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Ian Haney-Lopez, a former student of Derrick Bell at Harvard Law School, is the John H. Boalt Professor of Law at the University of California, Berkeley.

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NEWS

BY CAMILLA MORTENSEN

ALLEY VALKYRIE FIGHTS FOR
HER RIGHT TO FREE SPEECH

CONSTITUTIONAL CURFEW II

No free speech at the Free Speech Plaza

PHOTO BY TRASK BEDORTHA

Does the Constitution have a curfew? Local activists say free speech doesn't stop at 11 pm, but Lane County has designated the Wayne Morse Free Speech Plaza as closed to free speech and other activities after hours. In Bethlehem there was no room at the inn for the mother of Jesus, and in Eugene there's no room for free speech at the Free Speech Plaza.

Alley Valkyrie, who has been involved with Occupy Eugene, SLEEPS (Safe Legally Entitled Emergency Places to Sleep) and other protests and advocacy causes, found herself banned from accessing county and city government offices after being cited on Dec. 13 for violating a closure of the plaza. The plaza was one of the many places that SLEEPS staged pop-up protest camps to call attention to the plight of the homeless who are woken up each night as they seek safe places to sleep. In response to the protests, Lane County began to enforce a previously unposted curfew on the plaza, and it shut the plaza down for several days to be "disinfected" after the SLEEPS protest.

The Wayne Morse plaza and the nearby federal plaza that has also been closed to protest after hours are both "traditional public forums," according to Civil Liberties Defense Center attorney Lauren Regan. She says that means that the ability of the government to restrict activities there, such as protest, is limited. Regan has filed a case in U.S. District Court on behalf of Emily "Brave Beatrice" Semple and Terry Purvis after they were cited for protest in the federal plaza. Valkyrie says a case against the county's closure is in the works.

"Whoever would have thought in progressive Eugene with a law school and a plaza dedicated to Wayne Morse we would have to be suing Lane County for the right to protest in a place called Free Speech Plaza?" Regan asks.

Oregon Sen. Wayne L. Morse, whose statue sits in the county plaza named for him, was known as an independent thinker and for opposing the Vietnam War on constitutional grounds.

Valkyrie says that like the barring of protesters from the federal plaza at night, barring protest in the Free Speech Plaza is unconstitutional. She also is going to file for a temporary restraining order on the restriction that is keeping her from accessing the county government offices, she says.

"I can't even put into words to explain how outrageous I find their conduct right now," Regan says of the county's restriction that keeps Valkyrie from attending public meetings, despite not having been convicted of a crime.

When Mayor Kitty Piercy was informed that Valkyrie could not access Eugene City Council meetings she said, "While I respect the county's rights to make decisions regarding visitors to the county building, it's not OK with me for them to determine who may attend or speak at a council meeting." She says she asked staff to work with the county "to ensure that no one is blocked from our council meetings by the county."

The county did not respond to a request for comment on either Piercy's request or on the plaza issue itself before EW's press deadline.

When Lane County closed the plaza at County Administrator Liane Richardson's behest, the protesters were told it was due to health and safety issues. Richardson alleged she had found human feces in the planters.

"Nobody dropped their pants in the planters," Valkyrie says. "I would have seen it." She points out that by saying the plaza needed disinfection and accusing protesters of pooping in the planters Richardson is reinforcing negative stereotypes of the homeless.

Valkyrie says she sees the ban on protest as "targeted enforcement" against Occupy and SLEEPS and she has found no evidence that Lane County enforced a curfew on the plaza in recent years prior to the SLEEPS protests. She points out that if both traditional public forums — the federal and county plazas — are closed at night, there is nowhere else downtown that a large group can protest after hours. This restricts those who work and cannot protest in the daytime as well as groups for whom protesting at night is an essential part of the message, such as Take Back the Night events and candlelight vigils.

After Valkyrie was cited for violating the free speech curfew, 21 other free speech activists, who ranged from 16-year-old girls to a recent war veteran, protested the plaza's closure and were also arrested. They have not been banned from accessing the county building, which is also targeted enforcement, she says.

"This is a case where a first-year law student would say 'Duh,'" Valkyrie says, and she questions why the county "keeps wasting its resources trying to deny people their rights."

Regan says the unconstitutional bans on exercising First Amendment free speech rights in the federal and county plazas leave the Civil Liberties Defense Center with "no choice but to challenge them and to bring them to court." ■