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Community Responses to Homelessness in University Cities

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Part 1: Martin v. Boise

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I. Introduction

A. Homelessness and University Cities

Although homelessness is acknowledged as a systemic problem nationwide, its impact varies dramatically on a community-by-community basis due to a variety of factors including, among others, availability of affordable housing, local economic conditions, proximity to local jails and social services, climate, prevailing political norms and social attitudes, and community tolerance. Along with an annual influx of temporary residents, for cities that host colleges and universities, a combination of these factors appear to make problems associated with homelessness particularly acute. College students not only compete with lower income residents for scarce housing resources, but the exorbitant cost associated with attending institutions of higher learning places severe strain on the budgets of many students and their families.

A 2018 survey of nearly 86,000 students taken by The Hope Center for College, Community and Justice found that homelessness affected 18% of respondents attending two-year colleges, and 14% of those attending four-year institutions. The number who said they had experienced housing insecurity, such as difficulty paying rent, was much higher, at 60%, among those attending two-year schools, and at 48% for those enrolled in four-year institutions.[i]

> "'These are people who might not be on the street at this point but they do not have a fixed and regular place to sleep, and that creates stress that interferes with education," says Sara Goldrick-Rab, founding director of the Hope Center, which focuses on research, activism and student support to improve access to higher education. "If they are temporarily staying with a relative or couch surfing with a friend, that is also homelessness.'
>
> A combination of factors, including rising tuition, financial aid packages that fail to keep up with the costs of food, gas and childcare, and an overall lack of affordable housing have fueled the homelessness crisis among college students."[ii]

B. Generosity of Students and Residents

Although evidence in support of such claims appears somewhat anecdotal, there is a prevailing sentiment that urban campuses and college towns attract homeless individuals and panhandlers, partly because students are more tolerant of both homeless individuals and community impacts associated with homeless. According to a 2002 study by the Center for Problem-Oriented Policing at Arizona State University, "[t]he percentage of college students who [give money to panhandlers] tends to be higher than that of the general population."[iii]

C. Liberal/Progressive Attitudes in University Communities?

University cities also tend to have a higher number of non-profit and religious organizations that provide homeless outreach and services, along with a resident population that may be more reflective of political and social attitudes that prevail on campus than of other nearby communities, leading many to

speculate that homeless people feel more welcome in university communities. Nevertheless, when it comes to programs and policies that may have an impact on reducing homelessness, other competing "progressive" policies are also at play. Efforts to construct more dense, affordable housing to accommodate lower income residents and students alike, for instance, often face fierce opposition from residents and community groups who decry their effects on adjacent neighborhoods in terms of environmental, traffic and parking impacts, along with, although usually unspoken, general concerns about changes in demographics associated with individuals who would tend to reside in such developments. And any effort to establish new homeless shelters, transitional encampments, or safe vehicle parking zones often faces even more passionate opposition from local residents, who voice concerns about increased criminal activity, declining property values, and nuisance conditions that are, in fact, common in connection with unsanctioned and unregulated homeless encampments, making approval of any such efforts politically fraught.[1]

Similar attitudes have stymied efforts by the California Legislature to address the acute shortage of affordable housing in wealthy urban areas. This explains the demise of SB 50 (Wiener) in its 2019 legislative session, which would have erased single-family zoning in populous areas near transit locations, thereby allowing homes zoned for housing a handful of people to be redeveloped to include duplexes and apartment buildings that would house hundreds. SB 50 was supported by a diverse coalition of business and advocacy groups, and its sponsor, State Senator Scott Wiener, had negotiated a series of compromises with some of its fiercest opponents. It was nevertheless shelved due to opposition from another prominent Democratic state senator who, in an interview with the Los Angeles Times, expressed concern that the influx of new residents near bus routes in his district would alter the character of enclaves like his.

Commenting on SB 50, New York Times opinion columnist Farhad Manjoo wrote:

> Reading opposition to SB 50 and other efforts at increasing density, I'm struck by an unsettling thought: What Republicans want to do with I.C.E. and border walls, wealthy progressive Democrats are doing with zoning and Nimbyism. Preserving "local character," maintaining "local control," keeping housing scarce and inaccessible — the goals of both sides are really the same: to keep people out.[iv]

D. **Limited Local Resources**

Like many states, California funding for housing and social services like homelessness, substance abuse and mental health programs is administered through county health departments, not city governments. And due to voter-initiated, statewide restrictions on the ability of to raise taxes and fees, city budgets of necessity are largely focused on funding core services, like police, fire, streets and parks and recreation programs, leaving precious little funding for meaningful efforts at reducing the number of individuals experiencing homelessness in our community. Instead, cities like Santa Cruz are forced to deal with the secondary impacts of people residing out-of-doors or in their vehicles on public

[1] Their vocal opposition in 2019 to the dismantling of a sprawling, unsanitary, drug-infested and unsanctioned encampment commonly known as the "Ross Camp," owing to its proximity to a shopping center housing a Ross Dress for Less, was a major factor that catalyzed for the recall of two Santa Cruz Councilmembers earlier this year.

property, including litter, human waste, illegal sewage discharges from RVs, discarded hypodermic needs and drug paraphernalia, petty theft, and police calls for service. Although these secondary associated nuisance activities are themselves subject to criminal citation, they are difficult to enforce without eyewitness testimony. For this reason, many cities like Santa Cruz have for decades sought to reduce these impacts by prohibiting sleeping outdoors or in vehicles on public property (camping) outright. For the last several years, court decisions have gradually eroded the legal underpinnings upon which these camping prohibitions were based as applied to individuals experiencing homeless, culminating in the 9th Circuit's 2018 decision in *Martin v. Boise.*[v] The rest of this paper focuses on the *Martin* decision and its application in the 9th Circuit and its treatment in other U.S. Circuit Courts.

II. *Martin v. Boise* 920 F.3d 584 (9th Cir. 2019)

A. Case Summary

In *Martin v. City of Boise (Martin)*, six homeless individuals who had received citations for violating two City of Boise, Idaho ordinances filed a civil rights lawsuit suit, alleging in part that the citations amounted to "cruel and unusual punishment," in violation of the 8th Amendment to the United States Constitution.[vi] The plaintiffs sought damages for the alleged civil rights violations and declaratory/ injunctive relief to enjoin future enforcement of the ordinances.

In its ruling, the 9th Circuit affirmed in part, and reversed in part, the lower District Court's disposition of the case on a motion for summary judgment brought by the City of Boise. The District Court had granted summary judgment to the City on all its claims (disposing of the matter, finding no violations for enforcing the ordinances). On appeal, the 9th Circuit held that enforcement of the two ordinances – which prohibited sleeping outside on public property – against these homeless individuals, who had no access to alternative shelter, was unconstitutional.

B. The Boise Ordinances

The two ordinances at issue in *Martin* prohibited:

1. Using streets, sidewalks, parks, or public places at any time as camping places [i.e. the "use of public property as temporary or permanent dwelling"], hereinafter the "Camping Ordinance,"[vii] and
2. Occupying, lodging, or sleeping in any building, structure (public or private), or public place, without permission of the owner (the "Disorderly Conduct Ordinance").[viii]

C. Facts of the Case

In *Martin*, the Court reviewed the relevant facts in the record, specifically those that demonstrated – as of 2016 – there were 867 homeless individuals in the County, 125 of whom were unsheltered.[2] There were only three homeless shelters in the County – all run by private, non-profit organizations.

One shelter ("Sanctuary") was open to all genders, allowed children, and did not impose any religious requirements on residents. It had 96 beds for individual men and women, with "several additional

[2] The 9th Circuit noted that it was "widely recognized" that a Point-in-Time count (used to determine the number of homeless individuals within a jurisdiction) would "undercount" the actual homeless population.

beds" reserved for families. When it reached capacity, Sanctuary would expand spaces by using floor mats. Due to its limited capacity, Sanctuary frequently turned away homeless individuals who were seeking shelter.

The other two shelters – City Light Home ("CLM") and River of Life Rescue Mission ("RLRM") – were operated by the same religious (Christian) non-profit organization, Boise Rescue Mission ("BRM"). CLM only accepted women and children, while RLRM only accepted men. Under the rules established by to overarching BRM organization, there were two main programs for participants: the Emergency Services Program ("ESP") and the New Life Discipleship Program ("DP").

Under the ESP, homeless individuals could shelter up to 30 days at CLM and up to 17 days at RLRM. ESP participants were required to continuously occupy the shelter (i.e. return every night), otherwise they were prohibited from returning for 30 days. If homeless individuals stayed for the maximum number of consecutive nights under the ESP, unless the individuals enrolled in the DP, they were then prohibited from returning (or ejected) for 30 days.[3] The DP was "an intensive, Christ-based residential recovery program" of which "religious study was the very essence."

RLRM had 148 beds for the ESP and an additional 40 mats for overflow, an 78 additional beds for those in non-ESP programs, like the DP. CLM had 110 beds for ESP with 40 additional overflow mats, and 38 beds for non-ESP (i.e. the DP) participants. The 9th Circuit summarized that Boise's 3 shelters had, in total, 354 beds and 92 overflow mats for homeless individuals.

As noted above, after plaintiffs were convicted of violations of one or both of the ordinances, they filed suit alleging the citations violated the Cruel and Unusual Punishments Clause and sought damages. The lawsuit further sought prospective and injunctive relief, precluding future enforcement of the two ordinances at issue.

After the lawsuit was filed, the Boise Police Department promulgated a new "Special Order" (an administrative policy edict issued by the Chief of Police) that prohibited enforcement of the ordinances against homeless persons on public property on any night when shelters had no available overnight spaces. Under the policy, if shelters reached capacity, they informed the Police Department, who could then determine whether the ordinances would be enforced on any given night. However, after that Special Order was issued, while Sanctuary reported it was full on ~40% of nights, BRM's shelters – based on its policies of never turning away individuals due to lack of space – never reported as full.

In its motion for summary judgment, the City of Boise argued that – in conjunction with the Special Order – the ordinances allowed for camping or sleeping in public places when no shelter space was available, so no constitutional injury (or future threat thereof) had been or could be inflicted on any of the plaintiffs or similarly situated individuals. Moreover, the Boise advanced that there were no known citations of any homeless individual for camping or sleeping on public property on any night when there was a lack of shelter capacity, as there had not been a single night where all 3 shelters declared capacity.

The District Court granted summary judgment, but the 9th Circuit ultimately reversed.

[3] These 30 and 17 day maximum stay rules were suspended during the winter.

D. Summary of the 9th Circuit's Holding

After resolving some threshold questions of standing, retrospective, and prospective relief under *Heck v. Humphrey* (1994) 512 U.S. 477, the 9th Circuit addressed the merits of the plaintiffs' constitutional claim: whether, with respect to indigent, homeless individuals with no access to alternative shelters, enforcement of those Boise ordinances violated the 8th amendment's prohibition on cruel and unusual punishment. The Court held that indeed, it did. Central to the its holding were specific factual circumstances of the case.

First, the existence of the 30 and 17 consecutive-day occupancy limits at Boise's respective shelters meant that, even if shelters never collectively reported as "full," individuals could still be turned away and forced to sleep outside if they had "maxed out" their initial stay time. Furthermore, after the initial stay, the BRM shelters required participants to enroll in religious-based treatment programs as a condition of continued occupancy: effectively forcing individuals to choose between sleeping outside (thereby risking arrest under Boise ordinances) or enrolling in theological programming the Court described as "antithetical" to their religious beliefs, a form of improper coercion under the Establishment Clause of the First Amendment.

In setting out its ruling, the Court discussed the 3 limitations imposed on the government by the 8th Amendment: restrictions on the types of punishment that may be imposed, proscriptions on punishments which are "grossly disproportionate" to the severity of the crime,[ix] and substantive limitations on what may be "criminalized." In *Martin*, this third category – the substantive limitations on what can be punished as "criminal conduct" – controlled the decision.

1. Substantive Limits on Criminalization of Status – U.S. Supreme Court Precedent

In *Robinson v. California* (1962) 370 U.S. 660, a California statute which criminalized the "status" of narcotic addiction was found invalid under the Cruel and Unusual Punishments Clause. In this seminal case, the California law at issue punished not the use, purchase, sale, or possession of narcotics – it punished addiction itself. In that case, California had recognized – and the Court found noteworthy – that narcotics addition could be an illness or disease, "which may be contracted innocently or involuntarily."[x] Analogizing that a law criminalizing contracting a communicable disease would doubtless be deemed cruel and unusual punishment, the Supreme Court held the challenged California statute unconstitutional.

Shortly thereafter, in *Powell v. Texas* (1968) 392 U.S. 514, the Supreme Court elaborated. In that case, a Texas statute made public drunkenness a criminal offense. In deeming that ordinance constitutionally permissible, the Court noted that the statute criminalized not alcoholism, arguably a disease or affliction, but the conduct of appearing in public while intoxicated. Thus, the statute did not punish mere status, as was the case in *Robinson*, and was constitutionally permissible.

However, that decision was a plurality, not a majority decision. Sharing the reasoning of the four dissenting Justices, Justice White – whose concurrence in the result alone created the plurality holding – acknowledged that, for certain homeless individuals, public drunkenness might be unavoidable.

> "For all practical purposes the public streets may be home for these unfortunates, not because their disease compels them to be there, but because, drunk or sober, they have no place else to go and no place else to be when they are drinking... For some of these alcoholics I would think a showing could be made that resisting drunkenness is impossible and that avoiding public places when intoxicated is also impossible. As applied to them this statute is in effect a law which bans a single act for which they may not be convicted under the Eighth Amendment – the act of getting drunk." (*Powell, supra,* at 551.)

The dissenting *Powell* Justices shared in this concern, noting, "criminal penalties may not be inflicted upon a person for being in a condition he is powerless to change," as "once intoxicated [such a person, such as the defendant] could not prevent himself from appearing in public places."[xi]

2. 9th Circuit Case Law

The Court then reviewed a recent 9th Circuit panel holding in the matter of *Jones v. City of Los Angeles* (2006) 444 F.3d 1118, where a separate 3 Judge panel found enforcement of the City of Los Angeles' ordinance banning sitting, lying, or sleeping in streets, sidewalks, and public ways – against homeless individuals who cannot obtain shelter – violated the Cruel and Unusual Punishments Clause. In *Jones,* the panel concluded that that a majority of the Supreme Court in *Powell* shared in the interpretation that the 8th Amendment prohibited the state, "from punishing an involuntary act or condition if it is the unavoidable consequence of one's status or being."[xii] "Whether sitting, lying, and sleep are defined as acts or conditions, they are universal and unavoidable consequences of being human."[xiii] The *Jones* holding was ultimately vacated[xiv] when the parties reached a settlement, but in its decision, the *Martin* Court agreed with its reasoning and central conclusion.

3. The *Martin* Ruling

In *Martin*, the 9th Circuit found Boise's imposition of criminal penalties on sitting, sleeping, or laying outside on public property, for homeless individuals without adequate access to alternative shelter, violated the 8th Amendment. According to the Court, the Boise ordinances effectively criminalized the simple act of sleeping outside on public property for those "without a choice."

The Court declared its holding "a narrow one." It "only held" that, "so long as there is a greater number of homeless individuals than the number of available beds, the government could not prosecute homeless individuals for involuntarily sitting, lying, and sleeping in public." The opinion further explained:

> "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people from sleeping outdoors, on public property, on the false premise they had a choice in the matter."

In the associated footnote, however, the Court wrote:

> "Naturally, our holding does not cover individuals who do have access to adequate temporary shelter, whether because they have the means to pay for it or because it is realistically available to them for free, but who choose not to use it. Nor do we suggest that a jurisdiction with insufficient shelter can never criminalize the act of sleeping outside. Even where shelter is

unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible. (*See Jones*, 444 F.3d at 1123.) So, too, might an ordinance barring the obstruction of public rights of way or the erection of certain structures. Whether some other ordinance is consistent with the Eighth Amendment will depend, as here, on whether it punishes a person for lacking the means to live out the 'universal and unavoidable consequences of being human' in the way the ordinance prescribes. (*Id.* at 1136.)"

III. Cases Interpreting *Martin v. Boise*

A. *Manning v. Caldwell,* 930 F.3d 264 (4th Cir. 2019)

Holdings: [1]-The district court erred in dismissing an action brought by plaintiff homeless alcoholics challenging a Virginia statutory scheme that made it a criminal offense for those whom the Commonwealth had labelled habitual drunkards to possess, consume, or purchase alcohol because the challenged scheme's use of the term "habitual drunkard" was unconstitutionally vague, and even if it could be narrowed to apply only to similarly situated alcoholics, plaintiffs stated a claim that it violated the Eighth Amendment as applied to them; [2]-The court overruled its prior decision in Fisher v. Coleman, 639 F.2d 191 (4th Cir. 1981) affirming the constitutionality of the Virginia scheme.

Comment: Although the decision is primarily based on the Supreme Court's decisions in *Powell* and *Robinson,* the majority opinion notes, in Footnote 17, that "[t]he only other circuit to squarely confront the issue has arrived at the same conclusion we reach here. See Martin v. City of Boise [citation omitted]."[xv]

B. *Carter v. Dallas Police Dept.* 2020 U.S. Dist. LEXIS 50856 (USDC Northern Dist. of Texas, Dallas Division (5th Circuit), 2020)

In this District Court decision, Plaintiff's action seeking declaratory relief alleged that Dallas PD violated his First, Eighth, and Fourteenth Amendment rights by threatening to arrest him for trespassing when he was sleeping on a bench at Dallas Love Field Airport. Carter stated he was homeless and had been sleeping on benches at Love Field for approximately two weeks. He claimed Defendants retaliated against him for exercising his First Amendment rights by threatening to arrest him for trespassing after he mailed a letter to United States Congressman John Lewis complaining about official misconduct. Citing *Martin v. Boise,* he also claimed Defendants' actions violated his Eighth Amendment right to be free from cruel and unusual punishment and his Fourteenth Amendment rights.

Citing contradictory Fifth Circuit precedent in *Johnson v. City of Dallas* 61 F.3d 442 (5th Cir. 1995), the District Court rejected Carter's challenge based on lack of standing, noting: "Carter cites the Ninth Circuit's recent decision in Martin v. City of Boise [citation omitted] to support his Eighth Amendment claim, but it contradicts Fifth Circuit precedent. In Martin, the Ninth Circuit considered an Eighth Amendment challenge to a city ordinance prohibiting sleeping outside on public property. The court determined that the plaintiffs had standing to seek prospective relief against the ordinance. [] Judge Smith dissented in the decision to deny rehearing en banc, noting that the Ninth Circuit's decision created a circuit split with the Fifth Circuit's Johnson decision. [] As stated above, Johnson holds that a plaintiff who has not been arrested or prosecuted under an ordinance lacks standing to raise an Eighth

Amendment challenge to the ordinance. *Johnson*, 61 F.3d at 444. This Court is bound by Fifth Circuit precedent. Carter, therefore, lacks standing to raise an Eighth Amendment challenge in this case, and his reliance on *Martin* is unavailing."[xvi]

C. *Phillips v. City of Cincinnati*, 2019 U.S. Dist. LEXIS 89421 (6th Cir. 2019)

Although this District Court decision deals with procedural matters involving Defendant City's opposition to Plaintiff's Motion for Leave to file Third Amended Complaint in a challenge to Cincinatti's policy banning homeless encampments, the decision cites *Martin v. Boise* approvingly in a footnote, as follows:

> "Although the Sixth Circuit has not addressed the issue, the Ninth Circuit has found that an "ordinance violates the Eighth Amendment insofar as it imposes criminal sanctions against homeless individuals for sleeping outdoors, on public property, when no alternative shelter is available to them." Martin v. City of Boise, 920 F.3d 584, 604 (9th Cir. 2019) (emphasis added). As this Court has recognized, "the County Court's August 7, 2018 TRO effectively made being homeless in most of Cincinnati illegal. If Plaintiff [or others similarly situated] can show that there is not a bed available for [them] in Cincinnati shelters, then [they] can likely succeed on [the] Eighth Amendment claim."[xvii]

D. *Frank v. City of St. Louis*, 2020 U.S. Dist. LEXIS 77525 (8th Circuit)

In this case arising from the City of St. Louis's response to the novel coronavirus, the City sought to homeless encampments in the area circumscribed by 10th and 18th Streets and Market and Chestnut Streets in downtown St. Louis, citing concerns regarding a risk to the health of their occupants and the public, and to relocate their residents. Plaintiff sought a TRO, relying primarily on the 9th Circuit's decision in *Martin*, alleging that the City's closure of the encampment punishes her based on her homeless status in violation of her Eighth Amendment right to protection from cruel and unusual punishment.

In rejecting Plaintiff's claim, the District Court distinguished *Martin v. Boise*, noting that Boise's ordinance was being enforced throughout the city, whereas in the City's action was "expressly limited to only those encampments located near Market Street and Chestnut Street in downtown St. Louis. The City's Director of Health testified that several encampments throughout the city remain open. The inhabitants of the Market and Chestnut Street encampments are therefore free to sleep in other areas of the city without being in violation of the City's Notice and Order." Accordingly, the Court found that St. Louis was "therefore not criminalizing the state of being homeless or its unavoidable consequences, such as sleeping in public. At most, the City is criminalizing sleeping in public in a particular location."[xviii]

E. *Shipp v. Schaaf*, 370 F.Supp. 3d 1033 (USDC Northern Dist. of California) (9th Cir. 2019)

Activists challenged Oakland's procedure to remove homeless encampments from public rights of way, parks, and city-owned property in the context of a cleanup. The court rejected a Martin claim because Oakland only required temporary vacation of the encampment and this effort by itself did not implicate criminal sanctions. The court noted that Martin recognized that there was no right to be on streets at any time or place. Displaced individuals could go elsewhere for the period of time. (Regarding the

seizure of property, the court found that Oakland's policy must provide lawful notice, give people time to retrieve items, avoid confiscation if the owner is present and the items do not constitute an immediate threat to public safety or evidence of a crime, itemize most seized property, offer notice of where to retrieve it, and hold the property for 90 days.)

F. *LA All. for Human Rights v. City of Los Angeles*, 2020 U.S. Dist. LEXIS 85999 (USDC Central Dist. of California)

In this District Court case from the Central District of California, a U.S. District Judge appears to interpret the holding of *Martin v. Boise,* read in conjunction with provisions of the California Health and Safety Code, as placing an affirmative obligation on cities and counties to provide alternative shelter to a specific segment of Los Angeles County's homeless population—individuals camping near freeway overpasses, underpasses and ramps. In an order issued in May, 2020, the City and County of Los Angeles are ordered to "provide shelter—or alternative housing options, such as safe parking sites, or hotel and motel rooms contracted under Project Roomkey—to individuals experiencing homelessness." The order further specified that:

> As shelters are established and homeless camps are relocated away from freeway overpasses, underpasses, and ramps, the following criteria, at a minimum, must be satisfied to ensure the process remains humane and serves the best interests of [*8] the affected individuals experiencing homelessness:
>
> (1) All shelters and alternative housing options must be configured with adequate physical space to allow the sheltered individuals to maintain the minimum recommended social distance of six feet to mitigate the transmission of SARS-CoV-2.
>
> (2) All shelters and alternative housing options must have adequate hygiene facilities, such as handwashing stations and showers.
>
> (3) All shelters and alternative housing options must have nursing staff who, upon intake, can test each homeless individual for communicable diseases and other health conditions. The Court may consider revising this aspect of the preliminary injunction in the future, depending on the state of the COVID-19 pandemic.
>
> (4) All shelters and alternative housing options must be staffed by security as necessary to ensure the safety of the homeless persons sheltered therein.
>
> (5) All homeless individuals shall be able to retain possession of their belongings, whether they choose to enter a shelter or alternative housing option, or simply relocate a sufficient distance away from freeway overpasses, underpasses, and ramps.
>
> (6) Before beginning the process of clearing freeway overpasses, underpasses, and ramps, all homeless individuals living in the vicinity must be given advance notice; such notice shall include information about nearby shelters and alternative housing options.
>
> (7) After such notice is given, and after the City of Los Angeles and/or County of Los Angeles provide adequate alternative shelter for individuals experiencing homelessness living in the vicinity of a freeway, the City of Los Angeles and County of Los Angeles will be allowed to

enforce anti-camping laws in the vicinity of freeways to ensure that these individuals are moved to a safer location. (That is, while an individual experiencing homelessness could not be ordered to enter a shelter facility, they could be ordered to relocate an adequate distance away from freeway locations.) If all of the above requirements are met, then enforcement in these limited, freeway-adjacent areas would be fully compliant with Martin v. City of Boise.[4]

IV. Conclusion

Given the relative sparsity of case law among the Circuit Courts concerning the enforcement of Boise-style blanket prohibitions of camping on public property, it is premature to make any sweeping statements about the long-term trends in legal jurisprudence in laws arising from community efforts to address impacts of homelessness in communities nationwide. Judging by the current status of the law in the 9th Circuit, and decisions in other Circuits that have examined the *Martin v. Boise* decision, however, and given the magnitude of the problems associated with homelessness throughout the U.S., it would seem that the law is trend is toward prohibitions that apply only in certain areas where specific, identifiable harms associated with outdoor camping, or sleeping in vehicles can be documented. And to effectively control or limit such activities in heavily impacted areas, cities will have to confront the politically difficult and unpopular task of identifying safe sleeping or parking areas or zones where homeless individuals can be directed when targeted enforcement activities take place. At this time, and especially due to COVID-19, it seems unlikely that courts will be willing to tolerate enforcement efforts that are not accompanied by meaningful efforts to provide safe, alternative shelter options to those otherwise unable to afford or access available shelter options, whether due to financial constraints or other circumstances that present barriers to shelter access.

[4] Subsequent to the Court's Order, Defendants City and County of Los Angeles submitted a "binding term sheet" intended to implement various components of the District Court's Order on a specified timeline, resulting in the Court vacating the Preliminary Injunction without prejudice should the parties fail to comply with the "binding term sheet."

[i] "College and University Basic Needs Insecurity: A National #RealCollege Survey Report" (the "#RealCollege Survey") April, 2019 (Authors: Sara Goldrick-Rab, Christine Baker-Smith, Vanessa Coca, Elizabeth Looker and Tiffani Williams)
[ii] "Homeless in College: Students sleep in cars, on couches when they have nowhere else to go" Author: Charise Jones, USA Today (June 10, 2019)
[iii] "The Problem of Panhandling" (2002) (Author: Michael S. Scott) ASU Center for Problem-Oriented Policing
[iv] "America's Cities Are Unlivable. Blame Wealthy Liberals" Author: Farhad Manjoo, New York Times (May 22, 2019)
[v] Affirmed en banc at 920 F.3d 584 (9th Cir. 2019).
[vi] U.S. Const. amend. VIII, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."
[vii] Boise City Code § 9-10-02.
[viii] Boise City Code § 6-01-05
[ix] *Ingraham v. Wright* (1977) 430 U.S. 651.
[x] *Robinson v. California* (1962) 370 U.S. 660, 667
[xi] Powell, supra, at 567.
[xii] *Jones v. City of Los Angeles* (2006) 444 F.3d 1118, 1135.
[xiii] *Jones v. City of Los Angeles* (2006) 444 F.3d 1118, 1136
[xiv] *Jones v. City of Los Angeles* (2006) 444 F.3d 1118, 1138, vacated, 505 F.3d 1006 (9th Cir. 2007)
[xv] 930 F.3d, at 282-283.
[xvi] *Carter, supra*, at 6.
[xvii] *Phillips, supra*, at 6.
[xviii] *Frank, supra,* at 4-6.