

# COPWATCH

Report

Guide to the  
1994 Election

BERKELEY, CALIFORNIA

## VOTE NO ON MEASURES N & O!

COPWATCH doesn't do electoral politics much. We're a group that advocates against police injustice and for accountability, and we usually stick to fighting individual cases or policies of police wrongdoing. We don't endorse anyone for public office — we've seen too many promises broken in the greasy world of City Council politicians.

But we compiled the candidate survey in this edition so as to inject some real issues into the campaigns. And measures N and O pose such a large threat to our safety and our rights that we had to get involved, to reclaim the issues that politicians so often turn to their own nasty ends. A No vote will send the message that our civil rights are not to be played with by City Hall anymore.

There's so much wrong with these initiatives that it's hard to know where to start. We've summarized the main points (*see sidebar*), but much of what's at stake in November can be distilled down to two words: discretionary power.

That's what the cops will have, if we give it to them. They'll have the discretionary power to decide who's dealing drugs and who's hanging out, who's panhandling and who's on his way to the shelter, who's sitting down and who's breaking the law. Which one are you doing? That's up to Officer Onciano to decide.

Onciano patrols the downtown area along Shattuck Avenue. Several months ago, Onciano discovered a little-known law called "Traffic Ordinance 12.1," and realized the potential for discretionary power it gave him. The ordinance, intended to regulate business use of the public way, prohibits "placing an object on the sidewalk."

So if Onciano was tired of you sitting in front of Thrifty's on University, or any street corner on his beat, he'd arrest you for placing the seat of your pants on the sidewalk. He'd pass right by café tables sprawling from the storefront to the curb to bust you for blocking the sidewalk. It got so bad that homeless rights activists set up a sting operation to challenge Onciano's application of the law before the Police Review Commission. The PRC sustained the complaint, and now Onciano knows that when he misuses 12.1, he's going to get called on it.

Sitting on the sidewalk isn't against the law yet. But for a while it was, on Onciano's beat, thanks to the discretionary power he tried to take upon himself. In November, Onciano gets a chance to have all the discretionary power he wants. We get a chance to keep it from him. We can't afford to miss it.

### What's Wrong With Measure N?

- Measure N would give police the power to "move along" and arrest someone who has not and is not committing a crime, based on the officer's impression that you have "intent" to break a law.
- The cops need not defend their "move-alongs" in a court of law.
- The law only applies in some zones, mostly low-income areas of the city. This means your civil rights depend on where you live.
- This poorly written and discriminatory law will do nothing to make our neighborhoods safer. Similar laws in other cities have been selectively enforced by police against people of color and young people based on stereotypes and "gang profiles."
- When this law was first discussed four years ago, widespread opposition forced the Council to vote it down. When conservatives brought it back this year, they passed it quickly and quietly. But COPWATCH and other Berkeley residents were so concerned by it that they conducted a grassroots petition campaign which collected over 7500 signatures to suspend the law and put it on the ballot.

### Why Vote No On Measure O?

- Measure O would establish Berkeley as the community with the most repressive anti-homeless laws in the nation.
- It would be illegal to ask for money near a building or near parked cars. This leaves the middle of the sidewalk, which it's illegal to block. So any panhandling would be illegal.
- It would be illegal even to sit down as far as six feet from any building during the daytime.
- The City Council claims the restrictions on panhandling would be linked with a package of money for homeless services. In fact, the law would take effect this January regardless of whether the Council ever comes through with the money. The Council has a history of not delivering on promises of money for social services.
- The measure is non-binding, and the Council will consider a Yes vote not as a vote for more homeless services, but as a vote against the rights of those on the streets.

**TO HELP FIGHT N & O, CALL COPWATCH AT (510) 548-0425**

# Council Candidates and the Cops: Where do they stand?

As of November, Berkeley will have a new government. And the first item on the new agenda is the police. COPWATCH had some urgent questions to ask this year's council and mayoral candidates. So we mailed them out, and waited for answers. Our questions were:

1. Are you concerned about the recent budget cuts at the Police Review Commission, and its resulting diminished effectiveness?
2. Do you favor expanding the PRC's jurisdiction to include the University Police Department?
3. Under the new Community-Involved Policing program, do you favor empowering the community to choose its Beat Officer?
4. Do you favor abolishing the informal parking ticket quota system that Berkeley currently uses, as identified in the 1994 Police Executive Research Forum study?
5. What would be a more effective solution to our drug problem — ten more police officers, or \$500,000 in community programs?
6. Do you know anyone who has been a victim of police misconduct?
7. In 1991, Police Chief Butler hired Michael Cefalu, despite a documented history of battery and misconduct. Would you take concrete steps to ensure that the city of Berkeley does not hire such officers in the future?

While COPWATCH does not endorse any candidate for public office, we offer a summary of their replies, as well as their record if any on issues of police accountability, as a public service to the voters.

## MAYOR OF BERKELEY

**DON JELINEK** advocated a number of reforms which would greatly expand the powers of the Police Review Commission (PRC). He said giving the PRC jurisdiction over the UCPD is "statutorily impossible," but proposed an advisory role for the PRC: it would review UCPD complaints and have the power to put marks of censure in the records of individual officers.

Jelinek wants the same sort of power for neighborhoods under Community Policing. Citizens who were ill-served or harassed by their beat officer could have the incident put on that officer's record. Under this plan, the censure would not have to be approved by any police agency.

Jelinek also proposed requiring the PRC to review the records of any officer applying to work for Berkeley, independent of police department input. The PRC, in tandem with the city's personnel department, could then strike the names of brutal cops from the roster of applicants that the Chief was considering. In order for the PRC to cope with these added responsibilities, Jelinek proposed doubling the membership and budget of the commission, splitting it into one section for complaints and one for specialized policy implementation, such as the UCPD and the pre-employment screening process. Jelinek opposes measures N and O.

**MICHAEL DELACOUR** gathered signatures on the petition against the Loitering Law (measure N), and has called for increased police accountability on a number of occasions. He further opposes Measure O. Unfortunately, we were unable to reach him with our questionnaire before going to press.

**SHIRLEY DEAN** favors the reduction in PRC staff, saying everyone at City Hall has to tighten their belts: "I know of no governmental agency, division, or program anywhere that has all the resources to do the amount of work done in the past." Dean forgot the police department, whose budget increased from \$24.7 million in 1992-3 to \$26.6 million in 1994-5.

Dean opposed empowering communities to choose their beat officers on both legal and philosophical grounds. She suggested that an atmosphere of "mutual trust" and the good faith of the beat officer would suffice. Should such good faith break down, Dean said neighbors could always trust Police Chief Dash Butler not to let them down.

In response to the question of BPD hiring brutal officers, Dean said "the PRC and the Police Chief addressed this issue several years ago," and expressed "full confidence in the measures that Chief Butler has instituted," although in fact no hiring policy reforms have been announced to date.

Dean was the only respondent who denied there are still problems in the police hiring procedure, the only one who doesn't advocate restoring the PRC's budget, and the only who didn't personally know anyone who has been a victim of police misconduct. As a Councilmember, Dean took part in drafting both the Anti-Loitering and Anti-Panhandling measures.

## **COUNCIL — DISTRICT 1 (West Berkeley north of University Avenue)**

**LINDA MAIO** called for "adequate funding" of the PRC, and supports some sort of civilian review for the UCPD. She expressed concern that if the community chooses its beat officers "we might not get the kind of diverse workforce we need." Instead, she is "more concerned about getting more Hispanic officers in my district." The candidate further stated that "we should insist on hiring practices that screen out any candidate... who has a history of misconduct." As a member of the City Council, she voted for both measures N and O.

**ROBERT SPARKS** currently has four cases pending before the PRC and says he is therefore very concerned about the commission's ability to process them after the budget cuts. He favors a separate review commission for the UCPD, elected by the campus population. Sparks rejected the "Community-Involved Policing" program altogether, and proposed giving the PRC complete hiring, firing, and disciplinary power over the police department. He petitioned against the Loitering Law (measure N), and opposes measure O.

**JAMES SCHMITT** supports both restoring the PRC budget and giving the PRC the power to review UCPD complaints. Schmitt stated that since "serious crime in Berkeley is down 12 percent from last year... it would be a waste of money to hire more officers. It would be wiser to spend the money on community programs." Schmitt called the "hiring of Michael Cefalu, or anyone who has been fired from a police force, ... a gross error," and said it was "unacceptable" that the Chief should make such a decision. Schmitt opposes both measures N and O.

**GERALD CASEY** "did not know of any budget cuts or their effects" at the PRC. He opposes giving the PRC jurisdiction over the UCPD, and also opposes letting neighborhoods choose their beat officers. On the drug problem, Casey rejected community programs, preferring "ten cops, a canine unit, and tough judges." He refused to talk about the hiring of brutal cops, calling our question "loaded and biased." Casey supports measures N and O.

## **DISTRICT 2 (West Berkeley south of University Avenue)**

**MARY WAINWRIGHT** expressed concern about the PRC cuts. She said that one of her appointees met with UC Vice-Chancellor Boggan to discuss UCPD accountability; nothing came of this meeting, however, and she didn't state what further actions she would take if re-elected. She opposes neighborhood power to choose its beat officer, preferring to leave the decision to Police Chief Butler. Wainwright agrees in principle with excluding officers with a history of violence from the city payroll, and with preferring community programs over police action. As Councilmember, however, Wainwright drafted the Anti-Loitering Law (measure N) and supported measure O; apparently, she does not find her record in conflict with her stated principles.

**MARGARET BRELAND** said she "would press for the [PRC] to receive the support it needs." She advocates some form of civilian review of the UCPD. Breland said letting a neighborhood choose its beat officer is "a good idea," but worried about diversity and the skill level of community-chosen officers. The candidate said, "We should only hire officers who have excellent records... [including] respect in dealing with the community... and I would insist upon this if elected." Breland opposes measures N and O.

**GINA SASSO** believes the PRC should have some influence over BPD hiring decisions. She supports UCPD cooperation with PRC investigations, and advocates "decriminalization" rather than "more police repression" in dealing with the drug problem. Sasso participated in petitioning against the Anti-Loitering Law (measure N), and also opposes measure O.

**JOHN THOMAS** says the PRC should be strengthened, not cut, and wants the commission to have jurisdiction over the UCPD. He believes the community should have "the power to have officers removed when they don't meet the needs of the community." Thomas favors rehabilitation and recovery programs over the prison system. He states, "There is no excuse for hiring officers with negative histories." Thomas opposes measures N and O.

## **DISTRICT 3 (Central Berkeley south of downtown)**

**MAUELLE SHIREK** expressed serious concern over the recent budgetary troubles of the PRC. Shirek supports expanding the PRC's jurisdiction to include the University, empowering neighborhoods to choose beat officers, and establishing a system to preclude abusive police from the hiring process. She favors community programs over additional police to fight drugs, and voted accordingly as a member of the Council. Shirek also consistently opposed the Anti-Loitering and Anti-Panhandling proposals while in office, and has endorsed the campaign against measures N and O.

**LAVELL SPENCER** did not seem to know what the PRC is, calling it a "law enforcement" agency. But whatever it is, Spencer supports its expansion over the UC system and opposes cuts in its budget. Spencer opposes empowering communities to choose their beat officers, but would support some method to avoid hiring abusive cops.

*(continued on next page)*

(CANDIDATES, from previous page)

## COUNCIL — DISTRICT 4 (Central Berkeley)

**DONA SPRING** is distressed by the PRC cuts, and would like to see some sort of review process implemented within the UC system. She likes the idea of empowering neighborhoods to choose beat officers, but considers it impractical. Spring proposed that personnel files of police candidates be made available to city staff before hirings. As a councilmember, she helped draft the Anti-Panhandling measure, but later changed her mind; she now opposes both measures N and O. Interestingly, Spring is the only candidate who favors some form of parking ticket quotas.

**LINDA POWELL** said that overaccountability is hamstringing the police's ability to do their job. Powell would solve the drug problem by hiring ten more police officers and using the \$500,000 in community funds to make commercials, billboards, and posters which say: "Drug dealing and panhandling are not OK in Berkeley!" Powell supports measures N and O and says she is sick of Berkeley condoning the "panhandling lifestyle."

## DISTRICT 7 (Southside)

**ERNEST SCOSSERIA** cited measures N and O as the very reason why the PRC's budget should not be cut this year. According to Scosseria, the PRC will be needed to ensure that the broad powers these measures give the police are not abused; however, he did not say whether he supported or opposed the two ballot initiatives. Scosseria also proposed making the UCPD's continued jurisdiction over city territory contingent upon acceptance of PRC jurisdiction over UC officers. While he would restrict the power of beat officer appointment to the police chief, he would let dissatisfied communities request that their beat officers be replaced. Scosseria would require that the record of police applicants be reviewed for instances of misconduct before any hiring.

**CARLA WOODWORTH** said she was too busy looking for a campaign office to answer our questions. While on the Council, she voted in favor of the Anti-Loitering and Anti-Panhandling measures.

**MARCO PULISCI** failed to return our questionnaire. He supports measures N and O.

NOTE: No one from Districts 5, 6, or 8 (the Berkeley hills area) returned our questionnaires. In two of these districts, the candidates are running unopposed. Regrettably, COPWATCH was also unable to contact all of the mayoral candidates by press time.

# Statewide: Just How Big Can The Prison System Get?

## NO on Prop. 184 — "Three Strikes"

California currently has the world's second largest prison system (after China's), and that system will more than double in size under the "Three Strikes" law, which is both on the books and on the ballot.

In the frenzy of this year's crime hysteria, Governor Wilson signed a number of such proposals into law. The fiercest one took effect, and has also been put on the ballot; if it passes, it will be much harder for the legislature to repeal it at a future date.

The law gives an automatic 25 year to life sentence to anyone convicted of any felony, who has been convicted of two previous violent felonies. California's prison population, which has doubled in the past 10 years, would grow even faster. More prisons would have to be built, at an estimated cost of \$6 billion annually by 2026.

More prisons means more guards and more cops, which inevitably means more police brutality, and more systemic brutality, such as forced jail overcrowding.

An ounce of prevention is worth a pound of cure. We need positive programs that would place citizens back into our society. The prison population should be reduced, not increased. Send a message to the politicians that the crime hysteria hasn't fooled us — vote no on 184!

## NO on Prop. 187 — "Sink Our State"

"You are the posse," said a Prop. 187 co-founder recently to a supportive crowd in Orange County, "and S.O.S. is the rope." This lynch-mob mood is what produced an initiative that could give the Immigration and Naturalization Service (INS) drastically increased police power.

Under this measure, any teacher, doctor, or social service provider would become an agent of law enforcement, required by law to check everyone's immigration status, and to report to the INS anyone who can't produce citizenship documents.

Another provision requires all law enforcement agencies to verify the legal status of "suspected" immigrants. The arrest need not be lawful, the suspicion can be completely unfounded, and police must "fully cooperate with the INS." This overrides local sanctuary laws, such as in Berkeley, which prohibit police from working with the INS.

Prop. 187 makes no provisions for the mass confinement and deportations of undocumented immigrants that would result if it passes. But these would inevitably require even more prisons and even more cops.

The potential for abuse under this measure, particularly racist selective enforcement, is clear and frightening. Help us defeat Prop. 187 in November!

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