

COPWATCH

Report

BERKELEY, CALIFORNIA

SUMMER 1994

Thirty-One More Cops !?!

Police Think-Tank Gets \$40,000 For Telling Council What It Wants To Hear

The recent findings of the Police Executive Research Forum (PERF) study of the Berkeley Police Department were submitted to Berkeley's City Council in mid-April. The study called on the city to hire 31 more police officers, at a cost of well over one million dollars per year. In these economically troubled times, the citizens of Berkeley must take a very critical look not only at the PERF study, but also at the very concept of Community Involved Policing around which the study was based.

WHO IS PERF?

The Police Executive Research Forum grew out of an informal assembly of major metropolitan police executives for the purpose of studying "mutual problems in effective law enforcement." By 1977, PERF had formally established itself in Washington, D.C. as a "law enforcement think-tank," expanding its staff to include experts in criminal justice and professionals in management and research. But its core membership continues to consist exclusively of police chiefs from cities of 50,000 people or more. In the interest of "different viewpoints" on crime, secondary memberships are offered to top cops in smaller towns, as well as the occasional "academician."

PERF's major focus is the development of "innovative approaches" to crime. These projects include studies on gang activity, asset forfeiture, community policing — with a special emphasis on public housing — money laundering, excessive force, internal review and community relations. PERF also conducts studies by city on the effectiveness of that city's police department and where there is room for improved efficiency. The City Council employed PERF to conduct just such a study last year. The bill: \$40,000 — for asking a group of police chiefs if we should hire more cops.

WHERE WE AGREE

PERF submitted over 200 recommendations ranging from calling for more parking spaces for BPD officers and staff, to urging a reduction in the Special Enforcement Unit (SEU). Although we disagree with the main recommendation of more police officers, COPWATCH found some of the PERF findings surprisingly reasonable. For example:

- The study calls for the elimination of the "informal traffic quota system" (recommendation #48) and the "quota of one moving summons per day" (#39). Berkeleyans may be surprised to learn that quotas of this kind actually exist within the department, since the courts have declared citation quotas unconstitutional. The police department issues over 300,000 traffic tickets every year — an average of more than three citations for every man, woman and child in Berkeley.

(continued on page 10)

Inside

.....
**Anti-Loitering Law
Back From The Grave**

.....
Activist "Stings" BPD

.....
**COPWATCH Serves
With Food Not Bombs**

.....
Lake Merritt Racism

.....
**City Council Holds
Secret Meetings**

.....
Update: OPD Violence

.....
**City Manager Stomps
on L.T.'s Victory**

.....
Homeless Sue U.C.

SLINGSHOT FILE GRAPHIC



ANTI-HOMELESS LAWS DISCUSSED IN SECRET COUNCIL MEETINGS

BY CHRIS THOMPSON

On three separate occasions, the Berkeley City Council discussed the proposed "Problematic Street Behavior" ordinances in closed, "executive" sessions with the City Attorney, sessions whose publicly posted agendas made no mention of the intent to discuss the ordinances.

Councilmembers met with City Attorney Manuela Albuquerque on February 8, March 8, and March 17, in sessions declared closed to public attendance. According to the agendas posted at City Hall, the subjects of the meetings were to be: "pending litigation pursuant to government code sections 54956.9 (b)(1) and (c)." But City Clerk Sherry Kelly confirmed that the Council used the closed sessions to discuss the controversial anti-panhandling laws currently before them.

During these three meetings, the City Council conferred with City Attorney Albuquerque on the legal viability of the proposed laws, which would ban panhandling after dark or near ATMs, bus stops or any place of business, as well as sitting on the sidewalk and other activities. The Council and Albuquerque also discussed the intention of the American Civil Liberties Union (ACLU) to challenge any or all of the laws in court.

According to a source inside City government, Albuquerque advised the Council that even if the ordinances were thrown out by a higher court, the legal battle would drag on long enough for the laws to

be rigorously enforced by the City's police, effectively discouraging panhandling in Berkeley. Marjorie Gelb, of the Office of the City Attorney, would neither confirm nor deny Albuquerque's statement. "I can't give you any information," said Gelb, "That's the nature of closed meetings."

Albuquerque and the Council also allegedly agreed to keep close tabs on any pending legal challenges to the anti-panhandling laws recently enacted by the Santa Cruz City Council. Like the proposed Berkeley laws, the Santa Cruz ordinances outlaw panhandling near places of business and bus stops. If the Santa Cruz laws stand up in court, the decision could be used as a legal precedent for many of Berkeley's proposed laws. This strategy follows the pattern established by the Subcommittee on Problematic Street Behavior, which drafted the anti-panhandling proposals.

Both City Clerk Kelly and the Office of the City Attorney maintain that the City obeyed the letter of the law when it drafted the agendas for the closed meetings. The Brown Act, which determines what subjects the Council can discuss in executive session, stipulates that the City Council may discuss litigation or pending litigation in closed session with its lawyer. The law also lists what types of events or circumstances qualify as pending litigation, although it is unclear whether one can have a pending legal challenge to a law that has yet to be enacted.

The Brown Act obliges the City Council to notify the public of the type of pending litigation it intends to discuss. But it only instructs the Council to refer to the legal code that corresponds to the type of litigation. It is this clause, Marjorie Gelb and the City Clerk insist, that allows the City to publicly refer to the anti-panhandling laws as "54956.9 (b)(1)."

The Berkeley Tenants' Union (BTU), a local tenants' rights information and legal resource, disagrees. The BTU has threatened to "immediately initiate the appropriate legal action" to require the Council to make public the minutes of the three closed sessions in February and March. Lawyers affiliated with the ACLU have met with the BTU to discuss a timetable for bringing such action to court.

The Brown Act was recently amended to require a more descriptive public announcement of what is to be discussed in executive session. The City Council subsequently complied, and in its agenda for the closed meeting of April 12, listed "Anticipated litigation regarding the Aggressive Street Behavior proposals."

The amended Act also requires a certain amount of time at the start of each closed meeting for public input. Members of the Berkeley public now have ten minutes to comment on what they cannot attend. If they want, they can even use the time to demand that the Council hand over the minutes to their secret meetings of the past. ●

Report

COPWATCH Report is published by COPWATCH, a community-based volunteer organization which monitors police activity in Berkeley neighborhoods in an effort to defend the rights of all citizens, including those who live on the street, to fair treatment under the law.

COPWATCH
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RECYCLED PAPER - ALL PREPRESS LABOR DONATED

Activist Stings BPD

BY CAROL DENNEY

On December 13, 1993, Ashkenaz music club owner David Nadel, concerned about the police sweeps of the poor that began last November, dressed in ragged clothing and sat peacefully near a storefront on Shattuck Avenue. Within an hour, he was arrested by Berkeley Police Officer Onciano.

Although Nadel was neither panhandling nor blocking pedestrian traffic, Onciano ordered him to stand, and cited him for two violations: "placing an object" on the sidewalk (Berkeley Traffic Ordinance 12.1) and "intentionally blocking the sidewalk" (Municipal Code 13.36).



Above: Officer Onciano tickets David Nadel for sitting down. Right: When Onciano discovered that witnesses had taped the incident, he became irate.



RAY REESE

Officer Onciano was captured clearly on video and audiotape refusing to identify himself and insulting and intimidating Nadel's witnesses. At the Police Review Commission's Board of Inquiry hearing on Nadel's complaint, Onciano claimed that not only did the small piece of cardboard upon which Nadel sat constitute an "object on the sidewalk," but that the pants Nadel was wearing at the time of his arrest would qualify as well.

Onciano conceded that sitting on the sidewalk is not (as yet) a crime, but he argued that anyone whose presence on the public right-of-way requires other people to alter their course in any way could be considered to be blocking the sidewalk.

Although this line of thinking inspires interesting philosophical questions (don't we all "block" the space we actually occupy?), the Board of Inquiry sustained all of the allegations in Nadel's complaint: improper detention, false arrest, and discrimination based on appearance. ●

DEFY UNJUST LAWS!

As part of its campaign against Berkeley's crackdown on the poor, COPWATCH is encouraging everyone in our community to defy five laws that have been specifically used and misused to harass the powerless on Berkeley's streets:

- ① Soliciting donations / panhandling (law pending)
- ② Placing objects on, blocking, or obstructing the sidewalk (Traffic ord. 12.1 / CPC 647c)
- ③ Breaking rules in a public park, such as bringing possessions into a park (BMC 6.36.010)
- ④ Loitering / washing windows in a parking lot (BMC 61.1.8)
- ⑤ Loitering with what a cop decides is "intent" to break drug laws (ordinance recently passed — see page 6)

If you are arrested for any of these laws, call COPWATCH at (510) 548-0425, and we will obtain a lawyer for you through the National Lawyers Guild. Write down what happened, including witness names and phone numbers, as soon as possible after the incident. Bring a copy of your citation to COPWATCH, and demand a jury trial (where possible).

If your case has already been settled, call us and tell us what happened.

This campaign will continue until the City Council stops considering its most recent proposed unjust laws, directs its police force to stop harassing homeless people, and revokes the anti-loitering law.

Anti-Poor Proposals Postponed To June 14

BY CHRIS THOMPSON

The Berkeley City Council agreed to postpone action on the controversial "Aggressive Street Behavior" proposed laws to June 14, while interim Mayor Jeff Leiter meets with a newly-convened "task force" to discuss and review the proposed laws and the "problems" they are designed to address.

At the Berkeley City Council meeting on April 12, Mayor Leiter announced he was adding himself to the Subcommittee on Aggressive Street Behavior, and forming a task force to study homelessness, panhandling, and appropriate steps to regulate "problematic street behavior" associated with rising poverty in Berkeley. The Leiter task force consists of one homeless person, one homeless advocacy group, one member of a "health and human services" organization, and members of the Chamber of Commerce and the Downtown Berkeley Association — a group which has publicly lobbied for the anti-panhandling laws.

Mayor Leiter and his office refused to name the task force members for the COPWATCH Report. The Mayor's office stated that their names would be released only if the task force decides to draft a report to the Council. Mayor Leiter, a real estate developer, would not state if he has had previous dealings with

(continued on page 10)

"Copwatch Not Bombs" Takes On S.F.'s Matrix

BY DENNIS MOBLEY

Although the media attention is long gone, San Francisco Mayor Jordan has kept up his all-out attack on the right of Food Not Bombs to serve free food to the hungry in Civic Center Plaza. Food Not Bombs has been distributing free lunches and dinners in front of San Francisco's City Hall for six years. But beginning last August, SFPD began arresting and harassing members of the organization on a daily basis, on the charge that they do not have a permit to serve food. (The permitting process was abolished a few years ago, specifically in order to move Food Not Bombs and the homeless out of the publicity-attracting Plaza.)

In its effort to continue feeding the hungry every day, Food Not Bombs has reached out to grassroots organizations, church leaders, and individual activists, asking them to support their cause. COPWATCH is one of the groups who accepted their challenge, agreeing to serve lunch in Civic Center Plaza once a month.

On a spring afternoon in early April, members of COPWATCH distributed soup, bagels, and fruit for fifteen to twenty minutes without incident. Then two cops on horses observed us giving away cups of soup and they radioed for backup. Within thirty seconds a patrol car drove into the park where we were serving. An SFPD sergeant got out of the car, forcibly took two buckets of soup from COPWATCH, carried it to a nearby sewer, and poured gallons of hot soup down the drain.

In his callousness, the officer did not ask us if we had a permit to serve, nor did he inform us that we were breaking the law and give us so many minutes to stop serving. He did not give us a receipt for the property of ours that he confiscated and destroyed, a violation of police procedure. The officer did not care at all that both COPWATCH and Food Not Bombs were videotaping the incident, or that several bystanders on their lunch breaks witnessed this transgression. He just angrily came and took the food and poured it in the sewer. Picture a cop in full uniform, with handgun, nightstick, mace, handcuffs, and a shotgun in his car, forcibly taking hot food from hungry people who might not have any other means of getting food that day.

In COPWATCH's experience at Civic Center Plaza, it has mostly been African-American officers who confiscate food and arrest those serving it. Members of Food Not Bombs confirmed that while white male officers may be in the park or observe from a distance, it is virtually always Black or female cops who make the arrests and take the soup. Is this by design on the part of the SFPD or the Mayor's office?

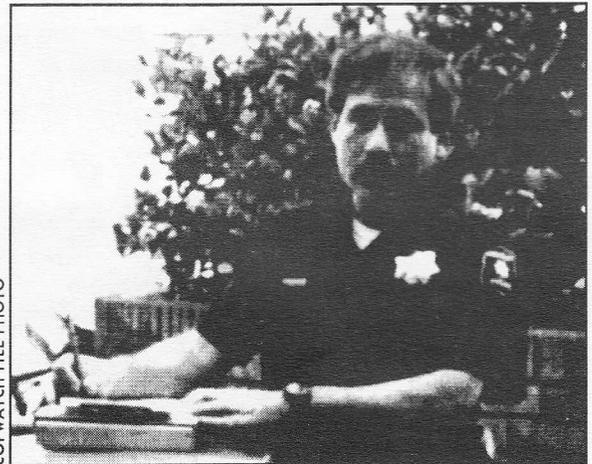
If you would like to help S.F. Food Not Bombs give free food to the hungry, call them at (415) 330-5030. Your assistance is desperately needed! ☹

City Manager Overturns Homeless Man's Victory Police Review Commission Dismayed

BY ANDREA PRITCHARD

In a direct challenge to the authority and influence of the Police Review Commission (PRC), City Manager Weldon Rucker has overturned a unanimous PRC decision sustaining a homeless man's complaint of wrongful arrest. What began as a routine complaint against a Berkeley police officer has snowballed into a test case of the power of the PRC.

On July 31, 1993, five onlookers observed BPD Officer Katz (#71) arrest Darwin Harrell, known to many as "L.T.," and his wife, for public drunkenness. According to complaints filed by COPWATCH and Harrell, the arrest was wrongful, as Harrell was not drunk. The complaints also allege that Officer Katz



Officer Katz, who poured beer on a handcuffed arrestee, back on the job after exoneration by City Manager Weldon Rucker.

was discourteous, saying "Fuck you" to Harrell and an observer; that excessive force was used in making the arrest; and that the officer abused discretion by pouring a bottle of beer directly on the handcuffed prisoner.

Despite the difficulties being homeless imposes on a complainant – being unable to get mail or phone calls – Harrell persevered with his complaint. On January 27, a PRC Board of Inquiry heard from the two complainants and five eyewitnesses, as well as Officer Katz and Officer Wellington. After a brief deliberation, the Board voted unanimously to sustain three of the four allegations against Katz.

In accordance with PRC procedure, the Board's findings were forwarded to City Manager Weldon Rucker's office for review. On March 1, Rucker issued his own findings, overturning the Board's opinion and declaring that all the allegations were *not* sustained.

Members of the Commission expressed grave concern over inaccuracies in the City Manager's report

on the case. At its April 13 meeting, the PRC voted 8-1 to send Rucker a letter requesting that he revise his findings for the following reasons:

- The City Manager's memorandum asserts that "the record confirms a failure to bridge the threshold of the applicable burden of proof. Clear and convincing evidence means proof beyond a reasonable doubt." In fact, the PRC's standard has always been "clear and convincing evidence," which is a weaker standard than that of "beyond a reasonable doubt" which is used in criminal convictions.
- The memo misstates several facts in the transcript of the hearing. For example, it states that Katz was responding to a complaint of disorderly conduct, when the officer was unable to recall any basis for the complaint. Other inaccuracies in the memo indicate that the memo was hastily written and the author did not read the 16-page PRC report carefully.
- The memo dismisses the testimony of five eyewitnesses to the incident as not "credible." However, the testimony of the single officer on the scene, the subject of the complaint, is deemed fully reliable.

In late April, the City Manager's office did indeed release a superficial review of the findings. Admitting that the wrong standard of evidence had been applied, the review nonetheless refused to sustain any of the allegations or to correct its other inaccuracies.

One government source said the Manager might be reluctant to admit continued wrongdoing by Katz. Katz was recently the subject of a \$100,000 excessive force lawsuit won against the City, said the source.

The L.T. case exposes the structural weaknesses of the PRC, which has no direct power to enforce its rulings. After the PRC had conducted interviews, made an investigation, held a hearing, come to a clear decision, and written 16 pages of findings, the City Manager's office casually disregarded the Commission's hard work. And when challenged, the Manager brushed off the PRC's protests, confident he could do so without repercussions. This is all the more disturbing because the evidence in this case falls so clearly on Harrell's side.

There is no official appeals process. But COPWATCH, dismayed once again with the Manager's cozy relationship with the police, is requesting a meeting with the City Manager to demand that Harrell get justice.

If you are concerned about the status of these consolidated complaints (nos. 1468 and 1488) please call City Manager Weldon Rucker at (510) 644-6580, or write his office at 2180 Milvia Street, Berkeley, CA 94703, and demand that he reverse his findings. To get an update on Harrell's case, what actions COPWATCH is taking, and what actions you can take, call our office at (510) 548-0425. With your help we will show the City that there are indeed repercussions to abusing the rights of any citizen. 

Homeless Take UC To Court

The People's Park property case, originally filed in 1990 by sixteen homeless plaintiffs seeking an end to the constant confiscation of their possessions by UC police, adjourned on March 30, 1994.

Represented by Osha Neumann, the remaining eleven plaintiffs spent over two months in court. This group is suing not only for compensation for the lost items and the resulting emotional distress — they are also seeking an injunction against the UC police to keep them from illegally confiscating any more property, a practice they continue to this day.

This case is being closely watched because it is well documented and has come to symbolize what "justice" really means for people in poverty. The plaintiffs are hoping for some sort of declaratory relief wherein the judge would affirm the rights of homeless people to be free from the unreasonable search and seizure of their property, and order an immediate end to unconstitutional policy and practice.

The judge has not yet rendered a judgment. He has asked both sides for extensive written arguments and has put off matters until June 6 at 9 AM in Department 14, 1225 Fallon Street, Oakland. At that time, oral arguments will be heard.

This case is unusual in that a relatively large group of homeless people maintained such a deep commitment to justice that over four years of living outdoors in an increasingly hostile environment did not discourage them from pursuing their case. No matter how this case is decided, warm thanks and congratulations to all the plaintiffs and Osha Neumann for their dedication and resistance to injustice.

COPWATCH TRAINING VIDEO

If you're tired of police harassment and brutality in your area, get organized — start your own COPWATCH.

This 25 minute video produced by Berkeley COPWATCH provides an in-depth look at how ordinary citizens organized themselves to hold the police accountable to the people of Berkeley. The video includes ideas and techniques for street observation of police activity.

For additional information call 510-548-0425.

Yes, I want to order _____ copies of the  COPWATCH TRAINING VIDEO at \$25 suggested donation per copy. Enclosed is a check for the full amount of \$_____.

Name _____ Phone _____

Address _____

City _____ State _____ Zip _____

Return to: COPWATCH, 2022 Blake St., Berkeley, CA 94704

Council Bans Hanging Out

Police Given Power To Chase People Off The Street

BY CHRIS THOMPSON AND SAM DAVIS

In its most dramatic move against civil liberties in recent memory, Berkeley's City Council voted 7-1 on May 10 to pass a previously rejected law that bans loitering "with intent" to break drug laws. Moments after Councilmember Maio admitted, "We're not really going to solve anything with this," she joined the Council's majority and officially pronounced hanging out a threat to public safety.

THE OLD LAW — NO GOOD

Councilmembers Dean and Wainwright originally proposed the ordinance on May 22, 1990, after reviewing similar legislation from East Palo Alto, Menlo Park, and Monrovia. The move touched off a storm of controversy and outrage among a broad spectrum of the community, who came together to oppose it. The American Civil Liberties Union, COPWATCH, Uhuru House, the Police Review Commission (PRC), and even the City Manager opposed the ordinance. Revisions were made twice to make the bill more palatable, but the final draft was voted down on December 10, 1990, in an action then-Councilmember Ann Chandler hoped would "bury this once and for all."

But while everyone breathed a collective sigh of relief, Dean and Wainwright got busy with the shovels, unearthed the dead law and touched it up for resubmission. Their revision "committee" proudly announced: "The ordinance has been revised in direct response to the comments that have been received."

THE NEW LAW — NO BETTER

Under the new law, anyone who hangs out near parks, schools, recreation centers, laundromats, liquor stores or boarded-up buildings, "with the intent" to buy, sell, or use drugs, has two choices: leave the area immediately when asked by a cop to do so, or get arrested on a misdemeanor charge.

Hoping to pre-empt any objection to the draconian recklessness of the bill, Dean and Wainwright set about codifying how a cop can legally establish "intent." Anyone can be busted under the new law if:

- A cop knows you were once involved with drugs,
- Other cops say you deal drugs,
- An "informant" says so,
- A "citizen" says so, and
- You act suspicious.

Dean and Wainwright included a number of other substantial changes to the bill, changes which have received little public attention. Under the old law, loiterers could be targeted by the police if they were within 50 feet of the listed establishments. Under the new law, police can run you off or charge you with loitering if they find you as close as *two blocks* — in any direction — to an abandoned building, a laundromat, or any of the other sites on



OSHA NEUMANN

the list. In addition, Dean and Wainwright expanded the new list to include schools and recreation centers, which were not included under the old bill.

The sponsors of the bill firmly opposed a public hearing. Dean and Wainwright cited the "widespread circulation of the ordinance and discussion in the community" as the reason why further discussion of this issue would be tiresome and superfluous. In fact, just such discussion had led to the ordinance's rejection in past years.

PRC UNIMPRESSED

On April 18, Mary Wainwright met with the Police Review Commission to solicit their approval of the proposed law. During this meeting, Wainwright said repeatedly that this law would only be used on those the officer "knows" is involved with drugs. PRC members asked Wainwright why an officer can't just arrest a "known" drug user for violating drug laws; or, if no drug

**KEEP IN TOUCH WITH COPWATCH — TOGETHER
WE WILL FIGHT THE ANTI-LOITERING ORDINANCE!**

laws are being broken, why the guiltless party should move along or face arrest. Wainwright's only response was, "Standing on the street corner leads to death."

In this meeting, Wainwright also stated that the goal of the law is not to prosecute individuals for its violation, but to chase Berkeley youth away from certain parts of the city. "Right now we don't have any reason to ask them to move along," said Wainwright, "This tool is specifically to ask them to move along." In effect, the Council is giving the police the right to take action without the responsibility of justifying it in a court of law.

The PRC was not impressed with Wainwright's arguments. Citing "extreme reservations with the proposal," they voted 5-2 to revoke their approval of the proposed measure. In a later meeting, they further voted to request that the City Council hold a public hearing before voting on the law, and asked about the effects of similar laws in other cities.

Unfortunately, the PRC's recommendations were to no avail. On May 10, Councilmember Shirek was the lone voice of reason. The rest of the Council chose to ignore the PRC, the former City Manager, previous Council actions, and a packed house of Berkeley citizens opposed to the measure, and approved the most brutal attack on our civil liberties to date. 

Note: As we go to press, opponents of the law are considering a ballot initiative petition drive to revoke the anti-loitering ordinance. Call COPWATCH at (510) 548-0425 for an update on this issue.

Beat the Heat!

As the student walked across the classroom, the "Beat the Heat" officer barked, "Who are you, and what are you doing here?" The student started to answer, "I'm going home," and reached for his wallet — signalling the "cop" to draw her mock weapon and shoot.

Luckily for all concerned, this was just a skit, part of attorney Katya Komisaruc's hour-long "Beat the Heat" role-playing workshop, which teaches participants about their rights and safety when dealing with the police.

What were the students to learn from this particular role-play? Always keep your hands in view when talking with the police — any quick movements can be mistaken as reaching for a weapon, and the cops may shoot.

Other role-plays address issues such as the right to remain silent, the "good cop / bad cop" routine, the "rat-jacket" routine, and other important safety issues.

Katya has brought "Beat the Heat" to about six Bay Area classrooms so far, with help from COPWATCH, EYES (Empowering Youth — Educating Society), and other individuals. If you are interested in bringing "Beat the Heat" to your classroom, community organization, or other group, call COPWATCH at (510) 548-0425, or Katya at (510) 452-4560.

Down by the Lake

BY TRACY JAMES AND GERALD SMITH

It seems like there's no end to what police won't do to pander to the needs of the white business community at the expense of the democratic rights of Oakland's black youth. Recently, the Oakland Police Department (OPD) resumed its practice of setting up check points near Lake Merritt, this time to inform motorists that the OPD is cracking down on "cruising" in the area. The OPD has been handing out fliers that "educate" both motorists and pedestrians on OPD's version of "proper conduct" in the Lake Merritt area.

A committee, composed of Oakland business owners, similar to the "Save Our South Side" organization that emerged in Berkeley, has come together to purge the Lake Merritt area of "undesirables," i.e., everything black in sight.

The committee claims that mayhem regularly erupts around Lake Merritt when the sun goes down. However, the new crackdown starts early in the morning and continues through broad daylight. The crackdown focuses on such trivial infractions as not wearing a seat belt. Those remiss in their duty to buckle up face a citation and a full police background check to make sure they've been responsible citizens.

In order to clamp down on cruising, the OPD has decided that if you drive through the same location three times within two hours you will be compelled to donate \$103 to the City of Oakland to finance more of this treatment. If you live in the Lake Merritt neighborhood, be sure not to go to the store, and then the laundromat, and then the bank — or any three rough equivalents — in less than two hours.

In a Channel Two News story on this issue, Blacks asserted that OPD had treated them unfairly during the crackdown. The police of course dutifully denied these allegations. But a white woman who was interviewed stated that the police waved her and other whites through the checkpoint. At the same time she noticed that police were closely inspecting cars with black passengers.

So if you find yourself handcuffed in the back of a police car on a leisurely weekend afternoon, with your family and friends looking at you in bewilderment, don't worry, be happy. It is at times like these that we should reflect upon how fortunate we are to have a black mayor and police chief in this town. 

**IF A COP HASSLES YOU UNDER
BERKELEY'S NEW LOITERING LAW,**

CALL COPWATCH

(510) 548-0425

Cop Blotter

*A sampling of the more egregious examples
of police misconduct, gleaned from
COPWATCH Incident Reports*

January 21, 2036 Shattuck — At 7 pm, BPD Officers Bachman (#12) and Onciano (#60) approached a homeless woman and said, "It's time to be heading back to the shelter." The woman protested, saying the shelter doesn't open until 9 pm. Onciano and Bachman made her move anyway, back down to the women's shelter on Dwight Way. As she was moving down Shattuck, Onciano followed on bike at a very close distance.

January 23, 2129 Shattuck (Bank of America) — A homeless man was sleeping on the sidewalk when a BPD officer approached him and cited him for trespassing. The man was not on Bank of America property, only sleeping on an adjacent sidewalk; the officer still cited him and told him to "get the fuck out of here."

February 4, University and Shattuck (Thrifty Drug Store) — BPD Officer Onciano called a homeless woman "an eyesore." Onciano then told her that she couldn't sit there, claiming that the store managers had complained. The woman protested and said that one of the managers would have approached her before going to the police. Onciano replied that Thrifty complained through the Downtown Business Association.

February 5, 2133 University — UCPD officer Chang approached a sleeping homeless man and kicked him in the buttocks to roust him. No ticket was issued.

February 11, 2545 Hillegass — COPWATCH responded to a call at Chateau Co-op. Residents had called the fire department over a possible fire. BPD Officer Moulton (#121) took the opportunity to follow the fire department into the building and look around. Observing several computers in the basement, she refused to believe the fact that a company had donated them to the students, and insisted on calling in serial numbers. She also brought in Sergeant Holland (#S-8), despite residents' requests that the police leave since they had no probable cause to be present. Moulton threatened to take at least one resident down to the station.

February 12, 2352 Shattuck — COPWATCH responded to a call in which BPD Officer Rein (#54) had

arrested a homeless man for being a nuisance outside the local coffeehouse. Copwatch asked the employees what the victim was actually doing. One of the employees responded that the man "harasses" the customers by asking for donations, and uses the bathroom to wash his clothes. Rein took him to the station to run a warrant check on him.

February 25, Haste and Telegraph — COPWATCH observed an unidentified UCPD officer stop a person and say to him: "If I see you driving that blue car, I'm going to take you in because you don't have a license." After the incident, the victim showed the COPWATCH patrol his license.

February 25, 2340 Durant — While arresting a man for carrying a concealed weapon, UCPD Officer Tejada was observed wearing Officer Freeman's (#23) uniform and not his own (in violation of CPC 830.10). When COPWATCH asked if he was Officer Freeman, Tejada answered in a friendly tone, "No, I'm Tejada. I'm just wearing Freeman's shirt tonight."

March 23, 2480 Shattuck — Officer Onciano confronted a homeless man, demanded his identification and ran a warrant check. When the check came clear, Onciano told him, "If I see you here again, I'm going to give you a citation for sitting down."

March, Shattuck Avenue — Onciano approached a homeless woman and told her to "get off Shattuck Avenue."

She left and went to Ohlone Park where Onciano confronted her several minutes later, demanding, "Where are the drinks?" The woman replied that nobody was drinking. Onciano approached her a third time at a public bench, at which point she became angry and asked Onciano why he was following her. Onciano then arrested her for disturbing the peace and drinking in public, although there was no alcohol present at the scene.

April 23, Telegraph Avenue — UCPD officers Silverman and Woolard and BPD Officer Jones (#5) detained a homeless man and, without basis, asked him to identify himself. A check by the officers revealed that the man had a San Francisco warrant, and he was handcuffed and taken into custody.

April 28, 2 PM, People's Park — Officers Heist, Katz, and Roe approach several people at the Free Box with a man who stated that his car had been broken into and that these people were wearing his clothes. No proof was given, and although the people said they had gotten the clothes from the free box, the cops made them return the clothes to the complainant.



JEFF S.

COPWATCHers videotape police taking a man into custody on Telegraph Avenue (see April 23 incident).

Oakland Suffers Onslaught of Police Shootings

BY GERALD SMITH

In recent months, misconduct by the Oakland Police Department (OPD), especially in the form of unjustified police shootings, has increased at a frightening rate — including three shooting incidents in the week of March 5th alone.

One of these involved 16-year-old Steve Crenshaw, a black student at Fremont High School, shot while he and some friends were celebrating a birthday in an empty house.

At first, the cops told the media that the unarmed youth had a gun. Later they claimed that Crenshaw had "startled" the officer, and still later that the officer's gun had fired "accidentally." From his hospital bed, Crenshaw made clear what had really happened: the cop kicked the door open and started shooting. The cop's bullet went through Crenshaw's arm and into his

midsection. His spleen had to be removed.

According to a friend of Crenshaw's, quoted in the March 13 *San Francisco Chronicle*, "They shot him to send a message, plain and simple... They don't want us around here. And if they don't like you, they're going to smoke you." The fact that the cop has yet to be seriously disciplined is an indication that Crenshaw's friend may well be right.

Another case in which the OPD's lies have been exposed is that of Nathan Cosby. Cosby, an Oakland school janitor, was killed January 6 in his home in East Oakland, by a gang of cops on a search warrant for alleged credit card fraud (a non-violent crime) by his wife. Cosby was never a suspect in the case, and police later admitted that his wife was only tangentially related to the case; eventually they dropped all charges.

OPD tried to justify the shooting by claiming that Cosby had pointed his gun at the cop who shot him, while also trying to escape by climbing out the back window of his home.

But according to the coroner's report, the bullet entered the *back* of Cosby's head through his *second floor* window. This information directly contradicts the police version of what happened.

So should we expect OPD to admit they lied? Don't hold your breath. OPD spokesman Mike Sims, a man who knows no shame, told the *San Francisco Chronicle* (March 1, 1994) that the evidence indicates only that Cosby turned his head just before he was shot. Now wait a minute: Cosby turned his head *and* leaped to the second floor faster than a speeding bullet?

In yet another case, three OPD officers were recently caught shooting randomly from their car as they drove through the Yuerba Buena Tunnel. The San Francisco police who apprehended the three lawless "law enforcers" decided not to press charges against their co-workers on the incredible basis that they had no way of knowing who in the car had actually fired the shots! Would such behavior on the part of a group of black youth have received similar treatment?

Aside from the immorality and tragedy of such misconduct, the lack of accountability of OPD is also very expensive. As shown by statistics obtained by

People United for a Better Oakland (PUEBLO) from the Mayor's office (see graph), the cost of

paying off police brutality cases has soared almost tenfold in the last five years!

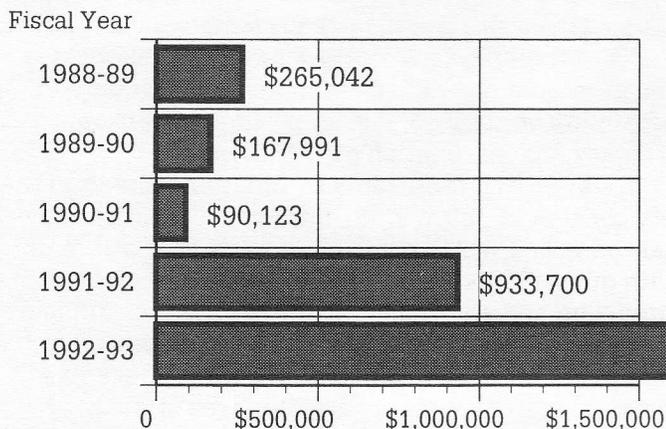
This is yet more confirmation that the Oakland Police Department is out of control. If this trend continues the City of Oakland will be in serious financial trouble.

But more important than the economics are the moral and political ramifications of a police department that is definitely out of control. This police terror can be brought to a halt only by the organized strength of thousands. We've got our work cut out. ●

What OPD's Brutality Costs the City

The following graph shows that lawsuits due to excessive force by the Oakland Police Department (OPD) have increased alarmingly in recent years. When these statistics were compiled earlier this year, the City had already paid out \$869,920 in the current fiscal year to victims of OPD misconduct.

CITY OF OAKLAND PUBLIC LIABILITY FUND
EXPENDITURES: POLICE EXCESSIVE FORCE CASES



Thanks are due to People United for a Better Oakland (PUEBLO) for this information, which the grassroots organization obtained from the City of Oakland. As part of a nationally coordinated campaign against police misconduct, PUEBLO had filed a Public Records Act request with the City, asking for all government files on complaints and lawsuits related to OPD. The city eventually complied, but charged the group about \$500 for the privilege of getting copies. For more information on PUEBLO's campaign, call (510) 533-0919.

the various business interests on the task force.

The Subcommittee on Aggressive Street Behavior, composed of Councilmembers Fred Collignon, Shirley Dean, Dona Spring and now Mayor Leiter, originally submitted the anti-panhandling laws on December 7, 1993. The laws would ban sitting or lying down on public sidewalks, as well as forbid all panhandling at night and daylight panhandling near ATMs, bus stops, public benches, parking meters, and all places of business. The laws would also extend the restrictive People's Park regulations to all city parks, and upgrade the penalty from an infraction to a misdemeanor.

Outraged residents and members of the Berkeley community voiced their anger over the new laws at a public hearing on February 15, 1994. Over seven hundred people filled the Berkeley Community Theater, the overwhelming majority vehemently opposed to the ordinances. The Berkeley City Council subsequently refused to hold any further public meetings on the issue. Public input was restricted to letter writing campaigns, a strategy most effectively employed by the highly mobilized merchants' associations in the city.

At the Council meeting of April 12, Councilmember Maudelle Shirek publicly denounced the proposed laws as "political hat business." Shirek called for a town hall meeting to explore the root causes of poverty, instead of clamping down on its symptoms with police power. Several other Councilmembers agreed with her town hall proposal, although none distanced themselves from the anti-panhandling laws. Nor did any Councilmember call for a specific timetable to hold this meeting, and the suggestion seemed to be indefinitely postponed.

This Council meeting was attended by a large crowd strongly opposed to the proposed laws, who vociferously applauded Councilmember Shirek's suggestions and remarks. Members of COPWATCH were also in attendance, as they will be as this issue is debated in the coming months. COPWATCH has held two public demonstrations in opposition to the proposals, and will take further steps to make clear to the Council where the people of Berkeley stand. 

Write the City Council!

Stop the City Council from shafting the poor! Wherever you live in Berkeley, your input is needed. The following is a list of City Councilmembers and how you can contact them:

- | | |
|--------------------------------------|---------------------------------|
| Fred Collignon 644-6401 | Shirley Dean 644-6294 |
| Dona Spring 644-6266 | Mary Wainwright 644-6400 |
| Maudelle Shirek 644-6243 | Betty Olds 644-6399 |
| Carla Woodworth 644-6398 | Linda Maio 644-6359 |
| Mayor Jeffrey Leiter 644-6484 | |

Address all letters to: Mayor and City Council, 2180 Milvia Street, Berkeley, CA 94703.

Attend the City Council vote on the Anti-Homeless Laws!
The meeting will be on June 14, at 7 PM, in the Council Chambers: 2134 Martin Luther King Jr. Way.

- The study recommends several measures to reduce departmental waste.
- Reducing the Special Enforcement Unit is the study's finest recommendation. This unit has become well known for its misuse of search warrants and mistreatment of residents in low-income neighborhoods (see COPWATCH Report, Fall 1993). The very existence of this secretive, paramilitary unit within the context of Community Involved Policing sabotages CIP's announced goals of establishing positive relations between police and community residents.

TURNING COPS INTO SOCIAL WORKERS

Despite these constructive suggestions, the general premise of the study is that Community Involved Policing (CIP) requires a very substantial increase in the number of patrol officers. This recommendation is not based on crime levels. In fact, BPD records show a sharp decrease in major crimes last year, and an overall decline over the past four years. The PERF vision of Community Policing is that of police officers assuming responsibilities and functions which have previously been performed by social workers in the private and public sectors.

Citizens who think the hiring of additional officers will lead to increased visibility of officers on the street should certainly read the report. According to PERF:

"Many citizens are under the impression that the implementation of CIP will result in higher visibility of police officers. Even the addition of 30 officers will not have this result" (recommendation #43).

In fact, the PERF study suggests that under CIP, the police department should reduce the amount of time officers spend responding to calls for service from 49% to 35% of their paid time. PERF recommends that officers should instead spend more time working on community organizing, interdepartmental liaison, advocacy and information distribution.

This approach represents a fundamental shift in the very concept of police work. Supporters of CIP argue that the police will become more like social workers (with guns). Opponents counter that community organizing and advocacy are functions which are more effectively performed by civilian professionals. (For example, the sight of Officer Katz pouring beer on a homeless man he wrongly arrested [see story, p. 4] does not inspire confidence in the police capacity for homeless referral and advocacy.) The militarization of social work and neighborhood organizing will ultimately undermine public trust in city services and cause even greater divisions in our neighborhoods than already exist.

POLICE WASTE RESOURCES

The PERF report details an alarming abundance of inefficiency within the department:

- "The [Bike patrol] unit's response to two percent of the department's calls for service per year is inefficient. This equates to 1.2 calls per officer per day." (recommendation #61)
- "The extent of police resources being expended on the Telegraph Avenue area are questionable...There is surprisingly little data to support the current level of police service and other forms of community service provided to the Telegraph Avenue area." (#68)
- "Officers should be directed to spend uncommitted time more wisely." (#37)

Most Berkeley residents have had the opportunity to witness their police department in action. It is not uncommon to see four to six BPD and UC officers work together to issue a ticket for obstructing the sidewalk or trespassing. How officers spend their uncommitted time is a critical issue when we consider the option of increasing the size of our police force. And when officers do respond to calls for service, many are not even crime-related.

According to Officer Thornton, speaking at a Beat 6 Community Policing meeting in February, "More often than not, the calls that we go to have nothing to do with crime, but with people's personal problems... Every once in a while we get a crime report or something related to criminal activity."

PERF BELITTLES ROLE OF CIVILIAN REVIEW

Even though officers use their uncommitted time ineffectively and respond to calls unrelated to crime, PERF recommends hiring more officers — with less oversight by the City Council and the PRC. PERF claims that the City Council should not attempt to "micromanage" the police department:

"Some certainty has to be provided by the Council that officers can take needed action and risks to resolve problems without undue scrutiny, criticism or sudden changes in their authority" (#45).

In a similar manner, the PERF study recommends that the PRC should "refrain from unwarranted criti-

cism of police services" (#34). The report also states, "the PRC will have to overcome the perception that its role is an adversarial one, with respect to the police department. Until a stronger bridge is built between the PRC and the police, the success of a broader role for the PRC in community policing is unlikely" (#46).

Unfortunately, PERF does not seem to appreciate the role of the PRC. The PRC must remain independent: recently, cuts in its staffing have affected its ability to provide oversight of the department. It is conceivable that if the police department had a history of cooperation with the PRC, not just in specific investigations of officer misconduct, but also in matters of policy and deployment, the police department could have been prevented from wasting existing resources and staff.

At times, politicians and policymakers have viewed the police department as a sacred cow which should never be questioned or criticized. But with the City budget in crisis, throwing money at the police department is no guarantee that our streets will be safer and our citizenry better served. Rather than turn cops into social workers, let's see if we can work to create solutions that last and really address the roots of crime. When we have enough jobs and homes for our community, perhaps we will be able to look at reducing the size of our police force instead of increasing it.

Tell the Council: We want jobs — not cops!! 

REFUSE TO BE ABUSED



BERKELEY, CA

COPWATCH T-SHIRTS

a great multicolor design on black or white

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Here's my contribution to help COPWATCH keep going strong and to support the continued publication and mailing of the COPWATCH Report...

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| <input type="checkbox"/> \$35/year - sponsor | <input type="checkbox"/> \$50/year - m(p)atron |
| <input type="checkbox"/> _____ other | Fabric color: Black White |

Name _____ Phone _____
 Address _____
 Organization _____
 Comments _____

Return to: COPWATCH, 2022 Blake Street, Berkeley 94704. Contributions are NOT tax deductible.

Calendar Of Events

June 6, 9 AM

Court Date for Homeless Lawsuit Against U.C.

See story on page 5.
Pack the courtroom! Alameda
Superior Court, 1225 Fallon St. (near
Lake Merritt BART), Dept. 14

June 14, 7 PM

City Council Vote On Anti-Panhandling Laws

Come and speak against
the laws — see story, page 3.
2134 Martin Luther King Jr. Way
(at Center St.)

June 26, 8 PM

Benefit with Final Girl

Proceeds go to COPWATCH
and to the Hall family's
lawsuit against BART Police.
Ashkenaz — San Pablo & Gilman
\$6-10 Sliding Scale

Monthly

COPWATCH Yard Sales

We hold fund-raising yard sales
once a month at our office, 2022
Blake Street (near Shattuck). Call
us to donate quality items, or to
find out the next date.

September 16 & 17

California Conference on Police Accountability

Grassroot groups from around the
state will strategize for their
struggles for justice. Call
COPWATCH for details.

For more information on any
of these events, or to keep
in touch with us about
future events and actions,
call COPWATCH at
(510) 548-0425.

Mississippi Freedom Summer 1994

On May 6, Andrea Gibbs, who has done so much to expose brutality in the Mississippi jail system, spoke to an enthusiastic audience at Boalt Hall. COPWATCH was honored to host Andrea, and would like to thank everyone who made her Bay Area speaking tour possible. We reprint here Andrea's call for support:

"The Victim's Voice, Inc., was founded in 1992 by Andrea Gibbs, a former Mississippi deputy sheriff, and now a Mississippi shameless agitator. As a result of the work that has been done by The Victim's Voice, the U.S. Department of Justice found many jails 'unfit for human habitation,' and ordered them closed. This organization has proven that victims can have a voice!

"Efforts are underway to investigate the mysterious deaths that have taken place in the prisons. This summer in Mississippi you can be a part of our fight for justice! A house will be rented outside of Parchman State Penitentiary, and volunteers will come from all parts of the nation to investigate the prison, interview prisoners, and prepare for litigation for family members who have lost loved ones and against the horrible prison conditions...

"Thirty years have passed since Freedom Summer 1964. Now, in 1994, we are asking for folks to join in the fight again. Legal resources, money, and support have always been the obstacles. These resources are not available in our state! They must come from outside once again. We are going to win this battle and show Mississippi that the status quo is not acceptable any more!"

For more information about Mississippi Freedom Summer 1994, call Kass McMahon at the San Francisco National Lawyers Guild office, at (415) 285-5067, or call or write The Victim's Voice: P.O. Box 6741, Gulfport, MS 39506; (601) 896-7778.

COPWATCH Classifieds

- One large couch, great condition — \$100
- Flatbed truck tool box — \$100
- Call (510) 548-0425 for information.
- All money goes to benefit COPWATCH.

JOIN COPWATCH

Grassroots organization seeks committed volunteers who want to use their knowledge, or learn new skills, for the benefit of their community. Organize a benefit concert or a demonstration; learn to present a press conference or produce a newsletter; do office work, casework, street patrols, and more. We welcome anybody and need everyone.

Meetings are 8 PM Mondays at
2022 Blake Street (near Shattuck)
— or call us at (510) 548-0425

COPWATCH

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Address correction requested

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