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Please Don't Feed The Homeless

Posted By [Timothy Zick](#) On October 9, 2007 @ 1:25 pm In [Civil Rights](#) | [2 Comments](#)

Efforts to purify public places of the indigent and homeless are longstanding. Through police orders to “move along,” sweeps of public areas, bans on panhandling and other public activities typically engaged in by the homeless, and other “broken windows” measures, officials have long sought to control the indigent and homeless *territorially*. As I argue in a recent [article](#) ^[1], these efforts have generated a kind of “geography of purification” — particularly in many of the country’s largest urban areas.



Recently, some localities, including Las Vegas and Orlando, have enacted bans on feeding the “indigent” in certain public places. The Las Vegas ordinance prohibits “providing food or meals to the indigent for free or for a nominal fee” in a city park. It defines “indigent” as “a person whom a reasonable ordinary person would believe to be entitled to public assistance.” Violation of the Las Vegas feeding ban carries a \$1,000 fine and/or six months in jail. Officials claim that feeding the indigent and homeless in places like public parks interferes with recreational and other uses of public space, poses “safety” concerns owing to established numbers some “mobile soup kitchens” attract, and discourages recourse to established social service providers. Opponents of the ordinances argue that feeding the homeless ought not to be criminalized, and that officials are primarily concerned with creating a purified public landscape in which the indigent and homeless are less visible. As with other laws governing public expression and conduct, the feeding bans pose a delicate balance. They pit the governments’ interests in safety and public order against fundamental personal interests in public presence, identity, and receipt of aid.

As written, some of the bans would seem to prohibit the feeding of persons based almost entirely on their appearance. They are, in that respect, vulnerable to vagueness and other procedural challenges. As the text of the Las Vegas ban shows, it is difficult to define “indigency” such that a ban on public feeding can be fairly enforced. Further, outright bans (as opposed to more tailored regulations) on public feeding are vulnerable to First Amendment speech, assembly, and association challenges. The Las Vegas ban has now been [permanently enjoined](#) ^[2], although city officials are permitted to continue to enforce existing (and generally applicable) permit and trespass laws. Officials have nevertheless vowed to amend and revive the feeding ban. In April, Eric Montanez, now 22 and a member of the advocacy group Food Not Bombs, was [arrested](#) ^[3] while feeding more than 25 people in an Orlando public park. In a trial of first impression, Montanez’s case is now being [presented to an Orlando jury](#) ^[4]. During the trial, Montanez’s supporters are serving breakfast, lunch and dinner in the park during a three-day “ladle fest.”

No one wants public parks to be transformed into soup kitchens. Permit and other public order laws would seem to be sufficient means of ensuring order and public safety. Whatever the outcomes in Las Vegas and in the Montanez trial, the problems associated with homelessness and indigency will not disappear from public view. Rather than criminalize public aid, officials ought to consider and enact more substantive measures to address these serious problems.

UPDATE: Montanez has been [acquitted](#) ^[5] by the jury.

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- [2] permanently enjoined: <http://www.firstamendmentcenter.org/news.aspx?id=18961>
- [3] arrested : <http://www.wftv.com/news/11535261/detail.html>
- [4] presented to an Orlando jury: <http://www.wftv.com/news/14289861/detail.html?taf=orlc>
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