

First Amendment Jailed in Santa Cruz

Another Street Spirit vendor is assaulted and arrested by overzealous police

by Robert Norse

In late September, *Street Spirit* vendor Anthony Douglas retrieved his papers and his dignity. Douglas also got an official apology from Santa Cruz Police Chief Steve Belcher after Officer Mark Eveleth, a cop with a bad reputation for harassing the homeless downtown, ticketed the vendor in front of a Santa Cruz movie theater for "selling newspapers without a license" and confiscated his newspapers.

The most important assurance Douglas got was Belcher's promise, in a letter written on September 24, that: "Section 5.42.020 shall not apply to the display of newspapers, periodicals, or other literature, when the person so displaying such newspapers, periodicals or other literature holds them in his or her personal possession for public view."

Both the municipal code exception and the First Amendment to the U.S. Constitution forbid the making of any law "abridging the freedom of the press." Both were fairly clear even without Chief Belcher's stamp of approval. But Douglas and vendor supervisor John Maurer believed that, with Belcher on record, the matter was resolved.

Yet within two weeks, vendor Frank Ross reported that Parks and Recreation Ranger Olson had ticketed him again for selling *Street Spirit* on a street corner near the freeway. A call to Jim Lang, longtime



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Art by Christa Occhiogrosso

Parks and Rec boss, prompted a flurry of assurances that the ranger had been corrected and the citation quashed.

Within a week, Ross reported a second citation, this one from a California Highway Patrol officer — again under MC 5.42. Suffering a sharp barrage of criticism from the cop, Ross felt sufficiently intimidated that he didn't try to pull out his letter from Chief Belcher — fearing his efforts would not be appreciated. The CHP ticket is still pending.

On November 13, the Santa Cruz Police Department violently reentered the spotlight. Officer Garner, a new beat cop downtown, confronted homeless activist Steve Argue in front of New Leaf Market

in a plaza area near "Hippie Planter."

Hippie Planter at Pacific and Lincoln is one of the few gathering spaces left on the rapidly gentrifying Pacific Avenue and one of the few planter edges where it is still legal to sit under the Santa Cruz Sitting Ban. The entire length of Pacific Avenue was stripped of trees and beautiful brick planters under a police department plan, replacing the wandering garden mall with a ramrod straight "Shoppers-R-Us" avenue soon after the 1989 earthquake.

Argue ran into Garner some days earlier when, Argue remembers, the officer was brutalizing a drunk by jerking his handcuffs painfully upward to "hurry

along" the prisoner. Argue intervened verbally, drawing public attention to what he regarded as a form of torture.

On November 13, Argue says, Garner recognized him from before and told him he needed a license to sell *Street Spirit*. Argue told Garner he didn't and continued to hawk the paper — which ironically carried an article detailing Police Chief Belcher's apology. [See "First Amendment Rights of Street Spirit Vendors Upheld," November, 1998.]

By Argue's account and that of several witnesses, Garner told Argue he would give him a ticket; Argue replied he wouldn't sign it, and Garner called for "back-up." Garner and an eager Officer Malate piled on Argue and forcibly cuffed him in an assault that cut his head and scraped his knee before he was taken away.

When Robert Norse, an activist with HUFF (Homeless United for Friendship & Freedom), arrived an hour later to interview witnesses, he found Officer Garner in the nearby "Hosts" center. The "Hosts" are a private security force hired by the merchants as the "eyes and ears" of the police. Garner acknowledged he had arrested Argue for selling a newspaper without a license, pointing to an abbreviated city code in his "cheat book."

Norse told him of Belcher's letter of apology and tried to file a complaint. Garner refused to accept the complaint.