

EUREKA POLICE DEPARTMENT

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FOR IMMEDIATE RELEASE

Date Released: November 21, 2018

Subject: City of Eureka Update on Public Camping Ordinances

Released by: Chief Steve Watson

A recent Ninth Circuit Court of Appeals ruling (*Martin v. City of Boise*, 2018 U.S. App. LEXIS 25032) has generated a measure of concern, confusion and misinformation regarding the enforcement of a jurisdiction's public camping and sit-lie related ordinances.

In a September 2018 narrow holding, the Court held that a Boise, ID ordinance violated the Eighth Amendment to the extent that it imposed criminal sanctions against homeless persons for sleeping outdoors, on public property, when they had no alternative shelter access available. The Ninth Circuit essentially ruled that criminalizing the status of being "homeless," or criminalizing the "unavoidable consequences" of that status—such as sitting, lying or sleeping on sidewalks and other public grounds—may constitute cruel and unusual punishment under certain circumstances.

This federal court decision now affects laws in 9 western states, including California. It creates new challenges for public agencies to prosecute people for sleeping or camping on public property in violation of local ordinances. However, the City of Boise has indicated it may seek rehearing en banc by the entire 9th Circuit panel or an appeal to the U.S. Supreme Court. Meanwhile, the City of Eureka is reviewing our camping and sit-lie ordinances in light of *Martin* while EPD continues to maintain law and order through judicious use of other applicable laws and ordinances. The Court acknowledged cities may still limit the time and place where people sit, lie, or sleep in public places. *Martin* does not cover individuals who do have access to free shelter or the means to pay for it, but choose not to use it. *Martin* also does not apply to enforcement on private property or to particular times and locations where access to public property is restricted.

While Eureka is making some progress on this issue, *Martin v. Boise* further illuminates the critical need for more affordable housing and safe, legal shelter options in Humboldt County. The Eureka Rescue Mission, however, has consistently reported having unutilized shelter beds still available nightly. (For example, from September 1, 2018 – last report on November 6th, between 5-15 shelter beds have remained available daily.) Additionally, through an agreement between the City of Eureka and Saint Vincent de Paul, increased emergency shelter capacity for an additional 25 people is available year-round in the event the mission exceeds capacity.

The attached report was prepared to help inform people about the *Martin* ruling, its potential impact on our communities, next steps, and how the City of Eureka is moving forward in light of the Court's decision and our ongoing homeless issues. While enforcement is sometimes necessary in the interests of public health, crime prevention, and the maintenance of safe, sanitary and accessible spaces, it is not EPD's preferred option. Also included is information about the city's new UPLIFT Eureka program. UPLIFT aims to guide homeless people to existing resources and work programs in the community with the assistance of volunteer "co-pilots" who will serve as advocates for the participants as they work their way to success. EPD is also working in partnership with UPLIFT Eureka to create a homeless diversion component to the program in lieu of referral to the criminal justice system and prosecution or fines for minor offenses.

Public Camping Ordinances Update

~November 2018

Martin v. City of Boise



In a September 4, 2018 ruling (*Martin v. City of Boise*, 2018 U.S. App. LEXIS 25032), the Ninth Circuit Court of Appeals held that a Boise, ID ordinance violated the Eighth Amendment to the extent that it imposed criminal sanctions against homeless persons for sleeping outdoors, on public property, when they had no alternative shelter access available. The Ninth Circuit essentially ruled that criminalizing the status of being “homeless,” or criminalizing the “unavoidable consequences” of that status—such as sitting, lying or sleeping on sidewalks and other public grounds—may constitute cruel and unusual punishment.

This federal court decision now affects laws in 9 western states, including California. It creates new challenges for public agencies to prosecute people for sleeping or camping on public property in violation of local ordinances. However, the City of Boise has indicated it may seek rehearing en banc by the entire 9th Circuit panel or an appeal to the U.S. Supreme Court.

Impact

Judicious analysis of the *Martin v. Boise* ruling will likely lead to amendment of the Eureka Municipal Code. Until then, continued prosecution of the City’s public camping-related and sit-lie ordinances could lead to liability for the City of Eureka. If it stands, this case could have a significant impact on municipalities with substantial homeless populations and inadequate or insufficient homeless shelter facilities. As a result, following the *Martin* ruling Eureka Police officers are provisionally no longer citing individuals for sleeping in public spaces under EMC 93.02 (camping prohibited) and EMC 93.03 (unlawful habitation in autos/trailers). This limited suspension of enforcement may continue until such time as the City’s ordinances and policies have been ensured to comply with this court decision.

What We Are Doing

- The City Attorney’s Office is actively working with staff to review and expeditiously bring an amended camping ordinance(s) before the City Council.
- The Eureka Police Department (EPD) is nearing completion of a comprehensive unsheltered homeless survey within our jurisdiction designed to help the City and community service providers better understand and address the fundamental issues associated with the state of homelessness in Eureka.
- EPD continues to track shelter space availability within the City of Eureka (including emergency overflow options). Most nights there have been beds available for individuals in need.
- The City is in the process of hiring a qualified professional consultant to conduct an independent inventory and analysis of all homeless shelter providers located within the city limits.
- The City is also working with a tech firm to develop a free mobile phone app called “The Eureka Shelter Finder.” The purpose of the app is to inform interested persons about the location and availability of shelter beds currently available in the city.
- Eureka continues to closely partner with the Humboldt County Department of Health and Human Services and other community stakeholders and service providers through our innovative Mobile Intervention and Services Team (MIST). MIST endeavors to balance enforcement with compassionate outreach to the homeless and linkage to services. EPD is increasingly moving toward this collaborative, interdisciplinary approach to addressing homeless issues.

by Chief Steve Watson

- The City is in the process of launching its new homeless resource and support program, “UPLIFT Eureka.” This program will guide homeless people to existing resources and work programs in the community with the assistance of volunteer “co-pilots” who will serve as advocates for the participants as they work their way to success. EPD is also working in partnership with UPLIFT Eureka to create a homeless diversion component to the program in lieu of referral to the criminal justice system and prosecution or fines for minor offenses.
- *Martin v. Boise* further illuminates the critical need for more affordable housing and safe, legal shelter options in Humboldt County. Eureka is making progress on this issue but others still need to contribute more.
- In addition to the City’s ongoing support for Betty Chinn’s Blue Angel Village, which shelters up to 40 chronically homeless people at a time while offering intensive case management services aimed at transitioning them into permanent housing solutions, the City is actively working in partnership with Chinn to establish a second homeless transitional housing facility using donated PG&E trailers.
- EPD will continue to clean-up illegal camps. Nobody has the right to litter in public, destroy property, trespass, create a public health or safety hazard, obstruct the flow of pedestrian and vehicular traffic, or interfere with rights of others to use public areas for their intended purposes. There is a distinction between the act of sleeping and setting up or remaining at a “campsite” on public property (or public right-of-way) for purposes of dwelling in that particular place.
- *Boise* does not apply to enforcement on private property or to particular times and locations where access to public property is restricted.
- Even before the *Martin* decision, it has been EPD procedure that officers generally will not take enforcement action for prohibited camping in public spaces between 9:00 PM and 6:00 AM absent extenuating circumstances. Our patrol responses to this issue are largely complaint-driven.
- EPD is responsible for preventing crime and maintaining law and order within the city by enforcing the laws of the U.S., the state, and city. It is also EPD’s duty to promote the public health and safety by helping the city maintain public areas in clean, sanitary and accessible condition. Officers will continue to respond to and investigate complaints including assessing the occurrence of other possible law violations.
- Other Eureka Municipal Codes and California Penal Codes were not affected by *Martin* and will still be used to enforce crime, disorder and quality of life issues in our city, including:

- Alcohol violations	- Drug activity
- Public intoxication	- Marijuana use in public
- Disturbing the peace	- Obstruction of movement in public ways
- Littering	- Unlawful possession of shopping carts
- Building campfires	- In parks after posted closing hours
- Animals at large	- Damaging or interfering with property
- Trespassing	- Aggressive and intrusive solicitation

Martin is a “Narrow” Holding

Martin provides some guidance concerning what the ruling does not cover:

- A city is not required to provide sufficient shelter for the homeless.
- A city may still limit the time and place where people sit, lie, or sleep in public places.
- The court acknowledged:

“Nor do we suggest that a jurisdiction with insufficient shelter can never criminalize the act of sleeping outside. Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible. So, too, might an ordinance barring the obstruction of public rights of way or the erection of certain structures.”

- *Martin* does not cover individuals who do have access to free shelter or the means to pay for it, but choose not to use it.
- The court’s ruling did not strike down Boise’s ordinances in their entirety but rather only applied to individuals with no shelter options under the circumstances in this case.

What’s Next

The City of Boise may seek a rehearing en banc or an appeal to the U.S. Supreme Court. Meanwhile, the City of Eureka is reviewing our camping and sit-lie ordinances in light of *Martin* while EPD continues to maintain law and order through judicious use of other applicable laws and ordinances.

Go at Your Own Pace



This program is designed to go at your pace allowing you can go as fast or slow as you'd like. Each week you and your "co-pilot" will assist you in obtaining important documents, looking for employment and getting access to valuable resources. As you advance in the program you will be provided access to more valuable programs as well as resources once you have the tools to take advantage of them.

Stage One

Participants will work on obtaining basic needs such as ID, credit scores and social security cards. They will have access to work on the beautification Team with grocery store gift cards as compensation.

Stage Two

Participants will work on obtaining employment and participate in the Pathway to Payday program where they will have the opportunity to interview with real businesses in the community who are hiring. They will have access to work on the beautification Team with a cash stipend as compensation.

Stage Three

Participants will work on obtaining housing, and participate in the RENT Ready Program, as well as meet with local property managers and city officials. They will have a higher level of responsibility on the beautification Team and receive a larger cash stipend as compensation.

Important Dates

This initial session runs from October 29th-December 22nd. Participants must participate in all activities to be able to remain in the program and receive access to resources as well as the beautification projects team.

Weekly Team Meetings

Meetings are Mondays at the Betty Kwan Chinn Day Center

Oct 29th

Nov 5th

Nov 12th

Nov 19th

Nov 26th

Dec 3rd

Dec 10th

Dec 17th

Beautification Team Schedules

Work crews work at an assigned location and beautification project every Tuesday, Wednesday and Thursday from 11am-1pm starting November 6th-December 20th.

Co-Pilot Meetings

Meetings with co-pilots will be determined based on participant as well as co-pilot availability and schedule.

WELCOME TO

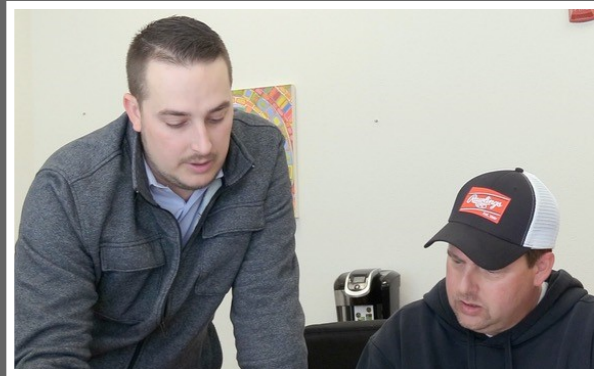


UPLIFT

EUREKA

**A program that works
at your pace & is designed
to empower you to reclaim your
independence through
work program opportunities,
on-going direct support
and resource management.**





Weekly Meetings

Participants will meet every Monday in a group meeting for food, and discussions about how their progress is going. This will be a time that participants can discuss any challenges they are having, as well as be celebrated for their successes.

These meetings will also be a time that participants can update their file on where they are in their progress, as well as work on a personal budget.

Meetings will be every Monday through December 17th at 12:30pm at the Betty Kwan Chinn Day Center at 133 7th Street in Eureka.

Co-Pilots

In addition to the weekly meetings, participants will meet up one-on-one with a volunteer each week for a meeting. These volunteers are the participants official "co-pilot" whose sole purpose will be to assist you in obtaining any documents you may be needing, making appointments on their behalf or arranging transportation.

Participants will have the same co-pilot for the total time they will be with the program.

Co-pilots will meet up with participants at a location and time that works for both the participants and co-pilot.

Work Program

Participants in this program will also have the opportunity to work on a team doing street clean ups, as well as a variety of other beautification projects.

Shifts take place on Tuesday, Wednesday and Thursday from 11am-2pm.

Participants will be compensated for their efforts with a grocery store gift card.

Participants who advance in the program will be compensated with a cash stipend.

How to Apply to be a Co-Pilot!

Step 1: Visit our website at
empowereureka.org

Step 2: Click "Apply Now!"
and then "**UPLIFT Eureka**".

Step 3: Complete a *Co-Pilot
Interest Form*.

Step 4: Volunteers will be
contacted upon application
review.



*Fall 2018 Program starts
Oct. 22nd, 2018*

Stay Connected with Your Community!

- Empower Eureka - City of
Eureka Volunteer Program



empowereureka.org

- C.A.P.E. - Community Access
Project for Eureka



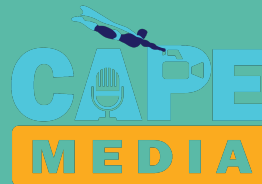
eurekaheroes.org

- City of Eureka Community
Services



eurekacommunityservices.com

- C.A.P.E. Media



cape-media.com



LEAD THE CHANGE!

A city-wide volunteer
movement powered by our
most valuable resource...**YOU!**

Volunteer to Become a Co-Pilot for **UPLIFT Eureka!**

*Reclaiming Independence, Dignity &
Employment...Together!*



The City of Eureka Community
Services Department has developed
an innovative new program to support
the **homeless population** in
accessing vital community resources
to obtain housing & employment.

*By uplifting one individual in need,
together we can benefit & strengthen
our entire community.*



What is **UPLIFT** Eureka?

UPLIFT Eureka believes in every individual's capacity for positive change and is invested in supporting those in need to become a successful **pilot** of their own lives, overcome barriers to employment and housing and make a change for the better.

The challenge with attempting to "solve" the issue of homelessness is that it's not one simple issue. There are many factors that fall under the umbrella of "homelessness". These include mental illness, addiction, poverty, unemployment and a wide variety of unique individual situations that result in members of our community finding themselves without housing.

UPLIFT Eureka is not designed to take the place of existing services, or even supplement them, it's a comprehensive program designed to directly guide individuals to existing resources, and ensure they are in a position to take advantage of those resources, while providing support and programming to help them empower themselves to a better quality of life.

UPLIFT Eureka will provide participants a safe environment where they can achieve success as they *ascend* through various program levels. This program will provide opportunities to better their lives and also reach out and give someone else a lift up too.

As a Volunteer Co-Pilot what will my role be?

Volunteers are the heartbeat of **UPLIFT Eureka**.

Homeless individuals who participate in **UPLIFT Eureka** will be matched up with volunteers (**co-pilots, that's YOU!!**) who will be the primary liaison between **UPLIFT Eureka** participants and the resources in the community. Co-pilots will establish relationships with community partners and resources in advance and be the primary advocate for the participants. Having pre-established relationships will enable Co-pilots to reach out to partners to set up appointments, ask follow-up questions or even accompany a participant to a specific resource within the community.

Participants will be guided step-by-step to access various resources as they work their way to success. These steps will include working on a personal budget, as well as setting up meetings to get basic paperwork taken care of such as Social Security & ID cards.

The Co-pilot's priority is to ensure that their assigned participant has the tools to get the necessary resources, whether assisting in arranging transportation or following up with contacts on the participant's behalf.

The consistency of the individual who will be the Co-pilot will also bring a familiarity and personal touch to the program, so the participants can build a relationship. This program will ensure folks feel supported and no one "slips between the cracks".

Volunteer Co-Pilot Requirements

- ▶ Must be 18 years or older
- ▶ All volunteers must attend an orientation and initial training
- ▶ Volunteers must be available for at least one hour a week to meet with their assigned participant
- ▶ Volunteers must attend a weekly meeting with the co-pilot program coordinator and team.



Co-pilot Sam introducing UPLIFT Eureka participant Steve to representatives of Express Employment Professionals to help Steve find employment!

Community Partners

- Betty Kwan Chinn Day Center
- Eureka Rescue Mission
- Humboldt Recovery Center
- Humboldt County Dept of Health & Human Services
- Express Employment Professionals
- The Job Market
- Real Property Management
- Legal Services of Northern California