



# OMBUDSMAN'S SPECIAL REPORT

## Policy Review and Recommendations

### Interactions Between the Boise Police Department and the Homeless

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by

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Community Ombudsman

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## **OMBUDSMAN'S SPECIAL REPORT**

### **Interaction Between the Boise Police Department and the Homeless**

*Policy Review and Recommendations – December 20, 2006*

*“Society don’t want to see us.”*

**A Homeless Boise Resident**

*“The homeless lose everything every day: it's no longer a tragedy; it's a lifestyle.”*

**A Boise Homeless Service Provider**

*“Today, the only social service agency that is open twenty-four hours a day, seven days a week is the police department.”*

**Captain Steve Luebbe**  
**Cincinnati Police Department**

## **INTRODUCTION**

### **A. Overview.**

This case was opened in response to issues raised by concerned citizens. Taken as a whole, the concerns arise from the enforcement of laws that tend to impact adversely those who are homeless more than other segments of the population. The issue presents itself city by city, on a nationwide scale. The spectrum of problems ranges from the potential infringement upon the constitutional rights of the homeless to the economic impact of using the criminal justice system to address the problems of poverty, addiction, mental illness, and disaffection. The origins of these problems, and their potential solutions, are complex and largely beyond the scope of this report. The purpose of this report is to look at the interaction between the police and the homeless to determine whether systemic problems exist and whether there are opportunities for improvement.

In reviewing the issues raised, it is apparent that many of the concerns arise because there are gaps in services for persons experiencing homelessness. Because officers of the Boise Police Department are often on the front line when dealing with persons who are homeless, police officers are called upon to manage situations for which no services exist; or, if services do exist, there is no coordination of services that helps officers to connect a homeless person with the resources that are available, and to do so in an efficient manner.

Police officers are tasked with preventing and detecting crime. The word, "crime," is a word that encompasses behavior that is seen to threaten the social order. Many of the local ordinances and state statutes that are enforced with respect to the homeless are laws that have been specifically enacted by state or local policy makers to protect the quality of life enjoyed and expected by the people of Boise and the residents of Idaho. The officers of the Boise Police Department are not in a position to substitute their judgment for that of elected officials by enforcing some laws, but not others. One writer observed that, "[m]any cities and courts have responded to homelessness by thoroughly criminalizing homeless people's basic life activities and arbitrarily depriving them of their personal belongings."<sup>1</sup> This course of action is often referred to as the "criminalization of homelessness."<sup>2</sup> To the extent that law enforcement action regarding minor ordinance violations criminalizes the state of being homeless, the underlying decisions regarding whether these laws should exist must come from those elected to make such public policy decisions.

Police officers are not trained to perform social work functions; yet, persons experiencing homelessness often become the responsibility of law enforcement agencies because of the minor misdemeanors they commit. Without adequate social services to support law enforcement efforts, and without training to help police officers gain timely access to the services that exist, it becomes an exercise in futility to rely on the police department to solve the problem of homelessness. Not only is it futile, it is costly.

Police officers are highly trained professionals. Our society depends on them to protect innocent people from the dangers of criminal activity. The resolution of concerns regarding the criminalization of homelessness cannot come from law enforcement alone; it must come through a broadly inclusive coordinated community response to the issue. However, as responders on the forefront, the officers of the Boise Police Department should be involved in this issue. With respect to many facets of this issue, the Boise Police Department could easily become a leader in helping to define how our community should respond to issues surrounding the criminalization of homelessness.

## **B. The Issues.**

The issues presented to this office came through the door as concerns regarding the number of enforcement actions taken by the Boise Police Department against homeless persons. The police were issuing citations to homeless people for violation of laws concerning "loitering, camping, and disturbing the peace." As one concerned citizen put it, "Threats of arrest and/or arrest for minor ordinance violations 'criminalize' the poor and homeless, adding to their misery without accomplishing any significant public policy goal." Other citizens raised concerns that can be summarized in the following manner: 1) that the rights to privacy of homeless persons were not being respected; 2) that there exists an inequitable enforcement of laws against persons who are homeless; 3) that the police engage in the unlawful disposal of the identification papers and other

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<sup>1</sup> Bundy, Kevin, "Officer, Where's My Stuff?" 1 Hastings Race and Poverty L.J. 57, 57-58 (Fall 2003)(hereafter referred to as "Officer, Where's My Stuff?")

<sup>2</sup> *A Dream Denied: The Criminalization of Homelessness in U.S. Cities*, A Report by the National Coalition for the Homeless and the National Center on Homelessness and Poverty, January 2006, pp.8-9 (hereafter referred to as "A Dream Denied.")

personal property of the homeless; and 4) that the police are inadequately trained and prepared to deal with the homeless.

In the context of this project, the last concern is perhaps the most important. The question was posed whether officers are encouraged to look for options other than arrest and citation in dealing with the homeless. It was noted that the numbers of homeless are increasing. It was also suggested that there be some sort of service coordination from the cities or the counties and that the police be involved in this issue.

### **C. Authority to Review.**

The Boise City Council created the Office of the Community Ombudsman by enacting Ordinance 5930 on July 20, 1999.<sup>3</sup> Under this ordinance, the Office of the Community Ombudsman has the authority to exercise its duties and responsibilities with regard to any and all law enforcement and police activities.<sup>4</sup> In addition, the Office of the Community Ombudsman has the authority to develop specific policy recommendations.<sup>5</sup> The goals of policy recommendations include improved professionalism, safety, effectiveness, and accountability.<sup>6</sup>

The issues raised in this case were raised as policy concerns. There are no allegations of misconduct against any specific officers. The persons who contacted this office specifically asked that the Office of the Community Ombudsman investigate the alleged actions and correct the practices. This request has been interpreted as an appeal for a policy review. Consequently, the Office of the Ombudsman has approached this case from the broad perspective of looking for areas of opportunity and for overcoming challenges that may face all parties involved in the interaction between law enforcement and persons experiencing homelessness. With these considerations in mind, the questions raised have been addressed in the context of looking at best practices and developing specific policy recommendations.

### **D. Approach to Analysis.**

These issues were addressed from five different angles. In order to gather information specific to Boise, interviews were conducted with police supervisors, service providers, and homeless persons. This information is anecdotal; however it helps to place the issues in perspective. Perhaps more importantly, it helps to “put a face on homelessness.” Although viewed from different frames of reference, certain recurring themes emerged throughout the interviews. The Boise Police Department and the office of the City Attorney provided statistical information. The final step was to look at best practices from other cities.

The initial interviews with service providers served to provide basic background information and helped to determine whether the indirect reports that had been relayed to this office were consistent with reports received by other service providers. The next step was to interview the

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<sup>3</sup> This Ordinance was amended by Ordinance 6093 on October 9, 2001.

<sup>4</sup> Boise Municipal Code § 2-22-03.

<sup>5</sup> Boise Municipal Code § 2-22-04(E).

<sup>6</sup> Boise Municipal Code § 2-22-04(E).

homeless themselves. In accomplishing this phase of the research, contact was made with clients of homeless facilities. Business cards were distributed both to clients and volunteers. Several persons experiencing homelessness took the initiative to come to our office. Others gathered in a downtown location after working hours and agreed to be interviewed.

In order to evaluate the anecdotal information provided in the interviews, copies of citations were obtained. Audio recordings of the police officers' interactions with homeless persons were requested and reviewed. Statistical information concerning enforcement and prosecution is also a component of this report. The Boise City Attorney's Office provided information regarding the current open cases involving allegations of ordinance violations. The Boise Police Department also provided statistics regarding citations issued and arrests made. The statistics include the charges commonly brought against persons experiencing homelessness, such as open container violations, camping violations, and disorderly conduct violations.

Having interviewed a number of homeless persons, the next phase of the project was to interview police supervisors. Additional information was gathered from the BPD Bike Unit Annual Report for 2004-2005 and the BPD Community Outreach Division (COD) Annual Report for 2005.

Research was conducted to learn about the experiences of other cities. Several cities have adopted innovative programs to address issues that arose regarding the interaction between law enforcement and the homeless. Information was obtained regarding cities or communities in the eastern United States: Philadelphia, Miami-Dade County, Fort Lauderdale, and Clearwater, Florida. Information was also obtained from western cities: Seattle, Reno, Santa Cruz, and Fontana, California.

Having conducted interviews, requested program information, and gathered statistics, the data was analyzed to accomplish the following:

- 1) to determine whether the facts substantiate the concerns raised;
- 2) to determine whether there are opportunities available to improve training for law enforcement personnel who interact with the homeless;
- 3) to determine whether there are opportunities to improve the accessibility of social services to law enforcement personnel and to connect homeless persons with the services available;
- 4) to determine if there are opportunities to provide positive interaction and exchange of information between law enforcement personnel and social service personnel; and
- 5) to ensure that finite resources are coordinated to the greatest extent possible.

The conclusions and recommendations are set forth in the final section of this report.

## **LAWS TENDING TO CRIMINALIZE HOMELESSNESS**

### **A. National Trend Toward Criminalization of Homelessness.**

In *A Dream Denied: The Criminalization of Homelessness in U.S. Cities*, the authors observe that, “For the past 25 years, cities have increasingly implemented laws and policies that target homeless persons living in public spaces.” These laws are frequently referred to as “quality of life ordinances.” The authors further observe that cities have used a number of strategies to target homeless people:

The criminalization of homelessness takes many forms, including:

- Legislation that makes it illegal to sleep, sit, or store personal belongings in public spaces in cities where people are forced to live in public spaces;
- Selective enforcement of more neutral laws, such as loitering or open container laws, against homeless persons;
- Sweeps of city areas where homeless persons are living to drive them out of the area, frequently resulting in the destruction of those persons’ personal property, including important personal documents and medication; and
- Laws that punish people for begging or panhandling to move poor or homeless persons out of a city or downtown area.<sup>7</sup>

The authors of the report conclude that the criminalization of homelessness does nothing to address the underlying causes of homelessness and often serves to exacerbate them. They argue that the criminalization of homelessness only serves to move people away from services and causes them to acquire a criminal record, thus making it even more difficult for them to obtain employment and housing.

On the other hand, there are compelling arguments to support the enactment of quality of life ordinances. Laws that tend to criminalize homelessness also help to ensure access to public and urban spaces and protect private property rights. These laws ensure that public spaces remain usable to other members of society, that the public health is maintained by enforcing basic levels of sanitation with respect to human waste, and that public safety is maintained by ensuring that those who violate the law and disregard the rights of fellow citizens are held accountable for their actions.

With these competing views in mind, one question that arises is which Boise ordinances are relevant to this inquiry. The ordinances governing quality of life issues are those most frequently applied to persons experiencing homelessness. These ordinances are summarized below in Subsection C.

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<sup>7</sup> *A Dream Denied*, p. 9.

## B. Legal Implications.

The legal analysis of Boise ordinances is within the province of the legal counsel for the city; nonetheless, it would be remiss for the Office of the Community Ombudsman to disregard the fact that there is a body of law developing on statutes and ordinances that criminalize homelessness. A preliminary review of legal cases indicates that constitutional rights could be implicated if allegations that police officers engage in the practice of seizing and disposing of property belonging to homeless persons were true.<sup>8</sup> In perhaps the most recent case, on November 22, 2006, a federal district court in California granted a preliminary injunction ordering the City of Fresno to stop seizing and destroying homeless people's property without warning.<sup>9</sup> The injunction will remain in place during the litigation of a lawsuit filed by six homeless persons who allege that city police and sanitation workers violated their rights by defining their possessions as trash and disposing of their personal property. Should such acts occur in Boise, they would violate Boise City ordinances and state law.<sup>10</sup>

With respect to laws prohibiting persons from sitting or lying on the sidewalk, the Ninth Circuit Court of Appeals recently addressed the constitutionality of a Los Angeles ordinance that prohibits persons from engaging in such activity. In *Jones v. City of Los Angeles*<sup>11</sup>, the Ninth Circuit Court of Appeals held that the Eighth Amendment to the United States Constitution prohibits the state from criminalizing conduct that is an unavoidable consequence of being homeless.<sup>12</sup> The *Jones* court focused its holding narrowly on the factual situation before it. It held that, where the number of shelter beds had been shown to be inadequate for the number of persons who were homeless, a law that criminalizes the act of sleeping, a necessary act for a human being, violates the Eighth Amendment of the United States Constitution.<sup>13</sup>

A thorough analysis of the current state of the law with respect to people experiencing homelessness is beyond the scope of this project. A list of significant federal and state court decisions concerning challenges to numerous laws affecting the homeless is set forth in *A Dream Denied: The Criminalization of Homelessness in U.S. Cities*.<sup>14</sup> Some cities have been forced to change their practices as a result of litigation. Others have changed their practices to ward off potential litigation.

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<sup>8</sup> See generally, "Officer, Where's My Stuff?"

<sup>9</sup> Ellis, John. "Fresno's homeless win round in court." *Fresno Bee* [cited 23 November 2006]. Available from <http://www.fresnobee.com/263/v-printerfriendly/story/14787.html>.

<sup>10</sup> See Boise City Code Sections 6-19-01, 6-19-02, and 6-19-03; Idaho Code Section 55-403.

<sup>11</sup> *Jones v. City of Los Angeles*, 444 F.3d 1118 (9<sup>th</sup> Cir. 2006).

<sup>12</sup> *Jones*, 444 F.3d at 1137.

<sup>13</sup> *Jones*, 444 F.3d at 1136.

<sup>14</sup> *A Dream Denied*, p.14.

## **C. Overview of the Ordinances Applied to Homeless Persons.**

### **1. Introduction.**

In August 2006, the Boise City Council repealed Boise City Code, Title 6, Chapter 1, and reenacted it to eliminate outdated and constitutionally unsound sections of the Ordinance. The City Council held that updating the Ordinance was essential to maintaining and promoting the quality of life for the citizens of Boise. The sections referred to are the updated sections, which have, in some cases, been significantly revised when compared to the earlier code sections. The analysis of the enforcement statistics, which will be discussed later, is based on the earlier code sections.

### **2. Disorderly Conduct.**

Boise City Code Section 6-01-05 prohibits disorderly conduct, which includes:

- A. Occupying, lodging or sleeping in any building, structure or place, whether public or private, or in any motor vehicle without the permission of the owner or person entitled to possession or in control thereof;

This ordinance contains two additional subsections prohibiting loitering on private property and loitering on school grounds. It is the first subsection, which is cited above, that is frequently applied to homeless persons found sleeping on private property.

### **3. Public Intoxication.**

An ordinance prohibiting public intoxication was recently enacted by the Boise City Council. Under Boise City Code Section 6-01-06, a person who is intoxicated at a level where the person is a danger to himself or others, or creates a disturbance of the peace, is guilty of a misdemeanor. Because this ordinance did not go into effect until October 2006, the history of its enforcement is limited; however, during the period from October 1, 2006, through November 18, 2006, the Boise Police Department issued 30 citations for public intoxication. Most of these were issued in the downtown core.

### **4. Aggressive Solicitation.**

Boise City Code Section 6-01-07 prohibits begging in a public place with the intent to intimidate another into giving money or goods. It also prohibits a person from obstructing pedestrian or vehicular traffic. According to a memorandum from the City Attorney's Office, the new section is patterned after Seattle's ordinance, which has been upheld by the courts. It makes it a criminal act to intimidate others or interfere with pedestrians.

## **5. Disturbing the Peace.**

Boise City Code 6-01-09 makes it a misdemeanor to disturb the peace. This crime includes making loud or tumultuous noise or engaging in offensive or tumultuous behavior. It can also include threatening, quarreling, fighting, or firing a gun. The prior version of this code section addressed situations in which persons had assembled to disturb the peace and failed to disburse when commanded to do so by a police officer. The new code section mirrors the state code.

## **6. Indecent Exposure.**

Boise City Code Section 6-01-11 prohibits a person from exposing his or her genitals in a public place or from assisting another person to do so. This conduct was prohibited under the prior code section; however, it was combined with prohibitions against using profane language and public drunkenness. Under the new code section, indecent exposure is separated out as a distinct crime.

## **7. Possession of Open Container in Public.**

Boise City Code Section 6-01-15 prohibits the consumption of alcoholic beverages in a public place or the possession of an open container of alcoholic beverage in a public place. This ordinance applies both to public property and to private property that is open to the public.

## **8. Public Urination.**

Boise City Code Section 6-01-18 prohibits the elimination of human waste onto the ground, into a body of water, or onto an object or structure. It requires that a person use toilet facilities for the elimination of human waste.

## **9. Camping Within 70 Feet of the Boise River.**

Boise City Code Section 6-17-06(G) prohibits camping within in seventy feet of the Boise River. A person may not set up any tents, shacks, or other temporary shelter for the purpose of camping. This section also prohibits a person from remaining overnight within seventy feet of the Boise River. This ordinance is designed to protect the natural habitat of the Boise River and to ensure the protection of life and property.

## **10. Camping in the Park.**

Boise City Code Section 9-14-04(E) prohibits camping in the park by setting up any type of temporary shelter, including tents or shacks. There is one exception to this ordinance: a person may camp in the park by permission of the Director of the Boise Parks and Recreation Department.

## **11. Remaining in the Park After Closure.**

Boise City Code Section 9-14-05 prohibits remaining in the park during the hours the parks are closed. Parks are open every day of the year from sunrise to sunset, pursuant to Boise City Code Section 9-14-08(A). There are two exceptions to Boise City Code Section 9-14-05. The first is for a person who is in transit through the park. The second exception applies if a person has received a permit to camp in the park.

## **12. Possession of an Open Container in a Park.**

While Boise City Code Section 6-01-15 addresses the possession of an open container in a public place, Boise City Code Section 9-14-05(A) specifically prohibits the possession of an open container in certain areas of the park system, including the Greenbelt between Capitol Boulevard and Americana, and in the Julia Davis Park Bandshell Area. In areas where the possession of alcohol is not prohibited, an individual may be in possession of up to seven and one-half gallons of beer and wine.

## **THE HOMELESS POPULATION**

### **A. Defining the Problem.**

The first step in an analysis is to define the problem. Defining the homeless population both in terms of its characteristics and its numbers becomes important in analyzing the issues raised to this office because it has the possibility of narrowing the focus of the inquiry. It is important to look at the number of homeless people; and it is important to know who the homeless are. The next step is to look at the number of enforcement actions taken against people who are homeless. If there are different subgroups within the homeless population, it is important to know if all the different subgroups have problematic interactions with law enforcement, or whether quality of life ordinances are enforced primarily against discrete subpopulations. Knowing the parameters of a problem also helps to determine the level of resources that should be allocated to it.

### **B. Federal Definition of a Homeless Individual.**

Federal law defines the term "homeless individual" to include (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.<sup>15</sup>

The United States government provides federal funding for homeless-specific services. In order to qualify for these services, a person must meet the above definition. All homeless service

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<sup>15</sup> Stewart B. McKinney Homeless Assistance Act of 1987 § 103(a), 42 U.S.C. § 11302(a) (2000).

providers that receive federal funding are required to provide information to the Homeless Management Information System (HMIS), a program developed by United States Department of Housing and Urban Development (HUD) to gauge the number of homeless persons. The HMIS count is based on people who meet the federal definition of being homeless; however, not all homeless persons fall within this definition.

### **C. Temporarily, Intermittently, and Chronically Homeless.**

Service providers and social work professionals who specialize in working with people experiencing homelessness differentiate between subgroups within the homeless population. One of the specific populations recognized under federal law is the chronically homeless. This term is defined by federal regulation; 24 CFR 91.5 states:

Chronically homeless person. An unaccompanied homeless individual with a disabling condition who has been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years. To be considered chronically homeless, a person must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency shelter during that time.<sup>16</sup>

The same regulation defines homeless subpopulations:

Homeless subpopulations. Include but are not limited to the following categories of homeless persons: severely mentally ill only, alcohol/drug addicted only, severely mentally ill and alcohol/drug addicted, fleeing domestic violence, youth, and persons with HIV/AIDS.<sup>17</sup>

One service provider estimated that 20% of the homeless population in Boise suffers from co-occurring mental health and substance abuse disorders. The substance abuse is a form of self-medication. He observed that the homeless who suffer from mental health problems are not in treatment and are very difficult to serve.

The term, "chronically homeless," is defined by federal regulation; however, service providers also refer to persons intermittently or episodically homeless. This group includes persons who are able to find or be placed in housing and remain there for a period of time, but who, for various reasons, including lack of medication or inability to maintain a job, lose their housing and become homeless again.

The same service provider also discussed the intermittently homeless. He observed that this subpopulation does not have serious drug or alcohol problems. In this group, one might find illiteracy and a lack of job skills; however, with a hand up, they are often able to exit the state of being homeless. They need vocational education and academic skills. Because persons in this group may have difficulty maintaining employment, they may have episodes of homelessness.

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<sup>16</sup> 24 CFR 91.5.

<sup>17</sup> 24 CFR 91.5.

Service providers also refer to persons who are temporarily homeless. This group includes persons who suffer life events such as loss of employment, hospitalization, domestic violence, or disability, and subsequently lose their home or apartment. Generally, these are people who are more accustomed to living in a fixed residence; and, generally, they are in need of temporary assistance while they reestablish a level of financial security. One service provider observed that another situation that can result in temporary homelessness is a situation in which people who are low income become stranded while they are traveling. They have no place to stay when a vehicle breaks down and must be repaired.

An additional subpopulation that is identified by HUD is homeless youth.<sup>18</sup> One service provider also specifically mentioned a fourth group, the “aged-out” foster youth, the subpopulation of the homeless who are young adults recently released from foster care. Foster care programs do not provide financial assistance to foster care providers after the child turns eighteen. As a result, some foster care children are evicted from their homes when their foster parents no longer receive remuneration for the children’s care. In other cases, “aged-out” foster youth voluntarily leave their foster home to assert their independence. The “aged-out” foster youth is a growing population. This group exhibits a significant amount of chemical dependency and a great deal of substance abuse. This group also exhibits a lack of education and a lack of job experience. A city official in Seattle noted that the area around the University of Washington campus draws many of these homeless young adults, in part, because, they are the same age as the university students. While there is no indication that this situation exists in Boise, the city is home to a university that could eventually become a draw for this subpopulation.

#### **D. The Homeless Population in the City and the State.**

One of the first questions that arose in looking at the general issue of police interaction with the homeless was the size of the homeless population in Boise. In order to get a grasp of the problem, it is important to know its size. The answer to the question of the number of homeless persons in Boise has been surprisingly elusive.

The website for the Idaho Food Bank states, “On any given night, there are approximately 2,000 homeless people in Boise. (Boise City, 2005).”<sup>19</sup> The point-in-time count of homeless persons in Boise that was conducted on March 15, 2006, indicated that there were 179 responses.<sup>20</sup> This number includes persons who were in shelters; and each response may include a single person or a family. The number does not include persons who were “camping.”<sup>21</sup>

A supervisor in the Boise Police Department estimated that there are approximately 1,500 to 2,000 homeless persons in Boise. This figure includes people who bounce from shelter to shelter or from shelter to residence with no permanent address. The supervisor stated that the police see people who are seasonally homeless. These are people who have some place to live for a part of the year. The police also see the transient homeless who are only passing through Boise and are

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<sup>18</sup> 24 CFR 91.5.

<sup>19</sup> [www.idahofoodbank.org/hunger.htm](http://www.idahofoodbank.org/hunger.htm)

<sup>20</sup> Conversation with Melanie Curtis, Executive Director of SHIP, October 5, 2006.

<sup>21</sup> *Id.*

here temporarily. Finally, they see the chronically resident homeless. The latter group is comprised of homeless people who are permanent residents of Boise. This group may or may not meet the definition set forth by HUD.

Another way of approaching the question of the number of homeless persons in Boise is to extrapolate from the statewide numbers. The Idaho Housing and Finance Agency (IHFA) administers the statewide homeless program. Each year, the IHFA provides information concerning its statewide homeless count to HUD. Boise and Ada County are their own enterprise zone and are not required to report information regarding their homeless count to IHFA; however, Boise and Ada County are required to provide this information separately to HUD.

In 2005, there were 32,000 people statewide who requested some type of homeless services.<sup>22</sup> Between 32,000 and 36,000 unique services were provided to 12,000 unique or unduplicated clients.<sup>23</sup> IHFA documented 9,700 unduplicated clients in shelters in the current year through February 2006.<sup>24</sup> There were also 1,300 people who were unsheltered.<sup>25</sup> Adding these figures together, the total homeless population in the state would be approximately 11,000.

People who are homeless tend to hover around the outskirts of population centers.<sup>26</sup> IHFA's report on the homeless estimated the number of homeless people that could be found in the following cities<sup>27</sup>:

Coeur d'Alene	32 %	3,520
Lewiston	7 %	770
Canyon County	25 %	2,750
Boise City area	22 %	2,420
Twin Falls	7 %	770
Pocatello	4 %	440
Idaho Falls	3 %	330

These numbers give a loose idea of how many people who are experiencing homelessness are living in or around the City of Boise.

In Boise, the Homeless Management Information System (HMIS) data does not reflect the actual population served. One of the largest service providers in Boise receives no federal support, and due to cost constraints, does not participate in the HMIS. Their unreported results are estimated to be significant. The City of Boise receives a count from this service provider, but is unable to determine if the numbers are duplicated when compared to IHFA reports. This service provider serves 1,800 to 2,000 people annually. By many accounts, the underreporting of the numbers of homeless persons in the Boise area would increase the population level to between 4,000 and

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<sup>22</sup> Conversation with Mike Dittenber, Idaho Housing and Finance Agency, July 26, 2006.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> This assumes a total statewide homeless population of approximately 11,000.

4,500. The Mayor's Ten Year Plan to address Homelessness Committee is using a national estimate formula, which is based on population, that puts Boise's homeless population at around 4,500. This estimate does have some correlation with other service provider anecdotal estimates that the homeless population exceeds 3,000 to 3,500.

Assuming that the number of homeless people in Boise is somewhere around 4,000, and taking the City of Boise's population statement from its website, which is approximately 181,711,<sup>28</sup> a simple calculation indicates that the homeless population constitutes about 2.2% of our population.<sup>29</sup>

### **E. Interaction Between the Police and the Homeless.**

Defining the segment of the homeless population that has frequent interaction with the police, and then defining the size of that population is a critical component of analyzing any problem that may exist. Thus, the next question is whether all homeless persons or only subgroups of the homeless are having interaction with the police. One BPD supervisor estimated that there are between thirty and forty chronically homeless persons in Boise with whom his division has frequent contact.<sup>30</sup> He further observed that, generally, he and his officers do not see homeless families or those who are temporarily homeless. A different service provider made a similar assessment. Working primarily with the temporarily homeless, she rarely sees interaction between her clients and the police, unless it is regarding activities for which any citizen would be criminally liable, such as drug use, driving without a license, or driving while suspended.

Based on lay observation, one service provider estimated that 20% of Boise's homeless population is mentally ill and chemically dependent or alcoholic. This group creates the greatest need for police involvement. The next 20% of the homeless are the chronically homeless who are chemically dependent or alcoholic but not mentally ill. This group creates the second greatest need for police involvement.

With respect to the general homeless population, most service providers estimate these numbers to be higher. They estimate that homeless individuals in shelters that exhibit dual addictions or co-occurring mental health and substance abuse disorders are estimated to be around 70% of the population. These numbers are supported by the fact that approximately 50% of the renters in the City of Boise's Single Room Occupancy (SRO) units are persons exhibiting addictions or mental illness. Whether this segment is as low as 40% or as high as 70% of the homeless population, it is a significant number.

Based on the assessment of police supervisors and homeless service providers, the chronically homeless, and specifically those with substance abuse disorders, or co-occurring mental health and substance abuse disorders, create the greatest need for police intervention. While the police supervisor estimated that there are thirty to forty chronically homeless persons with whom his

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<sup>28</sup> [www.cityofboise.org/public\\_information/index.aspx?id=about\\_boise](http://www.cityofboise.org/public_information/index.aspx?id=about_boise)

<sup>29</sup> Applying the same calculation with respect to the data from the City of Seattle yields a percentage of 1.0%.

<sup>30</sup> Anecdotal estimates by service providers place chronic homeless numbers between 75 and 100.

division has regular contact, the total number of persons in this group may be as large as 70% of the homeless population. Assuming that the number of homeless persons in Boise is 4,000, the number of chronically homeless with substance abuse disorders or co-occurring mental health and substance abuse disorders may be as large as 2,800 people. This is a large number; however there may be ways to address it.

## **STATISTICS REGARDING ENFORCEMENT ACTIONS**

### **A. Law Enforcement by the Bike Patrol Unit.**

The Bike Patrol Unit provides law enforcement service to the Greenbelt Park System, the downtown area, Camels Back Park, and the Rivers to Ridges trail system in the foothills. With respect to the Greenbelt, the Bike Patrol Unit covers the area from Barber Park to the entrance from Garden City. The Bike Patrol Unit has been keeping statistics on its enforcement actions for four years. In 2002-2003, the Bike Patrol Unit issued 1,183 citations. In 2003-2004, the Bike Patrol Unit issued 1,187 citations; and, following a reduction in manpower in 2004-2005, the Unit issued 1,092 citations.

Because of their responsibility for enforcing ordinances in the Boise River corridor, specific parks, and the downtown area, the law enforcement efforts of the Bike Patrol Unit has a significant impact on the public's enjoyment of public and urban spaces. Many of the statutes and ordinances that the Bike Patrol Unit is called upon to enforce are laws that affect the quality of life of the average resident. These ordinances include prohibitions against such behavior as public urination, disorderly conduct, and camping in the park. The number and type of quality of life citations that were issued each year are set forth below:

<b>2002-2003</b>	<b>No.</b>
Camping	26
Disorderly Conduct	30
Illegal Consumption/Possession of Alcohol	92
In Park After Dark	32
Open Container of Alcohol	510
Urinating	68
<b>Total</b>	<b>758</b>

<b>2003-2004</b>	<b>No.</b>
Camping	73
Disorderly Conduct	36
Illegal Consumption/Possession of Alcohol	62
In Park After Dark	28
Open Container of Alcohol	496
Urinating	54
<b>Total</b>	<b>749</b>

<b>2004-2005</b>	<b>No.</b>
Camping	15
Disorderly Conduct	57
Illegal Consumption/Possession of Alcohol	47
In Park After Dark	16
Open Container of Alcohol	372
Urinating	28
<b>Total</b>	<b>535</b>

The total number of citations issued by the Bike Patrol Unit for quality of life violations fell from 758 in 2002-2003 to 535 in 2004-2005. According to the Bike Unit Annual Report, the decision to enforce the open container law on the Boise River had a significant impact on the number of open container citations issued elsewhere in and around the parks along the Boise River. The number of open container citations dropped from 496 in 2003-2004 to 372 in 2004-2005. Even taking into account the drop in the number of the open container violations attributed to the enforcement of the open container law on the Boise River, the number of citations issued for quality of life violations dropped significantly between 2002-2003 and 2004-2005.

According to the report, a spike in the number of camping-in-public citations in 2003-2004 was a concern. The report observes:

Camping-in-public citations were a concern (Chart 1). In 2002-2003 we issued 26 citations, in 2003-2004 we issued 73 and in this year 2004-2005 we issued 15. In last year's report it was noted that we had experienced a spike and we had no explanation. After three years of stats, it appears there is no consistent pattern. Our stats are pulled from October to October, so the opening of the "Sanctuary" had no effect on the decline in camping citations.<sup>31</sup>

The overall decrease in citations issued for quality of life violations substantiates one supervisor's statement that consistent enforcement actions have been effective. It is unknown whether a decrease in staffing in the unit may have had an impact on the number of citations issued.

## **B. General Statistics From the Boise Police Department.**

In the period from July 1, 2005, to July 1, 2006, Boise police officers issued 45,062 citations and made 10,878 arrests. During the same time period, 1,038 citations were issued and 110 arrests made for quality of life violations. Based on these numbers, citations and arrests for quality of life violations accounted for 1,148 of the total 55,940 arrests and citations, or approximately 2% of the arrests and citations issued by the Boise Police Department during the reported period.

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<sup>31</sup> 2004-2005 BPD Bike Unit Annual Report, p. 2.

As can be seen from the table set forth below, by far the highest number of quality of life citations and arrests made were for violations of the open container ordinances.<sup>32</sup>

**Boise City Police / July 1, 2005 to July 1, 2006:**

<b>Statute Violation</b>	<b>Arrests</b>	<b>Citations</b>	<b>Number of cites issued to homeless/transient (home address)</b>
6-01-10(B) (disorderly conduct - occupying, lodging, or sleeping in a building, structure, or place, whether public or private, without the owner's permission)	0	19	5
6-01-26 (resisting and obstructing - misdemeanor)	5	6	0
6-01-36 (open container)	79	735	316
6-01-47 (excretion of human waste)	22	226	25
6-17-06(G) (camping within 70 feet of the river)	0	0	0
9-14-04 (camping in the park)	0	1	0
9-14-05(E) (entering or remaining in the park after closure)	2	4	0
9-14-05(A) (possession of an open container in a park)	2	47	6

<b>Citations Issued to persons with the following home address:</b>	<b>Number of Citations</b>
Transients/Homeless issued	661
Corpus Christi House/525 Americana Blvd	38
City of Light / 1404 W Jefferson	6
Boise Rescue Mission / 520 Front St	32

<sup>32</sup> As noted earlier in the report, there are two open container laws: one that applies to the possession of open containers in the park, Boise City Code Section 9-14-05(A); and one that applies to the possession of open containers in a public place, Boise Code Section 6-01-36.

The total number of citations issued for all misdemeanors to persons who were homeless or who listed their address as the address of a homeless facility was 737.<sup>33</sup> Of those, 352 were issued for quality of life violations. The total number of citations for all quality of life violations during the period mentioned was 1,038. Thus, homeless persons received approximately 33% of the quality of life citations issued.

Of the open container citations issued, slightly fewer than half of the citations were issued to persons who were homeless. The second highest number of citations and arrests were for violations of the ordinance prohibiting public elimination of human waste. While there were 226 citations issued for public excretion of human waste, only 25 of those were issued to persons who were homeless.

Arrests and citations for other violations were essentially *de minimis*. Of the 19 citations issued for sleeping in a private place without the owner's permission, only five were issued to persons who were homeless. No citations were issued to homeless persons for camping in the parks or near the river. Similarly, no citations were issued for being in the park after closure; and, finally, of the 47 citations issued for possession of an open container in a park, only six were issued to homeless persons.

One of the significant concerns raised at the outset of this inquiry was whether Boise police officers issue camping tickets to people sleeping in the parks during the daytime. Based on the number of citations issued, the answer to this question is “no.” Only one citation was issued for camping in the park and it was not issued to someone who was homeless. During the course of interviewing homeless persons, this office spoke with a person who received a citation for violating Boise City Code Section 9-14-04.<sup>34</sup> In that case, the person was not simply sleeping in the park during the daytime, he had set up a camp.

Nineteen citations were issued for disorderly conduct for sleeping on private property. Six of these citations were issued to homeless persons. While this number is higher than the number of camping citations issued, it reflects law enforcement efforts to protect private property. The number of citations issued for violation of the ordinance prohibiting a person from sleeping on private property without the permission of the owner probably does not reflect the number of times the violation actually occurs. One homeless person explained that he had slept at the Anne Frank Memorial during his first night in Boise:

[I was] listenin' to one of my drunk friends [and] went and slept at the memorial. Which was a blessing. Security came around [and said], “there are way too many of y'all. It's starting to look like a hotel. You got to find some place else [to sleep].” I got up in the morning and learned a lot. Next day I got up and had to look and see. I got a whole lot of education from that spot.<sup>35</sup>

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<sup>33</sup> The number of arrests of homeless persons for violation of these ordinances was not reported.

<sup>34</sup> The citation was issued after July 1, 2006, the end of the year for which statistics were reported.

<sup>35</sup> Interview with “Caleb,” August 9, 2006.

In sum, the statistics reported by the Boise Police Department indicate that 67% of the citations issued for quality of life violations are issued to persons who are not homeless.

## **INTERVIEWS WITH POLICE SUPERVISORS**

### **A. Introduction.**

During the course of the research, supervisors from the Boise Police Department were interviewed. They offered important insights into the challenges police officers face, not only in working with people who are homeless, but also in coordinating with service providers and connecting homeless persons with available resources. The supervisors were invited to share their views with respect to what would assist the police department in dealing with the homeless. They emphasized that the views expressed were their personal views and that they were not speaking on behalf of the department.

### **B. The Ongoing Cycle of Law Enforcement.**

One supervisor described a relatively familiar relationship between police officers and the 30 to 40 people who have frequent contact with law enforcement. These people were termed the “hardcore” homeless; in other words, they are people who have made a conscious decision to live on the street. Because many of the people in this group have substance abuse problems, police officers often find them passed out in front of downtown buildings. In other instances, the officers are dispatched to places where a homeless person has passed out. The persons in this group are frequently cited for alcohol related crimes.

The interaction between law enforcement and this group of homeless persons was described as an ongoing cycle. The officers know the homeless persons on sight and they know them by name. The officers know where they drink; and the homeless people know when the officers go on duty. This group of homeless people knows where it is lawful to drink and chooses not to go there. The officers know the hidden alleys and alcoves where the homeless like to drink; and the officers make those places part of their patrol route. The officers write them tickets. The homeless eventually go to jail because they have failed to pay their tickets or have failed to appear in court. The taxpayers pay to house them in the county jail. They come out “refreshed and rejuvenated.” Then the cycle starts over again.

### **C. Consistent Law Enforcement Efforts Prove Successful.**

While there is an ongoing cycle with respect to the enforcement of open container laws, one supervisor noted that consistent effort and pressure by law enforcement has helped to eliminate the existence of established homeless camps along the Greenbelt. Before three highly publicized murders of young women along the Greenbelt in the late 1990s and 2000, there were established homeless camps along the Greenbelt where people stayed every night and no concerted effort being made to eliminate them.

Through solid effort and real pressure by the Boise Police Department, no established camps exist today along the Greenbelt. This effort has been complemented by the park volunteers and rangers, who are persistent in routing out potential camps. At present, it might be possible to find one or two people in the parks at night; but there will be no established camps.

#### **D. Police Department Policy and Personal Property.**

One of the specific concerns raised in this case was the suspected confiscation and destruction of property belonging to people who are homeless. In response to a direct question on this issue, one supervisor stated that it would be a violation of police department procedure to dispose of anyone's property. Under Boise Police Department procedure, an officer should book all property into the Ada County Sheriff's Property Room, which is also sometimes referred to as the Booking Room.

While a police officer would not throw someone's wallet in trash, the police department is not the only entity that deals with the property of homeless persons. Employees of the Boise Parks and Recreation Department may come across personal property during the course of their work. In addition, where homeless persons may have left their belongings on private property, the belongings may be disposed of by private citizens. The same is true for property left in areas owned or controlled by utility companies; if utility workers come across apparently abandoned property, they may dispose of it.

If officers do find a camp, they mark it. They also leave a notice form on top of the person's sleeping bag or somewhere where it will be easily seen when the person returns. The notice form cites the city or county ordinance regarding camping in public and directs the person to move and leave the area in a clean condition. Usually when the officer returns the next day, the person is gone. If the person has taken some of their things and left, the officers will dispose of whatever remains.

Generally, if officers find personal things outside of an established camp, they leave them. If a homeless person is arrested, the person's property is booked. This partially depends on whether it has value. If it is of value, or if it has a name on it, it will be booked. On the other hand, officers will throw out anything that is soiled, particularly with human elimination, and can be easily replaced. The officers "glove up" and go through everything. One supervisor stated that no officer under his command would throw anyone's personal belongings in the river. He stated that stories to that effect are not true.

#### **E. No Citations Issued for Sleeping in Parks During the Daytime.**

One issue specifically raised was whether police officers issue citations for camping to persons who sleep in the parks during the daytime. One supervisor stated that, while camping in the park is not legal, no citations are issued for sleeping in the park during daytime hours. It is a perfectly legal activity. If someone is sleeping in the park during the day, the officers will go along and wake them up to make sure they are all right. In fact, several of the audiotapes that were reviewed include recordings of officers advising persons who were asleep on private property during the daytime to go to one of the parks and sleep on the grass. The officers said that when

they rode by, they would check to make sure the sleeping person was breathing. Though a person cannot set up a tent, it is permissible for someone to get in a sleeping bag and lie in the park all day long.

## **F. Neighborhood Shelters and Night Shelters.**

Homeless facilities located in business areas or in neighborhoods pose special problems. While the impact may be actual or perceived, there will be some fallout on residential or business neighbors. As an example, homeless persons may be engaging in prohibited activities such as alcohol or drug use. In conducting these activities, they may be spreading out to the surrounding neighborhoods. These activities carry sanctions if conducted on the property of the facility premises. For this reason, it is especially important for shelters to have policies and procedures to minimize the impact on neighbors.

One homeless facility was controlling behavior on its own property, but was unaware of the impact on its neighbors. In that case, the facility expanded its perimeter patrol. The facility also expanded its rules to the adjacent neighborhood. If a homeless person were caught drinking alcohol or using drugs in the neighboring areas, the consequences were the same as if the person were caught doing that in the facility.

The policies at night shelters also affect surrounding neighborhoods. The night shelters are open during the evening hours; but the residents must leave in the morning. When they leave, they have no place to go from early morning to late afternoon. The idea is that residents should be out looking for jobs or working for eight hours; but the reality is that many leave with nothing to do. They then disperse into surrounding neighborhoods or the downtown area. One potential solution would be for night shelters to have a day room that is monitored.<sup>36</sup> This would provide an alternative to loitering on the property or in the neighboring area.

In some of the shelters, the police receive repeat calls about fights or other negative interactions between residents. In these types of cases, there is a need to pre-plan what will happen when the police respond. There is also a need for shelter workers to communicate with one another, particularly when some or all of them are volunteers. This would help ensure that staff and volunteers know when the police have been summoned. They can then coordinate their response when the police arrive.

One supervisor emphasized that the police do not go to the shelters and demand the names of people who are staying there just to check for outstanding warrants. The situation is different, however, if a crime has been committed in the neighborhood. In that instance the police may come to the shelter to seek additional information or interview potential witnesses.

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<sup>36</sup> One homeless facility in the community is a “day shelter.” It is open from 7:00 a.m. to 5:00 p.m., and provides a place for people to go during the day. People who come to the facility can do laundry, take care of personal hygiene needs, temporarily store personal items, and use computers. For those homeless persons who walk all night, they can also sleep there during the day. In terms of square footage, it is not a large facility and can become crowded if there are 75 people there.

## **G. The Need for A Detox Center.**

A very important theme in the interviews with the police supervisors was the need for a detox center. One of the supervisors noted that the police department has no place to take people who are intoxicated but not violent. In the past, the jail informally functioned as an emergency detox center; however, the police do not take detox holds to the jail anymore. One option is to take persons who are inebriated to a local medical center; but it is hard to convince the medical staff that intoxication is a medical emergency. The Port of Hope<sup>37</sup> operated a detox center; but that detox center is no longer in existence. Having a detox center would be a big advantage, particularly if it were set up to transition into long term care.

Another supervisor explained that he is tasked with enforcing the laws that are on the books. He noted that it is very difficult to arrest the chronically homeless who are alcoholics. The jail refuses to take them. There are people who can generally maintain a certain level of intoxication and not cause a situation that involves law enforcement; but they go through cycles. After maintaining for a while, they will go through a period where they drink far too much and then pass out someplace downtown.

If a person is arrested when intoxicated, there may or may not be a medical emergency. The person may be intoxicated to the point that he has lost control over elimination. The person may be in an unsanitary condition and may have urinated on himself or defecated in his pants.<sup>38</sup> The officer then takes the person to jail. The jail says that the person is too intoxicated and refuses to accept him. The officer then takes the person to the hospital. The officer stays at the hospital with the person waiting for a doctor, who may be disinclined to see him. The wait may be two to three hours. Once the person is cleared, the officer takes him to jail and the person is out the next day. The supervisor further observed that the detox center that is being discussed would be a great asset. When officers find someone who is severely intoxicated, they could take the person to the detox center. Right now, there is nothing.

One of the supervisors stated that the current situation results in a waste of tax dollars. Police officers are a valuable resource. They are highly trained people who are required to look after persons who have placed themselves in an intoxicated condition and have become dangers to themselves. He observed that this is a waste of police resources.

## **H. Working with People Who Are Mentally Ill.**

The problem of a lack of services also arises in the area of mental illness. One supervisor explained that the Boise Police Department provides training to officers on emergency mental illness issues; and the department has streamlined the process with respect to those emergency

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<sup>37</sup> A non-profit corporation that provides substance abuse treatment services.

<sup>38</sup> While neither supervisor discussed the issue of the potential contamination caused by exposure to human waste, officers who must transport persons who have urinated on themselves or defecated in their pants are exposed to the potential of infectious diseases. Officers must not only handle the person and be exposed to the unpleasant odors, they must also clean themselves and their vehicles after the person has been checked into either the hospital or the jail.

issues. However, when there is a non-emergency situation involving a person suffering from mental illness, the police are often called to work with the same people over and over again. The supervisor further explained that there are people who need acute mental health care but have no ability to pay for it. While there is some indigent mental health care available, it is designed to get people out of the system as fast as possible. If someone is placed on an emergency mental hold, they can be held for a short period of time; but usually the problem cannot be solved in a matter of a few days.

### **I. Service Coordination and Open Contact.**

The need for open and frequent contact between law enforcement and service providers was another important theme of the interviews. One supervisor emphasized the need for education for both police officers and service providers. He also discussed the need for pre-planning in the event that the police are called to respond to a homeless shelter facility. He noted that it would help to have training for both officers and shelter staff. It would be helpful to work together.

The supervisors noted that it would help officers in the police department to have a referral system for people who are homeless. One supervisor posed the question of how the police could get a homeless person in touch with social services. The process needs to be quick and simple because the police department is already understaffed. He would like to see an easily accessible process to connect homeless people with the entities providing services. He noted that this would have to be a process that is accessible at all times of the day or night.

### **J. The Possibility of an Advocacy Program.**

With respect to the effect of citations on a person's ability to exit the state of being homeless, one supervisor noted that it is very easy for these citations to go away. He mentioned one particular homeless person who had a severe problem with alcohol and had received numerous citations. Just after the person was released from Intermountain Hospital, he was required to appear in court with regard to the citations. The prosecutor asked that the tickets be dismissed, and the officer agreed. The supervisor suggested that it might be possible to have an advocacy program in which citations could be dismissed if a person were able to show that he had entered some type of program or had entered public housing. The supervisor commented that pursuing an action that would put someone who is making an effort to curb his or her behaviors back in the position of being homeless doesn't make any sense.

## **INTERVIEWS WITH THE SERVICE PROVIDERS**

### **A. Introduction.**

One phase of the research on this project involved interviewing persons who are involved in different entities that provide services to the homeless. The persons interviewed provided invaluable background information concerning the problems facing the homeless. The persons interviewed do not represent the entirety of the social service community; however they

represent a small cross section of the types of services available. The comments of the persons interviewed are aggregated by theme.

## **B. The Need for a Detox Center, a Sobering Station, and Crime Intervention.**

One of the biggest challenges in the Boise area is the fact that there is no detox center. The Boise Police Department tries to get alcoholics into a safe environment. One service provider stated that, a lot of the time, the police will bring someone who is inebriated to a homeless facility. Sometimes the homeless facility will take a person who is inebriated; but the officers do not understand what the limitations of some of the facilities are.

One of the issues affecting the homeless is the need for a sobering station. When the police find someone who is intoxicated, they have no place to bring them in order to allow them to sober up.<sup>39</sup> If there were a sobering station available around the clock, it would allow officers to get the person off the street for twenty-four hours. Currently there is no place for someone in that condition to go. One service provider commented that it should be a fairly secure place, but not too comfortable.

Drugs and alcohol are a significant problem with the homeless. Currently, most of the detoxing is done in jail. If a homeless person is in jail for three months, that person will not have a drink or cigarette during that time; however, when the person is released, there is no process or support to help that person stay sober.

In order to be eligible for housing assistance, one must be drug-free and sober for three months. If a person has detoxed during the time he or she is in jail, the time in jail does not count. When they come out of jail, many people relapse. Some of the homeless go to Alcoholics Anonymous and/or Narcotics Anonymous meetings every day, but meetings are not enough. They need a caseworker. They need someone to hold their hand. Knowing where the homeless get their drugs would also be an important step. One of the service providers suggested that an undercover operation could help police find the identity of the dealers and the pushers who provide drugs to the homeless.

## **C. Personal Property and Identification.**

With respect to a specific inquiry regarding the loss of identification, one service provider said that she has never heard of a police officer throwing away someone's identification. She has most often heard that a person's identification was stolen. One thing she has heard frequently is that her clients were on the bus and their identification got stolen.

A second service provider noted that a booking picture is not legal identification. This could be an issue that is a county problem. With respect to property, the second service provider noted that some homeless persons have a hard time getting things back from the police department. He

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<sup>39</sup> The supervisors noted that persons who are intoxicated have sometimes eliminated on themselves. It would be helpful for a detox center or sobering station to simply have a place where a person could attend to basic hygiene concerns, such as obtaining clean clothes and taking a shower.

wondered if the police would give the property to one of the homeless facilities to hold items for people until they get out of jail or can otherwise retrieve it. He further observed, "the homeless lose everything daily: it's no longer a tragedy; it's a lifestyle."

#### **D. Police Interaction with the Temporarily Homeless.**

One of the service providers works primarily with homeless families and people who are temporarily homeless. She emphasized that the subpopulations of the homeless are very different from each other. The homeless population with which she works does not typically have a great deal of interaction with the police with respect to issues of camping, disorderly conduct, or other issues that arise with the chronically homeless. She has neither seen nor heard of problem interactions between the police and the homeless persons with whom she works. This was corroborated by the fact that, when the clients at her facility were given the opportunity to come forward, only one person wished to be interviewed.

The homeless with whom this service provider works have issues with law enforcement that are not necessarily related to being homeless, including petty theft, drugs and paraphernalia, driving with a suspended driver's license, and driving under the influence. The homeless enter a cycle when they lose their driver's licenses. One of the problems that arises frequently is maintaining automobile insurance.

#### **E. The Perception of Injustice.**

When the homeless are issued citations for "disturbing the peace" or camping, it raises concerns regarding the unequal application of the law. One service provider mentioned a federal law that states that if a city does not provide shelter to homeless people, then people without homes can camp on public property.<sup>40</sup> He also mentioned that there are hearsay reports that the homeless are cited for disturbing the peace when they are camping.<sup>41</sup>

The service provider observed that the perceived injustice has the potential to result in litigation. As the homeless are becoming more educated regarding their rights, there is some discussion of a class action lawsuit. The homeless feel that some of the Boise Police Department's citations are wrong and that the injustice comes from the rules. Though the homeless are sometimes engaged in conduct that results in minor violations of the law, the service provider suggested that, rather than issuing a citation for having an open container, a police officer could talk the homeless person into getting rid of the beer and moving on.

One facet of this issue involves the interaction between the police and the service providers. Sometimes an officer will come into the shelter looking for a specific person. Some of the homeless facilities will turn the person in and some will not. The request from law enforcement that facilities turn in the homeless who are seeking shelter has not been universally well received.

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<sup>40</sup> This appears to be a reference to *Jones v. City of Los Angeles*.

<sup>41</sup> This appears to be a reference to citations for disorderly conduct.

#### **F. Outreach to People Who Are Homeless.**

One service provider talked about attempts to make an outreach effort to the homeless. One of the homeless facilities attempted to do patrols along the Greenbelt but did not have enough personnel to continue. People from the facility would try to find homeless people and bring them back to the facility. In response to a question regarding where they would go to find homeless persons, the third service provider was able to identify locations along the Greenbelt where the homeless could be found. He also noted that another method of outreach would be to work with the corrections facilities to try to provide services to people who are exiting jail or prison.

#### **G. Cross Training Between Police and Service Providers.**

One of the service providers observed that a person cannot get too much training in dealing with the homeless. He noted that his program does not always know how to deal with the mentally ill homeless. In the past, the Boise chapter of the National Association for the Mentally Ill, (NAMI), had started a training program for police dealing with mentally ill. He suggested that this is an issue that should be addressed by the Boise City Council. He noted that the police should go and observe different shifts at the homeless facilities. It would also be helpful if the police knew what the facilities can and cannot do. He also felt it might be helpful for new hires in the Boise Police Department to meet the directors and staff members of the facilities, see the actual physical facility, and see the recovery program.

#### **H. Supervisory Support and Professionalism.**

The same service provider has been very impressed with the degree of professionalism shown by the Boise Police Department. He stated that he very much appreciates the response of the Boise Police Department when a man is down. The police assist the emergency medical services personnel; and no officer has ever behaved in a cynical manner. A second service provider also said that supervisory support from the Boise Police Department has created some positive interactions between volunteers, the police, and the community. He noted that two police supervisors had come down to talk to the volunteers at one of the homeless facilities. The supervisors had talked to the volunteers and given good, positive advice. The second service provider also noted that the duty officers and the sergeants have a lot to do with how the patrol officers act.

### **NARRATIVES FROM THE HOMELESS**

#### **A. Introduction.**

Consideration of the effects of law enforcement actions on the lives of the homeless helps illustrate the effects of criminal enforcement on those experiencing homelessness. Though several homeless persons were interviewed, only four narratives were chosen to be included in this report. The names of the persons interviewed have been changed to protect their privacy.

One of the unexpected results of the interviews was that they did not reveal facts that substantiated the claims originally brought to this office. Nonetheless, the narratives are important, not because law enforcement personnel took inappropriate action, but rather because they illustrate the effect of gaps in the social safety net. Even more importantly, the narratives illustrate the unintended consequences of enforcement actions. They truly portray the sadness and misfortune of those who, for whatever reason, are on the frayed edges of the American social fabric.

## **B. Effect of Citations on Housing.**

William is in his fifties. With the help of social services, William recently moved into his own apartment. During the course of the interview, he mentioned the importance of his apartment more than one time.

During the summer of 2005, William received a citation for disorderly conduct. He had the faded original copy of the document in his wallet. He had gone to the court and made arrangements to pay fines and costs of \$143.00. He made one payment of \$26.00, but failed to make the rest of the payments because he lacked the financial resources to do so.

According to William, after having moved into his apartment in the summer of 2006, an acquaintance contacted him and told him that he would leave a bicycle for him at the bus station. William went to the bus station to pick up the bike. His shoes had holes in them. William sat down on the curb to empty pebbles out of his shoes. While he was sitting there a police officer arrived and gave him a citation for disorderly conduct for being on private property without permission. The ticket was issued in the mid-evening. William carried this citation in his wallet also. As William discussed the citation, he noted that the officer had listed his address as "transient." During the interview, he explained, "I am not a transient: I have my own apartment."

A review of the police officer's audio recordings from the date the second ticket was issued reveals different facts. A Boise police officer found William asleep on private property. After the officer tried several times to rouse him, William woke up. When the officer asked him why he was sleeping there, William responded that he had a couple of beers and "just got tired."

Additional questioning by the officer indicated that, at the time the officer issued the ticket, William had not yet been placed in housing. William told the officer that he had been sleeping at a friend's house. The officer issued a ticket for disorderly conduct and advised William that the property where he had fallen asleep was private property and that the owners probably did not appreciate him sleeping there. The officer then advised William that, if he became tired, he should go to Julia Davis Park and lie down.

William did not appear in court on the second citation because he was afraid a warrant for his arrest had been issued on the citation he had received a year earlier. He feared that, if he appeared in court, he might be arrested on the warrant. His main concern centered on the fact that if he were arrested and placed in jail for more than seven days, his apartment would be

considered abandoned and would be given to someone else. In fact, so great was William's fear of arrest that he did not want to come down to the ombudsman's office, or any place where he might encounter a police officer. He did not want to lose his apartment.

Ironically, no warrant had been issued on the citation on which William had made the single \$26.00 payment; however, when he failed to appear on the second citation, a warrant was issued. William's current status with respect to housing is unknown.

### **C. A Shelter for People with Mental Disorders.**

Anne is bi-polar and suffers from panic attacks. During the course of two conversations, one of which was conducted at a facility for the homeless, Anne had a startle reaction to sudden, loud noises. It appeared that she has an acute sensitivity to noise. She also began to shake when recounting stressful incidents. Anne suffers from depression and recently attempted suicide. This required police intervention to save her life. She has scars on her wrists from prior suicide attempts.

During the summer of 2006, Anne left the night shelter where she was staying. Like many of the shelters, the shelter is closed to its clients during the day. She was having difficulty that day because she was adjusting to new medications and was beginning to shake. She went to a nearby store and purchased a canned beverage that combines caffeine and alcohol. Anne stated that this is essentially self-medication that helps to calm the shaking.

As she exited the store, she met a friend who had been "kicked out" of the shelter. The friend was sitting on patio furniture located on private property at the entrance of the store. Anne was talking to her friend while pouring the alcoholic drink into a water bottle. As she was doing this, an officer approached her and gave her a citation for having an open container of an alcoholic beverage. He asked her if the store gets tired of having them hang around the entrance. He also introduced the officer who was with him and told her that the second officer was the person who had helped to save her life. Anne is currently paying installment payments on the \$90.00 fine that was imposed as a result of the citation.

A review of the officer's audio recording of the conversation indicates that, during her conversation with the officer, Anne remarked that the shelter where she was staying kept wanting to put her in the hospital. The officer expressed concern and asked why they wanted to put her in the hospital. Anne explained that she was the person who had attempted suicide and that police officers had rescued her. Both Anne and her friend were laughing nervously. Anne thanked the officer who gave her the citation and wanted to shake the hand of the officer who had previously helped her. Anne did not explain the problem she was having with her medication to the officer.

Anne never returned to the homeless shelter that night. She ended up in Intermountain Hospital because of a problem with her medication. She said that she wished the officers would have called a mobile crisis unit. She also wished that there was a shelter for people who have mental disorders.

#### **D. A Place to Sober Up.**

On a summer morning in 2006, David was in Julia Davis Park drinking a beer, which is a violation of Boise City Code. Because David had an unclear recollection of the event, the officer's audio recordings were reviewed and revealed the following facts. The officer approached David to issue a citation and requested his identification. David explained that he had started drinking at the Alive After Five concert the previous night and had been drunk since then. He was unable to state correctly his birth date or social security number. The officer asked him repeatedly to try to remember his social security number. The officer asked David to provide any information that would enable the officer to confirm David's identity.

The officer asked David if he could just lift up his shirt so he could see whether he had a wallet. David did not stand up. The officer then called a transport unit and advised David that he was just making the situation harder on himself. The officer stated matter-of-factly, "If this is all over a little \$150 warrant, it's not worth it." While the transport unit was en route, the officer gave David an additional opportunity to identify himself; but, at that point, David was unable even to remember his date of birth. The officer observed that David was not even reasonable enough to stand up to show him if he had a wallet. David responded, "If I stand up, I might fall down."

After the transport vehicle arrived, a second officer stated that David had identified himself by a different name during an encounter the week before. The first officer then arrested David for having an open container and for giving false information to a police officer. The officer noted at the end of his audio that David had a \$500 warrant for having failed to appear in court.

In a later interview with this office, David recalled receiving a citation for giving false information to an officer; however he remembered it as a situation in which the officer came to the jail after he was arrested in order to give him a revised citation. It appears that David may have been so intoxicated at the time of his arrest that he had impaired recall of the sequence of events. David feels the police "do these little things to keep us in jail." He further stated that the police give, "some homeless person who ain't got no where to go a ticket." He also observed that he had brought the situation on himself by giving the officer the wrong name.

After having served five days in jail on the first two citations, David received a third citation from the same officer for camping in the park. David felt that he had chosen a place that was out of the way and was out of the sight of the public. The officer advised him that he could sleep in the park during the day, but could not set up a camp overnight.

After issuing the citation, the officer left. The officer returned on his bicycle shortly afterward to talk to David again. He was concerned that David felt that he had been treated unfairly and that he was not a "happy camper."<sup>42</sup> The officer explained the law again and tried to smooth the situation.

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<sup>42</sup> It is assumed that the officer did not intend this pun when he made the audio recording.

In a later interview, David stated that it is hard to be ready and able to try to find work when he has no place to sleep at night. David also said that he was not going to pay his fines; he said: "I'm going to go to jail. I'm going to have a cot. I'm going to have a meal. I'm going to eat. I'm going to have a TV."

As the conversation moved on, David talked about the work that he used to do. At one time, he had been a framer. He had been a good worker and had earned more than \$100 per day. He stated that he made a lot of money, but still not enough to rent a house. He said that he had been able to stop using methamphetamine on his own and would very much like to enter a detox program in order to stop drinking, too. One of his final observations was, "I know I have got to sober up and do something with myself."

### **E. Selective Enforcement.**

Samuel, who is a veteran, has been a homeless resident of Boise for approximately one year. He asked one of the employees from the Veterans' Administration (VA) about where he could stay. The VA employee told him to go way out by the Veterans' Cemetery. Samuel made his camp far off the hiking trails, way at the top of a hill.

One day he came home and found a note from a police officer asking him to please take down his tent. The officer found Samuel's name written across the inside of his sleeping bag. Since this incident, it seems to Samuel that the officer knows him. Samuel sees him and the officer asks, "How are you doin' today, Samuel?" Samuel said that the fact the officer knows his name scares him. He feels the officer follows him. Samuel observed, "He is just everywhere."

Samuel has the sense that the officer follows him from the VA. The officer finds him and asks him what is in his backpack. Samuel told the officer that it was none of his business. Samuel has become so tired of being asked about the contents of his backpack that he stopped carrying a backpack.

At the time of the interview, Samuel said he was getting ready to enter a "clean and sober" program and had already been working on decreasing his alcohol consumption. Earlier in the summer, he received an open container citation when he and his friend opened their beers before getting to Ann Morrison Park, where he knows it is legal to drink. Both he and his friend had open containers and Samuel tried to hide his. He feels that the open container ordinance is selectively enforced against people who are homeless. He noted that downtown on Friday and Saturday nights, everyone is out on the sidewalk drinking.<sup>43</sup> He feels that the police do not enforce the open container law in that context because the people drinking are college students.<sup>44</sup>

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<sup>43</sup> This may be a reference to people who are in the enclosed sidewalk dining areas adjacent to many downtown restaurants. In interviewing homeless persons, there seemed to be a significant amount of misunderstanding concerning events such as Alive after Five, where people attending the event are allowed to have open containers in public because the organizers have obtained permits allowing the consumption of alcohol at the location of the event. While it is possible that bar patrons are exiting downtown bars with open containers, it is unlikely because bars can lose their liquor licenses for allowing such acts to occur.

<sup>44</sup> According to statistics provided by the Boise Police Department for the period between July 1, 2005 and July 1, 2006, officers made 79 arrests and issued 735 citations for violations of then Boise City Code Section 6-01-36, the

Samuel recently served two days in jail on one charge and four days on another. According to Samuel, inmates are charged \$40 per night to stay in the jail.<sup>45</sup> Samuel now has all his tickets cleared up, but the court has issued civil contempt orders based on his failure to pay the charges for being in jail. The unpaid charges add up to approximately two hundred dollars. Samuel is “running scared” every time he sees a police officer because he does not know if he will be arrested for “contempts.” He has heard that the contempt orders are civil matters and that he cannot be arrested. He wishes he knew if that were true.

Samuel goes to Labor Finders<sup>46</sup> and El Ada<sup>47</sup> in order to find day labor jobs. In order to walk up to Labor Finders and be one of the first ones there, he has to get up at 3:00 a.m. and walk all the way from the foothills to the bench. He would like to find a place to live, but is unable to afford the move-in costs of an apartment.

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open container law. This is a total 814 open container citations. Officers made an additional two arrests and issued an additional 47 citations for violations of Boise City Code 9-14-05, which prohibits the possession of an open container in a park. Thus, the total number of open container citations issued for all locations, whether in a park or in another area, was 863. The total number of citations issued to homeless persons for violating these two ordinances was 322. Homeless persons received 41% of the citations issued for violations of the open container laws. While 1% of the population received 41% of the citations, only limited inferences can be drawn regarding the accuracy of the perception that police officers selectively target homeless persons when enforcing the open container ordinances. Homeless persons may simply violate the ordinance more frequently than persons who have a residence or other private place to drink alcohol.

<sup>45</sup> While Samuel reported being charged \$40.00 per day, the actual charge is \$25.00 per day. The Ada County Jail charges the City of Boise \$52.00 per day for the incarceration of an inmate; however, the jail also has a statutory obligation to seek reimbursement from the incarcerated person at the rate of \$25.00 per day, up to a maximum of \$500.00. Idaho Code §20-607states:

20-607. PRISONER REIMBURSEMENT TO THE COUNTY. (1) The county sheriff shall seek reimbursement for any expenses incurred by the county in relation to the charge or charges for which a person was sentenced to a county jail as follows:

(a) From each person who is or was a prisoner, not more than twenty-five dollars (\$25.00) per day for the expenses of maintaining that prisoner up to a maximum of five hundred dollars (\$500), whichever is less, for the entire period of time the person was confined in the county jail, including any period of pretrial detention;

According to a deputy at the jail, an incarcerated person has 30 days from the date of release to set up payment arrangements. If the person does not make payments or fails to make payment arrangements, the account will go to collection. The failure to pay a judgment can be considered a contempt of the authority of the court pursuant to Idaho Code § 7-601. If a person is adjudged guilty of the contempt, a fine may be imposed on him not exceeding five thousand dollars (\$5,000), or he may be imprisoned not exceeding five (5) days, or both, pursuant to Idaho Code § 7-610.

<sup>46</sup> Labor Finders Northwest, Inc., is for-profit corporation incorporated in the state of Washington. It employs people for day labor jobs.

<sup>47</sup> El Ada, Inc. is a non-profit corporation incorporated in the state of Idaho. It is a community action agency, the purpose of which is to provide services to assist disadvantaged and economically deprived individuals to deal with their own situations and achieve economic self-improvement. One of its services is to help people find day labor jobs.

## UNINTENDED CONSEQUENCES

### **A. Introduction.**

The enforcement of quality of life ordinances is intended to discourage behavior that impacts the use of private property or public space. Maintaining safety, cleanliness, and livability are important social goals for which the exercise of the state's police power is appropriate. In the shadow of these goals are the unintended consequences of the enforcement of quality of life ordinances.

One of the patterns that clearly emerges with respect to the enforcement of quality of life violations is the continuing cycle that begins with the police issuing citations to the homeless for minor violations. Some of the citations go unpaid. The courts issue warrants against the violators either for failing to appear or failing to pay the citations. The police arrest the homeless persons to whom the citations were issued and they are incarcerated for varying periods of time. The homeless persons are released from jail. The jail charges them for the cost of staying in jail. They return to a situation of homelessness. A civil contempt order is issued for failing to pay jail charges. The cycle begins again. There are consequences to this enduring pattern.

### **B. Criminal History Can Be a Barrier to Obtaining Housing.**

Being homeless can, in itself, become a barrier to having a place to call home.

The Office of Housing and Community Development is a division of the City of Boise's Department of Planning and Development Services. The Office of Housing and Community Development operates an Affordable Rental Program.<sup>48</sup> The occupancy selection criteria include a section on Criminal History Requirements. This section states:

*If you have any of the following convictions and/or groups of convictions in the last (5) five years, then the application will be denied for not meeting the criminal history criteria for residency. As a general rule, excluding minor traffic violations, extensive criminal histories will be denied. Extensive criminal history is defined as ten (10) or more convictions.*<sup>49</sup>

The list of offenses that follows this section includes both felonies and misdemeanors. Quality of life ordinances are not specifically included on the list; however members of the Department of Planning and Development Services stated that ten convictions for crimes such as disorderly conduct could potentially subject an applicant to denial of an application for an affordable rental

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<sup>48</sup> The Affordable Rental Program offers rental units for low to moderate income persons. The rents average 75% to 80% of the Section 8 Fair Market Rents.

<sup>49</sup> Department of Planning and Development Services, Office of Housing and Community Development, Affordable Rental Program, Occupancy Selection Criteria & Grievance Procedure, p. 6.

unit. Members of the department were not aware that a person could be cited for disorderly conduct for sleeping in an inappropriate place.

In addition to being barred from housing by an accumulation of criminal convictions, a person may lose a housing placement as the result of even a short period of incarceration. The case of William, which was discussed in the previous section, is an illustration of the real or perceived effects of the issuance of warrants for failure to appear on a minor violation of the law. As noted earlier, William feared that a warrant had been issued for his arrest because he had only made one payment on a prior citation for disorderly conduct. He received a second citation for disorderly conduct for sleeping on private property at or around the same time he entered a public housing program. Because he feared being arrested and losing his apartment, he did not go to the court to make arrangements to pay the second ticket. According to William's statement, if he is arrested and away from his apartment for more than seven days, the apartment will be considered abandoned and he will lose it.<sup>50</sup> He will then be homeless again. Consequently, at the time he was interviewed, a warrant was in the process of being issued on the second citation. If William is incarcerated, it could result in him becoming homeless again.

In a different context, the civil contempt orders accumulated by Samuel could prove to be an impediment to obtaining affordable housing. While Samuel has paid his debt to society in the criminal justice system, he incurred an additional financial debt for the cost of being housed in the jail that will be on his record as a civil contempt order. In order to qualify for the Affordable Rental Program, an applicant cannot have two or more "negative rentals," which are defined in part as "civil judgments or collection actions if less than \$1,000." Representatives of the Office of Housing and Community Development were not sure if civil contempt orders for unpaid jail fines would fall into the category of "negative rentals." If civil contempt orders create a negative credit history, those contempt orders can act as a bar to obtaining housing for homeless persons who have already served their time in jail.

The police are charged with the task of enforcing laws to protect private property, as well as the task of enforcing other laws that prevent the misuse of both public and private spaces. While police officers are performing exactly the job they have been tasked with, it may be helpful to

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<sup>50</sup> According to clause 32 of the City of Boise Residential Lease Agreement, an apartment may be considered abandoned if there is an absence of more than seven days without notification of the landlord:

**32. ABANDONMENT.** Tenant must notify Landlord of any extended absences that last more than seven (7) days. If notice of extended absence has not been conveyed to Landlord, the Premises will be considered abandoned after the Tenant has been absent for more than seven (7) days. In the event Tenant vacates the Premises and leaves personal property behind, the property will be disposed of in accordance with provision 34. *REMEDIES* and in accordance with applicable state law. Proceeds from any public or private sale will be applied to the cost of sale, costs of removal, and any unpaid rent or other amounts due under this Lease Agreement. Any remaining proceeds from sale will be forwarded to Tenant at Tenant's new address if known by Landlord.

If the tenant is gone for more than seven days and provides notice to the landlord, the property will not be considered abandoned. If the tenant were serving a jail sentence and notified the landlord, the property would not be considered abandoned as long as the tenant continued to pay rent. If the tenant depends on SSI or SSDI income, incarceration may affect entitlement to that income. If the tenant loses his or her income source while incarcerated, the tenant may lose his or her housing placement for failure to pay rent.

provide them with other options when dealing with homeless persons who are committing minor violations. While one purpose of enforcing city ordinances is to discourage undesirable behavior, the consequences of enforcement actions may unintentionally perpetuate a cycle of homelessness. As one of the police supervisors observed, "Pursuing an action that would put someone who is making an effort to curb their behaviors back in the position of being homeless doesn't make any sense."

### **C. Entanglement in the Legal Process Can Be a Barrier to Obtaining Social Security (SSI) or Disability Benefits (SSDI).**

One of the issues that arose when the issue of enforcing quality of life ordinances against the homeless was raised to this office is the effect of incarceration on the legal process of applying for benefits. Only one homeless person who was interviewed was facing this potential problem; however, the charge on which he faced the possibility of incarceration did not involve a quality of life ordinance. Some of the citizens who came to this office mentioned that, when homeless persons are arrested and kept in jail, the incarceration interferes with their "court dates"<sup>51</sup> if they have applied to obtain SSI or SSDI benefits, which are income-support benefits funded by federal programs:

People with disabilities, including those disabled by a severe mental illness, are entitled to monthly income-support payments through two different federal programs: SSI for those with low incomes and SSDI for people who have worked and paid Social Security taxes. . . . These federal disability benefits are linked with health care coverage.<sup>52</sup>

If it is necessary for an applicant to appear in at a hearing regarding an application for SSI or SSDI benefits, the applicant may lose the hearing date if incarceration prevents the applicant from attending the hearing. Loss of a hearing date can have consequences ranging from the necessity of obtaining a continuance and thereby delaying the application, to the dismissal of the case and the necessity of starting the process over.

Having a source of income, such as income-support through SSI or SSDI can be a first step toward exiting the state of being homeless. For example, the Affordable Rental Program operated by the Office of Housing and Community Development has income requirements as part of the occupancy selection criteria. Under those requirements, an applicant must have verifiable income and/or assets.<sup>53</sup> With SSI or SSDI income-support, a homeless person may be eligible to obtain housing; without it, affordable housing may be out of reach.

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<sup>51</sup> Applications for SSI or SSDI benefits are heard by administrative law judges. The reference to "court dates" is more aptly a reference to administrative hearing dates. If an application for benefits is denied, the applicant may request judicial review after having completed the administrative process. If there were a request for judicial review, the matter would then fall under the jurisdiction of the federal district court.

<sup>52</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, June 2002, Appendix C, p.400. Available on the Police Executive Research Forum (PERF) website: <http://www.policeforum.org/library.asp?MENU=189>.

<sup>53</sup> Department of Planning and Development Services, Office of Housing and Community Development, Affordable Rental Program, Occupancy Selection Criteria & Grievance Procedure, pp. 5-6.

When a homeless person is incarcerated on a temporary basis, coordinated communication between law enforcement, the justice system, the incarceration system, and the social service system could achieve the goal of simply allowing a homeless person to attend a hearing and continue forward in the process of applying for benefits. A coordinated effort could provide opportunities to accomplish sentencing objectives, but at the same time allow the pursuit of available resources. This, in turn, might allow a homeless person to obtain the support necessary to exit not only the criminal justice system, but also the state of being homeless.

#### **D. Cost of Housing the Homeless in Jail.**

The Ada County Jail provides incarceration for persons who have either been arrested or convicted of state crimes or crimes defined by local ordinance. When a person is arrested for the violation of a local ordinance, the cost of housing the inmate is charged to the City of Boise. Similarly, if a person is arrested on a warrant for failing to appear in court for the violation of a Boise City ordinance, the cost of housing the inmate is charged to the city.

The cost of housing an inmate is \$54.00 per day. The Boise police arrested 110 people for violating quality of life ordinances between July 1, 2005, and July 1, 2006. The number of homeless persons who were arrested, the number of days spent in jail as the result of these arrests, and the amount of time spent in jail following arrests on warrants for failing to appear in court, could not be calculated because the research would have required a manual search of each arrest record; however, on average, the City of Boise pays the Ada County Jail between \$15,000 and \$17,000 per year for the costs of incarceration. While this amount is a small part of the budget for the City of Boise, it is nonetheless a financial expenditure that can be taken into consideration when making policy decisions regarding the use of the criminal justice system to address issues of homelessness.

#### **E. Use of Limited Resources for Homeless Intervention.**

The enforcement of quality of life ordinances requires the allocation of a limited resource: highly trained police officers. Assuming that only a percentage of the persons who are homeless would be considered chronically homeless, the next question becomes whether this group consumes a large portion of a limited and valuable resource: the time of highly trained, highly experienced police officers. As one of the Boise Police Department supervisors noted, a police officer's interaction with a homeless person can take anywhere from a few minutes to issue a citation, up to several hours to get medical clearance at an emergency room. Essentially, police officers, at times, are being called upon to fill the gaps in social services. The creation of, or the coordination of services to fill these gaps could present an opportunity to conserve a valuable asset to the City of Boise: the time of highly trained police officers.

## **PRACTICES FROM OTHER CITIES**

### **A. Introduction.**

The issue of police interaction with the homeless has been addressed by a number of different cities, sometimes in the aftermath of litigation, sometimes to ward off potential litigation, and sometimes because the leadership of local governments saw opportunities to do things a better way. The solutions implemented can have a broad range of effects from increasing officer safety and preserving community resources, to enhancing the community's image of law enforcement and preserving human dignity. Communities and police departments around the country have found ways to make their cities better places to live and do business by creating partnerships between different government entities, and between government and the private sector. Police departments have leveraged their expertise and their authority to help their communities find broad-based strategies to reduce homelessness. Below are summaries of seven innovative approaches from different cities in the United States.

### **B. Philadelphia, Pennsylvania.**

The city of Philadelphia enacted a sidewalk behavior ordinance that addresses aggressive solicitation, sitting on the sidewalk, and lying on the sidewalk.<sup>54</sup> While the ordinance is complicated in that, in some sections it applies citywide, and in some sections it applies only in zones designated by the City Council, it also contains innovative policies governing the interaction between law enforcement officers and the homeless. Before issuing a citation, a police officer must: (1) give a verbal warning to relocate; (2) if that fails, issue a written warning to the homeless person; and (3) if that fails, the police officer must call an Outreach Team that can offer social service alternatives to the homeless person, including a shelter bed. The Outreach Team is a group of mental health or drug and alcohol counselors designated by the Department of Public Health to provide access to treatment for homeless persons with mental health diagnoses and/or drug and alcohol complications.

The sidewalk behavior ordinance also requires that the police department take necessary and appropriate steps to insure that officers who are likely to come in contact with persons who violate the ordinance receive training in approaching, investigating, and assisting persons in need of mental health treatment or other social service assistance. The ordinance also addresses the penalties for violations of the sidewalk ordinance. The penalties are limited to fines and no person may be imprisoned for violating the ordinance. The ordinance also reflects a social goal of urging violators to obtain assistance through social service programs; it states:

In all cases, the court, in its discretion, may suspend the fine upon agreement by the offender to perform such community service or to participate in such social service assistance program or rehabilitation program as the city recommends and the court deems

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<sup>54</sup> Philadelphia Municipal Code § 10-611, adopted September 15, 1998.

appropriate. No person shall be imprisoned for violating this section or for failing to pay a fine for violating this section.<sup>55</sup>

The main features of the ordinance include warnings to potential violators, outreach to the homeless, access to social services, training for police officers, and sentencing goals that emphasize assistance and redirection.

### **C. Miami-Dade and Fort Lauderdale, Florida.**

The City of Miami adopted a police protocol for law enforcement interaction with persons who are homeless following a decision by the Eleventh Circuit Court of Appeals in *Pottinger v. City of Miami*.<sup>56</sup> The protocol mandates training for police officers and specifies that no harassment or arrest of homeless persons can take place if there are no shelter beds available (no beds/no arrests). Under the protocol, the police document each encounter with a homeless person on “pink cards,” which are reviewed by an advisory committee created through the settlement in *Pottinger*.

Following *Pottinger*, local communities created the Miami-Dade Homeless Trust, which includes a coordinated outreach process. The outreach process was designed to be an easy procedure through which homeless persons could gain access to the social service system. The outreach process, called “Outreach, Assessment and Placement” (OAP), is provided on the street in a daily, non-aggressive fashion, and as a result of service requests from homeless persons, social service agencies, religious organizations, and law enforcement personnel. OAP teams are composed of formerly homeless persons and social services professionals. The OAP teams refer people to housing and to ancillary services.

In the wake of *Pottinger*, the City of Fort Lauderdale also developed a written protocol overseeing interactions with homeless persons. The protocol encourages police officers to engage in casual, non-enforcement contact in order to build an outreach relationship with homeless persons living in public spaces and provide them with information regarding social services. Officers use “green cards” to record their interactions. The protocol encourages officers to refer persons who violate “quality of life” ordinances to social services rather than proceed with an arrest. It also sets forth a procedure for processing any personal property that is taken by the police. Additionally, the protocol states, “homelessness is not a crime.”

### **D. Seattle, Washington.**

In 2004, the City of Seattle adopted an innovative police training program. The program is for newly hired police officers. New officers attend the state police academy for five and a half months, and then come to Seattle for an additional twenty-two days of a “mini police academy.” The local training program includes three days of training on issues related to homelessness. The program began as a five-day program, but was reduced to a three days because of the need for additional time for the core training.

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<sup>55</sup> Philadelphia Municipal Ordinance § 10-611(8)(g).

<sup>56</sup> *Pottinger v. City of Miami*, 810 F. Supp. 1551 (S.D. Fla. 1992).

The officers visit several service providers including the Downtown Emergency Center, the Union Gospel Mission, the O’Ryan Youth Center for homeless youth, and the Sobering Center, a program that provides a place of safety for persons who are intoxicated. Officers also attend the Diversion Court. Officers have only limited interface with the clients of the different programs. Officers go out in plain clothes and spend eight hours per day learning what services are available and where they are located. Simply learning the geography of where agencies and services are located is an important issue for newly hired officers.

The officers who work in the downtown corridor are the officers who most often see the chronically homeless. The training program is helpful because officers know where to give referrals. The program has not had an impact on the crime rate; however, Seattle also has a Crisis Intervention Team (CIT) that works with persons who are mentally ill. The CIT unit tracks all the mental health reports.

The police training program in Seattle reflects collaboration between human services agencies and the police. One of the benefits of the training program is that it puts a face on homelessness. The police department has become one of the strongest allies of the social service community because the police do not want to be seen as the people who arrest or harass the homeless. Though the program may not have had an impact on the crime rate, it is a reflection on the city’s community values. As such, it has probably had an impact on the public perception of law enforcement.

**E. Santa Cruz, California.**

The Santa Cruz Police Department includes a Homeless Resource Officer (HRO) who works with social services, mental health, and available referral agencies. According to the website for the City of Santa Cruz, this is a new program in which “the HRO can provide field assessment that leads to appropriate referrals for homeless people. A collaborative team approach helps the homeless person connect to services and addresses the issues related to his or her cycle of homelessness. . . . The HRO has [seven] identifiable duties: Outreach, Liaison, Advocate, Referrals, Training, Administration, and Case Management.” One officer is dedicated to this program, which has been in existence for approximately three years.

**F. Reno, Nevada.**

On January 3, 2006, the Reno Police department issued a General Order governing homeless persons and creating the H.E.L.P. program. The policy states:

*The Reno Police department is committed to the protection of human life and personal dignity. All persons will be treated with respect regardless of their individual situation. Taking negative action against someone for being homeless is improper conduct and not in accordance with department values. However, in all cases, unlawful conditions should be corrected.*

To prevent homeless persons from becoming needlessly entangled in the criminal justice system and to ensure that qualifying individuals get proper referrals and assistance, the department has created the Homeless Evaluation Liaison Program (H.E.L.P.) H.E.L.P. is a link between police personnel and available resources for homeless persons.<sup>57</sup>

Under the General Order, police officers who come into contact with a homeless person who is not violent or combative and is able to care for himself or herself, may refer the person to the H.E.L.P. program. If the person is intoxicated or combative, is unable to care for herself or himself, or is in need of medical treatment, the officer may take the person into protective custody or place the person under arrest; however, the order also directs officers to make an effort to issue a misdemeanor citation in lieu of making a physical arrest.

The H.E.L.P. officers are assigned to bike patrol. Their duties include staffing a H.E.L.P. office near the bus terminal, patrolling and monitoring downtown parks and greenbelt areas, responding to citizen complaints regarding homeless issues, training other officers and casino security personnel in appropriate social service referral, and maintaining close contact with local social service organizations to keep up to date on services offered. One of the specific duties is to work with local organizations to accomplish the following goals:

- Represent the interests of the department and the community.
- Provide support for the court system and service agencies to get homeless persons into programs to help them overcome addictions, receive treatment for mental illness, etc.
- Increase volunteer and community involvement and utilize these citizens within the downtown area outside of their facilities.<sup>58</sup>

The protocol, and the H.E.L.P. program it created, reflect the Reno Police Department's movement away from using arrest as the primary tool for dealing with homeless persons and toward a collaborative effort with social service providers to direct persons into addressing the underlying causes of their homelessness. This has the potential of achieving more long-lasting solutions.

The H.E.L.P. office is located inside the Greyhound Bus terminal. The staff at the H.E.L.P. office will interview persons who are referred there by law enforcement agencies or by local homeless resources. The staff will determine which resources are appropriate for each individual, and make those referrals. The H.E.L.P. staff will also assist people who are not able to help themselves to be reunited with family members and support systems when those are available.<sup>59</sup>

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<sup>57</sup> Reno Police Department General Order No. S-160-05.

<sup>58</sup> Reno Police Department General Order No. S-160-05.

<sup>59</sup> There are unverified reports that some cities give bus tickets to homeless persons simply to get them to leave town. One homeless service provider in Seattle stated that while this practice may have existed in the past, most cities have stopped the practice unless there is verification that there are family members in the destination city who will provide assistance and support to the homeless person. The reports of sending homeless persons to other cities by bus, just to pass them on to the next city, may have taken on the status of an urban myth. While there are reports that other cities have engaged in this practice, there were no reports that this is occurring in the City of Boise.

Before the adoption of the protocol, the City of Reno had a very aggressive program to get the chronically homeless off the street. The protocol was adopted, in part, to stave off a lawsuit by the American Civil Liberties Union (ACLU), which was monitoring police interaction with the homeless.

In addition to adopting the protocol, the Reno Police Department also instituted a Crisis Intervention Team (CIT) based on the model developed in Memphis. The Reno Police Department has trained 40 officers in CIT; and the northern Nevada region has trained 120 officers. One of the challenges for the Reno Police Department in implementing the protocol and the CIT program is that the community does not have the services to back them up. Consequently, the police department has become one of the promoters of the creation of additional services, including a mobile outreach project.

Implementation of the Crisis Intervention Team has produced results. In the short run, it stresses the system; however, in the long run, there are fewer injuries to officers and civilians, drops in high-end calls<sup>60</sup>, and less use of force by officers. During the first year of its implementation, the paramedics saw a twenty percent drop in suicide calls. The paramedics attribute the drop to the CIT program. As awareness of the program increases in the community, the demand for services goes up; however, in the long run, the CIT program drives the high end calls down because CIT trained officers are able to get people into a lower crisis situation.

#### **G. Fontana, California.**

In an article titled, *Shifting and Sharing Responsibility for Public Safety Problems*, published by the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), the authors describe a program implemented by the police department in Fontana, California. This program was cited as an example of police leadership in addressing a problem by advocating for the creation of a new organization:

Police in Fontana, California worked with over 20 local charities, churches, and businesses to form a new network of services for homeless individuals, many of whom were creating extraordinary problems for police by their criminal and disorderly behavior. The so-called Transient Enrichment Network consolidated services for the homeless, providing a central facility where each individual's special needs—whether mental or physical health, job placement, housing, food and shelter, or substance abuse—could be diagnosed and addressed. This new network inspired police officers to deal more directly with homeless individuals, confident that doing so would lead to improvements in the individual's behavior and circumstances. Early results were overwhelmingly positive: over 500 individuals benefited from the program in its first two

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<sup>60</sup> The term, “high end call,” was a term used by the police officer who described the City of Reno’s program during an interview. Though the term was not specifically defined, he differentiated between “high end calls” and calls in which a person is in a “lower crisis situation.” The inference to be drawn is that a “high end call” is a call in which a person is in a “high crisis” or emergency situation. Examples of this type of situation might be cases in which a person is armed and suicidal, or a case in which a person is under the influence of a controlled substance and has become physically violent.

years of operation. Moreover, crimes and calls for police service attributed to homeless individuals declined substantially.<sup>61</sup>

The authors present the program created by the Fontana Police Department as an example of how public safety issues can be addressed through a coordinated community response. It is an example of how a police department can leverage its authority and expertise to persuade others to help address problems of crime and disorder.

#### **H. Clearwater, Florida.**

In a second article, *Collaboration Toolkit: How to Build, Fix, and Sustain Productive Partnerships*, also published by the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), the authors describe a program implemented by the police department in Clearwater, Florida, as an example of how to enhance the power of advocacy and resource development for a collaborative initiative:

An unanticipated, long-term benefit of the Clearwater Homeless Intervention Project (CHIP)—a collaboration between the Clearwater (FL) Police Department (CPD), the Clearwater Housing Authority, and other city agencies—has been increased public awareness of the needs of the homeless population and increased funding for the CHIP shelter. Other benefits include development of educational and volunteer programs operated by CHIP (e.g., GED and literacy classes, Alcoholics Anonymous meetings, and job placement assistance) and increased charitable contributions of clothing and household items from Clearwater businesses and individuals to the city's homeless population.

Before this success, Clearwater had been struggling to provide adequate services to the city's homeless men, women, and families. Social service agencies were denying medical, mental health, and other services to individuals who could not document their identity. Additionally, homeless shelters were located a considerable distance from the beaches and downtown areas, where homeless persons often congregate. Consequently, the CPD experienced a significant number of calls for service to "move" homeless individuals. In an effort to reduce calls for service and provide access to social services for the homeless, the CPD collaborated with the city's housing authority and city agencies that could provide services to the homeless population. The CPD, in partnership with the housing authority, purchased a vacant building in downtown Clearwater and converted the building into a CPD substation and homeless shelter. At the shelter, homeless persons are issued identification cards, so they can access city social services. CHIP has reduced calls for service for vagrancy, harassment, solicitation, and public intoxication in the downtown and beach areas; provided an in-city residence for homeless men, women, and families;

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<sup>61</sup> Michael S. Scott, Herman Goldstein, *Shifting and Sharing Responsibility for Public Safety Problems*, Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 2005.  
[www.cops.usdoj.gov/txt/pop/072005SharingResponsibility.txt](http://www.cops.usdoj.gov/txt/pop/072005SharingResponsibility.txt).

facilitated the ability of homeless individuals to seek and receive social services; and increased public awareness of homelessness.<sup>62</sup>

By initiating a collaborative effort, the Clearwater Police Department became a community leader in addressing a social problem that affected the city. Not only was the Clearwater Police Department able to provide benefits for citizens, it reduced the work load of its own agency in terms of the numbers of calls for service for violation of quality of life ordinances.

## **CONCLUSIONS, RECOMMENDATIONS, AND AN OBSERVATION**

### **A. Conclusions.**

The United States Department of Justice published an article in which the authors observed:

Much police business consists of handling problems and cases that fall through holes in the social safety net or that constitute an overflow stemming from the limited resources of other agencies: mentally-ill persons who are not adequately cared for in the community; drug addicts who do not receive adequate treatment services; parks, playgrounds, and housing developments that are not adequately maintained; cars and homes that are abandoned; and so forth. In such cases, police sometimes attempt to shift the responsibility for crime prevention to another government agency or nongovernmental organization that provides relevant services in the community.

In-depth inquiry of the type called for in problem-oriented policing often identifies a default or a gap in services that, if corrected, would reduce or eliminate a problem. Although a particular situation or circumstance may initially be characterized as a crime or law enforcement problem, penetrating inquiry often redefines the problem and more clearly identifies the conditions that contribute to it.<sup>63</sup>

The homeless experience the frustration, setbacks, and even misery of the enforcement of laws that are enacted to prevent them from living in public spaces. The unluckiest of the unlucky, they may be suffering from mental illness, they may be dependent on alcohol or controlled substances, or they may simply have endured more troubles than they have strength to bear. The laws enforced against the homeless help protect the livability of the city and the vibrancy of its public spaces. At the same time, as advocates point out, those laws also criminalize the state of being homeless.

Concerned citizens brought to this office questions regarding the number of enforcement actions brought against the homeless and concerns regarding the unfairness of citing or arresting

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<sup>62</sup> Tammy A. Rinehart, Anna T. Laszlo, Gwen O. Briscoe, Ph.D., *Collaboration Toolkit: How to Build, Fix, and Sustain Productive Partnerships*, Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 2001. <http://www.cops.usdoj.gov/txt/CollaborationToolkit.txt>.

<sup>63</sup> Michael S. Scott, Herman Goldstein, *Shifting and Sharing Responsibility for Public Safety Problems*, Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 2005. [www.cops.usdoj.gov/txt/pop/072005SharingResponsibility.txt](http://www.cops.usdoj.gov/txt/pop/072005SharingResponsibility.txt).

homeless persons for minor violations of the law. As the above-quoted passage adeptly points out, the criminalization of homelessness is an issue that has been characterized as a law enforcement problem. The research, the interviews, the anecdotal evidence, and the statistical evidence lead to a different conclusion.

Unlike the situation described in the above quotation, the Boise Police Department has not attempted to shift the responsibility for dealing with the homeless. Instead, the Boise Police Department has shouldered the burden of trying to fill gaps in services, services that are badly needed but not yet provided by the community. Not only has the Boise Police Department worked to fulfill its obligations to enforce quality of life ordinances and keep Boise safe, clean, and livable, it has done so with a significant amount of concern for those who are homeless. Moreover, it has done so while experiencing periods of understaffing.

The statistical evidence indicates that, over the last three years, the enforcement unit that has the greatest interaction with the homeless is issuing fewer citations for violation of quality of life ordinances. The review of audio recordings by officers who have frequent interaction with the homeless indicates that, rather than citing homeless persons for sleeping in public parks during daytime hours, officers redirect homeless persons away from private property and to the parks. Not only do the officers encourage homeless persons to sleep in the park during the daytime, they ride past them on their bikes to make sure they are all right.

On issues relating to the alleged unlawful seizure or destruction of property, no evidence supported claims that officers unlawfully dispose of property found in camps, unless the property was abandoned after the officer requested that a camp be disbanded. One audio recording even demonstrated that an officer took particular concern to question a couple that was disbanding a camp in order to determine the ownership of articles that they were leaving behind. Both city ordinances and police department procedures require that officers book property, and particularly personal identification documents. The supervisors who were interviewed were unequivocal regarding the correct procedure for handling personal property. In addition, neither the homeless persons nor the service providers interviewed were able to provide direct evidence that the personal belongings of homeless persons were illegally disposed of by a member of the police department. There is no evidence that the Boise Police Department has participated in bulldozing homeless encampments or engaged in homeless sweeps such as those that have occurred in other cities.<sup>64</sup> The claims on this issue must be considered unsubstantiated and unfounded.

The evidence also fails to support claims regarding the inequitable enforcement of ordinances. One of the homeless persons interviewed noted that the open container laws are vigorously enforced against the homeless, while it appeared to him that other segments of society were provided leeway on the issue. As was discussed earlier, the statistical evidence indicates that fewer than half of the citations issued for violations of the open container laws were issued to persons who were homeless.

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<sup>64</sup> See *A Dream Denied*, "Narratives of the Meanest Cities," pp. 25-43.

Looking at the broader picture, half the citations for possession of an open container were issued to persons who constitute approximately 1% of the population. However, this does not necessarily lead to the conclusion that the ordinances are selectively enforced against the homeless. Persons who are homeless and who are addicted to the use of alcohol have fewer places to go to than someone who has a residence. If homeless persons have open containers in public more often than other segments of the population, then they will receive more citations. This does not lead to the inevitable conclusion that the laws are being selectively enforced. As one supervisor noted, there are places where it is legal for people to drink in the parks, but the homeless choose not to go there.

Another factor that figures into this is the apparent misunderstanding by some homeless people that consuming alcohol in the sidewalk dining areas of restaurants and at licensed events such as Alive after Five is illegal. Thus, the alleged inequity may be perceived rather than actual. Nonetheless, the statistics regarding open container violations indicate that the ordinance is being vigorously enforced. This undoubtedly reflects the value placed by the community on having a safe and lively downtown core and park system. At the same time, the statistics neither support nor refute a claim that the open container laws are being selectively enforced against the homeless.

The final issue raised by the persons who initially came to this office was whether police officers had other options for dealing with the homeless. Again, this was characterized as a law enforcement issue; and again, the more relevant inquiry is whether the community has provided law enforcement with other options for dealing with the homeless. The interviews with the police supervisors indicate that law enforcement would very much like to have other options available.

As one supervisor stated, the police department is already short-staffed and at its minimum staffing levels with respect to its regularly assigned tasks. The additional burden posed by requiring a law enforcement agency to fill gaps in the social safety net would be substantially eased by the creation of a detox center or a sobering station where officers could deliver an intoxicated person to a safe haven while that person recovered. With the idea that the crux of this issue is providing additional options to law enforcement for dealing with the homeless, the analysis can turn to the question of what steps can be taken to accomplish this.

## **B. Recommendations.**

### **1. Introduction.**

This study began as a review of law enforcement practices as they relate to the homeless population in Boise. The practices of the Boise Police Department were found to be reasonable and adequate within their mission to enforce quality of life laws and ordinances in the city's parks and downtown core. What was initially presented as a law enforcement problem reveals itself to be a problem caused by defaults in the social safety net rather than a problem caused by defective police policies or practices. The gaps in services to the homeless population present policy issues that are far outside the purview of the authority granted to this office. Nonetheless, the research conducted by this office has revealed potential solutions that could be implemented

by the Boise Police Department and by the community. Many of the potential solutions require the political and financial commitment of other areas of government as well as the private sector. Nevertheless, the Boise Police Department can be the catalyst for change.

## **2. Police Protocol for Interacting with the Homeless.**

Written, binding documents ensure the continuity of policy. I recommend that the Boise Police Department create a written police protocol overseeing interaction between police officers and persons experiencing homelessness. The protocol should also govern the relationship between police officers and homeless shelters. The protocol should include the creation of a training program to familiarize officers with the services available, the location of facilities, and the staff of those facilities. Officers in the programs should tour the facilities and meet the staff. Through a training program, officers can become familiar with the capabilities and limitations of the organizations. The training program should be made available primarily to those officers who have the most frequent contact with the homeless.

As a piece of this policy, I recommend that the Boise Police Department create a pamphlet outlining the social services available, the locations of facilities and service providers, and their hours of operation. Police officers should distribute this information to the homeless persons they encounter who are in a condition to read it. The Boise Police Department should develop a formal and ongoing process of information exchange between its officers and homeless service providers. A process for exchanging information should be included in the protocol.

The exchange of information should be reciprocal. Service providers underscored the value of having police supervisors provide information and training to leaders at the shelter facilities and their staff. This may be particularly important for facilities that are staffed by volunteers.

## **3. Outreach Program.**

Throughout the country, local law enforcement agencies have applied for and obtained block grants or grants through the Department of Justice to develop Crisis Intervention Teams and/or Homeless Outreach Teams. I recommend that the Boise Police Department seek funding for and create an outreach program to identify persons experiencing homelessness and connect them to services. The development of an outreach program to get people to services before law enforcement action become necessary is a step that many communities have taken.

The police department is generally the primary responder when someone who is inebriated or is under the influence of drugs needs assistance or needs to be relocated to a safe environment. Police officers are also the primary responders when someone is seeking shelter on private property or simply has no place to go. Police officers also fill the human function of checking to see whether someone needs medical help or is simply still breathing. By defining the need, creating the partnerships, and leading the way, the Boise Police Department can ensure that intervention replaces incarceration in the City of Boise's response to homelessness.

#### **4. Leveraging Authority to Effect Change.**

In Reno, Nevada, twenty-three-years of community discord regarding the location of a homeless services center ended in one evening when a member of the police department testified before the Reno City Council that the center was needed.<sup>65</sup> I recommend that the Boise Police Department leverage its authority and expertise to define immediate needs to help police officers in dealing with the challenges of the interaction between law enforcement and the homeless.

Training and protocols are not enough when there is no infrastructure of services and care. One clear immediate need is the need for a detox center and/or a sobering station. I recommend that the Boise Police Department gather statistics on the number of intoxicated persons that they encounter who need this type of service. I also recommend that the Boise Police Department document the number of hours its officers spend staying with people who are intoxicated in order to ensure their safety. This may occur either in hospital emergency rooms, on street corners, or any other place trained law officers stay and wait trying to ensure the safety of someone who has become intoxicated to the point that the person is a danger to himself. This information, as well as any other evidence that supports this need, can add significant weight to the argument that our community needs to create a detox center, a sobering station, or both.

Where other gaps in services exist, the Boise Police Department should be a key leader in a collaborative effort to persuade both local and state government as well as the private sector to provide services and facilities needed. Additional services could range from something as simple as creating a directory of homeless services, to the creation of a police substation and homelessness assistance center, to the creation of a diversion court where people who have violated minor ordinances can be connected with social service programs as part of, or in lieu of, being incarcerated.

The needs and views of law enforcement carry great weight with policymakers at all levels of government. Asserting its role as a community leader, the Boise Police Department can bring together all facets of the community affected by the issue of homelessness, including elected officials, appointed officials, business organizations, service providers, neighborhood leaders, city agencies, housing authorities, and spokesmen for the homeless community. Because of their interaction with the homeless from both a law enforcement perspective and from a simply human perspective, police officers have a body of expertise to identify both the problems and the solutions. Regardless of the specific solutions chosen, the Boise Police Department should work closely with other government agencies, charitable organizations, advocates, and local businesses to coordinate a community response and help the entire community share the responsibility of addressing this problem.

#### **5. Programs to Divert Homeless Persons from the Jails and Criminal Courts.**

As one supervisor stated, pursuing an action against someone who is making an effort to curb their behaviors that puts the person back in the position of being homeless doesn't make any

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<sup>65</sup> Personal conversation with Officer Patrick O'Bryan of the Reno Police Department, November 23, 2006.

sense. The Boise Police Department can lead and support a broad community effort to divert homeless persons away from the criminal justice system. As the persons on the frontline, police officers can work with prosecutors, courts, housing agencies, and service providers to develop procedures in which citations, and warrants for failure to appear on minor violations, can be addressed in a manner that avoids the ongoing cycle of homelessness, disaffection, mental illness, addiction, and incarceration. Entanglement in the criminal justice system can create an impediment to those who are attempting to exit the state of being homeless. Diverting people who are homeless away from the criminal justice system whenever possible, particularly when those people are experiencing problems relating to mental illness or substance abuse, could be accomplished by suspending the imposition of fines or incarceration where the homeless person agrees to enter a rehabilitation program or obtain similar assistance. In pursuit of this goal, I recommend that the Boise Police Department create a task force to examine the possibility of creating some type of diversion program within the criminal justice system.

#### **6. Crisis Intervention Teams or Their Equivalent.**

This final recommendation is one that has previously been made by the Office of the Community Ombudsman and adopted in principle by the Boise Police Department. A Crisis Intervention Team (CIT) is a collaboration between law enforcement and mental health care providers. By training officers, designating those trained officers to respond to people experiencing mental health crises, and coordinating between the police and mental health agencies to get people into treatment, law enforcement agencies can help officers learn to de-escalate situations and get people to needed services. Because of the number of homeless persons who suffer from mental illness, the Boise Police Department should institute a CIT program, or its equivalent. This would permit officers to better identify situations involving mental health issues and to respond to those situations by linking people to resources. In cases where arrest and incarceration are inappropriate, additional training would help officers to connect homeless persons who are experiencing mental health problems to the services that are available.

#### **C. An Observation.**

The interviews in this case identified an overwhelming need for a sobering station and/or a detox center. The police have no place to take people who are intoxicated. The jail cannot function as a detox facility. There is no service provider that has the capability of providing detox services. The medical centers do not consider intoxication to be a medical emergency. Police officers are left to fill this gap in service by staying with an intoxicated person until the person is cleared to enter the jail. As one of the police supervisors put it, this is a waste of valuable police resources. Providing a sobering station and/or a longer-term detox center would allow police officers to return to their main function of protecting the community.

## **CLOSING WORDS**

The City of Boise has shown it has the political will to reduce, or even end homelessness. All the parties involved, including elected officials, service providers, advocates, and the Boise Police Department, have worked hard to look at the problem, and more importantly to look not just at managing homelessness, but going as close to the source as a community can in order to eradicate homelessness. Through the hard work and sincere concern of the people who work with the homeless every day and through the same dedicated efforts and awareness of our elected and appointed government leaders, progress has already been made in working toward a plan to end chronic homelessness. It is my hope that the information in this report can be added to the body of facts and ideas already developed to help all those involved to continue the movement.

Finally, and most importantly, I would like to thank all the members of this community, as well as the people in other cities, who kindly gave their time and shared their work in order to provide the background and the information contained in this report. I also want to thank Deputy Community Ombudsman Phoebe Smith, who was the lead investigator and primary author for this project.



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