

## STATE OF NORTH CAROLINA

FILED

File No.

23CV 00356

Buncombe

County

In The General Court Of Justice  
Superior Court DivisionIN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:

2023 JAN 24 A 11: 26

Name Of Petitioner: ACLU of North Carolina, Freedom of the Press  
Foundation, and the Committee to Protect JournalistsAddress  
PO Box 28004City, State, Zip  
Raleigh, NC 27611Phone No.  
919-354-5066

Fax No.

Email Address  
kgraunke@acluofnc.org

BUNCOMBE CO., PETITION

FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING

- ☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)
- ☒ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to Petitioners and the public. I state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following: Petitioners seek the unrestricted release of all body camera footage relating to the arrests of Matilda Bliss and Melissa "Veronica" Coit at Aston Park in Asheville, North Carolina on December 25, 2021 at approximately 10:45 p.m. Bliss and Coit are journalists who were at the park to document a controversial police eviction of a homeless encampment. They are not accused of harming or endangering anyone, or obstructing police. Nonetheless, they were arrested for trespassing while news gathering. Bliss' phone was also seized. There is significant public interest in whether police arrested Bliss and Coit in retaliation for exercising their First Amendment rights to report on matters of significant public concern on public land and the footage should be fully released in the interests of transparency. A more detailed discussion of the relevant facts and law, as well as exhibits in support of this petition, are attached.

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- ☐ Personal Delivery
- ☒ By Regular Mail, US postage prepaid, addressed as follows:  
Todd Williams  
Buncombe County District Attorney  
60 Court Plaza  
Asheville, NC 28801

## CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

- ☐ Personal Delivery
- ☒ By Regular Mail, US postage prepaid, addressed as follows:

Police Chief David Zack  
Asheville Police Department  
100 Court Plaza  
Asheville, NC 28801

Date  
01/23/2023

Petitioner's Signature

Kristi Graunke, Esq. for  
Petitioners

STATE OR NORTH CAROLINA

IN THE GENERAL COURT OF  
JUSTICE

COUNTY OF BUNCOMBE

SUPERIOR COURT DIVISION

IN THE MATTER OF CUSTODIAL )  
LAW ENFORCEMENT AGENCY )  
RECORDING SOUGHT BY )  
THE AMERICAN CIVIL LIBERTIES )  
UNION OF NORTH CAROLINA AND )  
THE FREEDOM OF THE PRESS )  
FOUNDATION )

\_\_\_\_\_ CVS \_\_\_\_\_

ATTACHMENT TO PETITION FOR  
PUBLIC RELEASE OF CUSTODIAL  
LAW ENFORCEMENT AGENCY  
RECORDING

NOW COME Petitioners, the American Civil Liberties Union of North Carolina (“ACLU of NC”), Freedom of the Press Foundation (“FPF”) and the Committee to Protect Journalists (“CPJ”), and hereby petition this Court, pursuant to N.C.G.S. § 132-1.4A(g), to order the public release of the police body camera footage (the “Footage”) arising from the December 25, 2021 arrests of journalists documenting police evicting homeless people camped in a city park. *See In re Custodial Law Enf’t Recording Sought by Greensboro*, 2022 N.C. LEXIS 1096, 2022-NCSC-125 ¶ 24 (encouraging transparency with respect to body camera footage). As explained below, this is a matter of Constitutional significance and a prompt resolution is essential.

### **Background and Applicable Law**

1. Petitioners ACLU of NC, CPJ, and FPF are three organizations dedicated to the defense of the constitutional freedoms of expression. ACLU of NC engages in frequent communications and advocacy to defend the rights of North Carolinians under the First Amendment of the U.S. Constitution, as well as Article I, Section 14 of our state constitution. FPF protects, defends, and empowers public-interest journalism, including through public and legal advocacy around critical press freedom issues. It also operates the

U.S. Press Freedom Tracker (“Tracker”), in partnership with CPJ, to monitor and document press freedom violations around the United States.

2. This Petition seeks the release of Footage depicting matters of the highest public concern — the arrests of journalists, allegedly for trespassing, during a controversial eviction of a homeless encampment at Aston Park on a cold Christmas night in the middle of the pandemic.<sup>1</sup> See, e.g., *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 606 (1976) (prosecutorial decision-making and law enforcement actions are subjects of heightened public concern); *Cromer v. Brown*, 88 F.3d 1315, 1326 (4th Cir. 1996) (possible misconduct within a law enforcement agency is a “matter[] of serious public import.”); see also *Snyder v. Phelps*, 131 S. Ct. 1207 (2011) (newsworthiness of protests against evictions).
3. All police conduct is of public concern but the need for transparency is elevated in this case because arrests of journalists during the performance of newsgathering are rare in non-authoritarian nations. See *In re Wall St. Journal*, 601 F. App'x 215, 218 (4th Cir. 2015) (recognizing “right under the First Amendment to gather news”). The Tracker reports only 15 such arrests last year.<sup>2</sup>
4. The journalists in question here, Asheville Blade (the “Blade”) reporters Melissa “Veronica” Coit and Matilda Bliss, are scheduled to be tried on January 25, 2023 — 396 days since their arrests. While arrests of journalists are already uncommon, trials are exceedingly rare. The Tracker reports only three trials of journalists arrested while gathering news since 2018. See *Dombrowski v. Pfister*, 380 U.S. 479, 487 (1965) (noting

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<sup>1</sup> The arrests in question occurred at approximately 10:45 p.m. on December 25, 2021. The names of the individuals arrested are Melissa “Veronica” Coit and Matilda Bliss. The arrest reports are attached as **Exhibit A**.

<sup>2</sup> See <https://pressfreedomtracker.us>. The Tracker is operated by FPF.

that “the chilling effect upon the exercise of First Amendment rights may derive from the fact of the prosecution, unaffected by the prospect of its success or failure.”).

5. Accordingly, there is significant public interest in this unusual case and whether public officials acted unconstitutionally in arresting and charging Coit and Bliss. *See* N.C. Const. art. I, § 14 (“Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.”).
6. The public interest is further heightened because there is reason to believe police selectively enforced trespassing laws as a pretext to target journalists who were reporting critically on their actions. The Supreme Court has long recognized that “though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand . . . the denial of equal justice is still within the prohibition of the Constitution.” *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886); *see also Lozman v. City of Riviera Beach*, 138 S. Ct. 1945, 1946 (2018) (probable cause for arrest did not bar claim that arrest was in retaliation for First Amendment activity); *Nat’l Ass’n for Advancement of Colored People v. Claiborne Hardware Co.*, 458 U.S. 886, 915 (1982) (in prosecutions arising from First Amendment activity, court must “examine critically the basis on which” liability is to be imposed to ensure that defendants are not being prosecuted for Constitutionally protected conduct).
7. Bliss’ phone was seized during the arrest, which itself raises red flags that authorities intended not to enforce curfews but to suppress newsgathering. Additionally, an email exchange, dated a few months before Coit and Bliss’ arrests, shows that, after the Blade covered a prior encampment sweep in April, 2021, officials forwarded an email calling to



“fight[] back” against the Blade throughout the police department, including to the chief and ultimately the city manager. See **Exhibit B** (email exchange); *Durham v. Jones*, 737 F.3d 291, 300 (4th Cir. 2013), quoting *Maciariello v. Sumner*, 973 F.2d 295, 300 (4th Cir. 1992) (suspected police misconduct “is a matter in which the public should be interested.”); cf. *Leigh v. Salazar*, 677 F.3d 892, 900 (9th Cir. 2012) (“When wrongdoing is underway, officials have great incentive to blindfold the watchful eyes of the Fourth Estate.”)

8. At the subsequent encampment sweep on Christmas night in 2021, Coit and Bliss were arrested for trespassing, and Bliss’s phone was seized. The journalists are not accused of harming or endangering anyone or with obstructing any law enforcement action — merely with photographing police at a public park after closing time. See **Exhibit A**; *Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 515-16 (1939) (“Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public” and their rights “must not, in the guise of regulation, be abridged or denied.”).
9. That authorities continue, over a year later, to devote energy and resources to prosecuting a harmless alleged curfew violation in the course of constitutionally protected newsgathering further heightens the public interest in the Footage.
10. The public interest is also demonstrated by the significant media attention and criticism, in Asheville and nationwide, that the arrests of Bliss and Coit have attracted. See **Exhibit C** (news articles and statements from press freedom organizations).
11. Just last month, the North Carolina Supreme Court urged transparency with respect to releasing body camera footage because “opaque decision-making destroys trust; recent history involving police body cameras emphasizes this risk.” *Greensboro*, 2022 N.C.

LEXIS 1096, 2022-NCSC-125 ¶ 24. Full release of the Footage is consistent with the transparency urged by our Supreme Court.

12. The Footage would shed light on, among other things (a) whether the journalists obstructed police in any way, (b) whether police offered any accommodations so that the journalists could continue doing their constitutionally protected jobs, (c) whether police remarks or conduct indicated animus or retaliation against the press generally and/or *the Blade* specifically, (d) whether all others who were at the park at the same time were also arrested on (or threatened with arrest for) trespassing charges, and (e) the circumstances surrounding the seizure of Bliss' phone.

#### **Statutory Factors**

13. N.C.G.S. § 132-1.4A(g) instructs Courts to consider eight factors to determine whether to release police body camera footage. All weigh in favor of release here.:

- (1) **Public interest.** The first factor is whether release is necessary to advance a compelling public interest. As discussed above, potential law enforcement misconduct, especially potential retaliation for journalists exercising First Amendment rights, is a subject of compelling public concern. The public interest in disclosure is made more compelling by the fact that the potential misconduct occurred during a controversial effort by law enforcement to evict unhoused people from public parks, a subject of robust public debate and protests. *See Exhibit D* (news coverage of encampment sweeps). If the police engaged in misconduct, the public needs to know. If they did nothing wrong, then release of the Footage would vindicate them and help restore and maintain public trust in law enforcement. *See Greensboro*, 2022 N.C. LEXIS 1096, at \*18-19 (striking down restrictions on

release of body camera videos and noting that release could clear officers' names); *cf. Scott v. City of Durham*, No. 1:20-CV-558, 2022 U.S. Dist. LEXIS 44808, at \*11 (M.D.N.C. Mar. 14, 2022) (statutory protection of records of criminal investigations did not outweigh the public's right of access.).

(2) **Confidentiality.** The second factor is whether the recording contains information that is confidential or exempt from disclosure under applicable law. It does not – it depicts officers arresting adults on public land, events which could have been filmed by any passerby with a phone. Indeed, North Carolina law, and the First Amendment, protects the right of citizens interacting with police to create similar recordings themselves. N.C.G.S. § 15A-287; *Irizarry v. Yehia*, 38 F.4th 1282 (10th Cir. 2022); *Toole v. City of Atlanta*, 798 F. App'x 381 (11th Cir. 2019); *Fields v. City of Phila.*, 862 F.3d 353 (3d Cir. 2017); *Turner v. Driver*, 848 F.3d 678 (5th Cir. 2017); *ACLU v. Alvarez*, 679 F.3d 583 (7th Cir. 2012); *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011); *Fordyce v. City of Seattle*, 55 F.3d 436, 438 (9th Cir. 1995) (all upholding First Amendment right to record police).

(3) **Obtaining evidence.** The third factor is whether petitioners are seeking to obtain evidence to determine legal issues in a current or potential court proceeding. The Footage is, of course, evidence relevant to the journalists' criminal trials as well as any civil litigation that may follow. That said, the journalists are entitled under N.C.G.S. § 132-1.4A to privately view the Footage, and presumably use it for their defense. Petitioners are seeking the public release of the Footage so that all citizens and taxpayers — not just those depicted in the Footage — are able to decide for themselves whether the arrests were justified, whether police targeted the press, and



whether prosecuting journalists for merely documenting police conducting a newsworthy operation at a public park is a wise use of their money.

- (4) **Sensitive personal information.** The fourth factor is whether the Footage would reveal highly sensitive personal information. It would not. The filming took place in a public park where, as discussed, anyone can record police conduct. The journalists have already extensively detailed their version of events in the Blade as well as interviews with other media outlets. See **Exhibit C**. And footage of police officers performing their official duties is not “sensitive” or “personal,” regardless of whether publicizing their conduct might embarrass them. *Cf. N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 272-73 (1964) (“injury to official reputation affords no [] warrant for repressing speech”).
- (5) **Reputational and safety risk.** The fifth factor is whether release would harm the reputation or safety of a person. It would not. Presumably, police believe that the Footage is favorable to them and would depict them acting appropriately, or else they would not be pursuing the cases against those arrested to trial. If they are wrong, it does not matter, because protecting public officials from embarrassment is no basis to suppress information regarding matters of public concern. *Id.* The journalists want the Footage released. See **Exhibit E** (affidavits from the journalists).
- (6) **Fair administration of justice.** The sixth factor is whether release would “create a serious threat to the fair, impartial, and orderly administration of justice.” It will not. Bliss and Coit’s upcoming trial is a bench trial but, even in jury cases, courts have construed this factor “in light of the availability of extensive *voir dire* at trial



as well as other alternatives available to a trial court for ensuring a fair and impartial jury.” *In re Doug Miller Petitions for Release of Charlotte Mecklenburg Police Dep't Recordings*, 2018 NCBC LEXIS 211, \*4-6 (citing *In Re: The Charlotte Observer*, 882 F. 2d 850, 855-56 (4th Cir. 1989)).<sup>3</sup> See also *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1054-55 (1991) (“Empirical research suggests that in the few instances when jurors have been exposed to extensive and prejudicial publicity, they are able to disregard it and base their verdict upon the evidence presented in court.”); cf. *California for Riverside Cnty.*, 478 U.S. 1, 14-15 (1986) (First Amendment permits closure only where there is a substantial probability of prejudice and alternatives cannot protect fair trial rights). In any event, in this case the defendant-journalists (and other reporters and commentators) have written extensively about the events depicted on the Footage and want the public to see the Footage. A hypothetical jury would be *less* prejudiced by the entirety of the actual Footage (which they would see during a trial anyway) than by potentially incomplete accounts from the media. And releasing the footage now would allow for ample “cooling off” time in advance of *voir dire* in any hypothetical future jury trial.

- (7) **Investigations.** The seventh factor is whether confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation. It is not. The investigation into the arrestees is, apparently, already complete, as they have been charged and are awaiting trial. Petitioners are not aware of an internal investigation or any plans to launch one. If one were to

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<sup>3</sup> Unpublished cases cited in this Petition are attached as **Exhibit F**.

occur, the Footage would not be prejudicial — the existence of the Footage is not a secret and the officers depicted know who they are. *See Doug Miller Petitions*, 2018 NCBC LEXIS 211, \*4-6 (finding that release would not interfere with ongoing police investigation because police had ample time to interview witnesses prior to release). Moreover, a rule barring the release of body camera footage in any case where the department might investigate misconduct exposed by the footage would be self-defeating and would contradict the first factor of the § 132-1.4A(g) analysis by ensuring that footage of the *highest* public interest remains secret.

**(8) Entire recording.** The last factor is whether “there is good cause shown to release all portions of a recording.” The answer is yes. The recording depicts arrests in plain sight at a public park during a homeless encampment sweep — a matter of significant public controversy. A release of incomplete Footage would only foster unnecessary suspicion and distrust.

14. Thus, each of the eight factors weighs in favor of release, especially given the heightened public concerns implicated by the Footage.
15. It is worth noting that, had the arrests occurred an hour earlier, before the park’s closing time, police could not contest that journalists were free to observe their actions firsthand, and make their own recordings. The only reason the public does not *already* have full access to video recorded by the press and public of everything that occurred at Aston Park that night is that the encampment sweep occurred shortly after the park closed, and police chose to selectively enforce misdemeanor trespassing laws against those who could

document their actions, including confiscation of Bliss' phone. Whether the sweep occurred at 9:45 or 10:45 p.m. has no bearing on the public interest in transparency.

For the foregoing reasons, Petitions respectfully request that this Court hold a hearing on this Petition as soon as practicable, as required by N.C.G.S. § 132-1.4A(g),<sup>4</sup> grant their Petition and order the public release of the Footage in its entirety and without delay.

Respectfully submitted,



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PO Box 28004  
Raleigh, NC 27611  
(919) 354-5066

*Counsel for Petitioners*

\* Licensed in California. Admitted to the North Carolina Bar and scheduled to take the oath of office on January 26, 2023.

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<sup>4</sup> Petitioners' counsel note that their office is located in Raleigh and respectfully request that the Court provide a minimum of twenty-four hours notice prior to a hearing, in order to facilitate their travel to Asheville.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing petition and all attachments have been served  
by first class U.S. Mail sent to:

Police Chief David Zack  
Asheville Police Department  
100 Court Plaza  
Asheville, NC 28801

Todd Williams  
Buncombe County District Attorney  
60 Court Plaza  
Asheville, NC 28801

This 23rd day of January, 2023



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By: Kristi Graunke  
ACLU of North Carolina Legal Foundation  
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(919) 354-5066  
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STATE OR NORTH CAROLINA

IN THE GENERAL COURT OF  
JUSTICE

COUNTY OF BUNCOMBE

SUPERIOR COURT DIVISION

IN THE MATTER OF CUSTODIAL )  
LAW ENFORCEMENT AGENCY )  
RECORDING SOUGHT BY )  
THE AMERICAN CIVIL LIBERTIES )  
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THE FREEDOM OF THE PRESS )  
FOUNDATION )

\_\_\_\_\_ CVS \_\_\_\_\_

**ORDER**

This matter coming before the Court on the Petition for Public Release of Custodial Law Enforcement Agency Recordings filed by the American Civil Liberties Union of North Carolina, the Freedom of the Press Foundation, and the Committee to Protect Journalists (the "Petition"), the Court having been fully advised and the custodial law enforcement agency (Asheville Police Department) and the Buncombe County District Attorney having been given notice and opportunity to object to the Petition, it is hereby ordered:

1. After consideration of the factors listed in N.C.G.S. § 132-1.4A(g) and all submissions and arguments related to the Petition, the Court hereby GRANTS the Petition in its entirety.
2. All police footage depicting or relating to the December 25, 2021 arrests of Melissa "Veronica" Coit and Matilda Bliss, further described in the Petition and the arrest reports attached as Exhibit A thereto, shall be promptly released to Petitioners.
3. There shall be no restrictions or conditions on the release of the aforementioned footage or on the rights of Petitioners to further disseminate the footage.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Superior Court Judge

# Exhibit A

## ARREST REPORT

AGENCY INFO	Agency Name <b>ASHEVILLE POLICE DEPARTMENT</b>		ORI <b>0110100</b>		Date/Time Arrested <b>12/25/2021 22:45</b>		OCA <b>See Charges</b>					
	<input type="checkbox"/> Taken <input type="checkbox"/> Prints <input type="checkbox"/> Photos	Fingerprint Card Check Digit # (CKN)	Arrest Tract <b>APD</b>		Residence Tract		Arrest Number <b>599976</b>					
ARRESTEE INFO	Name (Last, First, Middle) <b>COIT, MELISSA ANN</b>			D.O.B. [REDACTED]	Age <b>38</b>	Race <b>W</b>	Sex <b>F</b>	Place of Birth [REDACTED] <b>NC</b>	Country of Citizenship <b>US</b>			
	Current Address [REDACTED]			Phone [REDACTED]		Occupation [REDACTED]		<input checked="" type="checkbox"/> Resident <input type="checkbox"/> Unknown <input type="checkbox"/> Non-Resident				
	Employer's Name [REDACTED]			Address [REDACTED]			Phone [REDACTED]					
	Also Known As (Alias Names) <b>COIT, MELISSA ANN; HAMMOND, MELISSA ANN;</b>			Hgt <b>5'03</b>	Wgt <b>210</b>	Hair <b>BLN</b>	Eyes <b>BRO</b>	Skin Tone <b>FAR</b>	Consumed Drug/Alcohol <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk			
	Scars, Marks, Tattoos <b>PRCD RIGH EAR / X1; PRCD LEFT EAR / X1;</b>			Social Security #		OLN and State		Misc. # and Type				
	Nearest Relative Name			Address				Phone				
ARREST	If Armed, Type of Weapon <b>UNARMED</b>		<input type="checkbox"/> On-View <input type="checkbox"/> Criminal Summons <input type="checkbox"/> Order for Arrest <input type="checkbox"/> Citation <input type="checkbox"/> Warrant		Place of Arrest <b>336 HILLIARD AVE, ASHEVILLE</b>							
	Charge #1 <b>Second Degree Trespass</b>		OCA: 21027316	<input type="checkbox"/> Fel <input checked="" type="checkbox"/> Misd	Counts <b>1</b>	DCI Code <b>90J</b>	Offense Jurisdiction (if not arresting agency)	Statute # <b>14-159.13 57</b>	Warr. Date <b>12/25/2021</b>			
	Charge #2		<input type="checkbox"/> Fel <input type="checkbox"/> Misd	Counts	DCI Code	Offense Jurisdiction (if not arresting agency)	Statute #	Warr. Date				
	Charge #3		<input type="checkbox"/> Fel <input type="checkbox"/> Misd	Counts	DCI Code	Offense Jurisdiction (if not arresting agency)	Statute #	Warr. Date				
VEHICLE INFO	VYR	Make	Model	Style	Color	Plate #/State	VIN					
	Vehicle 1. <input type="checkbox"/> Left at Scene <input type="checkbox"/> Secured <input type="checkbox"/> Unsecured Date/Time _____ 2. <input type="checkbox"/> Released to other at owners request <input type="checkbox"/> Name of Other _____ 3. <input type="checkbox"/> Impounded <input type="checkbox"/> Place of storage _____ Inventory on File? _____											
CONFINED	Date/Time Confined		Place Confined			Committing Magistrate						
	Type Bond <input type="checkbox"/> Written Promise <input type="checkbox"/> Unsecured <input type="checkbox"/> Secured <input type="checkbox"/> No Bond <input type="checkbox"/> Other		Bond Amount <b>\$0.00</b>		Trial Date	Court Of _____ City						
	Assisting Officer Name/ID # <b>0</b>			Released By (Name/Department/ D #)			Date/Time Released					
Status Codes	L - Lost   S - Stolen   R - Recovered   D - Damaged   Z - Seized   B - Burned   C - Counterfeit / Forged   F - Found											
DRUGS ARREST	DCI	Status	Quantity	Type Measure	Suspected Type		Check up to 3 types of activity for each					
							Possess	Buy	Sale	Mfg.	Importing	Operating
COMP	Name: Complainant <input type="checkbox"/> Victim <input type="checkbox"/>			Address				Phone:				
STATUS	Arresting Officer Signature/ D # <b>Not Found: 9689 (Not Found: 9689)</b>			Date/Time Submitted <b>//</b>			Supervisor Signature					
	Case Status: <input type="checkbox"/> Further Inv. <input type="checkbox"/> Inactive <input checked="" type="checkbox"/> Closed		Case Disposition: <input checked="" type="checkbox"/> Cleared By Arrest / No Supplement Needed <input type="checkbox"/> Arrest / No Investigation		Arrestee Signature							



## ARREST REPORT

A G E N C Y	Agency Name <b>ASHEVILLE POLICE DEPARTMENT</b>		ORI <b>0110100</b>		Date/Time Arrested <b>12/25/2021 22:45</b>		OCA <b>See Charges</b>					
	<input type="checkbox"/> Taken <input type="checkbox"/> Prints <input type="checkbox"/> Photos	Fingerprint Card Check Digit # (CKN)		Arrest Tract <b>APD</b>		Residence Tract		Arrest Number <b>599980</b>				
A R R E S T E E	Name (Last, First, Middle) <b>BLISS, MATILDA RAE</b>			D.O.B. [REDACTED]	Age <b>34</b>	Race <b>W</b>	Sex <b>F</b>	Place of Birth [REDACTED] <b>TN</b>	Country of Citizenship <b>US</b>			
	Current Address [REDACTED]			Phone [REDACTED]		Occupation		<input checked="" type="checkbox"/> Resident <input type="checkbox"/> Unknown <input type="checkbox"/> Non-Resident				
	Employer's Name			Address			Phone					
	Also Known As (Alias Names)			Hgt <b>6'00</b>	Wgt <b>147</b>	Hair <b>BRO</b>	Eyes <b>BRO</b>	Skin Tone <b>MED</b>	Consumed Drug/Alcohol <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk			
	Scars, Marks, Tattoos <b>TATT RIGH CALF / BLUE BIRD; TATT LEFT</b>			Social Security #		OLN and State		Misc. # and Type				
	Nearest Relative Name <b>NO FAMILY</b>			Address			Phone					
A R R E S T	If Armed, Type of Weapon <b>UNARMED</b>		<input type="checkbox"/> On-View <input type="checkbox"/> Criminal Summons <input type="checkbox"/> Order for Arrest <input type="checkbox"/> Citation <input type="checkbox"/> Warrant			Place of Arrest <b>336 HILLIARD AVE, ASHEVILLE</b>						
	Charge #1 <b>Second Degree Trespass</b>		<input type="checkbox"/> Fel <input checked="" type="checkbox"/> Misd		Counts <b>1</b>	DCI Code <b>90J</b>	Offense Jurisdiction (if not arresting agency)	Statute # <b>14-159.13 57</b>	Warr. Date <b>12/25/2021</b>			
	Charge #2		<input type="checkbox"/> Fel <input type="checkbox"/> Misd		Counts	DCI Code	Offense Jurisdiction (if not arresting agency)	Statute #	Warr. Date			
	Charge #3		<input type="checkbox"/> Fel <input type="checkbox"/> Misd		Counts	DCI Code	Offense Jurisdiction (if not arresting agency)	Statute #	Warr. Date			
V E H I C L E	VYR	Make	Model	Style	Color	Plate #/State	VIN					
	Vehicle 1. <input type="checkbox"/> Left at Scene <input type="checkbox"/> Secured <input type="checkbox"/> Unsecured Date/Time _____ 2. <input type="checkbox"/> Released to other at owners request <input type="checkbox"/> Name of Other _____ 3. <input type="checkbox"/> Impounded <input type="checkbox"/> Place of storage _____ Inventory on File? _____											
C O N F I N E D	Date/Time Confined		Place Confined			Committing Magistrate						
	Type Bond <input type="checkbox"/> Written Promise <input type="checkbox"/> Unsecured <input type="checkbox"/> Secured <input type="checkbox"/> No Bond <input type="checkbox"/> Other		Bond Amount <b>\$0.00</b>		Trial Date		Court Of _____ City					
	Assisting Officer Name/ID # <b>0</b>			Released By (Name/Department/ D #)			Date/Time Released					
Status Codes	L - Lost   S - Stolen   R - Recovered   D - Damaged   Z - Seized   B - Burned   C - Counterfeit / Forged   F - Found											
D R U G S	DCI	Status	Quantity	Type Measure	Suspected Type		Check up to 3 types of activity for each					
							Possess	Buy	Sale	Mfg.	Importing	Operating
C O M P	Name: Complainant <input type="checkbox"/> Victim <input type="checkbox"/>			Address				Phone:				
	NARRATIVE											
S T A T U S	Arresting Officer Signature/ D # <b>Not Found: 9107 (Not Found: 9107)</b>			Date/Time Submitted <b>//</b>			Supervisor Signature					
	Case Status: <input type="checkbox"/> Further Inv. <input type="checkbox"/> Inactive <input checked="" type="checkbox"/> Closed		Case Disposition: <input checked="" type="checkbox"/> Cleared By Arrest / No Supplement Needed <input type="checkbox"/> Arrest / No Investigation			Arrestee Signature						

# Exhibit B

**From:** Chief David Zack  
**Sent:** 4/20/2021 9:15:13 AM  
**To:** "Debra Campbell" <dcampbell@ashevillenc.gov>  
**Cc:**  
**Subject:** Fwd: I am sure you are well aware of this person, and their completely made up rhetoric .We are trying to fight back, as neighbors and homeowners.

**Attachments:** [image008.jpg](#), [image003.png](#), [image006.png](#), [image010.jpg](#), [image009.jpg](#), [image001.png](#), [image005.png](#), [image007.jpg](#), [image002.png](#), [image004.png](#)

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FYI

**David J. Zack**  
**Chief of Police**  
**City of Asheville Police Department**  
**Office: (828) 259-5901**  
**Email: [dzack@ashevillenc.gov](mailto:dzack@ashevillenc.gov)**

----- Forwarded message -----

**From:** **Mike Lamb** <[mlamb@ashevillenc.gov](mailto:mlamb@ashevillenc.gov)>  
**Date:** Tue, Apr 20, 2021 at 10:08 AM  
**Subject:** Fwd: I am sure you are well aware of this person, and their completely made up rhetoric .We are trying to fight back, as neighbors and homeowners.  
**To:** Police Executive Staff <[policeexecutivestaff@ashevillenc.gov](mailto:policeexecutivestaff@ashevillenc.gov)>

This was shared by a concerned SFB resident.

----- Forwarded message -----

**From:** <[helenhyatt@charter.net](mailto:helenhyatt@charter.net)>  
**Date:** Tue, Apr 20, 2021 at 9:58 AM  
**Subject:** I am sure you are well aware of this person, and their completely made up rhetoric .We are trying to fight back, as neighbors and homeowners.  
**To:** Captain J.E.Silberman <[jsilberman@ashevillenc.gov](mailto:jsilberman@ashevillenc.gov)>, Mike Lamb <[mlamb@ashevillenc.gov](mailto:mlamb@ashevillenc.gov)>

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## Eviction season

by David Forbes April 19, 2021

*Asheville police lie about a brutal crackdown on houseless campers and the locals supporting them as city hall ramps up its efforts to please the tourism industry at all costs*

*Above: A banner outside the Aston Park houseless camp. Special to the Blade*

*Blade reporters Veronica Coit and Orion Solstice contributed to this piece*

Late afternoon last Friday a drove of Asheville police [marched](#) down South French Broad towards Aston Park. They had come, in the middle of a pandemic, to kick houseless locals out of a city park.

In the time that followed the APD would gather nearly 40 officers on the site, belligerently harassing both the remaining houseless campers and locals who had shown up — at the campers’ request — to support their right to housing. The police would brutally attack and arrest four people, sending three to jail and one Black houseless person to the emergency room in handcuffs.

Then they lied about it. Guns and batons aren’t the only weapons in the arsenals of cops or the government they serve. In the hours afterwards city hall put out a blatantly false statement, lying about everything from the level of aid they offered to the houseless to spreading “outside agitator”-style myths that blamed scary protesters for the police’s violence.

However, *Blade* reporters and plenty of locals were there and saw what happened. Aston Park was the latest in a series of cruel sweeps and evictions aimed at expelling any hint of poverty from the view of wealthy tourists. That has involved a relentless push to destroy houseless camps, often just before particularly cold nights (Friday dropped into the 40s). City government does this despite CDC warnings saying houseless camps should be left alone during the pandemic.

With one tepid exception city council members have stayed absolutely quiet even as the wave of evictions has escalated. But locals aren’t silent. One of the reasons city hall feels the need to lie so blatantly about Aston Park is because the actual truth — houseless people getting solidarity from the wider community to resist their evictions — scares the hell out of them.

### Casual destruction

*“The law, in its majestic equality, forbids rich and poor alike from sleeping under bridges and begging for bread.” — Anatole France*

Houselessness has always been a reality that doesn’t sit comfortably with the lily-white craft beer liberal veneer Asheville’s establishment likes to project to the world. It’s the obvious result of a city built on low pay, sky-high housing costs and segregation.

If there’s one thing gentry hate it’s facing the consequences of their own actions. So the default response to the wave of houselessness created by rapid gentrification is a relentless push to hurt those struggling with it until they disappear from view. This is a major reason for the APD’s relentless expansion in recent years — and why the gentry are losing it as Asheville cops quit in droves. It’s also why it’s such a common sight to see multiple cops interrogating a single houseless person. That would be demonstrated at Aston Park, when the APD dispatched basically their entire on-duty force (and then some) to destroy a single camp.

This status quo also often goes hand-in-hand with a complicit non-profit complex. While ostensibly supposed to help the houseless many local non-profits only do so with a lot of strings attached, requiring them to lose their belongings or support animals and live in a prison-like setting to receive basic food and shelter. Others even exclude some populations entirely (multiple shelters don’t allow trans and queer people). The APD and city government then use the non-profits as an excuse for their violence, to claim that anyone not in a shelter is “refusing services.” Many non-profits, either due to their own paternalistic attitudes or in fear of losing local government funds, remain largely silent about the APD’s abuses of the houseless.



Asheville’s poverty worsened during the pandemic. Before hotels re-opened a growing movement had pressed city hall to put houseless locals up for free in them for the duration of the pandemic. Instead officials packed houseless people into the civic center. This was clearly a pandemic disaster in the making and even other municipal governments in NC had abandoned such quasi-prisons in favor of supplying hotel rooms. When challenged on this assistant city manager Cathy Ball directly said houseless people couldn’t be trusted unless monitored 24/7 so they didn’t deserve individual hotel rooms.

The comments were blatantly cruel enough that there were calls for her resignation then. In response to the public backlash, city hall partly funded rooms for the houseless at the Red Roof Inn — a notoriously crumbling spot far from services, amenities and the eyes of tourists — and claimed it as some sort of altruistic act.

Late last spring local governments started down a path of keeping hotels, breweries and the wider tourism industry open no matter how bad the pandemic got. Not surprisingly, it got really bad, with multiple waves of infections and the [highest death rates](#) and most deaths (by population) of any major NC city/county. With the focus on pandemic tourism city hall’s campaign against the houseless ramped up as well.

Even the CDC — not exactly a bastion of radical leftism — has repeatedly warned local governments not to destroy houseless camps during the pandemic. Instead city hall escalated camp destruction from previous levels. Multiple camps were demolished in the dead of winter. Far-right realtors [outright](#) told city council they wanted the houseless gone so they could more easily market the area to wealthy. On Feb. 1, with no warning even to establishment non-profits, city government and the state Department of Transportation [demolished](#) a houseless camp under the Lexington Avenue overpass, hours before the coldest night of the year. The city first claimed vague “safety concerns,” but it then emerged that the complaint they were acting on was literally just griping that houseless people shouldn’t be allowed to exist near tourists.

DESCRIPTION

Homeless people should not be allowed to sent up a camp underneath an overpass especially one that was commissioned to be aesthetically pleasing to tourists and tax payers

Seriously, that’s all it said

So city hall then blamed NCDOT (the camp was partly on highway land), even though it was city officials who pushed them to demolish the site, helped them do it and provided armed cops to back them up.

In this they were cheered by the local far-right. Whatever their other disagreements with Asheville’s ostensibly liberal government they both hate the poor and want them gone. Ball, who oversees both the police and the city’s houseless services/economic development efforts (the latter are, tellingly, in the same department), has been [particularly obsequious](#) to far-right business owners.

The next wave of evictions would largely take place in city parks, land Asheville’s government owns entirely. Other than their hatred of the poor there’s nothing stopping them from just letting people in need stay there. But early last week police visited multiple camp sites, handing out eviction notices with a list of shelters and programs on the backside. They demolished one on Cherry Street, sending personal items like cookbooks and family photos into piles destined for the trash. By the time campers reached Aston some said they had moved eight or even 10 times over the past months.



Eviction notice from the Asheville police. Special to the Blade.

In bitter irony many of the shelters and programs listed on the city’s eviction notices are full, have steep restrictions on who can use them or have major waiting lists. Some houseless people who’d been evicted from the Cherry Street camp were even told to go to Aston Park. But, of course, city officials didn’t care.

Asheville’s city council offered little opposition as the evictions have escalated. Some had even supported the evictions. At their recent retreat Council member Sandra Kilgore (a conservative realtor, naturally) talked of wanting to “clean up” the city by removing houseless people. At their meeting last week only one member, Kim Roney, condemned the camp evictions. The rest remained absolutely silent. Last Thursday Roney sent an email to Campbell and the rest of council asking them to “pause the clock.” The next day she had her response from her peers and the APD: they threw the clock right back.

**Shows of force**

During all this public anger has continued to mount. The city’s population mostly doesn’t own homes, have struggled with poverty and do not support the “tourism at all costs” direction pushed by city hall. Many have moved noticeably to the left during the past years — leftist demonstrations are several times the size they were even two years ago — and supported more militant tactics. This shift has also reduced government-backed non-profits’ ability to steer anger into approved channels.

As a statement later released by the Aston park eviction defense effort put it “Asheville’s unhoused residents deserve better support than the NGOs and City offer them. The autonomous resistance of unhoused people will always be supported by anarchists and other allies in Asheville.”

So by the middle of last week the remaining camp residents requested local support in staying in their homes. They got it. A *Blade* reporter observed that this decision was the residents’, though local supporters had made it clear they were ready to help if asked.

“The eviction of the Aston Park camp is particular in the cruelty of its timing, and the first to be resisted by a coalition of unhoused residents and their allies,” the later statement from eviction defenders read. “Camping in public parks is not a surprising or unforeseeable tragedy. It is a rational choice made in the face of inhumane conditions, in response to the unaffordable rent prices and pitiful wages.”

The site was a telling one. Aston Park hosts famous tennis courts and city government charges for their use (season passes start at \$299). It’s located right on the cusp between gentrifying “South Slope” and mostly Black Southside. Just yards away from the tents were showers and full bathrooms reserved for the users of the tennis courts. Campers had to make due or walk to nearby shelter facilities to even use the bathroom.

On Friday morning protesters — houseless campers and local supporters alike — were awoken by a cadre of police led by Capt. Mike Lamb. They had token coffee and biscuits, but more importantly they had video cameras, guns and tasers. The core of their message was a threat: leave your homes or be arrested. While the city would later claim that the cops offered help, this was untrue. They just told the residents to leave and suggested they get services elsewhere.



*APD Capt. Mike Lamb leads a cadre of officers Friday morning to threaten houseless campers with arrest if they don't leave Aston Park. Photo by Veronica Coit.*

Some did leave. Police have a lot of power to seriously harm houseless people's lives. But more remained.

Early afternoon parks and recreation director Roderick Simmons showed up at the site and tried to start personally taking down a tent. When people at the camp told him to stop, he yelled at them, then called the cops and claimed "agitators" were attacking him. City hall would later use Simmons' lies to claim this constituted "obstruction" of the sacred act of removing tents.

Shortly after Simmons left the cops started moving in. One of their commanders, Lt. Brandon Moore, repeatedly said that this eviction was personally ordered by city manager Debra Campbell (who makes \$250,000 a year and was working from home). A large group of cops marched down South French Broad, another came over a hill. They yelled at the remaining protesters and moved in to attack. They dragged people across their ground and put elbows on the back of their necks.

The city would later claim only three "protesters" were arrested, but that too was a lie.

*Blade* reporters and others on the scene observed Capt. Jackie Stepp, known for being particularly vicious in going after anyone who's not white and wealthy, order the arrest of a pregnant Black houseless person still at the campsite. This is verified by images obtained by the *Blade*. Of the four people arrested three were charged (one with a false assault charge, two with the vague charge of "resisting" the police) and the houseless person was taken, in handcuffs, to the hospital.

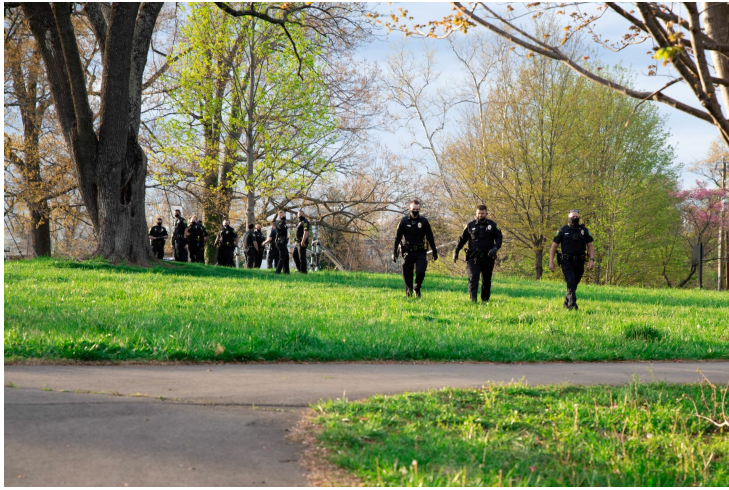




*Police gather late Friday afternoon before destroying the Aston Park houseless camp. Photo by Veronica Coit.*

It is worth remembering that this is the same police department that claimed last summer that they had to destroy medics’ water bottles because they might be explosives. The APD lies.

The city claims that the police had offered all remaining campers a stay in the Red Roof Inn site and that they all accepted. But this is untrue, and a pretty clear effort to erase the campers’ agency by portraying them all as the passive poor, thankful for aid and never resisting. A *Blade* reporter on the ground observed that this offer wasn’t universal: it was only extended selectively to some campers. The cops said it was only for a single night (sources with Homeward Bound now claim the campers who went to the hotel site will be able to stay into June). Otherwise, the officers threatened, campers could “go to jail.”



*Police gather in Aston Park. Around 40 would go there to evict one houseless camp. Special to the Blade.*

Of the over 20 houseless people there at the start of the day, most left to other camps or locations. As the police presence escalated in the coming hours six did eventually choose to leave for the hotel, but they did so under threat, “in the presence of nearly 40 officers, over a dozen squad cars and a paddy wagon” as the eviction defenders’ statement later put it. That matches with what *Blade* reporters witnessed: a show of force clearly meant solely to intimidate. The APD were there to make arrests.

“Even putting aside pandemic safety concerns, it should be absolutely clear that shelter simply isn’t the same thing as housing, even in the form of self-furnished campsites. Limited, temporary shelter beds simply cannot fulfill the same housing needs.” the statement continued. “Unhoused people have the right to refuse the ‘support’ offered by NGOs, the city and its police. All people deserve freedom to determine the conditions of their own existence.”

**The next wave**

Roney showed up at the campsite after the main police presence — and the brutal arrests that came with it — were over. She has not answered requests by the *Blade*, through social media, about if she or other council members knew of the evictions in advance, or if she will be demanding the city manager’s resignation.

If past evidence of her and other “dissident” council members is any evidence, they’ll probably put out some tepid objections but balk at seriously challenging the status quo. Punishing the poor is, after all, one of the points of government. Polite questions don’t change that.

City hall hasn’t even slowed its evictions, even as COVID infections and deaths have both risen notably in the past week. More camp demolitions are slated for the coming weeks, including another of the Lexington Avenue camp, and Riverbend Park. They are set to begin as early as tomorrow.

Beloved House, a non-profit that’s been more critical of city hall, has condemned the evictions and released a video earlier today calling on city government to halt them.

However Homeward Bound, probably the largest houseless services non-profit in the area, has been notably silent. City officials and police have repeatedly claimed the organization’s cooperation in the evictions and used the services offered by them to campers as an excuse to proceed.

With warming weather, more vaccinations and lifting restrictions expect city hall to continue to double down unless stopped by public outrage and action.

But if non-profits and elected officials are hesitant, eviction defenders remain determined:

“We will not allow our neighbors to be swept into dark corners. We will continue distributing food, medical aid, clothes, camping supplies and other resources, offering assistance with relocating people and their belongings and defending encampments with words, deeds and bodies — until we win a moratorium on evictions and universal housing.”

—

*Blade editor David Forbes has been a journalist in Asheville for over 15 years. She writes about history, life and, of course, fighting city hall. They live in downtown, where they drink too much tea and scheme for anarchy.*

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# Exhibit C



# Citizen Times

**OPINION** This piece expresses the views of its author(s), separate from those of this publication.

## Opinion: Prosecutors should drop retaliatory charges against Asheville journalists

**Seth Stern** Guest Opinion

Published 5:01 a.m. ET Jan. 15, 2023 | Updated 3:59 p.m. ET Jan. 18, 2023

Authoritarian regimes often put journalists on trial for doing their jobs, but it's rare in the United States. Freedom of the Press Foundation's U.S. Press Freedom Tracker reports three such trials since 2018. The fourth is scheduled for Jan. 25 in Asheville.

The defendants are Asheville Blade reporters Veronica Coit and Matilda Bliss. They were arrested for alleged trespassing on Dec. 25, 2021, while photographing a police eviction of a homeless encampment at Aston Park. Police also seized Bliss' phone.

It was in the public interest for journalists to cover the encampment sweep. Asheville residents rely on a free press to document interactions between the powerful (police officers) and the powerless (unhoused people).

The homelessness crisis has sparked national and local public policy debates. Two days after the arrests, the Citizen-Times reported calls for a moratorium on camp clearings due to COVID-19 (the evictions violated CDC guidelines) and the cold. The arrests also reportedly led to police policy changes.

More: Asheville police to implement new homelessness policy following camp removals, arrests

Those details aside, media scrutiny of law enforcement actions always benefits the public. There is not enough space to list the abuses of police power brought to light by professional and citizen journalists in recent years.

In contrast, prosecuting Coit or Bliss advances no public interest. They are not charged with having harmed, threatened or endangered anyone. No one alleges their newsgathering obstructed police actions. And police officers who consider transparency in and of itself to

be obstructive likely should be obstructed.

It seems like the sole purpose of these charges is to send a message to the journalists who told Asheville residents how their police department chose to spread Christmas cheer.

More: Police bodycams, walking kids to school: Citizen Times stories with impact in 2022

Apparently authorities claim Coit and Bliss stayed past the park's 10 p.m. closing time. Do Asheville police handcuff dog walkers in public parks after hours? When's the last time late-night stargazers were forced to stand trial?

Or is this treatment reserved for journalists who question those in power? Laws of general applicability cease to be generally applicable when abused to retaliate against the press.

The seizure of Bliss' phone tells the whole story of why they were targeted.

The Blade reported that right before the arrests, an officer pointed at Coit and said "(They're) taking pictures." News reports say the only people arrested solely for trespassing during the sweep were the journalists.

No decent journalist would ignore newsworthy official conduct, in plain sight and on public land, just because it's dark out. And no government that values transparency would expect journalists to do so. The news does not keep regular business hours.

Prosecutors in Oregon dropped similar charges against journalist April Ehrlich last August. In that case, police set up an unconstitutional media "staging area" during an encampment sweep and ordered the press not to come closer. Ehrlich refused to report from the cheap seats.

Asheville police did not bother with a staging area. They thought they could avoid public scrutiny *altogether* by waiting until closing time to conduct the sweep. That's ridiculous — especially coming from a department that professes a "commitment to provide greater transparency and accountability" in its taxpayer-funded PR.

Ehrlich is suing over her mistreatment. A California journalist, Jeremy Portje, also sued after a similar ordeal at an encampment sweep. Bliss and Coit would be well-justified in doing the same, especially after being forced to wait 396 days (assuming no further continuances) to find out whether they'll serve time for doing their constitutionally-protected jobs. In 2016, authorities here rightly dropped charges against Mountain XPress reporter Dan Hesse just days after his arrest while covering a protest at police headquarters.

What's different this time around?

Other cities launch investigations, not prosecutions, when authorities harass journalists for "trespassing." A probe is underway into the conduct of Phoenix officers who detained Wall Street Journal reporter Dion Rabouin for interviewing people on a private sidewalk, after video of the incident went viral last week.

The Atlanta Police Department has reportedly launched an investigation into officers who threatened to arrest a journalist for trespassing when he refused to delete protest footage. Neither Rabouin nor the Atlanta journalist were booked and processed, let alone put on trial.

It's unfortunate that Asheville authorities have chosen a different route that is sure to have significant costs, monetary and reputational, for the city.

Asheville residents who value the free press should demand Buncombe County District Attorney Todd Williams drop this shameful and un-American prosecution.

They should not tolerate their government risking another dime of taxpayer money to harass journalists accused of nothing but journalism. And they should question why police officers with nothing to hide would want to arrest journalists in the first place.

*Seth Stern is the Director of Advocacy for Freedom of the Press Foundation. He previously worked as a First Amendment lawyer and journalist.*

LOCAL

## Asheville reporters head to trial after Christmas Day arrest while reporting on police



**Sarah Honosky**  
Asheville Citizen Times

Published 4:36 p.m. ET Nov. 21, 2022 | Updated 9:53 a.m. ET Nov. 28, 2022

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ASHEVILLE - The trial of two Asheville reporters arrested while covering a homeless camp clearing on Christmas Day was set to begin Nov. 21, but with the prosecution's key witness out sick, the trial was continued until Jan. 25.

The Asheville Blade reporters Matilda Bliss and Veronica Coit were arrested Dec. 25 in Aston Park. Last winter, Aston Park was the focal point for a number of sanctuary camp demonstrations that culminated in the arrests of six individuals, including Bliss and Coit.

"This is ludicrous," Coit said Nov. 21 after the continuation. Further delay means the reporters and other defendants will not go to trial until more than a year after their arrests.



Homeless encampments have been found at various locations across the city, including the Aston Park area. *Maya Carter/Asheville Citizen Times*

**Previous coverage:** [Asheville police to implement new homelessness policy following camp removals, arrests](#)

**More:** [Asheville mutual aid volunteers face 'absurd' felony littering charges, lawyer says](#)

For further comment, Coit deferred to a [statement made by the The Asheville Blade on Facebook](#).

"We remain determined to fight against this persecution to the last," the post said. "Our cooperative is thankful for the outpouring of support from Asheville locals, press freedom organizations, journalists and people around the world. Sadly what we face is all too common in a town where any opposition to the status quo faces vicious repression."

The Asheville Police Department did not respond to a request for comment by deadline.

### Attracting national attention

Bliss and Coit are charged with misdemeanor second degree trespassing. Classified as a [Class 3 misdemeanor](#), the charges carry a penalty of up to 20 days in jail or a \$200 fine.

Both are represented by attorney Ben Scales, who also was not in attendance at the trial due to illness.



Homeless encampments have been found at various locations across the city, including the Aston Park area. *Maya Carter/Asheville Citizen Times*

According to arrest reports, the individuals were arrested Dec. 25 around 10:45 p.m. The city park closes at 10 p.m. The four people arrested who were not members of press were also charged with resisting a public officer. Their trial dates were also continued until Jan. 25.

**[Answer Woman:](#)** [Abortion access for minors? Planned Parenthood demographics? Birth control?](#)

Bliss said they have seen five continuances, but this was their first where a trial was expected.



"I echo comments by Veronica," Bliss told the Citizen Times by email following the planned trial. "That an entire year will have passed by the time we see our trial date is yet another example of the lengths to which Asheville's government, its police, and DA's office will go to criminalize dissent, and in our case leftist journalism."

Bliss said the night of the arrest, she was standing as far back as possible from the police action as possible, "while still having the ability to cover what was happening and do our jobs, just as we had done other nights that week."



Her press badge was displayed, she said, and she shouted repeatedly that she was press. [Reporting from the Asheville Blade](#) indicates that pictures and video were being taken.

"We affirmed our status as journalists countless times. We were there to gather news, cover an event of public interest that was being tracked by multiple publications."

**More:** [Heart of Asheville's Black business district, YMI Cultural Center \\$6M renovations underway](#)

The case has attracted the attention of the [Committee to Protect Journalists](#), an American nonprofit with correspondents worldwide. CPJ promotes press freedom and defends the rights of journalists.

CPJ's U.S. and Canada Program Coordinator Katherine Jacobsen was not available to provide comment Nov. 21, but spokesperson Nicole O'Neill referred to a February letter sent by Jacobsen to Buncombe County District Attorney Todd Williams.

The committee urged Williams to drop the misdemeanor trespassing charges pending against Coit and Bliss, noting that they were "engaged in journalism" when they were arrested by the Asheville police.

"It is essential that local reporters are able to access and cover their communities without fear of retaliation from local authorities or infringement on their First Amendment rights," Jacobsen wrote.

**More:** [Asheville's original indoor climbing gym rebrands, welcomes diversity](#)

**The Outpost:** [Asheville's newest music venue seeks permit for large permanent outdoor stage](#)



According to a CPJ statement, as of Nov. 18, they had received no response to the letter.

Williams did not respond to a request for comment Nov. 21.

Kristi Nickodem, assistant professor of public law and government at UNC School of Government, acknowledged it is a "really complex area and a really complex issue."

"The law doesn't generally grant reporters a greater right of access than the general public," Nickodem said. However, in a traditional public forum, like a park, restrictions on speech have to be subject to scrutiny.

While the government can impose "reasonable content-neutral time, place and manner restrictions on speech," she said, such as the park closing at 10 p.m., government restrictions on speech that are based on the speaker's viewpoint are unconstitutional.

"In other words, you would really have to make an argument that (police) were targeting the reporters based off the viewpoint that they thought the reporters were going to express or targeting them while not targeting other people who were in the park after hours," Nickodem said "In other words, you would have to make an argument that this was a viewpoint-based restriction in order for it to be unconstitutional."

According to Bliss, other bystanders were as far back as she and Coit but were not arrested.

"And after we were arrested Asheville police began dragging people from tents," Bliss said. "This isn't rocket science. It was an attack on those present that started with an attack on press freedom."

While it can be difficult to prove in litigation, Nickodem said, "if there are facts showing that they targeted the reporters based on the viewpoint they thought they were going to express, ie: they are going to be reporting negatively about the cops, that is unconstitutional in any type of forum."

## **Felony littering and more**

Bliss noted that this was not the first time a Blade reporter had been arrested while on the job.

In August 2020, Coit was arrested while covering racial justice protests in downtown Asheville. They were charged with impeding the steady flow of traffic and failure to disperse on command, according to court records. All charges were dismissed July 2021.

"It's no surprise then that Blade reporters have faced charges for our journalism three times since summer of 2020, a time when thousands of locals insisted on real change from Asheville government," Bliss said. "No other local publication has faced what we have."

**More: TEQuity backs out of Asheville reparations project management, Charlotte firm takes over**

The December protests at Aston Park also resulted in 16 people being charged by the Asheville Police Department with felony littering. There is some overlap with those arrested on Dec. 25 and those later charged with felony littering, but neither Coit nor Bliss are facing felony littering charges.

Several felony littering defendants have a court date scheduled in Superior Court Dec. 12.

*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at [@slhonosky](https://twitter.com/slhonosky).*

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A photo posted on the Asheville Police Twitter page January 14, 2022 with the caption: "APD Make Multiple Arrests in December Illegal Dumping Protests at Aston Park that Caused More than \$2K in Cleanup." Photo Courtesy Of Asheville Police Department.



## Christmas night crackdown

by David Forbes December 30, 2021

*Asheville police mark the holiday with a night raid on the Aston Park camp and arrest two Blade journalists for reporting on it*

*Above: Asheville police surround the Aston Park camp and prepare to attack on Dec. 25. Photo by Veronica Coit*

*Blade reporters Matilda Bliss and Veronica Coit contributed to this piece*

*Editor's note: This piece was updated on Jan. 10 with additional photos and information about the police raid*

The holidays can mean many things: a time to connect with community, exhausting work schedules, hectic travel, comfort food and hospitality.

For the Asheville police department, however, Christmas means raiding a houseless camp in Aston Park, arresting two Blade journalists — Matilda Bliss and Veronica Coit — and then dragging locals out of their tents. That's how the APD chose to spread seasonal cheer.

As people gathered to share food, make art and welcome any who needed space on Christmas, Asheville's entire on-duty police force assembled to attack them. That night they targeted journalists first, as retaliation for the *Blade's* work and to ensure there weren't photos and video of what they did next. Bliss was even personally singled out by a high-ranking APD officer she'd recently written critical coverage of.

This is the second time in just over a year police officers have arrested *Blade* journalists for doing their jobs. They [arrested](#) Coit in August 2020, dragging them out of their car while they covered an anti-racist protest.

City officials are engaged in a combination of silence, propaganda and outright lies on this issue. What follows is the truth.

**'House neighbors before tourists'**



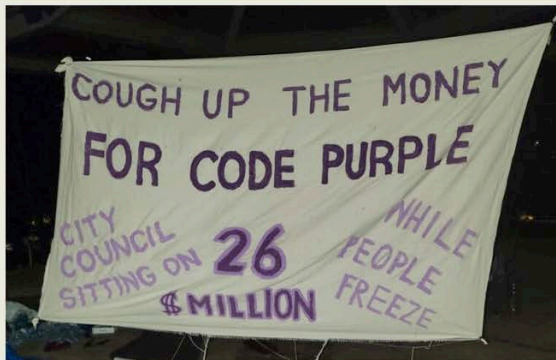


Part of an art project at the Aston Park Build. Photo by Veronica Coit

A slew of recent city hall actions have pointedly targeted the houseless, part of a broader [reactionary turn](#) among Asheville's officials. Earlier this year city officials launched a [demolition](#) of the Lexington Avenue camp on the coldest night of the year. They did this so suddenly that even non-profits that work for the city were caught off guard. They were doing the bidding of a single gentry property owner who complained that houseless people shouldn't be allowed to exist near art "that was commissioned to be aesthetically pleasing to tourist and taxpayers."

The sweeps continued throughout the year, despite CDC rules saying that houseless camps should be left alone and receive sanitary services during the pandemic. In April a group of houseless locals and supporters decided to stay at the Aston Park camp. In response City manager Debra Campbell — with the support of Mayor Esther Manheimer and some conservative council members — personally ordered nearly the entire on-duty police force to [attack them](#) and destroy the camp.

This year, as winter rolled around, city officials notably dragged their feet on enacting Code Purple, a declaration that requires the opening of additional cold weather shelter space. They then destroyed a massive houseless camp near the interstate, claiming that trash was an issue (city government is responsible for trash services) and that the people there were lighting fires (it was freezing).



Banner at the Aston Park camp, Dec. 19. Photo by Matilda Bliss

City hall still refuses to fully fund Code Purple services despite having tens of millions in reserve. The only local frigid weather shelters are with [two conservative religious groups](#), so houseless queer and trans people face a particularly dangerous winter. The only women's shelter is run by the Salvation Army, a group so notoriously hostile to trans women that they will literally let them die in the cold.

At their Dec. 14 meeting, city council went further, simultaneously [allowing](#) even more Airbnbs and scrapping much-touted plans for a low-barrier emergency shelter at the former Ramada Inn in East Asheville. The latter passed 6-1. Even Council member Kim Roney, who'd called for an end to the sweeps earlier in the meeting, voted in favor of both. Around the same time she stopped responding to emails from local media about the city's houseless policies.



*Banner at Aston Park, Dec. 19. Photo by Matilda Bliss*

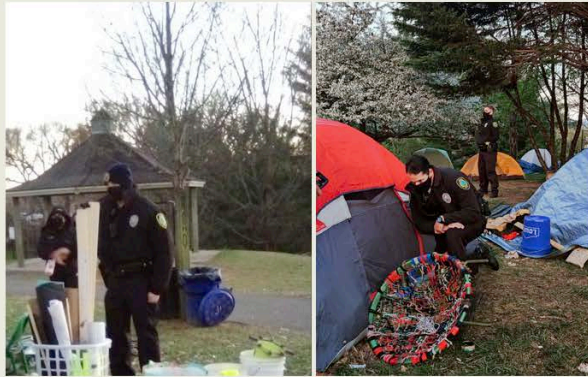
But where politicians wouldn't act, locals did. Over the past week, locals started meeting regularly in Aston Park each night to make art, provide food and supplies, build support infrastructure for houseless locals and demand a sanctuary camping spot in the park along with an end to the sweeps. They displayed banners that condemned the tie between the metastasizing hotel industry and increasing houselessness. On some evenings over 60 people showed up.

It was clear from the start that city hall was not going to take this well. Solidarity between houseless and housed locals scares them. They'd rather have the housed ignore the violence they're perpetrating and content themselves with donating to charity once in awhile.

Given the history of APD crackdowns, and that this was a notable grassroots response to city government's increasingly anti-houseless policies, *Blade* reporters went to observe the actions every day they happened.

There was police harassment from the start. On the night of Dec. 19 two police vehicles and the paddy wagon showed up. That night there wasn't a major confrontation, but the threat was clear.

Locals kept showing up anyway.



*Above: APD Capt. Mike Lamb threatening arrest at Aston Park camps. Left photo (by Matilda Bliss), shows him threatening people making art on Dec. 22. Right photo (by Veronica Coit), shows him threatening to arrest campers before the April 16 eviction.*

On Wednesday, Dec. 22, the police didn't wait for nightfall. Capt. Mike Lamb threatened those who showed up to make art that day, telling them that their supplies counted as litter and that they were subject to arrest. He also threatened "investigations" and "felony litter" charges should they not pack up immediately, even though it was hours before the park's closing time.

Felony littering requires dumping over 500 lbs. of trash on a site. Lamb, who's been the point person in several previous camp sweeps, was lying. There's also no law against making art in a park. Bliss observed his actions and wrote a [social media report](#) on them the next day.

On Christmas the locals involved in the project, now known as the [Aston Park Build](#), issued a statement declaring their intent to "keep making space available to everyone that doesn't have shelter."

### Aston Art Build

#### A manifesto

This park is on sacred land belonging to the Eastern Band of Cherokee Indians.  
Children and families can use this park whenever they want to, at all times.  
Anyone who is not being violent has full access to this park.  
We like to make art in the park.  
We will keep making space available for everyone who doesn't have shelter to come around and rest and eat and play and sleep.  
Cops don't call the shots here.  
Anyone who does not have a home is welcome here—come home.  
We will beautify this park and make it welcoming and resourced.

It's beautiful weather. Come join us tonight!! We have food and tunes, and, as always, lots of ART!!!  
[#astonartbuild](#) [#sanctuarycamping](#) [#landback](#) [#ftp](#)  
[#cab](#) [#defundavlpd](#)

Throughout the day Bliss dropped by the site. At the time she observed no cops, just locals helping each other and enjoying the day. In a matter of hours that was about to change.

#### 'Where are people supposed to go?'

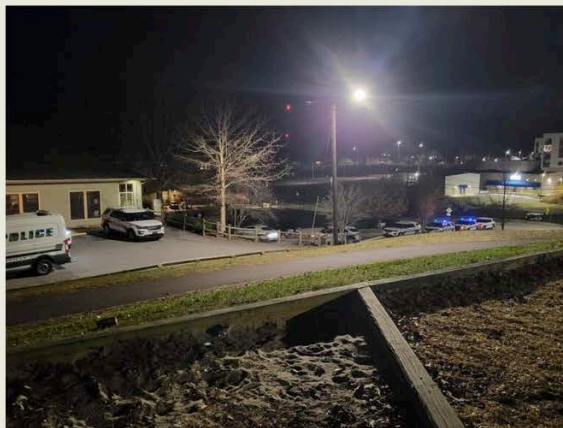


*A 'Stop the Sweeps' banner at Aston Park Dec. 25. Photo by Matilda Bliss*

What follows is assembled from recordings obtained by the *Blade*, as well detailed conversations with Bliss and Coit and other sources about the ensuing police crackdown .

Knowing that the APD isn't averse to night raids, Bliss arrived back at the park a little before 10 p.m. on Christmas night. What she found was a growing and belligerent police presence.

This was something of a surprise, as sending the entire available police force to evict people on Christmas night is openly evil even by city government standards.



*Asheville police vehicles gather before the attack on the Aston Park camp.  
Photo by Veronica Coit*

Coit, hearing about this new escalation, joined her. They observed more vehicles and officers



Photo by Veronica Coit

Coit, hearing about this new escalation, joined her. They observed more vehicles and officers gathering at the edge of the park. The *Blade* started **reporting** on the police presence on social media.

Over time 10 police vehicles — including the paddy wagon — assembled on the site, and about 15 police officers headed up the hill.

As they did, someone shouted “Y’all got homes right? Why don’t you go there instead of being here?”

Officers demanded that everyone in the camp “move on.” Someone replied “where are people supposed to go?” One of the cops then made a dismissive quip about there being hotel rooms at the Ramada.

As the police threatened the campers with arrest, Coit and Bliss monitored their actions from a distance. Coit observed police tearing open tents and threaten to arrest the people inside.



*Police advance up the hill to the Aston Park camp on Dec. 25. Photo by Matilda Bliss*

At that point one of the cops pointed out Coit and said “[they’re] taking pictures.” Five officers moved over to block their view and arrest them. In a video they took Coit can be heard repeatedly reminding the cops that they’re a member of the press, only to face demands that they leave the park entirely or go to jail.

They expressed their disbelief, exclaiming “are you serious?” as APD officers put them in handcuffs, for the second time in just over a year, for doing their job.



*Asheville police start threatening campers with arrest. Photo by Veronica Coit*

They then singled out Bliss, who was observing from the opposite side of the tents, as she covered Coit's arrest. Several officers advanced towards her and told her to immediately leave the park or get hauled off in handcuffs. She repeatedly said "I'm press," cited her first amendment rights, and told the police "I'm just covering the events." Her *Blade* press identification was openly displayed. Indeed, she was still wearing it when she was released from jail.

Remember that barely three days before Bliss had publicly criticized a major APD commander in her reporting. She was arrested by the senior officers overseeing the raid, who made a point of immediately confiscating her phone and backpack. As of this writing, the police department and district attorney's office have not returned them.

While there were multiple people observing the APD's actions from a distance only Coit and Bliss were arrested.

The officers put Bliss into the wagon, Coit in a separate compartment. According to the last things they observed, and from sources they later spoke with, APD then grew even more violent, dragging campers out of tents and arresting them. Six people, including the *Blade* reporters, were arrested that night. Our journalists were clearly targeted first to remove those who could quickly bring the brutality that followed to the public's attention.

At the jail Coit was processed fairly quickly. But while there she heard one of the magistrates wonder dismissively to a colleague if the *Blade* "was a real newspaper."



Bliss was singled out for painful intimidation. Despite being the second person arrested, she was the last taken into the jail and the last released. Asheville police left her handcuffed in the wagon for over two hours, causing severe back and leg pain in the process. Of those arrested that night, she was the only one whose phone was confiscated. The deputies at the jail told her that her belongings would be kept in the APD property room, but they have since refused to release them, claiming they need authorization from the district attorney.

By the time she was released it was nearly 2 a.m. She came out with hard bruises on her wrists from the handcuffs.

#### Retaliation season

Occasionally we at the *Blade* field questions about why our coverage of Asheville city government is so relentlessly critical, why it's justified to include open anger alongside research and investigation.

"Because they're the kind of people that will happily attack a houseless camp on Christmas and throw journalists in jail for reporting on it" sums things up pretty well.

The APD's petty retaliation is no surprise to us. The *Blade* has regularly investigated the department's record of bigotry and violence. Recently we published an expose on a [racist propaganda campaign](#) concocted by the APD and a right-wing pr firm. The head of the department's pr wing [resigned](#) shortly after.

Indeed, in a September 10, 2020 listening session over 40 APD officers told a consultant what their priorities were. These included "no scrutiny from media" and "knowing your decisions will not be scrutinized." This was about a month after they dragged Coit from their car and arrested them, and barely two months after Asheville police made international headlines for destroying a medic station.

## APD Listening Session Summary

### Q1: What does safety mean to you?

- Knowing your decisions will not be scrutinized
- Getting home safely
- Proper training
- No scrutiny from media
- Not feeling as though I can drive my patrol car home
- Support from city leadership (elected and administrative)
- Private conversations matching public statements

### TRUST

- There is a department lack of trust
- Leaders are under pressure
- APD does not feel heard
- Adversaries (APD and City Council)
- Avg 10% APD workforce leaving not being addressed
- APD wants their sides of stories to be acknowledged

A slide from the official Asheville government summary of the APD listening session. The full document is [here](#)

So we don't have to guess that the APD hates press scrutiny. They've literally said so. They act accordingly.

*Blade* reporters were clearly targeted by the police. That Coit and Bliss were arrested first, and that officers pointed towards Coit taking photos and demanded Bliss leave the park (so she'd no longer be able to observe what was going on) show not random mistakes but an intentional attack. As does the fact they were the only people standing back and observing who were arrested that night. The APD wanted to arrest the press before carrying out a violent eviction, especially as they knew these reporters wouldn't simply repeat their press releases verbatim.

The fact this is the second time a *Blade* reporter's been targeted while doing their job speaks to a pattern of retaliation from Asheville city hall against us. Clearly, they view what we do as a threat.

It is also not a coincidence that Bliss was singled out for such brutal treatment by a department she'd publicly criticized just days earlier. These are institutions and people that do not like opposition in any form. Indeed, they take it incredibly personally. This is part of a larger pattern of city hall seeking to silence even the most basic criticism and dissent.

Journalists are not separate from the communities we cover. The tactics used against members of the public, medics, legal observers and demonstrators inevitably end up used any non-craven news organization too.

However, if they were thinking this would silence the *Blade*, or that their actions would go unnoticed, they were wrong. The Committee to Protect Journalists, the international organization dedicated to defending press freedom, quickly [condemned](#) the arrests.



"It's very concerning when law enforcement arrest reporters who are doing their jobs and covering matters of public interest," CPJ U.S. and Canada Program Coordinator Katherine Jacobsen said in a Dec. 28 statement. "Asheville authorities should immediately drop the charges against Coit and Bliss and return Bliss' phone."

As of this writing they have still not done so. This isn't just on the APD. District attorney Todd Williams could dismiss all charges and return Bliss' belongings today if he wanted to.

The *Blade* has received an outpouring of public support facing this open attempt at repression. The [Asheville Free Press](#) repeatedly denounced the arrests and [covered the issue](#) extensively. [Ashevegas](#) featured our social media reporting.

But much of the establishment media — publications like the *Asheville Citizen-Times* and *Mountain Xpress* — has stayed notably silent. It's a downright eerie silence considering a christmas police raid that draws condemnation — for arresting reporters, no less — from an international organization is pretty major news no matter how one slices it.

They haven't been alone in that. Every Asheville city council member and all but one of the people running to replace them in next year's elections (candidate Andrew Fletcher condemned the arrests the next day) have stayed quiet. Non-profits who relentlessly fundraise around their supposed care for the houseless are suddenly crickets when those fighting camp sweeps are brutally arrested.

Too often the Asheville default is to pretend injustice isn't happening and then wonder why things keep getting worse.

We will not be silent. Not now, not ever. We will fight these charges. We will fight the lies that inevitably emerge from city hall. We will continue to report the truth no matter what.

—

*Blade editor David Forbes has been a journalist in Asheville for over 15 years. She writes about history, life and, of course, fighting city hall. They live in downtown, where they drink too much tea and scheme for anarchy.*



# Journalism on trial in North Carolina



**Seth Stern**  
Director of Advocacy  
November 18, 2022



Courtesy of Veronica Coit/Asheville Blade

*Update: Bliss and Coit's trial has been postponed until January 25, 2023.*

Two [Asheville Blade](#) reporters arrested last year for reporting on a police eviction of a homeless encampment are set to go to trial on Monday, according to court records and the journalists' lawyer.

The North Carolina reporters, [Veronica Coit](#) and [Matilda Bliss](#), were charged with trespassing, apparently for taking pictures of the eviction after police instructed a crowd to disperse. They identified themselves as reporters but police arrested them and seized Bliss' phone anyway. The "offense" carries a penalty of up to 20 days in jail and a \$200 fine.

Regardless of the outcome, the fact these charges were even filed, let alone brought to trial, is an affront to press freedoms and everyone involved should be ashamed. The First Amendment requires the government to let reporters gather news firsthand — not rely on self-serving spin from official sources. Courts tolerate restrictions on reporters' access to public land only in exceptional circumstances, like serious public safety risks, and even then restrictions must be narrow enough to avoid unduly interfering with newsgathering.

Prosecutors dropped similar charges against Oregon journalist [April Ehrlich](#) in September, presumably after having realized the unconstitutionality of their case. The Asheville prosecution is even worse — police did not even bother to set up an already unconstitutional media "staging area" to allow reporters to watch from the cheap seats.

First Amendment freedoms are especially crucial when the press documents interactions between society's most powerful figures (police officers) and its least powerful (unhoused individuals) but the Asheville Police Department apparently believes it can operate outside the view of the citizens it purports to protect.

Journalists should be commended, not prosecuted, when they document



police actions, whether the police like it or not. As one appellate court [explained](#), a police officer “is not a law unto himself; he cannot give an order that has no colorable legal basis and then arrest a person who defies it.”

Unfortunately, Bliss and Coit’s situation is not unusual. Their bench trial follows last year’s acquittal of Des Moines Register reporter Andrea Sahouri, who was arrested and charged with misdemeanors while covering a Black Lives Matter protest. Sahouri, whose case received a wave of national attention, courageously refused a plea deal, citing her First Amendment right to report. The [U.S. Press Freedom Tracker](#) reports 215 arrests of journalists since 2020. Several of those [arrested](#) were reporting on similar encampment sweeps.

Attempts to criminalize journalism should serve as a call to action for citizens who value the freedom of the press. Of course, Bliss and Coit should be acquitted but hopefully they and other journalists — with the aid of activists and media lawyers — will also follow [Ehrlich’s](#) lead and file suit against police departments that punish them for doing their jobs.

*This case has gotten little to no national media attention so far, however, our U.S. Press Freedom Tracker has been following it since the two reporters were arrested. You can read the Tracker’s reports about all the details [here](#) and [here](#).*

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## **Out-of-control North Dakota prosecutors still pursuing reporter Amy Goodman, even after judge dismisses riot charge**

Why are prosecutors attempting to throw reporters in jail for documenting protests?



## **North Dakota needs to immediately drop its outrageous charges against journalist Amy Goodman**

It's blatantly unconstitutional to prosecute reporters for doing their job.

## **An independent journalist explains how the Freedom of Information Act is broken**

There are many side effects to being stonewalled: disbelief, anger, disillusionment, and, of course, repeating yourself. I have experienced them all. Since early 2012, I've been trying to access evidence ...

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# Reporter arrested, phone confiscated while covering NC homeless camp eviction

#encampment

Incident Details

[Show More](#) +



While documenting police engaging in a sweep of a homeless encampment in Asheville, North Carolina, on Dec. 25, 2021, two Asheville Blade journalists were arrested and charged with trespassing.

— COURTESY OF VERONICA COIT/ASHEVILLE BLADE

March 11, 2022 - Update

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## Police return phone, belongings to reporter after obtaining search warrant

Police returned the phone and backpack of Asheville Blade reporter Matilda Bliss on March 11, 2022, nearly three months after she and a colleague were arrested while covering a police eviction of a homeless encampment in Asheville, North Carolina.

Bliss and fellow reporter Veronica Coit were arrested on Dec. 25, 2021, and charged with second degree trespassing, which carries a penalty of up to 20 days in jail and a \$200 fine. The pair had a preliminary hearing on March 8, 2022, with a follow-up hearing scheduled for April 12.

Bliss told the U.S. Press Freedom Tracker in a message on Twitter that she was able to retrieve her phone and other belongings on March 11 and that “all seems to be in place.”

“I’m just waiting for professional guidance before starting the phone just in case it was tampered with,” Bliss wrote. She added that her attorney believes police obtained a search warrant and searched her phone, and that they will be able to view the warrant and officers’ body camera footage at some point.

Asheville Police Department Chief David Zack did not respond to requests for further information.

December 25, 2021

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Asheville Blade reporter Matilda Bliss was arrested alongside a colleague while covering a police eviction of a homeless encampment in Asheville, North Carolina, on Dec. 25, 2021.

Bliss, whose pronouns are she/they, told the U.S. Press Freedom Tracker she had been at Aston Park multiple times throughout the day but had left to run an errand at approximately 9 p.m. Both Bliss and Blade reporter Veronica Coit returned to the park a little before 10 p.m. after receiving texts about a growing police force gathering at the park. A small encampment in the park was the latest focus of ongoing city efforts to clear Asheville’s homeless populations out of public areas, [according to the Asheville Citizen Times](#).

As officers directed everyone in the camp to “move on” under threat of arrest, Coit and Bliss documented their actions from a distance, Bliss told the U.S. Press Freedom Tracker. The Blade [reported](#) that one of the officers then pointed toward Coit and said, “[They’re] taking pictures.”

Five officers then advanced toward Coit and placed them under arrest. Several officers then told Bliss to immediately leave the park or face arrest. Bliss repeatedly identified as a member of the press before she, too, was arrested.

The Blade reported that Bliss was wearing a press badge issued by the outlet at the time of her arrest.

Asheville police just arrested Blade reporters [@matilda\\_bliss](#) and



Veronica Coit. Both were on the ground covering the events at Aston Park, displaying press id [#avlnews](#) [#avlgov](#)

— Asheville Blade (@AvlBlade) [December 26, 2021](#)

“According to the last things [Bliss and Coit] observed, and from sources they later spoke with, APD then grew even more violent, dragging campers out of tents and arresting them,” the Blade reported. “Our journalists were clearly targeted first to remove those who could quickly bring the brutality that followed to the public’s attention.”

Coit and Bliss were each charged with second degree trespassing, which carries a penalty of up to 20 days in jail and a \$200 fine.

Blade founder and editor David Forbes told the Tracker that while Coit was released shortly after midnight, Bliss was left handcuffed in a police car for more than two hours and was the last person released from custody. Forbes said that to the best of the journalists’ knowledge, Bliss was the only arrestee whose phone was confiscated.

Bliss told the Tracker that when she was released at approximately 1:50 a.m. on the 26th, officers did not return her belongings, stating that they are being held as evidence and that it’s up to the district attorney to approve their release. The Asheville Police Department did not return a call requesting comment.

The Committee to Protect Journalists condemned the arrests in a statement on Twitter a few days after the incident:

“Authorities in #Asheville, NC should drop all charges against [@AvlBlade](#) reporters Veronica Coit and [@matilda\\_bliss](#), who were arrested on December 25. We are deeply concerned that [@AshevillePolice](#) interfered with their reporting, and unnecessarily confiscated Bliss's phone.”

Forbes told the Tracker that the charges against Bliss and Coit are still pending and they both have hearings scheduled for March 8, 2022.

“It was a hard experience but also I’m not going to back down either,” Bliss told the Tracker. “That’s the only way that this doesn’t happen to other people.”

*The U.S. Press Freedom Tracker catalogues press freedom violations in the United States. Email tips to [tips@pressfreedomtracker.us](mailto:tips@pressfreedomtracker.us).*

## Related Incidents



## Journalist arrested while covering North Carolina homeless camp eviction

Arrest/Criminal Charge

### Date of Incident

December 25, 2021

### Location

Asheville , North Carolina

### Targets

Veronica Coit (The Asheville Blade)

#encampment

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## Photojournalist arrested, equipment seized while documenting homeless encampment

Arrest/Criminal Charge

Assault

Equipment Search or Seizure

Subpoena/Legal Order

### Date of Incident

November 30, 2021

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### Location

Sausalito , California

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### Targets

Jeremy Portje (Freelance)

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#encampment

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## Independent videographer arrested while documenting LA homeless camp cleanup

Arrest/Criminal Charge

### Date of Incident

July 1, 2021

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### Location

Los Angeles , California

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### Targets

Sean Beckner-Carmitchel (Independent)

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#encampment



## LA Times reporter among multiple journalists detained while covering Echo Park protest

[Arrest/Criminal Charge](#)

### Date of Incident

March 25, 2021

### Location

Los Angeles , California

### Targets

James Queally (Los Angeles Times)

[#encampment](#)   [#kettle](#)   [#protest](#)

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# THE ASHEVILLE FREE PRESS



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*"Rebuke!" is the Asheville Free Press' criticism column. It combines fact-based analysis with a clear perspective on issues that affect our communities.*

Saturday, December 25, 2021, was an unseasonably warm Christmas Day – the temperature reached highs in the 70's. But the day's low point had to be around 10:30 pm, when the City of Asheville deployed an estimated 15-20 police officers to make six arrests, including two journalists, at a demonstration demanding sanctuary camping for unsheltered individuals at Aston Park.

Locals gathered at the park for 5 non-consecutive evenings this week, and their goal was simple: They wanted the City of Asheville to leave unhoused urban campers without another shelter alone. In addition to being the location of a high-profile camp eviction in April of 2021, Aston Park was chosen in conversation with unhoused community members for its proximity to the bus line and services. On Sunday, December 19th, demonstrators began working to establish a place of refuge at the park.

What started as an art party, painting banners that bore political slogans and building wind-breaks meant to protect tent campers from frigid December wind gusts, evolved into a multi-day demonstration against camp sweeps generally, and an attempt at setting up a sanctuary camp at the park.

## Community Art Party Leads to Multi-Day Demonstration Demanding 'Sanctuary Camp' at Aston Park

Housed and unhoused community members gathered at Aston Park on Sunday, December 19th, to make art, "share space," and "make time f...



The Asheville Free Press • Asheville Free Press



After multiple encounters with Asheville Police over the week, including the threat of mass arrest, participants decided they were going to take a stand on Christmas night. "We're not leaving," declared one hand-made banner.

By 5 pm, when tents first started to go up, there were approximately 30 people at the park; attendees included community members who were housed, those who were not, and even a City Council candidate. They shared food, danced to music, and children played – racing bicycles around the perimeter of the park.



Andrew Fletcher, a candidate for City Council, helps campers assemble their tents - photo by Ursula Wren

One unhoused community member said of the demonstration, "I'm overwhelmed." When asked to clarify if he meant he was overwhelmed in a good or bad way, the community member said "It's the good kind. This is cool as shit. Maybe one day it will happen."

"I honestly can't believe the cops aren't here right now," another participant said.

Asheville Police vehicles were spotted driving by the location multiple times throughout the day, but it wasn't until just before 10 pm that they made their way into the park. Two APD officers, Sexton and Stapanowitch, approached the campers and told them that they would "try [their] best" to avoid arrests, but that campers would be cited for second-degree trespassing once the park closed at 10 pm.

When asked if they would be providing information on where unsheltered campers should relocate to, officer Stapanowitch again said, "We'll try our best."

"That's not an answer," said one camper.

"I'm not going to argue with you," Stapanowitch retorted.

By 10:40 pm, there were 12 Asheville Police vehicles on-site, including a paddy wagon. Asheville police arrested six individuals, two of whom were there to cover the incident as representatives of the Asheville Blade. All six were arrested on second-degree trespassing charges, a misdemeanor offense.

One community member reached out to us directly and said "[I would] love for the record to state, 2 cops literally blew us kisses after evicting the camp tonight."

As of writing, all six arrestees have been released from custody on the condition that they do not return to Aston Park.



A camper assembles their tent - photo by Ursula Wren

### **The City of Asheville Refuses Requests for Transparency on Scope of Camp Removal Activity.**

For the past several weeks, The Asheville Free Press has been asking City Hall a seemingly straightforward question that nobody seems willing to meet with a straightforward answer: *How many times have Asheville Police participated in the removal of unhoused community members from their tent encampments in the year 2021?*

After initially reaching out on December 9th, we were forwarded to a communication specialist with the city, Beth Bechel, who said in an email to me, "We are working to juggle several situations so I, along with my colleagues, will be working to coordinate a response to you." The response never came.

*Good afternoon Ursula,*

*My name is Beth Bechel and I work as a communication specialist for the City of Asheville. It is nice to meet you and I look forward to working with you.*

*We are working to juggle several situations so I, along with my colleagues, will be working to coordinate a response to you.*

*There are several departments involved when it comes to our response to encampments. We are working to gather all the information for you to have a complete story.*

*Can you tell me what your deadline is?*

*My contact information is listed below if you have any questions.*

***Beth Bechel***

*Communication Specialist*

*Communications and Public Engagement Department*

*[bbechel@ashevillenc.gov](mailto:bbechel@ashevillenc.gov)*

*828-712-1481 - Cell*

When we followed up on the question, we were forwarded the city's press release on the removal of an encampment near I-240 and Haywood Street Congregation on December 8th and told to submit a public records request for the specifics on when and where Asheville Police had participated in the removal of encampments. Within 24 hours, that public records request had been closed with APD spokesperson Samantha Booth stating in an email, "the Asheville Police Department does not close encampments."

*Good morning Ursula,*

*The public records request was closed because the Asheville Police Department does not close encampments, we only enforce trespassing laws. Therefore there is nothing to provide.*

*Respectfully,  
Samantha Booth*

When pressed further about this technicality, Booth opted not to respond.

We also reached out to City Council member Kim Roney, who has publicly condemned camp sweeps, but she also chose not to respond to either of our two emails on the subject.

So just how many times have the Asheville Police participated in this activity [against CDC guidelines](#)? We have several more public records requests currently open in an attempt to piece together the answer to this question, but for now all we have is estimates from community members. Those estimates vary widely, ranging from 12 to 30 to "constantly." The one thing everyone is sure of is that only a handful of these incidents have made it into the local media.

---

### **Asheville Police Arrested Two Independent Journalists.**

Two of those arrested at Aston park on Christmas were representatives of the [Asheville Blade](#), an independent local media project: Matilda Bliss and Veronica Coit. Both were displaying press badges, and people who were on the ground reported that the two journalists were arrested first – preventing them from filming or photographing APD officers making the other arrests.

Coit was previously arrested while covering a protest in the wake of George Floyd's murder during the summer of 2020, a move that landed the City of Asheville on the [U.S. Press Freedom incident list](#).

---

### **Questions Surrounding Asheville Police Department Policy Remain Unanswered.**

Asheville Police Department has a policy that explicitly outlines its approach to encountering unhoused community members. According to the latest version of the [policy](#) available online, APD will give encampments seven days' notice to vacate public property. On the evening of December 19th, campers present at Aston Park told us that officers directly contradicted this policy during their encounter, saying it was no longer in effect or did not apply to city property. This claim was repeated by other officers throughout the week.

We reached out to Asheville Police Department spokesperson Bill Davis on December 20th and asked him to clarify the latest version of the policy. In an email response, Davis said, "The new update is being reviewed and should be completed and signed...this week, hopefully." We have not received the new policy as of publishing.

The Asheville Free Press has made several public records requests to clarify both the current policy and the incoming policy update. We will publish further information as we learn more.

---

### **"A Warm, Happy and Healthy Holiday Season."**

The City of Asheville loves to post cute, low-resolution memes and stock photos on its official Twitter account. On Christmas day, they made one such post wishing residents a "warm, happy and healthy Holiday Season." Clearly, this offer does not apply to people who live outside or those advocating for them.





City of Asheville @CityofAshev... · 1d ...

From the City of [#Asheville](#), we wish you and yours a warm, happy and healthy [#HolidaySeason](#).



A tweet from the official City of Asheville accounts wishing residents a "warm, happy and healthy Holiday Season."

The City of Asheville, despite its messaging, remains intensely hostile to independent journalism, requests for transparency, and our unhoused neighbors – but with the omicron variant on the rise and the perpetual housing crisis, there are likely to be more demonstrations in 2022, not less.

The Asheville Free Press will continue covering these community-led demonstrations and the abuses of power they are met with into the new year.

---

*Ursula Wren is a journalist and editor. She can be reached with questions or tips [via email](#). She tweets from the hip [@ursulawren](#).*

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## Another record year for press-freedom violations in the US



ANALYSIS

By Kirstin McCudden

JANUARY 12, 2022



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**JUST SIX DAYS** into January 2021, journalists documenting the Capitol riots were assaulted and tens of thousands of dollars of media equipment damaged. In April, a journalist went on trial after her arrest while reporting from a Black Lives Matter protest the year before. By the time the year closed, one of the most venerated news institutions was under a publishing gag-order.

While we did not see the [scope of national social-justice protests](#) of 2020—a year in which journalists were arrested or assaulted on average more than once a day—2021 still outpaced the years before it for press-freedom violations. We systematically capture this data in the [US Press Freedom Tracker](#), where Freedom of the Press Foundation, in partnership with the Committee to Protect Journalists and other press freedom groups, has documented aggressions against journalists in the United States since 2017.

It's tempting to compare 2021 against 2020—when assaults and arrests of journalists hit an all-time high—and conclude, because fewer journalists were arrested and fewer were hit with crowd-control munitions, that the state of press freedom in the US can be ignored. That conclusion would be wrong.

### THE ABORTION ISSUE

**Emergency upon Emergency: How the press reacted to *Dobbs*—and what comes next**

**A Matter of Necessity: Shefali Luthra covers abortion for *The 19th* at a crucial moment**

**Anonymous Woman: Speaking with**

JANUARY 12, 2022



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**by Amanda  
McCudden**  
JANUARY 12, 2022



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In fact, if you remove 2020 from the equation, the amount of press-freedom violations documented in 2021 outpaces the years before it across several categories:

- More than 140 assaults of journalists in 2021 captured in our “Physical Attack” category outpaces assaults from 2017 to 2019 *combined*;
- The number of journalists reporting equipment damaged outpaces the same reports from 2017 to 2019 *combined*; and
- The 59 arrests or detainments documented by the Tracker nearly equals the arrests and detainments documented from 2017 to 2019 *combined*.

In 2021, we documented 142 assaults of journalists. For the second consecutive year, the majority of those assaults came during protests: 95 percent in 2020 and 77 percent in 2021.

The year began with a protest that became a riot, as the US Capitol was stormed by a mob attempting to stop certification of election results. The Tracker documented at least 16 journalists assaulted in Washington, DC, while covering those events, many of whom were **targeted**.

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For the second year in a row, the response to federal and local mandates around COVID-19 also factored into physical attacks of journalists. From anti-lockdown to anti-vaccine protests, coronavirus-related assaults increased from **four** (and much **harassment**) in 2020 to **14** in 2021.

In 2020, an unprecedented 142 arrests and detainments of journalists occurred, a nearly 1500-percent increase over the nine documented in 2019. In 2021, that number was 59, with nearly half arrested or detained in **kettles**, a tactic used to hem in large crowds, often before mass arrests.

The last arrests of the calendar year came on Christmas Day, when **two Asheville Blade reporters were arrested** while covering the eviction of a homeless encampment in North Carolina. Both face charges of trespassing, with hearings scheduled for March, and one of the reporters, Matilda Bliss, had her **phone confiscated during her arrest**.

#### Subpoenas, the Espionage Act and a Prior Restraint

Other Tracker categories—we monitor nearly a dozen—deserve closer looks as well.

For the first time in five years of documentation, the number of publicly-known subpoenas or other legal orders has decreased rather than increased. Of course, it's not unusual to find out about subpoenas much after the fact: In 2021, we published details about just more than 50 subpoenas requesting reporting material or journalistic testimony. Fewer than half of those were for subpoenas issued in 2021.

the press, an abortion fund worker  
faces an impossible dilemma

Everywhere and Nowhere: Notes  
from a parachuting national reporter  
on abortion's local stories

Peer to Peer: News you can use, via  
Google Doc

The Poetics of Posting: A  
conversation with Mia Sato of *The  
Verge* about abortion and social  
media

Sources on Sourcing: Six people  
weigh the risks and benefits of  
talking with the media

Out of Control: How a search for  
answers about reproductive health  
can lead you down a tunnel of  
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For example, the US Department of Justice informed *The New York Times* on June 2, 2021, that the agency **secretly obtained phone records of four of the newspaper's reporters** more than a year before, during the Trump administration in 2020.

That administration also **attempted to obtain the four reporters' email records** in January 2021, an effort that continued for a time under the Biden administration. On June 5, the DOJ announced that it would **no longer seize journalists' records** during leak investigations.

In December, freelance journalist Amy Harris sued the US House Select Committee to Investigate the January 6th Attack on the United States Capitol after **it subpoenaed telecom operator Verizon for her phone records**. Of the **more than 20 subpoenas captured in 2021**, Harris' is among the eight still pending.

The Trump administration, together with the CIA, also reportedly plotted to kidnap—and possibly even assassinate—WikiLeaks founder Julian Assange, who has been held in a London jail since 2019, *Yahoo! News* reported in September. In October, more than two-dozen major civil liberties and human rights groups groups, including FPF, **sent a letter** to Attorney General Merrick Garland demanding that the DOJ drop its prosecution of Assange, underscoring “that the criminal case against him poses a grave threat to press freedom both in the United States and abroad.” To date, Biden's DOJ has continued the Trump administration's case against Assange, and in December, an appeals court in the United Kingdom said it would allow the US to proceed in extraditing him.

And while we only documented one prior restraint for all of 2021, even one is noteworthy. On November 11, a New York state court **ordered the *New York Times* not to publish** information around the group Project Veritas, the **first prior restraint for the newspaper since** the Pentagon Papers case 50 years ago. That prior restraint, which **was struck down by the Supreme Court** in a landmark decision in 1971, only lasted 15 days. As of this writing, this latest prior restraint remains in place, **confounding press-freedom groups**.

*Has America ever needed a media watchdog more than now? Help us by **joining CJR today**.*

Kirstin McCudden is the vice president of editorial for Freedom of the Press Foundation and managing editor of the US Press Freedom Tracker. She writes the Tracker's monthly newsletter, which first published much of this analysis. Subscribe to it **here**.

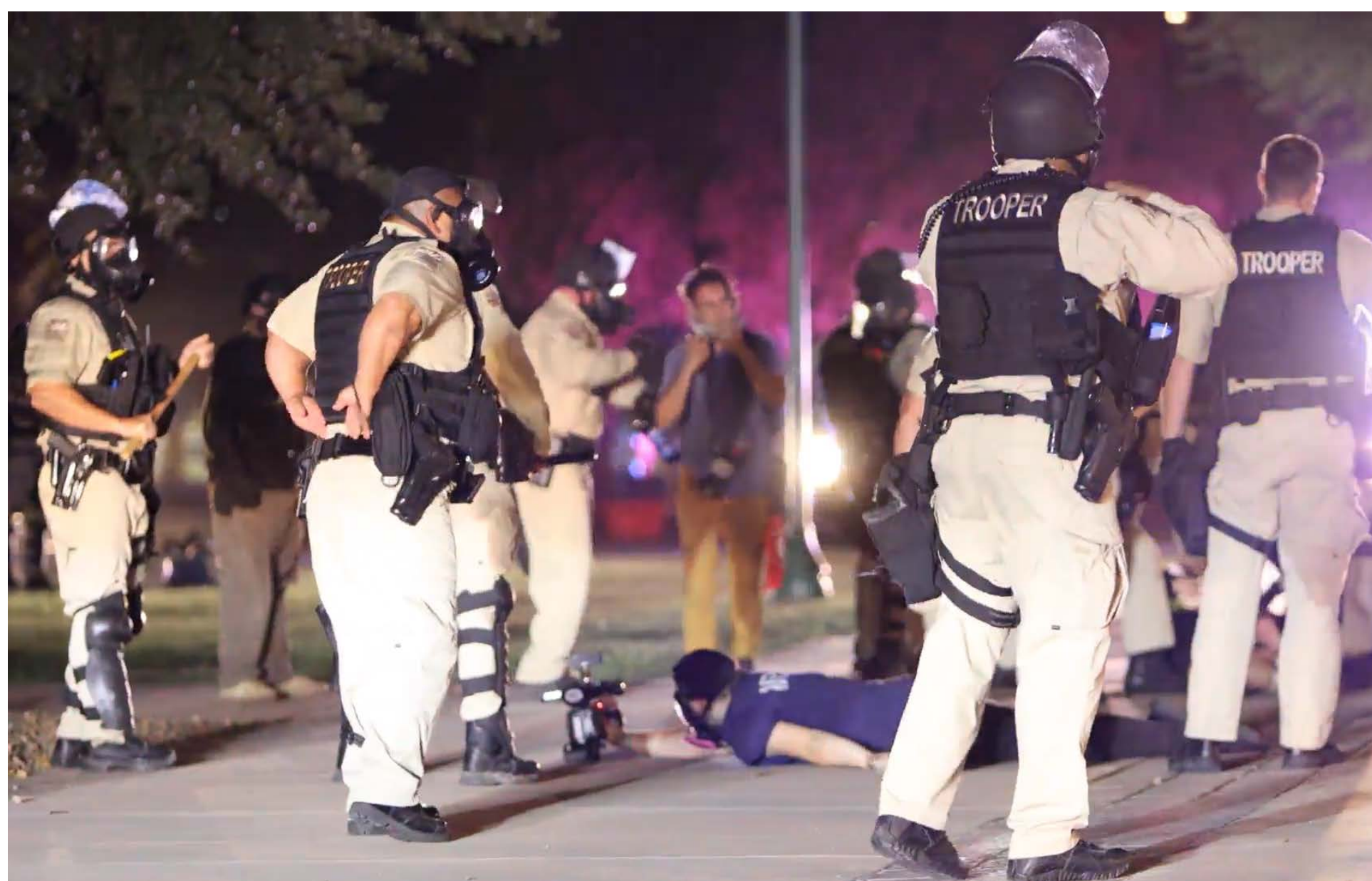
TOP IMAGE: SUPPORTERS OF PRESIDENT DONALD TRUMP BREAK TV EQUIPMENT OUTSIDE THE THE US CAPITOL ON WEDNESDAY, JANUARY 6, 2021, IN WASHINGTON. (AP PHOTO/JOSE LUIS MAGANA)



## Journalist arrests down but reporters covering protests still at risk



**Seth Stern**  
Director of Advocacy  
December 20, 2022



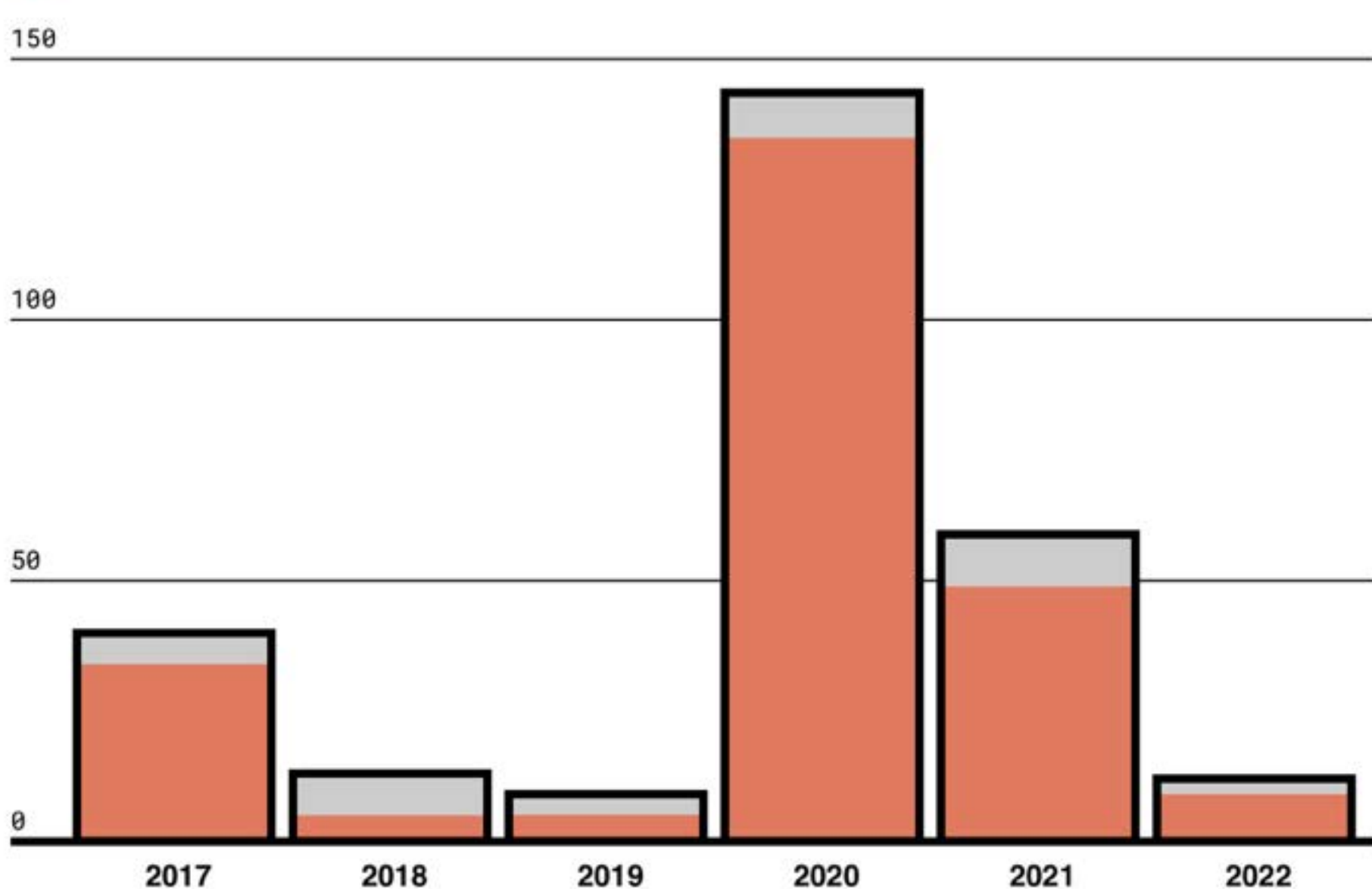
LLN Arizona photographer Jack Sorgi is detained at a June reproductive rights protest in Phoenix.  
NEWS2SHARE/SEAN CAMPBELL

Freedom of the Press Foundation's [U.S. Press Freedom Tracker reports](#) 14 arrests of journalists in 2022, down from 59 in 2021 and 144 in 2020. As in past years, the vast majority of reporters arrested were covering protests, specifically those that followed the Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization*.

The decrease is less likely attributable to police suddenly respecting press freedoms than to there simply being fewer protests this year than in 2021, and especially 2020. Nearly [300 arrests or detainments of journalists have been recorded in the Tracker](#) since its 2017 launch; 18 of those journalists are still facing charges.

**Arrests or detainments of journalists**  
as documented by the U.S. Press Freedom Tracker

while covering protests not covering protests



As of Dec. 20, 2022 *Freedom of the Press Foundation/Harris Lapiroff*

Totals aside, it is concerning any time a reporter is arrested for doing their job, and especially when charges are not resolved promptly by the courts. The report highlights two especially alarming cases: One, the [arrest of Derek Myers](#), editor-in-chief of the Scioto Valley Guardian in Ohio, for wiretapping after publishing audio someone else recorded, and two, the ongoing prosecutions of Asheville Blade reporters [Matilda Bliss](#) and [Veronica Coit](#) for allegedly trespassing while documenting a homeless encampment sweep.

The report provides further detail:

*Myers told the Tracker he was covering the murder trial but was not in the courtroom when a key witness took the stand. Despite the judge in the case barring recordings of that witness, Myers later received audio of the testimony. After the Guardian published the audio, officers [obtained a search warrant for Myers' laptop](#), issued a warrant for his arrest and seized his cellphone.*

*Myers turned himself in to police custody and was released on a \$20,000 bond. He now waits for his case to be heard by a grand jury in 2023, which will decide whether to indict him. But just being charged, he said, has felt damaging.*

*"My reputation has taken a hit and, as journalists, all we have are our reputations," Myers said.*

*Two North Carolina journalists, arrested in December 2021, will also continue to face charges into 2023. Asheville Blade reporters [Matilda Bliss](#) and [Veronica Coit](#) were arrested and charged with trespassing while documenting a homeless encampment sweep on Christmas night in 2021. After nearly a year of rescheduled hearings, the two were ordered in November to appear for a bench hearing, where a judge would rule on their charges and sentence them.*

....

*Bliss told the Tracker that each time they were ordered to appear in court, the reporters had to prepare for the possibility they would be incarcerated.*

*"I was trying to make sure that I had all my ducks in a row in case it was the worst case scenario: There is a maximum penalty of 20 days in jail," Bliss said.*

*"We've both had to make lots of sacrifices throughout this year."*

Myers' arrest violates [well-established Supreme Court precedent](#) that journalists are not responsible for alleged illegality by sources while Asheville police [ignored limitations](#) on closure of public lands to reporters except where there is a serious public safety risk.

The report also notes that some wrongly arrested reporters are holding authorities accountable by filing lawsuits, including Oregon-based reporter April Ehrlich, who was also [arrested](#) while covering an encampment sweep. After multiple delays, prosecutors dropped the 2020 charges this year. The U.S. Press Freedom Tracker [previously reported on](#) the more than 50 journalists who have sued over their treatment while covering Black Lives Matter protests.

Absent any indication that local police departments learned a lesson from 2020 and 2021, lawsuits and public pressure continue to be the best ways to hold police accountable and make them think twice about arresting journalists in 2023.

The full report, including more detailed statistical analysis and context surrounding the arrests, is [available here](#).

The [U.S. Press Freedom Tracker](#) is a nonpartisan news website and database providing reliable and contextualized information on the number of press freedom violations in the United States. For media requests, please contact [media@freedom.press](mailto:media@freedom.press).

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# Exhibit D



LIVE UPDATES: [Death toll from Monterey Park, Calif., dance hall massacre climbs to 11](#)

➔

Asheville Citizen-Times

## 'Over and over again': Asheville homeless encampment razed off I-240



Sarah Honosky, Asheville Citizen Times

December 10, 2021 · 4 min read



Less than 24 hours after officials said there was no timetable to remove a homeless encampment off I-240, the area was razed Dec. 9, reduced to a raw stretch of turned earth as a North Carolina Department of Transportation crew cleared remnants with an excavator.

The day before, the land abutting Haywood Street Congregation off Interstate-240 was a 35-tent homeless encampment, many of its residents with nowhere left to go.

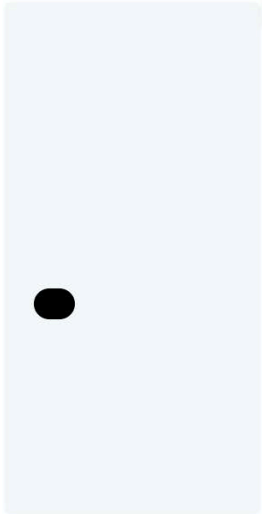
By noon, an NCDOT crew was shoveling debris, clothes and scraps of tent into the bed of a dump truck.

According to officials, the parcel of land belongs to NCDOT.

A few of the camp's former residents milled around the site, some staying warm in the fellowship hall of Haywood Street Congregation.



The removal of an unhoused community along I-240 began Wednesday and continued Dec. 9, 2021. Around 30 tents filled with belongings had sheltered people and pets.



### TRENDING

Authorities identify 72-year-old man as suspected gunman in Lunar New Year mass shooting

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George Santos Appears To Confirm Drag Photo: 'Sue Me For Having A Life'

HuffPost · 2 min read



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Associated Press · 2 min read



### POPULAR





Rev. Brian Combs, founder of Haywood Street Congregation, said Asheville Police Department officers arrived the afternoon of Dec. 8 and began telling people in the encampment to clear the property.

"It's traumatic. You're losing your home. There is an earth mover scraping your very existence away," Combs said. "Now you have to start all over again. That's an emotional injury that folks without housing have to endure over and over and over again."

Staff from the congregation worked to help people pack their belongings Dec. 8, and other city organizations, like Beloved Asheville, arrived to offer resources and assistance.

In an interview with the Citizen Times that same afternoon, Dec. 8, APD spokesperson Bill Davis said the department was "working closely" with NDOT and did not have a time frame for when the land would be cleared.



As the property owner, Davis said the decision to clear the land rests with NCDOT.

The Asheville Police Department expects to release a statement soon, it said Dec. 9.

A spokesperson with NCDOT deferred to a written comment provided to the Citizen Times on Dec. 7.

In it, Tim Anderson, Division 13 maintenance engineer with NCDOT, said the department's only role "will be to remove the debris once people have left the site."

Combs said the congregation staff had expressed concerns about open fires on the lot, which could be of danger to the campers in their surroundings of dry brush and nylon tents.



According to Asheville Fire Department spokesperson Kelley Klope, the department has responded to five fire-related issues at the property since Nov. 20.



Co-directors of Beloved Asheville Amy Cantrell and Ponkho Bermejo looked on Dec. 9 as the NCDOT crew cleared debris.

"This is going to be continual," said Bermejo of the removal. "It's not a solution. It's only moving the problem from one spot to another spot."

Cantrell estimated the camp housed more than 50 people and said with limited shelter space and the city's recent announcement that it is no longer moving forward with creating a homeless shelter at the Ramada Inn near Oakley, people have less hope than ever -- and even less options for shelter.



A dump truck is driven in reverse up an embankment to be filled with the belongings of the unhoused community by NCDOT workers Dec. 9, 2021. Around 30 tents had sheltered people and pets.



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**Boy (10) thinks he saves "dog", when he sees what it is, he turns pale**  
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**Related:** [Asheville nixes emergency homeless shelter at Ramada Inn citing lack of funding](#)

Gesturing at the now empty field, she said it's a situation that's happening more and more.

"It's the very last place you think could be safe, and then it's taken away," Cantrell said. "People are pushed to the last edges, and then you can't even be there."

#### Dec. 10 Update:

The Asheville Police Department gave initial notification to campers to relocate "a few weeks ago," according to a Dec. 10 news release from the city.

It said APD has been coordinating with the city manager's office and NCDOT staff regarding "increasing public safety and health concerns" over the last few weeks.



APD advised campers individually that they needed to relocate because they were trespassing on NCDOT property, and shared concerns about continued safety issues, including the camp's proximity to I-240.

"APD officers made at least eight trips to the campsite to reinforce that message," the release said. "Despite our efforts, the campsite continued to grow."

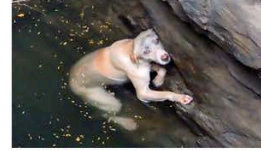
The department reports numerous complaints of open drug use, theft and sexual assault at the campsite. The release said the department discovered hypodermic needles strewn throughout the encampment, and the Asheville Fire Department confirmed it responded to the location five times for open burning since Nov. 20.

"As camps continue to grow, dangerous conditions are often created," the release said. "It is imperative that the City and more specifically APD take action to maintain public safety for all: our residents who have shelter, residents who are unsheltered, and our business owners."

The removal of the encampment resulted in no arrests.

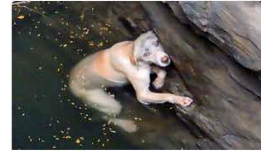
*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at [@slthonosky](https://twitter.com/slthonosky).*

*This article originally appeared on Asheville Citizen Times: [Asheville homeless encampment behind Haywood Congregation cleared](#)*



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# Citizen Times

## LOCAL

# Homeless advocate: 'Urgent sort of desperation' on Asheville streets as new camps arise



**Sarah Honosky**

Asheville Citizen Times

Published 5:00 a.m. ET Dec. 21, 2021

Asheville Police removed a camp of about 20 people from Aston Park the night of Dec. 19, according to department spokesperson Bill Davis.

He said the group had set up tents, bed frames, sleeping bags, pallets and a dresser, and were discovered by police at about 6 p.m.

According to Melanie Noyes, a member of the Human Relations Commission with the city, the camp off South French Broad and Hilliard avenues was a mix of activists and unhoused people, and was functioning as a "sanctuary camping demonstration."

She said there is no single organization behind the effort, and that demonstrators are advocating for low-barrier emergency shelter space, as well as "city sanctioned sanctuary camping."

Related: Asheville Ramada Inn will move forward as permanent supportive housing after council vote

The demonstration follows the clearing of a homeless encampment off of I-240 behind Haywood Street Congregation less than two weeks earlier, and the displacement of its more than 50 campers.

Amy Cantrell, co-director of the nonprofit Beloved Asheville, said there is an "urgent sort of desperation" on city streets.

Beloved is finding people in need of housing and without vital gear, groups scattered after their temporary homes were bulldozed Dec. 9 by a North Carolina Department of

Transportation crew after the Asheville Police Department cleared its residents from the small parcel of land abutting the interstate.

Davis said the campers at Aston Park were advised by officers to leave the park by its closing time at 10 p.m., and that people complied and left the area, many getting into vehicles and taking most of their belongings with them.

"We want those parks and any greenspace to be utilized for what it's to be utilized for," Davis said. "I don't want it to be construed with a homeless issue. It's a matter of a trespassing issue."

He said it did not seem to be a "residing" problem, and that everyone left when informed of the park's closing.

"The last thing we want to do is be the long arm of the law without any compassion," Davis said. "When we are out in these areas, we want to try to advise people who may be in these situations of true homelessness to say, 'Hey, here are these resources.'"

## **Code Purple called**

With temperatures dropping, expected to reach overnight lows of 24 degrees in the coming week, according to the National Weather Service, the Asheville-Buncombe Homeless Coalition has issued a Code Purple alert for Dec. 19-23.

Related: After delays and freezing temps, Asheville announces Code Purple shelter sites

The coalition calls a Code Purple when temperatures are slated to drop below 32 degrees. It opens the doors of two emergency shelter sites — the Salvation Army for women and children, and the ABCCM Costello House for men.

With about 50 beds available on Code Purple nights, Tim McElyeah, director of homeless services with ABCCM, said the shelter has yet to reach capacity this winter.

On most Code Purple nights, he said they have been filling about 15 beds. He anticipates this number will go up as temperatures drop in January and February.

He also said there will be increased publicity for Code Purple calls, which should drive awareness for those seeking warmth, and Asheville city buses will begin transporting people to the shelters for free, an initiative that began in 2019, and has just resumed.

"There is a combination of things that I think are going to cause our numbers to increase, which is what we want," McEl yeah said. "The more people we can get out of the cold, that's what the whole community wants."

He has not heard much about the impact of the cleared I-240 encampment, but says it's not something ABCCM asking when people walk through their doors.

More: Buck passed again on fate of Asheville homeless encampment

In the days that followed the encampment's eviction, Cantrell said the residents scattered, many without the sleeping bags, tents and belongings that would sustain them through steadily dropping temperatures.

She describes finding a man in his 60s crouched on the sidewalk downtown in the following days, in freezing weather with "nothing but the clothes on his back ... in the throes of hypothermia."

Beloved workers got him into an emergency sleeping bag and wrapped in blankets. He was so disoriented, she said that he couldn't put on gloves.

If they hadn't found him, she worries he would died in the night.

"We have lots and lots of stories like these," Cantrell said. "Where do these people go?"

Cantrell it is a plight that has highlighted the need for low-barrier emergency shelter, particularly in the wake of the city's decision to no longer pursue a high-access shelter in East Asheville's Ramada Inn.

Related: Asheville Ramada Inn will move forward as permanent supportive housing after council vote

As people without housing get pushed from the edges of highways and "tiny patches of grass," she wondered what happens in the short-term for those who are suffering.

"If we want people to be cared for, to be stable, to be rooted in the community, to be at home here, and offer compassionate care and support services, we have to do that right now, too," Cantrell said.

## Code Purple shelters

Salvation Army, entry 6-7 p.m. Call 828-253-4723

ABCCM Costello House, entry 4 p.m. and throughout the night. 828-259-5333

*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at [@slhonosky](https://twitter.com/slhonosky).*



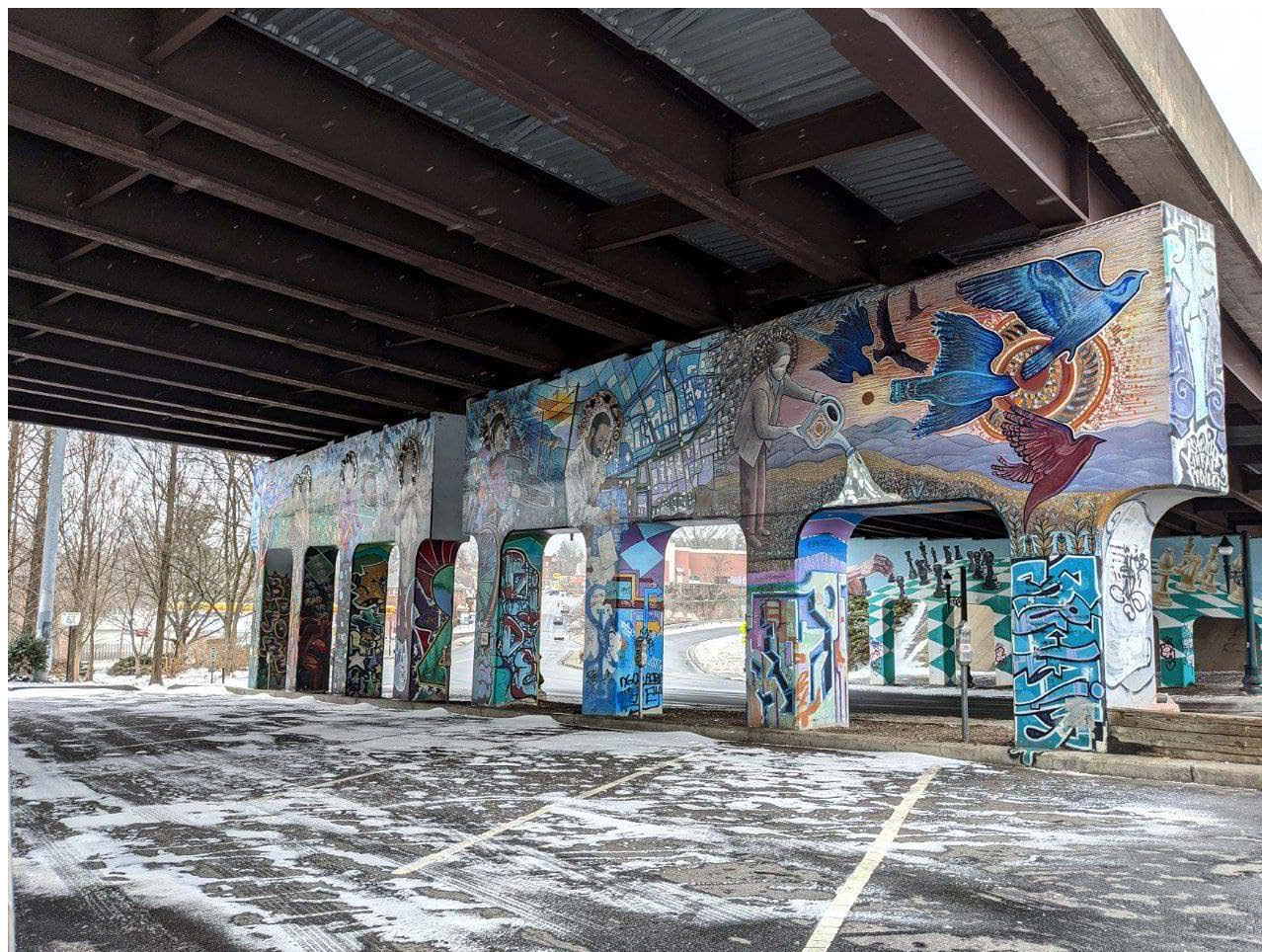


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## Out in the cold

by Orion Solstice

February 2, 2021

*Asheville police and city hall suddenly destroy a houseless camp hours before the coldest night of the year, putting lives in danger and leaving services organizations scrambling*

*Above: The Lexington Avenue overpass, site of*

*the former houseless camp. Photo by Orion Solstice*

*Blade reporters Elliot Patterson, Veronica Coit and David Forbes contributed to this piece*

Around noon yesterday, Feb. 1, Asheville Police Department officers and state Department of Transportation workers demolished a houseless encampment under the Lexington Avenue overpass. This move came during a pandemic, hours before one of the coldest nights of the year. It's left the houseless residents there scattered, at far greater risk of death or injury. Services organizations said they had no warning and were left scrambling to get supplies to those who had just had their only shelter destroyed.

While Asheville's mountains may be scenic when shrouded in snow such cold weather can literally kill those forced onto the streets by poverty and gentrification. However, this hasn't stopped the APD from carrying out multiple demolitions of houseless camps in the dead of winter at a time when shelter beds are more limited than ever due to COVID-19. Such "sweeps" are sadly not a new sight in Asheville. Indeed, repeatedly the local far-right and business owners will demand them. A police department vindictive enough to tear gas crowds and destroy medic stations is happy to comply.

The weather yesterday, possibly even into next week, is frigid enough for an official Code Purple, the warning issued by the Asheville Homeless Coalition when extreme cold weather conditions are expected, putting people sleeping outside at severe risk of injury or death. With Code Purple participating shelters voluntarily add space to allow for as many people as

possible to get protection from the cold.

Unfortunately not everyone is able to make use of the added space, as many shelters will not allow in men, people with criminal records or substance users. Others discriminate against queer and trans locals, who are already far more likely to face houselessness. A person's background, gender or what they use in their personal time or as a coping mechanism does not disqualify someone from the right to shelter and safety especially during extreme weather, a sentiment that city government does not seem to agree with.

Around mid-day yesterday a construction truck and bulldozer, backed by police, annihilated the camp in an act of absolute heartlessness, making an already difficult situation far worse for part of our most vulnerable local community.

According to multiple houseless support organizations, no warning was given. Those taking shelter under the bridge were doing no harm to those around them (making tourists uncomfortable doesn't count). They had no time to gather their belongings or reach out for help. Service providers had no time to reach them. City government and NCDOT would later dismiss the shelters they destroyed as "debris."

"We were made aware of the events that took place by seeing a post someone made on Facebook just a few minutes after it happened," Nicole Kott of Helping Hands told the *Blade*. "We were not contacted by anyone to help provide assistance to those that were being told to relocate"

Katie Caton, the services director at Homeward

Bound, likewise said they had no warning and she found out about the destruction of the camp on social media.

Beloved Asheville, a group that provides medical aid and supplies like tents, blankets and coats to the houseless, also had no notice of the camp's destruction. In a public social media post, they said they went to the site to give winter shoes to one individual, and instead found the entire camp demolished and their friends scattered. "He only asked us for a pair of shoes, and now he lost everything."

"With winds blowing up to 50 miles an hour and the wind chill set to get down to 7 degrees, we went under the bridge only to find him and his campmates and everything they owned gone —THIS IS IMMORAL, DEEPLY TROUBLING, and potentially DEADLY to take people's shelter in the winter in the midst of a health crisis." Beloved's post declared. The group called for an immediate moratorium on camp sweeps within our community and said they were pressing NCDOT and city hall to do so.

Kott emphasized that such evictions were against even the official pandemic guidelines of the Centers for Disease Control. Such sweeps are always damaging, she said, but "to do so during an ongoing pandemic and a winter storm is even more reckless and irresponsible."

Indeed, the CDC guidance states that "if individual housing options are not available, allow people who are living unsheltered or in encampments to remain where they are. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This



increases the potential for infectious disease spread.”

“This is especially true with the new novel coronavirus [strain] sweeping our community which is known to be more easily transmissible,” Kott said. But city hall and other agencies have instead emphasized a winter of camp removals. Combined with their insistence on keeping the tourism industry open this is a recipe for disaster.

The complete lack of warning wasn’t just damaging, it was unusual, Caton told the *Blade*. Homeward Bound works with Asheville city government on multiple fronts and they usually get a 7-day warning before such a demolition. The organization uses that time to send outreach workers to follow up with people at the camp to alert them and connect them with services and supplies.

Before the pandemic, Caton recalled, they usually got a couple of phone calls a month about such 7-day notices. It was much more common to see an uptick in calls during the winter due to camps’ increase visibility without foliage. “People notice without the coverage. There’s increased talk and concern about camps during the winter.”

City officials have since claimed that police notified local service groups, but given the above information this is clearly false.

## Eviction season

Sadly, the destruction fits a pattern. Recently there has been a [renewed push](#) from far-right gentry for crackdowns on the houseless. Two right-wing realtors and a real estate lawyer



recently called for police to kick the houseless out of downtown. The *Citizen-Times* even devoted a whole column to one of the realtors, praising her for her “compassion” even though she wanted to punish poor people for existing.

Indeed, after facing public backlash, city hall revealed they had initiated the demolition (alerting NCDOT and sending police) in response to a complaint on their Asheville App, commonly used by gentry to sic the power of local government on anyone they don’t like. This is what the complaint, uncovered by an open government advocate, read:

#### DESCRIPTION

**Homeless people should not be allowed to sent up a camp underneath an overpass especially one that was commissioned to be aesthetically pleasing to tourists and tax payers**

Notice no actual danger is specified. The complaint doesn’t even lie and say that the houseless people at the camp were harassing anyone or causing a safety hazard or anything else. It literally just says that they shouldn’t exist in an area that’s meant for tourists. This is what cops and city officials felt justified evicting people into the cold.

After the camp’s destruction yesterday some of the local far-right openly celebrated on social media. Sanjit Patel, a far-right conspiracy theorist (he blames a left-wing bookshop for violent crime in West Asheville) lauded the destruction and implied they would be pressing the cops for more.



Indeed the APD has a long record of using such "citizen complaints" from well-off conservatives as the excuse for draconian crackdowns. Multiple cop cars around a single houseless person is a common sight in Asheville. The destruction under the bridge wasn't the first and unless public anger gets city hall to stop, it certainly won't be the last.

City officials will often say that NCDOT, which controls many roadways in town, is responsible for camp evictions. Indeed, that's the excuse city officials are using this time.

But this is deceptive. The police and city hall work closely with the transportation department and often government staff or cops initiate the evictions in response to the wishes of the wealthy. In this case that's exactly what they did. City government could have ignored the complaint, deciding that public health and people's lives were a bigger concern. But they didn't. They notified the NCDOT and sent in the cops. Such clampdowns are one of many reasons for the growing movement to defund the APD. Once again, one of their main purposes is just hurting poor people when the rich tell them to.

Despite the pandemic the Lexington Avenue camp removal wasn't the first this winter.

Due to several complaints from heartless gentry, in December a camp near Target had signs put up near it loudly proclaiming "No trespassing, enforced by Police Department" in front of an entrance to a well established houseless camp, far from downtown and prying eyes of disgruntled tourists, taking away another place to safely shelter. Such signs are a prelude to police raids and mass arrests.



Then a month later, in the middle of January, another camp near Petsmart dubbed “Bleachery Camp” was also threatened by the cops and eventually dismantled.

Why city government thought the best time to do this was during the dead of a bitterly cold winter with no warning is incomprehensible, unless their intent is purely to kill or threaten houseless people to get them out of sight. There is never a good time to drive out those in need, but to do so now is especially evil.

Even a government agency like the CDC is advocating an end to such evictions. In addition to the sheer cruelty, such destruction can and will directly impact our community’s health and safety and put even more strain on an already struggling and understaffed healthcare system.

If you find yourself wondering what happened to the individuals that lost everything yesterday, unfortunately we don’t yet have an answer. Throughout the night, as freezing winds swept the city, the question came up again and again.

Community members searched for the residents to help provide them with replacement shelter and emergency services but were unable to find where cops and bulldozers had driven them to. Can you imagine during one of the most difficult times in your life — during a pandemic and winter storm — to come back to what little shelter you have only to find it in ruins?

City government should feel shame, but given their long, awful record on this front they probably won't. That leaves it up to us, because rage and action are the only things that will change this course of events. It's time to remind city hall that when you set out to destroy and damage one part of our community, you hurt us all.

—

*Orion Solstice is a queer trans activist dedicated to bringing truth and beauty into this world through various mediums with a focus on photography. He is a full time artistic freelancer of a wide variety of arts and loving father of an elderly cat companion and five fish.*

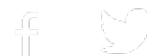
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## Eviction season

by David Forbes      April 19, 2021

*Asheville police lie about a brutal crackdown on houseless campers and the locals supporting them as city hall ramps up its efforts to please the tourism industry at all costs*

*Above: A banner outside the Aston Park houseless camp.  
Special to the Blade*

*Blade reporters Veronica Coit and Orion Solstice contributed to this piece*

Late afternoon last Friday a drove of Asheville police **marched** down South French Broad towards Aston Park. They had come, in the middle of a pandemic, to kick

houseless locals out of a city park.

In the time that followed the APD would gather nearly 40 officers on the site, belligerently harassing both the remaining houseless campers and locals who had shown up — at the campers' request — to support their right to housing. The police would brutally attack and arrest four people, sending three to jail and one Black houseless person to the emergency room in handcuffs.

Then they lied about it. Guns and batons aren't the only weapons in the arsenals of cops or the government they serve. In the hours afterwards city hall put out a blatantly false statement, lying about everything from the level of aid they offered to the houseless to spreading "outside agitator"-style myths that blamed scary protesters for the police's violence.

However, *Blade* reporters and plenty of locals were there and saw what happened. Aston Park was the latest in a series of cruel sweeps and evictions aimed at expelling any hint of poverty from the view of wealthy tourists. That has involved a relentless push to destroy houseless camps, often just before particularly cold nights (Friday dropped into the 40s). City government does this despite CDC warnings saying houseless camps should be left alone during the pandemic.

With one tepid exception city council members have stayed absolutely quiet even as the wave of evictions has escalated. But locals aren't silent. One of the reasons city hall feels the need to lie so blatantly about Aston Park is because the actual truth — houseless people getting solidarity from the wider community to resist their evictions — scares the hell out of them.

Casual destruction

*"The law, in its majestic equality, forbids rich and poor alike from sleeping under bridges and begging for bread."* — Anatole France

Houselessness has always been a reality that doesn't sit comfortably with the lily-white craft beer liberal veneer Asheville's establishment likes to project to the world. It's the obvious result of a city built on low pay, sky-high housing costs and segregation.

If there's one thing gentry hate it's facing the

consequences of their own actions. So the default response to the wave of houselessness created by rapid gentrification is a relentless push to hurt those struggling with it until they disappear from view. This is a major reason for the APD's relentless expansion in recent years — and why the gentry are losing it as Asheville cops quit in droves. It's also why it's such a common sight to see multiple cops interrogating a single houseless person. That would be demonstrated at Aston Park, when the APD dispatched basically their entire on-duty force (and then some) to destroy a single camp.

This status quo also often goes hand-in-hand with a complicit non-profit complex. While ostensibly supposed to help the houseless many local non-profits only do so with a lot of strings attached, requiring them to lose their belongings or support animals and live in a prison-like setting to receive basic food and shelter. Others even exclude some populations entirely (multiple shelters don't allow trans and queer people). The APD and city government then use the non-profits as an excuse for their violence, to claim that anyone not in a shelter is "refusing services." Many non-profits, either due to their own paternalistic attitudes or in fear of losing local government funds, remain largely silent about the APD's abuses of the houseless.

Asheville's poverty worsened during the pandemic. Before hotels re-opened a growing movement had pressed city hall to put houseless locals up for free in them for the duration of the pandemic. Instead officials packed houseless people into the civic center. This was clearly a pandemic disaster in the making and even other municipal governments in NC had abandoned such quasi-prisons in favor of supplying hotel rooms. When challenged on this assistant city manager Cathy Ball directly said houseless people couldn't be trusted unless monitored 24/7 so they didn't deserve individual hotel rooms.

The comments were blatantly cruel enough that there were calls for her resignation then. In response to the public backlash, city hall partly funded rooms for the houseless at the Red Roof Inn — a notoriously crumbling spot far from services, amenities and the eyes of tourists — and claimed it as some sort of altruistic act.

Late last spring local governments started down a path of

keeping hotels, breweries and the wider tourism industry open no matter how bad the pandemic got. Not surprisingly, it got really bad, with multiple waves of infections and the [highest death rates](#) and most deaths (by population) of any major NC city/county. With the focus on pandemic tourism city hall's campaign against the houseless ramped up as well.

Even the CDC — not exactly a bastion of radical leftism — has repeatedly warned local governments not to destroy houseless camps during the pandemic. Instead city hall escalated camp destruction from previous levels. Multiple camps were demolished in the dead of winter. Far-right realtors [outright](#) told city council they wanted the houseless gone so they could more easily market the area to wealthy.

On Feb. 1, with no warning even to establishment non-profits, city government and the state Department of Transportation [demolished](#) a houseless camp under the Lexington Avenue overpass, hours before the coldest night of the year. The city first claimed vague "safety concerns," but it then emerged that the complaint they were acting on was literally just griping that houseless people shouldn't be allowed to exist near tourists.

#### DESCRIPTION

**Homeless people should not be allowed to sent up a camp underneath an overpass especially one that was commissioned to be aesthetically pleasing to tourists and tax payers**

*Seriously, that's all it said*

So city hall then blamed NCDOT (the camp was partly on highway land), even though it was city officials who pushed them to demolish the site, helped them do it and provided armed cops to back them up.

In this they were cheered by the local far-right. Whatever their other disagreements with Asheville's ostensibly liberal government they both hate the poor and want them gone. Ball, who oversees both the police and the city's houseless services/economic development efforts (the latter are, tellingly, in the same department), has been [particularly obsequious](#) to far-right business owners.



The next wave of evictions would largely take place in city parks, land Asheville's government owns entirely. Other than their hatred of the poor there's nothing stopping them from just letting people in need stay there. But early last week police visited multiple camp sites, handing out eviction notices with a list of shelters and programs on the backside. They demolished one on Cherry Street, sending personal items like cookbooks and family photos into piles destined for the trash. By the time campers reached Aston some said they had moved eight or even 10 times over the past months.



*Eviction notice from the Asheville police. Special to the Blade.*

In bitter irony many of the shelters and programs listed on the city's eviction notices are full, have steep restrictions on who can use them or have major waiting lists. Some houseless people who'd been evicted from the Cherry Street camp were even told to go to Aston Park. But, of course, city officials didn't care.

Asheville's city council offered little opposition as the evictions have escalated. Some had even supported the evictions. At their recent retreat Council member Sandra Kilgore (a conservative realtor, naturally) talked of wanting to "clean up" the city by removing houseless



people. At their meeting last week only one member, Kim Roney, condemned the camp evictions. The rest remained absolutely silent. Last Thursday Roney sent an email to Campbell and the rest of council asking them to “pause the clock.” The next day she had her response from her peers and the APD: they threw the clock right back.

### Shows of force

During all this public anger has continued to mount. The city’s population mostly doesn’t own homes, have struggled with poverty and do not support the “tourism at all costs” direction pushed by city hall. Many have moved noticeably to the left during the past years — leftist demonstrations are several times the size they were even two years ago — and supported more militant tactics. This shift has also reduced government-backed non-profits’ ability to steer anger into approved channels.

As a statement later released by the Aston park eviction defense effort put it “Asheville’s unhoused residents deserve better support than the NGOs and City offer them. The autonomous resistance of unhoused people will always be supported by anarchists and other allies in Asheville.”

So by the middle of last week the remaining camp residents requested local support in staying in their homes. They got it. A *Blade* reporter observed that this decision was the residents’, though local supporters had made it clear they were ready to help if asked.

“The eviction of the Aston Park camp is particular in the cruelty of its timing, and the first to be resisted by a coalition of unhoused residents and their allies,” the later statement from eviction defenders read. “Camping in public parks is not a surprising or unforeseeable tragedy. It is a rational choice made in the face of inhumane conditions, in response to the unaffordable rent prices and pitiful wages.”

The site was a telling one. Aston Park hosts famous tennis courts and city government charges for their use (season passes start at \$299). It’s located right on the cusp between gentrifying “South Slope” and mostly Black Southside. Just yards away from the tents were showers and full bathrooms reserved for the users of the tennis courts. Campers had to make due or walk to nearby

shelter facilities to even use the bathroom.

On Friday morning protesters — houseless campers and local supporters alike — were awoken by a cadre of police led by Capt. Mike Lamb. They had token coffee and biscuits, but more importantly they had video cameras, guns and tasers. The core of their message was a threat: leave your homes or be arrested. While the city would later claim that the cops offered help, this was untrue. They just told the residents to leave and suggested they get services elsewhere.



*APD Capt. Mike Lamb leads a cadre of officers Friday morning to threaten houseless campers with arrest if they don't leave Aston Park. Photo by Veronica Coit.*

Some did leave. Police have a lot of power to seriously harm houseless people's lives. But more remained.

Early afternoon parks and recreation director Roderick Simmons showed up at the site and tried to start

personally taking down a tent. When people at the camp told him to stop, he yelled at them, then called the cops and claimed “agitators” were attacking him. City hall would later use Simmons’ lies to claim this constituted “obstruction” of the sacred act of removing tents.

Shortly after Simmons left the cops started moving in. One of their commanders, Lt. Brandon Moore, repeatedly said that this eviction was personally ordered by city manager Debra Campbell (who makes \$250,000 a year and was working from home). A large group of cops marched down South French Broad, another came over a hill. They yelled at the remaining protesters and moved in to attack. They dragged people across their ground and put elbows on the back of their necks.

The city would later claim only three “protesters” were arrested, but that too was a lie.

*Blade* reporters and others on the scene observed Capt. Jackie Stepp, known for being particularly vicious in going after anyone who’s not white and wealthy, order the arrest of a pregnant Black houseless person still at the campsite. This is verified by images obtained by the *Blade*. Of the four people arrested three were charged (one with a false assault charge, two with the vague charge of “resisting” the police) and the houseless person was taken, in handcuffs, to the hospital.

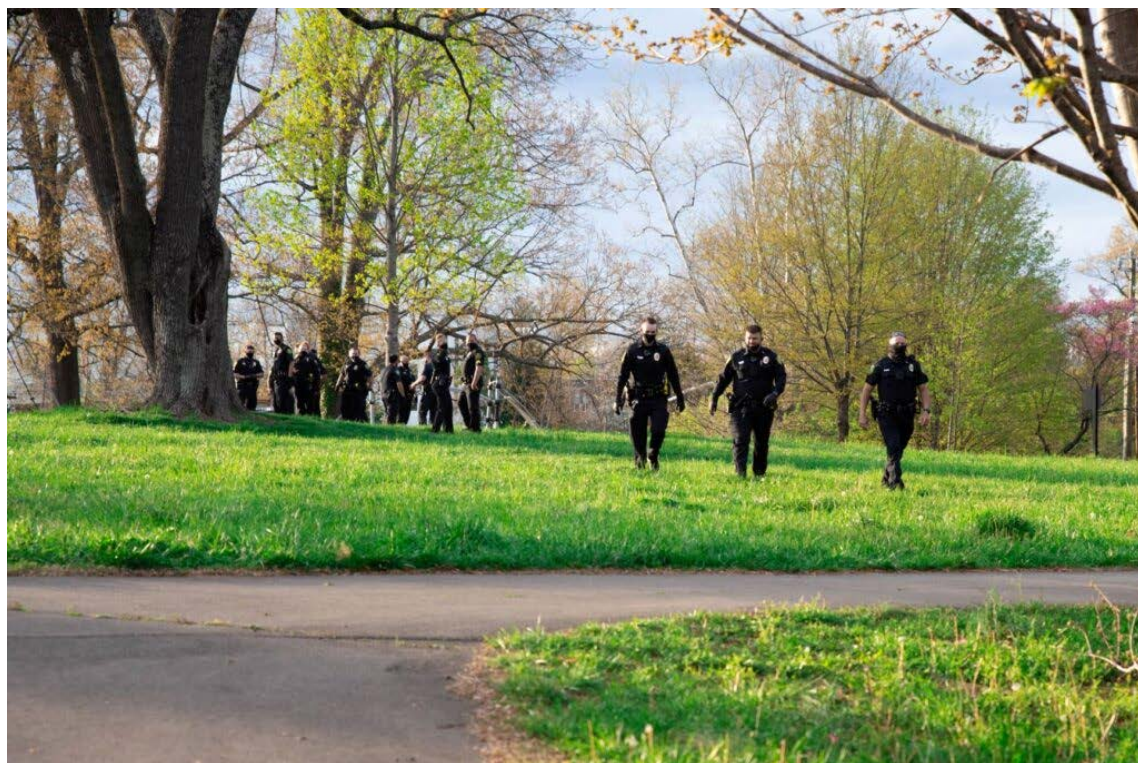




*Police gather late Friday afternoon before destroying the Aston Park houseless camp. Photo by Veronica Coit.*

It is worth remembering that this is the same police department that claimed last summer that they had to destroy medics' water bottles because they might be explosives. The APD lies.

The city claims that the police had offered all remaining campers a stay in the Red Roof Inn site and that they all accepted. But this is untrue, and a pretty clear effort to erase the campers' agency by portraying them all as the passive poor, thankful for aid and never resisting. A *Blade* reporter on the ground observed that this offer wasn't universal: it was only extended selectively to some campers. The cops said it was only for a single night (sources with Homeward Bound now claim the campers who went to the hotel site will be able to stay into June). Otherwise, the officers threatened, campers could "go to jail."



*Police gather in Aston Park. Around 40 would go there to evict one houseless camp. Special to the Blade.*

Of the over 20 houseless people there at the start of the day, most left to other camps or locations. As the police presence escalated in the coming hours six did eventually choose to leave for the hotel, but they did so under threat, “in the presence of nearly 40 officers, over a dozen squad cars and a paddy wagon” as the eviction defenders’ statement later put it. That matches with what *Blade* reporters witnessed: a show of force clearly meant solely to intimidate. The APD were there to make arrests.

“Even putting aside pandemic safety concerns, it should be absolutely clear that shelter simply isn’t the same thing as housing, even in the form of self-furnished campsites. Limited, temporary shelter beds simply cannot fulfill the same housing needs.” the statement continued.

“Unhoused people have the right to refuse the ‘support’ offered by NGOs, the city and its police. All people deserve freedom to determine the conditions of their own existence.”

### The next wave

Roney showed up at the campsite after the main police presence — and the brutal arrests that came with it — were over. She has not answered requests by the *Blade*, through social media, about if she or other council

members knew of the evictions in advance, or if she will be demanding the city manager's resignation.

If past evidence of her and other "dissident" council members is any evidence, they'll probably put out some tepid objections but balk at seriously challenging the status quo. Punishing the poor is, after all, one of the points of government. Polite questions don't change that.

City hall hasn't even slowed its evictions, even as COVID infections and deaths have both risen notably in the past week. More camp demolitions are slated for the coming weeks, including another of the Lexington Avenue camp, and Riverbend Park. They are set to begin as early as tomorrow.

Beloved House, a non-profit that's been more critical of city hall, has condemned the evictions and released a video earlier today calling on city government to halt them.

However Homeward Bound, probably the largest houseless services non-profit in the area, has been notably silent. City officials and police have repeatedly claimed the organization's cooperation in the evictions and used the services offered by them to campers as an excuse to proceed.

With warming weather, more vaccinations and lifting restrictions expect city hall to continue to double down unless stopped by public outrage and action.

But if non-profits and elected officials are hesitant, eviction defenders remain determined:

"We will not allow our neighbors to be swept into dark corners. We will continue distributing food, medical aid, clothes, camping supplies and other resources, offering assistance with relocating people and their belongings and defending encampments with words, deeds and bodies — until we win a moratorium on evictions and universal housing."

—

*Blade editor David Forbes has been a journalist in Asheville for over 15 years. She writes about history, life and, of course, fighting city hall. They live in downtown, where they drink too much tea and scheme for anarchy.*



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LOCAL

## Homeless encampment on French Broad cleared; 'no idea' what comes next



**Sarah Honosky**  
Asheville Citizen Times

Published 7:52 p.m. ET Dec. 30, 2021 | Updated 8:07 p.m. ET Dec. 30, 2021

[View Comments](#)



**ANDREW PARSONS**  
Asheville resident

that's when I got woke up by the, uh, city Bassfield police and, uh,

### French Broad River Encampment Removal

Andrew Parsons speaks about being removed from an encampment aside the French Broad River. *Wochit*

Just two days after a Homeward Bound outreach program manager was on site warning people of a homeless encampment's impending removal, the area on the French Broad Greenway was cleared as advocates feared.

Mike DeSerio warned [campers of the encampment's removal on Dec. 28](#), but at that time did not know a timeline. It was leveled the afternoon of Dec. 30 as Asheville Police Department officers watched an excavator raze tents, debris and trash and load it into the back of a city of Asheville dump truck.



Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. *Maya Carter/Asheville Citizen Times*

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Andrew Parsons, who said he'd been living at the encampment for about a month, told the Citizen Times that APD officers woke him around 10 a.m. and told him they were clearing people out. He said they told him bulldozing would begin in a few hours.

"Supposedly we'd been warned. I've never been warned."

By about 1 p.m., he said the clearing had started. By 4 p.m., it was still ongoing. Crews and APD officers clustered along the hillside, the turned earth painting a bare strip along the ridge.

The French Broad encampment clearing follows the [Dec. 9 clearing of a 35-tent homeless encampment](#) off of I-240, as well as many others this year, including the [removal of demonstrators and unhoused people from Aston Park](#), in Martin Luther King Park and under the I-240 bridge on North Lexington Avenue.

It also was not the first clearing for this parcel of land. The property is owned by Duke Energy Progress, though the city holds a long-term lease for public recreation and greenway purposes. The section was cleared when [construction for the new greenway began in June](#), though the previous encampment was located closer to the riverbank.

On Dec. 30, officers on site referred the Citizen Times to the APD spokesperson. The Asheville Police Department spokesperson did not respond to Citizen Times request for comment.

In a Dec. 30 statement from the city, spokesperson Christy Edwards said the "work with the camp continues."

"Many campers are packing up and plans are in place to address the trash," Edwards said. "As always, we are working in partnership with service providers to address the needs of the campers."

That evening, Parsons struggled to push a metal grocery cart up a steep embankment. In it was most of what he could save -- a pile of tarps, blankets and nylon tents.



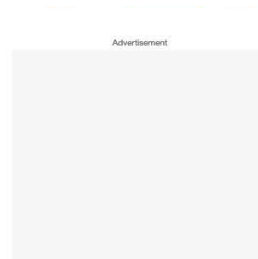
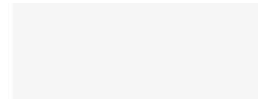
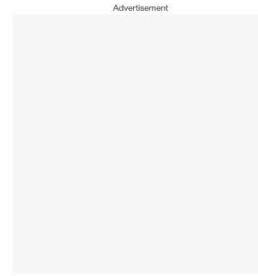
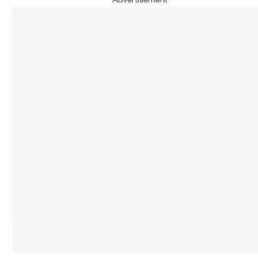
Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. Maya Carter/Asheville Citizen Times

Below him, construction equipment still churned, clearing what hours before had been about a dozen tents lining the flat ridge.

"I pretty much expect it at this point," Parsons said. Newly homeless in Asheville, he said this is the third encampment he's lived at in the city that's been cleared.

The first time, he lost everything. The second was from the sprawling encampment off of I-240 that was [cleared Dec. 9](#). He got warning before it happened and relocated here -- to a encampment on the side of a steep bank, overlooking the River Arts District.

Now, he doesn't know where he will go next.





Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. Maya Carter/Asheville Citizen Times

"Find a new spot," he said. "Which is pretty much don't find no spot at all."

**Related:** [Homeless encampment on French Broad reappears, grows; outreach manager fears its clearing](#)



Crews clear a homeless encampment that sat above the French Broad Greenway on Dec. 20, 2021. Sarah Honosky/Asheville Citizen Times

In a statement emailed to the Citizen Times Dec. 30, Duke Energy spokesperson Bill Norton said, "While Duke Energy owns the property, it is leased to the City of Asheville for the French Broad River West greenway. We are working with the city to address the encampment as quickly as possible."



Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. Maya Carter/Asheville Citizen Times

**More:** [Asheville city & state officials shifting blame for homeless encampment](#)

A few tents moved up the bank out of the construction zone, and the encampment fluctuated in size over the last several months, according to neighbors.





Crews clear a homeless encampment that sat above the French Broad Greenway on Dec. 20, 2021. Sarah Honosky/Asheville Citizen Times

Parsons said he was able to warn the few people who were sleeping at the encampment when the police arrived, but everyone else -- he estimated around 15 people -- lost everything.

At the end of the rutted dirt path that leads from the encampment to Riverview Drive was the rest of the belongings he salvaged before the demolition: another buggy, a small pushcart, a backpack and a five-gallon bucket of tent poles.

He said a lot of his things -- like propane tanks, personal heaters and other tents -- he had loaned out to other campers.

"I didn't know this was coming, or I wouldn't have let them borrow it," Parsons. "I don't think anyone did, or they would have been here to get their stuff."



Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. Maya Carter/Asheville Citizen Times

In a statement given earlier in December, city spokesperson Polly McDaniel said the city has been communicating about the situation since March and is aware of the encampment. She said consistent outreach has been done at this location.

Unsure where he is going to set up camp next, Parsons said he is holding out hope that his I.D. will soon arrive in the mail. Without a social security card or I.D., he struggles to find work.

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Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021. Maya Carter/Asheville Citizen Times

"No way to get work, you have no way to get out," he said.

"A lot of the people up here were just trying to get away from the riff raff downtown ... We were up here for a reason, so we could get away."

*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at [@slhonosky](https://twitter.com/slhonosky).*

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Asheville Citizen-Times

## Asheville police to implement new homelessness policy following camp removals, arrests

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**Sarah Honosky, Asheville Citizen Times**

January 5, 2022 · 6 min read



January 5, 2022 · 6 min read

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Asheville citizen Andrew Parsons packs up his belongings after the encampment he was living in was disrupted on December 30, 2021.

The Asheville Police Department plans to update its operating procedures for people without homes and for homeless camp protocols, according to spokesperson Bill Davis, but he did not give any specifics on those updates.

These pending changes follow a [number](#) of [homeless encampment](#) clearings in recent months, and the arrests of six individuals at a sanctuary camp demonstration at Aston Park on Christmas Day. Among those arrested were two reporters from the Asheville Blade.

"We are still in the final stages of having a new policy updated regarding homelessness," Davis said in a Jan. 3 email to the Citizen Times. "Thought we might have out before end of year, but still pending."

According to demonstrators and reports from the Blade, APD was acting on policy





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"We are still in the final stages of having a new policy updated regarding homelessness," Davis said in a Jan. 3 email to the Citizen Times. "Thought we might have out before end of year, but still pending."

According to demonstrators and reports from the Blade, APD was acting on policy changes before they were implemented.

**Related:** [Homeless advocate: 'Urgent sort of desperation' on Asheville streets as new camps arise](#)

Namely, demonstrators say police were not abiding by the item in its [policy](#) that requires officers responding to encampments to "instruct them that they have seven days to vacate the property." The policy also requires officers to provide resource cards outlining outreach assistance options.

Davis would not confirm if this policy change was among the slated updates, which he said would happen soon, potentially this week.

In response to questions about the city's current encampment policy, Asheville Mayor Esther Manheimer said City Council will receive an update on Homelessness initiatives through the City Manager's Report at the Jan. 11 council meeting.



She said she expects the presentation will include answers to many of these questions, including regarding the city's approach to encampments.





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Blankets dry in the sun at Aston Park after a day and a night of constant rain March 26, 2021 in Asheville.



Matilda Bliss, a reporter with Asheville Blade, was among those arrested by APD at Aston Park on Dec. 25.



She was reporting on the encampment taking place there, and said despite standing "as far back as possible while still attempting to cover the event," displaying her press badge and shouting repeatedly that she was press, she was arrested and detained by police, as was the other Blade reporter, Veronica Coit.

Bliss said she witnessed firsthand the disregard for the seven-day public notice, and that though APD says the city policy has not changed, videos of officers at Aston Park prove otherwise.

In a [video](#) posted by the Asheville Free Press that was reportedly filmed Dec. 19, an officer at the Aston Park demonstration responds to a question about this policy with, "no you do not get seven days, they did away with all that."



"There's a discrepancy in what is said because the Asheville Police Department has a record of lying and sharing conflicting information when it suits their desires, which include, evidently, evicting people on Christmas and arresting journalists providing coverage of the event," Bliss said.

**More:** [Aston Park: City clears another homeless camp](#)

The current APD policy was adopted in 2014, and Davis said the "update is being made to adequately address the issue, as well as best address the trespassing issue."

Similar confusion happened earlier this week at an [encampment along the French Broad Greenway](#).



Though the Homeward Bound outreach program manager warned campers of the likelihood of the encampment's impending removal, which happened two days later on Dec. 30, a resident of the camp, Andrew Parsons, said he had not been informed by police.

Regarding that encampment, Asheville police spokesperson Samantha Booth said in a Dec. 31 statement that notification and outreach was conducted earlier in December to allow those in the camp to relocate. She said the camp's clearing followed discussion between APD leadership and other city officials.



T

The homeless encampment at Aston Park in Asheville March 26, 2021.



[Dozens of people gathered each evening at Aston Park](#) in the week before Christmas, beginning Dec. 19.



According to a release from the group, the encampment began as a "community art project" called Aston Art Build, and had several encounters with APD the week of the demonstrations, including threats of arrest.

Made up of advocates, activists and unhoused individuals, the group was calling for the city to grant permission for sanctuary camping at the park off South French Broad and Hilliard avenues and cease the displacement of people without housing.

The release said attendees of the event were "repeatedly threatened with arrest by APD" and on Dec. 25, six people were arrested and charged with second-degree trespassing.



**Related:** [Asheville commission calls for a moratorium on homeless camp clearing amid COVID, cold](#)



According to arrest reports, the individuals were arrested around 10:45 p.m. The city park closes at 10 p.m. The four people arrested who were not members of press were also charged with resisting a public officer.



All six were released between 12-2 a.m. with a written promise to appear in court and did not have to post bond, according to Buncombe County Sheriff's Office spokesperson Aaron Sarver.

Their court dates are slated for February and March.

## **Encampment clearing around the city**

Last month, the [clearing of a sprawling encampment off of I-240](#) left many advocates clamoring for solutions, buoyed by the subsequent [clearing of an encampment along the French Broad](#).





Eileen McMinn is chair of the Homeless Initiative Advisory Committee, a which is responsible for implementing Buncombe County's [five-year Strategic Plan on Homelessness](#) and acting as a recommending body to local governmental entities and social service agencies.

Serving as an advisory body, volunteers may apply for the committee and are appointed by council.

McMinn said the committee was not consulted on any potential APD policy changes.

While the committee's mission is to advise the city on issues related to homelessness, she said APD would not be required to consult them before moving forward with any policy changes.



**More:** [Asheville commission calls for a moratorium on homeless camp clearing amid COVID, cold](#)



At its Dec. 10 meeting, the committee brought up recommendations for an encampment clearing moratorium made by the Human Relations Commission of Asheville, but committee members unanimously voted to table the discussion until its Jan. 25 meeting.

Manheimer said in a Jan. 4 statement to the Citizen Times that homelessness is "a complex crisis and poses one of the greatest challenges our city has faced in recent years."

To effectively address it, she said the city is working alongside numerous partners in the community, such as the county, the state, Veterans Affairs, the hospital, and numerous faith based institutions and nonprofits.





"The people of Asheville are compassionate and caring but they also expect community safety, cleanliness and that all individuals will abide by the law. There is certainly a wide range of opinions as to how this crisis should be managed, city council hears from folks all across the opinion spectrum," Manheimer said.



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Asheville Mayor Esther Manheimer

"Council tries to lead with compassion while managing homelessness in collaboration with the city's partners using best practices aiming for best outcomes, to bring an end to homelessness."

*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at [@slhonosky](https://twitter.com/slhonosky).*

*This article originally appeared on Asheville Citizen Times: [APD updates policy for homelessness following arrests at demonstration](#)*

# Citizen Times

## LOCAL

# Homeless advocates: APD notice of removal of camps before impending storm 'horrific'



**Sarah Honosky**

Asheville Citizen Times

Published 5:14 a.m. ET Oct. 4, 2022 | Updated 1:39 p.m. ET Oct. 4, 2022

ASHEVILLE- Temperatures drop, storms roll in and homeless encampments face removal. The pattern isn't new to BeLoved Asheville co-director Amy Cantrell, but that doesn't make it any easier.

As Hurricane Ian prepared to bring heavy rain and wind to Asheville last week, several encampments along I-240 were given notice by the Asheville Police Department of their impending removal.

An hour before the storm came on Sept. 30, Cantrell said she watched police gather at a camp under the Lexington Avenue bridge.

"All over, we were seeing people packing. Not to get out of the storm, but to move," Cantrell said. "People are literally scrambling. We saw people trying to move things in shopping carts and trash bags. There were no shelter options for folks."

APD spokesperson Bill Davis said the camps along I-240, specifically those near Haywood Street Congregation and the Merrimon Avenue overpass, were given notice. He did not say when this notice was given, just that it was provided in "ample" time.

When will Merrimon Ave. road diet begin? NCDOT announces October start date

Read this: Asheville mutual aid volunteers face 'absurd' felony littering charges, lawyer says

"Given the size of the camp and the fact that APD's Community Unit has no officers, APD wanted to give them more than a 24-hour notice that the cleanup by NCDOT will occur,"

Davis said.

"APD officers have been stopping by various sites along DOT property by (I-240) and reminding folks that the cleanup is pending. That way when the cleanup occurs, it will be less of a staffing burden. Many of the campers thus far have decided to pack up and leave ahead of time."

N.C. Department of Transportation will clear the camps early this week, Davis said.

According to a statement from Chris Deyton, Division 13 maintenance engineer with NCDOT, their crews only begin the litter pickup and area restoration after the area is vacated.

"We will continue to work with our local partners who have the training, resources and expertise to help people living in the encampments," Deyton said.

Davis could not comment on why the notice was given so close to the impending storm.

"These have been recurring issues that we've had over in that particular area, as well," Davis said. "They come, they go. ... We're enacting the policy."

The policy referenced by Davis is a February update of a 2014 homelessness policy. In the update, APD did away with its seven-day notice. In its place is a 24-hour notification.

Asheville police release new homeless policy: only 24-hour notice before camps cleared

According to Asheville city code, no tents or shelters are permitted on city property. Violation of the provision is a misdemeanor.

If an encampment is on private property, according to the department's policy, officers must attempt to contact property owners and determine if individuals are trespassing. If property owners cannot be contacted, the officer will defer to the N.C. General Statute regarding first and second-degree trespassing and "take the appropriate enforcement action."

Of the impending encampment removals, Davis said the department is just trying to "comply with policy and law."

"Anytime there is an encampment, the policy is what we use," he said. "That's the way it works."



According to Asheville's point-in-time count, completed Jan. 25, 637 people were experiencing homelessness, 232 of which were unsheltered.

On Oct. 3, only one tent remained under the Lexington Avenue bridge, tucked against the chain link fence. Visible from off I-240, up the steep bank abutting Haywood Street Congregation, about four tents sat at the top of the hill. Residents were packing up and said they had been asked to leave.

Previous coverage:

Homeless encampment on French Broad cleared; 'no idea' what comes next  
'Over and over again': Asheville homeless encampment razed off I-240

"Horrific," is the word Cantrell used to describe the timing. She wondered why notices of clearings would begin right before a storm.

"There's literally nowhere they can go," she said. "That is the alarm bells in our community, that we don't have enough shelter, and there is nowhere that people can legally be, and so they are constantly being uprooted."

Though Asheville received heavy rain the night of Sept. 30 but avoided the worst of Ian's impact as the hurricane moved east, Cantrell said it was still a concern at the time notice was given, and that there were not additional shelter options made available.

"We've watched hurricanes in the past, and it's a similar experience: there not being an expansion of shelter ahead of these weather-related emergencies that we're going to be seeing more and more with climate change," Cantrell said. "We absolutely need to desperately have that conversation."

Emily Ball, Homeless Strategy Division manager with the city, said she met with shelter providers ahead of the weekend. Additional capacity plans were not made based on the forecast at the time.

"I do think we certainly need to have some community conversation about expanding Code Purple to include additional weather events, so we'll be working with (the Homeless Initiative Advisory Committee) on that," Ball said.

Mike DeSerio, outreach program manager for Homeward Bound, said when it comes to camp removal, there isn't much new to say.

"It's relocating people, it's dispersing people, but it's not necessarily solving anything," DeSerio said. "People are just bound to camp somewhere else, so there's not an active solution yet."

The city of Asheville contracts with Homeward Bound for street outreach services. DeSerio said his team does not issue notices, but doing outreach to connect unsheltered people with resources and get them onto waiting lists for housing and shelter.

In response to questions ongoing encampment removal, city spokesperson Kim Miller said the city's first step is to ask city-funded outreach staff at Homeward Bound to "respond to offer services and problem-solve."

"If health and safety concerns continue after that, Transportation, Public Works, and APD work together on further steps to resolve the issues, including but not limited to relocating people who may be trespassing or breaking other City ordinances and facilitating the clean up of campsites," Miller said in a written statement Oct. 3. "The City is actively recruiting police officers to fill key vacancies to assist with enforcement and increase safety downtown and throughout the City."

In other news: 10 miles of Asheville greenway completed with new RAD section open near New Belgium

Noise ordinance 1 year later: After fervor of the 2021 vote, where is Asheville now?

## **Code Purple finds its footing**

While "inhumane" camp clearings continue to be a point of tension in the community, Kevin Mahoney, co-chair of the Asheville-Buncombe Homeless Coalition, said he still has "hope and promise in my heart."

In large part, because of this year's Code Purple plans, which will not only begin more than a month earlier than last year, but represents a 42% increase in available beds.

The Homeless Coalition calls Code Purple when temperatures are expected to drop below 32 degrees. When called, area shelters and other organizations open emergency shelter overflow to the hundreds of people experiencing homelessness in Asheville.

Last year, Code Purple officially began Dec. 1. This year, Code Purple will begin Oct. 15 and run through April 30.

Salvation Army and ABCCM, two historic Code Purple providers, will offer expanded shelter – a combined 111 beds versus last year's 78, according to Ball.

A few community faith organizations, such as Trinity United Methodist Church in West Asheville, which opened as a winter shelter last year, may also be offering beds or services, though Mahoney said the extent of their involvement is still being fleshed out.

Cantrell said she was very happy to see a more intentional Code Purple process, one that will move forward quickly. She noted, however that there are still not enough beds for everyone who is unsheltered.

On top of about 100 beds of Code Purple between both Transformation Village and Veterans Restoration Headquarters, ABCCM is offering an additional 30 beds of winter shelter to begin in November. These overflow beds will be available nightly, regardless of whether Code Purple is called.

Related: Asheville's winter homeless shelter demand 'will be overwhelming,' preparations underway

More: Number of homeless people in Asheville up 21% since 2021, unsheltered number doubles

Tim McElyea, Homeless Services director with ABCCM, said there's a "big, big need in the community," and "we're trying to step up in a big way and meet that need."

ABCCM will also provide shuttle pickups to Code Purple sites and Asheville Rides Transit will provide free transportation to sites when Code Purple has been called.

Mahoney noted a number of other improvements, such as a dedicated website, and Code Purple announcements to be posted on billboards and sent out through a text blast.

"It's kind of up to us. We can blame the county, we can point fingers at the city, but it's up to us as a community to help take care of ourselves. I feel strongly about that," Mahoney said. "It's super necessary. You just have to do it."

The Code Purple plan for 2022-23 was developed by a dedicated workgroup, made up of shelter providers, Mahoney, Cantrell, Ball, an Asheville Police Department and Mission Hospital representative and other stakeholders.

"I've heard from several providers that this is the best plan we've had, and the earliest plan

... it is a really clear picture of how effective community collaboration can be," Ball said. "I feel like we've got a lot of work to do in our community, and also I feel like we are building some really good momentum and having the right conversations, at the right time with the right folks. We're starting to head in a really good direction."

*Sarah Honosky is the city government reporter for the Asheville Citizen Times, part of the USA TODAY Network. News Tips? Email [shonosky@citizentimes.com](mailto:shonosky@citizentimes.com) or message on Twitter at @slhonosky.*





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## Behind the raid

by David Forbes      February 7, 2022

*Last April's police raid on the Aston Park camp set the model for future crackdowns. Documents reveal city officials rejoicing over arrests and seeking to please gentry groups*

*Above: Asheville police gather for the April raid on the Aston Park camp. Photo by Veronica Coit.*

The Blade is currently raising funds to support our journalists arrested for covering the [Dec. 25 police crackdown](#). Make a one-time donation [here](#). Or subscribe [here](#). Any amount helps.

On April 16, 2021 nearly the entire on-duty police marched down South French Broad Avenue to Aston Park. There

they [attacked a houseless camp](#) and locals who'd shown up to support it, dragging four people away in handcuffs. Cops would arrest three (including one on a blatantly false assault charge) and take another to the hospital.

To any human being with anything resembling a soul this would be ugly, tragic, even enraging. But not for city manager Debra Campbell.

"Perfect! Yippee!" Campbell, who'd ordered the crackdown, exclaimed in a text message to police chief David Zack that evening, after he informed her that "all tents are gone. 3 arrests."

Meanwhile Mayor Esther Manheimer was passing on the personal thanks of the head of a gentrifying "neighborhood association" to Zack, Campbell and then-assistant city manager Cathy Ball.

The raid last spring turned out to be a harbinger of things to come: huge police presence, trumped-up charges to punish protest and the use of "outside agitators"-style propaganda to try to discredit solidarity between housed and unhoused locals. We've seen such tactics escalate since.

4/16/2021 20:22	That's too funny! Dawa will be
4/16/2021 20:35	All tents are gone. 3 arrests. Re
4/16/2021 20:36	Perfect! Yippee!

*Part of an April 16 text exchange between City manager Debra Campbell and APD chief David Zack. Campbell exclaims "Perfect! Yippee!" in response to arrests during the Aston Park eviction*

In the aftermath of the April attacks, the *Blade* and the open records group [Sunshine Request](#) sought to obtain records of what was going on behind the scenes, among those who ordered the police assault on the camp. It took over nine months, which is apparently city hall's idea of turning documents over, in the words of state records law "as promptly as possible."

The documents were released in two waves on [Jan. 27](#) and [Feb. 4](#). They remain incomplete, with several parts redacted without explanation and other key information

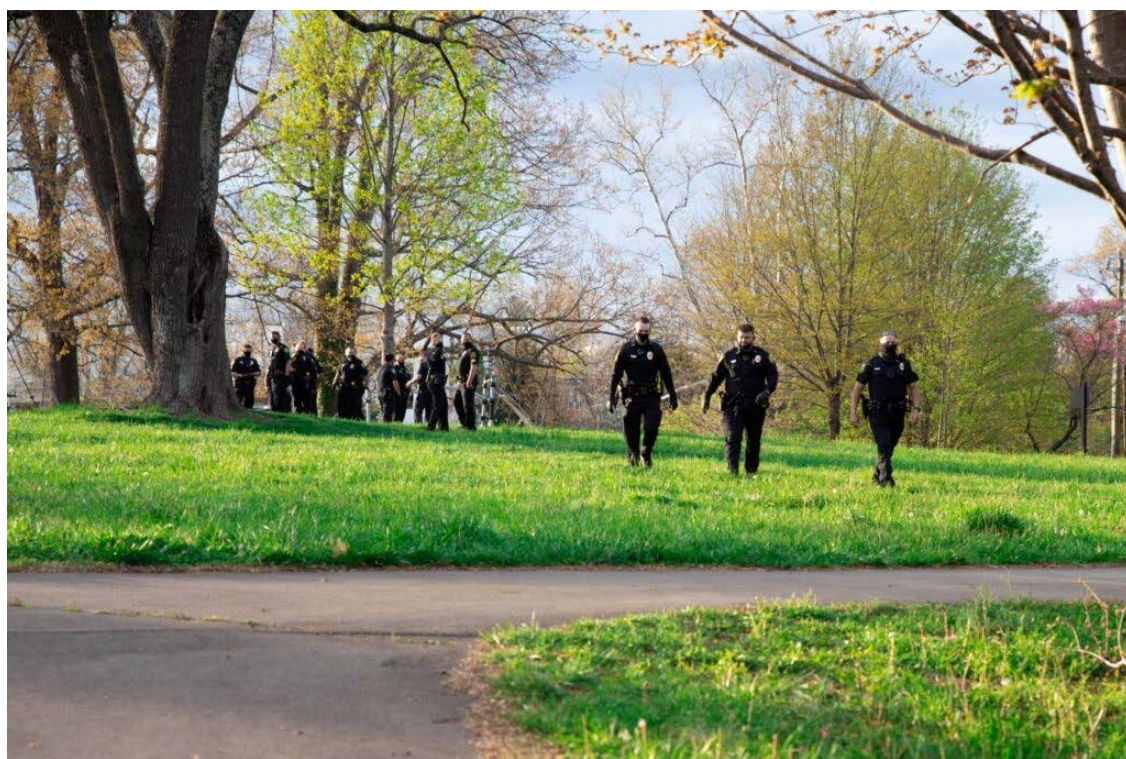


missing.

But from what is revealed it's easy to see why they drug their feet. The records — emails, text messages and call logs — show city officials excited about arrests and eager to please conservative gentry transplants even while a wave of locals called on them to stop the sweeps.

Recently there's been a common observation from members of the public that Asheville city government is waging a war on the houseless. This is accurate. In war it's easy to focus on the crimes of the foot soldiers and lose sight of who's ordering them. The officials and property owners in the accounts that follow are as responsible for violence against the unhoused as the cop swinging a club.

Coordinating the crackdown



*Police gathering in Aston Park before the April 16 raid. Around 40 would deploy to evict on houseless camp. Special to the Blade*

By the afternoon of April 16 it was already crystal clear that the Aston Park raid wasn't some cops deciding to just attack the camp. Instead the orders came from the very top. Police on the scene said that Campbell had personally directed their actions. This was later backed up by Council member Kim Roney, who said that the matter had been approvingly discussed between the city manager, mayor and two council members at one of their secretive weekly "check-in" sessions.

The newly available records reveal far more. On April 9 APD Capt. Mike Lamb contacted Campbell and top city officials, writing that “per our earlier conversations” seven-day eviction notices had already been given to the campers. Campbell noted that then-Assistant city manager Cathy Ball would return to the office in a few days “and has scheduled a meeting with city staff and key partners to continue coordinating this work.”

Campbell also was in close communication with Zack days ahead of the raid. On April 13 the police chief texted her about “some chatter of a protest tomorrow night.”

“Please tell the officers to keep safe and keep me posted,” she replied.

Apparently the idea of houseless people sleeping in a park was enough to literally keep Campbell up at night, because just after 10 p.m. on April 15 she texted Zack “Hey chief hate to bother you this late at night but I was wondering if you had heard if there is any activity happening in the park(s)?”

The next morning Zack replied that he’d update her shortly due to “some issues we’d anticipated.”





*APD Capt. Mike Lamb threatening campers at Aston Park with arrest on the morning of April 16. Photo by Veronica Coit*

That afternoon Campbell coordinated a 3 p.m. meeting. Things escalated from there, as then-Parks and Rec director Roderick Simmons went to the camp, repeatedly yelled at campers, and started trying to take tents down personally even as the people there informed him that others were coming back for those tents. He then called the cops and falsely claimed “agitators” were attacking him.

His lies would later be used in city hall p.r. to claim “obstruction.”

“He is at Aston Park now,” Ball texted Campbell that afternoon. “I asked him to contact a biohazard cleaning company to clean up the park.”

Ball, who would later leave city hall for a job in Johnson City after calls for her resignation due to repeated anti-houseless remarks, did not specify why biohazard removal might be needed. In observing the camp at different times of day, three *Blade* journalists witnessed nothing beyond campers’ belongings, food supplies and the amount of trash that naturally comes with people existing.

“Arrests will be needed at Aston Park,” Zack messaged Campbell early that evening. “Captain [Jackie] Stepp is getting no compliance.”

After a brief back and forth about an untrue rumor that an ICE van was on site (“that’s too funny!” Campbell texted the police chief), early that evening Zack told Campbell “All tents are gone. 3 arrests.”

“Perfect! Yippee!” she replied.

The exchange also shows them coordinating on the ensuing propaganda (the Dawa mentioned in the texts above is city pr head Dawa Hitch), which would try to paint the only people left at the camp as “protesters” while the actual houseless people were all supposedly docile and cooperative, happy to take city hall’s supposed offer of a night in a hotel.

The documents show Council member Sage Turner, who would “applaud” future APD camp crackdowns and supports a de facto ban on food and supply distribution, liked the press release when it was shared with a council group chat.

The city’s propaganda was, of course, untrue. On the contrary, *Blade* journalist Veronica Coit witnessed the decision to stay in the camp made primarily by houseless people there, backed up by local supporters who were against them losing the only shelter they had.

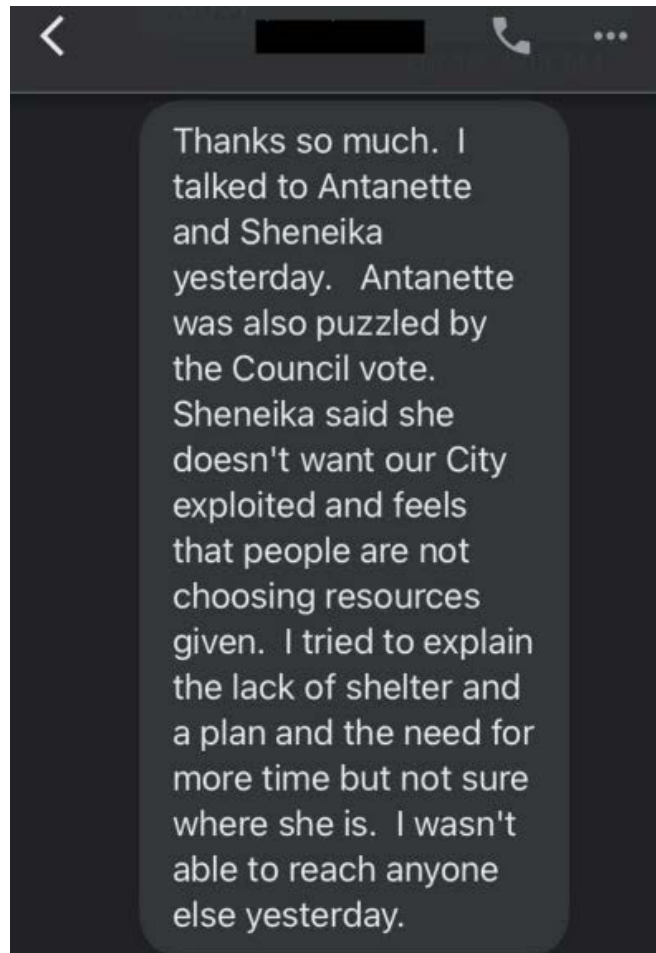
Many campers, fearing police violence, did leave, and not for hotel rooms. Plenty of houseless people who left the camp didn’t want to do so: they were under threat of



arrest. Indeed a houseless person was detained by police that day along with the protesters, but transported to the hospital rather than being booked at the jail. Buncombe detention center is the deadliest jail in the state.

Council's been incredibly secretive about how decisions about camp evictions are made, but the messages reveal a little more about the divides among the city's elected officials.

On April 14 a member of the public whose identity is redacted in the records — seemingly involved in houseless services — texted Council member Kim Roney that they'd heard about the looming raid "in a meeting today when I was pushing to pause the evictions so that we can create a genuine safety plan and housing plans for individuals."



*A person, whose identity was redacted in the city records release, talks to Council member Kim Roney about the internal politics behind the secret decision on evicting the Aston Park camp*

"I was told that City Council made the decision last week to

evict campers," the person wrote. "Can you tell me more about how all that happened?"

The decision, such as it was, happened in a secret "check-in" session of city council. These weekly meetings are supposed to be informal chances for rotating three-person groups of council members to discuss policy priorities. But records show that they've become full-fledged secret meetings, complete with policy decisions and confidential legal advice. While documents presented at the meetings are public, they have no minutes or records of who said what. They violate open meetings and records laws on multiple fronts, and are part of council becoming more right-wing and far less transparent.

On the morning of April 16, the same person messaged Roney again, noting they'd talked to Council member Antanette Mosley and Vice mayor Sheneika Smith. Mosley "was also puzzled by the Council vote" and apparently wasn't at the check-in session. But it's implied Smith was, and "said she doesn't want our city exploited and feels that people are not choosing resources given."

The person messaging Roney said they brought up to Smith that the city's houseless population is disproportionately Black, but that the person was "not sure where [Smith] is" on camp sweeps.

"Our city has been exploited by the tourism industry and will continue to be exploited by people with wealth staking claims for multiple homes, and some are doing it on purpose in advance of climate catastrophe," Roney wrote during the conversation. "We are the health and human services hub for WNC with a good V.A. Where are people expected to go?"

It is the only time in any of the exchanges obtained by the *Blade* and Sunshine Request that any official raises any concerns about the evictions. Roney was, however, pretty mild in her criticism.

"I'm trying to acknowledge that each of us is doing what is right in our own way," she says about her colleagues ordering the eviction and arrest of human beings. "But this journey has been very hard."

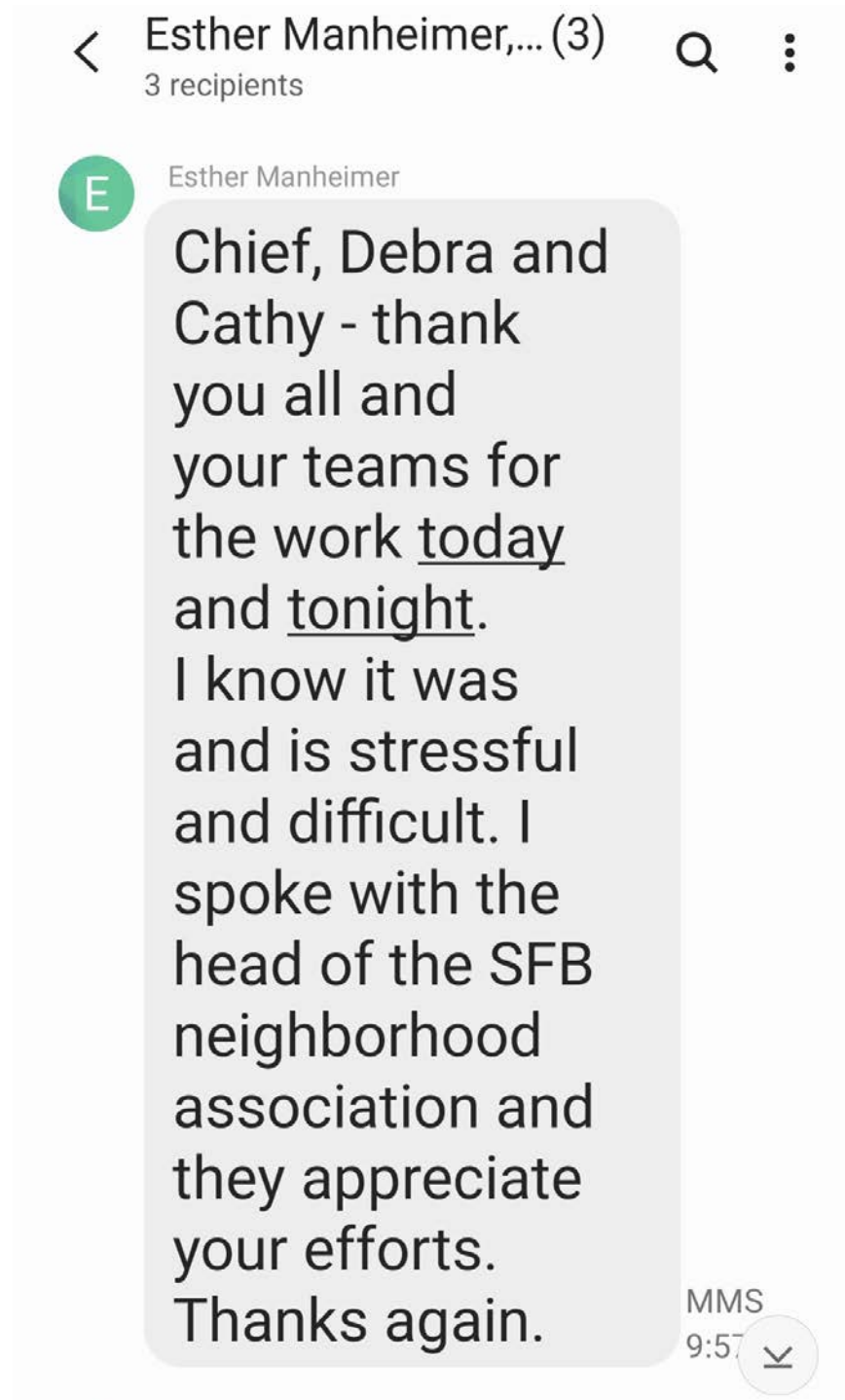
### Pleasing the gentry

The documents also answer a question we've gotten at the



Blade. It's clear that camp crackdowns are not popular in left-leaning Asheville. Indeed, the public backlash to them has only grown, with the broad coalitions against them including not just leftists but longtime houseless services organizations and religious groups.

While city government's always been hostile towards the houseless they've historically tried to be more low-key. Large, brutal public crackdowns are fairly new, part of a [sharply conservative shift](#) in council over the past year.



So, who are they trying to please? The messages reveal a lot about this, showing a small group of gentrifiers communicating extensively with police, city administrators and the mayor in pressing for crackdowns. It also shows officials eager to please.

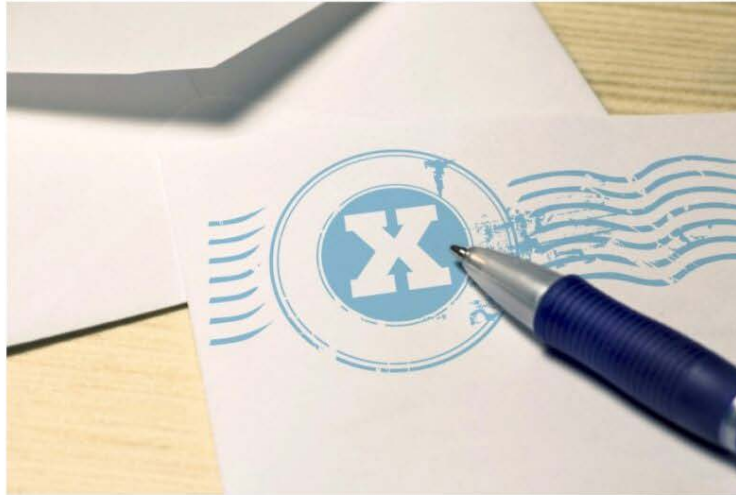
"Chief, Debra and Cathy – thank you all and your teams for the work today and tonight, I know it was stressful and difficult," Manheimer wrote the city's top officials in the hours after the raid. "I spoke with the head of the SFB neighborhood associations and they appreciate your efforts."

SFB is South French Broad. Despite the name, the "neighborhood association" there is made up primarily of well-off white transplants in a working-class Black neighborhood.

The head of this group is Helen Hyatt. Just over a month after the raid, she penned a screed to the *Mountain Xpress*, attacking the *Blade* specifically and praising the evictions.

# Letter: City needs to keep camping out of parks

Posted on [May 24, 2021](#)  
by [Letters](#)



*Graphic by Lori Deaton*

Camping in city parks is just not sustainable.

The city of Asheville needs to adopt a zero-tolerance policy on camping in city parks. It is not sustainable, is unsanitary and just plain does not work.

*The Blade* recently shared a hyped-up tale



*The Blade* recently shared a hyped-up tale about brutal tourist camper evictions from city parks. Exactly how many ways can this rhetoric be wrong? The people affected by the Aston Park camp were public housing residents and local “gentry,” which consist of legacy residents who have lived in Southside since redlining, young couples putting in hours of sweat equity to fix dilapidated homes and people fortunate enough to be able to hang up their boots after 50 years working difficult jobs with long hours. Residents trying to survive and cope with COVID limitations, dwindling savings, rising taxes and unsafe conditions on the street. This has absolutely nothing to do with tourists.

The Asheville Police Department is unfortunately tasked with the unsavory job of distributing eviction notices; it is the job. The pretend medical table set up in



*A pro-camp eviction screed penned by “neighborhood association” head Helen Hyatt, who city officials sought to please with the April raid*

According to multiple sources Hyatt, who bought a house in the neighborhood less than a decade ago, has been particularly vocal in pushing for police crackdowns on sex workers in the area. This is backed up by a 2020 *Asheville Citizen-Times* piece noting her work with a particularly right-wing APD liaison officer “on curbing drug dealing, open prostitution and other issues.”

On the day of the raid Hyatt took screenshots of tweets by *Blade* reporters Veronica Coit and myself supporting those pressing city officials for an end to the sweeps. She sent them in a personal email to the mayor.



"They are setting up Asheville to fail, especially APD," Hyatt wrote to Manheimer.

The *Blade* co-op is, to a person, strongly anti-eviction. I'm sure this will come as a shock to our readers.

In her May column Hyatt, a white gentrifier, claimed to be speaking for a mostly Black community. By contrast *Blade* reporters observed some Southside residents — including some in Aston Park Towers supportive of the later December camp on multiple occasions.

The April emails show that instead of a wave of broad neighborhood support for Hyatt's position, the only South French Broad residents writing in to back the evictions were two other well-off white transplants.



*Asheville Mayor Esther Manheimer, who sought to please local gentry with the Aston Park raid. File photo by Max Cooper*

"Thank you for sticking to your conviction regarding the dismantling of the Aston Park encampment," Reuben DeJernette wrote to council. "I was able to walk through the park unencumbered by the foul language from our visitors this morning. It was refreshing."

He recommended the city prepare for more camp evictions in the future due to the looming expiration of the eviction moratorium kicking people out on the street.

DeJernette, who bought a house in the area for \$355,000 four years ago, was quoted in a 2020 *Christian Science Monitor* article with some quasi-racist comments about the reparations issue.

"There is no escaping that we have been doing the Black community wrong, but every time I go over it in my head I don't know what can be done to fix it." He proceeded to spend significant time in the coming year pressing city officials for more police crackdowns.

McKenzie Brazil, a doctor employed by Hendersonville's Pardee health system, wrote to city hall claiming that "allowing [campers] to continue to stay only encourages the spread of infectious disease," a position contradicted by the entire field of epidemiology and public health.

Brazil purchased a house on South French Broad for \$380,000 in 2019. The property records show a tale of gentrification in miniature, with property doubling in value from a \$150,000 sale in 2013 as repeated waves of transplants flipped it. Brazil is the latest. In her email to council she wrote without a trace of irony that she was one of the "actual residents of these communities."

Ominously, something else comes up in the documents too. A few days after the raid Hyatt personally notifies Lamb about the *Blade's* reporting on the camp evictions, pasting in the entire article.

----- Forwarded message -----  
 From: **Mike Lamb** <[mlamb@ashevilleenc.gov](mailto:mlamb@ashevilleenc.gov)>  
 Date: Tue, Apr 20, 2021 at 10:08 AM  
 Subject: Fwd: I am sure you are well aware of this person, and their completely made up rhetoric .We are trying to fight back, as neighbors and homeowners.  
 To: Police Executive Staff <[policeexecutivestaff@ashevilleenc.gov](mailto:policeexecutivestaff@ashevilleenc.gov)>

This was shared by a concerned SFB resident.

----- Forwarded message -----  
 From: <[helenhyatt@charter.net](mailto:helenhyatt@charter.net)>  
 Date: Tue, Apr 20, 2021 at 9:58 AM  
 Subject: I am sure you are well aware of this person, and their completely made up rhetoric .We are trying to fight back, as neighbors and homeowners.  
 To: Captain J.E.Silberman <[jsilberman@ashevilleenc.gov](mailto:jsilberman@ashevilleenc.gov)>, Mike Lamb <[mlamb@ashevilleenc.gov](mailto:mlamb@ashevilleenc.gov)>



Helen Hyatt, the head of a gentrifying "neighborhood association," targets the *Blade's* coverage in an email to APD Capt. Mike Lamb, who passed it on to top police commanders

"I'm sure you're well aware of this person," Hyatt writes in

the subject line. "We are trying to fight back, as neighbors and homeowners."

Lamb passes along to the APD's top commanders, with the note that "this was shared by a concerned SFB resident."

Zack then forwards Hyatt's email about the *Blade* article directly to Campbell.

The next time *Blade* reporters would cover a police raid on a houseless camp, APD officers would target and arrest them first.

'Telling them to disappear'



*Asheville police threaten campers with arrest during their Dec. 25 raid.  
Photo by Veronica Coit*

The documents paint a bleakly telling picture. Campbell's astoundingly callous reaction to the arrests puts the lie to the constant claims that her administration gives a damn about equity. These are the actual views of the most powerful official in city hall when she's out of the public eye, and they show a giddiness over punishing the poor.

Hyatt's belief that the gentry being well-off and oh-so-virtuous ("sweat equity") gives them the right to call in an armed paramilitary any time they see someone they don't

like is equally revealing. So are the classism and entitlement openly expressed by the other transplants pushing for evictions. These are the beliefs of those city hall is bending over backwards to please.

After the April Aston Park raid city government backed off — a bit — offering spaces at the former Ramada Inn to houseless people in other camps instead of just evicting them outright. They didn't do this because they wanted to, but because public outrage was growing while police numbers were dwindling. Repeatedly deploying the entire on-duty APD to face direct action was not something they could sustain for long.

But last Fall and Winter officials promptly reversed course, suddenly scrapping plans to turn the Ramada into a low-barrier shelter after pressure from far-right business owners. Police retaliation also increased. During the infamous Christmas night raid police targeted journalists first before dragging people out of tents. They followed up with a wave of arrests in the weeks after, hauling people away from work in handcuffs and from their homes at night. The APD hit them with clearly false "felony littering" charges for having art supplies in a park.

Notably, while hanging on the every word of rich transplants, Asheville police would portray working class locals targeted with anti-protesting charges as suspicious outsiders. Their most recent pr barrage listed those arrested's homes as the last place they lived before Asheville, even if they've lived here for years.





*Anti-eviction art in Aston Park, December 2021. Photo by Veronica Coit*

But during the Aston Park raid something else happened. Members of the public across the city were sending in a barrage of messages against the evictions. On this front too the documents are revealing.

They're a reminder that while an increasingly brutal approach to the houseless might be city hall dogma, it's a policy hated by many locals on the ground.

The earliest rebuke was on April 13, when a resident emailed council that "it is absolutely unacceptable to dismantle the homeless encampments" before the city had a clear plan to provide shelter for everyone there.

Similar messages only increased in the days after. Of the 12 people who emailed city officials about the evictions, nine — everyone except the gentry transplants mentioned above — were strongly against them.

"I'm writing to urge you and the rest of city government to please comply with CDC guidelines and pause all evictions in Asheville, including people living in homeless encampments," Zeb Camp wrote to Campbell on April 16.

"I believed your statements after the Lexington Bridge travesty," Sandra Houts said in an email to the city

manager. “No longer do, nor do I expect to believe much of anything coming out of the manager’s office or council chambers in the near future.”

“I am ashamed of how our city is treating our homeless community here,” Angelica Danielsen said. “Provide housing and stop these evictions. It is inhumane to deny shelter. Especially with our shelters full during a dangerous pandemic.”

Perhaps most telling is a message from the Hawthorn Community Herb Collective to the city manager.

“You tell them to leave Aston Park — but where do you want them to go? You’re basically telling them to disappear.”

—

*Blade editor David Forbes has been a journalist in Asheville for over 15 years. She writes about history, life and, of course, fighting city hall. They live in downtown, where they drink too much tea and scheme for anarchy.*

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## War on the poor

by David Forbes      February 20, 2022

*Asheville city government declares war on the houseless and attacks protests, the press, mutual aid groups and anyone who dares to speak up*

*Above: Asheville police move to block off a table with food and supplies during the Dec. 25 raid. Photo by Veronica Coit*

*Blade reporter Matilda Bliss contributed to this piece*

*The Blade is currently raising funds to support our journalists arrested for covering the [Dec. 25 police crackdown](#). Make a one-time donation [here](#). Or subscribe [here](#). Any amount helps.*

Last April 16 Southside residents witnessed an ominous sight: a wave of cops marching down South French Broad Avenue. There were a lot of them: nearly the entire on-duty police force. They moved to Aston Park, where local houseless people and their supporters had held a camp against threats from the APD.

The police then [attacked](#), hauling away four people in handcuffs. Absurdly, they charged one person with assaulting an officer simply for being there.

“Perfect! Yippee!” city manager Debra Campbell exclaimed over text message when police chief David Zack informed her of the arrests. Meanwhile Mayor Esther Manheimer passed on the thanks of the head of a conservative, openly anti-houseless “neighborhood association” to top city officials.

While the neighborhood is mostly Black and working class, [documents](#) later obtained by the *Blade* and [Sunshine Request](#) reveal that city hall was trying to please a handful of well-off white transplants who openly hated the unhoused.

The Aston Park crackdown would prove a sign of things to come: massive police presence, false charges used to punish protest and the deployment of “outside agitators” propaganda to discredit solidarity between housed and unhoused locals. All of it done at the behest of gentrifiers whose discomfort is considered reason enough for an eviction.

It got worse. This winter city government drug its feet on cold weather declarations, known as Code Purple, that would require opening additional shelter space. They refused to fund enough beds for Code Purple to be effective, even though they had tens of millions in reserve. The only available winter shelters were run by conservative religious groups, including the openly anti-trans Salvation Army.





Graphic by Orion Solstice

By November, in council's secretive "check-in" sessions, members were directing staff to draw up "plans on how we can enforce against downtown violations/homelessness situations." Just over a month later, in an effort to please far-right business groups, they suddenly scrapped plans for a low-barrier shelter at the former Ramada Inn in East Asheville. That means 75 families will be kicked out of the site this spring.

On Christmas night Asheville police launched a [brutal raid](#) on another Aston Park camp, following days of threats to those gathering there to protest the recent wave of camp sweeps. They arrested six, targeting two *Blade* journalists first before dragging people out of tents.

Last year saw a major escalation in city hall's war against the houseless. During 2021 they [inflicted](#) at least 26 camp evictions. While harassing houseless people has always been one of the main activities of Asheville police, this was a far more widespread viciousness.

Nor was it just cops acting on their own. The direction for these crackdowns came from the highest levels of city government. In everything that follows it is worth remembering that the officials ordering police violence bear as much responsibility for the ensuing abuse as the cops themselves.

At the same time movements against the sweeps have grown, with increasing solidarity between housed and unhoused locals. Along with an [action](#) against the refusal

to provide Code Purple resources, Aston Park had again been the site of a growing protest — dubbed the [Aston Park Build](#) — in the days leading up to the Christmas raid. Locals shared food, made art and linked the dangers facing the unhoused with the rapid gentrification of the town.

The Christmas arrests drew public backlash. Those of the *Blade* journalists even drew condemnation from an international organization. Longtime houseless service organizations condemned the attacks on the camps.

Faced with all this Asheville city government looked deep inside themselves and decided they had to get way, way more evil.

The first weeks of 2022 would see open classism, an ugly police pr effort to paint houseless people as dangerous predators, a wave of retaliatory anti-protest arrests on blatantly false charges, intimidation efforts against dissident city board members, a declaration that city hall decides who's actually a journalist and — last but not least — a draft ordinance that would ban the very act of giving food and supplies to those in need.

It's likely that's not a complete list. The repressive actions from city hall have been so frequent that I've had to significantly revise this piece multiple times over the past weeks.

City council's own policies — tourism and gentrification at all costs — have played a major role in why Asheville's become, by many measures, the least affordable city in the country. Officials are now willing to go to nearly any lengths to disappear the inevitable results.

This is the story of city hall declaring open war on the poor.

### Orders from the top

Treating unhoused locals like shit has long been a major point of city government. Along with enforcing de facto segregation it's one of the main reasons for the APD's existence. Indeed, given that Asheville's houseless population is disproportionately Black, those are heavily interconnected. It's a common sight to see multiple cops clustered around a single houseless person.

The cruelty has escalated recently. In [2016](#) and [2018](#), when the Housing Not Handcuffs effort drew attention to the

staggering number of times cops use minor trespassing charges to arrest houseless people, the APD falsely claimed that was rarely the sole charge they pressed. Now they don't even bother, and will openly brag about just hauling people off to jail for trying to find shelter.

Council members are also no strangers to classism. These are, after all, well-off or wealthy landowners. Manheimer was calling Occupy Asheville protesters "beggars" over a decade ago.

But on Jan. 11 they got far worse. In 16 years of covering Asheville city hall it was the most open display of hatred for those struggling to survive that I've ever seen.

While police and public works staff are often the ones carrying out the evictions, they act on the wishes of the city manager, mayor and most of council. City manager Debra Campbell, for example, personally ordered and reveled in the April evictions, with the approval of the mayor and a clique of some conservative council members.

This has been part of a [sharply right-wing turn](#) in the current council. Even the CDC, hardly a bastion of radical care, warns against governments evicting campers. But city hall didn't just continue sweeps, they ramped them up considerably from pre-pandemic levels.

The Christmas raid was not popular, attracting outrage both locally and elsewhere. The Committee to Protect Journalists, the international organization that defends press freedom, [condemned](#) the arrest of our reporters. In the weeks after, new images from *Blade* journalist Veronica Coit emerged showing the scale of the police crackdown. The *Asheville Free Press* [revealed](#) police had lied about their own policies, which still required them to give campers seven days notice. Even establishment media [acknowledged](#) that the city's own Human Relations Commission (HRCA) had proposed ending sweeps and providing services all the way back in May. Council had ignored them.



*Asheville police move against the Aston Park camp on Dec. 25. Photo by Veronica Coit*

The public was, bluntly, pissed.

One notable example of this anger came when council member Kim Roney proposed temporarily halting the sweeps and drew a backlash on social media. Yet this wasn't anti-houseless hatred of the occasional right-winger, but locals fed-up with what they saw as a politician dithering while people were in danger.

"We all know you're only taking a (weak) stand after feeling the pressure," one wrote.

"'Who can make changes?' the people on the ground already are," another said in response to Roney passing the buck by claiming she needed more support on council to do anything. "Stand beside them when the cops come."

"We're allowed to expect more from someone who claims to be an abolitionist, someone who ran on a platform claiming this and that but not showing out in the streets with us."

Tents and mansions

"Camps are, we feel, the data will show, unsafe and not a



solution to homelessness," Campbell began her presentation at the Jan. 11 council meeting, though at no point would she clarify how repeatedly kicking people out in the cold made anything safer.

Campbell makes about \$250,000 a year and has spent much of the pandemic working from the spacious 3-bedroom house she owns in one of the wealthier parts of South Asheville. That night she at least managed to restrain herself from shouting "yippee!" like she exclaimed about the April evictions.

Staffer Emily Ball then said that city government's goals were to house the houseless (mostly with projects that are, at best, years off). Some of the efforts she touted were those at the soon to be closed Ramada site.

She claimed that officials knew that "homeless people are not the problem, homelessness is the problem."

This was immediately thrown out the window by everything else in the presentation, as police Capt. Mike Lamb smeared houseless people as dangerous, drug-addicted predators who were a threat to everyone around them.

"We are working to proactively address illegal behaviors, especially to ensure a good quality of life for all our neighbors," Lamb said, cop-speak for demolishing camps and dragging people out of tents to make tourists feel more comfortable.

In the middle of this ream of excuses for camp sweeps Lamb broached a ban on food distribution as a "necessary change to current ordinances." He claimed tents were blocking sidewalks and access to businesses but gave no examples (camps are overwhelmingly set back from thoroughfares).

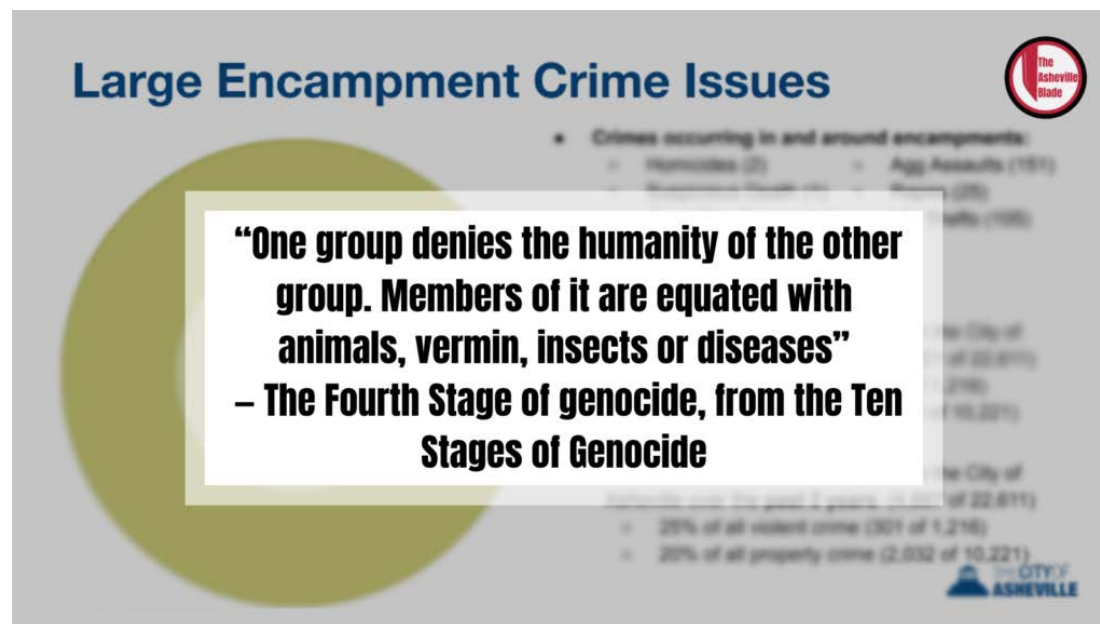
Lamb blamed APD breaking the seven days notice policy on on "activists, anarchists who refuse to leave" claiming that houseless people were all "cooperative" and "most of the time we don't issue citations."

This is contradicted by *Blade* reporters, who've witnessed both unhoused and housed locals at camps making decisions together on multiple occasions. Years of research on local criminal records has repeatedly shown Asheville police spend a shocking amount of their time arresting

houseless people on frivolous charges.

Indeed, from Dec. 26 to Feb. 20 the APD carried out 29 arrests for second degree trespassing, the vast majority on houseless people. In one case they arrested one houseless person four times for trespassing just during that period.

Lamb touted a scare graphic asserting that crime increased dramatically 500-1,000 ft. near houseless camps, that in the past two years 25 percent of violent crime and 22 percent of overall crime in the entire city happened nearby.



Graphic by Orion Solstice

This is [contradicted](#) by sociological studies showing little to no correlation between camps and crime rates.

At some points the APD’s propaganda started falling apart on the spot. Council member Gwen Wisler, a millionaire ex-CEO who moved here after retirement, asked Lamb ominously if “people come from outside our region to Asheville because we offer services, because we are a bit more friendly.”

“Based on my trained experience, yes, definitely,” Lamb agreed. “Especially over this past year we’ve seen people who’ve come in from other towns, other states to seek services in Asheville.”

Ball immediately contradicted him.

“Based on the data we have, the majority of people who are homeless in our community are from this area, primarily

Buncombe County and Western North Carolina," she said. "These are folks who had housing here, lost their housing and became homeless in our community, based on the data that we have."

"Every community says other communities are bussing homeless folks in to get services," she continued. "It's a bit of a common myth across the country."

There was more, and the police department's claims would crumble further in the ensuing days. One of the main "crimes" mentioned on the slide, overdoses, isn't a crime. It also lumps violence done to houseless people in camps in with incidents they're accused of.

Its radius of 1,000 feet within a houseless camp includes some of Asheville's busiest areas. Drawing a 1,000 feet radius from the Lexington Avenue camp, for example, would take in a decent swath of downtown. This applies even more if the 1,000 feet starts not at the boundary of a houseless camp, but of a large park or plot they're camped on. That means that incidents like drunk tourists getting in fistfights were used by the APD to blame houseless people camping in the area.

The only council member to dissent from this was Roney. Perhaps feeling more pressure from the public she was notably more strident than previous meetings, though she stopped short of condemning the recent arrests.

"When I look at how our ordinances are being carried out we land in this place where we're not compliant with the CDC's guidelines," Roney said. "That's not to move people from camping, it disconnects them from services. Instead we could provide sanitation services, water, 24-hour bathrooms. Are we causing a public health problem while we get from where we are to where we need to be?"

"We market Asheville as a place to come that's welcoming and inclusive," Roney continued. "If you have \$700,000 to buy a house, you're a neighbor, if you have \$700 to rent a hotel room you're a visitor. But if you can't afford those things, if you have \$7 and a tent, then you're not welcome and you need to go away."

But the rest of council ran with it. Their remarks at the meeting were indistinguishable from those of far-right figures like Tucker Carlson.

"My husband and I visited Wilmington," Wisler, attending the remote meeting from her spacious 3-bedroom on the wealthy side of North Asheville, said. "I didn't see any people that I would have identified as homeless in the downtown area. That's an urban place that has nice weather but they seem to be managing their problem and I'm just curious what they're doing."

Council member Sandra Kilgore, a well-off realtor, went even farther than the police's propaganda, asserting out of nowhere that houseless camps represented a danger to children and schools, especially due to "tons of needles."

"How many of these homeless people are substance abusers or [have] mental illness issues?"

Campbell blamed the camps for rapes, before declaring "we just shouldn't have camps."

Her basic assumptions are of course contradicted by [years of research](#) — including from survivor advocates — showing that destroying camps puts houseless people in more danger by breaking up their communities and making them harder to contact.



Graphic by Orion Solstice. File photo by Max Cooper

"I want to applaud city staff and APD for what they have been doing," Council member Sage Turner said, also blaming houseless people for domestic abuse and repeating the myth that they were drawn to Asheville for services. "I think we have to have a hard conversation



about what our capacity for services for people in our community is."

Turner owns a giant 5-bedroom in a rapidly gentrifying part of West Asheville. She purchased it with money she made from, among other things, [exploiting workers](#) from her high-level management job. Her life has no choices that are, in any meaningful way, hard.

"It is unsurprising that the neighborhoods with the most resources are the safest," Roney said. "The absence of a community shelter is a decision we made. We spent \$3.5 million and yet lack a community asset to show for it. We're now going to chase these folks around town."

"This isn't going to go away by displacing people."

'You can't just wait until everybody dies'

The latest propaganda wasn't accepted so readily by the public. About half the speakers during the Jan. 11 open public comment period blasted council.

"It is unethical and un-progressive to let people freeze to death on the streets," Kay Hudson said. "Where are people supposed to go if they can't stay where they are and shelter in place and if shelters are not adequate solutions to their problems."

"Camps are not a public health risk, the criminalization of poor people's existence is," Greenleaf Clarke said. "The most powerful solution to homelessness is simple: stop unhousing people. This includes stopping all camp sweeps."

"The community is trying to do the humanitarian work that the city not only fails to do but in fact criminalizes," ey said. "I guarantee you the people of Asheville could house everyone next week if the APD just got out of the way."

"As journalists in Asheville who are not deferential to city hall, we are all too familiar with the petty cruelty that defines your organization," *Blade* reporter Matilda Bliss, reading a [statement](#) from our co-op, said. "Let us remind you that whether council, or the city manager, or anyone else in city government likes our coverage is irrelevant. In fact, if you don't it's a good sign we're doing our jobs."

"We are sick of hearing city officials whine about the law as a cover for their cruelty."



Some of the art at the Aston Park Build. Photo by Veronica Coit

Casey Campfield said that if city hall was so concerned with rape and abuse "I would like to know why Deputy chief James Baumstark is still on active duty with the APD after a [federal lawsuit](#) naming him as covering up a sex trafficking ring."

"We should establish sanctuary camping in one of our many parks, including sanitation services, in keeping with the CDC guidance and the HRCA recommendation, which you've chosen to ignore," Grace Martinez said. "Why are we doing this when it's clear it isn't working. Where do you want them to go?"

"Daily we get calls that more and more people in our community are falling into homelessness," Amy Cantrell, of BeLoved Asheville said. "People are camping because they don't have enough shelter."

"There's nowhere for people to go. People are asked to leave one camp site only to be swept from the next."

Hauled away in handcuffs

Notably no council member — including Roney — at the Jan. 11 meeting condemned the recent arrests. Apparently APD took that as *carte blanche*, because in the following

days they began a wave of retaliatory raids, arresting seven people.

Most were charged with “felony littering” for having art supplies in a public park. This was so plainly absurd that when Capt. Lamb first threatened people with those charges on Dec. 22, *Blade* reporter Matilda Bliss [reported](#) on it as a lie intended to scare protesters into leaving.



*Asheville police Capt. Mike Lamb threatens people with false “felony littering” charges for having art supplies in a public park on Dec. 22. Photo by Matilda Bliss*

According to a [statement](#) from those arrested some of them were targeted at home or dragged away from their workplaces in handcuffs. This is backed up by public records.

Felony littering charges, which the APD hasn’t used in about a decade, require someone to have dumped over 500 lbs. of trash. In their press releases about the arrests police would claim, rather ludicrously, that the protests had left “between 1,000 and 2,200 pounds of litter.”

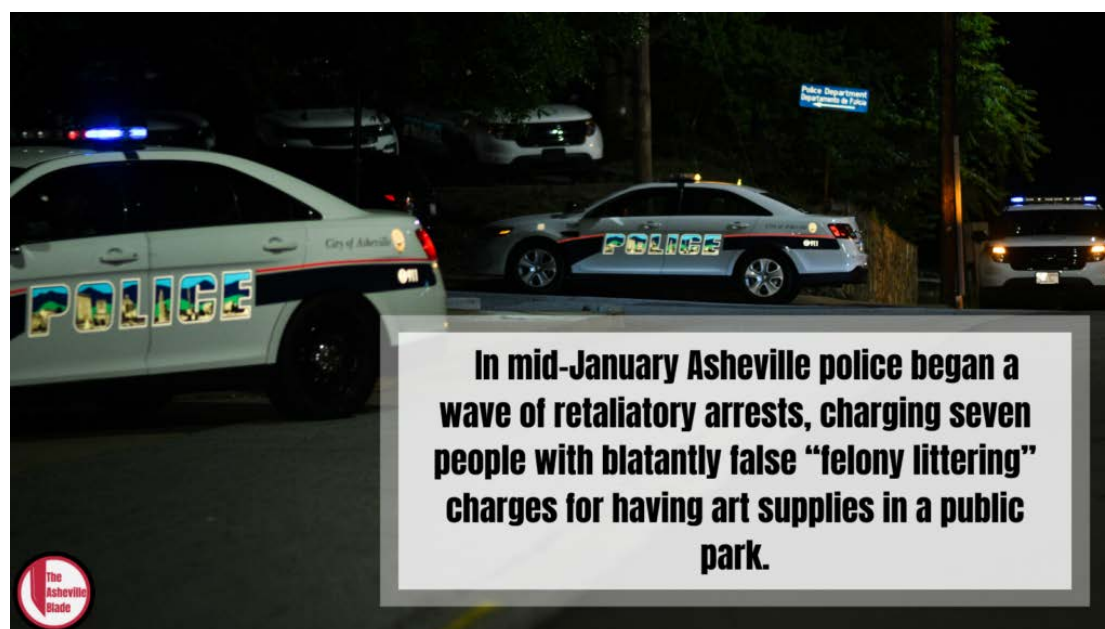
“There was a lot of trash, give or take 1,200 pounds” is



already laughable on its face. The only photos the department could muster showed some pallets, a few pieces of art and some tires they claimed protesters had left there. Much of this art also served the practical purpose of protecting campers from winter winds.

It wasn't the first time Asheville police used such tactics. They're a go-to whenever the APD is publicly embarrassed. In 2016, after protesters occupied the lobby of the police station, the department [launched](#) a wave of after-the-fact arrests on similarly vague charges. In June 2020 the mayor declared a curfew on protests after her law office windows were smashed, leading to a wave of arrests of anyone they APD decided might be part of anti-racist demonstrations.

The ACLU even [warned](#) city hall that their actions were "in blatant violation of state and federal constitutional protections."



Graphic by Orion Solstice

"City officials have time and again chosen to sacrifice the survival of homeless and poor folks of this city in the name of profit and tourism," a Feb. 5 [statement](#) from those arrested in the January raids declared. "Now they've chosen to target mutual aid work in Asheville because this work shines a light on the pervasive, immeasurable failures of the government to care for its community."

"These charges are just one of multiple attempts by city government to repress our movement," it continued. "We see these actions as an attempt to incapacitate and exhaust



those who believe adamantly that ALL members of our community should be housed, nourished, cared for, and have agency over their own lives.”

Notably in their p.r. the police also associated those arrested with the last place they’d lived before Asheville, even when public records showed that they’d lived here for years.

These are “outside agitators” tactics, which have a long racist and classist history. Their goal is to dismiss solidarity by painting anyone organizing or acting against the government’s wishes as a foreign interloper.

The lie they peddle is that everything would be fine here if everyone would just stay quiet and do as they’re told.

‘Rogue members’

As the APD retaliated against protesters, in the weeks following council’s Jan. 11 meeting city officials turned their attention to silencing dissenting board members.

As mentioned earlier the city’s HRCA committee had sent a proposal to council to halt the evictions and provide safe camping. In the aftermath of the December camp sweeps board members Tanya Rodriguez, Susy Chandler and Mel Noyes spoke to the *Asheville Citizen-Times* criticizing the city’s actions and asking why council had ignored the proposal for months.

On Jan. 20 the committee met again. But instead of tackling pressing human rights issues much of its time was focused on trying to intimidate the committee members who’d spoken up.

After a conservative board member bristled at the others’ comments and wondered if they’d had “permission to speak” to the press, consultant Dionne Greenlee backed him up, warning about “rogue members.” Instead, she said, they should defer to city hall’s “big p.r. arm.”

“We can oftentimes fall victim to divisiveness,” Greenlee said. “You don’t want the wrong representation of the commission out in the media.”

“We don’t want council being made off-balance by anything they weren’t being made privy to,” newly appointed equity officer Brenda Mills warned, before noting that at the next meeting she wanted to bring in the

city's p.r director to lecture the committee.

Campbell appointed Mills, a longtime public relations and business apparatchik, to run the department after a mass exodus **spurred** by the city manager's refusal to take bigotry seriously. Now she was telling the committee to stop advocating for its own policies.

"We were directly responding to community concerns," Rodriguez said in defense of their actions. "It was urgent, and we didn't have time to reach out to anybody, because it was a matter of minutes, because people were dying."

She noted that her remarks, and those of the other board members who spoke up, were based on the board's own recommendations.

"I do think it's important for our group to reinforce our position on the houseless camp sweeps as the APD continues to disrupt encampments contrary to CDC guidelines," Noyes said. "A very concrete way we can do this is to condemn the arrests of journalists on Christmas."

At the same time city officials were **concocting a plan** that would dismantle HRCA — and 19 other city volunteer committees — entirely and replace them with a group of four vague "advisory boards" even more tightly under staff control.

### No food for the hungry

The same day HRCA members were facing warnings for speaking out of turn, officials were plotting to ramp the war up even more at another secret council "check-in." In addition to camp crackdowns, they now wanted to prohibit locals from even giving out food and supplies in public spaces.

Lamb had mentioned such a push, and at council's Jan. 20 "check in" the city attorney and staff had already researched multiple ordinances (all of which faced legal challenges). They'd even drawn up sample language requiring organizations to apply and pay for permits, limiting them to only giving out food in a single park twice a year and prohibiting them from distributing any supplies.



*Graphic by Orion Solstice*

On Sunday, Jan. 23, vice mayor Sheneika Smith dropped by a food distribution run by Asheville Survival Program, a local mutual aid group. As [reported](#) in the *Asheville Free Press*, the vice mayor told those at the site that they would need permits in the future.

Public outrage quickly grew. Multiple religious groups like Carolina Jews for Justice and Faith4Justice joined those already opposing the camp sweeps and crackdown. A petition against the proposal quickly gained thousands of signatures.

City hall launched damage control. Public relations flack Katie Miller, freshly hired from her former spot as a bureau chief at far-right Fox News, claimed on Jan. 24 that the proposal was “misunderstood” and that any future “permits would be given freely.”

This was immediately contradicted when the actual draft text of the ordinance was revealed.

It would still become a common line in city propaganda, that locals were simply “confused” about the proposal. They weren’t.

It was first publicly broached by a police commander in a presentation defending camp sweeps, framed as part of a wider crackdown. As written it would make the vast majority of food and supply distribution impossible and prohibit much of it outright. Its exceptions (bans usually

have them) are so narrowly written as to be essentially meaningless.

That's a ban. Any journalist with a shred of self-respect has an obligation to say so.

The issue came to dominate the Jan. 25 council meeting. Despite the many intentional barriers to signing up for public comment at the city's remote meetings, 35 people did. The vast majority opposed council's actions.

'A war against houseless people in this city'

By the time council wound its way towards its Jan. 25 meeting, public outrage had grown. A petition against the planned food ban had already gathered almost 3,000 signatures.

But city hall kept doubling down, including on their threats to the press. An official presentation to the public safety committee declared that "once laws are willingly broken, one ceases to be an independent observer or journalist and becomes a participant."

Roney asked about this, observing that "it doesn't line up with what I've heard stated as our goals but it is where we keep landing."

Campbell replied that the police would decide who counted as a journalist.

"As your city manager I can't make a determination about that particular question, in terms of the transition from being a journalist to being a participant, because I'm not a law enforcement officer," the city manager said. "I have every faith and confidence that the police officer is doing their job in making a distinction."

This is the same department whose officers [told a consultant](#) in 2020 that "no scrutiny from media" was a major priority.

The Christmas raid was the second time a *Blade* journalist has been targeted and arrested by Asheville police. In August 2020 Coit was dragged out of their car and [arrested](#) while covering a protest. The charges were later dismissed.

Campbell turned the question of who's a journalist over to deputy APD chief Mike Yelton, who turned it over to city attorney Brad Branham. He said that a journalist being in



a park after its official closing hours was reason enough to arrest them, even if they were covering the public actions of the police (importantly others observing the raid that night were not detained, just *Blade* reporters).

## APD Listening Session Summary

### Q1: What does safety mean to you?

- Knowing your decisions will not be scrutinized
- Getting home safely
- Proper training
- No scrutiny from media
- Not feeling as though I can drive my patrol car home
- Support from city leadership (elected and administrative)
- Private conversations matching public statements

### TRUST

- There is a department lack of trust
- Leaders are under pressure
- APD does not feel heard
- Adversaries (APD and City Council)
- Avg 10% APD workforce leaving not being addressed
- APD wants their sides of stories to be acknowledged

*Summary of a 2020 APD "listening session" showing open hostility to the press*

Under this rationale journalists can be detained any time police don't like their presence on public property, simply for refusing to stop their coverage, or if the cops decide they're trespassing. It's in line with the [same excuses](#) used to crack down on the press in other parts of the country.

Branham was in for a busy day of lying. At the formal meeting that night he began with one of the most self-contradictory statements ever to come from a city attorney.

"This ordinance or any related ordinance is not scheduled for any future city council agenda. Right now, city staff is beginning the process in the very early stages of researching options," Branham claimed. He then added, incredibly, that "there is absolutely no research being conducted right now to prohibit the sharing of food in

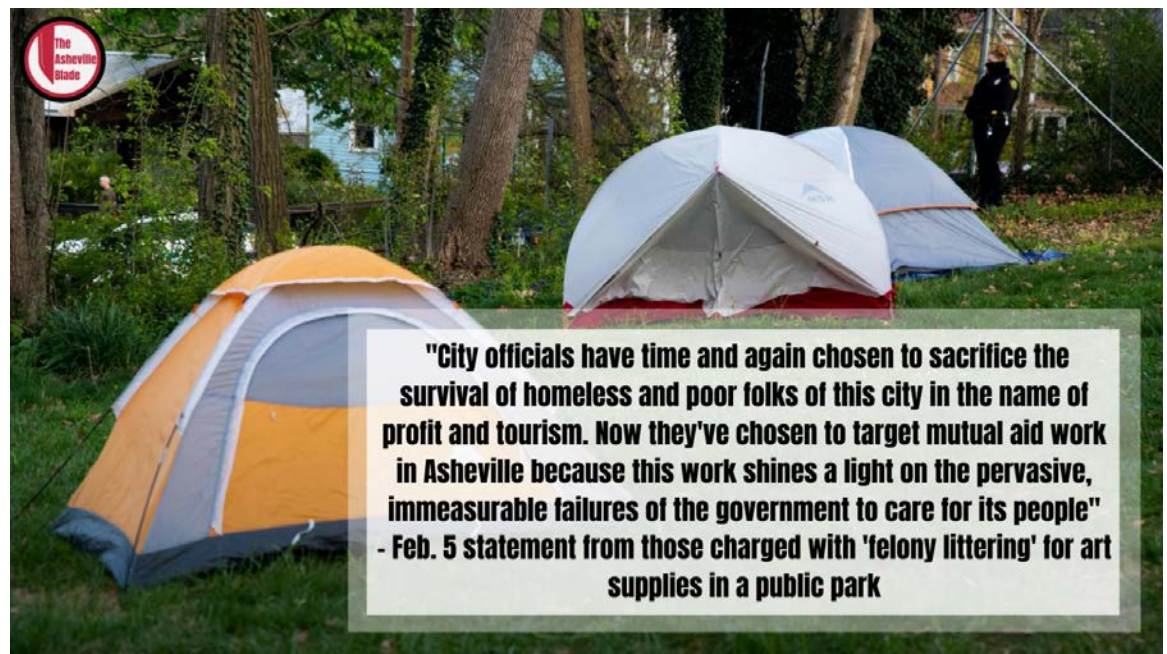
public parks or anywhere else in the city."

It's funny that despite doing "no research" Branham's office produced full legal language and an extensively-researched document on the issue, then presented it to secret meetings of city council members where they set future policy. Apparently that's just something they do for fun.

Manheimer and Kilgore wanted to cut the public off and only allow an hour of public comment (at 3 minutes per speaker this would have left out well over a third or shortened their speaking time), but lost out after Roney publicly objected that "this is one of the few opportunities people have to participate at all."

"There are a lot of groups that do food sharing, they come from all walks of life and many of them aren't 501c3 non-profits," Elsa Enstrom said. "Some of them are just people. To try to limit those people and their ability to offer mutual care to those around them is, frankly, offensive. It shows you have a war against houseless people in this city."

"Yet again you force people away from where they're staying, you don't offer enough safe places for them to live. What do you expect people to do?"



*Graphic by Orion Solstice*

"It is utterly reprehensible to create more barriers for the public to distribute food and aid to our houseless neighbors," Victoria Estes said. "That is tyranny, that is

oppression, that is immoral."

"The argument for an ordinance such as this rests on the idea that park sanitation and trash removal are so much a burden on the city that we can not possibly seek out solutions to allow for the continued sharing of resources. This is absurd," Lauren Stickels said.

"I'm sure y'all produce plenty of trash too but you've got large, warm homes to shelter in," Winnie Young said.

"None of this has to do with sanitation or safety, it has to do with keeping white, wealthy tourists appeased and the police disappearing poor people. This is the true history of Asheville, isn't it?"



*A banner outside the Aston Park camp on Dec. 19. Photo by Matilda Bliss*

"Y'all are wasting our time while we're trying to feed and keep each other alive," Young continued.

Multiple speakers noted that the \$2.5 million a year freed up by APD officers leaving could easily fund housing.

"You're literally supporting the starvation of people on the street," Jennifer Brown said. "In a city that prides itself on being a so-called 'foodtopia' with tourists flocking here to eat fancy, gentrified farm-to-table food, this is not only

deeply inequitable, it shows how little you care about the survival of our houseless community.”

“All to make sure tourists don’t see what it’s really like here, that Asheville has made a list as one of the worst places to live.” “You can’t take your hands out of the pockets of hotels and police-supporting businesses long enough to see what it’s really like to try to survive here.”

“All forms of gender-based violence happens too often on these streets, and some of it becomes visible because of the camps, where they’re significantly more likely to be reported,” survivor advocate Joanna Knowles told council. “In group settings bystanders are much more likely to interrupt the violence and there’s more opportunities for support.”

“Using violence against women as justification to cause more harm is a Jim Crow tactic,” Knowles continued. “Not only has this consistently failed to end the violence or offer justice but has drastically increased harm to Black women.”

“Council may choose to continue endorsing this policy, but you do not get to use rape as an excuse.”

“It’s not going to work, we’re going to do it anyway,” Sagan Thacker said. “No matter how you try to stop us, how you try to shut down people helping others, people are going to find a way to help other people regardless.”

“This shows the true colors of the people that run this city, it’s totally ridiculous. People should not be told how to feed other people,” said Bobby Smith. “How are we supposed to solve reparations when you keep selling the land to out-of-town LLCs that take the money from Asheville and put it into other states.”

When public comment ended, council members were beside themselves with anger. Not at the conditions faced by the houseless, but that the public dared to discuss the issue at all.

“It is because of a person on this council leaking information to the public and allowing the discrepancies within the information that they shared to fester. It made connections with stakeholders around this matter very hard,” Smith said, presumably referring to Roney.



"The reason why we're here again is that information was shared to the public very prematurely, and a lot of confusion was allowed to ensue," Smith said. "There are a lot of conversations that could have been had around this conversation that were limited, they were hindered, they were gaslit, they were triggered and electrified just because bad information was released to the public."

Smith also back-pedaled, praising ASP's food distribution and claiming she didn't favor the draft ordinance because it would be too restrictive. However, the public discussing and acting on that fact was apparently forbidden.

Manheimer backed Smith up, intoning that sharing public records "undermines the integrity of this body."

"The community needs to be able to trust us, they need to know that ultimately all decisions are made with transparency, and they will have an opportunity to weigh in."



*Asheville Mayor Esther Manheimer. File photo by Max Cooper*

Council, especially Manheimer, have gone out of their way in the past two years to [stifle public discussion](#) as much as possible. This has included suddenly changing rules on commenting, illegally ending a major hearing early and adding entire votes to the agenda at the last minute.

It's difficult to see what Manheimer and Smith's actual

complaints were, beyond the facts being politically inconvenient for them. Secret council sessions considering a clampdown on food aid is going to get attention.

The vice mayor showing up to a major food distribution event and telling the organizers they'll need permits is going to make news whether she likes it or not. The 90,000 people living in Asheville aren't obligated to wait for council to finish talking with "stakeholders" to take action on anything they please.

Likewise, the draft ordinance was public record. There is nothing preventing an elected official opposed to it from drawing public attention in an effort to push for its defeat. This might come as news to city hall, but "making the mayor and vice mayor uncomfortable" isn't illegal.

City hall vs. the people



*Banner outside the December Aston Park camp. Photo by Veronica Coit.*

It was always going to come to this. City hall and the business establishment have spent the past decades doing everything they can to make this city an amusement part for drunk tourists and spoiled gentrifiers.

The hard reality of houselessness has never sat easily with

their shiny marketing, putting the lie to Asheville's liberal veneer. But the policies turning the city into said amusement park create skyrocketing rents, more evictions, more desperation. They push more people onto the street.

The hard fact is that the last decade of the "tourism boom" has been an unmitigated disaster for the vast majority of the people who actually live here. So the choice for city government was to either reverse course on gentrification and put serious resources into housing or to embrace violence and repression to try to shut people up.

They sure as hell weren't going to spend money on the poor.

The result has shattered the progressive facade further, which is one reason they're now trying to shift the narrative by hiring yet another a consultant to craft yet another sham plan on homelessness. Even centrist media ain't buying it.

Recent months have also revealed that at the heart of the whole push, lurking behind every garbled statement, is the fact that those in power plainly do not view the unhoused as human beings.

After all, rape and abuse happen in plenty of wealthy neighborhoods, just like the ones most of city council lives in. In many cases the police — a profession rife with domestic abusers — won't do anything. Even when someone is arrested, cops don't proceed to immediately evict everyone in the area, including the survivors, into the cold. They don't tell them they'll be arrested again if they refuse to go to a crowded quasi-prison that won't accept their religion or identity.

Again and again during the past months one question has wrung out, in council meetings and to lines of police readying for a raid: "where do you want people to go? What do you want them to do?"

They want them to die.

More specifically they want them gone. Since human beings don't just disappear they're fine with them not existing. They don't admit that, of course, some may not even admit it to themselves. But that's the point.

Those who've called these crackdowns social cleansing are

correct. This is at its core the mentality behind every ethnic cleansing in history.

Let's tally up their actions. City hall uses propaganda to paint the unhoused as inhuman threats, even hiring those from far-right media to do so. They escalate attacks on camps in winter when conditions are far more dangerous. They deny essential resources, confiscating or destroying them. When those appointed to craft policy on human rights tell them this is wrong, they tell them to shut up. When people support those they target, police smear them as meddling outsiders. Then they use false charges to raid their homes and workplaces and haul them off to jail. When journalists try to cover their crackdowns they arrest them.

They demand the population they're targeting be herded to cramped, inhumane places where they can be more closely policed while denied basic rights — like freedom of religion, movement and identity — more favored demographics take for granted. When aid groups step up with food and supplies they move to make the very act illegal.

What happens to a population systematically denied food, water, supplies, sanitation and shelter?

If these same actions were wielded against a minority in another country, the press would quickly dub it what it is: a wannabe police state escalating an attempted genocide.

Indeed, the fourth stage of genocide is "one group denies the humanity of the other group. Members of it are equated with animals, vermin, insects or diseases." One of the United Nations' criteria for such atrocities is "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

The fact it is being done in America, to those who are targeted for their poverty, does not change that.

History reminds us that bullets and direct force often aren't the deadliest weapons of the state. They wield hunger, cold and illness just as readily.

The above is bleak. As someone who struggles to survive poverty, in a community where houselessness is a constant threat, this entire piece has been gut-wrenching to write. It



should not surprise me at this point that those in power hate the rest of us, but such cruelty on open display is still chilling.

But the fact is that they have not succeeded, not yet. So far the resourcefulness of the unhoused, the determination of local mutual aid and no shortage of public defiance have staved off far more deaths. There's a reason the city's trying to crush them.

What comes up repeatedly in over a year of covering the war on the poor is how many in Asheville oppose it. How they see houseless people's struggles not as an object of charity or pity, but closely connected with their own. The banners at demonstrations don't just target a single issue, but the greed of hoteliers and gentrifiers that pushes people onto the street in the first place.

Most of us in Asheville have far more in common with our unhoused neighbors than we do with well-off realtors or airbnb owners. More, by the day realize that if the city truly falls to the gentry, we all face devastation.

—

*Blade editor David Forbes has been a journalist in Asheville for over 15 years. She writes about history, life and, of course, fighting city hall. They live in downtown, where they drink too much tea and scheme for anarchy.*

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# Exhibit E

## **DECLARATION OF MELISSA “VERONICA” COIT**

1. My name is Melissa Coit. I also go by the name Veronica. I am over 18 years of age and fully competent to execute this Declaration.
2. I am a journalist associated with the Asheville Blade.
3. I was arrested on the night of December 25, 2021 while covering evictions of houseless people at Aston Park by the Asheville Police Department.
4. I support the immediate and complete release to the public of all police body camera footage relating to my arrest.

I declare under penalty of perjury under the laws of North Carolina that the foregoing is true and correct.

Executed on 1/20/2023

Signature \_\_\_\_\_

## DECLARATION OF MATILDA BLISS

1. My name is Matilda Bliss. I am over 18 years of age and fully competent to execute this Declaration.
2. I am a journalist associated with the Asheville Blade.
3. I was arrested on the night of December 25, 2021 while covering evictions of houseless people at Aston Park by the Asheville Police Department.
4. I support the immediate and complete release to the public of all police body camera footage relating to my arrest.

I declare under penalty of perjury under the laws of North Carolina that the foregoing is true and correct.

Executed on 1/20/2023

Signature 



# Exhibit F



Neutral

As of: January 20, 2023 5:57 PM Z

**In re Custodial Law Enf't Recording Sought by Greensboro**

Supreme Court of North Carolina

August 29, 2022, Heard in the Supreme Court; December 16, 2022, Filed

No. 364PA19

**Reporter**

2022-NCSC-125 \*; 2022 N.C. LEXIS 1096 \*\*

IN THE MATTER OF: CUSTODIAL LAW  
ENFORCEMENT RECORDING SOUGHT BY CITY OF  
GREENSBORO**Prior History:** [In re Custodial Law Enf't Recording Sought by City of Greensboro, 266 N.C. App. 473, 833 S.E.2d 1, 2019 N.C. App. LEXIS 641, 2019 WL 3558763 \(Aug. 6, 2019\)](#)**Disposition:** VACATED AND REMANDED.**Core Terms**

restrictions, trial court, videos, watch, Modify, recordings, camera, city council, abuse of discretion, gag order, police officer, impediment, city council member, abused, petitioned, arrested, motions, rights, unsupported, questions, reasons, lift

**Case Summary****Overview**

**HOLDINGS:** [1]-Where a city asked a trial court to modify certain restrictions imposed on the release of police video that contained a recording of an incident involving several arrests, the trial court abused its discretion in summarily denying the city's motion because the trial court's ruling was entirely unsupported by the record since there was almost no evidence in the record, and the order contained no findings of fact, analysis, explanation, or conclusions of law.

**Outcome**

Vacated and remanded.

**LexisNexis® Headnotes**

Civil Procedure &gt; Appeals &gt; Standards of Review &gt; Abuse of Discretion

Civil Procedure &gt; Appeals &gt; Standards of Review &gt; Questions of Fact &amp; Law

Civil Procedure &gt; Appeals &gt; Standards of Review &gt; De Novo Review

**[HN1](#) [Download] Standards of Review, Abuse of Discretion**

By statute, trial courts enjoy the authority to place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate. [N.C. Gen. Stat. § 132-1.4A\(g\)](#). Accordingly, orders imposing or denying relief from restrictions on the release of body camera videos are reviewed for abuse of discretion. A trial court abuses its discretion when its ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision. A trial court also abuses its discretion when it makes an error of law. Questions of law are reviewed de novo.

Civil Procedure &gt; Appeals &gt; Standards of Review &gt; Abuse of Discretion

Evidence &gt; Burdens of Proof &gt; Allocation

**[HN2](#) [Download] Standards of Review, Abuse of Discretion**

To show an abuse of discretion and reverse the trial court's order, the appellant has the burden to show the trial court's rulings are manifestly unsupported by reason, or could not be the product of a reasoned decision. The only consideration is whether the trial court's actions are fairly supported by the record. Fairly supported means there is competent evidence to

## In re Custodial Law Enf't Recording Sought by Greensboro

support the court's findings and those findings support the court's conclusions. In sum, if there is any competent evidence to support the trial court's findings and conclusions, then there is no abuse of discretion.

Civil Procedure > Appeals > Record on Appeal

Civil Procedure > ... > Standards of  
Review > Substantial Evidence > Sufficiency of  
Evidence

### [HN3](#) Appeals, Record on Appeal

Where no findings are made, proper findings are presumed, and the appellate court's role on appeal is to review the record for competent evidence to support these presumed findings.

**Counsel:** **[\*\*1]** Fox Rothschild LLP, by Patrick M. Kane and Kip David Nelson, for petitioner-appellant City of Greensboro.

Ward and Smith P.A., by Chris S. Edwards and Alexander C. Dale, court-appointed amicus curiae.

Mark Dorosin, Elizabeth Haddix, Jaclyn Maffetore, Cheyenne N. Chambers, and Kimberly M. Rehberg for Beloved Community Center of Greensboro, League of Women Voters of the Piedmont Triad, Reclaiming Democracy, Roch Smith Jr., Guilford Anti-Racism Alliance, Homeless Union of Greensboro, Triad City Beat, The Carolina Peacemaker, Pulpit Forum of Greensboro and Vicinity, Democracy Greensboro, UNCG Chapter of the American Association of University Professors, St. Barnabas Episcopal Church, Community Play!!/All Stars Alliance, American Civil Liberties Union of North Carolina Legal Foundation, NC WARN, and City of Durham, NC, amici curiae.

**Judges:** HUDSON, Justice. Justice BERGER did not participate in the consideration or decision of this case. Chief Justice NEWBY concurring in the result only. Justice BARRINGER joins in this concurring opinion.

**Opinion by:** HUDSON

## Opinion

On discretionary review pursuant to [N.C.G.S. § 7A-31](#) and on appeal of right of a substantial constitutional question pursuant to [N.C.G.S. § 7A-30\(1\)](#) of a

unanimous decision of the Court of Appeals, **[\*\*2]** [266 N.C. App. 473, 833 S.E.2d 1 \(2019\)](#), affirming an order entered on 23 February 2018 by Judge Susan E. Bray in Superior Court, Guilford County. Heard in the Supreme Court on 29 August 2022.

HUDSON, Justice.

**[\*P1]** Here, we consider an order entered pursuant to [N.C.G.S. § 132-1.4A\(g\)](#) to release police video recordings of an incident on 10 September 2016 in Greensboro. In the order, the trial court imposed restrictions upon the possible use and discussion of the recordings by the Greensboro City Council. Interpreting these conditions as a "gag order," the City of Greensboro asked the trial court to modify the restrictions. The trial court summarily denied that request. On appeal, the Court of Appeals affirmed the trial court's order and maintained that the City was not entitled to relief. Because we conclude that the trial court abused its discretion by denying, without explanation, the City's Motion to Modify Restrictions, we vacate the decision of the Court of Appeals and remand the case to the trial court for a new hearing on the City's motion.

### I. Factual and Procedural Background

**[\*P2]** On the evening of 10 September 2016, several police officers for the City of Greensboro arrested four Black men on a busy public sidewalk downtown. In a short cell phone **[\*\*3]** video posted to YouTube titled "Greensboro police brutality,"<sup>1</sup> the officers can be seen shoving and arresting two of the men. Among other images, the YouTube video shows the police apparently using a chokehold on Aaron Garrett before throwing him to the ground. Mr. Garrett was able to stand and back away with his arms lowered and palms open. Several police officers are seen firing their tasers into Mr. Garrett, who is then depicted screaming, before he falls to the sidewalk while electricity visibly courses through his body.

**[\*P3]** The entire incident, including the prelude and aftermath, was also recorded on several body cameras worn by the police officers. While the YouTube video is less than two minutes long and depicts a single perspective, there are approximately four hours of police body camera video showing the incident from multiple

<sup>1</sup> *Greensboro Police Brutality*, YouTube (Sept. 13, 2016), <https://www.youtube.com/watch?v=MzdS-aSVR0w>.

## In re Custodial Law Enf't Recording Sought by Greensboro

angles. This case concerns the videos from these police-worn body cameras.

**[\*P4]** One of the arrested individuals alleged misconduct by the police and reported the officers to the Professional Standards Division (PSD) of the Greensboro Police Department. The PSD conducted an internal investigation and in 2017 concluded that the police **[\*\*4]** officers behaved appropriately. The same individual then appealed the decision to the Greensboro Police Community Review Board (PCRB).

**[\*P5]** At that point, more than a year after the 2016 incident, various entities petitioned the Superior Court, Guilford County, for the release of the police body camera videos pursuant to [N.C.G.S. § 132-1.4A\(g\)](#), which governs the release of such videos. The PCRB petitioned for the release of the videos as part of its investigation. Two of the arrested individuals and the City also petitioned for the release of the videos. [Subsection 132-1.4A\(g\)](#) reads, in pertinent part, as follows: "The court . . . may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate." [N.C.G.S. § 132-1.4A\(g\)](#) (2021).

**[\*P6]** The trial court addressed all these petitions in one proceeding. On 16 January 2018, the trial court initiated an in-camera review of the videos and scheduled a hearing on the petitions, after which the trial court entered an order on 23 January 2018, granting the release of the videos with restrictions. Specifically, in response to the City's petition, the trial court checked the following boxes on the form order, under "findings of fact":

- ☒ Release is necessary to advance **[\*\*5]** a compelling public interest.
- ☒ The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- ☒ The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- ☐ Release would reveal information regarding a person that is of a highly sensitive personal nature.
- ☒ Release may harm the reputation or jeopardize the safety of a person.
- ☒ Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- ☒ Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- ☒ There is good cause shown to release all

portions of a recording.

**[X]** Other (*if applicable*): It is appropriate to place certain restrictions on the release.

The court then specified additional restrictions in an attachment to the order, which included the following language:

Recordings are to be viewed in presence and under direction and control of the City Attorney for Greensboro or his designee. No one other than the City Manager, City Council members, or legal **[\*\*6]** counsel for the City shall be present. No photographs, screen shots or other duplications or recordings of the body-worn camera footage shall be made. All viewers shall sign a pledge of confidentiality and are not to disclose or discuss the body-worn camera recordings except with each other in their official capacity as managers, council members and legal counsel for the City of Greensboro and as necessary to perform their legal duties. Failure to comply with these restrictions subjects viewers to the contempt powers of the court (fine of up to \$500 and imprisonment of up to 30 days). If any of these restrictions pose a substantial impediment to the city manager, council members or city legal counsel from discharging their duties, the City Attorney may request modification of the restrictions (with notice and opportunity to be heard given to all parties).

The trial court placed similar restrictions on the other petitioners (the PCRB and the two arrested individuals).

**[\*P7]** Convinced that the order operated as a gag that imposed a substantial impediment to the discharge of its members' duties, the City Council voted unanimously to request that the trial court lift the restrictions on speaking **[\*\*7]** about the videos. The members of the City Council also decided to refrain from watching the videos until the order was lifted or modified. The City then filed a Motion to Modify Restrictions with the trial court.

**[\*P8]** At the subsequent hearing, the trial court responded abruptly after learning that the City was requesting a modification of the restrictions before viewing the videos, as the following colloquy demonstrates:

THE COURT: Well, that makes a difference. I'm not really inclined to entertain their motion if they haven't even bothered to watch it.

[THE CITY'S ATTORNEY]: Well, it's not that they haven't bothered to watch it. They definitely want to watch it.



## In re Custodial Law Enf't Recording Sought by Greensboro

THE COURT: Well, then, let them watch it. The motions are denied.

....

[THE CITY'S ATTORNEY]: And, Your Honor, if I could clarify, Your Honor —

THE COURT: That just doesn't make sense to me at all.

[THE CITY'S ATTORNEY]: If I could clarify, Your Honor —

THE COURT: In fact I think that's ridiculous to say I want to be able to discuss something I didn't even watch.

[THE CITY'S ATTORNEY]: If I could clarify that. It wasn't that — it's not that council does not want to watch this. They absolutely want to watch it.

THE COURT: Well —

[THE CITY'S **[\*\*8]** ATTORNEY]: It's a matter of — the question is, if Your Honor would go back and look at the council meeting, it's a question of, well, do we watch it and then we can't talk about it. Kind of like, you know, how does that help us? How does that help us answer the questions of our constituents?

So the issue was, we would love to be able to talk about it once we watch it. So it's not a matter of they are just like too busy to watch it or that they don't want to watch it. They just wanted clarification as to whether or not they would be able to discuss it after they watch it.

THE COURT: The motion is denied.

In a subsequent written order memorializing the denial of the City's motion, the trial court did not offer any reasoning or explanation for its decision; the order stated only the following: "[H]aving considered the entire court file and having heard arguments from all counsel, the [c]ourt has determined, in the [c]ourt's discretion, that all of the Motions should be denied." The City appealed, claiming that the court committed an "abuse of discretion as it pertains to City Council's [First Amendment](#) rights."

**[\*P9]** Before the Court of Appeals, the City argued that the trial court erred by imposing and refusing **[\*\*9]** to modify a gag order on the City Council. Among other arguments, the City maintained that the gag order was arbitrary because the trial court did not "articulate any factual basis for [its] findings and provided no reasoning as to why the gag order was appropriate." Moreover, the City noted that the subsequent order denying its Motion to Modify Restrictions contained no explanation at all.

**[\*P10]** The police officers responded by stating that

they also wanted the videos to be released and that they likewise wanted the gag order to be lifted. The officers emphasized that the recordings will show they did nothing wrong. However, for various reasons, they urged the Court of Appeals to dismiss the City's appeal. For instance, the officers asserted that the order was interlocutory. The officers also argued that the trial court did not abuse its discretion because state law explicitly gives the trial court authority to impose any conditions on the release of body camera video. The officers contended that the City simply made poor arguments to the trial court and that such "advocacy failures" do not render the trial court's ruling an abuse of discretion.

**[\*P11]** In a published, unanimous opinion filed on **[\*\*10]** 6 August 2019, the Court of Appeals affirmed the trial court's denial of the City's Motion to Modify Restrictions. [In re Custodial Law Enf't Recording](#), 266 N.C. App. 473, 479, 833 S.E.2d 1 (2019). The Court of Appeals declined to entertain the City's argument that the restrictions were an unjustified abuse of discretion. *Id.* at 476. The Court of Appeals instead analyzed the case on [First Amendment](#) grounds and relied on a single case, [Seattle Times Co. v. Rhinehart](#), 467 U.S. 20, 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984), to conclude that the order did not violate the City's [First Amendment](#) rights because "the gag order only restricts the council's speech about matters that the council, otherwise, had no right to discover[.]" [In re Custodial Law Enf't Recording](#), 266 N.C. App. at 477. However, [Seattle Times](#) had not been briefed, argued, or cited by any party at the Court of Appeals. Further complicating matters, the Court of Appeals did not state the level of [First Amendment](#) scrutiny they applied. And—perhaps because the record here is sparse—the Court of Appeals did not explain its conclusion that "protecting the reputation and safety of those individuals, as well as safeguarding the administration of justice, presents a substantial government interest for which the trial court's restrictions are no greater than necessary." *Id.* at 479.

**[\*P12]** The City appealed to this Court on the basis of a constitutional question and, in the alternative, petitioned the Court for discretionary review. **[\*\*11]** On 3 February 2021, this Court both retained the notice of appeal and allowed the City's petition.

## II. Analysis


**[\*P13]** The City now argues that the Court of Appeals misapplied fundamental principles of constitutional law and that its decision must be reversed. The City

contends primarily that the City Council members have a right to publicly discuss the body camera videos, that the gag order violates this right, and that the violation cannot be justified under strict or intermediate scrutiny. The City does not mount a facial challenge to the statute. The City also contends that the trial court abused its discretion. It asks for this matter to be remanded to the trial court with instructions to lift the gag order on the City Council members.

**[\*P14]** In response, the police officers themselves withdrew from participating in the case after we allowed review. Court-appointed amicus curiae (respondent) argues that the decision of the Court of Appeals should be affirmed for three reasons. First, respondent argues that the City does not have free speech rights. Second, respondent claims that even if the City has free speech rights, the gag order is subject to and survives intermediate scrutiny. Third, respondent **[\*\*12]** asserts that, in the alternative, the restrictions are not a gag order but a permissible set of time, place, and manner restrictions.

**[\*P15]** We hold that the trial court's summary denial of the City's Motion to Modify Restrictions was arbitrary, and therefore it was an abuse of discretion. Accordingly, we need not consider the constitutional arguments raised here. See [James v. Bartlett, 359 N.C. 260, 266, 607 S.E.2d 638 \(2005\)](#) ("[A]ppellate courts must 'avoid constitutional questions, even if properly presented, where a case may be resolved on other grounds.'" (quoting [Anderson v. Assimos, 356 N.C. 415, 416, 572 S.E.2d 101 \(2002\)](#))). We vacate the decision of the Court of Appeals and remand to the trial court for a new hearing on the City's Motion to Modify Restrictions.

## A. Standard of Review

**[\*P16]** [HN1](#)  By statute, trial courts enjoy the authority to "place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate." [N.C.G.S. § 132-1.4A\(g\)](#). Accordingly, orders imposing or denying relief from restrictions on the release of body camera videos are reviewed for abuse of discretion. A trial court abuses its discretion when its ruling "is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." [Chappell v. N.C. Dep't of Transp., 374 N.C. 273, 280, 841 S.E.2d 513 \(2020\)](#) (quoting [State v. Hennis, 323 N.C. 279, 285, 372 S.E.2d 523 \(1988\)](#)). A trial court also abuses **[\*\*13]** its discretion when it makes an error of law. [Da Silva v.](#)

[WakeMed, 375 N.C. 1, 5 n.2, 846 S.E.2d 634 \(2020\)](#). Questions of law are reviewed de novo. *Id.* at 5.

## B. Abuse of Discretion Analysis

**[\*P17]** First, the City has preserved the argument that the denial of its Motion to Modify Restrictions is an abuse of discretion. The City argued to the trial court that the restrictions "pose a substantial impediment" to the City Council and prevent its members "from fulfilling their Oath of Office." The City appealed from the trial court's denial of its motion claiming the denial "constitut[ed] an abuse of discretion as it pertains to City Council's [First Amendment](#) rights." The City's discussion of [First Amendment](#) rights is only indirectly applicable to the abuse of discretion analysis. However, this is not the only argument the City makes. Before the Court of Appeals, the City argued that the denial of the Motion to Modify Restrictions "contained no rationale at all." The City dedicated several pages of its brief to arguing that the denial was internally inconsistent, unexplained, unsupported by the evidence, and harmful to "the Council members' ability to fulfill their Oath of Office." In its brief to this Court, the City again pursues that argument: "[E]ven if the trial court had the discretion **[\*\*14]** envisioned by the Court of Appeals in the abstract, maintaining the gag order was inappropriate in these circumstances." Thus, it is appropriate for this Court to review the trial court's denial of the City's Motion to Modify Restrictions for abuse of discretion on grounds that it is arbitrary or manifestly unsupported by reason.

**[\*P18]** Next, we conclude that the trial court's denial of the City's motion was arbitrary. In its Motion to Modify Restrictions filed on 16 February 2018, the City explained that the City Council had voted to watch the videos but it had also voted to request relief from the restrictions first. The motion contained several possible reasons why the restrictions were a substantial impediment: the restrictions directly contradicted the City Council members' duties as elected officials, prevented the City Council members from engaging in political discourse, impeded the City Council members' ability to respond to questions from the public, prevented the City Council members from supervising other municipal departments, and made little sense given that the cellphone video of the event was already circulating in the community.<sup>2</sup>

<sup>2</sup> The trial court had previously noted that, "I think the real danger is if you have excerpts or snippets of this being shown

## In re Custodial Law Enf't Recording Sought by Greensboro

**[\*P19]** The City also maintained that several potential **[\*\*15]** justifications for the restrictions no longer pertained. The internal investigations had concluded, and the criminal trials of all individuals depicted in the videos were over. On 19 February 2018, even the police officers' attorney agreed that lifting the gag would benefit the police officers stating, "I understand that it — that there is probably a benefit in some respect to the police officers so that the city council members can say, well, everything was right. The police did the right thing." Yet in ruling on the motion, the trial court, rather than considering these proffered reasons to modify the restrictions, apparently considered one fact and one fact alone:


[THE CITY'S ATTORNEY]: As of today the city council does not know what's on the body-worn camera footage.

THE COURT: Well, that makes a difference. I'm not really inclined to entertain their motion if they haven't even bothered to watch it.


[THE CITY'S ATTORNEY]: Well, it's not that they haven't bothered to watch it. They definitely want to watch it.

THE COURT: Well, then, let them watch it. The motions are denied.

**[\*P20]** This ruling can only be deemed arbitrary, given that the trial court gave no explanation of the possible relevance **[\*\*16]** of viewing the video to whether the restrictions "pose a substantial impediment" to the City Council members' ability to fulfill their duties. Without more discussion of the reasons for the denial of the motions, we cannot know if there were any. Thus, we conclude that the trial court's reaction to one possibly irrelevant factor by immediately denying the Motion to Modify Restrictions fails to demonstrate any exercise of discretion, but rather its abuse.

**[\*P21]** Moreover, the written order fails to clarify the trial court's ruling. [HN2](#)  "To show an abuse of discretion and reverse the trial court's order, the appellant has the burden to show the trial court's rulings are manifestly unsupported by reason, or could not be the product of a reasoned decision." [Winkler v. N.C. State Bd. of Plumbing, 374 N.C. 726, 735, 843 S.E.2d 206 \(2020\)](#) (cleaned up). This is a high bar and is not an opportunity to second guess the trial court's wisdom. The only consideration is "whether the trial court's actions are fairly supported by the record." [State v. Whaley, 362 N.C. 156, 160, 655 S.E.2d 388 \(2008\)](#)

(quoting [State v. Peterson, 361 N.C. 587, 603, 652 S.E.2d 216 \(2007\)](#)). "Fairly supported" means "there is competent evidence to support the court's findings and . . . those findings support the court's conclusions." [GE Betz, Inc. v. Conrad, 231 N.C. App. 214, 242, 752 S.E.2d 634 \(2013\)](#) (citing [Dyer v. State, 331 N.C. 374, 376, 416 S.E.2d 1 \(1992\)](#)), writ denied, review denied, 367 N.C. 786, 752 S.E.2d 505 (2014). In sum, if there is any competent evidence to support **[\*\*17]** the trial court's findings and conclusions, then there is no abuse of discretion.

**[\*P22]** Here, the order contains no findings of fact, analysis, explanation, or conclusions of law. Instead, the order merely states the following: "[T]he [c]ourt having considered the entire court file and having heard arguments from all counsel, the [c]ourt has determined, in the [c]ourt's discretion, that all of the Motions should be denied." [HN3](#)  "Where no findings are made, proper findings are presumed, and our role on appeal is to review the record for competent evidence to support these presumed findings." [Carlisle v. CSX Transp., Inc., 193 N.C. App. 509, 516, 668 S.E.2d 98 \(2008\)](#) (quoting [Bruggeman v. Meditrust Acquisition Co., 138 N.C. App. 612, 615, 532 S.E.2d 215 \(2000\)](#)). On such review, we must assume the trial court found that the restrictions did not pose a substantial impediment to the City Council members in discharging their duties.

**[\*P23]** However, because no competent evidence in the record supports the finding that the restrictions are not a substantial impediment, we hold that the trial court abused its discretion in denying the City's motion. Notably, there is almost no evidence in the record at all. All we have are the City's motions, the transcripts, and the court's bare-bones orders. Before the trial court, the police officers' attorney could not point to **[\*\*18]** evidence and instead argued that some people will still "allege[ ] conspiracies and everything else" and argued, "[I]t's a better policy, I would contend, Your Honor, to stick with Your Honor's order in all situations because I think that is going to end some of this nonsense that we're spending on body-cam footage." Even if these assertions were evidence, they do not support the conclusion that the restriction is not a substantial impediment to the City Council. Because the trial court's ruling is entirely unsupported by the record, we conclude that the trial court abused its discretion in denying the City's Motion to Modify Restrictions.

### III. Conclusion

and people don't see the whole — the whole view, it's — it can be very — it can misrepresent the whole event."

**[\*P24]** History teaches that opaque decision-making destroys trust; recent history involving police body cameras emphasizes this risk. Nearly every party here sought transparency. Both the arrested individuals and the police officers recorded their actions. The City Council sought to answer questions and explain the City's response by publicly discussing the facts behind their decisions. And the officers themselves hoped to clear their names by urging the release of all of the body camera videos. Yet, with no explanation, the trial court halted **[\*\*19]** this process, leaving the people of Greensboro in the dark for more than six years. On this record, we hold that the trial court abused its discretion.

**[\*P25]** We vacate the decision of the Court of Appeals and remand to that court for further remand to the trial court for a new hearing on the Motion to Modify Restrictions and for such further proceedings not inconsistent with this decision, as are warranted.

VACATED AND REMANDED.

Justice BERGER did not participate in the consideration or decision of this case.

**Concur by:** NEWBY

## **Concur**

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Chief Justice NEWBY concurring in the result only.

**[\*P26]** The General Statutes grant trial courts great latitude in determining the release of body camera recordings. [N.C.G.S. § 132-1.4A\(g\)](#) (2021). No one questions that the trial court's original order complied with the statute. Although [N.C.G.S. § 132-1.4A\(g\)](#) does not require the trial court to make findings of fact, on the record before this Court, the basis for the denial of the motion is unclear, rendering it impossible for this Court to determine if the ruling was arbitrary. Thus, the matter should be remanded to the trial court for clarification. Therefore, I concur in the result only.

Justice BARRINGER joins in this concurring opinion.





Neutral

As of: January 20, 2023 5:58 PM Z

**Scott v. City of Durham**

United States District Court for the Middle District of North Carolina

March 14, 2022, Decided; March 14, 2022, Filed

1:20-CV-558

**Reporter**

2022 U.S. Dist. LEXIS 44808 \*, 2022 WL 767557

TONY SCOTT, JR., Plaintiff, v. THE CITY OF DURHAM, et al., Defendants.

**Prior History:** [Scott v. City of Durham, 2021 U.S. Dist. LEXIS 162431, 2021 WL 3856168 \(M.D.N.C., Aug. 27, 2021\)](#)**Core Terms**

seal, personnel file, documents, confidential, motions, internal investigation, summary judgment, public interest, exhibits, deposition, courts, outweigh, police misconduct, disclosure, decisions, pages, access rights, records, unseal, personnel records, briefing, redacted, privacy, cases, chart, files, public right of access, governmental interest, deposition testimony, disciplinary action

**Counsel:** [\*1] For TONY SCOTT, JR., TONY SCOTT, SR., an individual parent and legal guardian of Tony Scott, Jr., Plaintiffs: SHARIKA M. ROBINSON, LEAD ATTORNEY, LAW OFFICE OF SHARIKA M. ROBINSON, CHARLOTTE, NC; JULIAN M. HALL, THE LAW OFFICE OF JULIAN HALL, DURHAM, NC.

For THE CITY OF DURHAM, OFFICER MICHAEL MCGLASSON, In his official and individual capacities, OFFICER CORNELL RICHARDS, In his official and individual capacities, Defendants: JOHN PRITCHARD ROSEBORO, LEAD ATTORNEY, CITY OF DURHAM CITY ATTORNEY'S OFFICE, DURHAM, NC.

**Judges:** Catherine C. Eagles, UNITED STATES DISTRICT JUDGE.

**Opinion by:** Catherine C. Eagles

**Opinion****MEMORANDUM OPINION & ORDER**

Catherine C. Eagles, District Judge.

In this case raising claims of police misconduct during and after the stop of a teenager in a convenience store, the defendants seek to seal the police department's internal investigation report about the incident along with the disciplinary histories of the officers involved. The motions will be denied as to the internal investigation report and the substance of the officers' disciplinary histories. This evidence was important to summary judgment decisions and there is high public interest in access to judicial records addressing alleged constitutional [\*2] violations by law enforcement. The motions will be granted as to private information about the individual defendants, which was inconsequential to the court's summary judgment decisions and could be used in improper ways.

**I. Background**

The plaintiff, Tony Scott, Jr., filed this lawsuit after the defendant Michael McGlasson, a City of Durham police officer, stopped Mr. Scott in a convenience store and attempted to search him. Mr. Scott alleged that Officer McGlasson had no reasonable grounds to suspect Mr. Scott had been involved in any criminal conduct and that the seizure violated his [Fourth Amendment](#) rights against unreasonable seizure and excessive force. He also asserted that Officer McGlasson and another Durham police officer, the defendant Cornell Richards, made false statements leading to Mr. Scott's arrest, also in violation of Mr. Scott's [Fourth Amendment](#) rights. Mr. Scott further raised a [§1981](#) racial discrimination claim and a variety of state tort claims.

Both Mr. Scott and the defendants moved for summary

judgment. Docs. 51, 56. In connection with these motions, Mr. Scott filed exhibits produced by the defendants during discovery subject to a protective order and he referenced these exhibits in his briefing. [\*3] Pursuant to L.R. 5.4 and applicable court orders, Docs. 28, 96,<sup>1</sup> the Clerk filed the materials under temporary seal and the plaintiff filed redacted briefs and exhibits on the public docket. The defendants filed materials in support of their request that the documents remain under seal. See Docs. 59, 59-1, 59-2. Later, in response to a court order that they file a L.R. 5.4 checklist, the defendants filed two charts, one identifying all the exhibits and briefing pages that they ask the Court to seal, Doc. 97-1, and another chart narrowing and withdrawing in part the motions to seal. Doc. 97-2.

Mr. Scott has expressed no position on the motions to seal. See, e.g., Doc. 90. The request to seal has been on the public docket for several weeks, providing appropriate notice; no member of the public has objected to sealing. See, e.g., [Va. Dep't of State Police v. Wash. Post](#), 386 F.3d 567, 576 (4th Cir. 2004) (requiring public notice before ruling on motions to seal).

## II. Legal Standard

In evaluating a motion to seal, a court first determines the source of the right of access for each document, either the common law or the [First Amendment](#), "because only then can it accurately weigh the competing interests at stake." *Id.* (cleaned up). The Fourth Circuit has "squarely held that the [First Amendment](#) right of access [\*4] attaches to materials filed in connection with a summary judgment motion." [Doe v. Pub. Citizen](#), 749 F.3d 246, 267 (4th Cir. 2014).

When a [First Amendment](#) right of access applies, the proponent of sealing must show a compelling governmental interest or other higher value<sup>2</sup> to justify

sealing and the limitation on public access must be narrowly tailored to serve that interest. See [Press-Enter. Co. v. Superior Ct.](#), 464 U.S. 501, 510, 104 S. Ct. 819, 78 L. Ed. 2d 629 (1984); [Rushford v. New Yorker Mag., Inc.](#), 846 F.2d 249, 253 (4th Cir. 1988). When a state statute prohibiting disclosure is the source of the governmental interest in sealing, district courts should first determine if the relevant records are covered by the statute and, if so, determine whether the right of access nevertheless outweighs the state's interest in sealing. See [Stone v. Univ. of Md. Med. Sys. Corp.](#), 855 F.2d 178, 181 (4th Cir. 1988).

If a party shows that the information it seeks to seal is confidential and not already public, courts then evaluate a number of factors to determine whether the interests in non-disclosure outweigh the competing public interest in access to the information, factors which vary depending on the circumstances. These can include whether disclosure would result in actual harm and the degree of that harm; whether the records could be used for improper or unfair purposes; and whether release would enhance the public's understanding of an important historical event. See, e.g., [Doe](#), 749 F.3d at 270; [In re Knight Publ'g Co.](#), 743 F.2d 231, 235 (4th Cir. 1984); [Syngenta Crop Prot., LLC v. Willowood, LLC](#), No. 15-CV-274, 2017 U.S. Dist. LEXIS 198575, 2017 WL 6001818, at \*3 (M.D.N.C. May 4, 2017).

[\*5] For materials submitted in connection with summary judgment motions, the court also considers whether the public needs access to the materials to understand a judicial decision. See [Huntley v. Crisco](#), No. 18-CV-744, 2020 U.S. Dist. LEXIS 255465, 2020 WL 9815384, at \*1-2 (M.D.N.C. Sept. 25, 2020) ("[C]ourts do not make decisions based on secret evidence absent compelling interests that outweigh the

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content of the information at issue, the relationship of the parties, or the nature of the controversy"); [Level 3 Commc'ns, LLC v. Limelight Networks, Inc.](#), 611 F. Supp. 2d 572, 580 (E.D. Va. 2009) (recognizing some private interests could override a [First Amendment](#) presumption of public access); [Haas v. Golding Transp., Inc.](#), No. 09-CV-1016, 2010 U.S. Dist. LEXIS 29100, 2010 WL 1257990, at \*7 n. 4 (M.D.N.C. Mar. 26, 2010) (substituting "higher value" for "governmental interest" in the context of a civil case involving nongovernmental litigants); [U.S. Tobacco Coop., Inc. v. Big South Wholesale of Va., LLC](#), No. 13-CV-00527, 2014 U.S. Dist. LEXIS 150032, 2014 WL 5361408, at \*1 (E.D.N.C. Oct. 21, 2014); [P&L Dev. LLC v. Bionpharma, Inc.](#), No. 17-CV-1154, 2019 U.S. Dist. LEXIS 79309, 2019 WL 2079830, at \*2 (M.D.N.C. May 10, 2019) (reviewing types of private interests that may overcome the [First Amendment](#) right of access).

<sup>1</sup> Under the Protective Order, Doc. 28, the defendant designated these exhibits as confidential during the discovery process and thus the plaintiff was required to file the motion to seal. See LR 5.4. But the defendants are the party seeking to keep the exhibits and discussion of the exhibits under seal, and they bear the burden on all the motions.

<sup>2</sup> See [In re Iowa Freedom of Info. Council](#), 724 F.2d 658, 664 (8th Cir. 1983) (rejecting the argument that only governmental interests can override the [First Amendment](#) right of access); [Publicker Indus., Inc. v. Cohen](#), 733 F.2d 1059, 1073 (3d Cir. 1984) (explaining a private overriding interest "can involve the

public interest in transparency by the courts[.]"); see generally [Doe, 749 F.3d at 267](#) (noting the importance of "public oversight of the courts, including the processes and the outcomes they produce"). This is so even if parties have settled after a summary judgment decision, since the materials sought to be sealed may remain "important to the public understanding of the court's summary judgment decision on the merits[.]" [Huntley, 2020 U.S. Dist. LEXIS 255465, 2020 WL 9815384, at \\*1](#); see, e.g., [Shackleford v. Vivint Solar Developer, LLC, No. 19-CV-954, 2021 U.S. Dist. LEXIS 145947, 2021 WL 3406524, at \\*1 \(D. Md. Aug. 4, 2021\)](#); [Bureau of Nat'l Affairs v. Chase, No. 11-CV-1641, 2012 U.S. Dist. LEXIS 104229, 2012 WL 3065352, at \\*4 \(D. Md. July 25, 2012\)](#).

The proponent must provide specific reasons to support its position on sealing, [Va. Dep't of State Police, 386 F.3d at 575](#), and conclusory assertions will not do. [Press-Enter. Co., 478 U.S. at 15](#). Courts must also consider less drastic alternatives to sealing. [Va. Dep't of State Police, 386 F.3d at 576](#).

### III. Findings and Analysis

Because the exhibits and briefs were filed in connection with summary judgment motions, see generally Docs. 53, 63, 71, 83, 86, 89, the public has a [First Amendment](#) right of access to these materials, [Doe, 749 F.3d at 267](#), unless there is a "compelling interest" more important than the public's right of access. See [id. at 269](#). Here, the defendants point to one governmental interest for sealing: they contend the exhibits they seek to seal are protected by [N.C. Gen. Stat. § 160A-168](#), a state law requiring that public employee personnel files be maintained as confidential. See Doc. 97-1.

[Section 160A-168\(b\) of the North Carolina General Statutes](#) provides that certain information about public employees is not confidential, such as age, date of employment, current position, title, salary, promotions, demotions, suspensions, and dismissals. Beyond this, the statute establishes an exemption to North Carolina's [\*6] public records law by providing that notwithstanding that law or any other "general law or local act concerning access to public records," [§ 160A-168\(a\)](#), all other information in a city employee's personnel file, "is confidential and shall be open to inspection only" in certain specified situations. [§ 160A-168\(c\)](#). An employee's personnel file is defined as "any information in any form gathered by the city with respect to that employee" including but not limited to information

"relating to" the employee's application, performance, evaluation, or disciplinary actions. [§ 160A-168\(a\)](#). The statute also explicitly protects any information that might identify where a sworn law enforcement officer lives or an officer's emergency contact information. [§ 160A-168\(c\)\(4\)](#).

#### A. The Briefs

At the defendants' request pursuant to the protective order, Doc. 28, the plaintiffs<sup>3</sup> initially filed three briefs subject to motions to seal; one brief was filed on the public record with some redactions, and two briefs were redacted in their entirety.<sup>4</sup> After the Court questioned the wholesale redaction of the two briefs initially filed entirely under seal, the defendants later narrowed their confidentiality requests.<sup>5</sup>

The information the defendants seek to seal in the briefs are references to documents in the police department's internal investigation file and in the officers' personnel

<sup>3</sup> In December 2021, all parties stipulated to the dismissal of plaintiff, Tony Scott, Sr. Doc. 79. After this, Tony Scott, Jr. was the only plaintiff.

<sup>4</sup> These briefs are:

Plaintiffs' Brief in Support of Motion for Summary Judgment: [\*7]

Doc. 52: Public Redacted Version

Doc. 53: Sealed Unredacted Version

Plaintiffs' Response to Defendants' Motion for Summary Judgment:

Doc. 62: Public Redacted Version (entirely redacted)

Docs. 63, 64: Sealed Unredacted Version

Plaintiffs' Reply to Defendants' Response to Plaintiffs' Motion for Summary Judgment:

Doc. 68: Public Redacted Version (entirely redacted)

Doc. 71: Sealed Unredacted Version

<sup>5</sup> As to the Plaintiffs' Response to Defendants' Motion for Summary Judgment, Doc. 62, the defendants narrowed their requests as shown in Doc. 85, a public version that is no longer entirely redacted, and Doc. 86, the sealed unredacted version with requested redactions highlighted. As to the Plaintiffs' Reply to Defendants' Response to Plaintiffs' Motion for Summary Judgment, Doc. 68, the defendants narrowed their requests as shown in Doc. 88, a public version that is no longer entirely redacted, and Doc. 89, the sealed unredacted version with requested redactions highlighted.

files, including disciplinary actions, and to deposition testimony about those same documents. The Court will discuss the motions to seal these parts of the briefs in connection with its discussion of sealing the underlying evidence.

## B. Durham Police Department's Internal Investigation File

The defendants ask the court to keep under seal parts of the Durham Police Department internal investigation report into Mr. McGlasson's encounter with Mr. Scott.<sup>6</sup> The report contains a variety of materials, including news articles, incident reports, transcripts of interviews with the plaintiff and others, court filings, and other documents.

### 1. Non-Confidential Materials in the Internal Investigation File

The defendants initially claimed the entire file was confidential, Doc. 97-1 at 11, but withdrew their claims of confidentiality as to narrow parts of the report. Doc. 97-2. As the defendants now recognize, not everything in the internal investigation file is confidential. News articles, court filings, interviews with Mr. Scott, and similar documents are not confidential, and these pages will be unsealed. See Doc. 97-2 (identifying parts of the file the defendants do not ask to seal).<sup>7</sup>

There are other pages in the reports that are similarly not confidential. The reports contain "general orders" issued by the Durham Police Department that deal with standards for all officers and applicable rules and regulations for officers to follow, see Doc. 55 at A (DEFs 23-24, 26-39, 229-34, 236-41, 243-56, 271-72), and the defendants have made no showing that these orders are not already public or that they are covered by the state law on which the defendants rely for sealing.

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<sup>6</sup> For reasons not explained by the parties, this document does not appear at all on the docket, publicly or under seal. See Doc. 55 at A (notice of manual filing only); Docs. 52-2, 53-2, 82-4, 83-4, 88-6, 89-6 (all placeholders only). The version accessible to the court is a thumb drive that was manually filed with the Clerk. See [\*8] Doc. 55 at A.

<sup>7</sup> Using the internal pagination apparently appended during discovery, the pages identified by the defendants as non-confidential are: Doc. 55 at A (DEFs 43-48, 72-82, 87, 92-95, 147-65, 167-68, 170-75, 177-87, 195, 258, 269-70, 273-82, 297, 319-20, 321-23).

There are copies of publicly available judicial opinions and summaries, see *id.* (DEFs 203-06, 208-12), and articles on [Fourth Amendment](#) law. See *id.* (DEFs 214-27). Pages that function [\*9] as dividers, such as Doc. 55 at A (DEFs 42) (saying only "Exhibit G"), contain no sensitive information.<sup>8</sup> There is no reason to keep any of these pages sealed.

### 2. The Investigation and Results

The remaining pages of the report contain the department's investigation of and findings about Mr. McGlasson's encounter with Mr. Scott.<sup>9</sup> Here, the internal investigation file was specific to Officer McGlasson's conduct and led to disciplinary action against him. It thus falls within the statutory definition of "information . . . gathered by the city with respect to [an] employee . . . relating to his . . . performance, . . . suspension and other disciplinary actions," after his encounter with Mr. Scott. [§ 160A-168\(a\)](#); see generally, [Hispanic Nat'l Law Enft Ass'n NCR v. Prince George's Cty., No. 18-CV-3821, 2021 U.S. Dist. LEXIS 26546, 2021 WL 488641, at \\*8 \(D. Md. Feb. 10, 2021\)](#) (finding internal investigation files were not "personnel records" under a Maryland statute similar to [N.C. Gen. Stat. § 160A-168](#) because no particular officer was the subject of the investigation).

North Carolina has a strong public policy in favor of protecting officers' personnel information. See [Release of Silk Plant Forest Citizen Rev. Comm.'s Rep. & Appendices v. Barker, 216 N.C. App. 268, 271, 719 S.E.2d 54, 57 \(2011\)](#). In particular, the plain language of [§ 160A-168\(c\)\(4\)](#) shows "a clear intent to maintain the privacy of a city employee's personnel file" and "wholesale publication of even a portion of the file would be contrary to the legislative [\*10] intent behind [ ] [§ 160A-168\(c\)\(4\)](#)." *Id.* at 272. That a document is part of a personnel file and subject to confidentiality protections under state law does not automatically justify sealing. As noted *supra*, district courts must determine if the constitutional right of access outweighs state public

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<sup>8</sup> Divider pages are: Doc. 55 at A (DEFs 15-16, 19, 21-22, 25, 40, 42, 49, 72, 83, 86, 96-97, 100, 122, 135, 146, 166, 169, 176, 197, 202, 207, 213, 228, 235, 242, 257, 261, 263, 267-68).

<sup>9</sup> These pages contain the police department's investigation and findings: Doc. 55 at A (DEFs 1-14, 17-18, 20, 41, 50-71, 84-85, 88-91, 98-99, 101-21, 123-34, 136-45, 188-94, 196, 198-201, 259-60, 262, 264-66, 283-96, 298-318, 324-46).



policy, even if a state statute prohibits disclosure. See [Stone, 855 F.2d at 181-82](#).

A number of courts have grappled with whether internal law enforcement reports submitted in connection with summary judgment motions should be sealed. The developing consensus is that motions to seal should be denied when the reports concern the allegedly unconstitutional acts at issue in the lawsuit, at least in the absence of a strong showing that the disclosure would be unusually harmful.

For example, in [Johnson v. City of Fayetteville, No. 12-CV-456, 2014 U.S. Dist. LEXIS 172229, 2014 WL 7151147 \(E.D.N.C. Dec. 11, 2014\)](#), the plaintiffs brought suit against Fayetteville police officers alleging, *inter alia*, false arrest and use of excessive force. [2014 U.S. Dist. LEXIS 172229, \[WL\] at \\*1-2](#). Both parties sought to seal numerous documents submitted in connection with dispositive motions. [2014 U.S. Dist. LEXIS 172229, \[WL\] at \\*7](#). The court denied the motions to seal internal investigative materials under [§ 160A-168](#) where the documents concerned events at issue in the lawsuit. [2014 U.S. Dist. LEXIS 172229, \[WL\] at \\*11](#). That information, the court noted, was "extremely relevant to the plaintiffs' claims [\*11] and/or the city defendants' defenses." *Id.* There was no indication that disclosure of the internal investigation would cause harm, for example by jeopardizing ongoing investigations or revealing confidential informants. [2014 U.S. Dist. LEXIS 172229, \[WL\] at \\*11 n.6](#). On those facts, the *First Amendment* right of access outweighed the governmental interest in confidentiality because of "the public's interest in monitoring the functioning of the courts [and] the integrity of the judiciary." [2014 U.S. Dist. LEXIS 172229, \[WL\] at \\*11](#) (cleaned up).

Similarly, in [Franklin v. City of Charlotte, No. 20-CV-00330, 2021 U.S. Dist. LEXIS 223494, 2021 WL 5443566 \(W.D.N.C. Nov. 19, 2021\)](#), a case arising from a police shooting, the defendants relied on [§ 160A-168](#) to seal transcripts of relevant internal police hearings. [2021 U.S. Dist. LEXIS 223494, \[WL\] at \\*3](#). The court agreed that the transcripts were personnel records under [§ 160A-168](#) but held that this general statutory interest did not outweigh the public's *First Amendment* right of access to summary judgment materials. *Id.* The court made the same finding about interviews with witnesses to the shooting, holding that statutory protection of records of criminal investigations did not outweigh the public's right of access at summary judgment. *Id.* Many other courts have refused to seal internal personnel records or investigations of police

officers or other public employees accused of misconduct when those records involved the misconduct [\*12] at issue and were filed in connection with summary judgment motions.<sup>10</sup>

These cases are consistent with other decisions about personnel records in the summary judgment context. For example, in *Robinson v. Bowser*, an employment discrimination case, the court declined to seal the plaintiff's personnel records under [N.C. Gen. Stat. § 153A-98](#), a provision about county employees mirroring [§ 160A-168](#). [No. 12-CV-301, 2013 U.S. Dist. LEXIS 101194, 2013 WL 3791770, \\*6-8 \(M.D.N.C. July 19, 2013\)](#). The plaintiff relied only on "strong legislative intent and public policy to treat employees' personnel files in a confidential manner" under [§ 153A-98](#) and "cited general concerns of avoiding annoyance and embarrassment" to support sealing. *Id.* Those general interests, however, did not outweigh the public's interest when the personnel file information "appear[ed] highly relevant and, indeed, critical" to the plaintiff's claims. [2013 U.S. Dist. LEXIS 101194, \[WL\] at \\*8](#). But the court did seal some information about "innocent third parties" because of the need to protect their reputational and privacy interests. [2013 U.S. Dist. LEXIS 101194, \[WL\] at \\*3-4](#).

In addition to the public's interest at summary judgment in "monitoring the functioning of the courts [and] the integrity of the judiciary," [Johnson, 2014 U.S. Dist. LEXIS 172229, 2014 WL 7151147, at \\*11](#), cases involving police misconduct raise additional interests in whether law enforcement is supporting [\*13] or undermining societal and constitutional values. The public has a legitimate "desire to keep a watchful eye on the workings of public agencies" and to review "information concerning the operation of government,"

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<sup>10</sup> See, e.g., [Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1181-84 \(9th Cir. 2006\)](#); [Welsh v. City & Cty. of San Francisco, 887 F. Supp. 1293, 1302 \(N.D. Cal. 1995\)](#); [Covington v. Semones, No. 06 CV 00614, 2007 U.S. Dist. LEXIS 28398, 2007 WL 1170644, at \\*3-4 \(W.D. Va. Apr. 17, 2007\)](#); [Martin v. City of Dothan, No. 05-CV-1172, 2008 U.S. Dist. LEXIS 13923, 2008 WL 541289, at \\*20 \(M.D. Ala. Feb. 25, 2008\)](#); [Macias v. Cleaver, No. 13-CV-1819, 2016 U.S. Dist. LEXIS 85529, 2016 WL 3549257, at \\*4 \(E.D. Cal. June 30, 2016\)](#); [Coleman v. Cnty. of Suffolk, 174 F. Supp. 3d 747, 756-57 \(E.D.N.Y. 2016\)](#); [Roberts v. Clark Cty. Sch. Dist., No. 15-CV-00388, 2016 U.S. Dist. LEXIS 54146, 2016 WL 1611587, at \\*2 \(D. Nev. Apr. 21, 2016\)](#); [Moroughan v. Cty. of Suffolk, No. 12-CV-0512, 2021 U.S. Dist. LEXIS 13133, 2021 WL 280053, at \\*4 \(E.D.N.Y. Jan. 24, 2021\)](#).

*Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597-98, 98 S. Ct. 1306, 55 L. Ed. 2d 570 (1978), both interests raised in police misconduct cases. The Supreme Court has noted that "[t]he public in general . . . has a strong interest in exposing substantial allegations of police misconduct to the salutary effects of public scrutiny," *Waller v. Georgia*, 467 U.S. 39, 47, 104 S. Ct. 2210, 81 L. Ed. 2d 31 (1984) (addressing closure of a suppression hearing),<sup>11</sup> and the Fourth Circuit has pointed out that the public "has legitimate concerns about methods and techniques of police investigation," including, for example, whether those methods "are unnecessarily brutal or instead [are] cognizant of suspects' rights." *In re Application & Affidavit for a Search Warrant*, 923 F.2d 324, 331 (4th Cir. 1991). As one court has aptly noted, when a case "involves allegations of police misconduct, the public has a vested interest in assessing the truthfulness of the allegations of official misconduct, and whether agencies that are responsible for investigating and adjudicating complaints of misconduct have acted properly and wisely." *Macias v. Cleaver*, 2016 U.S. Dist. LEXIS 85529, 2016 WL 3549257, at \*4 (E.D. Cal. June 30, 2016) (cleaned up); see also *Hisp. Nat'l L. Enft Ass'n NCR*, 2021 U.S. Dist. LEXIS 26546, 2021 WL 488641, at \*5 (noting while applying the common law right of access that the public interest "is even [\*14] more compelling" in cases involving allegations of police misconduct).

Here, the internal investigation file the defendants want to keep secret was central to judicial decisions on summary judgment.<sup>12</sup> Given the strong *First*

*Amendment* right of access supporting a transparent public record in summary judgment cases generally and police misconduct cases specifically, the defendants must show actual harm to governmental or private interests from disclosure. See *Doe*, 749 F.3d at 270; see n. 2 *supra*. They have not done so.

The defendants mention both the state's interest in protecting personnel files and the individual privacy interests of Mr. Richards and Mr. McGlasson. See Doc. 59 at ¶¶ 22-23 (stating that the internal investigation file is a "confidential employee personnel record[ ]" and asserting "compelling privacy interests"). But they articulate no particular harms to these interests from disclosure and have not explained how their interests in sealing might be undermined by public access to the report. They have not, for example, pointed to any information in the internal report that places any officer or witness at risk of harm. And it is already public that these officers have been accused of acting in violation [\*15] of Mr. Scott's constitutional rights.

The Fourth Circuit "has never permitted wholesale sealing of documents based upon unsubstantiated or speculative claims of harm." *Doe*, 749 F.3d at 270. The defendants' cursory and conclusory references to § 160A-168 and compelling privacy interests are insufficient to justify an order that would prevent the public from accessing key evidence about claims of constitutional violations by law enforcement.<sup>13</sup> See

all the evidence showed he acted in violation of Mr. Scott's constitutional rights. Doc. 80.

<sup>11</sup> The test for closure of a criminal proceeding in *Waller* mirrors the requirements for sealing—"the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, the closure must be no broader than necessary to protect that interest, the trial court must consider reasonable alternatives to closing the proceeding, and it must make findings adequate to support the closure." 467 U.S. at 48. There, the Supreme Court reversed the lower court's closure of the wiretap suppression hearing because "the State's proffer was not specific as to whose privacy interests might be infringed, how they would be infringed, what portions of the tapes might infringe them, and what portion of the evidence consisted of the tapes." *Id.*

<sup>12</sup> The Court's order on the cross motions for summary judgment was short given the upcoming trial date. The evidence, including that in the internal report, was sufficient to result in the Court denying the defendants' motion and keeping the plaintiff's motion for summary judgment as to Officer McGlasson under advisement for further study as to whether

<sup>13</sup> The Court has identified some decisions where courts have sealed personnel and internal affairs documents at summary judgment, but these cases are often distinguishable. See, e.g., *Guessford v. Pa. Nat'l Mut. Cas. Ins. Co.*, No. 12-CV-260, 2014 U.S. Dist. LEXIS 196577, 2014 WL 12594127, at \*4 (M.D.N.C. Sept. 30, 2014) (sealing information in personnel files but only discussing files of non-parties); *Alexander v. City of Greensboro*, No. 09-CV-293, 2013 U.S. Dist. LEXIS 177335, 2013 WL 6687248, at \*5 (M.D.N.C. Dec. 18, 2013) (approving "limited redactions by the parties [that] are narrowly tailored to protect compelling privacy interests without depriving the public access to information essential in deciding" summary judgment motions). There may be valid reasons for sealing internal reports about police misconduct, see generally *Richardson v. City of Newark*, No. 16-CV-265, 2019 U.S. Dist. LEXIS 69687, 2019 WL 1795542, at \*1 (D.N.J. Apr. 24, 2019); *Haber v. Evans*, 268 F. Supp. 2d 507, 513-14 (E.D. Pa. 2003), but the defendants have not identified them here and the Court is not obligated to make and evaluate those arguments on its own. See *Greenlaw v. United States*, 554 U.S. 237, 243, 128 S. Ct. 2559, 171 L. Ed. 2d 399 (2008)

[Johnson](#), 2014 U.S. Dist. LEXIS 172229, 2014 WL 7151147, at \*10 (noting the public interest is heightened in documents containing information that "form[s] the very basis of the lawsuit"). In the absence of a particularized showing of harm from public disclosure of the internal investigation report, the motion to seal the reports and the discussion of the reports in the briefing will be denied.

The report was submitted via a thumb drive and is presently not accessible on CMECF. See *supra* n. 5. It will be filed on the public docket.

### C. Personnel Files

The defendants ask to keep under seal the individual personnel files of Mr. Richards and Mr. McGlasson.<sup>14</sup> The public versions of these files are only placeholders,<sup>15</sup> so there are effectively no versions of these files even partially available to the public at present. [\*16]

These two personnel files are personnel records as defined by [§ 160A-168\(a\)](#). They are records about current or former employees maintained by the city and they contain information gathered by the city about the employees' performance, suspension, disciplinary actions, etc. *Id.*

These files contain sensitive private information about the officers such as their addresses, job applications with personal data, names and contact information of family, school transcripts, birth certificates, driver's licenses, and social security numbers. See Docs. 63-3, 64-1, 64-2, 64-3, 64-4. There is a strong interest in protecting officer safety, personal security, and privacy as to information which, if disclosed, would expose the officers to risk of identity theft and other potential harms. See, e.g., [Allen v. City of Graham](#), No. 20-CV-997, 2021 U.S. Dist. LEXIS 96769, 2021 WL 2037983, at \*9-10

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("[I]n both civil and criminal cases . . . we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present."); [United States v. Sineneng-Smith](#), 140 S. Ct. 1575, 1579, 206 L. Ed. 2d 866 (2020) (same).

<sup>14</sup> See Docs. 64-1, 64-2, 64-3, 64-4 (sealed unredacted version of Mr. Richards' file); Doc. 63-3 (sealed unredacted version of Mr. McGlasson's file).

<sup>15</sup> Docs. 62-1, 82-10, 88-8 (all placeholders for Mr. Richards' file); Docs. 62-2, 82-3, 88-9 (all placeholders for Mr. McGlasson's file).

(*M.D.N.C. May 21, 2021*); see also [Mackey v. County of San Bernardino](#), No. CV-09-1124, 2013 U.S. Dist. LEXIS 208788, 2013 WL 12474636, at \*2 (C.D. Cal. Dec. 19, 2013) (collecting cases in which defendant police officers' sensitive personal and identifying information was redacted from documents even before production). Moreover, much of this information was not relevant to summary judgment decisions, and to the extent their employment dates and other basic facts were relevant, they are publicly available in deposition testimony or affidavits. While some of the information [\*17] is subject to public disclosure under North Carolina law, see [§ 160A-168\(b\)](#) (stating city employees' names, ages, employment dates, salary, and other information are public record), it would be difficult and time-consuming to redact the records, especially since any relevant information is available elsewhere.

As to disciplinary information in the files, the analysis is different. That evidence was relevant to the claims and defenses. The parties cited disciplinary information in the summary judgment briefing, see, e.g., Doc. 53 at 17-18, Doc. 63 at 8-11, Doc. 71 at 4-7, and it played a significant role in the plaintiff's claims against the City of Durham. While arguably some pages with this information could be made publicly available,<sup>16</sup> many of the pages also contain irrelevant or private personal information subject to misuse.<sup>17</sup>

A simple and practical solution is to make public the briefs and deposition testimony discussing the disciplinary records. This provides the public with the information necessary to understand the court's decisions, even if the underlying documents are not themselves available, and thus reasonably protects the public's [First Amendment](#) right of access without harming [\*18] legitimate privacy interests of the officers.

Specifically, a chart prepared by plaintiff's counsel in one of their briefs, Doc. 71 at 4-7, summarizes the

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<sup>16</sup> See, e.g., Doc. 64-3 at 123-24 (cited in Doc. 63 at 9 as "*Id.* pp. at 422-3") (written reprimand of Officer Richards); Doc. 64-2 at 59-61 (cited in Doc. 63 at 9 as "Richards Per. pp. 208-9") (Performance Improvement Plan for Officer Richards).

<sup>17</sup> See, e.g., Doc. 64-1 at 24-25 (cited in Doc. 63 at 8 as "Richards Per. pp. at 23-4") (discussing discipline of Officer Richards and also containing his home address); Doc. 64-2 at 134 (cited in Doc. 63 at 8 as "Richards Per. p. at 284") (recording discipline of Officer Richards and also containing his SSN).



reasons for disciplinary actions against Mr. Richards and Mr. McGlasson. The defendants ask the court to seal this chart, see Docs. 70, 97-1, but they have not "identified any particularized reasons why the [First Amendment](#) right of access should be displaced" beyond the state statute. [Franklin, 2021 U.S. Dist. LEXIS 223494, 2021 WL 5443566, at \\*4](#). Deposition testimony by Mr. Richards, discussed *infra*, also covers this information.

Evidence of misconduct and failure to discipline were important to the merits of this case and there is a significant public interest in access. The defendants have not met their burden to show that the governmental interest in sealing the chart and other discussion of the officers' disciplinary records outweighs the [First Amendment](#) public right of access.

The briefing and deposition testimony discussing the disciplinary histories of the officers will not be sealed. Their personnel files will remain under seal.

#### D. Exhibits to Mr. Richards' Deposition

The defendants ask the court to keep under seal exhibits 1 and 3-8, 10-14 used at Mr. Richards' deposition. See Doc. 97-1 at 1-10. But the deposition [\*19] exhibits are not appended to any version of Mr. Richards' deposition on the docket, and do not appear to be on the docket at all. This aspect of the motion to seal is denied as unnecessary.

#### E. Mr. Richards' Deposition

The defendants seek to seal parts of Officer Richards' deposition in which they say he discusses certain exhibits from his personnel file and the internal investigation. See Doc. 97-1 at 1-10. While the deposition itself does not fall under the [§ 160A-168\(a\)](#) definition of a personnel file, references within a deposition to personnel file information may warrant the same protection that the underlying documents receive. See, e.g., [Robinson, 2013 U.S. Dist. LEXIS 101194, 2013 WL 3791770, at \\*6](#) (sealing deposition pages that referenced "the personnel and otherwise sensitive information of . . . non-parties").

The motion will be denied. There is no reason for the questions and answers about the events at issue to be sealed, and, as previously explained, the public's [First Amendment](#) right of access outweighs the state's

interest in confidentiality of the internal affairs documents and the substance of the officer's disciplinary record. The Clerk will be directed to unseal the deposition.<sup>18</sup>

#### F. Request for Permanent Seal

The defendants ask for a permanent seal. While [\*20] courts do not favor permanent seals, one is appropriate here, subject to reconsideration at any time upon appropriate motion.

Of all the documents the court has considered, only the individual personnel files of Mr. Richards and Mr. McGlasson will be sealed. Perhaps this information could be unsealed in fifty years or so without substantial risk of harm. But some of the information is highly sensitive and personal, and the Court is unable to see into the future to know how such information might be misused. More importantly, there is no public need to see any of the underlying private information, as it was not relevant to the summary judgment decisions. If and when any person or entity wants to access this information, a motion to unseal is appropriate.

#### G. Housekeeping

As noted *supra*, the Court required the defendants to be specific in their motions to seal by filing a chart summarizing and covering all materials subject to the motions. See Doc. 96. In the charts the defendants filed, they did not address several documents originally filed under seal. For any such documents, the defendant has abandoned the motions to seal these documents.

Consistent with LR 5.4(c)(8), the parties filed complete

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<sup>18</sup> The sealed version is at Docs. 83-2, 86-2, 89-2; the partially redacted public version is available at Docs. 52-5, 82-2, 85-2, 88-2. All sealed copies will be unsealed. The sealed copies do have the officer's date of birth and address redacted, as is appropriate and consistent with LR 5.4(a)(3) and court order, Doc. 6 at ¶ 7(A); that information need not be made public.

The parties filed three identical copies of Officer Richards' deposition, so that with the sealed and unsealed versions there are six copies of his deposition on the docket. While one of these versions was filed as a "corrected version," filing the third version violates a court order not to file duplicate exhibits without a specific reason. *Id.* at ¶ 6. The parties also violated the requirement that in the sealed version all information sought to be sealed must be highlighted. LR 5.4(c)(8).



sets [\*21] of exhibits with the public version and with the sealed version, even those exhibits not subject to the motion to seal. To make the docket less confusing at this point, now that almost everything will be unsealed, the seal will be lifted on all of these documents except the personnel files and also on sealed placeholders.

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#### IV. Conclusion

Police misconduct is an area of legitimate and significant public interest. Here, the defendants did not establish a compelling governmental interest to overcome the [First Amendment](#) right of public access to judicial records on which the Court based its potentially dispositive decisions about alleged police misconduct. The internal affairs report will not be sealed, nor will the briefing and deposition testimony about that report or the individual defendants' disciplinary records.

The motion to seal will be granted as to the individual personnel files of Cornell Richards and Michael McGlasson. The public interest in access to the officers' disciplinary records contained in the personnel files can be met by unsealing the depositions and briefing, without risk of harm or cumbersome redactions, and the public interest in other personal data in the personnel files is minimal [\*22] to non-existent.

It is **ORDERED** that the motions to seal, Doc. 54, as revised, Docs. 65, 70, 84, 87, and 90 are **GRANTED in part and DENIED in part**, as follows:

1. The Clerk **SHALL** maintain under seal Michael McGlasson's personnel file, Doc. 63-3, and Cornell Richards' personnel file, Docs. 64-1, 64-2, 64-3, 64-4.
2. On March 21, 2022, five business days after entry of this order, the Clerk **SHALL** unseal all other sealed documents on the electronic docket.
3. The Clerk **SHALL** file the Durham Police Department internal affairs investigation report, in the form provided by the Court, on the electronic docket under seal. The Clerk **SHALL** unseal this document on March 21, 2022, five business days after entry of this Order.

This the 14th day of March, 2022.

/s/ Catherine C. Eagles

UNITED STATES DISTRICT JUDGE

Seth Stern

## In re Doug Miller Petitions for Release of Charlotte Mecklenburg Police Dep't Recordings

No Shepard's Signal™

As of: January 20, 2023 5:59 PM Z

**In re Doug Miller Petitions for Release of Charlotte Mecklenburg Police Dep't Recordings**

Superior Court of North Carolina, Mecklenburg County

March 2, 2018, Decided

17-CvS-15955

**Reporter**

2018 NCBC LEXIS 211 \*; 46 Media L. Rep. 1395

IN THE MATTER OF: DOUG MILLER PETITIONS FOR RELEASE OF CHARLOTTE MECKLENBURG POLICE DEPARTMENT RECORDINGS REGARDING CHARLIE SHOUBE

**Core Terms**

Recordings, camera, law enforcement agency, fatal shooting, shooting

**Judges:** [\*1] Honorable Lisa C. Bell, Superior Court Judge Presiding.**Opinion by:** Lisa C. Bell**Opinion****ORDER GRANTING PETITIONS FOR RELEASE OF LAW ENFORCEMENT AGENCY RECORDING**

THIS MATTER came on for hearing on February 21, 2018 before the undersigned Superior Court Judge presiding in Courtroom 6310 in Mecklenburg County Superior Court on (1) the Petition for Release of a Law Enforcement Agency Recording which was filed February 5, 2018 by Doug Miller, pursuant to [N.C.G.S. § 132-1.4A](#) seeking release of any Charlotte-Mecklenburg Police Department ("CMPD") dash camera and body camera recordings related to the February 2, 2018 officer-involved fatal shooting of Charlie Shoupe ("Petition 1"), and (2) the Amended Petition for Release of a Law Enforcement Agency Recording which was filed February 12, 2018 by Doug Miller, pursuant to [N.C.G.S. § 132-1.4A](#) seeking release of any Charlotte Mecklenburg Police Department ("CMPD") dash camera and body camera recordings related to the February 1, 2018 meeting between Charlie Shoupe and CMPD

(Petition 2") (collectively, the "Petitions").

Petitioner Doug Miller, the Deputy City Editor and Investigations Editor of *The Charlotte Observer*, was represented at the hearing by Jonathan E. Buchan of Essex Richards, P.A. CMPD was represented [\*2] at the hearing by Charlotte Assistant City Attorney Jessica K. Battle. The Mecklenburg County District Attorney was represented by William Bunting CMPD Officer Daniel Flynn was represented by Daniel Roberts of Goodman, Carr, Laughrun, Levine & Greene.

The Court, having: (1) reviewed the Petitions, (2) heard arguments from counsel for Petitioner, CMPD, the District Attorney's Office and Daniel Flynn, (3) reviewed Media Releases issued to the public by CMPD regarding the February 2, 2018 shooting of Charlie Shoupe and the February 1, 2018 meeting with Mr. Shoupe, (4) reviewed three news articles published by *The Charlotte Observer* regarding the February 2, 2018 shooting, (5) reviewed a video of a recording of events at or near the scene of the February 2, 2018 shooting taken by a witness and posted to *The Charlotte Observer's* website, and (6) reviewed relevant portions of the audio and video recordings from the body cameras and dash board cameras regarding the February 1, 2018 and February 2, 2018 encounters between Mr. Shoupe and CMPD personnel, makes the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Petitioner sought release pursuant to [N.C.G.S. § 132-1.4A\(g\)](#) of any CMPD dash camera [\*3] and body camera recordings related to the February 2, 2018 officer-involved fatal shooting of Charlie Shoupe ("Petition 1") and related to the February 1, 2018 meeting between Charlie Shoupe and CMPD (Petition 2") (collectively, the "Recordings").

## In re Doug Miller Petitions for Release of Charlotte Mecklenburg Police Dep't Recordings

2. The persons required to be served under this statute were properly served and received notice of this hearing.

3. The head of the custodial law enforcement agency did give proper notice of the Petitions and the February 21, 2018 hearing to all law enforcement agency personnel whose images or voices are captured in the Recordings.

4. Each person entitled to be notified of this proceeding was given an opportunity to be heard, either individually or by such person's designated representative.

5. CMPD timely provided the Court with copies of the relevant portions of the Recordings whose release Petitioner seeks in its Petitions.

6. CMPD did not object to the release of the Recordings sought by Petitioner.

7. The Mecklenburg County District Attorney objected to the release of the Recordings at this time, on the basis that their review of the investigation by CMPD into the February 2, 2018 fatal shooting of Mr. Shoupe was not completed, and that release [\*4] of the Recordings to the public prior to the completion of the investigation may jeopardize the integrity of the investigation.

8. CMPD Officer Daniel Flynn, through his legal counsel did not object to the release of the Recordings except to the extent that CMPD and/or the Office of the Mecklenburg County District Attorney would object with regards to any effect the release would have on the integrity of an active investigation.

9. The Recordings reviewed by the Court in considering the Petitions were (1) the February 1, 2018 body-worn camera recordings of Officers Joseph Calabro and Heather Ignaczak and (2) the February 2, 2018 body-worn camera recordings Officers Daniel Flynn, Jeffrey Porter, Richard Rodriguez, and Sergeant Bradford Dunn.

### **CONCLUSIONS OF LAW**

1. Pursuant to N.C.G.S. § 132-1.4A(g), Petitioner Miller is a "person" with standing to file a Superior Court action seeking an order directing release of the Recordings.

2. In applying the balancing test set forth in [N.C.G.S. § 132-1.4A\(g\)](#), the Court concludes as follows:

(a). The Recordings arise from and relate to matters of

significant public interest, specifically (1) the February 2, 2018 officer-involved fatal shooting of an individual believed [\*5] to have mental health issues and (2) the proper protocols for law enforcement in handling encounters with such individuals. There is therefore good cause to release the Recordings, and their release to the public is necessary to advance a compelling public interest.

(b). The Recordings contain information of a highly sensitive personal nature in that they involve the fatal shooting of an individual, and in that this individual had been diagnosed as having mental health issues. In addition, the Recordings depict images of Mr. Shoupe after his clothing had been removed by medics.

(c). Release of the Recordings will not create a serious threat to the fair, impartial and orderly administration of justice, in light of the availability of extensive *voir dire* at trial as well as other alternatives available to a trial court for ensuring a fair and impartial jury in the event any criminal charges are brought. See *In Re: The Charlotte Observer*, 882 F. 2d 850, 855-56 (4th Cir. 1989) (stating "[i]ncreasingly the courts are expressing confidence that *voir dire* can serve in almost cases as a reliable protection against juror bias however induced.").

(d). While there is an active external criminal investigation into the February 2, 2018 shooting, the release of [\*6] the Recordings at this time will not interfere with such investigation in light of the time investigators have had to interview the material witnesses to the shooting, the identification by officers of the relatively small number of witnesses at the scene (as indicated in the Recordings), and the fact that two of the primary eyewitnesses identified in the Recordings are CMPD officers.

(e). The other factors for consideration set forth in N.C.G.S. § 12-1.4A(g)(2) through (3) and (5) are not relevant to the issues presented by the Petitioner

3. Having considered the factors specifically required or otherwise permitted to be considered by the Court pursuant to [N.C.G.S. § 132-1.4A\(g\)](#), the Court has concluded that the Recordings sought by Petitioner should be released to the public.

4. CMPD shall release to Petitioner on March 2, 2018 copies of the Recordings as set forth in this Order below.

IT IS, THEREFORE ORDERED, AS FOLLOWS:

In re Doug Miller Petitions for Release of Charlotte Mecklenburg Police Dep't Recordings

1. Petitioner's request for release of the Recordings described in the Petitions is hereby GRANTED, as follows.

2. On March 2, 2018, the Charlotte-Mecklenburg Police Department, the custodian of the Recordings sought by Petitioner, shall release to Petitioner: (a) the two body-worn camera recordings from February 1, 2018 of Officers [\*7] Calabro and Ignaczak; (b) the February 2, 2018 body-worn camera recordings of Officers Flynn, Porter, Rodriguez, and Sergeant Dunn. Officer Rodriguez's recording shall be redacted and blurred at timestamps 03:08-18 and 04:06-09.

3. The District Attorney shall provide the family of Charlie Shoupe an opportunity to review the Recordings prior to March 2, 2018.

4. After release has been made to the Petitioner, the Petitioner and the CMPD may further release the recordings to the public as they deem appropriate.

This the 2nd day of March, 2018.

/s/ Lisa C. Bell

Honorable Lisa C. Bell

Superior Court Judge Presiding

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