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SENT VIA ELECTRONIC MAIL

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Dear Ms. Haynes and Ms. Bronson:

Beginning September 1, 2016, a temporary Directive (the "Directive") issued by the Director of the Denver Department of Parks and Recreation (the "Department") has purported to grant Denver police officers virtually unrestricted authority to banish anyone whom they suspect of "illegal drug-related activity" from Denver parks. *See* Attachment, Directive 2016-01. The banishment is effective immediately, without a hearing or other due process, and lasts for a period of 90 days. Although Directive 2016-1 expires on February 26, 2017, it expressly contemplates the possibility that the Department may adopt it as a permanent rule. We write to urge Denver and its Parks Department to end this ill-advised experiment in summary banishment from public spaces. The City must stop enforcing Directive 2016-1 and it must abandon all efforts to adopt it as a permanent rule.

As we detail below, banishment under the Directive is illegal. First, neither the Denver Charter nor Denver ordinances provide the Parks Department with the legal authority to issue rules that rescind the right of specific individuals to enter or remain in public parks. Second, even if the Parks Department had such authority (and it does not), banishment pursuant to the Directive violates fundamental rights protected by the state and federal constitutions.

Third, because accusations of "illegal drug-related activity" are so serious, persons so accused are ordinarily presumed innocent until they are found guilty. Before they may be punished, they are afforded all the procedural protections that the Constitution, for centuries, has guaranteed to persons accused of criminal activity. Denver's banishment

scheme turns our time-honored traditions of procedural fairness upside down. The accused is presumed guilty and punishment is imposed immediately. The few procedural protections included in the Directive are an ineffective and watered-down afterthought. Thus, as we explain, the Department's Directive violates procedural due process.

Enforcement of the Directive has also proven extremely poor public policy. Denver officials justified the Directive as necessary to combat the "huge epidemic of heroin use"[1] and a purported wave of related "assaults, shootings, and other acts of violence" in the parks.[2] Enforcement of the Directive has proven wildly ineffective at meeting this goal. Rather than targeting serious drug users and people who pose a safety threat in the park, our investigation shows that Denver police have issued suspension notices mostly to people who are suspected of mere consumption or possession of marijuana.[3] Marijuana consumption is a far cry from the kinds of threats to park patrons' safety that Denver cited as the target of the Directive.[4] Indeed, when the program of banishment was first announced, the City Attorney's Office provided the ACLU with written assurance that the "Illegal Drug Activity" targeted by the Directive did not include marijuana.[5]

While the enforcement of the Directive does not come close to meeting the announced goal of expelling injection drug users or persons responsible for assaults and threatening behavior, the enforcement pattern appears fully consistent with an unannounced and oft-criticized Denver law enforcement practice. Our investigation reveals that the vast majority of persons expelled from city parks pursuant to the Directive are persons experiencing homelessness. Thus, enforcement of the Directive is consistent with a long line of efforts by the City to use aggressive policing to drive people experiencing homelessness – those who have nowhere else to go – out of public spaces in Denver. These efforts are not only cruel, they are also ineffective. For houseless park patrons, including those with drug addiction, banishment does absolutely nothing to address the underlying problem of homelessness or addiction. Instead, banishment from a single City park simply shuffles people experiencing homelessness, and any drug use, from one public space to another. Thus, enforcement of the Directive has trampled the fundamental rights of park goers to occupy public spaces without meaningfully advancing the City's interest in increasing the safety and usability of its parks.

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[1] Jon Murray, *3,500 needles collected in 2016 at Denver parks prompt drug-user ban*, THE DENVER POST (August 31, 2016), http://www.denverpost.com/2016/08/31/denver-parks-drug-user-ban/ (quoting Parks Department spokesperson Cynthis Karvaski).

[2] Directive at 2.

[3] Through open records requests, the ACLU has collected and reviewed every publicly available document reflecting enforcement of the Directive, including all suspension notices, from the effective date of the Directive on September 1, 2016 through January 19, 2017.

[4] The Colorado Constitution protects the right of adults to possess and consume marijuana. Although possession and consumption in parks is prohibited, it is decriminalized. It constitutes only a civil infraction punishable by a small fine.

[5] On August 31, 2016, a day before the Directive became effective, ACLU Public Policy Director Denise Maes inquired whether the "Illegal Drug Activity" targeted by the Directive included marijuana. Assistant City Attorney Deanne Durfee responded as follows: "The temporary directive covers illegal drug activity. Possession of marijuana is not illegal."

The City's program of banishment must end – the City must immediately cease enforcement of the Directive and abandon any efforts to translate the temporary Directive into a permanent rule.

I. Background

On August 31, 2016 the Executive Director of the Department of Parks and Recreation issued Directive 2016-1. This temporary Directive went into effect on September 1, 2016 and will remain in effect until February 26, 2017. Directive at 2. The Directive allows Denver police officers to issue a notice "suspending the right of a person engaged in Illegal Drug-Related Activity from accessing or using the City Parks and the Cherry Creek Greenway in which the Illegal Drug-Related Activity occurred for a period of ninety (90) days." *Id*. A Denver Police Officer "may issue a [suspension] notice" to a person if the officer "determine[s] that a person has committed a Violation." *Id*. The Directive does not provide any guidelines for officers to use in determining whether or not to issue a suspension notice. The Directive also does not describe what standard of proof an officer must apply in order to "determine" that a person has "committed a Violation." However, the Directive is clear that issuance of a suspension notice need not be predicated on commission of a crime – a person "need not be charged, tried or convicted of any crime, infraction, or administrative citation in order for the Suspension Notice to be issued or effective." *Id*. If an officer chooses to issue a suspension notice, it is effective immediately, without a hearing or supervisory review. *Id*.

Persons wishing to challenge a suspension notice are afforded an extremely limited right of appeal. *Id.* at 3-4. An appeal must be filed within 10 days of the suspension notice. The Department sets a hearing date within twelve days. If the appellant is unable to attend the hearing, the appellant's right to appeal is forfeited.

An Administrative Hearing Officer ("AHO") presides over the hearing. The AHO is not bound by the rules of evidence and may admit hearsay or other ordinarily inadmissible testimony. The City's burden of proof is preponderance of the evidence. If the City meets this burden, the burden then shifts to the appellant to establish "by countervailing testimony or evidence" that the appellant did not violate Directive 2016-1 or that the suspension notice was not legally issued.

At the hearing, either side may request a continuance of up to ten days. After the hearing, the AHO has five days to issue a ruling. Even if a suspension notice is appealed the day after it is issued, the City is permitted to delay 32 days before rendering a decision. During the appeal, the suspension notice remains in effect. In the event of an unfavorable decision, the banished individual may appeal within 15 days to the Parks Director. There is no deadline in the Directive by which the Parks Director must provide her final decision on the appeal. The Park Director's final decision may be appealed to the Denver District Court. Thus, ultimate resolution of an appeal may occur well past the end of the ninety day suspension order.

II. Directive 2016-1 is illegal

A. The Parks Director had no authority to issue Directive 2016-1, nor does the Department of Parks and Recreation have the authority to adopt the Directive's provisions as a permanent rule.

Any rule that is promulgated without statutory authority is void and unenforceable. As the Supreme Court has explained: "[N]o matter how important, conspicuous, and controversial the issue, and regardless of how likely the public is to hold the Executive Branch politically accountable, an administrative agency's power to regulate in the public interest must always be grounded in a valid grant of authority." *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 161 (2000). This fundamental principle is enshrined in both Colorado and Denver law. *See, e.g.*, C.R.S. § 24-2-103(8)(a) ("No rule shall be issued except within the power delegated to the agency and as authorized by law."); DRMC § 2-92 ("No officer, employee, agent or agency, board or commission or member thereof of the city shall have power or authority to adopt any rules or regulations save and except by and under the authority of the Charter or ordinances of the city."); DRMC § 2-99(1) ("Rules and regulations shall not be enforced unless they are adopted pursuant to [the DRMC].").

Directive 2016-1 is void and unenforceable because the Department of Parks and Recreation lacks the authority to issue such a directive. While the Department has the authority to manage, operate, and control the parks by prohibiting certain *activities* in the parks, including the use of illegal drugs, nothing in Denver law provides the Department with authority to prohibit certain *people* from entering the parks.

The Department is entrusted with the "management, operation, and control" of Denver parks. DRMC § 2.4.4. To carry this out, the Department is authorized to:

> [A]dopt rules and regulations for the management, operation and control of parks, parkways, mountain parks and other recreational facilities, and for the use and occupancy, management, control, operation, care, repairing and maintenance of all structures and facilities thereon, and all land on which the same are located and operated.

DRMC § 39-1 (emphasis added). Thus, according to DRMC § 39-1, the Department has one set of powers to regulate *parks*, and different set of powers to regulate the *structures and facilities* that exist in parks. The Department has the authority to regulate the occupancy of facilities within the parks, but not the occupancy of the parks themselves. Because Directive 2016-1 regulates the "occupancy" of the entire park, not of a facility within a park, the Directive exceeds the Department's grant of authority.

Because the Parks Department has no authority to issue Directive 2016-1, it is void and unenforceable. DRMC § 2-99(1). Likewise, the Parks Department has no authority to adopt the Directive in the form of a permanent rule.

B. Enforcement of the Directive violates park goers' constitutionally protected right to move about in public spaces.

i. The freedom to move about in public spaces is a fundamental right.

Under the Colorado and United States Constitutions, individuals have a fundamental right to move about in public spaces, including public parks. The Colorado Supreme Court has identified this right as one of the "natural, essential and inalienable rights" protected by Article II, Section 3 of the Colorado Constitution:

> [T]he rights of freedom of movement and to use the public streets and facilities in a manner that does not interfere with the liberty of others are basic values inherent in a free society and are thus protected by article II, section 3 of the Colorado Constitution and the due process clause of the fourteenth amendment to the United States Constitution.

In Re J.M., 768 P.2d 219, 221 (Colo. 1989); *accord Nagl v. Indus. Claim Appeals Office*, 351 P.3d 577, 581 (2015) ("the right of freedom of movement is a basic value protected by article II, section 3 of the Colorado Constitution"); *see also* Colo. Const., Art. II, Sec. 3 ("All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness."). This fundamental right includes the freedom to "stroll, loiter, loaf, and use the public streets and facilities in a way that does not interfere with the personal liberties of others." *J.M.*, 768 P.2d at 221.

Courts in many other states have, like Colorado, recognized that their state constitutions protect this fundamental right to move about in public spaces, often referring to it as a "right to intrastate travel."[6]

[6] *See, e.g. State v. J.P.*, 907 So. 2d 1101, 1113 (Fla. 2004) ("[T]he right to intrastate travel in Florida is clear."); *Commonwealth v. Weston W.*, 913 N.E.2d 832, 840 (Mass. 2009) ("[T]he Massachusetts Declaration of Rights guarantees a fundamental right to move freely within the Commonwealth."); *City of New York v. Andrews*, 719 N.Y.S.2d 442, 452 (N.Y. Sup. Ct. 2000) ("To the extent that the right to travel freely may be said to be a component of substantive due process, our State Constitution supports the right independently of the Federal Constitution."); *Brandmiller v. Arreola*, 199 Wis. 2d 528, 539 (1996) ("Thus, independent of federal law, we recognize that the right to travel intrastate is fundamental among the liberties preserved by the Wisconsin Constitution."); *Tobe v. City of Santa Ana*, 9 Cal. 4th 1069, 1100 (Cal. 1995) ("The right of intrastate travel has been recognized as a basic human right protected by article I, sections 7 and 24 of the California Constitution."); *State v. Dobbins*, 277 N.C. 484, 497 (1971) ("[T]he right to travel upon the public streets of a city is a part of every individual's liberty, protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution and by the Law of the Land Clause, Article I, § 17, of the Constitution of North Carolina."); *State v. Shigematsu*, 483 P.2d 997, 1000–01 (Haw. 1971) ("Thus, we have no doubt that our State Constitution does guarantee to the people of Hawaii the freedom of movement and freedom of association. . . . Freedom would be incomplete if it does not include the right of men to move from place to place, to walk in the fields in the country or on the streets of a city, to stand under open sky in a public park and enjoy the fresh air . . . ."); *State v. Cuypers*, 559 N.W.2d 435, 437 (Minn. Ct.

Likewise, The United States Supreme Court has long recognized a fundamental right, grounded in the right to personal liberty, to move about in public spaces:

> We have expressly identified [the] right to remove from one place to another according to inclination as an attribute of personal liberty protected by the Constitution. Indeed, it is apparent that an individual's decision to remain in a public place of his choice is as much a part of his liberty as the freedom of movement inside frontiers that is a part of our heritage.

City of Chicago v. Morales, 527 U.S. 41, 53-54 (1999) (internal citations and quotations omitted); *see Kolender v. Lawson*, 461 U.S. 352, 358 (1983) (stop-and-identify statute implicates "the constitutional right to freedom of movement"); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 164 (1972) (describing walking, strolling, and wandering as "the unwritten amenities" of life that "have been in part responsible for giving our people the feeling of independence and self-confidence, the feeling of creativity," and "have encouraged lives of high spirits rather than hushed, suffocating silence").

In considering the constitutionality of ordinances that authorize temporary banishment from public places, federal courts of appeal have relied on this Supreme Court precedent to find a constitutional right to be on public lands, including parks. *See Catron v. City of St. Petersburg*, 658 F.3d 1260, 1266 (11th Cir. 2011) ("Plaintiffs have a constitutionally protected liberty interest to be in parks or on other city lands of their choosing that are open to the public generally."); *Johnson v. City of Cincinnati*, 310 F.3d 484 (6th Cir 2002) ("The right to travel locally through public spaces and roadways - perhaps more than any other right secured by substantive due process - is an everyday right, a right we depend on to carry out our daily life activities. It is, at its core, a right of function.").

ii. Denver cannot justify its infringement on park goers' fundamental right to move about public spaces.

Because banishment pursuant to the Directive burdens a fundamental right, the Directive passes constitutional muster only if it is narrowly tailored to serve a compelling government interest. In other words, it must survive strict scrutiny. *Regency Sers. Corp. v. Bd. of Cnty. Comm'rs*, 819 P.2d 1049, 1056 (Colo. 1991) ("When a regulatory scheme affects the exercise of a fundamental right . . . a standard of strict judicial scrutiny must be applied."). The Colorado Court of Appeals recently described the proper test as follows:

> Strict scrutiny places the burden on the government to show that the statute is supported by a compelling state interest and that it is narrowly drawn to

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App. 1997) ("Minnesota also recognizes the right to intrastate travel."); *Musto v. Redford Township*, 137 Mich. App. 30, 34 (Mich. Ct. App. 1984) ("[W]e see no logical distinction between the right of a person to travel between states (which is protected by the United States Constitution) and the right to travel between locations in the State of Michigan (which we find to be protected by the Michigan Constitution).").

> achieve that interest in the least restrictive manner possible. When a plausible, less restrictive alternative is offered, the government bears the burden of proving that the alternative will be ineffective to achieve its goals.

Students for Concealed Carry on Campus, LLC v. Regents of the Univ. of Colo., 280 P.3d 18, 27-28 (Colo. App. 2010).

The United States Supreme Court similarly holds that where a regulation infringes on a fundamental right, that regulation must pass strict scrutiny. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (explaining that the Due Process Clause "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.").

The ACLU acknowledges that Denver has a compelling interest in taking action in its parks to address what it purports to be a "huge epidemic of heroin use"[7] and the related wave of "assaults, shootings, and other acts of violence"[8] plaguing city parks. Yet, in practice and by design, the Directive banishes individuals from public parks while doing little if anything to further that interest. Certainly, the Directive is not narrowly tailored to serve the City's interest.

While we have found no Colorado caselaw discussing a similar program of banishing persons from public spaces, a Sixth Circuit case is highly instructive. In *Johnson v. City of Cincinnati*, 310 F.3d 484, 503 (6th Cir. 2002), a Cincinnati ordinance authorized officers to ban individuals from certain neighborhoods for 90 days if the individual was arrested in that neighborhood for a drug offense. Similar to Denver's justification for the Directive, Cincinnati enacted the ordinance "to enhance the quality of life in drug-plagued neighborhoods," which the court agreed was a compelling interest. *Id.* at 502. Nevertheless, the court found the ordinance was unconstitutional because it infringed upon individuals' fundamental right to move freely in public spaces, yet was not narrowly tailored to serve the City's interest in addressing the drug and crime epidemic in certain neighborhoods. The court found the ordinance failed the test of narrow tailoring for reasons wholly applicable to Directive 2016-1: (1) the ordinance "excludes individuals from [a public space] without regard to their reason for travel in the neighborhood"; (2) the ordinance "prohibits [people] from engaging in an array of not only wholly innocent conduct, but socially beneficial action," including "seeking food, shelter, [and] social services"; (3) the ordinance "metes out exclusion without any particularized finding that a person is likely to engage in recidivist drug activity in [the are from which the individual was banned]"; and (4) there were less restrictive alternatives to exclusion that could serve the City's interest in deterring drug use and other related illegal conduct, including increased "foot patrols, bicycle patrols" and enforcement of existing criminal laws. *Id.* at 503-04.[9] Denver's Directive suffers from these same four flaws identified in *Johnson*.

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[7] *See* Jon Murray, *3,500 Needles Collected in 2016 at Denver Parks Prompt Drug-User Ban*, The Denver Post, August 31, 2016, http://www.denverpost.com/2016/08/31/denver-parks-drug-user-ban/.

[8] Directive at 2.

[9] *See also State v. Burnett*, 93 Ohio St. 3d 419, 429, 755 N.E.2d 857 (Ohio 2001) (finding that the same Cincinnati exclusion ordinance was not narrowly tailored and, therefore, violated substantive

Similarly, in *Yeakle v. City of Portland*, 322 F. Supp. 2d 1119 (D. Or. 2004), the court considered a Portland ordinance which authorized police officers to temporarily exclude from city parks persons deemed to have violated any local or state law, without a pre-deprivation hearing and with only a limited right of appeal. The City justified the ordinance as necessary to further "the important government interest in enjoyment, convenience, and safety of all park users" by "removing people at or near the time they engaged in illegal behavior." *Id.* at 1125. Re-entry into the park while the suspension order was in effect constituted a violation of the state trespassing statute. The court found the ordinance violated substantive and procedural due process. *Id.* at 1128. The court was particularly concerned that banishment occurred even "where no showing can be made that the prohibited conduct endangered park safety." *Id.* Because the ordinance did more than target "the precise source of 'evil' it seeks to prevent" – behavior in the park that threatened public safety – the court found the ordinance was not narrowly tailored to serve the city's interest. *Id.* The court found further evidence of lack of narrow tailoring given the absence of "evidence that the offense occurring within a park poses a greater risk to the public than the same offense occurring . . . in another public place." *Id.* Without such evidence, the ordinance functioned only to shift the location of the undesirable acts, rather than to prevent or deter them. Finally, the court found that enforcement of existing criminal laws was an "obvious, less burdensome alternative[]" to banishment that "adequately satisf[ied] the public safety needs of the community." *Id.*, at 1129.

For many of the same reasons articulated in *Johnson* and *Yeakle*, Directive 2016-1 fails strict scrutiny.

First, the Directive does not narrowly target those who seriously threaten the safety of park patrons, or even those who use or sell hard drugs in the park. Instead, it allows banishment of people who pose no threat to public safety – those who have engaged in no violent or harassing acts and who are suspected simply of possessing or consuming marijuana.[10] Indeed, rather than targeting injection drug users or those who engaged in violent or threatening conduct, officers have primarily exercised their discretion under the Directive to expel from the parks houseless people suspected merely of marijuana use or possession. According to records of enforcement provided by the City to the ACLU, out of the 39 cases in which suspension notices were issued since the effective date of the Directive, 25 (or 64%) involved solely allegations of marijuana use or display. Likewise, 28 (or 72 %) were directed at people experiencing homelessness. Only 6 cases (15%) involved suspected heroin use.[11] Moreover, out of the 39 cases in which Denver police

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due process because its reach "extends beyond the problems associated with illegal drug activity and attacks any number of potential activities done with innocent purpose.").

[10] While marijuana use and possession is a prohibited civil infraction in city parks, any argument that use and possession poses a serious public safety risk of the kind posed by injection drugs is extremely weak given that adults have a constitutional right to possess and use marijuana in Colorado.

[11] One case involved suspected illegal use of a prescription drug, and 6 cases involved suspected use of crack cocaine. In 3 cases, persons were alleged to have possessed heroin or crack cocaine in

issued suspension notices, not a single case involved allegations of "assaults, shootings, [or] other acts of violence or threats of violence." Directive at 2. By authorizing banishment of individuals who are suspected of simple use or consumption of marijuana, and who have engaged in no violent or harassing behavior, the Directive unnecessarily tramples on individual rights without advancing the City's stated interest in addressing injection drug use and associated threatening conduct and violence. *See Yeakle*, 322 F. Supp. 2d at 1128 (finding ordinance was not narrowly tailored because it did more than target "the precise source of 'evil' it seeks to prevent" by prohibiting conduct that did not endanger park safety).

Second, the Directive prevents banned individuals from returning to the park for innocent or even socially beneficial conduct, and without any evidence that the person is likely to engage in threatening, dangerous, or illegal activities in the park in the future. *See Johnson*, 310 F.3d at 503 ("The broad sweep of the Ordinance is compounded by the fact that the Ordinance metes out exclusion without any particularized finding that a person is likely to engage in recidivist drug activity in [the exclusion zone]."). An individual who engaged in drug related activity at one time may have myriad other innocent reasons for returning to Denver's beautiful public parks, including engaging in First Amendment activities that commonly occur in parks,[12] enjoying natural beauty, exercise, and finding community with others in the park. For people experiencing homelessness, whom officers have primarily targeted for enforcement, banishment from city parks can prevent receipt of essential services provided in those parks, such as outreach by homeless service providers and community food distributions. "A narrowly tailored ordinance would not authorize the arrest of a homeless person who entered [the prohibited area] to obtain food, shelter and clothing from relief agencies." *Burnett*, 93 Ohio St. 3d at 430 (Ohio 2001) (considering the same Cincinnati exclusion ordinance at issue in *Johnson* and finding it was not narrowly tailored, and therefore violated substantive due process, because it "encroaches upon a substantial amount of innocent conduct."). Prohibiting innocent conduct in the parks does nothing to further the City's interests.

Third, to the limited extent the Directive has been used to target hard drug users, banishment does not curb undesirable conduct, but instead serves to simply move undesirable conduct from one public space to another. *See Yeakle*, 322 F. Supp. 2d at 1129. At best, because the exclusion orders generally ban a person from only one park, the Directive serves simply to push suspected drug users and drug sellers to another park or public space.

Fourth and perhaps most importantly, there are obvious less restrictive measures than Directive 2016-1 that would serve the City's interest in park safety. The City could increase patrols of the parks by foot, bicycle and Segway to discourage injection drug use

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addition to possessing marijuana. In one case, an individual was suspended simply for "using suspected narcotics."

[12] *See Pleasant Grove v. Summum, 555* U.S. 460, 469 (2009) ("This Court long ago recognized that members of the public retain strong free speech rights when they venture into public streets and parks, which have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.") (citations omitted).

and violent and harassing conduct. The City could also aggressively enforce existing laws against injection drug use and harassing and violent conduct in the park. *See Johnson*, 310 F.3d at 503-504 (holding less restrictive alternatives to the exclusion ordinance were "foot patrols, bicycle patrols" and enforcement of existing criminal laws). Between city ordinances and state laws, the use, possession and distribution of drugs are all illegal in Denver Parks, as are assault, shooting, harassment, and obstruction of passageway.[13] In addition to simply enforcing existing laws, if Denver is concerned with removing injection drug use from city parks, it could offer drug treatment to anyone found using injection drugs in a city park. It could offer housing and resources to the people who, without a place to go, spend their days in Denver's parks. Such interventions are proven to both work and save money.[14] Instead of taking any of these less drastic paths, the Department of Parks and Recreation allows officers to summarily banish people suspected of drug activity from a park for 90 days and creates criminal penalties if the person violates the ban, even if the person returns to the park for innocent purposes. Less drastic measures would serve the City's interest while respecting the fundamental right of the people of Denver to be present in public parks.

Based on the foregoing, the Directive is not narrowly tailored to serve the City's interest and is, therefore, unconstitutional.

C. Enforcement of the Directive violates procedural due process.

The United States and Colorado Constitutions both bar state actors from depriving a person of a liberty interest without due process of law. U.S. Const., Amend. XIV; Colo. Const., Art. II, § 25. As discussed above, both constitutions recognize a liberty interest in moving about in public spaces. By providing for the temporary exclusion of persons from city parks, the Directive authorizes deprivations of this constitutionally-protected liberty interest and is therefore subject to due process review. *Citizen Ctr. v. Gessler*, 770 F.3d 900, 916 (10th Cir. 2014).

Failure to provide a hearing before deprivation of a protected liberty interest, except in the most extraordinary circumstances, is a violation of due process. *Boddie v. Connecticut*, 401 U.S. 371, 377-78 (1971) ("[A]t a minimum [due process] require[s] that deprivation of life, liberty or property by adjudication be preceded by notice and

[13] Any claim that the City already "tried other laws already on the books" and found them insufficient, without documented proof of these efforts and quantified measures of their successes and failures, cannot overcome strict scrutiny. Indeed, such a claim cannot satisfy the lower standard of intermediate scrutiny. In *McCullen v. Coakley*, 134 S. Ct. 2518, 2539 (2014), the Supreme Court rejected the City's claim that it "tried other laws already on the books," because the City had not demonstrated that it "seriously undertook to address the problem with less intrusive tools readily available to it." *Id.* at 2539. As a result, the law in question in *McCullen* failed intermediate scrutiny, because the City had not "shown that it considered different methods that other jurisdictions have found effective." *Id.*

[14] *See* Alana Samuels, *The Best Way to End Homelessness*, The Atlantic, July 11, 2015, http://www.theatlantic.com/business/archive/2015 /07/the-best-way-to-end-homelessness/398282/.

opportunity for hearing appropriate to the nature of the case."). Because no extraordinary circumstances justify deprivation without a prior hearing, the Directive flatly violates due process.

Even if the lack of pre-deprivation process were not dispositive (and it is), application of the *Matthews v. Eldridge* balancing test also shows clearly that the Directive violates procedural due process. Courts weigh three factors: (1) the "private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used," and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976); *Van Sickle v. Boyes*, 797 P.2d 1267, 1273-74 (Colo. 1990) (citing *Matthews*).

The court's reasoning in *Yeakle* is particularly instructive. Applying the *Matthews* balancing test, the court found the Portland exclusion ordinance violated procedural due process. The court recognized the plaintiffs' "strong interest in avoiding unjust or unwarranted exclusions from the City's parks," as well as the government's "interest in terminating offensive conduct that creates a safety risk in the parks." 322 F. Supp. 2d at 1131. The court also found a "considerable" risk that the ordinance would erroneously deprive park patrons of their liberty interest given: "the absence of any pre-deprivation process"; that the ordinance "fails to establish any evidentiary standard for any park official . . . to determine whether an exclusion is warranted"; and that "[t]he ordinance does not provide that the entity issuing the exclusion actually witness the alleged violation or have any other reliable information that a violation in fact occurred." *Id*. at 1130-31. Further, the court found the "deficient appeals procedures and lack of a pre-deprivation hearing" are made all the more onerous because "a person excluded from a park is subject to arrest for reentry as soon as she receives the exclusion notice." *Id.* This means that "even if the exclusion is ultimately found to be invalid, the individual has been kept from the public park(s) for at least a significant portion of the thirty days." *Id*.

Applying the *Matthews* factors to Directive 2016-1 shows that it suffers from the same basic constitutional deficiencies as those identified in *Yeakle*. Regarding the first *Matthews* factor, the private interest affected – access to public parks – is significant. As in *Yeakle*: "The public parks are a treasured and unmatched resource to those who live in the City. . . . Aside from serving as vital forums for the exercise of free speech, the parks host a variety of activities including festivals, concerts, and art exhibitions." *Id.*, at 1129-30. Thus, the first factor weighs in favor of finding that enforcement of Directive 2016-1 violates procedural due process.

The second *Matthews* factor is decisive. Despite the broad potential (and actual) application of the Directive, it establishes only the most meager of safeguards to protect against erroneous or improper deprivation. One of the most troubling aspects of the Directive is that for an officer to decide to order banishment effective immediately, the individual "need not be charged, tried or convicted of any crime." Directive at 3. Suspension orders are issued and become immediately effective without any pre-deprivation process, input from a neutral arbiter, or supervisory review. Without the

Directive in place, an individual could not be punished for illegal drug activity in the park unless that individual was duly charged, prosecuted, and convicted in a court of law of a criminal offense, and after provision of all the due process protections guaranteed to criminal defendants in the Constitution – protections aimed in significant part at avoiding erroneous convictions and punishments. The Directive, however, serves as an end-run around these constitutionally-guaranteed protections – rendering police officers the judge and jury and effectively usurping the criminal court proceedings by fiat.

Even with all of this power bequeathed to officers, the Directive provides no meaningful guidance on how officers are to exercise discretion to issue a suspension notice. As in *Yeakle*, the Directive does not require the officer issuing the exclusion order to have witnessed the alleged violation and does nothing to establish the standard of proof that is required to justify banishment. 322 F. Supp. 2d at 1130-31. By emphasizing that no criminal charge is required to issue a suspension, the Directive appears to authorize banishment on a standard of proof less than probable cause. As a result, there is nothing in the Directive to prevent officers from erroneously meting out banishment on an incorrect hunch or suspicion of drug activity. In fact, our review of Denver's enforcement records reveals that police officers often issue suspension notices on extremely tenuous bases. For example, in at least 9 cases in which the individual was expelled based on an officer's suspicion that the individual was using or displaying hard drugs (heroin or crack), no actual drugs were ever recovered from the suspended individual.

Any erroneous exclusion is unlikely ever to be corrected given the extremely limited opportunity for individuals to challenge their banishment. A challenge can only occur after the suspension, while the banishment remains in effect. Even if a challenge to a suspension is filed immediately, the Directive allows the City to delay 32 days before rendering a decision. During those 32 days, the banished person is subject to arrest if he or she re-enters the park. If the individual loses his challenge, then files an appeal to the Parks Director and then to district court, the banishment remains in effect during the entire course of the appeal, which will surely exceed the 90-day exclusion period.

Moreover, the post-deprivation process provided for in the Directive is plainly insufficient to protect against erroneous deprivation. There is no presumption of innocence and no right to appointed counsel if indigent. The hearing is not governed by the rules of evidence. As a result, the accusing officer may rely on hearsay from another officer, or even from a potentially unreliable citizen. The City's burden of proof is a mere preponderance of the evidence. Plainly, the post-deprivation process makes it easy for a hearing officer to simply rubberstamp a suspension order without meaningful review. With so few procedural protections in place, the chance of erroneous or fundamentally unfair banishment under the Directive is intolerably high.

The third *Matthews* factor, the government's interest in easing its administrative burden, weighs meagerly in favor of the City. While the City certainly has "an interest in terminating offensive conduct that creates a safety risk in the parks," this interest does not justify extended banishment without any pre-deprivation process. *Yeakle*, 322 F. Supp. 2d at 1131. "Although the availability of a pre-deprivation hearing may create some

additional administrative burden, it is no greater than the pre-deprivation process already in place to handle a variety of non-criminal violations, such as traffic fines." *Id.*

In sum, although the City has a legitimate interest in promoting the safety of city parks, that interest is clearly outweighed by the significant risk that the Directive's deficient procedural protections will erroneously deprive citizens of their right to enjoy Denver's public parks.

III. Conclusion

Aside from the serious constitutional infirmities of Directive 2016-1 described above, it is clear that the Directive has been a colossal policy failure. The Directive has rarely been used to banish individuals for heroin or narcotics use, or for engaging in conduct that posed a threat to park goers' safety; thus it has done little if anything to further the City's stated goals. Despite the City's protestations that the Directive was not another in a long line of City initiatives that criminalize homelessness, the City's record of enforcement tells another story. Under the Directive, law enforcement resources have been primarily expended to expel people experiencing homelessness from a public park for suspected marijuana use or possession. This enforcement pattern raises the specter that Denver's true purpose of the Directive is to rid the parks of people experiencing homelessness, so that the housed, wealthier Denver residents may enjoy their parks without reminders of the extreme economic disparities that bedevil this City. While Denver has a compelling interest in ensuring safety in its parks, it certainly does not have a compelling interest (or even a legitimate interest) in shielding respectable citizens from feeling "uncomfortable" in the mere presence of poor persons who appear disheveled or destitute.

Like the City's other law enforcement initiatives that target people experiencing homelessness – including sweeps of homeless camps and ticketing and jailing individuals for sleeping outside with a blanket – enforcement of the Directive has served at best to shuffle people without homes from one public space to a different public space and at worst to push those people into hiding and out of the reach of homeless service providers. In sum, the picture arising from enforcement of Directive 2016-1 is clear: if there is indeed an illegal heroin epidemic requiring attention from lawmakers and enforcement authorities, the Directive simply is not suited to address it.

In order to stop violating state and federal law, the City must:

1. **Immediately suspend enforcement of Directive 2016-1;**

2. **Revoke all suspension notices currently in effect; and**

3. **Abandon any intention or efforts to extend the Directive by converting it into a permanent rule.**

We ask that you respond to our letter no later than **February 8, 2017.**

Sincerely,

Mark Silverstein
Legal Director, ACLU of Colorado

Rebecca Wallace
Staff Attorney and Policy Counsel, ACLU of Colorado

Attachment : Directive 2016-1

DENVER
PARKS & RECREATION

Denver Parks and Recreation

Temporary Directive: Suspension of Right of Access of Parties Engaged in Drug-Related Activity from City Parks and the Cherry Creek Greenway

Effective: September 1, 2016
Expires: February 26, 2017

Number: 2016-1

Approved by Division Head: Bob Finch
Approved by Executive Director: Allegra "Happy" Haynes
Approved by Deputy Executive Director of Parks: Scott Gilmore

Background:

A. Executive Director's Directive Powers:

- The Executive Director of Parks and Recreation (also referred to as the "Manager") has the authority under the Denver City Charter to restrict or prohibit certain uses or activities within parks and other recreational facilities under the jurisdiction of the Denver Department of Parks and Recreation.
- Under section 39-2(g) of the Denver Revised Municipal Code ("DRMC"), such restrictions and prohibitions can be implemented through a written temporary directive signed by the Executive Director.
- Once executed, a temporary directive can be enforced through section 39-4(a), DRMC, which makes it "unlawful for any person, other than authorized personnel to engage in any use of activities in any area or part of any park . . . or other recreational facility in violation of any temporary directive issued by the manager restricting or prohibiting such use or activities."
- Under section 39-2(g), DRMC, a temporary directive shall endure for no more than 180 days. If the Executive Director desires to make the restrictions and prohibitions permanent, then the rulemaking process set forth in section 39-2, DRMC, will be followed, and a rule or rules adopting the restrictions or prohibitions put into place. The new rule or rules could be enforced under sections 39-1 or 39-4(a), DRMC, or such other ordinance adopted in Article I of Chapter 39 to enforce the new rule or rules.
- Additional specifics of these directive powers can be found in Rule 2.0 of the Denver Department of Parks and Regulations Rules & Regulations, as amended and restated May 27, 2015 (the "Park Use Rules & Regulations").

B. Application of the Park Use Rules & Regulations within the Cherry Creek Greenway: Under Article VII of Chapter 39, DRMC, the Executive Director has the authority to extend the application of, and to enforce, the Park Use Rules & Regulations and the provisions of Article I of Chapter 39, DRMC, within the Cherry Creek Greenway upon the occurrence of certain actions.

- The Cherry Creek Greenway includes "real property, such as city park land, city property . . . and the Cherry Creek Trail, located adjacent to, or in the immediate vicinity of, the channel of Cherry Creek." Section 39-171(2), DRMC.
- "City property" includes "any real property, including land, waterways and water bodies, owned, operated or controlled by any department . . . of the City and County of Denver, except the department of parks and recreation." Section 39-171(6), DRMC.
- Such "City Property" may be included within the Cherry Creek Greenway by means of an interdepartmental agreement. Section 39-171(4) and section 39-172(b), DRMC.
- The property subject to this Directive 2016-1 is located in and along Cherry Creek and is under the jurisdiction of the Denver Department of Public Works. On September 6, 2000, the Department of Parks

and Recreation and the Department of Public Works entered into an "Inter-Departmental Memorandum of Understanding for Application and Enforcement of Park Rules and Regulations in the Cherry Creek Greenway from Confluence Park to Downing Street" ("Parks-Public Works MOU").

- In paragraph 1 of that Parks-Public Works MOU, it is provided that "[a]ll property and improvements owned, operated or controlled by Public Works in the Cherry Creek corridor that are situated between the floodwalls running from Confluence Park through Downing Street, as well as in the landscaped and sidewalk areas lying between the road curb of Speer Boulevard Parkway and the floodwalls shall be included in to the Cherry Creek Greenway."
- Paragraph 2 declares: "Those Parks rules and regulations that are currently in effect and applicable in common to City parks shall be extended to include, and made applicable to, the Greenway property. . . . Upon adoption of [any] revisions or additions [to these rules and regulations], the amended rules and regulations shall be applicable to Greenway property."
- Finally, paragraph 3 observes: "In accordance with Article VII of Chapter 39 of the Denver Revised Municipal Code, this Memorandum of Understanding ('MOU') establishes the authority for those provisions of Article I of Chapter 39 of the Denver Revised Municipal Code, as they may be amended from time to time, to be enforced on the Greenway property by the Denver Police Department, the Denver County Court, and other City enforcement authorities."
- The portion of the Cherry Creek Greenway identified in the Parks-Public Works MOU (Confluence Park through Downing Street) shall be subject to this Directive 2016-1.

Temporary Directive:

1. Purpose: The purpose of this Directive 2016-1 is to address serious and chronic public health and safety problems caused by illegal drug-related activity in City Parks and the Cherry Creek Greenway. There have been persistent and increasing complaints from park patrons, trail users, law enforcement, Parks and Public Works staff, and other members of the public about misconduct and threatening conduct associated with drug selling, drug buying and drug use in City Parks and in and along the Cherry Creek Greenway. These problems include assaults, shootings, and other acts of violence or threats of violence, used needles and other drug paraphernalia, people passed out or incapacitated due to drug use, vandalism, activities of drug sellers, drug buyers and drug users in and about the Cherry Creek Greenway that obstruct passage or make for unsafe passage of pedestrians, joggers, skaters and bicyclists on the Cherry Creek Trail, and other misbehavior that intimidates and frightens members of the public and has resulted in making the City Parks and the Cherry Creek Greenway a much less attractive place for the public to recreate and enjoy nature and the outdoors. This Directive 2016-1 is necessary to reduce or eliminate the problems and hazards of illegal drug-related activity in City Parks and the Cherry Creek Greenway.

2. Directive: *The following Directive, as issued by the Executive Director of the Department of Parks and Recreation ("DPR Director"), shall be applicable at all times in the City Parks and in the Cherry Creek Greenway, as said Greenway is defined in the Parks-Public Works MOU, i.e., from Confluence Park to Downing Street and including the entire area within the floodwalls as well as the sidewalks, landscaped areas and other infrastructure outside of the floodwalls from interior curb to interior curb along Speer Boulevard (the "Cherry Creek Greenway").*

Duration: Directive 2016-1 shall be in effect from September 1, 2016, through February 26, 2017 ("Duration"), subject to any time extension specified below in this Directive.

Suspension: Illegal Drug-Related Activity, as defined below, is prohibited in City Parks and in the Cherry Creek Greenway. The prohibition of Illegal Drug-Related Activity shall be enforced, among other legal means and for the Duration of this Directive 2016-1, by suspending the right of a person engaged in Illegal Drug-Related Activity from accessing or using the City Parks and the Cherry Creek Greenway in which the Illegal Drug-Related Activity occurred for a period of ninety (90) days ("Suspension").

Definitions: As utilized in this Directive 2016-1, the following terms and phrases shall have the following meanings:

- *Illegal Drugs: Controlled substances, as defined and regulated under the Uniform Controlled Substances Act of 2013, as codified and amended in Article 18 of Title 18 of the Colorado Revised Statutes. This includes (1) Schedule I controlled substances, and (2) Schedule II, II, IV and V controlled substances not legally in a person's possession.*
- *Illegal Drug-Related Activity: The act of distributing, transferring, selling, sharing, buying, consuming, using, or illegally possessing Illegal Drugs.*

Violation: It shall be unlawful for any person to violate this Directive 2016-1 ("Violation").

Enforcement: If a Denver Police Officer should determine that a person has committed a Violation, the Denver Police Officer may issue a notice to said violator suspending the right of the violator (the "Suspension Notice") from accessing or using City Parks or the Cherry Creek Greenway, depending on the location(s) of the Violation, for a period of ninety (90) days from the date of the Suspension Notice. The Suspension shall be immediately in effect upon issuance of the Suspension Notice. Failure to comply with the Suspension Notice during the 90-day Suspension shall be grounds for issuance of a ticket and assessment of a penalty as provided in section 1-13, DRMC. The person subject to the Suspension Notice need not be charged, tried or convicted of any crime, infraction, or administrative citation in order for the Suspension Notice to be issued or effective.

Suspension Notice: The Suspension Notice shall be issued in writing on a form approved by the DPR Director and signed, with identifying information, by a Denver Police Officer. The Suspension Notice shall include: (1) a brief description of the conduct which is in Violation; (2) the date of issuance; (3) the City Parks or the Cherry Creek Greenway for which the Suspension Notice is applicable; and (4) notice of the right and process to appeal the Suspension Notice. If a Suspension Notice is issued less than ninety (90) days prior to the end of the Duration of this Directive 2016-1, the Suspension Notice shall remain in effect for a ninety (90) day period subject to the right of Appeal set forth below.

Right of Appeal: The party receiving a Suspension Notice (the "Appellant") shall be entitled to file an appeal with the DPR Director within ten (10) calendar days of the date of the Suspension Notice (the "Appeal"). A legible copy of the Suspension Notice shall be provided along with the written appeal. The Suspension Notice shall remain in effect during the pendency of the Appeal.

Appeal Process:

- *The written notice of Appeal, along with a legible copy of the Suspension Notice, may be (1) mailed by first class mail to the DPR Director at the Department of Parks and Recreation, 201 West Colfax Avenue, Dept. 601, Denver, Colorado 80202; ATTN: Suspension Appeal; (2) emailed to ParksRec-Manager@denvergov.org; or (3) delivered in person between 8:00 am and 4:30 pm weekdays (except holidays) to the Civil Division of the Denver Sheriff's Office at the Wellington E. Webb Municipal Building, 201 West Colfax, 1st Floor, Denver, Colorado. A mailing address or an email address at which the Appellant can be reached must be provided by the Appellant. The Appeal shall be deemed filed as of the date the written notice of Appeal is received by the DPR Director.*
- *Upon the timely filing of an Appeal of the Suspension Notice, a hearing shall be scheduled for a date no later than twelve (12) calendar days following the date the Appeal is filed, and notice of the scheduled hearing shall be sent to the Appellant no later than four (4) calendar days following the date the Appeal is filed.*
- *The Appellant must attend the scheduled hearing. Failure of Appellant to attend the scheduled hearing shall result in the dismissal of the Appeal and the Suspension Notice remaining in effect.*
- *An administrative hearing officer ("AHO") shall be appointed by the DPR Director to preside over the scheduled hearing and to reach a decision sustaining, modifying, or reversing the Suspension Notice.*
- *The AHO shall perform those duties and functions necessary and incidental to determining the case at hand, including calling and questioning of witnesses, hearing all evidence, examining all documents, ruling on evidentiary questions and witness qualifications, and generally establishing protocol and conducting the hearing as a tribunal and quasi-judicial proceeding in conformance with Article XII of Chapter 2, DRMC,*

and this Directive 2016-1. While judicial rules of evidence are not applicable, the AHO shall have the authority to determine admissibility of evidence and testimony based on relevance and probative value in light of the issues at hand. The AHO may utilize any experience, technical skills, or specialized knowledge the AHO may have in the evaluation of evidence and testimony presented.

- *All testimony presented to the AHO is to be given under oath or solemn statement administered by the AHO. The Appellant and the City and County of Denver (the "City") may be represented by legal counsel. The Appellant and the City may present evidence and call and question witnesses and cross examine witnesses called by the other.*
- *If the Appellant appears at the scheduled hearing, the Denver Police Officer who issued the Suspension Notice to the Appellant or any other Denver Police Officer present when the Suspension Notice was issued shall be called to recount at the hearing the conduct of the Appellant that constituted a Violation and the basis for issuance of a Suspension Notice.*
- *The City shall bear the initial burden of proof to show that the Appellant committed a Violation and that the Suspension Notice was lawfully issued. The burden is satisfied through a preponderance of the evidence or testimony presented by the City at the hearing.*
- *Upon the AHO's determination that the City has satisfied this burden, the burden shifts to the Appellant to establish by countervailing testimony or evidence that there is factual or legal grounds for showing that the Appellant has not committed a Violation or that the Suspension Notice was not legally issued or was issued in violation of other law.*
- *The AHO shall have the right to continue the hearing for up to ten (10) calendar days from the date of the hearing, if requested by the Appellant or the City, in order for additional evidence or witnesses to be brought to the continued hearing. The Suspension Notice shall remain in effect during this continuance.*
- *The hearing shall be recorded by electronic means, and transcripts shall be made at the expense of the party requesting the transcript. All evidence presented at the hearing shall be kept and preserved until the applicable judicial appeal periods have lapsed or a judicial appeal has been completed.*

AHO Decision: Within five (5) calendar days following the conclusion of the hearing or the continued hearing, the AHO shall issue a written decision either sustaining the Suspension Notice or reversing the Suspension Notice and stating the grounds upon which the AHO reached this decision ("AHO Decision"). If the AHO should determine that there were mitigating circumstances, the AHO may shorten the duration of the Suspension under the Suspension Notice. If the AHO determines that the Violation did not occur in all of the City Parks and/or Cherry Creek Greenway identified on the Suspension Notice, the AHO may remove from Suspension those City Parks and/or the Cherry Creek Greenway where there was no Violation. If the AHO reverses the Suspension Notice, the Suspension shall immediately revoked. The AHO Decision shall be effective immediately upon issuance. A copy of the AHO Decision shall be promptly sent to the Appellant and the DPR Director. It shall be unlawful for any person to fail or refuse to comply with the AHO Decision.

Appeal of the AHO Decision: The AHO Decision shall be considered a final decision subject to judicial appeal. In the alternative, the AHO Decision may be appealed, in writing, to the DPR Director within fifteen (15) days of the date of the AHO Decision, in which case the decision of the DPR Director in response to this appeal shall be considered a final decision. In the event of an appeal to the DPR Director, the final decision shall be effective as of the date the Executive Director's written decision is issued. The DPR Director's decision shall be promptly sent to the Appellant. Judicial review shall be under Rule 106(a)(4) of the Colorado Rules of Civil Procedure upon the timely filing of an appeal to the Denver District Court. The Suspension Notice shall remain in effect during the duration of any appeal.

3. Exercise of Authority under Section 39-2 (g), DRMC:

The Executive Director of Parks and Recreation may adopt temporary directives without following the notice and hearing requirements of section 39-2, DRMC, if such action is necessary to comply with state, local or federal law or if it is deemed necessary by the adopting authority to protect immediately the public health, safety or welfare or to protect and preserve a park or other recreational facility. By the execution of this Directive 2016-1, the Executive Director finds and determines that the health and safety of the public and the preservation of the Parks facilities identified above require the adoption of this Directive. The complete text of this Directive will be filed with the Denver city clerk and a notice of adoption will be published.

4. Enforcement under DRMC Section 39-4:
It shall be unlawful for any person, other than authorized personnel, to engage in any use of or activities in any area or part of any park, parkway, mountain park or other recreational facility in violation of any directive issued by the manager restricting or prohibiting such use or activities.

This Directive 2016-1 can be enforced by the Denver Police Department. Nothing in this Directive is intended to restrict or override the application or enforcement of the Park Use Rules and Regulations or Article I of Chapter 39, DRMC, or other applicable law.

It is so determined and directed by the Executive Director of Parks and Recreation that the Directive set forth above shall be effective this 24th day of August, 2016, for the Duration of the Directive unless otherwise withdrawn by written order of the Executive Director of Parks and Recreation.

APPROVED AS TO FORM:

City Attorney
For the City and County of Denver

Patrick A. Wheeler
Assistant City Attorney

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF DENVER

Allegra "Happy" Haynes
Executive Director for Parks