

Signatories at end of letter

December 9, 2024

By Hand Delivery and Email

President Jonathan D. Levin  
Provost Jenny S. Martinez  
450 Jane Stanford Way, Building 10  
Stanford University  
Stanford, California 94305

Re: The University's Conduct and Public Communications Regarding  
The Stanford Daily and Dilan Gohill

Dear President Levin and Provost Martinez:

We are Stanford alumni in professional journalism, law, and college administration, and we count ourselves among the Friends of the Stanford Daily. Some of us had experience reporting for The Daily on campus protests and occupations during our undergraduate days.

We noted with grave concern (a) the arrest on June 5 of Dilan Gohill, then a freshman reporter for The Daily with an established "beat" covering campus protests, (b) the University's statements with accusations and insinuations against Dilan and The Daily after the arrest, (c) the University's "strong support" for prosecution of felony charges against Dilan, and (d) the University's conduct in leaving Dilan in limbo for six months with threatened disciplinary charges pending.

Members of our group, who are officers or members of the Advisory Board of the Friends of the Stanford Daily Foundation (not the governing Board of The Stanford Daily Publishing Corporation), have spoken with numerous Daily senior staff; have questioned Dilan thoroughly; and have reviewed documentation of real-time Slack messages that passed among Dilan, the other reporter outside the occupation of Building 10, and senior editors of The Daily during the protest. Those of us who have participated in the interviews have found all The Daily's staffers credible, and the Slack documentation fully corroborates the information they have provided orally.

As would be evident to any person familiar with The Daily before the occupation of Building 10 last June, Dilan had previously written numerous articles about protests that had occurred on campus. Student activism was officially his "beat" during the volume that began on February 1. We know that the University is aware of that background because Dilan provided specifics in his communication to Associate Vice President Samuel Santos on August 1.

On the morning of June 5, based upon tips The Daily had received, The Daily assigned Dilan and another reporter to report on an anticipated protest that was likely to lead to an occupation of some location on campus and possibly some arrests. The Daily had no advance knowledge of the location or of the exact nature of any acts connected with the occupation. To cover activities on both sides of the anticipated occupation, The Daily planned to station one reporter outside the relevant site with another reporter (Dilan) inside.

When the entry into Building 10 and its occupation took place:

- Dilan followed the occupying group in, to photograph and report on their actions.
- Dilan's only purpose in attending and entering the building was to report on the newsworthy event.
- He did not observe any "break-in"; his impression was that the door had been opened from inside. (We gather from the University's statement that someone had broken a window to enter, but Dilan was unaware of that.) □ He did not assist the protesters in any way.
- He declined requests to assist the protesters in minor ways.
- He carried and displayed his Stanford Daily press pass.
- He brought with him only his reporting tools and normal student accessories: a Stanford Daily-owned camera (which, as it turns out, had an SD card with capacity for only one photo), a notebook, his cellphone, his Stanford iPad, and assorted student papers).
- He did not hide his identity by wearing a helmet or other headgear, as the occupying protesters did. He wore an N95 mask only because he had heard that one potential protester was immunocompromised. He wore a hoodie with the logo of The Stanford Daily emblazoned across his chest—and his hood was down. While in Building 10, he was preparing news reports for an article under his byline. These facts preclude any suggestion or inference that he was avoiding identification. By contrast, the protesters wore head and face coverings and disabled security cameras. To our knowledge they did not wear identifying clothing.
- Dilan did not participate in creating the barricade that protesters erected. The protesters barricaded him in, preventing him from leaving once the occupation was underway.
- Dilan spent much of his time in the corner of a conference room, on his laptop, writing news reports for his colleagues and for eventual publication. We trust surveillance video will confirm that.
- Apparently much of the alleged "vandalism" of the protesters consisted of spray paint outside the offices in the Quad. Dilan was not present at that conduct.

No law enforcement officer or University official asked Dilan to leave the premises. As instructed by Daily editors, he was to follow a protocol that called for him to leave immediately upon such a request.

It appears that a Stanford official — reportedly, according to one officer, Provost Martinez — had directed officers to arrest all persons inside Building 10 when the officers arrived. The officers broke into the building and offices, and we understand they caused damage in doing so. When the officers arrived, Dilan identified himself as press, pointed out that he was wearing clothes with Daily insignia, and displayed his press credential that The Daily had issued to him. Protesters at the scene informed officers that Dilan was a reporter and was not part of the protesting group. Dilan had a discussion with an apparently sympathetic female officer about his press role. That officer went to speak with a supervisor and returned to say that her instructions were to proceed with Dilan's arrest even in the face of that knowledge. With another officer Dilan stressed that he was there as a reporter and not part of the protest. The officer's response was, "that doesn't fucking matter, you're going to fucking jail, shut the fuck up."

At the Santa Clara County Jail, Dilan was notified that the charges against him were for felonies, specifically for burglary, vandalism, and conspiracy. It appears that no trespass charge has been leveled at Dilan.

On June 5, Daily senior staff went to both Stanford's Department of Public Safety and the jail to explain that Dilan had been present as a reporter and was not engaging in the protest or the occupation. That apparently made no difference to how his case was handled.

On the same day, The Daily reported on the protests and arrests, including Dilan's arrest. The Daily's executive team also published a piece, styled as a letter, that identified only Dilan as acting for The Daily inside the protest. The letter explained Dilan's unique position, describing his work. It also drew a clear distinction between Dilan and a student who, although a Daily staffer, participated as a protester on her own and without any interactions with The Daily: "The second Daily member who was arrested was there in her personal capacity, not to report for The Daily.... The second Daily staffer arrested at the president's office is a news managing editor. She has not been involved in any coverage related to the Israel-Gaza war due to an established conflict of interest on this issue. She did not disclose to executive editors her intent to participate in today's occupation. While we have not spoken with the editor since her arrest, appropriate action will be taken." The Daily's article explained that it does not allow persons who participate as protesters to serve as reporters on the events: "The Daily does not prevent reporters and editors from engaging in peaceful protest, but participation is a conflict of interest. Daily staffers who participate in protests are barred from reporting or editing related coverage."

Notwithstanding that information, the University imposed an indefinite suspension and campus ban on Dilan, no different from the protesters.

On June 7, President Saller wrote a letter to Dilan stating that “the university has been engaged in reviewing the evidence to date.” The letter went on to state: “[A]fter reviewing the evidence, we do not believe you present an immediate threat to the health and safety of campus. Therefore, in your case, we are lifting the temporary suspension and campus ban imposed earlier this week. We reserve the right to reinstate the suspension and campus ban if further evidence comes to light of your intention and role in these activities.” The lifting of the suspension by the University — which did not occur with the occupying protesters — signified that the University had become aware at that early time, through the evidence it had reviewed, that Dilan was indeed there as a reporter and not as a protester.

The letter stated, “even if Stanford were a public university, you would have had no lawful right to be barricaded in the president’s office and walking through other private office spaces, which we have captured on video.” Dilan’s purpose was to report on the activities of the protesters and to report on what they had done to the offices during the occupation. He also took photographs of the events, hardly an action of a person participating in crimes. It is significant that Stanford did not say that its surveillance video showed Dilan damaging or destroying anything in the offices. He did not. Any supposed guilt rests on Dilan “walking through” a location where the protests and occupation occurred.

In addition, President Saller’s letter stated that “we have serious concerns that you misrepresented your circumstances to the officers on the scene, including representing that you had law enforcement permission to be in the building.” That never happened.

The letter also included legal analysis of California Penal Code section 409.7, which shields reporters from liability in certain circumstances. The letter argued why section 409.7 did not protect Dilan. But the letter failed to identify any law that Dilan broke even though the letter stated the University’s belief that Dilan “acted in violation of [unspecified] law.”

The letter concluded with President Saller’s threat to Dilan that “you will still face any criminal proceedings” while disclaiming any intervention in the decision-making of law enforcement authorities.

On June 7, then-President Saller and Provost Martinez also signed a letter to The Stanford Daily’s governing board, which the University then published in Stanford Report and on Stanford’s website on September 10. The published polemical response referred in its headline to “Stanford Daily students arrested on June 5.” The response was notable for several reasons.

- Only one on-duty Stanford Daily reporter was arrested. The statement maligned The Daily by wrongly attributing to it the actions of a non-reporting Daily staffer who — unlike Dilan and the reporter stationed outside the building — was there

in her personal capacity without The Daily's foreknowledge or concurrence. It was also misleading for the headline to refer to multiple "Stanford Daily students" as having been arrested. The statement also created a misleading impression by equating "two staffers inside the building" with "the two reporters [who] proceeded to the building to be occupied."

- The statement declared that the University's administrators "fully support having [Dilan] be criminally prosecuted," notwithstanding President Saller's written assurance to Dilan three days earlier that "Stanford will not attempt to intervene in the criminal prosecutions or decision-making of law enforcement authorities." Of course, in any criminal prosecution, testimony from Stanford witnesses would be necessary.
- The statement revealed that the University had reviewed surveillance video showing activities of the protesters. But the statement said nothing about what the video showed Dilan doing.
- The statement repeatedly and snidely professed "concerns":
  - "The integral involvement of one of their managing news editors in the occupation of the building as a protestor (regardless of whether that individual was recused from coverage of Israel-Gaza issues, as their editors assert in their editorial) is certainly concerning." Students engage in many activities on campus, and groups with which they are associated are not responsible for policing those activities outside the group. Student journalists cannot be held to a higher standard than students in other groups. If a fraternity member cheats on an exam, we doubt that Stanford would assign blame to the fraternity for it.
  - "The fact that the two reporters knowingly came along for planned criminal activity is also deeply concerning." Reporters who cover protests around the world know that those protests may involve illegal activity and arrests. The Daily reporters inside and outside the occupation did not know of any planned crimes beforehand even though there was suspicion that arrests might occur. The statement exhibits remarkable obtuseness about the role of journalists. It is not illegal to cover activities that may be illegal.
  - "[W]e have serious concerns that it appears that junior reporters were acting at the direction of senior editors." Again, the statement implies that both Daily staffers inside the building, and not just Dilan, were acting at the direction of senior editors. The two reporters on site were only Dilan inside and one other reporter outside. The fact that they (and not the staffer participating on her own) were acting at the direction of senior editors shows that they were conscious of the dynamic situation at the protests and mindful of proper roles and conduct of reporters. Those senior editors had properly instructed Dilan to leave the premises upon any request that he do so. In other words, they instructed Dilan correctly. But, again, neither the deputies nor any University official asked Dilan to

leave. Instead, they immediately arrested him without regard to his obvious “press” status.

- The statement makes a legal argument that “the Daily reporter had no First Amendment or other legal right to be barricaded inside the president’s office.” To begin with, it acknowledges that Dilan was barricaded, by others. He did not participate in creating the barricade. The phrase also shows that his movements were limited during the occupation. Moreover, the reference to the First Amendment is mistaken. It gives Dilan, and The Daily, a right against clearly wrongful prosecution and discipline for lawful actions taken during news reporting.<sup>1</sup>

This leads us to a critical point. All the facts and the relevant law establish that Dilan’s actions were lawful, there was no probable cause for his arrest, and it was wrongful for the University to direct his arrest and encourage his prosecution.

- While casual observers may believe that Dilan’s case involves an allegation of trespass, he has not been charged with trespass. For good reason. While California statutes (California Penal Code section 602 ff.) identify a variety of different circumstances as the related crimes of trespass or malicious mischief, they are very specific. One provision (section 602(m)) prohibits entering and occupying property without authorization, but California courts have made it very clear that “occupying” in the statute does not refer to a short, transitory period, such as camping overnight. See *People v. Wilkinson*, 248 Cal. App.2d Supp. 906, (Cal. App. 1967); *in re YR*, 226 Cal. App. 4<sup>th</sup> 1114, 1118-19 (Cal. App. 2014). It requires something more substantial than that, and certainly more substantial than the 3-hour “occupation” of the president’s office. In the context of Dilan’s attendance at the protest, under other statutes a trespass could have occurred only if either (1) he caused damage on the property (section 602(c)) or (2) he refused to leave after a lawful order for him to leave (602(o)(1)). Neither

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<sup>1</sup> The statement’s invocation of the First Amendment is also subject to debate. While California Penal Code section 409.7 provides a statutory protection for journalists in certain circumstances, that statute is not coextensive with the First Amendment’s protection, and there is a serious argument that the First Amendment protects reporters who go to a crime scene, even on private property, to report on the crimes. Presumably you are aware of reality-television broadcasts in which reporters accompany police officers onto private property, against the owners’ wishes, to broadcast arrests. If those accompanying reporters were trespassers and burglars by invading the private property to report on the arrests, the police should have arrested the reporters for trespass as well as the raids’ targets. **Notably, on January 6, 2021, journalist Luke Mogelson of The New Yorker followed insurrectionists into closed areas of the United States Capitol to report on their conduct. Instead of being arrested and prosecuted like the insurrectionists, Mr. Mogelson was awarded the Sydney H. Schanberg Prize.** <https://www.liu.edu/polk-awards/schanberg-prize>

occurred. As we have said, deputies arrested Dilan without anyone first giving him an order to leave.

- Dilan was charged with vandalism. Vandalism under California Penal Code section 594 requires defacement of, damage to, or destruction of property. Dilan defaced, damaged, and destroyed nothing and did not intend to do any such things.
- Dilan was charged with burglary. Under California Penal Code section 459, burglary occurs when someone enters a building “with intent to commit grand or petit larceny or any felony.” All evidence is clear that Dilan did not have an intention to commit either larceny or a felony. The evidence (particularly in the Slack transcript) is overwhelming and fully consistent: Dilan’s purpose was solely to report about the protest. Journalism is not a felony.
- Finally, Dilan was charged with conspiracy. “A conviction of conspiracy requires proof that the defendant and another person had the specific intent to agree or conspire to commit an offense, as well as the specific intent to commit the elements of that offense, together with proof of the commission of an overt act ‘by one or more of the parties to such agreement’ in furtherance of the conspiracy.” *People v. Morante*, 20 Cal.4th 403, 416 (Cal. 1999), *quoted in YR*, 226 Cal. App. 4<sup>th</sup> at 1121. Dilan neither agreed to participate in the commission of crimes nor took any actions to further crimes. He was a reporter covering a newsworthy event.

Based on this analysis, the University’s argument that it believed “the Daily reporter reporting from inside the building acted in violation of the law” is flatly wrong. The polemical tone of the statement suggests that the University disregarded the available facts and the law sufficiently to justify its belief, instead jumping to a false legal conclusion to malign a freshman student as a demonstration of institutional callousness.

The University’s further remark, that it “fully support[s] having him be criminally prosecuted and referred to Stanford’s Office of Community Standards along with the other students,” was overbearing and constituted a public adjudication that Dilan is a criminal — a felon, no less.

A thoughtful statement would have been “we encourage the Santa Clara district attorney’s office to examine the evidence thoroughly and bring such proceedings as are appropriate.” But — sad to say — Stanford abandoned thoughtfulness worthy of a leading educational institution in favor of unjustified recrimination.

Pronouncement of such a verdict in a publication to all the Stanford community, including all those who would conduct any disciplinary process, and to the world at large on Stanford’s website also established that no disciplinary process against Dilan can be seen as fair.

Very recently, the University doubled down on its aggressive stance against Dilan. When contacted by a member of the Columbia School of Journalism faculty regarding

Dilan's case, a Stanford spokeswoman stated that "the university's position [regarding criminal prosecution of Dilan] has not changed." Incongruously, on December 3, Stanford's Assistant Dean of Students, Amir Karkia, notified Dilan that the University would not be taking any "formal disciplinary action against you" in-house. The University cannot in good conscience stand by its insistence upon criminal prosecution.

We understand that, at an arraignment hearing in August, the Santa Clara District Attorney's Office indicated that it was not filing charges against Dilan. That normally concludes a potential prosecution. Yet Provost Martinez informed the Faculty Senate at its meeting on November 21 that criminal prosecution is still possible. That suggests the University is improperly agitating for prosecution. It also suggests that the University may have been trying to use the disciplinary process, including a recent interview of Dilan, to scrounge up material to persuade the DA's office to prosecute or to aid the prosecution. All this reflects badly upon the University.

The DA's office has refused to confirm a report we received about its informing the court on August 5 that it was not filing charges against Dilan. That suggests to us a nervousness at the DA's office about making any statement that might inconvenience the University, which further suggests coordination between the University and the DA's office that is both improper and contrary to President Saller's June 7 letter to Dilan.

Considering all these facts, we have "serious concerns" about the University's misconduct regarding Dilan. The University should do the following things:

1. Publicly withdraw its "full support of [Dilan's] criminal prosecution," inform the Santa Clara District Attorney's Office that the University is not pursuing any formal disciplinary action against Dilan, does not support criminal prosecution of Dilan, and request that the DA's office permanently close the file with appropriate public disclosures regarding the request.
2. Immediately eliminate from Dilan's student record any reference to the events of June 5.
3. Publish an apology to Dilan and a retraction of the accusations of criminal conduct.
4. Publish an apology to The Stanford Daily for maligning its reporter Dilan, its senior staff, and its protocols.
5. Commission an investigation by persons unaffiliated with the University, with a report to the Board of Trustees, into all the facts surrounding the University's misconduct in accusing Dilan of crimes, disregarding his role as a reporter, and urging his criminal prosecution. That should include investigation into who reviewed surveillance video and other evidence of Dilan's conduct during the protest and when they did so, who directed the arrests, who insisted on the arrests after Dilan's press status was made clear, who failed to inform authorities that the evidence showed no commission of a crime, who urged the prosecution, who interacted with the Santa Clara District Attorney's office



regarding the investigation and potential prosecution of Dilan, and what if any interactions of the University administration with alumni or donors prompted the University's misconduct.

We have final comments about *education*. Your June 7 letter to The Daily's governing board and the University's June 10 publication included the following: "We suggest that the Daily provide its reporters and editors with stronger training so that they better understand and appreciate their responsibilities as well as rights as journalists so that they might avoid such problems in the future." To begin with, our investigations established that the reporters and editors indeed understood and appreciated their responsibilities as well as their rights as journalists. Who didn't understand those things or the applicable law? *The University administration, the persons who directed Dilan's arrest, and the officers who carried it out.* Who needs the training? *All those Stanford personnel.* They need to learn both journalistic standards and the law.

Even apart from the fact that all those University personnel were wrong, let's remember who The Daily's reporters and editors are. They are all undergraduate students, in Dilan's case a freshman at the time. And what is the University? A professional educational institution. It should get its own educational house in order before making bad-faith accusations against The Daily and its student leadership about training. After all, The Daily's instructions to Dilan were correct.

While Dilan has been living under the threat of felony prosecution and of student disciplinary punishment, both urged by the University, no observable movement in his criminal case has occurred and only days ago did the University indicate that it was "referring" Dilan to a Vice Provost for an unspecified "meeting" instead of taking any "formal disciplinary action" against him. It has now been half a year since the arrest, and for months Stanford has had information to justify dropping the disciplinary charges entirely and informing the District Attorney that it had no complaint against Dilan. Putting Dilan under threat and leaving him in limbo amounted to unconscionable punishment-by-delay on the disciplinary front, and that form of punishment continues with respect to potential criminal prosecution. The University should well know that the long pendency of disciplinary proceedings can gravely damage a student's mental health and well-being. That can, in turn, affect a student's learning capacity. When a disciplinary process and related communications occur, they should reflect the educational context and not instead resemble a court-martial or a prison disciplinary hearing. Nothing Stanford has done in this case suggests a mission to educate students instead of controlling and punishing a student to thwart reporting.

Finally, while up to now we have focused specifically on Dilan and on the charges against him, we are mindful of the Memorandum of Understanding between the University and The Daily. To be clear: acts by the University against Dilan for his role in reporting on behalf of The Daily have constituted acts against The Daily and a breach of the guarantees of The Daily's independence and freedom of expression. The University

should avoid such a breach. If it persists, we will urge The Daily to escalate this matter under the MOU and consider legal action as necessary to safeguard its contractual rights.

Yours very truly,

(Affiliations are for identification purposes only and do not signify participation by employers or organizations)

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Letter to President Levin and Provost Martinez

December 9, 2024

Page 12 of 12

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cc: Former President Richard P. Saller

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