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15 UNITED STATES DISTRICT COURT
16 DISTRICT OF ARIZONA

17 Fund for Empowerment, a nonprofit
18 corporation, in its individual capacity;
19 Ronnie Massingille, individually;
20 Mohamed Sissoho, individually; Dyrwood
21 Moore, individually; Faith Kearns,
22 individually; Frank Urban, individually;
23 Timothy James, individually; Sherdina
24 Carr, individually; Papy Abdul Idrissa,
25 individually; and Jason Rich, individually,

Plaintiffs,

vs.

26 City of Phoenix, a political subdivision of
27 the state of Arizona; Rachel Milne,
28 ~~individually, and~~ in her official capacity as
the Director of the Office of Homeless

No. CV-22-02041-PHX-GMS

~~SECOND~~THIRD AMENDED
COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

CIVIL RIGHTS ACTION
(42 U.S.C. § 1983)

(JURY TRIAL DEMANDED)

1 Solutions; and Michael Sullivan
2 ~~individually, and~~ in his official capacity as
3 Interim Chief of the Phoenix Police
4 Department, Entities I-X, political
5 subdivisions of the state of Arizona; and
6 John and Jane Does 1-75, in their
7 individual capacities,

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Defendants.

Plaintiffs, through counsel undersigned, for their Complaint against Defendants, allege as follows:

INTRODUCTION

1. Phoenix is one of the epicenters of the homelessness crisis gripping the United States. Since 2010, the number of people experiencing homelessness in the city of Phoenix has more than doubled, and the crisis shows no sign of abating.¹ The number of people experiencing chronic homelessness in Maricopa County (the “County”) increased by 103% from 2017 to 2023.² Meanwhile, instead of taking responsibility for its role in creating this crisis, Defendant ~~the~~ City of Phoenix (the “City”) has continued to exacerbate the problem by punishing its thousands of unhoused residents.³

¹ Compare Maricopa Ass’n of Gov’ts, *2010 Homeless Street Count*, [https://www.azmag.gov/Portals/0/Documents/MagContent/2010%20Point%20in%20Time%20Count%20for%20AZ-502%20\(Municipal%20Street%20Count\).pdf?ver=2017-07-07-134153-897](https://www.azmag.gov/Portals/0/Documents/MagContent/2010%20Point%20in%20Time%20Count%20for%20AZ-502%20(Municipal%20Street%20Count).pdf?ver=2017-07-07-134153-897) (recording approximately 1,750 unhoused individuals) with Maricopa Ass’n of Gov’ts, *2023 Point-in-Time (PIT) Count Report* 4, <https://azmag.gov/Portals/0/Homelessness/PIT-Count/2023/2023-PIT-Count-Report-Final.pdf?ver=8CRzv7xw28C-V2G0sMdKfw%3D%3D> (recording over 3,333 unhoused individuals).

² *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 3.

³ Throughout this complaint the terms “unhoused,” “homeless,” and “experiencing homelessness” denote individuals who meet the federal law definition of homelessness. *See* 42 U.S.C. § 11302; 24 C.F.R. § 582.5. The use of the term “unsheltered” refers to individuals who are experiencing homelessness and reside in a place that it not intended for human habitation (e.g., streets, cars, etc.).

1 2. Every year, a growing number of Phoenix residents find themselves
2 unable to afford a home. This is largely due to skyrocketing housing costs. From
3 2017 to 2023, the median rent in Phoenix increased by 54%.⁴ Because Phoenix
4 does not have sufficient shelter, many of those who find themselves unhoused
5 have no choice but to take to the city's streets and other public areas. Indeed, in
6 2023, over half of Maricopa County's unhoused population was unsheltered.⁵

7 3. From the elements alone, these individuals face brutal conditions. In
8 the summer, for example, temperatures average over 100 degrees Fahrenheit and
9 can soar up to 119 degrees.⁶ Between June 30 and July 30 of 2023, Phoenix
10 experienced a record-breaking 31 consecutive days over 110 degrees Fahrenheit.⁷
11 The summer sun bakes the asphalt, concrete, and other surfaces that make up the
12 city's public areas, making scarce any places of refuge. As a result, hundreds of
13 unsheltered individuals, who are at high risk of exposure to the elements because
14 they have nowhere else to go, die each year from heat-related illnesses.⁸ In 2023,

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19 ⁴ Alex Horowitz and Tushar Kansal, *Restrictive Zoning is Raising Housing Costs and Homelessness in Arizona*, Pew Charitable Trusts (Dec. 7, 2023),
20 <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/12/07/restrictive-zoning-is-raising-housing-costs-and-homelessness-in-arizona>.

21 ⁵ *Point-In-Time Homelessness Count*, Maricopa Ass'n of Gov'ts.,
22 <https://azmag.gov/Programs/Homelessness/Data/Point-In-Time-Homelessness-Count> (last
23 visited April 28, 2024).

24 ⁶ *Phoenix Hit 110 Degrees on 54 Days in 2023, Setting Another Heat Record*, PBS News
25 Hour (Sept. 10, 2023, 10:57 a.m.),
26 <https://www.pbs.org/newshour/nation/phoenix-hit-110-degrees-on-54-days-in-2023-setting-another-heat-record>.

27 ⁷ See Jack Healy, *Phoenix's Month in Hell: A 31-Day Streak of Record Heat Ends*, N.Y.
28 Times (July 31, 2023), <https://www.nytimes.com/2023/07/31/us/phoenix-heat-july.html>.

⁸ *Phoenix Hit 110 Degrees on 54 Days in 2023*, *supra* note 6.

1 unsheltered individuals “accounted for over half of the City’s
2 record-breaking number of heat-related deaths.”⁹

3 4. As if these conditions alone were not bad enough, unhoused
4 individuals who involuntarily sleep in Phoenix’s public areas also face harassment
5 and mistreatment by the City, in violation of their constitutional rights. People
6 who do nothing more than ~~lay~~lie down on the City’s streets because they have
7 nowhere else to rest their heads are threatened, detained, fined, and arrested for
8 violating city ordinances or state law.

9 5. The City also takes or destroys the few personal effects these
10 unhoused individuals have, leaving no opportunity to retrieve those effects.

11 ~~5. The City’s answer to the homelessness crisis has been to have the Phoenix Police~~
12 ~~Department (“PPD”) cite, arrest, and detain people for merely existing on the city’s~~
13 ~~streets, targeting unhoused individuals for enforcement of the City’s ordinances against~~
14 ~~sleeping and “camping”¹⁰ in public, and using other statutes and ordinances like those~~
15 ~~prohibiting trespassing as a subterfuge for forcing unhoused individuals out of the city.~~
16 ~~These statutes and ordinances make it unlawful to sleep anywhere in the City at any time.~~
17 ~~For involuntarily unhoused¹¹ individuals, who have no choice but to live and sleep in~~
18 ~~public, these statutes and ordinances essentially make it a crime to exist within Phoenix’s~~
19 ~~city limits.~~

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21 ⁹ U.S. Dep’t of Just., *Investigation of the City of Phoenix and the Phoenix Police*
22 *Department 43*, n.38 (2024), <https://www.justice.gov/crt/media/1355866/dl?inline>.

23 ¹⁰ ~~The City’s “camping” prohibition prohibits the use of “the real property of the City” for~~
24 ~~“sleeping activities,” so it may as well be a sleeping ban. See Phx., Ariz. City Code~~
~~§ 23-30.~~

25 ¹¹ ~~The term “involuntarily unhoused” is synonymous to the term “involuntarily homeless,”~~
26 ~~as defined by the Ninth Circuit. See *Johnson v. City of Grants Pass*, 72 F.4th 868, 875 n.2~~
27 ~~(9th Cir. 2023), cert. granted, 144 S. Ct. 679 (2024) (“Persons are involuntarily homeless~~
28 ~~if they do not have access to adequate temporary shelter, whether because they have the~~
~~means to pay for it or because it is realistically available to them for free.” (citing *Martin*~~
~~*v. City of Boise*, 920 F.3d 584, 617 n.8 (9th Cir. 2019))).~~

1 6. The City created the Office of Homeless Solutions (“OHS”) in 2022.
2 OHS was originally intended to create transparency about the city’s homelessness
3 crisis. OHS was also tasked with creating and implementing a storage policy and
4 system for items taken by the City from those who are unhoused, but has failed to
5 adhere to the announced procedure. Instead, OHS has worked hand-in-hand with
6 [the Phoenix Police Department \(“PPD”\)](#) to ratify and systematically conduct
7 “clean sweeps,” which are raids that target people experiencing homelessness and
8 violate their constitutional rights.¹²

9 7. The ~~City’s enforcement of these laws criminalizes, punishes, and~~
10 ~~scatters the homeless population based on their status as unsheltered.~~ The City
11 conducts raids of homeless encampments [without cause or suspicion](#) despite
12 knowing that these individuals have nowhere else to go, given the dearth of
13 affordable housing and emergency shelter space.¹³

14 8. ~~But the City does not stop at criminalizing residents based on their~~
15 ~~unsheltered status.~~ The City and its agents also indiscriminately and irretrievably
16 seize, impound, and destroy unsheltered individuals’ personal property and
17 survival gear without notice, cause, or a warrant.

18 9. During these raids, unsheltered individuals, including Plaintiffs and
19 members of Plaintiff Fund [For](#) Empowerment (“FFE”) have lost clothing,
20 survival equipment, medication, items of sentimental value (like photographs of
21 loved ones), and, perhaps most inexplicably, vital records and identifying
22 documents—like birth certificates and reference letters—which are crucial to

24 ¹² At various times, the City has used other terms, including “enhanced cleanups,”
25 “encampment cleanups,” and “enhanced engagements,” to describe this policy, custom, or
26 practice.

27 ¹³ See Madeline Ackley, *Phoenix Still Criminalizes Homelessness, Despite Court Ruling,*
28 *Protesters Say*, AZ Mirror, (Jan. 9, 2020, 9:13 a.m.),
[https://www.azmirror.com/2020/01/09/phoenix-still-criminalizes-homelessness-despite-co
urt-ruling-protesters-say/](https://www.azmirror.com/2020/01/09/phoenix-still-criminalizes-homelessness-despite-court-ruling-protesters-say/).

1 procuring jobs, benefits, and housing. These documents can be almost impossible
2 for someone with no fixed address to replace.¹⁴

3 10. The City’s raids also place unsheltered individuals, including
4 Plaintiffs and members of Plaintiff FFE, at greater risk of heat-related illness and
5 death. Even when temperatures exceed 90 degrees, the City often provides mere
6 minutes for people to gather their belongings and flee the area. The stress and
7 physical exertion this causes can prove dangerous in such high temperatures,
8 especially for elderly and disabled individuals. The raids also often target
9 individuals in shaded areas, forcing them out of relatively cool areas to wander
10 through the City in the direct sun. And the City’s destruction of survival
11 equipment, like tents or tarps that provide some protection from the sun, also
12 increases unhoused individuals’ exposure to dangerous temperatures.

13 11. All told, instead of confronting its housing crisis head-on and
14 investing in sustainable solutions to homelessness, the City is terrorizing the very
15 people it should be helping. ~~The City is knowingly penalizing unsheltered~~
16 ~~residents for engaging in unavoidable human activities like sleeping and sheltering~~
17 ~~from the elements. It~~ In fact, in a report issued on June 13, 2024, the United
18 States Department of Justice concluded that there is
19 reasonable cause to believe that [the Phoenix Police
20 Department] violates the rights of people experiencing
21 homelessness . . . [insofar as the Phoenix Police
22 Department] stops, detains, and arrests people who are
23 homeless without reasonable suspicion that they are
24 engaged in criminal activity[,] . . . [and] seize[s] and
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26 ¹⁴ See Bailey Miller, *‘It Is Simply Inhumane’: Phoenix Homeless Advocates Criticize City*
27 *Sweeps of Encampments*, FOX 10 Phx. (Dec. 29, 2021, 4:22 p.m.),
28 <https://www.fox10phoenix.com/news/it-is-simply-inhumane-phoenix-homeless-advocates-criticize-city-sweeps-of-encampments>.

1 which gives district courts jurisdiction over actions to secure civil rights extended
2 by the United States Government.

3 16. ~~14.~~ Declaratory relief is authorized by 28 U.S.C. §§ 2201-02.

4 17. ~~15.~~ The events that gave rise to the Complaint occurred in Maricopa
5 County, Arizona in the District of Arizona. Venue is appropriate in this judicial
6 district under 28 U.S.C. § 1391(b).

7 **PARTIES**

8 18. ~~16.~~ Plaintiff Fund for Empowerment (“FFE”) is an incorporated
9 nonprofit charity operating in the County that commonly expends time, energy,
10 effort, and resources on behalf of the unsheltered population. FFE’s mission is to
11 build community resources for the unsheltered population via direct services,
12 capacity-building training, and project support. FFE helps protect and advocate for
13 the dignity, rights, and choices of Arizonans experiencing homelessness or
14 housing insecurity. FFE commits its efforts toward goals affirmed and raised by
15 unsheltered individuals. FFE’s members include both the currently and formerly
16 unhoused, including specifically people who are involuntarily unhoused, as well
17 as allies looking to support unhoused people who lack shelter. FFE emphasizes
18 the voices of the unsheltered to expose root causes of homelessness and to create
19 ways of living in which everyone has a safe place they can call home.

20 19. ~~17.~~ Plaintiff Ronnie Massingille is currently involuntarily unhoused
21 and lives in Phoenix, Arizona. Mr. Massingille cannot practically obtain shelter,
22 much less a fixed, regular, and adequate nighttime residence. Although Mr.
23 Massingille is sometimes able to obtain a shelter bed at St. Vincent de Paul, on
24 most nights, he must sleep on the street. Mr. Massingille has received criminal
25 citations from PPD for sleeping and camping in public and has directly
26 experienced the raids performed by the City and PPD which have resulted in the
27 destruction of his personal property.
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1 20. ~~18.~~ Plaintiff Mohamed Sissoho is currently involuntarily unhoused
2 and lives in Phoenix, Arizona. Mr. Sissoho cannot practically obtain shelter, much
3 less a fixed, regular, and adequate nighttime residence. Mr. Sissoho's property
4 was destroyed during sweeps conducted by the City. Mr. Sissoho has also been
5 cited by the City for sleeping in public.

6 21. ~~19.~~ Plaintiff Dyrwood Moore is currently involuntarily unhoused and
7 lives in Phoenix, Arizona. Mr. Moore cannot practically obtain shelter, much less
8 a fixed, regular, and adequate nighttime residence. Mr. Moore has had his
9 property destroyed during sweeps conducted by the City and has been repeatedly
10 harassed by the PPD for sleeping in public places.

11 22. ~~20.~~ Plaintiff Faith Kearns is a chronically unsheltered individual who
12 resides in Maricopa County, Arizona. Ms. Kearns has directly experienced the
13 raids performed by the City and PPD, which have resulted in the destruction of her
14 personal property.

15 23. ~~21.~~ Plaintiff Frank Urban has been chronically unsheltered off and on
16 since 2000 in Maricopa County, Arizona. Mr. Urban has received criminal
17 citations from PPD for trespassing, obstructing a thoroughfare, and simply
18 standing on the sidewalk in connection to his unsheltered status. Mr. Urban has
19 directly experienced the raids performed by the City and PPD, which have resulted
20 in the destruction of his personal property.

21 24. ~~22.~~ Plaintiff Timothy James is currently involuntarily unhoused and
22 lives in Phoenix, Arizona. Mr. James cannot practically obtain shelter, much less a
23 fixed, regular, and adequate nighttime residence. Mr. James has been cited
24 multiple times by the City of Phoenix within the past month for sleeping and lying
25 down in public spaces.

26 25. ~~23.~~ Plaintiff Sherdina Carr is currently involuntarily unhoused and
27 lives in Phoenix, Arizona. Ms. Carr cannot practically obtain shelter, much less a
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1 fixed, regular, and adequate nighttime residence. Ms. Carr has been threatened her
2 with citation or arrest.

3 26. ~~24.~~ Plaintiff Papy Abdul Idrissa is currently involuntarily unhoused
4 and lives in Phoenix, Arizona. Mr. Idrissa cannot practically obtain shelter, much
5 less a fixed, regular, and adequate nighttime residence. Mr. Idrissa is often
6 harassed by PPD for being unhoused, nearly on a daily basis.

7 27. ~~25.~~ Plaintiff Jason Rich is currently involuntarily unhoused and lives
8 in Phoenix, Arizona. Mr. Rich cannot practically obtain shelter, much less a fixed,
9 regular, and adequate nighttime residence. Mr. Rich has been cited for violation of
10 City ordinances. Mr. Rich does not believe there is anywhere safe for him to sleep
11 in Phoenix.

12 28. ~~26.~~ Defendant City of Phoenix is a political subdivision of the state
13 of Arizona that acts through its employees, agents, and independent contractors.
14 PPD is a department or division of the City that acts with the City's authority.

15 29. ~~26.~~ Defendant Michael Sullivan ("Chief Sullivan") resides or works
16 in Maricopa County, Arizona.

17 30. ~~27.~~ Chief Sullivan is the Interim Chief of Police for the PPD with
18 ultimate authority to control, and responsibility for, the actions of its officers and
19 agents. Chief Sullivan also has the authority and responsibility to establish
20 policies, practices, customs, procedures, protocols, and training for the PPD. Chief
21 Sullivan is named herein in his official capacity.

22 31. ~~28.~~ Defendant Rachel Milne ("Director Milne") resides or works in
23 Maricopa County, Arizona.

24 32. ~~29.~~ Director Milne is the Director of the OHS with ultimate authority
25 to control, and responsibility for, the actions of its employees and agents.
26 Defendant Milne also has the authority and responsibility to establish policies,
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1 practices, customs, procedures, protocols, and training for the OHS. Defendant
2 Milne is named herein in her official capacity.

3 GENERAL FACTUAL ALLEGATIONS

4 **Background**

5 33. ~~30.~~ The number of residents experiencing homelessness in Phoenix
6 has more than doubled since 2010 according to Point-in-Time (“PIT”) counts
7 commissioned by the Maricopa Association of Governments.¹⁷

8 34. ~~31.~~ This increase directly relates to the City’s lack of affordable
9 housing for residents that was exacerbated by the COVID-19 pandemic.¹⁸

10 35. ~~27.~~ Sustainable solutions to this spike in homelessness, including
11 affordable housing, have lagged far behind, in large part because of the City’s
12 inaction. For example, when this lawsuit was filed in November 2022, the City
13 had spent less than 10% of the \$99.5 million it received from the federal
14 government through the American Rescue Plan Act (“ARPA”) in order to address
15 homelessness and affordable housing.¹⁹ The City still has not spent more than half
16 of the ARPA funds it budgeted for these purposes.²⁰

17 ¹⁷ See 2010 Homeless Street Count, *supra* note 1.

18 ¹⁸ Median home prices in the Phoenix metro area have risen over 216% since 2000, while
19 the median income has grown only 48%. It is estimated that by 2025 only a third of the
20 area’s population will be able to afford a home. Belinda Luscombe, *Why Phoenix—of All
21 Places—Has the Fastest Growing Home Prices in the U.S.*, TIME Business, (May 3,
22 2022, 1:30 p.m.), <https://time.com/6170497/phoenix-fastest-growing-home-prices/>. This
23 increase has also caused a corresponding increase in rental prices. *Id.*

24 ¹⁹ See Erica Stapleton, Katie Wilcox & John Tanet, “Building Housing Isn’t a Quick
25 Process”: Phoenix Weighs in on Millions in COVID Relief Money for Homelessness That
26 Hasn’t Been Spent, 12 News (Aug. 29, 2022),
<https://www.12news.com/article/news/local/arizona/the-cost-of-crisis-phoenix-struggles-with-a-homelessness-crisis-after-covid/75-bd422dcb-4663-4b98-8f71-11aea9e76bda>.

27 ²⁰ *American Rescue Plan Act—Affordable Housing & Homelessness*, City of Phx.,
28 <https://stories.opengov.com/phoenixaz/published/CcabFkLY8> (last visited Apr. 28, 2024).

1 36. ~~28.~~ Without an adequate supply of affordable housing, Phoenix
2 residents can easily become unsheltered after disruptions in household income
3 caused by job loss, medical bankruptcy, emergency, mental illness, divorce, or
4 domestic violence.

5 37. ~~29.~~ Black, Indigenous, and other people of color are
6 disproportionately affected by the homelessness crisis. In Maricopa County, Black
7 people make up 28% of the unhoused population, but only 6% of the general
8 population. The Indigenous proportion of the homeless population in the County
9 is more than twice its share of the general population.²¹

10 38. ~~32.~~ Notwithstanding the fact that shelters are only a temporary
11 solution to homelessness, the City's efforts to supply temporary shelter fall far
12 short of the need. According to the January 2022 Point-in-Time count, which
13 considerably undercounts the unsheltered population, 2,942 people in Phoenix
14 were temporarily housed in an emergency shelter or transitional housing while
15 3,096 people in Phoenix remained completely unsheltered.²² By 2023, according
16 to the Point-in-Time count, the number of unsheltered people in Phoenix increased
17 to 3,333, while the number of people in Phoenix temporarily housed in an
18 emergency shelter or transitional housing increased to 3,569.²³

19 39. ~~33.~~ From 2020 to 2022, the unsheltered subset of the homeless
20 population in the County, which includes Phoenix, grew by 34%. This means that
21 the total number of unsheltered people in the County surpasses the number of this
22 population in shelters (5,029 to 3,997).²⁴

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25 ²¹ See *2023 Point-in-Time (PIT) Count Report*, *supra* note 1, at 2.

26 ²² Maricopa Ass'n of Gov'ts, *2022 Point-in-Time (PIT) Count Report* 4-5,
<https://azmag.gov/Portals/0/Documents/MagContent/2022-PIT-Count-Report-Final.pdf>.

27 ²³ *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 4.

28 ²⁴ See *2022 Point-in-Time (PIT) Count Report*, *supra* note 22, at 1, 4-5.

1 40. ~~34.~~ While the 2023 Maricopa County Point-in-Time count identified
 2 9,642 people experiencing homelessness on a single night,²⁵ almost 31,000 people
 3 experienced homelessness in Maricopa County over the course of the 2023
 4 calendar year.²⁶ There are only 4,700 total shelter beds in Maricopa County.²⁷ As
 5 the Maricopa Association of Governments itself concedes, “the region does not
 6 have enough shelter beds to meet the need of people experiencing homelessness
 7 throughout the county.”²⁸

8 41. ~~39.~~ For its part, Phoenix only had 1,492 shelter beds available at the
 9 end of 2021.²⁹ According to the City, in 2022 and 2023, Phoenix added 1,072
 10 shelter beds,³⁰ which means that the city had, at most, 2,564 beds by the end of
 11 2023—still not nearly enough to provide shelter to the nearly 7,000 unhoused
 12 residents identified in the 2023 Point-in-Time count.³¹

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 14 ²⁵ *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 1. Of the 9,642 individuals who
 15 experienced homelessness in Maricopa County at the time of the 2023 Point-in-Time
 16 count, 4,734 were sheltered and 4,908 were unsheltered.

17 ²⁶ *Homeless Trends Report: October-December 2023*, Maricopa Reg’l Continuum of
 18 Care,
 19 [https://azmag.gov/Portals/0/Homelessness/Reports/2023-Q4-Homelessness-Trends-Report](https://azmag.gov/Portals/0/Homelessness/Reports/2023-Q4-Homelessness-Trends-Report.pdf)
 20 .pdf (last visited Apr. 23, 2024).

21 ²⁷ *Overview of Homelessness*, Maricopa Ass’n of Gov’ts,
 22 [https://azmag.gov/Programs/Homelessness/Overview-of-Homelessness#:~:text=In%20](https://azmag.gov/Programs/Homelessness/Overview-of-Homelessness#:~:text=In%20total%2C%20there%20are%20over,different%20partners%20across%20the%20region)
 23 total%2C%20there%20are%20over,different%20partners%20across%20the%20region
 24 (last visited Apr. 28, 2024).

25 ²⁸ *Id.*

26 ²⁹ City of Phoenix, *Strategies to Address Homelessness: Task Force Recommendations to*
 27 *the City Manager* 14 (2022), [https://www.phoenix.gov/humanservicessite/Documents/](https://www.phoenix.gov/humanservicessite/Documents/Task%20Force%20Recommendations%20to%20the%20City%20Manager-Final.pdf)
 28 Task%20Force%20Recommendations%20to%20the%20City%20Manager-Final.pdf.

29 ³⁰ *Office of Homeless Solutions*, City of Phx., <https://www.phoenix.gov/solutions> (last
 30 visited Apr. 28, 2024).

31 ³¹ The 2023 Point-in-Time Report identified 3,569 people in Phoenix who were
 temporarily housed in an emergency shelter or transitional housing and 3,333 individuals
 who were completely unsheltered. *2023 Point-in-Time (PIT) Count Report*, *supra* note 1
 at 4-5.

1 42. ~~40.~~—Despite the already inadequate number of shelter beds available,
 2 OHS announced that it closed the “Temporary Haven,” operated by Central
 3 Arizona Shelter Services (“CASS”), which “served 73 unique individuals,” and
 4 also reported that “[o]ther temporary lodging sites are slated for closure in the next
 5 few months and into fall 2024.”³²

6 43. ~~40.~~—Many shelters are also inaccessible to people with certain
 7 disabilities or limited to individuals that meet certain eligibility requirements, and
 8 thus are not available to everyone experiencing homelessness in Phoenix. This
 9 leaves many with no alternative to existing and sleeping in public, as the shelters
 10 without such criteria have limited space with rare availability.

11 44. ~~41.~~—Moreover, while emergency shelters can temporarily
 12 accommodate some people experiencing homelessness, they are not an adequate
 13 response to Phoenix’s rapid increase in unsheltered residents. For example,
 14 providing someone who is involuntarily unhoused with a shelter bed or motel
 15 room for one night does not resolve their status as involuntarily unhoused.
 16 Research shows that the most effective way to end chronic homelessness is to
 17 provide permanent supportive housing on a housing-first basis.³³

18 45. ~~42.~~—Without access to shelter or affordable housing, many
 19 experiencing homelessness in Phoenix, including the Plaintiffs, those served by
 20 FFE, and members of FFE, have nowhere else to go. They are involuntarily
 21 unhoused.

22 **The City’s Raids**

24 ³² See City of Phoenix, *Office of Homeless Solutions Program Report, in General*
 25 *Information Packet* 3, 4 (Apr. 18, 2024),
 26 <https://www.phoenix.gov/cityclerksite/City%20Council%20Meeting%20Files/4-18-24%20General%20Info%20Packet-FINAL.pdf>.

27 ³³ See, e.g., U.S. Interagency Council on Homelessness, *ALL IN: The Federal Strategic*
 28 *Plan to Prevent and End Homelessness* 42 (Dec. 2022),
https://www.usich.gov/sites/default/files/document/All_In.pdf.

1 46. ~~43.~~ For at least the past three years, the City has had a policy, custom,
2 or practice of systematically conducting raids it calls “clean sweeps” of areas
3 occupied by unsheltered individuals and those experiencing homelessness.³⁴

4 47. ~~44.~~ During these raids, it is a City policy, custom, or practice to rouse
5 unsheltered individuals (including Plaintiffs, those served by FFE, and FFE
6 members) in the early morning hours and order them to pack up their blankets,
7 tents, and all their personal belongings.

8 48. ~~45.~~ Plaintiffs, FFE’s members, and other individuals who are served
9 by FFE are not provided notification of when these raids will occur.

10 49. ~~46.~~ Some of these raids occur as early as 3:00 AM.

11 50. ~~47.~~ The City directs the PPD, Environmental Services, and other City
12 agencies and contractors, acting as “clean-up” crews, to remove property.

13 51. ~~48.~~ Unsheltered individuals (including Plaintiffs, those served by
14 FFE, and FFE members) typically have just minutes to gather their personal
15 possessions and belongings before the raid begins. Because mere minutes are not
16 enough time to gather and relocate possessions (particularly for people with
17 disabilities), the inevitable result of the City’s raids is that people permanently lose
18 any property they cannot immediately carry away with them.

19 52. ~~49.~~ The PPD, City workers, and/or “clean-up” crews begin
20 indiscriminately removing and destroying any items that individuals have been
21 unable to gather and move in the short time allowed.

22 53. ~~50.~~ Removal is performed with rakes, garbage bags, loaders, and
23 sometimes a disposal truck.

24 54. ~~51.~~ These raids commonly result in the loss and destruction of
25 personal property owned by those experiencing homelessness. Some of these
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28 ³⁴ *See Investigation of the City of Phoenix and the Phoenix Police Department, supra*
note 9, at 47-51.

1 items are necessary for survival, including tents, shades for heat relief, sleeping
2 bags, medication, and blankets.

3 55. ~~52.~~ Because of these raids, individuals (including Plaintiffs, those
4 served by FFE, and FFE members) frequently experience destruction of items
5 difficult to replace such as personal IDs, photographs of family members and
6 loved ones, and, in one case, even a set of teeth.

7 56. ~~53.~~ Upon information and belief, the purpose of these raids is to
8 discourage individuals experiencing homelessness from sleeping in the City and to
9 push them to other surrounding municipalities surrounding Phoenix in the County.

10 57. ~~54.~~ Upon information and belief, the City's policy is to use these
11 raids to address the rise in those experiencing homelessness to divert criticism for
12 failing to adequately provide both emergency and permanent housing.

13 **The City's Weaponization of Statutes and Ordinances ~~to Criminalize~~**
14 **~~Homelessness~~ Against Unsheltered People**

15 58. ~~55.~~ During the City's raids, which are conducted in accordance with
16 the City and PPD's policies, practices, and customs, police officers often issue
17 criminal citations under the Arizona Revised Statutes and City Ordinances.³⁵

18 59. ~~56.~~ The City has cited individuals for violations of Phoenix City
19 Code § 23-30 (the "Camping Ban"), Phoenix City Code § 23-48.01 (the "Sleeping
20 Ban"), Phoenix City Code § 23-85.01 and Arizona Revised Statutes § 13-1501 et
21 seq. (together with Phoenix City Code § 23-85.01, the "Trespassing Bans").

22 60. ~~57.~~ The Camping Ban provides: "It shall be unlawful for any person
23 to camp in any park or preserve, or in any building, facility, or parking lot or
24 structure, or on any property adjacent thereto, that is owned, possessed and
25 controlled by the City" Phx., Ariz., City Code § 23-30(A).

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28 ³⁵ Id. at 47-48.

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61. On May 29, 2024, the City further expanded the Camping Ban to prohibit camping within 500 feet of schools, child care facilities, shelters, or city parks.³⁶

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62. 58.—According to the City, camping means “to use real property of the City for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities.” *Id.* § 23-30(B).

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63. 59.—As indicated in the City’s definition of the term “camp,” the Camping Ban punishes and criminalizes the act of sleeping by unsheltered individuals within the City.

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64. 60.—The Camping Ban is commonly cited by the City against unsheltered individuals during raids to discourage basic human activities such as sleeping.

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65. 61.—The Sleeping Ban provides: “It shall be unlawful for any person to use a public street, highway, alley, lane, parkway, sidewalk or other right-of-way, whether such right-of-way has been dedicated to the public in fee or by easement, for lying, sleeping or otherwise remaining in a sitting position thereon, except in the case of a physical emergency or the administration of medical assistance.” *Id.* § 23-48.01.

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66. 62.—The Sleeping Ban is broad and prohibits sleeping on areas of City property otherwise unused by pedestrians.

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³⁶ See Phx., Ariz., City Code § 23-30, amended by Ordinance G-XXX (effective Sept. 1, 2024). In the interim, a copy of the pending amendment can be found at: <https://phoenix.legistar.com/View.ashx?M=F&ID=12976672&GUID=D6837534-E389-45F4-B9E5-584C69E69A5D>.

1 67. ~~63.~~—The Sleeping Ban is commonly cited by the City against
2 unsheltered individuals during raids to discourage universal and unavoidable
3 human activities such as sleeping.

4 68. ~~64.~~—The Trespassing Bans prohibit:

- 5 a) Entering or remaining unlawfully on any real property after a reasonable
6 request to leave by the owner or any other person having lawful control
7 over such property, or reasonable notice prohibiting entry.
- 8 b) Entering or remaining unlawfully in the right-of-way for tracks, or the
9 storage or switching yards or rolling stock of a railroad company.
- 10 c) Entering or remaining unlawfully on any residential structure or fenced
11 commercial yard.
- 12 d) Entering or remaining unlawfully in a residential structure or fenced
13 residential yard.
- 14 e) Entering any residential yard without lawful authority, looking into the
15 residential structure thereon with the intent to infringe on the
16 inhabitant’s right of privacy.

17 *Id.* § 23-85.01; *see also* A.R.S. § 13-1502 (prohibiting “[k]nowingly entering or remaining
18 unlawfully on any real property after a reasonable request to leave by a law enforcement
19 officer, the owner or any other person having lawful control over such property, or
20 reasonable notice prohibiting entry”); *id.* § 13-1503 (prohibiting “knowingly entering or
21 remaining unlawfully in or on any nonresidential structure or in any fenced commercial
22 yard”); *id.* § 13-1504 (prohibiting, *inter alia*, “entering or remaining unlawfully on a
23 residential structure” or on a “residential yard”).

24 69. ~~65.~~—The City has enforced the Trespassing Bans against unhoused
25 individuals, including Plaintiffs, members of FFE, and those served by FFE, for
26 merely standing, sitting, lying, or sleeping in public spaces.

27 70. ~~66.~~—These statutes and ordinances apply city-wide, meaning that there
28 is no place in the City where unsheltered individuals can sleep or simply exist
without breaking the law.

1 71. ~~67.~~ Violation of these ordinances is a Class 1 misdemeanor,
2 punishable by a fine up to \$2,500 per violation and imprisonment of up to six
3 months. *See* Phx. Ariz. City Code § 1-5.³⁷

4 72. If an individual is unable to pay the fines imposed under these
5 ordinances, or successfully contest them, they can face significant collateral
6 consequences, including arrest warrants and permanent criminal records.³⁸

7 73. For each criminal charge issued by the City generally and against
8 these individuals specifically, in addition to the fines imposed by the
9 ordinances themselves, a criminal fine is imposed by the City against the
10 charged party as a routine matter of course, and payment of the fine is
11 generally required to resolve the criminal matter and to render the defendant
12 eligible to have their conviction sealed or set-aside under Arizona law.

13 74. Absent the ability to pay the fine and have the charge sealed, a
14 person will continue to have a criminal conviction record, which is often a
15 material barrier to obtaining housing and employment.

16 75. ~~74.~~ The City is imposing fines on individuals, including Plaintiffs,
17 individuals served by FFE, and FFE members, for violating these statutes and
18 ordinances even though they lack culpability because they have nowhere else to
19 sit, lie, or sleep.

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23 ³⁷ Violation of the Arizona Trespassing Ban is a Class 3 Misdemeanor punishable by a
24 fine up to \$500 or imprisonment up to 30 days. *See* A.R.S. § 13-802(C); A.R.S.
§ 13-707(A)(3).

25 ³⁸ *See Investigation of the City of Phoenix and the Phoenix Police Department, supra*
26 *note 9, at 49 (“Citations—often given in lieu of arrest—require a person to appear in*
27 *court. If the person does not do so, the court issues a warrant for failure to appear,*
28 *which leads to arrests and time in jail. City officials and people experiencing*
homelessness told us that getting to court is challenging and bench warrants are
commonplace for these citations.”).

1 76. These fines serve no remedial purpose and, upon information and
2 belief, are imposed to deter unhoused individuals from residing in Phoenix.

3 77. 75.—Despite this Court’s preliminary injunction (ECF No. 119)
4 prohibiting the City from enforcing the Camping and Sleeping Bans against
5 “homeless persons for sleeping in public if there are no other public areas or
6 appropriate shelters where those individuals can sleep,” (ECF No. 119 at 3) the
7 City has nevertheless continued to enforce those prohibitions against individuals
8 who are involuntarily unhoused and practically cannot obtain shelter and who do
9 not have access to any public place or appropriate shelter where they can safely or
10 legally sleep or simply exist.

11 78. 76.—The City has also circumvented the preliminary injunction by
12 enforcing the Trespassing Bans against involuntarily unhoused individuals who
13 practically cannot obtain shelter or access to any public place where they can sleep
14 or carry out essential life activities without risking violation of the Camping,
15 Sleeping, or Trespassing Bans (or any other City ordinances), for acts of so-called
16 “trespass” that amount to little more than sleeping or living on public property.³⁹

17 ~~77. The City’s policy, practice, or custom is to use these statutes and ordinances to~~
18 ~~criminalize homelessness, including by enforcing them against people who are~~
19 ~~involuntarily unhoused.~~

20 79. 78.—Despite neighboring municipalities amending their policies and
21 halting enforcement of similar ordinances, the City has continued its policy,
22 practice, or custom of enforcing its ordinances ~~in an unconstitutional manner~~ and
23 fining individuals even when housing and temporary shelter are not practically
24 available to its unhoused residents.

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27 ³⁹ See Investigation of the City of Phoenix and the Phoenix Police Department, supra
28 note 9, at 47–51.

1 ~~79. The city of Tempe, for example, admitted enforcement of its camping ban~~
2 ~~against unhoused people would be unconstitutional.~~

3 ~~80. The city of Glendale amended its ordinance to prevent imposing criminal~~
4 ~~sanctions on camping “when no alternative shelter is available.” Glendale, Ariz., City~~
5 ~~Code § 25-90.~~

6 80. ~~81.~~ The City of Phoenix, by contrast, has not amended its Camping
7 Ban, Sleeping Ban, or its Trespassing Ban and continues to pursue its policy,
8 practice, or custom of enforcing these laws and imposing fines against
9 involuntarily unhoused individuals who practically cannot obtain shelter and who
10 do not have access to any public place they can legally sleep, lie, stand, or sit in
11 public, even though this Court has imposed an injunction prohibiting the City
12 from doing so.⁴⁰

13 81. ~~82.~~ Upon information and belief, the City has a policy, practice, or
14 custom of issuing citations to individuals for violations of these (and other)
15 statutes/codes and imposing fines to discourage individuals experiencing
16 homelessness from sleeping in the City and to push them to other surrounding
17 municipalities in the County.

18 82. ~~83.~~ Upon information and belief, the City has a policy, practice, or
19 custom of using these statutes and ordinances in place of finding humane
20 solutions for those experiencing homelessness within the City.

21 **Plaintiff Fund for Empowerment’s Work on Behalf of the Unsheltered Community**

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24 ⁴⁰ Indeed, rather than turn away from criminalization as a “solution” to its homelessness
25 crisis, the City has doubled down, introducing a new camping ban ordinance. *See* Collen
26 Sikora, *Proposed Change to Phoenix’s Camping Ordinance Would Ban Camping Within*
27 *500 Feet of Certain Places*, 12 News (Apr. 3, 2024, 6:40 p.m.),
28 <https://www.12news.com/article/news/local/valley/proposed-camping-ban-near-phoenix-schools-child-care-centers-shelters/75-a8a8234d-b8a3-4062-b2c3-3ceb2e3f9704>. Members of FFE expended time and resources advocating against this proposal at City Council hearings.

1 83. ~~84.~~—Since 2018, the Fund for Empowerment has spent monetary
2 resources in support of its mission to help provide education, training, and
3 leadership courses to the unsheltered community to combat policies and practices
4 by the City which target them.

5 84. ~~85.~~—FFE has approximately 200 members, many of whom are
6 currently involuntarily unhoused or chronically at risk of becoming unsheltered.

7 85. ~~86.~~—FFE commonly creates and prints written materials for
8 dissemination to the unsheltered community which include information about their
9 rights under the United States Constitution.

10 86. ~~87.~~—FFE provides training to the unsheltered community about their
11 rights in response to the raids conducted by the City.

12 87. ~~88.~~—FFE conducts bi-weekly sessions for the purpose of encouraging
13 unsheltered people to advocate for themselves. Dozens of unsheltered people
14 living in Phoenix attend these meetings.

15 88. ~~89.~~—Due to the City’s raids, a substantial portion of these meetings
16 has been dedicated to identifying resources for unsheltered people impacted by the
17 raids.

18 89. ~~90.~~—FFE provides training to the unsheltered community about their
19 right to sleep outside in connection to the City’s use of statutes and ordinances to
20 criminalize sleeping.

21 90. ~~91.~~—Since 2020, FFE has had to divert its resources to providing
22 replacement safety items, such as tents and water, to individuals whose property
23 was seized by the City during sweeps. FFE does this because unsheltered
24 individuals may become ill if they do not have access to shade or water and are
25 exposed to heat because of a sweep.

1 91. ~~92.~~ FFE would not have to expend these resources on behalf of its
2 members if the City stopped conducting raids and ~~using statutes and ordinances to~~
3 ~~criminalize homelessness~~ unlawfully seizing individuals' property.

4 92. ~~93.~~ If FFE did not have to expend resources helping unsheltered
5 individuals understand their rights in response to Defendants raids and criminal
6 citations, FFE could spend resources training unsheltered individuals to become
7 their own advocates in requesting resources from the City for housing and shelter.

8 93. ~~94.~~ If FFE did not have to expend resources helping unsheltered
9 individuals understand their rights in response to Defendants raids and criminal
10 citations, FFE could also distribute more water and food to the unsheltered
11 community during the summer months. FFE could also provide more supplies to
12 the unsheltered community which would improve individuals' quality of life.

13 **FFE Members' Experiences**

14 94. ~~95.~~ Plaintiff Timothy James is a resident of Phoenix, an FFE member,
15 and an involuntarily unhoused individual.

16 95. ~~96.~~ On March 29, 2024, PPD threatened to issue a citation against
17 Mr. James for sleeping on the ground.

18 96. ~~97.~~ During this encounter, PPD officers followed Mr. James and
19 repeatedly instructed him to take his belongings with him, or else face a citation.

20 97. ~~98.~~ In April and May 2024, PPD cited Mr. James ~~multiple~~ five times
21 for violations of the ~~Trespassing~~ Sleeping Ban under Phoenix City Code §
22 23-48.01, and the City is actively prosecuting him for these alleged offenses.

23 98. ~~99.~~ Plaintiff Sherdina Carr is a resident of Phoenix, an FFE member,
24 and an involuntarily unhoused individual.

25 99. ~~100.~~ PPD threatened to issue a citation against Ms. Carr for sleeping
26 on the ground and directed her to move.

1 100. ~~101.~~ PPD officers followed Ms. Carr to her new location on a
2 different block, and, under threat of citation, forced her to walk for over an hour to
3 avoid receiving a citation from them.

4 101. ~~102.~~ Plaintiff Papy Abdul Idrissa is a resident of Phoenix, an FFE
5 member, and an involuntarily unhoused individual.

6 102. ~~103.~~ PPD threatened to issue a citation against Mr. Idrissa for
7 sleeping on the ground and directed him to move.

8 103. ~~104.~~ PPD officers followed Mr. Idrissa to his new location on a
9 different block. Mr. Idrissa walked for more than an hour to be out of PPD's
10 sights, and to no longer be subject to PPD's threats of a citation.

11 104. ~~105.~~ Plaintiff Faith Kearns is a resident of Phoenix and an FFE
12 member and has been chronically unsheltered since approximately 2008. While
13 sleeping within the City as an involuntarily unhoused individual, Ms. Kearns has
14 experienced the City's "clean sweeps," or raids, firsthand.

15 105. ~~106.~~ During one such raid, the PPD officers took Ms. Kearns'
16 Arizona ID card, a Visa Card on which her social security disability income was
17 loaded, tent, blankets, bedding, birth certificate, medications, and clothing.

18 106. ~~107.~~ Ms. Kearns also received citations, including fines, from the
19 City under the Camping Ban, ~~and~~ Sleeping Ban, and Trespassing Ban.

20 107. ~~108.~~ Plaintiff Frank Urban is a resident of Phoenix and an FFE
21 member and has been chronically unsheltered off and on since 2000.

22 108. ~~109.~~ While sleeping outside as an involuntarily unhoused person in
23 various parts of the City, Mr. Urban has directly experienced the City's raids.

24 109. ~~110.~~ During the raids, PPD officers took Mr. Urban's Arizona ID
25 card, tent, blankets, bedding, medications, clothing, food, and water.

26 110. ~~111.~~ Mr. Urban also received citations, including fines, from the City
27 under the Camping Ban and Sleeping ~~Bans~~ Ban.

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Plaintiff Ronnie Massingille’s Experience

111. ~~112.~~ Mr. Massingille is a resident of Maricopa County and currently resides in Phoenix.

112. ~~113.~~ Mr. Massingille is currently involuntarily unhoused.

113. ~~114.~~ Mr. Massingille commonly sleeps outside in various parts of the City.

114. ~~115.~~ While sleeping and encamped, Mr. Massingille has directly experienced the City’s raids and the actions of PPD.

115. ~~116.~~ Mr. Massingille’s possessions were seized and thrown away numerous times during the City’s sweeps.

116. ~~117.~~ He was never provided with a search warrant.

117. ~~118.~~ During the sweeps, PPD officers took Mr. Massingille’s Arizona ID card, birth certificate, tent, a suitcase, clothes/shoes, skateboards, and medication.

118. ~~119.~~ As an unsheltered individual in the City, Mr. Massingille lives with a constant fear PPD will arrest him, criminally cite him for sleeping outside, or destroy his property.

Plaintiff Mohamed Sissoho’s Experience

119. ~~120.~~ Plaintiff Mohamed Sissoho is a resident of Phoenix.

120. ~~121.~~ Mr. Sissoho is currently involuntarily unhoused.

121. ~~122.~~ Mr. Sissoho has unsuccessfully sought a shelter bed multiple times.

122. ~~123.~~ In November 2022, Mr. Sissoho was at the corner of Jefferson Street and 11th Avenue when PPD conducted a raid.

123. ~~124.~~ Mr. Sissoho received no advance notice that PPD or the City would be conducting a raid or any sort of operation.

1 124. ~~125.~~ During this raid, PPD seized and destroyed Mr. Sissoho’s
2 property without his consent and without a warrant.

3 125. ~~126.~~ Specifically, PPD seized Mr. Sissoho’s tent, sleeping bags, food
4 stamps, social security card, letters, and jewelry.

5 126. ~~127.~~ PPD did not inform Mr. Sissoho how he could reclaim his
6 property or even where it was being taken.

7 127. ~~128.~~ Mr. Sissoho has not been able to recover the property that PPD
8 seized from him.

9 128. ~~129.~~ Without his tent, it has been hard for Mr. Sissoho to protect
10 himself from the sun and sweltering heat.

11 129. ~~130.~~ In October 2023, Mr. Sissoho was sleeping in the area near 12th
12 Avenue and Madison Street (formerly known as “the Zone”). Mr. Sissoho recalls
13 the City conducting a sweep in the early morning hours starting around 6:00 AM.
14 Mr. Sissoho recalls being roused by PPD officers who forced him, under threat of
15 citation with the Trespassing Bans, to move elsewhere.

16 130. ~~131.~~ During this sweep, the City cited Mr. Sissoho for a violation of
17 the Trespassing Bans.

18 131. ~~132.~~ During this sweep, the City took the majority of his items,
19 including his tent, clothes, and other survival items. Mr. Sissoho was never given
20 information about how to recover these items. Because of the City’s sweeps, Mr.
21 Sissoho only carries with him those items that he can tuck into the sides of his
22 wheelchair.

23 132. ~~133.~~ In April 2024, PPD threatened Mr. Sissoho with a citation for
24 sleeping in his wheelchair in public.

25 133. ~~134.~~ PPD forced Mr. Sissoho to move elsewhere but did not provide
26 Mr. Sissoho any assistance or information on services, resources, or shelters.
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1 134. ~~135.~~ Mr. Sissoho is worried about the approaching summer and how
2 he will survive the increasing heat without a tent (which provided shade to him).

3 **Plaintiff Dyrwood Moore's Experience**

4 135. ~~136.~~ Plaintiff Dyrwood Moore is a resident of Phoenix, Arizona.

5 136. ~~137.~~ Mr. Moore is currently involuntarily unhoused.

6 137. ~~138.~~ In September 2023, Mr. Moore was living on Monroe Street,
7 near the CASS Shelter when PPD conducted a raid without prior warning.

8 138. ~~139.~~ Mr. Moore was not present during the September 2023 raid. He
9 would not have left his belongings in and near his tent if he had received notice
10 ahead of the raid.

11 139. ~~140.~~ The City confiscated or destroyed Mr. Moore's belongings
12 without providing him with a means to retrieve them.

13 140. ~~141.~~ Specifically, PPD seized Mr. Moore's tent, clothes, barbeque
14 grill, bicycle, and shoes.

15 141. ~~142.~~ Mr. Moore has not been able to retrieve his personal property
16 since the City's confiscation.

17 142. ~~143.~~ In March 2024, Mr. Moore was living near the corner of N.
18 22nd Avenue and West Portland Street when PPD conducted a raid without prior
19 warning.

20 143. ~~144.~~ Mr. Moore was not present during the March 2024 raid, but left
21 his belongings in and near the tent where he was staying.

22 144. ~~145.~~ The City confiscated or destroyed Mr. Moore's belongings
23 without providing him with a means to retrieve them.

24 145. ~~146.~~ Specifically, PPD seized Mr. Moore's tent, shade for heat
25 protection, disability documentation, blankets, clothes, food, and water.

26 146. ~~147.~~ On March 14, 2024, Mr. Moore contacted OHS to see if he
27 would be able to recover his belongings.
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1 147. ~~148.~~ OHS has not responded to Mr. Moore’s inquiry. He remains
2 without the belongings that PPD took from him during the March 2024 raid.

3 148. ~~149.~~ Without his tent and shade for heat protection, it has been
4 difficult for Mr. Moore to stay out of the direct sun.

5 149. ~~150.~~ The increased heat experienced by Mr. Moore has at times
6 caused him to feel faint and exhausted. As temperatures increase, he worries that
7 the loss of his tent and shade will cause him to become ill.

8 **Plaintiff Faith Kearns’ Experience**

9 150. ~~151.~~ Ms. Kearns is a resident of Phoenix, Arizona.

10 151. ~~152.~~ Due to various medical issues and the costs associated with
11 medical care, she has been chronically unsheltered since approximately 2008.

12 152. ~~153.~~ When she is unsheltered, Ms. Kearns sleeps on the public streets
13 of Phoenix.

14 153. ~~154.~~ While sleeping within the City as an unsheltered individual, Ms.
15 Kearns has experienced the raids firsthand. Based on Ms. Kearns’ recollection, the
16 raids occurred about three to five days per week, with an uptick during and around
17 holidays.

18 154. ~~155.~~ During the City’s raids, Ms. Kearns has had personal
19 possessions and belongings destroyed.

20 155. ~~156.~~ During the City’s raids, PPD and other City workers took the
21 following from Ms. Kearns: an Arizona ID card, a Visa Card on which her Social
22 Security disability income was loaded, tent, blankets, bedding, birth certificate,
23 medications, and clothing.

24 156. ~~157.~~ Ms. Kearns watched as PPD and other City workers destroyed
25 these items, among others.

26 157. ~~158.~~ Ms. Kearns never received a search warrant for the property that
27 the City seized through its agents.
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1 158. ~~159.~~ Ms. Kearns also remembers receiving citations from the City
2 under the Jaywalking Law, Camping Ban, and Sleeping Ban.

3 159. ~~160.~~ Ms. Kearns has received other citations related to her
4 unsheltered status such as a citation for trespassing.

5 160. ~~161.~~ Ms. Kearns believes the City's raids are intended to push her out
6 of the City.

7 **Plaintiff Frank Urban's Experience**

8 161. ~~162.~~ Mr. Urban is a resident of Maricopa County and currently
9 resides in Phoenix.

10 162. ~~163.~~ Due to various medical issues, Mr. Urban became chronically
11 unsheltered off and on starting in 2000.

12 163. ~~164.~~ During the time periods when Mr. Urban has been unsheltered,
13 he has slept outside in various parts of the City.

14 164. ~~165.~~ During these times, Mr. Urban has directly experienced the
15 City's raids. These raids intensified around Thanksgiving and Christmas.

16 165. ~~166.~~ During the City's raids, Mr. Urban has had his possessions
17 thrown away numerous times. Specifically, PPD and other City workers took from
18 him and destroyed: an Arizona ID card, tent, blankets, bedding, medications,
19 clothing, food, and water.

20 166. ~~167.~~ Mr. Urban never received a search warrant for the property that
21 the City seized through its agents.

22 167. ~~168.~~ Mr. Urban also recalls receiving citations from the City under
23 the Camping Ban and Sleeping Ban.

24 168. ~~169.~~ Mr. Urban has received other citations from the City in
25 connection to his unsheltered status.

26 **Plaintiff Timothy James's Experience**

27 169. ~~170.~~ Mr. James is a resident of Phoenix, Arizona.
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170. ~~171.~~ Mr. James is currently involuntarily unhoused.

171. ~~172.~~ Mr. James is constantly forced to move around the city to flee the PPD’s persistent harassment and threats against Mr. James for sitting or sleeping in public.

172. ~~173.~~ On April 3, 2024, PPD cited Mr. James for lying or sitting in public in violation of Phoenix City Code § 23-48.01.

173. ~~174.~~ On April 12, 2024, Mr. James was at the intersection of Jackson St. and 11th Avenue when PPD cited Mr. James for lying or sitting in public in violation of Phoenix City Code § 23-48.01.

174. ~~175.~~ After PPD cited Mr. James, they forced him to move elsewhere.

175. ~~176.~~ On April 19, 2024, Mr. James was woken up and arrested by PPD for sleeping in public in violation of Phoenix City Code § 23-48.01.

176. ~~177.~~ Mr. James spent the night in jail before being released.

177. On May 1, 2024, PPD again cited Mr. James for lying or sitting in public in violation of Phoenix City Code § 23-48.01.

178. On May 19, 2024, PPD again cited Mr. James for lying or sitting in public in violation of Phoenix City Code § 23-48.01.

179. ~~178.~~ PPD did not provide Mr. James with any information on shelters, resources, or services during these encounters, yet the City is actively prosecuting Mr. James for these alleged offenses.

Plaintiff Sherdina Carr’s Experience

180. ~~179.~~ Ms. Carr is a resident of Phoenix, Arizona.

181. ~~180.~~ Ms. Carr is currently involuntarily unhoused.

182. ~~181.~~ Ms. Carr walks around the city for hours at a time to escape PPD’s harassment and threats.

183. ~~182.~~ After the closure of the Zone, Ms. Carr has been forced by PPD to relocate countless times.

1 184. ~~183.~~ Recently, Ms. Carr was trying to find a shaded area to sit down
2 when PPD threatened her with a citation unless she moved elsewhere.

3 185. ~~184.~~ PPD followed Ms. Carr while she was walking around trying to
4 find a new location.

5 186. ~~185.~~ Once Ms. Carr found a new location, PPD immediately
6 threatened her with a citation unless she moved again.

7 187. ~~186.~~ PPD, again, followed her while she walked around and looked
8 for a third location to sit down.

9 188. ~~187.~~ PPD never offered Ms. Carr information on services, shelter, or
10 resources.

11 **Plaintiff Papy Abdul Idrissa's Experience**

12 189. ~~188.~~ Mr. Idrissa is a resident of Phoenix, Arizona.

13 190. ~~189.~~ Mr. Idrissa is currently involuntarily unhoused.

14 191. ~~190.~~ PPD forces Mr. Idrissa to relocate on a nearly daily basis.

15 192. ~~191.~~ On April 19, 2024, Mr. Idrissa was sitting in a shaded area of a
16 park when PPD threatened Mr. Idrissa with a citation or arrest.

17 193. ~~192.~~ PPD forced Mr. Idrissa to leave the shaded area and relocate to
18 an unshaded area.

19 194. ~~193.~~ Mr. Idrissa then walked to another shaded area where PPD again
20 threatened Mr. Idrissa with a citation and arrest.

21 195. ~~194.~~ PPD continued to follow, harass, and threaten Mr. Idrissa as he
22 walked around trying to find another shaded area to sit.

23 196. ~~195.~~ In February or March 2024, Mr. Idrissa's friend was sleeping in
24 the shade near the CASS Shelter when he was forced to move elsewhere.

25 197. ~~196.~~ Mr. Idrissa's friend relocated to the park at the intersection of
26 13th Avenue and Van Buren.

27 198. ~~197.~~ That same day, Mr. Idrissa's friend died from sun/heat exposure.
28

1 199. ~~198.~~ In April 2024, PPD harassed Mr. Idrissa and other unhoused
2 people at a bus stop near 15th Avenue and Fillmore. During this incident, PPD
3 threatened Mr. Idrissa and other unhoused individuals with citations and arrests.
4 PPD then forced these individuals, including Mr. Idrissa, to leave the shaded bus
5 stop, and ~~onto~~ move into areas unprotected from sun and heat exposure.

6 **Plaintiff Jason Rich's Experience**

7 200. ~~199.~~ Mr. Rich is a resident of Phoenix, Arizona.

8 201. ~~200.~~ Mr. Rich is currently involuntarily unhoused.

9 202. ~~201.~~ Around January 2024, Mr. Rich was sleeping on a bench when
10 he was woken up by PPD sticking a taser in his back.

11 203. ~~202.~~ While citing and arresting Mr. Rich, PPD seized all his personal
12 property and belongings.

13 204. ~~203.~~ Specifically, PPD seized Mr. Rich's medications, hygiene
14 supplies, cellphone, identification, and backpack.

15 205. ~~204.~~ PPD did not let Mr. Rich inquire as to where his belongings
16 were being taken.

17 206. ~~205.~~ During this incident, PPD did not provide Mr. Rich with any
18 information on services, resources, or shelters.

19 207. ~~206.~~ After being released, PPD has often harassed Mr. Rich for
20 sitting or lying in public.

21 208. ~~207.~~ PPD has forced Mr. Rich to move late at night under the threat
22 of a citation or arrest.

23 209. ~~208.~~ Around February 2024, Mr. Rich was near CASS around 5:00
24 a.m. when PPD began patrolling the area and citing unhoused persons.

25 210. ~~209.~~ PPD threatened Mr. Rich with a citation for trespassing if he did
26 not leave the area and move elsewhere.

1 211. ~~210.~~ PPD did not provide Mr. Rich with any information on services,
2 resources, or shelters during these encounters.

3 **CLAIMS FOR RELIEF**

4 **Count One**

5 **(Fourth Amendment Violation—Unlawful Seizure)**

6 **(42 U.S.C. § 1983)**

7 **(All Defendants)**

8 212. ~~211.~~ Plaintiffs re-allege the foregoing paragraphs as if fully set forth
9 herein.

10 213. ~~212.~~ At all times relevant to the allegations in this Complaint,
11 Defendants acted under color of state law.

12 214. ~~213.~~ Under the Fourth Amendment to the United States Constitution,
13 as incorporated against the states by the Fourteenth Amendment, Plaintiffs have
14 the right to be secure in their persons against unreasonable seizures. A seizure of
15 property occurs under the Fourth Amendment when there is some meaningful
16 interference with an individual's possessory interests in that property; meaningful
17 interferences include destruction of property. *See United States v. Jacobsen*, 466
18 U.S. 109, 113 (1984).

19 215. ~~214.~~ Property includes photographs, identification papers, portable
20 electronics, and even potentially abandoned property. *See Lavan v. City of Los*
21 *Angeles*, 693 F.3d 1022, 1030 (9th Cir. 2012).

22 216. ~~215.~~ Here, Defendants, pursuant to the City's policies, procedures,
23 customs, and/or protocols, have engaged and will continue to engage in targeted
24 raids of areas occupied by the unsheltered community.

25 217. ~~216.~~ During these raids, Defendants unreasonably seize and destroy
26 property regardless of its condition, its apparent value, and/or whether or not it has
27 been voluntarily abandoned.
28

1 218. ~~217.~~ Individual Plaintiffs as well as other unhoused people who are
2 members of FFE or served by FFE, have experienced destruction of their personal
3 items by Defendants, including the destruction of photographs, identification
4 papers, camping equipment, and other unabandoned personal items, within the
5 past three years.

6 219. ~~218.~~ Plaintiffs have seen the destruction of personal items of other
7 unsheltered individuals, including items deemed abandoned by Defendants, within
8 the past three years.

9 220. ~~219.~~ By seizing and destroying the property of the individual
10 Plaintiffs, individuals served by FFE, and FFE members, Defendants meaningfully
11 and permanently interfered with these individuals' possessory interest in their
12 property and unlawfully seized that property.

13 221. ~~220.~~ At no time did Defendants provide a warrant to seize the
14 property of the individual Plaintiffs, individuals served by FFE, or ~~of~~ FFE's
15 members.

16 222. ~~221.~~ Seizures without a warrant are presumptively unconstitutional.

17 223. ~~222.~~ Defendants engage in warrantless seizures of property when no
18 exception to the warrant requirement applies.

19 224. ~~223.~~ Plaintiffs, individuals served by FFE, and FFE's members have
20 a possessory interest in their property under the Fourth Amendment.

21 225. ~~224.~~ A reasonable official in Interim Chief Sullivan's and Director
22 Milne's position would have known that seizing and destroying Plaintiffs'
23 property and the property of individuals served by FFE and FFE members
24 constitutes a violation of the Fourth Amendment.

25 226. ~~225.~~ Defendants' actions were the direct and proximate cause of
26 Plaintiffs' loss of property and the loss of property of the individuals served by
27 FFE and FFE members.
28

1 227. ~~226.~~ The acts of Defendants were intentional and deprived Plaintiffs,
2 individuals served by FFE, and FFE members of their rights, privileges, liberties,
3 and immunities secured by the Constitution of the United States.

4 228. Defendants were at all times relevant agents of the City vested
5 with the power to control and supervise employees, agents, and contractors of
6 the City.

7 229. Upon information and belief, Defendants acted in execution of
8 government policy or custom that may fairly be said to represent the official
9 policy of the City. See *Monell v. Dep't of Soc. Servs. of N.Y.*, 436 U.S. 658, 694
10 (1978).

11 230. Defendants' actions were authorized (before and during the fact)
12 and ratified (after the fact) by final policymakers for the City.

13 231. Defendants directed every action of their agents, thereby causing
14 the violation of Plaintiffs' rights, the rights of individuals served by FFE, and
15 FFE members' rights, and were deliberately indifferent to the fact that their
16 directives would result in the violation of such rights.

17 232. Defendants' customs, policies and/or practices, and the decisions
18 of its final policymakers caused Defendants' violation of Plaintiffs'
19 constitutional rights, the constitutional rights of individuals served by FFE,
20 and FFE members' constitutional rights.

21 233. Defendants' actions, as described herein, were motivated by
22 malice and/or involved reckless or callous indifference to Plaintiffs' federally
23 protected constitutional rights, the federally protected constitutional rights of
24 individuals served by FFE, and FFE members' federally protected
25 constitutional rights. Defendants engaged in these actions and omissions
26 intentionally, willfully, and/or wantonly, demonstrating deliberate
27

28

1 indifference to, and a reckless disregard for, such constitutionally protected
2 rights.

3 234. Defendants have or should have policies, procedures, practices,
4 and/or customs to govern the raids to prevent the deprivations that occurred.
5 Defendants have instead used or employed policies, procedures, practices, and/or
6 customs that penalize unsheltered individuals for their status and destroy the
7 property of Plaintiffs, individuals served by FFE, and FFE members.

8 235. Defendant City of Phoenix and the PPD's policies, procedures,
9 practices, and/or customs should require agents or employees of the City to refrain
10 from destroying unsheltered Plaintiffs' possessions during such raids.

11 236. Defendants failed to train or supervise their employees when
12 conducting raids of unsheltered populations such as Plaintiffs, individuals served
13 by FFE, and FFE members, resulting in the criminalization of their unsheltered
14 status and destruction of their property.

15 237. As a direct and proximate result of Defendants' acts or omissions
16 pursuant to official government policy, practice, or custom, Plaintiffs, individuals
17 served by FFE, and FFE members suffered (without limitation) a deprivation of
18 constitutional rights.

19 238. ~~227.~~ Plaintiffs are entitled to damages in an amount to be determined
20 by a jury.

21 **Count Two**

22 **(Fourteenth Amendment Violation – Deprivation of Property without Due Process)**

23 **(42 U.S.C. § 1983)**

24 **(All Defendants)**

25 239. ~~228.~~ Plaintiffs re-allege the foregoing paragraphs as if fully set forth
26 herein.

1 240. ~~229.~~ The Fourteenth Amendment to the United States Constitution
2 provides that no state shall “deprive any person of life, liberty, or property,
3 without due process of law.”

4 241. ~~230.~~ Under the Fourteenth Amendment, “the government may not
5 take property like a thief in the night; rather, it must announce its intentions and
6 give the property owner a chance to argue against the taking.” *Clement v. City of*
7 *Glendale*, 518 F.3d 1090, 1093 (9th Cir. 2008).

8 242. ~~231.~~ Violation of city ordinances does not constitute a waiver of due
9 process interests in a previously recognized property interest.

10 243. ~~232.~~ The property of those experiencing homelessness is “property”
11 within the meaning of the Fourteenth Amendment, meaning a government entity
12 “must comport with the requirements of the Fourteenth Amendment’s due process
13 clause if it wishes to take and destroy them.” *Lavan*, 693 F.3d at 1032.

14 244. ~~233.~~ Here, Defendants, pursuant to the City’s policies, procedures,
15 customs, and/or protocols, have engaged and will continue to engage in raids that
16 ~~targeted~~target the unsheltered community living within the City.

17 245. ~~234.~~ Pursuant to the City’s policies, procedures, customs, and/or
18 protocols, Defendants employed these raids without adequate notice to Plaintiffs.

19 246. ~~235.~~ During these raids, Defendants seized and destroyed Plaintiffs’
20 property and the property of individuals served by FFE and FFE members without
21 affording them adequate notice that their property would be seized or destroyed.

22 247. ~~236.~~ ~~For~~ Plaintiffs, individuals served by FFE, and FFE members,
23 rely on this property ~~is what they rely on~~ for survival. It is all they have.
24 Compared with that extremely high interest in their property, any administrative
25 burden on the City to provide additional process to prevent erroneous deprivation
26 is low.

1 248. ~~237.~~ Plaintiffs’ property and the property of individuals served by
2 FFE and FFE members was not seized in connection with prosecution or
3 investigation of any crime.

4 249. ~~238.~~ Defendants destroyed Plaintiffs’ property and the property of
5 individuals served by FFE and FFE members without affording them a
6 post-deprivation process for challenging the seizure of their property.

7 250. ~~239.~~ It is clearly established Plaintiffs and individuals served by FFE
8 and FFE members have a right to due process and post-deprivation hearings when
9 their property is unlawfully seized and destroyed.

10 251. ~~240.~~ A reasonable official in Interim Chief Sullivan’s and Director
11 Milne’s position would have known that seizing and destroying property without
12 due process of law violates the Fourteenth Amendment.

13 252. ~~241.~~ Defendants’ unconstitutional acts were the direct and proximate
14 cause of the seizure, destruction, and loss of Plaintiffs’ property and the property
15 of individuals served by FFE and FFE members.

16 253. ~~242.~~ The acts of Defendants were intentional and deprived Plaintiffs
17 and individuals served by FFE and FFE members of their rights, privileges,
18 liberties, and immunities secured by the Constitution of the United States.

19 254. Defendants were at all times relevant agents of the City vested
20 with the power to control and supervise employees, agents, and contractors of
21 the City.

22 255. Upon information and belief, Defendants acted in execution of
23 government policy or custom that may fairly be said to represent the official
24 policy of the City. See *Monell v. Dep’t of Soc. Servs. of N.Y.*, 436 U.S. 658, 694
25 (1978).

26 256. Defendants’ actions were authorized (before and during the fact)
27 and ratified (after the fact) by final policymakers for the City.
28

1 257. Defendants directed every action of their agents, thereby causing
2 the violation of Plaintiffs’ rights, the rights of individuals served by FFE, and
3 FFE members’ rights, and were deliberately indifferent to the fact that their
4 directives would result in the violation of such rights.

5 258. Defendants’ customs, policies and/or practices, and the decisions
6 of its final policymakers caused Defendants’ violation of Plaintiffs’
7 constitutional rights, the constitutional rights of individuals served by FFE,
8 and FFE members’ constitutional rights.

9 259. Defendants’ actions, as described herein, were motivated by
10 malice and/or involved reckless or callous indifference to Plaintiffs’ federally
11 protected constitutional rights, the federally protected constitutional rights of
12 individuals served by FFE, and FFE members’ federally protected
13 constitutional rights. Defendants engaged in these actions and omissions
14 intentionally, willfully, and/or wantonly, demonstrating deliberate
15 indifference to, and a reckless disregard for, such constitutionally protected
16 rights.

17 260. Defendants have or should have policies, procedures, practices,
18 and/or customs to govern the raids to prevent the deprivations that occurred.
19 Defendants have instead used or employed policies, procedures, practices,
20 and/or customs that penalize unsheltered individuals for their status and
21 destroy the property of Plaintiffs, individuals served by FFE, and FFE members.

22 261. Defendant City of Phoenix and the PPD’s policies, procedures,
23 practices, and/or customs should require agents or employees of the City to
24 refrain from destroying unsheltered Plaintiffs’ possessions during such raids.

25 ~~243. Plaintiffs are entitled to damages in an amount to be determined by a jury.~~

Count Three

~~(Eighth Amendment—Cruel & Unusual Punishment)~~

~~(42 U.S.C. § 1983)~~

~~(All Defendants)~~

244. Plaintiffs re-allege the foregoing paragraphs as if fully set forth herein.

245. ~~The Eighth Amendment to the United States Constitution prohibits the government from inflicting cruel and unusual punishment.~~

246. ~~The Eighth Amendment “not only limits the types of punishment that may be imposed and prohibits the imposition of punishment grossly disproportionate to the severity of the crime, but also ‘imposes substantive limits on what can be made criminal and punished as such.’” *Martin v. City of Boise*, 920 F.3d 584, 613 (9th Cir. 2019) (quoting *Ingraham v. Wright*, 430 U.S. 651, 667 (1977)).~~

247. ~~The Ninth Circuit has made clear that statutes prohibiting sleeping outside implicate the protections of the Eighth Amendment when applied to homeless individuals. *Martin*, 920 F.3d at 615; see also *Johnson v. City of Grants Pass*, 72 F.4th 868 (9th Cir. 2023), cert. granted, 144 S. Ct. 679 (2024).~~

248. ~~Defendant City of Phoenix has enacted ordinances which directly target the act of sleeping by unsheltered individuals who otherwise have no place to sleep.~~

249. ~~Phoenix City Code § 23-30(A) makes it unlawful for a person to camp within the City.~~

250. ~~Phoenix City Code § 23-48.01 makes it unlawful for a person to lie, sit, or sleep in any public right of way or sidewalk, even if those places are otherwise unoccupied.~~

251. ~~Phoenix City Code § 23-85.01 and A.R.S. § 13-1501 et. seq. make it unlawful for a person to remain on property.~~

252. ~~The City commonly uses the Camping Ban, the Sleeping Ban, and the Trespassing Bans against Plaintiffs, FFE members, and individuals served by FFE to~~

1 ~~criminalize the act of being homeless and engaging in universal and unavoidable human~~
2 ~~activities such as sleeping.~~

3 ~~253. Defendants enforce these statutes and ordinances pursuant to the City's~~
4 ~~policies, procedures, customs, and/or protocols.~~

5 ~~254. Plaintiffs, individuals served by FFE, and FFE members have been cited~~
6 ~~under numerous statutes and ordinances by Defendants for the act of sleeping or simply~~
7 ~~existing in public space when they had nowhere else to go.~~

8 ~~255. Defendants commonly cite individuals who are unsheltered, including those~~
9 ~~who practically cannot obtain adequate shelter, under these statutes and ordinances, as~~
10 ~~well as others, during their raids.~~

11 ~~256. By criminalizing basic human activities such as sleeping, Defendants are~~
12 ~~knowingly and intentionally violating the constitutional rights of the unsheltered~~
13 ~~community.~~

14 ~~262. 257. It is clearly established~~Defendants failed to train or supervise their
15 employees when conducting raids of unsheltered populations such as Plaintiffs,
16 individuals served by FFE, and FFE members ~~cannot constitutionally be punished for~~
17 ~~sleeping in public spaces when no indoor shelter or other appropriate, safe, and legal~~
18 ~~public place is practically available to them.~~

19 ~~258., resulting in the destruction of their property. A reasonable official in~~
20 ~~Interim Chief Sullivan's position would have known that enforcing these statutes and~~
21 ~~ordinances against the unsheltered population constituted a violation of their Eighth~~
22 ~~Amendment rights.~~

23 ~~259. As a direct and proximate cause~~result of Defendants' ~~unconstitutional~~
24 ~~acts~~acts or omissions pursuant to official government policy, practice, or
25 custom, Plaintiffs, individuals served by FFE, and FFE members ~~have been~~
26 ~~deprived of the basic human right to sleep~~suffered (without limitation) a
27 deprivation of constitutional rights.
28

1 269. ~~266.~~—Here, Defendant City of Phoenix has imposed fines on
2 Plaintiffs, individuals served by FFE, and FFE members for violation of the
3 Sleeping Ban, Camping Ban, and Trespassing Bans.

4 270. Plaintiffs, individuals served by FFE, and FFE members who are
5 fined for violation of the Sleeping Ban, Camping Ban, and Trespassing Bans
6 are indigent, with no ability to pay any fine, let alone the multiple fines
7 imposed upon them by the City.

8 271. The imposition of fines against Plaintiffs, individuals served by
9 FFE, and FFE members causes serious harm, including through the collateral
10 consequences that follow, and create additional impediments to becoming
11 housed, perpetuating the likelihood that they will need to sleep outside again,
12 thereby risking exposure to further citations, fines, and arrests.

13 272. ~~267.~~—The fines imposed on Plaintiffs, individuals served by FFE, and
14 FFE members for such violations are grossly disproportional to the gravity of the
15 offense.

16 273. ~~268.~~—Sleeping is a basic human need, and Plaintiffs, individuals
17 served by FFE, and FFE members lack culpability for sleeping in a public place
18 when they have nowhere else to go.

19 274. ~~269.~~—The City fines individuals, including Plaintiffs, individuals
20 served by FFE, and FFE members even though sleeping on the street is not in
21 furtherance of other illegal activities.

22 275. ~~270.~~—Sleeping on the street causes negligible harm to the City.

23 276. ~~271.~~—There is no government purpose for proscribing sleeping on the
24 street when an individual has no other place to go.

25 277. ~~272.~~—Plaintiffs, individuals served by FFE, and members of FFE are
26 unable to afford the fines imposed on them for violation of the Sleeping Ban,
27 Camping Ban, and Trespassing Bans.

28

1 278. ~~273.~~ In light of the minor nature of the violations and their financial
2 effects on Plaintiffs, individuals served by FFE, and FFE members, the
3 aforementioned fines are punitive in nature and are grossly excessive and
4 disproportional to the behavior for which Defendants are imposing these fines.
5 The dollar amount ~~and~~ enforcement of these penalties constitutes a violation of the
6 Eighth Amendment's Excessive Fines clause, as incorporated by the Fourteenth
7 Amendment.

8 279. ~~274.~~ It is clearly established that excessively fining Plaintiffs,
9 individuals served by FFE, and FFE members for sleeping in public spaces when
10 indoor shelter is not practically available to them is a violation of their
11 constitutional rights.

12 280. ~~275.~~ A reasonable official in Interim Chief Sullivan's position would
13 have known that fining Plaintiffs, individuals served by FFE, and FFE members
14 for sleeping in public spaces when indoor shelter is not practically available
15 constituted a violation of their Eighth Amendment rights.

16 281. ~~276.~~ The acts of Defendants were intentional and violated the
17 constitutional rights of Plaintiffs, individuals served by FFE, and FFE members to
18 be free from excessive fines.

19 ~~277. Plaintiffs are entitled to damages in an amount to be determined by a jury.~~

20 **Count Five**

21 **(Municipal Liability under Monell)**

22 **(All Defendants)**

23 ~~278. Plaintiffs re-allege the foregoing paragraphs as if fully set forth herein.~~

24 282. ~~279.~~ Defendants were at all times relevant agents of the City vested
25 with the power to control and supervise employees, agents, and contractors of the
26 City.

1 283. ~~280.~~ Upon information and belief, Defendants acted in execution of
2 government policy or custom that may fairly be said to represent the official policy
3 of the City. *See Monell v. Dep't of Soc. Servs. of N.Y.*, 436 U.S. 658, 694 (1978).

4 284. ~~281.~~ Defendants' actions were authorized (before and during the fact)
5 and ratified (after the fact) by final policymakers for the City.

6 285. ~~282.~~ Defendants directed every action of their agents, thereby causing
7 the violation of Plaintiffs' rights, the rights of individuals served by FFE, and FFE
8 members' rights, and were deliberately indifferent to the fact that their directives
9 would result in the violation of such rights.

10 286. ~~283.~~ Defendants' customs, policies, and/or practices, and the
11 decisions of its final policymakers ~~were the moving force behind~~ caused
12 Defendants' violation of Plaintiffs' constitutional rights, the constitutional rights
13 of individuals served by FFE, and FFE members' constitutional rights.

14 287. ~~284.~~ Defendants' actions, as described herein, were motivated by
15 malice and/or involved reckless or callous indifference to Plaintiffs' federally
16 protected constitutional rights, the federally protected constitutional rights of
17 individuals served by ~~FFE's~~ FFE, and FFE members' federally protected
18 constitutional rights. Defendants engaged in these actions and omissions
19 intentionally, willfully, and/or wantonly, demonstrating deliberate indifference to,
20 and a reckless disregard for, such constitutionally protected rights.

21 ~~285. Defendants have or should have policies, procedures, practices, and/or~~
22 ~~customs to govern the raids to prevent the deprivations that occurred. Defendants have~~
23 ~~instead used or employed policies, procedures, practices, and/or customs that penalize~~
24 ~~unsheltered individuals for their status and destroy the property of Plaintiffs, individuals~~
25 ~~served by FFE, and FFE members.~~

1 ~~286. Defendant City of Phoenix and the PPD's policies, procedures, practices,~~
2 ~~and/or customs should require agents or employees of the City to refrain from destroying~~
3 ~~unsheltered Plaintiffs' possessions during such raids.~~

4 ~~287. Defendants failed to train or supervise their employees when conducting raids~~
5 ~~of unsheltered populations such as Plaintiffs, individuals served by FFE, and FFE~~
6 ~~members, resulting in the criminalization of their unsheltered status and destruction of~~
7 ~~their property.~~

8 ~~288. As a direct and proximate result of Defendants' acts or omissions pursuant to~~
9 ~~official government policy, practice, or custom, Plaintiffs, individuals served by FFE, and~~
10 ~~FFE members suffered (without limitation) a deprivation of constitutional rights.~~

11 288. ~~289.~~ Plaintiffs are entitled to damages in an amount to be determined
12 by a jury.

13 **Count SixFour**

14 **(Fourteenth Amendment—State Created Danger)**

15 **(All Defendants)**

16 289. ~~290.~~ Plaintiffs re-allege the foregoing paragraphs as if fully set forth
17 herein.

18 290. ~~291.~~ The due process clause of the Fourteenth Amendment to the
19 United States Constitution prevents Defendants from placing Plaintiffs,
20 individuals served by FFE, and FFE members in danger by acting with deliberate
21 indifference to a known and obvious danger.

22 291. ~~292.~~ During the summer, temperatures in Phoenix can reach as high
23 as 119 degrees Fahrenheit.

24 292. ~~293.~~ Without access to shade, temperatures can be even hotter.

25 293. ~~294.~~ Hundreds of unsheltered individuals die from ~~heat-~~
26 ~~related~~heat-related exposure every summer in Phoenix.

1 294. ~~295.~~—Each year, Maricopa County puts out a report on heat-related
2 deaths. The City of Phoenix contributes to the report.⁴¹

3 295. ~~296.~~—Defendants know that unsheltered individuals, including
4 Plaintiffs, individuals served by FFE, and FFE members, are at high risk for ~~heat-~~
5 ~~related~~heat-related illness and death.

6 296. ~~297.~~—Defendants know that removing unsheltered individuals from
7 shaded areas and destroying items that provide them with protection from the sun,
8 including tents and tarps, increase those individuals’ exposure to the sun and their
9 risk of heat-related illness and death.

10 297. ~~298.~~—Defendants make Plaintiffs, individuals served by FFE, and FFE
11 members move from shaded areas protected from the sun under threat of arrest
12 and citation during extremely hot temperatures, despite knowing that being forced
13 to gather ~~and~~ their belongings under these circumstances and leave shaded areas is
14 dangerous to their health.

15 298. ~~299.~~—Defendants confiscate and destroy tents, tarps, and other
16 shade-providing structures used by Plaintiffs, individuals served by FFE, and FFE
17 members to protect themselves from the sun during extremely hot temperatures,
18 despite knowing that depriving these individuals of shade-providing structures
19 under these circumstances is dangerous to their health.

20 299. ~~300.~~—As a direct and proximate result of Defendants’ actions,
21 Plaintiffs, individuals served by FFE, and FFE members have been subjected to a
22 heightened risk of heat-related illness or death that severely threatens their bodily
23 security.

24
25
26
27
28 ⁴¹ *2023 Heat Related Deaths Report*, Maricopa Cnty.,
<https://www.maricopa.gov/ArchiveCenter/ViewFile/Item/5796> (last updated April 2024).

1 300. Defendants were at all times relevant agents of the City vested
2 with the power to control and supervise employees, agents, and contractors of
3 the City.

4 301. Upon information and belief, Defendants acted in execution of
5 government policy or custom that may fairly be said to represent the official
6 policy of the City. See *Monell v. Dep't of Soc. Servs. of N.Y.*, 436 U.S. 658, 694
7 (1978).

8 302. Defendants' actions were authorized (before and during the fact)
9 and ratified (after the fact) by final policymakers for the City.

10 303. Defendants directed every action of their agents, thereby causing
11 the violation of Plaintiffs' rights, the rights of individuals served by FFE, and
12 FFE members' rights, and were deliberately indifferent to the fact that their
13 directives would result in the violation of such rights.

14 304. Defendants' customs, policies and/or practices, and the decisions
15 of its final policymakers caused Defendants' violation of Plaintiffs'
16 constitutional rights, the constitutional rights of individuals served by FFE,
17 and FFE members' constitutional rights.

18 305. Defendants' actions, as described herein, were motivated by
19 malice and/or involved reckless or callous indifference to Plaintiffs' federally
20 protected constitutional rights, the federally protected constitutional rights of
21 individuals served by FFE, and FFE members' federally protected
22 constitutional rights. Defendants engaged in these actions and omissions
23 intentionally, willfully, and/or wantonly, demonstrating deliberate
24 indifference to, and a reckless disregard for, such constitutionally protected
25 rights.

26 306. Defendants have or should have policies, procedures, practices,
27 and/or customs to govern the raids to prevent the deprivations that occurred.
28

1 Defendants have instead used or employed policies, procedures, practices,
2 and/or customs that penalize unsheltered individuals for their status and
3 destroy the property of Plaintiffs, individuals served by FFE, and FFE
4 members.

5 307. Defendant City of Phoenix and the PPD's policies, procedures,
6 practices, and/or customs should require agents or employees of the City to
7 refrain from destroying unsheltered Plaintiffs' possessions during such raids.

8 308. Defendants failed to train or supervise their employees when
9 conducting raids of unsheltered populations such as Plaintiffs, individuals
10 served by FFE, and FFE members, resulting in the criminalization of their
11 unsheltered status and destruction of their property.

12 309. ~~301.~~ As a direct and proximate result of Defendants' ~~actions~~acts or
13 omissions pursuant to official government policy, practice, or custom,
14 Plaintiffs ~~have~~, individuals served by FFE, and FFE members suffered
15 (without limitation) a deprivation of ~~their~~ constitutional rights.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 18 A. Maintaining current preliminary injunctive relief enjoining:
- 19 a. Defendants from seizing and destroying property of unsheltered
- 20 individuals residing in the City; and
- 21 ~~b. Defendants from issuing criminal or civil citations under Phoenix,~~
- 22 ~~City Code § 23-30(A) to individuals experiencing homelessness for~~
- 23 ~~sleeping in public spaces when no available alternative spaces to~~
- 24 ~~sleep exist;~~
- 25 ~~c. Defendants from issuing criminal or civil citations under Phoenix~~
- 26 ~~City Code § 23-48.01 to individuals experiencing homelessness for~~
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~~sleeping in public spaces when no available alternative spaces to sleep exist;~~

~~d. From issuing any other criminal or civil citation to individuals experiencing homelessness for sleeping, sitting, lying, or standing in public spaces when no available alternative spaces to do so exist; and~~

eb. From conducting raids on spaces occupied by individuals experiencing homelessness, including sweeps which physically move the unsheltered community to unsafe spaces and dispossess them of their property.

B. Additional preliminary injunctive relief:

~~a. Enjoining Defendants from issuing criminal or civil citations under Phoenix City Code § 23-85.01, A.R.S. § 13-1501 et. seq., and Phoenix City Code § 23-48.01. to individuals experiencing homelessness for sleeping, sitting, lying, or standing in a public space when no available alternative spaces to do so exist; and~~

a. ~~b.~~ Enjoining Defendants from imposing fines on individuals experiencing homelessness for sleeping, sitting, lying or standing in a public space when no available alternative spaces to do so exist.

C. Permanent injunctive relief:

a. Enjoining Defendants from seizing and destroying property of unsheltered individuals residing in the City without due process of law;

b. Enjoining Defendants from destroying any property unabandoned by unsheltered individuals;

~~e. Enjoining Defendants from issuing any criminal or civil citations to individuals experiencing homelessness for sleeping, sitting, lying, or standing in public spaces;~~

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dc. Enjoining Defendants from conducting raids and taking other actions that cause the displacement of those experiencing homelessness unless appropriate individual housing options are available to shelter these individuals;

ed. Enjoining Defendants from displacing unsheltered individuals from shaded areas, forcing unsheltered individuals to engage in strenuous relocation activities, and destroying unsheltered individuals' sun-protective property, including tents and tarps, during extreme heat;

e. ~~f.~~—Enjoining Defendants from imposing fines on individuals experiencing homelessness for sleeping, sitting, lying or standing in a public space when no available alternative spaces to do so exist; and

gf. Requiring Defendants to provide advance notice of their intent to conduct raids.

~~C. For Declaratory Relief that:~~

~~a. Phoenix City Code § 23-30(A) is unconstitutional as applied to unsheltered individuals with no practical access to shelter who are sleeping within the City;—~~

~~b. Phoenix City Code § 23-85.01 is unconstitutional as applied to unsheltered individuals with no practical access to shelter who are sleeping, sitting, lying, or standing on public property within the City;—~~

~~e. A.R.S. § 13-1501 et. seq., is unconstitutional as applied to unsheltered individuals with no practical access to shelter who are sleeping, sitting, lying, or standing on public property within the City; and—~~

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~~d. Phoenix City Code § 23-48.01 is unconstitutional as applied to unsheltered individuals with no practical access to shelter who are sleeping, sitting, lying, or standing on public property within the City.~~

D. For damages ~~as to Counts One, Two, Four, Five, and Six~~, according to proof;

E. For taxable costs and expenses to the extent permitted by law;

F. For pre- and post-judgment interest to the extent permitted by law;

G. For an award of attorney fees pursuant to 42 U.S.C. § 1988(b); and

H. Such other relief as may appear just and appropriate.

RESPECTFULLY SUBMITTED this ~~29th~~12th day of ~~April~~July, 2024.

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Summary report:	
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Table moves from	0
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Embedded Excel	0
Format changes	0
Total Changes:	850