



A YEAR WITHOUT SLEEP

The Criminalization of Sleep in Durango, Colorado

ACLU
Colorado

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

I. INTRODUCTION

Durango City leaders profess compassion toward people experiencing homelessness and a desire to “solve homelessness” in the City.¹ City representatives have intimated that they do not wish to make homelessness itself a criminal status, but only to enforce criminal laws when behavior by unhoused people threatens the safety and welfare of the community as a whole.² Yet, an analysis of twelve months of citations issued by Durango police for violations of the City’s ordinance banning camping in the city limits tells a starkly different story. Rather than policing harmful, criminal behavior, the Durango police are prohibiting unhoused people from simply sleeping in city limits.

While the Durango city code prohibits “camping” on public property, the police focus their enforcement on homeless individuals who are simply sleeping, usually without tents or shelter of any kind. The citations show a clear pattern of police nightly waking homeless people who are peacefully sleeping in an open space or park, telling those people that “sleeping” outdoors is illegal in Durango city limits, and then either ordering the individual to move on or ticketing that person for “camping.” In short, Durango police have stretched the City’s ban on “camping” to target a harmless behavior that homeless residents cannot avoid: sleep. Durango city leaders, who are currently considering changes to the City’s camping ordinance, should take an honest and clear-headed look at the cruelty of the enforcement actions described here, and they should chart a new, more compassionate course.

II. CRIMINALIZATION OF SLEEP IN DURANGO

Many unhoused Durango residents have no choice but to sleep outside. Still, Durango police regularly wake unhoused people in the middle of the night and ticket them or force them to move on. The message from the City to these vulnerable residents is clear: homeless people are not welcome in the city limits.

In short, Durango police have stretched the City’s ban on “camping” to target a harmless behavior that homeless residents cannot avoid: sleep.

A. MANY HOMELESS RESIDENTS OF DURANGO HAVE NOWHERE TO SLEEP BUT OUTDOORS.

Shelter space in Durango is limited and, by all accounts, plainly insufficient to accommodate the City’s homeless population.³ The two non-profit shelters in Durango are often at capacity and, even when they are not, many homeless people are unable to sleep there.⁴ Shelter rules exclude unhoused people who have a mate, a pet, an active addiction, or more possessions than they can carry, as well as those who have already exceeded a maximum six-week stay.⁵ In addition, some of the many unhoused people with mental illness are unable to withstand shelter living, because the tight living quarters exacerbate their mental illness.⁶ As a result, many homeless Durango residents are forced to live and sleep outdoors.

B. DURANGO ENFORCES ITS CAMPING BAN AGAINST UNHOUSED PEOPLE WHO ARE SIMPLY SLEEPING IN THE MIDDLE OF THE NIGHT.

In communications with the ACLU, the City expressed the view that police enforcement of the camping ordinance was focused on protecting the health and safety of community members, rather than on criminalizing or banishing people experiencing homelessness from the City. Unfortunately, a review of twelve months of camping citations issued by the City reveals a very different reality. The City's enforcement history paints a bleak picture of systematically turning homeless persons into criminals simply because they fall asleep within Durango city limits.

Durango's no-camping ordinance states: "It shall be unlawful for any person to knowingly lodge in or camp upon any public way, public park, public place, or public building."⁷ The ordinance does not define "lodge" or "camp," but common definitions of the word most often refer to sleeping outdoors with some shelter, such as a tent.⁸ Yet, Durango police consistently enforce the no-camping ordinance as if it prohibits simply sleeping outdoors, even without any shelter.

In a one year period, from August 2017 through July 2018, Durango police issued 98 camping citations.⁹ These citations drastically underrepresent enforcement of the camping ban, because Durango police regularly wake sleeping people in the middle of the night and, without issuing tickets, order them to "move on."¹⁰ Still, a review of the citations and their accompanying reports, while under-representative of the scope of enforcement, tells an important story.

"It's hard to find a place to sleep. The police tell us don't sleep in the parks and not by the river. You can't sleep here and you can't sleep there. The police told me I have to be 30 miles out of town to sleep. They say I can't camp in the city so I have to leave. They are kicking me out of my town."

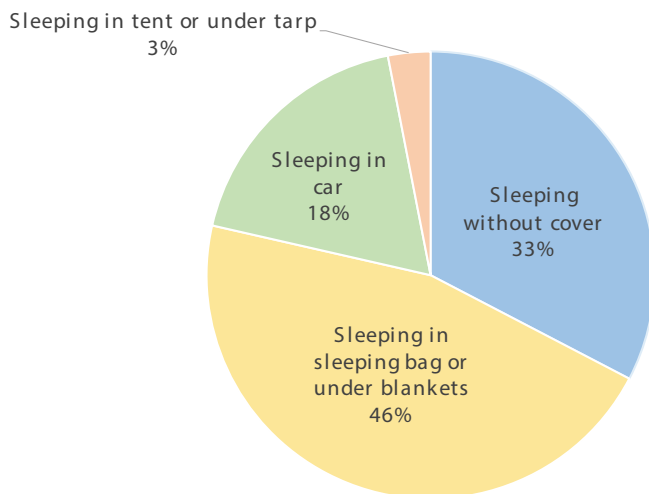
— Patty Noble, Durango resident since 1992

The citations show that Durango police rarely enforce the no-camping ordinance against people engaged in traditional camping with shelter; instead, enforcement is focused on people who are simply sleeping on the ground, with or without a blanket or sleeping bag. During the twelve-month period, police issued only three citations to individuals taking cover beneath a tarp or in a tent. In contrast, 32 citations (33% of total), were issued to persons sleeping on the ground without any cover whatsoever. 45 citations (46% of total), were issued to persons who were sleeping under a blanket or in a sleeping bag. 18 citations (18% total) were issued to individuals sleeping in their vehicles.

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This data reveals the true nature of Durango’s camping ban enforcement – it is not aimed at stopping homeless people from setting up long-term encampments or even setting up a tent for a single night. Instead, enforcement focuses almost exclusively on disrupting the simple act of sleeping within city limits. Indeed, virtually all of the citations reflect officers rousing people from sleep in the middle of the night when they were doing no harm to anyone, and while other Durango residents were permitted to sleep unmolested in their homes.¹¹

The chart below shows that Durango police rarely target traditional camping.



I. IN THE OFFICERS’ WORDS: SLEEP IS NOT PERMITTED IN DURANGO.

The citations clearly show that Durango police officers enforce the “no camping” ordinance as a “no sleeping” ordinance, making criminal the involuntary and harmless act that unhoused people cannot help but do: sleep. The examples below are taken directly from police narratives included in citations for camping.

- B.E. was sleeping in a sleeping bag hidden behind trees on public land when officers roused him at 2:41 a.m. and informed him that **“he was not allowed to sleep in the city limits of Durango.”**¹²
- H.M. and D.M., a married couple, were sleeping on the ground with no cover when they were awoken by an officer at 3:24 a.m. and told that **“they cannot just sleep out on the ground in the city of Durango.”**¹³
- J.G. and A.S. were sleeping in their vehicle in a public parking lot when an officer woke them at 3:13 a.m. **“Both individuals had been warned for sleeping inside city limits multiple different times by me.”** Although they were “cooperative,” J.G. and A.S. explained they “did not have enough gas money to move the vehicle and had been told by police previously that they could not drive the vehicle until they fixed the extensive damage to windshield.”¹⁴

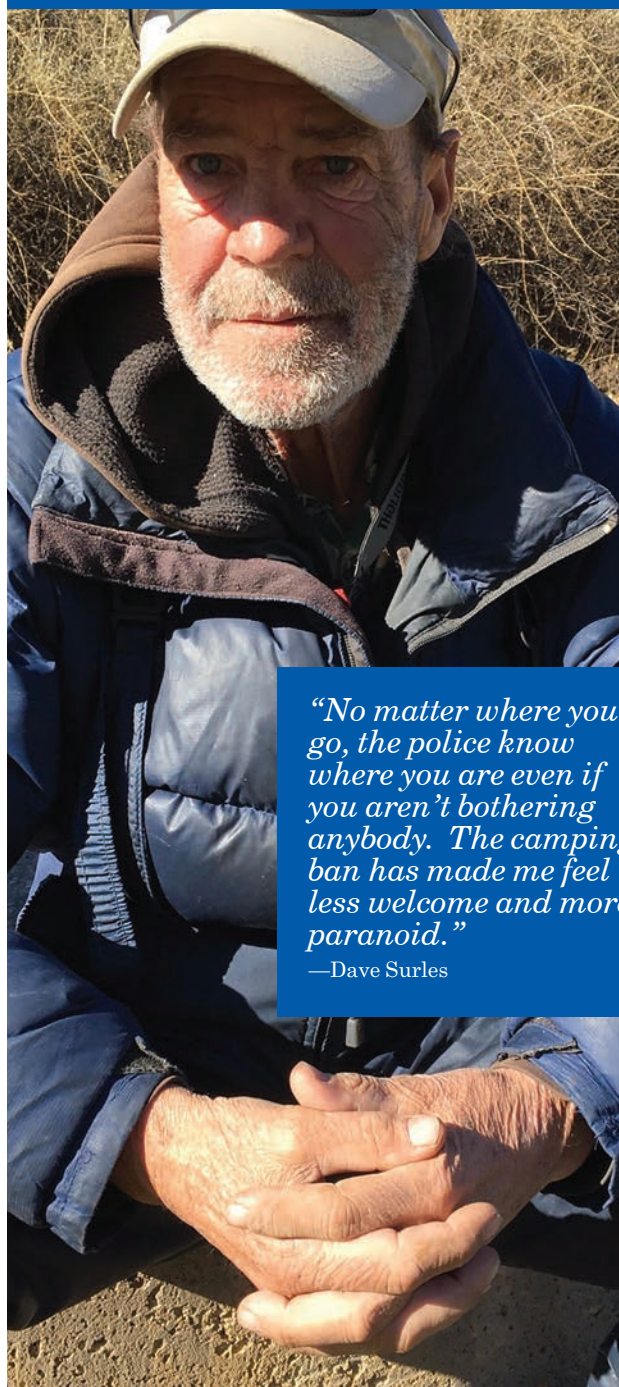
II. DURANGO'S POLICING OF SLEEP LEADS TO CRUEL AND ABSURD INTER-ACTIONS BETWEEN OFFICERS AND UNHOUSED PEOPLE.

To avoid a camping ticket, some people experiencing homelessness explain to officers that they did not mean to fall asleep, or they promise to sit up in order to avoid sleeping. In the examples below, had the unhoused person been able to stay awake, he would not have received a ticket.

- G.J. was asleep in a city park without cover when an officer woke him. **G.J. stated he would “sit up so that he would not fall asleep again.”** The officer “warned that if I came back and saw him sleeping, I would issue him a Municipal Summons.” When the officer returned to the park, G.J. was sleeping again, and the officer woke him again. G.J. complained of “extreme back pain.” Paramedics came to the scene and, after evaluation, transported G.J. to the hospital. The officer nonetheless ticketed G.J. for “camping.”¹⁵
- M.F. was asleep in his car parked on a street in Durango at 3:53 a.m. when a police officer saw him “sleeping inside.” When the officer asked what M.F. was doing, **“he stated that he did not mean to fall asleep.”** The officer noted that “I have contacted [M.F.] before for sleeping in city limits.” After the officer ticketed M.F. for camping, M.F. “drove away,” knowing there was nowhere he could legally sleep in Durango.¹⁶

“I think the police are good people and I respect them but I’m also just trying to sleep. They say it’s against city ordinance to sleep. I think we should have a right to sleep.”

—Dave Surles, Durango resident of seven years



“No matter where you go, the police know where you are even if you aren’t bothering anybody. The camping ban has made me feel less welcome and more paranoid.”

—Dave Surles

DAVE SURLLES, NOV. 10, 2018.

III. SLEEP DEPRIVATION CAUSED BY CAMPING BAN ENFORCEMENT IS HARMFUL TO DURANGO'S UNHOUSED RESIDENTS.

Making sleeping a crime threatens the physical and mental health of Durango's unhoused residents. Sleeplessness is linked to obesity, diabetes, hypertension, cardiovascular disease and immune suppression.¹⁷ Sleep loss impairs cognitive functions, resulting in memory loss, problems concentrating and confusion, thus hampering decision making and interpersonal skills.¹⁸ Sleep deprivation is also linked to worsening mental illness, such as depression and schizophrenia, increased drug and alcohol use and higher rates of violence and aggression.¹⁹

The exposed-to-the-elements sleeping that many homeless people must endure brings additional risks to health and safety. In colder climates, such as Durango, sleeping without adequate shelter may result in hypothermia and even death. Not having a secure place to sleep also adds considerable stress. A study in Toronto found that half of the homeless people surveyed slept less than six hours a night due to the fear of getting hurt or having possessions stolen, as well as chronic worry from having to find a safe place to sleep each night.²⁰ These ramifications associated with inadequate sleep compound to make it more difficult for homeless people to find work and access resources.²¹

PATTY NOBLE

Durango resident since 1992

The police and city say you can't sleep in the park so they will wake us up and tell us to go somewhere else. I can't sleep at night because the police harass me and so I try to sometimes sleep during the day and they don't let me do that either. But I need to sleep sometime.

When I don't sleep it makes my anxiety and depression worse. It's hard to get through the day when I'm just so tired. We are trying to get work and my boyfriend (also homeless) just got a job after months of trying. It's in construction so he needs to sleep in order to do that.

Without the camping ban, we could get enough sleep and not worry so much. If we could sleep, we would be healthier and more energized. We are walking around stressed because we can't sleep and we are so tired. You know, it makes me happy when I get enough sleep.



PATTY NOBLE, NOV. 10, 2018.



CHRIS ZELLER

Durango resident of 52 years

I have lived in Durango 52 of my 62 years. I grew up in this town and my daughter was born here. I got married and we lived in a trailer in the North of Durango. Then I bought a house and we lived in it for 25 years. I never locked my doors because you could trust anyone in this town. Then I got divorced and became disabled and my world fell apart. I had a small townhouse and was trying to raise my daughter. I never missed a payment on my child support. I ended up losing the townhouse. I had been in houses my whole life but the rising housing prices made it hard. Durango is a lot of peoples' dream spot so they move here, and the housing prices skyrocket.

Winter is coming, so I really want to find housing. The hardest part of being homeless is the winter when it's bitter cold. I have been on the list for section 8 subsidized housing. It's a two-and-a-half-year waitlist. You are only allowed to stay in the shelter for a few weeks at a time. I try to find other legal places to sleep – wherever the City says it's okay. But I never really know. **Every night you pitch your tent and take your chances.**

Some police tell homeless people they cannot sleep in the City. I have the utmost respect for law enforcement and sometimes they're friendly and helpful but I also know of some who harass homeless people and don't let them sleep. **I feel like I can't go anywhere.** After they tell me to move, I just pack up and move a quarter mile away. They'll keep giving us notices, telling us that we have to leave.

The camping ban is wrong. It's a misunderstanding with the city. We just want somewhere to sleep. I don't have the answer to homelessness, but I know that it is not going to go away. The City will have to deal with homelessness. The City has given lip service to homelessness for decades. Then they stopped caring.

C. DURANGO'S CAMPING BAN ENFORCEMENT IS PART OF A LARGER EFFORT TO PUSH UNHOUSED PEOPLE OUT OF THE CITY.

The City's practices in enforcing the camping ban are part of a years-long effort by City officials to protect tourists and housed residents from having to witness poverty and homelessness. Over the last several years, the wealth of Durango and its cost of living have increased dramatically, along with its rates of poverty and numbers of unhoused residents.²² Rather than addressing the root causes of homelessness, in recent years, City leaders have made concerted efforts to push unhoused people out of public places, out of sight and mind.

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A University of Denver report reveals the lengths to which the City of Durango has gone to banish and ostracize people experiencing homelessness.²³ Between 2010 and 2014, Durango more than doubled the number of citations it issued under ordinances that primarily target impoverished persons.²⁴ Until ACLU intervention in 2014, Durango was actively enforcing an unconstitutional anti-begging ordinance as another means to clear the downtown area of people experiencing homelessness.²⁵ Just last year, the Durango City Council passed a "sit/lie" ordinance, making it "unlawful for any person to sit, kneel, recline or lie down in the downtown business area upon any surface of any public

right-of-way."²⁶ While sitting on public benches remains lawful under the ordinance, in a particularly cruel twist, the City has been steadily removing public benches from the downtown area, specifically to discourage homeless people from being present downtown.²⁷ As Durango converts innocent activities like sleeping and sitting into crimes, it is no wonder that many of Durango's unhoused residents feel unwelcome.

"They just don't want us to be seen and they especially don't want the tourists to see us. I think the City Council should try being homeless for a while. Pretend their lost their job, lost their home and pretend they can't get into the shelter and then go camp in the woods. Before you understand someone you have to walk in their moccasins."

— Chris Zeller, Durango Resident of 52 years

D. THE CITY IS FAILING TO MEET ITS LEGAL AND HUMANITARIAN OBLIGATION TO UNHOUSED RESIDENTS.

In August of 2018, even as the City was shutting down its only authorized homeless camp, the Durango police were gearing up for increased enforcement of the camping ban.²⁸ However, on August 24, 2018, the day the City closed this camp, the American Civil Liberties Union of Colorado and the National Law Center on Homelessness and Poverty sent a letter warning the City that continued enforcement of the camping ban would violate the Constitution.²⁹ The letter explained that it is unconstitutional and cruel to make camping illegal in the City limits when homeless residents have no alternative shelter.

Ten days later, the Ninth Circuit issued an opinion affirming that the Eighth Amendment prohibits enforcement of laws prohibiting sleeping outside against people with no access to alternative shelter.³⁰ Ultimately, the court concluded: “[A]s long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.”³¹

In response to the letter, City officials instituted a temporary moratorium on enforcement of the ordinance between sunset and sunrise in certain designated open spaces.³² The moratorium is to remain in place while the City considers revisions to its City code. One thing the City has made clear, however, is that it has no intention of creating a safe, non-temporary location for homeless residents to live and sleep.³³ For the foreseeable future, then, many homeless residents of Durango will have no choice but to sleep outdoors.

“[A]s long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.”

— Martin v. Boise, Ninth Circuit (2018)

Durango’s temporary moratorium on enforcement of the camping ban is insufficient to meet the City’s legal and humanitarian obligations to unhoused residents. The temporary moratorium, while an improvement over full enforcement of the camping ban, does not address the needs of unhoused people to have a non-temporary place to sleep and stay

warm especially during winter months. The threat that Durango’s cold nights pose to Durango’s unhoused residents is real and extreme. Just last year a Boulder man experiencing homelessness who had been banned from the local shelter, died while sleeping outdoors.³⁴

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People who must winter outdoors in Durango need at least to be able to insulate their tent with additional tarps and blankets, which realistically requires a non-temporary place for their tent to remain set up. Under the moratorium, however, unhoused people must take down their shelter every morning before sunrise and carry it with them until sunset. This is particularly burdensome for the many unhoused Durango residents who are elderly and/or who have disabilities. Not only are these populations more at risk from the cold winter temperatures, but many are unable to physically put up, take down, and carry their tents on a daily basis.

“The City’s rules are that I have to take my tent down every morning and then put it back up at dark. I’m 70 years old and it’s really hard to do that every day. My gear weighs too much for me to walk around town with. Also, the rules ruin my survival gear. We just had three days of rain and everything is sopping wet. I have to take my sopping wet tent down, pack it and let it mold all day.”

— Dave Surles, Durango resident of seven years

E. DURANGO CITY LEADERS SHOULD CHART A NEW, INCLUSIVE AND COMPASSIONATE COURSE.

City leaders are currently considering changes to the city code to ensure compliance with the Constitution. Unfortunately, recently proposed rules appear to reflect an intention to do the absolute minimum to meet constitutional requirements, but it is doubtful the rules even accomplish that task.³⁵ Rather than crafting policies that approach homelessness with compassion, ingenuity and resources, the new proposed guidance sets up homeless residents for more sleeplessness and continuing interactions with the criminal justice system. City leaders, who profess an intent to effectively and compassionately address homelessness, should abandon the City's past enforcement path. That path has unnecessarily driven unhoused people into Durango's jail and courthouse and sent the message they are unwelcome in city limits.

All people need safe, accessible, legal places to be, both at night and during the day, and a place to securely store belongings. The National Law Center on Homelessness & Poverty has issued guiding principles, case studies, and model policies that can assist Durango in sensibly regulating public space while preventing³⁶ and ending homelessness.³⁷ Instead of passing new laws that make it a crime for a homeless person to sleep or sit or ask for help, the City should focus its efforts and resources on proven Housing First solutions to homelessness.³⁸

Housing First is premised on the idea that pairing homeless people with immediate access to their own housing – without barriers and without mandated compliance with services - is the best way to sustainably end their homelessness.³⁹ Under this model, homeless people are

quickly placed into permanent housing, supplemented by any supportive services necessary to help them maintain housing stability. There is a large body of research demonstrating that permanent housing combined with supportive services saves public resources, improves communities by reducing street homelessness, and improves the health and well-being of homeless people.⁴⁰ The State of Utah, which in 2005 was the first to apply the Housing First model state-wide, successfully reduced chronic homelessness by 91% and achieved significant tax dollar savings as a result.⁴¹

Instead of passing new laws that make it a crime for a homeless person to sleep or sit or ask for help, the City should focus its efforts and resources on proven Housing First solutions to homelessness.

A 2015 report on permanent supportive housing in Massachusetts showed that using a Housing First model is not only more effective at ending homelessness and improving formerly homeless persons' life and health quality, but it also was more cost effective than managing homelessness on the street or in shelter.⁴² Specifically, the report found that Massachusetts saved an average of \$9,339 per formerly homeless person.⁴³ Durango should redirect resources currently spent on criminalizing homelessness and, instead, adopt a Housing First approach to connect people with the homes and services they need to stay off of the streets for good.

Charleston, South Carolina provides a good example of how Housing First can work to end street homelessness.⁴⁴ In early

2016, Charleston, SC, dismantled a large encampment known as “Tent-City” of more than 100 homeless persons living beneath an overpass. To accomplish this, the mayor and city service providers developed a 10-point plan of assistance⁴⁵ which covered issues ranging from safety and legal concerns to treatment of personal property. Police worked collaboratively with social service workers, and priority was placed on providing permanent housing options. To support this work, the City launched a fund to collect private donations that were then used to reimburse local service providers working to house the encampment residents. Charleston successfully dismantled Tent-City without destroying a single item of claimed property or making a single arrest.⁴⁶ Moreover, Charleston accomplished this while preserving the rights and dignity of its unhoused residents.

Beloved Community Village, a pilot project in Denver’s RiNo district, demonstrates the impact that housing first, community centered solutions can have on ending homelessness. In July 2017, thirteen homeless residents moved into the eleven “tiny homes” that make up the village. Researchers at the University of Denver recently assessed the performance of the village concept and found that, of the twelve original residents who participated in the study (one person declined), ten remained housed through April 2018. Two residents had saved enough money to move into an apartment of their own, while an additional resident was approved for Section 8 rental assistance. All villagers remain employed or in school, with one resident collecting disability insurance. The village’s community model, where residents set their own rules for behavior and where houses face an open communal area, has improved the mental health of residents living there, as they report less

anxiety and an improved sense of well-being and safety. The study found 78% of residents living near the village thought its presence either did not hurt, or even helped, the neighborhood. This low-barrier housing-first model to support people experiencing homelessness has proven a success that several nonprofits plan to replicate throughout Denver.

“I know that real housing would be the best option because housing would change my life. I wouldn’t be on the street. My man is working construction so we can get on our feet, but it’s hard to get enough money together to get into housing. I have no choice but to be homeless.”
— Patty Nobel, Durango resident since 1992

III. CONCLUSION

A review of a year of camping citations makes plain that Durango police are actively pushing unhoused people out of city limits. City leaders are now in the process of rethinking and revising the city code as it affects people experiencing homelessness. They should examine the City’s past enforcement actions and chart a new, more effective and inclusive course.

IV. ACKNOWLEDGEMENTS

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ENDNOTES

1 Dick White, *White: Homelessness in Durango - When 'They' are 'Us,'* DURANGO HERALD (Feb. 24, 2018), <https://durangoherald.com/articles/210476> (“Durango is an extraordinarily generous community, supporting a host of nonprofit organizations, some of which are on the forefront of dealing compassionately with the poor and the homeless.”); *see also* Mary Shinn, *Durango City Council Candidate Melissa Youssef: Homelessness Must be Addressed Immediately*, DURANGO HERALD (Mar. 23, 2017), <https://durangoherald.com/articles/145309> (“Melissa Youssef believes that homelessness is the most pressing issue for Durango residents, and it must be addressed immediately. The city should take a leadership role . . .”).

2 These sentiments have been relayed by City representatives in communications with the ACLU. *See also* Melissa Youssef, *Complex Homeless Issue Weighs Heavily on Durango Residents*, YOUR FRONT ROW SEAT, <http://www.melissayoussef.com/homeless-issue-durango/> (last visited Dec. 10, 2018) (“We must support enforcement of local laws designed to protect business and personal property, and we must brainstorm appropriate social services to help homeless people move toward healthy independence.”).

3 *See, e.g.,* Mary Shinn, *Durango to Close Homeless Camp, Won't Provide New Location*, DURANGO HERALD (Aug. 18, 2018), <https://durangoherald.com/articles/237159> (“Durango does not have enough shelter space for everyone in need . . .”).

4 Telephone conversation between Rachel Bauske Frasure, Sw. Colo. Div. Dir., Volunteers for America, and Helen Griffiths, Pub. Pol’y Fellow, ACLU (Nov. 6, 2018).

5 *Id.*; Telephone conversation between Rachel Bauske Frasure, Sw. Colo. Div. Dir., Volunteers for America, and Helen Griffiths, Pub. Pol’y Fellow, ACLU (Aug. 25, 2018). Volunteers of America currently runs two shelters in Durango, which can accommodate a total of 70 people. Both shelters are high barri-

er – they do not accommodate any of Durango’s many unhoused residents with active addictions or pets. The maximum length of stay at the VOA shelter was three weeks until October 1st when it was expanded to a 6 week stay. *See also* Chase Olivarius-Mcallister, *Solution to Homelessness? Give Them a Place to Live*, DURANGO HERALD (July 20, 2015), <https://durangoherald.com/articles/1533>.

6 *Why Some Homeless Choose The Streets Over Shelters*, NPR (Nov. 6, 2012), <https://www.npr.org/2012/12/06/166666265/why-some-homeless-choose-the-streets-over-shelters>.

7 Durango Code of Ordinances § 17-57(e) (2003).

8 *See camping*, CAMBRIDGE DICTIONARY <https://dictionary.cambridge.org/us/dictionary/english/camping> (last visited Dec. 10, 2018) (“The act of staying and sleeping in an outside area for one or more days and nights, usually in a tent”); *Camping*, Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/camp> (last visited Dec. 10, 2018) (“A place usually away from urban areas where tents or simple buildings (such as cabins) are erected for shelter or for temporary residence (as for laborers, prisoners, or vacationers)”); *Camping*, DICTIONARY.COM, <https://www.dictionary.com/browse/camping> (last visited Dec. 10, 2018) (“The act of staying and sleeping in an outside area for one or more days and nights, usually in a tent; Any temporary structure, as a tent or cabin, used tent, or camper”); *Camping*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Camping> (last visited Dec. 10, 2018) (“Camping is an outdoor activity involving overnight stays away from home in a shelter, such as a tent”).

9 The Durango Police Department provided the citations to the ACLU in response to a public records request.

10 In numerous citations, the police officers note that they are citing an individual after previous move-on orders and warnings. It is hard to know how many times the police woke up and pushed individuals onward because the Durango Police Department does not keep track of move-on orders or warnings.

11 The majority of citations were issued at night; police issued 87 citations between 6pm and 6am and 57% of citations between 12am and 4am.

12 Incident No. P18-18205. (June 13, 2018).

13 Incident No. P18-18213. (June 13, 2018).

14 Incident No. P17-32464. (Oct. 30, 2017).

15 Incident No. P18-14357. (May 12, 2018).

16 Incident No. P18-18216. (Aug. 29, 2018).

17 HEALING HANDS, SUFFICIENT SLEEP: A NECESSITY, NOT A LUXURY (Spring 2014), <http://www.nhchc.org/wp-content/uploads/2014/03/spring2014healinghands.pdf>; Kristen L. Knutson et al., *Associations between sleep loss and increased risk of obesity and diabetes* 287-304, ANNALS N.Y. ACAD. SCI. 1129(1) (MONTH YEAR); S. M. Schmid et al., *The metabolic consequences of sleep deprivation*, SLEEP MED. REV. 11.3 163-78 (2007).

18 HEALING HANDS, *supra* note 17.

19 N. Tsuno, A. Besset, & K. Ritchie, *Sleep and Depression*, J. CLINICAL PSYCHIATRY 66(10), 1254-69 (2005); E. L. Bliss, L. D. Clark, & C. D. West, *Studies of sleep deprivation—relationship to schizophrenia*, AMA ARCHIVES NEUROLOGY & PSYCHIATRY 81(3) 348-59 (1959); *Id.* (“They often lack a safe place to sleep, which can start a pattern of taking drugs—methamphetamine, for example—to stay awake at night and then using alcohol, marijuana, or heroin to sleep”); Jeanine Kamphuis et al., *Poor sleep as a potential causal factor in aggression and violence*, SLEEP MED. 13.4, 327-34 (2012).

20 HEALING HANDS, *supra* note 17.

21 Erica Sweeney, *Sleep Deprivation Is an ‘Unrecognized Problem’ for Homeless People*, REWIRE NEWS (Sept. 27, 2018), <https://rewire.news/article/2018/09/27/sleep-deprivation-is-an-unrecognized-problem-for-homeless-people/>.

22 Ann Butler, *No Place to Call Home*, DURANGO HERALD (July 18, 2015), <https://durangoherald.com/articles/1539>. While

it is hard to know precisely how many unhoused people there are in Durango, it is clear that the numbers are rising. MEGHAN HENRY ET AL., THE 2017 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS (Dec. 2017); Tom McGhee *Homelessness rises in Colorado in 2017, but Denver's count dropped*, DEN. POST (Dec. 6, 2017), <https://www.denverpost.com/2017/12/06/colorado-homelessness-2017/>; Assoc. Press, *Durango Residents Advocate for Homeless Campground*, DEN. POST (July 15, 2017), <https://www.denverpost.com/2017/07/15/durango-homeless-campground/>. The dramatic rise of food insecurity demonstrates this: in 2003, Durango's Manna Soup Kitchen served fewer than 30,000 meals; in 2014, it served 70,000 meals. David Chambers, *Too High a Price: What Criminalizing Homelessness Costs Colorado: Durango City Spotlight*, UNIV. DEN. STURM COLL. OF LAW, HOMELESS ADVOCACY POLICY PROJECT, <https://www.law.du.edu/documents/homeless-advocacy-policy-project/Durango-Spotlight.pdf> (last visited Dec. 10, 2018) [hereinafter "*Too High a Price*"].

23 *Too High a Price*, *supra* note 22.

24 *Id.*

25 Chuck Slothower, *Durango's Loitering Law Questioned by Group*, DURANGO HERALD (Nov. 11, 2014), <https://durangoherald.com/articles/79074>.

26 Durango Code of Ordinances § 7.60 (2003). See ACLU Statement on Durango's Anti-Homeless 'Sit-Lie' ordinance, ACLU (May 16, 2018), <https://www.aclu.org/news/aclu-statement-durangos-anti-homeless-sit-lie-ordinance>.

27 Mary Shinn, *Homeless People Motivate Businesses to Move Benches*, DURANGO HERALD (May 21, 2015) <https://durangoherald.com/articles/89466>.

28 Mary Shinn, *Camp Closure Leaves Durango's Homeless Without Options*, DURANGO HERALD (Aug. 30, 2018), <https://durangoherald.com/articles/239061>; Mary Shinn, *Durango City Council: Homeless Camp Rules Must Be Upheld*, DURANGO HERALD (Jul. 25 2018) <https://durangoherald.com/articles/233342>.

29 See Letter from ACLU and Nat'l Law Ctr. on Homelessness & Poverty to Durango City Council (Aug. 24, 2018).

30 *Martin v. City of Boise*, 902 F.3d 1031, 1041 (9th Cir. 2018). Importantly, the panel judges noted that, although the challenged camping laws were amended to prohibit the City from enforcing the ordinances when the shelters were full, individuals could still be turned away for reasons other than shelter capacity, such as for exceeding the shelter's stay limits or failing to take part in the shelter's mandatory religious programs.

31 *Id.* at 1048. This conclusion comports with arguments made by the Department of Justice in the Statement of Interest filed in this case. Statement of Interest of the United States, *Bell v. Boise*, 2015 U.S. Dist. LEXIS 134129 (D. Idaho Sept. 28, 2015) (No. 1:09-cv-00540).

32 Bret Hauff, *Durango Stops Enforcing Camping Ban at Night*, DURANGO HERALD (Sept. 27, 2018), <https://durangoherald.com/articles/243059>.

33 Mary Shinn, *Durango City Council Proposes Homeless Shelters Instead of a Camp*, DURANGO HERALD (Feb. 16, 2018), <https://durangoherald.com/articles/209051> ("For Councilor Sweetie Marbury, the idea of a legalized campground no matter where it is located is unfavorable. 'I don't want to be a magnet,' Marbury said."); Mary Shinn, *Durango to Close Homeless Camp, Won't Provide New Location*, DURANGO HERALD (Aug. 18, 2018), <https://durangoherald.com/articles/237159> ("The city of Durango has no plans to provide overnight camping for homeless residents after Aug. 24 . . . 'The city is not in the business of having a homeless shelter,' said Mayor Sweetie Marbury.").

34 Alex Burness, *Homeless man found dead in Boulder had been banned from shelter*, DEN. POST (Jan. 4, 2018), <https://www.denverpost.com/2018/01/04/dead-homeless-man-banned-boulder-shelter/>.

35 See Letter from ACLU and Nat'l Law Ctr. on Homelessness & Poverty to Durango City Council (Nov. 30, 2018).

36 See e.g., NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, PROTECT TENANTS, PREVENT HOMELESSNESS (2018), <https://www.nlchp.org/ProtectTenants2018>.

37 See e.g., NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS: ENDING THE CRIMINALIZATION OF HOMELESSNESS (2016) [hereinafter HOUSING NOT HANDCUFFS]; see also NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, TENT CITY USA: THE GROWTH OF AMERICA'S HOMELESS ENCAMPMENTS AND HOW COMMUNITIES ARE RESPONDING (2018) [hereinafter "TENT CITY USA"]; see also NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS MODEL POLICIES (YEAR), <http://housing-nothandcuffs.org/policy-solutions/>. <https://durangoherald.com/articles/246721>.

38 See e.g., Don Burnes, *Move Along to Where? Durango Must Look to Other Cities for Ways to Answer the Question*, DURANGO HERALD (Oct. 20, 2018), <https://durangoherald.com/articles/246721>.

39 HOUSING NOT HANDCUFFS at 47.

40 *Id.*

41 Kelly McEvers, *Utah Reduced Chronic Homelessness By 91 Percent; Here's How*, NPR (Dec. 10, 2015), <https://www.npr.org/2015/12/10/459100751/utah-reduced-chronic-homelessness-by-91-percent-heres-how>.

42 MASS. HOUSING & SHELTER ALL., PERMANENT SUPPORTIVE HOUSING: A SOLUTION DRIVEN MODEL (Jan. 2015), <https://www.mhsa.net/sites/default/files/January%202015%20HHG%20Report.pdf>.

43 *Id.*

44 TENT CITY USA at 46.

45 *Id.* at 106.

46 *Id.* at 50.

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