



## Frequently Asked Questions – Homeless Encampments Near Davidson Middle School

On October 18, 2023, the City of San Rafael and San Rafael City Schools held a virtual community meeting regarding the encampments of individuals experiencing homelessness located along routes utilized by Davidson Middle School (DMS) students. The video of the community meeting can be found on the City’s YouTube channel and at this [link](#).

### Frequently Asked Questions

- 1. Why does the City allow encampments to happen near DMS and not remove them? There must be a remedy to remove the encampments as school children must walk by them to get to school.**

Since August 2023 the City has been restrained from removing or reducing encampments by federal court order, in a lawsuit filed by unhoused individuals at the Mahon Creek Path.

The City is bound by a 2019 U.S. Court of Appeals for the Ninth Circuit decision in the case *Martin v. Boise* which held that a city cannot criminalize a person for sleeping on public property if there is no alternative shelter available. Cities may, however, regulate the time, place and manner by which unhoused individuals camp on public property. In July 2023 the City of San Rafael City Council adopted Ordinance 2030 regulating camping on public property to address encampments in the City and in response to public health, safety, and welfare concerns associated with these encampments. This new “spacing and density” ordinance would have required individuals to camp 200 feet apart and in either 10x10 foot or 10x20 foot campsites. However, the City has not been permitted by the court to enforce its ordinance due to the lawsuit. On October 19, 2023, the City received a 50-page order from U.S. District Judge Edward Chen in the case and is evaluating its legal options.

- 2. What is being done in the a.m. and p.m. times when DMS kids are walking? Is there someone who can be posted to watch kids at high traffic times?**

We understand and share your concerns regarding the safety of children. To address these concerns, the City is taking the following steps:

**Private Security:** The City of San Rafael and the San Rafael City School District are partnering to provide private security guards along the path of travel to school, primarily at Lindaro Street. Barbier Security began on Monday, October 30th and the tentative security service schedule is as follows (this schedule is tentative and may change based on student needs/school schedule):

- Mondays, Tuesdays, Thursdays, and Fridays – 8:00 a.m. to 9:30 a.m. and 3:30 p.m. to 5:00 p.m.
- Wednesdays – 8:00 a.m. to 9:30 a.m. and 1:30 p.m. to 3:00 p.m.

**Mobile SAFE Team:** The SAFE Team is also present along the paths to school from 8:30-9:15 a.m. and 3:15-3:45 p.m. during the week. SAFE is a special City team that provides mobile mental health crisis response.

**School Security Personnel:** The school has allocated personnel to monitor the path during these high traffic times to ensure the safety of our students. Their primary goal is to keep an eye on the flow of student traffic and ensure that no issues arise.

**Police Monitoring:** Our local police are aware of these public safety concerns, and they do monitor the area whenever possible. Their presence serves as a deterrent and ensures an additional layer of safety.

**3. What would happen if the City defied the federal court order and removed the encampments?**

The City could be held in contempt of court which is a serious offense that could result in fines or imprisonment of City officials. While we do not agree with the court's current order, the City will not defy a court order. The City believes its ordinance is legal and constitutional and is evaluating the October 19 court order. We must follow the court's appeal process in any challenge to the court's orders.

**4. I see open drug use, what will the City do to prevent this from happening?**

Community members are encouraged to call 911 to report any illegal activity. Police Officers will respond, although they may not be able to take enforcement action unless they observe the illegal behavior or find the person to be in possession of drugs.

Please note that SRPD prioritizes calls based on a variety of factors. They include, but are not limited to, whether an incident is ongoing or happened in the past, there is an immediate danger to someone, or the incident is a property related crime. For example, SRPD will prioritize an incident involving an assault or robbery over an incident involving open drug use. However, when resources are available, SRPD and the SAFE Team work to connect individuals in need of substance abuse services with treatment.

**5. The encampments are filthy with human trash and waste, why doesn't the city use its health and safety code to remove the debris?**

The City has hired a contractor who cleans up waste and removes trash and abandoned property from the encampments twice a week. The City can issue citations for littering but is legally constrained from removing certain other items that are claimed as personal property.

**6. It seems like every day there are more tents, what will the City do to stop the spreading of encampments towards DMS?**

One of the goals of the City's new "spacing and density" ordinance was to stop the spread of large encampments city-wide, however as noted above the court has issued an order imposing significant limitations on the City's ability to enforce its ordinance. While the City evaluates its legal options, we are looking at all other legal remedies to contain the growth of the encampments.

**7. There are big structures made of pallets, how can that be legal and allowed by the City?**

On October 27, the City removed most of the wooden and cardboard structures from the encampments. The judge's October 19 order clarified that the City could enforce its fire code and life safety regulations at the encampments. The City's Fire Chief posted abatement notices at approximately 20 sites with highly flammable materials such as pallets, wood and cardboard. The City conducted enforcement efforts to remove these materials. The City replaced wooden structures with new tents purchased by the City.

**8. Can schools be designated as parks and then encampments be required to be a set distance from the parks?**

The City's new ordinance established a 100-foot buffer zone prohibiting camping around playgrounds. The City is required by law to leave sufficient public property open for persons with no alternative shelter available to sleep, therefore the City Council determined that the distancing requirements in its new ordinance would be an effective way to manage the safety and health concerns around concentrated encampments. At this time, the closest encampment to Davison Middle School on Lindero Street is more than 500 feet from the school.

**9. Can we have a conversation with the encampments and incentivize them to relocate away from DMS and pathways to DMS?**

The City has been actively engaged in dialogue with the unhoused community and non-profit service providers surrounding the topic of encampments near DMS and the pathways leading to it. However, due to ongoing litigation, the City is currently limited in its capacity to discuss specific plans or proposals publicly.

**10. Is relocation of the current encampments to the Civic Center a viable option?**

The Marin County Civic Center falls under the jurisdiction of the County of Marin, not the City of San Rafael.

**11. Isn't there a requirement to ensure a safe and unobstructed route to receive an education (at school)? Seems like the civil rights of one group are being prioritized over the civil rights of another here.**

We agree that access to education is a fundamental right. The safety and well-being of students on their way to and from school is paramount. At the same time, the courts have dictated that the rights of all community members, including those living in encampments, must be considered. This is not a matter of prioritizing one group's rights over another, but rather finding a balance that respects and protects the rights and safety of all involved. The City is committed to work toward solutions that address both the safety concerns related to school routes and the humanitarian considerations associated with encampments.

**12. There are encampments next to the creek, this is an environmental issue so why isn't the city enforcing the environmental codes?**

The City is evaluating its legal options to enforce any environmental laws that may apply to this situation. While the court's order remains in effect, the City's contractor cleans up waste and removes trash and abandoned property from the area twice a week.

- 13. Why are there encampments here in San Rafael and not in the other cities in Marin? I believe that if there was an encampment in Larkspur, for example, that city would take care of it, so why not San Rafael?**

We often hear the concern that homelessness is over-represented in San Rafael compared to other Marin communities. According to the most recent homeless Point-In-Time Count (a census of homelessness conducted in January 2022) individuals experiencing homelessness are present in every jurisdiction except for Ross and Belvedere. We believe this perception exists because most unsheltered Marin residents are sleeping in cars, less visibly as compared to tents. If unhoused individuals decided to camp on public property in Larkspur, as mentioned in this example, Larkspur would be bound by the Martin v Boise decision just like San Rafael. Martin v. Boise is binding throughout the entire 9th Circuit, which consists of the states AK, AZ, CA, HI, NV, MT, OR and WA.

- 14. I see someone with lots of bike parts and tires and I think these items are stolen, so why aren't the police citing and/or arresting that individual?**

Police officers routinely contact people who are in possession of items such as bicycles and bicycle parts to evaluate if any laws are being broken. There are only certain circumstances where the items can be searched to determine if they are lawfully possessed. If an item, such as a bicycle, is suspected to be stolen, police officers must establish probable cause before taking enforcement action. Mere possession of bicycles or bicycle parts without a receipt is not sufficient to take enforcement action. Police Officers routinely check bicycle and property serial numbers against a law enforcement database.

You can help us recover stolen items by ensuring that you maintain a record of your bicycle make/model/serial number, and report thefts as soon as they occur. You can proactively register your bicycle at: <https://srpd.org/bikes>. If your bicycle is lost or stolen, you can use that information to input into the database of stolen property.

- 15. I've personally witnessed campers throwing things at each other and passersby and I call the police as we've been asked to do that. But I don't see the police showing up right away so why should I keep calling?**

Police Officers will respond as soon as possible; however, they may be dispatched at the time you place a 911 call to a higher priority call. SRPD prioritizes calls based on a variety of factors. They include, but are not limited to, whether an incident is ongoing or happened in the past, there is an immediate danger to someone, or the incident is a property related crime. For example, SRPD will prioritize an incident involving an assault or robbery over an incident involving open drug use.

- 16. What should I do if a camper yells at, threatens or harasses me or my children when we walk by? It is a scary experience for me and my child and I want the City to help us to feel safe.**

If you are ever in a situation where you feel that you or your children are unsafe, call 911 immediately.

**17. Where are all these homeless people coming from? Why don't we stop providing services to them, so they will they leave San Rafael?**

Most individuals who are experiencing homelessness in Marin County are long-term Marin residents who last had housing here. The County's system of care conducts studies of this question, as do other California communities, and across the state we consistently find that 75-90% of homeless individuals remain in the immediate area where they became homeless. There are cases of homeless individuals migrating between communities, but they are not the majority. Communities across California have more homelessness because we have been in a crisis-level shortage of affordable housing for decades, and Marin lacks the basic support of low-cost housing that exists in other regions.

**18. How is the County helping San Rafael resolve this issue as they have more resources and capacity?**

The City and the County are currently working toward a partnership to address the critical shortage of available shelter for those individuals who are unhoused. Due to the City's limited resources and without an ongoing revenue source to support the creation of alternative housing/interim shelter, we must partner regionally to create a sustainable, longer-term solution.

**19. What can I do to help the homeless? I don't like the encampments but also want to help.**

The best way to assist people experiencing homelessness in Marin is to donate or volunteer directly through social service and non-profit agencies.

- **Homeward Bound Marin** – In addition to being Marin's primary emergency shelter provider, Homeward Bound also operates 353 units of supportive housing units, provides medical respite care, and provides job training opportunities.
- **St. Vincent de Paul** – In Marin since 1946, St. Vincent's does much more than just provide 200,000 warm meals every year at its Free Dining Room on B Street.
- **Downtown Streets Team** – Downtown Streets Team is a work experience program that provides volunteer opportunities for individuals experiencing homelessness.
- **Ritter Center** – The Ritter Center is Marin's primary healthcare provider for people experiencing homelessness.