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THURSDAY, AUGUST 6, 2015

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## **JUSTICE DEPARTMENT FILES BRIEF TO ADDRESS THE CRIMINALIZATION OF HOMELESSNESS**

WASHINGTON – The Department of Justice filed a statement of interest today arguing that making it a crime for people who are homeless to sleep in public places, when there is insufficient shelter space in a city, unconstitutionally punishes them for being homeless. The statement of interest was filed in federal district court in Idaho in *Bell v. City of Boise et al.*, a case brought by homeless plaintiffs who were convicted under Boise ordinances that criminalize sleeping or camping in public.

As stated by the Justice Department in its filing, “[i]t should be uncontroversial that punishing conduct that is a universal and unavoidable consequence of being human violates the Eighth Amendment. . . . Sleeping is a life-sustaining activity—i.e., it must occur at some time in some place. If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless.”

“Many homeless individuals are unable to secure shelter space because city shelters are over capacity or inaccessible to people with disabilities,” said Principal Deputy Assistant Attorney General Vanita Gupta, head of the Civil Rights Division. “Criminally prosecuting those individuals for something as innocent as sleeping, when they have no safe, legal place to go, violates their constitutional rights. Moreover, enforcing these ordinances is poor public policy. Needlessly pushing homeless individuals into the criminal justice system does nothing to break the cycle of poverty or prevent homelessness in the future. Instead, it imposes further burdens on scarce judicial and correctional resources, and it can have long-lasting and devastating effects on individuals’ lives.”

“No one wants people to sleep on sidewalks or in parks, particularly not our veterans, or young people, or people with mental illness,” said Director Lisa Foster of the Office for Access to Justice. “But the answer is not to criminalize homelessness. Instead, we need to work with our local government partners to provide the services people need, including legal services, to obtain permanent and stable housing.”

In this case, the plaintiffs allege that enforcement of the city of Boise ordinances prohibiting sleeping or camping in public outdoor places, on nights when there is insufficient shelter space in Boise to accommodate the homeless population, amounts to cruel and unusual punishment in violation of the Eighth Amendment. In its filing, the United States does not take a position on the factual accuracy of the plaintiffs’ claims, but instead addresses the appropriate legal framework for analyzing their claims. The statement of interest advocates for the application of the analysis set forth in *Jones v. City of Los Angeles*, a Ninth Circuit decision that was subsequently vacated pursuant to a settlement. In *Jones*, the court considered whether the city of Los Angeles provided sufficient shelter space to accommodate the homeless population. The court found that, on nights when individuals are unable to secure shelter space, enforcement of anti-camping ordinances violated their constitutional rights. The parties in *Bell v. City of Boise* disagree about whether the *Jones* court’s analysis was correct, reflecting the longstanding disagreement among courts analyzing the constitutionality of anti-camping ordinances. The statement of interest was filed to address this currently unsettled area of the law.

*Bell v. City of Boise et al.* was filed in the District of Idaho in 2009