



ORANGE POLICE DEPARTMENT

LAW ENFORCEMENT TRAINING BULLETIN

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OMC CAMPING ENFORCEMENT

The purpose of this training bulletin is to provide Orange Police Officers with an update about enforcement of the Orange Municipal Codes relating to public camping in light of a recent United States Supreme Court Decision **Grants Pass v. Johnson**.

As has been discussed in past trainings, the Ninth Circuit Court of Appeal, in a case called **Martin v. City of Boise**, held that arresting homeless people (essentially because they were homeless and had nowhere else to sleep) was a violation of the 8th Amendment to the Constitution that prohibits “cruel and unusual punishment”. This decision caused a lot of confusion and lawsuits. Essentially, the Federal Courts read **Martin v. Boise** to mean that a homeless person could not be cited for public camping if shelter/housing options were not available.

In **Grants Pass**, the United States Supreme Court overturned **Martin v. Boise**, essentially stating that the 8th Amendment’s “cruel and unusual” clause does not apply to the enforcement of anti-camping ordinances. Because of this ruling, the City no longer is required to have “beds available” prior to citing someone for camping in public. Now that the US supreme Court has weighed in, many cities in Orange County are commencing more aggressive public camping enforcement.

There are two public camping Orange Municipal Code (OMC) sections: **OMC 12.66.030** – Use Street/Public Property for Camping and **OMC 12.48.045** – City Park Camping (no permit). The language of these OMC sections describes and defines what constitutes camping on public property.

OMC DEFINITIONS:

“**Camping**” means the use of public streets or public property for living accommodation or habitation purposes such as sleeping activities or making preparations to sleep, including the laying down of bedding for purposes of sleeping or using or storing personal belongings such as non-designated City cooking equipment, camping stoves, portable barbecues, sleeping bags, cots, beds, hammocks, extra clothing, or personal items when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are, in fact, using the public street or public property for living accommodation or habitation purposes.

“**Public Property**” means the exterior of any building or structure, parking lot, plaza or square, owned or controlled by the City of Orange.

“**Public Street**” means and includes streets, roads, highways, alleys, sidewalks, parkways, bridges, culverts, drains, and all other facilities and areas necessary for the construction, improvement, and maintenance of streets and roads.

"Park" means any public park or any portion thereof, including body of water, land, recreation, playground area, or any building thereon within the City of Orange owned and maintained by the City as a public park whether or not such has been formally dedicated for such purpose. (Of note: Community Services also designated as part of Hart Park the City owned property west of Glassell/west of Hart Park, otherwise referred to as the City owned portion of the river bottom.)

ENFORCEMENT SECTIONS:

OMC 12.66.030 (A) – No person shall: Unless otherwise permitted, maintain, erect, or permit the erection of any hut, shanty, tent, tarpaulin, or any other type of temporary structure under his control upon any public street or public property.

OMC 12.66.030(B) – No person shall: Use public street or public property for the purpose of camping except on public property designated by the City for such purpose.

OMC 12.48.045(A) – No person shall: Use the park for the purposes of camping, except by permit or under the auspices of a program of the Department of Community Services.

OMC 12.48.045(B) – No person shall: Maintain, erect or permit the erection of any hut, shanty, tent, tarpaulin, or any other type of temporary structure under his or her control in any park except with a permit from the department or as part of an approved recreation activity.

OMC 12.48.090 - No person shall enter, be, or remain in any park during the time when such park is closed unless he or she has obtained a permit from the Director.

POLICE REPORT PROCEDURES:

Like any police reports involving OMC violations, the definitions and enforcement language should be used as a guide to officers when writing reports as a result of contact with a homeless person. In order to prosecute violations (and establish evidence for a prosecutor to try the case), a thorough description of the violation must be documented including a detailed description of the camping observed. For example, the type of structure/tent, clothing, bedding, and other property present. In addition, document the community impact of camping and/or encampments and provide this information in the report. For example, the encampment is causing some kind of public nuisance blocking a sidewalk or the camp is near a playground or school, etc. Also include in your report that you offered assistance and/or resources and the individual's response.

During the initial detention, officers should gather any additional information (including basic questioning the homeless person) to establish the OMC violation. Questions should include: a. how long the subject has been at the location; b. does the camping property belong to him/her; c. does the person have somewhere to live and/or obtain shelter; d. does the person have any warrants or open citations for camping; e. has the subject been previously warned for camping in the area. Regardless of whether or not you choose to cite, you **must** ask the subject if they desire assistance with resources. If the subject desires resources, officers may still proceed with a citation (if evidence exist) and then follow protocol for providing assistance. Please ensure BWC's are activated during these contacts as video provides strong evidence in court. If an arrest is to take place, officers need to be mindful of providing a Miranda warning when necessary.

Supervisors should also tag the Bike Team in FBR for all camping reports.

PROPERTY:

If the subject is taken into custody, Policy 422 covers Homeless Persons and 422.4 discusses how to handle personal property. Officers should make reasonable accommodations to secure the property. Any personal property, whether from an encampment or an individual, must be inventoried to identify the personal property items and the property must be booked and held for safekeeping. If booking the property for safekeeping is not viable, alternative options to disposition the property with the owner's consent should be recorded on BWC. The property *shall not* be left abandoned at the location. Property that is contaminated, soiled, or infested can be discarded and not taken to the department. However, you *must* capture this on the BWC so that the City can defend any allegation that you discarded an item of value.

BOTTOM LINE:

Effective immediately, officers may take enforcement action for violations of public camping municipal codes, such as **OMC 12.66.030** and **OMC 12.48.045**. Warnings are not required prior to taking enforcement action, and officers may still issue a citation if the subject accepts resources and/or assistance. Reports for these offenses must thoroughly describe the illegal camping and/or encampments to help establish the elements of the violation.