

one-hour "move along" law for street performers and political tablers that was passed has just been successfully challenged in court by Steve Argue, and declared unconstitutional.

Defending these cases in court is very costly to the city, a cost we all bear at a time when jobs and services are being slashed! And the likelihood that these laws were unconstitutional had been pointed out repeatedly during the debate over their enactment.

In the meantime, more and more space on Pacific Avenue is privatized, turned into cafe seating or fenced off, which further restricts First Amendment activities, since all distance regulations are measured from the farthest point of the fencing.

The pleas of activists about very obvious selective enforcement of these ordinances against certain classes of people, which is a violation of state law and the U.S. Constitution, go unheeded, for the most part. Many believe that the enforcement of the sleeping ban itself violates the principle of "the inalienable rights of life, liberty, and the pursuit of happiness."

But there have been other recent assaults on our rights as well, or gaps in our constitutional safeguards. Though the Santa Cruz City Council and the Board of Supervisors passed resolutions opposing the Patriot Act, neither have taken action

to prohibit local law enforcement agents from enforcing the Patriot Act — this leaves that choice in their hands. Many folks believe that is a dangerous and unacceptable situation.

Despite a well-organized effort to get clear prohibitions in place regarding local enforcement, nothing has happened at the governmental level, nor have local officials been willing to take the lead in resolving this matter.

In February and March of 2003, there was regular, undercover photo surveillance of the Friday Peace Vigil at the corner of Ocean and Water Streets — no one will take responsibility for having taken this action.

Last fall, the First Amendment came under attack at the Civic Auditorium when author Michael Moore came to Santa Cruz. People engaged in free speech activities, such as signature gathering or passing out leaflets, were told by the staff that they had to move across the street, at least 200 feet from the face of the Civic Auditorium. Some folks complied, but some of us refused, citing free speech rights. We were then threatened with arrest, and were told that the police had been called and were on their way! They never came. We stayed.

The assistant city manager, when later contacted, said that this had been done in error, and that the staff would be informed and educated on the issue. No written information about any resolution or action has been released yet. Others have reported being chased away at previous events.

Most recently, the Silenced Hearts event was on the hot seat. This was a day and action dedicated to the memory and

honor of those who have died in Iraq. One part of the event was a planned march through downtown, a simulated funeral procession carrying coffins draped with American and Iraqi flags. In a meeting with representatives of the police department, the organizers of the march agreed to try to keep the marchers on the sidewalks, and to have them obey traffic signals. But they were told that, if they failed to do so, and folks went into the street, the applicant organization, the Resource Center for Nonviolence, would be charged \$3500! This is deplorable.

Threats of exorbitant charges — in this case, what seems actually like a fine — can have a very chilling effect on free speech. Of course, no organizing group can absolutely control the behavior of every person who comes to a public event. There is no legal authority yet found for the police department to levy a fine or post-event charge.

The police have guns, clubs, mace, tear gas, and the ability to arrest people — now they apparently are using money as another form of control. As in the rest of our society, money seems to be the bottom line; and if it costs enough, maybe people will do what they are told, or will decide not to do what they really want to!

One of the most prohibitive costs to organizing events in Santa Cruz is the assignment of extra police personnel, which is left entirely to the discretion of the department. City Council members and staff have been contacted; but so far, the police have been defended and no concrete, written information has been released about this behavior being challenged.

(It is fair to note, however, that on the

day of the event, the police were helpful and friendly and did hold traffic signals for the procession, which they had not agreed to do; all marchers stayed on the sidewalks, as they were asked to do by the event sponsors.)

Though we have not filed suit, both of these actions, at the Michael Moore event and the Silenced Hearts march, could be challenged in court as violations of constitutional rights. The threats made could have greatly discouraged folks from exercising the protected expression of the First Amendment. This is called having "a chilling effect" on free speech rights. Again, this would be a very costly litigation for the city.

It is the larger issues posed here that I believe we need to address. The first is the failure to have the greatest commitment possible to the Constitution. I think regulations and restrictions that limit the expression of the First Amendment should be applied in the smallest way possible, not to the maximum degree, as seems to be the direction being taken in Santa Cruz.

The second problem is the failure to be diligent and consistent here at home, an issue we all must struggle with, whatever our role! As an activist, my own experience has been that it is much easier to disagree with the things we object to far away, like the Bush Administration or the WTO, than to disagree with local officials and institutions.

Because we are human, we like people, we want them to like us, and we know they are basically good folks, as are we. We see each other on the street, and in meetings, and we want everything to be smooth and non-confrontational. And so, we don't want to take issue with each other. On the one hand, I really do believe we are all trying to do the best thing possible as we understand it; but on the other, any of us can lose our way, and we are called first to speak for truth, for justice, and for equality.