No. 23-175

In The Supreme Court of the United States

CITY OF GRANTS PASS, OREGON,
Petitioner,

v.

GLORIA JOHNSON, ET AL., ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICI CURIAE* CITY OF PHOENIX & THE LEAGUE OF ARIZONA CITIES AND TOWNS SUPPORTING PETITIONER

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TABLE OF AUTHORITIES

Cases

Aitken v. City of Aberdeen,
393 F. Supp. 3d 1075 (W.D. Wash. 2019).....27

Boring v. Murillo,
No. LACKV2107305DOCKET, 2022 WL 14740244,
(C.D. Cal. Aug. 11, 2022).....30

Johnson v. City of Grants Pass,
50 F.4th 787 (9th Cir. 2022).....6

Johnson v. City of Grants Pass,
72 F.4th 868 (9th Cir. 2023)
.....3-8, 10, 11, 17, 27, 28, 30-36

Martin v. City of Boise,
902 F.3d 1031 (9th Cir. 2018).....30

Martin v. City of Boise,
920 F.3d 584 (9th Cir. 2019)
.....3, 5-8, 11, 17, 27, 28, 30-36

Nat'l Fed'n of Indep. Bus. v. Sebelius,
567 U.S. 519 (2012).....16

Quintero v. City of Santa Cruz,
No. 5:19-CV-01898-EJD, 2019 WL 1924990
(N.D. Cal. Apr. 30, 2019).....27

Warren v. City of Chico,
No. 221CV00640MCEDMC, 2021 WL 2894648
(E.D. Cal. July 8, 2021).....29

Constitutional Provision and Statutes

U.S. CONST. amend. VIII 4-11, 13, 15, 17, 18, 30, 34-37

A.R.S. § 13-707 14

A.R.S. § 13-802 14

PHX., ARIZ. CODE § 1-5 14

PHX., ARIZ. CODE § 23-30 14

PHX., ARIZ. CODE § 23-48.01 14

Other Authorities

Grant Archer, *Half of violent crimes in Phoenix come from 8% of city blocks*, ABC (June 6, 2023, 6:23 PM), https://www.abc15.com/news/crime/half-of-violent-crimes-in-phoenix-come-from-8-of-city-blocks 19

CDC Advises Against Clearing Homeless Encampments if Alternate Housing Is Not Available During Coronavirus Outbreak, Nat'l Low Income Hous. Coal. (Mar. 30, 2020), https://nlihc.org/resource/cdc-advises-against-clearing-homeless-encampments-if-alternate-housing-not-available 20

City of Phoenix Places 585 People in Shelter While Complying with Court Order Ahead of Deadline, City of Phx. (Nov. 3, 2023, 4:00 PM), https://www.phoenix.gov/newsroom/homeless-solutions/2910 21

Katherine Davis-Young, *Phoenix clears last remaining block of 'The Zone' encampment*, KJZZ (Nov. 15, 2023, 7:53 AM), https://kjzz.org/content/1861760/phoenix-clears-last-remaining-block-zone-encampment 22

Jack Healy, *Phoenix Dismantles a Homeless Encampment*, One Block at a Time, N.Y. Times (May 10, 2023), https://www.nytimes.com/2023/05/10/us/phoenix-homeless-camp-the-zone.html 19

Jeff King, *Judging Social Rights* (2012)..... 35

Andrew I. Lief, Comment, *A Prosecutorial Solution to the Criminalization of Homelessness*, 169 U. PA. L. REV. 1971 (2021) 36

Ben A. McJunkin, *Homelessness, Indignity, and the Promise of Mandatory Citations for Urban Camping*, 52 ARIZ. ST. L.J. 955 (2020) 36

MARICOPA ASS'N OF GOV'TS, *2023 Point-in-Time (PIT) Count Report* (2023), https://azmag.gov/Portals/0/Homelessness/PIT-Count/2023/2023-PIT-Count-Report-Final.pdf?ver=8CRzv7xw28C-V2G0sMdKfw%3d%3d 1, 20

Pima County Administrator warns of 'homelessness on steroids' as federal funding for asylum seekers ends, Tucson Sentinel (Feb. 19, 2024, 2:11 PM), https://www.tucsonsentinel.com/local/report/021924_migrant_shelter_funding/pima-county-administrator-warns-homelessness-steroids-as-federal-funding-asylum-seekers-ends/ 3

Phoenix Community Court Creates Alternative Legal Solutions for People Experiencing Homelessness, City of Phx. (Jan. 26, 2024 6:00 PM), https://www.phoenix.gov/newsroom/city-manager/2999 14

Taylor Stevens, *Metro Phoenix cities turn to homeless courts to help people navigate the justice system*, Ariz. Republic (June 3, 2022, 4:30 PM), https://www.azcentral.com/story/news/local/arizona/2022/06/03/homeless-courts-help-people-streets-navigate-legal-system/9584678002/ 15

U.S. DEP'T OF HOUS. AND URB. DEV., *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress* (2023), https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf 1, 2, 18, 19

INTEREST OF AMICI CURIAE[1]

The City of Phoenix (the "City" or "Phoenix") is the capital of Arizona and the fifth largest city in the country, with a population of over 1,600,000 people. As of 2023, there were an estimated 14,237 homeless people in Arizona.[2] According to the U.S. Department of Housing and Urban Development statistics, western states like Arizona report some of the highest concentrations of people experiencing homelessness.[3] In Arizona, 54% of individuals experiencing homelessness were unsheltered in 2023.[4] Phoenix was burdened with housing a significant portion of these individuals, with almost half of the State's unsheltered population residing in Phoenix, according to the 2023 Point-in-Time count.[5]

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[1] Amici certify that: (1) neither party's counsel authored the brief in whole or in part; (2) neither party nor their counsel contributed money that was intended to fund preparing or submitting the brief; and (3) no person other than Amici, their members, or their counsel contributed money that was intended to fund preparing or submitting the brief.

[2] U.S. DEP'T OF HOUS. AND URB. DEV., *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress* at 16 (2023), https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf.

[3] *Id.*

[4] *Id.*

[5] The 2023 Point-in-Time count by the Maricopa Association of Governments counted 3,333 unsheltered individuals. MARICOPA ASS'N OF GOV'TS, *2023 Point-in-Time (PIT) Count Report* at 4 (2023), https://azmag.gov/Portals/0/Homelessness/PIT-Count/2023/2023-PIT-Count-Report-Final.pdf?ver=8CRzv7xw28C-V2G0sMdKfw%3d%3d.

Founded in 1937, the League of Arizona Cities and Towns (the "League") is a voluntary membership organization of all 91 incorporated Arizona municipalities. The League advocates for its members' interests before the legislature and courts. The League is advised by its Amicus Committee, which identified this case for statewide significance.

Arizona suffered from one of the Nation's worst surges in homelessness from 2022 to 2023, with an estimated 23.8% increase.[6] During this same time, the largest homeless encampment in Arizona was located in downtown Phoenix, in an area colloquially referred to as the "Zone," with populations fluctuating to as high as 1,000 people. Although the area has now been closed to public camping and cleaned after millions of dollars of taxpayer money were expended to create new shelter beds and outdoor campground space, the City continues to struggle to accommodate the fluctuation of homeless individuals, provide shelter to people moving into the City from other areas, and prevent people experiencing homelessness from reoccupying its downtown area.

And Phoenix is not alone. From larger cities to rural towns, municipalities are struggling to address large increases in homelessness, which is evident from encampments taking over public parks, freeway underpasses, and downtown areas, in addition to countless miles of public rights-of-way repurposed from community spaces to makeshift encampments. Cities and towns are simply overwhelmed with the

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[6] U.S. DEP'T OF HOUS. AND URB. DEV., *supra* note 2, at 81.

services and shelters needed to address homelessness.[7]

Amicis' interest in this case is rooted in federal and state lawsuits stemming from the Ninth Circuit decisions in *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) and *Johnson v. City of Grants Pass*, 72 F.4th 868 (9th Cir. 2023), which combine to significantly limit municipalities' ability to address public health and safety concerns arising from homeless encampments. This brief intends to provide the Court with a snapshot into the unworkable standard the Ninth Circuit precedent sets, and to examine how the rule advocated for by Respondents wreaks havoc on local governments and law enforcement. The City's struggles with addressing homelessness provide important context for this Court's consideration in deciding whether to affirm Ninth Circuit jurisprudence that unreasonably impedes the enforcement of critical public health and safety laws.

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[7] The challenges posed by homelessness are further complicated for border states. For example, during one week in December, Pima County hosted 10,187 people who were released by U.S. Customs and Border Protection. *Pima County Administrator warns of 'homelessness on steroids' as federal funding for asylum seekers ends*, Tucson Sentinel (Feb. 19, 2024, 2:11 PM), https://www.tucsonsentinel.com/local/report/021924_migrant_shelter_funding/pima-county-administrator-warns-homelessness-steroids-as-federal-funding-asylum-seekers-ends/. Of those, nearly 6,100 were families arriving in the U.S. with children. *Id.* Without federal funding to provide shelter to asylum seekers, cities and towns in border states struggle to locate temporary or long-term housing for immigrants, which compounds an already stark lack of shelter in the aftermath of a global pandemic, record-high inflation, and affordable housing gap.

INTRODUCTION

> Unlike the officials tasked with addressing homelessness, the members of our court are neither elected nor policy experts. Of course, the political process must yield to the fundamental rights protected by the Constitution, and some of federal courts' finest moments have come in enforcing the rights of politically marginal groups against the majority. But when asked to inject ourselves into a vexing and politically charged crisis, we should tread carefully and take pains to ensure that any rule we impose is truly required by the Constitution not just what our unelected members think is good public policy.

Johnson, 72 F.4th at 943 (denial of rehearing en banc) (Smith, J. dissenting).

The question before this Court is whether the rule imposed by the Ninth Circuit has misinterpreted the Eighth Amendment in a manner that frustrates municipalities' ability to address public health and safety hazards. The Eight Amendment is intended to protect individuals from cruel and unusual punishment, not restrict the ability of municipalities to protect residents from conditions that are unsanitary or unsafe, such as human waste, detritus, used syringes, and other hazardous conditions that have been associated with homeless encampments. The interests in protecting people from cruel and

unusual punishments *and* unsafe and unsanitary conditions are not in competition. Both interests can be advanced simultaneously. Under the Ninth Circuit's approach, however, it is necessary to sacrifice one interest for the sake of the other. This is an untenable result.

This Court may harmonize the diverse interests posed by allowing municipalities to clean up encampments while permitting unsheltered individuals who refuse a lawful directive to vacate an area or otherwise cease engaging in unlawful activities to assert the Eighth Amendment as a defense to criminal liability in prosecution. In contrast, the Ninth Circuit's rule advocated for by Respondents ties law enforcement hands before they even encounter an individual experiencing homelessness. Ultimately, the Ninth Circuit decisions in *Martin v. Boise* and *Johnson v. Grants Pass* are unworkable, bad public policy, and, frankly, are internally inconsistent.

First, in *Martin v. Boise*,[8] the Ninth Circuit appeared to adopt a broad rule prohibiting enforcement of anti-camping and sleeping laws if there are more unsheltered individuals in a jurisdiction than there are shelter beds available. While the goal may have been laudable, the result was problematic, insofar as it operates as an impediment to a municipality's ability to maintain clean and orderly public areas. Although lower courts may disagree on the scope of the *Martin* decision, the decision cast doubt on the enforcement of public

[8] 920 F.3d at 617.

camping laws for jurisdictions struggling to provide shelter to involuntarily homeless individuals.

This rule continued in *Johnson v. Grants Pass*,[9] with the Ninth Circuit seeming to adopt either (1) a mathematically driven restraint on all enforcement, or (2) at a minimum, a requirement that a municipality conduct an individualized inquiry tied to the number of available shelter beds. In other words, if the total number of homeless individuals exceeds the available shelter beds, or alternatively, if there is no shelter bed for a specific individual to go to, a municipality cannot enforce public camping laws and ask people to leave public property in order to address hazardous and unsanitary living conditions endangering both the homeless population and the surrounding public.

Then, in an amended *Johnson v. Grants Pass* decision,[10] the Ninth Circuit excised this language and replaced it with a more flexible recitation of the law: "Pursuant to *Martin*, it is an Eighth Amendment violation to criminally punish involuntarily homeless persons for sleeping in public if there are *no other public areas* or appropriate shelters where those individuals can sleep."[11] Thus, *Johnson*, as amended, recognizes that anti-camping and sleeping ordinances may be enforced so long as there are alternative *public spaces*—not just "beds in shelters"—where unsheltered persons may reside. However, there

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[9] 50 F.4th 787, 813 (9th Cir. 2022).
[10] 72 F.4th at 877.
[11] *Id.* (emphasis added).

remains a lack of clarity regarding the application of this standard.

Although this later recitation of the Eighth Amendment rule may provide some much-needed flexibility, problems exist based on ambiguity regarding any alleged duty to assess the availability and adequacy of alternative spaces to accommodate each unsheltered person's circumstances. This, in turn, has made it exceedingly difficult for cities and towns to vacate an area even when health and safety concerns demand it.

However, the truth is that it is unnecessary to unravel the Ninth Circuit's vague pronouncements. To the extent the Eighth Amendment is applicable, it should not be applied at the *outset* of an encounter with an unsheltered person during a municipality's cleanup efforts – circumstances that necessarily restrict or significantly delay the ability to address public hazards. Rather, it should be asserted *as a defense* in the case of criminal prosecution. With a simple change, the Eighth Amendment can be applied in a manner that protects individual interests while protecting public health and safety.

Phoenix and the League file this brief to assist the Court in understanding the errors the Ninth Circuit and the Respondents make in arguing for upholding the *Martin/Johnson* standard, and to provide this Court context for its ruling – namely, the extraordinary expense and effort required of Phoenix to comply with Ninth Circuit precedent.

Ultimately, efforts at compliance require a legal tightrope walk, with the risk of injunction and liability every time a city or town tries to close an encampment that threatens public health and safety. The judiciary should adopt an approach that allows both the protections of the Eighth Amendment and a municipality's ability to enforce health and safety laws to coexist.

SUMMARY OF THE ARGUMENT

The Ninth Circuit's decisions in *Martin* and *Johnson* should be reversed because they improperly and unnecessarily intrude upon the enforcement of health and safety laws.

Respondents would have this Court adopt a mathematical formula that restricts the ability to address hazardous conditions, or at the very least, requires detailed individualized inquiries before even a simple citation or arrest can be made if an unsheltered person refuses to vacate an area that requires cleanup. Neither interpretation is workable. Both jeopardize public health and safety.

At bottom, the Eighth Amendment does not prohibit a municipality from addressing hazardous conditions stemming from a homeless encampment, nor does the Eighth Amendment blanketly prohibit the imposition of fines and misdemeanor criminal penalties for violations of generally applicable public health and safety laws.

This Court may reject the *Martin/Johnson* standard while still allowing the assertion of

constitutional rights by the involuntarily homeless at various stages during judicial proceedings. For example, prosecutors may be persuaded not to charge a person based on his or her status as involuntary homeless, or to agree to a diversion program that provides much needed services. Furthermore, defense attorneys may assert the Eighth Amendment as a defense to criminal liability, or as a mitigating circumstance during the sentencing phase. Thus, the approach advocated by Amici strikes an appropriate balance by allowing for the enforcement of health and safety laws while preserving constitutional arguments against the imposition of criminal penalties for violating anti-camping ordinances.

This Court should correct course and reject the problematic standard urged by Respondents. Neither of the Ninth Circuit's tests work in practice, and both unnecessarily restrict a municipality's enforcement powers.

ARGUMENT

In granting certiorari, this Court asked whether the Eighth Amendment restricts the enforcement of certain health and safety laws. The answer is an emphatic no. The Eighth Amendment states: "Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted*."[12] The Ninth Circuit erred in reading into this clause a requirement that law enforcement assess the voluntariness of an individual's actions before enforcing health and safety laws or conducting cleanups that require a hazardous area to be vacated.

Cities and towns require discretion to address homelessness and tailor programs best suited for their communities. For example, cities like Phoenix have chosen to lead with services and increase shelter capacity. However, whether a citation or an arrest may at some point be necessary to address encampments threatening public health and safety is fundamentally a decision best left to local officials. Amici respectfully request that this Court overturn *Grants Pass* and adopt a more practical standard that permits reasonable action to address health and safety hazards.

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[12] U.S. CONST. amend. VIII. (emphasis added).

I. THE NINTH CIRCUIT'S LEGAL STANDARD IS UNWORKABLE.

Under *Martin* and *Johnson*, it is only an Eighth Amendment violation if a municipality arrests or civilly cites an *involuntarily* homeless person for public camping or sleeping.[13] Cities across the Ninth Circuit struggle with what this means.[14] Ordinarily, police operate on well-defined standards when dealing with individuals' constitutional rights, such as informing them that they have the right to remain silent. However, determining whether someone qualifies as "involuntarily" homeless is anything but straightforward.

The Ninth Circuit tests and pre-penalty application of the Eighth Amendment raise more questions than answers. Before an officer decides whether they may legally cite or arrest someone for public camping, they need clarity on how to assess whether an individual's homeless status is voluntary or involuntary. For instance, is it sufficient to ask if the person has somewhere else to go? Or is it necessary to conduct a deeper inquiry into the person's financial status, mental health, and other personal circumstances?

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[13] 920 F.3d at 617; 72 F.4th at 896.

[14] The court in *Grant Pass* stated that people are not involuntarily homeless if they have access to adequate, temporary shelter. *See* 72 F.4th at 877. Simply accepting that definition at face value is insufficient. Rather, further analysis is required as cities and towns must determine whether a person has "access" to shelter and, if so, whether the shelter they have access to is "adequate."

This raises the question of whether these inquiries can or should be performed by police – or is it necessary to involve case workers, which will delay the process and require additional personnel (and cost) to address basic health and safety concerns?

The bottom line is that this type of investigation is no simple *Miranda* warning. Officers need to make quick decisions in the field. Without additional clarity, efforts to address health and safety hazards will continue to be unnecessarily hamstrung.

Fortunately, there is a more effective and doctrinally sound solution than to presume involuntariness at the outset of a law enforcement encounter. The criminal justice system provides a superior venue to assess whether an individual is involuntarily homeless, following an arrest or citation. First, citations and arrests are reviewed by prosecutors, who, with the application of prosecutorial discretion and availability of discovery, are better suited to determine whether the individual possessed the necessary intent or culpability to be held accountable for the alleged offense. Beyond prosecutors, defense counsel is equipped to defend clients, whether based on the involuntariness of the conduct, insanity, or any other number of defenses. And trusted trial court judges remain the gatekeepers, ensuring fair process and punishment based on the facts of particular criminal cases and the law.

Severely restricting action to address health and safety concerns, however, puts the cart before the horse. The solution is not to allow prophylactic bans

on enforcement of health and safety statutes, but to allow the criminal justice system to adjudicate an individual defendant's status as a defense to the alleged violation.

If the Ninth Circuit's interpretation of the Eighth Amendment is adopted by this Court as the rule of law for the Nation, the Court will be endorsing an approach that infringes on state and local rights by restricting the ability to perform the fundamental duty of providing safe and sanitary conditions for their residents. Further, and perhaps most disappointing, the Court would be denying individuals experiencing homelessness the dignity of being treated as an individual, rational actor with meaningful choices, as well as denying them access points to obtain services to assist those struggling with addiction or mental health disorders, which court systems and diversion programs commonly provide. The result is an ineffective constitutional standard that fails to provide law enforcement with workable tools and similarly fails to help the homeless individuals on the streets.

II. CITIES AND TOWNS REQUIRE LAW ENFORCEMENT TOOLS TO PROTECT PUBLIC HEALTH AND SAFETY – BOTH FOR INDIVIDUALS EXPERIENCING HOMELESSNESS AND RESIDENTS AND BUSINESSES WHO LIVE AND WORK NEAR HOMELESS ENCAMPMENTS.

In the case of Phoenix, the City adopted laws to regulate camping and sleeping on public property.[15] Under Arizona law, these types of offenses are punishable as misdemeanors with a maximum consequence of six months in jail, 36 months' probation, and a fine of not more than $2,500.00 at the highest misdemeanor level (a class one misdemeanor).[16]

However, as a practical matter, municipal courts commonly offer diversion programs and community courts provide homeless individuals resources in lieu of prosecution and/or defer criminal penalties or fines for unsheltered individuals seeking assistance.[17] Community courts are common in

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[15] *See* PHX., ARIZ. CODE §§ 23-30 (prohibiting camping in any park, preserve, or building, parking lot or structure owned, possess, or controlled by the City) and 23-48.01 (prohibiting use of public right-of-way for lying, sleeping, or otherwise remaining in a sitting position except in the case of physical emergency or administration of medical assistance).

[16] A.R.S. §§ 13-707 and 802; *see also* PHX., ARIZ. CODE § 1-5.

[17] *Phoenix Community Court Creates Alternative Legal Solutions for People Experiencing Homelessness*, City of Phx. (Jan. 26, 2024 6:00 PM), https://www.phoenix.gov/newsroom/city-manager/2999.

Arizona to assist people experiencing homelessness.[18]

The Eighth Amendment's text and history provide no basis for barring states and local governments from enforcing public camping and sleeping laws through civil fines and misdemeanor prosecutions. Instead, the Amendment was established to prevent punishments that were grossly disproportionate to the offense committed—circumstances that do not exist here. Moreover, under the approach urged by the Amici, there would be no loss of Eighth Amendment protection, as involuntarily unsheltered persons would be free to raise constitutional issues in any enforcement proceedings.

The City asks this Court to hold that the Eighth Amendment's prohibition against cruel and unusual punishment does not operate as a preemptive restriction on misdemeanor arrests or citations for civil offenses related to camping on public property. To the extent that the Eighth Amendment applies to these types of low-level offenses, the constitutional protections should follow the initial citation or arrest when levying the sentence – not before the officers have even decided whether to cite or arrest.

The power to enact intra-state criminal laws and civil ordinances belongs exclusively to state and local governments. This is because, through the Tenth

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[18] Taylor Stevens, *Metro Phoenix cities turn to homeless courts to help people navigate the justice system*, Ariz. Republic (June 3, 2022, 4:30 PM), https://www.azcentral.com/story/news/local/arizona/2022/06/03/homeless-courts-help-people-streets-navigate-legal-system/9584678002/.

Amendment, states have a "police power" to protect the health, safety, and welfare of state citizens.[19] The standard urged by Respondents robs state and local governments of the ability to enact public health and safety laws ranging from restrictions on urban camping and fire code violations to potential laws prohibiting public urination, defecation, and other disorderly and unsanitary acts.

Large homeless encampments pose significant threats to public health and safety, primarily due to hazardous living conditions such as overcrowding, inadequate waste disposal, open fires, substance abuse, and rampant crime. Furthermore, these encampments may draw a criminal element to the area that preys on the population. The implementation of ordinances prohibiting public camping and sleeping on rights-of-way serves to prevent the emergence of such encampments. Municipalities must possess the authority to arrest, cite, or forcibly remove individuals camping on public property when their actions jeopardize public safety.

The Ninth Circuit erred in creating a legal standard that obstructs such public health and safety measures before any meaningful opportunity to evaluate the defendant's particular facts and

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[19] *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 535–36 (2012) ("The States thus can and do perform many of the vital functions of modern government—punishing street crime, running public schools, and zoning property for development, to name but a few—even though the Constitution's text does not authorize any government to do so. Our cases refer to this general power of governing, possessed by the States but not by the Federal Government, as the 'police power.'").

circumstances, ideally with the assistance of defense counsel. Consideration of involuntariness is better addressed after the individual has been arrested or cited. At that point, individuals can assert involuntariness as a defense to criminal prosecution or civil penalties. This approach allows homeless individuals and their counsel to articulate their circumstances to the court. By resolving the involuntariness element post-apprehension, the judicial system can better uphold the principles of justice while allowing municipalities to retain the practical ability to create and enforce generally applicable laws that protect public health and safety.

At a minimum, the Eighth Amendment is more appropriately applied once a homeless individual has been formally charged with a violation of an anti-camping and sleeping ordinance or issued a civil citation for such conduct (in the civil context, citation amounts to nothing more than a promise to appear in court with an opportunity to enter a plea and have a trial on the merits—no fee is charged simply for receiving a citation and making an appearance in court on such citation).

However, the *Martin* and *Johnson* holdings restrict cities and towns from being able to make an arrest or even civilly cite individuals, presumably, unless they can demonstrate the individual had another place to stay or the financial resources to obtain a hotel room or other residence. But at the arrest/citation phase, the individual has not been found guilty, undergone criminal sentencing, or been subject to civil fines, nor have officers had the time to

engage in any detailed analysis of the individual's financial circumstances. Deferred consideration of Eighth Amendment defenses preserves both constitutional rights and a municipality's ability to address public health and safety hazards.

III. PUBLIC POLICY FAVORS HARMONIZING THE EIGHTH AMENDMENT WITH MUNICIPALITIES' ENFORCEMENT POWERS.

In its brief in support of Petitioner's request for a writ of certiorari, Phoenix presented this Court with a snapshot of its efforts to address homelessness to illustrate the exceptional importance of these issues. Since that brief was filed, the City has made huge strides in addressing homelessness downtown. But that effort came at a significant cost and has no clear end. The City provides this brief to update the Court on the continuing efforts to address public health and safety concerns and related challenges due to the state of the law.

A. Western States Continue to Suffer from Dramatic Increases in Homelessness.

The homeless population in western states continues to escalate. In 2022, Arizona recorded a population of over 13,000 homeless people, with more than 59% residing in unsheltered locations, such as on streets, in abandoned buildings, or other places unsuitable for habitation.[20] The City's downtown area

[20] U.S. DEP'T OF HOUS. AND URB. DEV., *supra* note 2, at 16.

has borne the brunt of this dramatic spike, with up to 1,000 people camping in a once sprawling homeless encampment that local businesses and property owners called the "Zone." This area garnered national media attention as the City struggled to combat criminal activity and address public health hazards from the concentration of unsheltered people camping downtown.[21]

As of November 2023, the City successfully closed the encampment downtown by conducting an extensive cleanup and outreach effort with the removal of all tents, makeshift structures, and homeless individuals camping in the public right-of-way. The City offered shelter to each displaced individual. This accomplishment follows months of around-the-clock efforts dedicated to improving conditions in the area, and to this day, requires constant vigilance to prevent people from returning to the area. Unfortunately, the unsheltered homeless count continues to rise in Arizona.[22]

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[21] *See, e.g.*, Grant Archer, *Half of violent crimes in Phoenix come from 8% of city blocks*, ABC (June 6, 2023, 6:23 PM), https://www.abc15.com/news/crime/half-of-violent-crimes-in-phoenix-come-from-8-of-city-blocks; Jack Healy, *Phoenix Dismantles a Homeless Encampment, One Block at a Time*, N.Y. Times (May 10, 2023), https://www.nytimes.com/2023/05/10/us/phoenix-homeless-camp-the-zone.html.

[22] U.S. DEP'T OF HOUS. AND URB. DEV., *supra* note 2, at 16.

B. Even After Significant Efforts to Build Shelter, Insufficient Capacity Exists.

Recognizing the burgeoning homeless crisis before it, in 2020, the Phoenix City Council adopted strategies to respond to homelessness and address complicating factors from the opioid epidemic, COVID-19 pandemic, and affordable housing crisis.[23] The City further established the Office of Homeless Solutions to more efficiently administer a litany of programs and services for individuals experiencing homelessness. Key among these strategies was the immediate construction of shelter space.

Construction of Shelters. In Phoenix, like numerous cities in the Ninth Circuit, local officials struggle with addressing health and safety concerns associated with homeless encampments because there are insufficient shelter beds to accommodate the entire unsheltered population. To illustrate, in 2023, there were approximately 3,333 homeless individuals in Phoenix, but only 3,219 shelter beds (the vast majority of which were already occupied on any given night).[24] Many of the existing shelter beds had restrictions—limiting them to families with children,

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[23] During the COVID-19 pandemic, CDC guidelines provided that cities and towns should not close encampments unless individual housing units were available. *CDC Advises Against Clearing Homeless Encampments if Alternate Housing Is Not Available During Coronavirus Outbreak*, Nat'l Low Income Hous. Coal. (Mar. 30, 2020), https://nlihc.org/resource/cdc-advises-against-clearing-homeless-encampments-if-alternate-housing-not-available.

[24] MARICOPA ASS'N OF GOV'TS, *supra* note 5, at 4.

victims of domestic violence, or working unsheltered, to name a few. Put simply, there were not enough beds to accommodate all the unsheltered downtown, let alone the entire City.

To address this issue, the City invested substantial resources in housing and shelter alternatives, particularly in its downtown area. In total, the City added 600 shelter beds in 2022 and 482 shelter beds in 2023, with approximately 800 more in various stages of construction.[25]

Ultimately, the City needs more shelter, including options tailored to specific groups such as victims of domestic violence, families with school-age children, and those seeking heat respite. The City is actively constructing shelter to meet the diverse needs of its homeless population. There is, however, no way to predict the ebbs and flows of homelessness to ensure the City will have sufficient capacity to house the homeless in perpetuity, especially considering that a large amount of the City's investments in this area are funded by temporary federal COVID relief funds. The City will struggle next year to maintain shelter spaces when this temporary funding dries up unless new monies are appropriate by the federal government or the State of Arizona. Construction—and long-term maintenance—of homeless shelters is a costly endeavor.

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[25] *City of Phoenix Places 585 People in Shelter While Complying with Court Order Ahead of Deadline*, City of Phx. (Nov. 3, 2023, 4:00 PM), https://www.phoenix.gov/newsroom/homeless-solutions/2910.

Cleanup of Homeless Encampments. To address encampment concerns, cities have developed detailed cleaning procedures. In Phoenix's case, the City focused on implementing "enhanced engagements," which refers to a process the City developed to methodically clean streets and sidewalks, close blocks to urban camping, and connect unsheltered people with appropriate shelter and services.

Facilitating enhanced engagements is a meticulous undertaking that demands careful consideration of various factors, including, most significantly, the constitutional rights of involuntarily unsheltered. In 2023, the City conducted approximately sixteen enhanced engagements with a shelter acceptance rate of 80%.[26] In early November 2023, after a dedicated, nearly-year-long effort, the City cleared the area referred to as the Zone of all homeless encampments.[27]

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[26] Katherine Davis-Young, *Phoenix clears last remaining block of 'The Zone' encampment*, KJZZ (Nov. 15, 2023, 7:53 AM), https://kjzz.org/content/1861760/phoenix-clears-last-remaining-block-zone-encampment.

[27] *Id.*

This herculean feat was only possible because the City was able to **close** public right-of-way and easements to public camping. And the results of Phoenix's efforts are striking, as illustrated by pictures taken from January 2023 to November 2023 in downtown Phoenix. Before the City's enhanced engagements, homeless encampments lined City rights-of-way, blocking sidewalks:[28]

Madison Street and 9th Avenue, January 2023 & November 2023

[28] See images of Madison Street and 9th Avenue. Def's Hr'g Mem. Ex. 2, *Freddy Brown, et al. v. City of Phoenix*, No. CV2022-010439 (Maricopa Cnty. Super. Ct. Nov. 20, 2023).

The encampments limited public access and visibility to City-owned property, downtown buildings, and public art:[29]

Mural on Madison Street, January 2023 & November 2023

[29] See images of the City Mural on Madison Street. *Id.*

Cities and towns, especially Phoenix—which is among the geographically largest cities in the country—maintain massive amounts of public right-of-way and easements lining city streets in every neighborhood, downtown area, and intersection across the United States. Restricting law enforcement's ability to intervene can quickly transform anything from vacant lots to narrow six-foot rights-of-way into havens for dangerous encampments:[30]

Jackson Street and 9th Avenue, January 2023 & November 2023

[30] See images of Jackson Street and 9th Avenue. *Id.*

Closing Areas to Public Camping. Following each enhanced engagement, the City would close the area to camping.[31] But the work does not end with merely offering homeless individuals appropriate shelter and assisting them in transportation to such shelter. Instead, cities must implement proactive measures to deter homeless individuals from returning to public property. Homelessness numbers are not static, with economic, political, and social conditions beyond the control of any municipality impacting the number of unsheltered across the nation and Arizona in particular. Although Phoenix is committed to addressing homelessness, it cannot, like every other government before it, guarantee freedom from poverty, crime, or homelessness.

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[31] See image of City of Phoenix Clean Up Notice. Def's Hr'g Mem. Ex. 3, *Freddy Brown, et al. v. City of Phoenix*, No. CV2022-010439 (Maricopa Cnty. Super. Ct. Nov. 20, 2023).

Cities must have the ability to remove tents and other structures from sidewalks. Similarly, cities must be able to tell people they cannot camp indefinitely on public property and rights-of-way. Some individuals may prefer to live on the streets instead of in shelters. In such instances, cities must be able to enforce public camping laws without first establishing enough shelter capacity for the jurisdiction's entire unsheltered population.

C. Ninth Circuit Case Law Threatens Public Health and Safety.

Due to a lack of shelter space, municipal efforts to address sprawling encampments have been curtailed—either voluntarily while legal guidance is promulgated or by way of court order (or both).[32] Municipalities are grappling with the scope of *Martin* and *Johnson*, including how to make an individualized determination of what constitutes adequate shelter, whether someone is involuntarily homeless, and what regulations might survive constitutional scrutiny.

When homelessness within Phoenix escalated over the last three years, the City relied on the precedent set in the rigid *Martin* decision, employing the one-person, one-bed formula to assess whether

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[32] *See, e.g.*, *Quintero v. City of Santa Cruz*, No. 5:19-CV-01898-EJD, 2019 WL 1924990, at *3 (N.D. Cal. Apr. 30, 2019) ("The City has suspended the enforcement of its camping ordinance to ensure that no indigent homeless individual will be cited for sleeping outdoors or camping."); *Aitken v. City of Aberdeen*, 393 F. Supp. 3d 1075, 1085 (W.D. Wash. 2019) (observing that the city's camping ordinance was not being enforced due to the city's inability to provide adequate shelter to the homeless).

citations could be issued for public camping.[33] This posed a significant problem because the population of homeless individuals in the Phoenix downtown area consistently surpassed the available shelter beds on any given night. By adhering to this approach, the City struggled to effectively tackle the issues downtown in fear of violating the homeless individuals' rights under *Martin*. Not only was it impossible for individual officers to know how many beds were available in shelters nightly, but the number of unsheltered was clearly more than the number of available shelter beds city-wide. This required a dedicated effort to locate appropriate shelter for each individual prior to enforcement action.

Following *Johnson's* revised decision in July 2023, the City's discretion was broadened, which helped facilitate the closure of downtown areas to camping and the relocation of individuals from the Zone—but only so long as there was adequate shelter or another *appropriate public area* where the person could go.[34] The City was able to construct shelter and build outdoor campgrounds. Yet, the lingering question revolves around what qualifies as "adequate" shelter or "appropriate" public areas for camping.

Adequate/Appropriate Shelter. The Ninth Circuit has not established clear guidance for defining "adequate and/or appropriate shelter." The *Martin* decision originally suggested that "adequate shelter" necessitates indoor sleeping arrangements.[35] Based

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[33] 920 F.3d at 617.
[34] 72 F.4th at 877.
[35] 920 F.3d at 617.

on this premise, a California District Court found that a city's temporary outdoor shelter facility at the municipal airport was unsuitable for people.[36] The court's reasoning highlighted that the airport site was essentially an "asphalt tarmac with no roof and no walls, no water and no electricity. It is an open space with what amounts to a large umbrella for some shade. It affords no real cover or protection to anyone."[37]

While the amended decision in *Johnson* appears to suggest that there is no rigid, one-size-fits-all definition of adequate shelter, the law is far from clear as to how the standard is applied. The acceptability of outdoor camping facilities under Ninth Circuit precedent remains ambiguous. Given the numerous unresolved questions regarding shelter space, many municipalities temporarily halted cleanup efforts over the past few years. Municipalities have tried to develop policies and procedures to withstand judicial scrutiny in a changing landscape only exacerbated by continuous litigation.

The Availability of Shelter. Historically, most cities in Arizona, like Phoenix, have not owned, operated, or maintained shelters. Instead, shelters have been run by nonprofits, county or state health departments, or third-party vendors. In Phoenix's case, because it does not own or operate most of the shelter facilities within the metropolitan area, there is no easy way to determine the number of available beds

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[36] *Warren v. City of Chico*, No. 221CV00640MCEDMC, 2021 WL 2894648, at *3 (E.D. Cal. July 8, 2021).
[37] *Id.* at 4.

on any given day. City employees must contact various facilities to ascertain capacity. Bed availability fluctuates regularly, requiring constant research before law enforcement engagement.

There is also an unsettled question of how long an offer of shelter must remain open—may a city take enforcement action against an unsheltered individual a day after rejecting an offer of shelter, a week? This ambiguity persists and taxes insufficient resources.

Time, Place, and Manner Restrictions. The fact that *Martin* may allow restrictions on the time, place, and manner of encampments does not provide much relief either.[38] In practice, the injunctions being issued against the enforcement of camping laws have been sweeping in nature[39] and do not allow for such restrictions. Moreover, the Ninth Circuit in *Martin* and *Johnson* failed to explain what time, place, and manner restrictions might be valid, thus diminishing the utility of this exception. Ultimately, even if a city prohibits camping on public property, it still faces the

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[38] *See* Martin v. City of Boise, 902 F.3d 1031, 1048 n.8 (9th Cir. 2018), *opinion amended and superseded on denial of reh'g*, 920 F.3d 584 (9th Cir. 2019) ("Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations *might* well be constitutionally permissible.") (emphasis added). *But cf. Boring v. Murillo*, No. LACKV2107305DOCKET, 2022 WL 14740244, at *6 (C.D. Cal. Aug. 11, 2022) (a California district court allowed an Eighth Amendment challenge to survive a motion to dismiss despite the ordinance being framed as a time, place, and manner restriction providing that homeless people could sleep anywhere in the City except for its downtown area at specified times).

[39] Order at 3, *City of Phoenix v. Fund for Empowerment*, No. CV-22-02041-PHX-GMS (D. Ariz. Oct. 17, 2023), ECF No. 119.

threat of federal litigation and broad injunctions if there is insufficient shelter space for the homeless.

D. Efforts to Address Homelessness Are Frustrated by Lawsuits Fueled by *Martin* and *Johnson*.

Despite the City's considerable efforts to adhere to Ninth Circuit precedent, it found itself facing conflicting lawsuits both in federal and state court. On the one hand, the District of Arizona issued an injunction significantly constraining the City's efforts to enforce its camping and sleeping ordinances against the homeless.[40] On the other hand, the Maricopa County Superior Court compelled the City to remove tents and take enforcement action against the homeless.[41] The City found itself treading carefully to avoid violating either injunction.

In the state lawsuit, *Freddy Brown, et al. v. City of Phoenix*, the Plaintiffs, comprised of property and business owners in the Zone, sought an injunction to declare the area a public nuisance requiring abatement. The trial court issued a permanent injunction in their favor, compelling the City to remove all tents and makeshift structures in the Zone and take enforcement action against "individuals

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[40] Order at 2, *City of Phoenix v. Fund for Empowerment*, No. CV-22-02041-PHX-GMS (D. Ariz. Dec. 15, 2022), ECF No. 34.

[41] Under Advisement Ruling, *Freddy Brown, et al. v. City of Phoenix*, No. CV2022-010439 (Maricopa Cnty. Super. Ct. Sept. 20, 2023).

committing offenses against the public order"[42] by November 4, 2023.

The trial court provided the City with less than seven weeks to relocate hundreds of homeless persons while navigating the legal minefields created by the Ninth Circuit's undefined test for voluntariness and indeterminate standard for the adequacy of shelter. Fortunately, the City successfully complied with the deadline set by the trial court, accomplished, in part, by erecting a safe outdoor campground for temporary shelter. However, the permanent injunction threatens to tie the City's hands for years as the City must prevent camping in the Zone in perpetuity (thereby forcing those individuals who come to the area for services into surrounding neighborhoods or other areas of the City absent a continuing effort to increase shelter capacity).

In the federal lawsuit, *Fund for Empowerment et al. v. City of Phoenix et al.*, the plaintiffs sought an injunction barring enforcement of the City's camping and sleeping ordinances and halting cleaning activities in the Zone. The District Court largely agreed with the plaintiffs and enjoined the City from "[e]nforcing the Camping and Sleeping Bans against individuals who practically cannot obtain shelter as long as there are more unsheltered individuals in Phoenix than there are shelter beds available."[43] The District Court's decision was largely in line with *Martin's* mathematical formula. However, after the amended *Johnson* decision was issued, the City filed a

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[42] *Id.*

[43] Order, *supra* note 40, at 2.

motion to modify the federal preliminary injunction based on *Johnson's* interpretation of the *Martin* holding.

Fortunately, the federal judge agreed with the City's position and modified the injunction as follows: The City cannot enforce "Camping and Sleeping Bans against involuntarily homeless persons for sleeping in public *if there are no other public areas or appropriate shelters where those individuals can sleep*."[44] Although this modified injunction allowed the City to offer both indoor shelter beds and safe outdoor spaces when individuals were simply not ready to accept shelter, the injunction continues to strain resources as the City grapples with determining what constitutes appropriate shelter or adequate public areas for camping.

Ultimately, the tension between the lawsuits illustrates the practical difficulties municipalities face when trying to tackle homeless encampments—and Phoenix is not alone in facing competing lawsuits. On September 19, 2023, two lawsuits were filed against the City of Sacramento, one by private businesses and residents and another by the Sacramento County District Attorney,[45] both alleging unsanitary conditions in homeless encampments and seeking to

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[44] Order, *supra* note 39, at 3 (emphasis added).

[45] Compl., *Prime Auctions, LLC et. al. v. City of Sacramento*, No. 23CV008662 (Sacramento Cnty. Super. Ct. Sept. 19, 2023); Compl., *People v. City of Sacramento*, No. 23CV008658 (Sacramento Cnty. Super. Ct. Sept. 19, 2023).

compel city action—the very action that *Martin* and *Johnson* purport to restrain.

Twenty-five briefs supporting the City of Grants Pass' petition for a writ of certiorari painted this Court a bleak picture of the real-world impact judicial rulings on homelessness have had on local attempts to enforce public health and safety laws and assist individuals experiencing homelessness in getting off the streets. Public policy favors construing the Eighth Amendment in a manner that preserves individual rights yet avoids hamstringing efforts to address other municipal interests such as sanitation, public safety, and providing access points for services and appropriate shelter.

E. Restricting Decisions on Whether to Cite or Arrest for Violation of Public Camping Laws Compels Judges to Act More as Homeless Policy Czars Than Judicial Officers Applying Discernible Rules of Law.

As some members of this Court have analogized, judges are like umpires calling balls and strikes, not players in the game. This Court should reject the substantial overreach by the Ninth Circuit, which unnecessarily adopted a legal standard that compels judges to act as policy experts, second-guessing local officials and slowing law enforcement responses to public health and safety concerns.

The constitutional principles at hand strike at core legislative and executive functions, including how to best use law enforcement resources, expend

taxpayer money to remedy homelessness, and use prosecutorial discretion when faced with criminal conduct and individualized mitigating circumstances.[46] The practical results of the decisions in *Martin* and *Johnson* have municipalities scrambling to reallocate resources and build massive amounts of shelter, safe outdoor campgrounds, and other public facilities to accommodate dramatic increases in homelessness under the threat of liability for both action and inaction amid sprawling homeless encampments taking over public property.

The Eighth Amendment does not require this result. Homelessness raises quintessential legislative questions that are more appropriate for political debate and policy discussion than applying what should be discernible principles of constitutional law.

The Ninth Circuit approach may be well-intended, and indeed, cities like Phoenix have adopted strategies to lead with services, not citations, but the adoption of a standard that preemptively bars citation absent adequate shelter space for the entire unsheltered population within a jurisdiction is not constitutionally sound. Even the amended *Johnson* approach – allowing unsheltered individuals to move to other outdoor public spaces to camp – leaves significant legal questions regarding what is adequate

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[46] Courts do not have the expertise to adjudicate social questions such as how to prevent homelessness. *See, e.g.*, JEFF KING, JUDGING SOCIAL RIGHTS 5–6 (2012) (Courts do not have the expertise to determine "whether some proposed procedural right will cause unsustainable problems in a modern bureaucracy are matters on which expertise must be brought to bear.").

public space. Must there be air conditioning in the summer? Heaters in the winter? More than an airport tarmac with tents and sanitation stations?

At bottom, municipalities deploy multiple tools to minimize impacts of camping laws—including cite and release options, diversion programs, and specialty homeless courts.[47] While the wisdom of these different approaches may be debatable, there is no reason to construe the Eighth Amendment in a manner that preemptively and unnecessarily impedes a municipality's ability to use its enforcement powers to eliminate hazards. A better path exists that preserves constitutional rights while allowing municipalities to provide citizens with the safe and sanitary conditions they deserve. This Court should take it.

CONCLUSION

Municipalities have struggled to walk the legal tightrope established by the Ninth Circuit in *Martin* and *Johnson*. The Ninth Circuit construed the Eighth Amendment in a manner that preemptively restricts enforcement of health and safety laws. This is wrong.

The involuntariness standard, which paralyzes enforcement action to address health and safety hazards, has been stretched beyond any recognizable jurisprudence and requires judicial correction. State

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[47] *See, e.g.*, Andrew I. Lief, Comment, *A Prosecutorial Solution to the Criminalization of Homelessness*, 169 U. PA. L. REV. 1971 (2021); Ben A. McJunkin, *Homelessness, Indignity, and the Promise of Mandatory Citations for Urban Camping*, 52 ARIZ. ST. L.J. 955 (2020).

and local legislatures, executive officers, prosecutors, as well as nonprofit organizations, churches, community advocates, and various other stakeholders at city and town hall meetings across the nation, are debating how to best address inflation, lack of affordable housing, and unprecedented levels of drug and alcohol addiction.

Injunctions against enforcement of public health and safety laws serve no purpose other than to frustrate local decisions to address these societal ills, replacing the decisions of individuals on the ground in their own communities working for positive change with sweeping federal court preferences for how cities and towns should be run. The Constitution does not compel this result.

The City of Phoenix and the League of Arizona Cities and Towns respectfully ask this Court to reverse the Ninth Circuit decision and adopt a standard that harmonizes the Eighth Amendment with the need to address dangerous and unsanitary conditions. Individuals experiencing homelessness deserve better. Residents and business owners requesting law enforcement action in the face of sprawling encampments deserve better. And state and local officials struggling to manage this unprecedented crisis require basic police powers, law enforcement tools, and discretion to provide viable options for managing this crisis.

RESPECTFULLY SUBMITTED THIS 4th day of March 2024.

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