

1 **AMERICAN CIVIL LIBERTIES UNION**
 2 **FOUNDATION OF ARIZONA**
 3 Jared G. Keenan, State Bar No. 027068
 4 Christine K. Wee, State Bar No. 028535
 5 2712 N. 7th Street
 Phoenix, Arizona 85006
 Telephone: (602) 650-1854
 E-Mail: jkeenana@acluaz.org
 cwee@acluaz.org

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
 Leah Watson, admitted *pro hac vice*
 Scout Katovich, admitted *pro hac vice*
 125 Broad Street, 18th Floor
 New York, NY 10004
 Telephone: (212) 549-2500
 E-Mail: lwatson@aclu.org
 skatovich@aclu.org

6 **ZWILLINGER WULKAN PLC**
 Benjamin L. Rundall, State Bar No.
 7 031661
 Alexis Eisa, State Bar No. 038702
 8 Lisa Bivens, State Bar No. 034075
 2020 North Central Avenue, Suite 675
 9 Phoenix, Arizona 85004
 Telephone: (602) 962-2969
 10 E-Mail: ben.rundall@zwfirm.com
 alexis.eisa@zwfirm.com
 11 lisa.bivens@zwfirm.com

GOODWIN PROCTER LLP
 Andrew Kim, admitted *pro hac vice*
 Courtney L. Hayden, admitted *pro hac*
vice
 Collin M. Grier, admitted *pro hac vice*
 Madeline Fuller, admitted *pro hac vice*
 1900 N Street, N.W.
 Washington, D.C. 20036
 Telephone: 202-346-4000
 E-Mail: AndrewKim@goodwinlaw.com
 CHayden@goodwinlaw.com
 CGrier@goodwinlaw.com
 MFuller@goodwinlaw.com

12 *Attorneys for Plaintiffs*

13
 14
 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;
 Mohamed Sissoho, individually; Dyrwood
 20 Moore, individually; Faith Kearns,
 individually; Frank Urban, individually;
 21 Timothy James, individually; Sherdina
 Carr, individually; Papy Abdul Idrissa,
 22 individually; and Jason Rich, individually,

23 Plaintiffs,

24 vs.

25
 26 City of Phoenix, a political subdivision of
 the state of Arizona; Rachel Milne, in her
 27 official capacity as the Director of the
 Office of Homeless Solutions; and
 28 Michael Sullivan in his official capacity as

No. CV-22-02041-PHX-GMS

THIRD AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

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

(JURY TRIAL DEMANDED)

1 Interim Chief of the Phoenix Police
2 Department, Entities I-X, political
3 subdivisions of the state of Arizona; and
4 John and Jane Does 1-75, in their
5 individual capacities,

6 Defendants.

7
8 Plaintiffs, through counsel undersigned, for their Complaint against Defendants,
9 allege as follows:

10 **INTRODUCTION**

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

18
19 _____
20 ¹ Compare Maricopa Ass’n of Gov’ts, *2010 Homeless Street Count*,
21 [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
22 Gov’ts, *2023 Point-in-Time (PIT) Count Report* 4,
23 <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
24 individuals).

25 ² *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 3.

26 ³ Throughout this complaint the terms “unhoused,” “homeless,” and “experiencing
27 homelessness” denote individuals who meet the federal law definition of homelessness. *See*
28 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 unable to
2 afford a home. This is largely due to skyrocketing housing costs. From 2017 to 2023, the
3 median rent in Phoenix increased by 54%.⁴ Because Phoenix does not have sufficient
4 shelter, many of those who find themselves unhoused have no choice but to take to the city’s
5 streets and other public areas. Indeed, in 2023, over half of Maricopa County’s unhoused
6 population was unsheltered.⁵

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

18 ⁴ Alex Horowitz and Tushar Kansal, *Restrictive Zoning is Raising Housing Costs and*
19 *Homelessness in Arizona*, Pew Charitable Trusts (Dec. 7, 2023),
20 [https://www.pewtrusts.org/en/research-and-analysis/articles/2023/12/07/restrictive-](https://www.pewtrusts.org/en/research-and-analysis/articles/2023/12/07/restrictive-zoning-is-raising-housing-costs-and-homelessness-in-arizona)
[zoning-is-raising-housing-costs-and-homelessness-in-arizona](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
visited April 28, 2024).

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

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

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

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

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

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

8 6. The City created the Office of Homeless Solutions (“OHS”) in 2022. OHS
9 was originally intended to create transparency about the city’s homelessness crisis. OHS
10 was also tasked with creating and implementing a storage policy and system for items taken
11 by the City from those who are unhoused, but has failed to adhere to the announced
12 procedure. Instead, OHS has worked hand-in-hand with the Phoenix Police Department
13 (“PPD”) to ratify and systematically conduct “clean sweeps,” which are raids that target
14 people experiencing homelessness and violate their constitutional rights.¹⁰

15 7. The City conducts raids of homeless encampments without cause or suspicion
16 despite knowing that these individuals have nowhere else to go, given the dearth of
17 affordable housing and emergency shelter space.¹¹

18 8. The City and its agents also indiscriminately and irretrievably seize, impound,
19 and destroy unsheltered individuals’ personal property and survival gear without notice,
20 cause, or a warrant.

21 9. During these raids, unsheltered individuals, including Plaintiffs and members
22 of Plaintiff Fund for Empowerment (“FFE”) have lost clothing, survival equipment,
23

24 ¹⁰ At various times, the City has used other terms, including “enhanced cleanups,”
25 “encampment cleanups,” and “enhanced engagements,” to describe this policy, custom, or
practice.

26 ¹¹ See Madeline Ackley, *Phoenix Still Criminalizes Homelessness, Despite Court Ruling,*
27 *Protesters Say*, AZ Mirror, (Jan. 9, 2020, 9:13 a.m.),
28 <https://www.azmirror.com/2020/01/09/phoenix-still-criminalizes-homelessness-despite-court-ruling-protesters-say/>.

1 medication, items of sentimental value (like photographs of loved ones), and, perhaps most
2 inexplicably, vital records and identifying documents—like birth certificates and reference
3 letters—which are crucial to procuring jobs, benefits, and housing. These documents can
4 be almost impossible for someone with no fixed address to replace.¹²

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

14 11. All told, instead of confronting its housing crisis head-on and investing in
15 sustainable solutions to homelessness, the City is terrorizing the very people it should be
16 helping. In fact, in a report issued on June 13, 2024, the United States Department of Justice
17 concluded that there is

18 reasonable cause to believe that [the Phoenix Police
19 Department] violates the rights of people experiencing
20 homelessness . . . [insofar as the Phoenix Police Department]
21 stops, detains, and arrests people who are homeless without
22 reasonable suspicion that they are engaged in criminal
23 activity[,] . . . [and] seize[s] and destroy[s] property belonging
24 to people who are homeless without providing adequate notice
25

26 ¹² 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 or opportunity to collect their belongings[,] . . . [thereby
2 violating] the due process requirements of the Fourteenth
3 Amendment and the Fourth Amendment’s prohibition on
4 unreasonable seizures.¹³

5 12. The City has weaponized “clean sweeps” to drive unhoused people from
6 Phoenix by making the city’s public areas unlivable. The City has made its message to
7 unhoused individuals clear: engaging in sleep and other essential life activities on the city’s
8 public grounds will lead to detention, arrest, displacement, and the loss of the individual’s
9 personal effects.

10 13. The City’s actions are unconstitutional, especially in light of the fact that
11 many of the affected individuals, including Plaintiff FFE’s members and individual
12 Plaintiffs here, have no choice but to live in the city’s public areas, as the City has fallen
13 well short of its responsibility to provide adequate shelter to meet the needs of its unhoused
14 population.¹⁴

15 **JURISDICTION & VENUE**

16 14. Plaintiffs bring this action for declaratory, injunctive, and monetary relief
17 pursuant to 42 U.S.C. § 1983 for violations of civil rights under the Fourth, Eighth, and
18 Fourteenth Amendments to the United States Constitution.

19 15. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, which gives district
20 courts original jurisdiction over civil actions arising under the Constitution, laws, or treaties
21 of the United States, and under 28 U.S.C. § 1343(a), which gives district courts jurisdiction
22 over actions to secure civil rights extended by the United States Government.

23 16. Declaratory relief is authorized by 28 U.S.C. §§ 2201-02.
24

25 ¹³ *Investigation of the City of Phoenix and the Phoenix Police Department*, supra note 9, at
26 41.

27 ¹⁴ To be clear, Plaintiffs do not expect or request this Court to resolve the housing crisis,
28 make policy decisions, or rewrite legislation; Plaintiffs are simply invoking protections they
are guaranteed under the United States Constitution.

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

4 **PARTIES**

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

16 19. Plaintiff Ronnie Massingille is currently involuntarily unhoused and lives in
17 Phoenix, Arizona. Mr. Massingille cannot practically obtain shelter, much less a fixed,
18 regular, and adequate nighttime residence. Although Mr. Massingille is sometimes able to
19 obtain a shelter bed at St. Vincent de Paul, on most nights, he must sleep on the street. Mr.
20 Massingille has received criminal citations from PPD for sleeping and camping in public
21 and has directly experienced the raids performed by the City and PPD which have resulted
22 in the destruction of his personal property.

23 20. Plaintiff Mohamed Sissoho is currently involuntarily unhoused and lives in
24 Phoenix, Arizona. Mr. Sissoho cannot practically obtain shelter, much less a fixed, regular,
25 and adequate nighttime residence. Mr. Sissoho’s property was destroyed during sweeps
26 conducted by the City. Mr. Sissoho has also been cited by the City for sleeping in public.

27 21. Plaintiff Dyrwood Moore is currently involuntarily unhoused and lives in
28 Phoenix, Arizona. Mr. Moore cannot practically obtain shelter, much less a fixed, regular,

1 and adequate nighttime residence. Mr. Moore has had his property destroyed during sweeps
2 conducted by the City and has been repeatedly harassed by the PPD for sleeping in public
3 places.

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

7 23. Plaintiff Frank Urban has been chronically unsheltered off and on since 2000
8 in Maricopa County, Arizona. Mr. Urban has received criminal citations from PPD for
9 trespassing, obstructing a thoroughfare, and simply standing on the sidewalk in connection
10 to his unsheltered status. Mr. Urban has directly experienced the raids performed by the
11 City and PPD, which have resulted in the destruction of his personal property.

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

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

19 26. Plaintiff Papy Abdul Idrissa is currently involuntarily unhoused and lives in
20 Phoenix, Arizona. Mr. Idrissa cannot practically obtain shelter, much less a fixed, regular,
21 and adequate nighttime residence. Mr. Idrissa is often harassed by PPD for being unhoused,
22 nearly on a daily basis.

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

27
28

1 28. Defendant City of Phoenix is a political subdivision of the state of Arizona
2 that acts through its employees, agents, and independent contractors. PPD is a department
3 or division of the City that acts with the City's authority.

4 29. Defendant Michael Sullivan ("Chief Sullivan") resides or works in Maricopa
5 County, Arizona.

6 30. Chief Sullivan is the Interim Chief of Police for the PPD with ultimate
7 authority to control, and responsibility for, the actions of its officers and agents. Chief
8 Sullivan also has the authority and responsibility to establish policies, practices, customs,
9 procedures, protocols, and training for the PPD. Chief Sullivan is named herein in his
10 official capacity.

11 31. Defendant Rachel Milne ("Director Milne") resides or works in Maricopa
12 County, Arizona.

13 32. Director Milne is the Director of the OHS with ultimate authority to control,
14 and responsibility for, the actions of its employees and agents. Defendant Milne also has
15 the authority and responsibility to establish policies, practices, customs, procedures,
16 protocols, and training for the OHS. Defendant Milne is named herein in her official
17 capacity.

18 **GENERAL FACTUAL ALLEGATIONS**

19 **Background**

20 33. The number of residents experiencing homelessness in Phoenix has more than
21 doubled since 2010 according to Point-in-Time ("PIT") counts commissioned by the
22 Maricopa Association of Governments.¹⁵

23 34. This increase directly relates to the City's lack of affordable housing for
24 residents that was exacerbated by the COVID-19 pandemic.¹⁶

25 ¹⁵ See *2010 Homeless Street Count*, *supra* note 1.

26 ¹⁶ Median home prices in the Phoenix metro area have risen over 216% since 2000, while
27 the median income has grown only 48%. It is estimated that by 2025 only a third of the
28 area's population will be able to afford a home. Belinda Luscombe, *Why Phoenix—of All
Places—Has the Fastest Growing Home Prices in the U.S.*, TIME Business (May 3, 2022,

1 35. Sustainable solutions to this spike in homelessness, including affordable
2 housing, have lagged far behind, in large part because of the City’s inaction. For example,
3 when this lawsuit was filed in November 2022, the City had spent less than 10% of the
4 \$99.5 million it received from the federal government through the American Rescue Plan
5 Act (“ARPA”) in order to address homelessness and affordable housing.¹⁷ The City still has
6 not spent more than half of the ARPA funds it budgeted for these purposes.¹⁸

7 36. Without an adequate supply of affordable housing, Phoenix residents can
8 easily become unsheltered after disruptions in household income caused by job loss,
9 medical bankruptcy, emergency, mental illness, divorce, or domestic violence.

10 37. Black, Indigenous, and other people of color are disproportionately affected
11 by the homelessness crisis. In Maricopa County, Black people make up 28% of the
12 unhoused population, but only 6% of the general population. The Indigenous proportion of
13 the homeless population in the County is more than twice its share of the general
14 population.¹⁹

15 38. Notwithstanding the fact that shelters are only a temporary solution to
16 homelessness, the City’s efforts to supply temporary shelter fall far short of the need.
17 According to the January 2022 Point-in-Time count, which considerably undercounts the
18 unsheltered population, 2,942 people in Phoenix were temporarily housed in an emergency
19 shelter or transitional housing while 3,096 people in Phoenix remained completely
20

21 _____
22 1:30 p.m.), <https://time.com/6170497/phoenix-fastest-growing-home-prices/>. This increase
has also caused a corresponding increase in rental prices. *Id.*

23 ¹⁷ See Erica Stapleton, Katie Wilcox & John Tanet, “*Building Housing Isn’t a Quick*
24 *Process*”: *Phoenix Weighs in on Millions in COVID Relief Money for Homelessness That*
25 *Hasn’t Been Spent*, 12 News (Aug. 29, 2022),
[https://www.12news.com/article/news/local/arizona/the-cost-of-crisis-phoenix-struggles-](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)
26 [with-a-homelessness-crisis-after-covid/75-bd422dcb-4663-4b98-8f71-11aea9e76bda](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 ¹⁸ *American Rescue Plan Act—Affordable Housing & Homelessness*, City of Phx.,
<https://stories.opengov.com/phoenixaz/published/CcabFkLY8> (last visited Apr. 28, 2024).

28 ¹⁹ See 2023 *Point-in-Time (PIT) Count Report*, *supra* note 1, at 2.

1 unsheltered.²⁰ By 2023, according to the Point-in-Time count, the number of unsheltered
 2 people in Phoenix increased to 3,333, while the number of people in Phoenix temporarily
 3 housed in an emergency shelter or transitional housing increased to 3,569.²¹

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

8 40. While the 2023 Maricopa County Point-in-Time count identified 9,642
 9 people experiencing homelessness on a single night,²³ almost 31,000 people experienced
 10 homelessness in Maricopa County over the course of the 2023 calendar year.²⁴ There are
 11 only 4,700 total shelter beds in Maricopa County.²⁵ As the Maricopa Association of
 12 Governments itself concedes, “the region does not have enough shelter beds to meet the
 13 need of people experiencing homelessness throughout the county.”²⁶

14
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 16
 17
 18 ²⁰ 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>.

19 ²¹ *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 4.

20 ²² *See 2022 Point-in-Time (PIT) Count Report*, *supra* note 20, at 1, 4-5.

21 ²³ *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 1. Of the 9,642 individuals who
 22 experienced homelessness in Maricopa County at the time of the 2023 Point-in-Time count,
 4,734 were sheltered and 4,908 were unsheltered.

23 ²⁴ *Homeless Trends Report: October-December 2023*, Maricopa Reg’l Continuum of Care,
 24 <https://azmag.gov/Portals/0/Homelessness/Reports/2023-Q4-Homelessness-Trends-Report.pdf> (last visited Apr. 23, 2024).

25 ²⁵ *Overview of Homelessness*, Maricopa Ass’n of Gov’ts,
 26 <https://azmag.gov/Programs/Homelessness/Overview-of-Homelessness#:~:text=In%20total%2C%20there%20are%20over,different%20partners%20across%20the%20region>
 27 (last visited Apr. 28, 2024).

28 ²⁶ *Id.*

1 41. For its part, Phoenix only had 1,492 shelter beds available at the end of
2 2021.²⁷ According to the City, in 2022 and 2023, Phoenix added 1,072 shelter beds,²⁸ which
3 means that the city had, at most, 2,564 beds by the end of 2023—still not nearly enough to
4 provide shelter to the nearly 7,000 unhoused residents identified in the 2023 Point-in-Time
5 count.²⁹

6 42. Despite the already inadequate number of shelter beds available, OHS
7 announced that it closed the “Temporary Haven,” operated by Central Arizona Shelter
8 Services (“CASS”), which “served 73 unique individuals,” and also reported that “[o]ther
9 temporary lodging sites are slated for closure in the next few months and into fall 2024.”³⁰

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

15 44. Moreover, while emergency shelters can temporarily accommodate some
16 people experiencing homelessness, they are not an adequate response to Phoenix’s rapid
17 increase in unsheltered residents. For example, providing someone who is involuntarily
18 unhoused with a shelter bed or motel room for one night does not resolve their status as
19

20 _____
21 ²⁷ City of Phoenix, *Strategies to Address Homelessness: Task Force Recommendations to*
22 *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)
[Task%20Force%20Recommendations%20to%20the%20City%20Manager-Final.pdf](https://www.phoenix.gov/humanservicessite/Documents/Task%20Force%20Recommendations%20to%20the%20City%20Manager-Final.pdf).

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

25 ²⁹ The 2023 Point-in-Time Report identified 3,569 people in Phoenix who were temporarily
26 housed in an emergency shelter or transitional housing and 3,333 individuals who were
27 completely unsheltered. *2023 Point-in-Time (PIT) Count Report*, *supra* note 1 at 4-5.

28 ³⁰ *See* City of Phoenix, *Office of Homeless Solutions Program Report, in General*
Information Packet 3, 4 (Apr. 18, 2024),
[https://www.phoenix.gov/cityclerk/site/City%20Council%20Meeting%20Files/4-18-](https://www.phoenix.gov/cityclerk/site/City%20Council%20Meeting%20Files/4-18-24%20General%20Info%20Packet-FINAL.pdf)
[24%20General%20Info%20Packet-FINAL.pdf](https://www.phoenix.gov/cityclerk/site/City%20Council%20Meeting%20Files/4-18-24%20General%20Info%20Packet-FINAL.pdf).

1 involuntarily unhoused. Research shows that the most effective way to end chronic
2 homelessness is to provide permanent supportive housing on a housing-first basis.³¹

3 45. Without access to shelter or affordable housing, many experiencing
4 homelessness in Phoenix, including the Plaintiffs, those served by FFE, and members of
5 FFE, have nowhere else to go. They are involuntarily unhoused.

6 **The City's Raids**

7 46. For at least the past three years, the City has had a policy, custom, or practice
8 of systematically conducting raids it calls "clean sweeps" of areas occupied by unsheltered
9 individuals and those experiencing homelessness.³²

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

14 48. Plaintiffs, FFE's members, and other individuals who are served by FFE are
15 not provided notification of when these raids will occur.

16 49. Some of these raids occur as early as 3:00 AM.

17 50. The City directs the PPD, Environmental Services, and other City agencies
18 and contractors, acting as "clean-up" crews, to remove property.

19 51. Unsheltered individuals (including Plaintiffs, those served by FFE, and FFE
20 members) typically have just minutes to gather their personal possessions and belongings
21 before the raid begins. Because mere minutes are not enough time to gather and relocate
22 possessions (particularly for people with disabilities), the inevitable result of the City's raids
23 is that people permanently lose any property they cannot immediately carry away with
24 them.

25 ³¹ See, e.g., U.S. Interagency Council on Homelessness, *ALL IN: The Federal Strategic*
26 *Plan to Prevent and End Homelessness* 42 (Dec. 2022),
27 https://www.usich.gov/sites/default/files/document/All_In.pdf.

28 ³² See *Investigation of the City of Phoenix and the Phoenix Police Department*, *supra* note
9, at 47-51.

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

4 53. Removal is performed with rakes, garbage bags, loaders, and sometimes a
5 disposal truck.

6 54. These raids commonly result in the loss and destruction of personal property
7 owned by those experiencing homelessness. Some of these items are necessary for survival,
8 including tents, shades for heat relief, sleeping bags, medication, and blankets.

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

13 56. Upon information and belief, the purpose of these raids is to discourage
14 individuals experiencing homelessness from sleeping in the City and to push them to other
15 surrounding municipalities surrounding Phoenix in the County.

16 57. Upon information and belief, the City’s policy is to use these raids to address
17 the rise in those experiencing homelessness to divert criticism for failing to adequately
18 provide both emergency and permanent housing.

19 **The City’s Weaponization of Statutes and Ordinances Against Unsheltered People**

20 58. During the City’s raids, which are conducted in accordance with the City and
21 PPD’s policies, practices, and customs, police officers often issue criminal citations under
22 the Arizona Revised Statutes and City Ordinances.³³

23 59. The City has cited individuals for violations of Phoenix City Code § 23-30
24 (the “Camping Ban”), Phoenix City Code § 23-48.01 (the “Sleeping Ban”), Phoenix City
25 Code § 23-85.01 and Arizona Revised Statutes § 13-1501 et seq. (together with Phoenix
26 City Code § 23-85.01, the “Trespassing Bans”).

27
28

³³ *Id.* at 47-48.

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

5 61. On May 29, 2024, the City further expanded the Camping Ban to prohibit
6 camping within 500 feet of schools, child care facilities, shelters, or city parks.³⁴

7 62. According to the City, camping means “to use real property of the City for
8 living accommodation purposes such as sleeping activities, or making preparations to sleep,
9 including the laying down of bedding for the purpose of sleeping, or storing personal
10 belongings, or making any fire, or using any tents or shelter or other structure or vehicle for
11 sleeping or doing any digging or earth breaking or carrying on cooking activities.” *Id.* § 23-
12 30(B).

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

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

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

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

24
25
26 _____
27 ³⁴ See Phx., Ariz., City Code § 23-30, *amended by Ordinance G-XXX* (effective Sept. 1,
28 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. The Sleeping Ban is commonly cited by the City against unsheltered
2 individuals during raids to discourage universal and unavoidable human activities such as
3 sleeping.

4 68. 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 inhabitant's
16 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. The City has enforced the Trespassing Bans against unhoused individuals,
25 including Plaintiffs, members of FFE, and those served by FFE, for merely standing, sitting,
26 lying, or sleeping in public spaces.

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

1 71. Violation of these ordinances is a Class 1 misdemeanor, punishable by a fine
2 up to \$2,500 per violation and imprisonment of up to six months. *See* Phx. Ariz. City Code
3 § 1-5.³⁵

4 72. If an individual is unable to pay the fines imposed under these ordinances, or
5 successfully contest them, they can face significant collateral consequences, including
6 arrest warrants and permanent criminal records.³⁶

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

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

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

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

20 77. Despite this Court’s preliminary injunction (ECF No. 119) prohibiting the
21 City from enforcing the Camping and Sleeping Bans against “homeless persons for sleeping
22 in public if there are no other public areas or appropriate shelters where those individuals
23

24 ³⁵ Violation of the Arizona Trespassing Ban is a Class 3 Misdemeanor punishable by a fine
25 up to \$500 or imprisonment up to 30 days. *See* A.R.S. § 13-802(C); A.R.S. § 13-707(A)(3).

26 ³⁶ *See Investigation of the City of Phoenix and the Phoenix Police Department, supra* note
27 9, at 49 (“Citations—often given in lieu of arrest—require a person to appear in court. If
28 the person does not do so, the court issues a warrant for failure to appear, 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 can sleep,” (ECF No. 119 at 3) the City has nevertheless continued to enforce those
2 prohibitions against individuals who are involuntarily unhoused and practically cannot
3 obtain shelter and who do not have access to any public place or appropriate shelter where
4 they can safely or legally sleep or simply exist.

5 78. The City has also circumvented the preliminary injunction by enforcing the
6 Trespassing Bans against involuntarily unhoused individuals who practically cannot obtain
7 shelter or access to any public place where they can sleep or carry out essential life activities
8 without risking violation of the Camping, Sleeping, or Trespassing Bans (or any other City
9 ordinances), for acts of so-called “trespass” that amount to little more than sleeping or living
10 on public property.³⁷

11 79. Despite neighboring municipalities amending their policies and halting
12 enforcement of similar ordinances, the City has continued its policy, practice, or custom of
13 enforcing its ordinances and fining individuals even when housing and temporary shelter
14 are not practically available to its unhoused residents.

15 80. The City of Phoenix, by contrast, has not amended its Camping Ban, Sleeping
16 Ban, or its Trespassing Ban and continues to pursue its policy, practice, or custom of
17 enforcing these laws and imposing fines against involuntarily unhoused individuals who
18 practically cannot obtain shelter and who do not have access to any public place they can
19 legally sleep, lie, stand, or sit in public, even though this Court has imposed an injunction
20 prohibiting the City from doing so.³⁸

21
22 ³⁷ See *Investigation of the City of Phoenix and the Phoenix Police Department*, *supra* note
23 9, at 47–51.

24 ³⁸ 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 81. Upon information and belief, the City has a policy, practice, or custom of
2 issuing citations to individuals for violations of these (and other) statutes/codes and
3 imposing fines to discourage individuals experiencing homelessness from sleeping in the
4 City and to push them to other surrounding municipalities in the County.

5 82. Upon information and belief, the City has a policy, practice, or custom of
6 using these statutes and ordinances in place of finding humane solutions for those
7 experiencing homelessness within the City.

8 **Plaintiff Fund for Empowerment's Work on Behalf of the Unsheltered Community**

9 83. Since 2018, the Fund for Empowerment has spent monetary resources in
10 support of its mission to help provide education, training, and leadership courses to the
11 unsheltered community to combat policies and practices by the City which target them.

12 84. FFE has approximately 200 members, many of whom are currently
13 involuntarily unhoused or chronically at risk of becoming unsheltered.

14 85. FFE commonly creates and prints written materials for dissemination to the
15 unsheltered community which include information about their rights under the United States
16 Constitution.

17 86. FFE provides training to the unsheltered community about their rights in
18 response to the raids conducted by the City.

19 87. FFE conducts bi-weekly sessions for the purpose of encouraging unsheltered
20 people to advocate for themselves. Dozens of unsheltered people living in Phoenix attend
21 these meetings.

22 88. Due to the City's raids, a substantial portion of these meetings has been
23 dedicated to identifying resources for unsheltered people impacted by the raids.

24 89. FFE provides training to the unsheltered community about their right to sleep
25 outside in connection to the City's use of statutes and ordinances to criminalize sleeping.

26 90. Since 2020, FFE has had to divert its resources to providing replacement
27 safety items, such as tents and water, to individuals whose property was seized by the City
28

1 during sweeps. FFE does this because unsheltered individuals may become ill if they do not
2 have access to shade or water and are exposed to heat because of a sweep.

3 91. FFE would not have to expend these resources on behalf of its members if the
4 City stopped conducting raids and unlawfully seizing individuals' property.

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

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

14 **FFE Members' Experiences**

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

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

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

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

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

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

28

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

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

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

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

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

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

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

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

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

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

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

28

Plaintiff Ronnie Massingille's Experience

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

112. Mr. Massingille is currently involuntarily unhoused.

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

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

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

116. He was never provided with a search warrant.

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

118. 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. Plaintiff Mohamed Sissoho is a resident of Phoenix.

120. Mr. Sissoho is currently involuntarily unhoused.

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

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

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

124. During this raid, PPD seized and destroyed Mr. Sissoho's property without his consent and without a warrant.

125. Specifically, PPD seized Mr. Sissoho's tent, sleeping bags, food stamps, social security card, letters, and jewelry.

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

1 127. Mr. Sissoho has not been able to recover the property that PPD seized from
2 him.

3 128. Without his tent, it has been hard for Mr. Sissoho to protect himself from the
4 sun and sweltering heat.

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

10 130. During this sweep, the City cited Mr. Sissoho for a violation of the
11 Trespassing Bans.

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

16 132. In April 2024, PPD threatened Mr. Sissoho with a citation for sleeping in his
17 wheelchair in public.

18 133. PPD forced Mr. Sissoho to move elsewhere but did not provide Mr. Sissoho
19 any assistance or information on services, resources, or shelters.

20 134. Mr. Sissoho is worried about the approaching summer and how he will
21 survive the increasing heat without a tent (which provided shade to him).

22 **Plaintiff Dyrwood Moore’s Experience**

23 135. Plaintiff Dyrwood Moore is a resident of Phoenix, Arizona.

24 136. Mr. Moore is currently involuntarily unhoused.

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

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

1 139. The City confiscated or destroyed Mr. Moore's belongings without providing
2 him with a means to retrieve them.

3 140. Specifically, PPD seized Mr. Moore's tent, clothes, barbeque grill, bicycle,
4 and shoes.

5 141. Mr. Moore has not been able to retrieve his personal property since the City's
6 confiscation.

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

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

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

13 145. Specifically, PPD seized Mr. Moore's tent, shade for heat protection,
14 disability documentation, blankets, clothes, food, and water.

15 146. On March 14, 2024, Mr. Moore contacted OHS to see if he would be able to
16 recover his belongings.

17 147. OHS has not responded to Mr. Moore's inquiry. He remains without the
18 belongings that PPD took from him during the March 2024 raid.

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

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

24 **Plaintiff Faith Kearns' Experience**

25 150. Ms. Kearns is a resident of Phoenix, Arizona.

26 151. Due to various medical issues and the costs associated with medical care, she
27 has been chronically unsheltered since approximately 2008.
28

1 152. When she is unsheltered, Ms. Kearns sleeps on the public streets of Phoenix.

2 153. While sleeping within the City as an unsheltered individual, Ms. Kearns has
3 experienced the raids firsthand. Based on Ms. Kearns' recollection, the raids occurred about
4 three to five days per week, with an uptick during and around holidays.

5 154. During the City's raids, Ms. Kearns has had personal possessions and
6 belongings destroyed.

7 155. During the City's raids, PPD and other City workers took the following from
8 Ms. Kearns: an Arizona ID card, a Visa Card on which her Social Security disability income
9 was loaded, tent, blankets, bedding, birth certificate, medications, and clothing.

10 156. Ms. Kearns watched as PPD and other City workers destroyed these items,
11 among others.

12 157. Ms. Kearns never received a search warrant for the property that the City
13 seized through its agents.

14 158. Ms. Kearns also remembers receiving citations from the City under the
15 Jaywalking Law, Camping Ban, and Sleeping Ban.

16 159. Ms. Kearns has received other citations related to her unsheltered status such
17 as a citation for trespassing.

18 160. Ms. Kearns believes the City's raids are intended to push her out of the City.

19 **Plaintiff Frank Urban's Experience**

20 161. Mr. Urban is a resident of Maricopa County and currently resides in Phoenix.

21 162. Due to various medical issues, Mr. Urban became chronically unsheltered off
22 and on starting in 2000.

23 163. During the time periods when Mr. Urban has been unsheltered, he has slept
24 outside in various parts of the City.

25 164. During these times, Mr. Urban has directly experienced the City's raids.
26 These raids intensified around Thanksgiving and Christmas.

27

28

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

4 166. Mr. Urban never received a search warrant for the property that the City
5 seized through its agents.

6 167. Mr. Urban also recalls receiving citations from the City under the Camping
7 Ban and Sleeping Ban.

8 168. Mr. Urban has received other citations from the City in connection to his
9 unsheltered status.

10 **Plaintiff Timothy James's Experience**

11 169. Mr. James is a resident of Phoenix, Arizona.

12 170. Mr. James is currently involuntarily unhoused.

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

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

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

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

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

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

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

26 178. On May 19, 2024, PPD again cited Mr. James for lying or sitting in public in
27 violation of Phoenix City Code § 23-48.01.
28

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

4 **Plaintiff Sherdina Carr's Experience**

5 180. Ms. Carr is a resident of Phoenix, Arizona.

6 181. Ms. Carr is currently involuntarily unhoused.

7 182. Ms. Carr walks around the city for hours at a time to escape PPD's harassment
8 and threats.

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

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

13 185. PPD followed Ms. Carr while she was walking around trying to find a new
14 location.

15 186. Once Ms. Carr found a new location, PPD immediately threatened her with a
16 citation unless she moved again.

17 187. PPD, again, followed her while she walked around and looked for a third
18 location to sit down.

19 188. PPD never offered Ms. Carr information on services, shelter, or resources.

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

21 189. Mr. Idrissa is a resident of Phoenix, Arizona.

22 190. Mr. Idrissa is currently involuntarily unhoused.

23 191. PPD forces Mr. Idrissa to relocate on a nearly daily basis.

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

26 193. PPD forced Mr. Idrissa to leave the shaded area and relocate to an unshaded
27 area.

28

1 194. Mr. Idrissa then walked to another shaded area where PPD again threatened
2 Mr. Idrissa with a citation and arrest.

3 195. PPD continued to follow, harass, and threaten Mr. Idrissa as he walked around
4 trying to find another shaded area to sit.

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

7 197. Mr. Idrissa's friend relocated to the park at the intersection of 13th Avenue
8 and Van Buren.

9 198. That same day, Mr. Idrissa's friend died from sun/heat exposure.

10 199. In April 2024, PPD harassed Mr. Idrissa and other unhoused people at a bus
11 stop near 15th Avenue and Fillmore. During this incident, PPD threatened Mr. Idrissa and
12 other unhoused individuals with citations and arrests. PPD then forced these individuals,
13 including Mr. Idrissa, to leave the shaded bus stop and move into areas unprotected from
14 sun and heat exposure.

15 **Plaintiff Jason Rich's Experience**

16 200. Mr. Rich is a resident of Phoenix, Arizona.

17 201. Mr. Rich is currently involuntarily unhoused.

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

20 203. While citing and arresting Mr. Rich, PPD seized all his personal property and
21 belongings.

22 204. Specifically, PPD seized Mr. Rich's medications, hygiene supplies,
23 cellphone, identification, and backpack.

24 205. PPD did not let Mr. Rich inquire as to where his belongings were being taken.

25 206. During this incident, PPD did not provide Mr. Rich with any information on
26 services, resources, or shelters.

27 207. After being released, PPD has often harassed Mr. Rich for sitting or lying in
28 public.

1 208. PPD has forced Mr. Rich to move late at night under the threat of a citation
2 or arrest.

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

5 210. PPD threatened Mr. Rich with a citation for trespassing if he did not leave the
6 area and move elsewhere.

7 211. PPD did not provide Mr. Rich with any information on services, resources, or
8 shelters during these encounters.

9 **CLAIMS FOR RELIEF**

10 **Count One**

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

12 **(42 U.S.C. § 1983)**

13 **(All Defendants)**

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

15 213. At all times relevant to the allegations in this Complaint, Defendants acted
16 under color of state law.

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

23 215. Property includes photographs, identification papers, portable electronics,
24 and even potentially abandoned property. *See Lavan v. City of Los Angeles*, 693 F.3d 1022,
25 1030 (9th Cir. 2012).

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

1 217. During these raids, Defendants unreasonably seize and destroy property
2 regardless of its condition, its apparent value, and/or whether or not it has been voluntarily
3 abandoned.

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

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

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

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

16 222. Seizures without a warrant are presumptively unconstitutional.

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

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

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

25 226. Defendants' actions were the direct and proximate cause of Plaintiffs' loss of
26 property and the loss of property of the individuals served by FFE and FFE members.
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1 227. The acts of Defendants were intentional and deprived Plaintiffs, individuals
2 served by FFE, and FFE members of their rights, privileges, liberties, and immunities
3 secured by the Constitution of the United States.

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

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

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

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

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

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

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

1 235. 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.

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

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

10 238. Plaintiffs are entitled to damages in an amount to be determined by a jury.

11 **Count Two**
12 **(Fourteenth Amendment Violation – Deprivation of Property without Due Process)**
13 **(42 U.S.C. § 1983)**
14 **(All Defendants)**

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

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

18 241. Under the Fourteenth Amendment, “the government may not take property
19 like a thief in the night; rather, it must announce its intentions and give the property owner
20 a chance to argue against the taking.” *Clement v. City of Glendale*, 518 F.3d 1090, 1093
21 (9th Cir. 2008).

22 242. Violation of city ordinances does not constitute a waiver of due process
23 interests in a previously recognized property interest.

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

1 244. Here, Defendants, pursuant to the City’s policies, procedures, customs, and/or
2 protocols, have engaged and will continue to engage in raids that target the unsheltered
3 community living within the City.

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

6 246. During these raids, Defendants seized and destroyed Plaintiffs’ property and
7 the property of individuals served by FFE and FFE members without affording them
8 adequate notice that their property would be seized or destroyed.

9 247. Plaintiffs, individuals served by FFE, and FFE members rely on this property
10 for survival. It is all they have. Compared with that extremely high interest in their property,
11 any administrative burden on the City to provide additional process to prevent erroneous
12 deprivation is low.

13 248. Plaintiffs’ property and the property of individuals served by FFE and FFE
14 members was not seized in connection with prosecution or investigation of any crime.

15 249. Defendants destroyed Plaintiffs’ property and the property of individuals
16 served by FFE and FFE members without affording them a post-deprivation process for
17 challenging the seizure of their property.

18 250. It is clearly established Plaintiffs and individuals served by FFE and FFE
19 members have a right to due process and post-deprivation hearings when their property is
20 unlawfully seized and destroyed.

21 251. A reasonable official in Interim Chief Sullivan’s and Director Milne’s
22 position would have known that seizing and destroying property without due process of law
23 violates the Fourteenth Amendment.

24 252. Defendants’ unconstitutional acts were the direct and proximate cause of the
25 seizure, destruction, and loss of Plaintiffs’ property and the property of individuals served
26 by FFE and FFE members.

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

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

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

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

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

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

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

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

1 261. 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.

4 262. Defendants failed to train or supervise their employees when conducting raids
5 of unsheltered populations such as Plaintiffs, individuals served by FFE, and FFE members,
6 resulting in the destruction of their property. As a direct and proximate result of Defendants’
7 acts or omissions pursuant to official government policy, practice, or custom, Plaintiffs,
8 individuals served by FFE, and FFE members suffered (without limitation) a deprivation of
9 constitutional rights.

10 263. Plaintiffs are entitled to damages in an amount to be determined by a jury.

11 **Count Three**

12 **(Eighth Amendment—Excessive Fines)**

13 **(All Defendants)**

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

15 265. The Eighth Amendment to the United States Constitution prohibits the
16 imposition of excessive fines.

17 266. The Excessive Fines Clause “limits the government’s power to extract
18 payments, whether in case or in kind, as a punishment for some offense.” *Austin v. United*
19 *States*, 509 U.S. 602, 609-10 (1993). A fine violates the Eighth Amendment if it is “grossly
20 disproportional to the gravity of the defendant’s offense.” *United States v. Bajakajian*, 524
21 U.S. 321, 336–37 (1998).

22 267. The Excessive Fines Clause applies to fines assessed by municipalities.
23 *Pimental v. City of Los Angeles*, 974 F.3d 917, 922 (9th Cir. 2020).

24 268. To determine whether a fine is unconstitutionally excessive under the Eighth
25 Amendment, courts are not required to consider rigid factors but commonly consider: “(1)
26 the nature and extent of the crime; (2) whether the violation was related to other illegal
27 activities; (3) the other penalties that may be imposed for the violation; and (4) the extent
28 of the harm caused.” *U.S. v. \$100,348.00 in U.S. Currency*, 354 F.3d 1110, 1121–22 (9th

1 Cir. 2004) (citing *Bajakajian*, 524 U.S. at 337–40). None of these factors supports the fines
2 imposed by the City against its unhoused population when they have nowhere else to go.

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

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

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

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

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

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

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

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

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

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

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

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

14 281. The acts of Defendants were intentional and violated the constitutional rights
15 of Plaintiffs, individuals served by FFE, and FFE members to be free from excessive fines.

16 282. Defendants were at all times relevant agents of the City vested with the power
17 to control and supervise employees, agents, and contractors of the City.

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

21 284. Defendants' actions were authorized (before and during the fact) and ratified
22 (after the fact) by final policymakers for the City.

23 285. Defendants directed every action of their agents, thereby causing the violation
24 of Plaintiffs' rights, the rights of individuals served by FFE, and FFE members' rights, and
25 were deliberately indifferent to the fact that their directives would result in the violation of
26 such rights.

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1 286. Defendants’ customs, policies and/or practices, and the decisions of its final
2 policymakers caused Defendants’ violation of Plaintiffs’ constitutional rights, the
3 constitutional rights of individuals served by FFE, and FFE members’ constitutional rights.

4 287. Defendants’ actions, as described herein, were motivated by malice and/or
5 involved reckless or callous indifference to Plaintiffs’ federally protected constitutional
6 rights, the federally protected constitutional rights of individuals served by FFE, and FFE
7 members’ federally protected constitutional rights. Defendants engaged in these actions and
8 omissions intentionally, willfully, and/or wantonly, demonstrating deliberate indifference
9 to, and a reckless disregard for, such constitutionally protected rights.

10 288. Plaintiffs are entitled to damages in an amount to be determined by a jury.

11 **Count Four**

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

13 **(All Defendants)**

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

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

19 291. During the summer, temperatures in Phoenix can reach as high as 119 degrees
20 Fahrenheit.

21 292. Without access to shade, temperatures can be even hotter.

22 293. Hundreds of unsheltered individuals die from heat-related exposure every
23 summer in Phoenix.

24 294. Each year, Maricopa County puts out a report on heat-related deaths. The City
25 of Phoenix contributes to the report.³⁹

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28 ³⁹ *2023 Heat Related Deaths Report*, Maricopa Cnty.,
<https://www.maricopa.gov/ArchiveCenter/ViewFile/Item/5796> (last updated April 2024).

1 295. Defendants know that unsheltered individuals, including Plaintiffs,
2 individuals served by FFE, and FFE members, are at high risk for heat-related illness and
3 death.

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

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

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

17 299. As a direct and proximate result of Defendants' actions, Plaintiffs, individuals
18 served by FFE, and FFE members have been subjected to a heightened risk of heat-related
19 illness or death that severely threatens their bodily security.

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

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

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

27 303. Defendants directed every action of their agents, thereby causing the violation
28 of Plaintiffs' rights, the rights of individuals served by FFE, and FFE members' rights, and

1 were deliberately indifferent to the fact that their directives would result in the violation of
2 such rights.

3 304. Defendants' customs, policies and/or practices, and the decisions of its final
4 policymakers caused Defendants' violation of Plaintiffs' constitutional rights, the
5 constitutional rights of individuals served by FFE, and FFE members' constitutional rights.

6 305. Defendants' actions, as described herein, were motivated by malice and/or
7 involved reckless or callous indifference to Plaintiffs' federally protected constitutional
8 rights, the federally protected constitutional rights of individuals served by FFE, and FFE
9 members' federally protected constitutional rights. Defendants engaged in these actions and
10 omissions intentionally, willfully, and/or wantonly, demonstrating deliberate indifference
11 to, and a reckless disregard for, such constitutionally protected rights.

12 306. Defendants have or should have policies, procedures, practices, and/or
13 customs to govern the raids to prevent the deprivations that occurred. Defendants have
14 instead used or employed policies, procedures, practices, and/or customs that penalize
15 unsheltered individuals for their status and destroy the property of Plaintiffs, individuals
16 served by FFE, and FFE members.

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

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

23 309. As a direct and proximate result of Defendants' acts or omissions pursuant to
24 official government policy, practice, or custom, Plaintiffs, individuals served by FFE, and
25 FFE members suffered (without limitation) a deprivation of constitutional rights.

26 **PRAYER FOR RELIEF**

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

28 A. Maintaining current preliminary injunctive relief enjoining:

- 1 a. Defendants from seizing and destroying property of unsheltered
2 individuals residing in the City; and
- 3 b. From conducting raids on spaces occupied by individuals
4 experiencing homelessness, including sweeps which physically move
5 the unsheltered community to unsafe spaces and dispossess them of
6 their property.
- 7 B. Additional preliminary injunctive relief:
- 8 a. Enjoining Defendants from imposing fines on individuals
9 experiencing homelessness for sleeping, sitting, lying or standing in a
10 public space when no available alternative spaces to do so exist.
- 11 C. Permanent injunctive relief:
- 12 a. Enjoining Defendants from seizing and destroying property of
13 unsheltered individuals residing in the City without due process of
14 law;
- 15 b. Enjoining Defendants from destroying any property unabandoned by
16 unsheltered individuals;
- 17 c. Enjoining Defendants from conducting raids and taking other actions
18 that cause the displacement of those experiencing homelessness
19 unless appropriate individual housing options are available to shelter
20 these individuals;
- 21 d. Enjoining Defendants from displacing unsheltered individuals from
22 shaded areas, forcing unsheltered individuals to engage in strenuous
23 relocation activities, and destroying unsheltered individuals' sun-
24 protective property, including tents and tarps, during extreme heat;
- 25 e. Enjoining Defendants from imposing fines on individuals
26 experiencing homelessness for sleeping, sitting, lying or standing in a
27 public space when no available alternative spaces to do so exist; and
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f. Requiring Defendants to provide advance notice of their intent to conduct raids.

D. For damages, 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 12th day of July, 2024.

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By: /s/ Jared G. Keenan

Jared G. Keenan
Christine K. Wee
2712 N. 7th Street
Phoenix, Arizona 85006

AMERICAN CIVIL LIBERTIES
UNION OF ARIZONA

By: /s/ Benjamin L. Rundall

Benjamin L. Rundall
Alexis Eisa
Lisa Bivens
2020 North Central Ave., Suite 675
Phoenix, Arizona 85004-2556

ZWILLINGER WULKAN

By: /s/ Leah Watson

Leah Watson, *pro hac vice*
Scout Katovich, *pro hac vice*
125 Broad Street, 18th Floor
New York, New York 10004

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

By: /s/ Andrew Kim

Andrew Kim, *pro hac vice*
Collin M. Grier, *pro hac vice*
Madeline Fuller, *pro hac vice*
1900 N Street, N.W.
Washington, D.C. 20036

Courtney L. Hayden, *pro hac vice*
100 Northern Ave.
Boston, MA 02210

GOODWIN PROCTER LLP

Attorneys for Plaintiffs