

Measure S is a step backwards for Berkeley

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By Elisa Della-Piana

Elisa Della-Piana is a longtime Berkeley resident, mother of two and attorney at the East Bay Community Law Center, where she provides legal services for poor and homeless people. She is also an adjunct faculty member at the UC Berkeley School of Law.

When I told my five-year-old that it could soon be illegal to sit on a sidewalk in Berkeley, he said, “But we sit on the sidewalk!” I saw him imagining the police arresting him and his two-year-old sister and reassured him.

“They’ll probably mostly give tickets to homeless people,” I said.

“Why will they give tickets to only some people?” he asked. He paused. “And, if homeless people don’t have houses, where can they sit down?”

This November, voters in our city of historic sit-ins will be asked to vote on Measure S, which would make it illegal, with few exceptions, to sit on the sidewalk on all the commercial thoroughfares of Berkeley between 7 am and 10 pm. By law, Measure S would apply to Girl Scouts or lemonade stand entrepreneurs on folding chairs, street performers on milk crates, and Berkeley High students sitting and texting near school. There is no exception for elderly or disabled people who need to rest. [Ed: Exceptions are made for medical emergencies, wheelchairs and similar mobility devices.]

A first offense is an infraction and carries a fine of almost \$200 when you include court fees. The second offense is a misdemeanor. The penalty is a fine of up to \$1,000 and six months in jail – the same penalty as crimes of assault and petty theft.

It’s hard to imagine Berkeley police giving tickets to Girl Scouts selling cookies, because it likely won’t happen: most citations will be given to youth of color and homeless people. That’s exactly the kind of unfairness that worries my son.

The proponents of Measure S claim that the law will help homeless people. I have worked for over ten years with homeless clients across the Bay Area. I have seen laws like the sit law – laws against sleeping in doorways or blocking the sidewalk – enforced repeatedly, and they put homeless people into the criminal justice system, not services. We have plenty of problems in

Berkeley. But having a law that prescribes jail for sitting is not going to solve any of them:

A sit law won't improve business. San Francisco passed a sit/lie law in 2010, and the evidence is in. The City Hall Fellows (an independent group commissioned by the city controller's office) issued a report showing that the majority of merchants saw no change in the number of homeless people in commercial areas. In fact, 40% said things were worse. The report called sit/lie "ineffective" at meeting any of its goals. There is strong evidence that Berkeley will experience similar results. In 2010, the Berkeley City Manager's Office studied declining retail sales in Berkeley. The report showed that sales were highest in commercial areas with the most homeless people: that is, there's no link between the presence of homeless people and the decline of local businesses. The report made several recommendations to help business, none of which was a sit law.

A sit law won't solve homelessness. Affordable housing would, according to the U.S. Interagency Council on Homelessness and the U.S. Conference of Mayors. The irony of laws like Measure S is that they actually make things worse. Homeless people are given citations, and when they can't afford to pay the fines, the court issues bench warrants. Those warrants make it more difficult to get into housing, or get a job. Enforcing Measure S would actually prevent people from getting off the street.

A sit law won't make us safer. Studies show that homeless people are far more likely to be victims of crimes than to commit them. It is already illegal to assault or threaten people. It is already illegal to lie on the sidewalk. It is already illegal to sit on the sidewalk if you are blocking people from passing. It is already illegal to obstruct the sidewalk with your belongings. I want the police to enforce laws against violence and harassment, to keep my family and my neighbors safe. But I *don't* want the police choosing who can and who can't be in our public spaces. That's not what police are for. If we use them to enforce laws like a sit law, then we're distracting the police from real safety issues, and we're giving up on the personal interactions that make our city a real community.

My kids and I have had both good and bad experiences with homeless people in Berkeley, just as we have had good and bad experiences with shopkeepers and Cal students and Berkeley High kids. It can be difficult to be faced with poverty, to answer my kids' questions about why people don't have homes or why they seem mentally ill. I feel particularly troubled by youth on the street, especially knowing that 43% of homeless youth were beaten by a foster parent or caretaker, 25% were sexually propositioned by a caretaker, and 20% left home over a conflict with their parents about their LGBT status.

My son has the logic right: without anywhere else to go, homeless people will still sit in public spaces. To change that, Berkeley needs:

1. A day-time youth drop-in. Berkeley's drop-in closed in 2004, and there have been more homeless youth in public spaces since. The overnight youth shelter is open only six months

of the year.

2. Day-time access to sheltered spaces for adults. There are four times more homeless people in Berkeley than beds. Our adult shelter is only open at night. Disabled homeless adults need places to be during the day.
3. Trained outreach workers. Other cities have had success with street outreach, when the outreach workers are trained to work with people who have mental illness. We can't just give people a vest and an "Ambassadors" title, tell them to order people around, and expect good results.

These solutions are not difficult. They are not even that expensive. They make a lot more sense than a law against sitting.

Measure S would establish the simple act of sitting as a crime in our community. Its proponents promise that it will only be enforced against people who look a certain way. But that's not the Berkeley I know and love — the city of free speech, civil liberties and diversity. As I raise my kids here, I want to teach them that being a Berkeleyan means that we have a history of accepting people who are different; that we don't judge people based only on how they look. Measure S is not about antisocial behavior. Not a word of it is about services for homeless people. It's a law against sitting, and you can't explain to kids why sitting should be a crime without teaching them to discriminate.

Berkeley can do better.

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