

# We Reserve the Right to Discriminate Against Anyone

## Santa Monica man challenges those who deny homeless people access to public accommodations

by Becky Johnson & Robert Norse

**H**e's not "homeless by choice." He's been on the streets long enough to have that homeless look. But the cardboard sign hung around his neck leaves no doubt as to his housing status. It says "UNHOUSED" in permanent marker letters.

David Busch of Santa Monica is an activist for the civil rights of homeless people. Regarding the sign he said, "I have a right to have this sign around my neck just as a rap artist might have his name written in gold hanging from his neck by gold chains." Santa Monica, a seaside tourist town on the Southern California coast, has a population of a little less than 100,000 and a city council with a liberal or progressive reputation.

We interviewed David Busch recently at his "office," a Denny's Restaurant on Lincoln Street in Santa Monica. He apologized for his last name's similarity to President George W. Bush, saying, "I've changed the pronunciation of my name to Booosh." Busch, who is disgusted with the behavior and policies of "our un-elected president" admits that his mother informed him, much to his chagrin, that he is a distant relative of our nation's chief executive.

Settling into the vinyl-covered seat, Busch began to detail the number of arrests he has undergone in recent months as he has attempted to enter restaurants, a museum, or just be on the public sidewalk.

"I was just arrested again about two months ago on the boardwalk in Venice Beach for having the nerve to walk into a sports bar," Busch said. "I wanted to simply sit down and have a cup of coffee. I thought it was an innocuous activity, but I was arrested for it."



Santa Monica activist, David Busch, being interviewed.

Becky Johnson photo

It was a rainy day and Busch is homeless. He was waiting for a peace march to get to the tourist-filled, beachfront walkway, and had arrived two hours early. When he walked in, he said, the place was full of a "beach bunch of beer-slopping, cut-off wearing, brain-dead, sports-fanatic jock straps. While they were slurping up their beer and watching the game I thought I'd sit down and have a cup of coffee."

As he walked into the door of the German-themed sports bar, a large lady checked him out. She was the manager of the bar, and without even saying "Hello," she pointed her finger at David "like I was a six-year-old." She continued to wag her finger at David and said, "Uh uh." She pointed next to a sign prominently hung over the bar "in bold, red disgusting letters" saying, "We reserve the right to refuse service to anyone."

She said, "Do you know what that sign says?" David said, "Yes, I know what that sign says. I know it really well." Busch then asked her a question. "Have you ever walked into a bar and seen a confederate flag hanging over a bar? The fact is that that sign has about as much legal validity and legal precedent as a confederate flag. Neither one of them have any basis in law anymore and are nothing more than a symbol of the person's hate."

He then told the bar manager he was recording on a tape recorder. He explained why he found this necessary. "I have found, in order to protect myself from lies, to carry a tape-recorder. Ninety percent of the time when I walk into a place where I don't know what's there, I walk in the door with my tape recorder running."

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Busch showed her his tape recorder. "As you can see, my tape is running," he told her. "Look, I don't want any trouble. I'm the head of a homeless newspaper in LA. I'm a homeless activist. My tape recorder is running. I just want a cup of coffee."

Next, a friendly bar patron cum-bouncer came over to see what the problem was. When David pointed out the tape-recorder the man said, "I ought to kick your ass. I ought to kill you. I don't care if you're taping this. I ought to kick your ass."

Busch said, "I called the police and told them I was receiving death threats and they came out and arrested me."

Asked about the response of the other bar customers while all of this was going on, Busch paused, looked suddenly weary, shook his head and said, "It's really amazing and depressing. People today can sit around while a homeless person is receiving death threats from a drunk, and still concentrate on eating their burger."

It took three calls for the police to come out. Busch said, "The first time the bouncer saw me going to the phone he started screaming, 'I'm going to kill you!' And I said, 'Look buddy, I'm going to make a phone call and I want you to leave me alone.' I picked up the phone and he started listening to who I was talking to and he realized it was the police."

But the police hung up on him, Busch said, "although I'm sure they could hear the death threats in the background. I'm not exaggerating. These were serious threats. I feared for my life. I guess they don't consider death threats an emergency." He picked up the phone again. "I figured if I wanted to avoid violence, the best thing I could do was get the police out there.... My thinking was clouded. I hadn't had my coffee."

As Busch picked up the phone for the second time, "the bouncer pulled the phone out of my hand and shoved me against the wall." The manager intervened and ordered her bouncer to leave the building.

"Basically she had to go into cover-up mode," Busch said, "and get her bouncer out of the bar before the police showed up. I think she realized she was getting into deep doo-doo, that her bouncer had just assaulted me and I had a tape-recording." She needed to get him out of there.

The third time Busch called 911 he was upset. He chastised them for hanging up on him two times before. Then he said, "This is a 911 call and it's being recorded. Because you know what, I'm going to sue." They finally agreed to send the police out there. He stayed in the restaurant until the police arrived, too fearful to leave, lest the bouncer who had left the bar assault him once he got out the door.

"I went outside and told the police that I was the one who called them. I was the victim of the assault. I told them that the man who had attacked me had just run down the street that way," Busch related.

"They looked at me, told me I should stand where I was, and they were going to go into the bar and talk to the manager. They totally ignored the fact that I had called them and that I was the one who had been assaulted. Just another case of the cops enforcing property rights against homeless people. At that point I realized that as far as protecting a homeless person's life, the police are useless."

Busch explained how his own experiences had shaped his outlook. "I'm 46 years old. I spent half my life believing America is about law and order. You go through a big change when you become homeless. I mean the guy has gotten away. The issue now is whether a homeless man has a right to order a cup of coffee. And I am going to protect that right. I'll get some help and track down the guy who attacked me later."

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He continued his story. "So, I said to the sergeant, 'Look, am I under arrest by you guys?' He said no. 'In that case, you are blocking my path, get out of my way. I'm going back into that restaurant and have my cup of coffee.' He said, 'Well if you go in there, you are going to get arrested.' I said, 'Sergeant, do what it is you have to do. I'm going back in and have my cup of coffee.'"

The police followed him in, arrested him and jailed him for 48 hours. He was then arraigned and released with a court date.

"I was trying to determine what section of the law they were going to charge me with," he said, "so I could try to engage the officer of the LAPD in his recollection of the ordinance. He finally told me that I was being arrested on a citizen's complaint." In response, Busch demanded that the police accept his citizen's complaint against the store manager for false arrest.

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"I considered it progress when he agreed to cite and release the manager for false arrest," he said, "even though I was the one going into handcuffs and I was the one being taken into custody. I was cited under one of the 26 subsections of the code for trespass code 602.1. I was originally arrested for stealing timber. I wish the sergeant would crack his code book

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before he arrested me. This is about the sixth time I have been arrested by an LAPD official in this kind of scenario."

Busch said he asked to be cited and released, to no avail. "But the Sergeant said I was an imminent threat to the sports bar. I guess coffee is a deadly weapon."

Asked if he mentioned the Unruh Civil Rights Act, which requires merchants to not discriminate in public accommodations, Busch replied that he had spoken to a female officer about it. "Her response was — I am a robot. I do what my sergeant tells me to do. I know nothing. I just do what I'm told. Sieg Heil."

Busch said he has now "retained a civil rights lawyer and we have a 90-minute tape of the whole incident. Or I will have as soon as I get it out of police evidence."

Next month, see Part 2 of the interview with Santa Monica homeless activist David Busch in the May 2002 issue of *Street Spirit*.