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## Video Cop Lawyers Up — Way Up

**The Recorder**  
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Andrew Cohen, the cop whose meant-to-be-funny video landed him in hot water at the San Francisco Police Department, isn't messing around when it comes to defending himself.

He now has four lawyers representing him: one to defend his character in public, two to defend him against professional discipline within the department, and another to look out for his First Amendment rights, according to his lawyers.

High-profile East Bay criminal defense lawyer Daniel Horowitz is accustomed to appearing on TV as an occasional legal commentator and says he has known Cohen since the cop was a teenager.

Horowitz began speaking to the press as soon as the mayor and police chief held a press conference last week, where they denounced some Cohen-produced video skits, which starred several colleagues, as sexist, racist and homophobic.

"I'm here to defend Andrew's character," Horowitz said Wednesday, following a press conference that three-quarters of the legal team held on the steps of City Hall.

The department swiftly suspended two dozen officers over the video and is now holding hearings to determine how many of them will be allowed to return to work during an administrative investigation.

To help him retain his job, Cohen has turned to two lawyers who have made a specialty of defending police.

Pleasant Hill attorney Michael Rains, who said he appeared at Cohen's return-to-work hearing Wednesday morning, was a defense attorney for the Oakland Riders, three former police officers whom prosecutors alleged had terrorized residents and falsified police reports in an overzealous attempt to fight drug crime. (Two separate trials in 2003 and 2005 ended well for the defense, with each jury acquitting or deadlocking on all charges.)

The other is Rains' partner at Rains, Lucia & Wilkinson, Harry Stern. He represented one of the two Palo Alto police officers tried earlier this year for assault after being accused of beating and pepper-spraying a man without enough justification. After jurors deadlocked at their trial, both officers struck a deal, pleading no contest to disturbing the peace and agreeing to a \$250 fine.

Horowitz advised Cohen to call the Rains, Lucia firm, but a connection with the officer's sister may have helped. She and Stern used to work together as cops in Berkeley, the Rains, Lucia partners said.

But it was Horowitz who called the fourth member of the team, a New York First Amendment lawyer he knows, Davis & Gilbert partner Martin Garbus.

"I think there are some important First Amendment issues about what someone can do on the job, whether police are held to a higher standard, and whether a policeman can have a sense of humor," Garbus said by phone

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Wednesday. His job is to make the First Amendment argument first before the police department, and if necessary, in court, Garbus said.

At the press conference, Rains said the video was only meant to be viewed by colleagues who could appreciate the context.

Cohen acknowledges making a mistake, his lawyer continued, when he posted the video on his personal Web site, and feels terrible that his colleagues have been punished, too.

"He made a mistake. He needs to be disciplined," Rains said.

But not too much.

If Cohen is disciplined further, whether he accepts what's meted out will depend on how reasonable the justification is, Rains said. And while he's not sure where the line will be drawn, Rains did say that "if they fire him, we're at war."

Both Horowitz and Garbus said they're offering their time pro bono, while Rains and Stern are hoping to get paid.

"Everybody wants to get paid, and so do we," said Rains, adding that he's in preliminary discussions to see if the local police officers union will cover the bills.

As of Wednesday, Cohen's Web site was soliciting donations to help his fellow suspended officers as well as to fund his own legal defense.

Eight of the 24 suspended officers have been allowed to return to work so far, according to a police department spokesman.