



February 8, 2017

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Re: *The Imprisonment of Homeless People in the Santa Ana Riverbed*

Dear County Counsel Page,

Either early this morning or late last night, the Orange County Department of Public Works erected multiple six foot tall fences surrounding the homeless encampment at the Santa Ana Riverbed. Bounded by the fences on three sides and the river itself on the fourth, homeless persons there are essentially imprisoned by the County; this is so despite homeless persons being ordered to the site in the past by police officers from various agencies who are eager to push them out of city centers under threat of citation or arrest. This situation cannot stand. The health and safety of the homeless people trapped in the riverbed – particularly elderly individuals and those with disabilities or significant medical conditions – is at serious risk because they are being denied access to food, water and medical services. We demand that you take immediate action, detailed below, to rectify this egregious violation of basic human rights and bedrock constitutional principles.

The hundred or so individuals trapped on the inside of the fencing are entirely prevented from leaving, despite the County's stated intention to clear the area to engage in planned construction. The Orange County Sheriff's Department and police from the City of Orange guard the area. There are no exits. The only ways people can leave the area are: by cutting holes in the fences, which are promptly patched by County workers; scaling the fences and risking injury from the pointed tops or from falling on the other side, assuming they are able bodied enough to do so; or by wading through the river itself, where waste deep sand and mud act like quicksand. One individual who attempted to cross the river feared for his life and hastily made his way back to the makeshift prison.

Women, children, people with severe disabilities, the elderly, their caretakers, and countless others have been deprived of food, water and access to restrooms all day as people attempting to bring aid and monitor the situation have been relegated to a so-called “free speech zone.” The risk of death and other serious injury is high. We are informed that one individual with epilepsy had a seizure earlier today and emergency personnel were stymied in their efforts to render aid because of the fencing.

In addition, individuals who were outside of the encampment when the fences were erected are unable to enter to retrieve their belongings. We understand that garbage trucks have been on site disposing of persons’ belongings with no clear way of ascertaining abandoned property or trash from property people intend to keep and with no clear instructions on how individuals can retrieve their property.

These actions violate basic notions of human dignity and fundamental constitutional rights, exposing the County to considerable liability. First, the County’s actions constitute false imprisonment for depriving the individuals in the encampment of their freedom of movement, against their will, all day, by fencing them in without a viable means of leaving. Similarly, the County’s actions also constitute an unconstitutional seizure of both the people themselves and their property. The people within the fenced off area are, again, prevented from leaving against their will. Their detention has far exceeded any period necessary to determine whether or not they have violated the law and, in fact, the County’s own actions prevent them from complying with any purportedly lawful orders to leave the area. Their property is similarly seized because the fencing prevents them from taking it elsewhere, including to storage facilities, which would assist the County in clearing the area. Likewise, persons on the outside of the fencing have had their property seized, being unable to retrieve it from the fenced area. Finally, they are being denied their right to due process of law; they are being imprisoned and restrained without any judicial process whatsoever.

We demand that the County immediately take down the fencing or, at a minimum, create gateways through which individuals can enter and exit to remove their property, access food, water, and restrooms, and obtain medical care. Sheriff’s Department personnel or Orange police officers shall neither interfere with nor harass people engaged in these processes. Although we do not believe the Army



Corp of Engineers is responsible for the imprisonment of homeless individuals at the riverbed, we ask the Corp to refrain from releasing any water into the river, which would exacerbate an already dire situation.

If immediate actions are not taken to rectify this situation, we will have no choice but to file a lawsuit, including a motion for a Temporary Restraining Order against all involved parties. You can reach Brendan Hamme at (714) 450-3963 or Peter Eliasberg at (213) 977-9500 ext. 208.

Sincerely,



Brendan Hamme  
Staff Attorney  
ACLU FOUNDATION OF SOUTHERN CALIFORNIA



Peter J. Eliasberg  
Chief Counsel/Manheim Family Attorney for First Amendment Rights  
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