

New Blows Against Santa Barbara's Sleeping Ban

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— Peter Marin, Committee for Social Justice

by Robert Norse

Both the Santa Barbara Board of Supervisors and the City Council are considering changes in this seaside city's long-standing, anti-homeless Camping Ban. City codes in Santa Barbara prohibit camping outside (MC 15.16.080), and sleeping in a recreational vehicle (MC 15.16.070).

Santa Barbara County codes and municipal codes of neighboring Carpinteria to the south and Goleta to the north complete the encirclement of the homeless. In all these areas, it is illegal for a homeless person to sleep on public property or in his own vehicle on a public street.

In late July, the Santa Barbara City Council's ordinance committee supported in concept a law that would provide legal parking places for some people living in vehicles. The measure would affect a number of the estimated 170 cars, trucks, and RVs (recreational vehicles) currently parking in the downtown corridor, near Highway 101, and in the city park parking lots. The proposed ordinance change is modeled after practices used in Eugene, Oregon, and Santa Cruz, California.



Peter Marin, founder of the Committee for Social Justice in Santa Barbara.

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September 2001

Some members of Santa Barbara's vehicularly housed community (out of a larger, 2000-plus homeless population) would be able to park, no more than three vehicles to a parking lot, in church, business, and government parking lots.

Eugene actually set up a summer "car-camp" for three years running, then opened an industrial area to vehicular sleeping, and finally settled on dispersed, city-designated parking spaces for groups of three vehicles in various areas around the city. Instead of police knocking at vehicles if there's a problem, a Eugene social service worker mediates problems between housed neighbors and vehicular residents.

Oregon homeless activists give the plan mixed reviews. Writers from *Street Roots*, the Portland homeless newspaper, compared the Eugene program unfavorably with the technically illegal, but very-much-alive Dignity Village tent city, which is run by homeless people and moves from place to place. Poet and Dignity Village spokesperson Jack Tefari reported at a recent NASNA (North American Street Newspaper Association) conference in San Francisco that Eugene's dispersal of homeless people had weakened the homeless community there for the convenience of city officials.

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Santa Cruz's attempt to open up industrial zones for carcamping floundered on a barrage of conservative misinformation, police politicking, media hysteria, and political cowardice a year ago [see "Smoke, Mirrors, and Texas Instruments," *Street Spirit*, July 2000]. Only a handful of that city's businesses and churches allow folks in vehicles to sleep in their parking lots. Santa Cruz City Manager Dick Wilson refused to carry out a City Council directive to proceed to expand private parking areas, and all parking on city property is illegal.

Police sweeps of vehicular homeless people in Santa Cruz have become less vigorous in the wake of Camp Paradise's fight for survival [see "Camp Paradise vs. City Hall," *Street Spirit*, July 2001; and "Camp Paradise Residents Vow to Resist Expulsion," *Street Spirit*, August 2001]. A new Union of Vehicle-Dwellers (VRASC, or Vehicular Residents Association of Santa Cruz) formed in late August.

Before it moved on its own, the Santa Barbara City Council wanted buy-in from the County. The City Council delayed its action on its Ordinance Committee's "legal spots for vehicular sleeping" proposal until early September — awaiting action by the Board of Supervisors.

Santa Barbara County, with around 400,000 people and 5-6,000 homeless, in a rare show of cooperation with the City, took on the controversial homelessness issue earlier in the summer. The County's Human Relations Commission (HRC) voted 14-0 to endorse a similar vehicular sleeping ordinance, plus a pilot plan that would open up a "gone by dawn" parking area on government property.

The diverse commission included representatives of the conservative North County, where the custom of vehicular sleeping — at least for undocumented immigrants, who do much of the agricultural labor — was well-established.

On August 21, the full Board of Supervisors (split between three liberals and two conservatives) unanimously approved the concept and directed the HRC to set up a committee made up of homeless advocates, Sheriff Jim Thomas, officials from the County counsel's office, the County's social service agency and the City of Santa Barbara, to iron out some of the issues related to car camping.

Supervisor Urbansky reportedly wanted there to be a large "counseling" element. Supervisor Schwartz said drafting the ordinance should not be rushed, while Supervisor Rose suggested that something needed to be passed before winter. The concerns sent back to the HRC include how many vehicles would be allowed at any one location and neighbors' concerns about such things as noise and trash.

The decision came after appeals of support by the Santa Barbara Homeless Coalition, the local Catholic Charities office and members of the Committee for Social Justice. Catholic Charities would be the agency overseeing the project. The Board of Supervisors directed the HRC to report back within 60 days. The Santa Barbara City Council is due to reconvene on the issue in early September.

For homeless advocate Peter Marin, a founder of the Committee for Social Justice in Santa Barbara, this was a significant victory. "Recognizing that living in a vehicle should not be criminalized is a big step," Marin said. "It still leaves untouched the homeless majority who

don't have cars. But they haven't been ticketing them as much."

Some of the "vehicular problems" perceived by the merchants, ironically, were a consequence of a new shelter, initially championed by the merchants as a way to move the homeless away from the downtown into the industrial area. Recreational vehicles and other homeless survival vehicles now park near the shelter, prompting complaints. In response, police began ticketing vehicles more vigorously, says Marin. Many Latino people don't have the proper papers, may have improperly registered vehicles, and suffered significantly from this crackdown.

Earlier this year, a well-run, self-managed, homeless vehicular encampment housed 25 vehicles and 50 people on a downtown lot owned by hotel builder Fess Parker. It lasted over half a year with few complaints, no major crime, no arrests, and an alleged drug-free environment. Fess Parker, the former actor and star of Disney's "Davy Crockett" series, let the campers stay because he was at odds with the City, which was refusing to issue him the permits to build a hotel on the lot.

The vehicular community there tried hard to monitor itself, Marin says, even without a portapotty or a dumping station. John Palmenterie, a local TV newsmen, eventually did a story that prompted so much attention that police started cracking down. The City went to Parker and told him he was running an RV camp without a license and would be liable. Parker got scared and told everyone to move.

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The Committee for Social Justice is also proposing a loan fund that will assist those whose RVs aren't up to snuff. Some of the RVs are very old, dating as far back as the 1970s. A lot of them leak, notes Marin, and don't function right, making for some accidental and some purposeful illegal dumping. Some have toilets that don't work. Lending folks in RVs who have steady but meager incomes the necessary money to make repairs will set up the emergency vehicular housing they need and satisfy basic health and safety standards.

The sheriff himself, apparently not too enthusiastic about apportioning government land for a homeless vehicular parking lot, has researched the law. He reportedly discovered that if vehicles meet health and safety standards, they can be parked on private property in the County (though not necessarily the City) and folks can sleep in them — today, without any legal changes.

Viewing the victory won by homeless advocates at the Board of Supervisors, Marin reflected on the course ahead.

"Glen Mowrer is the key to all this," Marin said, describing the crucial role played by the defense attorney in Santa Barbara's homeless struggles. "He defines strategies like the necessity defense that cancel out the City's laws. Then the City becomes much more willing to look for alternatives 'cause they can't make the law work. It's a two-fold process. It's harder to enforce the law, so they have to find a new law. It has nothing to do with reason or human sympathy. Rather, it's having a lawyer who spends half his time and all his attention mapping out ways to defeat the City's anti-homeless laws."

Former public defender Glen Mowrer, working with the two-year-old Committee for Social Justice, has been fighting to stop the harassment of homeless people, successfully challenging ticket after ticket in the Santa Barbara courts [see *Street Spirit*, June 2001, "Santa Barbara's Sleeping Ban Stumbles in the Courts"]. He has won all but two of the 50-odd cases he's taken in the last two years, and those two are on appeal.

The American Civil Liberties Union of Southern California, dormant on homeless issues since its unsuccessful support for the legal rights of homeless people in the *Tobe* case in Santa Ana, will soon file a friend-of-the-court brief in one of Mowrer's cases. Mowrer's dogged and determined legal struggle recently took a novel turn with a new argument: that a City which has not met its low-income housing element cannot then prosecute individuals for trying to shelter themselves.

Mowrer explains: "Each city in the state has to have a Housing Element Plan. It has to identify the population and the needs of that population. Carpinteria, a town a few miles south of Santa Barbara, prepared such a plan in the mid-'90s and identified 120 to 180 people homeless at any one time. The city acknowledged it had no services or shelter. Their proposal was to alter the zoning laws so homeless shelters or SRO-type hotels could facilitate housing the homeless. They were supposed to have done that in five years. It has not been done. I subpoenaed a City Planner who will testify to that. The City can't enforce anti-sleeping laws when they haven't met their housing responsibility."

Horsefeather Palamino, the defendant in this case, and his companion were sleeping in Palamino's '76 Plymouth station wagon, and were sent to Carpentaria by the Santa Barbara police, Mowrer explained. The couple had no money to reach the State Beach. The woman with him had been living in the Santa Barbara City Shelter, which had closed two days before. She had no place to go. The police didn't cite her, since it was his car. No one had complained. The Carpentaria police were just patrolling, wrote him a ticket, and towed away his car.

In the past, Mowrer notes, he has presented evidence from the Santa Barbara Housing Authority that people making disability income of \$600 to \$700 per month can't afford Santa Barbara rents. They're on the waiting list for Section 8 and subsidized housing in a city with a vacancy rate of 1%. He has also used the necessity defense, arguing that sleeping outside or in vehicles may violate the law, but it avoids a greater health and safety danger.

Such arguments, self-evident to many, produced the historic *Pottinger* settlement in Miami, Florida, in 1998, which prohibits police from even approaching a homeless person for a so-called "life-sustaining misdemeanor" such as sleeping, camping, being in a park after hours, defecating, uri-

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nating, etc., unless the police officer can offer that person a shelter bed.

Marin notes that Santa Barbara's Rescue Mission does offer shelter to homeless people for 10 days per month. Some beds are usually open on any given night — which would complicate any attempt to apply the *Pottinger* guidelines to Santa Barbara. The fact that the Rescue Mission requires visitors to listen to sermons, and segregates couples at night, is an argument in one of Mowrer's appeals, where he argues that lack of accessible shelter requires dismissing "sleeping" tickets.

Mowrer's strategy is not only producing legislative changes, it is also having direct effects at the street level. *Santa Barbara News Press* reporter Melinda Burns reports police officers now say they are reluctant to ticket because they can't win their cases in court.

Marin notes, "We began to win this battle [against anti-homeless laws] when we made it a housing issue and not a homeless issue, coupling it with the absence of SROs, defining people in vehicles as the deserving poor. As soon as they were perceived as people on pensions, people who couldn't work, people who were just trying to get by, people basically victimized by bad luck and the economy, we began to gain some ground. You have to work from within, change the perception of the poor. People are now very complimentary towards Glen for defending the poor. We are not seen as 'troublemakers.'"

Complicating the situation was a last-minute bombshell thrown to the City Council's ordinance committee, apparently by a deputy city attorney. That proposal would have simply criminalized parking a recreational vehicle anywhere on the Santa Barbara streets, circumventing the need to prove camping or sleeping in court. The

civil administrative process associated with parking tickets also removes such cases from the regular courts, require homeless people to go through a more elaborate administrative process, and then force challengers to post bail.

Nancy McCradie, a long-time homeless activist and founder of HOW (Homes on Wheels), was skeptical of the designated parking plan. The only homeless person who testified at the Board of Supervisors out of 25 speakers, McCradie commented, "I'm not personally in favor of it. It's too paternalistic. It scares me 'cause I'm so independent myself. I don't like some social service telling me how to run my life. We have to go towards decriminalizing sleeping and homelessness. Maybe they can work that into the law."

Asked why Santa Barbara has taken so long to take even these small steps towards legalizing vehicular sleeping, Marin replied candidly, "Santa Barbara is too rich a town. You have to drag the liberals out. They're too rich. Even though the Board of Supervisors and City Council have been dominated by liberals for years, they haven't made a move to decriminalize poverty. The vehemence comes from those who consider homeless people shit. Other people are basically neutral — they see what's going on, but don't think it's necessary to speak up."

Santa Barbara is a city in the throes of continuous gentrification with rigid aesthetic requirements. Speaking at the Board of Supervisors' hearing, Marin concluded, "We're here to beautify the community in a moral way. The community can put all the red-tile roofs up it wants, but it can't be truly beautiful until it does justice and generosity toward the poor."

For more information, contact the Legal Project of the Committee for Social Justice in Santa Barbara at (805) 560-6062.