

Vehicle Dwellers' Unconstitutional Treatment by San Francisco Agencies

December 23, 2021

To Whom It May Concern,

This is the missive I am sending to SFMTA's Racial Equity Officer, asking the agency to evaluate, correct, and conform their policy to the facts I present below that there is a specific racial group - *of which I am one* - who are having data collected on them, policies made, which then eradicate them from society BY A COLLECTION OF GOVERNMENT AGENCIES using taxpayer money. Adolph Hitler would be thrilled - even impressed - to see this handled like the City and County of San Francisco does.

I am of course talking about the **gypsy** problem. Cities don't have a "homeless problem"; normal people are easy to house - just point out the path and they are on it. What you are calling service-resistant is merely people with nomadic DNA. Thus you have a *gypsy* problem. All cities around the world do. It's just how it is. However, here in San Francisco, since April 1971, the agencies have collectively violated *18 U.S.C. § 1091 (a)(4)* which calls genocide to also be when members of a said *racial* group are subjected to "conditions of life that are intended to cause the physical destruction of the group in whole or in part". No statute of limitations.

What follows are ten (10) fairly simple bullet points of constitutional law that defeat San Francisco's proud status as a "Sundown Town" for the ethnic gypsy, nomads in general, and other vehicle dwellers.

I am an American-born Scottish Traveller, an ethnic group recognized as indigenous by the Scottish government. My maiden name is Robertson, which is a well-known Scottish Traveller surname. I am part of a larger, worldwide group known in Europe as the GRT, an acronym for Gypsy-Roma-Traveller. Our one "immutable characteristic" is that we live on wheels, always have, always will. For a point of reference, I am the self-published author of a collection of essays,

NOMADIC PROUD:

Segregation is not the same as Apartheid and other lessons I never expected to learn in San Francisco

Additionally, I was accepted as an independent researcher on one of the larger academic websites where I publish papers under gypsy anthropology, specifically on hate speech towards the nomadic races. More importantly, I am extremely litigious and know how to file - and argue - at almost any level of court setting.

My civil rights have been trampled since I arrived in San Francisco in 1997 in a black Bluebird school bus. I currently live in a more modern RV. I will always live in a vehicle. I am a gypsyTraveller and I am deeply offended by this City's "gypsy conversion therapy" that seeps throughout every policy, every pattern, and practice that has touched my life since 1997.

Why Cities Cannot Ban (or Segregate) Vehicle Dwellers

#1) **Fourteenth Amendment** as established in *Ho Ah Kow v. Nunan* 12 Fed Case 252 (1879): "But in our country, hostile and discriminatory legislation by the state against persons of any class, sect, creed, and nation, in whatever form it may be expressed is forbidden by the Fourteenth Amendment." Affirmed in *Civil Rights Cases* 109 U.S. 3 (1883): "[T]here cannot be, in this republic, any class of human beings, in practical subjection to another class." Nearly sixty years later, that same position was affirmed in *Edwards v. California* 314 U.S. 160 (1941): "It would introduce a caste system utterly incompatible with the spirit of our government. It would permit those who were stigmatized by a State as indigents, paupers, or vagabonds to be relegated to an inferior class of citizenship." Another thirty years pass and this legal stance that no sub-citizenry allowed is again affirmed in *Parr v. Municipal Court* 3 Cal. 3d 871 (1971): "Here, the appearance of neutrality is derived from the general language of the operative subsections, but the discriminatory impact is achieved by the hostile tone and the critical descriptions directed to one segment of society in the urgency clause. Since constitutional verities are most frequently at the core of issues of monumental dimension, a certain insouciance is understandable when the City of Carmel undertakes what to some may seem the comparatively insignificant act of preventing nonresident hippies from sitting in its park. But we cannot be oblivious to the transparent, indeed the avowed, purpose and the inevitable effect of the ordinance in question: to discriminate against an ill-defined social caste whose members are deemed pariahs by the city fathers. This court has been consistently vigilant to protect racial groups from the effects of official prejudice, and we can be no less concerned because human beings currently in disfavor are identifiable by dress and attitudes rather than by color."

This is exactly what San Francisco has done to vehicle dwellers of every ilk. We are inferior citizens and a persecuted sub-group.

#2) **Fourth Amendment** says all are to be secure in their homes, as established early on in *Boyd v. United States* 116 U.S. 616 (1886) that the Fourth amendment protected from: "...all invasions on part of the government, and its employees, of the sanctity of a man's home and the privacies of life." Almost a century later, it is affirmed in *Wagner v. Bonner* 621 F.2d 677 (5th Cir.) (1980): "An individual's privacy interests are nowhere more clearly defined or rigorously protected by the courts than in the home - the core of Fourth Amendment rights." Again two decades later, affirmed in *Lawrence v. Texas* 539 U.S. 558 (2003) stating the Constitution protected "people from unwarranted government intrusions into a dwelling or other private places". This was affirmed as true for homeless people (also) in *Kincaid v. City of Fresno* 244 F.R.D. 597 (E.D. Cal.)(2007): "[T]he practice of announce, strike, seize, and destroy (the property of the homeless) immediately is against the law" ... "violates the constitutional right to be free from unreasonable search and seizure."

These vehicles are our homes, but the City knows that because SFMTA discussed just exactly that in a 12.11.18 meeting's PDF found online, see item #13 in a footnote on page 11: "Despite the temporary nature of the tent or vehicle, it can be a home, so privacy rights should not be undermined and the government may not impound a vehicle. *Smith v. Reiskin* Oct 10, 2018 preliminary injunction stating there is no justification for the seizure and retention of a vehicle if its owner cannot afford to pay the parking tickets." i.e *Smith v. Reiskin* 4:18-cv-01239

NOTE: In order to legally seize our vehicle-homes, they would need to be creating a public safety hazard or be part of a crime scene. Also, we would need to have been offered a pre-tow hearing in order for the seizure of our vehicle-homes to pass constitutional standards. Furthermore, the Supreme Court ruled in *Timbs v. Indiana* 139 S. Ct 682 (2019) that a vehicle seizure by the State can be a violation of the "Excessive fines" clause of the **Eighth Amendment**.

#3) **Eighth Amendment** as established in *Robinson v. California* 370 U.S. 660 (1962) says status crimes are impermissible, i.e. punishing status in absence of a crime. The "crime" is SFPD code section 97, which passed April 1971, in response to the hippie invasion, and made "sleeping, eating, or resting" in one's vehicle (parked anywhere in a public place) 10 pm to 6 am. punishable by up to six months in county jail and/or fine up to \$1000. That makes San Francisco a "Sundown Town" for the ethnic gypsy and other vehicle dwellers because one is being criminalized for what is a common act all humans do in order to stay alive. How can the acts of eating or sleeping ever be an actual *crime*? Furthermore, in order to pass "strict

scrutiny” (i.e. the appeals court’s standard of review to which a municipal law that acts as a curfew on any racial groups’ legal right to be inside the City limits), the law would have to have been narrowly tailored. To explain this in terms of law, I turn to *U.S. Dept. of Agriculture v. Moreno* 413 U.S. 528 (1974): “It means only that the Equal Protection Clause requires the State to have a legitimate reason for withdrawing a right or benefit from one group but not others, whether or not it was required to confer that right or benefit in the first place.”

#4) **Eighth Amendment** as established in *Martin v. Boise* 920 F.3d 584 (2019), says it’s cruel and unusual punishment to enforce anti-camping ordinances unless there’s enough space for the people being cited or arrested. There are no RV parks in the San Francisco city and county area. In other words, for the vehicle dweller, there’s nowhere to go, for any amount of money, to be legal. Again with the “Sundown Town” status.

#5) **Fourteenth Amendment** as established in *Meyer v. Nebraska* 262 U.S. 390 (1923): “Without doubt, [constitutionally-protected liberty] denotes not merely freedom from bodily restraint but also the right of the individual to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to his conscience, and generally enjoy those privileges long recognized as common law as essential to the pursuit of happiness”.

That means trying to stop me from doing it requires due process, but *before* you deprive me. A liberty interest is also a fundamental right so it gets the standard of “strict scrutiny” applied by the appeals courts.

#6) **First and Fourteenth amendments** protect my freedom of speech, which isn’t just expression through words, but also my right to symbolic speech, to express myself as living in the manner of my ancestry. This was affirmed in *Obergefell v. Hodges* 570 U.S. 644 (2015): “The Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity. ... In addition, these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs.”

#7) **Ninth and Fourteenth amendments** as it refers to the privacy discussed in *California v. Carney* 471 U.S. 386 (1985), stating a motorhome is “a hybrid vehicle ... with most of the privacy characteristics of a house.” The California Constitution, Article 1, Declaration of Rights, Section 1: “All people are by nature free and independent and have inalienable rights. Among

these are enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety, happiness, and privacy.”

#8) INTIMIDATION OF OCCUPATION: **24 CFR § 100.400 of the (federal) Fair Housing Act** says it’s prohibited to interfere, coerce or intimidate one in their use or enjoyment of their housing rights if it’s being done based on their race. **18 U.S.C. § 241** federal prison and/ or fines for anyone who conspires to interfere with another’s civil rights, housing or otherwise.

#9) Addressing the sixty-one (61) streets that the SFMTA has allowed its “real” citizens to be able to request a no-go/ no-parking zone for vehicle dwellers (again some of whom are ethnic nomads). This is achieved by SFMTA installing “Oversized Vehicle Parking Bans” which prohibit parking from midnight to 5am. Again, a curfew must be tailored to meet a specific need of the State. It cannot be vague or overly broad.

NOTE: The first “oversized vehicle” bans went in 2012 on the Great Highway, but were never approved by the California Coastal Commission. Similar parking control laws have not met approval in the years that have passed (i.e. Venice Beach and Santa Cruz), which says SFMTA never even asked the Commission and that means all these signs aren’t worth the metal they are printed on.

My disgust at the City for encouraging its citizens to engage in racial hatred and exclusion is affirmed in *Saenz v. Roe* 526 U.S. 489 (1999) 134 F.3d 1400 "...in the Slaughter-house Cases... Justice Bradley, in dissent, used even stronger language to make the same point: "The States have not now, if they ever had, any power to restrict their citizenship to any classes or persons. A citizen of the United States has a perfect constitutional right to go to and reside in any state he chooses, and to claim citizenship therein, and an equality of rights with every other citizen; and the whole power of the nation is pledged to sustain him in that right. He is not bound to cringe to any superior, or to pray for any act of grace, as a means of enjoying all rights and privileges enjoyed by other citizens." (Id at 112-113).

These oversize vehicle bans are not only unconstitutional but also illegal considering that the **Civil Rights Act of 1964** forbade the exclusion of certain races from public facilities, which in this case are roadways paid for by public taxpayers’ dollars and the dirt underneath them.

#10) Finally, the foundational issue is that we, the nomadic, have been illegally excluded from the marketplace since nowhere are there FREE MARKET RV sites being made (only segregation camps known as "Safe Parking Programs"). This is forbidden under California law, per the **Rumsford Act of 1963**, California's homegrown Fair Housing law which states: "The practice of discrimination because of race, color, religion, national origin, or ancestry in housing accommodation is declared to be against public policy." The same goes in the federal Fair Housing Act known as the **Civil Rights Act of 1968**.

In plain English, here are those ten points:

#1) Government cannot create second-class citizens.

#2) Government cannot seize our vehicle-homes for ticket-debt or for being stationary without a pre-tow hearing.

#3) Government cannot create status crimes out of curfews.

#4) Government cannot cite, arrest, or move us along if there is no legal place for us to go be.

#5) Government cannot interfere with our right to establish and have a home without due process and a damn good reason.

#6) Government cannot interfere with our freedom to express our heritage as GypsyTravellers.

#7) Government cannot interfere with our privacy simply because we live in a vehicle.

#8) Government cannot promote and/or allow "Intimidation of Occupation".

#9) Government cannot ban us from using public facilities when we express our heritage.

#10) Government cannot openly promote an exclusionary housing policy against Gypsy Travellers nor cut us out of the free marketplace.

I expect no change from the government but I will seek it nonetheless, with every tool I have available.

Sincerely,

Ramona Mayon

TABLE OF AUTHORITIES

First, Fourth, Eighth, Ninth, and Fourteenth amendments of the U.S. Constitution

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Civil Rights Cases 109 U.S. 3 (1883)

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Saenz v. Roe 526 U.S. 489 (1999)

LAWS

The Civil Rights Acts of 1964 and 1968

The Rumford Act of 1963

18 U.S.C. § 1091 (a)(4)

24 CFR § 100.400

18 U.S.C. § 241

42 U.S.C. § 1983