

COPWATCH

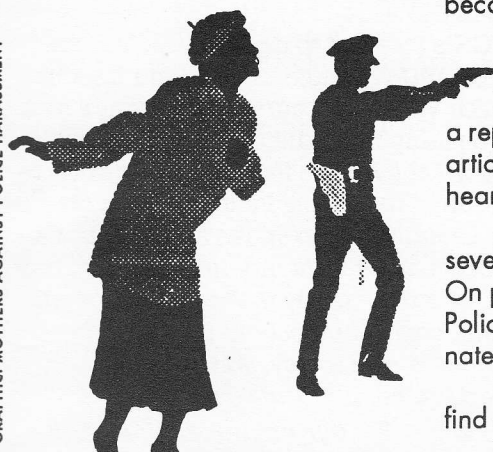
Report

BERKELEY, CALIFORNIA

FALL 1994

What Can Be Done About Oakland Abuse?

GRAPHIC: MOTHERS AGAINST POLICE HARASSMENT



Although COPWATCH has historically based its work in Berkeley, we have become more and more concerned with cases of Oakland police misconduct, as reports of these incidents have increased over the past several months.

In this issue of our Report, we describe three of these cases (*see pages 2 and 3*). The major newspapers and TV stations remain silent on police abuse: a reporter from the Oakland Tribune told one family that the paper wouldn't print an article because no one had died from the officer's brutality. But whether or not you hear of it, these kinds of incidents continue to happen every day.

At the September COPWATCH Conference on Police Accountability, several grassroots organizations will discuss plans to fight police abuse in Oakland. On page 4, we report on PUEBLO's Oakland Campaign for Community Safety and Police Accountability. New strategies and ideas are coming together for a coordinated effort to solve the problem of human rights abuses in Oakland.

Call COPWATCH at (510) 548-0425, or PUEBLO at (510) 533-7583, to find out how you can get involved.

Grassroots Effort Blocks Loitering Law Ordinance On Hold Until November Vote

No to the Loitering Law!

That was the message sent to the City Council by over 7500 Berkeley residents in a petition presented to City Hall on July 14, just one month after the Council passed the vague and severe law.

By Berkeley's Charter, if enough citizens sign a petition against a law within 30 days of its passage, the Council must revoke the law, or suspend it until it can be put to a city-wide vote. After the Registrar verified that enough signatures were valid, the Council chose the latter option, placing the Loitering Law on November's ballot as Measure 'N' (See Election Guide insert in this issue).

This was the first time in recent memory that Berkeley citizens had successfully petitioned against a law. The all-volunteer signature-gathering effort was led by COPWATCH and an ad-hoc coalition of civil and human rights advocates called the Referendum Committee.

Why was there such committed opposition to the

law? Labelled by some the 'mind-reading ordinance,' it would give police the power to move along anyone who a cop decides has 'intent' to break drug laws, in large areas of the city — regardless of whether any law has been broken. Police could then arrest those who did not move. Because of its vagueness, this law could be used against almost anyone — and, as always with such general laws, selective enforcement would fall along race and class lines.

The loitering law was passed quietly in June with little notice from most politicians. But as a result of the campaign against it, police power and accountability has become an issue in the November election. Through the petition, Berkeley voters showed that they have had enough with so-called 'anti-crime' laws that don't stop crime but do increase police power, laws that target those who are already hardest hit by society's economic problems.

To avoid the embarrassment of another petition

(continued on page 4)

VOTE NO ON N & O! — See our special Election Guide inside.

Mysteries Persist in Midnight Beating

Youth Viciously Assaulted By Oakland Cops

BY DENNIS MOBLEY

The 'Code of Silence' has once again shielded an Oakland cop in the brutal beating of an Oakland youth. At about midnight on an evening in early June, witnesses watched in horror as the officer pulled the youth down by the back of his collar and slammed him face first into the pavement of a parking lot on San Pablo Avenue near 17th Street. Witnesses also told COPWATCH that the cop, without hesitation, pulled out an unidentified blunt object and hit the youth in the head with great force and malice, causing serious bodily harm.

The beating took place without any resistance from the youth, according to witnesses. Furthermore, a second officer walked up moments later and kicked the youth in the rib area while he was lying handcuffed on the ground, apparently unconscious.

The fire trucks and ambulances came several minutes later. Paramedics administered emergency treatment to the youngster. Despite the urgency of his condition, he was not taken to the hospital until there were multiple patrol cars at the scene.

The beating victim (whose name we withhold from print since he is a juvenile) suffered massive trauma to his head, and consequently went into a coma for several days. He will never be the same again. His attorney, Louis Duvernay, who is representing him in a civil lawsuit against the Oakland Police Department, says he must use a cane to get around.

Despite the severity of the beating, this incident

was not reported in the local media, either print or TV.


COPWATCH's investigative team, along with the National Lawyers Guild investigator, took statements from eyewitnesses who observed the beating from nearby. According to one witness:

The cop was beating the guy. He was lying there on the ground. When [the officer] stopped the beating, he started cuffing him. Then the other cop came up there and just started kicking him... [When talking to Sgt. Clark after the incident,] I asked if the young man died. [Sgt. Clark] said at that point, he wasn't dead, but he was in the hospital — he was hurt real bad.

Later in the interview, the eyewitnesses said that when they took their daughter to the bus stop for school the next day, they saw blood and other signs of the beating still in the area.

In COPWATCH's attempt to uncover these facts, representatives of OPD withheld information from us. When unjust police violence occurs, however, it's safe to assume there are members of the police force who oppose it. Why don't they come forward? According to Sgt. Preston Gibson of the Dallas Police Dept., a member of Peacekeepers Unlimited who spoke at the National Conference for Police Accountability in Dallas last year,

There's a code, and they live by that code. And if you [a cop] break that code, you become a target employee: your career is in jeopardy, you can't get assistance when you need it. They set you up and threaten your job, and the officers will threaten your very life. And that's a reality.

Despite the difficulty of obtaining information from the police, COPWATCH will continue to work to uncover the facts in this case. 

Youth Escapes Death from OPD Shooting

BY BRIAN BOYLE AND SAM DAVIS

On Tuesday, June 28, a member of COPWATCH came upon the aftermath of the attempted police shooting of Jason Fluker in West Oakland. Jason, an eighteen-year-old African-American, had just gotten off work at Jubilee West, a social services center, when Oakland Police Officer Hoyle shot at him several times. All shots missed, and Jason was arrested and taken into custody.

As in other recent OPD shootings, the testimony of bystanders was very different from the police version of events.

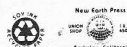
According to the police report, Officer Hoyle was responding by motorcycle to a non-emergency call when he saw a car doing 'donuts' on a nearby corner. He followed the car for several blocks, until they came to Eighth and Chester. The report alleges that Jason

(continued on page 6)

COPWATCH 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.

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Twelve Sue OPD City Forced to Answer For Police Lakeside Riot

BY CHRIS THOMPSON

After two years of harassment, illegal search and seizure and improper arrests, the Oakland Police Department (OPD) has suddenly found itself swamped with citizen complaints, lawsuits and calls from community leaders for an end to the policy of driving black teenagers from the Lake Merritt area. Lawyers for the city and police representatives are scrambling to cope with the aftermath of the Festival at the Lake, in which Oakland police violently clashed with African-American youth. In response to the police action that night, attorneys John Burris and Heidi Rand have initiated legal proceedings against the city of Oakland on behalf of twelve people beaten and victimized during the incident.

In 1993, residents around Lake Merritt began to complain about the increasing presence of unruly teenagers at the lake. In response, the OPD Traffic Division shut down all traffic on Lakeshore Avenue during the prime cruising hours of 6 to 9 pm. After community leaders complained, police rescinded the order in favor of less drastic measures. For more than a year, the OPD has implemented three concurrent policies aimed at reducing a black presence at Lake Merritt: selectively stopping young black motorists in late-model cars to check licenses, registration, blood-alcohol levels and seat-belts; giving out citations for "cruising," defined as driving through the Lake area three times in two hours; and sweeping Lakeshore Avenue in response to neighborhood complaints (see *CW Report*, summer 1994). These three tactics have led to strained relations between the police department and Oakland's black community; relations that broke down altogether on June 5, 1994.

As the last day of the Festival at the Lake wound down and patrons drifted away, conflict broke out between a large crowd of black teenagers and police. The ensuing street battle left store windows shattered, more than 30 people arrested and countless more beaten and maced.

Twelve victims of police violence have secured the services of attorneys John Burris and Heidi Rand to seek restitution and disciplinary action for the officers involved in the incident. In mid-September, Burris and Rand filed a claim in municipal court, the first stage in

bringing suit against the city. The charges range from violating the plaintiffs' First Amendment rights — by illegally confiscating cameras and video equipment from people attempting to record the conflict — to unlawful arrest and assault and battery. The riotous, chaotic environment of June 5 made it next to impossible to identify individual officers, but one Officer Howard has been specifically picked out as having seized and smashed someone's camera in one instance, and as having run his motorcycle into a pedestrian on the sidewalk later that evening.

According to sergeant Ralph Lacer of the OPD Internal Affairs Department, Officer Howard has not been assigned desk duty pending any investigation, but is still patrolling the streets. Sergeant Lacer, who has been assigned the task of coordinating the internal Lake Merritt investigation, confirmed that a large number of people have registered complaints of police misconduct at the Lake that night. However, citing personnel privacy rules, he refused to provide any information regarding the specific number of complaints, the officers involved, the charges levelled against the department or how any of the cases have been settled. When asked what information was available to the public, Sergeant Lacer responded: "None."

SELF PORTRAIT: SCOTT PATTERSON



Scott Patterson, who was beaten for photographing the police.

BEATEN FOR WATCHING COPS

One of the cases being pursued by attorneys Burris and Rand involves

Scott Patterson, an Oakland resident and professional photographer. While the major conflict was occurring on Grand Avenue, Mr. Patterson was walking away from the scene along Lakeshore Avenue with his girlfriend, when he witnessed police beating five teenagers on a side street. As he was photographing the police, more officers arrived and ordered him to move along. Mr. Patterson complied as best he could, but as he had recently injured his back in a work-related accident, he could only manage a slow walk. The officer approached him again and said, "I said, move!" Before Mr. Patterson could explain his injury, the officer struck him in the back with his club. Mr. Patterson fell to the ground, and as he attempted to rise and flee, the officer struck him again in the back. While another bystander, Virgil Waldon, videotaped the incident, up to four officers beat Mr. Patterson with their clubs as he lay prone in the street. One officer was heard to scream, "Give me your camera!" during the beating.

Scott Patterson was never charged with any crime. His camera was smashed, and his roll of film confis-

(continued on page 6)

PUEBLO's "Home Run" Strategy

Oakland Group Demands Crime Prevention, Not Punishment

BY SCOTT HANDLEMAN

People United For a Better Oakland (PUEBLO), a grassroots coalition of Oakland residents affiliated with the Center for Third World Organizing, has launched a campaign for police accountability in Oakland.

PUEBLO recently made headlines through its investigation of the uses of money seized by the DEA's Asset Forfeiture Program in drug-related arrests. Attorney General Janet Reno has ruled that cities may allocate up to 15 percent of their asset forfeiture revenues for community crime prevention programs.

Until PUEBLO's investigation, the District Attorney, Oakland Police, Attorney General and the FBI divided the seized monies. PUEBLO members decided that community programs deserved their share of the assets — approximately \$150,000 per year.

On August 3, PUEBLO made its demands public in a conference attended by the mayor, Oakland police officers and city administrative officials. A police department representative promised to advise Chief Samuels to share its portion of seized assets with community crime prevention organizations.

PUEBLO's successful action raises the question of how law enforcement agencies in other cities are spending money seized from drug dealers.


The asset forfeiture action is only the first step in PUEBLO's fight to win police accountability. Turning the "Three Strikes, You're Out" metaphor on its head, PUEBLO outlined a "Home Run" strategy for achieving community safety and police accountability.

The "First Base" in the PUEBLO campaign is the demand for crime prevention. The group insists that legislators and administrators at all levels of government commit to "a 50/50 fiscal split between allocations for prevention and punishment."

"Second Base" is the promotion of community justice through reform of unduly harsh judicial sentencing and incarceration practices.

"Third Base" is public participation in community safety, not through a program of neighborhood spies and informants — which is often what is meant by "Community Policing" — but through the creation of a police-community partnership that incorporates mechanisms which insure that police take direction from the communities they serve.

Police accountability is the home plate on PUEBLO's agenda. Specifically, PUEBLO will fight for the adoption of Community Personnel Standards to regulate the hiring and firing of officers, as well as "the formation of a democratically-selected, fully-funded, independent Community Oversight Commission" to investigate accusations of police misconduct.

While the disclosure of asset forfeiture information was an inspiring success, much remains to be done before Oakland residents control the administration of justice in their own communities. To get involved in the Campaign for Community Safety and Police Accountability, contact PUEBLO at 1218 E. 21st Street, Oakland, CA, 94606, or call (510) 533-7583. 

.....


(PETITION, from page 1)

campaign, the Council also placed the controversial anti-panhandling proposal on the ballot as Measure 'O'. Some council and mayoral candidates, who had



Councilmember Maudelle Shirek presents 7564 petitions

not publicly taken sides on the Anti-Loitering and Anti-Panhandling issues, saw the direction of the political winds and came out firmly against them.

COPWATCH urges everyone to vote 'No' on the two measures in November. Together we can halt the expansion of police power and send the message to City Hall that we want our civil rights back. To help stop these laws, call us at 548-0425. 

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City Manager to Reconsider Misconduct Case

BY ANDREA PRICHETTE

City Manager Weldon Rucker has agreed to reconsider a complaint filed by a homeless man and COPWATCH against a Berkeley police officer. On July 31, 1993, BPD Officer Katz (#70) arrested Darwin Harrell and his wife Sharon for being "drunk in public," on the basis of no evidence. While five people watched, Katz used profanity and poured a bottle of beer directly on Mr. Harrell while he was handcuffed. According to the Police Review Commission (PRC) complaint, Katz also kicked the man's possessions and used profane language towards the observers.

Although the PRC Board of Inquiry unanimously sustained three allegations of misconduct against Officer Katz, the City Manager's office overturned the ruling in a finding released last March (see *CW Report*, summer 1994). Since the power to sustain a complaint of misconduct ultimately rests with the City Manager, there was little the PRC could do.

However, the PRC was dismayed by inaccuracies in the City Manager's finding — including the use of the wrong legal standard of evidence — and requested a review of the case. The City Manager's office returned the same finding with only minor revisions. The author of these flawed findings was an inexperienced staff member with little background in the law, according to a source familiar with the city administration.

On August 16, after trying for two months to obtain

a meeting with City staff, members of COPWATCH finally met with Weldon Rucker, who had been out of his office for several months due to serious illness.

Rucker explained that the individual reviewing PRC complaints had been replaced by Hal Cronkite. Since Cronkite is a former Berkeley City Manager, Rucker expressed a belief that the quality of future findings would improve.

COPWATCH asked Rucker what he would consider to be the "clear and convincing evidence" necessary to sustain a PRC complaint. In the Harrell case, the Manager's office deemed five people's eyewitness testimony "insufficient" evidence. Rucker explained that his office used their "gut feeling" to evaluate evidence. COPWATCH asked if the City Manager could present a written set of standards for evaluating complaints. Rucker said he would try to do so.

It seems odd that after the PRC investigates, holds a hearing, votes, and writes a summary report, the final determination of the complaint should depend on a feeling in the gut of an inexperienced bureaucrat in City Hall. In theory, the City Manager's office should only reverse the PRC decision in unusual cases.

At one point Mr. Rucker asked if COPWATCH was trying to improve services or "maintain conflict." If the City Manager refuses to discipline officers like Katz, and admits that his office has no clear guidelines for reviewing complaints, it is his office, not ours, that is maintaining conflict between police and citizens. ●

UCPD Flunks at "Democratic Education"

BY CHRIS THOMPSON

Among its roster of classes, the University of California at Berkeley offers a series of student-initiated, student-run discussion groups; these are called "Democratic Education" (De-Cal) and are described as an experiment in democracy at the level of the classroom. In the fall of 1994, the university police department decided to join in, offering its own student/cop-run course, "Crime and Safety on the Cal Campus." But when UC student Dave Menache began challenging the ideas taught in the seminar, the officers who facilitated the course prohibited him from presenting his views, gave him a failing grade and moved to have him expelled from school.

Dave Menache first spoke out in class when UC sergeant Adan Tejada presented a lecture on how to use pain-compliance techniques and pepper spray during passive demonstrations. During the question period, Mr. Menache asked why such techniques were necessary and suggested that pepper spray was lethal in some circumstances. Sgt. Tejada became defensive, and after class, UCPD intern Alex Yao directed Mr.

Menache to refrain from asking disruptive questions in the future.

Several days later, Mr. Menache received a letter from UCPD sergeant Michael Shipman, entitled, "Notice of Warning Regarding Improper Class Conduct." In the letter, Mr. Menache was told, "Your habit of engaging the speaker in lengthy debates impedes the progress of the class," and further directed, "You may not impede the progress of the class or distract the speaker by initiating an argument."

When Mr. Menache ignored these directives, Sgt. Shipman forwarded the matter to the Office of Student Conduct for disciplinary action. During the subsequent investigation, officers alleged that Mr. Menache had liberally spiced his comments with profanity, but could cite only one instance when questioned. Student conduct officer Mark Gelsinger quickly dismissed the matter, and reportedly expressed frustration at having his time wasted. However, the class cops refused to let Mr. Menache make up the work he missed due to the investigation and assigned him a failing grade. Overall, this incident shows that when cops try an experiment in democracy, democracy gives them an F. ●

(OPD SHOOTING, from page 2)

stopped the car and put it in reverse in order to back into Hoyle. Officer Hoyle, who claims he was "in fear for his life," swerved to the side of Jason's vehicle. Hoyle says he then pulled out his pistol and fired four rounds into Jason's windshield, missing Jason by inches.

Witness accounts agreed on a different sequence of events. One described it this way:

The [moment] Jason stopped, at the same time the cop swerved around Jason, I'm seeing Jason's hands, and I looked again and I see the policeman pull his gun and start to shoot. I just knew he was going to shoot. [The officer] had said nothing, he hadn't said, "Hold up your arms," or "Get your arms out the window." I guess Jason saw the cop getting ready to pull his trigger finger. With his arms still up, Jason laid down to his right. Half a second later and he would have gotten it.

According to all witnesses interviewed, it was only then that Jason's car backed up, while Jason was ducking and under fire. As one bystander told COPWATCH,

[Jason] hadn't even backed up. He just stopped. When the cop swerved beside him, he... pulled out his gun and immediately started to fire into the windshield. We saw Jason had his hands up over the steering wheel.

Another observer testified, "The officer was clearly out of the way... when Jason decided to back up."

Even the police report admits:

There were some discrepancies among those who saw the conclusion of the chase as to whether the suspect


vehicle backed directly at the officer or whether the suspect vehicle started to back after the officer started to fire his weapon.

In fact, Jason, driving while under fire, didn't even head straight back into the street: he swerved, swiping the front bumper of a parked van, jumping the curb, and hitting a building. When COPWATCH arrived, the car was still sitting perpendicular to the building. Another witness stated:

When the officer fired, Jason put the car into reverse... [It] went into the building... The officer got off of his bike and fired [more] shots after that. He was walking to the car steadily shooting.

So much for Officer Hoyle being "assaulted," by a car that most agree was moving away from him, not toward him. In fact, it was Officer Hoyle who used lethal force on Jason.

After the shooting, Hoyle called for backups which arrived en masse within two minutes. Jason was rushed off to the police station, and the scene became a fiasco as Oakland Police cordoned off the street where the incident took place. Hearing the shooting, some hundred people took to the corners to see the aftermath of the incident. One person who identified herself as a witness to police was taken, against her will, to the downtown Police Station to be interrogated by OPD Officer Patrick (#532).

Jason is accused of driving a stolen vehicle; charges of felony assault on an officer and evading arrest were dropped. The Fluker family plans to sue Officer Hoyle and the Oakland Police Department in civil court. 


(LAKE MERRITT, from page 3)

cated and subsequently lost. As he is a professional photographer, the damage to his camera has led to a significant drop in his income, and he cannot afford to have the equipment fixed. The beating he received from the Oakland police was so severe that he suffered neurological damage from the blows to his head and is now afflicted with a speech impediment. Throughout his testimony to COPWATCH, Mr. Patterson stammered through his words — at one point, he stopped and said angrily, “Look at me. I can’t even talk.”

As the case of Scott Patterson and the other plaintiffs is brought to trial, one detail may emerge as particularly damaging to the Oakland police. As the OPD were preparing to move the crowd east along Grand Avenue, commanding officer Captain Myers consulted with the California Highway Patrol and requested that they close down the on-ramp to Highway 580, located directly in the path the OPD later forced the crowd down. Closing off the on-ramp created a backlogged wall of congested traffic that the OPD then forced the crowd up against. This action follows an established pattern of police crowd control, in which police order and force people to leave an area while simultaneously sealing off all possible exits, thus confusing and panicking the crowd. It has also been

surmised that the police were concerned about driving the crowd into the upscale Piedmont commercial district, where members of the crowd could potentially smash more windows and loot stores. Creating a wall of backed-up traffic effectively blocked access to this district.

Captain Myers explained that he ordered the on-ramp sealed off because patrons of the Festival were commuting out of the area, mainly via this on-ramp, and such a sudden influx of cars onto the highway would have created a traffic hazard. But when questioned further, Captain Myers asserted that all the patrons of the Festival had already left: "The only ones left were looking for trouble." Captain Myers ordered the on-ramp closed down almost an hour after Festival patrons had left the area.

Neither the bad press nor the potentially expensive lawsuits have altered OPD policy at Lake Merritt. Scott Patterson has reported sightings of two teams of motorcycle cops which continue to selectively pull over black motorists at the Lake, hassling them over their registration, warrants, etc. But the anticipated effect of driving African-Americans from the area has yet to manifest itself. Scott Patterson keeps his eye on police activity from his new home off of Grand Avenue, in the Lake Merritt area — where he moved after the beating. 

Cop Blotter

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

May 1, Telegraph and Haste — COPWATCH observed Officer Rateaver (BPD #78) accosting a person washing his hands in the back of his covered pick-up truck. Rateaver justified the stop by claiming that the victim was "dumping sewage" — namely, the water he used to wash his hands. Rateaver illegally searched the back of the truck, then wrote down the victim's name and released him.

May 9, Shattuck and Channing — BPD Sergeant Holland (#S-8) and Officer Roe (#81) stopped a man with a closed container of alcohol and cited him for "drinking in public." The officers said that if he was still there in five minutes they would arrest him.

June 1, 2050 University Ave. — BPD Officer Onciano (#60), on bicycle, rode up to a person sitting next to a fire hydrant, and said "You're obstructing the sidewalk." The victim was clearly out of the path of any pedestrians, but Onciano wrote a ticket for obstructing the sidewalk. Officer Onciano is well-known on Shattuck for citing homeless people and panhandlers under obscure laws.



Officer Frank Onciano, #60 — see June 1 incident.

June 18, Blake and Shattuck — COPWATCH observed BPD's Special Enforcement Unit stop a car with four African-American youths for "expired tags." Since the tags were not in fact expired, Sergeant Boga (#S-26) and Officer Kent (#85) had to release the victims.

July 2, Shattuck and University (Thrifty Drug Store) — COPWATCH observed BPD Officer Emberton (#10) approach a woman sitting in front of Thrifty's. The officer physically shook her and threatened her with jail if she did not move from the site.

July 2, Haste and Telegraph — COPWATCH observed BPD Officer Jones (#5) and UCPD Officer Goss (#153) stop a homeless person. The officers ran a warrant check on the victim and took him into custody. As the warrant was from Marin County, it appears that the officers had not known about it and had stopped the victim arbitrarily. While BPD Officer Wellington (#84) was putting the man in his car, he said loudly that he hoped he wasn't "dirty" because he had just cleaned his car. The victim also objected to the rough physical search given by Officer Goss.

July 7, University and San Pablo (Wells Fargo Bank) — BPD Sergeant McBride (#S-14) approached a woman and her five children asking for donations on

the corner. McBride asked the woman twice if she had identification. When she replied that she didn't, he arrested her for "failure to show ID." Meanwhile, McBride's partner insulted and yelled at the woman.

The woman was charged with theft because according to McBride, her sign used the word "homeless" and she wasn't homeless. She was further charged with "contributing to the delinquency of minors" since she had her children with her outside after dark. The police then took her away, leaving the kids outside; if the oldest, about 12 years old, hadn't run and gotten their father in time, the children, including a toddler, would have been left abandoned on the street. All charges were eventually dropped, and COPWATCH helped the family file a complaint with the Police Review Commission (still pending at press time).

September 2, Shattuck and Allston (Ross Clothing Store) — At the request of a Ross manager, BPD Officer Katz arrested a boy for allegedly vandalizing a tree. A witness tried to tell Katz that he had seen the incident and that it had been an accident, saying, "Officer, what are you arresting him for? I don't think he did anything." Katz glared at the witness and snapped, "I'm not talking to you, buddy!" Then Katz put the boy in his car and drove away.

Ross Guards Assault Man

WITNESS STATEMENT BY JANE WELFORD

On Wednesday, July 27, at 5 pm, I witnessed a horrible thing happen at Ross Clothing on Shattuck Avenue in Berkeley.

A man came tumbling out the store's door with no shoes on. Two men chased him, grabbing him. The two men were plainclothes guards hired by Ross. The taller guard knocked the shoeless man off balance, then picked him up and ferociously threw him on the concrete so hard I thought his bones would break. As the poor man was scrambling to his feet, the other guard ran at him and kicked his shin bone with the side of his shoe, slamming down onto his bare instep.

Then both guards jumped him at once, hitting his head on a car bumper, at which point he lost control of his bowels, and feces was falling out his pant legs onto the street. At this point Officer McWhorter arrived, handcuffed the man with no shoes, and drove off with him. The guards sauntered back into Ross, full of themselves for having done such a good job.

I found out from the police records that this man was homeless and was taken to Santa Rita Jail the next day. He was suspected of stealing a pair of shoes, but his little worn bag was too small to hold shoes his size.

While state complaint and city registering programs exist for security guard companies, private guards remain as unaccountable to the public as police. COPWATCH urges anyone who sees misconduct or abuse by guards, especially those employed by Ross, to call us at (510) 548-0425.

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

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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)

MAUDELL 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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