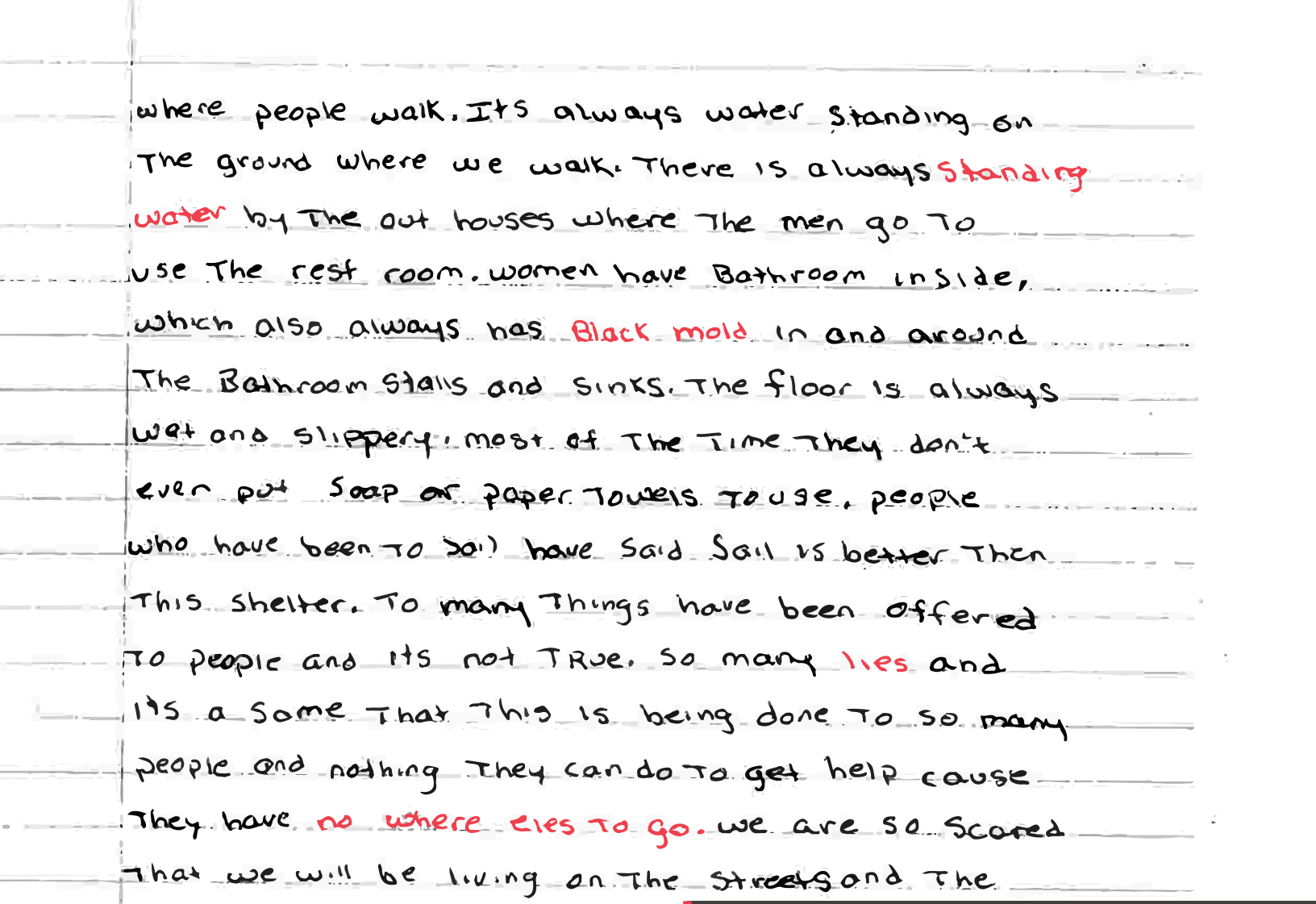

"THIS PLACE IS SLOWLY KILLING ME."

ABUSE AND NEGLECT IN ORANGE COUNTY EMERGENCY SHELTERS

ACLU
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Southern California

Eve Garrow and Julia Devanthéry

ACKNOWLEDGEMENTS

The **American Civil Liberties Union** (ACLU) defends the fundamental rights outlined in the United States Constitution and the Bill of Rights. These include the right to freedom of speech and assembly, the right to religious freedom, due process of law, equality before the law and the right to privacy.

The **ACLU Foundation of Southern California** (ACLU SoCal) works on behalf of people in the Southern California region, namely in Los Angeles, Kern, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties. We strive for a democracy that is just and equal. Our democracy will only ever be just and equal when human rights are guaranteed for all. We envision a nation where people will be free and equal in dignity and rights. ACLU SoCal recognizes that the exercise of constitutional liberties and rights is deeply entwined with economic justice.

The ACLU SoCal's **Dignity for All Project** advances social policy changes needed to end homelessness in Southern California and beyond and to advance human dignity for all. These changes include the expansion of access to affordable housing, permanent supportive housing, and medical and mental health care, along with the institutionalization of these critical resources as human rights.

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ACLU SoCal is grateful to Christine and James Keegan for their generous support of this project.

We dedicate this report to individuals who have resided in Orange County emergency shelters, because the true nature of emergency shelter programs cannot be understood without the information they have obtained through their lived experiences inside the shelters. We are particularly grateful to those individuals who took the time to share their experiences as residents of Orange County emergency shelters with the ACLU SoCal. Their information and insights provide the foundation for recommended reforms that will protect the human and civil rights of all people using emergency shelters in Orange County.

Special thanks to Aaron Dickinson, Ryanna Fossum, Ruben Lopez, and Igmar Rodas for their contributions to this report.

Published: March 2019

*Not admitted in California; admitted to practice law in Massachusetts and selected Federal Courts

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Southern California

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EXECUTIVE SUMMARY

The opening of three emergency shelters for people who are homeless in Orange County, where a homelessness crisis has drawn national and even international attention, gave a measure of hope to those who were living in punishing conditions outdoors.

But what once was a symbol of hope has become a nightmare for many residents. A yearlong investigation by the American Civil Liberties Union Foundation of Southern California ("ACLU SoCal") inside the shelters uncovered horrendously unsanitary and unsafe conditions. The study also found numerous incidents of staff members not only ignoring the legitimate concerns of residents, but also ruling over them — brutally at times — with intimidation and fear tactics. Interviews reveal a pattern of discrimination based on disability, gender and race; elder neglect; sexual, physical, and verbal abuse; deprivation of basic rights; and arbitrary abuses of power inside the shelters.

Conditions at these shelters are not just inhumane, they are against the law.

This report is based on first-person visits and more than 70 interviews with residents, staff members, and shelter volunteers at three facilities — the Courtyard and SAFEPlace in Santa Ana, and Bridges at Kraemer Place in Anaheim. We found:

- **Unsafe and unsanitary living conditions:** Residents are forced to endure conditions in flagrant disregard of their health and well-being, including exposure to rain, flooding, and raw sewage; decrepit and unsanitary shower and restroom facilities; a lack of soap and other cleaning products; infestations of rodents, maggots, and insects; and lack of temperature control. These conditions turn the shelters into breeding grounds for communicable diseases and put residents at imminent risk of harm.
- **Discrimination and abuse:** Residents, volunteers and staff members reported discrimination based on disability and age, and sexual, physical and verbal abuse by emergency shelter staff.
- **Suppression of freedom of expression:** Residents are denied their fundamental right to express themselves without threat of reprisal, including when seeking to redress abuse or substandard conditions inside emergency shelters.
- **Deprivation of fundamental rights without due process:** We found evidence that shelter staff steal, confiscate, and destroy residents' property, curtail their freedom of movement and subject them to sanctions (up to and including eviction) without due process.
- **Impunity and lack of accountability:** Residents lack an effective way to hold staff accountable for violating their rights.

The pervasiveness of the problems we uncovered demonstrates that bad systems, not bad apples, are the primary cause of the mistreatment of shelter residents.

People experiencing homelessness do not give up their constitutional rights when they enter shelters. This report also details how the treatment of shelter residents violates California laws. Orange County is responsible for ensuring the safety, well-being and dignity of residents in these county-funded shelters and is accountable for violations of their rights while living at the shelters.

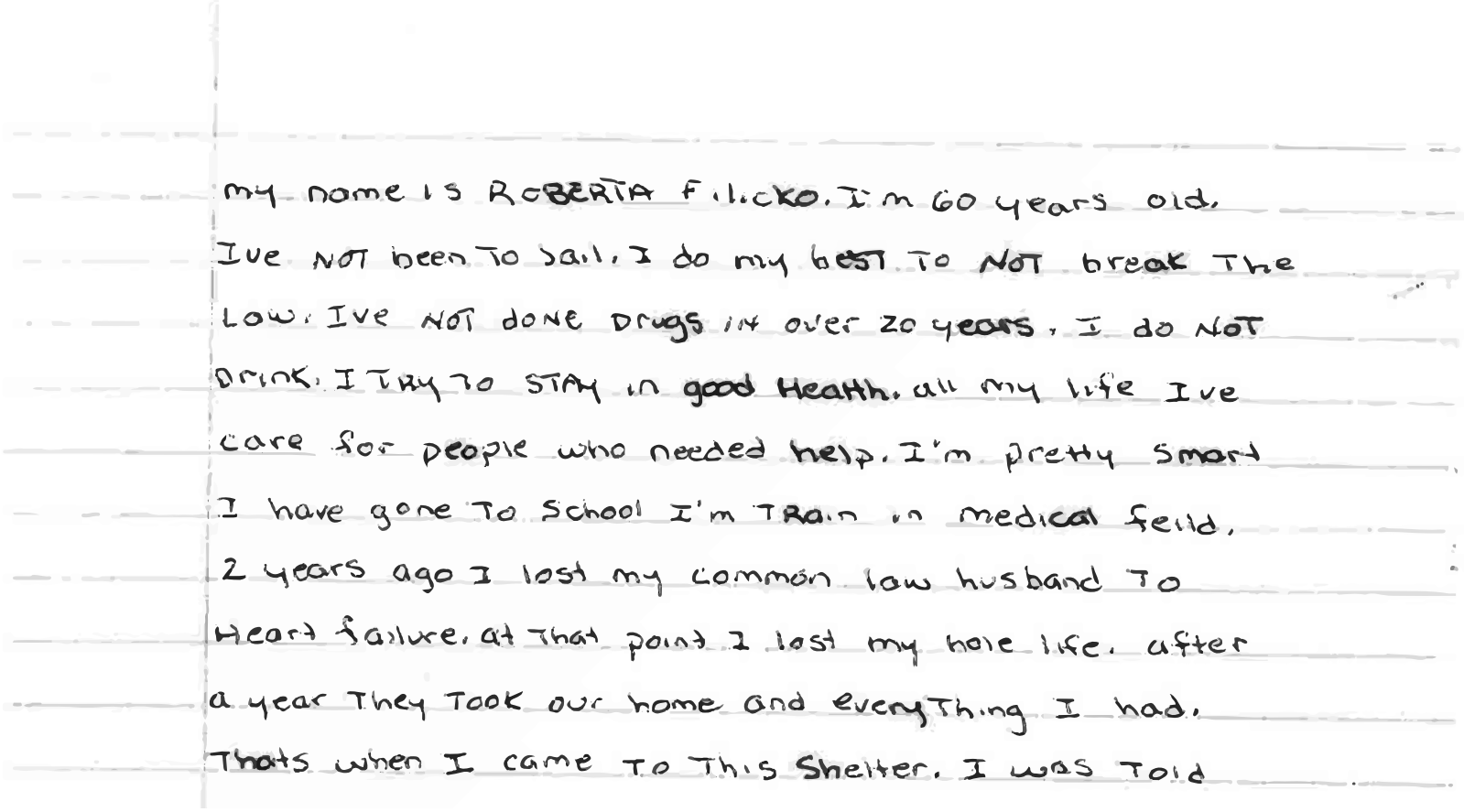
The ACLU SoCal makes 10 recommendations to bring the shelters into compliance with the law and at least the minimum standards of fitness for human habitation:

1. Establish clear and binding uniform health and safety standards for all shelters and hold shelter operators accountable to those high standards.
2. Establish an Orange County Office of Civil Rights and a Civilian Oversight Board.
3. Create a countywide reasonable accommodation policy for residents with disabilities.
4. Establish policies to refer residents to higher levels of care when appropriate.
5. Create a system for secure storage of personal property and eliminate policies that limit freedom of movement.
6. Establish due process systems for denials, evictions and other sanctions.
7. Safeguard protected speech in emergency shelters.
8. Prohibit bans on residents taking photographs, video, or audio recordings inside the shelter facilities.
9. Create a safe and confidential whistleblower policy for employees and residents of emergency shelters.
10. Create opportunities for democratic participation in emergency shelter operations by residents.

The ACLU SoCal urges Orange County to implement these reforms immediately in order to create a humane emergency shelter system and protect the county from lawsuits based on the widespread abuse and civil rights violations documented in this report.

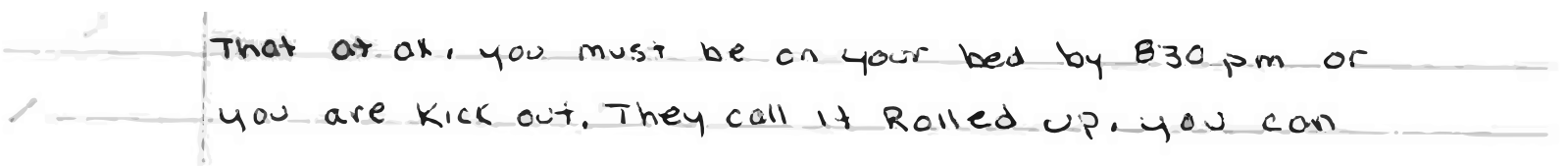
While this report concentrates on the emergency shelter system in Orange County, it should be noted that even the most well-run, accountable, and safe shelter system cannot end homelessness. A dire shortage of subsidized housing leaves many people living in shelters for months, and even years. And as anyone staying at a shelter can tell you, emergency shelters are not homes.

In order to address the humanitarian crisis presented by homelessness, the county must develop sufficient affordable and permanent supportive housing. It has the resources to do so. All it lacks is the political will.


my name is ROBERTA Filicko. I'm 60 years old.
Ive NOT been To Jail. I do my best To NOT break The
Law. Ive NOT done Drugs in over 20 years. I do NOT
Drink. I Try To STAY in good Health. all my life Ive
care for people who needed help. I'm pretty Smart
I have gone To School I'm TRain in medical feild.
2 years ago I lost my common law husband To
Heart failure. at That point I lost my hole life. after
a year They Took our home and everyThing I had.
Thats when I came To This Shelter. I was Told

Two years ago, I lost my common-law husband to heart failure. At that point, I lost my whole life. After a year, they took our home and everything I had. That's when I came to this shelter. I was told they would help me with housing and anything else I needed. When you check into this shelter you are [supposed to be] given a case manager who is going to help you to get what you need. I was never given one. When I would ask about this, no one could give me any information. This is an open place – no walls, only chain link fencing with plastic hanging on it. It is so cold here: no matter how many blankets you have you are never warm. There are no heaters. You must be on your bed by 8:30 pm or you are kicked out (They call it "rolled up."). You cannot leave here after 8:30 at night and no one can come visit you. The gates close and lock. At 8:00 am they make sure everyone gets up and makes their bed and you may not lay back down during the day unless you have a doctor's note. If you are laying down during the day, they will roll you up and throw you out of here. At mealtime, you line up and go through the line to get your meals. Sometimes it takes up to an hour. Someone told me it's just like jail. For [people with disabilities], an hour is a long time to stand on your feet. So, a lot of [people with disabilities] and older people just don't eat. Showers are a rent-a-shower trailer with three stalls on each side. They're never clean and most of the time it's only cold water ... [The women's bathroom] always has black mold in and around the bathroom stalls and sinks. Most of the time, they don't even put [out] soap or paper towels to use. People who have been to jail have said jail is better than this shelter. We are so scared that we will be living on the streets, and the staff make sure remind you of this every minute of every day. It's true we have no one to help us, so we go along with it.

From the diary of Roberta Filicko, resident of the Courtyard shelter


That at ok, you must be on your bed by 8:30 pm or
you are Kick out. They call it Rolled up. you can

INTRODUCTION

Roberta Filicko's experience has become a common one at the Courtyard, a shelter of around 425 people in a former open-air bus terminal, where squalid conditions, abusive staff and a futile process for obtaining permanent housing have created a public health and human rights crisis. Moreover, as Ms. Filicko writes, shelter residents frequently "go along with it," because to speak out is to risk reprisal, including eviction to the streets.

In effect, Orange County shelters segregate people experiencing homelessness away from the public eye, relegating them to places from which they are unlikely to be heard, and therefore risk being forgotten.

The ACLU SoCal initiated this investigation in response to alarming reports from residents of the Courtyard and other county-funded emergency shelters. Our research confirms dangerous and abusive conditions that violate the rights of shelter residents.

We investigated three year-round shelters funded by Orange County:

- The **Courtyard Transitional Center** is an emergency shelter in Santa Ana that opened in October 2016 and is operated by The Midnight Mission.
- **Bridges at Kraemer Place** is an emergency shelter in Anaheim that opened in May 2017 and is operated by Mercy House.
- **SAFEPlace** is an emergency shelter for women in Santa Ana that opened in April 2018 and is operated by WISEPlace.

Orange County is responsible for ensuring the safety and well-being of residents in these county-funded shelters and is accountable for violations of residents' rights while living in them. The contracted shelter operators could also be liable for a variety of civil and criminal complaints.

Unsafe and unsanitary shelter conditions violate a number of federal, state, and local codes that set the minimum habitability standards for emergency shelters. Discrimination based on disability, age, gender, and race violate federal and state civil rights laws and the federal and state constitutions. The theft and destruction of residents' property could give rise to criminal charges and are a deprivation of the constitutional right to one's own property. Restrictions on freedom of movement, speech and expression violate residents' rights under the U.S. Constitution. The insights and experiences of those who are impacted by these violations provide the foundation for recommended reforms that will protect human and civil rights. For the shelter residents we interviewed, reform cannot come soon enough. They want shelters that are safe and clean. They call for services that respect their human right to a standard of living adequate for health and well-being. They want shelter staff to treat them with dignity and respect. People with disabilities want a transparent and effective system for requesting and obtaining the accommodations they require to live in a shelter. All residents want strong oversight of the facilities, including a way to hold the county and contractors that provide shelter services accountable for violating human and civil rights.

In this report we describe the policy context for Orange County's emergency shelter system, present the findings of our investigation and conclude with recommendations that, if implemented, will hold the county and its contractors accountable to the highest possible standards of care.

CONTEXT

Emergency shelters as a response to homelessness

In the U.S., emergency shelters have traditionally served as a primary form of assistance for people experiencing homelessness. They were the linchpin in the Department of Housing and Urban Development's Continuum of Care approach, launched in 1994, which combined basic shelter with supportive services designed to foster independence and provide a pathway to stable housing.

Despite its widespread adoption, however, the federal government has more recently rejected this approach – studies show that the Continuum model is ineffective in ending homelessness.[1] There is also mounting evidence that shelter environments are actually harmful to health and mental health[2] and increase the risk of mortality.[3] Research confirms that residential crowding – the hallmark of shelter living – leads to social withdrawal, psychological distress, and mental illness.[4] The overcrowded living conditions also expose people to respiratory illnesses, tuberculosis, and other airborne infections.[5] Poor sanitation, lack of hygiene, and crowding expose them to scabies, body lice, bedbugs, and louse-borne diseases.[6] Moreover, research shows that living in a shelter can be nearly impossible for people with serious health and mental health issues.[7] This is why HUD now recommends the Housing First approach, which entails placing people in affordable apartments with appropriate supportive services as an immediate response to their crisis.[8] Research demonstrates that people receiving Housing First are more likely than people who are unsheltered or go through Continuum of Care programs to stay housed[9] and to experience improved health and mental health.[10] Housing First became the cornerstone of U.S. federal government policy on homelessness in 2003, during the administration of George W. Bush.[11]

The emergency shelter system in Orange County

Like many places across the United States, Orange County's primary response to homelessness has been twofold: 1) disperse homeless encampments by enforcing laws that prohibit sleeping or camping in public and 2) invest in emergency shelter.[12] The county's emphasis on emergency shelter is a recent development. Orange County had no county-funded year-round emergency shelters until, starting in the fall of 2016, the Board of Supervisors opened the Courtyard, Bridges at Kraemer Place, and SAFEPlace for women in rapid succession.

These shelters claim to transition people to permanent housing or another living situation that offers "increased housing stability."[13] In describing the program at Bridges at Kraemer Place, for example, Mercy House states, "The shelter's primary focus is assisting program participants with creating a housing plan, making connections to housing resources and ending their homelessness as soon as possible."[14] The Midnight Mission describes the Courtyard as "low-barrier, engagement-rich to provide people experiencing homelessness a pathway to service connections, health care, housing and stability."[15]

Yet, due to the county's shortage of affordable housing and permanent supportive housing, shelter residents are more likely to cycle between shelters, short-term programs, and the streets than to obtain a permanent home. The Courtyard's administrative record of "exits," for example, shows that during its first two years in operation, only 5% (29) of the 589 people who left the Courtyard for another living situation transitioned to subsidized permanent supportive housing. An additional 8% (49 people) transitioned to other types of subsidized housing, and 2% (13 veterans) exited to supportive housing with a Veterans Affairs Supportive Housing voucher. Fifty-two percent (305) of the people who left the Courtyard moved to other temporary living situations (emergency shelters, transitional programs, motels, substance abuse facilities, detox, hospitals, detention facilities, half-way houses, temporary rapid rehousing, or temporary situations with family or friends). Twenty-two percent (128) said they were moving in permanently with family, friends, or moving to a nursing or other long-term care facility and 9% (52 people) moved into market-rate rentals. Two percent (13 people) died or no data was collected. An untold number exited to the streets, and many more are in a holding pattern at the shelter. [See Appendix I]

The county is on the cusp of a dramatic shelter expansion, spurred by the supervisors' decision, in February 2018, to clear a large homeless encampment by the Santa Ana Riverbed Trail. The eviction quickly triggered two lawsuits and a court stipulation requiring the county to provide evicted individuals with 30-day motel vouchers or place them in programs. Since the motel vouchers expired, county workers have scrambled to place people in existing shelters and programs, as the current shelter system does not have the capacity to serve everyone evicted from the encampment.[16] [17] As part of a settlement agreement to resolve the two lawsuits, cities are expected to create hundreds of additional shelter spots in multiple locations.[18]

The rapid expansion of Orange County's shelter system underscores the need for significant policy reforms to ensure that all shelter programs are accountable to the highest possible standards. The weaknesses and gaps in the county's shelter system uncovered by this investigation provide critical input for the development of these reforms.

METHODOLOGY

In conducting this investigation, we drew on many sources of information. We conducted interviews with people representing a variety of positions within the emergency shelter system to capture multiple perspectives. We used semi-structured interviews focusing on respondents' experiences and observations inside the emergency shelters. We informed interviewees of the purpose of our investigation and our intention of publishing a report. We informed them that they were under no obligation to speak with us and that they could decline to answer questions at any point or terminate the interview at any time. We did not offer incentives or remuneration for interviews. We conducted interviews with 65 residents or former residents of the Courtyard, Bridges at Kraemer Place, and SAFEPlace, including individual interviews with 49 people and a combination of focus groups and individual interviews with seven residents at the Courtyard, three residents at Bridges at Kraemer Place, and six residents at SAFEPlace. We received firsthand accounts from three volunteers at the Courtyard, one volunteer at Bridges at Kraemer Place, and one volunteer at SAFEPlace. We interviewed two service workers who conduct outreach at the shelters, one staff member at the Courtyard, and five advocates for people experiencing homelessness. Some people gave one interview. Other interviewees stayed in touch with us on a daily or weekly basis to provide information and updates on the emergency shelters.

We gathered and analyzed public records including coroner's reports of individuals who died in the Courtyard and records of calls for service from the Orange County Fire Authority. We analyzed all publicly available documents on the operation of the shelters, including funding sources, policies and program rules, demographic data on residents, program outcomes, program staffing levels and job descriptions, and housing placements. We examined agreements prospective residents must sign to gain access to the shelters, written procedures for making requests for reasonable accommodations, procedures for clients to submit complaints about the programs and summaries of complaints made to the county.[19] We also examined records of inspections by the Orange County Health Care Agency and results of those inspections. We examined photographs of the Courtyard, Bridges at Kraemer Place, and SAFEPlace.

We confirmed the credibility and validity of the data through cross verification from multiple sources, including records, documents, complaints, and interviews with shelter residents, previous residents, volunteers, outreach workers, shelter staff and advocates. We collected data until the findings reached the point of "saturation," defined as the point at which "additional data do not lead to any new emergent themes"[20] and "new data tend to be redundant of data already collected."[21] Saturation is a widely accepted methodological principle indicating that further data collection and analysis are unnecessary.[22] The triangulation of multiple data sources led to the emergence of several themes, which form the basis of our findings.

Protection of witnesses and victims

In carrying out this investigation and reporting our findings, we were particularly sensitive to the protection of witnesses and victims. Our investigation indicates that people who speak out about the shelter conditions are subject to reprisal. For residents, this can mean eviction as well as denial of basic needs services such as food, showers, and blankets. Workers who whistle blow worry about losing their jobs or retaliation by fellow staff members. Volunteers and outreach workers fear losing their access to the shelters. We were therefore extremely cautious in our interactions with witnesses and victims and used strategies to mitigate the risks, such as meeting in private and offering to speak on a confidential basis. We have kept the identities of most of the people who shared information with us confidential to protect their privacy and safety, and have only revealed identities when the individuals asked us to do so and when, together, we have determined that the risk of harm as a result of reprisal is low. An anonymized list of interviewees appears in Appendix II. It includes the date and location of the interview, the shelter discussed, topics covered in the interview, and the gender and role of the interviewee (shelter resident, volunteer, outreach worker, staff member, or advocate). We did not attribute quotes to the interviewees to protect the anonymity of individuals whose quotes could be triangulated to determine their identity.

Finally, we have summarized the testimonies by theme, highlighting illustrative examples, instead of including quotes from all of the individuals who spoke with us.

Call me 'Gina'.

- Shelter resident giving a pseudonym because she fears retaliation for speaking out

FINDINGS

Conduct and conditions in flagrant disregard of well-being and property

Medical emergencies at Orange County's largest year-round emergency shelter, the Courtyard, are so common that they have practically become part of the program's daily rhythm. Seven people have died inside the Courtyard since its opening on October 5, 2016. That accounts only for those who died at the shelter: an unknown number of people have died after transport to the hospital from the Courtyard. Anecdotally, we have identified at least two cases of people who died on the way from the Courtyard to the hospital and two people who died shortly after arriving at the hospital after being transported from the Courtyard by ambulance.

Table 1 shows the frequency of Orange County Fire Authority calls for emergency medical services at the Courtyard. Just during the four-month period from July 1, 2017 to October 31, 2017, there were 313 calls for services, averaging 78 calls per month, about 20 calls per week, and from two to three calls per day or one call every eight hours.

There is no doubt that the high number of medical emergencies at the Courtyard reflects the extreme vulnerability of the shelter population. The information we gathered, however, suggests that shelter conditions also produce particular forms

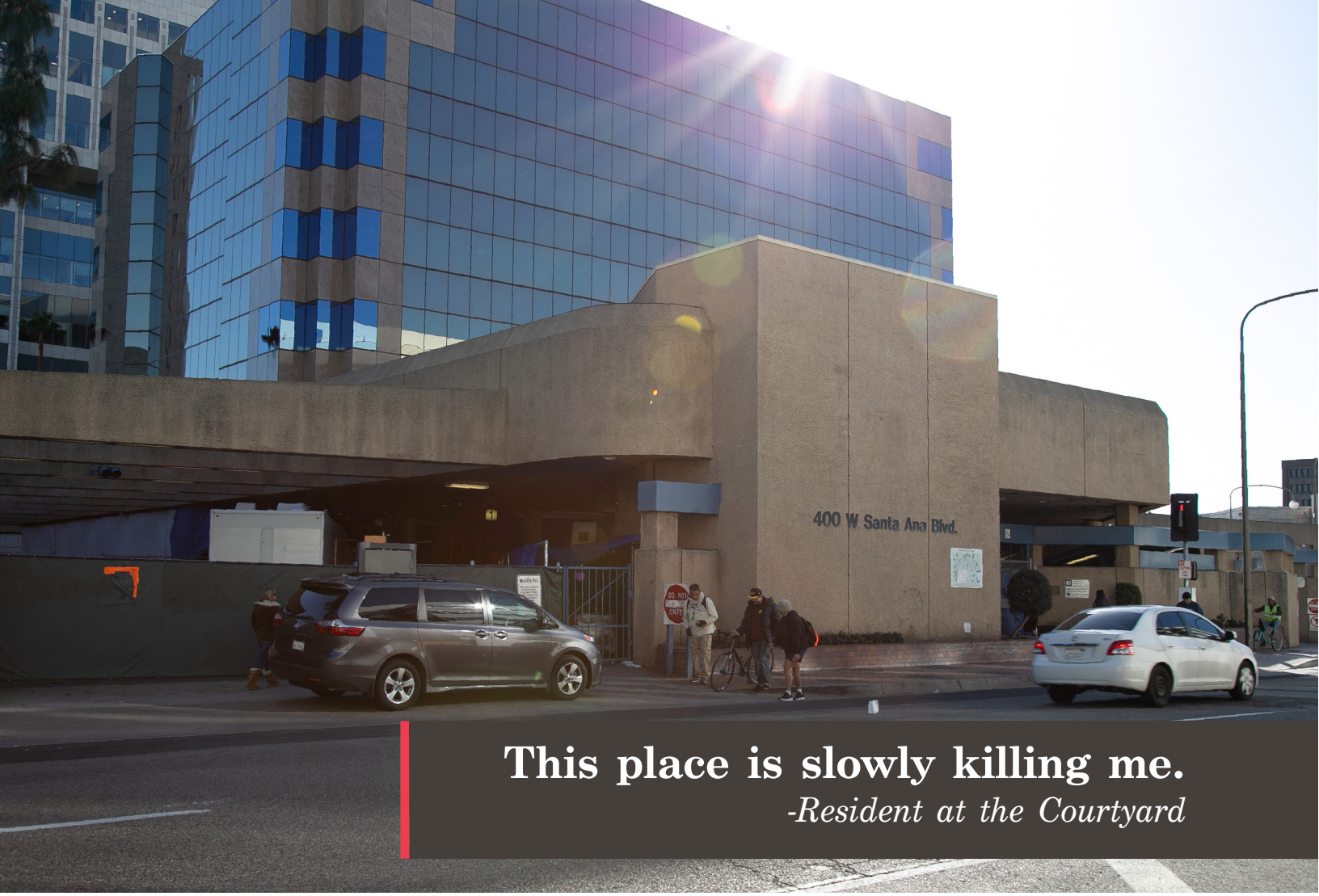
Table 1

Orange County Fire Authority Calls for Services to the Courtyard: 7-1-17 to 10-31-17*

Problem Description	Average calls per month	Average calls per week	Total calls
Ill Person/Unknown Problem	21.25	5.31	85
Respiratory Problem	13.50	3.38	54
Chest Pain/Cardiac	8.00	2.00	32
Abdominal/Back Pain	5.75	1.44	23
Injury/Trauma	4.75	1.19	19
Seizure	4.50	1.13	18
Diabetic Problem	4.00	1.00	16
Unconscious/Unresponsive	4.00	1.00	16
Behavioral/Suicidal	2.50	.63	10
Fall	2.50	.63	10
Overdose/Ingestion	2.50	.63	10
Cardiac Arrest	1.00	.25	4
Stroke Patient	1.00	.25	4
Head/Neck Pain	.75	.19	3
Assault Victim	.50	.13	2
Person Choking	.50	.13	2
Allergic Reaction	.25	.06	1
Birth/Pregnancy Problem	.25	.06	1
Bite/Sting Injury	.25	.06	1
Exposure: Environ/Toxic	.25	.06	1
Person Bleeding	.25	.06	1
Total	78.25	19.56	313

*The problem description for the call to service in the government records reviewed is based on what the caller states about the emergency at the time of the call, and therefore does not necessarily reflect the nature of the emergency.

of physical and mental health problems among a population that is exceptionally vulnerable to begin with. Unsanitary and unsafe living conditions make the shelters breeding grounds for communicable diseases. Crowding and lack of privacy lead to psychological distress. Discrimination based on disability and age leads to the neglect and deterioration of health and mental health. Sexual, physical, and verbal abuse traumatize residents and exacerbate preexisting conditions. Restrictions on freedom of movement deprive people of autonomy, self-determination, and dignity. The theft and destruction of property leave people feeling degraded, exploited and victimized, and deprives them of belongings, such as warm clothes, blankets, money, food, and cellphones they require for survival. We found these patterns at all three of the shelters we investigated.

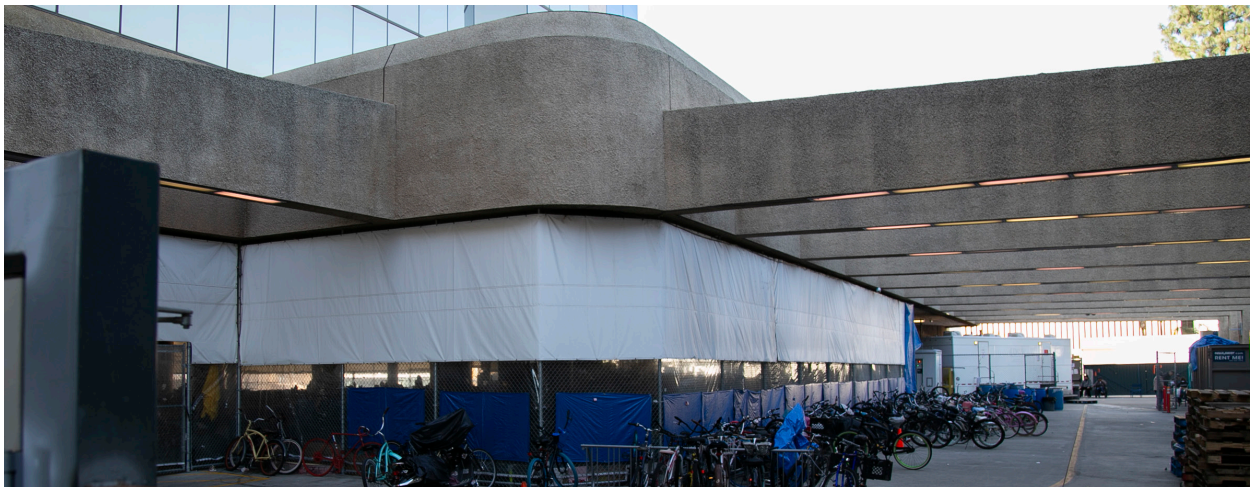


This place is slowly killing me.
-Resident at the Courtyard

Unsafe and unsanitary living conditions

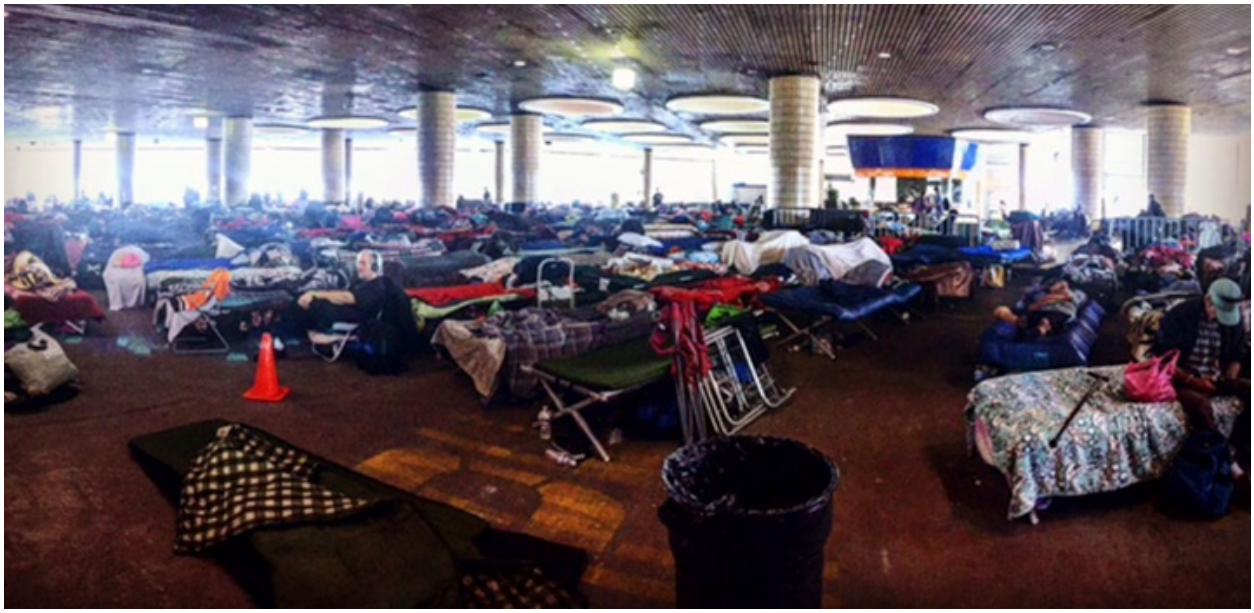
Under health and safety standards set out by municipal, state, and federal law, Orange County is obligated to provide shelter programs that are safe, sanitary, and maintained in a manner fit for human habitation (See **Table 3**). Compliance with these standards is essential for the promotion of health and mental health and prevention of the spread of communicable disease. Multiple interviewees described shelter conditions that are dangerously unsafe and unsanitary, including inadequate temperature control, exposure to the elements, filthy and decrepit shower and restroom facilities, and recurrent infestations of rodents, maggots, insects, bedbugs, head lice, and scabies. Our investigation reveals unsanitary conditions at all three shelters. The county's failure to maintain shelters up to the minimum standard for human habitation violates municipal, state and federal law and exposes the city to claims for personal injuries stemming from unsafe living conditions.

The Courtyard



Courtyard exterior

The Courtyard is an old, open-sided former bus terminal with plastic tarpaulins erected around its perimeter as a windbreak. It is dank and gloomy, with natural light barely filtering in. Authorities have had difficulty determining the maximum capacity of the shelter because the space is not designed for human habitation. The official capacity has been expanded from around 350 to 425 in parallel with the county's perceived need to identify more shelter spots. Multiple interviewees described conditions that are dangerously unsafe and unsanitary. Residents also lodged complaints about these unsafe and unsanitary conditions with the county [See Appendix III].[23]

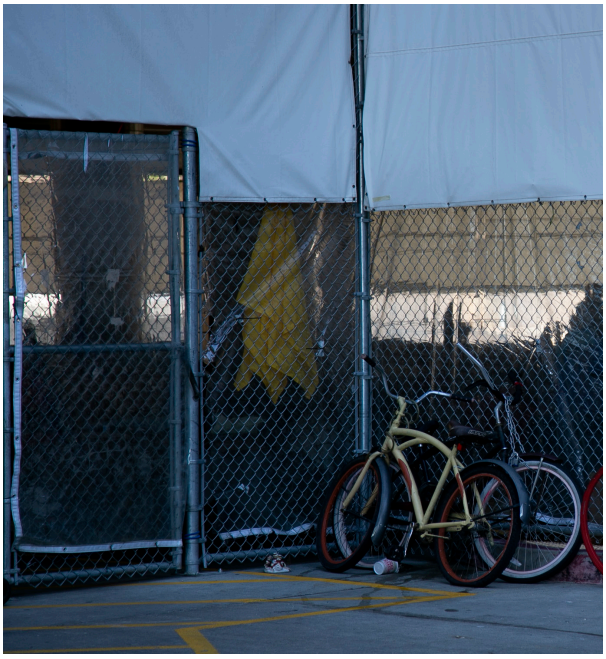


Overcrowding at the Courtyard
SOURCE: https://www.midnightmission.org/thecourtyard/

Inadequate temperature control. There is no heat or air conditioning in the Courtyard except in a single, closed-off room (i.e., the only indoor space) reserved for staff members. The lack of temperature control has serious health consequences for residents, especially during extreme weather conditions.

On July 7, 2018, for example, a record-breaking heat wave baked the sidewalks around the Courtyard as the outdoor temperature rose to 107 degrees. Inside, a volunteer measured the temperature with a thermometer purchased especially to record the temperature that day. It registered 96 degrees, as scores of residents sat listlessly on their cots or dragged themselves into line for bottled water. A shaft of sunlight blistered the portable toilets, turning them into hot ovens. A volunteer reported that the odor inside the toilets was so overwhelming that he worried he would pass out if he took a breath. Across the street, shelter residents dangled their feet in a cool fountain. As the afternoon wore on, one of us encountered a woman staggering back to the Courtyard with electrocardiogram strips still affixed to her chest. She had passed out at the fountain, she said, trying to lower her body temperature, and had ended up at the emergency department of a local hospital.

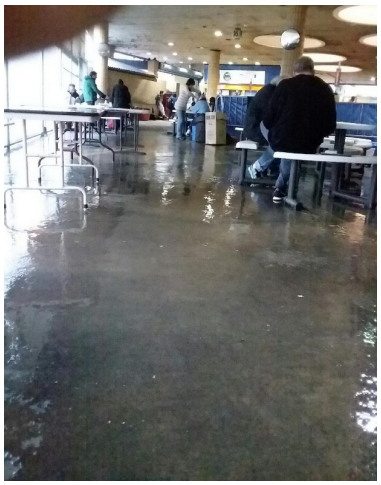
Temperature inside the Courtyard on July 7, 2018



Plastic tarp provides Courtyard residents' only protection from the elements.

Cold winter nights are also excruciating. Without heat, residents huddle under piles of blankets. A former resident recalls outreach workers from City Net and Orange County Heath Care Agency urging her to try the Courtyard. "I told them, '[My husband and I] don't want to go to the Courtyard because it's outside.' They said, 'No it's not. And everyone has five blankets.' I said, 'Why does everyone need five blankets?' I'm not stupid." Sometimes, according to residents, the Courtyard runs out of blankets. "There is no heater and it is damn cold," says Ms. Filicko. "There are many people with only one blanket because they say, 'We ran out.'" She continues, "I am suffering from the cold ... I know that's why I have pneumonia." For relief, she says, she used the hand dryers in the bathroom to warm her hands.

Inadequate protection from the elements.
Water seeps into the shelter during downpours, soaking residents, blankets and belongings. A volunteer witnessed puddles and wet blankets in the interior of the Courtyard after a winter deluge. “I had to move my cot because rain was getting on me,” recalls a resident after a fall storm. “It is cold and windy. I felt like I was camping on a mountainside.” On December 6, 2018, as heavy rain passed through Orange County, the O.C. Public Works Public Information Officer issued an advisory for “everyone, including the homeless community, to stay out of the flood channels.” Meanwhile, a resident at the Courtyard observed an inches-deep stream of water rushing through the dining area and around the portable toilets.



Flooding in the Courtyard, December 6, 2018

I felt like I was camping on a mountainside.

-Resident at the Courtyard

Unsafe and unsanitary shower and restroom facilities. Residents complain that the Courtyard's nine portable showers are often in a state of disrepair. Water sometimes comes out of the showerheads in a trickle. Hot water works only intermittently, forcing people to take cold showers for days or weeks at a time. Residents report black mold in the shower area and black water regularly seeping from the bottom of the units. The staff uses sandbags to manage the leaking water. An inspection by the O.C. Health Care Agency Environmental Health Division found wastewater draining from the shower trailer onto the pavement through an opening in the base of the trailer.[24]

Excerpt from Water Quality Survey, O.C. Health Care Agency Environmental Health Division (January 18, 2017)

SHOWER TRAILERS

The shower trailers are drained to sewer through an improvised drain at a sewer cleanout. Cleaning of the trailer interior was being conducted at the time of inspection and the waste water was observed draining to the pavement through an opening at the base of the trailer. In addition, waste water collected in a mop bucket was thrown out onto the pavement and added to the volume of water running off.

Recommendation: Seal the opening at the base of the trailer to prevent discharge to the pavement and instruct attendants to dump wastewater through the shower drain. Waste-water could also be dumped into a utility sink, if one is available, or into the existing permanent toilets.

The showers are nonoperational for days or weeks at a time. In December of 2016, a resident complained that the showers were broken and she had not washed in several days. In April 2018, not much had changed. A resident told us, "The showers have not worked for two weeks. What they call a shower is — no showerhead, just a stream of water. Usually no hot water. There are over 400 people here — and no showers for two weeks?" In May 2018, residents reported that all showers were again broken for at least two weeks and in June 2018, a resident reported that two of the showers were broken. In January 2019, a resident reported that the staff had closed the showers to all residents.

The Courtyard has eight portable toilets. By all accounts, they are decrepit and filthy. Residents report that toilet seats are often broken or missing, and stalls are sometimes out of commission. A resident says, "One of the outhouses is broken. I almost fell in. The whole thing is cracked and the hinges are broken. It's been that way for months."

A report of toilet waste on the curb outside of the Courtyard triggered an inspection by the O.C. Health Care Agency Environmental Health Division.[25] A former resident recalls, "There was sewage coming out from underneath the porta-potties. Some of them were leaking toward the fence. It was raw sewage. The animals would do their thing at the same place." She continues, "I started to take footage in the middle of the night when the sewage was coming out of the porta-potties. It was raining and everyone was tracking sewage and rain, and rainwater was washing it more toward the smoking section. When everyone was coming back to the beds, they were tracking the raw sewage — animal and human — into the living area."

Residents contend with filthy conditions inside the stalls. A woman with one arm and one leg stepped in feces when she tried to use a portable toilet. Tears rolled down her cheeks as she recalled the incident. "The place is not clean," says another resident. "The porta-potties are filthy. Sometimes you go in and there are feces everywhere. On the floor, on the toilet seat." Another resident observes, "The portable toilets are often almost at overflow, with sewage near the rim. Sometimes you have to try a couple of stalls before you find one that you can use. He adds, "I have seen shit on the walls, on the floor, on the seat. ... When 400 people are using six or seven toilets they get bad fast." A resident observes that a service provider pumps out the portable toilets twice a day. However, as he explains, "The service people don't actually clean the outhouses. Crust builds up on the urinals because they are not cleaned. Urine is all over the floors, too. You can smell urine and poop all the time. And [the portable toilets] are full of small flies." As Ms. Filicko describes it, "You can smell the sewage and have that taste in your mouth afterward." [To view photographs, see Appendix IV: Unsafe and Unsanitary Conditions]

There are two women's restrooms. Each has three sinks and four stalls. When a volunteer visited these restrooms, only one of the sinks had a working faucet. All of the soap dispensers were empty. Another time, a female volunteer found that one of the women's restrooms was locked and "out of order." Again, all of the soap dispensers in the open restroom were empty.

Residents say the handwashing station by the portable toilets often lacks soap. There are five sinks and four soap dispensers. Residents report that the sinks sometimes get plugged up and rarely have paper towels, and the dispensers go for weeks without soap. A Water Quality Survey conducted by the O.C. Health Care Agency Environmental Health Division in January 2017 states that the water from the handwashing stations is unsafe for consumption, in part because of the risk of cross-contamination from the portable toilets. "Observations showed patrons using the stations to fill drinking water bottles and for brushing of teeth," the report states. "Although the freshwater in the stations does come from a municipal source and can be considered adequate for basic sanitation, the water becomes degraded in the truck storage tank and should not be used for consumption. Furthermore, there is a concern that the freshwater fill port and the waste water tank are adjacent in the brown units and [can] be cross-contaminated by the suction tube which is also used on the portable toilets." [26]

Table 2 lists residents' reports of broken or off-limits showers, toilets, soap dispensers, and laundry facilities at the Courtyard. The list is likely partial since it only includes incidents reported to the ACLU SoCal. It paints a portrait of a shelter in which basic sanitation facilities are non-operational or off-limits with alarming frequency.

Table 2
Resident reports of non-operational or off-limits showers, toilets, soap dispensers, and laundry facilities

Date	Details
December 2016	All showers are out of order
April 2018	No showers for two weeks
May 2018	No showers for two weeks
June 2018	Two of the showers are out of order
July 23, 2018	5 out of 8 portable toilets have lacked seats for at least a week
July 30, 2018	Out of paper towels; all 4 hand soap dispensers empty for 2 days
July 31, 2018	4 out of 8 portable toilets lack seats
August 6, 2018	4 out of 8 portable toilets still lack seats
August 6, 2018	No soap in dispensers for over several days, men's handwashing station
August 8, 2018	"Once again, the toilet paper supply bin is empty"
August 10, 2018	5 out of 8 portable toilets lack seats//1 of 3 non-wheelchair accessible toilets with a seat is "out of order"
August 12, 2018	No soap in dispensers for over several days, men's handwashing station; no paper towels
August 13, 2018	5 out of 8 portable toilet seats still missing.
August 15, 2018	No portable toilets
August 16, 2018	5 of the old portable toilets replaced with newer ones with seats. Now 7 out of 8 portable toilets have seats.
August 29, 2018	Within a few days of getting new portable toilets, 2 out of 8 lack seats
September 11, 2018	All four soap dispensers at men's handwashing station empty for last two days
September 13, 2018	3 out of 8 men's portable toilets lack seats
September 26, 2018	1 of the 5 men's handwashing sinks has been out of order for several weeks
September 27, 2018	New showers scheduled to arrive today. Old showers have been removed, except for the wheelchair accessible shower.
October 3, 2018	All 6 new showers installed last week are "out of service"
October 7, 2018	3 of 8 men's portable toilets lack seats
October 10, 2018	New shower trailer installed two weeks ago was defective. New shower trailer installed today.
October 15, 2018	No soap in dispensers, men's handwashing station
November 19, 2018	4 of 8 men's portable toilets lack seats
November 19, 2018	No soap in dispensers for over a week, men's handwashing station
December 10, 2018	No soap in dispensers for two days, men's handwashing station
December 10, 2018	4 of 8 men's portable toilets lacking seats
December 15, 2018	Notice posted: "Until further notice, resident laundry has been cancelled"
December 18, 2018	No soap in dispensers, men's handwashing station
December 18, 2018	No resident laundry until further notice

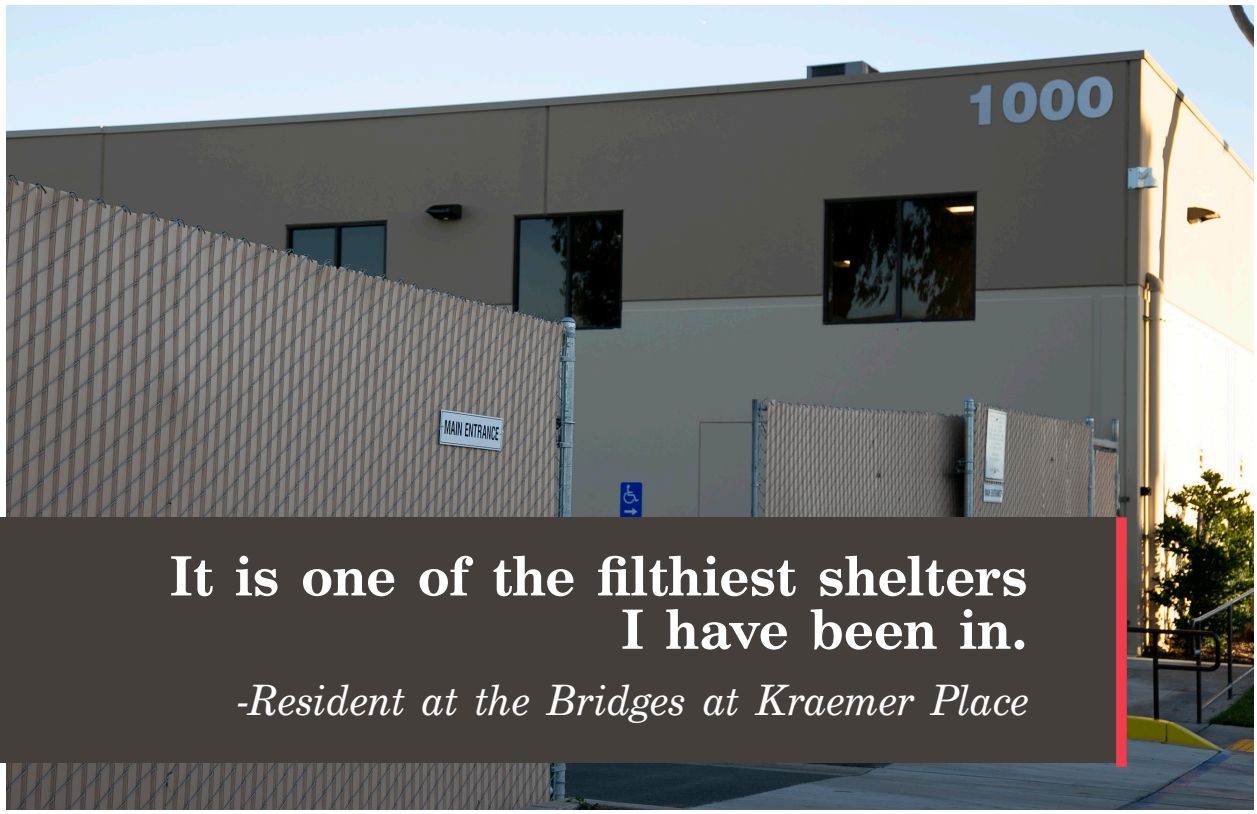
December 22, 2018	No resident laundry for a week
December 27, 2018	No resident laundry for a week
December 29, 2018	Wheelchair accessible shower has been out of service for three days
December 31, 2018	No soap in dispensers and paper towel dispensers empty, men's handwashing station
January 1, 2019	Wheelchair accessible portable toilet out of order for more than a week
January 2, 2019	Wheelchair accessible portable toilet still out of order, no soap in most dispensers, 4 of 8 portable toilets lacking seats
January 4, 2019	No soap in dispensers, men's handwashing station, wheelchair accessible toilet still out of order, 4 of 8 portable toilets lacking seats
January 12, 2019	Both wheelchair accessible toilets lack urinals; 1 still lacks seat
January 21, 2019	Showers are closed

Infestations. Many people we spoke with report that infestations of rodents, maggots and insects are common. An employee recounts cleaning up a litter of mice after spotting a baby mouse scurrying by. The nest was in a pile of blankets, the employee says, adding, "I found a mouse in a sandwich bag the other day." "Maggots were coming out from the rotted food under the cot," recalls one woman, who cries as she recounts the incident. "They were on the floor. That is what I woke up to this morning." Ms. Filicko describes seeing bugs crawling out of an old bag of food that an elderly woman had tied to her walker. "Her walker was so bug-infested, you moved it and the bags fell apart and bugs were everywhere," she recalls.

Given the filthy conditions and substandard sanitation facilities, it is not surprising that infestations of bedbugs, head lice, and scabies regularly sweep through the Courtyard. "The bed bug problem never ends," a resident observes. "I see girls covered in huge welts. Either scabies or bed bugs. It is going to spread. People have bed bugs crawling around on their clothes." An employee says, "Sometimes, if you are sitting on a chair, they will crawl on you ... I got three bites [during my last shift]. Some are getting a lot more. You can see the bed bugs when they get on you. They are big. They've been around for a while."

Lack of first aid supplies. A staff member observes that the program lacks basic first aid supplies such as a first aid kit, antibiotic ointment, and bandages. As a result, residents who do not have their own first aid supplies sometimes go without care, leaving their conditions to deteriorate until they become a medical emergency. A resident who was returning to the Courtyard after major surgery told us that the showers were not working, the soap dispensers were empty, and that the Courtyard did not have antibiotic ointment or gauze. We observed that she moved slowly and carefully because her incision was badly infected, as she told us she worried that the infection would get worse.

Bridges at Kraemer Place



It is one of the filthiest shelters I have been in.

-Resident at the Bridges at Kraemer Place

According to the Mercy House website, "Bridges at Kraemer Place is a 24-hour emergency homeless shelter facility in the city of Anaheim that is ADA Accessible and serves homeless single men and single women in the North Orange County area."[27] The shelter is a converted warehouse that accommodates about 200 men and women in a space filled with bunk beds.

As stated by one resident, as more people moved into Bridges at Kraemer Place, staff pushed the bunkbeds closer to one another, resulting in extreme overcrowding. He says the bunk beds "are literally about six inches apart side-to-side. There are two bunk beds per row, and there is about a two-foot aisle between rows. You're looking at someone in a bunk six inches away!" Many residents described unsafe and unsanitary conditions in the shelter.

Inadequate temperature control. Unlike the Courtyard, the Bridges at Kraemer Place has temperature control. However, multiple residents told us that the staff keeps the temperature at 62 degrees, day and night, reportedly in an effort to curb the spread of communicable diseases. The place is so cold that residents complain about being constantly chilled. "I have five blankets on my bed," says on resident. "We have to wear jackets all the time."

Unsafe and unsanitary shower and restroom facilities. Many residents told us that unsanitary conditions in the showers and restrooms are a particular source of concern. "The showers got bad," recalls a former resident. "Dirty, trash. It builds up. I saw personal body fluids on the sinks. Either blood or snot. It was so bad that I wouldn't want to go in them." A resident observes, "Feces on the walls and the showers. They don't clean it properly." Says another resident, "I went nine days without taking a shower, because I don't want to get sick."

Residents report that the restrooms undergo cleaning twice a day. Yet, given the large volume of people using the facilities, trash, bodily fluids, and feces build up in the restrooms between cleanings, creating a health and safety hazard. One resident observes, "They clean the restrooms at 11:00 a.m. and after midnight. They get really gross because so many people use them. Poop on the floor, trash everywhere. The poop and trash are the worst after dinner." One individual recalls, "There were times when someone was smearing blood in the gentleman's handicapped bathroom. That went on for a while. I've walked in and seen feces on the floor of the bathroom. Couldn't something have been done?" According to another resident, "There is blood on the walls by the trash can. Sometimes the restrooms would stay dirty for 12 hours." A former resident says "There is definitely sanitation problem," adding, "In a couple of stalls I saw smeared feces on the side panels or by the door handle or the toilet seat." A resident complains, "The bathrooms are filthy. ... People walk their dogs in the men's bathroom and the dogs urinate."

Overcrowding at Bridges at Kraemer Place
SOURCE: https://mercyhouse.net/portfolios/bridges-at-kraemer-place/

Infestations. Residents report that infestations of insects, bedbugs and lice are common at Bridges at Kraemer Place. One woman says, "Critters all around. Mosquitos, cockroaches. I saw a couple of people with head lice. Staff would say, "Hide the bugs, don't let [the supervisor] see that." She adds, "It is one of the filthiest shelters I have been in." Another resident notes that the men's section has been dealing with a bed bug infestation for over a month. "The bed bugs finally reached the women's section," she says

SAFEPlace

SAFEPlace is located in an old gymnasium. It originally had 60 cots placed side by side. Recently, residents say, the resident population has increased to around 70. Multiple residents report inadequate temperature control, unsafe and unsanitary shower and restroom facilities and recurrent infestations of bed bugs.

Inadequate temperature control. Several residents told us that there is no heat in the SAFEPlace living area, while rooms reserved for staff have temperature control. The women complain about bitterly cold nights that leave them unable to stay warm. In the early morning hours of February 14, 2019, for example, one woman measured the temperature inside the shelter with a cell phone application. As the temperature outside fell to 52 degrees, the indoor temperature hovered around 61 degrees. "I know I got pneumonia because the shelter is so cold," she says.

Unsafe and unsanitary shower and restroom facilities. The shelter has four bathroom stalls — one wheelchair-accessible toilet stall and three stalls with child-sized toilets, or approximately one toilet for every 17 people. One woman with a mobility impairment notes that many residents find it extremely difficult to get up and down from the children's toilets. SAFEPlace has three showers. One of them is wheelchair-accessible.

Temperature inside SAFEPlace on February 14, 2019

Residents complain about the cramped and unsanitary conditions. "SAFEPlace has unsanitary bathrooms and showers," says one resident. "I've seen blood on the shower curtains." Another resident complains, "The place is very dirty. The bathrooms are dirty. Mold, dirt between the cracks in the floor. The screen in the restroom was covered with filth, and so I took it off. There is black between the tiles." A resident has taken photographs of crumbling facilities and mold in the bathrooms. [See Appendix IV]

Infestations. Several residents complain about recurrent bed bug infestations. One resident bought her own bed bug covers to repel the insects.

Discrimination against people with disabilities and elder neglect

"The staff told me the Courtyard does not have the stuff to deal with people in wheelchairs ... [the director] told me to lose the wheelchair if I wanted to get in."

- Resident at the Courtyard

Compared to other people experiencing homelessness, people with disabilities are less able to cope with shelter living, and more likely to end up back on the streets.[28] [29] Elderly people also face a variety of challenges, such as an inability to perform daily activities of living, which make it difficult for them to live in shelters that impose rules and sanctions against residents no matter how infirm they are. To ensure that vulnerable people can access and fully participate in shelters, it is critical that the programs support their special needs. Moreover, under state and federal law, Orange County is obligated to provide shelter programs and services that are readily accessible to people with disabilities and that protect adults over 65 from neglect and abuse. Our findings indicate rampant discrimination against people with disabilities in Orange County shelters, and shelter staff who routinely neglect elderly residents and allow them to decline while in the shelter. We established these factual patterns at each of the three shelters we investigated.

Staff discipline residents for behaviors related to their disabling conditions/age

The Courtyard

At the Courtyard, an employee recalls seeing a resident pay a staff member to evict a woman who, because of her mental disability, bounces on her bed when she is off her medication. "The girl came the next day to take a shower," the employee says, "and the staff at the Courtyard wouldn't let her in."

Sometimes, staff members evict residents when it becomes clear they are unable to care for themselves. "[The Courtyard director] says, 'If you can't take care of yourself you have to get out," an employee recalls. "She says, 'We're not your day care center.' But some people need help functioning every day." The employee remembers the Courtyard admitting a woman with stage-four cancer, and the director threatening to evict her because she moved slowly and had difficulty keeping her cot area tidy.

Bridges at Kraemer Place

Residents at Bridges at Kraemer Place say staff members chastise residents who are too ill to follow house rules. "We have a lot of people who aren't healthy and we're sharing everything," one resident says, adding, "One guy threw up on his bed and clothes so he took his shirt off. The site manager started yelling at him for having his chest exposed. The rule is that you need to have a shirt on at all times." In the resident's view, the ill resident had received no help from the staff. "The man hadn't been out of bed for at least three days," he recalls. "He was a wreck. The site manager didn't try to help him at all."

SAFEPlace

Several residents of SAFEPlace point to the case of a resident who died in July 2018 from HIV/AIDS, as illustrative of the problem. "She had large gaping wounds on her legs," one woman recalls. "She urinated in jars, which she kept under her cot, because she couldn't get to the bathroom. She was having bowel movements in chairs and her bed. [The director of SAFEPlace] exited her because she broke house rules by storing soiled linens under her bed."

A resident tells the story of an 82-year-old resident of SAFEPlace who has dementia and is prone to being duped by scam artists who call her phone. "[The resident] forgets what happened the day before," she says. The director of SAFEPlace "put her out for a day or so to teach her a lesson [after she had been victimized in a scam]. She was scammed and thought she was going somewhere nice." Another resident tears up as she describes the night the director evicted the elderly woman for being fooled in a scam. The woman "was on the other side of the fence," the resident recalls. "She didn't understand what was going on, and it was getting dark and cold. We were begging the security guard to open the gate and let her back in, but they said they had to follow orders."

The process for requesting reasonable accommodations is ineffective

At all three shelters, residents struggle to obtain accommodations for their special needs related to their disabling conditions. We find evidence that staff members sometimes deny requests for accommodations without providing a means for appealing the decision and insist on unnecessary and burdensome bureaucratic requirements as a condition of granting the request. Sometimes the response time for granting the accommodation is so long that it amounts to a denial.

The Courtyard

Many of the residents at the Courtyard recounted the difficulties they face when attempting to obtain needed accommodations. When the hospital discharged Ms. Filicko with a diagnosis of pneumonia, for example, staff members at the Courtyard refused her request for bed rest. "The staff announced a new rule that everyone had to get up during the day — from 8:00 a.m. to 8:30 p.m.," she recalls. "They made me get up, even though I was sick." The staff told Ms. Filicko she could lie down only if she brought a doctor's note showing medical need, even though she showed them her discharge papers with a diagnosis of pneumonia. However, they would not provide her with transportation to her clinic to get the doctor's note, and she was too weak to walk or take the bus. "Wednesday, Thursday and Friday I sat up on my cot all day," she recalls, "coughing and almost passing out. On Friday, the Courtyard doctor visited, and he gave me a note. After that, the staff let me lie down during the day." For Ms. Filicko, the experience was excruciating. "I'm 60 years old," she says. "This is hard on me."

Bridges at Kraemer Place

Residents at the Bridges at Kraemer Place have told us they get the runaround when they request accommodations. A resident who requested a bottom bunk close to the restrooms, for example, waited months for approval in spite of her urgent health-related need for the move. "I am recovering from lymphoma and hepatitis C," she says. "It's made me incontinent. I kept telling the staff for months that I needed a bottom bunk because I could not make it to the restroom in time when I was on the top bunk. I kept peeing on myself." A staff member told her she needed a doctor's note, which she provided. They then told her she was "on the list" for a bottom bunk. Several weeks later, she inquired about her place on the list. "They couldn't find the doctor's note and said I wasn't on the list," she recalls. "I had to get another doctor's note, this time from my public health doctor." She waited two more months. "I started wearing diapers at night so I wouldn't pee on myself," she says. "Finally, I got the bottom bunk." The woman had recurrent urinary tract infections during the waiting period, she says, which cleared up after she moved to a bottom bunk.

Residents report that the staff sometimes denies requests during emergencies. "I was having chest pain and wanted to go to the hospital, recalls a resident. "I told staff. They said they wouldn't call 911 and told me that I couldn't either. The staff member said, 'Go lay back down and you'll be fine.'" A woman with an inoperable brain aneurism gets headaches when the aneurism bleeds. "Two or three times when I had the pain," she says, "I wanted to go to the hospital. The last time it was 7:00 or 8:00 in the evening. The staff wouldn't give me ice packs, wouldn't call 911, and wouldn't give me a ride [to the hospital] because they said the shuttle drivers were off until 11:00 p.m. I sat there and suffered. I was terrified. I wasn't allowed to walk out the gate. They will exit you."

Some residents do not know how to make a request. One resident who had been living at the shelter for several months says, "I'm not aware of a complaint system or way to formally request an accommodation." He adds, "I wouldn't ask because of the attitudes" of the staff.

SAFEPlace

The residents we talked to at SAFEPlace are also unaware of any written policies for requesting an accommodation. All agree that the process is unnecessarily burdensome and that staff members routinely deny simple requests.

One resident asked for an accommodation to ease the pain caused by the extensive injuries inflicted by her ex-husband. "My ex attacked me in 2015," she explains. "I was in a coma for two weeks. He threw out my discs. He put me in a chokehold, which pressed my carotid arteries against my throat. I had to have a metal rod put in to separate the artery from the throat, because the injury was preventing blood flow to my brain." To accommodate her injuries, she asked the director for an extra mat and pillow. The director "told me I needed a doctor's note," she says. "Then, after I brought her the note, she told me she didn't have an extra mat and I couldn't bring my own." The woman has never received the accommodation.

Staff deny people with disabilities and people who are elderly access to the Courtyard.

Staff members systematically discriminate against people with special needs by denying them access to the Courtyard when they exhibit symptoms of mental illness or appear to be too disabled, ill, or elderly to take care of themselves. For example, staff members have refused to allow some people into the shelter because they use wheelchairs, are frail or elderly, or exhibit symptoms of mental illness. As one woman puts it, "The staff told me the Courtyard does not have the stuff to deal with people in wheelchairs," adding, "[the director] told me to lose the wheelchair if I wanted to get in." An employee says, "There are a lot of older adults. Staff never help them. They won't let them in to the Courtyard if they can't help themselves." The employee also recalls the staff refusing entry to a man who transferred from a psychiatric inpatient hospital to the Courtyard in his hospital pajamas. "The staff wouldn't take him in because they said he can't take care of himself," she says. "He slept on the sidewalk that night."

Staff neglect residents with disabilities and residents who are elderly.

The Courtyard

To be sure, the records we reviewed indicate that staff members at the Courtyard attempt to connect people to a high level of care, and sometimes they are successful. According to a quarterly report to Orange County Community Resources, in a three-month period, the Courtyard "successfully transitioned 20 residents whose service needs far exceeded that of a shelter/bridge housing program, resulting in individuals, many of whom were incontinent and/or immobile to be placed in much more appropriate residential setting."

Yet, our findings indicate that the staff routinely neglects residents forced to remain in the Courtyard due to lack of alternatives until their conditions rise to the level of a medical emergency. Staff members at the Courtyard, as one resident puts it, "don't give rides to the hospital unless it's in an ambulance." Two volunteers observed that staff do not help people with walkers carry their food during meals.

Ms. Filicko provides a case in point. In April 2018, she was suffering from nausea and found it increasingly difficult to breathe. When her condition worsened, she asked the staff at the Courtyard for a bus pass — a resource typically available to people living in shelters — so she could seek medical attention from her clinic. The staff told her they did not have any bus passes. She was too sick to walk to the clinic, so she rested on her cot, hoping her condition would improve. As a fellow resident recalls, however, "She passed out on the floor from being so sick, and staff called the paramedics. It was her third

week being sick." Ms. Filicko spent the night at the hospital, where the physician told her she had pneumonia and wrote her a prescription for antibiotics. The next day, she called the Courtyard to request a ride back from the hospital. The staff member who answered the phone refused and told her she would need to walk back. "Walking home was so hard," she says. "It was a terrible experience. I was so sick."

Bridges at Kraemer Place

Our findings indicate that residents at Bridges at Kraemer Place also go without care. "People at Kraemer aren't being cared for," says one resident. "Just basic necessities. Feeding us, that's about it." According to another resident, four or five people are incontinent. "They wet themselves," he says, "and need diapers. Some are older or not right in the head. They dirty the chairs, which have material seating, not plastic, and are hard to clean." Another resident says, "Some people are old, or not all there, or disabled. They just don't know how to take care of themselves. They poop and pee everywhere." A resident recalls staff neglecting a woman who came to Bridges at Kraemer Place after a three-week stay in the hospital by failing to help her access food when she was unable to get it herself. Three witnesses at Bridges at Kraemer Place described how the night staff left an elderly, ill man lying in his feces for three hours after he defecated in his bunk bed. A resident recalls asking the staff to take care of the situation at about midnight, and the staff members asking him, "What do you want us to do?" The resident says, "It seemed like the staff didn't think it was their job to take care of it." When he insisted that they clean up the mess, they evicted him. By 3:00 a.m., several people who were overwhelmed by the odor pleaded with the staff to help the sick man. One resident touched the man to determine if he was still alive. "The staff didn't want to check," the resident says. Finally, a staff member rousted the man and made him walk, unassisted, to the shower. One resident recalls, "I saw a large pile of poop by the men's bathroom door. There was a pee trail from the door to the man's bed."

A volunteer who worked in the food service line for several months observed that the staff routinely ignored the needs of people who were frail, elderly, or disabled. The volunteer says he cannot recall ever seeing a staff member assist a person who needed help getting food. In fact, he notes, staff members often left the common cafeteria area to hang out in a staff room, leaving him to serve food to 200 people by himself. "When I've gone in the staff room," he recalls, "I see staff just hanging out, playing on their phones, and doing nothing."

SAFEPlace

Residents at SAFEPlace report that people with special needs experience similar levels of neglect. As one resident notes, "The staff are not equipped or set up to take care of an elderly person who can't keep her bladder or someone who is incapacitated or disabled," adding, "Those people fend for themselves until someone calls 911."

The role of caretaking falls on residents.

When staff members at the three shelters neglect the needs of residents, fellow residents often assume the role of caretaker.

The Courtyard

Ms. Filicko watched with growing alarm as four elderly women — one in her 90s — went for three months without showering because the Courtyard staff failed to provide them with assistance. As she recalls, the staff were reluctant to touch the women, who were covered with head and body lice. Finally, Ms. Filicko took it upon herself to get the women out of bed and treat their hair with RID, which she bought from the pharmacy with her own money. One by one, she gave them showers. To her horror, their skin bled and peeled off with their clothes because they had not showered for so long. Ms. Filicko made their beds that night, threw away their used sheets, and helped them lie down. After two days, a physician examined them, and ordered two of the women hospitalized. A week later, a staff member told Ms. Filicko that the two hospitalized women had died. "I don't understand why a judge or somebody else doesn't care," she says. "What if it was one of their family members? Their mother? It feels like a concentration camp."

A staff member at the Courtyard observed a resident helping a veteran with his catheter. "He's almost 90 years old," the staff member says. "The staff didn't even want to take him to the Social Security office [to get his benefits], so the guy who is helping him with his catheter took him."

Bridges at Kraemer Place

At Bridges at Kraemer Place, a resident became increasingly concerned as an elderly man's health deteriorated rapidly over the course of several days. "His facial expressions became strange," she says. "He couldn't talk." By her account, staff ignored the man's needs, so she began helping him. "I was serving him water," she says, "because I could tell he couldn't help himself."

Another resident at the Bridges at Kraemer Place notes, "There are guys who have problems, pooping or peeing on themselves. We will clean it up; ask for a mop. The staff would just scold you, instead of helping you."

A volunteer observed that residents stepped in to help disabled and frail individuals who were unable to manage the food line. "Residents came and got food for people who couldn't service themselves because of their disabilities, mostly people with walkers," he says. "They would take the time to stand in that long line twice. I'm assuming if residents didn't help each other the most physically disabled would have to do it themselves."

SAFEPlace

Several women living at SAFEPlace describe the around-the-clock care they provide for fellow residents who are ill or disabled. As one woman puts it, "The staff are neglecting people who have needs. We are the ones stuck with smelling the fecal matter and urine when we do the caretaking. We know it is a liability. None of us here should be doing it. But we can't just ignore it."

Some of the residents have extraordinarily high levels of need. One woman arrived at SAFEPlace with temporary blindness. "She had been beaten to a pulp in a park," a

resident says. “One of the residents started taking care of her. Staff never lifted a finger once.” Another resident is in her 90s. According to one of the women, “[The resident] wets herself. Sometimes she would be in her wet bedding for days. She has osteoporosis and is bent over. [Another resident] would take her to the bathroom and then change her bedding.” One woman arrived at SAFEPlace in a wheelchair. “She didn’t have use of her legs or her arms,” a resident recalls. “Her arms were sort of curled up.” Another resident adds, “I helped her take showers. I washed her hair. I didn’t mind. I clothed her, and brought her food or a drink. Other residents were doing it as well. Staff wasn’t doing it.” But meeting the woman’s round-the-clock needs soon became draining. “It got tedious,” says one of the women. “It is a big job. [The director of SAFEPlace] should have recognized it and provided her with some assistance. They should have paid us as caretakers. But we didn’t approach it that way. We just did it because we were friends.”

Sexual, Physical, and Verbal Abuse

“The staff would harass me when I was coming out of the bathroom, when I was going in or out of the Courtyard, when I was watching TV. I noticed that they hit on anyone who was relatively attractive. ... That’s why I don’t want to go back to the Courtyard. The only time they didn’t have access to me was when I was in the women’s section at night.”

- Resident at the Courtyard

“The resident was upset, but he wasn’t threatening anyone. He wasn’t dangerous. [The staff member] grabbed him from behind, around his arms and chest, picked him up, and threw him to the ground. After he was thrown to the ground the guy got up. He started walking toward the exit. [The staff member] screamed at him all the way out, saying ‘You get the fuck out of here, you fucking asshole.’”

- Staff member at the Courtyard

The staff lay hands on people all the time.

- Staff member at the Courtyard

Gender-based discrimination and sexual abuse

For women, being homeless comes with a profound threat of sexual violence — one study found that the risk of rape was about 40 times greater for women who are homeless when compared with the general population of adult women.[30] [31] Emergency shelters are supposed to provide women with a haven from these dangers. But too often, they find that the shelters are not safe either, putting them in the impossible position of choosing between the hazards of the shelter and the perils of the streets.

The patterns that emerged in our investigation provide a harrowing portrait of the gender-based discrimination and sexual abuse perpetrated by shelter staff. Many women endure this treatment, ranging from unwelcome sexual advances to sexual assault, in exchange for a shelter spot. The consequences of mistreatment are significant: Experiencing sexual abuse is associated with serious long-term physical and mental health problems, including symptoms consistent with post-traumatic stress disorder.[32] Harassment and abuse based on person's sex is an unlawful form of gender-based discrimination under state and federal law.[33]

Transgender and non-binary individuals — trans women in particular — experience alarming rates of abuse and discrimination,[34] the harms of which are only compounded by extraordinary vulnerability to homelessness.[35] Unfortunately, many transgender people experience discrimination while accessing or trying to access homeless services. One study found that 70% of transgender people staying in homeless shelters experienced some form of mistreatment there.[36] The same study found that more than half (52%) of those who stayed at a shelter in the past year were verbally harassed, physically attacked, and/or sexually assaulted because of being transgender and that 65% of transgender people who have experienced homelessness have also been sexually assaulted in their lifetime.[37] Our investigation uncovered a discriminatory policy that unlawfully segregates transgender shelter users into a separate sleeping area at the Courtyard. This formal policy codifies the shelter's disparate treatment of transgender residents in violation of California law and HUD regulations.[38]

The Courtyard

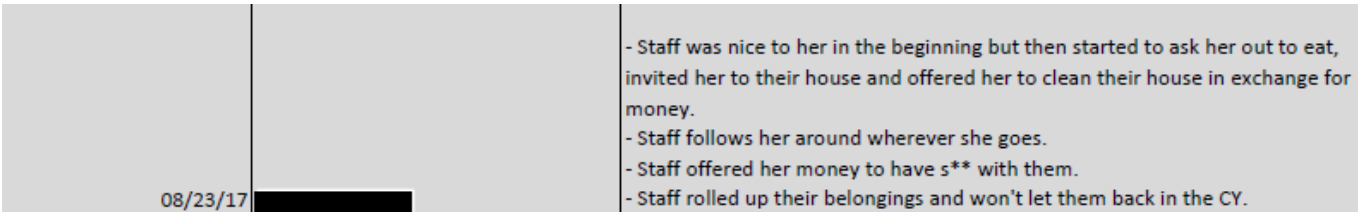
Sexual harassment

Seventeen female residents we talked with said that male staff members sexually harass them and stalk them. "Yes, there is sexual harassment," one resident says. "Often, it's eyeballing the women, saying, 'What's your name? Come over here.'" The staff members "shower women with compliments" in an effort to groom them for sexual advances, she adds. "It is not innocent." A former resident recalls, "The staff were rude and mean. They also harassed. They would say things like, 'Oh, baby. You have a good body.' That is just how they play. They did it to me and I saw them do it to other women." A male resident observes, "The staff member in the back, who manages the [storage] bins, would talk to the girls when they were evicted and clearing out their stuff. Very sexual and inappropriate. They would hit on them while the women were crying because they didn't know where they would go that night." He continues, "I saw the staff verbally harass the women. Things like, 'You're looking fine.' 'How are those melons doing?'" A female resident says a staff member sexually harassed her by the bins. "He was flirting with me — something about having sex," she says. Another woman describes experiencing sexual harassment from the moment she entered the shelter. "The security person tried to hit on me when I first started staying at the Courtyard," she says. "He really came at me. Flirting with me, telling me I'm pretty, I have a nice body. I told him I haven't gone out with anybody since my husband died and I'm not interested." Another former Courtyard resident said male staff singled her out for compliments and special attention. She said they look at women in a certain way:

"Especially when you are pretty you get targeted. If you look good, and you are vulnerable. They use their power over you."

Leslie Shacklett stayed at the Courtyard for a month in the fall of 2017. "I know it was November," she says, "because they served a Thanksgiving dinner while I was there." What stands out to her is the incessant sexual harassment she endured. As she recalls, "The harassment was on a daily basis. Always, 'Hey baby.' 'You've got great legs.' 'You've got nice titties.' 'I want to lick your pussy.'"

Excerpt from Courtyard Complaint Log obtained from the Orange County Clerk of the Board of Supervisors



One resident noticed that the staff would only make suggestive comments when her husband was away. "They know what they are doing," she says. The harassment started soon after she entered the Courtyard. "[A staff member] introduced himself," she says, "smiled, told me I was beautiful and said that if I needed anything to make sure I let him know." The harassment makes her feel uneasy. "You feel them watching you," she says. "It makes me uncomfortable."

Offering shelter rights or privileges in exchange for sexual favors

Several residents and former residents report that they suspect staff members of exchanging shelter privileges for sexual favors. Ms. Shacklett became suspicious when male staff members combined sexual come-ons with offers to open the gate. "At first I didn't know what that meant," she says. "Why would you let me come in and out when everyone else is locked in for the night?" Then she began to notice that some women had privileges to enter and exit freely after curfew. "I figured you got privileges if you gave in to their demands," she recalls.

One staff member seemed to be especially fixated on her. He told her that he had a car and an apartment, and offered to take her away from the Courtyard. She interpreted his offer to mean that he would allow her to live in his apartment if she had sex with him. Although she repeatedly rebuffed his advances, she says, he continued to harass her.

In a country-generated log that summarizes complaints lodged against the Courtyard, a woman complained that staff "was nice to her in the beginning but then started asking her out to eat, invited her to their house and offered her to clean their house in exchange for money" and "offered her money to have s** with them."

A former employee suspected a male staff member of exchanging special treatment for sexual favors when she observed him giving a female resident presents and privileges. The staff member "gives her pretty much everything she wants," the former employee says, "and she doesn't deal with anyone except him. He's bought drugs for her, given

her money and cigarettes. Given her food when he's told other people there's no other food. Has moved her three or four times to wherever she wants to be. If she doesn't like someone she tells him, and he'll make sure that person gets kicked out."

Leering and Voyeurism

Leslie Shacklett says she will never forget the night a staff member followed her into the women's restroom. He stood in front of the stall she was in, which did not have a door, and watched her while she used the toilet. "It was maybe 1 or 2 in the morning," she says. Initially, Ms. Shacklett froze in horror. Then she collected herself and told the staff member to get out. "I kept repeating, 'Excuse me. Excuse me. Bathroom,'" she says. He continued to stare at her for a couple of minutes, and then left the restroom without speaking. Ms. Shacklett found the experience frightening and humiliating. "I'm pretty modest," she says, adding, "This is not OK."

Another resident at the Courtyard noticed a small hole in the shower wall. The hole, which was torso level, was about the diameter of a pen. Suspecting that it was a peephole, she peeled the wrapper off her soap bar and shoved it into the hole. "I started to take a shower," she recalls, "and the wrapper gets sucked into the peep hole. I can see that one of the workers is peeping through the hole. I'm still taking a shower." The incident terrified her. "I slipped and screamed," she says. "I put my hand on the peephole." The next day, with the encouragement of a CityNet worker, she wrote a letter to her mental health worker reporting the incident.

Sexual violence

Several residents reported witnessing or experiencing sexual violence. "I have seen male staff members coming out of the women's restrooms at night," a male resident says, "and have seen two of the male night staff touch women on their behinds." He adds, "You don't take advantage of people who are at a low point in their life already."

A female resident says that three male security guards ordered her to submit to a strip search, and evicted her when she refused. It started when a female staff member accused her of passing drugs to a woman in the next bathroom stall. The staff member ordered the two women to the front desk, where a male staff member searched their belongings. When he was unable to find any drugs, he told them, "Now we have to strip search you." According to the resident, two more male staff members approached the table. "The female staff said she wasn't going to have anything to do with it," recalls the woman. "She shook her head and walked away, leaving the two of us with the three male staff members." One of the men told the two women that he would evict them if they refused to submit to the strip search. Stunned and angry, the resident tried to hand her phone to him. "I told him he could call the Santa Ana Police to send a female officer over to search us if he was so sure I had drugs on me," she says. "I told them I didn't have anything to hide." The staff members refused, and evicted the two women. "The general message of the Courtyard," the resident says, "is do what we say or we will kick you out."

Other residents reported seeing a male staff member pulling a naked woman out of the shower, ostensibly for taking too long. A worker who does outreach at the Courtyard

says, “Woman have told me the guards have sexually assaulted them. Touched them inappropriately on the breast.”

David Adams, a former resident of the Courtyard, describes seeing a male staff member physically push a female resident who was arguing with another resident. “When she went to sit down,” Mr. Adams recalls, “he ripped her shirt off in front of everyone. She wasn’t wearing a bra.”

Bridges at Kraemer Place

Lack of oversight leading to a staff member previously fired from another local shelter for sexual misconduct continuing to work in Orange County shelters.

The investigation uncovered evidence that a staff member at Bridges at Kraemer Place had been previously fired for sexual misconduct at a shelter in Laguna Beach.

Friendship Shelter, the nonprofit operator of an emergency shelter called the Alternative Sleeping Location, fired the staff member after a female resident of the ASL forwarded texts she received from him (and another male staff member) to a Laguna Beach resident who advocates for the rights of homeless people. “They were really graphic,” the advocate says. “Engorged penises, things like that.” He immediately contacted the ACLU SoCal and the previous and current executive directors of Friendship Shelter. The current executive director told him she had also received the texts. “She came over to our house,” the advocate recalls. “She said she would handle the situation by firing the two men, and she did.”

Several residents who lived at the ASL when the executive director fired the staff member confirm that he subsequently worked at Mercy House’s cold weather shelter program and at Bridges at Kraemer Place. We have received unconfirmed reports that the former ASL employee is now on staff at The Link, a recently opened emergency shelter operated by Mercy House. The man’s continued employment in Orange County emergency shelters points to the lack of an effective system-wide mechanism for weeding out staff members who engage in sexual misconduct, potentially exposing shelter residents to sexual predation.

SAFEPlace

Sexual harassment

At SAFEPlace, we talked with four women who report surveillance by male security guards, which they experience as a form of sexual harassment and a violation of their privacy. As one woman observes, “There is no privacy. A male security guard walks around [the sleeping area] in the early morning. He makes two rounds.” She has told the guards that the rounds are inappropriate. Another woman adds, “They walk around the beds and stare right into our beds. They are staring at our body parts. It makes me feel so uncomfortable. A female guard should be walking around.” A third woman agrees. “[A security guard] will walk past me, lean over my bed, and say something like, “How do you sleep through this?” she says. “It makes me feel uncomfortable,” adding, I never wear dresses to bed because I might be exposed.”

All four women also report that male security guards sexually harass residents. One woman recounts an exchange with a security guard who asked her, “Hey, aren’t

you getting out of here soon? When are we going to go out for a drink?" A security guard told another resident, "I see you're not wearing a bra today." She says, "Nothing's changed," adding "That security guard still walks around staring at boobs, and four girls in here say he keeps walking around them and staring at them." She says the security guards also make suggestive remarks, including speculation about her sexual experience, which makes her uncomfortable.

"One security guard tells me, 'You're an older woman, you must know a lot,'" she says, adding, "It seems like he's watching me."

One resident notes that the constant presence of male security guards in the sleeping area of the shelter is triggering for women who, like herself, have a history of interpersonal violence. "My first husband was a violent stalker who attacked me and my son," she says. "He would always attack me in my sleep. I cannot shut it down. I will sleep sitting up because I am afraid to sleep lying down."

Segregation of transgender residents at the Courtyard

The Courtyard has a written policy of segregating transgender residents in a separate "overflow section" for sleeping, rather than allowing people to select the sleeping area that corresponds with their own gender identity. This policy undermines the safety, dignity, and basic right to self-determination of transgender people experiencing homelessness. Moreover, lumping transgender individuals into a category called "overflow" is intrinsically demeaning, signifying that they have no rightful place within the program.

We did not speak to anyone who was harmed by this policy in the course of our investigation, but we are nevertheless concerned about it as it codifies a practice of discrimination against transgender people in violation of California law.[39] Rather than having a policy that assigns sleeping areas to people in violation of their gender identities, the Courtyard should adopt a policy that respects a person's gender identity, name, and pronouns.

Excerpt from Contract #17-23-0036-PS Between the county of Orange and the Midnight Mission for Courtyard Transitional Center Services, Page 27

- Sleeping Areas - Up to 425 shelter beds will be made available each night, CONTRACTOR will configure the site, with COUNTY-provided partitions, to accommodate a variety of needs. Because the area designated for shelter has covered and uncovered areas, some areas may be susceptible to flooding or rain exposure during inclement weather. CONTRACTOR's site plan involves the use of mobile metal stations to section off areas for various populations. This will allow area sizes to be increased or decreased based on the number and types of people seeking shelter each night. The number served in each area will vary based on demand and operational considerations. Beds will consist of a foam sleeping mat and a blanket or blankets. Guests will be assigned a bed and blanket through the intake process. Sleeping areas will allow for the following sections/bed types:
  - Adult men
  - Adult women
  - Disabled Couples
  - Guests with Pets
  - Worker Section (those who are employed and homeless)
  - Overflow section (as needed for overflow, transgendered, re-entry drop-offs)

Physical abuse at the Courtyard

Multiple studies have found that homeless people are victims of violent crimes at much higher rates than people who are housed.[40] One of the main reasons people seek shelter is for protection from these dangers. Yet, our investigation indicates that residents of the Courtyard may be subject to physical abuse by the very staff assigned to protect them,[41] often as way of asserting authority and control.[42] [43] Physical abuse not only injures them physically, but can also have continuing harmful effects on their mental health.[44] Physical violence against residents is a basis for civil claims for personal injury and criminal charges. But to the extent that residents are targeted for abuse on the basis of their race, national origin, gender, or disability, they may also be victims of bias-motivated hate crimes, which can carry special civil penalties for perpetrators.

Our findings point to a pattern of physical abuse that began shortly after the opening

Correspondence between Jorge Macias, Excelsior reporter, and the Orange County Public Information Officer

Golden, Jack

From: Atkinson, Cymantha
Sent: Wednesday, November 23, 2016 5:11 PM
To: Media Advisories
Subject: Media Contact: Excelsior re Disgruntled Clients of the Courtyard

MEDIA CONTACT NOTIFICATION

Brief summary: Jorge Macias contacted the County PIO with a series of questions regarding reports of disgruntled clients of the Courtyard.

New or Follow-up: New

Staff Contacted: Jean Pasco/Cymantha Atkinson

Date/Time of Contact: Wednesday, November 23, 2016

Media/Reporter: Jorge Macias - Excelsior

Phone/Email: Jorge.macias@hotmail.com

Request/Questions Asked:

I am planning to publish testimonies of at least three homeless who have been using the services at The Courtyard since it was open and report that they have being harassed by security guards. In addition, they report to us acts of physical and verbal aggression by the security guards. One of them was expelled from The Courtyard.

I have in my possession a handwritten paper where they made the denunciations.

My questions:

1. Are the Orange County authorities aware of the alleged mistreatment?

2. What do authorities do when there are reports of abuse, physical or verbal aggression, and discrimination? In one instance a security guard told a Mexican homeless: "There's nothing here for you F*ucking wetback."

3. What kind of professionalism is required of security guards to be hired and served at The Courtyard? Are they part of the staff of The Midnight Mission? What security company do they belong to?

4. I have reports that in The Courtyard there are happening sexual acts and those who must ensure the safety of the homeless allow it. What do you know about this situation?

5. I have reports drug-dealing inside the Courtyard. What do you know or what the authorities are doing in this regard?

6. I have reports of physical assault against an injured person on the back who was abused and thrown to the floor by a guard while sleeping on four mattresses. What the homeless people would expect from the authorities and to respond to their concerns?

Excélsior

LOCAL CONDADO DE ORANGE

Denuncian presunta discriminación en refugio para indigentes de Santa Ana

Expresiones raciales con insultos y maltratos son presuntamente parte del trato diario que reciben indigentes latinos o mexicanos por parte de otros desamparados y de parte de los "guardias" de seguridad de Midnight Mission a cargo del refugio temporal "The Courtyard" en Santa Ana, alegan algunos demandantes entrevistados por Excelsior.

Insultos como "¡Púdranse espaldas mojadas, ustedes no tienen derechos aquí!", "¡váyanse! latinos sucios y apestosos!" son recibidos presuntamente en este lugar creado para combatir la indigencia en el centro cívico de esta ciudad.

[English translation] *Racial expressions with insults and abuse are allegedly part of the daily treatment that indigent Latinos or Mexicans receive from other homeless people and from the security guards of "The Courtyard" the Midnight Mission temporary shelter in Santa Ana.*

Insults such as "Fucking wetbacks, you have no rights here!" or "Go away! Dirty and stinky Latinos!" were allegedly received in this place created to fight poverty in the city's Civic Center.

of the Courtyard. Moreover, as email correspondence obtained by the ACLU SoCal makes clear, Orange County officials were aware of staff members' misconduct almost from the beginning. On November 23, 2016, less than two months after the grand opening of the Courtyard, a journalist from Excelsior, the Spanish-language newspaper, emailed the county with reports of staff engaging in verbal and physical abuse. "A security guard told a Mexican homeless: 'There's nothing here for you F*ucking wetback," Jorge Macias wrote, describing one of many complaints of harassment. He added, "I have reports of physical assault against an injured person on the back who was abused and thrown to the floor by a guard while sleeping on four mattresses". In her response to Mr. Macias' query about physical and verbal assault at the Courtyard, the county public information officer said, "The county and the Midnight Mission are working diligently to address feedback provided and respond effectively to ensure we can assist the most people we can with this project. The county tracks every complaint seriously and will work to ensure the highest level of professionalism from our operator."

However, our investigation indicates that the county failed to remedy the problem. Almost a year later, in October 2017, a resident filed a complaint with the county about being "assaulted/battered at the [Courtyard] by a female staff in front of Authority and nothing was done about it."[45] In what follows, we describe four instances of physical abuse at the Courtyard that occurred between October 2016 and September 2018. According to the accounts we have collected, staff members who assault residents often keep their jobs and continue to interact with vulnerable residents.

Igmar Rodas
Advocate

Igmar Rodas, an activist and advocate for people experiencing homelessness, witnessed the assault described in Mr. Macias' email to the county PIO and reported it to Mr. Macias. Mr. Rodas recalls, "As I was talking with the guy who was reporting verbal abuse by staff, I noticed another guy in the first cubicle, who I had known for a long time. He's laying on green mats. The mats were about 3 to 4 inches thick. I hear a security guard, who stands over him and asks why he has extra mattresses and tells him to 'get the fuck off the mattresses.' I started observing. I hear my friend tell him that he has a bad back, he can't move, and that [the shelter director] approved the extra mats. The security guard said, 'I don't give a fuck who approved what, you need to get up. You're not allowed to have more than one mattress.' He was screaming by this point ... As the security guard is going off, he goes into the cubicle, grabs the top mattress, and pulls it out from under my friend. He fell into the ground hard. He rolled once. I heard the thump. He laid on the ground, and started complaining about his lower back."

Michael Diehl
Former Courtyard resident

One evening in April 2018, as he entered the Courtyard, Michael Diehl explained to the staff that he was late taking his anti-seizure medication. He told them he needed to get the medicine, which was at his cot, as quickly as possible. As usual, he emptied the contents of his pockets and bags at the front desk so the staff could search his belongings, and then turned to walk toward his cot. At that moment, a security guard ordered him to submit to a full body search. According to Mr. Diehl, this was the first time that a security guard had demanded to search his body. Mr. Diehl again stressed to the security guard his urgent need to take his medication, and invited the guard to walk with him to his cot. He explained to the guard that he was willing to submit to the body search after he took his medication.

"The next thing I know," Mr. Diehl recalls, "the security came up behind me, bear hugs me, and picked me up off my feet, then body slammed me to the floor, then immediately jumps on top of me with the intent to try to restrain me by pinning me down to the floor." More security guards came over and together they pushed Mr. Diehl out the front door.

David Adams, a resident, witnessed the assault. "He was just trying to get to his seizure medication," Mr. Adams says, "when the guy bear-hugged him and threw him down." Mr. Adams called 911 on behalf of Mr. Diehl. "When I called the police," he says, "the shelter supervisor got mad at me. Told me 'It's not your place.' But at what point were they going to make the call? It wasn't happening so I did it." He then retrieved Mr. Diehl's medication and brought it to him. Ms. Filicko remembers holding Mr. Diehl's dog during the assault. Watching a staff member assault Mr. Diehl terrified her, she says.

After Mr. Diehl gave his account to a police officer, the staff at the Courtyard informed him that he could not stay for the night and that he needed to find somewhere else to sleep. "A police officer doesn't even have that kind of right to violate a person in such a manner that these people have done," he says. "They need to be fired from their positions and held responsible for their actions before an even worse event occurs."

Michael Diehl and his dog, Osiris.

In September 2018, a man who had not registered as a resident of the Courtyard fell asleep on a spare cot without a mattress. At closing time, a staff member woke him up and told him he had to leave. Just as the man was getting up, the staff member recalls, a second staff member came up and screamed at the man repeatedly, telling him, "You've got to get out." The man was groggy and disoriented, according to the first staff member, and he reacted. "He got up and threw his food," the staff member says. "He went toward the exit and kicked a trashcan. Then he started walking toward the smoking area. But he wasn't threatening anyone. He wasn't dangerous." At that point, the second staff member grabbed the man from behind, around his arms and chest, picked him up, and threw him to the floor. The man stood up and left the Courtyard. "The staff member screamed at the guy all the way out," the first staff member recalls, "saying, 'You get the fuck out of here, you fucking asshole.' Then he walked back and told the other staff members, 'Yeah, I did my job. Now you're outta here.'"

The next day, the first staff member recalls, the man who perpetrated the assault was back at work as if nothing had happened. "The staff lay hands on people all the time," the first staff member says.

When a resident argued with his wife in the Courtyard, a staff member called his probation officer to report the fight. The probation officer sent the man to jail for a short stay. When the jail staff discharged him, at about 3:30 a.m., the man's wife met him and together they walked past the Courtyard on the far side of the street. The man, who is a retired Marine, yelled out, "Where is the motherfucker from L.A. who put me in jail?" At that moment, he recalls, "The gate to the Courtyard opened and the staff member who called probation on me came out. He ran across the street and I kept walking. He followed me and assaulted me." According to the man, the staff member picked him up and slammed him against the wall. "There was no resistance on my part," he says. "He picked me up again and slammed me against the wall again."

Later that morning, the chief of security at Midnight Mission informed the man that three people at the Courtyard — two residents and one employee — witnessed the assault. The chief of security said that the Courtyard suspended the security guard for two weeks. The man observed that the security guard was back on duty after the suspension.

Residents can store their bikes, but can't ride them off the property.

Residents must take shuttles to and from the Bridges at Kraemer Place.

Restrictions on freedom of movement at Bridges at Kraemer Place

Like people using any other voluntary program, residents at emergency shelters should have freedom of movement. To restrict residents' ability to move freely in and out of the shelter is a deprivation of liberty that robs them of autonomy, self-determination, and dignity. It turns the shelter into a detention center and is a violation of fundamental rights guaranteed by the U.S. Constitution.

Our investigation indicates that Bridges at Kraemer Place restricts residents' freedom of movement. Residents may not enter or exit the premises on foot. Instead, they must use shuttles to enter and exit the shelter. Shuttles leave early in the morning, drop people off at designated locations, and return them to the shelter in the evening. The program prohibits residents who do not take a shuttle and do not have a car from leaving the shelter. The "Shelter Expectations" document says, in part, "All guests are expected to use the provided shuttles for transportation on to and off of the property. We practice a strict no walk-up policy. Guests are expected to remain on the property at all times unless when leaving for the day."

According to residents we spoke with, the program offers shuttle spots to about 45 people a day, leaving the rest – around 155 residents – locked in unless they have access to a personal vehicle. Shuttle spots fill up quickly, and residents report that they wake up as early as 4:30 a.m. to put their name on the list.

Several people told us they experience the shelter as a form of confinement. As one resident observes, "It feels more like a concentration camp than a shelter. You've got to get up early to sign up for the buses which leave periodically during the morning. Otherwise, you have to stay there. You can walk outside, but not outside of the fence ... The fence is locked ... There is a guard at all times at the emergency exit. The security guards carry handcuffs and Mace."

Verbal abuse

Emergency shelter staff should treat residents in a professional and compassionate manner to mitigate the many stressors that accompany homelessness. Instead, our investigation indicates that staff at all three shelters verbally abuse residents, aggravating the stress they already experience. Exposure to verbal abuse, defined as "the infliction of mental anguish through yelling, screaming, threatening, humiliating, infantilizing, or provoking intentional fear,"[46] is demoralizing and frightening. It is also associated with elevated risk of psychiatric disorders such as depression and anxiety,[47] and with an increase in the number of psychiatric symptoms, including suicidal ideation and depressive symptoms.[48] The verbal abuse we uncovered violates a range of civil rights statutes, and exposes the county and shelter operators to lawsuits for the personal injuries suffered by victims of intentional infliction of emotional distress.

The Courtyard

The information we gathered from interviews and complaints filed with the county[49] indicates that staff members at the Courtyard engage in systematic and aggressive verbal abuse. "Staff use profanities when talking with us constantly," a resident observes. "Things like, 'We'll start the bed count when we're fucking ready to.'" Another resident says, "They yell and curse at us all the time." As described by one resident, "They say things like, 'shut the fuck up,'" adding, "Even the sheriffs don't talk that way anymore." One resident notes, "It's worse than how you are treated in jail."

Staff members often use voice amplification when yelling at residents, which makes the effect of the verbal abuse even more startling. An employee notes, "Staff are still screaming at people with the megaphone."

According to residents, staff members become verbally abusive for perceived slights, no matter how trivial. In one example, a staff member interrupted a resident who was chatting with another person, and the resident told the staff member that he wanted to finish his conversation. "That's when he went off," the resident recalls. "He came around the desk and got in my face. He was lunging at me and two of the other staff grabbed him to prevent him from assaulting me. He was screaming at me, calling me a motherfucker and a son-of-a-bitch and anything else you could think of."

Jorge Macias, the Excelsior journalist who contacted the county public information officer about allegations of abuse and racism at the Courtyard, published a news article quoting several Latino residents of the shelter who described abusive, racist treatment based on their race and national origin. According to Mr. Macias' reporting, staff members subjected Latinos using the Courtyard to racial slurs like "wetback," told them that they are "dirty and smelly," ordered them to shut their mouths about disparate treatment because they had no right to use the shelter, sent them to the back of the food line, and turned them away from the shelter based on their race. Residents, with the assistance of Mr. Rodas, tried to make a written complaint about the treatment, but according to Mr. Macias' reporting, the county and the Midnight Mission claimed not to have received the complaints. Our review of the county's complaint log also shows a complaint about cultural racism at the Courtyard.[50]

The people we talked to describe the verbal abuse as deeply dehumanizing. "We're treated like animals," says one

resident. Another resident says, "The staff treat us like we're inmates in jail, or like we're children." A woman who used the Courtyard for showers and meals recalls one staff member saying, "Get the fuck out of here" or "I don't give a fuck," when she asked him questions. "I felt like my feelings didn't matter," she says. "Like a piece of shit. Like a nobody."

Many residents of the Courtyard report that the constant exposure to verbal abuse makes it difficult for them to manage their mental health conditions. "Being harassed by these huge staff members made me walk on eggshells," recalls a former resident. "It would make anyone's mental health worse. I've never been diagnosed with anything, but I think I have depression. Being at the Courtyard, in such a threatening environment, made it worse."

> **"I felt like my feelings didn't matter. Like a piece of shit. Like a nobody."**

A young woman who manages panic disorder, bipolar disorder and schizoaffective disorder says her symptoms flare up when staff members denigrate her. When this happens, she avoids the Courtyard until her symptoms ease. "If I come back near the Courtyard and become overwhelmed with anger and anxiety again," she explains, "I know I need to stay away longer. So I remove myself from the situation until those feelings pass, and then I can use the Courtyard again." She adds, "Sometimes it takes days." In her view, staff members should treat residents with compassion and respect. "Life has been hard," she says. "I'm sorry, but everyone needs love. We need it to survive. Sometimes they do the opposite at the Courtyard. They make you feel bad about yourself."

Another woman decided she needed to avoid the Courtyard altogether in order to manage her symptoms. "The staff are disrespectful," she recalls. "They talk down to us, and they try to push my buttons. I can't stay there because they push my buttons."

For some residents, the verbal abuse reportedly exacerbated suicidal urges. "Suicidal thoughts pop into my head too frequently," one resident says. "When [staff members] start harassing me it starts." A former resident, who lists depression and anxiety among her mental health diagnoses, describes how the verbal abuse she experienced at the Courtyard triggered a suicide attempt. "I tried to be a good resident," she says. "I donated my time, did odd jobs. But it didn't matter. The staff were still rude and mean." Ultimately, she ingested 100 pills and was hospitalized on a psychiatric hold for two weeks. As she says, "I tried to kill myself because I was sick and tired of the bullshit at the Courtyard. I was sick of my own bullshit. I just wanted it to end."

Residents say that witnessing staff verbally abusing other residents also wears on their mental health. "It makes you feel so unsafe and uncomfortable when you hear staff yelling at people," recalls a previous resident. "All the body language, all the shit." She continues, "This is abusive, crazy shit. A couple of times my anxiety got too high ... Being at the Courtyard made me feel suicidal. But I would go back if they let me because I don't have anywhere else to go."

Residents say that the staff often uses verbal abuse as a tool of power and control. For example, they have observed staff members combine denigrating language with orders to vacate the premises or to stop talking or expressing emotions. "If I cry," one resident notes, "the staff at the Courtyard says, 'Get out of here. We don't need that shit.'" As another resident puts it, "Even when you talk to them the right way they get mad and try to toss you out."

> **"I don't have anywhere else to go, and I'm terrified."**

Many residents maintain that the staff's abuse of power, fueled by verbal abuse, is the most intolerable aspect of the shelter. As Ms. Filicko says, "What is the worst part about this place? It is a power thing. The staff boss you around." She continues, "I do my best to follow the rules. I don't have anywhere else to go, and I'm terrified." Another resident observes, "They order us around. If I don't say 'yes, please, thank you,' next time it's 'Off with your head.' What do I mean by that? 'Roll it up – get out.'" One resident sums it up this way: "People need to know it's a dictatorship there."

Bridges at Kraemer Place

A similar story unfolds at Bridges at Kraemer Place. One resident calls the demeanor of the staff "military style." She says, "When I first got to Bridges I was bubbly. That is just the way I am. The staff did not like that. That got curbed real fast." Another resident describes how treatment by the staff made his mental health symptoms worse. "I suffer from severe depression and I'm overweight," he says. "I am on anti-depressant medications. Staying at Bridges made my depression worse. I feel better now that I'm out of there." A male resident who experiences migraines and chronic back pain says, "Two female staff members walk around screaming at the residents. It doesn't matter about what. It's humiliating. I've never seen anything like it."

A volunteer says he overheard a resident tell a staff member that another staff member was, in her words, "ordering me around, cursing at me, saying F-you, and you need to put your stuff away right now." The staff member replied to the resident, "I don't think she would do that." Another time, he heard a staff member call the residents "fucking animals."

According to the volunteer, "There is a real us versus them culture among staff toward residents." One evening, he saw three staff members laughing among themselves, mocking the people they saw around town living in lean-tos and under storage bins. He says, "These things would be said along with chuckles as if they were funny internet videos, in a facetious manner that really has no place inside a shelter for the homeless." Another time, the volunteer said he heard a staff member tell another staff member, "I'll shove it down his throat," when a resident asked for a plain hotdog instead of a chilidog. He also heard a staff member explain to a volunteer that the residents are not entitled to anything the shelter has to offer. In the volunteer's view, "This attitude really has no place inside a shelter for homeless people."

Like the residents at the Courtyard, residents at Bridges at Kraemer Place described struggling to maintain their

feelings of self-worth under the onslaught of verbal abuse and other denigrating treatment by staff. One male resident says, "You feel like you're in first grade and someone wrote your name on the board. Like, wait a minute, I'm 62 and this gal is in her twenties, and she's scolding me? It gets humiliating." He notes that watching staff members berate other residents is also traumatic. "Like the guy staff screamed at someone this morning for putting Tang in a plastic cup instead of a Styrofoam cup," he says. "Maybe there's some paper we signed that said, 'I shalt not ever put Tang in a plastic cup.' This is a nice guy. And to see someone get dressed down this way – it is hard."

SAFEPlace

The residents we talked to report that the staff members at SAFEPlace, like the staff at the Courtyard and Bridges at Kraemer Place, engage in pervasive verbal abuse. According to one resident, "They are treating us like we're dirt. Like we are nothing. But we are something."

In one case, a resident reported that the director called her a painful racial slur. "I was just scared," recalls Monisha Parker. "I was crying. It adds on the anxiety everyone is going through." Shortly after the incident, which occurred on August 8, 2018, Ms. Parker filed an online housing discrimination complaint with the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. On September 4, 2018, she sent an email to Orange County Supervisor Andrew Do that read, in part, "[The director] is a racist person because she doesn't like black people and Mexican people ... She call me the N-word to my face last month ..." As of December 2018, Ms. Parker had not received a response from Supervisor Do or anyone else from the county, and had left SAFEPlace for a shelter in the San Fernando Valley. "I'm talking to my therapist," she says. "This has traumatized me. It is affecting my sleep, my mental health. It is affecting my eating."

Staff sometimes use verbal abuse as a tool of control. As one resident puts it, the director "has the power, she knows it, and she is abusing her power."

"[The director] is a racist person because she doesn't like black people and Mexican people ... She call me the N-word to my face..."

Theft and destruction of property

"I'd walk to 7-Eleven to get some snacks. When I reentered the Courtyard, the staff at the front desk would ask me to open my bags so they could search them. They would take what they wanted. They would say, 'Oh, this looks good. I'll take this.' They took cookies, chips, things like that from me."

- Former resident of the Courtyard

Losing one's home often means losing the majority of one's belongings. Shelters should respect the right of their residents to maintain possession of their remaining

property and should treat it with care. Instead, the ACLU SoCal has received consistent accounts indicating that staff members casually destroy, discard, and steal the property of residents, often in violation of civil and criminal law and a deprivation of fundamental rights protected by the federal and state constitutions. We found this pattern at all three of the shelters we investigated.

The Courtyard

At the Courtyard, the information we gathered covers a wide spectrum of misconduct. Some people suspect staff members of stealing or discarding their belongings, since their property disappears from a storage area that only staff can access. One resident observes, "The bins are not safe. Things are constantly going missing. Every time I go to my bin I take a picture of it to document what is in there." A former resident says that staff members regularly evicted her without giving her the chance to collect her belongings. "Every time I was kicked out," she says, "I'm pretty sure they threw my property away. When I came back, they would tell me they couldn't find it." Another resident gives a similar story. "Staff take our belongings every day," she says. "They lost my bags four times when I was rolled up for different reasons." An outreach worker observes, "People have property and medication stored at the Courtyard. Then they get kicked out and never get it back. I've heard this story repeatedly."

An employee at the Courtyard has seen staff members pick through the belongings of residents they have evicted for the night and take what they want for themselves. "I've seen them take shoes, new slacks, jackets, phones, chargers and computers," the employee says, adding, "I think the attitude is that everything is donated, so it doesn't really belong to the residents." In the employee's view, however, "This is the residents' property and even if some of it is donated, it is supposed to go to the residents, not the staff."

The employee has also seen staff members help themselves to residents' food, medications, and other items, adding, "I have clients that offer me food all the time. They act surprised when I refuse to accept it. They say, 'The other staff do it.'" According to the employee, staff members often admire residents' food and residents feel obligated to give it to them. One staff member accepted Percocet from a resident, the worker observed. "He told the resident that he was looking for something for his pain. The resident offered him a bottle of Percocet, and the staff member accepted it."

A former resident says that the staff regularly seized her food. "I'd walk to 7-Eleven to get some snacks," she recalls. "When I reentered the Courtyard, the staff at the front desk would ask me to open my bags so they could search them. They would take what they wanted. They would say, 'Oh, this looks good. I'll take this.' They took cookies, chips, things like that from me."

Bridges at Kraemer Place

Residents we talked to at Bridges at Kraemer Place also suspect the staff of stealing their property. One resident, for example, says that $300 went missing from his bin. "The staff didn't do any investigation or report. The supervisor said that there are no cameras in the storage bin, so there is no way to verify that staff is at fault." As he notes, however, "The staff lock [property] up in a storage unit that only they have access to. Everyone has one trash bin on rollers. The staff

pull it out for you to go through and then put it back in a locked storage bin. Really only they would have access to the bin."

SAFEPlace

Residents at SAFEPlace say that staff members frequently discard their property without permission. One resident bought new shower curtains for the common bathroom. Several residents say that the director threw them away. A resident maintains, "This is criminal activity by staff. They dump people's property in the trash."

According to residents, the staff also discards their property without proper notice. As one resident says, "We have to sign something that says the director can dispose of property unclaimed after 24 hours. But they don't give us adequate time."

Another resident has observed the director discarding the property of new applicants as a condition of entry to the program, telling them, "Learn to let go." The resident adds, "If it doesn't fit into two tubs, the director throws it away. I have watched her throw bag after bag away as people move in and try to find places to store their stuff."

Sometimes, residents say, the director discards their property as a form of retaliation. During a bed bug infestation, the director told residents to bag up their belongings and put them in the parking lot. "I had a bed bug cover and memory foam mattress," a resident says. "The director said I could keep it in the shelter during the bed bug eradication. Then she got mad at me and dragged it into the parking lot." The resident moved the property back into the shelter, whereupon the director evicted her for a week and destroyed the property. "All in all, the bed bug cover and memory foam mattress had cost me $500," she says. "Another staff member agreed that it was not right, what [the director] did."

The suppression of critical voices

One of the hallmarks of a democratic society is the freedom to voice vociferous dissent, criticize government officials, seek redress for grievances, and expose government malfeasance. Orange County shelters drastically curtail these rights. We focused our investigation on two related trends that, together, work to suppress voices critical of the shelters: 1) oppression through eviction, including retaliation for reporting or publicly airing grievances, and 2) prohibitions on documenting abuses and substandard conditions. Both types of policies and practices violate residents' fundamental rights.

Oppression through arbitrary evictions

In the Orange County shelters we investigated, one of the most common tools of oppression is the threat of eviction. Staff members often evict or threaten to evict residents for minor transgressions, such as breaking house rules or talking back to staff members. As a resident at SAFEPlace says, "The punishment doesn't fit the crime." They also use the threat of eviction to retaliate against residents for speaking out or reporting violations and abuses. For people who have nowhere else to go, the threat of eviction can be an effective form of intimidation. It chills the speech of shelter residents and makes it less likely they will report misconduct.

The Courtyard

At the Courtyard, staff members evict residents who commit minor transgressions of the rules or challenge their authority. As one resident describes a staff member, "If you say anything, he'll say 'You're out of

here.' If you question anything, like saying that your stuff is neatly packed underneath your cot when he says it's sticking out, he'll throw you out." Former resident David Adams observes, "They'll roll you up for anything. Questioning a staff or disagreeing with an order, having food next to your bed, laying down during the day."

In her diary, Ms. Filicko states her belief that the staff uses the threat of eviction to bully and silence residents. "We have to do as they say or we get put on the street in the cold and all we can do is comply with it or go hungry or cold," she wrote. "The real sad thing is 80 percent are over 65 years old and really don't know their rights so they just sit and take it." Ms. Filicko emphasized this point in a meeting with O.C. Health Care Agency staff. "The bullying about being thrown out," she wrote in meeting notes she shared with the ACLU SoCal, "That's how they keep the older people quiet. It's mental abuse."

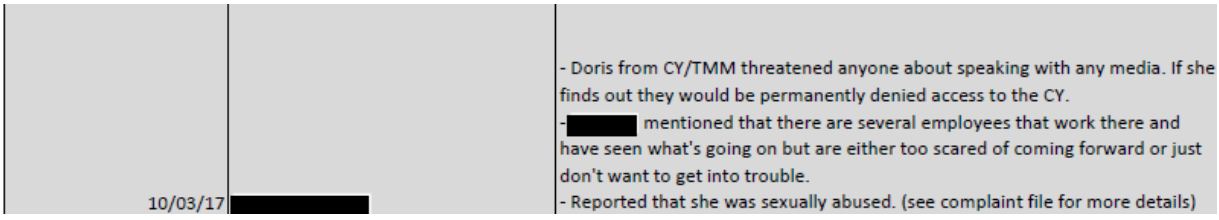
Several people have filed complaints with the county about arbitrary evictions with no due process.[51] A complaint from October 2017 states that "[The director] from [the Courtyard] threatened anyone about speaking with any media," and continues, "If she finds out they would be permanently denied access to the [Courtyard]." The complaint indicates that some staff members also feel silenced, stating that "... several employees that work there have seen what's going on but are either too scared to come forward or just don't want to get into trouble."

Bridges at Kraemer Place

Staff members also evict residents for small offenses at Bridges at Kraemer Place. A 70-year-old woman with multiple health and mental health issues says, "I came in after curfew and they kicked me out. It was the second time I broke curfew ... I have cervical dystonia, which is an involuntary twisting of the head and neck from one side to another. I get tremors around the head. I have to keep myself calm with medication I get from the psychiatrist. I take the medication three times a day. And I see a therapist from Behavioral Health once a month. I'm doing the things I'm supposed to do."

Despite the unavailability of affordable housing in Orange County, residents at Bridges at Kraemer Place desperately try to comply with the mandate to develop and implement a plan to obtain housing. If they slip up, they run the risk of eviction. "[Guests] are expected to meet with their Housing Navigators at least once a week at a scheduled time to discuss their housing plans. ... If a guest chooses not to work toward their housing plan or follow these expectations he/she may be asked to leave prior to the 180 night maximum," says the

Excerpt from Courtyard Complaint Log obtained from the Orange County Clerk of the Board of Supervisors



shelter's "Shelter Expectations" document. "I filled out a bunch of applications for halfway houses like Second Chance," recalls a former resident. "But I was rejected. I was finally exited from Kraemer because my battery on my car kept dying. I was late for my navigator meeting." She says the eviction was devastating. "It makes me feel like a criminal," she states. "It makes me feel like I want to give up."

A male resident says staff evicted him late at night when he insisted that they help another resident who had defecated in his bed. The threat of eviction, he says, stifles his ability to advocate for residents with special needs. "I worry about other people," he declares. "The old lady in a wheelchair and the big heavy guy are always wet. You can smell the urine all the time ... I never saw staff help the lady in the wheelchair."

SAFEPlace

At SAFEPlace, staff evict or threaten eviction for minor transgressions, such as failing to meet with their case managers or having an extra pillow. "It's time for your housing plan follow-up," a note to a resident says. "Please sign up to see your case manager to avoid an exit." A "SAFEPlace Cot Correction Notice" informs a resident that her "belongings do not fit neatly into a bin" and warns that the rule violation "must be addressed by [date] or exit arrangements will proceed." "The notices they give us are always threats to be exited," says one resident. "That's [the director's] way of telling us to do things. It's a constant threat with us."

The women we talked to experience the constant threat of eviction as deeply oppressive. "Every woman here is terrified for being evicted at any time for anything," observes one resident. "That's terrifying to tell a homeless person that you are going to be exited for seven days."

Many residents have experienced domestic violence or other forms of abuse. They say the hardship they experience when the staff evicts them add to their trauma. "I become nocturnal," a resident says. "I keep moving all night and trying to find places to sleep during the day." The woman says eviction exposes her to the risk of attack, and just thinking about being outdoors and vulnerable all night wears on her mental health. "I have night terrors," she says. "I dream about being attacked while sleeping in the streets." A young woman facing eviction became increasingly anxious and fearful as she made her plans for the night. She decided to sleep in an abandoned building, even though she knew it was dangerous. As she explained, she had no money and nowhere else to sleep.

Residents find that voicing their complaints about SAFEPlace in public forums puts them at risk for eviction. Soon after two residents wrote Yelp reviews critical of the shelter, for example, staff posted a notice that read, in part, "Guests who have an issue with a staff member must use the SAFEPlace grievance process. If the guest does not choose to use this process and grievances are made public or constant [an] exit date will be assigned."

Prohibitions on documenting abuses and conditions

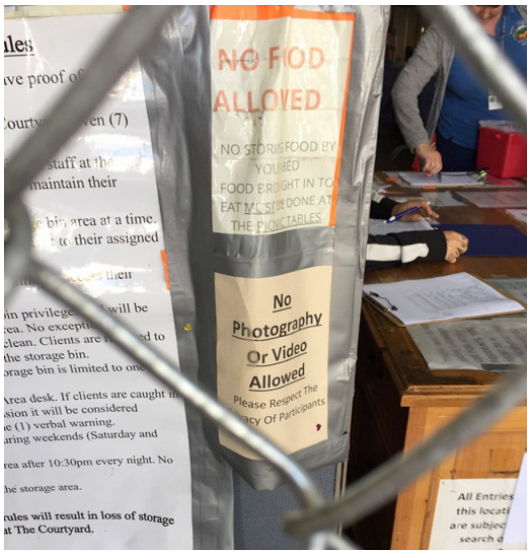
All three shelters expect residents to relinquish their privacy as a condition of entry. Residents submit to intrusive searches of their persons and belongings. Security guards patrol their living areas. Surveillance cameras record their movements. As a resident of Bridges at Kraemer Place notes, "They have more security than they need. We are not criminals. We get searched when we go in and out. One of the security

smells my wallet every time she searches me." The resident asks, "What is she looking for?" In September 2018, a resident at SAFEPlace reported, "They just put up 18 cameras inside and around the building."

At the same time, the shelters either prohibit or discourage residents from photographing, audiotaping, or filming their living environments. Ostensibly, these bans serve to protect the privacy of residents. However, our findings indicate that their primary purpose may be to prevent residents from documenting and reporting substandard shelter conditions and abusive treatment by staff.

One woman staying at the Courtyard attempted to document the filthy conditions of the portable toilets. As she puts it, "I was opening each door and taking video ... The porta-potties were disgusting with smeared feces and urine." When she started taking footage, one of the workers warned her that he would evict her if she refused to stop. As she recalls, "I said that is not a sanitary pattern. You're causing us to be exposed to contagious diseases." She continues, "The Midnight Mission felt threatened by me. They did not like the fact that I was bold. Then they started posting signs that said no photography. This was because I was complaining about the conditions and telling them I was going to have the CDC hit them hard."

Retaliation against speaking out about shelter conditions at SAFEPlace



No photography or video allowed: The Courtyard

Igmar Rodas, the activist for people experiencing homelessness, says the director permanently evicted him for filming, taking photographs, and writing articles critical of the Courtyard. "I was becoming increasingly concerned," he recalls. "A lot of people were coming forward with evidence of sexual abuse, theft, unsanitary conditions, staff members bullying them, and most importantly, kicking them out for no reason, and kicking them out if they saw them talking to me, who they considered to be a member of the press."

Within the shelter's first month of operation, Mr. Rodas published an article [52] and a blog [53] expressing some of his findings and concerns. "My hope was that it would lead to an investigation," he says.

Instead, on November 3, 2016, the shelter director permanently banned Mr. Rodas from the premises. "She said, 'You can't come in. You wrote an article without consulting me and getting permission from me, and that was in violation of shelter policy,"' he recalls. As she led him out, the director also showed Mr. Rodas two new signs — one stating that photography and video is prohibited in the shelter, and one instructing residents to file complaints with the administration of the Midnight Mission. Mr. Rodas believes the director evicted him and posted the new rules to prevent him from documenting abuses inside the shelter. In June 2017, a resident filed a complaint with the county about the Courtyard's continued suppression of photography [See Appendix III].

By curtailing the ability of residents to document staff misconduct and harmful shelter conditions, the bans make it much more difficult for residents to support their claims of mistreatment. In this sense, the bans are profoundly disempowering for residents — and deeply protective of the programs that sometimes harm them.

Impunity and lack of accountability

Homelessness services exist in a context where there is not enough shelter, food, or water for all those in need. Shelters are the gatekeepers of these resources, creating a gross power imbalance between residents and the shelter staff. This imbalance creates a breeding ground for neglect and abuse.

In the shelters we investigated, residents lack an effective way to hold the system accountable, amplifying the power imbalance. Some residents say they do not understand the process for reporting violations or requesting accommodations. Others shy away from reporting because they do not trust the system. The process for resolving grievances typically remains within the shelter programs that are abusing or neglecting them. The complaint process at the Courtyard, for example, starts with an informal discussion with site staff and ends with the CEO of the Midnight Mission. Residents report that shelter supervisors and administrators typically side with the staff.

Often, staff ignore complaints. Ms. Filicko told us, "I have made ten complaints at the 'oval office' [the Courtyard staff room]. I never heard back." Moreover, as we describe above, residents may face retaliation for filing complaints.

The people we talked to say that complaining to government administrators or elected officials can be ineffective. When Mr. Rodas attempted to file a complaint with Santa Ana Code Enforcement about the unsanitary conditions in the Courtyard, an employee told him to call Orange County Code Enforcement and gave him a phone number. When he called the number, a county employee told him to call Santa Ana City Hall, and gave him the number for a utility maintenance department. When he called the number, nobody answered or returned his call. A resident of SAFEPlace who reported staff misconduct to the Orange County Community Resources Department says, "When I complained about [the director], the administrator said, 'It sounds like a personality conflict. Maybe you should try a different shelter.'" Monisha Parker, who emailed Supervisor Andrew Do with a racial discrimination complaint in early September 2018, never received a response.

County Health Care Agency workers and

Social Service Agency workers are the first line of defense against abuse and neglect. As frontline service providers who work directly with shelter residents, they are required, by law and by the ethical obligations imposed by their profession, to report any suspicion of abuse and neglect of older adults and people with disabilities to the relevant authorities. Nevertheless, our findings indicate that this accountability mechanism is also ineffective in stemming the tide of neglect and abuse. On April 25, 2018, for example, Ms. Filicko attended a meeting with Health Care Agency staff and told them about the problems she witnessed at the Courtyard. As she wrote in her notes from the meeting, the issues she discussed included "Not getting medical help when sick. People with disabilities and elderly left to take care of themselves. We are given no information on who to turn to when we need special care." Despite the obligation of the workers to report these allegations, the problems continued.

This vacuum of accountability enables shelter operators and staff to engage in a wide range of misconduct with apparent impunity. No matter how egregious the violation, residents tell us that staff are likely to return to work. As a resident of SAFEPlace asks, "Where is the accountability?"

We find that the lack of accountability also generates mistrust, leading to avoidance of the shelters. One woman we talked with says she cannot handle what she described as the rough and abusive treatment by the Courtyard staff, so she sleeps outside. Yet, she says she would not lodge a complaint. "I don't think the Courtyard cares what the residents say," she states.

COMPLAINT PROCEDURE

If a client expresses a concern or makes a complaint concerning their admission to or stay at the Courtyard, s/he can take the following steps:

1. The grievant (client or guest who has a complaint or problem) has a responsibility to discuss the grievance or complaint informally with the site staff. The site staff will discuss the grievance/complaint with the grievant as soon as possible.
2. If after informal discussion the grievant does not feel the complaint has been resolved to his/her satisfaction, grievant can complete a written grievance and submit to the Shift Supervisor. The Shift Supervisor will try to resolve the grievance, and, if unable to resolve the issue with the grievant will refer the grievant to Courtyard Manager. The Shift Supervisor will notify the Courtyard Manager of the client's concerns and the action taken.
3. The Courtyard Manager will review all grievances within 1 business day and provide a written response to the grievant within 2 business days.
4. If the grievant still does not feel the complaint/grievance has been resolved, s/he may request the grievance be heard at the weekly meeting with the Program Director on site. Once a week, the Program Director will hear grievances and work with grievant(s) to resolve the grievance to the mutual satisfaction of both Courtyard staff and the grievant.
5. Unresolved grievances may be presented to The Midnight Mission President/CEO for final resolution. The President /CEO will acknowledge receipt within 2 business days, and inform the client, in writing, of the resolution within 5 days.
6. Clients have the right to ask assistance of another person to speak on their behalf or help fill out the grievance form.
7. Client grievances are reported in the Courtyard's Quarterly and Annual Reports.
8. Copies of all documents are placed in the client file and in a Courtyard Grievance Log Book.

Complaint Procedure: The Courtyard

SOURCE: Midnight Mission/ Orange County: The Courtyard Shelter Program Policies and Procedures 2018.

VIOLATIONS OF RESIDENTS' CIVIL RIGHTS IN ORANGE COUNTY SHELTERS

The county and its agents (such as nonprofit contractors), violate fundamental rights and federal and state law by operating shelters that have unsafe and unsanitary living conditions, allowing sexual, physical and verbal abuse and discrimination against residents to occur unchecked, and employing policies and practices that violate residents' constitutionally protected freedoms. The shelters also fail to conform to standards set forth by international human rights law, which establish the minimum standard of living adequate for health and well-being.[54] To the extent that the county or its agents have subjected people experiencing homelessness using emergency shelters to foreseeable harm and failed to intercede, it is responsible for state-created danger. Some of the actions outlined in this report — verbal, physical, sexual assault, and theft, for example — could give rise to civil liability for personal injury and also criminal charges.

The purpose of this section is not to quantify the injury suffered by hundreds of people experiencing homelessness who use Orange County's emergency shelters. Rather, we put the county on notice that every day that passes without massive system reforms increases the county's exposure to lawsuits for damages and injunctive relief. Heeding the urgent recommendations proposed in this report is not only the humane thing to do, it is also necessary to avoid costly legal claims against the county.

Unsafe and unsanitary living conditions

This report highlights alarming health and safety hazards inside county emergency shelters. These dangers stem from a failure to site shelters in spaces meant for human habitation, and a failure to maintain the spaces in a manner that complies with minimum standards of fitness for human habitation. A number of federal, state, and local codes set the minimum habitability standards for emergency shelters. The applicability of these standards depends in part on how each facility is funded. At minimum, the State Housing Law and the Orange County Municipal Code apply to all emergency shelters in Orange County, and to the extent that shelters already receive federal funds, or seek to receive federal funds, HUD's Minimum Habitability Standards for Emergency Shelters and Permanent Housing also apply. Failure to maintain Orange County shelters at minimum standards for safety and wellbeing violates the basic human and civil rights of people experiencing homelessness. This failure also exposes the county and shelter operators to legal actions for damages and injunctive relief, as well as possible personal injury claims for residents who have suffered health consequences as a result of the poor conditions.

Table 3 Minimum habitability standards for emergency shelters include, but are not limited to, these federal, state and county regulations, statutes and ordinances

HUD Emergency Solutions Grants ("ESG") Minimum Habitability Standards for Emergency Shelters and Permanent Housing, 24 C.F.R. § 576.403	The State Housing Law, Regulation of Building Used for Human Habitation, Cal. Health and Safety Code. § 17920.3 /State Housing Law Regulations, 25 C.C.R. § 32, 34	Orange County Municipal Code Sec. 7-9-148.8 – Emergency Shelter and multi-service center for the homeless site development standards and operational requirements
...(b) Minimum standards for emergency shelters. Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The recipient may also establish standards that exceed or add to these minimum standards. **(1) Structure and materials.** The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.	Substandard Building: Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building: (a) Inadequate sanitation shall include, but not be limited to, the following: (1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit. (2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel. (3) Lack of, or improper kitchen sink. (4) Lack of hot and cold running water to plumbing fixtures in a hotel. (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit. (6) Lack of adequate heating.	...(c) An emergency shelter or multi-service center shall comply with the site development standards of the base district. (d) In addition to the base district site development standards, an emergency shelter or multi-service center shall comply with the following standards and requirements: ... (3) Emergency shelters may have a maximum of fifty (50) beds. Larger emergency shelters, up to a maximum of one hundred fifty (150) beds, may be permitted subject to approval of a use permit per section 7-9-150... (7) One (1) toilet and shower shall be provided for each ten (10) beds. Separate facilities shall be provided for men and women...

HUD ESG Habitability Standards	California Health and Safety Code
(2) Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131et seq.) and 28 CFR part 35; where applicable. **(3) Space and security.** Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings. **(4) Interior air quality.** Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents. **(5) Water supply.** The shelter's water supply must be free of contamination. **(6) Sanitary facilities.** Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.	(7) Lack of, or improper operation of required ventilating equipment. (8) Lack of minimum amounts of natural light and ventilation required by this code. (9) Room and space dimensions less than required by this code. (10) Lack of required electrical lighting. (11) Dampness of habitable rooms. (12) Infestation of insects, vermin, or rodents as determined by the health officer ... (13) Visible mold growth, as determined by a health officer or a code enforcement officer ... (14) General dilapidation or improper maintenance. (15) Lack of connection to required sewage disposal system. (16) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer... (g) Faulty weather protection, which shall include, but not be limited to, the following: (1) Deteriorated, crumbling, or loose plaster. (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors ... (n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

HUD ESG Habitability Standards	California Health and Safety Code
(7) Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition. **(8) Illumination and electricity.** The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter. **(9) Food preparation.** Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner. **(10) Sanitary conditions.** The shelter must be maintained in a sanitary condition. **(11) Fire safety.** There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.	25 C.C.R. §32 (a) HOT WATER is water supplied to plumbing fixtures at a temperature of not less than 110 degrees F (43.3 degrees C). 25 C.C.R. §34 (a) Every dwelling...shall be provided with heating facilities capable of maintaining a minimum room temperature of 70 degrees F at a point three feet above the floor in all habitable rooms, and when the heating facilities are not under the control of the tenant or occupant of the building owner and/or manager, shall be required to provide that heat at a minimum temperature of 70 degrees F, 24 hours a day.

According to shelter residents, each of the shelters we examine in this report have substandard conditions that threaten users' health and safety. Reported problems range from rodent and insect infestation, to lack of adequate heating and cooling, to no running water, and inadequate toilets and showers for the number of residents. Shelters also fail to keep toilet facilities in proper operating condition, in a way that ensures personal privacy and is adequate for cleanliness and the disposal of human waste. The conditions inside these emergency shelters fall well short of any of the health and safety standards set out by municipal, state, or federal law (See Appendix V).

The Courtyard's lack of walls and dilapidated roof fail to protect residents from natural elements; it has no heating or cooling facilities (exposing residents to dangerous heat and cold); has an inadequate number of toilets for the number of residents (16 operable toilets and 9 showers for 425 people when the County Municipal Code requires one toilet and shower for every 10 shelter spots, or 43 toilets and 43 showers); the toilets and showers are not maintained in a sanitary manner, exposing residents and staff to infectious disease and other health problems; and rodent and vermin infestations go unaddressed.

Residents of Bridges at Kraemer Place report overcrowding, inadequate toilets and showers, and failure to maintain the shelter living space and bathrooms in a sanitary condition. At SAFEPlace, residents also report lack of adequate toilets and showers (4 toilets and 3 showers for 70 people when there should be 7 toilets and 7 showers) and failure to maintain the bathroom facility in a safe and sanitary manner. The lack of adequate toilets and showers at the county's largest emergency shelters is an emergency and requires drastic and immediate remediation.

None of the evidence we collected through Public Record Act requests or interviews suggested that county or city agencies were engaged in any meaningful enforcement of minimum health and safety standards. Counties and cities are charged with building inspections and enforcement of the State Housing Law[55] yet when residents call Santa Ana City Hall or the county to report problems at the Courtyard and ask for inspections, they are unable to make a complaint or get an inspection. The poor conditions residents report are chronic, endangering the health and safety of occupants — who often cope with disabilities and compromised health — on an ongoing basis. In order to address the unsanitary public health and human rights crisis inside Orange County emergency shelters, the county should immediately adopt the ACLU SoCal's Recommendations #1 and #2 to establish uniform minimum standards and a system of accountability to address failure maintain shelters in compliance with those standards.

Abuse and discrimination

Individuals experiencing homelessness in Orange County reported physical, sexual, and verbal abuse, as well as rampant discrimination by emergency shelter staff. Much of this conduct could give rise to civil claims (for example personal injury claims related to acts of assault and battery by staff or intentional infliction of emotional distress claims based on the persistent use of verbal abuse to exercise power and control over residents) and, in some cases, criminal charges. However, our focus in this section is the civil rights implications of this violence and discriminatory treatment.

Table 4 Inadequate shower and toilet facilities in violation of Orange County Municipal Code Sec. 7-9-148.8 (as of January 2019)

Shelter	Number of toilets	Number of toilets required	Number of showers	Number of showers required
Courtyard	**Total:** 16 toilets **Men:** 8 toilets **Women:** 8 toilets	43	**Total:** 9 showers	43
SAFEPlace	**Total:** 4 toilets	7	**Total:** 3 showers	7
Bridges at Kraemer Place	**Total:** 11 toilets 6 urinals **Men:** 4 toilets 6 urinals **Women:** 5 toilets (4 regular, 1 wheelchair accessible) **Gender neutral:** 2 toilets	20	**Total:** 24 showers **Women:** 7 showers (6 regular and 1 wheelchair accessible) **Gender neutral showers:** 2 **Men:** 15 (13 regular, 2 wheelchair accessible)	20

A variety of federal, state and local civil rights laws, including but not limited to the California Fair Employment and Housing Act (California Government Code 12955), the Unruh Civil Rights Act, California Government Code 11135 (which prohibits discrimination in state-funded programs), the Ralph Civil Rights Act, the federal Fair Housing Act, as well as the federal and state constitutions, protect people experiencing homelessness from violence and discrimination based on disability, gender and race in government-sponsored emergency shelters. People with disabilities are also protected from discrimination by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act (to the extent that federal funds are used to administer the shelter). The county has a responsibility to ensure that all residents are protected from violence and discrimination — especially while participating in county-sponsored programs.

Disability-Based Discrimination

Individuals experiencing homelessness are more likely than the general population to also be managing physical and mental health disabilities — some of which predate homelessness and some that develop as a result of not having a permanent home.[56] This report reveals that people experiencing homelessness with disabilities are subjected to a wide range of abuse, neglect and discrimination in accessing, or attempting to access, the

emergency shelters we investigated. All of this mistreatment violates federal and state anti-discrimination laws.

Federal and state law unequivocally require the county to operate its programs, services and activities in a manner that is readily accessible to people with disabilities and prohibit disability-based discrimination in publicly funded emergency shelters.[57] Title II of the ADA provides that people with disabilities cannot (for reasons related to that disability) be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.[58] Title II requires programs to provide reasonable modifications in policies, practices, or procedures to people with disabilities in order to avoid discrimination, unless the public entity can demonstrate that such modifications would result in a fundamental alteration of the program or constitute an undue burden.[59] The ADA prohibits public programs from imposing eligibility criteria that screen out, or tend to screen out, individuals with disabilities from fully and equally enjoying any service, program, or activity.[60]

What this means for emergency shelters is that they must ensure that their programs are accessible to people with disabilities, and that people with disabilities are able to request and receive reasonable accommodations that allow them to use the shelter's services, and that prevent termination from the program for reasons related to a disability. Failing to employ effective reasonable accommodation policies and procedures violates the ADA. Emergency shelters must be prepared to ensure that their physical space and their programs are responsive to the needs of people with disabilities. If programs cannot or will not make their services accessible to people with disabilities, they have no business trying to serve people experiencing homelessness. Orange County should immediately adopt the ACLU of Southern California's Recommendation #3 and create a countywide reasonable accommodation policy to prevent discrimination against people with disabilities in emergency shelters.

Elder Abuse and Neglect

Elders are increasingly experiencing poverty and homelessness in Southern California.[61] This vulnerable group has specific needs while utilizing shelter. Some of these residents are also people with disabilities (and they are therefore covered by disability law), however as they are protected from abuse and neglect by virtue of their age, we discuss their rights separately. Our interviews reveal that the shelter staff routinely neglects elderly residents and allow them to decline while in the shelter.

State law protects adults over the age of 65 from abuse and neglect under both civil and criminal provisions. Criminal elder abuse occurs when a person causes or permits an elder to suffer, inflicts unjustifiable physical pain or mental suffering on an elder and can be charged when a person willfully causes or permits an elder to be placed in a situation in which the elder's health is endangered.[62] Civil claims arise when a person physically abuses, neglects, financially abuses, abandons, or isolates an elder, or when a caregiver deprives an elder of goods and services that are necessary to avoid physical harm or mental suffering.[63]

This report uncovers unacceptable elder abuse and neglect in the emergency shelters we examined. Many older residents need higher levels of care than shelters can provide, but allowing residents to deteriorate

or excluding them from the program — the response in too many instances we learned about while investigating this report — is not an appropriate response to this higher level of need. In order to protect elders from abuse and neglect, the county should adopt the ACLU of Southern California's recommendations, in particular Recommendation #4, which would require shelters to meet the needs of elderly and infirm residents and create stronger links linkages to higher levels of care where appropriate.

Gender-Based Violence and Discrimination

Women experiencing homelessness have a unique vulnerability to harassment while living in a shelter, particularly if they have nowhere else to go.[64] This report uncovers sexual harassment against female residents of all three shelters and sexual violence against women in the Courtyard. Residents report being preyed upon in programs of last resort, by people who have the power to expel them onto the street. Nothing could be more antithetical to a mission of ensuring safety and dignity for people experiencing homelessness.

The Fair Housing Act defines sexual harassment and abuse by a provider of housing accommodations as sex-based discrimination.[65] Courts have held that sexual harassment against residents of homeless shelters violates the FHA.[66] Sexual harassment in shelters is also prohibited under the California Fair Employment and Housing Act.[67]

Under the FHA[68] and FEHA[69], sexual harassment is defined broadly to include a wide range of unwanted sexual behavior, including but not limited to:

- Unwanted sexual advances or propositions.
- Offering rights or privileges in exchange for sexual favors.
- Leering; making offensive gestures; or displaying offensive or suggestive objects, pictures, cartoons, or posters.
- Comments, epithets, slurs, or jokes of a sexual nature; graphic statements about an individual's body; suggestive or obscene letters, texts notes, or invitations.
- Threatening or taking adverse action (such as eviction) in retaliation for a negative response to sexual advances.
- Physical touching or assault, as well as impeding or blocking someone's movements.

The breadth and nuance of this description demonstrate that sexual harassment can take many different forms and still be unlawful when perpetrated by a provider of a housing accommodation against a resident. The FHA prohibits quid pro quo harassment by housing providers (making submission to sexual conduct a condition for receiving or retaining housing or housing-related services.) and harassment that creates a hostile environment (sexual behavior of a certain severity or perverseness resulting in an environment that is intimidating, hostile, offensive or otherwise less desirable).[70] Residents are protected against sexual harassment even if they have acquiesced to sexual conduct or didn't speak up at the time. [71] This is an important protection for people experiencing homelessness who may feel that they have no choice but to go along with harassment and abuse.

The actions described by women experiencing homelessness in Orange County shelters — including comments

about their bodies and appearance, sexual advances, groping, overtures to trade sex for shelter privileges, and demanding that a female resident submit to a strip search by male staff — constitute sexual harassment. Given the gross imbalance of power between residents and shelter staff, and the pervasiveness of this behavior, victims could have either quid pro quo or hostile environment claims.[72]

When the county allows its nonprofit contractor's staff to abuse residents with impunity and retaliate against residents who speak up, it engages in unlawful sex-based discrimination under both federal and state law. The county should adopt the ACLU of Southern California's recommendations, particularly Recommendations #1 and #2, to address the urgent issue through appropriate training, firm policies and accountability mechanisms.

Segregation and Discrimination Against Transgender Residents at the Courtyard

The Courtyard's policy of assigning transgender residents to a segregated sleeping area, rather than allowing residents to choose which sleeping area to utilize based on their gender identity, violates the Unruh Civil Rights Act, which protects residents from discrimination on the basis of gender identity and/or gender expression.[73] The Unruh Act provides that "All persons within the jurisdiction of this state are free and equal, and no matter what their sex ... are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."[74] "Sex" is defined by the Unruh Act to include:

> [A] person's gender. 'Gender' means sex, and includes a person's gender identity and gender expression. 'Gender expression' means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth."[75]

The Courtyard policy violates the Unruh Act by forcing transgender people into a segregated sleeping area, rather than allowing them to sleep in the section that corresponds with their gender identity.

The policy also runs afoul of HUD's Equal Access to Housing rule which requires that any program that receives HUD funding (including Emergency Solutions Grants and Continuums of Care) must make those programs available without regard to actual or perceived sexual orientation or gender identity.[76] The HUD guidance interpreting the Equal Access to Housing rule further confirms that shelters should use the best practice of allowing residents to access shelter services based on the gender with which the individual identifies.[77]

Maintaining a policy denying transgender residents full and equal access to the sleeping area they identify with constitutes sex discrimination and deprives transgender residents the full and equal accommodations, advantages, facilities, privileges, or services of the shelter in violation of the Unruh Act and HUD regulations.

Race-Based Abuse and Discrimination

This report details two instances in which residents of Orange County's emergency shelters were subjected to racist epithets and discrimination by shelter staff.[78] In one instance, at SAFEPlace, the director used the N-word to describe black residents and expressed racial antipathy for black people to a black resident. At the Courtyard, a Latino

resident reports that Latino residents were subjected to racial slurs like "wetback" and were told that because of their race, national origin and/or immigration status, they had no right to use the shelter. Our report also documents an allegation that Latino residents at the Courtyard were subjected to discriminatory treatment by staff, including being arbitrarily sent to the back of the line for food and turned away from admission in favor of applicants of other races.

The FHA, the Civil Rights Act of 1964, and FEHA forbid racial discrimination in the administration of public shelter programs.[79] These laws prevent shelter staff from engaging in discrimination based on race or national origin in shelter admissions, as well as in the delivery of emergency shelter services. As in the sexual harassment context, verbal race-based harassment is considered discrimination, and a single incident of harassment based on race, color or national origin can constitute a hostile environment, in which the incident is sufficiently severe.[80]

Evidence of overt discrimination in violation of the civil rights statutes — like the flagrant race and national-origin based discrimination residents encountered at SAFEPlace and the Courtyard — is rare, though discrimination persists in other less perceptible forms.[81] These two unambiguous instances of disparate treatment and harassment of Orange County shelter residents based on their race and national origin constitute unlawful discrimination actionable under federal and state law. To eliminate racial discrimination against shelter residents based on their race or national origin, the county should adopt the ACLU of Southern California's recommendations, in particular Recommendation #2, which would address discrimination through appropriate training, firm zero-tolerance policies for discrimination, and accountability mechanisms for programs and staff who violate those policies.

Hate Violence

This report documents instances of verbal abuse and physical violence against residents of Orange County homeless shelters. The victims of this treatment include women, racial minorities and people with disabilities. Verbal abuse and physical violence against any resident could be actionable under civil and criminal laws that prohibit such activities. But state and federal civil rights and hate crime legislation create special penalties for such crimes when victims are members of a protected group and they are targeted by perpetrators because of their membership in that protected group. To the extent that victims of abuse in Orange County shelters can demonstrate a nexus between their protected status and the verbal and physical abuse they endured, the county and its agents could be accountable for bias-related crimes.

Bias-motivated violence or threats are crimes under California[82] and federal[83] law. But California's Ralph Civil Rights Act makes hate crimes actionable in civil law and allows victims to collect damages against perpetrators.[84] The Ralph Civil Rights Act allows for civil penalties for violence or threats of violence against people based on their membership in a protected class, including (but not limited to): sex, color, race, ancestry, national origin, disability, medical condition, sexual orientation, citizenship, primary language, or immigration status.[85] Examples of bias-related crimes include threats and physical assault or attempted assault motivated in whole or in part because of the victim's actual or perceived protected characteristics. Residents of Orange County homeless

shelters who have been targeted for abuse and violence based on their membership in a protected class — for example, people who are disabled, people who are racial minorities, or women — are protected by state and federal anti-hate crime legislation.

To eliminate unlawful bias-motivated mistreatment of people in shelters, the county should adopt the ACLU of Southern California's recommendations, in particular Recommendation #2, which would prevent discrimination through appropriate training, firm zero-tolerance policies targeting discrimination and accountability mechanisms for programs and staff who violate those policies.

Intimidation and Retaliation

This report also uncovers widespread intimidation and retaliation against residents who try to stand up for their rights while living in shelter. State and federal law protects people who are threatened, intimidated or coerced in response to attempting to enjoy their state or federal constitutional rights, or retaliated against based on having asserted their rights.

California's Tom Bane Civil Rights Act, and analogous sections of federal law, provide protection from threats, intimidation, or coercion and from attempts to interfere with someone's state or federal rights.[86] The Bane Act is discussed further in the report's section on suppression of freedom of expression, but it also applies to people who attempt to enforce other rights, like the right to be free from sexual harassment or violence, the right to seek and obtain a reasonable accommodation, or the right to live in a shelter that is safe and fit for human habitation. When shelter staff, or other authorities, intimidate residents who try to stand up for their rights, or the rights of others, they violate the Bane Act.

Closely related to unlawful intimidation, but distinct, are state and federal prohibitions on retaliation against people who have already engaged in protected activities.[87] Retaliation against anyone who has opposed unlawful discrimination, or aided or encouraged another person to exercise or enjoy the rights secured by anti-discrimination statutes, made a complaint, testified, assisted, or participated in any proceeding or reported a discriminatory practice to a housing accommodation provider or authority, is against the law.[88] When shelter staff threaten residents with eviction, actually evict, or sanction residents in response to residents opposing or reporting abuse or discrimination, they unlawfully retaliate against residents.

To eliminate unlawful intimidation and retaliation against people in shelter who seek to enforce their rights, the county should adopt the ACLU of Southern California's recommendations, in particular Recommendations #2 and #9, which would prohibit any form of retaliation and establish a whistleblower protection policy.

Suppression of freedom of expression

Residents of homeless shelters are no less entitled to free speech protections than those with homes. Yet this report details shelter policies and practices that systematically strip residents of their fundamental right to express themselves without threat of reprisal, and to document abuse and substandard conditions inside public emergency shelters.

SAFEPlace has a written policy that states that guests will be ejected from the shelter onto the street if they make complaints

about the shelter publicly. A sign posted in the shelter says "Guests who have an issue with a staff member must use the SAFEPlace grievance process. If the guest does not choose to use this process and grievances are made public or constant and (sic) exit date will be assigned." At the Courtyard, residents report being threatened with eviction and permanent barring from the shelter for speaking to the media about shelter conditions.[89]

A person's right to voice complaints about how they are treated by the institutions and agencies that exist and purport to serve them is protected expression.[90] As discussed in the previous section, the Bane Act provides parties a private right of action against an entity that interferes with an individual's rights under the federal or state constitution and laws by threat, intimidation or coercion.[91] Threatening homeless women with an ejection from shelter if they speak publically about their concerns and complaints about SAFEPlace is the very definition of coercion. Residents subjected to SAFEPlace's policy have grounds to seek injunctive relief and money damages against the shelter and the county to redress the harm caused by this illegal deprivation of residents' rights.

The shelters we investigated prohibit residents from taking photographs, video, or audio recordings inside the facilities. Such policies likewise violate residents' right to freedom of expression. These unreasonable policies have been used to suppress residents' efforts to document unsafe and unsanitary bathroom conditions — even when no residents or staff were on camera — which demonstrate the policy's true intent: to prevent whistleblowing on the shelter. The right to record problems inside the shelter is a critical check and balance in a system where residents are otherwise powerless in the face of staff authority and where there is no meaningful oversight by county or local authorities. There is a significant public interest in allowing such documentation to monitor how public funds are being spent and how residents are being treated. Photographs and video can create an independent record of conditions inside a shelter that is free from bias, misrepresentation or faulty memory. Total bans are even more unreasonable in the context of a shelter that affords guests no privacy; residents must submit to invasive searches every time they go in and out of the shelter and are constantly surveilled by staff on multiple cameras at a time.

To eliminate unlawful suppression of the right to free expression, the county should adopt the ACLU SoCal's recommendations, in particular Recommendation #7, which would safeguard protected speech and prohibit blanket bans on residents taking photographs, video or audio recording inside shelters.

Deprivation of substantive and procedural due process

Substantive Due Process

The Substantive Due Process Clause of the 14th Amendment to the U.S. Constitution provides that state actors shall not "deprive any person of life, liberty, or property, without due process of law." This report uncovers emergency shelter policies and practices that prohibit freedom of movement, speech and expression, subject residents to physical abuse and discrimination, expose them to unsafe sanitation and structural conditions, allow the destruction or theft of resident property, permit retaliation against residents who attempt to exercise their rights, and allow staff to use arbitrary eviction as a means of exercising power and control

over residents. The policies and practices deprive residents of their fundamental rights and substantive due process.

The county is also be responsible for state-created danger if county agents place individuals in situations of known danger with deliberate indifference to their personal and physical safety.[92] Courts have held that local governments whose policies or practices disregard the safety of people experiencing homelessness can be held accountable for a substantive due process violation under the state-created danger doctrine.[93] Orange County should take immediate action to address the findings of this report — which outline first person accounts of unsafe and unsanitary conditions and treatment — by adopting the ACLU SoCal's recommendations.

1. Infringement on the Fundamental Right to Travel and False Imprisonment at Bridges at Kraemer Place

Bridges at Kraemer Place's policy of allowing residents to leave or enter via shuttles or a vehicle only, strictly forbidding residents from coming and going on foot, is of particular concern from a substantive due process standpoint. If a resident doesn't have access to a car, they are locked in to the facility after 8:30 a.m. and prohibited from leaving. There aren't enough shuttle spots for all who want to leave each day. Residents of Bridges at Kraemer expressed a feeling of imprisonment inside a locked facility that resembles an internment camp or jail, rather than a voluntary, low-barrier transitional housing program. They report that if a person wants to walk out for any reason, they are not allowed to return and forfeit their place in the program.

The 14th Amendment to the U.S. Constitution protects the right to travel to whatever place one's own inclination may direct and stay as long as one wishes.[94] Preventing people from coming and going from a shelter program on foot and requiring them to travel to certain designated places by shuttle in order to leave or enter the premises unreasonably infringes on residents' right to travel and move freely.

To the extent that residents desire to leave the program during the day, but are prohibited from doing so because there aren't enough shuttles for all the people who want to leave, or the need to leave arises after the shuttles stop running, the program may be engaging in civil false imprisonment. Civil law in California prohibits the detention of a person against their wishes.[95] False imprisonment under California law occurs when there is nonconsensual, intentional confinement without lawful privilege, for an appreciable period of time, however brief.[96] A person is falsely imprisoned if he or she is wrongfully deprived of the freedom to leave a particular place by the conduct of another.[97] The confinement of a person can be effectuated either by means of physical barriers or by means of any other form of unreasonable duress.[98] Locked gates at Bridges at Kraemer Place keep people confined, and the threat of termination from the program if people leave on foot qualifies as unreasonable duress.

To eliminate unlawful interference with the right to freedom of movement, the county should adopt the ACLU of Southern California's recommendations, in particular Recommendations #5 which would ensure that shelter residents are free to come and go from shelter freely.

2. Theft and Destruction of Resident Property

This report reveals theft and destruction of residents' property by shelter staff. Residents are subjected to tolls when they come in to the shelter, the staff destroys or takes their belongings when they are evicted without notice, and the staff forces residents to throw away their property as a price of admission to shelter. This abuse of power could give rise to criminal charges for theft or extortion. It is also a deprivation of the constitutional right to one's own property under the Fourth, Fifth, and 14th Amendments of the U.S. Constitution.[99] A homeless person's unabandoned possessions are "property" within the meaning of the 14th Amendment and people experiencing homelessness are protected from seizure and summary destruction of their personal property.[100] Courts have admonished government actors not to underestimate the value of personal property to people experiencing homelessness because that property might be all he or she owns.[101]

To eliminate unlawful deprivation of personal property, the county should adopt the ACLU SoCal's recommendations, in particular Recommendation #5, which would ensure that shelter residents' is securely stored and protected from theft or destruction.

Procedural Due Process

This report demonstrates that denial of admission, punishment and eviction are used against people experiencing homelessness in an arbitrary and capricious way by shelter staff. Eviction is a tool of oppression used to exercise power and control over residents who are thrown out of shelters and onto the street summarily, sometimes violently, for trivial reasons, no reasons at all, or in retaliation for exercising their rights. Denials and evictions violate principles of due process when residents are not given adequate notice or an opportunity to be heard prior to being deprived of homeless services benefits.

Procedural due process is a foundational constitutional principle that safeguards fairness and is a check on the arbitrary exercise of power. Applicants and users of emergency shelters are entitled to procedural due process when shelters exercise authority to deny access, sanction, or evict them. Due process requires at the very least notice of the intended adverse action, and an opportunity for a hearing prior to the deprivation of service or a benefit that a resident is eligible for and has an interest in.[102] Courts have held that residents of emergency shelters have a constitutionally protected interest in continued occupancy and use of a shelter, requiring providers who intend to deprive a resident of that right to provide due process before doing so.[103] Without meaningful procedural due process safeguards, people experiencing homelessness will continue to be subjected to arbitrary and capricious abuses of authority.

To eliminate unlawful deprivation of shelter benefits, the county should adopt the ACLU SoCal's recommendations, in particular Recommendation #6, which would establish a system of due process for shelter denials, evictions, and other sanctions.

RECOMMENDATIONS

This report shows the need for urgent and far-reaching reforms to protect the health and safety of people using Orange County's emergency shelters. We find unsafe and unsanitary living conditions, discrimination based on disability, age, and gender, sexual and physical abuse, restrictions on freedom of movement, verbal abuse, and theft and destruction of residents' personal property. The program staff retaliates against those who speak out and prohibits residents from documenting abuses and conditions, silencing the voices that most need to be heard.

The pervasiveness of the problems we uncovered suggests that bad systems, not bad apples, are behind the mistreatment of shelter residents. It is a mistake to assume that closing down violators and opening new shelters will solve the problem. To protect the health, mental health and dignity of shelter residents, the county must establish and implement system-wide reforms that will hold all shelters to the highest possible standards. This section discusses in detail concrete recommendations the county should implement immediately to create a humane emergency shelter system.

Establish standards of care and systems of accountability

Recommendation #1: Establish uniform health and safety standards for all shelters and hold shelter operators accountable to those high standards

- Develop uniform health and safety requirements for interim housing facilities and emergency shelters incorporating at minimum the standards set out by HUD for Emergency Service Grant recipients, codified at 24. C.F.R. § 576.403 (See Table X).
- Establish a new countywide public health licensing process requiring compliance with these minimum standards.
- Create a new emergency shelter health and safety inspection program that will conduct routine inspections and complaint investigations at emergency shelters. Appendix VI provides a model ordinance to establish uniform health and safety standards and a new public health permit requirement.
- Provide training to emergency shelter operators and stakeholders regarding minimum standards in order to support shelter compliance.
- Establish a confidential hotline to trigger inspection of violations.
- Revoke license or service contract agreements and/or impose fines when operators fail to comply with or remediate violations.
- Retrofit existing shelters to meet uniform standards.

Eliminate discriminatory policies and practices and hold violators accountable

Recommendation #2: Establish an Orange County Office of Civil Rights and Oversight Board

The county should establish an Office of Civil Rights whose mission it is to protect the civil rights of people experiencing homelessness in Orange County and an Oversight Board to set the office's agenda and oversee its work.

Responsibilities of the county:

- Pass an ordinance that affirms Orange County's commitment to delivering services in a manner that protects the civil rights of people experiencing homelessness in Orange County (See Model Ordinance at Appendix VII). The ordinance will:
    - Ensure compliance with existing state and federal civil rights law, including but not limited to the Americans with Disabilities Act, the Rehabilitation Act, the Fair Housing Act and the Fair Employment and Housing Act.
    - Establish the Office of Civil Rights and the Oversight Board.

Responsibilities of the Oversight Board:

- Ensure that the Office of Civil Rights fulfills its mission to protect the civil rights of people experiencing homelessness in Orange County.
- Supervise the work of the Office of Civil Rights, including the power to hire and fire leadership.
- Ensure that the board consists of individuals who are representative of the population of the county and who are traditionally targets of discrimination, including a meaningful number of people who are homeless or who have experienced homelessness.
- Conduct public hearings to examine issues pertaining to the civil rights of people experiencing homelessness and to examine systemic failures uncovered by the Office of Civil Rights.
- Have the power to subpoena witnesses and the production of documents at public hearings.
- Change policy through public recommendations directed to all stakeholders in the homeless services system.

Responsibilities of the Office of Civil Rights:

- Protect people experiencing homelessness from discrimination in accessing city and county homelessness services and homelessness services contracted by city and county governments.
- Provide mandatory training to shelter staff and operators on standards for compliance with civil rights law with a focus on eliminating all types of bias and sexual harassment from shelter programs.
- Require that shelter operators adopt a zero-tolerance policy for sexual, physical, and verbal abuse, including a policy of not hiring prospective staff who have been found responsible for violating resident civil rights in the past.
- Prohibit policies that discriminate against residents based on their gender identity and allow transgender residents to self-identify for single sex placements or services.
- Proactively inform shelter residents of their rights and how to exercise them through channels that are accessible to people with disabilities and are easy to understand.
- Establish a safe and confidential mechanism for reporting violations that use trauma-informed practices.
- Require that shelter operators adopt a zero-tolerance policy for retaliation against residents, volunteers or staff members who report violations.
- Receive, investigate and adjudicate complaints for all civil rights violations.
- Immediately refer complaints made against the county to the Department of Fair Employment and Housing for investigation and adjudication.
- Access shelters when required for investigations.
- Assist victims in filing complaints with relevant state and federal agencies and/or law enforcement where applicable.
- Conciliate/mediate disputes on a voluntary basis using a restorative justice model to bring about reconciliation as well as traditional remedies (such as financial compensation and equitable relief).
- Publish an annual report on complaints received, action taken by the office and resolution of complaints.
- Educate the public, provide community outreach and cooperate with other city, county, state and federal agencies.
- When civil rights violations are found, the office should be empowered to:
    - Compensate victims of civil rights violations appropriately.
    - Provide equitable relief to complainants including but not limited to:
        - Providing reasonable accommodations.
        - Relocating the victim if it is determined that the victim has been discriminated against by a shelter and immediately link the person to a safe and appropriate living environment.
        - Requiring changes in program policy.
        - Public admonishment of culpable parties and/or programs.

Recommendation #3: Create a countywide reasonable accommodation policy

- The county should adopt a countywide reasonable accommodation policy to create consistency and promote compliance across programs.
- The policy should require shelter staff to provide reasonable accommodations to shelter residents in order to comply with state and federal law that prohibits discrimination against people with disabilities. The policy should:
    - Require staff to affirmatively offer reasonable accommodations to people with disabilities when the need for an accommodation is known or obvious.
    - Create a clear mechanism enabling people with disabilities to request and obtain reasonable accommodations [Appendix VIII provides a model process for compliance with laws protecting the rights of people with disabilities].
    - Require shelter operators to inform residents of the reasonable accommodation policy upon their initial entry to the shelter and post the reasonable accommodation policy in a common space inside the shelter.
    - Prohibit retaliation as a result of an individual's request for a reasonable accommodation.
    - Require shelter operators to promptly review requests for reasonable accommodations and respond to those requests in writing.
    - Allow denials of requests for reasonable accommodations to be appealed to the Office of Civil Rights.[1]
- The county should designate an employee of the Office of Civil Rights to be the Americans with Disabilities Act Coordinator ("ADA Coordinator"), who would oversee the implementation of the policy and ensure that programs are providing accessible services.

Recommendation #4: Link residents to higher levels of care when appropriate

- People experiencing homelessness should not be denied admission to or evicted from shelter due to their mental and physical health conditions.
- When an individual seeks admission to a shelter and at any time during a shelter stay, shelter operators should assess the needs of residents and immediately link them to appropriate programs and services when they require a higher level of care than the shelter can provide.
- Shelter operators should be prohibited from evicting residents or denying applicants admission without linking them to appropriate services.
- Inpatient psychiatric care,[104] nursing homes,[105] and permanent supportive housing are often unavailable. It will be necessary to overhaul Orange County's system of care to develop sufficient residential care at every level of need, from emergency shelter to skilled nursing care.

[1] This recommendation should not supersede existing reasonable accommodation policies that provide equal or broader protections to people with disabilities. Instead, it is meant to promote a uniform minimum standard across county services and fill gaps where no such policy currently exists.

Respect and protect residents' personal property and freedom of movement

Recommendation #5: Create a system for secure storage of personal property and eliminate policies that limit freedom of movement

The county should create a system that provides assurance that the property of residents is securely stored and eliminate policies that infringe on residents' freedom of movement.

Security of property:

- Improve and expand storage inside shelters.
- Develop off-site storage facilities available to unsheltered individuals. All storage should be accessible only to the owner of the stored property.
- Create clear, uniform policies for the return of property for residents who exit the shelter, including a timeline for return and prohibiting tampering with or improperly removing property.
- Provide additional security and 24-hour video surveillance of storage areas to prevent theft.
- Investigate and hold operators responsible for criminal theft and destruction of residents' personal property.
- Adopt a zero-tolerance policy for violations.
- Establish clear rules prohibiting staff from accepting or requesting any form of property from residents.
- Compensate victims for lost, stolen or destroyed property by replacing the item or providing monetary reimbursement.

Safeguarding freedom of movement:

- Eliminate policies that curtail residents' freedom to come and go from shelters.
- Abolish any limitations on arriving and leaving shelters or provide sufficient transportation for all who wish or need to come and go from shelters during business hours.

Establish due process protections for denials, evictions and other sanctions

Recommendation #6: Create a system of due process for denials, evictions, and other sanctions

Create a good cause eviction policy that includes:

- Clear guidelines on the reasons that shelters can deny admission, evict or otherwise sanction residents [See Appendix IX for a model guideline].
- A policy prohibiting adverse actions against residents for reasons other than those articulated in the guidelines.
- Written notification of denial, eviction, or sanction with adequate notice.
- An opportunity for the resident to challenge the adverse action at an informal hearing, which should be recorded.
- A mandate that the person conducting the hearing render a written decision.
- Judicial review of hearing decisions if a resident wishes to appeal.[2]

Allow documentation of shelter conditions and staff conduct and prohibit retaliation against whistleblowers

Recommendation #7: Safeguard protected speech

- Establish a policy that protects freedom of speech and expression by residents of emergency shelters.
- Explicitly ban any form of retaliation (including but not limited to eviction or threat of eviction) against residents who exercise their freedom of speech or assert their rights in any way. Shelter residents should be free to air grievances in speeches, public meetings, opinion articles in the newspaper, comments made to reporters, and any other public settings
- Empower the Office of Civil Rights, described in recommendation #2 to investigate violations of the right to free speech and ensure that shelter residents can express themselves free from retaliation.

[2] This recommendation should not supersede existing reasonable accommodation policies that provide equal or broader due process protections, instead it is meant to promote a uniform minimum standard across county services and fill gaps where no such policy currently exists.

Recommendation #8: Prohibit sweeping bans on residents taking photographs, video, or audio recordings inside the shelter facilities.

- Abolish and prohibit sweeping bans on residents taking photographs, video, or audio recordings inside the shelter – a critical means of documenting staff misconduct and unsafe, unsanitary living conditions.
- Allow residents to openly record staff while on-duty and shelter conditions. To protect resident privacy, policies could prohibit the taking of photographs, video, or audio recordings of residents without their permission.

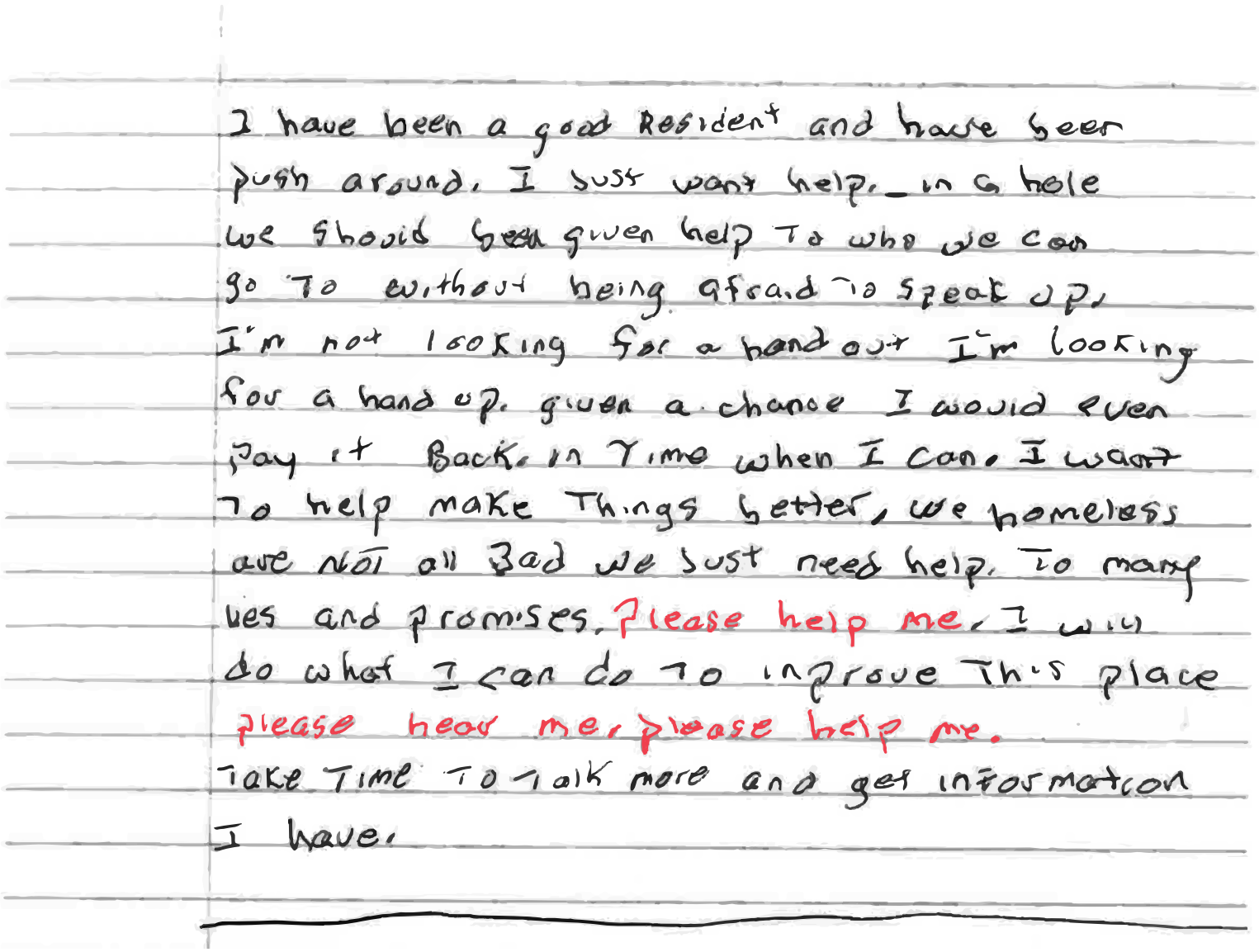
Recommendation #9: Create a safe and confidential whistleblower policy

- Create a whistleblower policy that provides a safe, confidential way for people to report human and civil rights violations.
- Prohibit retaliation against all whistleblowers and zero tolerance for retaliation against reporting.
- Establish a confidential tip line or hot line to report unsafe, unsanitary conditions, rights violations and abuse.
- Direct the Office of Civil Rights to receive reports from whistleblowers, investigate those reports, and hold violating shelter operators accountable.
- Require that those who receive reports be trained in trauma-informed care so that they can respond to impacted people with understanding and empathy, and can offer referrals to services. They need to create a safe, nonjudgmental space that starts from the assumption that impacted people are telling the truth.

Create a culture shift from impunity to accountability and respect

Recommendation #10: Create opportunities for democratic participation in shelter operations by residents

- Create explicit ways for residents to participate in organizational governance and regular feedback mechanisms.
- Require shelters to have resident advisory boards or regular "house meetings" in which residents can provide candid feedback and input into how to support connections to permanent housing and shelter services, as well as shelter operations.[106]
- Institute an anonymous quarterly shelter climate survey of residents, the results of which should be published to shelter administrators, the Board of Supervisors, the Office of Civil Rights and the public.
- Prohibit shelter operators from interfering with or retaliating against residents who organize a resident union.


I have been a good Resident and have been push around. I just want help. in a hole we should been given help To who we can go To without being afraid To speak up. I'm not looking for a hand out I'm looking for a hand up. given a chance I would even pay it Back. in Time when I can. I want To help make Things better, we homeless are NOT all Bad we just need help. To many lies and promises. Please help me. I will do what I can do To improve This place please hear me, please help me. Take Time To talk more and get information I have.

CONCLUSION

When the Orange County Board of Supervisors opened the Courtyard in October 2016, Supervisor Andrew Do said, "This homeless shelter will provide a warm bed and a hot meal for hundreds of people that have nowhere else to go." Supervisor Michelle Steel added, "This is a step toward ensuring the health and safety for all residents of Orange County."[107]

But more than two years later, living conditions at the county's new emergency shelters belie these public statements. Our investigation uncovered unsafe and unsanitary living conditions, discrimination based on disability, age, and gender, sexual and physical abuse, restrictions on freedom of movement, verbal abuse, theft and destruction of personal property, and a climate of fear in which staff members violate the rights of residents with impunity.

The recommendations in this report focus on system-wide reform. Closing programs that mistreat residents may be necessary in some cases, but it will not prevent misconduct by other providers in the future. The county needs a system-wide structure that sets high standards for emergency shelters, holds them accountable to those standards and gives residents a voice.

Absent meaningful reform, the rapid expansion of Orange County's shelter system is likely to compound the problem. In fact, residents and advocates reported overflowing toilets, broken showers, insufficient hot water, empty soap dispensers, leaking sewage, and a rash of evictions at Anaheim Way, an interim shelter in Anaheim, only a few weeks after it opened in December 2018.

As a first step, elected officials, public administrators, and shelter staff should implement the recommendations in this report. Moving forward, they should listen to people experiencing homelessness and take steps to improve the system based on their feedback.

Ms. Filicko finally escaped the chaos of the Courtyard during the summer of 2018, when she obtained a spot in a group home that, to her, feels like home. "While I was at the Courtyard I never had a case manager," she recalls. "I called a mental health program myself. I waited four months on the waiting list to get into this group home."

The move gave Ms. Filicko a new perspective on the Courtyard. When she arrived at the group home, she says, "The staff prescribed two mood stabilizers, but the medications did a number on me and I stopped taking them. Then I realized I don't need them. My symptoms went away. I don't have any depression or anxiety attacks since leaving the Courtyard." As she now realizes, living in the Courtyard was making her sick.

Ms. Filicko should not have languished in the Courtyard for over a year before transitioning to a group home. Her experience highlights the need for an expanded system of care in which emergency shelter plays a limited role. This system should be premised on the recognition that congregate living deprives people of privacy and subjects them to crowding, and that these conditions can lead to the deterioration of health and mental health — no matter how well-run the shelter. Therefore, people should stay at shelters for no more than a few days or weeks while they connect to affordable housing options.

To realize this vision, the county must have the capacity to offer people experiencing homelessness permanent, affordable housing as an immediate response to their crisis. It will need to commit substantial support for permanent solutions to homelessness, namely subsidized affordable housing, permanent supportive housing, and, when needed, higher levels of care. Otherwise, people will continue to live in the county's emergency shelters for months, and even years, with no clear pathway out of homelessness.

Orange County is far from achieving the goal of providing Housing First for people experiencing homelessness. Until it gets there, the county must hold the current system to the highest possible standards, and it must protect the human and civil rights of the community it serves.

Appendix I: Courtyard Street Exit Report

Courtyard Street Exit Report
Through December 2017

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
1		HUD HMIS Exit	HMIS Code	Thru 11/30/17[a]	Dec-17	Q1[b]	Jan-18	Feb-18	Mar-18	Q2	Apr-18	May-18	Jun-18	Q3	Jul-18	Aug-18	Sep-18	Q4	Oct-18	Nov-18	Dec-18	Cum Exits from Opening
2	Homeless Situations	Place not meant for habitation	16	0	0	**0**	0		0	**0**	0			**0**				**0**				**0**
3		Emergency shelter, including hotel or motel paid for with emergency shelter voucher	1	24	5	**0**	4	8	12	**24**	7			**7**				**0**				**60**
4		Safe Haven	18	0	0	**0**	0	0	0	**0**	1			**1**				**0**				**1**
5		Transitional Housing for homeless persons (including homeless youth)	2	23	0	**10**	0	0	8	**8**	10			**10**				**0**				**41**
6		*(not applicable for CoC-funded projects) To HOPWA TH from a HOPWA project*	X	*N/A*	*N/A*	***N/A***	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
7	Non-Homeless Temporary Situations	Hotel or motel paid for without emergency shelter voucher	14	4	0	**2**	0	5	0	**5**	1			**1**				**0**				**18**
8		Residential project or halfway house with no homeless criteria	29	5	2	**4**	4	1	3	**8**	2			**2**				**0**				**31**
9		Staying or living with family, temporary tenure (room, apartment, or house)	12	0	0	**0**	0	0	0	**0**	2			**2**				**0**				**4**
10		Staying or living with friends, temporary tenure (room, apartment, or house)	13	0	1	**2**	0	1	2	**3**	5			**5**				**0**				**19**
11	Institutional Situations	Psychiatric hospital or other psychiatric facility	4	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
12		Substance abuse treatment facility or detox center	5	11	4	**12**	3	2	0	**5**	0			**0**				**0**				**37**
13		Hospital or other residential non-psychiatric medical facility	6	7	2	**7**	6	0	1	**7**	3			**3**				**0**				**36**
14		Jail, prison, or juvenile detention facility	7	1	0	**0**	0	0	0	**0**	0			**0**				**0**				**1**
15		Foster care home or foster care group home	15	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
16		Long-term care facility or nursing home	25	6	0	**0**	0	1	11	**12**	0			**0**				**0**				**30**
17	Continuum PH	Rental by client, with RRH or equivalent subsidy	31	2	0	**5**	0	0	0	**0**	0			**0**				**0**				**7**
18		Permanent housing (other than RRH) for formerly homeless persons	3	1	3	**1**	1	1	1	**3**	4			**4**				**0**				**19**
19		*(not applicable for CoC-funded projects) To HOPWA PH from a HOPWA project*	X	*N/A*	*N/A*	***N/A***	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
20	Rent/Own with Subsidy	Rental by client, with GPD TIP housing subsidy	28	0	0	**1**	0	0	0	**0**	0			**0**				**0**				**1**
21		Rental by client, with VASH housing subsidy	19	8	4	**4**	0	1	0	**1**	0			**0**				**0**				**18**
22		Rental by client, with other ongoing housing subsidy	20	44	1	**3**	1	2	0	**3**	1			**1**				**0**				**56**
23		Owned by client, with ongoing housing subsidy	21	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
24	Rent/Own no Subsidy	Rental by client, no ongoing housing subsidy	10	22	6	**10**	15	5	1	**21**	0			**0**				**0**				**80**
25		Owned by client, no ongoing housing subsidy	11	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
26	Other Perm	Staying or living with family, permanent tenure	22	50	8	**23**	8	10	5	**23**	4			**4**				**0**				**135**
27		Staying or living with friends, permanent tenure	23	6	2	**3**	2	1	0	**3**	0			**0**				**0**				**17**
28	Other	Deceased	24	5	0	**0**	0	0	1	**1**	0			**0**				**0**				**7**
29		Other	17	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
30		Client doesn't know	8	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
31		Client refused	9	0	0	**0**	0	0	0	**0**	0			**0**				**0**				**0**
32		No data collected	99	0	0	**5**	0	0	1	**1**	3			**3**				**0**				**13**
33		**TOTAL**		**219**	38	**92**	44	38	46	**128**	45			**45**				**0**				**695**
34		**Increased Houisng Stability Reporting Number**		**185**	**32**	**83**	**40**							**0**				**0**				**508**
35		**Quarterly Monthly Average**				**28**								**0**				**0**				
36		***cumulative by month***		185	217		257															
37		***[a] Source: Nov17 exits review for OCCR/reporting***																				
38		***[b] Source: Q1 numbers from TMM Q1 Report***																				

1/30/2019

Appendix II: Interviews

Date	Role	Location of interview	Gender	Shelter	Unsafe and unsanitary living conditions	Discrimination against people with disabilities	Gender-based discrimination and sexual abuse	Assault	Verbal abuse	Theft and destruction of property	Oppression through arbitrary evictions	Prohibitions on documenting abuses and conditions	Impunity and lack of accountability
Bridges													
4/24/2018	Shelter resident	Soup kitchen	Male	Bridges	x	x				x	x		x
4/24/2018	Shelter resident	Soup kitchen	Male	Bridges	x								
4/24/2018	Shelter resident	Soup kitchen	Male	Bridges	x	x							
4/27/2018	Shelter resident	Soup kitchen	Female	Bridges		x							
4/27/2018	Shelter resident	Anaheim	Male	Bridges	x	x					x		
4/29/2018	Shelter resident	phone call	Female	Bridges		x					x		
5/17/2018	Shelter resident	Soup kitchen	Male	Bridges	x					x	x		x
5/28/2018	Shelter resident	phone call	Male	Bridges	x	x				x			
7/2/2018	Shelter resident	phone call	Female	Bridges	x	x					x		
7/5/2018	Shelter resident	phone call	Male	Bridges	x	x			x		x		
July 2018 and ongoing	Volunteer	in person (Santa Ana) and phone	Male	Bridges	x	x			x				x
12/3/2018	Shelter resident	Mary's Kitchen	Female	Bridges	x						x		
12/21/2018	Advocate	phone call	Male	Bridges			x						
	Shelter resident	focus group	Female	Bridges	x	x	x			x	x		
1/11/2019	Shelter resident	focus group	Female	Bridges	x	x	x			x	x		
1/11/2019	Shelter resident	focus group	Female	Bridges	x	x	x			x	x		
Bridges and Courtyard													
4/6/2018	Shelter resident	Soup kitchen	Female	Bridges/ Courtyard	x (courtyard)	x(bridges)	x (courtyard)			x (courtyard)	x (bridges)		
6/29/2018	Shelter resident	near Courtyard	Male	Bridges/ Courtyard	x (courtyard and bridges)	x (bridges)			x (oourtyard and bridges)				
12/3/2018	Shelter resident	Mary's Kitchen	Female	Bridges/C ourtyard	x(bridges)		x (courtyard)						
12/3/2018	Shelter resident	Mary's Kitchen	Female	Bridges/C ourtyard	x(courtyard)					x(bridges)			
Courtyard													
12/1/2016	Shelter resident	Courtyard shelter	Female	Courtyard	x							x	
5/4/2017	Advocate	in person (Santa Ana) and phone	Male	Courtyard			x			x	x		
12/26/2017	Shelter resident	phone call	Male	Courtyard		x	x						
4/1/2018	Shelter resident	phone call	Female	Courtyard		x	x			x			
4/6/2018	Shelter resident	Santa Ana	Female	Courtyard	x		x						
4/21/2018	Shelter resident	phone call	Female	Courtyard	x	x	x						
4/21/2018	Shelter resident	phone call	Male	Courtyard	x	x							
4/21/2018	Shelter resident	phone call	Female	Courtyard	x	x	x				x		x
4/26/2018	Advocate	phone call	Female	Courtyard			x						
5/3/2018	Advocate	Buena Park	Female	Courtyard	x	x	x		x	x			
5/3/2018	Advocate	Buena Park	Male	Courtyard	x	x	x		x	x			
5/4/2018	Shelter resident	near Courtyard	Female	Courtyard	x	x	x			x			
5/4/2018	Shelter resident	near Courtyard	Female	Courtyard	x						x		
5/5/2018 and ongoing	Volunteer	Santa Ana	Female	Courtyard	x	x			x	x		x	

5/5/2018 and ongoing	Volunteer	Santa Ana	Male	Courtyard	x	x			x	x		x	
5/7/2018	Outreach worker	phone call	Male	Courtyard					x	x			
5/23/2018	Shelter resident	Anaheim	Male	Courtyard				x	x				
5/29/2018	Shelter resident	Park in Santa Ana	Male	Courtyard	x	x	x	x	x		x		x
5/29/2018	Shelter resident	phone call	Male	Courtyard	x			x	x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Male	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Male	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Male	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Male	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Female	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Male	Courtyard	x				x	x	x		
5/30/2018	Shelter resident	focus group in Santa Ana	Female	Courtyard	x		x		x	x	x		
6/1/2018	Shelter resident	Anaheim	Male	Courtyard				x					x
6/1/2018	Shelter resident	Anaheim	Female	Courtyard				x					x
6/27/2018	Shelter resident	Near courtyard	Male	Courtyard	x	x	x				x		
6/27/2018	Shelter resident	Near courtyard	Female	Courtyard	x	x	x				x		
7/26/2018 and ongoing	Shelter resident	Park in Santa Ana	Male	Courtyard	x	x			x	x	x	x	x
8/21/2018	Shelter resident	Park in Santa Ana	Female	Courtyard			x				x		x
9/7/2018	Shelter resident	Near courtyard	Male	Courtyard			x		x		x		
9/7/2018	Shelter resident	Near courtyard	Female	Courtyard		x	x						
9/12/2018	Shelter resident	La Palma Park	Female	Courtyard	x				x		x		
9/12/2018	Shelter resident	La Palma Park	Female	Courtyard		x	x			x	x		
10/8/2018	Shelter resident	Buena Park	Female	Courtyard	x	x			x		x		
10/29/2018	Shelter resident	phone call	Female	Courtyard	x	x	x				x	x	x
10/29/2018	Shelter resident	phone call	Female	Courtyard		x					x	x	
4/19/2018-4/20/2018	Outreach worker	phone call and email	Female	Courtyard	x	x	x						
4/6/2018 and 4/11/2018	Shelter resident	phone call and text	Male	Courtyard	x	x		x			x		
8/1/2018 and ongoing	Shelter resident	in person (laguna beach) and phone	Female	Courtyard			x						
8/3/2018 and ongoing	staff member	in person (Santa Ana) and phone	Female	Courtyard	x	x	x	x	x	x	x	x	x
8/3/2018 and ongoing	Shelter resident	near Courtyard	Female	Courtyard	x	x	x		x	x	x		
11/30/2018	Shelter resident	near Courtyard	Female	Courtyard			x		x				
11/30/2018	Shelter resident	near Courtyard	Female	Courtyard					x				x
11/30/2018	Shelter resident	near Courtyard	Male	Courtyard					x				x
11/30/2018	Shelter resident	near Courtyard	Female	Courtyard			x		x				
12/13/2018	advocate/resident	near Courtyard	Male	Courtyard	x		x	x	x		x	x	x

Safeplace													
9/17/2018	Shelter resident	focus group, in person (Santa Ana), and ongoing	Female	Safeplace	x	x	x				x		
9/17/2018	Shelter resident	focus group, in person (Santa Ana), and ongoing	Female	Safeplace			x			x	x		x
9/21/2018	Shelter resident	focus group in Santa Ana	Female	Safeplace	x	x	x				x		
9/21/2018	Shelter resident	focus group in Santa Ana	Female	Safeplace	x	x			x		x		
9/21/2018	Shelter resident	focus group in Santa Ana	Female	Safeplace	x	x			x		x		
9/21/2018	Shelter resident	focus group in Santa Ana	Female	Safeplace	x	x	x			x	x		
9/28/2018	Shelter resident	phone call/in person (Santa Ana)	Female	Safeplace		x					x		x
Anaheim Way													
1/4/2019	Shelter resident	Anaheim	Female	Anaheim Way	x	x	x		x				
1/4/2019	Shelter resident	Anaheim	Male	Anaheim Way	x	x	x		x				
1/11/2019	Shelter resident	text	Male	Anaheim Way	x								
1/13/2019	Advocatae	in person and video	Male	Anaheim Way	x								
1/13/2019	Shelter resident	Anaheim (Eve) and video (R.Joshua)	Female	Anaheim Way	x								

Appendix III: Excerpted Courtyard complaint log

CY Complaint Log

Complaint Received Date	Name of Complainant	Problem/Complaint	Status/Update
03/28/17	[redacted]	- Was ejected from the CY on 03/17/2017 for allegedly passing drugs - Claims security guard Devon is unfairly treating clients	As of 07/03/2017 - Per Carolyn McInerney, [redacted] is claiming that it was all a misunderstanding and that certain employees are throwing her under the bus. Carolyn reierated to her that she would need to speak to Doris/TMM
06/22/17	[redacted]	- Wants to photograph the CY but not allowed to.	As of 06/22/2017 - Reaching out to CoCo for guidance due to First Amendment Right.
07/24/17	[redacted] on behalf of [redacted]	- Human feces on the floors of women's showers - Showers were only hosed down once a day - Handicapped were not able to use shower/bathroom due to no assistance from staff. - Sanitation of the facilities - A man was dead for an entire day without any action from CY staff. After the body was removed, the area, cot and blankets were not disinfected or cleaned. - Why the CY is filled with over 400 beds when the contracts states up to 300 beds.	As of 07/25/2017 - Rachel Selleck from HCA reached out and offered her assistance to draft a joint response. As of 08/11/2017 - Zulima responded to [redacted] and states that she will share [redacted] input with the appropriate departments within the County. As of 09/01/2017 - Juanita drafted an email response and was forwared to Julia to finalize response.
08/18/17	[redacted]	- Heard baby crying for 45 minutes. Infant 4 to 6 months old. Heard crying for 3 to 4 days. - Woman 8 months pregnant active SUD. - Human Trafficking - red roof inn. - Utilizing county accounts for dining and uber. - TMM staff has threatened [redacted] with violence. - Individuals at CY are stealing other's belongings and TMM is not taking action. - Graveyard shift non responsive, cannot easliy find staff, they don't do rounds. - Completed numerous grievance forms but no one has followed up with her. - Reported being stalked and followed.	n/a
08/23/17	[redacted]	- Staff was nice to her in the beginning but then started to ask her out to eat, invited her to their house and offered her to clean their house in exchange for money. - Staff follows her around wherever she goes. - Staff offered her money to have s** with them. - Staff rolled up their belongings and won't let them back in the CY.	n/a
09/05/17	[redacted]	- Was moved from the disabled section to the woman section. - Needed the metal bed from the disabled section due to health condition.	As of 09/11/2017 - Complaint was forward to TMM.

CY Complaint Log

09/07/17	[redacted]	- Being treated like a criminal - Continuously harrasing her and treating her with no respect.	As of 09/07/2017 - Complaint was submitted to TMM.
09/07/17	[redacted]	- Complaining about the security from the CY?	As of 09/08/2017 - Complaint received by TMM and looking into it.
09/15/17	[redacted]	- Receiving threats with violence and assault from [redacted] (CY guest?).	n/a
09/15/17	[redacted]	- Witnessed violence, bodily harm and murder from two individuals that are current residents of CY. - Have been threatened to be beaten and murdered a month ago.	n/a
10/03/17	[redacted]	- Doris from CY/TMM threatened anyone about speaking with any media. If she finds out they would be permanently denied access to the CY. - [redacted] mentioned that there are several employees that work there and have seen what's going on but are either too scared of coming forward or just don't want to get into trouble. - Reported that she was sexually abused. (see complaint file for more details)	As of 10/12/2017 - Complaint was forwarded to TMM. As of 10/25/2017 - Followed up with TMM for status update
10/12/17	[redacted]	- Experiencing difficulty with a security guard at the CY. - Security cusses at him - Got kicked out and won't let him eat.	As of 11/14/17 - TMM updated their policy and directed staff not to physically engage aggressive residents, but to maintain distance and monitor. Client [redacted] is not a candidate for reinstatement. On 12/22/17, [redacted] was informed of the decision and the client was upset. The complaint was forwarded to TMM- Mike Arnold for further review.
10/16/17	[redacted]	- Believes the Mexican Mafia has infiltrated the CY and are running operation from there which includes human trafficking and use of mediums. - Mentioned the name "[redacted] and "[redacted] as the ones involved with human trafficking. - Believes that there is cultural racism in the CY - Feels unsafe and is requesting better screening be performed - Personal items are constantly being stolen. - Lack of defibrillators onsite - Wants to know why the CY does not have a full time EMT	As of 10/17/2017 - Complaint was forwarded to TMM.
10/19/17	[redacted]	- Staff who is in charge of the shower/shower stand said to [redacted] that he doesn't get to shower at the CY shower stand.	As of 10/20/2017 - Complaint was forwarded to TMM.
07/03/17	[redacted]	- Filed a complaint regarding discrimination and prejudice against the homeless seeking assistance for shelter and other needs. - Will file a small claims/civil lawsuit - Accusing TMM of making up their own rules and policies regarding exits and Orange County has allowed the behavior to continue.	

CY Complaint Log

08/10/17	Faith Ellis	- Denied service again - Being threatened by the supervisor in charge	
10/19/17	[redacted]	- Client was assaulted/battered at the CY by a female staff in front of Authority and nothing was done about it.	As of 10/24/2017 - Complaint was forwarded to TMM. Spoke with Darlene on Friday. Doris tried reaching out to her by phone.
10/23/17	[redacted]	- Denied any resources such as shelter, food, showers, medical resources, use of bathrooms etc.. - Been shunned, mocked, laughed at and treated worse than the sexual offenders, drunks and thieves. - Feels that TMM should compensate her for all the trauma, mental, physical and emotional sufferings she suffered through. - Considering getting a lawyer to sue the CY and Doris plus other staff members.	
10/28/17	[redacted]	- [redacted] brother was beat up recently but found out that one of the guards got beat up last night as well and wants to know why it was handled differently than his brother's.	As of 10/28/2017 - Complaint was forwarded to TMM.
11/17/17	[redacted]	- Courtyard staff won't let the client walk to an area inside the courtyard however the staff lets other people walk there.	As of 11/20/2017 - Complaint was forwarded to TMM
11/13/17	[redacted]	- Client was being harrassed by CY staff Sam and the client witnessed Sam's harshness towards other clients of CY. - CY staff Sam called the client a "Smart A**" and had the client barred and escorted out by CY staff Mark.	As of 11/14/2017 - Complaint was forwarded to TMM
11/27/17	[redacted]	- Courtyard staff won't let the client stay and wants him out from a certain area but he doesn't know the reason why.	As of 11/27/2017 - Complaint was forwarded to TMM
12/05/17	[redacted]	- Courtyard staff won't let the client stand at the sidewalk by the entrance.	As of 12/06/2017 - Complaint was forwarded to TMM
12/11/17	[redacted]	- Client filed grievance and was submitted to HCA using their form stating that she was told to leave the shelter at night after experiencing difficulties with other clients and staff at the Courtyard	As of 12/12/2017 - HCA transferred the grievance OCCR and it is being investigated
02/13/18	[redacted]	- Client was walking out of the Courtyward with some food given to him from a grocery store, Doris instructed him to sit down and was told he was not allowed to walk out. Client accused Doris of verbally assaulting him and eventually let him walk out only to find out the following day that he is banned. Client has no where to go and it is detrimental to his well being.	As of 02/23/2018 - Complaint was forwarded to TMM. Per Jason O, client is not and has not been a resident of the Courtyard. TMM is also on the process of posting signs that food cannot be taken out of the Courtyard and must be consumed on site regardless of where the food originates.
02/16/18	[redacted]	- Client never submitted a complaint. -Client was exited this week and thinks it was unjustified	As of 2/16/2018 - Juanita informed him of the complaint process and client will be asking the front desk for his items and a form
No date on form	[redacted]	- Client filed grievance and is complaining that TMM staff including Darlene Powell is abusive. - Client is being emotionally abused and cannot function mentally. The place is a health hazard.	As of 03/02/2018 - Forwarded to Jason at TMM.

Appendix IV: Photographs of unsafe and unsanitary living conditions

Dilapidated and unsanitary conditions in restroom: SAFEPlace

Unsanitary conditions in the portable toilets: The Courtyard. Photograph taken by a resident on July 30, 2018 at 6:40 a.m.

Unsanitary conditions in the portable toilets: The Courtyard. Photograph taken by a resident on December 17, 2018 at 5:20 a.m.

Unsanitary urinal in the portable toilets: The Courtyard. Photograph taken by a resident in June 2018

Broken seat in the portable toilets: The Courtyard. Photograph taken by a resident in June 2018

Appendix V: Lack of compliance with Emergency Shelter Grant (ESG) Habitability Standards for Emergency Shelters [a b]

Standard (24 C.F.R. § 576.403)	Courtyard	Bridges at Kraemer Place	SAFEPlace
1. Structure and materials: The shelter building is structurally sound to protect the residents from the elements and not pose any threat to the health and safety of the residents.	X		
2. Access. Where applicable, the shelter is accessible in accordance with: a. Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; b. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and c. Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35.	X	X	X
3. Space and security: Except where the shelter is intended for day use only, the shelter provides each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.	X	X	X
4. Interior air quality: Each room or space within the shelter has a natural or mechanical means of ventilation. The interior air is free of pollutants at a level that might threaten or harm the health of residents.	unknown	unknown	unknown
5. Water Supply: The shelter's water supply is free of contamination.	X		

Standard (24 C.F.R. § 576.403)	Courtyard	Bridges at Kraemer Place	SAFEPlace
6. Sanitary Facilities: Each program participant in the shelter has access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.	X	X	X
7. Thermal environment: The shelter has any necessary heating/cooling facilities in proper operating condition.	X		
8. Illumination and electricity: a. The shelter has adequate natural or artificial illumination to permit normal indoor activities and support health and safety. b. There are sufficient electrical sources to permit the safe use of electrical appliances in the shelter.	X		
9. Food preparation: Food preparation areas, if any, contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.	unknown	unknown	unknown
10. Sanitary conditions: The shelter is maintained in a sanitary condition.	X	X	X
11. Fire safety: a. There is at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors are located near sleeping areas. b. All public areas of the shelter have at least one working smoke detector. c. The fire alarm system is designed for hearing-impaired residents. d. There is a second means of exiting the building in the event of fire or other emergency.	unknown	unknown	unknown

[a] ESG Minimum Habitability Standards for Emergency Shelters and Permanent Housing. https://www.hudexchange.info/resources/documents/ESG-Emergency-Shelter-and-Permanent-Housing-Standards.pdf

[b] Areas of greatest concern marked with "X."

Appendix VI: Model ordinance: Uniform health and safety standards

Model Ordinance
Minimum Standards for Human Habitation in Interim Housing

(Patterned after the LA County Ordinance 2018-0046, Passed on November 27, 2018 and the HUD Emergency Services Grant Regulations, 24 C.F.R. § 576.403(b))

Minimum standards for interim housing.
In addition to applicable federal, state, or local government building, safety and sanitation standards, any interim housing facility must also meet the following minimum safety, sanitation, and privacy standards.

Interim Housing Facility.
"Interim housing facility" means any premises, structures, or portion thereof, used or intended to be used as a place where provisional sleeping or rooming accommodations are furnished on a temporary basis to persons who lack permanent housing, are experiencing homelessness or are at imminent risk of becoming homeless, with or without compensation from the resident and with or without meal service. Interim housing facility includes, but is not limited to, emergency shelter, bridge housing, crisis housing, recuperative care housing, stabilization housing, recovery housing, and transitional housing.

Dwelling Unfit For Human Habitation, Use or Occupancy.
"Dwelling unfit for human habitation, use or occupancy" means any dwelling, hotel, motel, apartment house, interim housing facility, or other structure used for living or sleeping purposes which, by reason of its construction or by reason of the lack of maintenance or repair thereof, is in such a condition as creates a hazard to the health, welfare, or safety of its occupants.

Substandard Interim Housing Facility.

A. "Substandard Interim Housing Facility" means any Interim Housing Facility, including but to limited to, a house, dormitory, hotel, motel, shelter, or apartment which, through lack of maintenance or repair, generally endangers the life, limb, health, property, safety or welfare of the public, or of the occupants thereof.

B. Conditions which render a structure a "substandard Interim Housing Facility" include, but are not limited to, any of the following:

1. Lack of approved toilet or privy structure, bathtub or shower, kitchen sink, hot and cold running water, or other required approved plumbing within an apartment or dwelling;
2. Lack of exterior wall or roof covering adequate to protect the occupants from the elements;
3. Damaged interior walls, partitions, floors or ceiling;
4. Plumbing fixtures and piping which have become insanitary or are

otherwise in a condition to create a health hazard;
5. Sewage disposal system which has become insanitary or is otherwise in a condition to create a health hazard;
6. Unreasonable collection of rubbish, debris or trash upon premises;
7. Substantial violation of any of the conditions specified in this ordinance;
8. Use of other than habitable rooms for living, cooking, or eating purposes;
9. Incomplete construction;
10. Infestation by insects, vermin, or rodents;
11. General dilapidation;
12. Lack of a water supply adequate to sustain the health of the inhabitants.

Structure and materials. The Interim Housing Facility building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.

Maintenance Required—Noncompliance Unlawful.
Every interim housing facility shall be maintained in good repair. It is unlawful for any person to occupy or to cause or permit another person to occupy any interim housing facility, which does not comply with this section.

Enforcement.
The County will designate a department, or delegate authority to municipalities to do so, to receive complaints, conduct inspections, and enforce this ordinance against Interim Housing Facility providers. The department designated to enforce this policy will be referred to as the "Interim Housing Health and Safety Department." The Interim Housing Health and Safety Department's inspection reports shall be a matter of public record. Enforcement should be geared towards compliance, but may include fines and other sanctions when remedial action is not promptly undertaken by Interim Housing Facility providers. The Interim Housing Health and Safety Department is empowered to recommend that the county contract with the Interim Housing Facility provider be terminated or non-renewed in instances of chronic non-compliance.

Posting Requirements.
The owner or operator of an interim housing facility shall be responsible for posting in a common area, accessible by all residents and the general public, a placard, as provided by the Interim Housing Health and Safety Department. The Placard shall provide contact information a complaint line, as well as the definition for substandard interim housing facilities.

"Common area, accessible by all tenants and the general public" means:
1. Posted in a conspicuous location within five (5) feet of the main entrance of the interim housing facility; or
2. Posted in or near the outside of the door of the interim housing facility manager, if one exists; or
3. Posted in a location as directed and determined in the discretion of the County Health Officer to ensure proper notice to all occupants and the general public.

Access.
The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 C.F.R. part 8; the Fair Housing Act (42 U.S.C. 3601et seq.) and implementing regulations at 24 C.F.R. part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131et seq.) and 28 C.F.R. part 35; and the California Fair Employment and Housing Act and accompanying regulations, where applicable.

Space and security.
Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.

Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

Sleeping Rooms—Overcrowding and Other Unhealthful Conditions Prohibited.
No person shall occupy an interim housing facility which is detrimental to the health of the occupant or occupants by reason of overcrowding or insufficiency of light, windows, ventilation., or drainage. The window area of any room used for sleeping purposes shall not be less than one-eighth of the floor area and shall be at least one-half openable or the room completely air-conditioned.

Laundries.
All laundries shall be in a building. The floors shall be constructed of smooth, nonabsorbent, durable materials. All walls and ceilings shall be constructed of smooth material. All floors, walls, and ceilings shall be kept clean and in good repair.

Washing machines shall be installed in such a manner that the area under and around the machines may be kept clean and in good repair.

Thermal environment.
The shelter must have any necessary heating/cooling facilities in proper operating condition.

Heating.
Every interim housing facility shall be provided with heating facilities capable of maintaining a minimum room temperature of 70 degrees Fahrenheit at a point three feet above the floor in all habitable rooms, and interim housing providers shall be required to provide that heat at a minimum temperature of 70 degrees Fahrenheit, 24 hours a day. These facilities shall be installed and maintained in a safe condition and in accordance all applicable laws. No unvented fuel burning heaters shall be permitted.

Illumination and electricity.
The interim housing facility must have adequate natural or artificial illumination to permit

normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

Sanitary facilities.

Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

Toilet Rooms, Handwashing, and Bathing Facilities.

Every interim housing facility shall contain a lavatory and bathtub or shower. There shall be a minimum of one (1) shower and (1) toilet for every ten (10) people residing in the interim housing facility.

All lavatories, bathtubs, and showers of interim housing facilities shall be provided with hot and cold running water under pressure.

All toilet rooms, bath and shower rooms, and utility rooms shall be adequately lighted and ventilated to the outside atmosphere.

All such rooms and the fixtures and equipment therein shall be maintained in a state of good repair and free from dirt, filth, and corrosion. All toilets and bathrooms shall be serviced as often as needed to maintain them in a state of good repair. It is unlawful to operate an interim housing facility which does not comply with this section.

1. Toilet rooms of interim housing facilities shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

2. Each toilet stall shall include a door with locking mechanism and a permanently installed dispenser with toilet tissue.

3. Handwashing facilities shall be provided within or adjacent to toilet rooms. The number of handwashing facilities required shall be in accordance with local building and plumbing codes. All handwashing facilities shall be provided with hot and cold running water under pressure.

4. Handwashing facilities shall be provided with the following in dispensers at, or adjacent to, each handwashing facility: handwashing cleanser and sanitary single-use towels or an air hand drying device.

Hot Water.

“Hot water” means water supplied to plumbing fixtures at a temperature of not less than 110 degrees Fahrenheit (43.3 degrees Celsius). The hot water shall not exceed 130°F (54° C).

Space and security.
Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.

Storage Areas for Personal Belongings.
Each bed in an interim housing facility shall be provided with a storage unit for the keeping of personal belongings of each person. Sufficient additional storage facilities shall be provided for the reasonably safekeeping of articles or personal belongings which are not in daily use.

Linen and Bedding for Interim Housing Facility.
All interim housing facilities wherein beds are used shall provide an adequate amount of clean bedding, cots and springs, and mattresses in good repair. All such beds, cots, springs, and mattresses shall be maintained in a sanitary condition and, after being used by one person, shall be thoroughly cleaned before being used by another person necessary to properly care for the persons therein.
Interim housing facilities shall provide an adequate amount of clean linen

Adequate and suitable space shall be provided for the storage of clean linens. Soiled linens shall be kept in nonabsorbent receptacles or washable laundry bags and properly stored and transported to prevent contamination.

Linens shall be laundered as often as necessary but no less than weekly. If linens are laundered on the premises, they shall be laundered in a mechanical clothes washer and dryer that is cleaned and sanitized before and after each time it is used.

Sharps — Proper Storage.
All interim facilities shall provide approved sharps bio-hazard containers for used needles and syringes. All used needles and syringes shall be placed in an approved sharps bio-hazard container and the interim housing facility shall properly disposed of the container.

Food preparation.
Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

Fire safety.
There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.

Appendix VII: Model ordinance: Civil Rights Commission

Model Civil Rights Commission Ordinance

A. There shall be a County Civil Rights Oversight Board and a County Office of Civil Rights.

B. Purpose. The County Civil Rights Oversight Board and a County Office of Civil Rights shall work with the Board of Supervisors to protect the civil rights of all people experiencing homelessness in Orange County.

C. The Oversight Board shall:

1. Ensure that the Office of Civil Rights fulfills its mission to protect the civil rights of people experiencing homelessness in Orange County.
2. Supervise the work of the Office of Civil Rights, including the power to hire and fire leadership.
3. Consist of individuals who are representative of the population of the county and who are traditionally targets of discrimination, including a meaningful number of people who are homeless or who have experienced homelessness.
4. Conduct public hearings to examine issues pertaining to the civil rights of people experiencing homelessness and to examine systemic failures uncovered by the Office of Civil Rights.
5. Have the power to subpoena witnesses and the production of documents at public hearings;
6. Make public recommendations regarding necessary county level policy changes required to protect the civil rights of all people experiencing homelessness in Orange County.

D. The Office of Civil Rights shall:

1. Protect people experiencing homelessness from discrimination in accessing city and county homelessness services and homelessness services contracted by city and county governments.
2. Provide mandatory training to shelter staff and operators on standards for compliance with civil rights law with a focus on eliminating all types of bias and sexual harassment from shelter programs.
3. Require that shelter operators adopt a zero-tolerance policy for sexual, physical and verbal abuse, including a policy of not hiring prospective staff who have been found responsible for violating resident civil rights in the past.
4. Prohibit policies that discriminate against residents based on their gender identity and allow transgender residents to self-identify for single sex placements or services.
5. Establish a countywide reasonable accommodation policy for county shelters and designate an employee to act as a reasonable accommodation coordinator who would oversee the implementation of

the policy and ensure that programs provide accessible services.

6. Proactively inform shelter residents of their rights and how to exercise them through channels that are accessible to people with disabilities and easy to understand publications.
7. Establish a safe and confidential mechanism for reporting violations that use trauma-informed practices.
8. Require that shelter operators adopt a zero-tolerance policy for retaliation against residents, volunteers or staff members who report violations.
9. Receive, investigate and adjudicate complaints for all civil rights violations.
10. Refer complaints against the county to the Department of Fair Employment and Housing for investigation.
11. Access shelters when required for investigations.
12. Assist victims in filing complaints with relevant state and federal agencies and/or law enforcement where applicable.
13. Conciliate/mediate disputes on a voluntary basis using a restorative justice model to bring about reconciliation as well as traditional remedies (such as financial compensation and equitable relief).
14. Publish an annual report on complaints received, action taken by the office and resolution of complaints.
15. Educate the public, provide community outreach and cooperate with other city, county, state and federal agencies.
16. When civil rights violations are found, the office should be empowered to:
    i. Compensate victims of civil rights violations appropriately.
    ii. Provide equitable relief to complainants including but not limited to:
        1. Providing reasonable accommodations.
        2. Relocating the victim if it is determined that the victim has been discriminated against by a shelter, and immediately link the person to a safe and appropriate living environment.
        3. Requiring changes in program policy.
        4. Public admonishment of culpable parties and/or programs.

E. Unlawful discrimination. No person's rights, privileges or access to public services may be denied or abridged solely because he or she is experiencing homelessness. Such a person shall be granted the same rights and privileges as any other resident of the county. A person experiencing homelessness shall have:

1. The right to use and move freely in public spaces, including, but not limited to, public sidewalks, public parks, public transportation and public buildings, in the same manner as any other person and without discrimination on the basis of his or her experiencing homelessness.
2. The right to equal treatment by all county and municipal agencies, without discrimination on the basis of his or her experiencing homelessness.
3. The right to receive homelessness-related services regardless of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry,

familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status, arbitrary characteristics as protected by the Unruh Civil Rights Act, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes.

4. The right to be free from discrimination while seeking or maintaining employment due to lack of a permanent mailing address, or mailing address being that of a shelter or social service provider.
5. The right to emergency medical care free from discrimination based on his or her experiencing homelessness.
6. The right to vote, register to vote and receive documentation necessary to prove identity for voting without discrimination due to his or her experiencing homelessness.
7. The right to protection from disclosure of his or her records and information provided to homeless shelters and service providers to state, municipal and private entities without appropriate legal authority; and the right to confidentiality of personal records and information.
8. The right to a reasonable expectation of privacy regarding personal property to the same extent as personal property kept in a permanent residence.

F. Unlawful discrimination against people with disabilities includes refusing to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a shelter or housing program, or an equal opportunity to obtain, use, or enjoy a housing opportunity unless providing the requested accommodation would constitute an undue financial or administrative burden or a fundamental alteration of its program, or if allowing an accommodation would constitute a direct threat to the health and safety of others (i.e. a significant risk of bodily harm).

G. This ordinance should be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this law or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this law which can be given effect without the invalid provision or application, and to this end the provisions of this law are declared to be severable and are intended to have independent validity. This ordinance is intended to be a floor, not a ceiling for anti-discrimination protections of people experiencing homelessness. To the extent that this ordinance provides fewer rights or protections than any law or applicable agreement or policy, the provision which confers greater rights shall apply.

Appendix VIII: Model guidelines: reasonable accommodation policy

Model Reasonable Accommodations Policy

1. Purpose. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Fair Housing Act and the California Fair Employment and Housing Act, neither Orange County, its cities, or emergency shelters within Orange County will discriminate against individuals with disabilities on the basis of disability.

2. This reasonable accommodation policy's purpose is to ensure that people with disabilities have equal access to emergency shelters in the County and their services. Emergency shelters are required to grant such accommodations unless the accommodations would fundamentally alter the nature of the emergency shelters or their services, or would impose an undue financial or administrative burden. This Policy should be applied in conjunction with any local, state, federal or other policy that protects people with disabilities from discrimination. Where other laws, agreements or policies provide more protections to people with disabilities, they shall supersede this policy.

3. Reasonable accommodations in rules, policies, practices, or services should be granted when such accommodations are necessary to afford an individual with a disability an equal opportunity to use and enjoy a housing opportunity (including an emergency shelter) unless providing the requested accommodation would constitute an undue financial or administrative burden or a fundamental alteration of its program, or if allowing an accommodation would constitute a direct threat to the health and safety of others.

4. Oversight. The County will designate an Orange County Office of Civil Rights employee who will act as an "Americans with Disabilities Act Coordinator" ("ADA Coordinator"). The ADA Coordinator will oversee the implementation of this reasonable accommodation policy and ensure that programs provide accessible and non-discriminatory services.

5. Confidentiality Regarding Reasonable Accommodations: All information concerning an individual's disability, request for an accommodation, or medical verification or information must be kept confidential and must not be shared with other persons who are not directly involved in the interactive process or decision making about the requested accommodation unless disclosure is:

    (a) Required to make or assess the decision to grant or deny the request for accommodation;
    (b) Required to effectively administer or implement the requested accommodation;
    (c) Authorized by the individual with the disability in writing; or
    (d) Required by law.

6. Requests for Reasonable Accommodations.

(a) All emergency shelters will permanently post a Reasonable Accommodation Notice that informs residents about the right to request and be granted reasonable accommodations, and how they can request reasonable accommodations.
(b) Emergency shelter residents shall, upon entry, be informed about the right to request and be granted reasonable accommodations, and about how they can request reasonable accommodations.
(c) An individual with a disability seeking a reasonable accommodation may make a request for such accommodation by contacting any shelter staff member and specifying the policy, procedure or condition that the individual would like modified and the reason that the requested modification is necessary to allow the individual to access the shelter or its services.
(d) Emergency shelter staff will proactively offer to provide reasonable accommodations to residents when the need for such accommodations is known or obvious.
(e) The request for a reasonable accommodation may be made by the individual with a disability, a family member, or someone authorized by the individual with a disability to act on their behalf ("representative").
(f) A request for a reasonable accommodation need not be made in a particular manner or at a particular time. An individual makes a reasonable accommodation request at the time they request orally or in writing, or through a representative, an exception, change, or adjustment to a practice because of a disability, regardless of whether the phrase "reasonable accommodation" is used as part of the request.
(g) The duty to provide reasonable accommodations is an ongoing one. Some individuals with disabilities require only one reasonable accommodation, while others may need more than one. Others may need one reasonable accommodation for a period of time, and then at a later date, require another type of reasonable accommodation. Each request must be considered separately under the standards in this policy.

7. The Interactive Process.

(a) Whenever an emergency shelter staff person who receives a request for a reasonable accommodation cannot immediately grant the requested accommodation, this policy requires the staff member considering the request to engage in an interactive process with the individual with a disability or the individual's representative. The purpose of the interactive process is to exchange information to identify, evaluate, and implement a reasonable accommodation that allows the individual with a disability equal opportunity to use and enjoy a dwelling or housing opportunity. This policy does not predetermine the outcome of any interactive process. However, the policy requires

that the interactive process be timely (pursuant to subsection (e)) and that it be conducted in good faith. Good faith means the person considering the request must make a fair and honest effort to engage in the interactive process and to consider the request.

(b) If the staff member considering the request for accommodation believes they do not have sufficient information to establish either that a disability exists or the nature of the disability-related need for the accommodation, or if the nexus between the disability and the requested accommodation is not clear, the person considering the request for accommodation may seek clarification or additional information from the individual with a disability or the individual's representative. Staff members will not require persons with known or obvious disabilities that clearly require an accommodation to obtain or provide documents verifying their disability. The person considering the request must not deny it for lack of information without first requesting the clarification or additional information and providing a reasonable opportunity for the individual requesting the accommodation to provide it.

(c) If a person's disabling condition or other circumstances make it difficult to obtain documentation verifying the disabling condition, the need for the accommodation is not apparent, and the individual lacks supporting documentation, shelter staff will provide assistance obtaining the documentation by connecting the person with appropriate professionals or will use information obtainable via readily available resources.

(d) If the person considering the request believes that the initially requested accommodation cannot be granted for a reason permitted under this policy, the person considering the request must try to identify if there is another accommodation that is equally effective and must discuss with the individual with the disability or the individual's representative whether other alternative accommodations would be equally effective in meeting their needs. Equally effective means that the alternative accommodation will allow the person with the disability to use and enjoy a shelter as well as the requested accommodation would have. If an alternative accommodation would effectively meet the requester's disability-related needs and could not be lawfully denied for a reason permitted under this policy, the person considering the request must grant it. The individual requesting the accommodation is not obligated to accept an alternative accommodation if the alternative accommodation will not meet the needs of the individual with the disability and the initially requested accommodation could not be lawfully denied for a reason permitted under this policy. In many cases, the individual with the disability has the most accurate knowledge about the functional limitations posed by their disability, and therefore should be given significant weight.

(e) Requests for reasonable accommodations must be promptly considered and determined on a case-by-case basis. The time necessary to

respond to a request depends on many factors, including:

(1) The nature of the accommodation under consideration;
(2) Whether it is necessary to obtain supporting information because the disability or the need for the accommodation is not obvious or known to the person considering the request;
(3) Whether the accommodation is needed on an urgent basis; and
(4) Whether it is necessary to engage in the interactive process to resolve the request.

(f) An undue delay by the person considering the request may constitute a denial of a reasonable accommodation. Whether a request has been promptly considered is a case-by-case factual determination.
(g) If after a denial of an initial request for an accommodation, the individual with a disability or their representative makes a later request for the same or similar accommodation, the latter request must be considered pursuant to these regulations independently of the initial request.

8. Written Denial Required.

(a) A decision to deny a request for an accommodation in part or in full, to offer an alternative accommodation, or to substantially modify or terminate an accommodation previously granted will be documented by the shelter staff in a written notice issued to the shelter resident making the request. The written notice will include:
    (1) The name and job title of the person making the determination;
    (2) An explanation of the determination and the basis for that determination;
    (3) The date of the request and the date of the determination; and
    (4) A statement of the rights of the resident to timely appeal of the determination by submitting a complaint to the ADA Coordinator and instructions on how to do so.
(b) All written materials provided to shelter residents shall be available to shelter users and their representatives, upon request, in alternative/accessible formats appropriate for persons with disabilities.
(c) Within 24 hours after the written notice is issued to the shelter resident, the staff shall provide a copy of the notice to the ADA Coordinator.
(d) Emergency shelter staff members will not retaliate or otherwise make any adverse determination about access to the emergency shelter or its services as a result of an individual's request for a reasonable accommodation and/or appeal of a decision to deny, either in part or in full, the request for an accommodation or to substantially modify or terminate a previously granted accommodation.

9. Appeal Rights

(a) Emergency shelter residents may file complaints about alleged discrimination based on disability, including but not limited to denial of requests for reasonable accommodations, to the ADA Coordinator. Residents are not required to wait until shelter staff issue written notices concerning requests for accommodations before filing complaints with the ADA Coordinator.

(b) Within 15 calendar days after receipt of a complaint, the ADA Coordinator will investigate the complaint and will attempt to meet with the resident to discuss the complaint and the possible resolutions. Within 15 days of the meeting, the ADA Coordinator will respond in writing, and when appropriate, in a different format accessible to the resident, proposing a resolution to the complaint.

(c) If the resident wishes to appeal the decision of ADA Coordinator, the ADA Coordinator will assist the resident in filing complaints with relevant state and federal agencies, including but not limited to the California Department of Fair Employment and Housing and the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity.

(d) Final decisions by the ADA Coordinator will be subject to judicial review.

(e) All written complaints received and responses made by the ADA Coordinator will be retained by the Orange County Office of Civil Rights for at least three years.

Appendix IX: Model guidelines: Good cause eviction policy

Model Good Cause for Eviction Policy

1. No homeless shelter or housing program shall issue a notice terminating a person's participation in the program, unless the shelter provider can prove that the resident substantially violated a material term of the program rules which have been clearly established through a written policy provided to all residents when they enter the program.
2. Violations of non-material terms of the program rules will not be a basis for eviction.
3. Evictions should be used as a last resort and only when the resident's continued occupancy poses a direct threat to the health and safety of others.
4. A resident shall not be evicted unless she/he has first received a written notice clearly articulating the basis for the termination and the programs' intent to terminate/evict.
5. Program representatives should meet with the resident to determine whether the resident requires a reasonable accommodation to address the basis for the eviction. No resident will be evicted for reasons directly related to a disability.
6. No resident will be evicted in retaliation for engaging in any protected activities, or on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status, arbitrary characteristics as protected by the Unruh Civil Rights Act, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes.
7. Unless a resident poses an imminent direct threat to the safety of others, an eviction/termination shall not be carried out until the resident has had an opportunity to have an informal hearing contesting the basis for the eviction and has received a written decision upholding the eviction. The person presiding over the hearing will consider mitigating evidence provided by the resident, as well as facts and witnesses presented by the resident.
8. Evictions from homeless shelters and housing programs are subject to judicial review.

ENDNOTES

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[7] Gowan, T. (2010). Hobos, hustlers, and backsliders: Homeless in San Francisco. Minneapolis, MN: University of Minnesota Press; Tsemberis, S., & Eisenberg, R.F. (2000). Pathways to Housing: Supported housing for street-dwelling homeless individuals with psychiatric disabilities. Psychiatric Services, 51 (4), 487-493.

[8] Department of Housing and Urban Development (July, 2014). Housing first in permanent supportive housing. https://www.hudexchange.info/resources/documents/Housing-First-Permanent-Supportive-Housing-Brief.pdf

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[11] For a review of the history of the Continuum of Care and "housing first" models, see Williams, J.C. (2017). The politics of homelessness in the United States. Oxford Handbooks Online. DOI:10.1093/oxfordhb/9780199935307.013.153

[12] In 2008, the Orange County Board of Supervisors approved a "Ten Year Plan to End Homelessness" that prioritized the housing first model as a solution to homelessness. However, the supervisors did not provide funding for the plan, and abandoned it in 2018 as homelessness in the county increased. In 2018, the supervisors approved a "Housing Funding Plan" to fund 2,500 units of permanent supportive housing for people who are chronically homeless. However, the plan has a funding deficit of over $700 million and the county, once again, has failed to provide any county funding to fill the gap.

[13] Emergency shelters receiving HUD funding must document their progress toward increasing the housing stability of their residents.

[14] https://mercyhouse.net/portfolios/bridges-at-kraemer-place/

[15] https://www.midnightmission.org/thecourtyard/

[16] U.S. Department of Housing and Urban Development. HUD 2017 Continuum of Care Homeless Assistance Programs Housing Inventory Count Report. https://www.hudexchange.info/resource/reportmanagement/published/CoC_HIC_CoC_CA-602-2017_CA_2017.pdf

[17] According to the HUD 2017 Continuum of Care Homeless Assistance Programs Housing Inventory Count Report, in 2017 Orange County had 1149 emergency shelter spots and 1166 transitional housing spots to assist the 4,792 people experiencing homelessness on any given night, for a gap

of 2,477 spots. When combined with the severe shortage of affordable housing and permanent supportive housing, this gap forces over 50% of Orange County's homeless population to live in unsheltered locations.

[18] At the time this report went to press, the county had not reached a settlement with plaintiffs

[19] The complaint log we obtained from the county is a partial list that includes complaints made directly to the county and, to our knowledge, does not include complaints filed directly with the Midnight Mission.

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[22] Saunders, B. et al. (2018). Saturation in qualitative research: exploring its conceptualization and operationalization, Quality and Quantity, 52(4), 1893–1907.

[23] See complaint filed on 7/24/17, Appendix III.

[24] Orange County Health Care Agency Environmental Health Division. (January 18, 2017). Civic Center Courtyard — Water quality survey.

[25] Ibid.

[26] Ibid.

[27] https://mercyhouse.net/portfolios/bridges-at-kraemer-place/

[28] Gowan, T. (2010). Hobos, hustlers, and backsliders: Homeless in San Francisco. Minneapolis, MN: University of Minnesota Press; Tsemberis, S., & Eisenberg, R.F. (2000). Pathways to Housing: Supported housing for street-dwelling homeless individuals with psychiatric disabilities. Psychiatric Services, 51 (4), 487-493.

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[30] Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., Stevens, M.R. (2011). The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention; Gonzales, A.R., Schofield, R.B., 7 Schmitt, G.R. (2006). Extent, nature, and consequences of rape victimization: Findings from the National Violence against Women Survey. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. https://www.ncjrs.gov/pdffiles1/nij/210346.pdf; Wenzel, S. L., Leake, B. D., & Gelberg, L. (2000). Health of homeless women with recent experience of rape. Journal of General Internal Medicine, 15(4), 265–268.

[31] The National Institute of Justice reports that the chances of being raped in the previous 12 months for the general population of adult women is around .3% (https://www.ncjrs.gov/pdffiles1/nij/210346.pdf). By comparison, a study of a probability sample of 974 homeless women in Los Angeles found that 13% reported rape during the prior year, and half of these reported more than one rape (Wenzel, S. L., Leake, B. D., & Gelberg, L. (2000). Health of homeless women with recent experience of rape. Journal of General Internal Medicine, 15(4), 265–268). Put another way, the risk of rape among the women who were homeless was about 40 times greater than the risk of rape for the general population of adult women.

[32] Ibid., Willness, C.R., Steel, P., & Lee, K. (2007). A meta-analysis of the antecedents and consequences of workplace sexual harassment, Personnel Psychology, 60, 127-162; Jina, R. & Thomas, L.S. (2013). Health consequences of sexual violence against women, Best Practice & Research Clinical Obstetrics & Gynaecology, 27(1), 15-16; Mason, F. & Lodrick, Z. (2013). Psychological consequences of sexual assault, Best Practice & Research Clinical Obstetrics & Gynaecology, 27(1), 27-37; McLean, I.A. (2013). The male victim of sexual assault, Best Practice & Research Clinical Obstetrics & Gynaecology, 27(1), 39-46.

[33] The Fair Housing Act, 42 U.S.C. § 3604.

[34] According to the Report of the 2015 U.S. Transgender Survey, authored by the National Center for Transgender Equality, 46% of respondents were verbally harassed and 9% were physically attacked because of being transgender. During that same time period, 10% of respondents were sexually assaulted, and nearly half (47%) were sexually assaulted at some point in their lifetime. More than half (54%) experienced some form of intimate partner violence, including acts involving coercive control and physical harm.

[35] According to the Report of the 2015 U.S. Transgender Survey, authored by the National Center for Transgender Equality, nearly one-third (30%) of respondents have experienced homelessness at some point in their lives and one in eight (12%) respondents experienced homelessness in the last year because of being transgender. The lifetime homelessness rate was even more alarming among trans women of color: 59% for American Indian trans women, 51% for Black tras women, 49% for Middle Eastern trans women and 51% for multiracial trans women.

[36] The 2015 National Transgender Survey found that more than one-quarter (26%) of those who experienced homelessness in the past year avoided staying in a shelter because they feared being mistreated as a transgender person. Those who did stay in a shelter reported high levels of mistreatment: seven out of 10 (70%) respondents who stayed in a shelter in the past year reported some form of mistreatment, including being harassed, sexually or physically assaulted, or kicked out because of being transgender.

[37] Id.

[38] The Unruh Civil Rights Act, Civ. Code § 51; 24 C.F.R § 5.105(a)(2).

[39] The Unruh Civil Rights Act, Civ. Code § 51.

[40] Burt, M. R. (2001). What will it take to end homelessness? Washington, DC: Urban Institute; Fitzpatrick, K. M., La Gory, M. E., & Ritchey, F. J. (1993). Criminal victimization among the homeless. Justice Quarterly, 10(3), 353–368; Kushel, M. B., Evans, J. L., Perry, S., Robertson, M. J., & Moss, A. R. (2003). No door to lock: victimization among homeless and marginally housed persons. Archives of

Internal Medicine, 163(20), 2492–2499; Lee, B. A. (2005). Danger on the streets – marginality and victimization among homeless people. American Behavioral Scientist, 48(8), 1055–1081.

[41] Physical abuse of adults under California law includes assault (as defined in Section 240 of the Penal Code), battery (as defined in Section 242 of the Penal Code), assault with a deadly weapon or force likely to produce great bodily injury (as defined in Section 245 of the Penal Code), and unreasonable physical constraint, or prolonged or continual deprivation of food or water. California Code 15610.63.

[42] Domestic abuse intervention programs: Home of the Duluth Model. https://www.theduluthmodel.org/wheels/

[43] Tracy, N. (2016). What is physical abuse? HealthyPlace. https://www.healthyplace.com/abuse/adult-physical-abuse/what-is-physical-abuse.

[44] E.g., Mullen, P.E., et al (1988). Impact of sexual and physical abuse on women's mental health, The Lancet, 331(8590), 841-845. https://doi.org/10.1016/S0140-6736(88)91600-5

[45] See complaint filed on 10/19/17, Appendix III.

[46] Mouton, C.P., Rodabough, R.J., Rovi, S.L.D., Brzyski, R.G., & Katerndahl, D.A. (2010). Psychosocial Effects of Physical and Verbal Abuse in Postmenopausal Women, Ann Fam Med, 8, 206-213, p. 206. doi:10.1370/afm.1095.

[47] Teicher, M.H., Samson, J.A., Sheu, Y., Polcari, A., & McGreenery, C.E. (2010). Hurtful words: Association of exposure to peer verbal abuse with elevated psychiatric symptom scores and corpus callosum abnormalities, American Journal of Psychiatry, 167, 1464–1471.

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[49] See complaints filed on 9/7/17, 10/12/17, 10/23/17, and 11/13/17, Appendix III.

[50] See complaint filed on 10/16/17, Appendix III.

[51] See complaints filed on 10/3/17, 11/27/17, and 12/13/17, Appendix III.

[52] Rodas, I. (October 14, 2016). One man's experiences at the Courtyard Transitional Center. Voice of OC. https://voiceofoc.org/2016/10/one-mans-experiences-at-the-courtyard-transitional-center/

[53] Rodas, I. (November 1, 2016). Problems already developing at Santa Ana's new transitional homeless center. New Santa Ana. http://newsantaana.com/2016/11/01/problems-already-developing-at-santa-anas-new-transitional-homeless-center/

[54] Universal Declaration of Human Rights; International Convention on Economic, Social and Cultural Rights; International Convention on Civil and Political Rights; International Convention on the Elimination of all forms of Discrimination; International Convention on Civil and Political Rights; The Convention on the Elimination of all Forms of Discrimination Against Women; Convention on the Rights of Persons with Disabilities.

[55] Cal. Health and Safety Code. § 17961(a)("The housing or building department or, if there is no building department acting pursuant to this section, the health department of every city, county, or city and county, or any environmental agency...shall enforce within its jurisdiction all of this part...and the other rules and regulations adopted pursuant to this part pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings.")

[56] See The Department of Housing and Urban Development, The 2016 Annual Homeless Assessment Report to Congress (47.3% of individuals experiencing sheltered homelessness had a disability, about 2.4 times the national rate for individuals.)

[57] 42 U.S.C. § 3604; 42 U.S.C. § 12132; Cal. Gov't Code § 12955.

[58] 42 U.S.C. § 12132 (but see also the limited exceptions set forth in 28 C.F.R. § 35.139 for residents that pose a direct threat to others and 28 C.F.R. § 35.131 allowing discrimination based on an individual's current illegal use of drugs).

[59] 28 C.F.R. § 35.130(b)(7).

[60] 28 C.F.R. § 35.130(b)(8).

[61] Gale Holland, 22% surge in number of older homeless people catches L.A. officials off guard Los Angeles Times (June 19, 2018, 3:00 am), http://www.latimes.com/local/lanow/la-me-ln-homeless-older-adults-20180719-story.html.

[62] Cal. Penal Code § 368.

[63] Cal. Welf. & Ins. Code § 15657 - 15657.8.

[64] See Kate Sablosky Elenengold, Structural Subjugation: Theorizing Racialized Sexual Harassment in Housing, 27 Yale J.L. & Feminism (2016) 227, 233, 254 ("...there are enough data to establish that poor and vulnerable women fall prey to sexual harassment in housing at alarming rates..." "Statistics and case law establish that poverty is, indeed, a primary risk factor for experiencing sexual harassment ...").

[65] 42 U.S.C. § 3604; 24 C.F.R. § 100.600.

[66] Woods v. Foster, 884 F. Supp. 1169, 1173 (N.D.Ill.1995).

[67] Cal. Gov't Code 12955(a); see also the Department of Fair Employment and Housing Fair Housing regulations, which were passed but do not yet have the force of law as this report enters production, which also specifically prohibit sexual harassment in shelter at Cal. Civ. Code § 12101-12119.

[68] See United States Department of Justice, What Is Sexual Harassment in Housing? https://www.justice.gov/crt/what-sexual-harassment-housing (last updated February 26, 2018).

[69] See, The Department of Fair Employment and Housing, Sexual Harassment Fair Housing Fact Sheet (December 2017).

[70] 24 C.F.R. § 100.600(a)(1)-(2).

[71] 24 C.F.R. § 100.600(a)(1).

[72] See Beliveau v. Caras, 873 F. Supp. 1393, 1398 (1995)(The Court found that any unwanted touching would support a sexual harassment claim under the FHA, particularly when

the alleged battery was committed at a place the plaintiff called home, a place where she should feel (and be) less vulnerable, and by one whose very role was to provide that safe environment.)

[73] Cal. Civ. Code § 51.

[74] Cal. Civ. Code, § 51(b)

[75] Cal. Civ. Code, § 51(e)(5).

[76] 24 C.F.R § 5.105(a)(2).

[77] U.S. Department of Housing and Urban Development, Notice CPD-15-02: Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities (February 20, 2015).

[78] See also complaint filed on 10/6/17, Appendix III, referencing "cultural racism" at the Courtyard.

[79] 42 U.S.C. § 3604; 42 U.S.C. § 2000a (a); Cal. Gov't Code 12955.

[80] 24 C.F.R. § 100.600 (c).

[81] Deena Greenberg, Carl Gershenson, Matthew Desmond, Discrimination in Evictions: Empirical Evidence and Legal Challenges, 51 Harv. C.R.-C.L. L. Rev. 115, 156 (2016).

[82] Cal. Penal Code § 422.55.

[83] See the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249; Criminal Interference with Right to Fair Housing, 42 U.S.C. § 3631; Violent Interference with Federally Protected Rights, 18 U.S.C. § 245, Conspiracy Against Rights, 18 U.S.C. § 241.

[84] Cal. Civ. Code § 52(b) ("Whoever denies the right provided by Section 51.7...or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following: (1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages. (2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right...(3) Attorney's fees as may be determined by the court.").

[85] The Ralph Civil Rights Act, Cal. Civ. Code § 51.7(b)("All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51..."). The Unruh Civil Rights Act, Cal. Civ. Code § 51(b), lists sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, citizenship, primary language, or immigration status, genetic information as protected groups.

[86] The Tom Bane Civil Rights Act, Cal. Civ. Code § 52.1; 42 U.S. Code § 3617 (unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act). See also Cal. Gov't Code § 12955.7 (it is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by FEHA).

[87] 24 C.F.R. 100.400(c)(5)-(6)(prohibiting retaliation against anyone who has made a complaint, testified, assisted, or participated in any proceeding or reported a discriminatory housing practice to a housing provider or authority); Cal. Gov't Code § 12955(f)(it is unlawful for any provider of a housing accommodation to retaliate against a person who has opposed practices unlawful under FEHA, informed law enforcement agencies of practices believed unlawful under FEHA, testified or assisted in any proceedings to adjudicate a complaint, or aided or encouraged a person to exercise or enjoy the rights secured by FEHA).

[88] 24 C.F.R. 100.400(c)(5)-(6); Cal. Gov't Code § 12955(f).

[89] See complaint filed on 10/3/17, Appendix III.

[90] The First Amendment to the U.S. Constitution; Article 1, Section 2 of the California Constitution. See Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., 472 U.S. 749, 758-759 (1985), internal citations omitted (holding that speech on matters of public concern is at the heart of the First Amendment's protection).

[91] Cal. Civ. Code § 52.1(b).

[92] See *Kennedy v. City of Ridgefield, 439 F.3d 1055 (9th Cir.2006).*

[93] Sanchez v. City of Fresno, 914 F.Supp.2d 1079, 1102 (2012)(Denying the city's motion to dismiss the plaintiffs' claim of state created danger where plaintiffs, people experiencing homelessness, alleged that the city demolished "shelter and property essential to protection from the elements" at "the onset of the winter months that would bring cold and freezing temperatures, rain, and other difficult physical conditions.")

[94] Memorial Hospital, et al. v. Maricopa County, et al., 415 U.S. 250 (1974); Pottinger, et al. v. City of Miami, 810 F. Supp. 1551 (S.D. Fla. 1992). In California, the right to intrastate travel has been recognized as a fundamental right. In Re: White, 97 Cal.App.3d, 141, 148 (1979)("We conclude that the right to intrastate travel (which includes intramunicipal travel) is a basic human right protected by the United States and California Constitutions as a whole. Such a right is implicit in the concept of a democratic society and is one of the attributes of personal liberty under common law."); Tobe, et al. v. City of Santa Ana, et al., 9 Cal. 4th 1069 (Cal. 1995).

[95] See Young v. County of Los Angeles, 655 F.3d 1156, 1169 (9th Cir.2011)

[96] Id.

[97] Schanafelt v. Seaboard Fin. Co., 239 P.2d 42, 43 (Ct. App. 1951).

[98] Scofield, et al. v. Critical Air Med.,Inc., et al., 52 Cal. Rptr. 2d 915 (Ct. App. 1996).

[99] See Pottinger v. City of Miami, 810 F. Supp. 1551, 1559 (1992).

[100] *Lavan v. City of Los Angeles, 693 F.3d 1022, 1024, 1032 (9th Cir.2012).*

[101] See Pottinger v. City of Miami, 810 F. Supp. 1551, 1559 (1992). ("[A] homeless person's personal property is generally all he owns; therefore, while it may look like "junk" to some people, its value should not be discounted.").

[102] Goldberg v. Kelly, 397 U.S. 254, 264 (1970) (noting that in the public benefit context, "termination of aid pending resolution of a controversy over eligibility may deprive an eligible recipient of the very means by which to live while he waits. Since he lacks independent resources, his situation becomes immediately desperate."); See also Mathews v. Eldridge, 424 U.S. 319, 333-43 (1976) (The basic requirements of procedural due process are a right to notice and an opportunity to be heard at a meaningful time and in a meaningful manner.)

[103] See Williams v. Barry, 490 F.Supp. 941, 947 (1980), reversed on other grounds in Williams v. Barry, 228 U.S. App.D.C. 220 (1983); Caton v. Barry, 500 F. Supp. 45, 53 (1980).

[104] Orange County Grand Jury 2014-2015. Orange County Mental Health: Crisis intervention programs. http://www.ocgrandjury.org/pdfs/2014_2015_GJreport/1415_Final_Report.pdf

[105] Bazar, E. (September 29, 2017). Feeling shut out of California nursing homes? Here are some tips on how to claim a bed. Los Angeles Times. https://www.latimes.com/business/la-fi-ask-emily-nursing-homes-20170929-story.html

[106] U.S. Interagency Council on Homelessness (August 2017). Key considerations for implementing emergency shelter within an effective crisis response system, p. 3. https://www.usich.gov/resources/uploads/asset_library/emergency-shelter-key-considerations.pdf

[107] County Executive Office. (October 6, 2016). Press Release. Transitional Center for Civic Center homeless opens. https://cms.ocgov.com/civicax/filebank/blobdload.aspx?BlobID=58518