

Political Chalk Writing — A Crime Against the State

A Santa Cruz journalist is arrested for chalkwriting, "Sleep is not a crime!"

by Becky Johnson

I've run afoul of the law again in Santa Cruz. The first time, on June 28, I was taken into custody by Officer Bynes for chalking "Sleep is not a crime!" near a City Council outreach meeting on problems downtown. The second time, on July 21, SCPD Officer Phelps cited me for "defacing the sidewalk — chalk-writing" [MC 9.20.010] as I measured out 14 feet from the side of the building, the edge of a bench, the edge of a drinking fountain, from a crosswalk, and from the railing of a sidewalk café.

I was sketching out the proposed legal areas left for street musicians, entertainers who work for tips, beggars with or without a sign, those who want to sit down, and areas where political tables will be allowed to set up.

"How else can I demonstrate to the public just how small the areas left for these activities will be?" I asked Officer Phelps.

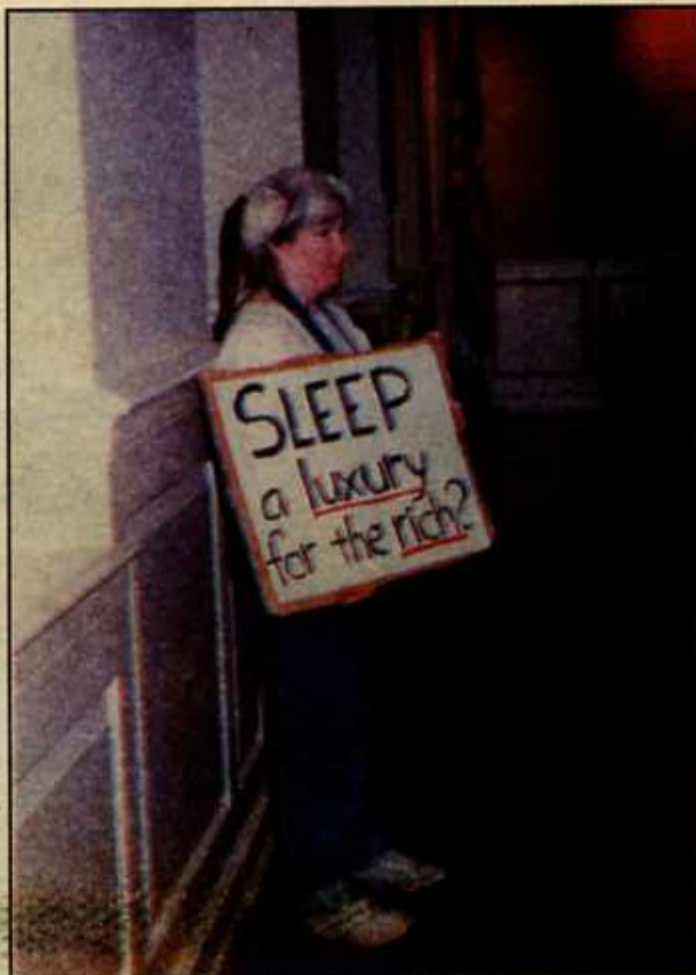
"You'll have to work it out in court," he told me.

"Is writing chalk on the sidewalk illegal?" I asked.

"I'm not allowed to have opinions," Officer Phelps replied.

"I've read the ordinance and it doesn't say anything about chalk writing," I informed the officer.

"You've been ticketed before, so you know it's against the law," he said.



Journalist Becky Johnson (above left) and a homeless protester (right) hold signs protesting the sleeping ban in Santa Cruz. For years, activists have been arrested for protesting the sleeping ban, but now even writing a protest in chalk is outlawed.

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"And I pled not guilty, for I still believe it is a legal activity," I replied.

My co-defendant Tim Rinker and I are set to go on trial on September 13 in Commissioner Irwin Joseph's courtroom. Whatever happened to innocent until proven guilty?

"Lt. Patty Sapone said I can hand out fliers all day," I told Officer Phelps, "but how can I show people where the zones are going to be and how small they really are?"

Officials in Orlando, Florida, have put tiny yellow boxes where people are allowed to stand and ask for spare change. Of course, the boxes are not near any high-traffic areas or where they can even be seen much. This only adds to the alienation and criminalization homeless people suffer.

Local street musicians and artists couldn't believe that the traditional spots they work would be eliminated under the new ordinances. "I work for a living," protested Mr. Twister, the balloon-artist/comedian who twists balloons into

animal shapes on Pacific Avenue for donations. I chalked a green line and wrote "14' from a Crosswalk" one foot in front of him, saying, "Sorry, this will be illegal 30 days after next Tuesday."

Another clown took some drinking water from a plastic bottle and splashed it on the drawing. It vanished instantly into a faintly visible green haze.

Police Chief Belcher claimed it took \$150 to hire a steam-cleaner to scrub the sidewalk after my first chalking arrest with co-defendant Tim Rinker on June 28. Yet any application of water, be it a garden hose, rain shower, or even a glass of water, was sufficient to remove the chalk writings. And if you do nothing, it wears away with foot traffic. Even the wind blows the chalk writing away. Chalk writing presents no health or safety hazard; it's merely a matter of aesthetics.

I asked Officer Phelps if he had ever written a ticket for chalk writing before. "No, not me personally," he said. "Defacing the sidewalk" [MC 9.20.010] has been on the books unmodified since 1964.

I have plenty of reason to believe that my chalking of the sidewalk is legal. The 9th Circuit Court in the McKinney decision, which ruled police do not have qualified immunity for arresting a chalker under Berkeley's ordinance, made it abun-

dantly clear that sidewalk chalking is a perfectly legal activity. Among other interesting things, it states, "No reasonable person could think that writing with chalk would damage a sidewalk."

Later I asked Downtown Host, Crystal, to look at something. I spilled four or five tablespoons of water onto a chalked drawing of a line. It dissolved into a faintly visible light green shadow with the tracing of the line still visible. I bent down and with my bare hand, rubbed the chalk away in about 10 seconds of labor. "Did you see that?" I asked.

"Good. So you cleaned up someone's vandalism of the sidewalk," Crystal replied, her body held stiffly and her tone hostile.

"So if I subpoenaed you to testify, you could come and testify that it took me ten seconds of time and about five tablespoons of water to remove that line?" I asked. "Your name is Crystal, right? Is that Crystal with a 'C' or with a 'K'?"

Later, I approached Officer Phelps, who had written the citation. "Do you want me to clean up the chalk writing?" I asked.

"It doesn't matter to me at all if you clean it up or not," he replied.

According to the *Santa Cruz Sentinel*, the District Attorney's office is investigating whether to charge me with misdemeanor vandalism.