

# Struggling with the Sleeping Ban in Santa Cruz

**Organizers are trying to fashion a ballot initiative dedicated to the moral principle that sleep is not an economic privilege but a basic human right.**

by Robert Norse

As summer turns to fall in Santa Cruz, protest against the anti-homeless Sleeping Ban has taken six paths. First, simply as a matter of survival, each night more than 750 people sleep outside — hence, illegally, since sleeping is banned from 11 p.m. to 8:30 a.m. Police arrest a few, ticket a few more, and harass still more.

Many homeless sleepers are ignored or overlooked, which prompts complacent City Councilmembers to pat themselves on the back and praise Santa Cruz's kinder, gentler sleeping ban. The Council majority broke the back of the peaceful City Hall Sleepers Protest Vigil last year with police harassment and a court order.

The second path of protest has led through a tangle of court proceedings resulting from the hundreds of Sleepcrime tickets issued at the City Hall vigil last year. Environmental and homeless activists Sandra Roth and Patrick Ring faced trespass, and other manufactured charges in several jury trials, but ultimately entered pleas to other charges in exhaustion. They are considering going to jail voluntarily instead of doing community service. Dan Hopkins, cofounder of the vigil, and Robert Flory, long-time Food

Not Bombs activist, are appealing their convictions. Flory's 24 Sleepcrime convictions will mean weeks in jail if he loses his appeal. Many other 'sleep-criminals' await the outcome of Hopkins' appeal of the Sleeping Ban law.

In September, Hopkins' eloquent pro-bono attorney, Kate Wells, will defend Sean Alemi in the first misdemeanor sleeping trial in Santa Cruz history. Alemi co-founded the vigil with Hopkins and runs Feed the People, a high-profile food distribution program to the poor downtown. The court-bound carrot-cutter boisterously supports homeless people harassed under the Sitting and Sparechanging Bans.

This winter, Alemi was jailed for five months on groundless drug charges, motivated, some believe, by police resentment of his protests at Santa Cruz City Hall. He refused a deal where his misdemeanor sleep charges would be reduced to infractions — a favorite tactic allowing police to arrest and jail homeless protesters on misdemeanors, then deny them a jury trial and court-appointed lawyer by reducing the charges at trial over their objections.

Six protesters who initially claimed conditional victory this spring with a hung jury in the Chaingang Lockdown Trial later "pled out" at the second trial to get on with their lives. Exhausted and eager to move on, they accepted a year's probation, some community service, and no jail time. Their crime: "disrupting a public meeting" by chaining themselves to City Hall furniture to protest the City

Council's legendary refusal to decriminalize sleep for the homeless.

This second path of protest has proved even harsher for some. The FBI interrogations of two well-known organizers, Jim Cosner and Linda Lemaster, spread fear through the homeless activist community this spring. Fiery Miguel Balderos, an often off-the-wall activist, languishes in jail on what many believe was fabricated testimony. He awaits trial in September on felony charges for allegedly breaking into and vandalizing City Hall.

The third path of resistance to City Hall's sleep-busting law has been the rise of spontaneous individual battles in the courts. Every week, nearly a dozen sleeping cases show up on court dockets, from months, sometimes years before. Increasingly, victims are standing up and

demanding court trials, which they usually lose, even when the law is on their side. Raymond Mason, an older homeless man, was fined \$277 for sleeping with the permission of the owner in a fenced-in yard, one of the few explicit exceptions allowed by Santa Cruz law. Ignoring the law, Commissioner Cloud ruled that written permission was not enough — he had to subpoena or bring in the property owner.

The fourth path to topple the Sleeping Ban may be renewed public protest with allied groups. Stepped up evictions in the city have led embattled tenants to form the Santa Cruz Tenants Union under the leadership of Donna Deiss, who won a retaliatory eviction trial last year and has begun full-time organizing under the

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