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6 IN THE SUPERIOR COURT OF WASHINGTON
7 FOR SPOKANE COUNTY

8 DONNELL L. CURRIE; CLIFFORD J.
9 MOORE; and JEWELS HELPING HANDS, a
nonprofit organization.

10 Plaintiffs,

11 v.

12 THE CITY OF SPOKANE; BETSY
13 WILKERSON, in their official capacity of City
14 Council President; JONATHAN BINGLE, in
15 their official capacity of City Council Member;
16 MICHAEL CATHCART, in their official
17 capacity of City Council Member; PAUL
DILLON, in their official capacity of City
Council Member; LILI NAVARRETE, in their
official capacity of City Council Member;
ZACK ZAPPONE, in their official capacity of
City Council Member; KITTY KLITZKE, in
their official capacity of City Council Member.

18 Defendants.
19

No.

COMPLAINT

20 **I. INTRODUCTION**

21 1. Homelessness is not a crime. While homelessness is not a crime, laws which punish
22 acts that are inextricable from the condition of lacking a home, such as sleeping and living outside,
23 criminalize homelessness.
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25 2. The Spokane laws which criminalize homelessness impose cruel punishment in
26 violation of Article I, section 14 of the Washington Constitution.
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1 3. This case is brought on behalf of currently and formerly unhoused Spokane
2 residents and a local organization that has dedicated itself to serving and working with Spokane’s
3 unhoused community. Together, these Plaintiffs come before this Court to enforce Washington’s
4 constitutional protection against cruel punishment.

5 4. Plaintiffs seek an order from this Court declaring two Spokane laws
6 unconstitutional. Plaintiffs recognize that if our State’s constitutional prohibition on cruel
7 punishment means anything, it means that our poorest neighbors—those who lack a home, those
8 who live and sleep outdoors—cannot be punished for being unhoused. Simply put, because
9 homelessness is not a crime, being subject to criminal penalties for acts that are inextricable from
10 being homeless is cruel and such punishments are unconstitutional.

11 5. It is difficult to measure homelessness. The most common method for measuring
12 homelessness in the United States is the “Point-in-Time Count,” colloquially referred to as PIT, or
13 PIT counts. The PIT “is a count of sheltered and unsheltered people experiencing homelessness
14 on a single night in January.”¹ While scholars, policymakers, and advocates rely on PIT counts for
15 an approximated understanding of the scope of the homelessness crisis facing our nation, it is
16 generally accepted that the PIT numbers undercount our unhoused population.² Nonetheless, based
17 on the 2023 PIT count, HUD estimates that in the United States more than 650,000 people
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22 ¹ HUD Exchange, *Point-in-Time Count and Housing Inventory Count*, HUDEXCHANGE.INFO,
23 <https://www.hudexchange.info/programs/hdx/pit-hic/#2024-pit-count-and-hic-guidance-and-training>.

24 ² United States Government Accountability Office, *Homelessness: Better HUD Oversight of Data Collection Could*
25 *Improve Estimates of Homeless Population*, GAO.GOV (July 14, 2020), <https://www.gao.gov/products/gao-20-433>.
26 See also Gregg Colburn & Clayton Page Aldern, *Homelessness Is a Housing Problem: How Structural Factors*
27 *Explain U.S. Patterns*, UNIVERSITY OF CALIFORNIA PRESS, 4 (2022); *Johnson v. City of Grants Pass*, 50 F.4th 787,
795 n.7 (9th Cir. 2022) (“Courts and experts note that PIT counts routinely undercount homeless persons, but they
appear to be the best available source of data on homelessness.”) (citing *Martin v. City of Boise*, 920 F.3d 584, 604
(9th Cir. 2019), *abrogated by City of Grants Pass, Oregon v. Johnson*, No. 23-175, 2024 WL 3208072 (U.S. June
28, 2024)).

1 experience homelessness on a given night.³ That number represents a 12 percent increase from the
2 2022 PIT count.

3 6. HUD also estimates that at least 28,000 Washingtonians experienced homelessness
4 in 2023.⁴ Based on the most recent analysis, in 2023, Spokane was home to about 2,390 unhoused
5 people (36% increase from 2022), with 955 individuals experiencing unsheltered homelessness.⁵
6

7 7. Homelessness disproportionately harms Black and Indigenous people, and people
8 of color.⁶ For example, in Washington, Black people represent 4.5% of the state's total population
9 but make up almost 17% of the homeless population.⁷ This disproportionate impact has also been
10 documented in Spokane. According to Spokane's 2023 PIT count, of the 2,390 unhoused people
11 in the City, 187 people identify as American Indian or Alaska Native; 173 people identify with
12 multiple races; 166 people identify as Black or African American; 60 people identify as Native
13 Hawai'ian or Pacific Islander; and 21 people identify as Asian.⁸ In sum, while Spokane is 82%
14 white, a quarter of the City's unhoused population identify as Black, Indigenous, or as people of
15 color.⁹
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20 ³ HUD Press Room, *HUD Releases January 2023 Point-in-Time Count Report*, HUD.GOV (Dec. 15, 2023),
21 https://www.hud.gov/press/press_releases_media_advisories/hud_no_23_278. *See also*, HUD, *The 2023 Annual*
22 *Homelessness Assessment Report (AHAR) to Congress*, 2 (Dec. 2023).

23 ⁴ HUD Office of Community Planning and Development, *2023 Annual Homelessness Assessment Report to Congress*,
24 16 (Dec. 2023), <https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf>.

25 ⁵ City of Spokane Community Housing and Human Services, *Point-in-Time 2023*,
26 <https://static.spokanecity.org/documents/chhs/cmisdashboards/2023-pit-dashboards.pdf>. *See Total Persons; see*
27 *also Unsheltered Persons*.

⁶ Anna Patrick, *HUD reports record-high homeless count in 2023 for U.S., WA*, SEATTLE TIMES (Dec. 19, 2023),
[https://www.seattletimes.com/seattle-news/homeless/hud-reports-record-high-homeless-count-in-2023-for-u-s-](https://www.seattletimes.com/seattle-news/homeless/hud-reports-record-high-homeless-count-in-2023-for-u-s-wa/)
[wa/](https://www.seattletimes.com/seattle-news/homeless/hud-reports-record-high-homeless-count-in-2023-for-u-s-wa/).

⁷ *Id.*

⁸ *Supra* n.5 at *Total Persons—Race*.

⁹ U.S. Census Bureau *QuickFacts*: Spokane City, Washington,
<https://www.census.gov/quickfacts/fact/table/spokanecitywashington/PST045223>.

1 8. Spokane has criminalized homelessness by targeting its proxy, meaning that
2 Spokane punishes conduct that is inextricable from the condition of being homeless. Spokane has
3 three laws that punish its unhoused residents for being too poor to have a fixed address like a house
4 or an apartment. Spokane Municipal Code 12.02.1010, *Unauthorized Camping on Public*
5 *Property*, makes camping, and sleeping, on public property a misdemeanor. Spokane Municipal
6 Code 10.60.020, *Sitting, Lying on Sidewalk in a Designated Zone*, makes sitting or lying between
7 6:00AM and 12:00AM on public property that is encompassed by the designated zone a
8 misdemeanor. Relatedly, Spokane Municipal Code 12.02.1011, *Removal of Unauthorized*
9 *Encampments and Individual Camps*, authorizes the City to remove, destroy, or, at times, store the
10 property of individuals who have been cited under SMC 12.02.1010, or who have otherwise been
11 removed from the location where their belongings were located.
12

13 9. Spokane's efforts to criminalize homelessness date back to at least 2014, when the
14 City's first "Sit and Lie" ordinance took effect.¹⁰ In the years following its passage, enforcement
15 of the Sit and Lie law was intermittently suspended, but has since resumed.¹¹ Despite periods of
16 suspended enforcement, hundreds of Spokane's residents have been cited under the Sit and Lie
17 law.¹²
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21 ¹⁰ See Heidi Groover, *Why people camping out for the new iPhone won't be cited under the sit-lie law*, INLANDER
22 (Sep. 18, 2014), <https://www.inlander.com/Bloglander/archives/2014/09/18/why-the-people-camping-out-for-the-new-iphone-wont-be-cited-under-the-sit-lie-law>; Union-Bulletin Editorial Staff, *Two years in, homeless feel targeted by Spokane's sit-lie law*, WALLA WALLA UNION-BULLETIN (Dec. 14, 2015).

23 ¹¹ Celina Van Hyning, *Sit-and-lie v. Illegal camping: What's the difference between Spokane's two ordinances?*,
24 KREM (Sep. 8, 2022), <https://www.krem.com/article/news/local/homeless/spokane-sit-and-lie-illegal-camping/293-bfc27331-4909-4d73-8872-dc3c291473b9>.

25 ¹² Compare Ryan Simms, *Tickets for Spokane sit-and-lie ordinance drop substantially since 2014*, KREM (Oct. 10,
26 2017), <https://www.krem.com/article/news/local/spokane-county/tickets-for-spokane-sit-and-lie-ordinance-drop-substantially-since-2014/293-482419201> with Samantha Wohlfeil, *More than half of Spokane's sit-lie citations have been handed down in 2018*, INLANDER (Sep. 17, 2018), <https://www.inlander.com/news/more-than-half-of-spokanes-sit-lie-citations-have-been-handed-down-in-2018-12561736>.
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1 10. Spokane’s unlawful camping law was first passed in May of 2018 as ordinance
2 C35615.¹³ The unlawful camping law was recently subject to a ballot proposal which approved a
3 significant expansion of the city areas in which unhoused people will be subject to criminal
4 penalties for sleeping outside.¹⁴ It has been suggested that the expansion of the City’s unlawful
5 camping law “effectively prohibit[s] homelessness from existing within the boundaries of the
6 city.”¹⁵

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8 11. In 2024 alone, Spokane has prosecuted at least 114 cases of unlawful camping and
9 sitting and lying violations. And in 2023, Spokane prosecuted at least 107 unlawful camping cases.

10 12. The criminalization of homelessness threatens to degrade the physical and mental
11 health of unhoused people,¹⁶ and although their circumstances are born of poverty and our
12 collective failure to invest in affordable housing,¹⁷ rather than address the core causes of
13 homelessness, cities that punish the unhoused elect to stigmatize our poorest neighbors.¹⁸
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16 ¹³ City of Spokane, Washington, *Ordinance No. C35615*, OFFICIAL GAZETTE 108(20), 651 (May 16, 2018),
17 <https://static.spokanecity.org/documents/officialgazettes/2018/05/official-gazette-2018-05-16.pdf>. *See also* Kip
18 Hill, *Residents of homeless camps in Spokane to be directed to shelters under new law*, THE SPOKESMAN-REVIEW,
19 (May 8, 2018), <https://www.spokesman.com/stories/2018/may/08/residents-of-homeless-camps-in-spokane-to-be-direc/>.

20 ¹⁴ *See Jewels Helping Hands v. Hansen*, 29 Wn.App.2d 1, 539 P.3d 68 (2023), *review granted*, 549 P.3d 115 (Wn.
21 2024).

22 ¹⁵ Robert Sauders, *How the Proposed Anti-Encampment Initiative Impacts the City of Spokane*, LINKEDIN (Oct. 2,
23 2023), <https://www.linkedin.com/pulse/how-proposed-anti-encampment-initiative-impacts-city-spokane-sauders/?trackingId=5ikpIrKH0DefaLC19I9OYw%3D%3D>.

24 ¹⁶ *See e.g.*, Marisa Westbrook & Tony Robinson, *Unhealthy by Design: Public Health Consequences of Denver’s Criminalization of Homelessness*, DENVER HOMELESS OUT LOUD (2019), <https://perma.cc/Y7R5-UC3G>; Joshua A. Barocas, et al., *Population-Level Health Effects of Involuntary Displacement of People Experiencing Unsheltered Homelessness Who Inject Drugs in US Cities*. 329(17) JAMA, E8 (2023), https://jamanetwork.com/journals/jama/fullarticle/2803839?utm_campaign=articlePDF&utm_medium=articlePDF&utm_source=articlePDF&utm_content=jama.2023.4800; National Health Care for the Homeless Council, *Issue Brief: Impact of Encampment Sweeps on People Experiencing Homelessness*, NHCHC.ORG, 3-4 (Dec. 2022), <https://nhchc.org/wp-content/uploads/2022/12/NHCHC-encampment-sweeps-issue-brief-12-22.pdf>.

25 ¹⁷ *See* GREGG COLBURN & CLAYTON PAGE ALDERN, HOMELESSNESS IS A HOUSING PROBLEM: HOW STRUCTURAL FACTORS EXPLAIN U.S. PATTERNS. 7-10, 142-144 (2022).

26 ¹⁸ *See* Sara K. Rankin, *Punishing Homelessness*, 22 NEW CRIM. L. REV. 99, 103-4 (2019). *See also* Johanna Reilly, et al., *A systematic review of the effect of stigma on the health of people experiencing homelessness*, 30(6) HEALTH & SOCIAL CARE IN THE COMMUNITY (2022).

13. We know that experiencing homelessness shortens one's lifespan,¹⁹ Washington's highest Court has acknowledged that homelessness is traumatizing,²⁰ and our Legislature has explained that the underlying causes of homelessness exceed an individual's control.²¹ Yet, Spokane's unlawful camping and sitting and lying laws criminalize the very existence of its unhoused residents, and make life on the street more traumatizing, chaotic, debilitating, and dangerous. Ultimately, Spokane's criminalization of homelessness dehumanizes the City's unhoused residents by punishing them for sitting, lying down, and sleeping outdoors—conduct that is an inextricable from experiencing homelessness and extreme poverty.

II. PARTIES

14. **Plaintiff Donnell L. Currie** was raised in Spokane. Later in her life, Donnell moved to Vancouver, Washington, where she became the owner-entrepreneur of Donnell's Bar. When her mother fell ill, Donnell moved to Phoenix, Arizona to care for her. Upon her mother's death, Donnell moved to California with her adult son, and then later relocated to Spokane. Due to a number of reasons, after she moved to Spokane, she and her son were forced to live out of her car. Donnell recalls that she first became homeless in 2023.

¹⁹ National Health Care for the Homeless Council, *National Homeless Mortality Overview*, NHCHC.ORG, 3 (2020), <https://nhchc.org/wp-content/uploads/2020/12/Section-1-Toolkit.pdf> (in one example, the life of an unhoused person was calculated as 33% shorter than the national life expectancy); Bruce D. Meyer, Angela Wyse & Ilina Logani, *Life and Death at the Margins of Society: The Mortality of the U.S. Homeless Population*, NATIONAL BUREAU OF ECONOMIC RESEARCH, 27 (Nov. 2023), <https://www.nber.org/papers/w31843> (“a 40-year-old homeless person faces a mortality risk similar to a housed person nearly twenty years older.”). *See also* Rebecca T. Brown, et al., *Factors Associated with Mortality Among Homeless Older Adults in California: The HOPE HOME Study*, 182(10) JAMA INTERN MED. (2022).

²⁰ *State v. City of Sunnyside*, 550 P.3d 31, 2024 WL 3058780, at *9 (Wn. June 20, 2024).

²¹ See RCW 43.185C.005 (“The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.”).

1 15. For Donnell, congregate shelters were not a viable option. Her son is
2 neurodivergent, and she knew the chaotic and crowded setting of congregate shelters would be
3 overwhelming to his sensitivity and thus, threaten his well-being. Additionally, Donnell feared
4 being victimized at shelters, as she knew them to be settings where rape and assaults occur. Donnell
5 also did not want her son to be in a setting where drug overdoses happen and where infectious
6 diseases threaten the health of residents.
7

8 16. Donnell was cited for unlawful camping pursuant to Spokane Municipal Code
9 12.02.1010 on September 18, 2023. Donnell recalls police arriving at the location where she and
10 her friends were residing only ten minutes after she had parked her vehicle. After Donnell was
11 cited for unlawful camping, she was told by police to leave the area.
12

13 17. Subject to Spokane's criminalization of homelessness, while being unhoused,
14 Donnell was constantly stressed. Donnell survived on the streets by relying on her vehicle as a
15 home, for protection from the elements, and as a space to keep her belongings. Donnell's vehicle
16 thus helped to shelter her dignity from the traumatic experience that is being unhoused. Fearing
17 property destruction by police and the threat that her vehicle may be towed or broken into if ever
18 left unattended, Donnell was constantly on alert. She reports being routinely woken up by police
19 in the middle of the night and driving around in the hopes of avoiding police patrols aimed at
20 enforcing the unlawful camping law. As a result, during the estimated year in which Donnell
21 experienced homelessness in Spokane, she barely slept.
22

23 18. Donnell resides in Spokane and is a taxpayer in Washington.

24 19. Donnell objects to the use of taxpayer funds to implement Spokane Municipal
25 Codes 12.02.1010, 10.60.020, and 12.02.1011 that unconstitutionally criminalize homelessness.
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1 20. Donnell has decided to bring this case in an effort to fight for the humanity of
2 unhoused people.

3 21. **Plaintiff Clifford J. Moore** grew up in Texas. He moved to Spokane in 2016. A
4 few months after moving to Spokane, Cliff lost his housing. Currently, Cliff is unhoused in
5 Spokane. He possesses a few items of clothing, a sleeping bag, and a tarp that he utilizes to shield
6 himself from the elements.

7 22. While experiencing homelessness in Spokane, Cliff has utilized beds available at
8 the City’s congregate shelters. Cliff reports experiencing traumatic events at City shelters. He has
9 witnessed violent attacks go unaddressed and abuse of unhoused individuals perpetrated by shelter
10 staff.

11 23. Cliff was cited for unlawful camping pursuant to Spokane Municipal Code
12 12.02.1010 during the night of April 26, 2024.²² Cliff reports that police gave him just a few
13 minutes to collect whatever belongings he could carry with him before leaving the area, and that
14 as a result of this incident, he lost personal property such as many clothing items.

15 24. Additionally, Cliff reports that after Spokane cited him for unlawful camping, he
16 was displaced, and had to roam the city streets for hours in the dark, nervous of another police
17 interaction, and unsure where he could go to rest for the night.

18 25. Cliff was also cited for a Sitting and Lying violation pursuant to Spokane Municipal
19 Code 12.60.020 during the night of May 14, 2024.²³

20 26. Cliff resides in Spokane and is a taxpayer in Washington.

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26 ²² The case number for this citation is 4A0189115. This case has since been transferred out of Community Court.

27 ²³ The case number for this citation is 4A0394563. On May 17, Spokane amended its complaint and charged this
 matter as a “pedestrian/vehicular interference violation” per Spokane Municipal Code 10.60.010.

1 27. Cliff objects to the use of taxpayer funds to implement Spokane Municipal Codes
2 12.02.1010, 10.60.020, and 12.02.1011 that unconstitutionally criminalize homelessness. Cliff
3 remains unhoused in Spokane, and he struggles to meet his basic needs of food, hygiene,
4 healthcare, adequate clothing and supplies, and protection from the elements.

5 28. Cliff is bringing this case because he wants to prevent what happened to him from
6 happening to anyone else, and because he wants to see the constitutional rights of unhoused people
7 vindicated.
8

9 29. **Plaintiff Jewels Helping Hands** is a state-registered nonprofit organization,
10 founded in 2019 and based out of Spokane. Jewels Helping Hands is dedicated to serving
11 Spokane’s unhoused population by both providing for their material well-being and by advocating
12 with them and on their behalf in governmental forums. Jewels Helping Hands’ mission is to
13 “ensure people who are houseless have their basic needs met—to survive, thrive, and connect to
14 community resources.”²⁴ The organization pursues this mission “[t]hrough kindness, compassion,
15 and respect.”²⁵
16

17 30. Jewels Helping Hands operates under the laws of Washington State and is a
18 taxpayer in Washington.

19 31. Jewels Helping Hands objects to the use of taxpayer funds to implement Spokane
20 Municipal Codes 12.02.1010, 10.60.020, and 12.02.1011 that unconstitutionally criminalize
21 homelessness.
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26 ²⁴ Jewels Helping Hands, *Our Mission*, <https://www.jewelshelpinghands.org/>.

27 ²⁵ *Id.*

1 32. The staff of Jewels Helping Hands conduct daily direct outreach with unhoused
2 residents throughout the city and operate shelters. In addition, the organization “provide[s] a wide
3 variety of services including a warming center, street medical teams, mobile outreach, food, mobile
4 showers, hygiene supplies, and connection to community resources and services.”²⁶

5 33. The Jewels Helping Hands community is composed of currently and formerly
6 unhoused people. In addition, many of the staff members of Jewels Helping Hands have personal
7 lived experience with homelessness.

8 34. In accordance with its organizational purpose, Jewels Helping Hands is bringing
9 this case in the hopes that it will halt the criminalization of homelessness in Spokane and “ensure
10 all people are treated with dignity and respect.”²⁷

11 35. **On July 25, 2024, Plaintiffs, though counsel, made a demand upon Attorney**
12 **General Bob Ferguson** to bring suit against Defendants regarding the constitutional violations
13 arising from these ordinances. *See* Exhibit A.

14 36. On July 29, 2024, Attorney General Ferguson declined to take action. *See* Exhibit
15 B.

16 37. **Defendant City of Spokane** is a municipality and a political subdivision of the
17 State of Washington.

18 38. **Defendant Betsy Wilkerson** is a City Council Member and President of the
19 Spokane City Council.

20 39. **Defendant Jonathan Bingle** is a City Council Member of the Spokane City
21 Council.

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²⁶ *Id.* at *Our Programs*.

²⁷ *Id.* at *Core Values*.

1 40. **Defendant Michael Cathcart** is a City Council Member of the Spokane City
2 Council.

3 41. **Defendant Paul Dillon** is a City Council Member of the Spokane City Council.

4 42. **Defendant Lili Navarrete** is a City Council Member of the Spokane City Council.

5 43. **Defendant Zack Zappone** is a City Council Member of the Spokane City Council.

6 44. **Defendant Kitty Klitzke** is a City Council Member of the Spokane City Council.

7 **III. JURISDICTION AND VENUE**

8
9 45. This action arises out of the City of Spokane as this action seeks declarations
10 regarding the constitutionality of the City of Spokane's ordinances that penalize unhoused
11 community members.

12 46. Defendant is a Washington State municipality.

13 47. This Court has jurisdiction over the declaratory judgment claim brought by the
14 Plaintiffs pursuant to RCW 7.24.010 and/or RCW 7.24.020. As a case in equity, this Court also
15 has original jurisdiction pursuant to RCW 2.08.010.

16 48. Venue is proper in the Superior Court for Spokane County pursuant to RCW
17 4.12.025, as this case is brought against the City of Spokane in the county in which Defendants
18 reside.
19

20 **IV. FACTS**

21 49. Being homeless is not a crime.

22 50. Spokane Municipal Codes 12.02.1010 and 10.60.020 combined make sitting, lying,
23 sleeping and camping on public infrastructure a misdemeanor offense.

24 51. Sleeping is an involuntary biological need that humans universally share.
25
26
27

1 52. People who are unhoused live on the street and thus, utilize city streets for places
2 where they can rest, sleep, and gain shelter from the elements.

3 53. By criminalizing sitting, lying, sleeping, and camping outside, Spokane has
4 criminalized conduct that is inextricable from the condition of lacking a home. Thus, Spokane has
5 criminalized homelessness, even though experiencing homelessness is not a crime.
6

7 54. Typically, after police cite homeless individuals pursuant to 12.02.1010 and
8 10.60.020, the individuals are instructed to vacate the area. Pursuant to 12.02.1011, any property
9 that the individuals cannot carry with them when they are displaced by the police “will be deemed
10 abandoned.” SMC 12.02.1011(A)(2)(a)(i); 12.02.1011(B)(1)(a). The City then takes the property
11 and unilaterally decides whether the property will be temporarily stored, discarded, or destroyed.
12 *See* SMC 12.02.1011(A)(2); 12.02.1011(B)(2).
13

14 55. People experiencing homelessness are not provided individual hearings before the
15 City takes their property and unilaterally decides whether the property will be temporarily stored,
16 discarded, or destroyed.

17 56. Police enforcement of 12.02.1010 and 10.60.020 and the property removal and
18 destruction procedure authorized by 12.02.1011 typically results in the loss of sleeping bags, tarps,
19 beddings, tents, and other vital personal property that individuals use to survive while living on
20 the street. Thus, Spokane’s criminalization threatens the ability of its unhoused residents to
21 survive.
22

23 **V. CAUSE OF ACTION: VIOLATION OF ARTICLE I, SECTION 14**

24 57. Article I, section 14 of the Washington State Constitution guarantees that
25 “[e]xcessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.”
26 Const. art. I, § 14.
27

1 58. By criminalizing activities that are unavoidable for Spokane’s unhoused
2 population, Spokane has imposed unconstitutionally cruel punishment.

3 **VI. CAUSE OF ACTION: VIOLATION OF ARTICLE I, SECTION 3**

4 59. Article I, section 3 of the Washington State Constitution guarantees that “[n]o
5 person shall be deprived of life, liberty, or property, without due process of law.” Const. art. I, §
6
7 3.

8 60. By taking, discarding, or destroying people’s property without adequate notice and
9 without individual hearings, Spokane has violated the due process rights of its unhoused residents.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs requests the following relief:

- 12 A. A declaration that Spokane Municipal Codes 12.02.1010 and 10.60.020 violate
13 Article I, section 14 of the Washington State Constitution.
14
15 B. A declaration that Spokane Municipal Code 12.02.1011 violates Article I, section
16 3 of the Washington State Constitution.
17
18 C. Any relief deemed appropriate and necessary by the Court.
19

20 DATED this 1st day of August 2024.

21 AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION
22

23 By: /s/ Sagiv Galai
24 Sagiv Galai, WSBA No. 61383
25 La Rond Baker, WSBA No. 43610
26 Jazmyn Clark, WSBA No. 48224
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5 *Attorneys for Plaintiffs*

EXHIBIT A

SENT VIA ELECTRONIC MAIL

July 25, 2024

Robert Ferguson, Washington State Attorney General
Noah Purcell, Solicitor General for the Washington State Attorney
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Olympia, WA 98504



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Jonathan Nomamiukor
Staff Attorneys

Sagiv Galai
Legal Fellow

Tracie Hooper Wells
Paralegal

Re: Taxpayer Request for Action—Response Needed by July 31, 2024

Dear Attorney General Ferguson and Solicitor General Purcell:

The ACLU of Washington seeks to represent a resident and taxpayer of Washington State, who seeks declaratory relief against the City of Spokane to address the constitutional defects of the municipality's laws which criminalize homelessness. As a prerequisite for taxpayer standing, and as outlined in *State ex rel. Boyles v. Whatcom Cnty. Superior Court*, 103 Wn.2d 610, 694 P.2d 27 (1985), we request that you bring suit on behalf of Washington State taxpayers to obtain this relief. We request that you advise us as soon as possible, and in any event no later than July 31, 2024, whether you will file suit to redress the constitutional infirmities described below.

Being homeless is not a criminal offense, yet Spokane municipal codes 12.02.1010 and 10.60.020 authorize the imposition of misdemeanor penalties for conduct that is inextricable from the condition of being homeless (i.e. sleeping and living on the street). We are particularly concerned that these local codes impose unconstitutionally cruel punishment in violation of Article I, section 14 of the Washington Constitution. In addition, because these local codes authorize property seizures or property destruction, we are concerned that such laws run afoul of the due process rights of unhoused people, thus violating Article I, section 3 of the Washington Constitution.

We look forward to your response as to whether you will file suit to redress these constitutional infirmities.

A handwritten signature in black ink, appearing to read "La Rond Baker", written over a horizontal line.

La Rond Baker, Legal Director
Jazmyn Clark, Smart Justice Policy Program Director
Brent Low, Staff Attorney
Sagiv Galai, Legal Fellow
American Civil Liberties Union of Washington

EXHIBIT B



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Administration Division
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

July 29, 2024

Sent via electronic mail

La Rond Baker, Legal Director
Jazmyn Clark, Smart Justice Policy Program Director
Brent Low, Staff Attorney
Sagiv Galai, Legal Fellow
American Civil Liberties Union of Washington
PO Box 2728
Seattle, WA 98111

RE: Response to Taxpayer Request for Action

Dear Ms. Baker, et al.:

I am responding to your letter of July 25, 2024, concerning a lawsuit you anticipate filing against the City of Spokane regarding one of Spokane's ordinances. As a prerequisite to asserting taxpayer standing, you request that our office bring suit to seek declaratory relief against the City regarding the constitutionality of its laws regarding homelessness.

We consider litigation at the request of taxpayers in appropriate situations. In this instance, we decline to take the actions you request, but do so without expressing any view as to whether your claims may have potential merit. To the extent your request is made as a prerequisite to asserting taxpayer standing, please understand that this letter expresses no view as to whether the requirements for taxpayer standing would be met.

I trust that this information will be helpful.

Sincerely,

Alicia O. Young
Deputy Solicitor General