

1 Anthony P. Condotti, City Attorney, SBN 149886
acondotti@abc-law.com
2 Catherine Bronson, Deputy City Attorney, SBN 267527
cbronson@abc-law.com
3 Stephanie M. Duck, Deputy City Attorney, SBN 324429
sduck@abc-law.com
4 ATCHISON, BARISONE & CONDOTTI
A Professional Corporation
5 PO Box 481
Santa Cruz, CA 95061
6 Telephone: (831) 423-8383
7 Facsimile: (831) 576-2269

8 Attorneys for Defendants
9 CITY OF SANTA CRUZ, MARTIN BERNAL, TONY ELLIOT, and ANDREW MILLS

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13
14 SANTA CRUZ HOMELESS UNION, on
15 behalf of itself and those it represents;
16 SANTA CRUZ FOOD NOT BOMBS;
17 ALICIA AVALOS, HANNAH HEGEL,
18 CHRIS INGERSOLL and RANDOLPH
TOLLEY, on behalf of themselves and
similarly situated homeless persons,

19 Plaintiffs,

20 vs.

21 CITY OF SANTA CRUZ; MARTIN
22 BERNAL, individually and in his official
23 capacity as City Manager for the City of Santa
24 Cruz; TONY ELLIOT, individually and in his
25 capacity as Director of Parks & Recreation for
the City of Santa Cruz; ANDREW MILLS,
individually and in his capacity as Chief of
Police for the City of Santa Cruz,

26 Defendants.
27

Case No. 5:20-cv-09425-SVK

**DECLARATION OF CITY OF SANTA CRUZ
CHIEF OF POLICE ANDREW MILLS IN
SUPPORT OF THE CITY'S OPPOSITION TO
PLAINTIFFS' TEMPORARY RESTRAINING
ORDER**

Hearing Date: January 6, 2021
Hearing Time: 2:00pm

Honorable Magistrate Judge Susan van Keulen

1 I, ANDREW MILLS, hereby declare as follows:

2 1. I am the Chief of Police of the Santa Cruz Police Department (“SCPD”), and I have held
3 this position since 2017. I have personal knowledge of the facts recited herein, and, if so called, I would
4 competently testify to the same.

5 2. I previously served as Chief of Police in Eureka, California, from 2013-2017. I served
6 with the San Diego Police Department from 1983-2013 in various ranks and positions, including
7 Lieutenant, Unit Commander, a Commanding Officer, and Captain. From 1977 to 2013, I held various
8 positions and ranks in Michigan and California.

9 3. I have published multiple articles for the intelligence community, police journals, and
10 periodicals related to community policing, racial proofing, criminal intelligence, and threat management.
11 In May of 2000, I won the Gary P. Hayes Award, which is a national recognition by the Police
12 Executive Research Forum (PERF) for excellence and innovation in policing. From 1996 to 1999, I led
13 a team to win the Herman Goldstein Awards for Excellence in Problem Oriented Policing—four
14 additional projects were finalists. In 2015, I was named the Tom C. Cooke, Leader of the Year, Eureka
15 Chamber of Commerce. In 2016, I was a nominee and finalist for Peace Maker Award of Humboldt
16 County.

17 4. I am familiar with the real property at issue, San Lorenzo Park along with “the
18 Benchlands” greenbelt. A true and accurate copy of a map of these locations, are included to the City’s
19 Index of Exhibits as Exhibit A.

20 5. I have personal knowledge of the recent encampment conditions at San Lorenzo Park, as
21 I have personally made numerous visits and conducted numerous walk-throughs of the location. I have
22 further reviewed relevant Santa Cruz Police Department’s records and statistical analyses, and I have
23 debriefed with my Departmental staff on these incidents.

24 6. Santa Cruz police received almost 3,000 calls for police service in and around San
25 Lorenzo Park since 2003. Of all the arrests made in San Lorenzo Park since 2003, 416 were for a drug-
26 related crime, 95 for persons in violation of probation, 328 for being intoxicated on alcohol or other
27 drugs, and 404 arrests for warrants. There were eight deaths in the park, two occurring this year.

1 7. Since 2003, there has been 46 reported aggravated assaults, five of which occurred this
2 year, not including one attempted murder (described below). Eleven percent (11%) of the aggravated
3 assaults taking place over the past 17 years took place in 2020. During that same period, SCPD took 19
4 robbery reports. Of those, two (or 10.5%) of all robberies took place this year.

5 8. Examples of serious crimes at the Encampment this year include:

- 6
- 7 a. Aggravated Assault. On May 19, 2020, a homeless individual alleged that two men
8 entered his tent while he was sleeping and assaulted him with baseball bats. The
9 victim was treated at Dominican Hospital but was not cooperative with further
10 investigations. (Santa Cruz Police Report No. 20S-02865).
- 11 b. Aggravated Assault. On June 15, 2020, an individual was standing in San Lorenzo
12 Park around mid-night when another man approached him and hit him in the face
13 with a baseball bat causing injury. The victim was not cooperative with further
14 investigations. (Santa Cruz Police Report No. 20S-03403).
- 15 c. Robbery. On July 18, 2020, an individual from out of town was walking in San
16 Lorenzo Park in the morning we he claims he was punched in the back of the head
17 multiple times and then had property stolen. The victim fell to the ground and several
18 suspects took his backpack and other associated items. Witnesses claimed there was
19 not a robbery, but an argument between fellow homeless individuals over disrespect.
20 (Santa Cruz Police Report No. 20S-04132).
- 21 d. Death Report. On August 13, 2020, a homeless individual was found unresponsive
22 and did not respond to NARCAN. Drug paraphernalia was found near the decedent.
23 (Santa Cruz Police Report No. 20S-04657).
- 24 e. Death Report. On September 29, 2020, an individual died in his tent of an apparent
25 drug overdose. Paraphernalia was found near the decedent. (Santa Cruz Police
26 Report No. 20S-05592).
- 27 f. Assault with Deadly Weapon. On August 27, 2020 an individual was reported to be
28 screaming and yelling in San Lorenzo Park. When the victim told the individual to
quiet down, the suspect responded by swinging at the victim. The victim later noticed
their arm was cut as a result of the suspect swinging at him with a knife in his hand.
The victim refused medical treatment and was not cooperative with further
investigations. (Santa Cruz Police Report No. 20S-04936).
- g. Attempted Murder. On August 5, 2020 individual was assaulted with a machete at
the County managed encampment. The victim got into an argument with a woman
staying in the encampment over use of the bathroom and his possession of a knife.
During the argument the suspect hit the victim in the head with a machete from

1 behind. The victim was transported to the hospital for treatment. The victim was not
2 cooperative with further investigations. (Santa Cruz Police Report No. 20S-05098).

3 h. Robbery. On October 24, 2020 an individual recognized a man he knew as a gang
4 member in San Lorenzo Park near the duck pond. When the suspect saw him, the
5 victim ran because of an ongoing personal dispute with the suspect, and dropped his
6 backpack out of fear. The individual reported that he never retrieved his backpack,
7 indicating it was stolen. (Santa Cruz Police Report No. 20S-0612).

8 i. Assault with a Deadly Weapon. On November 19, 2020, an unhoused blind
9 individual, reported he was attacked while in his tent with a tent pole by what he
10 believed to be another homeless individual. The victim was taken to the hospital and
11 ultimately placed at Paul Lee Loft for housing. The victim reported hearing voices
12 most of the night prior to the assault. (Santa Cruz Police Report No. 20S-06717).

13 j. Unlawful burning. On November 30, 2020, an individual dug a 3x5 foot hole and
14 burned twigs and leaves in the hole. The fire was extinguished. (Santa Cruz Police
15 Report No. 20S-06918).

16 9. In addition to these serious crimes, I have received calls, emails, and personal complaints
17 from dozens of community members regarding the unsanitary conditions related to encampments at San
18 Lorenzo Park.

19 10. My observation as Chief of Police in Santa Cruz is that it seems that more and more
20 unsheltered, and often drug-addicted and mentally ill individuals have come to reside in encampments
21 within the City.

22 11. The City's experience is that large, unsanctioned encampments, including the
23 encampment at San Lorenzo Park, are almost always associated with a host of major health and safety
24 impacts, including: open and obvious drug use and related crimes, serious fire safety concerns, major
25 impacts related to human and animal waste and accumulation of trash, vandalism, and related nuisance
26 conditions. Crime science confirms the City's experience that crime clusters by location and people.

27 12. As the county seat, with county courts, jail and mental health Services and shelters for the
28 homeless all located here, the City of Santa Cruz has become the de facto hub of homelessness, mental
illness, and addiction within Santa Cruz County. In Santa Cruz, the homelessness crisis is made even
more acute by drug addiction and mental illness. The City's experience is that many individuals

1 residing in larger, unmanaged, semi-permanent tent encampments within the City are frequently
2 addicted to drugs and often appear to suffer from untreated mental illness.

3 13. During the COVID-19 pandemic, and as a result of the CZU fire, homelessness, drug
4 abuse, and mental health crises discussed above have become even more acute in Santa Cruz, and large
5 tent encampments have formed within the City's limits.

6 14. I am aware that San Lorenzo Park has a curfew. But, even when there is a curfew, the
7 City avoids moving people from encampments during nighttime hours, out of respect for homeless
8 persons' sleep and for the safety of all persons involved, including SCPD officers and encamped
9 individuals. It is the SCPD's experience that it is much safer and more practical for encampments to be
10 moved along during daytime hours.

11 15. On December 21, 2020, the City enforced the first phase of the park closure, which
12 vacated the areas around the playground at San Lorenzo Park. According to my officers, some of the
13 individuals who vacated the encampment moved on to other encampments in the City. Some
14 individuals simply moved into other parts of San Lorenzo Park that had not yet been closed.
15 Additionally, SCPD officers observed that some individuals camping in the park appeared to have
16 support available from family or friends, and they left in cars and appeared to return to live with those
17 family and/or friends.

18 16. The second phase of the park closure was scheduled to occur on December 28, 2020.
19 When City staff arrived to effectuate the park closure, they were met with a large and vocal protest.
20 Eventually, to de-escalate the situation, for the safety of all involved, and to avoid arrests and use of
21 physical force, the City chose to temporarily pause its efforts to implement the second phase of the park
22 closure.

23 17. On December 30, 2020, the City received notice that this court had issued a TRO. In
24 deference to the court's order, all signage regarding the contemplated closure of the park was removed,
25 and the City has paused its plans to close the park, pending resolution of the TRO.

26 18. On December 30, 2020, the Santa Cruz Police Department conducted operations to
27 remove stolen fencing from San Lorenzo Park. At that time, 64 tents were counted. Most of those tents

1 are believed to be single occupancy. Some of the tents are believed to be used solely for storage. Some
2 of the tents are believed to be occupied by housed advocates, who are camping at the park to protest the
3 City's planned closure. At this time, my best estimate is that there are approximately 60-80 unsheltered
4 individuals who are currently encamped at San Lorenzo Park.

5 19. Based on my experience serving as the Chief of Police in both Eureka and Santa Cruz,
6 both of which have a large population of homeless individuals relative to surrounding communities, one
7 of the defining features of most large, unsanctioned and unmanaged homeless encampments is the
8 distribution, sale, and rampant use and abuse of illegal drugs. San Lorenzo Park is no exception. The
9 concentration of individuals with mental health problems and drug addiction within these homeless
10 encampments invariably impacts nearby businesses and residences, resulting in increased community
11 safety issues.

12 20. While drug trafficking has been a persistent problem in Santa Cruz for decades, the
13 opiate epidemic sweeping the nation has also had major impacts here. Homeless addicts often resort to
14 criminal activities to support their addiction, such as drug dealing and theft. People suffering from
15 mental illness and under the influence also often engage in harmful (to themselves and others)
16 aggressive and antisocial behaviors. Unregulated homeless encampments result in a concentration of
17 these problems in a specific neighborhood or area.

18 21. With the high concentrations of homeless individuals with addiction problems in Santa
19 Cruz, the City experiences a large amount of drug trafficking. Such drug trafficking leads to violence,
20 though such violence is often unreported to the police due to the lack of access to telecommunications
21 equipment, or an unwillingness to cooperate in investigations with police.

22 22. Furthermore, one study conducted by SCPD observed that homeless populations are 14
23 times more likely to be victims of a crime and 12 times more likely to be suspected of a crime. I believe
24 that high concentrations of homeless in a small space will result in additional crime—other individuals
25 in the encampment are the most likely victims.

26 23. I am aware that a local homeless activist and advocate recently assisted approximately
27 fifteen 15 homeless individuals in moving from San Lorenzo Park to another encampment he was

1 attempting to establish in a different part of the City. I asked the advocate why in a phone conversation
2 on December 30, 2020. The advocate responded that the people who left “were tired of having items
3 stolen, fights, and violence.” In other words, it is safer in a smaller community where rules of conduct
4 and community standards are agreed upon.

5 24. From a public safety perspective, unmanaged homeless encampments, such as the one in
6 San Lorenzo Park, deny access to the park by families using the playground and seniors trying to access
7 essential services. The elderly, for example, traverse the park to access essential services during the
8 pandemic. They walk from the nearby senior apartments to CVS pharmacy and two grocery stores as
9 the most direct route to these services and critical to their care.

10 25. Based on my personal observations, discussions with Departmental staff, and
11 professional training and experience, it is my professional opinion that conditions at San Lorenzo Park
12 constitute a public nuisance

13 I declare under penalty of perjury that the foregoing is true and correct. Executed on January

14 5, 2021.

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16 
17 _____
18 ANDREW MILLS