



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

July 31, 2019

Mr. James Makshanoff
910 Calle Negocio
San Clemente, Ca 92673

Dear Mr. Makshanoff,

This serves as a response to your letters dated July 19, 2019 to Lieutenant Manhart and July 25, 2019 to Sheriff Barnes. I appreciate your concerns and will seek to clarify the Department's homeless enforcement strategy while answering the specific questions raised in each of your respective correspondences.

The Orange County Sheriff's Department (OCSD) is committed to enforcing all laws, including state Penal, Health & Safety and Municipal Codes. It is critical our enforcement strategy balance the constitutional rights of all citizens and adhere to applicable case law. The issue of homelessness is complex and requires a multi-disciplinary approach with emphasis on outreach and enforcement while maintaining compliance with the federal court case decision in *Martin v. Boise*.

The OCSD has and will continue to enforce California Penal and Health & Safety Codes throughout the city, which includes inside the designated transitional camp. In addition, OCSD deputies will continue making custodial arrests of individuals inside the camp who have outstanding warrants. However, my directive is for deputies to not enforce recently passed San Clemente Municipal Code (SCMC) Section 8.86.004 – Transitional Camp Rules or any local trespassing ordinance against individuals refusing to leave the camp for periodic cleaning projects. Based on language of these local sections, enforcement is best suited for City Code Enforcement staff.

OCSD deputies will enforce SCMC Section 8.86.010 – Illegal Camping if an individual erects a tent, awning or other structure for shelter in any public location other than the designated transitional camp. Enforcement of this SCMC section does not apply to those individuals who have been evicted or refused admittance into the designated transitional camp as this would be in direct violation of existing federal case law which requires shelter be made available. Until a higher court takes action to address this particular issue, OCSD is unable to take enforcement action.



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Enforcement of the state trespassing statute will continue to be imposed; however, special attention will be given to the totality of the circumstances, including subject and location of the violation, alternatives to arrest and overall safety of the community. The expectation is for all OCSD deputies to utilize discretion and balance all available resources to achieve a solution during each call for service.

This strategy meets our commitment to enforcing violations of state statute and local municipal code while adhering to case law, which prohibits criminalizing status-related violations of the homeless population. It is evident that an effective solution requires open lines of communication, collaboration and mutual support of all stakeholders. As a valued contract partner, OCSD continues to offer the City of San Clemente the necessary department and county resources required to obtain solutions.

I welcome continued dialogue and seek to strengthen our partnership in providing the excellent police services the community has grown to expect. Please reach out if you have any further questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Hallock".

Jeffrey A. Hallock
Assistant Sheriff

Cc: San Clemente City Council
Erik Sund, Assistant City Manager
Scott Smith, City Attorney
Captain Jeff Puckett, OCSD
Lieutenant Ed Manhart, OCSD