. His treatment in prison has been unreasonably cruel.

Thus, CPP is asking that the ACM endorse the collection of bail money for Clark Squire and send out a mailing to its members to collect bail money for the CPP.

**What Happens to the Money that is
Collected by the CPP?**

(as stated by Joan Dublin and Ed Elkind
of the CPP Squire Committee)

Several possibilities exist in this regard.

If the money is not used for bail - (1): All the money whose source can be identified will be returned. Money not identified would be used in the future for bail in other cases deemed appropriate by the CPP. (2): The National Committee to Defend the Panthers (853 Broadway, NYC) and CPP would discuss mutually how to use the money most effectively.

If the money is used for bail and returned, then option (1) above would be followed.

If the money is used for bail and not returned, the contributors would not receive their money back.

**4. REPORT OF THE ACM AD HOC COMMITTEE -
CONCLUSION**

Kenneth M. King
c/o ACM

The Clark Squire case raises, in my view, a number of issues, the most important of which is what kind of an issue is it, and does the ACM constitution permit us as an organization to deal with it.

Legal counsel for the ACM has provided us with the following comment: "Any activity on the part of ACM in this issue other than the humanitarian effort to determine (a) that he has a good lawyer and (b) that institutions such as the American Civil Liberties Union are aware of the circumstances, represents ACM taking sides in a controversy completely unrelated to its purposes."

From a legal standpoint, when ACM goes outside the legal terms of its Charter, it is "ultra vires", which means it is going "beyond its powers".

Our legal counsel therefore indicates that neither ACM, its President, nor the Council has the right to intervene in this action without a change in the Constitution and Charter.

If the issue is regarded as a deeply political and social question, a recent ACM referendum would be relevant. In response to the question "Shall the Constitution of the ACM be revised to permit Association comment or action on deeply political and social questions?", the ballot count was 2,059 yes and 7,938 no. (See Appendix VI)

Joan Dublin of CPP has stated that in her view, the issue is whether or not ACM should permit the violation of the civil rights of a member of our profession in good standing.

It is my hope that this report will be useful to the members of the Council.

**5. REPORT OF THE ACM AD HOC COMMITTEE -
APPENDICES - LIST**

Following are the six appendices to the report:

- 1) Resume of Clark Squire (1 page)
- 2) Transcript of a statement made by a representative of the Computer People for Peace at the ACM '70 Conference (2 pages)

- 3) Grand Jury indictment of 22 Persons including Clark Squire (22 pages)
- 4) Petition to the United States Supreme Court for Relief for 13 persons including Clark Squire - Additional Supplemental Memorandum re writ of certiorari in the matter of granting Reasonable Bail (6 pages)
- 5) Questions directed to Clark Squire by Monroe Newborn, and his Answers (2 pages)
- 6) Reprint (1 page) from the "Communications of the ACM", July, 1969, reporting the result of a ballot of members on:
Shall the Constitution of the ACM be revised to permit Association comment or action on deeply political or social questions?

These appendices are available on request from the ACM, 1133 Ave. of the Americas, New York, N.Y. 10036, so long as the supply lasts.

**6. \$50,000 BAIL FOR CLARK SQUIRE RAISED;
THEN JUDGE DECLARES BAIL IS \$100,000;
THEN JUDGE DECLARES "NO BAIL"
FOR NINE DEFENDANTS STILL IN JAIL**

Computer People for Peace
The Dolphin Center
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After four months of hard work, the CPP Squire Committee succeeded in raising \$50,000 bail for Clark Squire, programmer and Panther 21 co-defendant. However, on December 28, 1970, Judge Murtagh claimed that Clark's bail was \$100,000 despite the fact that in May, 1969 Judge Shapiro had lowered Clark's bail to \$50,000.

Judge Murtagh then stated "whatever his bail was, it does not matter, it's now NO BAIL."

According to the New York Times on December 29:

Justice Murtagh said that because of "information in the possession of the court" relating "not only to the defendant Squire but relating to all the defendants present", he was revoking bail "for the remainder of the trial" for the defendants who were in jail. The seven held in lieu of bail have been in jail since April 2, 1969, following indictment of all 13 on charges of conspiring to bomb public places and murder policemen and possession of dangerous weapons and explosives.

A trial is supposed to be an integral part of the democratic process.

- But how can we have democratic process when excessive bail is set? (Defendants in jail cannot gather evidence nor find witnesses.)
- What is the meaning of democratic process when even after the money for bail is raised, the bail is revoked? People are told to play by the rules and when they do the rules are changed.
- How is democratic process served when bail is used as leverage against defense counsel? (Judge Murtagh stated that he would entertain motions for bail reduction only if the defendants and their lawyers "improve their behavior.")

7. THE QUALITY OF JUDGE MURTAGH AS A JUDGE

Edmund C. Berkeley
Editor, Computers and Automation

The Bill of Rights in the Constitution of the United States contains:

Article VI: Right to Speedy Trial, Witnesses, etc.:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Article VIII: Excessive Bail or Fines and Cruel Punishment Prohibited:

Excessive bail shall not be required nor excessive fines imposed nor cruel and unusual punishments inflicted.

It is clear that the behavior of Judge Murtagh and the actions of the associated court system in New York County are in violation of the Constitution of the United States — as well as in violation of elementary principles of fair play.

i) Judge Murtagh has set excessive bail, two and then four times the amount of \$25,000 set in similar cases, when there were white defendants who had actually exploded bombs. (The grand jury indictment of the Panthers arrested in New York on April 2, 1969, contains no charge that the arrested Panthers had actually exploded any bombs.) This violates Article VIII.

ii) Judge Murtagh (according to the New York Times account) has "information in the possession of the court" which he is not disclosing, which is therefore secret, and therefore cannot be challenged as to truth or falsehood, and therefore may be false. This violates Article VI, that the accused shall know "the nature and cause" of the accusation.

iii) On the basis of this secret information, after several months of trial with bail established, as soon as it appears as if one of the defendants (computer programmer Clark Squire) has raised the bail of \$50,000, then Judge Murtagh doubles the amount of bail to \$100,000 — and promptly thereafter declares "no bail" for any of the defendants not already out on bail. Such action is contrary to the elementary rules of fair play, and Article VIII.

iv) For almost a year and a half these defendants have been in New York County jails before being brought to trial. This is far from the "speedy trial" guaranteed by the U.S. Constitution, and violates Article VI.

v) The entire reason for any trial is to test the validity of an accusation. Many accusations are untrue, for many sorts of reasons. In the United States a man who is accused is legally innocent (and entitled to be free on bail) until proved guilty. It is not true that an accused person is legally guilty (and to be imprisoned) until proved innocent.

The behavior of Judge Murtagh would be appropriate for a Nazi judge in Hitler's Germany in the 1930's — not for an American judge in the United States.

Such behavior is calculated to infuriate oppressed members of society in the United States — especially since such behavior is never used towards business men, or wealthy people, or even members of the American middle classes.

It is as if Judge Murtagh had been hired by a group of persons desiring to overturn the constitutional American system of justice, by means of the policy: "Oppress them, infuriate them, play the tyrant, and when their tolerance breaks and they become violent, shoot them or imprison them in the name of 'law and order', and then say on television to the people of the United States, 'You see, we told you these persons were dangerous and violent and good for nothing.'"

The behavior of Judge Murtagh is a disgrace to the Constitution of the United States, and to the traditional English and American system of even-handed justice begun with Magna Carta in 1216.

If computer programmer Clark Squire and the other Panthers being tried in New York County are legally and fairly determined to be guilty of any crimes, then they should be sentenced and punished according to established law. But it is wrong to punish them (or anybody) by extra-legal and unconstitutional actions of any kind. And no respect for the United States or admiration for the United States can be fostered by tyrannical actions or "frame-ups" — of any kind.

8. ADDRESSING RELEVANT SOCIAL PROBLEMS IN "COMPUTERS AND AUTOMATION"

Michael B. Griswold
4437 Brighton Ave.
San Diego, Calif. 92107

This is just a note of encouragement for your position of addressing relevant social problems in your technical publication.

The case of Mr. Squire is only a recent example of an exemplary policy. In this instance you are doing for the computer industry what sports journalism should have done for Cassius Clay and boxing.

Technical achievement is meaningless without corresponding social accomplishment.

As an increasingly vital segment of our community, computer professionals should be concerned less with the quality of systems and concerned more with the quality of life. That responsible technical literature espouses such an ideal is indeed gratifying. Thank you.

9. RIDICULOUS LACK OF OBJECTIVITY

E. C. Witt
7933 Berkshire Blvd.
Powell, Tenn. 37849

The editorial and article pertaining to Clark Squire in your November issue are so lacking in objectivity as to border on the ridiculous. His personal success story (prior to his becoming active in a revolutionary organization) refutes his own charge that a black man can't expect a decent break in our society. Any society would react violently against a group which thinks shooting policemen and bombing buildings are justified and equivalent responses to exploitation, poverty, ignorance and disease. Both

Mr. Squire and you are confusing "political activity" with revolutionary activity, which is prohibited even in a democracy.

It was reasonable for the police to conclude that Clark Squire either was in his auto when they were fired upon from it, or that he at least conspired with those who were. The circumstantial evidence was extremely strong, even though the case was later officially dismissed for insufficient evidence. Last year there were over 80 uniformed officers assassinated from ambush, mostly in black neighborhoods. Many of these men were never the object of criticism for racism, indeed some were themselves black. They were simply murdered because they symbolized the establishment. Any prime suspect in such a crime should be considered (and handled as) armed and dangerous.

A robbery charge is not necessarily absurd just because the accused makes a good living. A well-to-do youth recently charged with robbery in a large city explained that his act was required for admission into a neighborhood gang. As for the charge that '\$50,000 bail is outrageous . . .', Black Panthers, Weathermen, and other such radicals have a way of disappearing after release on bond, only to show up later in some Communist country. Bail is intended to guarantee appearance; the comparison with that of the Minutemen indicates only that theirs was too low, not that Squire's is too high.

You define responsible journalism as "important, factual, useful", and yet in the same editorial admit that you'll publish anything if the author signs his name and "stands back of what he's saying", whatever that means. Thus you're caught in your own web of confusion. Hanlon's general irresponsibility is typified by such things as his comment on page 37 that "(damage was minor and there were no injuries)" in two bombings attributed to the Panthers — as though this made the act trivial!

Clark Squire diagnosed his own problem — he became schizoid.

I close with one simple question — which would you prefer to have roaming about your society with guns and explosives, FBI agents or Black Panthers?

10. RESPONSE

Edmund C. Berkeley
Editor, Computers and Automation

What I like about Mr. Witt's letter is the clarity, vigor, and degree of logic with which he expresses his views, and the almost complete absence of name-calling and other unfair propaganda devices (two exceptions are "web of confusion" which is name-calling, and "which would you prefer . . .", which is the false dilemma.

Furthermore, I do not know if Clark Squire and other Black Panthers engaged in plotting bombings in or around New York City. They might have, and they may be dangerous men. I am not in favor of such violence any more than I am in favor of the violent shooting of Vietnamese civilians (old people, women, children, and babies) that took place at My Lai — or the violence of chemical defoliating of 20% of South Vietnam, which is wicked.

But the treatment the arrested Panthers are receiving is not fair and not just and not constitutional. If a man has jumped bail and become a fugitive from the law, then it makes sense to hold him when caught again without further bail. If he has not become a fugitive from a justice, but someone "thinks" he will be — that is not sufficient according to the Constitution of the United States to deny him bail. Finally, when the set bail of \$50,000 has been offered to the judge, for the judge to raise the bail to \$100,000, that is wrong and wicked.

To reply to Mr. Witt's last question in a brief and preliminary way, I prefer that nobody whatever "roam around my society with guns and explosives". In London, England, I understand no policemen are armed; from my own experience I know they are courteous, friendly yet firm, towards everyone; and I believe they are held in high esteem by almost everybody including the underworld, who are said to have an unwritten understanding that they will never shoot a policeman. Let us hope that someday New York will become that civilized.

There is much more to be said about Mr. Witt's points. I challenge his assumptions and more besides — but that will have to be gone into at some other time.

The following are copied from the engraved mottoes at the entrance to the building at 100 Centre St., Borough of Manhattan, New York, N.Y., which holds the Supreme Court of New York State (On the 13th floor of this building the trial of the 21 Panthers is taking place.)

IMPARTIALITY IS THE LIFE OF JUSTICE, AS
JUSTICE IS OF GOOD GOVERNMENT.

THE ONLY TRUE PRINCIPLE OF HUMANITY IS
JUSTICE.

JUSTICE IS DENIED TO NO ONE.

On Monday, January 18, I stood in line for two hours in the corridor on the 13th floor waiting behind wooden barricades for admission into the courtroom as a member of the public. Then at 10:45 am. court was adjourned for two days, because the assistant District Attorney prosecuting had no witnesses to be heard. And the line in the corridor of some twenty people standing (or sitting on the floor), waiting to go into the courtroom, went away.

I did not see the interaction between the attorneys and the judge from 10:30 to 10:45 while the adjournment decision was being reached — nor even the inside of the courtroom. And even a subway provides some seats on the platform for those waiting for trains.

There are many ways of indicating to the "lower classes": "we provide one kind of consideration to some people and another kind of consideration to others."