

No. 23-175

In the
Supreme Court of the United States

CITY OF GRANTS PASS, OREGON,
Petitioner,

v.

GLORIA JOHNSON, ET AL., ON BEHALF OF THEMSELVES
AND ALL OTHERS SIMILARLY SITUATED,

Respondents.

**On Writ of Certiorari to the United States
Court of Appeals for the Ninth Circuit**

**BRIEF OF AMICI CURIAE NATIONAL
COALITION FOR HOMELESS VETERANS,
UCLA VETERANS' LEGAL CLINIC AND 43
OTHER VETERANS' SERVICE PROVIDERS IN
SUPPORT OF RESPONDENTS**

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INTEREST OF THE *AMICI CURIAE*¹

Amici curiae are 45 organizations who provide services to veterans of the U.S. military. Our memberships or clients face the harsh and dehumanizing consequences that accompany criminalization of homelessness, whether through civil infractions or low-level criminal offenses that target survival activities of unhoused persons. We have a duty to ensure that the voices of veterans are included in the resolution of this case. The stories provided in this brief are not outliers. They are representative of the over 35,000 unhoused veterans, who despite having pledged willingness to make the ultimate sacrifice for our country, now find themselves sleeping on our sidewalks, under bridges, on benches, and in abandoned buildings every night. Appendix 1 includes a list of Amici.

SUMMARY OF ARGUMENT

Our nation's leaders have expressed a commitment to veterans of the U.S. military. In recognition of the sacrifices servicemembers make on our collective behalf, government leaders at all levels, regardless of political party, acknowledge the disgrace accompanying the phrase "homeless veteran." Despite numerous statements and initiatives to end veteran homelessness at the federal, state, and local levels, a disproportionate number of unsheltered veterans still stay on our streets every night. The U.S. Department of Housing and Urban Development (HUD) counted 35,574

¹ Pursuant to Supreme Court Rule 37.6, amici state that no counsel for a party authored any part of this brief. No person or entity other than amici and their counsel made a monetary contribution to the preparation or submission of this brief.

veterans experiencing homelessness (sheltered and unsheltered) on one night in January 2023.² That figure represents an increase of over 7.4% from the previous year³ and an appalling 14.3% increase in unsheltered veteran homelessness from 2022 to 2023, compared to a 9.7% increase in the unsheltered civilian population.⁴

Reversal in this case will criminalize thousands of veterans merely for being unhoused. To permit Grants Pass and other localities to punish survival—sleeping with adequate coverings—will violate decades of this Court’s Eighth Amendment jurisprudence prohibiting punishment of status. That outcome would eviscerate the minimal protections unhoused veterans have against degrading treatment while sleeping outside and in public spaces.

The Court cannot ignore the impact its decision will have on our nation’s military veterans whose lived experiences as unhoused veterans are captured in this Brief. Part I presents data and information to understand the intertwined structural barriers and individual risks for homelessness among adult veterans. Part II provides the lived realities of unhoused veterans. The stories depict criminalization like the anti-

² *VA Homeless Programs: Point-In-Time Count*, U.S. Dep’t Veterans Affs. (Jan. 3, 2024), [<https://perma.cc/2WPB-BCUS>].

³ *Id.*

⁴ *Id.* See also Tanya de Sousa et al., U.S. Dep’t of Hous. & Urb. Dev., *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress: Part 1*, at 11, 66 (2023), [<https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf>] [<https://perma.cc/X7NX-9N3G>] [hereinafter *2023 AHAR*].

sleeping laws at issue in this case, as well as sweeps and other enforcement actions. Veterans are less likely to leave homelessness when vital records, medications, and other items needed to receive services are discarded in those actions. Plus, local enforcement creates harsher and more cruel experiences for veterans.

ARGUMENT

I. REVERSAL WILL THWART THE U.S. GOVERNMENT'S COMMITMENT TO END VETERAN HOMELESSNESS

Three Presidents have pledged to end veteran homelessness.⁵ In 2009, then President Barack Obama promised to “provide new help for homeless veterans, because those heroes have a home; it’s the country they served, the United States of America. And until we reach a day when not a single veteran sleeps on our Nation’s streets, our work remains unfinished.”⁶ Former President Trump recommitted: “Each warrior who fights for our Nation, along with their families, has earned our eternal gratitude Together, we remain committed to fostering a national community of support for these brave heroes and their families.”⁷ President Joe Biden echoed the obligation,

⁵ Throughout this brief, “homeless veteran” and “unhoused veteran” are used interchangeably. Researchers often use “homeless experienced” to connote an individual who has experienced homelessness in their lifetime.

⁶ *Remarks on the 20th Anniversary of the Department of Veterans Affairs*, 1 Pub. Papers 258, 259 (Mar. 16, 2009).

⁷ Proclamation No. 9962, National Veterans and Military Families Month, 2019, 3 C.F.R. §§206, 207 (2020).

stating, “Our Nation has only one truly sacred obligation: to properly prepare and equip our service members when we send them into harm’s way and to care for them and their families when they return home.”⁸

Even with those commitments, and despite an overall reduced percentage of unhoused veterans since 2009,⁹ in 2023, HUD’s annual point-in-time count calculated a 7.4% increase in homeless veterans (sheltered and unsheltered) since the previous year.¹⁰ Out of the 35,574 homeless veterans counted, 15,507 veterans experienced unsheltered homelessness on one night in January.¹¹ These figures show an appalling 14.3% increase in unsheltered veteran homelessness from 2022 to 2023, compared to a 9.7% increase in the unsheltered civilian population.¹² Veteran women are particularly overrepresented;¹³ making up 2.9% of the population of unsheltered women though they only

⁸ Proclamation No. 10305, Veterans’ Day, 2021, 3 C.F.R. §300 (2022).

⁹ 2023 AHAR, *supra* note 4, at 3 (noting 52% decline in veterans experiencing homelessness since 2009, the baseline year in the AHAR for this count).

¹⁰ VA Homeless Programs: Point-In-Time Count, *supra* note 2.

¹¹ 2023 AHAR, *supra* note 4, at 66.

¹² VA Homeless Programs: Point-In-Time Count, *supra* note 2; *see also* 2023 AHAR, *supra* note 4, at 11, 66.

¹³ *See* Gail Gamache et al., *Overrepresentation of Women Veterans Among Homeless Women*, 93 Am. J. Pub. Health 1132, 1134 (2003) (finding “the risk of homelessness to be 2 to 4 times greater for women veterans than for nonveterans.”).

make up 1.3% of the adult population of women.¹⁴ Data collection challenges suggest an undercount in veteran homelessness.¹⁵

The disproportionality in veteran homelessness is starker when analyzed by state.¹⁶ In Nevada, veterans are 12.6% of the homeless population, though they are only 8.3% of the general adult population. Veterans are 16.9% of the homeless population in Wyoming, but only 9.4% of the general adult population. 4.3% of the general population in California are veterans, but they comprise 5.8% of the homeless population.¹⁷

The Court should take notice that Oregon is one of the few states that has experienced an overall increase in veteran homelessness since 2009.¹⁸ Veterans make up 7.8% of the homeless population in Oregon though they only comprise 7.4% of the general adult

¹⁴ *2023 AHAR*, *supra* note 4, at 13, 67; *B21001: Sex by Age by Veteran Status for the Civilian Population 18 Years and Over, 2022 American Community Survey*, U.S. Census Bureau, <https://data.census.gov/table/ACSDT1Y2022.B21001?q=Veterans%20%20sex> [<https://perma.cc/D3W9-ABY5>].

¹⁵ *2023 AHAR*, *supra* note 4, at 65. *See also* U.S. Gov't Accountability Off., GAO 20-433, *Homelessness: Better HUD Oversight of Data Collection Could Improve Estimates of Homeless Population* 7–8 (2020), [<https://perma.cc/9MWY-XJFX>].

¹⁶ *2023 AHAR*, *supra* note 4, at 69–71 & app.

¹⁷ For statewide homeless veteran calculations, see *2023 AHAR*, *supra* note 4, app. For Veteran general adult population share estimates see *S2101: Percent Veterans, 2022 American Community Survey 1-Year Estimates*, U.S. Census Bureau, [<https://perma.cc/M6JC-Q8WM>].

¹⁸ *2023 AHAR*, *supra* note 4, at 71.

population.¹⁹ Currently over half (56%) of all veterans experiencing homelessness in Oregon are unsheltered.²⁰ Additionally, the state witnessed an alarming 23.4% increase in veteran homelessness from 2009 to 2023.²¹

A. Structural and Historic Barriers Related to Housing Contribute to Veteran Homelessness

Reversal in this case jeopardizes the country's success over the last 15 years in reducing overall veteran homelessness. As this Part shows, structural and historic factors contribute to the rates of veteran homelessness and the likelihood of moving into permanent housing. Community factors such as affordable housing stock, labor market conditions, eviction policies and practices, racial discrimination, and inequality within the military are important to consider alongside the individual-level vulnerabilities discussed below, such as risk of suicide, in-service trauma, and chronic illnesses.²² Criminalization only exacerbates veterans' experiences of both individual-level and structural dynamics.

First, historic inequity contributes to women, Black, and Indigenous veterans' overrepresentation in

¹⁹ *Id.* at 110.

²⁰ *Id.* at 69–71.

²¹ *Id.* at 70.

²² Johanna K. Anderson et al., U.S. Dep't Veterans Affs. Health Servs. Rsch. & Dev. Serv., *Factors Associated with Homelessness Among U.S. Veterans: A Systematic Review* 4, 13, 27 (2023).

the numbers of veterans experiencing homelessness. According to the 2023 Annual Homelessness Assessment Report to Congress:

- “[W]omen veterans experiencing homelessness were more likely to be found in unsheltered locations than their male counterparts (54% vs. 42%).”²³
- “Black veterans comprised 36[%] of veterans experiencing sheltered homelessness and 25[%] of veterans experiencing unsheltered homelessness but only 12[%] of all U.S. veterans.”²⁴
- Veterans who identify as American Indian, Alaska Native, or Indigenous made up 5[%] of the unsheltered veteran population though less than 1[%] of veterans.²⁵

Racial, income, disability, and family discrimination among renters likely compounds the inability of such veterans to find and maintain housing.²⁶ Owners are less likely to rent to veterans with prior

²³ 2023 AHAR, *supra* note 4, at 68.

²⁴ *Id.* Multiple longitudinal studies reported increased homelessness among Black veterans compared to white veterans. Anderson et al., *supra* note 22, at 25.

²⁵ 2023 AHAR, *supra* note 4, at 13; U.S. Dep’t of Veterans Affs., *American Indian and Alaska Native Veterans: 2017*, at 6 (2020), [<https://perma.cc/MC6K-9XJ7>].

²⁶ See, e.g., Luz Mairena Semeah et al., *Rental Housing Needs and Barriers From the Perspective of Veterans with Disabilities*, 29 Hous. Pol’y Debate 542 (2019).

evictions or broken leases, criminal backgrounds, and poor credit.²⁷

Second, systemic barriers to securing rental housing in Oregon contribute to its high rate of veteran homelessness. “Between September 2022 to August 2023, the 12 month eviction filing rate [in Oregon] is at 4% (1 in 25 renter households) as compared to 3% in 2019 (1 in 33 renter households).”²⁸ One out of three renters in that state pays more than 50% of their income in rent.²⁹ In Grants Pass, 58% of renters are cost burdened (paying more than 30% of their income in rent) with the highest cost burdens falling on those with the lowest incomes.³⁰

B. Systemic Barriers to Accessing Important Veterans Affairs Benefits and Services Proven to Uplift Veterans out of Homelessness

Multiple studies show veterans with higher VA service-connected disability rating—corresponding to higher compensation—had lower chances of experiencing homelessness than individuals with no or lower

²⁷ *See id.*; *see also* Funding Opportunity Under Supportive Services for Veteran Families Program, 88 Fed. Reg. 84,396, 84,397 (Dec. 5, 2023).

²⁸ *Oregon Eviction Filings*, Eviction Rsch. Network (Nov. 12, 2023), [<https://perma.cc/9HJY-GB4P>].

²⁹ Or. Hous. & Cmty. Servs., *Oregon, Demographic and Housing Profiles* (2017), [<https://perma.cc/D475-8V2H>].

³⁰ *City of Grants Pass Housing Production Strategy*, at I (2023), [<https://perma.cc/NK5T-B87N>].

ratings.³¹ Assisting veterans in obtaining VA care and VA benefits, including cash assistance, vocation and employment support, and housing vouchers through HUD-Veterans Affairs Supportive Housing (HUD-VASH) is essential to ending veteran homelessness.³²

Discharge status plays a central role in unequal access to VA benefits, healthcare, and services. Servicemembers are assigned a “character of service” or “discharge status” upon leaving military service. A servicemember’s character of service may be designated as Honorable, General, Other Than Honorable, Bad Conduct, or Dishonorable. According to a report from prominent veteran’s organizations, “While most servicemembers receive Honorable discharge statuses, a substantial percentage—approximately 7[%] of veterans discharged between 1980 and 2020—receive discharge statuses that are not Honorable, which are known as ‘bad paper.’”³³

Former servicemembers with “bad paper” are associated with higher rates of homelessness and unemployment. Historically, structural racism,³⁴

³¹ Anderson et al., *supra* note 22, at 17.

³² *HUD-VASH Vouchers*, U.S. Dep’t Hous. & Urb. Dev., https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/vash [<https://perma.cc/TUK6-L65W>].

³³ OUTVETS, Harvard L. Sch. Legal Servs. Ctr. & Veterans Legal Servs., *Turned Away: How VA Unlawfully Denies Healthcare to Veterans with Bad Paper Discharges* 1 (2020), [<https://perma.cc/7GKS-F7KW>] [hereinafter *Turned Away*].

³⁴ Hilary Herbold, *Never a Level Playing Field: Blacks and the GI Bill*, 6 J. Blacks Higher Educ. 104 (1994).

traumatic brain injuries or mental health conditions,³⁵ in-service trauma (including racial harassment and military sexual trauma), and “Don’t Ask, Don’t Tell”³⁶ have led to downgrading discharge statuses that disqualify former servicemembers from VA healthcare, GI Bill, and VA home loan programs.³⁷ A report from the Connecticut Veterans Legal Center detailed the inequalities among Black servicemembers and discharge statuses. Based on government data from 2014-2020, Black servicemembers:

- “received over 25% of Other Than Honorable discharges, and over 30% of General discharges”³⁸
- “overall—across all service branches—were approximately 1.5 times as likely as white servicemembers to receive an Other Than Honorable rather than Honorable discharge”³⁹

³⁵ Richard Bryant, *Post-Traumatic Stress Disorder vs. Traumatic Brain Injury*, 13 *Dialogues Clinical Neuroscience* 251 (2011).

³⁶ Brandon Alford & Shawna J. Lee, *Toward Complete Inclusion: Lesbian, Gay, Bisexual & Transgender Military Members After Repeal of Don’t Ask, Don’t Tell*, 61 *Soc. Work* 257 (2016).

³⁷ See *Turned Away*, *supra* note 33, at 2–3, 5, 8; Conn. Veterans Legal Ctr., *Discretionary Injustice* 14–18 (2022), [<https://perma.cc/46DG-TF8Q>].

³⁸ *Discretionary Injustice*, *supra* note 37, at 5.

³⁹ *Id.*

Finally, “[i]n the years 2014–2020, there was no discernable improvement over time in the racial disparities in discharge status.”⁴⁰

Discriminatory discharge statuses contribute to an overall lack of access to VA healthcare for veterans. Veterans without care for their chronic illnesses or mental disabilities are more likely to live in poverty than other veterans,⁴¹ which puts them at heightened risk for experiencing homelessness.⁴² Although only 21% of unhoused adults experience Serious Mental Illness (SMI)⁴³ and only 3.7% of veterans experience SMI,⁴⁴ meaning “a mental, behavioral or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities,”⁴⁵ structural barriers to

⁴⁰ *Id.*

⁴¹ Linda Diem Tran, David Grant & May Ayadin, *The Mental Health Status of California Veterans*, UCLA Ctr. for Health Pol’y Rsch., Apr. 2016, at 1, 3, [<https://perma.cc/B6CV-E6E5>].

⁴² J. Tsai & D. Hooshyar, *Prevalence of Eviction, Home Foreclosure, and Homelessness Among Low-Income US Veterans: The National Veteran Homeless and Other Poverty Experiences Study*, 213 *Pub. Health* 181 (2022).

⁴³ U.S. Dep’t of Hous. & Urb. Dev., *HUD 2023 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations* (Nov. 19, 2023), [<https://perma.cc/2X2E-L955>].

⁴⁴ Ranak B. Trivedi et al., *Prevalence, Comorbidity, and Prognosis of Mental Health Among US Veterans*, 105 *Am. J. Pub. Health* 2564, 2565 (2015).

⁴⁵ *Mental Illness*, Nat’l Inst. Mental Health, <https://www.nimh.nih.gov/health/statistics/mental-illness> [<https://perma.cc/843Y-WHRZ>].

healthcare limit access to life improving resources and lead to premature death.⁴⁶ Only half of veterans with mental health disabilities related to their military service receive treatment.⁴⁷ Post-9/11 veterans have higher rates of severe disability, mental health disorders, trauma-related injuries, and substance use than their nonveteran peers and veterans of prior wars.⁴⁸

Enforcement actions have perilous consequences for the health and survival of houseless people, and their path to housing. Although sweeps are not at issue in this case, they serve as the underlying basis for property confiscation. One study found that sweeps “severed people from possessions, resources, and social supports needed to sustain health,” forced people to relocate into “more isolated, hazardous, and remote spaces,” and were “a persistent source of distress and tension between unhoused people and authorities.”⁴⁹ The National Health Care for the Homeless Council reports: “Health care providers (and other direct service providers) often cannot find their

⁴⁶ Trivedi et al., *supra* note 44, at 2566.

⁴⁷ Comm. to Evaluate Dep’t Veterans Affs. Mental Health Servs., Nat’l Acads. of Scis., Eng’g & Med., *Evaluation of the Department of Veterans Affairs Mental Health Services* 117 (2018), [<https://perma.cc/VNY6-H857>].

⁴⁸ Jonathan Vespa, *Post-9/11 Veterans More Likely to Have a Service-Connected Disability*, U.S. Census Bureau (June 2, 2020), <https://www.census.gov/library/stories/2020/06/who-are-the-nations-veterans.html> [<https://perma.cc/M7UC-HUXL>].

⁴⁹ Jamie Suki Chang et al., *Harms of Encampment Abate-ments on the Health of Unhoused People*, 2 SSM-Qualitative Rsch. Health, no. 100064, Dec. 2022, at 9.

patients after a sweep, and have no knowledge of where they might have gone.”⁵⁰ Prescription medications are lost and usually unrecoverable.⁵¹

Tragically, housing instability and homelessness among veterans increase risk for suicide. Based on a study using a nationally representative sample of veterans, *the rate of suicide attempts is more than five times higher* among veterans who experienced homelessness within the previous two years than veterans without a history of homelessness.⁵² Another more recent study found homeless experienced veterans were twice as likely to attempt suicide in their lifetime and had “nearly three times the odds of attempting suicide two or more times.”⁵³ Older veterans experiencing homelessness are “twice as likely to die by suicide [than] those who were not.”⁵⁴ Tragically, the suicide

⁵⁰ Nat'l Health Care for Homeless Council, *Impact of Encampment Sweeps on People Experiencing Homelessness* 3 (2022), [<https://perma.cc/JQJ2-VSSJ>].

⁵¹ *Id.*

⁵² Jack Tsai et al., *Addressing Veteran Homelessness to Prevent Veteran Suicide*, 69 *Psych. Servs.* 935, 936 (2018).

⁵³ Brandon Nichter, Jack Tsai & Robert Pietrzak, *Prevalence, Correlates, and Mental Health Burden Associated with Homelessness in U.S. Military Veterans*, 53 *Psych. Med.* 3952, 3959 (2023).

⁵⁴ *Id.* (citing John A. Schinka et al., *Increased Mortality Among Older Veterans Admitted to VA Homelessness Programs*, 67 *Psych. Servs.* 465 (2016)).

rate among veterans increased by 11.6% from 2020 to 2021, while non-veteran adults increased by 4.5%.⁵⁵

Unhoused veterans face barriers to housing through veteran-specific housing opportunities. With Supportive Services for Veteran Families (SSVF), the housing payments are generally limited to six or nine months and veteran families may be required to share in the cost of rent.⁵⁶ In the HUD-VASH program, veterans with mental health or substance use conditions were found to have more difficulty attaining and maintaining housing.⁵⁷ Generally, veterans with disabilities identified confusing housing regulations, un knowledgeable housing professionals, and affordable housing shortages in neighborhoods reflecting the veterans' needs as barriers to finding and maintaining affordable rental housing.⁵⁸ One veteran in Part II remarked that although many people believe it is easier for veterans to escape homelessness, "that is not the case" and "it is not a guaranteed thing," despite the options available to veterans.⁵⁹

⁵⁵ VA Off. Mental Health & Suicide Prevention, *2023 National Veteran Suicide Prevention Annual Report* 5, [<https://perma.cc/XG8M-WBP4>].

⁵⁶ 38 C.F.R. § 62.34(a)(1), (7) (2023).

⁵⁷ Ann Elizabeth Montgomery & Megan Cusack, U.S. Dep't Hous. & Urb. Dev., *HUD-VASH Exit Study: Final Report* 56, 77 (2017), [<https://perma.cc/WQP9-UQ7N>]. Cf. Semeah et al., *supra* note 26 at 549.

⁵⁸ Semeah et al., *supra* note 26, at 547–52.

⁵⁹ Invisible People, *Homeless Veteran's ID Taken by Police Stripped of Access to Shelter*, YouTube, at 00:01:52–00:03:05, (July 27, 2023), <https://youtu.be/CcLWFZ56OOU>.

C. Bureaucratic Barriers and Paperwork Challenges to Accessing Services

Although this case involves a challenge to the extreme ordinances in Grants Pass punishing sleeping or resting on public property with only a blanket, in many communities, such laws serve as the basis for property and paperwork confiscation through sweeps of homeless individuals, undermining paths to income stability and housing. Sweeps destroy job-related items, such as uniforms or tools, and create criminal records that disqualify homeless individuals from certain jobs.⁶⁰

A VA psychiatrist whose research and clinical practice centers on homeless experienced veterans recounted the connection between attaining housing and basic access to paperwork: “[T]he average person could not envision how many hours [we] spen[d] getting someone an ID or bank papers.”⁶¹ When asked if she could provide a specific example of a patient struggling to secure housing due to paperwork she mentioned “vividly” remembering one veteran. This person, who was 100% service-connected, had diagnoses of schizophrenia and complex neurological disorder, lived in his vehicle while receiving VA services. He secured competitive employment at the VA. Despite the VA’s best efforts, after 8 months, he does not have

⁶⁰ Nat'l Health Care for Homeless Council, *supra* note 50, at 6.

⁶¹ Interview with VA Psychiatrist (Mar. 15, 2024) (transcript on file with authors).

necessary paperwork to enroll in HUD-VASH, so he remains unhoused.⁶² She continued:

Why isn't this guy housed and he's working a competitive job at the VA. . . . We have these [] examples of guys like this. They're actually very engaged. They are seeking care. He was on an injectable medication. He wanted to work. He had made this enormous recovery from being on the streets, but it's like, and why isn't he housed. It's a paperwork problem, and he's been on hold for years.

She explains the significance of lost paperwork and the connection to housing acquisition:

Hours and hours and days of time spent getting documents sort of go down the drain because we either can't find [the person] or we can't get things mailed and delivered, or we finally get the document and they lose it because it was in a backpack that got confiscated, or in a you know, a shopping cart that they were told they couldn't keep in a transitional housing facility that they had to move to because they couldn't be on the street. The documentation thing can't be understated, but it's just hard, and unless

⁶² *Id.*

you've sat with a veteran [you wouldn't know].⁶³

She concluded, "You can see how many people get lost in the shuffle, even in this extremely enriched [VA] system of having so many resources and so many vouchers."⁶⁴

Veterans are willing to die for our freedom, and the nation's leaders have pledged to end veteran homelessness. Yet, this Part shows veterans are disproportionality represented among the houseless and provides structural and individual factors contributing to unsheltered veterans.

II. UNHOUSED VETERANS REPORT CRIMINALIZATION AND SWEEPS MAKE IT HARDER TO ACCESS SERVICES AND EXACERBATES THE SEVERITY OF HOMELESSNESS

To show the lived realities of unhoused veterans, Amici present stories of veteran plaintiffs in civil rights actions and video testimonials available at the Invisible People website.⁶⁵ They are presented in the present tense, though some cases led to judgment, settled, or were dismissed on other grounds.

These stories include enforcement of anti-camping laws before this Court, but also encompass descriptions of sweeps and property confiscation. While this

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Invisible People, <https://invisiblepeople.tv/>, [<https://perma.cc/Q6RQ-KRCJ>].

case does not involve sweeps, when homeless people are arrested pursuant to anti-camping ordinances like those in Grants Pass, they face similar consequences to individuals subjected to sweeps. A reversal of *Grants Pass* will lead to harsher circumstances because police will cite and fine more unhoused veterans.

The stories of Erin, Duane, Bob, Lucrecia, Doug, Emilio, Ken, Jerry, and Thomas presented here serve three purposes, and sometimes illustrate more than one goal. First, they show how enforcement actions affect those with chronic illnesses and exacerbate or are themselves disabling. Second, the veterans' stories show the callousness of some localities, including banishment threats and dehumanizing treatment. Third, they show the routine nature of property destruction—loss of vital records, photos, medals, and medicine—for unhoused veterans.

These are their stories.

A. Enforcement Actions Make Homelessness Worse for Disabled, Elderly, and Chronically Ill Veterans; Neglects Their Sacrifices to the Nation

1. *Erin Spencer* – Retired Marine with Chronic Pain and Service-Connected Disabilities Arrested for Habitation and Injured in the Process

Erin Spencer is a disabled Marine Corps veteran.⁶⁶ He has a shoulder injury from his time in service that “puts pressure on the nerve” under his collar bone, causing him chronic pain, and limiting his mobility.⁶⁷ It also limits his ability to lift weighty items.⁶⁸ Mr. Spencer also suffers from mental health conditions, stemming from “a childhood of abuse and neglect [and] from his time in the military”⁶⁹

Mr. Spencer stays at an encampment at 8th and Harrison in Berkeley, California.⁷⁰ In his shelter, he stores items he uses to make a living, such as tools and bike parts.⁷¹ He cannot move these items because of

⁶⁶ *Prado v. City of Berkeley*, No. 23-cv-04537-EMC, 2023 WL 6307921, at *3 (N.D. Cal. Sept. 27, 2023).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ First Amended Complaint for Declaratory and Injunctive Relief ¶ 38, *Prado v. City of Berkeley*, No. 23-cv-04537-EMC (N.D. Cal. Nov. 10, 2023), Doc. No. 41.

⁷⁰ *Id.* ¶ 32.

⁷¹ Plaintiffs’ Emergency Notice of Motion and Motion for a Temporary Restraining Order and Order to Show Cause Why

his disability.⁷² Mr. Spencer requested, on numerous occasions, that the City help him move his belongings.⁷³ Despite stating it will help, the City has never done so.⁷⁴

On November 7, 2023, Mr. Spencer was arrested for “illegal lodging” in Berkeley when he was leaving the Harrison Street encampment with his cart.⁷⁵

All of a sudden, I was surrounded by police officers. They grabbed me and surrounded me. They forced me to sit on the sidewalk. They hand-cuffed me before ever telling me I was arrested or detained. I have a service-connected shoulder disability that makes it very painful to have my arms behind my back and I

Preliminary Injunction Should Not Issue at 5, *Prado v. City of Berkeley*, No. 23-cv-04537-EMC (N.D. Cal. Sept. 4, 2023), Doc. No. 2 [hereinafter Pls.’ Emergency Mot.].

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Declaration of Erin Spencer Iso Plaintiffs’ Motion To Enforce ¶¶ 2–3, *Prado v. City of Berkeley*, No. 23-cv-04537-EMC (N.D. Cal. Nov. 13, 2023), Doc. No. 42-2 [hereinafter Decl. of Spencer]. The court temporarily enjoined the City from closing Spencer’s camp. Order Temporarily Enjoining Encampment Closure, *Prado*, No. 23-cv-04537-EMC (N.D. Cal. Nov. 13, 2023), Doc. No. 45, 2023 WL 7558960, and later denied Plaintiffs’ injunctive relief on the abatement order, as the abatement was over. Civil Minutes, *Prado*, No. 23-cv-04537-EMC (N.D. Cal. Nov. 15, 2023), Doc. 50. Litigation continues in this case.

told them this, but they cuffed me anyway even though I was not resisting. . . . I have PTSD related to previous incarcerations, in addition to other traumas, and I left jail feeling shaken and betrayed. I have been having difficulty processing my thoughts and memories since then.⁷⁶

After leaving jail, when Mr. Spencer came back to the place he stays, “the sidewalk was just empty.”⁷⁷ Mr. Spencer’s belongings were gone, taken by the City.⁷⁸ The arrest and property confiscation added insult to injury, especially because Mr. Spencer repeatedly communicated his need for accommodations to the City.⁷⁹

Mr. Spencer described what it means to be a repeated victim of sweeps and clean-ups:

[T]he massive number of times the City or State have taken all I possess leaves me in a vacuous *déjà vu*, yet again. . . . This is the ninth time the City has taken nearly everything from me after I’ve constructed the carts necessary to keep

⁷⁶ Decl. of Spencer, *supra* note 75, ¶¶ 2–5.

⁷⁷ *Id.* ¶ 6.

⁷⁸ *Id.* See generally Supriya Yelimeli, *Berkeley Police Arrest 2 at West Berkeley Homeless Camp Closure*, Berkeleyside (Nov. 7, 2023, 4:35 PM), <https://www.berkeleyside.org/2023/11/07/berkeley-police-arrest-resident-observer-west-berkeley-homeless-camp-closure> [<https://perma.cc/K5YE-AHX9>].

⁷⁹ Pls.’ Emergency Mot., *supra* note 71, at 5.

myself mobile I fear my loved ones will be left seeking redress for a corpse.⁸⁰

2. *Duane Nichols* – 60-year-old Homeless Veteran with Multiple Physical Disabilities and Visual Impairment

Duane Nichols is a 60-year-old disabled, homeless Navy veteran⁸¹ living in San Clemente, California, with no source of income.⁸² Mr. Nichols is disabled and relies on a tricycle for mobility assistance.⁸³ He suffers from limited vision, chronic obstructive pulmonary disease, arthritis, blood clots, and hip issues.⁸⁴ He has been homeless for the last 30 years.⁸⁵

⁸⁰ Decl. of Spencer, *supra* note 75, ¶ 15.

⁸¹ Ericka Ritchie, *Homeless at San Clemente's North Beach Relocated to City Lot, as Legal Motion Is Filed to Remove Judge from Related Lawsuit*, Orange Cnty. Reg. (May 24, 2019, 8:03 PM), <https://www.ocregister.com/2019/05/24/homeless-at-san-clementes-north-beach-relocated-to-city-lot-as-legal-motion-is-filed-to-remove-judge-from-related-lawsuit/>.

⁸² Second Amended Complaint ¶ 68, *Hous. is a Hum. Right Orange Cnty. v. Cnty. of Orange*, No. 8:19-cv-00388-PA-JDE (C.D. Cal. Sept. 16, 2019), Doc. No. 99.

⁸³ *Id.* ¶ 70.

⁸⁴ *Id.*

⁸⁵ Kristen Lago, *San Clemente Homeless Camp Requires Proof of a Tie to the City*, Spectrum News 1 (Sept. 4, 2019, 10:59 AM), https://spectrumnews1.com/ca/orange-county/news/2019/09/04/san-clemente-homeless-camp-requires-proof-of-a-tie-to-the-city-?cid=share_clip [<https://perma.cc/8SBY-XELY>].

For over two years, Mr. Nichols slept in a train station's parking lot.⁸⁶ At night, he was often told he needed to leave and threatened with arrest by Orange County Sheriff's Deputies.⁸⁷ However, he had nowhere else to go because the shelters serving the area were always either at or over capacity.⁸⁸

Mr. Nichols takes blood-thinning medication for his blood clot condition.⁸⁹ The medication makes it dangerous for Mr. Nichols to be exposed to the sun.⁹⁰ Due to his chronic health conditions, San Clemente's law requiring unhoused people to take down their tents every day is especially burdensome.⁹¹ Amici note sleeping in tents is not the type of law criminalized by the City of Grants Pass and not an issue before the Court.

Because of his age and disabilities, Mr. Nichols tries to avoid encounters with law enforcement.⁹² However, avoiding homeless enforcement is unlikely, remarking:

⁸⁶ Second Amended Complaint, *supra* note 82, ¶ 71.

⁸⁷ *Id.*

⁸⁸ *Id.* ¶ 69.

⁸⁹ Declaration of Duane Nichols in Support of a Temporary Restraining Order ¶ 15, *Hous. is a Hum. Right Orange Cnty. v. Cnty. of Orange*, No. 8:19-cv-00388-PA-JDE (C.D. Cal. June 30, 2019), Doc. No. 69-4 [hereinafter Decl. of Nichols]; Second Amended Complaint, *supra* note 82, ¶ 70.

⁹⁰ Decl. of Nichols, *supra* note 89, ¶ 16.

⁹¹ *Id.* ¶ 18.

⁹² *Id.* ¶ 7.

It is very difficult when the police say they will cite and arrest us for camping even with no indoor option available because I am forced to choose between risking arrest and risking threats to my health and safety in an open space with no protection from the elements and no access to food or water.⁹³

As a veteran with multiple disabilities, he cannot sustain the shuffling and stress of sweeps.⁹⁴

3. *Bob* – Disabled Veteran in and out of Homelessness for 10 Years Whose Wife was Severely Injured During a Sweep

Bob is a homeless, disabled Marine and Navy veteran living in Los Angeles.⁹⁵ He served in the military for 17 ½ years before he was medically discharged.⁹⁶ He wanted to re-enlist but was “too damaged” from his years in service.⁹⁷

Despite his lengthy and decorated service to the nation, *Bob* and his wife, a cancer survivor, are

⁹³ *Id.* ¶ 17.

⁹⁴ The court dismissed Mr. Nichols’ claims on the law without discounting his story. *Hous. is a Hum. Right Orange Cnty. v. Cnty. of Orange*, No. 8:19-cv-00388-PA-JDE, 2019 WL 8012374 (C.D. Cal. Oct. 28, 2019).

⁹⁵ Invisible People, *17 Years Military to 10 Years Homeless in Los Angeles*, YouTube, at 00:00:11–00:00:40 (Sept. 8, 2021), https://www.youtube.com/watch?v=Pf13p_MEZag.

⁹⁶ *Id.* at 00:00:22–00:00:00:40.

⁹⁷ *Id.* at 00:00:22–00:00:46.

homeless.⁹⁸ He has been homeless off and on for ten years.⁹⁹ For a short period of time, Bob and his wife rented an apartment, however, they lost it after it was infested with bedbugs and they were unable to afford to fumigate and replace their affected property.¹⁰⁰ Another time they stayed with a friend and helped with rent.¹⁰¹ Sadly, the friend passed away and they didn't have first and last month's rent, necessary to sign a lease with the landlord.¹⁰²

During sweeps occurring over three years, police discarded Bob's most valuable property. They threw away his tools, which he values at around \$22,000 dollars.¹⁰³ The police also took his tent, which was his shelter at the time, leaving him "with nothing."¹⁰⁴

Bob recounted, "My wife, she got hurt on a clean-up because [the police] were trying to hurry [us] up and we were trying to save my tools."¹⁰⁵ As a result of the police rushing them Bob's wife tripped and fell.¹⁰⁶ She cut her leg so severely that it resulted in a

⁹⁸ *Id.* at 00:02:45–00:02:47.

⁹⁹ *Id.* at 00:09:55–00:10:08.

¹⁰⁰ *Id.* at 00:10:08–00:10:31.

¹⁰¹ *Id.* at 00:10:47–00:11:02.

¹⁰² *Id.*

¹⁰³ *Id.* at 00:06:43–00:06:53.

¹⁰⁴ *Id.* at 00:07:26–00:07:38.

¹⁰⁵ *Id.* at 00:11:46–00:12:07.

¹⁰⁶ *Id.* at 00:11:43–00:12:19.

blood infection.¹⁰⁷ At the time Bob shared his story, his wife was hospitalized for almost two weeks.¹⁰⁸

Bob's video paints the picture of a man well-known in his community, working to change his circumstances, despite consequences to his health.¹⁰⁹ On good days, he's in the neighborhood fixing cars and taking on odd jobs to make ends meet.¹¹⁰ However, his disabilities—stemming from his time in service—make it hard to work every day, though he wants to.¹¹¹

4. *Lucrecia* – Homeless Veteran and Cancer Survivor

Lucrecia is a homeless Army veteran and cancer survivor.¹¹² She lives in Los Angeles's Koreatown.¹¹³ She became homeless three years earlier when she lost her job due to cancer and drug use that started during her cancer treatments.¹¹⁴ *Lucrecia* explained how her cancer was central to becoming unhoused:

¹⁰⁷ *Id.* at 00:11:46–00:12:07.

¹⁰⁸ *Id.* at 00:11:15–00:11:21.

¹⁰⁹ *Id.* at 00:02:49–00:03:19.

¹¹⁰ *Id.* at 00:02:57–00:03:19.

¹¹¹ *Id.* at 00:00:22–00:00:54; 00:03:01–00:03:19; 00:17:25–00:18:29.

¹¹² Invisible People, *Cancer Survivor and Homeless Veteran Living in a Tent in Los Angeles's Koreatown*, YouTube, at 00:00:07–00:00:38; 00:01:42–00:01:44 (Feb. 10, 2020), https://youtu.be/Omevex_4MOs.

¹¹³ *Id.* at 00:09:07–00:10:10.

¹¹⁴ *Id.* at 00:00:38–00:01:40.

So the tumor was very aggressive so that I had [to] miss work. Miss work to the point where I couldn't stay working. My health just got worse. Because even though [the] cancer was gone, my immune system was really, really deteriorated.¹¹⁵

While homeless, Lucrecia experienced repeated sweeps and police harassment.¹¹⁶ On one occasion, the police confiscated all her property, leaving her with just the clothes she was wearing.¹¹⁷ Property confiscations of this nature became commonplace.

Over a six-week period, police confiscated Lucrecia's property three times:

I was finally able to get an RV and then pay for it little by little. . . . [T]hey took it with everything I had and then a week later they took everything I had in a tent. . . . A week later, they wiped me out here, everything. . . .¹¹⁸

Prior to losing her housing, Lucrecia was an advocate of the unhoused. In March 2016, she received an award from the Mayor of Los Angeles for her homeless "charity work."¹¹⁹ Lucrecia remains determined to

¹¹⁵ *Id.* at 00:01:26–00:01:40.

¹¹⁶ *Id.* at 00:08:25–00:08:58.

¹¹⁷ *Id.* at 00:08:42–00:08:55.

¹¹⁸ *Id.* at 00:09:38–00:10:10.

¹¹⁹ *Id.* at 00:12:19–00:12:48.

transition off the streets and return to helping the unhoused.¹²⁰

B. Enforcement Actions Risk Banishment for Homeless Veterans

1. *Doug Higgins* – Unhoused Disabled Veteran Cited and Fined; Paid Rather than Face Exile from Place He Considers Home

Doug Higgins is a 73-year-old unhoused veteran honorably discharged from the Army.¹²¹ Mr. Higgins stays in San Diego, a place he considers home.¹²² He experiences several physical and mental health problems, including anxiety, depression, and a back condition.¹²³ Mr. Higgins' back pain is so severe that he is unable to stand, sit, or walk for any significant duration.¹²⁴

¹²⁰ *Id.* at 00:12:04–00:12:17.

¹²¹ Declaration of Doug Higgins in Support of Motion for Summary Adjudication ¶ 2, *Bloom v. City of San Diego*, No. 3:17-cv-02324-AJB-DEB (S.D. Cal. Sept. 22, 2022), Doc. No. 232–35 [hereinafter Decl. of Higgins Summ. Adj.]; Declaration of Doug Higgins in Support of Plaintiffs' Motion for Preliminary Injunction ¶2, *Bloom v. City of San Diego*, No. 3:17-cv-02324-AJB-DEB (S.D. Cal. Apr. 30, 2018), Doc. No. 26-12 [hereinafter Decl. of Higgins Prelim. Inj.].

¹²² Second Amended Class Action Complaint ¶ 24, *Bloom v. City of San Diego*, No. 3:17-cv-02324-AJB-DEB (S.D. Cal. May 1, 2020), Doc. No. 137.

¹²³ Decl. of Higgins Prelim. Inj., *supra* note 121, ¶ 2.

¹²⁴ *Id.*

In November 2016, Mr. Higgins received a habitation citation for living in his RV:

I was sitting on the couch in my RV reading a book when a police car parked directly behind my RV. I got out of my RV and saw the officer writing a ticket. I asked the officer why I was [getting] a ticket and he said that I was ‘habitating.’ The officer did not explain how I was habitating. He just said that he could ticket me at any time at any place. I asked the officer what I could do to avoid a habitation ticket. The officer said that *I could avoid getting a habitation ticket by leaving San Diego.*¹²⁵

In November 2017, the City cited Mr. Higgins again, this time for nighttime RV parking.¹²⁶ Paying the tickets was not easy.¹²⁷ Nonetheless, he paid to avoid impoundment.¹²⁸

Mr. Higgins is anxious about the City’s citation system because the fees place significant burdens on

¹²⁵ *Id.* ¶ 4 (emphasis added); *Bloom v. City of San Diego*, No. 3:17-cv-02324-AJB-NLS, 2018 WL 9539239, at *4 (S.D. Cal. Aug. 21, 2018) (stating Higgins was ticketed for a “benign and lawful” matter when the officer ticketed him though Higgins “was legally parked in his RV reading a book”).

¹²⁶ Second Amended Class Action Complaint, *supra* note 122, ¶ 24.

¹²⁷ *Id.*

¹²⁸ Decl. of Higgins Summ. Adj., *supra* note 121, ¶ 4.

him.¹²⁹ The threat of more citations and potential RV impoundment exacerbates his poor health.¹³⁰ When Mr. Higgins expressed these concerns to police officers, they told him that if he did not like the citations, he should leave San Diego.¹³¹

2. *Emilio Rodriguez* – Police Target Marine Veteran, Suggest Leaving City, and Throw Irreplaceable Property Into Irrigation Canal

Emilio Rodriguez is a 54-year-old Marine veteran.¹³² He has been homeless for at least three years.¹³³ Mr. Rodriguez does construction work and painting when he can find the work, “but it is not enough to be able to pay rent on an apartment.”¹³⁴ He and a couple of other unhoused people received

¹²⁹ Second Amended Class Action Complaint, *supra* note 122, ¶ 24.

¹³⁰ *Id.*

¹³¹ *Id.* (emphasis added). The District Court enjoined enforcement of the Vehicle Habitation Ordinance (San Diego Municipal Code section 86.0137(f)). The ordinance violated plaintiffs’ constitutional rights. *Bloom v. City of San Diego*, No. 3:17-cv-02324-AJB-DEB, 2018 WL 9539239, at *8 (S.D. Cal. Aug. 21, 2018). The court granted preliminary approval of parties’ proposed class action settlement. *Bloom*, No. 3:17-cv-02324-AJB-DEB, 2024 WL 1162103 (S.D. Cal. Mar. 18, 2024).

¹³² Declaration of Emilio Moses Rodriguez ¶2, *Kincaid v. City of Fresno*, No. 1:06-cv-01445-LJO-SKO (E.D. Cal. Nov. 6, 2006), Doc. No. 54 [hereinafter Decl. of Rodriguez]; *Kincaid v. City of Fresno*, No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732, at *11 (E.D. Cal. Dec. 8, 2006).

¹³³ Decl. of Rodriguez, *supra* note 132, ¶ 2.

¹³⁴ *Id.* ¶ 2.

permission from a church to stay outside of its fence line, near an irrigation canal.¹³⁵ Mr. Rodriguez remarks, “They referred to it as providing us sanctuary. They just told us to keep our area clean, which we did.”¹³⁶

Mr. Rodriguez had an encounter with police that set him on a path towards escalating criminalization:

I had a run-in with two Fresno police officers, Officers Lee and Montoya, who patrol the area where I live. While I was waiting outside a Chinese restaurant for it to open for lunch, they came up and issued me a ticket for loitering Then they asked me where I was staying. . . . They told me “we don’t like you people” and dismissed the idea that the church could allow us to live where we were.¹³⁷

When Mr. Rodriguez returned to the church, his neighbors living in nearby tents informed him the police came by after learning where he lives.¹³⁸ The police pushed Mr. Rodriguez’s shopping cart filled with his belongings into a surging canal.¹³⁹ The Court describes the incident:

¹³⁵ *Id.* ¶ 3.

¹³⁶ *Id.*

¹³⁷ *Id.* ¶ 4.

¹³⁸ *Id.* ¶ 5.

¹³⁹ *Kincaid v. City of Fresno*, No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732, at *11 (E.D. Cal. Dec. 8, 2006).

Around the end of June 2006, a Fresno police officer destroyed Ms. Nelson’s and Mr. Rodriguez’s property, which Ms. Nelson was watching, by pushing their shopping carts packed with their belongings into an irrigation canal of rushing water. There was no prior notice of this seizure and destruction. . . . Mr. Rodriguez lost his cart containing his stereo, clothing, bedding, toiletries and his prized photo album containing pictures of him as a young man in the Marine Corps, his children and grandsons.¹⁴⁰

Mr. Rodriguez commented, “Almost all of my possessions had washed away. . . .”¹⁴¹

¹⁴⁰ *Id.*

¹⁴¹ Decl. of Rodriguez, *supra* note 132, ¶ 6. The District Court approved two settlement agreements in this case. Final Order Approving Settlement, *Kincaid*, 1:06-cv-1445-OWW-SMS (E.D. Cal. July 25, 2008), Doc. No. 323; Memorandum in Support of Motion for Preliminary Approval of Settlement, *Kincaid*, No. 1:06-cv-1445-LJO-SKO (E.D. Cal. June 5, 2008), Doc. No. 304.

C. Sweeps Make Accessing Services Such as Housing More Difficult

1. *Ken* – Homeless Veteran Has His Social Security Card, DD-214, Birth Certificate, and ID Destroyed in Sweep, Leading to Loss of Access to Shelter Space

After *Ken* concluded his service in the Air Force, he settled in San Diego.¹⁴² He became homeless after losing his fishing boat, which he had operated for work.¹⁴³

One sweep had disastrous effects on *Ken* and his ability to find shelter and permanent housing. While he was filling out forms at the Alpha Project to get a bed at a shelter, the City “came and yanked [Ken’s] stuff.”¹⁴⁴ He lost his birth certificate, identification documents, DD-214, and Social Security card.¹⁴⁵ Without these documents, *Ken* reported he was unable to get a bed at the Alpha Project shelter and remained unsheltered.¹⁴⁶ He described how difficult it would be to get back on his feet, saying “it’s really not easy to overcome all the obstacles that are put in place to get a home again.”¹⁴⁷

¹⁴² Invisible People, *supra* note 59, at 00:00:22–00:00:57, 00:09:42–00:09:46.

¹⁴³ *Id.* at 00:00:40–00:01:27.

¹⁴⁴ *Id.* at 00:05:44–00:05:45.

¹⁴⁵ *Id.* at 00:05:40–00:06:58.

¹⁴⁶ *Id.* at 00:05:27–00:06:25.

¹⁴⁷ *Id.* at 00:01:38–00:01:48.

2. *Jerry Roderick Burton*—Police Take Documents Necessary to Appeal VA Disability Decision—and *Thomas Peterson*—Police Take Medals and Other Property from Wheelchair-Using Army Veteran—Both Veteran Subjected to Enforcement Actions in Sub-Freezing Temperatures

Jerry Roderick Burton is a 54-year-old disabled Marine Corps veteran.¹⁴⁸ He served in the Marines for two and a half years at Camp Lejeune, North Carolina and Guantanamo Bay, Cuba, before receiving an honorable discharge.¹⁴⁹ He has lived in the Denver area for 26 years.¹⁵⁰ Mr. Burton grapples with a degenerative bone disease.¹⁵¹ He does not receive a pension or disability, “in part due to [homelessness] . . . and not be[ing] able to maintain my records to appeal to the VA.”¹⁵² He has tried to work and attain housing, but his disabilities and high rent prices make it “impossible.”¹⁵³

¹⁴⁸ Declaration of Jerry Roderick Burton ¶ 2, *Lyll v. City of Denver*, No. 1:16-cv-02155-WJM-CBS (D. Colo. Sept. 9, 2016), Doc. No. 15-8 [hereinafter Decl. of Burton]. Mr. Burton was terminated as a plaintiff on April 11, 2017. Stipulation for Dismissal with Prejudice, *Lyll*, No. 1:16-cv-02155-WJM-SKC (D. Colo. Apr. 11, 2017), Doc. No. 103.

¹⁴⁹ Decl. of Burton, *supra* note 148, ¶ 2.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.* ¶ 3.

¹⁵³ *Id.*

Despite his disabilities and service to this country, Mr. Burton is told to leave places where he is resting or staying:

The police are always telling me to move along. I can't go anywhere without them hassling me. I ask them where I can go, and they say go down to the Platte River. Then they come down to the Platte River and tell me to move. Whenever I try to rest, the Denver Police Department comes down on me hard. *They always tell me: "if you people would just leave Denver, then this would all stop."* I have lived here 26 years. I have a son here and a daughter. *This is my home.*¹⁵⁴

Mr. Burton explains how the constant move-along orders exacerbates his skeletal condition:

I have been woken up again and again by Denver police shining their spotlights in my face, ordering me to get up and move. . . . I am a United States Military veteran and suffer from degenerative bone disease so moving is extremely painful for me. Especially in the morning when my body is locked up and frozen and every move I make makes me want to die with

¹⁵⁴ *Id.* ¶ 4 (emphasis added).

pain. . . . Getting woken up every night is a nightmare.¹⁵⁵

He expresses concern his “body is beginning to break down faster than it should” from the police attention.¹⁵⁶

Beyond move-along orders, Mr. Burton has been the victim of several police enforcement actions. He described one 2016 sweep:

Around 8:30[A.M.] an officer from the Denver Police Department came up to me and . . . started telling me I had to leave. I asked him why I had to leave as I wasn’t breaking any laws and he responded by calling me a “bitch” and . . . threatened [me] with arrest by saying: “I will have your black ass in the back of my [squad] car.”¹⁵⁷

Police returned soon thereafter and began confiscating all of Mr. Burton’s property he used to survive on the streets.¹⁵⁸

¹⁵⁵ Declaration of Jerry Burton in Support of Motion in Limine for Order Suspending Camping Ban Enforcement During Trial ¶¶ 2–3, 5, *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-SKC (D. Colo. Feb. 4, 2019), Doc. No. 201-1 [hereinafter Burton Limine]. The court denied the plaintiffs’ motion, *Lyall*, No. 1:16-cv-02155-WJM-SKC, 2019 WL 9443748, at *3 (D. Colo. Feb. 21, 2019).

¹⁵⁶ Burton Limine, *supra* note 155, ¶ 6.

¹⁵⁷ Decl. of Burton, *supra* note 148, ¶ 5.

¹⁵⁸ *Id.* ¶ 6.

Mr. Burton witnessed dehumanizing sweeps where people were treated without regard for their health or safety:

I was also there December 15, 2015,¹⁵⁹ where there was snow on the ground and it was less than ten degrees and they forced everyone to march out into the snow. I tried to explain to the police that we were human beings and had rights. It meant nothing to them that we were freezing like dogs. They wouldn't give us any help. There were two pregnant women there. They took their stuff, too.¹⁶⁰

Thomas Peterson is a 45-year old disabled Army veteran living in Denver, Colorado.¹⁶¹ Mr. Peterson has many physical disabilities—a prosthetic right hip, permanently “disabled jaw line,” and chronic pain—all stemming from a hit and run “where [he] was run

¹⁵⁹ The court indicated this event, while not factually refuted, was not a relevant issue for the case because it did not meet the definition of a “mass sweep,” as defined in the class certification. Order on Motions Regarding Dates and Incidents That May Be Explored at Trial at 4, *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-SKC (D. Colo. Oct. 5, 2018), Doc. No. 190.

¹⁶⁰ Decl. of Burton, *supra* note 148, ¶ 7. Veteran Thomas Peterson described “half a foot of snow on the ground.” Declaration of Thomas Peterson ¶ 4, *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-CBS (D. Colo. Sept. 9, 2016), Doc. No. 15-10 [hereinafter Decl. of Peterson].

¹⁶¹ Decl. of Peterson, *supra* note 160, ¶¶ 1–2, 4, *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-CBS (D. Colo. Sept. 9, 2016), Doc. No. 15-10.

over.”¹⁶² Mr. Peterson relies on a wheelchair.¹⁶³ He describes the repeated police interactions—even when resting in the shade to avoid 103-degree heat or waiting to enter a shelter—as a form of “constant harassment.”¹⁶⁴

In addition to the physical toll, he experiences indignities during enforcement actions:

- On October 24, 2016, the DPD confiscated Mr. Peterson’s “wheelchair, his military records, his identification and photographs of his family.”¹⁶⁵ He was forced to stand as the City confiscated and destroyed his possessions.¹⁶⁶
- During the December 15, 2015 enforcement action, “police told us to go to shelters, but . . . there is almost no room [or] space in Denver day shelters, so that we had to stay outside freezing trying to survive.”¹⁶⁷

As Mr. Peterson poignantly noted: “I served out of a duty to protect our freedoms and our rights, but . . . when it comes to the poor and homeless, there

¹⁶² *Id.* ¶ 2.

¹⁶³ Second Amended Complaint ¶ 61, *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-SKC (D. Colo. Feb. 1, 2017), Doc. No. 69-1.

¹⁶⁴ Decl. of Peterson, *supra* note 160, ¶ 3.

¹⁶⁵ Second Amended Complaint, *supra* note 163, ¶¶ 50, 61.

¹⁶⁶ *Id.* ¶ 61.

¹⁶⁷ Decl. of Peterson, *supra* note 160, ¶ 4.

ain't no rights. . . . I didn't [serve] to watch something like this happen in America."¹⁶⁸

This brief demonstrates that criminalization, sweeps, and property confiscation make the situations of unhoused veterans exponentially worse and undermine the national commitment to ending veteran homelessness. Part I provides the structural, bureaucratic, and individual risks for veteran homelessness. The stories in Part II show the lived realities for unhoused veterans.

CONCLUSION

This Court should affirm the Ninth Circuit.

Respectfully submitted,

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April 3, 2024

¹⁶⁸ *Id.* ¶ 4. The parties reached a settlement, which was approved by the District Court. *Lyall v. City of Denver*, No. 1:16-cv-02155-WJM-SKC (D. Colo. Sept. 23, 2019), Doc. No. 226.

APPENDIX

APPENDIX

**LIST OF 45 AMICI CURIAE WHO
PROVIDE SERVICES TO VETERANS**

National Coalition for Homeless Veterans

UCLA School of Law Veterans Legal Clinic

U.S. VETS

Service Women's Action Network

Black Veterans Project

Minority Veterans of America

Iraq and Afghanistan Veterans of America

Women Veterans Interactive Foundation

National Law School Veterans Clinic Consortium

Cape and Island's Veterans Outreach Center

Project Love Coalition

Orange Tent Project

Cornell Law Veterans Law Practicum

Betty and Michael D. Wohl Veterans Legal Clinic at
Syracuse University College of Law

2a

Swords to Plowshares

Connecticut Veterans Legal Center

Community Hope

Texas A&M School of Law Family and Veterans
Advocacy Clinic

Minnesota Assistance Council for Veterans

Operation Dignity

Veterans Northeast Outreach Center, Inc.

New Visions Homeless Services

Soldiers' Angels

Helping Veterans And Families

Vets First Life Management

Albany Housing Coalition Inc.

American GI Forum-National Veterans Outreach
Program

Southwestern Oregon Veterans Outreach

Veterans Legal Institute

Michigan Veterans Foundation

3a

Veterans Strong Community Center
Veterans Integration Center

Black Veterans For Social Justice, Inc.

Access Housing Inc. District of Columbia

The Veterans Advocacy Law Clinic at the University
of Arizona James E. Rogers College of Law

Emmanuel House

The Community Veteran Justice Project

Nation's Finest

Lady Veterans Connect

Family & Community Services, Inc.

Dixon Center for Military and Veterans' Services

Veteran Housing Corp

Services for the Underserved

University of Illinois College of Law Veteran's Legal
Clinic

University of Detroit Mercy Veterans Law Clinic

Public Counsel's Center for Veteran Advancement

4a

Jewish War Veterans of the United States of
America, Inc.