

Exhibit 1

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

FREDDY BROWN, et al,)
)
Plaintiff,)
)
vs.)
)
CITY OF PHOENIX,)
)
Defendant.)
)
)
)

CV2022-010439

Phoenix, Arizona
July 10, 2023

BEFORE THE HONORABLE SCOTT A. BLANEY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL DAY 1 - BENCH TRIAL

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A P P E A R A N C E S

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FOR THE DEFENDANT:

BY: Justin Pearce
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Phoenix, Arizona
July 10, 2023

P R O C E E D I N G S

(Whereupon, the following proceedings
commenced in open court.)

COURTROOM ASSISTANT: All rise.

THE COURT: Thank you. Please be seated.

All right. Good morning, Ladies and
Gentlemen. This is the time set for trial in civil cause
number CV2022-010439. The matter of Freddy Brown, et al,
v City of Phoenix.

Counsel, please stand and announce for the
record.

MR. WURMAN: Good morning, your Honor.
Ilan Wurman, along with my colleague, Stephen Tully, on
behalf of the Plaintiffs.

THE COURT: Good morning.

MR. WURMAN: Good morning.

MR. PIERCE: Your Honor, Justin Pierce on
behalf of the Defendants at the table with me here is Gina
Montes, the Deputy City Manager. Behind me is -- well,
you guys can announce.

MR. ARNISON: Aaron Arnson for Defendant,
City of Phoenix.

MS. STUHAN: And Trish Stuhan for the

1 Phoenix as well. Thank you, your Honor.

2 THE COURT: Good morning. Let the record
3 reflect that the Court met with counsel in chambers prior
4 to going on the record. We discussed the procedures for
5 the case, the process. We also discussed the following:
6 The Court entered a preliminary injunction in this case on
7 March 27, 2023. That preliminary injunction shall remain
8 in effect unless and until modified by this Court or
9 vacated by this Court after completion of the trial.

10 The Court invokes Rule 615 of the Arizona
11 Rules of Evidence. Any witnesses in the courtroom that
12 are not parties to the case or designated representatives
13 of a party to the case must leave the courtroom until
14 called.

15 Those witnesses may not discuss the case
16 with anyone until after they have testified and been
17 released, nor may they view the trial through live stream
18 prior to their testimony. We'll get to that in just a
19 second with those witnesses.

20 This trial is being recorded by members of
21 the media. Good morning. But the official record for
22 these proceedings will be the record prepared by our court
23 reporter and no party -- and the FTR, excuse me, and no
24 party may use as part of their trial presentation any
25 audio or video recording of the trial other than the

1 official record.

2 Now, Ladies and Gentlemen, you may have
3 noticed that we don't have a jury, that's because this
4 type of proceeding is a called a bench trial, and in these
5 types of cases, the case is argued to the judge and the
6 judge ultimately makes the decision in the case as opposed
7 to the jury making the decision in most cases.

8 Most of the procedures are going to be the
9 same. One strange kind of quirk that you're going to see
10 that's different is in a jury trial the judge is more of a
11 referee and the attorneys argue to the jury, and of
12 course, they make the decision. The judge doesn't usually
13 ask questions of the witness. Because it is a bench trial
14 and because I'm the finder of fact, I will be asking
15 questions of the witnesses and the attorneys will have a
16 chance to follow up. So I'm just letting you know that so
17 that you understand the procedures we're going through
18 here.

19 As I mentioned to the attorneys, I take
20 extensive notes. My face will probably be in my computer
21 most the time. Please understand I am listening to
22 everything that's being said either from an attorney or
23 from a witness who is testifying, but I am obsessive about
24 taking notes. So I'll be staring at my computer most of
25 the time.

1 Now, for the trial schedule. Trial will
2 occur today through Wednesday, 9:00 a.m. until 4:30 p.m.
3 We'll take a lunch break from noon until 1:30 p.m. each
4 day. We'll also take a 15-minute break in the morning
5 around 10:30 and another break around 3:00 p.m. in the
6 afternoon. Those are hard start and stop times. Maybe it
7 is close to 30 years in the Army that taught me I like to
8 start on time and I like to finish on time. So we will
9 start directly at 9:00, we will restart again at 1:30, and
10 we have a court reporter here and I have to make sure that
11 she gets time to rest her hands in between testimony. So.

12 Let the record reflect that everything that
13 has been admitted into evidence in a prior hearing,
14 including testimony and exhibits, remains part of the
15 record. The parties do not have to move the same evidence
16 into the record a second time. The parties have also
17 stipulated to the admissibility of all exhibits. Is that
18 correct for plaintiff?

19 MR. WURMAN: That's correct, your Honor.

20 THE COURT: For the defense?

21 MR. PIERCE: That is correct.

22 THE COURT: And with that, are Plaintiffs
23 ready?

24 MR. WURMAN: One point of clarification if
25 we may.

1 THE COURT: Please.

2 MR. WURMAN: The trial exhibits number from
3 1 through 75, a little over 50 of those do overlap with
4 the preliminary injunction exhibits, but the numbers, as
5 we discussed, do not exactly overlap. We know exhibits 1
6 through 49 are identical.

7 After that, things get a little hairy, so
8 we're just -- if it is okay with your Honor, we would like
9 to refer to these as trial exhibits 1 through 75 and there
10 will be some overlap with the preliminary injunction
11 exhibits.

12 THE COURT: That's fine. Just make it as
13 clear as you can on the record, both for the record and
14 also for my clerk; and, Patricia, if you have any
15 questions as they go through, just let me know.

16 COURT CLERK: Thank you.

17 THE COURT: Yeah, absolutely.

18 MR. WURMAN: One additional point of
19 clarification, your Honor, you said under Rule 615 party
20 representatives can stay.

21 Can expert witnesses stay as well?

22 THE COURT: Yes, yes.

23 MR. WURMAN: So I don't think that applies
24 to any of the Plaintiffs' then. We have two party
25 representatives with us, and I don't believe we will be

1 excluding any witnesses today.

2 THE COURT: All right. Thank you.

3 For the defense?

4 MR. PIERCE: Yes, we will have witnesses
5 that will need to be excluded under the rule, I believe.

6 Do you want to have them sworn or do you
7 want to provide --

8 THE COURT: I'll swear them as they come up
9 to testify.

10 MR. PIERCE: Okay. And any other guidance
11 to them individually? Would you like us to identify them
12 at this point?

13 THE COURT: No, just that they need to
14 leave the courtroom and that they can't discuss the case
15 prior to testimony or watch the live stream at all.

16 MR. PIERCE: Okay.

17 MR. WURMAN: One final point, your Honor,
18 before the Plaintiffs proceed, is it possible to remove
19 some of this technology? I know the defense wanted it or
20 is it not?

21 THE COURT: It would be very difficult at
22 this point.

23 MR. WURMAN: Okay. All right. No problem.
24 May I approach, your Honor?

25 THE COURT: Please.

1 OPENING STATEMENT BY MR. WURMAN

2 MR. WURMAN: Let me briefly highlight what
3 we showed at the preliminary injunction hearing and how
4 the evidence we'll be putting on today fits in with the
5 evidence from that hearing.

6 At the preliminary injunction hearing we
7 mainly focused on the existence of a public nuisance. We
8 had the testimony and photographic evidence from
9 Plaintiffs Ian Francis, Freddy Brown, and also Mike
10 Godbehere.

11 Crucially, the City of Phoenix did not
12 dispute and to this day has not disputed that a public
13 nuisance exists in The Zone. Exhibit 36, the City's own
14 homelessness strategies document from 2020, which was in
15 the record before, states that in Plaintiff's
16 neighborhood, there is "A fluctuating level of encampments
17 along the streets, defecation in public, sometimes on
18 private property, litter and debris, public drug use, lewd
19 acts, theft, and other property and violent crimes."

20 Your Honor's preliminary injunction order
21 was very thorough. We would direct your attention also to
22 page 28 of Exhibit 36, where they say that.

23 Today, your Honor, you will hear again from
24 Plaintiffs Ian Francis and Freddy Brown. You'll hear that
25 the City has cleaned up the streets because of this

1 Court's preliminary order, and where it has done so the
2 situation is pretty darn good. The streets are clean and
3 the nuisance largely abated. But you will also hear that
4 in a vast majority of blocks in the zone, the City has
5 still done nothing, and if anything, it has gotten worse.

6 It appears there are more people in The
7 Zone today than when this Court issued its order. They're
8 just in a slightly smaller number of blocks. There are
9 still about 800 persons there, unsheltered persons there.

10 Additionally, your Honor will see in a new
11 document produced to us, Exhibit 73, it talks about the
12 City's crime suppression plan. It, again, acknowledges,
13 "The very high concentration of individuals suffering from
14 homelessness in the area," and the "High rates of drug
15 crime, violent crime, property crime, criminal damage,
16 theft, trespassing, littering, urination and defecation in
17 public."

18 So nothing in that respect has changed,
19 your Honor. The City all but admits that there's a public
20 nuisance in the zone, aside from this presumably
21 uncontroversial evidence of the ongoing existence of a
22 public nuisance, your Honor will hear testimony primarily
23 on two issues, at least from the plaintiffs.

24 The first is causation and the second is
25 structured campgrounds or sanctioned campsites. You'll

1 also hear a bit of evidence respecting Plaintiffs' due
2 process and equal privileges or immunities claim. So I'll
3 briefly touch on that in this opening as well.

4 I want to spend of most of my time
5 introducing the issue of causation. As your Honor knows,
6 we filed a motion for summary judgment. We do not think
7 that there's a genuine issue of material fact on the
8 question of causation for two reasons.

9 First, is a reason you cited in your
10 preliminary order, which is A.R.S. section 36-601(4), the
11 4 in parentheses. That provision declares any place that
12 is controlled or operated by any governmental agency and
13 that is not maintained in a sanitary condition to be a
14 public nuisance dangerous to the public health.

15 Well, the City controls the easements, the
16 City controls the sidewalks, the streets, they have
17 admitted that, period, end of story. That means there's
18 nothing left for us to show. They are responsible for the
19 nuisance, but additionally, your Honor, in our summary
20 judgment briefing we highlighted restatement of torts
21 sections 838 and 839. These provisions of the restatement
22 were not before your Honor during the preliminary
23 injunction hearing. We only cited them after.

24 So let me highlight those two provisions
25 for you. The City's attorneys are going to come up to

1 your Honor and say, well, we didn't set in motion the
2 cause of the nuisance, the Human Services Campus, HSC,
3 CASS, Central Arizona Shelter Services, they're the cause,
4 they set in motion the cause because it attracts the
5 unsheltered there. Well, with all due respect to the
6 City, it's true that one who sets in motion a public
7 nuisance is responsible for that nuisance, but that
8 doesn't mean that is the only way to demonstrate
9 responsibility for a nuisance. It is a sufficient
10 condition for responsibility, for legal liability, but it
11 is not a necessary condition.

12 Here is what section 838 of the restatement
13 says. A possessor of land upon which a third person
14 carries on an activity that causes a nuisance is subject
15 to liability for the nuisance if the possessor knows or
16 has reason to know of the activity and consents to the
17 activity or fails to exercise reasonable care to prevent
18 the nuisance. That's 838. They might come up and say,
19 CASS, HSC, they unsheltered themselves to create the
20 nuisance. It doesn't matter. It is on their land.

21 And here is 839. A possessor of land is
22 liable for nuisances on his property if he knows or should
23 know of the condition that causes the nuisance and fails
24 to take reasonable steps to abate the condition. That's
25 839.

1 Your Honor, for those two reasons, AR --
2 the Arizona Statute and the restatements, which the Court
3 in Armory Park adopted the restatement, we believe there's
4 no genuine issue of fact. But if the City manages to
5 convince your Honor that causation is a factual question,
6 then there's still no doubt that the City is the cause of
7 the nuisance for three reasons:

8 First, as your Honor noted in the
9 preliminary injunction order, the City of Phoenix Police
10 gives courtesy rides. They find unsheltered individuals
11 about whom people complain in other parts of the city and
12 they give them courtesy rides down to the zone.

13 Exhibit 67 is the Phoenix Police operations
14 order 8.4, the last page of which confirms that they do
15 indeed give courtesy rides to the zone. You'll hear
16 testimony that the city does not have independent
17 knowledge as to which individuals, if any, seek services
18 once they are dropped off. In other words, the city
19 rounds up unsheltered persons that other people complain
20 about in other parts of the city, drops them off at the
21 zone where there are services and then washes it hand of
22 the problem.

23 They don't know if they accept services,
24 they don't know if they stay in The Zone, they don't know
25 if they say, oh, look, everyone else is pitching a tent,

1 why don't I pitch a tent to. They have no idea, but they
2 are bringing people there.

3 Second, as your Honor found in the
4 preliminary injunction order, they are picking and
5 choosing which obstructions to allow. This was the
6 Phoenix kitchens issue with the sculptures, that's already
7 in the record, your Honor has already spoken about that in
8 the preliminary injunction hearing, so we will not be
9 covering that again here today.

10 But the third reason, your Honor, that the
11 City is the cause will be the focus of our expert
12 testimony. Your Honor will hear that it is the City's
13 policy choices that are in fact the cause of the nuisance.

14 You'll hear from our experts, your Honor,
15 that the unsheltered population is far less affected by
16 traditional homelessness policies than the sheltered
17 population. That's because of the high degree of
18 substance abuse and mental health problems. A housing
19 first policy, a reduced rents, a better real estate market
20 will not help these unsheltered individuals because they
21 need another kind of help, building shelters you'll hear,
22 your Honor, will not help these kinds of individuals,
23 because they need a different kind of help.

24 Your Honor will hear testimony that for
25 these and for other reasons many unsheltered individuals

1 are what is called service resistant. You will hear, your
2 Honor, that as few as 15 percent of unsheltered
3 individuals surveyed in the zone cited the lack of
4 available shelter as the reason for their being
5 unsheltered, as little as 15 percent.

6 Your Honor, you will also hear testimony
7 that the unsheltered population is highly mobile. That
8 anywhere from one-third to one-half of the City's
9 unsheltered population comes from elsewhere, from other
10 cities, seeking better weather and more freedom for
11 themselves.

12 Your Honor, you'll hear testimony that a
13 municipality's choice to allow public camping leads to a
14 dramatic increase in the unsheltered population by 45 to
15 50 percent in other cities. Sometimes as high as 75
16 percent.

17 So what does this all tell us, your Honor?
18 It tells us that the City is the cause. Not HSC, not
19 CASS. It tells us also that the City has enough shelter
20 or can easily build enough shelter for those who would
21 accept it, it tells us that a significant part of the
22 problem will go away if the City enforces the law, and it
23 tells us that the remaining problem can be solved by
24 what's called a sanctioned campsite or a structured
25 campground, which I'll get to in a moment.

1 Let me summarize this point about
2 causation, because I don't want to get lost in the weeds
3 of these details that you'll be hearing today. Again, the
4 City's argument is that CASS and HSC are the cause. Well,
5 why? Why? Because the City will say CASS and HSC provide
6 amenities that attract the unsheltered population there.
7 But you know what else is an amenity, the right to pitch a
8 tent on a public street without repercussions, that too is
9 an amenity. And so if HSC and CASS are in some sense
10 contributing to the cause of the nuisance because that's
11 where the services are, well, this is another amenity, an
12 amenity that the City is providing. And in fact, your
13 Honor, if you get rid of that one amenity, the one that
14 the City happens to provide, you get rid of the nuisance.
15 How do we know that? Because they have already done that
16 in response to this Court's order. They have already
17 cleaned up a few half streets, half blocks, and in those
18 half blocks the nuisance is gone, more or less. What more
19 proof do we need that they are the cause of the nuisance
20 and that they can abate it.

21 Okay. That was the bulk of what I wanted
22 to say. Let me briefly touch on sanctioned campgrounds.
23 Exhibit 52, your Honor, is their encampment phase-out
24 plan. You'll hear testimony and you'll see from this
25 exhibit that the City of Phoenix is planning to lease

1 State land on 15th Avenue, just on the edge of The Zone,
2 just outside of The Zone, on the other side of 15th
3 Avenue, closer to the State Capitol. By the end of the
4 summer, the end of September, they will be able to
5 accommodate 400 individuals in a sanctioned campsite.

6 Your Honor, for some more background that
7 you may recall at the preliminary injunction hearing the
8 City of Phoenix announced that the day before that hearing
9 they approved a sprung structure, which is a relatively
10 soft-sided structure that's relatively easy to construct,
11 that was planned to be constructed by the summer, before
12 the summer, for 280 people. Just a few weeks ago
13 Plaintiffs have learned that the City has scrapped plans
14 for that sprung structure, but they still plan to open a
15 sanctioned campsite for 400 individuals by the end of the
16 summer.

17 This is important for two reasons. First,
18 it shows that the nuisance can be abated. Our expert will
19 explain that the sanctioned campsite for 400 individuals,
20 with or without the additional sprung structure, is all
21 the City needs to clean up the entire zone. Once the
22 sanctioned campsite opens, it will have some rules. It
23 will be what's called a low barrier shelter, so you can
24 bring pets, partners, property. But it will have some
25 rules, presumably rules against drug use as well, and not

1 everyone will want to go to the sanctioned campsite.

2 So just like when you enforce other laws,
3 some will go back home, some will go to the cities of
4 origin, some will accept other services, some will just
5 leave and go elsewhere and the remaining can go into the
6 sanctioned campsite. So you'll hear that 400 is enough to
7 end this by the summer, the end of the summer.

8 Second, your Honor, the location of the
9 campsite, it is in The Zone. Well, it is just on the edge
10 of The Zone, just on out -- on the other side of 15th
11 Avenue. We think the location of the zone is all the more
12 reason why a court order is necessary in this case. If
13 you have a sanctioned campsite without enforcement,
14 without an order to keep the streets clean, then you still
15 have the same risk of individuals not willingly going into
16 the sanctioned campsite, leaving the sanctioned campsite
17 and pitching tents on the streets, doing other acts that
18 cause a public nuisance in the zone. The proximity on the
19 edge of the zone of the sanctioned campsite is all the
20 more reason, your Honor, that we need an order from this
21 court.

22 Let me briefly, very briefly, talk about
23 the constitutional claims and then I'll sit down, your
24 Honor. Your Honor will recall that we have due process
25 and equal privileges or immunities claim. They really

1 overlap. They center on this concept of protection of the
2 law. What is protection of the law? This is our legal
3 argument as this is physical protection and legal
4 protection from private interference with private rights.
5 In other words, if unsheltered individuals commit crimes
6 against other private citizens. It is the obligation of
7 the State to supply legal protection against that kind of
8 private interference. If the State does nothing, it is
9 tantamount to a deprivation of due process of law -- a
10 deprivation of property without due process of law.

11 Similarly in our briefing we have explained
12 that the protection of law was a privilege of state
13 citizenship, guaranteed under the equal privileges or
14 immunities clause.

15 Well, your Honor, there are two ways the
16 City can comply with this protection of the law component
17 of due process and the equal privileges or immunities
18 clause. Either it can equitably homeless services and the
19 right to camp throughout the city, such that any failure
20 to supply protection of the law is equal throughout the
21 City. Or it can concentrate the population and services
22 as it does in the zone, but it must provide police and
23 other protection sufficient to meet the occasion,
24 sufficient to provide that protection of law that other
25 parts of the city get -- others get. You'll hear that the

1 City has done neither here.

2 Let me conclude, your Honor. I don't want
3 to miss the forest for the trees, so here is the forest.
4 The City's whole defense in this case is going to be,
5 look, it is complicated, there are moving parts, policy
6 questions, we don't want a firm date from this court,
7 that's what they are going to tell you.

8 Well, it is not that complicated. Look
9 what happened after this Court issued its order. They
10 cleaned you a handful of half blocks and they look great,
11 and many of the unsheltered were in fact willing to accept
12 services when given the choice between that and moving
13 along. Of course, many moved elsewhere in the The Zone.
14 And in those places again, in those streets, there's no
15 more nuisance on those blocks even though CASS and HSC are
16 still there. That just goes to show, your Honor, that it
17 is the City's policy and their amenity of allowing public
18 camping that is the cause of this nuisance and that it is
19 within their power to abate it.

20 So, in summary, your Honor, we believe the
21 evidence will show, will justify your making your
22 preliminary injunction permanent and giving a firm
23 deadline by the end of the summer. Thank you.

24 THE COURT: Thank you.

25 MR. PIERCE: Good morning, your Honor.

1 THE COURT: Good morning.

2 MR. PIERCE: I'm going to see if I can hook
3 this in.

4 MR. WURMAN: I think they have to turn it
5 back on for you.

6

7

OPENING STATEMENT

8 MR. PIERCE: And, your Honor, I did share
9 this with the Plaintiffs' Counsel after we -- after we met
10 to make sure that they were aware of the PowerPoint that I
11 would share with you.

12 Thank you for allowing us to be here today.
13 We're here today primarily because this Court has asked
14 for the City to update it as to what it is doing to
15 address the issues from the preliminary injunction. I
16 will not spend much time discussing the legal issues that
17 we believe continue to exist. We have briefed those as to
18 why -- I will mention at times why -- why we will request
19 that the Court exercise judicial restraint, but I don't
20 want to cover in significant detail all of the legal
21 issues that we think are complicated other than to point
22 out that the City of Phoenix has made, since your
23 preliminary injunction in March, in fact, even prior to
24 that, if we go back to the date of the hearing in October,
25 steps have been taken all along the way and we have seen

1 some significant progress, even as the Plaintiffs have --
2 have noted in their opening, in parts of the area downtown
3 near the Human Services Campus. The City has made
4 extensive efforts, but what we do need to address is
5 what -- what counsel indicated in the opening of this --
6 this alleged amenity that the City is providing, this
7 right to pitch a tent on public property, this choice to
8 allow public camping, that is simply not the evidence.

9 The City has never made it a point to allow
10 people to come into an area of town and set up shop and
11 camp. So why is it happening? Well, let's start with
12 some of the most recent legal decisions that have come
13 down out of the federal courts that are -- that are
14 definitely giving us some guidance as to what we -- what
15 we can and cannot do.

16 You may have seen -- and I don't know, your
17 Honor, this is just last week, the grants passed, the 9th
18 Circuit issued and amended decision on it. I've never
19 really seen -- it is 200 pages long, and I don't know that
20 I have seen judges go after each other quite as hard as in
21 that -- in that case. But it does inform the Court here
22 as to the challenges the City faces in this proposition.

23 I included up here some language from the
24 dissent where Judge O'Scannlain says that this is what the
25 majority is doing to cities and towns. It's the Circuit's

1 jurisprudence that effectively guarantees a personal
2 Federal Constitutional right for individuals to camp or to
3 sleep on sidewalks and parks, playgrounds, and other
4 public places in defiance of traditional health, safety,
5 and welfare laws, a dubious holding premised on a fanciful
6 interpretation of the Eighth Amendment.

7 I bring that up and I'm glad I had this
8 slide in light of what was presented in the opening
9 because this simply is not -- again, this is not the City
10 creating -- having some choice or some amenity to allow
11 people to do this. We are constitutionally required based
12 on at least the majority decision in the 9th Circuit to
13 allow some things.

14 Now, again, we're going to get to what the
15 City has been doing in light of this, but I think it would
16 be -- it is overly simplistic to conclude that this is
17 just something the City can set aside. A couple of
18 points, because guess what, in that -- I don't know if the
19 Court has had a chance to read those decisions but in
20 footnote, too, of that dissent, the City of Phoenix made a
21 cameo, your Honor, they even cited to the City of Phoenix
22 case, the federal case as one of the victims of the
23 jurisprudence.

24 While our mistaken jurisprudence -- this is
25 again the dissent -- in this area has some limits, we

1 should not pretend that the jurisprudential experiments
2 started by Boise and expanded by grants passed, which
3 effectively strikes down the anti-camping and
4 anti-sleeping ordinances of countless, if not all cities
5 within our jurisdiction is narrow.

6 The judges that are on the dissenting side
7 of this are saying that that's what the majority's
8 decision are effectively doing. And, again, here is
9 another dissent from Judge Smith where the City of Phoenix
10 is specifically brought up as a city that is suffering a
11 similar fate based on the majority's reasoning. In other
12 words, what the City is able to do is constrained
13 significantly by these decisions whether -- whether we
14 like it or not.

15 But here is -- and I won't read all of
16 these. I mean, I put up here significant language from
17 these courts to show simply that we are -- we're walking a
18 very tight -- we're walking a legal tightrope when we seek
19 to clean up the area around the Human Services Campus and
20 anywhere else for that matter. In fact, as this Court is
21 aware, there's a companion case in federal court, the one
22 that the judge cited in dissent, and we faced an order to
23 show cause recently by the Plaintiffs in that case.

24 Now, as meritless as we felt that was --
25 and the Judge agreed with us that it had no merit -- it

1 still serves to show this Court that we can't simply wave
2 a magic wand and have it all be gone. We have to go
3 through a process, but we have, and that's what we're here
4 to share with you.

5 This Court's March 27th order, paragraph
6 23. The City has not been focused on abatement. This is
7 from this Court's order. The cleanings have therefore
8 been limited in their effectiveness. The City allows the
9 individuals to return. Workers generally clean from the
10 curb to the street but leave untouched everything that is
11 staged by the homeless from the curb to the fence line.
12 That's this Court's decision, it is this Court's language,
13 things are different, and we're going to show that to you
14 now. Even the Plaintiffs, and again in the opening
15 statement, noted things are different. That's not
16 happening anymore.

17 As we move forward with this plan, we are
18 cleaning areas, we are closing areas to camping, but we're
19 doing it within the confines of the law and it is working.

20 So while the Court's order may have
21 previously held that the City hadn't been focused on
22 abatement, that's simply not the evidence today. One more
23 part of the Court's order, paragraph 40. The Court
24 received very little evidence, if any, that the City
25 intends to take immediate meaningful action to protect its

1 constituent business owners, their employees, and
2 residents from the lawlessness and chaos in the The Zone.

3 Once again, the Court is going to hear
4 substantial evidence that that's not the case anymore.
5 There is evidence that not only does the City intend to do
6 it, but the City has done it and the City continues to
7 intend to do it.

8 So what -- what is -- what is happening,
9 notwithstanding this legal tightrope, as I have mentioned,
10 that we're walking, what has happened? The Court -- at
11 the end of the trial, we believe the Court will see that
12 the evidence shows the City has gone above and beyond.

13 Number one, we have dedicated significant
14 financial resources to this issue. Let's talk about
15 fiscal year budgets for a minute. I'm not sure how much
16 the Court is aware of municipal budget-making processes,
17 but the fiscal year for a municipality in Arizona is
18 July 1 to June 30th of the next year. It is probably the
19 same as the Court's fiscal year, I would imagine.

20 So when this -- when we had our preliminary
21 injunction hearing in October, we're already in the
22 '22-'23 fiscal year. The City doesn't have a whole lot of
23 flexibility in terms of its budget at that point in time;
24 however, the budget process starts early in the year,
25 which it did here. It intensifies from January to June of

1 each year.

2 Well, we're now in July, so you're going to
3 see that this has yielded a budget, the process has
4 yielded a budget that nearly triples ongoing -- ongoing
5 spending in terms of the homelessness issues, and in terms
6 of one-time spending, about \$150 million, and we'll be
7 able to explain to you kind of where all of that is going.
8 The Plaintiffs have already explained a little bit when
9 we're talking about the safe outdoor space that is being
10 -- that is being worked on.

11 The evidence will also show, however, that
12 it is not as simple as, hey, by the end of the summer, it
13 is up and running and going. There are going to be a lot
14 of things that are going to require that to be up and
15 running. But we have made significant progress, and
16 that's one of the things that the Court had ordered us to
17 do is to show, by today, I want to see what you're doing.
18 So this is one of the big things that we're doing in
19 addition to financial resources.

20 Specifically we've got a safe outdoor space
21 plan. Now, this has taken months of work. The City was
22 able to find a space, that's been articulated by the
23 Plaintiffs here even. We have a license agreement with
24 the State that will be effective August 1st with an
25 acquisition no later than October 1. There's still lots

1 to do. We have to get third-party providers to operate
2 the site, we've got to acquire materials, tents, temporary
3 restrooms, shower facilities, et cetera. So, again, it is
4 not as simple as, hey, this thing at the end of the
5 summer, we're up and going and we can move, that's simply
6 not the case. There is space for a few hundred people.
7 It certainly will facilitate the cleaning up and closing
8 the remainder of the area around the human services
9 campus.

10 Next, enhanced engagements. This is the
11 thing that Mr. Wurman explained is working. We agree, it
12 is working. The enhanced engagements -- first of all, we
13 had some enhanced cleanings that started in December, but
14 really May was when we were able to get what we were
15 calling enhanced engagements in place where in the weeks
16 leading up to a cleaning, we are able to engage the
17 community in ways that we can close the area and not allow
18 it to reopen. That obviously takes us making sure that
19 folks have places to go, and again, these are part of the
20 legal constraints that we have, but we're doing a really
21 good job of that.

22 It has got to happen in tandem with the
23 availability of existing shelter space, the capacity of
24 our nonprofit partners and opening new shelters. Those
25 are all of the things that we're working on.

1 go in and clean the whole area all at once for the reasons
2 that I've -- that I've explained. What can we do? About
3 every three weeks we can come in and close a block, and we
4 can remove -- we can clean and we can remove the folks
5 from that area because there will be places for them to
6 go. We can meet the confines of the law with that
7 timeline.

8 Well, there's about 14 blocks left. We
9 can -- we can do the math. Within the next few months,
10 that area is going to continue to look better and better
11 and better, and within about nine months the whole thing
12 is going to be clear. A shorter time frame than that
13 simply does not allow the City to meet its legal
14 requirements on the other side.

15 In addition to the enhanced engagements, we
16 have law enforcement that is taking an active role. Now,
17 the City has always enforced laws around the Human
18 Services Campus. It is just the camping that was the
19 issue and in some ways still continues to be a little bit
20 of an issue; however, the downtown operations unit, the
21 shelter's team -- the shelter team, it's made significant
22 changes in how it approaches enforcement, including an
23 increased number of officers present, increased target --
24 targeted investigations.

25 Now, the issue of courtesy rides, that is

1 not a regular issue. I mean, the evidence will not show
2 that this is a regular occurrence. It is certainly not
3 unique to the Human Services Campus. There will be no
4 competent evidence presented that these courtesy rides is
5 what's contributing or even causing the folks that are
6 staying there.

7 THE COURT: Mr. Pierce, let me ask you a
8 question, is the Court going to hear evidence about --
9 when you talk about law enforcement taking an active role
10 and that law enforcement has made significant changes, is
11 the Court going to hear evidence about law enforcement's
12 change with regard to actually prosecuting individuals or
13 actually holding individuals accountable?

14 I think it is -- I think it is well
15 understood that you can put 100,000 police officers into
16 an area, but if their hands are tied and they can't
17 enforce the law, it makes no difference.

18 MR. PIERCE: There will be evidence -- in
19 fact, I believe one of our exhibits has the arrests and
20 will show what is actually being done.

21 Now, prosecutions, we -- I don't think we
22 -- we don't have somebody here to testify --

23 THE COURT: I misspoke. I mean actually
24 arrests or whatever.

25 MR. PIERCE: Police activity versus police

1 standing by and watching what's happening, is that --

2 THE COURT: (Nods head.)

3 MR. PIERCE: Yeah. We do believe that -- I
4 do believe that there's some evidence that we will be able
5 to present of -- of what is actually -- what actions that
6 are actually being taken as well.

7 Finally, I just wanted to bring out that --
8 and this is -- I say finally, last but not least
9 certainly, a highly qualified staff is focused on that
10 is -- that is focused on this issue, that spends
11 significant time working on it. We have, as I introduced
12 at the beginning, Gina Montes, who is Deputy City Manager
13 who oversees this.

14 You're going to hear from Rachel Milne, the
15 director of the Office Homeless Solutions; Scott Hall, the
16 Deputy Director; Jeremy Huntoon, an outreach coordinator;
17 you'll hear from law enforcement as well and you'll hear
18 from an expert. But these are the folks, this is kind of
19 the chain of command, the boots on the ground up that are
20 making this happen. And as I mentioned, your Honor, it is
21 working. It absolutely is working.

22 The expert testimony you'll hear will
23 describe that the process has been properly vetted, it is
24 effective, and the process, while perhaps not as quick as
25 Plaintiffs or even others would like, frankly, again, we

1 would love to be able to -- we would have loved to come
2 here today and said, your Honor, the whole area is clean.
3 But it is the quickest process that balances the
4 requirements of the law and it ultimately results in what
5 everyone wants, a cleaned area around the Human Services
6 Campus.

7 And as I mentioned, the City has not just
8 met this Court's expectations, it really has gone above
9 and beyond to balance all of the interest and needs that
10 it has in this case.

11 So what are we going to ask the Court to
12 do? Because of some of the legal issues that are up
13 there, we're going to certainly ask the Court to dismiss
14 the case, rule in favor of the City, or otherwise dismiss
15 the preliminary injunction and exercise judicial restraint
16 by not granting any further injunction. It is not
17 necessary.

18 The evidence will show that the Plaintiffs
19 cannot meet their burden. It is their burden to show that
20 the City is the cause of the nuisance, that the City's
21 efforts around the Human Services Campus necessarily
22 requires the City to make determinations of fundamental
23 governmental policy as that's defined in state law;
24 therefore, the City and all of the defendants are
25 absolutely immune as a matter of law and we would ask the

1 Court to conclude that as well and for the reasons that we
2 have outlined in the legal briefing to date.

3 Finally, in the Court's order, the Court
4 noted the myriad of ways in which compliance could be --
5 could be adopted, we're going to -- we're going to ask the
6 Court that the approach that's been adopted by the City's
7 policymakers and that's being carried out by
8 administrators is in fact one of those myriad ways that
9 the Court contemplated would adequately fulfill the
10 requirements.

11 And with that, your Honor, thank you.

12 THE COURT: Plaintiffs.

13 MR. TULLY: Thank you, your Honor.

14 THE COURT: And before we go any further, I
15 did say at the beginning that we were invoking the rule,
16 Rule 615. Did all of the witnesses leave that are not ---

17 MR. PIERCE: They did, your Honor.

18 THE COURT: Thank you. Go ahead, Counsel.

19 MR. TULLY: Thank you, your Honor.

20 I would like to call as -- excuse me, the
21 Plaintiffs would call as their first witness Ian Francis
22 Likwarz.

23 THE COURT: Okay. Sir, come on up, if you
24 would, and just stand right at the end of countertop
25 there. I'm going to have you sworn in.

1 COURT CLERK: Would you please state your
2 full name for the record?

3 THE WITNESS: Ian Francis Likwarz.

4 COURT CLERK: You do solemnly swear the
5 testimony you are about to give will be the truth, the
6 whole truth, and nothing but the truth, so help you God.

7 THE WITNESS: I do.

8 THE COURT: Thank you, sir. Have a seat,
9 please.

10

11 IAN FRANCIS LIKWARZ,
12 called as a witness herein, having been first duly sworn,
13 was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. TULLY:

17 Q. Good morning.

18 A. Good morning.

19 Q. Mr. Likwarz, you go by Mr. Francis, correct?

20 A. Yes. Francis is my middle name and a little bit
21 easier to understand, so...

22 Q. Okay. I'm going to call you Mr. Francis if
23 that's okay then.

24 I know you testified last September -- or
25 last October, rather, in this case regarding the

1 conditions surrounding your business, and just to give a
2 little update, do you want to tell the Court where your
3 business is?

4 A. Sure.

5 I own several warehouse buildings on
6 Madison Street between 809 and 817 West Madison, as well
7 as a residential property on 724 West Jackson Street. We
8 operate several businesses out of those buildings. We had
9 also planned to develop those into something further which
10 would enhance the neighborhood, but we haven't been able
11 to do that. But those are things that we hope to get done
12 in the near future if we can get some sort of resolve
13 here.

14 Q. All right. And how long have you owned those
15 businesses?

16 A. So I started purchasing buildings in that
17 neighborhood back in 2012, prior to the handover of the
18 HSC from Maricopa County to its current ownership -- or
19 management.

20 Q. All right. And since the -- well, let me ask you
21 this: Prior to filing this action did you attempt to work
22 with the City to resolve the homeless issue?

23 A. Absolutely. As Gina Montes, sitting right here,
24 Scott Hall is in the hallway, we have been as a
25 neighborhood and myself very aggressive in trying to work

1 with the City to resolve this. Not just for our benefit
2 but for the benefit of the entire neighborhood.

3 When the counsel came up earlier and said
4 that they have a safe outdoor space development strategy
5 plan, I wrote that plan. I gave that to the City of
6 Phoenix several years ago to help them develop what they
7 are just now starting to talk about developing.

8 We as neighbors and myself have spent
9 years, the last three to five years, trying to get this
10 neighborhood under control and clean it up, and here we
11 are, years later, and we're still having the streets shut
12 down because of homicides and violent crimes and people
13 getting killed.

14 Q. Did the City take any demonstrable action, any
15 action that you could see, prior to this Court ruling
16 granting your preliminary injunction request?

17 A. Prior to the Court ruling, no.

18 Q. And after the Court ruling did the City finally
19 take some action?

20 A. There were several streets after the Court
21 ruling, I believe it was in March, the City of Phoenix at
22 that time as the zone continued to expand further out
23 north into Jefferson, the City decided to take those
24 blocks around 12th, 13th and Jefferson and address those
25 blocks first to clear that out.

1 The only other block that they also have
2 cleared out is between 9th Avenue, 8th Avenue, and then on
3 the north side of Madison, so basically like a half
4 section of a block in front of my buildings.

5 Q. Okay. So in your buildings, which is at like 9th
6 and Madison, Madison between -- rather, 9th Avenue between
7 Madison and Jefferson, how much of that has been cleared
8 of the tents?

9 A. So the east side of that area you described,
10 between 9th Avenue, between Madison and Jefferson is fully
11 occupied with tents. The other side street is owned by
12 Maricopa County and they cleared that off months ago when
13 they started to develop a petroleum fueling station.
14 Also, there is additional camping on Madison on both sides
15 of the street heading west towards the campus.

16 Q. All right. So the conditions that brought you to
17 bring this nuisance suit, they still exist in The Zone
18 around your buildings?

19 A. Absolutely.

20 Q. All right. And so as far as you know, the City
21 of Phoenix has cleaned, what, how many streets as far as
22 you're able to tell?

23 A. Well, it is hard to say streets because they're
24 sort of half block situations. So like I had mentioned,
25 they cleaned -- the latest cleaning several weeks ago was

1 between 8th, 9th Avenue just on the north side of the
2 street. Prior to that, they cleaned two sections, which
3 was adjacent to State land north of Jefferson.

4 Q. All right. The few areas that they have cleaned
5 though are improved?

6 A. Depending on what you call improved. So, for
7 example, I sent an email out to City staff and
8 neighborhood services -- let me back up.

9 The City of Phoenix has been telling the
10 Court that they do cleanings on a regular basis, which are
11 Monday, Wednesday, and Friday of every week. Last Friday,
12 I witnessed the City cleaning crew, which consists of
13 about a dozen cleaners and some security people, walk up
14 and down the middle of the streets, they have dustpans and
15 a broom and a rake and nothing gets cleaned.

16 Friday morning of this last Friday morning
17 at 11:00 a.m., I took pictures of piles of trash that had
18 accumulated in the areas that they posted signs that say
19 no camping in addition to other giant piles of trash in
20 other sections of public right-of-way including alleys and
21 in the middle of the streets, and those are just a few
22 examples. I didn't spend time taking pictures of
23 everything in the neighborhood.

24 Q. All right. So the bottom line is, some action
25 has occurred since the Court's order but the nuisance has

1 not been abated?

2 A. The nuisance has not been abated --

3 MR. PIERCE: Objection, your Honor, it
4 calls for a legal conclusion.

5 THE COURT: Sustained. Can you rephrase
6 it?

7 MR. TULLY: Yeah, sure.

8 BY MR. TULLY:

9 Q. The problem, right, you still -- are there still
10 individuals who are defecating and urinating around your
11 buildings?

12 A. Absolutely.

13 Q. Are there still individuals doing drugs around
14 your buildings?

15 A. Absolutely.

16 Q. Are there still people who are living in these
17 tents engaging in lewd acts in and around your businesses?

18 A. You can pull the crime reports to prove it, but
19 absolutely.

20 Q. All right. How about homicides, are you aware of
21 any homicides in the area still since March?

22 A. Yes. Well, I try not to pay attention to that
23 because it will mentally drive you crazy being in that
24 neighborhood every day like I am, but there was a crime
25 scene unit dealing with what they think is a homicide

1 towards the campus just this Saturday morning.

2 It's -- it's -- every week, every day
3 there's some sort of violent crime. During the summer, it
4 seems to get worse. I have called 911, and it is on
5 record, of shootings that happen anywhere from 10:00 in
6 the morning to 10:00 at night. That area is -- is -- it
7 is a war zone.

8 To give you an example also, I want to add
9 to the counsel's claim of cleaning it up and it looks
10 fine. No, it doesn't. The areas that they did clear, the
11 sidewalks are charred, there's melted plastic, there's
12 burnt rubble in those spaces. The areas are being used to
13 dump other trash and other people are going to the
14 bathroom in those areas. It is a nightmare.

15 I have seen Maricopa County, who built that
16 gas station, that petroleum station, clear off those
17 people and find them housing or shelter or some other
18 place to go in less than two weeks, that's an entire city
19 block. The City is dragging their feet, and I do respect
20 some people that work at the City that have been helpful,
21 but to use this excuse of Boise or any other 9th Circuit
22 Law as a way to drag your feet when people's lives are at
23 risk is an abomination to the city. It is horrible.

24 Q. I heard counsel indicate that the City doesn't
25 need any order from the Court and that it will clean up

1 the whole problem in nine months. Do you have any faith
2 that that's going to occur?

3 A. I gave them the SOS, safe outdoor spaces
4 solutions, which we wrote together with service providers,
5 two years ago, and that still hasn't been done. So the
6 only thing that seems to work is a court order and harsh
7 stipulations and rules and deadlines. Especially
8 deadlines, because if you don't give the City a deadline,
9 they will drag their feet as long as they possibly can in
10 my opinion.

11 MR. TULLY: Thank you. I have no further
12 questions for you.

13 THE COURT: Thank you.

14 Any cross?

15 MR. PIERCE: Yes, your Honor.

16

17 CROSS-EXAMINATION

18 BY MR. PIERCE:

19 Q. Briefly, starting with the safe outdoor space
20 proposal. That was something that you worked on and
21 presented in January of 2021, correct?

22 A. About that time I presented it to our
23 councilwoman Yassamin Ansari, Gina, and I believe Spencer
24 Self from the city was also there, along with some -- with
25 some service providers in the neighborhood.

1 Q. So about a year and a half ago; is that right?

2 A. About right, yes.

3 Q. You're aware that during that time, we were still
4 dealing with a pretty significant issue of a COVID-19
5 pandemic which was -- you would agree was a very difficult
6 time?

7 A. For some it was.

8 Q. Just for some?

9 A. In my opinion, yes.

10 Q. Okay. Now, the enhanced engagements, has -- and
11 you understand when I say an enhanced engagement, that's
12 where the City is coming in and cleaning an area and
13 closing it down to further camping. Is that -- do you
14 understand what I mean by that?

15 A. I've heard different definitions of enhanced
16 engagements and enhanced cleanups, so I can't agree with
17 that 100 percent.

18 Q. Well, when I call it an enhanced engagement, I'm
19 referring to when the City comes in and cleans and closes
20 it down for camping; is that fair?

21 A. Okay. Is that prior to the Court order or is
22 that afterwards?

23 Q. I'm just talking about -- I want you to
24 understand when I use the term "enhanced engagement"
25 that's what I'm referring to.

1 A. Okay.

2 Q. Is that fair?

3 A. Sure.

4 Q. So in the enhanced engagement process, has the
5 block in front of your business been one of the areas the
6 City has done an enhanced engagement and closed it down to
7 camping?

8 A. Yes.

9 Q. And you have witnessed these enhanced engagements
10 where the City has closed down these certain blocks in the
11 area around the Human Services Campus for camping,
12 correct?

13 A. They would close down the blocks previous to the
14 court order and have people move their tents out of the
15 way, clean the areas to their standards, to the City's
16 standards, and then people would therein move their tents
17 back on that same spot.

18 Q. But that's -- that's changed since the last --
19 since, like, May when the City started doing enhanced
20 engagements and not allowing people to come back, correct?

21 A. There's been several blocks where that -- what
22 you're referring to has happened.

23 Q. And you've seen in the weeks leading up to the
24 cleaning that city personal are out on the streets
25 engaging with the folks in the area, correct?

1 A. Are you referring to the enhanced engagements or
2 during the cleanups or other times?

3 Q. During the weeks leading -- the two to three
4 weeks leading up to the cleaning time, having city staff
5 out talking with members of the public that are -- that
6 are staged there.

7 A. I have not known if they're staff or if they're
8 other service providers because they're not labeled as
9 such.

10 Q. Okay. But you have seen people out there doing
11 that, correct?

12 A. There have been people from some service
13 providers that have been handing out pamphlets or
14 interacting with the people that are living on the
15 streets.

16 Q. And you've seen those pamphlets, right?

17 A. No, I haven't.

18 Q. You haven't?

19 A. I haven't read them, but I've seen them being
20 distributed to the people on the streets.

21 Q. So you're not aware that those pamphlets are
22 notices to people of the cleaning and that the area is
23 going to be closed down and when they leave they are not
24 going to be allowed to come back?

25 A. That's news to me.

1 MR. TULLY: Okay. Actually -- how does
2 this thing -- thank you.

3 Your Honor, this is exhibit -- this is
4 Exhibit 72 which we have already admitted into evidence.
5 I'm assuming I need to control it from up here or --

6 COURT STAFF: It is the little wheel on the
7 top.

8 MR. PIERCE: Ah. I'm really not that old.

9 THE COURT: Technology is.

10 MR. PIERCE: It moves quick.

11 BY MR. PIERCE:

12 Q. So in the exhibits in this case this is one of
13 the notices that I'm referring to. So, again, we've --
14 we've admitted this into evidence. You have not seen this
15 document before?

16 A. What was this a part of, can I ask? Was it given
17 to the neighborhood, was it given to anybody that's
18 representing to the neighborhood, or was it just given to
19 the people that were being notified to move?

20 Q. Well, this is -- this is one of the notifications
21 of the enhanced cleaning. So I guess the question is,
22 have you seen this -- this notice previous to today?

23 A. It looks like it is being directed towards the
24 people that are currently living on the streets, and no, I
25 have not been given this.

1 Q. Okay. You see though that this is a notice of
2 the May 10th enhanced engagement?

3 A. That is the date at the top of the document.

4 Q. Do you remember there being an enhanced
5 engagement on May 10th?

6 A. To be honest, I can't remember that exact day, I
7 don't keep track of --

8 Q. Okay. You do see though on this notice that here
9 it provides a notice to the people in the area that after
10 the cleaning is complete, you will not be allowed to
11 return to the designated area and camping on 9th Avenue
12 between Washington and Jefferson would have been -- which
13 is what this cleaning would have been --

14 A. Sure.

15 Q. -- will be prohibited?

16 A. Okay.

17 Q. Do you see that?

18 A. Yes.

19 Q. And you're happy with that being the message to
20 the folks in that area, correct?

21 A. You know, I'm not a service provider that deals
22 with the homeless population, so I can't say if that's a
23 good notice or if that's a bad notice.

24 Q. Well, but I guess are you happy that the City's
25 notice is telling people that they cannot come back?

1 A. That would depend on what's happening with the
2 people that are being given those notices to. Because if
3 you give a notice and it says what you just showed me and
4 they move two blocks further to the west, does that help
5 the neighborhood or doesn't it?

6 Q. Well, the question simply is, are you happy with
7 the notice that is being provided to the people that are
8 in that area that they are not going to be allowed to come
9 back to that area once it is cleaned?

10 A. I don't think it is sufficient, no.

11 Q. Okay. And you're aware that the city council has
12 engaged in a lot of policy discussions on how to address
13 the area around the Human Services Campus?

14 A. Sure.

15 Q. And you have been part of that process it sounds
16 like?

17 A. Some of them, yeah.

18 Q. You recognize that how to best handle that
19 situation is not some mathematical formula, right?

20 A. Depending on what the formula is, but there's
21 more to it than that, I would say.

22 Q. Well, it is a situation that requires the city
23 council to exercise discretion, right?

24 A. Yes.

25 Q. And its -- and it -- they have to make judgment

1 calls, right?

2 A. Sure.

3 Q. As it pertains to the area around the Human
4 Services Campus, counsel has to make some of those
5 judgment calls on how and how much and where to spend the
6 City's taxpayer dollars, right?

7 A. And have those judgment calls been successful?

8 MR. TULLY: Your Honor --

9 THE COURT: Just answer the question, sir,
10 please.

11 THE WITNESS: State the question again,
12 please.

13 BY MR. PIERCE:

14 Q. The question is that that some of those judgment
15 calls that the council has to make has to do with how much
16 and where to spend the City's taxpayer dollars?

17 A. Sure.

18 MR. TULLY: Objection, your Honor, the
19 foundation of the question, and I'm not sure what he's
20 trying to ask the witness here in terms of -- is he asking
21 the witness whether the -- would -- the city council has
22 to make decisions about whether or how to spend money on
23 the homeless in general? Is it -- I mean, I'm just a
24 little confused by what he's asking.

25 THE COURT: I'll overrule the objection. I

1 think the question is relatively clear. If the witness
2 doesn't know, the witness can say I don't know, and then
3 your attorney is going to have an opportunity to follow up
4 once Mr. Pierce is done, so go ahead.

5 THE WITNESS: So I don't know the answer to
6 that question.

7 MR. PIERCE: I think the record reflects
8 that he answered the question, your Honor.

9 BY MR. PIERCE:

10 Q. Has -- do you understand that in this process of
11 policymaking that the City is doing that you've said you
12 have engaged in parts of it, that the City has to
13 determine whether to construct new facilities?

14 A. Yes.

15 Q. That it has to address how to maintain those
16 facilities if they're constructed?

17 A. Yes.

18 Q. That it has to determine what services, if any,
19 are provided with those facilities?

20 A. I would hope so, yes.

21 Q. The City has to make a judgment call on how much
22 city personnel is needed to address the issue, would you
23 agree?

24 A. I would hope so, yes.

25 Q. It would have to determine whether to hire

1 additional personnel to address all of those issues,
2 correct?

3 A. Sure.

4 Q. Have you personally seen anyone from the City of
5 Phoenix dropping off individuals at the Human Services
6 Campus?

7 A. Well, I don't spend a lot of time on campus, and
8 therefore, I have not personally seen anybody drop off
9 anybody at the campus.

10 Q. Okay. You just heard that that's happening,
11 right?

12 A. I have seen CBI, which was one of the
13 facilitators of the campus and a service provider,
14 dropping off people at the campus. Whether they were a
15 city employee or not, I don't know. Whether they were
16 funded by the City or not, I don't know.

17 Q. Okay. About how many times have you seen that?

18 A. They are there all day, every day.

19 Q. Well --

20 A. Picking people up and dropping people off. The
21 cars are labeled CBI, Community Bridges.

22 Q. Oh, okay. Community Bridges.

23 So not -- not the City of Phoenix
24 personnel?

25 A. Not in City vehicles, correct.

1 Q. When you say all day, every day, don't you have a
2 business to run?

3 A. I would like to. I would like to spend more time
4 on my business, which is why we're here today.

5 Q. Okay. Have you -- when you have seen those
6 people get dropped off, how do you know that they are
7 homeless?

8 A. Well, the fact that they're getting dropped off
9 at a homeless shelter is an indication that the
10 probability is that they are homeless.

11 Q. Okay. Do they have tents with them?

12 A. I have seen people being dropped off in unmarked
13 vehicles where tents do come out of the trunk and people
14 do help them set up tents.

15 Q. Okay. How many times have you seen that?

16 A. Quite a bit.

17 Q. A ballpark estimate?

18 A. Over three years, it is hard to put a number on
19 it, maybe 15 to 25 times.

20 Q. Okay. And how about in the last six months?

21 A. Less than a handful.

22 Q. Have you -- those areas that you discussed in
23 your -- in your initial testimony that have been closed
24 down, I don't think you had an estimate on the number, but
25 would you -- would you -- would you agree with me that it

1 has been about three blocks -- three block areas that have
2 been closed down?

3 A. Three different areas of sections of blocks, yes.

4 Q. And you know that in those particular areas you
5 have not seen any additional camping in those particular
6 areas, have you?

7 A. Correct.

8 MR. PIERCE: That's all I have.

9 THE COURT: Thank you. Any redirect?

10 MR. TULLY: Yes, your Honor, just a couple.

11

12 REDIRECT EXAMINATION

13 BY MR. TULLY:

14 Q. Mr. Francis, you were asked a question about
15 the -- about the report that you gave to the City of
16 Phoenix regarding structured campground. Do you recall
17 that?

18 A. Yes.

19 Q. All right. But that wasn't the first
20 presentation you had given to the City, was it?

21 A. No.

22 Q. All right. You gave a presentation to the City
23 in January of 2020 regarding the homeless situation and
24 the problems it was causing in the area; is that true?

25 A. Yes, and many prior to that.

1 Q. All right. Okay. So well longer than 3 1/2
2 years you've been attempting to get the City to address
3 the problem?

4 A. That is very correct.

5 Q. All right. Now, in your businesses, do you --
6 are you required to comply with regulations?

7 A. Yes.

8 Q. All right. And when the regulator comes to your
9 business and tells you that you need to comply with the
10 regulation, if it is too expensive, or you think it is too
11 expensive, are you required to comply with that regulation
12 still?

13 A. Yes.

14 Q. All right. You can't say, oh, it costs too much
15 to address your concerns, City of Phoenix, so therefore,
16 I'm not going to do it, or I'm not going to get around to
17 it, or I'm going to get around to it in five years?

18 A. You can't do that, no.

19 MR. TULLY: No. Okay. Thanks.

20 No further questions. Thank you.

21 THE COURT: Sir, the Court has a question
22 before I have leave you the bench.

23 You mentioned just on redirect here that in
24 January of 2020 you met with the City to address the -- or
25 to discuss the homeless issue as well; is that correct?

1 THE WITNESS: Yes. There have been a lot
2 of meetings where we have met. So I don't know if you
3 have the specifics of that one, but I would be happy to
4 answer anything if -- if --

5 THE COURT: I'm asking you about the
6 specifics of that one. Specifically who was at that
7 meeting, who did you meet with that was a representative
8 of the City, who else was at the meeting to the extent you
9 remember?

10 THE WITNESS: So is this regarding the safe
11 outdoor spaces or --

12 THE COURT: You're going to have to tell
13 me. You just told your counsel that in January of 2021
14 you met with the City, but prior to that in January of
15 2020 you met with the City as well to discuss the homeless
16 problem. Did I mis -- misunderstand?

17 THE WITNESS: No. So I met with the
18 City -- and if I had to go through my emails, I would
19 have -- I could date those for you. I go to meetings that
20 involve HSC, which is the Human Services Campus, we go
21 to -- those are quarterly.

22 We also set up special meetings with
23 Madison Pioneers Coalition, which is our neighborhood
24 coalition, that have discussions with city leadership
25 about ongoing problems, whether it is crime, trash,

1 debris, litter. It is hard to say exactly what was
2 discussed at one particular meeting.

3 THE COURT: Okay. But in January of 2020,
4 do you remember meeting with the City regarding the
5 homelessness issue, specifically?

6 THE WITNESS: No.

7 THE COURT: Counsel, any follow-up?

8 MR. TULLY: Well, your Honor, I've got --
9 if I might, I might be able to refresh his recollection by
10 showing him a document if that's all right.

11 THE COURT: Please.

12 MR. TULLY: May I approach?

13 THE COURT: Please.

14 THE WITNESS: I take that back, yes.

15 THE COURT: Why don't you hand that back to
16 counsel and then I'll hear what you have to say.

17 MR. TULLY: Why don't you -- in case
18 there's some names in there or something --

19 THE COURT: I just don't want him reading
20 out of it.

21 MR. TULLY: Oh, you don't. Okay.

22 THE WITNESS: So this was -- the picture
23 that's on the cover and the content of that was with some
24 prior city management, and that is basically when the
25 neighbors got together and said, hey, look, this is

1 getting out of control.

2 So we created a little document that
3 advised the City of what's happening in this neighborhood,
4 in our neighborhood, and we brought that to the City, we
5 brought it to -- we sent it out to all of the council
6 people, we sent it to city -- the city manager, I think Ed
7 Zuercher at the time. We sent it to some of the other
8 staff who is no longer with the City to try and meet with
9 them to discuss how they could help get this cleaned up.
10 Because that was at the time where people were starting to
11 really set up encampments and the trash was over-piling
12 the dumpsters, the crime was getting out of control. So
13 that was one of the initial presentations that we put
14 together to try and get the City to start addressing some
15 of these issues.

16 THE COURT: Okay. And did you hear back
17 from anybody from the City regarding the particular
18 document that you just looked at?

19 THE WITNESS: I believe there was some back
20 and forth with some of the previous management or staff
21 who are no longer there. Which, of course, they said
22 yeah, we'll look into this, and the end result was -- to
23 those conversations, they did put out more dumpsters, they
24 had the people -- the city workers come out and empty the
25 dumpsters more often.

1 There was spotty cleaning that took place
2 not on a regular basis. We had to call it in to
3 neighborhood services, but there had been nothing
4 established at that time that made their -- some sort of a
5 plan to clean up the neighborhood at all.

6 THE COURT: All right. Thank you.

7 For Plaintiffs, any follow-up to the
8 Court's question?

9 MR. TULLY: No, your Honor.

10 THE COURT: All right.

11 For defense?

12 MR. PIERCE: Just real briefly, just
13 because of the timeline of this, you didn't have that
14 document, that January 2020 situation, that didn't involve
15 Gina Montes, right, it was before she ever started with
16 the City?

17 THE WITNESS: I believe so, yes.

18 MR. PIERCE: And the same thing with Rachel
19 Milne who is the deputy director, correct?

20 THE WITNESS: Correct. I believe Rachel
21 came from Maricopa County.

22 MR. PIERCE: After that and then Scott
23 Hall, who is the deputy director, the same thing, correct?

24 THE WITNESS: Prior to Scott Hall.

25 MR. PIERCE: Right. And prior to Jeremy

1 Huntoon as well, who is the outreach coordinator, right?

2 THE WITNESS: Correct.

3 MR. PIERCE: Okay.

4 THE COURT: Any redirect?

5 MR. TULLY: No, your Honor.

6 THE WITNESS: All right. Thank you. Does
7 either party believe this witness -- I know he's a party,
8 but does any party believe this witness should stay for
9 recall?

10 MR. TULLY: Yeah, your Honor, I would like
11 to keep it open here, so he can be called back on rebuttal
12 if necessary.

13 THE COURT: All right. Thank you.

14 You can step down at this point, sir.
15 Thank you.

16 THE COURT: And we're about 13 minutes away
17 from our mandatory morning break. You certainly can plow
18 forward. It's just I don't want you to get into a
19 momentum and have me cut you off at 10:30, it is entirely
20 your call.

21 MR. TULLY: Yeah, I think it should be
22 fairly short, your Honor. So I think we'll just keep
23 moving ahead, if that's all right. I would like to call
24 Freddy Brown.

25 THE COURT: Okay. Mr. Brown, please come

1 up and stand at the end of the countertop there.

2 COURT CLERK: Would you state your name for
3 the record?

4 THE WITNESS: Freddy H. Brown, Jr.

5 COURT CLERK: Thank you.

6 You do solemnly swear the testimony you are
7 about to give will be the truth, the whole truth, and
8 nothing but the truth, so help you God.

9 THE WITNESS: Yes, I do.

10 THE COURT: Thank you, sir. Have a seat,
11 please.

12

13 FREDDY H. BROWN, JR.,

14 called as a witness herein, having been first duly sworn,
15 was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. TULLY:

19 Q. Good morning, Mr. Brown.

20 A. Good morning.

21 Q. You testified as well back in October, correct?

22 A. Yes.

23 Q. All right. Can you give the Court a little idea
24 of who you are and your business and where its located?

25 A. Definitely.

1 The business I run is called PBF
2 Manufacturing. We are actually a casket and funeral
3 supply distributor. We have been located in that building
4 since 1976.

5 Q. And where is the building located?

6 A. The building is on Jefferson and it encompasses
7 the blocks between 12th Avenue and 13th Avenue.

8 Q. All right. And where are you -- where is your
9 business in relation to the service campus?

10 A. So we are basically just south of Jefferson, and
11 the service campus is just south of Madison, so we're
12 within one city block of the campus.

13 Q. All right. So the blocks -- we're on Jefferson
14 right now at this -- in the courtroom and so Madison is
15 one block south?

16 A. Madison is 600 meters away.

17 Q. Okay. All right. And when was the Human Service
18 Campus constructed?

19 A. My gosh, I am unsure.

20 Q. Certainly it was long after your -- you, your
21 family, have owned that property and business, correct?

22 A. Yes.

23 Q. And previously in the previous testimony, which I
24 won't go over again, you testified regarding the growth of
25 the tent city --

1 MS. STUHAN: Objection, leading.

2 THE COURT: Finish your question and then
3 I'll make the determination.

4 BY MR. TULLY:

5 Q. You testified about the growth of the tent city
6 around -- around your business in the zone?

7 THE COURT: Overruled.

8 THE WITNESS: Yes, I did.

9 BY MR. TULLY:

10 Q. Okay. And can you describe what change you've
11 observed in The Zone since you filed this suit?

12 A. Since we filed the suit The Zone has continued to
13 grow, and we have a lot more structures that have went
14 from just being tents to being semipermanent structures,
15 where they're using other construction materials to build
16 semipermanent homes.

17 Q. And what type of construction materials have you
18 observed?

19 A. Pallets, plywood, sheets of plastic. We have
20 people out there that have full-on solar panel arrays.
21 They run generators daily. It is a full-on campground.

22 Q. All right. And has that -- has that changed
23 since -- since March of this year when the Court issued
24 its order?

25 A. It has changed and not in a positive way.

1 Q. All right. Can you explain that to the Court?

2 A. With the City's enhanced engagements, going by
3 the definition that was given earlier, when they do their
4 enhanced engagements, the individuals that seem to have
5 the most stuff, the most items, are the ones that are
6 resistant to go into housing and shelters. So those
7 people with more stuff move into other areas of The Zone.

8 When I say more stuff, I mean people with
9 vehicles, animals, bicycles, just items.

10 Q. All right. And how is the area around your
11 business currently?

12 A. Currently at 12th Avenue in front of my business,
13 we keep clear for safety reasons because we use it to
14 unload and load trucks. We were keeping 13th Avenue clear
15 as well, but here in the last three weeks, it is since the
16 last cleanup, since the last enhanced engagement, we have
17 had people move into that side, and it is a struggle for
18 us to maneuver around them safely when we're loading and
19 unloading trucks.

20 Q. All right. Are you still suffering from the same
21 types of incidents you were when you testified back in
22 October?

23 A. We are. And we do have occasional people come
24 into our property that we have to escort them out.
25 Urination, defecation, there is part of my buildings,

1 especially with the summer heat, the minute you walk in,
2 you just smell urine and it is from outside.

3 Q. Is violence still occurring in and around your
4 business?

5 A. Violence is an everyday theme, be it from just
6 fist fights to people yelling, screaming. I have actually
7 provided Phoenix Police Department with video of people
8 brandishing weapons towards other people in and around my
9 business.

10 Q. So -- and have you been working with the City to
11 try to resolve this problem?

12 A. I've been working with the City mostly through
13 the Madison Pioneers Coalition. I do have a business to
14 run and it takes up most of my time. So I kind of let the
15 organization do a lot of the groundwork while I am
16 operating my company.

17 Q. All right. Have you seen the streets that the
18 City has cleaned since the Court issued its order?

19 A. Yes.

20 Q. All right. And, again, prior to the Court
21 issuing its order, no tents were ever removed?

22 MS. STUHAN: Objection, leading.

23 THE COURT: Sustained.

24 BY MR. TULLY:

25 Q. Prior to the Court issuing its order, did you

1 ever see the City removing any tents from the area?

2 A. No, I did not see the City remove any tents in
3 the area prior to the Court order.

4 Q. All right. And then -- but after the Court
5 issued its order, did you observe some -- some tents being
6 removed?

7 A. I did observe them cleaning up on 10th Avenue
8 between Washington and Jefferson and on 12th Avenue
9 between Washington and Jefferson. Both of those city
10 blocks that they're calling them are about 600 meters in
11 length. So it is not a huge -- a lot of people that I
12 talk to when they say blocks, they're thinking that the
13 City is cleaning square miles of property. It is a 600
14 meter area.

15 Q. All right. At least as to that area, it's
16 cleaned, it is an improvement?

17 A. It is an improvement.

18 Q. All right.

19 A. In that area.

20 Q. Do you have any faith in the City's claim that it
21 is going to take care of this problem without a court
22 order?

23 A. No. We have been dealing with the City for 3 1/2
24 years, and the only time they have cleaned up is because
25 of the court order.

1 MR. TULLY: I have no further questions.

2 Thank you, your Honor.

3 THE COURT: Thank you.

4 Your cross will be longer than five minutes
5 I'm assuming?

6 MS. STUHAN: Yes your Honor.

7 THE COURT: Okay. We're going to go ahead
8 and take our morning break at this time. The -- excuse me
9 for one second.

10 Please remember that the admonishment stays
11 in place regarding those witnesses that are not yet in the
12 courtroom that are still yet to testify. With that, we're
13 off the record for 15 minutes.

14 COURTROOM ASSISTANT: All rise.

15 (Recess held.)

16 COURTROOM ASSISTANT: All rise.

17 THE COURT: Thank you. Please be seated.

18 All right. We're back on the record in the
19 case of Freddy Brown, et al., v the City of Phoenix,
20 CV2022-010439.

21 Let the record reflect the presence of
22 Plaintiffs' Counsel and of Defense Counsel.

23 Mr. Brown is on the witness stand, and sir,
24 you understand you're still under oath, correct?

25 THE WITNESS: Yes.

1 THE COURT: Thank you.
2 Counsel.

3

4 CROSS-EXAMINATION

5 BY MS. STUHAN:

6 Q. Good morning, Mr. Brown, just a few questions.

7 You testified that the area around the
8 Human Services Campus, which you called The Zone, has been
9 expanding; is that correct?

10 A. Yes.

11 Q. Okay. And you would agree that the number of
12 Phoenix homeless people isn't a stagnant number, right?

13 A. Correct.

14 Q. That number can change, it can go up?

15 A. It can go up, it can go down.

16 Q. It can go down.

17 And would you agree that the City of
18 Phoenix can't control the number of people from outside of
19 the city that move into the city.

20 A. The City of Phoenix could not control that,
21 correct.

22 Q. Since May 10th, have you been going to your
23 manufacturing facility on a regular basis?

24 A. I am there Monday through Fridays, eight to ten
25 hours every day.

1 Q. And in that eight to ten hours every day, have
2 you seen any of these enhanced engagements that the City
3 of Phoenix is conducting?

4 A. Yes.

5 Q. And have you seen them posting signs on certain
6 areas since May 10th that the area is closed for camping?

7 A. They post the signs on the areas that they clean.
8 If there is an area where there are no homeless or no
9 unsheltered individuals living, they do not post signs
10 there. They only post in their enhanced engagements
11 areas. They are basically shuffling from an enhanced
12 engagement area to somewhere where they don't post a sign.

13 Q. Okay. But let's -- let's make sure I understand.
14 You have seen signs posted in the areas where an enhanced
15 engagement has occurred, correct?

16 A. Yes.

17 Q. And it is true that there aren't signs throughout
18 all of the area of The Zone?

19 A. Correct.

20 Q. And you would like to see more action, right?

21 A. Yes.

22 Q. And you would like to see it faster?

23 A. Yes.

24 Q. You don't know the number of homeless unsheltered
25 on any given night in the City of Phoenix, do you?

1 A. No, I do not.

2 Q. And you don't have knowledge of the number of
3 beds that are available on any given night?

4 A. No, I do not.

5 Q. But since camping hasn't been allowed in those
6 areas that have been closed due to an enhanced engagement
7 the City has not allowed people to return and camp; is
8 that correct?

9 A. Into those specific areas.

10 Q. Correct. Yes?

11 A. Yes.

12 Q. I know one of the proposals that you had talked
13 about was having structured campgrounds or safe outdoor
14 spaces; is that correct?

15 A. That is one of the proposals made by the Madison
16 Pioneers Collision, yes.

17 Q. And have you been involved in that process?

18 A. I am involved in the process, yes.

19 Q. Now, you understand that the City has been moving
20 forward with opening up a campground like that, correct?

21 A. Yes.

22 Q. And would you agree that that campground could
23 provide several hundred spaces for unsheltered homeless in
24 the City of Phoenix currently?

25 A. That campground or any other campground that the

1 City puts up could help several hundred homeless people.

2 Q. But not everyone camping around the Human
3 Services Campus could go to that campground, could it?

4 A. I don't know the regulations on the campgrounds,
5 so it would be hard for me to say.

6 Q. As a citizen living in the City of Phoenix, would
7 you agree that potentially infant children shouldn't be
8 housed in an outdoor campground in the Phoenix summer?

9 A. Yes.

10 Q. Would you agree that certain people in need of
11 emergency medical care or disabilities may not be able to
12 be housed in an outdoor campground in the City of Phoenix
13 in the summer?

14 A. If they are in need of emergency medical care
15 they should be in a hospital.

16 Q. So the city council is going to have to make some
17 decisions about how to best house people, would you agree
18 with that?

19 A. Yes.

20 Q. One of the things in talking about this I wanted
21 to understand a bit more when you're on your business
22 location is courtesy rides. Do you know what I mean when
23 I use word courtesy rides?

24 A. Are you talking about CBI's courtesy rides or
25 Phoenix Police Department courtesy rides?

1 Q. I think that's a great question. Let's dig into
2 that.

3 Have you seen Phoenix Police Officers
4 dropping individuals off at the Human Services Campus?

5 A. I have seen Phoenix Police Officers drop people
6 off in The Zone around the Human Service Campus.

7 Q. You have seen it. How many times?

8 A. In the last year, approximately five.

9 Q. Approximately five times. And you said those
10 are -- you could identify, were they police vehicles?

11 A. They were police vehicles.

12 Q. Were they passing out tents to them?

13 A. No.

14 Q. Do you know where the individuals went after they
15 were dropped off?

16 A. No.

17 Q. Do you know if they received services at the
18 campus?

19 A. No.

20 Q. Do you know if they stayed and camped around the
21 campus?

22 A. No.

23 Q. Have you seen any other city employees dropping
24 people off with tents in the zone?

25 A. No.

1 MS. STUHAN: No further questions.

2 THE COURT: Thank you.

3 Any redirect?

4 MR. TULLY: Just a couple, your Honor.

5

6 REDIRECT EXAMINATION

7 BY MR. TULLY:

8 Q. Mr. Brown, if there was someone with a young
9 child who was living in a tent by the side of your
10 business, do you think that they might be better served to
11 be in a campground than in a tent built up against the
12 side of your business?

13 A. They would definitely be better served in an area
14 that's structured. The families take priority at HSC, so
15 they should always get services first.

16 Q. All right. The last time we were here in
17 October, do you recall that the City promised to build a
18 sprung structure?

19 A. Yes.

20 Q. And you've heard that they are not building that,
21 correct?

22 MS. STUHAN: Objection leading.

23 MR. TULLY: I have no further questions,
24 your Honor.

25 THE COURT: Sustained.

1 I've got a couple of questions for you,
2 sir.

3 Did you read the Court's preliminary
4 injunction in this case?

5 THE WITNESS: I did not read the entire
6 injunction. I read sections of it.

7 THE COURT: Are you familiar with the
8 section where the Court talked about a possible organized
9 crime element down in the The Zone?

10 Where some people in The Zone were
11 intimidating other people to not cooperate with cleanups
12 or some people in The Zone were forcing other people in
13 The Zone to pay for certain prime camping spots, are you
14 familiar with that.

15 THE WITNESS: Yes, I am.

16 THE COURT: Are you familiar with the
17 practice outside of what was stated in the preliminary
18 injunction?

19 THE WITNESS: I have heard from some of the
20 unsheltered persons living around that area that the
21 reasons they are where they are because they can't afford
22 to put a tent up in sections where --

23 MS. STUHAN: Your Honor, for the record,
24 this is hearsay.

25 THE COURT: Overruled. Go ahead.

1 THE WITNESS: They can't afford to put a
2 tent over in that section where it is open because there's
3 a crime element there.

4 THE COURT: Okay. Bear with me for a
5 second here, I believe you stated in your testimony today
6 that you have at times provided Phoenix Police Department
7 with video of people brandishing weapons; is that correct?

8 THE WITNESS: Yes.

9 THE COURT: What was the outcome?

10 THE WITNESS: The gentleman was arrested
11 and prosecuted for brandishing firearms.

12 THE COURT: Okay. Thank you.

13 Any follow-up from Plaintiffs from either
14 question?

15 MR. TULLY: No, your Honor.

16 THE COURT: All right. From Defense?

17 MS. STUHAN: Nothing further.

18 THE COURT: All right. At this point does
19 any party believe that this witness should be subject to
20 recall?

21 MR. TULLY: Your Honor, we would like to
22 have him to be subject to recall in case we need him for
23 rebuttal.

24 THE COURT: All right. Thank you.

25 You can step down at this point, sir.

1 MR. WURMAN: Your Honor, the Plaintiffs
2 call their expert witness, Judge Glock.

3 THE COURT: Sir, come on up, if you would.

4 MR. WURMAN: And, your Honor, if I may hand
5 the witness Exhibits 54 and 71. Exhibit 54 is his expert
6 report. Exhibit 71 is the City's expert witnesses report.
7 Actually I'll wait for him to be sworn in if that's all
8 right.

9 THE COURT: Thank you.

10 COURT CLERK: Would you please state your
11 full name for the record?

12 THE WITNESS: Judge Glock.

13 COURT CLERK: You do solemnly swear the
14 testimony you are about to give will be the truth, the
15 whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE COURT: Thank you, sir. Have a seat
18 please.

19 MR. WURMAN: May I approach the witness and
20 hand him his expert report, which is Exhibit 54, and the
21 City's expert witness's report, which is Exhibit 71, in
22 case he needs to refer to it in his testimony?

23 THE COURT: You may.

24 MR. WURMAN: Thank you.

25 THE COURT: There's no objections to the

1 documents, we have stipulated to everything, correct?

2 MR. ARNISON: Yes, your Honor.

3 THE COURT: Thank you.

4 It is a little bit different in this case
5 because normally we wouldn't -- as I discussed with
6 counsel previously, normally we wouldn't admit an expert
7 report into evidence. He's going to have it up there, but
8 I still don't want him to read from the expert report if
9 you understand.

10 Go ahead.

11

12 JUDGE GLOCK,

13 called as a witness herein, having been first duly sworn,
14 was examined and testified as follows:

15

16 DIRECT EXAMINATION

17 BY MR. WURMAN:

18 Q. Good morning. Would you please state your name
19 for the record?

20 A. Judge Glock.

21 Q. And just so there's a clear record, you're not a
22 professional judge, Judge is your name, correct?

23 A. Old family name and a source of constant
24 confusion, so my apologies to the Court.

25 Q. No problem.

1 Could you please describe your current
2 position and title?

3 A. I'm a director of research and a senior fellow at
4 the Manhattan Institute, it is a nonpartisan think tank.

5 Q. And what do you do at the Manhattan Institute?

6 A. I research a lot of urban issues related to
7 finance, economics, housing, and homelessness.

8 Q. And where did you work prior to working at the
9 Manhattan Institute?

10 A. I was director of policy and research at the
11 Cicero Institute, another think tank.

12 Q. And what did --

13 A. And there I also worked on similar issues, urban
14 issues, housing, homelessness, et cetera. And before
15 that, I was a visiting professor of economics at West
16 Virginia University.

17 Q. And when you say "working on," I believe was your
18 language, working on the issues of homelessness, for
19 example. What does working on those issues entail or what
20 does researching those issues entail?

21 A. That involved doing numerous public research
22 papers about homelessness in San Francisco, in Texas, in
23 Arizona, and other states. This also involved testifying
24 to numerous different state legislatures, I believe about
25 five or six on the issue of homelessness. That also

1 involved working with many people in the City of Austin
2 and elsewhere on homeless and other issues, and more
3 recently it has involved serving on the mayor of Dallas's
4 task force on homelessness.

5 Q. Do you research the literature on homelessness?

6 A. Yes. Both the literature and the current
7 practice, obviously going to shelters, encampments, et
8 cetera, so...

9 Q. And do you write on this topic as well?

10 A. Extensively.

11 Q. Can you explain your educational background to
12 the Court?

13 A. Yes. So I have a Ph.D. in history with a focus
14 on economic history with from Rutgers University. My
15 dissertation was on the history of the mortgage market in
16 America, so it focused on again on urban and
17 housing-related issues.

18 Q. And did you say you had a Ph.D. from Rutgers?

19 A. That is correct.

20 Q. That will solve the problem. I will call you Dr.
21 Glock instead of Judge Glock if that works.

22 A. Thank you.

23 Q. It is a bit confusing.

24 Dr. Glock, are you being paid to be here
25 today?

1 A. No, I'm not. Just it is an issue I care deeply
2 about.

3 Q. Okay. So you are volunteering your time?

4 A. Yes.

5 Q. You mentioned you testified before at state
6 legislatures. Have you ever testified in Court before as
7 an expert witness?

8 A. No, this would be my first time.

9 Q. Dr. Glock, can you describe for the Court what
10 you were asked to give an opinion about today?

11 A. Yes. I was asked to give an opinion about the
12 reasons for the unsheltered homelessness in the City of
13 Phoenix, different options of dealing or ameliorating with
14 the problem of unsheltered homelessness, and to some
15 extent how unsheltered homelessness has been affected by
16 recent court decisions.

17 Q. Just so -- because I asked you that questions, in
18 your answer you mentioned unsheltered homelessness versus
19 sheltered homelessness, can you explain to the Court the
20 difference between the two?

21 A. Yes.

22 Q. And then I promise I'll move to qualify him as an
23 expert, but...

24 A. Yes. The unsheltered homeless is -- according at
25 least to the federal definition is a homeless individual

1 who is living in a place not fit for human habitation. So
2 that means people on the street, in parks, or in cars, or
3 in uninhabitable locations of any sort. It is about 40
4 percent of the national homeless population is
5 unsheltered.

6 MR. WURMAN: Your Honor, I would move to
7 qualify Dr. Glock as an expert under Rule 702?

8 THE COURT: Any objection?

9 MR. ARNISON: Your Honor, we have already
10 stipulated to both experts, so...

11 THE COURT: I just want to put on the
12 record.

13 MR. ARNISON: Yes.

14 THE COURT: The Court finds the witness
15 qualified to give expert testimony pursuant to Rule 702.

16 Go ahead and continue.

17 MR. WURMAN: Thank you, your Honor.

18 BY MR. WURMAN:

19 Q. Okay. Dr. Glock, I want to start, you said the
20 first thing you were asked to opine about is the causes of
21 unsheltered encampments. Are substance abuse and mental
22 illness two factors that attract unsheltered individuals
23 to encampments?

24 A. Absolutely.

25 Q. Can you explain more about that, please?

1 A. Yes. So, as I mentioned before, there's a
2 division of course among the homeless population between
3 the sheltered --

4 Q. Judge -- Dr. Glock, can I ask you to slow down
5 just a little bit more the court reporter.

6 A. Thank you very much. Much appreciated.

7 Yes. So there is a division, of course,
8 between the sheltered, who is living -- largely living
9 inside sheltered transitional housing. About half of that
10 population, a little less, is families with children. The
11 unsheltered are overwhelming individuals,
12 disproportionately male. When they have surveys of the --
13 of the unsheltered homeless, you have different rates of
14 self-reported drug abuse, substance abuse use, and mental
15 health issues.

16 Q. Can you describe for the Court some of those
17 studies and the rates of substance abuse and mental
18 illness among those population?

19 A. Yes.

20 So one study by the UCLA California Policy
21 Lab looked at the unsheltered in 15 states, largely in the
22 west, and their opinions -- or sorry, their self-reported
23 problems on what's called a VISPDAT, which is a regular
24 survey given to the homeless when they make contact with
25 service providers.

1 THE COURT: Sir, can you spell that?

2 THE WITNESS: VISPDAT. And please don't
3 ask me to remember the entire acronym. It is
4 vulnerability index service provider -- I can't remember
5 every part of it, but yes, the VISPDAT.

6 And they looked at self-reported rates of
7 severe substance use and mental illness among the
8 sheltered and unsheltered. They found for the unsheltered
9 about 75 percent supported -- reported a severe mental
10 illness -- or a substantial mental illness issue, about 75
11 percent reported a severe substance use issue, about 50
12 percent of the population reported that substance use led
13 to their loss of housing, and about 50 percent reported
14 that mental illness led to their -- was one of the causes
15 of their loss of housing.

16 Now that rate was about -- for the
17 substance use issue, it was about eight times for the
18 unsheltered. They reported substance use was an issue in
19 their loss of housing relative to the sheltered
20 population, and about three times the rate of the
21 unsheltered population reported that mental health issues
22 led to their loss of housing, relative, yes.

23 Q. So -- so -- let me stop you there. And you
24 mentioned loss of housing, and now I want to ask about
25 unsheltered versus sheltered homeless, so we can all agree

1 they have lost housing. What about the unsheltered, the
2 high rate of unsheltered?

3 Let me put it this way, what about the
4 unsheltered having substance abuse issues or mental
5 illness issues, those of them that have those issues, why
6 are they not in shelters?

7 A. Well, there are fairly high rates of
8 self-reported what's called service resistance among the
9 unsheltered population. I mentioned -- well, I mentioned
10 the expert report, but I -- there is an ASU, Arizona State
11 University Center Problem Orienting Policing, which cited
12 two different surveys which showed just 25 percent to 41
13 percent said they would go willingly into shelters if they
14 were offered, and in many cities in other locations that
15 have ample shelter room available, you still see large
16 numbers of unsheltered out on the streets.

17 Q. So if I'm understanding that part of the re -- it
18 is part of the reason the unsheltered population, part of
19 the unsheltered population that is service resistant is
20 because they use substances or have mental health issues?

21 THE COURT: Let me jump in just for a
22 second, I need you both just to slow down a little bit.

23 THE WITNESS: Of course.

24 MR. WURMAN: Sorry, your Honor.

25 In that case we will not finish quite

1 before lunch, but we could go a little bit after.

2 THE COURT: Go ahead and re-ask your
3 question, if you would, please. A little slower.

4 MR. WURMAN: If the Court Reporter got it,
5 can I ask her to read back if she caught the warp speed at
6 which I was speaking.

7 COURT REPORTER: Let me find it --

8 THE COURT: Mr. Wurman, just go ahead and
9 re-ask your question.

10 MR. WURMAN: Sure.

11 BY MR. WURMAN:

12 Q. Let me -- let me ask a different one. Would
13 those who -- those who use -- those among the unsheltered
14 who have substance abuse issues or mental illness issues,
15 will going into a shelter even help them?

16 A. It can help them. Certainly depending on the
17 individual and the shelter's rules. Large numbers of the
18 unsheltered do report that the rules and restrictions in
19 shelters are one of the main reasons they avoid them, and
20 rules against drug abuse, substance use is one of the most
21 important rules in those shelters which can deter the
22 unsheltered.

23 Q. So let me ask the question this way: Does the
24 lack of available shelter beds have anything to do with
25 why these particular individuals with these substantial

1 abuse issues and mental health issues are on the streets
2 as opposed to in a shelter?

3 A. I would say maybe the lack of available shelter
4 beds combined with the ability to sleep out on the streets
5 can be an issue, but if there are available shelter beds
6 in and of itself, large numbers of the unsheltered will
7 still not take them as we see in many other cities.

8 Q. Dr. Glock, for individuals with substance abuse
9 or mental health issues, do they experience high rates of
10 crime? Are they victims of crime at high rates?

11 A. Yes. One of the most unfortunate aspects of
12 contemporary public encampments is that beyond the high
13 rates of overdose, which is the leading cause of death,
14 just about in any city that reports homeless death for
15 homeless individuals, violent crime is usually one of the
16 top causes of death.

17 Most cities don't report separate crime
18 statistics for the homeless or for unsheltered, but if you
19 look at Los Angeles, where the homeless are about one
20 percent of the entire population, they constitute,
21 according to police statistics, about 15 percent of all of
22 the violent crime in the city involves a homeless person
23 either as a perpetrator or a victim. And the most common
24 victims of those perpetrators are other homeless people.
25 And the most recent stats that I saw that 24 percent of

1 all of the Los Angeles murder victims came from that one
2 percent of the population that was homeless.

3 Q. And when you say homeless in that answer, do you
4 mean unsheltered or sheltered homeless or both?

5 A. I believe that's both, but in Los Angeles the
6 vast majority of the homeless population is unsheltered, I
7 want to say well above 60 percent.

8 Q. Dr. Glock, in light of that answer, are
9 unsheltered individuals in an unsanctioned public
10 encampment in a safe space?

11 A. No, by -- by any metric.

12 So Los Angeles, again, which unfortunately
13 keeps some of the best statistics on -- on homelessness
14 and homeless death and crime, reported over 2,000 homeless
15 deaths a year. This is our -- this is out of a population
16 of around -- I believe around 60,000 in the county at
17 least. And Phoenix, the City of Phoenix, of course, has
18 seen over 700 homeless people die out on the streets every
19 year. So these are high percentages of the total
20 population that is dying every year out on the streets.

21 Q. Dr. Glock, for individuals with substance abuse
22 or mental health issues who are unsheltered, would reduced
23 housing rent help them get off the street?

24 A. It would definitely help some. There's been a
25 lot of research on the connection between housing costs

1 and homelessness, and there's no doubt across the
2 different academic studies that have been done that
3 reducing housing rents seems to have an impact on the
4 number of homeless people.

5 Especially in the very high housing rent
6 areas, you can see substantial reductions. But it seems
7 to mainly affect the sheltered population, which involves
8 more, again, mothers with children and more women and men
9 as opposed to the unsheltered population which is more
10 single adults.

11 Q. Dr. Glock, can you describe for the Court what a
12 housing first model is?

13 A. There are certainly different definitions out
14 there, but a general -- as the housing first model was
15 originally proposed, the idea was to give permanent
16 supportive housing, it is known PSH, basically a free or
17 heavily subsidized unit with services to every chronically
18 homeless individual or long-term unsheltered individual
19 out on the streets, and with that goal to give those PSH
20 units to everyone of individuals to hopefully "to end
21 homelessness."

22 Q. And you said PSH was permanent supportive
23 housing?

24 A. That is correct.

25 Q. Okay. And with that, I'll remind you to slow

1 down a little bit.

2 A. Appreciate it.

3 Q. Does the housing first model help unsheltered
4 individuals who have substance abuse or mental health
5 issues?

6 A. There doesn't seem to be a lot of great evidence
7 that it does. There have been two meta studies, as
8 they're known, where they survey the entire literature or
9 appropriate studies that have been done on research on
10 housing first or PSH, the permanent supportive housing,
11 and one of those studies by the National Academy of
12 Science, of course, the most respected institution in the
13 country in these -- in these matters said, I believe the
14 quote was, No substantial published evidence as yet that
15 PSH improves health outcomes, and the other meta study,
16 I'm going to get into the comprehensive study of all of
17 the studies, was from the Lancet, the British Medical
18 Journal, and again showed no improved health outcomes, no
19 improved outcomes for issues like substance abuse,
20 employment, et cetera.

21 So for some people PSH certainly can help.
22 There's some people who need those units, but on the whole
23 the research doesn't seem to give a lot of evidence that
24 it is going to improve the health of the homeless.

25 Q. And so when you say the research doesn't show it

1 will improve the health of the homeless, can we
2 distinguish again between sheltered and unsheltered, do
3 the studies do that?

4 A. No, not so much. So most of the studies are
5 looking at the chronically homeless because the
6 chronically homeless are the ones that are being put into
7 or provided the housing first units, and they tend to --
8 they're more likely to be chronically homeless and
9 therefore also unsheltered. So you're not having a lot of
10 people that are short-term, sheltered homeless going into
11 these PSH units.

12 Q. Dr. Glock, can you summarize for the Court your
13 opinion about the differences between sheltered and
14 unsheltered homeless populations, and I guess specifically
15 whether and how traditional homeless policies like housing
16 first affect these populations differently if at all?

17 A. Yes. So the sheltered population, as I
18 mentioned, is much -- much more likely to have families
19 with children, much more likely to be short-term. A lot
20 of cities report average length of shelter stays of around
21 two months or less. They're less likely, substantially
22 less likely, according to their own reports, to have
23 substance abuse and mental health issues.

24 For the unsheltered, which is a minority,
25 naturally, of all of the homeless, report substantially

1 higher rates of mental illness and substance abuse,
2 substantially more problems that go beyond housing rents
3 or so forth.

4 Q. Thank you.

5 Now, Dr. Glock, this probably relates to
6 and interconnects with what we have been talking about,
7 and in fact, you mentioned the term service resistance,
8 and so I want to ask you about service resistance. But
9 can you explain to the Court the concept of service
10 resistance at a reasonably moderate pace?

11 A. Yes.

12 So service resistance is basically the idea
13 that services are offered but the homeless refuse to take
14 them up for a myriad of reasons. Now, many homeless, they
15 cite things like the rules in the -- in the shelters as a
16 reason for avoiding them. Some of those rules do involve
17 drug use, they cite problems with mental illness, they
18 cite problems with the three Ps as they're known, the
19 pets, property, and partners.

20 Q. Can you slow that down? So the three Ps, pets,
21 partners, property, can you explain what that has to do
22 with service resistance?

23 A. Yes. Some shelters, it does depend on the
24 shelter or the alternative provided, do not allow people
25 to stay with their partners or with their pets, and

1 sometimes, but not always, there's not a sufficient place
2 to store their possessions.

3 Q. And so you mentioned drug use, mental illness,
4 and then the three Ps as reasons that some unsheltered
5 might -- unsheltered individuals might be service
6 resistant; am I getting that correct?

7 A. That is -- that is correct, and it is hard to
8 know, again, a lot of this is from self-reported surveys.
9 What we do know is from a lot of cities -- say I was in
10 Atlanta working recently, Atlanta has about a 50 percent
11 rate of shelter utilization. They are only using about 50
12 percent of their shelter beds, but they have around 6 to
13 700 people out on the streets.

14 We don't -- we sometimes ask people why
15 they're out there, but we know -- we don't know for sure
16 why they're refusing to go in. We just know there's a lot
17 of different reasons they say they don't want to go into
18 the shelter.

19 Q. Okay. So treating the reasons wholistically or
20 not, do we have data on service resistance generally?

21 A. Yes. I --

22 Q. Can you describe some of that data to the Court?

23 A. Yes. I mentioned those surveys reported by the
24 ASU Center for Problem Oriented Policing on the 25
25 percent.

1 Q. That's ASU, Arizona State University?

2 A. That is correct.

3 Q. Go ahead.

4 A. And that is the 25 percent to 41 percent who say
5 they would not go willingly into a shelter. We also know
6 that when they have encampment cleanups in many places,
7 usually you see a large majority that still refuse to go
8 into a shelter.

9 I mentioned in my report a case sort of in
10 Burien, Washington, where it was around 50 to 100
11 unsheltered individuals, and I believe it was less,
12 significantly less than 10 willingly went into shelter.
13 Other cities such as Colorado Springs also see minorities,
14 substantial minorities, but still minorities of all of
15 those that cleared from encampments that decide to go
16 willingly into a shelter.

17 Q. And I may have misheard, so that ASU study you
18 said 25 to 41 percent would accept shelter, would willing
19 go in, or --

20 A. According to their surveys, would willing go into
21 shelter.

22 Q. Okay.

23 A. Now, I -- if I could clarify the service
24 resistance, some people would claim this population is not
25 service resistant, and they propose a lot of hypotheticals

1 to say, well, if XYZ and any other number of other factors
2 were taken care of, would then you go into -- would you go
3 into shelter.

4 So it certainly depends on the shelter's
5 offer, but certainly if you have rules around, again,
6 sobriety or others, that's going to reduce the number of
7 people who would go willingly into those shelter
8 situations.

9 Q. Okay. So just so I'm doing my math correct, that
10 would mean anywhere from 59 percent to -- or yes, 59
11 percent to 75 percent would not accept services willingly
12 without some sort of mandate?

13 A. According to those surveys, yes.

14 Q. Have you seen a survey of unsheltered individuals
15 in the zone specifically and what data does that show?

16 A. Yes. There was a survey of 100 individuals by
17 Andre House, I believe was the name.

18 COURT REPORTER: Andre?

19 THE WITNESS: What?

20 MR. WURMAN: Andre House.

21 THE WITNESS: Andre House.

22 Yes, thank you, my apologies.

23 THE COURT: And slow it down just a little
24 bit please.

25 THE WITNESS: My apologies, yes, of course,

1 sir.

2 BY MR. WURMAN:

3 Q. The first time in court it is okay to be a bit
4 nervous.

5 A. That's okay.

6 Yes. So by -- a survey by Andre House that
7 was conducted in 2018 to '19, and that was about 100
8 individuals, and I believe it was less than 15 percent
9 said lack of a shelter bed was the reason they remained
10 out on the streets. Other majorities said issues with
11 substances, criminal records, problems with partners,
12 again, or pets or property.

13 Q. Okay. And we're just going to invert the math
14 again to figure out the percentage of those who would
15 then -- who are service resistant as you have defined it.
16 So if we combine the Andre House study and the ASU study,
17 is it fair to say the range, at least according to those
18 two studies, is 59 to 85 percent of individuals in public
19 encampments are service resistant?

20 MR. ARNISON: Objection, leading.

21 THE COURT: Sustained. If you could ask it
22 again.

23 BY MR. WURMAN:

24 Q. Could you combine those studies to me and give
25 the Court a clear range for how many individuals in these

1 encampments -- and again, understanding it is an
2 estimate -- tend to be service resistant?

3 A. Yeah. So the number that would not go willingly
4 into normal shelters, according to most of these surveys,
5 ranges from around 60 to up to 85 percent.

6 Q. Thank you.

7 Dr. Glock, when these studies show that, as
8 you have just said, 60 to 85 percent are service
9 resistant, is that if there's no mandate of any kind?

10 A. Yes.

11 Q. And what do you -- can you explain to the Court
12 what I'm -- well, what you understand by a mandate?

13 A. Yes. It depends -- most of these surveys and
14 other sort of analysis of the unsheltered and service
15 resistant involve a situation where the option of public
16 camping is available, and we do know from a fair amount of
17 evidence of different cities and elsewhere where the
18 option of public camping is available you are more likely
19 to have people out on the streets and less likely to take
20 up that shelter or other services.

21 Q. So if there is an anti-camping prohibition that's
22 enforced, do more of these unsheltered individuals who
23 would otherwise be service resistant go into shelter?

24 A. Yes, that's what it seems like.

25 So in my hometown of Austin, Texas, if I

1 could give an example.

2 Q. Sure.

3 A. The -- in 2019, the City repealed its camping ban
4 and allowed people to publicly camp on the streets and the
5 sidewalks, and what you saw, according to the next year's
6 survey, what's called the point in time count, the
7 unsheltered homeless jumped about 45 percent within that
8 year. Many people said that was because it was more
9 visible out on the streets, but they couldn't explain
10 entirely why the unsheltered homeless -- or sorry, the
11 sheltered homeless dropped by 20 percent.

12 So you saw a very substantial increase in
13 the people out on the streets and you saw a substantial
14 decrease in the number of people in shelters, and I would
15 say when the ban was then enforced again in Austin, Texas,
16 after a vote in, I believe, 2021, we saw another increase
17 again in the number of people in shelters, I believe it
18 was about 900 to about 1,100 people were in the shelters
19 and a corresponding decrease in the number of people out
20 on the streets, actually a more than corresponding
21 decrease. So enforcing mandates moved some but not all of
22 the people outside into shelters.

23 Q. Great.

24 Dr. Glock, moving to a related topic, is
25 another factor that leads to public encampments the

1 mobility of the unsheltered population?

2 MR. ARNISON: Objection, leading.

3 THE COURT: Sustained.

4 MR. WURMAN: Your Honor, I'm not sure how
5 that was leading, I'm asking an open-ended question.

6 THE COURT: You still suggested the answer
7 in the question. You can rephrase it.

8 MR. WURMAN: Sure.

9 BY MR. WURMAN:

10 Q. Dr. Glock, can you describe the impact of
11 mobility of the unsheltered population on the growth, if
12 any, of public encampments?

13 A. Yes. Among the factors that have been studied to
14 look at the size of the unsheltered population in cities,
15 one factor is very clear and it is temperature, which
16 cities that have higher temperatures tend to have a lot
17 higher numbers of unsheltered homeless, even holding
18 constant the number of shelter beds, et cetera.

19 So that would one to believe that the
20 homeless are, of course, attracted to areas that have more
21 amenable circumstances. When cities survey the homeless
22 about where they first became homeless or where they last
23 were housed, as only some cities do, you see substantial
24 proportions say they came from outside of the city they
25 were located in.

1 So, again, my hometown of Austin, Texas,
2 you see a little over a third of the homeless population
3 became homeless outside of the city and then moved in.
4 Similar rates for San Francisco, about a third. For
5 Los Angeles, again, about a third of the unsheltered
6 population in that case came from outside of the city, and
7 Seattle did a study in 2016, I believe, where it was the
8 majority of the entire population -- homeless population
9 was homeless outside of the city before they moved in, and
10 that proportion seems to be higher among the unsheltered
11 population.

12 So the unsheltered again more likely to be
13 single, more likely to have these other issues, seems to
14 be more mobile than the sheltered population and
15 substantial parts of them, sometimes even the majority can
16 come from outside of the city.

17 Q. Thank you.

18 Dr. Glock, in light of everything you've
19 just said, what, if any, role, does a municipality's
20 policy choices have to do with the rise or growth of
21 public encampments in that municipality?

22 A. So, yes, so similar to the issues I described
23 with temperature, we know that a municipality that is more
24 welcoming to public encampments is going to see more
25 public encampments, that explains why many of the cities I

1 have discussed which were open to public camping and did
2 not take enforcement action were more likely to see that
3 influx of population.

4 Most of the people reporting it reported --
5 those homeless who reported moving to the city reported
6 moving from other cities around the area often that didn't
7 have as many services and stricter laws and so forth.

8 Q. So I'll stop you there, can you describe some of
9 the evidence for that proposition that a municipality's
10 policy choices contribute to the rise of encampments? I
11 think you mentioned -- I'm not trying to be repetitive,
12 but I think you mentioned Austin, can you explain that
13 again and the evidence?

14 A. Yes.

15 So Austin is one example where you saw both
16 people leave from the sheltered situations to the streets
17 after camping was -- bans were no longer enforced, but you
18 also saw an increase in the total number of homelessness
19 which seems to clearly indicate an influx.

20 You also have some cities that when they
21 have enforcement campaigns, they seem to see substantial
22 reductions in unsheltered homelessness in general.

23 Q. Can you give an example of those cities --

24 A. Yes.

25 Q. -- other than Austin?

1 A. Other than Austin, so Los Angeles conducted a
2 program called the Safer Cities initiative in 2006 I
3 believe it started, and what you saw there is substantial
4 reductions in homelessness in the city. It was focused on
5 moving people off the streets, enforcing laws against
6 camping and sleeping, et cetera, quality of life laws and
7 so forth. And over the next few years you saw about a
8 50 percent decline in overall homelessness.

9 You also saw substantial improvements
10 actually in the situations of those neighborhoods that
11 people remained.

12 Q. Did Los Angeles abandon that initiative at some
13 point in time?

14 A. Yes, they did.

15 Q. And what were the results?

16 A. Yes.

17 So around 2014, 2013, '14, with new -- with
18 new leadership the city stopped the former safer cities
19 initiative or enforcement along skid row. You saw the
20 number of homeless people increase, I believe double or
21 triple, and you saw, I think, even more concerningly the
22 number of homeless deaths, which hit a nadir of about or a
23 bottom of about 500 homeless deaths increase to over 2,000
24 homeless deaths a year.

25 Q. And is Colorado Springs another example --

1 A. Yes.

2 Q. -- demonstrating your point?

3 And can you tell the Court about Colorado
4 Springs?

5 A. Yes.

6 So Colorado Springs in 2010 decided to
7 start enforcing its anti-camping ordinance. They had
8 around 600 unsheltered individuals according to their own
9 surveys, and what they found is after a year, they had
10 about 2/3 move either into shelters, into families, into
11 jobs, into treatment of some sort, and to some permanent
12 housing that was provided and saw substantial drops in
13 unsheltered homelessness within a year.

14 Q. Thank you.

15 Dr. Glock, in light of the foregoing
16 discussion about the causes of public encampments, can you
17 summarize -- I know we have testified a little bit about
18 this, so just -- can you summarize for the Court your
19 opinion about whether a housing first policy will
20 eliminate such encampments?

21 A. Yes.

22 So, as I said before, there's clearly a
23 space for a housing first unit for some individuals, but
24 one of the things we know probably even more certainly
25 than the lack of strong health effects for the homeless by

1 giving these -- these PSH units is the lack of connection
2 between a city which builds a lot of housing first units
3 and reductions in homelessness in that city.

4 So there was a Journal of Housing Economics
5 study from 2017 that said you needed to build about 10 of
6 these units to remove a single homeless person off the
7 street. If you just looked at cities that had built large
8 numbers of these units and you tried to see the
9 correlation between who built more and who built less and
10 how did they affect the homeless population, you saw a
11 very minor decrease, again, one to ten to even the upper
12 range of maybe even 20 units per single individual that
13 was moved off the streets.

14 Q. So can you explain why that is? I mean, I know I
15 asked you to summarize it and now I'm learning new things,
16 this journal study. So if you bring 10 supporting --
17 permanent supportive housing units online, you're saying
18 that only reduces one unsheltered person on the street,
19 and why would the numbers not align?

20 A. Yeah.

21 According to the study -- and they couldn't
22 entirely identify the reason, but some of the ones they
23 speculated were ones that would make sense. That the
24 mobility of homeless is a factor. If you have a city that
25 builds a large number of these units, of course more

1 people are going to want to live in the city that builds a
2 lot of free or heavily subsidized housing units,
3 attracting people from outside of the homeless system into
4 it or keeping them in it longer with the hope of getting
5 one of these free units seems to be an issue.

6 And so -- I mean, one other issue which I
7 should mention is that a lot of homeless individuals when
8 put in these units can't stay in them because of their
9 demons, the problems they have with mental illness, with
10 substance use. They will still leave the units even
11 provided to them.

12 In San Francisco, I believe it was 11
13 percent of the entire homeless population in the city was
14 previously -- their last location was in one of these
15 subsidized housing units. So they get a substantial
16 portion of the entire population in San Francisco was
17 already put in a unit, and they could not stay inside of
18 it.

19 Q. Okay. Dr. Glock, in light of the foregoing
20 discussion about the causes of public encampments, can you
21 summarize for the Court your opinion about whether the
22 lack of available shelter is responsible for such public
23 encampments?

24 A. The lack of available shelter would certainly
25 affect the number of people out on the streets.

1 As I mentioned, there are numbers of people
2 that say they would go into shelter, it is minority of the
3 whole unsheltered population in most places, but it is --
4 it is a factor but not the main factor it seems.

5 Q. So in light of the foregoing discussion, can you
6 summarize for the Court your opinion about what is the
7 main factor of encampments -- of the public encampments
8 here in the zone?

9 A. I would say the main factor, and perhaps not
10 surprising, is that cities and places that allow public
11 encampments and provide extensive services attract
12 extensive encampments, that seems to be the case across
13 numerous different cities, numerous different times, and
14 numerous different places.

15 Those cities that enforce laws against
16 public encampments see reduction in them, those cities
17 that don't see increases in them, and that goes across
18 time and that goes across different cities.

19 Q. So that takes me to the next thing I wanted to
20 talk to you about which is solutions. So can you tell the
21 Court more about enforcement and what role enforcement
22 plays in eliminating public encampments?

23 A. So, as I mentioned with both the LA Safer Cities
24 example, the Colorado Springs example, and the Austin,
25 Texas example, you have numerous examples even beyond

1 those three, but we can focus on those three, that show
2 enforcement does tend to substantially decrease
3 unsheltered homelessness, and as I mentioned before for
4 the Los Angeles example, it also importantly increases --
5 decreases homeless deaths and crime among the homeless.

6 Q. And so if there's enforcement, where do they all
7 go?

8 A. Again, it is hard to know.

9 So we know from that Colorado Springs
10 enforcement campaign that they said -- again, I forget the
11 exact numbers. So substantial -- the largest category, I
12 think, returned to friends or family, which when you
13 survey the homeless their last housed locations usually it
14 was with friends or family depending on the city, but
15 that's often the last location they were.

16 Some of them move into transitional housing
17 or other housing provided, some of them return to jobs,
18 and some of them move back to the location they previously
19 were.

20 Q. And in these various cities that you have used as
21 examples for your testimony, were there widespread
22 arrests?

23 A. Most of the time there's not.

24 So in Austin, after they began enforcing
25 the camping ban a year in, there was only one reported

1 arrest. In Colorado Springs, I haven't seen any evidence
2 of a single reported arrest. In most encampment
3 clearances here and elsewhere, usually very low rates of
4 arrest. Giving people the warning, giving people the
5 alternatives, telling them other things they can do,
6 trying to help them on to the next step usually is
7 sufficient -- more than sufficient to clear the
8 encampments without arrest.

9 Q. You did -- despite any enforcement, there will
10 still -- will there still be some individuals who don't
11 want to move on or don't want to move into a shelter who
12 still would rather stay on streets?

13 A. There's some always, of course.

14 Q. And where do they go?

15 A. There's some -- we can talk about -- all right.
16 I should probably phrase it as some cities and places that
17 set up alternatives such as tiny home villages, these
18 structured or sanctioned camping sites, sprung structures,
19 other alternatives, very few, some, if absolutely
20 everything else doesn't work are arrested.

21 I mentioned Burien, Washington, which in
22 that 50 to 100 person unsheltered encampment they reported
23 a single arrest of someone who just refused to move
24 afterwards. But most, again, moved to other circumstance
25 or ideally the city provides or someone else provides

1 these low-cost alternatives.

2 Q. And so in your answer you mentioned a few things
3 if you can unpack them for the court. You mentioned a
4 sprung structure, can you tell the Court what a sprung
5 structure is?

6 A. Yeah. A sprung structure is just a -- kind of a
7 substantial comprehensive tent that can be put up
8 relatively rapidly. I've seen figures sort of the high
9 like, you know, \$5- to \$800,000, but they house around
10 500-plus people inside them in what's known as a
11 congregate setting, so you have lots of different people
12 living in large open spaces.

13 Q. And you also mentioned structured campgrounds,
14 can you mention -- can you explain to the Court what
15 structured campgrounds are?

16 A. Yes.

17 So structured campgrounds, there's lots of
18 different variations on this. In Austin, Texas, there's a
19 place called the Esperanza Community that basically
20 provides some basic security, has some case workers on
21 site. It is managed by a nonprofit group of largely
22 formerly homeless individuals called The Other Ones
23 Foundation.

24 Other places, Oakland, California, has sort
25 of something in between, a structured campground, a tiny

1 home village, they have tiny houses that people can reside
2 in. Other places like Seattle or Portland just set up a
3 place and have a nonprofit run it and enforce some basic
4 rules and regulations.

5 Q. Have you heard the concept of a low barrier
6 shelter?

7 A. Yes.

8 So the idea --

9 Q. Please explain to the Court that concept.

10 A. Yes.

11 The idea of a low barrier shelter is a
12 place that has few requirements for entry or maintaining
13 residence in that shelter. So that may mean it doesn't
14 have requirements about pets or property, it doesn't have
15 requirements about sobriety, it doesn't have requirements
16 about curfews or so forth, so yes.

17 Q. And is -- are structured campgrounds typically
18 low barrier shelters?

19 A. They are fairly -- they are usually fairly low
20 barrier. There's some -- I believe there was one that was
21 set up by Catholic charities in -- I believe outside of
22 Portland, either Portland or Seattle, that had rules about
23 sobriety, drug use, et cetera, but depending on the --
24 most of them have very low barriers relative to shelters
25 or transitional housing.

1 Q. Dr. Glock, can you describe the cost of creating
2 a structured campground? Don't worry about operating it
3 for very long, just to set it up, and we'll talk about
4 operating in a moment. What does it cost to create a
5 structured campground?

6 A. So there's been a few different studies on this,
7 and it is, of course, always somewhat variable. Two of
8 the best studies I have seen come from the Goldman School
9 of Public Policy out of the University of California,
10 Berkeley, and they looked at costs of -- you know, say for
11 the capital again, just the setting up cost of as low as
12 \$100. You just basically need some open land and some
13 space for people to -- to have a tent.

14 Other campgrounds or places all in, slight
15 preparation, providing any other sources, porta potties,
16 others have seen costs as low as \$5,000 per person, and
17 I've also seen one less than \$2,000. So in that range is
18 not uncommon. As low as \$100 per person to around 5,000
19 per person.

20 Q. In light of what you just said, can you tell the
21 Court how the cost of creating a structured campground
22 compares to the cost of creating a traditional shelter?

23 A. It is tough to say. Traditional shelters can be
24 very expensive. Of course, building a full stick built or
25 concrete, or et cetera, shelter can certainly be into the

1 tens of thousands to over \$100,000 per bed, when
2 considering kind of the all-in capital cost and even far
3 higher from that depending on the location.

4 Q. Just for sake of completeness, did Ontario,
5 California -- and you may have mentioned this, did
6 Ontario, California, open up a structured campground?

7 A. They did, and I believe that one was the one that
8 cost in the realm of, you know, a few low thousands of
9 dollars for capital cost.

10 Q. So you mentioned that.

11 What about the cost of operating a
12 structured campground?

13 A. So that's certainly sort of similar issues, it is
14 hard to know and it is hard know what kind of include in
15 the all-in operating cost. I believe it was also the
16 Ontario structured campground or one of the other ones
17 surveyed that looked at -- we're talking a few thousands
18 dollars per person per year. Other structured campgrounds
19 could be as high as 20,000 if you are including a lot of
20 the services that are provided by the homeless services
21 people that often are provided elsewhere.

22 It is tough to know how to separate the
23 operating costs and the others. But they can be in that
24 range from a few thousand to if you include a lot of
25 staffing, up to, you know, say 20,000 or so a year.

1 Q. So would the operating costs of a structured
2 campground be comparable to the operating costs of a
3 tradition shelter if you provided other than --

4 COURT REPORTER: Can you start over,
5 please?

6 BY MR. WURMAN:

7 Q. Would the cost of operating a structured
8 campground that provides these full wrap-around services
9 just like a traditional shelter does, would its costs be
10 comparable to that of a traditional shelter?

11 A. Comparable, most likely much lower, and just in
12 terms of obviously if people are bringing in their own
13 tents, you're not providing all of the surrounding
14 services, it is in the same range, but most of the time
15 much lower.

16 Q. Does a structured campground require full
17 wrap-around services?

18 A. No.

19 There are some services -- there are some
20 places that started up just with basic security, sort of a
21 place set aside. The Esperanza Community in Austin,
22 Texas, started with very kind of minimal services. They
23 started just a few weeks after the governor cleared some
24 land under highways in Texas and set up this campground
25 with some basic security and gradually some services were

1 provided afterwards.

2 So it certainly depends on the city or
3 philanthropies on how many services you want to provide
4 there.

5 Q. Dr. Glock, can you tell me a bit or tell the
6 Court a bit about the success of other cities' experiences
7 with structured campgrounds?

8 A. Yes.

9 So I believe it was Seattle that did a
10 survey of they -- after they set up some structured
11 campgrounds and looked at their -- how they turned out and
12 they said, according to their survey, the first three
13 structured campgrounds they set up, they exceeded
14 expectations, they found large majorities of people went
15 or were attached afterwards to some sort of housing,
16 permanent housing.

17 You also saw in the Ontario, California,
18 case, where you saw the majority, the vast majority of the
19 people ended up transitioning out of those sheltered --
20 those structured campgrounds into permanent housing,
21 transitional housing, shelter, and so forth.

22 Q. Well, what explains the success of these
23 campgrounds?

24 A. It depends.

25 This -- the people who go into the

1 campgrounds are obviously a population with lots and lots
2 of issues and they need a lot of attention. Some
3 structured campgrounds have worked much better than
4 others. I think the main explanation for those that did
5 well is that the city and the nonprofits that ran them had
6 to take responsibility for them and they had to spend a
7 lot of time making sure that people came out right of
8 them.

9 But simply the ability to have security,
10 simply have the services right there, and to have basic
11 sanitation, seems to improve the situation over being out
12 on the streets which was the alternative for many.

13 Q. Thank you.

14 Dr. Glock, I would like to ask you some
15 questions about the zone specifically. On the assumption
16 that there are about 800 people there, unsheltered people
17 in the zone today. With that assumption, how many shelter
18 beds, so I'm not talking about sanctioned campsites. If
19 there are 800 unsheltered individuals in The Zone today
20 how many shelter beds does the city need to accommodate
21 all of those individuals in The Zone who would willingly
22 accept such a bed without further mandates?

23 THE COURT: Hold one second.

24 MR. ARNISON: Objection, compound, it calls
25 for speculation.

1 THE COURT: Overruled. Go ahead and
2 answer.

3 THE WITNESS: It would certainly be tough
4 to know because it depends on the nature of the shelter,
5 it depends on the nature of some of the homeless
6 individuals in the zone.

7 What we have seen in other places that have
8 that had substantial camp clearances, it would be a
9 minority. If the offer is not, say, a permanent house
10 with no treatment requirements or whatever, where you'll
11 have a much higher acceptance level. If there is a
12 shelter alternative with some sort of requirements, you're
13 going to see a relatively small minority accept that
14 option.

15 Q. Okay. I know I'm pushing you to put a number on
16 it. So let me ask you a different question.

17 Assuming there are 800 individuals in the
18 zone, in your expert opinion, based on data and the
19 experience of other cities, would a sanctioned campsite
20 for 400 individuals be sufficient to accommodate every
21 unsheltered person in the zone who would willingly move to
22 such a campsite?

23 A. It would certainly depend on the rules and the
24 regulations of the sanctioned camping site and exactly how
25 low barrier it was. But I am not aware of similar camp

1 clearances that -- that had that level of acceptance, say,
2 400 out of 800, half, move into the provided alternative,
3 and depending on the level of -- of requirements, you're
4 likely to see much lower.

5 Again, if we're seeing something like the
6 Andre House report, where you're looking at 15 to say 30
7 percent saying that they -- the lack of available beds is
8 the reason they're out on street, you're going to see, you
9 know, closer to around the 200 to 300 person range, most
10 likely, take that option if it is provided.

11 Q. So I don't think this is repetitive. So I'm just
12 warning, prepping my opposing counsel.

13 So why don't we need 800 beds -- or 800
14 spots on a sanctioned campsite for 800 people unsheltered
15 in the zone?

16 A. For -- in almost any situation where you have
17 substantial camp clearances and shelter is the provided
18 alternative, you have large majorities refuse to take the
19 shelter as the option. As I said in the other examples,
20 you have people move to return to family, you have people
21 move to return to friends, you have people move to other
22 cities and so forth. So it would be very rare and
23 surprising to have a large number of camp clearances and
24 then have the majority of those opt for a local nearby
25 alternative of some sort.

1 Q. Would more unsheltered individuals move into a
2 sanctioned site that's low barrier than into a higher
3 barrier shelter?

4 MR. ARNISON: Objection, it calls for
5 speculation.

6 THE COURT: Sustained. There's another way
7 to ask it.

8 BY MR. WURMAN:

9 Q. Based on your experience, do unsheltered
10 individuals accept sanctioned campgrounds -- a space in a
11 sanctioned campground at a higher rate than they do at
12 higher barrier shelters?

13 A. Yes.

14 The number of barriers is a big determinant
15 of how many people accept sanctioned camping, or shelters
16 for that matter, as opposed to the streets.

17 Q. Okay. Thank you.

18 Dr. Glock, in the last few minutes, I just
19 want to ask you about the City of Boise decision.

20 Could you describe for the Court what
21 impact the Boise decision appears to have had on
22 homelessness in the states in which that decision applies?

23 A. So -- yes.

24 According to the -- the national numbers,
25 these point in time count surveys as they're known, where

1 people go out and they count the number of people in
2 shelters and out on the streets once a year, you saw since
3 2018, when the Boise decision was decided, about a 25
4 percent -- over a 25 percent increase in homelessness in
5 the 9th Circuit states and you actually saw a decrease in
6 homelessness in the non-9th Circuit states.

7 You actually also saw an even more
8 substantial increase in unsheltered homelessness among
9 those 9th Circuit states after the Boise decision from
10 2018 to 2022 relative to the rest of the country which saw
11 I believe it was low single digits, around a 6 to 8
12 percent increase in unsheltered homelessness.

13 So since 2018, you've just seen
14 unprecedented increases in homelessness in the 9th Circuit
15 and specifically even higher increases in unsheltered
16 homelessness.

17 Q. Dr. Glock, are there examples of cities in the
18 9th Circuit that have been able to or shown that they can
19 enforce anti-camping laws notwithstanding the Boise
20 decision?

21 A. Yes.

22 The city of Las Vegas actually strengthened
23 its anti-camping ordinance in 2020, so about two years
24 after the Boise decision, and one of the things they do is
25 they keep a running tally of the available shelter beds to

1 make sure there's always some spot available, and at the
2 same time they expanded what's known as their Courtyard
3 Human Resource Center. It is like an open air sort of
4 covered area, where people can bring some of their mats or
5 property to sleep at night or other times or just to cool
6 off during the day and they expanded that to, I believe,
7 800 spots.

8 So the combination of keeping that running
9 tab on how many spots are available in all of the shelters
10 and expanding that courtyard, that open air center,
11 allowed them to strengthen their anti-camping ordinance
12 and provide alternatives for everybody.

13 Q. And so just -- I think this might be my last
14 question. When you say open air covered, is that kind of
15 like a carport?

16 A. Maybe a little bit like a carport. Yeah, just a
17 large -- if you look at the -- it has a large kind of roof
18 that covers a very large open area. I'm kind of thinking
19 like a covered basketball court or something like that,
20 that has shade and also, of course, fans and misters and
21 other things to keep people cool.

22 Q. So there are no walls?

23 A. No, there is basically no walls is -- yeah.

24 MR. WURMAN: Okay. I think that's all of
25 the questions I have for you at this time.

1 THE WITNESS: Thank you.

2 MR. WURMAN: Thank you, your Honor.

3 THE COURT: Any cross for 15 minutes?

4 MR. WURMAN: I do have one request for
5 opposing counsel. The lectern does block my view of the
6 witness when you are cross-examining. Can we roll it by
7 any chance?

8 THE COURT: I've got the time stopped by
9 the way.

10 You can slide, like rotate and see if that
11 works, otherwise you might need to switch chairs with one
12 of your -- one of your co-counsel.

13 MR. WURMAN: Oh, we can do that.

14 MR. PIERCE: Your Honor, underneath it,
15 there is -- it is connected to some stuff and I -- it
16 would probably be tough.

17 THE COURT: Yeah, at best, it rotates so
18 you can face the jury, but it doesn't move.

19 MR. WURMAN: Thank you, your Honor.

20 THE COURT: Just to be clear, it is a hard
21 stop time, so -- I don't want to interrupt you.

22 MR. ARNISON: Thank you.

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CROSS-EXAMINATION

BY MR. ARNISON:

Q. Dr. Glock, thank you for taking some time to spend on this important issue today. I appreciate it.

A. Thank you.

Q. I do have several questions, and we'll resume it after the -- after the break as well.

You are, of course, here to testify as an expert on homelessness and homeless solutions, right?

A. That's correct.

Q. And you wrote an expert report on homelessness for this case, right?

A. That is correct.

Q. And that's what's been -- what is in front of you right now; is that right?

A. That's right.

Q. And you said that you're senior fellow and director of research for Manhattan Institute; did I say that correctly?

A. That's correct.

Q. Thank you.

The Plaintiffs' attorneys -- now, I assume you haven't read every disclosure statement in this case; is that correct?

A. That is correct.

1 Q. The Plaintiffs' attorneys have represented that
2 you are going to testify regarding your "Experience and
3 knowledge surrounding homelessness and the implications it
4 has on the City of Phoenix, its citizens, and economy."

5 Is that -- does that sound about what you
6 are here to testify about today?

7 A. Yes.

8 Q. I did a little digging on your home page. Is
9 judgeglock.com your home page?

10 A. Yes.

11 Most of my work is probably kept at my
12 Manhattan Institute home page, but I have a lot of work at
13 the - at that other personal home page, yes.

14 Q. Sure. Okay. You keep a CV -- you keep a CV on
15 that home page?

16 A. Yes. I don't know how up-to-date it is, but it
17 should be on there.

18 Q. Okay. Well, the one I have was most recently
19 updated since you moved over to the Manhattan Institute.

20 A. Okay.

21 Q. When did you move over to the Manhattan
22 Institute?

23 A. About six months ago.

24 Q. Okay. So it is at least recent as of six months
25 ago; is that fair to say?

1 A. Uh-huh, yes.

2 Q. And you have a works in progress page up there on
3 that website?

4 A. That's right.

5 Q. Okay. And that would detail -- I assume
6 respectively, the CV would detail the body of work, your
7 corpus of work that you have done in this area; is that
8 correct?

9 A. Ah, no, the CV would include usually I mainly
10 focused on peer-reviewed articles or articles in public
11 journals, so I wouldn't include all of my writings for say
12 research papers for Cicero or other projects, but it would
13 include the peer-reviewed articles I did for when I was in
14 academia, when I was a professor, and the public writing,
15 but not all of the research papers.

16 Q. Okay. But you're here testifying as an expert on
17 homelessness, right?

18 A. Yeah, that's correct.

19 Q. Okay. One would assume that if you are going to
20 testify as an expert on homelessness, you would want to
21 update your CV to include the materials that are relevant
22 to the subject matter at hand; is that fair to say?

23 A. I believe there was a CV provided to the Court
24 that had all of the matter that was relevant. So I
25 include in my CV, it is mainly actually for -- there for

1 an academic audience, that's what that home page is for.
2 So I would include things like public testimony of
3 legislatures, I would include things like working on the
4 mayor of Dallas's homelessness task force, I would include
5 those research papers for Cicero. So, again, that CV is
6 directed mainly at any academic --

7 Q. Okay. That's fair. Let's walk through some of
8 those publications then. Okay?

9 A. Uh-huh.

10 Q. On your CV, we have already -- we have already
11 talked about your education background.

12 A. Uh-huh.

13 Q. On your CV you have indicated that you published
14 a book called "The Dead Pledge: The Origins of Mortgage
15 Market and federal Bailouts." Is that correct?

16 A. That's correct.

17 Q. Does that have anything to do with homelessness?

18 A. Oh, yeah, it had to do with the history of
19 housing policy and federal housing policy and support for
20 different housing groups.

21 Q. "The Dead Pledge" -- the whole title was "The
22 Dead Pledge: The Origins of the Mortgage Market and
23 federal Bailouts, 1913 to 1939."

24 A. Uh-huh.

25 Q. Is that right?

1 A. That's right.

2 Q. Okay.

3 A. I took, of course, the analysis up to the
4 conclusion all the way up to the present, but it looked at
5 the origins of different federal housing policies.

6 Q. Okay. Did it have anything to -- I haven't read
7 it, so in fairness --

8 A. Okay.

9 Q. -- I haven't read it.

10 Did it have anything to do with the City of
11 Phoenix?

12 A. No.

13 Q. Did it have anything to do with the City's
14 material compliance with the Court's order here?

15 A. No.

16 Q. I can't imagine it would, it was published in
17 2021?

18 A. That's correct.

19 Q. Let's talk about peer-reviewed articles?

20 A. Uh-huh.

21 COURT REPORTER: Can you -- I can't take
22 down an uh-huh.

23 THE WITNESS: My apologies. Yes, I mean.

24 COURT REPORTER: Okay.

25 BY MR. ARNISON:

1 Q. Okay. I won't read through all of them, but I
2 have -- I have a list of one, two, three, four, five, six,
3 seven, eight, nine, it looks like?

4 A. Uh-huh.

5 Q. Can you recall any peer-reviewed article that you
6 have written that has anything to do with homelessness?

7 A. Lots of peer-reviewed articles on the housing
8 policy, but none -- no peer-reviewed article on
9 homelessness, per se.

10 Q. Okay. Any peer-reviewed articles on unsheltered
11 versus sheltered homelessness?

12 A. Not peer-reviewed. Again, research papers, other
13 works for think tanks, but not a peer-reviewed process.

14 Q. Okay. Now, explain -- you're an academic or at
15 least were. Explain the -- explain what a peer-reviewed
16 article entails? I mean, clearly it carries some degree
17 of weight because it has been reviewed by your peers,
18 right?

19 A. Yes, yes.

20 Most of the peer-reviewed is -- is provided
21 to a -- what's known as a peer-reviewed journal, where
22 they send that to anonymous reviewers, your article, and
23 see if they accept the article for publication in whatever
24 journal it is.

25 So for think tanks, since I have moved to

1 the think tank world about four or five years ago, they
2 usually don't go through a peer-review process. They go
3 through a process where usually they distribute it to
4 other individuals for feedback and then you get that info.

5 Q. Right. Okay.

6 So for the subject matter that we're
7 discussing, which is homelessness and more specifically
8 homelessness in the City of Phoenix, you have not written
9 any peer-reviewed articles on that subject?

10 A. No.

11 Q. Okay. Let's talk about law review articles.

12 A. Uh-huh.

13 Q. There's two that I have here.

14 A. Uh-huh.

15 Q. Is that a yes?

16 A. Yes.

17 Q. "The Forgotten Visitorial Power: The Origins of
18 Administrative Subpoenas and Modern Regulation."

19 A. Yes.

20 Q. Does that have anything to do with homelessness?

21 A. No.

22 Q. "Netting out Taxes and Transfers," does that have
23 anything to do with homelessness?

24 A. Yes. Insofar as the focus of that paper was on
25 looking at federal transfer policies which include welfare

1 payments, food stamps, housing vouchers, and so forth. So
2 it wasn't focused on homelessness, but it was focused on
3 the universe of federal payments to largely impoverished
4 individuals.

5 Q. Okay. Which could include, of course,
6 individuals who are and are not homeless, right?

7 A. Of course.

8 Q. So it didn't have to do with homelessness?

9 A. Well, not -- the full paper did not have to do
10 with homelessness, but it dealt with issues that affect
11 the homeless.

12 Q. Understood.

13 I also have a list of book reviews, it
14 looks like.

15 A. Uh-huh.

16 Q. At least nine or ten, does that sound about
17 right?

18 A. That sounds about right.

19 Q. Okay. I didn't count super carefully.

20 A. Yeah.

21 Q. Do you recall ever having done a book review on
22 the subject of homelessness or unsheltered versus
23 sheltered people?

24 A. No.

25 There was one of those books that looked at

1 mortgage policy in the Western United States, I believe.
2 So a look at mortgage and housing policy in the west
3 specifically.

4 Q. Mortgage and housing though -- I mean, you said
5 no, but then you also said that it has to do with mortgage
6 and housing policy. Is there overlap between those two
7 subjects?

8 A. Oh, absolutely. I mean, we're discussing things
9 such as the housing first model, permanent supportive
10 house, and et cetera.

11 Q. Okay. Actually that's -- that's a good turning
12 point. Let's talk about the housing -- let's talk about
13 your points regarding housing first.

14 A. Uh-huh.

15 Q. I'll wait on that until we come back from after
16 the break.

17 So if I can summarize and you -- please,
18 you can correct me, you know how this works.

19 You have written articles and done studies?

20 A. Uh-huh.

21 Q. Is that a yes?

22 A. Yes.

23 Q. That you agree do not appear on your CV?

24 A. That is correct. I believe another CV was
25 submitted with all of the other related issues to the

1 Court, but no, I do not include every study or article on
2 the CV, and again, that is mainly aimed as an academic
3 audience.

4 Q. Understood. But surely if there was something
5 relevant, it would have been included, right?

6 A. If there was something relevant and directed in
7 an academic audience, yes.

8 Q. Okay. You would agree that on your CV there's
9 nothing that indicates you have worked directly with
10 homeless populations in any capacity, wouldn't you agree
11 with that?

12 A. No. It does not have any personal experience
13 with homelessness mentioned on the CV for the reasons I
14 described.

15 Q. I want to clarify -- to say -- not to say that
16 you have had personal experience with homelessness, but
17 that you have done any work with homeless populations; is
18 that correct?

19 A. That is correct on the CV, but I would say again
20 it doesn't include those other research papers and others
21 I mentioned, yes.

22 Q. Okay. All right. Let's talk about the -- now,
23 you haven't done much work with City of Phoenix officials
24 with respect to homelessness, have you?

25 A. I've actually been traveling to Phoenix on and

1 off for three years. I've testified many times at the
2 Phoenix legislature on homelessness, I've met with
3 numerous officials at CASS, I have met with people at the
4 Salvation Army Adult Rehabilitation Center. Not directly
5 with the City of Phoenix per se. I don't entirely
6 understand the relationship with CASS and the City of
7 Phoenix, but --

8 THE COURT: Slow down just a little bit,
9 please.

10 THE WITNESS: Thank you. Sorry, my
11 apologies again.

12 THE COURT: Go ahead and continue.

13 THE WITNESS: Yes. So fairly substantially
14 with the state legislature, with CASS, and some of the
15 others, but I don't believe I've met with the City of
16 Phoenix, no.

17 BY MR. ARNISON:

18 Q. Okay. You've never met personally with the
19 Phoenix mayor or council about homelessness?

20 A. No.

21 Q. You've never met with them about their
22 homelessness initiatives, have you?

23 A. No.

24 Q. Have you ever met with the city manager about
25 homelessness?

1 A. No.

2 Q. Have you met with any assistant or deputy city
3 manager about the issue of homelessness in the City of
4 Phoenix?

5 A. Not in the City of Phoenix, no.

6 Q. Okay. Any representatives from the Office of
7 Homeless Solutions, have you ever met with any of them at
8 the City of Phoenix?

9 A. I believe I've met with some of them at the state
10 legislative hearings, but no, I can't recall a separate
11 meeting of some sort.

12 Q. Okay. Who?

13 A. Oh, that's what I said I can't recall --

14 Q. Oh, I'm sorry, you can't recall --

15 A. -- who it would be.

16 Q. Have you met with anyone from command staff on
17 the Phoenix Police Department on the issue of homelessness?

18 A. No.

19 Q. Okay. Have you met with any contractors for the
20 City of -- for the City of Phoenix or people who were
21 contractors to your knowledge about the issue of
22 homelessness within City of Phoenix?

23 A. Again, I don't know the relationship with CASS
24 and some of the others, but I have met and talked many
25 times with them, as well as going on the campus, and so

1 forth. So I don't know if they're contractors, but those
2 I have met with many times.

3 Q. Okay.

4 A. Lisa Glow and so forth.

5 Q. Say -- say that last part again.

6 A. Lisa Glow and so forth. I believe she was the
7 head of CASS for a number of years when I was coming here.

8 Q. G-l-o-w?

9 A. That's correct, I believe.

10 Q. Okay. And we can -- we can check afterwards,
11 too.

12 A. Yeah.

13 Q. Okay. Now, have you conducted a study on the
14 causes of homelessness in Phoenix specifically?

15 A. No.

16 Q. Have you ever studied policing statistics for the
17 City of Phoenix?

18 A. Besides -- no. Whatever would be included in the
19 point in time count, others -- not policing statistics,
20 no.

21 Q. So you said you've -- you would have studied
22 the -- the point in time count?

23 A. Yes.

24 Q. But -- excuse me, not policing statistics
25 specifically?

1 A. No.

2 Q. Do you know the arrest and citation rates
3 generally in the area surrounding the Human Services
4 Campus in the City of Phoenix?

5 A. No.

6 Q. Okay. So I think now we understand the extent of
7 your background.

8 Your Honor, I'm about to turn to a big
9 other subject, so if it's --

10 THE COURT: A good time?

11 MR. ARNISON: This might be a good time for
12 me to stop.

13 THE COURT: Let's do that.

14 MR. ARNISON: Okay. Thank you.

15 THE COURT: Hold on one second, sir, if you
16 would.

17 THE WITNESS: Yes, of course.

18 THE COURT: All right. At this point,
19 folks, we're going to take our lunchtime break. We'll be
20 back here at 1:30. Please remember that we start at 1:30
21 sharp, so it is probably best not to walk in the door at
22 1:30.

23 The admonishment remains in place for those
24 witnesses that have not testified.

25 When we come back, you understand you'll

1 still be under oath?

2 THE WITNESS: Yes.

3 THE COURT: And just a reminder for the
4 court reporter, please slow down when you come back.

5 With that, we're off the record.

6 THE WITNESS: Thank you.

7 COURTROOM ASSISTANT: All rise.

8 (Recess held.)

9 COURTROOM ASSISTANT: All rise.

10 THE COURT: Thank you. Please be seated.

11 All right. We're back on the record in
12 Freddy Brown, et al., v City of Phoenix, CV2022-010439.

13 Let the record reflect the presence of
14 Plaintiffs' Counsel, Defense Counsel, and we still have
15 the doctor, Dr. Glock, on the stand.

16 And you understand you're still under oath,
17 correct?

18 THE WITNESS: That is correct, yes.

19 THE COURT: All right. We're back on the
20 record.

21 Counsel.

22 MR. ARNISON: Thank you, your Honor.

23 BY MR. ARNISON:

24 Q. Dr. Glock, welcome back.

25 A. Thank you.

1 Q. Before the lunch recess you recall that we went
2 through your background, academic credentials, scholarly
3 work; do you recall that?

4 A. Yes.

5 Q. I would like to transition now over to some of
6 the theories that you have advanced in your expert opinion
7 of the reason why you're here today.

8 If at any time I'm putting words in your
9 mouth, correct me, but this part is pretty well quoted
10 directly from the report.

11 Paragraph 35 of your expert report says
12 that your takeaway is that for a number of reasons
13 providing everyone with subsidized housing or waiting
14 decades for a city to build enough market rate housing is
15 not sufficient to redress issues of homelessness within a
16 jurisdiction.

17 Do you recall writing that?

18 A. That is correct, yes.

19 THE COURT: Counsel, before you go forward,
20 what exhibit are we talking about?

21 MR. ARNISON: I'm sorry, this is his expert
22 report, which is exhibit thirty --

23 THE WITNESS: 36.

24 MR. ARNISON: 36.

25 THE COURT: 36. Thank you.

1 BY MR. ARNSON:

2 Q. Dr. Glock, you don't have any information that
3 the City is actually pursuing --

4 MR. WURMAN: Your Honor, if I may
5 interject, it is exhibit fifty -- you said 36?

6 MR. ARNSON: I said thirties. My
7 apologies, I thought I remember you saying --

8 MR. WURMAN: 53, 4, something.

9 THE COURT: It is fifty -- it is 54.

10 THE WITNESS: My apologies.

11 THE COURT: The record will reflect.

12 Go ahead.

13 BY MR. ARNSON:

14 Q. 56, 54. Okay. All right. 54 then.

15 And you also say in your fourth paragraph
16 of that report that housing first has been demonstrated
17 through a number of studies that you have reviewed to be
18 an inappropriate model or maybe I'll say an ineffective
19 model for resolving homelessness; is that right?

20 A. That is correct.

21 Q. Okay. You don't have any information that the
22 City of Phoenix is actually pursuing a housing first
23 model, do you?

24 A. I'm not sure if they have stated that they are
25 pursuing a housing first model. I know that the COC, the

1 continuum of care that does a lot of the homeless response
2 generally follows a housing first model or a permanent
3 supportive housing model, where they try to maximize the
4 number of these permanent supportive housing units.

5 Q. Have you seen any policy document from the City
6 of Phoenix in which the City has adopted or ascribed to a
7 housing first model?

8 A. No.

9 Q. Have you interacted with anyone -- any
10 representative, and by that I mean elected official or
11 management-level person at the City of Phoenix who has
12 told you that the City is implementing a housing first
13 model?

14 A. No.

15 Q. Do you have any information or have you seen any
16 documents that indicate that the City is building market
17 rate housing?

18 A. The municipal government do you mean?

19 Q. Yes, the City of Phoenix.

20 A. No, not to my knowledge.

21 Q. Okay. Do you have any information or have you
22 seen any documents that the City of Phoenix is pursuing a
23 subsidized housing model?

24 A. I do believe that the City of Phoenix is building
25 some subsidized housing units, but no, I couldn't refer to

1 a particular document for that.

2 Q. What do you base your belief on?

3 A. I seem to recall them saying in part of the
4 budget including some subsidized housing. But I -- I may
5 stand corrected, that may be through the continuum of care
6 that I mentioned earlier. I don't know if the City -- I
7 assume the City has a housing authority in which they
8 provide a subsidized housing unit.

9 Q. Do you know whether the City has such a housing
10 authority?

11 A. No, I'm not sure.

12 Q. Okay. And by through the continuum of care, do
13 you mean through -- for lack of a better term, through
14 nonprofit or third-party providers that -- that are in
15 that continuum to provide substance recovery -- substance
16 abuse recovery and those type of programs, is that what
17 you mean by the continuum of care?

18 A. Yes. The continuum of care is the main sort of
19 group that organizes federal and other homeless assistance
20 in an area.

21 Q. In other words, you say that you may be, although
22 you don't know, you may stand corrected that it
23 wouldn't -- it is not the City of Phoenix that's providing
24 that subsidized housing?

25 A. Yes, that is correct. I'm agreeing with you.

1 Q. Let's talk about another one of your conclusions,
2 this is Exhibit 54, paragraph 36. You mentioned that
3 humane enforcement -- and you mentioned here today that
4 humane enforcement of laws against public camping and
5 sleeping accompanied by sufficient alternatives like
6 shelters, campgrounds, et cetera, can make a material
7 difference; is that right?

8 A. That is correct.

9 Q. Okay. Do you -- let me put it this way. Are you
10 personally aware of what alternatives the City has
11 invested in?

12 A. I'm not sure that a vision actually between the
13 City and some of the other providers, again, the continuum
14 of care or the others. I knew there was -- there is the
15 issue of the building, the structured campground now or
16 the safe space, and I knew that for a while there was a
17 sanctioned camping area during COVID, but no, I don't know
18 which party was funding those or who exactly is paying for
19 them.

20 Q. Okay. Could that have been -- are you sure that
21 that sanctioned camping area during -- during COVID was or
22 wasn't the City of Phoenix?

23 A. No, I'm not -- yeah, I'm not sure who funded
24 that.

25 Q. Okay. Do you know what the City's budget is?

1 A. No, I do not.

2 Q. Do you know how much in general fund revenue or
3 other revenues the City has appropriated towards
4 remediating homelessness within the City of Phoenix?

5 A. No, I do not.

6 Q. Do you know how much revenue that the City of
7 Phoenix has appropriated toward remediating the issues of
8 homelessness in and around the Human Services Campus?

9 A. No.

10 Q. Okay. You explained that a lot of factors
11 contribute to individuals camping on the street. I'm
12 citing mostly to paragraphs 8 through 14 of your report.

13 A. Okay.

14 Q. And I think I can put them in broad summaries,
15 mental illness, you would agree is a contributing factor?

16 A. Yes.

17 Q. Drug addiction is a contributing factor?

18 A. Yes.

19 Q. Lack of affordable housing is a contributing
20 factor?

21 A. Yes.

22 Q. You mentioned outside temperature, the
23 comparatively pleasant or unpleasant conditions for
24 someone to reside on the street; is that right?

25 A. Yes.

1 Q. And you mentioned today and in your report that
2 that is a contributing factor to homelessness?

3 A. Yes.

4 Q. Mobility of the homeless population, particularly
5 of the unsheltered homeless population, is that also a
6 factor that contributes to homelessness?

7 A. Yes.

8 Q. Okay. You would agree that these are not factors
9 that are within the City's control, right?

10 A. I would say mobility is certainly within the
11 City's control. What I was trying to illustrate with
12 that --

13 THE COURT: Slow down just a little bit.

14 THE WITNESS: Yes, thank you.

15 I was trying to say the mobility was within
16 the City's control, because one of the things when you
17 compare different cities and their different enforcement
18 regimes or policies, those cities that do allow more
19 public camping and so forth tend to have more people
20 moving into the city, and those cities and states that
21 have less enforcement -- or sorry, have more enforcement
22 tend to have fewer people moving into them.

23 BY MR. ARNISON:

24 Q. You mentioned earlier that you have never looked
25 at the police citation and arrest records for the City of

1 Phoenix; is that right?

2 A. That's right.

3 Q. And that you don't have independent knowledge of
4 what degree of enforcement is transpiring in the City of
5 Phoenix?

6 A. No. Except that obviously there's a large number
7 of camps out there that aren't being abated.

8 Q. Well, you say obviously, but my question was
9 different.

10 My question was, do you have independent
11 knowledge of what degree of enforcement is happening in
12 the City of Phoenix?

13 MR. WURMAN: Objection, asked and answered.

14 THE COURT: Overruled.

15 THE WITNESS: No.

16 BY MR. ARNISON:

17 Q. Okay. So you can't say actually whether the
18 city's purported lack of enforcement is what's
19 contributing to the campground here in the human services
20 campus area?

21 A. I would say any sort of measure of enforcement,
22 of course, is difficult to ascertain. A city with a lot
23 of enforcement is actually going to see very low citations
24 because you don't have a lot of people moving into a
25 certain area that need to be cited, and a city with

1 actually a very high level of enforcement is not going to
2 see a lot of citations. So Los Angeles obviously has a
3 lot of homeless-related crimes, but I think most people
4 would agree today it has a very low level of enforcement.

5 I think one of the best pieces of evidence
6 for enforcement is actually the state of the streets and
7 the parks and so forth. A large number of camps kind of
8 ipso facto designates a lack of enforcement. Now, again,
9 we don't know exactly the degree of that, but clearly
10 those areas that enforce do see less public camps, those
11 areas that don't enforce see more of them, and the
12 citations would not be a perfect metric of how much or how
13 little they're enforcing.

14 Q. Fair enough.

15 So maybe a better way to phrase the
16 question is this, Dr. Glock. You -- what is a better way
17 to phrase the question? Give me -- give me a second --

18 A. Yes.

19 Q. -- and I'll phrase the question differently.

20 Okay. You're simply -- you would agree
21 that you're simply extrapolating from the experience of
22 other municipalities and then inferring that the City is
23 not doing enforcement, you don't have independent
24 knowledge of that, right?

25 A. I would say looking at the statistics on the

1 unsheltered homelessness, the increase in deaths in the
2 city, and so forth, using that knowledge to see that it
3 indicates a level of enforcement just like any other
4 factor, say citations, would be an indication of the level
5 of enforcement.

6 Q. Okay. So you -- so you think based on other data
7 that the level of enforcement is low?

8 A. Yes.

9 Q. But you don't know that the level of enforcement
10 is low?

11 A. No. There is no perfect measure to say how much
12 a city is enforcing.

13 Q. Okay, great.

14 Before we move on from this topic, I do
15 want to talk about a couple of things that you brought up
16 during -- or let's -- rather, let's move away from this
17 topic and talk about some of the numbers that you cited
18 for the service resistance within an unsheltered
19 population.

20 A. Uh-huh.

21 Q. I wrote it down, but I don't know if this -- if I
22 wrote it down correctly.

23 Did you say that 60 to 85 percent of the
24 unsheltered population, on average, is service resistant
25 and won't take placement without mandatory enforcement?

1 A. Yes. Depending on different surveys, that would
2 seem to be a reasonable range of the number of people who
3 would not take service, absent enforcement, and of course,
4 dependent on the type of services provided.

5 Q. Okay. But 60 to 85 percent, according to your
6 studies, is a number that one should expect in terms of
7 the level of service resistance absent a camping or
8 sleeping ban, that's your conclusion?

9 A. I would say so. Again, dependent somewhat on the
10 openness or the restrictions within shelters and the
11 circumstances, yes.

12 Q. Okay. Dr. Glock, I'm going to show you what's
13 been marked as Exhibit 63.

14 And if I could have the projector brought
15 up. Thank you.

16 Can you see that okay on your screen?

17 A. Yes.

18 Q. Great.

19 So what I'm showing you, I will just
20 represent to you what this is to give you the lay of the
21 land --

22 A. Uh-huh.

23 Q. -- is an exhibit that the City produced that
24 indicates the date of a cleanup --

25 A. Uh-huh.

1 Q. -- within the human services campus area, the
2 number of total people engaged, the number who accepted
3 services, and then you can see in the very far right
4 column the acceptance rate.

5 A. Uh-huh.

6 Q. Okay. So do you see where I'm looking at on that
7 first line right there, Dr. Glock?

8 A. Yes.

9 Q. 12/16/2022?

10 A. Yes.

11 Q. Okay. So the location -- I think -- would you
12 agree -- I mean, I'm representing to you that that was the
13 location that was cleaned; is that fair?

14 A. Yes.

15 Q. Okay. Total people engaged is 40; do you see
16 that there?

17 A. Yes.

18 Q. Total placed in shelters was 33; do you see that
19 there?

20 A. Yes.

21 Q. And so that leads to an acceptance rate, which I
22 confirmed with my -- with my own math, of 82.5 percent.
23 Do you agree that that looks approximately correct?

24 A. Yes.

25 Q. Okay. Now, are you aware that in December of

1 2022 the City did not have a mandatory policy that people
2 vacate the human services campus area. Are you aware of
3 that?

4 A. Yes.

5 Q. Notwithstanding the City still got an 82.5
6 percent acceptance rate for level of services. Do you see
7 that?

8 A. Yes.

9 Q. Does that surprise you?

10 A. That is much higher than you usually get for
11 these sort of camp clearances, yes.

12 Q. What about the next line from January 4, 2023; do
13 you see where I am looking?

14 A. Yes.

15 Q. Do you see that the acceptance rate of 42 out of
16 55 people is 76.4 percent?

17 A. Yes.

18 Q. Okay. Is that also higher than what you would
19 typically expect?

20 A. Yes, given your usual clearances, that is much
21 higher.

22 Q. Okay. The next line is a 43.5 percent acceptance
23 rate, which may seem to be more aligned with what your --
24 what your numbers were, although still higher than the 60
25 to 85 percent service resistance; do you agree with that?

1 A. Yeah. I said about 60 percent, but yes.

2 Q. Sure, sure. So we can continue going down the
3 spreadsheet, but you understand the point, right? And if
4 I push this up to the very bottom, you see that overall
5 the City, whether it was with enforcement in closing a
6 campground before the May 10th cleaning, or without
7 enforcement prior to the May 10th cleaning, or with
8 enforcement on and after the May 10th cleaning, the
9 acceptance rates look about the same, would you agree?

10 A. I apologize. Can you please repeat the question?

11 Q. Sure. And that's fair, I didn't ask a very clear
12 question.

13 So for all of those dates leading up to but
14 not including May 10th, the acceptance rates, you can see
15 them right there, right?

16 A. Uh-huh.

17 Q. Okay.

18 COURT REPORTER: Is that a yes?

19 THE WITNESS: Yes. Thank you.

20 BY MR. ARNISON:

21 Q. For everything from May 10th, May 31st, and
22 June 14th, 2023, you see the acceptance rates -- we don't
23 have one for 6-14-2023, but at least for 5-10 and 5-31,
24 the acceptance rates are respectively 78.3 percent and
25 84.1 percent. Do you see that?

1 A. Yes.

2 Q. So before May 10th, people didn't have to --
3 people could return and accept its services, after
4 May 10th -- on and after May 10th, people couldn't return,
5 but had the option to accept services. Is there really a
6 functional difference between say, for example, the
7 December 16th and the January 4th date and then the two
8 May dates that are right there?

9 A. I would say -- the -- you're comparing the two
10 May dates to the 14th (sic) date, is that --

11 Q. Sure. To the 16th and the 14th (sic), sure. The
12 December 16th and the January 4th.

13 A. Ah, no, yeah, if we're not including the other
14 three acceptance rates.

15 Q. Yeah.

16 A. Yeah, that's fairly similar.

17 But I would note, too, that -- as I
18 mentioned this does depend on the type of shelter. From
19 what I see the shelter bed availability, they're including
20 things such as hotels, I'm not sure exactly what the
21 bridge shelter is, those things will have higher
22 acceptance rates if you offer someone a hotel as opposed
23 to a typical shelter, you're going to have more people
24 take it.

25 Q. But you have testified that you don't know what

1 the service offerings are here in the City of Phoenix,
2 haven't you?

3 A. No. I don't know the complete service
4 offerings --

5 Q. Okay.

6 A. -- I'm just reading off the bed availability from
7 the document.

8 Q. And at the bottom there, it says that the overall
9 acceptance rate, I guess, excluding 6-14-2023 for which
10 there's no number entered, the overall acceptance rate is
11 67.7 percent. Is that -- do you see that there?

12 A. Yes.

13 Q. And you would agree that that's much higher than
14 the acceptance rate that you would expect for services
15 given your testimony earlier today?

16 A. Yes.

17 Q. Okay. Wouldn't that demonstrate to you that the
18 City's policies are working to get people off the streets
19 and into shelters?

20 A. Well, I guess there would be two factors to that.
21 If I may --

22 Q. No. Would you agree or not?

23 A. They're working to get people off the street and
24 into shelters?

25 Q. Yeah.

1 A. Well, insofar as they don't have sufficient
2 alternatives provided, they are working to get some people
3 off the street and into shelters. Obviously large numbers
4 are not accepting it. Large numbers do not have an
5 alternative provided.

6 Q. Okay. But your numbers were that you should
7 expect that 60 to 85 percent don't accept shelter, these
8 numbers are indicating that 67.7 percent are accepting
9 shelter alternatives?

10 A. Yes.

11 So, like I said, this is higher than I
12 would expect. This is a third that are still refusing
13 shelter options, which include some beyond typical
14 congregate shelter options. It may not be representative,
15 but this is higher than I would expect typically.

16 Q. Okay. You mentioned that with the policy that
17 the City's pursuing that I just showed you up there, that
18 means one-third still haven't accepted services, right?

19 A. Uh-huh.

20 Q. Okay. That's interesting.

21 Yes?

22 A. Thank you.

23 Q. I want to use your Colorado Springs example, if
24 we can, Doctor.

25 A. Uh-huh.

1 Q. You mentioned that in Colorado Springs its
2 enforcement policy -- and I'm reading from your report, in
3 paragraph 19 -- was effectively in getting roughly 2/3 of
4 the homeless population sheltered.

5 Do you remember writing that?

6 A. Yes.

7 Q. Okay. So how is your approach and what the City
8 is doing, with or without mandatory enforcement,
9 functionally different. If in Colorado Springs they were
10 able to shelter 2/3, which meant 1/3 was still
11 unsheltered, then that means that the City's efficacy is
12 about the same as what you're citing in your report; isn't
13 that true?

14 A. Well, I would clarify. I mean, sheltered by
15 which I meant go inside somewhere. The majority of that
16 2/3 was not in a shelter. Some of them were returning to
17 families, some of them were returning to work, some of
18 them went to treatment. So, yeah, you had about 2/3 that
19 went into a more secure location but not a shelter per se.

20 Q. Okay. But we're talking about getting people off
21 the street?

22 A. Yes.

23 Q. All right. So if they're not on the street, what
24 do we care where they are going, right?

25 A. Well, the important thing is --

1 MR. WURMAN: Objection, it calls for --
2 he's asking him to speculate about the City and its
3 intentions and what they care about, and I'm also actually
4 unclear as to who "we" is in the question.

5 THE COURT: Okay. Just rephrase your
6 question.

7 MR. ARNISON: Sure, I can, your Honor.
8 By MR. ARNISON:

9 Q. My point is, is that whether they are in shelter
10 or going back with family, the point of this lawsuit, are
11 you aware, is that the Plaintiffs want to see the area
12 around the Human Services Campus and their businesses
13 cleaned up, you're aware of that?

14 A. Yes.

15 Q. So does it make a meaningful difference whether
16 they accepted services in a shelter -- in a shelter
17 congregate capacity, or whether they went home, or whether
18 they went elsewhere, does that make any difference to your
19 analysis?

20 A. No.

21 The difference -- the distinction between
22 the Colorado Springs and the cleanups you cited wouldn't
23 be the number of people that were sheltered substantially
24 or moved to a different location, it would be the portion
25 of the unsheltered that were moved into a different

1 situation.

2 So 2/3 of a very small number of the total
3 will not be a substantial amount of enforcement, while 2/3
4 of a very -- of the entire population of unsheltered in
5 Colorado Springs would be significantly more enforcement.

6 Q. Okay. But still, regardless, you know that a
7 third in Colorado Springs remained on the street?

8 A. Yes.

9 Q. You understand that?

10 A. Yes.

11 Q. And that's what your report says?

12 A. Yes.

13 Q. Okay. So you wouldn't characterize enforcement
14 as a fix for all homelessness, would you?

15 A. No. There is no fix for all homelessness.

16 Q. I would agree -- I would agree with that.

17 A. Yes.

18 Q. Let's talk about -- is it Burien or Burien?

19 A. I think it is Burien.

20 Q. -- Burien, Washington, which you mentioned a
21 couple of times during your -- during your testimony here
22 today.

23 You reported in paragraph 20 of your report
24 that between 1/2 and 3/4 of the homeless population left
25 the area that was an encampment, right?

1 A. Yes.

2 Q. Okay. You don't have any independent knowledge
3 of where those people went, do you?

4 A. No, we don't.

5 Some of it is definitely due to the
6 mobility of the homeless, which I described earlier. A
7 city that has enforcement is going to have more people
8 there -- or sorry, a city that conducts enforcement is
9 going to have more people move away from outside. A city
10 that doesn't have enforcement will have more people move
11 into the city.

12 Q. Okay. That is your overall conclusion, I
13 understand that. But you don't know if they actually
14 accepted services or continued sleeping outside elsewhere,
15 do you?

16 A. I believe the number who accepted services in
17 that case was less than 10. Some were returned to
18 families, and again, as I said, only one was arrested. So
19 the majority were lost contact with, I believe, which is
20 not uncommon.

21 Q. Okay. They could have gone to other cities, you
22 would agree?

23 A. Yes.

24 Q. They could have become Seattle's issue or
25 Tacoma's issue?

1 A. (Nods head.)

2 Q. Is that a yes?

3 A. Yes. And they could have originally been
4 Seattle's issue depending how the city was enforcing and
5 the sort of environment they had for the homeless.

6 Q. They could have put themselves in a situation
7 that was better or worse than the situation where they
8 were in Burien, we just really don't know for the most
9 part, right?

10 A. Yes.

11 Q. Okay. Let's look at Austin. You mentioned out
12 in the hallway that you're from Austin?

13 A. That's correct.

14 Q. And do you presently live in Austin or --

15 A. Yes, I do.

16 Q. Okay. So you mentioned that Austin's voters --
17 after the city council voted to stop enforcing their
18 camping ban, voters of Austin voted to reinstate it; is
19 that correct?

20 A. Yes.

21 Q. In about 2021 or so?

22 A. Yeah, it was; now that I remember it was
23 mid-2021.

24 Q. Okay. You wrote in paragraph 20 that in Austin,
25 Texas, after reinstatement of a camping ban, there were

1 substantial reductions in public camping and only one
2 reported arrest after the first year.

3 Did you -- do you recall saying that?

4 A. Yes.

5 Q. Okay. You know that the source that you cite for
6 that proposition in paragraph 20 is a local news article.

7 Are you aware of that?

8 A. Yes.

9 Q. And it is by Maria Aguilera, the title is "One
10 Year After Voters Reinstated the Camping Ban, Austin's
11 Homeless Woes Continue." Are you aware that that is the
12 title?

13 A. That is the title, yes.

14 Q. So based on that title, I think it is probably
15 fair to say that this purported solution didn't resolve
16 the homelessness issue within the City of Austin?

17 A. Again, there is no solution to homelessness, but
18 what the later point in time count showed, the count of
19 homelessness, is that you saw a substantial reduction in
20 the number of unsheltered. I apologize, the total number
21 was about 2,500 homeless in Austin, and that went down
22 after the camping ban was in place, but most importantly,
23 you saw a reduction in the unsheltered and an increase in
24 the sheltered. So you had numbers of people move off the
25 streets into the shelters.

1 Q. Are you aware that that same article says that
2 that year homelessness increased in Austin?

3 A. There was no point in time count that year, so
4 that was speculation.

5 Q. Okay. But that is what the article says though?

6 A. I don't recall they said that, but if they did,
7 that was incorrect.

8 Q. Do you know that according to the article upon
9 which you rely that the mayor of Austin has stated
10 enforcement has made getting services to people harder?

11 A. Yes. The mayor was part of the people who
12 repealed the original camping ban, so of course, he was
13 against reinstating it.

14 Q. And regardless, you know that the source that
15 you're relying on says that?

16 A. Yes, which is also somewhat surprising showing
17 that the quote --

18 Q. So --

19 A. -- showing the increase number of people in
20 shelter.

21 Q. So isn't it true then, and it also mentions in
22 that article, that enforcement by the City ended up waning
23 within that year?

24 A. I don't think that's correct. We have seen the
25 pace of enforcement slow down in the sense of they weren't

1 continually increasing enforcement, but you have nowhere
2 seen a return to the previous level of nonenforcement.

3 Q. Okay. It was your testimony earlier that many
4 individuals suffer from mental illness issues; is that
5 right?

6 A. Yes.

7 Q. And addiction issues?

8 A. (Nods head.)

9 Q. Yes?

10 A. Yes.

11 Q. Okay. So by instituting this ban, is it fair to
12 think that it took a population that's largely mentally or
13 physically ill in some way and just moved them to a
14 different spot or to a different jurisdiction other than
15 the City of Austin?

16 A. Some certainly moved, but as I said you saw an
17 increase in the number of people in shelter and similar
18 sort of enforcement campaigns that I cited showed things
19 like decreases in homeless deaths and decreases in crime
20 against the homeless and so forth.

21 Q. Sure, sure.

22 Okay. So turning aside, turning from
23 enforcement for a second, let's talk about the structured
24 campgrounds. You're aware -- when did you become aware
25 that the City of Phoenix is proposing a safe outdoor space

1 or what you refer to as a structured campground?

2 A. I know they have been discussing it for years. I
3 don't know the most recent iteration of that, but I have
4 been privy to those discussions for at least three years.

5 Q. Privy to those discussions with whom?

6 A. Or sorry. Just publically and the debates with
7 the City who was testifying at the same time when I would
8 go to the state legislature, and et cetera, they were
9 discussing these kind of proposals.

10 Q. You reminded me of something, I'll switch gears
11 real quick, before we get to structured campgrounds, you
12 reminded me of a point about state legislatures.

13 A. Uh-huh.

14 Q. You mentioned that you've testified before a
15 number of policymaking -- I call them policymaking bodies,
16 are we on the same page when I say that?

17 A. Yes.

18 Q. Okay. You mentioned state legislatures as one of
19 those types policymaking bodies?

20 A. Yes.

21 Q. How many legislatures have you testified before?

22 A. Well, Missouri, Kansas --

23 THE COURT: Slow down.

24 THE WITNESS: Yes.

25 Missouri, Kansas, Georgia, Tennessee,

1 Texas, Arizona, I think that may be it. Maybe at five or
2 six or so.

3

4 BY MR. ARNISON:

5 Q. I wrote around six.

6 A. And many times to each of those legislators, and
7 if we're -- testimony before policymaking bodies, also to
8 just finish off a report for the mayor of Dallas's
9 homeless task force of which I was a member.

10 Q. Okay. So we named six states, you named six
11 states, you've actually been working with the mayor of
12 Dallas on the homelessness task force?

13 A. That's correct.

14 Q. What other city -- any other City Councils or
15 council members in their -- not individually but like in a
16 formal official capacity?

17 A. Yes, the City of Austin. I've discussed with the
18 mayor and other city council members the homelessness
19 policy.

20 Q. Okay. Anyone else that you can think of?

21 A. I mean, many other people, but no, not off the
22 top of my head unless you want to specify an area.

23 Q. No, and I can't. So...

24 A. Okay.

25 Q. But you mean -- but that is to say you have

1 testified before policymaking bodies on a number of
2 occasions, right?

3 A. That is correct.

4 Q. And you have testified earlier that you never
5 testified as an expert in court, right?

6 A. No.

7 Q. All right. Let's switch back to the structured
8 campground issue. The City of Phoenix I'll represent to
9 you, as you I think have heard earlier represented by the
10 plaintiffs to the two plaintiff representatives in this
11 case, that the City is pursuing a safe outdoor space
12 alternative. Do you -- you were here and present for that
13 testimony?

14 A. Yes.

15 Q. Okay. You mentioned that depending on the level
16 of services, the cost can range wildly; is that fair to
17 say?

18 A. Yes.

19 Q. You mentioned at the low end a \$100?

20 A. Uh-huh.

21 Q. Is that a yes?

22 A. Yes, it is.

23 Q. An at the high end I think you said \$5,000; is
24 that right?

25 A. For the operating costs?

1 Q. Well. I don't -- you said -- it will cost per
2 bed between 100 bucks and \$5,000?

3 A. I think I said -- yes, for the capital cost I saw
4 in the range of, yeah, \$100 to around 5,000. I'm sure
5 there are higher ones out there.

6 Q. Sure. Okay. So for the capital cost, I want to
7 make sure I understand what that might include for a \$100
8 structured campground per site, which sounds really low to
9 me.

10 Okay. The cost of the land?

11 A. That would not include the cost of the land.
12 That was capital cost if the land was available. That was
13 from the --

14 Q. Well, that's an important distinction, would you
15 agree?

16 A. That is an important distinction, yes.

17 Q. Okay. So grading and any drainage that has to be
18 done on the property, would you agree that would
19 necessarily have to be done?

20 A. No, not necessarily. So, again, the Esperanza
21 Community that was set up outside of Austin did not have a
22 new grading or anything --

23 Q. Okay.

24 A. -- or any substantial change in the layout of the
25 land.

1 Q. So a municipality or jurisdiction may have to,
2 may not have to; is that fair to say?

3 A. Yes.

4 Q. There may have to be an environmental site
5 assessment done on the property?

6 A. They may have to, but many cities have done that
7 without that.

8 Q. Okay. There has to be the cost included of some
9 sort of structure to provide shade, you mentioned shade,
10 right?

11 A. Some places have shade, which is obviously
12 preferable, some don't.

13 Q. Okay. You would agree that in a place like
14 Arizona, considering our walk across the street to lunch
15 today, that shade would be preferable?

16 A. Most definitely, but the one thing that I will
17 add to that, of course, the people that are living on the
18 streets today do not have shade usually.

19 Q. But it would be preferable?

20 A. Yes.

21 Q. Okay. You would agree that some sort of cooling,
22 particularly in the southwest here in Phoenix, would
23 probably be ideal?

24 A. It would be ideal. Most of the campgrounds that
25 I know of in the west and southwest do not have cooling.

1 Q. Okay. What about toilets, sanitation facilities?

2 A. Yes.

3 Q. They have to have those, right?

4 A. Yes.

5 Q. What about water, a water source, whether running
6 or whether, you know, trucked in?

7 A. Yes. This would -- usually when I've seen them,
8 they have had and they brought some large water source
9 that people can get something out of.

10 Q. So we noted that the necessary components,
11 excluding land costs, which is another -- which is another
12 price?

13 A. Uh-huh.

14 Q. Could minimally include shade, water, toilets,
15 and the capital cost you're saying could be as low as
16 \$100?

17 A. If the sanctioned campground is merely a
18 fenced-off area where people can sleep, it can be that
19 low. Other ones, as I said, are much higher, and some
20 have just done something in between, which is provide some
21 water and porta potties and that's pretty much it. Others
22 have gone shade, electricity even is currently being set
23 up in one. So, yes, there's a very big range, but if you
24 just -- if the City just left the space aside and said you
25 can camp here and provide police protection, then the

1 capital costs are basically nil.

2 Q. What about security services?

3 A. Yes. Some provide -- I believe the Camp
4 Esperanza was trying to provide 24-hour security of the
5 Esperanza Community. I think most of the time it was just
6 a security camera. Some provide round-the-clock security,
7 some don't, and that would be an operating cost.

8 Q. Okay. Looking at your expert report,
9 paragraph 24, you are mentioning a tiny home, which I
10 guess is different than structure -- you would
11 characterize it as different than structured campsites,
12 correct?

13 A. I've heard some people refer to them as part of
14 the -- some structured camps I've seen have had tiny homes
15 on them --

16 Q. Oh, I see.

17 A. -- but yeah, I would say it is generally
18 distinct.

19 Q. But in Oakland, we know at least -- excuse me,
20 Seattle, \$2,200?

21 A. That was the report, yeah, from the Goldman
22 School of Public Policy.

23 Q. \$2,000 per site in San Francisco?

24 A. Yes.

25 Q. \$5,000 per individual in Oakland?

1 A. Yes.

2 Q. And it says that the study, the one that you're
3 referring to in paragraph 24, also estimated sanctioned
4 tents cost about \$100 per unit?

5 A. Yeah.

6 Q. Is that what you meant?

7 A. Yeah.

8 Q. So not that the entire campground capital cost is
9 a hundred dollars?

10 A. Oh, I believe that was all they were referring
11 that was provided, they just provided the tent. So, yes,
12 if there was anything else provided, that would certainly
13 cost more.

14 Q. If my math is right, that means that on the low
15 end your estimate is that it will cost -- it could cost a
16 municipality in the neighborhood of \$40,000 on the low end
17 to \$2 million on the high end?

18 A. For what number of individuals?

19 Q. For 400 individuals.

20 A. On the high end, if you're doing my math
21 correctly, which I'll trust you, I would say yes.

22 Q. I am. I tried it twice.

23 A. Okay, good.

24 Q. Okay.

25 A. Yes.

1 Q. So that's a pretty broad range, you would agree
2 with that?

3 A. Yes, absolutely.

4 Q. Would you agree that that's a decision, the
5 decision whether to expend revenues on, say, a structured
6 campsite that could cost anywhere between \$40,000 and
7 \$2 million is a matter that should be left to the
8 legislature to determine, right? And by legislature, I
9 mean the City of Phoenix.

10 A. Do I think that's a matter that should be left to
11 the legislature or the City of Phoenix?

12 Q. Do you agree that it is a matter that's left to
13 the legislature?

14 A. No, I wouldn't comment on that. I don't know for
15 sure.

16 Q. Okay. You mentioned that you testified before
17 this Arizona State Legislature here in the State of
18 Arizona, right?

19 A. Many times, yes.

20 Q. I know of at least two. Okay. So in 2020 -- you
21 were previously with the Cicero Institute?

22 A. That's right.

23 Q. Which is another think tank you testified
24 earlier, right?

25 A. Yes.

1 Q. Okay. So in 2021, you and Cicero were involved
2 in crafting a house bill, I'll represent to you the number
3 is 2668. Does that sound familiar?

4 A. That sounds right.

5 Q. Okay. And this house bill in 2021 was based on a
6 model bill that was promulgated by the Cicero Institute;
7 is that right?

8 A. I forget how closely it followed it, but we
9 certainly worked with a bunch of legislators in Arizona
10 that we hoped would follow our model.

11 Q. Okay. And HB2688 would have required the
12 Department of Health to redirect money it currently
13 allocates to cities and nonprofits to establishing
14 structured camping areas, right? I mean, is that the sum
15 and substance of what the bill would have required?

16 A. There were a lot of other parts, if I remember;
17 but, yes, I think that was part of it.

18 Q. Sure.

19 It would have made it unlawful for any
20 person to knowingly camp or set up long-term shelters
21 except in structured camping facilities; does that sound
22 familiar to you?

23 A. Yes.

24 Q. And then it would withheld -- the bill would have
25 withheld state funding from cities or towns with a certain

1 per capita rate of homelessness for lack of a better term;
2 is that a fair representation?

3 A. Yes.

4 Q. Okay. Did that bill ever make it out of the
5 legislature?

6 A. No. I forget how far. It might have passed one
7 of the chambers, but I forget how far it went.

8 Q. So it never made it to the governor's desk?

9 A. No.

10 Q. What about in 2022, you came back to the
11 legislature, right?

12 A. Yes.

13 Q. Okay. And that was for SB -- I'll represent to
14 you that it was SB1581, does that sound familiar?

15 A. I will absolutely trust you on that one.

16 Q. Okay. And SB1581 would have provided grants to
17 municipalities and counties to establish structured
18 camping sites or tiny homes; does that sound familiar to
19 you?

20 A. Yes.

21 Q. And it would have terminated funding to local
22 governments that refuse to enforce certain ordinances
23 with -- related to sleeping and camping; does that sound
24 familiar to you?

25 A. I knew it went through many iterations, but yes,

1 I know that was in some of them.

2 Q. Sure. And then did that bill ever advance to the
3 governor's desk?

4 A. No.

5 Q. Do you know if it died in committee or if it
6 passed one chamber?

7 A. I believe, again, that passed the senate, I
8 think, that year.

9 Q. Okay. So you tried to get the legislature to
10 adopt something similar to the approach that you're
11 proposing today in 2021, right?

12 A. Yes. Except, of course, it was statewide --

13 Q. Sure.

14 A. -- and there was many variations, but yes, there
15 were similar policy proposals there that I testified for.

16 Q. And you tried in 2022 to get something similar
17 pushed through the legislature, right?

18 A. I testified in favor of it, yes.

19 Q. And both times our elected officials declined to
20 adopt what you were proposing; is that correct?

21 A. Yes.

22 MR. ARNISON: If you'll give me one minute,
23 your Honor, I think I might be nearing the end.

24 I have no further questions, your Honor.

25 THE COURT: All right. Thank you.

1 Any redirect?

2 MR. WURMAN: Yes, your Honor.

3 Your Honor, may I approach the witness with
4 Exhibit 35?

5 THE COURT: Please.

6 THE WITNESS: That must have been what I
7 was thinking of when I said 36.

8

9 REDIRECT EXAMINATION

10 BY MR. WURMAN:

11 Q. Well, let me ask you the question.

12 Dr. Glock, can you describe the exhibit
13 that's in front of you?

14 A. That's my CV that I provided to the court.

15 Q. And I think you already went over some of this
16 just now with Mr. Arneson, but on page 3, it describes
17 your testimony to the -- does it describe your testimony
18 on homelessness to the Arizona legislature, the Georgia
19 legislature, the Missouri legislature, the Tennessee
20 legislature, and the Texas legislature?

21 A. Yes, and I have since testified in Kansas, as I
22 mentioned.

23 Q. Why did those legislative bodies reach out to you
24 to provide testimony on homelessness?

25 A. Because I have been working --

1 MR. ARNISON: Objection, it calls for
2 speculation.

3 THE COURT: If you can just establish
4 foundation on it. Sustained.

5 BY MR. WURMAN:

6 Q. Did you have any communication with the
7 legislators about calling you to testify at those
8 proceedings?

9 A. Yes. They --

10 Q. Can you describe the nature of those -- let me
11 ask this a different way.

12 Do you have an understanding as to why you
13 were asked to provide testimony?

14 A. Yes. It was that they had appreciated my work
15 and research on homelessness.

16 Q. When you testified -- well, it shows you
17 testified in the Arizona legislature, have you visited The
18 Zone?

19 A. Yes, I have.

20 Q. How many times?

21 A. Probably around two, three.

22 Q. But, Dr. Glock, on page 4 of your CV, actually
23 before we get there, on the bottom of page 3, sort of that
24 third entry from the bottom. Did you write a research
25 paper for the Cicero Institute entitled "Housing Costs and

1 Homelessness"?

2 A. Yes.

3 Q. Can you describe for the Court what a research
4 paper is as opposed to the other things that are on your
5 CV?

6 A. Yeah. A research paper is -- sometimes called a
7 white paper in the think tank world, is basically a review
8 of the evidence and an examination of the evidence about
9 some topic, and in that case I was looking at the
10 relationship between housing costs and homelessness.

11 Q. And does your academic degree qualify you to do
12 that research?

13 A. Yes, it does.

14 Q. On page 4, the fourth entry from the bottom, did
15 you write a research paper for the Cicero Institute
16 entitled "Housing First is a Failure."

17 A. Yes.

18 Q. And if we go a third from the bottom, did you
19 write another research paper entitled "Solving Texas's
20 Street Homelessness Problem."

21 A. Yes.

22 Q. And then if we go to the next page, the second
23 entry, did you write another research paper entitled
24 "Solving the Homelessness Crisis in San Francisco."

25 A. Yes. And I would just note that if -- if we're

1 mentioning it, that some of those were cited by the New
2 York Times, CNN, and so forth.

3 Q. Thank you, Dr. Glock.

4 Do you know whether the City of Phoenix has
5 an anti-camping law on the books?

6 A. My understanding is that they do have an
7 anti-camping law on the books.

8 Q. Well, let me ask a question this way, if a city
9 has an anti-camping law on the books and individuals are
10 pitching tents on the streets in violation of that
11 anti-camping laws for months on end, would you say that
12 the City is enforcing the anti-camping ban or would you
13 say it is not enforcing the anti-camping ban?

14 MR. ARNISON: Option, compound, leading.

15 MR. WURMAN: Would you -- let me rephrase,
16 your Honor.

17 THE COURT: If you would like to. I'm
18 going to overrule the objection.

19 MR. WURMAN: You may overrule the
20 objection.

21 THE WITNESS: Yes. As I stated before, the
22 existence of camps and public camping is obviously
23 evidence of a lack of enforcement to some extent.

24 BY MR. WURMAN:

25 Q. Thank you.

1 Dr. Glock, I don't remember -- oh, it might
2 have been left here. I want to ask you -- I won't ask you
3 specifically about the exhibit that they showed you, but
4 this has to do with the number of unsheltered individuals
5 who accepted services in the recent enhanced cleanups or
6 enhanced engagement as the City calls it, so I'm going to
7 ask you about that, and I'm going to return to opposing
8 counsel their copy.

9 Were you here in court today earlier when
10 one of the witnesses testified or it might have been
11 counsel asking questions and counsel indicated that these
12 cleanups were advertised?

13 A. Yes.

14 Q. Do you recall for what period of time they were
15 advertised before the actual engagements?

16 A. I forgot, but it was many days or weeks before if
17 I remember.

18 Q. Now, in light of that advertisement, is it
19 possible that individuals from elsewhere in the zone who
20 wanted to accept services relocated to the streets that
21 were going to be subject to the cleanups because they knew
22 they would have the opportunity to receive services if
23 they did so, is that possible?

24 A. It is possible, and I know it is typical in a lot
25 of cities that have encampment abatements to not give

1 excessive notice precisely because of the concern that
2 some people are moving in. Usually that involves some
3 sort of permanent supportive house or transitional housing
4 availability, but yes, there's a large -- a widespread
5 understanding that sufficient notice with some additional
6 services will allow some people to move into that area or
7 could allow some people to move into the area.

8 Q. If I represent to you that the preliminary
9 injunction in this proceeding was issued at the end of
10 March -- I think it was the end of March, but if I
11 represented to you that it has been about three months
12 that the City has had this preliminary injunction order,
13 that is three months' worth of these enhanced engagements
14 cleanings that have gone on, correct?

15 A. Yes.

16 Q. Do you still have Dr. Harris's expert report in
17 front of you, I believe it is Exhibit 71?

18 A. I do.

19 Q. Can you look at the bottom of page 11, please?

20 THE COURT: And, Counsel, I just want to
21 make sure we're not going beyond the scope of cross, is
22 this something new or are you addressing something that
23 came up on cross?

24 MR. WURMAN: She has precise numbers about
25 how many were engaged in accepted services. I believe it

1 is the bottom of page 11.

2 THE WITNESS: Okay. Yes.

3 BY MR. WURMAN:

4 Q. And do you see that at the bottom it says 205
5 individuals in The Zone accepted services during these
6 enhanced engagement since this Court's order?

7 A. Yes.

8 Q. If I represent to you that 205 out of 800
9 individuals is approximately 25 percent of the -- that 205
10 out of 800 is approximately 25 percent, does that seem
11 accurate to you, 200 out of 800, just the math?

12 A. Just the math, yes, I can confirm that.

13 Q. Okay. So we're talking about in a period of
14 three months in which numerous engagements were advertised
15 and the promise of services were advertised, only 200
16 individuals in a three months' period within The Zone
17 accepted those services, correct?

18 A. Yes.

19 THE COURT: For the record it is Exhibit 71
20 we're talking about, correct?

21 MR. WURMAN: Yes, your Honor, Exhibit 71.

22 THE COURT: Go ahead.

23 BY MR. WURMAN:

24 Q. Is that number more consistent with the numbers
25 in the other studies you referred to earlier about service

1 resistance and those who would willingly -- rather, is
2 that number consistent with the earlier studies you cited
3 about the proportion of individuals who would accept
4 services if offered to them?

5 A. It is tough to say, because as you said, it's --
6 we don't know how representative that total is of the
7 total number in the zone, but it could be more
8 representative.

9 Q. Okay. Thank you.

10 Dr. Glock, I'm tempted to ask this in a
11 leading way, but are you a lawyer?

12 A. No, I'm not.

13 Q. Thank you.

14 As a nonlawyer, do you know, one way or
15 another, whether cities have discretion to violate law?

16 A. I believe they do not.

17 Q. Okay. Fair enough.

18 Do you know, one way or another, whether a
19 state legislature's refusal to adopt a proposal has any
20 bearing on whether a city might or might not have to adopt
21 a similar proposal as a result of litigation? Do you have
22 any knowledge, independent basis, to know one way or the
23 other?

24 A. Yes. It has no -- it has no bearing on the city
25 adopting or following the law.

1 MR. WURMAN: No further questions. Thank
2 you.

3 THE COURT: Thank you.

4 Bear with me for a second, folks, here.

5 Doctor, early on, during your
6 Direct Examination you made the statement, it is kind of a
7 blanket statement, but I think it is kind of the gist of
8 your testimony -- excuse me -- and this is my paraphrase.
9 When camping bans and quality of life laws are enforced
10 you see a decline in homelessness and you also see an
11 improvement in the neighborhoods.

12 At the time you were citing other studies
13 for that opinion. I need to know is that your opinion as
14 well or were you just citing it as a reference that you
15 relied on off something else?

16 THE WITNESS: That is my opinion based on
17 studies and the circumstances of previous encampment
18 enforcements.

19 THE COURT: Okay. Thank you.

20 There's been some discussion regarding
21 structured campgrounds or even the tiny home communities,
22 the question that the Court has on this, what kind of
23 dependency do you see develop from the unsheltered
24 population that moves into a structured campground or
25 moves into a tiny home community, is it truly transitional

1 or does it become a dependency where now you have provided
2 housing and you have to keep providing that housing?

3 THE WITNESS: It certainly depends on the
4 campground.

5 So the Esperanza Community in Austin they
6 have made it more or less permanent for the people that
7 stay there. Some of the other structured campgrounds that
8 I mentioned, some of the ones outside of Seattle and
9 Portland, did a very good job of trying to transition just
10 about everybody in the camps out. Sometimes they set time
11 limits on that, sometimes they don't. But I mentioned, I
12 believe, also the Ontario, California, camp, which was
13 eventually closed down because they succeeded in moving
14 everyone out of the camp.

15 THE COURT: Okay. Give me a sec.

16 And to ensure the transitional nature, I
17 think you just said sometimes they set time limits, what
18 other activities have you seen to make sure that this type
19 of housing doesn't become permanently taxpayer-funded
20 housing?

21 THE WITNESS: Mostly it is encouragement.
22 My understanding there's just intense engagement inside of
23 those. Some of them have more or less informal time
24 limits to encourage them, people to move to the next step.
25 Most shelters in America try to encourage say six months

1 or less stay, which is basically the federal requirement
2 to be a short-term shelter. So some are trying to use the
3 engagement, they use informal pressure and time limits.

4 THE COURT: All right. Thank you.

5 All right. Do Plaintiffs have any
6 follow-ups to the questions the Court has asked?

7 MR. WURMAN: No, your Honor.

8 THE COURT: For the defense?

9 MR. ARNISON: No, your Honor. Thank you.

10 THE COURT: All right. At this point you
11 can step down.

12 THE WITNESS: Thank you, your Honor.

13 THE COURT: Does either party believe this
14 witness should be available for recall?

15 MR. WURMAN: We do not. He has a flight to
16 catch, and we are okay without any recall.

17 THE COURT: For the defense?

18 MR. ARNISON: No, your Honor.

19 THE COURT: All right. Thank you.

20 At this point you can step down. Thank you
21 for your time.

22 THE WITNESS: Thank you, your Honor.

23 MR. WURMAN: Your Honor, the Plaintiffs
24 rest. Thank you.

25 THE COURT: Thank you.

1 Try clicking it off and see if it works.

2 Try it now. Try it now.

3 MR. ARNISON: Ours is off, too.

4 MR. WURMAN: We're happy to put their case
5 on for them, your Honor.

6 THE COURT: Try the lectern, if you would.

7 And if you can call CTS.

8 MR. PIERCE: You won't do a good enough
9 job.

10 Your Honor, before we -- before we present
11 our -- our side, we just wanted to make a judgment as a
12 matter law motion. It would not be under Rule 50, that's
13 when jury is empanelled. I believe the correct rule would
14 be Rule 52(c) as it is being tried before the Court.

15 Just -- if I could just briefly for the
16 record articulate the reasons. I'm not going to go into
17 all of the details because we have summary judgment
18 motions pending, so those issues, of course, that have
19 already been briefed.

20 But even today, your Honor, the burden is
21 on the Plaintiffs to demonstrate that they are entitled to
22 the relief that they have requested, and there are a
23 couple of things that are very clear from the evidence
24 that has been put on that the Plaintiffs cannot meet their
25 burden on, and one is the issue of causation. It appears

1 that prior to today the issue of causation has been
2 decided based on at least in large part a suggestion that
3 the City has somehow provided courtesy rides to the area
4 which has contributed to the problem, but the evidence
5 that's been presented today simply cannot support that.

6 At a maximum we have testimony that shows
7 over the last several years, maybe 20 to 25 times that has
8 happened where the City has provided a courtesy ride to
9 somebody to the downtown area to receive services and in
10 those situations the evidence and the testimony was they
11 don't know where those people went after that.

12 Now, there was testimony that the Community
13 Bridges Association or somebody has been doing that, but
14 your Honor, that's not the City of Phoenix. We have no
15 control over what other organization or group brings
16 people down for services and where they go from there. So
17 the issue of causation to the extent it is -- it is riding
18 on the City providing courtesy rides into the downtown
19 area, the evidence is insufficient for that.

20 As it pertains, your Honor, to the issue --
21 I'm sorry, not the issue, the legal immunity issue --

22 THE COURT: Before you go to that, let me
23 ask you a question about the arguments you just made.
24 Aren't there really two issues here? I guess under the
25 umbrella of causation, one is whether or not the City

1 created the nuisance, the other is whether or not the City
2 is maintaining the nuisance, because I think under Arizona
3 Law both are prohibited.

4 So what about maintenance?

5 MR. PIERCE: Your Honor, that's where we
6 would get to our arguments, which we have also briefed in
7 the summary judgment proceedings, which I realize you
8 haven't had the chance to get to. However, the evidence
9 would still have to show that the City is actually taking
10 an affirmative act to maintain the nuisance.

11 If -- assuming that there is a nuisance,
12 what is the -- what is the City's duty and responsibility
13 at that point in time to -- if the City did not cause the
14 nuisance, the City has no duty under the law to abate the
15 nuisance, and that would be our argument as is it pertains
16 to the causation element.

17 The immunity issue though, your Honor, is
18 also a critical one, because the evidence that has been
19 presented here today, it is a -- it is a legal matter,
20 however, you may recall that one of the plaintiffs I asked
21 him specifically about the City's exercise of discretion,
22 the City's need to determine maintenance of facilities,
23 the hiring of personnel, the provision of government
24 services, a determination of whether and how to spend the
25 existing resources of the city, and of course, the

1 plaintiff had to agree that all of those things were in
2 play. And, your Honor, that is a verbatim recitation of
3 A.R.S. 12-820.01, the absolute immunity provision, which
4 the City cited in its -- the very -- in the answer to this
5 case as an affirmative defense that this was always an
6 issue here. That the City cannot be held liable for the
7 exercise of these discretionary functions.

8 And so, your Honor, based on that, our
9 motion to the Court is that the Plaintiffs have not met
10 their burden as a matter of law to demonstrate that they
11 are entitled to relief in this setting and we would ask
12 that the Court grant our -- what's effectively a directed
13 verdict motion at this time.

14 THE COURT: All right. Thank you.

15 For Plaintiffs.

16 MR. WURMAN: Yes, your Honor, just a few
17 things. I think your Honor hit the nail on the head when
18 your Honor identified maintenance of a nuisance as being
19 illegal under Arizona Law. I cited that in my opening
20 today, A.R.S. 36-6014, "Any place that is controlled or
21 operated by any governmental agency and that is not
22 maintained in a sanitary condition is a public nuisance
23 dangerous to the public health."

24 And of course, there were the provisions of
25 the restatement, which your Honor remembers from this

1 morning. "A possessor of land upon which a third person
2 carries on an activity that causes a nuisance, it is
3 subject to liability for the nuisance if the possessor
4 knows or has reason to know of the activity and consents
5 to the activity or fails to exercise reasonable care to
6 prevent the nuisance." That's 838. And of course, 839 is
7 similar.

8 On the point about discretion, you know,
9 the Plaintiffs here, they aren't lawyers, they're ordinary
10 people trying to get on with their lives, and you know,
11 any gotcha question about discretion notwithstanding, the
12 City knows, as well as we do, that the question of whether
13 to exercise discretion is not itself discretionary when
14 there is a public nuisance.

15 The case law that we have cited to your
16 Honor says that the City must abate public nuisances,
17 especially on the streets, but not only that, your Honor,
18 here the city is responsible for the nuisance because it
19 is their land. So that's tantamount to saying that
20 they're violating the law, they're violating A.R.S. 36
21 -6014. There is no discretion to violate the law. This
22 Court can order them to cease violating the law, this
23 Court can order them to cease abating the nuisance, the
24 precise contours of how they do that is up to them. We
25 have shown that there is numerous options available,

1 including the sanctioned campsite, which they are only
2 operating or beginning to operate because of this Court's
3 order.

4 In other words, once this Court told them,
5 you actually don't have discretion to operate a nuisance,
6 all of a sudden it turns out they had sufficient ingenuity
7 to come up with solutions to abate that nuisance, just
8 like our Plaintiffs have to come up with ways to comply
9 with government laws and government regulation. They
10 don't have the choice to say that it is too expensive or
11 too hard or I need more time. It is the same with the
12 City, they don't have the discretion to violate the law.

13 Thank you, your Honor.

14 THE COURT: Thank you. Any follow-up?

15 MR. PIERCE: Just very, very briefly in
16 response to that, your Honor. You know, behind -- I live
17 in Mesa and fairly close to the 202 freeway. Some
18 evenings there are some motorcycle racers that just drive
19 us crazy, the noise. It is a nuisance.

20 Under their argument of nuisance abatement,
21 I can sue the City of Mesa and compel them to put officers
22 out there and to stop those motorcycle racers along the
23 202 and give them tickets, and that's simply not the law.

24 It is -- it is an extension of the law that
25 goes well beyond what -- what -- certainly what existing

1 case law is. I appreciate very much the testimony of
2 Mr. Glock -- Dr. Glock. However you noted that he's
3 appeared before a whole host of policymaking bodies and
4 never once in court, and the reason is this exact issue.
5 This is meant for policymakers to determine how to
6 exercise this discretion, and this would be a serious
7 extension of legal principles to -- in a way that there's
8 no logical ending point. And because of that, your Honor,
9 that is why we believe as a matter of law the evidence
10 simply does not present a case that is just feasible going
11 forward.

12 THE COURT: Thank you.

13 The Court agrees that this is a difficult
14 case and that any order from the Court ordering the City
15 to abate the nuisance or even to declare that it is a
16 nuisance is walking a tightrope. I think I was pretty
17 clear about that in the preliminary injunction.

18 All that being said, the Court finds there
19 is sufficient evidence in the record to proceed to
20 Defendant's case. Defendants have made their record, and
21 there is sufficient evidence as listed in the -- as
22 detailed, excuse me, in the March 27, 2023, preliminary
23 injunction. So with that, we're going to proceed to
24 Defendant's case.

25 MR. PIERCE: Thank you, your Honor.

1 THE COURT: Excuse me for one second,
2 Counsel. We're going to just kind of take a break in
3 place while they while they work on the mics, so just
4 relax everybody, and we'll get back on the record -- well,
5 we're on the record, but...

6 You can rest your hands.

7 I apologize on behalf of the Court that
8 your equipment went out, but we have all done this enough
9 to know that happens.

10 MR. PIERCE: We'll be fine because we're
11 going to be up there anyway.

12 THE COURT: Okay. All right. We're going
13 to be taking a break here in about 23 minutes. So that
14 would probably be a good time for a 15-minute break.

15 COURT STAFF: I'll be right back for that.

16 THE COURT: Okay. Thank you.

17 Ready when you are.

18 MR. PIERCE: Thank you, your Honor.

19 The City calls Rachel Milne as its first
20 witness.

21 THE COURT: Ms. Milne. And if you could
22 just stand right at the end of the counter there.

23 COURT CLERK: Would you please state your
24 name for the record?

25 THE WITNESS: Rachel Milne.

1 COURT CLERK: And can you spell your last
2 name?

3 THE WITNESS: M-i-l-n-e.

4 COURT CLERK: Please raise your right hand.
5 You do solemnly swear the testimony you are
6 about to give will be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE COURT: Thank you. Please have a seat,
10 ma'am.

11 COURT REPORTER: Could you please spell
12 your first name?

13 THE WITNESS: R-a-c-h-e-l.

14 COURT REPORTER: Thank you.

15

16 RACHEL MILNE,
17 called as a witness herein, having been first duly sworn,
18 was examined and testified as follows:

19

20 DIRECT EXAMINATION

21 BY MR. ARNISON:

22 Q. Good afternoon, Ms. Milne, thanks for your
23 patience waiting out in the hallway. You said your name
24 is Rachel Milne, correct?

25 A. Correct.

1 Q. What is your position with the City of Phoenix?

2 A. I'm the director of the Office of Homeless
3 Solutions.

4 Q. And how long have you been in that position?

5 A. So I joined the City about a year ago, last June
6 as the deputy director of the then Division of Homeless
7 Services, and then the Office of Homeless Solutions, I
8 took the director job when the office was created in
9 October.

10 Q. Can you tell me what that division was previously
11 called?

12 A. The division was the Homeless Services Division
13 in the Human Services Department of the City of Phoenix.

14 Q. Am I to understand that the City created a
15 separate Office of Homeless Solutions separate and apart
16 from the Human Services Department?

17 A. That's correct. We created the Office of
18 Homeless Solutions which reports directly to the city
19 manager's office.

20 Q. Okay. Who is your direct supervisor?

21 A. Gina Montes, deputy city manager.

22 Q. I'm sure this is a broad question, but can you
23 summarize for the Court your primary duties and
24 responsibilities as the director of the Office of Homeless
25 Solutions?

1 A. Sure.

2 So my duties have really been in
3 establishing that office and taking the City's former
4 Division of Homeless Services and really refocusing it and
5 really expanding on that division with the strategic
6 direction provided by mayor, counsel, and our city
7 management. I oversee all of our contracts, federally
8 funded and generally funded, and I oversee all of our
9 operations in strategic development.

10 Q. About how many individuals do you directly
11 supervise, Ms. Milne?

12 A. I directly supervise four individuals.

13 Q. About how many individuals are in the Office of
14 Homeless Solutions or employees are in the office as a
15 whole?

16 A. We now have 29 employees.

17 Q. Before you joined the City of Phoenix in I
18 believe you said in June of 2022?

19 A. Uh-huh.

20 Q. Where were you employed previously?

21 A. Prior to joining the City, I was at Maricopa
22 County for the last six years.

23 Q. What was your -- what was your employment role
24 there at the County?

25 A. I was the assistant director of Housing and

1 Community Development for Maricopa County's Human Services
2 Department.

3 Q. Would you say that your work in that capacity at
4 the County and in your present capacity as the director of
5 OHS, Office of Homeless Solutions, is similar or does it
6 differ in any substantial way?

7 A. It differs quite a bit, and my role now with
8 City, my sole focus is homelessness and addressing
9 homelessness within the city, whereas my role at the
10 County that was one piece. I was also over their
11 affordable housing development programs and community
12 development programs as well.

13 Q. Thank you, Ms. Milne.

14 Is the Office of Homeless Solutions
15 responsible -- well, let me back up a little bit.

16 Does the City of Phoenix conduct enhanced
17 engagements around the human services campus area?

18 A. Yes. We started conducting enhanced engagements
19 efforts back in December of 2022 when we conducted five
20 engagements prior to making a slight change in March of
21 2023, and we have conducted three since we made that
22 change, and that change specifically is where we close
23 down streets to camping.

24 Q. Okay. So let's break that down a little bit. So
25 starting in December of 2022, you started doing the

1 city -- and is that your office that runs those enhanced
2 engagements, Ms. Milne?

3 A. So our office takes the lead on those enhanced
4 engagements, we also partner with nonprofit organizations
5 and other city departments, but it is our -- our office
6 that leads those efforts, yes.

7 Q. When you say other partners and other
8 departments, you mean to perform other tasks associated
9 with the enhanced engagement?

10 A. Yes.

11 All of the coordination of all of the
12 efforts that goes into one of those engagements takes
13 many, many different players; Office of Homeless
14 Solutions, our partners at the Human Services Campus, our
15 partners at Community Bridges, Inc., as well as other city
16 departments, including our streets department, public
17 works department, neighborhood services department.

18 Q. Okay. Are you -- I will represent to you,
19 Ms. Milne, that at the October 2022 hearing, were you --
20 were you present during that hearing?

21 A. I was, yes.

22 Q. At the evidentiary hearing in this matter?

23 A. Yes.

24 Q. Okay. And that the Court received testimony that
25 the City was going to begin an enhanced cleaning or

1 enhanced engagement in December of 2022?

2 A. That is correct.

3 Q. Okay. And your office you've testified in fact
4 began those enhanced engagements; is that right?

5 A. That's correct. Our first engagement effort was
6 on December 16th, 2022.

7 Q. Okay. Remind me again of the enhanced
8 engagements that did not involve closing down streets, how
9 many of those did the City of Phoenix conduct?

10 A. Between December and March, we conducted five
11 enhanced engagement efforts.

12 Q. Ms. Milne, I'm going to put up what's been marked
13 as Exhibit 63. You may know these numbers off the top of
14 your head, but I don't, and so I'll put them -- I'll put
15 them in front of me.

16 For the -- did one of these cleanings take
17 place on December 16th, 2022?

18 A. Yes.

19 Q. And is that what's reflected in the top line
20 right there?

21 A. Yes.

22 Q. And where was the location of that cleaning?

23 A. Madison Street in between 12th and 13th Avenues.

24 Q. How many total people were engaged during that
25 process versus placed in a shelter?

1 A. We engaged with 40 individuals that day and 33
2 were placed in shelter.

3 Q. Now, your -- those numbers, for the record,
4 you're looking at the spreadsheet that's Exhibit 63 and
5 for total people engaged, it is that fourth column from
6 the left; is that correct?

7 A. Correct.

8 Q. Okay. And that says total number of people
9 engaged, then you skip over a column and it says placed in
10 shelter, and that number is 33, correct?

11 A. Yes.

12 Q. Okay. Tell me -- what we know so far based on
13 your testimony is that that cleaning and the ones that
14 continued through March, I believe it says March 29th
15 there on the fifth row; do you see that?

16 A. Yes.

17 Q. Did not involve closing down the blocks; is that
18 correct?

19 A. Correct. Once the engagement efforts ended at
20 the end of the day people were allowed, if they chose not
21 to go to shelter, to go back to that block if they chose
22 to.

23 Q. Tell me about those, prior to -- prior to the
24 engagements when the City started cleaning the streets,
25 tell me about what those engagement efforts entailed.

1 A. Sure. So the engagement efforts start with
2 notification, so we always want everyone in the affected
3 area to know that this will be happening. So we provide
4 notice to all of the individuals on a given block at least
5 two weeks prior and then multiple times leading up to the
6 engagement effort. On the day of an engagement effort, we
7 get a permit and we close down the street to any vehicular
8 traffic.

9 Q. Can I stop you right there?

10 A. Sure.

11 Q. Okay. I want to talk about the notice that you
12 provide to the unsheltered individuals in the -- in the
13 area. I'm putting in front of you what's been marked as
14 Exhibit 72. Can you see that clearly enough?

15 A. Yes.

16 Q. Okay. What is this document, Ms. Milne?

17 A. So this is the document, the notice that we
18 provided for the May 10th engagement effort. So this
19 would have been provided to people that were camping on
20 9th Avenue between Washington and Jefferson.

21 Q. Is this notification of enhanced cleaning, that's
22 the title at the top, correct?

23 A. Yes.

24 Q. Is this notification of enhanced cleaning
25 representative of the notice that you provide prior to any

1 enhanced engagement effort?

2 A. Yes. We may have made minor tweaks here and
3 there since the December first engagement effort, but they
4 are essentially the same.

5 Q. Okay. So I would assume that for this
6 May 10th -- do you see the second paragraph from the
7 bottom?

8 A. Yes.

9 Q. It says, After the cleaning is complete you will
10 not be allowed to return to the designated area, and so
11 on. Do you see that where I'm reading there?

12 A. Yes.

13 Q. I'm assuming that part was added for --

14 A. Correct.

15 Q. I'm sorry, I'll finish my question.

16 Was that part added for the May 10th
17 enhanced cleaning and for each subsequent enhanced
18 cleaning?

19 A. Correct. That was on the three enhanced
20 engagement efforts that we have had in May and June.

21 Q. Okay. I'm going to put Exhibit 63 back up. But
22 please pick up where you left off, if you can recall.

23 A. Sure.

24 Q. But you said you do -- you give notifications out
25 and then day of pick it up from there?

1 A. Sure.

2 So two weeks prior we provide notification,
3 day of, we closed down the particular street with
4 barricades, and then my staff, Office of Homeless
5 Solutions staff, as well as Human Service Campus staff and
6 CBI, Community Bridges staff, all work to engage every
7 single person on that block to help them pack up their
8 belongings, move into a safe place and engage with those
9 individuals to see if they are ready to go to another
10 indoor location, be it a shelter, treatment, any type of
11 diversion efforts. And then from there, once everyone has
12 moved off of the street with all of their belongings, our
13 streets teams would come in and essentially clean the area
14 and make it -- remove any biohazards or anything that was
15 on the street.

16 At the end of the day anyone who did not
17 move to an indoor treatment or shelter option would then
18 be able to go back to that street if they chose.

19 Q. And that was for I believe -- am I correct that
20 that was for the five cleanings prior to May 10th of 2023?

21 A. That's correct.

22 Q. Since that time have individuals for the areas
23 you have closed been allowed to return to the area that's
24 closed, return to camp in the areas that were closed?

25 A. Since the May 10th effort individuals have not

1 been able to return to that area, we have essentially
2 closed the street to camping and posted signage to that
3 effect.

4 Q. Okay. What -- if you don't mind me asking, what
5 does that signage say and what does it look like?

6 A. So it starts out as sort of like a hard plastic
7 sign that you might see for a zoning case, while we then
8 work with our streets department to get permanent signs
9 placed, metal signs placed on the street. But it more or
10 less says this street has been closed to camping, and
11 it -- I think that's about it. It has got a city bird on
12 it. I can't recall exactly what the sign says.

13 Q. Thank you. That's an appropriate summary, thank
14 you.

15 For the five cleanings, not closures, but
16 the five cleanings that took place before May 10th of
17 2023, other than closing the street, was the process
18 essentially the same as the process for the ones that took
19 place on May 10th and after?

20 A. Yes. The only real difference is that the street
21 from May 10th, May 31st, and in June was -- people were
22 allowed to -- people were no longer allowed to go back to
23 the street. It was closed. They didn't have to go to one
24 of the treatment or shelter options but they could not
25 return to that street to camp.

1 Q. Understood.

2 For the -- we can look at each
3 individually, but for the December 16th, 2022, cleaning,
4 again, the City did not shut down the block for camping,
5 correct?

6 A. Correct.

7 Q. Did individuals notwithstanding that accept
8 services?

9 A. Yes. We were excited to have an over 80 percent
10 acceptance rate on that first enhanced cleaning date.

11 Q. Great, thank you.

12 What about for January on the second row
13 there on Exhibit 63, what about January 4th, 2023, did
14 individuals accept services on that date?

15 A. Yes, 76.4 percent of all of the individuals
16 accepted services.

17 Q. And January 27th?

18 A. January 27th, 43 percent, a little over 43
19 percent accepted services.

20 Q. March 3rd, 2023?

21 A. 51.7 percent.

22 Q. And March 29th, 2023?

23 A. 57 -- or a little over 57 percent of individuals
24 accepted services.

25 Q. For the two cleanings that accepted -- or for the

1 two cleanings that took place on May 10th and May 31st,
2 2023, what are their respective -- well, did people accept
3 services?

4 A. Yes.

5 Q. And what are their respective acceptance rates?

6 A. A little over 78 percent on May 10th and a little
7 over 84 percent on May 31st.

8 Q. This may well be because of the timing of
9 exhibits and when we got these reports that there's no
10 percentage acceptance rate for the June 14, 2023, cleaning
11 enclosure. Do you have an independent knowledge of what
12 percentage of people were placed in shelters?

13 A. Yes. It was actually June 21st of 2023, and
14 there were 17 individuals on the block that we targeted
15 and 12 of them accepted shelter, but I don't -- I can't do
16 that percentage in my head.

17 Q. That's okay. Twelve out of 17, is that what you
18 said?

19 A. Yes.

20 Q. And you said the date was in fact --

21 A. The 21st.

22 Q. June 21st?

23 A. Yeah.

24 Q. Okay.

25 THE COURT: And just so I'm clear, the

1 June 21st doesn't replace the June 14th, it is in addition
2 to the June 14th; is that correct?

3 THE WITNESS: No, it replaced.

4 THE COURT: It replaced?

5 THE WITNESS: Yeah.

6 THE COURT: So the June 14th did not occur?

7 THE WITNESS: Correct.

8 THE COURT: And so the 20 for approximate
9 number of people engaged, that should be 17, and then
10 placed in shelter should be 12, correct?

11 THE WITNESS: Correct.

12 THE COURT: Go ahead.

13 BY MR. ARNISON:

14 Q. And to clarify for the record, was there ever a
15 June 14th enhanced engagement planned, or is that just an
16 error and it should have said June 21st?

17 A. I believe that's an error.

18 Q. Okay. I note that there are some rows, the last
19 three rows in the spreadsheet. The first is July 12th,
20 2023. Do you see that?

21 A. Yes.

22 Q. Do you know where that cleaning is going to take
23 place?

24 A. Yes. On July 12th, we will be cleaning
25 9th Avenue in between Jefferson and Madison.

1 Q. Do you know approximately how many people are
2 living within that section of 9th Avenue that you're
3 intending to close, that the City is intending to close?

4 A. I believe the last I heard from my team was there
5 was roughly 40 individuals on that street.

6 Q. It looks like there's another one that is
7 scheduled to take place August 2nd, is that correct, or
8 will there be one sooner than that?

9 A. There will be one sooner. We have one scheduled
10 on July 19th as well.

11 Q. Okay. Where will that take place?

12 A. That will be on 13th Avenue in between Jefferson
13 and Madison.

14 Q. Do you have any idea at this point how many
15 individuals, unsheltered individuals, are residing on that
16 section of the block that the City intends to close?

17 A. I've been told there's around 10.

18 Q. Around 10 individuals?

19 A. Ten individuals, yes.

20 Q. Are those remaining dates, August 2nd and
21 August 23rd, dates that you expect to conduct enhanced
22 engagements?

23 A. At this time we don't have dates planned after
24 July 19th, but it is roughly every three weeks.

25 Q. Okay. So are those -- are those simply

1 placeholders for the future?

2 A. Yes.

3 Q. Okay, all right. So they are not representative
4 of cleanings that are going to take place necessarily on
5 August 22nd or August 23rd; is that fair to say?

6 A. Correct. We don't -- we have not determined any
7 locations after July 19th.

8 Q. Thank you for the clarification.

9 When you were preparing to begin the
10 enhanced engagement process leading up to the December
11 cleaning, did the City adopt -- let me phrase it this way:
12 Did you assist in drafting any policies or procedures
13 related to notice and storage of unsheltered individuals
14 property?

15 A. Yes. We spent several months developing what our
16 enhanced engagement days would look like, who would do
17 what concerning ourselves, our staff, our Human Service
18 Campus partners, CBI, as well as any other city
19 departments that would be on site.

20 Q. Ms. Milne, I'm going to put up on the screen here
21 what's been marked as Exhibit 62. Do you recognize that
22 document?

23 A. Yes, I do.

24 Q. Did you have a hand in drafting that document?

25 A. I did, yes.

1 Q. What was your role drafting that document?

2 A. I actually worked with our attorneys to -- to
3 draft a document specifically for how we would conduct
4 storage of property when we're out engaging with
5 individuals, even if they are present or not present in an
6 encampment.

7 Q. Is it your understanding that the City has an
8 obligation to retain property for any certain period of
9 time?

10 A. Yes. We do have an obligation and we do store
11 property.

12 Q. Where do you store that property?

13 And by the way, before you answer that
14 question, I'm going to flip through the pages really
15 quick. Does this all appear to be an accurate copy of the
16 policy that you drafted in connection with your legal
17 department?

18 A. Yes, it is.

19 Q. Okay. Thank you.

20 I believe my question was, where is that
21 property stored?

22 A. So when have an unintended encampment and we have
23 noticed there, we have left notice that any property
24 involved with that encampment must be removed within a
25 certain period of time, when we go back, and it is -- if

1 it is still there, we store it for 45 days at our
2 city-owned warehouse, and then we leave a second
3 notification alerting people on how they can be
4 reconnected with their property.

5 Q. I understand.

6 So there's -- am I correct in my
7 understanding that there's a notification before the
8 property is removed and then a notification as to where
9 someone can get their property after it is removed?

10 A. The second notification is how they can get in
11 touch with us and we will bring them their property.

12 Q. Okay. So the City will physically bring property
13 to an unsheltered individual if property is removed?

14 A. Correct.

15 Q. Okay. Why was it necessary to adopt that policy
16 that I just put up on the screen, Exhibit 62?

17 A. It was necessary because we needed to ensure that
18 we weren't throwing away someone's property that perhaps
19 wasn't there on that specific day that perhaps was away at
20 an appointment or obtaining other services, that we were
21 doing our best to make sure that we weren't arbitrarily
22 throwing somebody's property away.

23 Q. Why ultimately did the City decide, even back in
24 leading up to the December 2022 cleanups, why did the City
25 decide to go block by block rather than doing it in -- can

1 I say one fell swoop?

2 A. Well, the main reason is there are just far too
3 many people in the area for our homeless service system to
4 handle it at once. Going by a block-by-block approach
5 allows us to coordinate resources to be able to offer
6 everyone on a given block shelter resources, treatment
7 resources, anything that they need for that day. It gives
8 us the time to coordinate those resources.

9 THE COURT: Mr. Arnson?

10 MR. ARNISON: Yes.

11 THE COURT: We're about a minute away from
12 our break. I can give you a minute leeway if you would
13 like.

14 MR. ARNISON: This might be a good time to
15 stop, your Honor. Thank you.

16 THE COURT: Folks, I'll see you back here
17 in 15 minutes.

18 COURTROOM ASSISTANT: All rise.

19 (Recess held.)

20 COURTROOM ASSISTANT: All rise.

21 THE COURT: Thank you. Please be seated.

22 All right. Ms. Milne, if you want to come
23 back up to the stand.

24 We're back in the record -- back on the
25 record, excuse me, in Freddy Brown, et al., v City of

1 Phoenix, CV2022-010439. Ms. Milne is back on the stand.

2 And you understand you're still under oath,
3 correct?

4 THE WITNESS: Yes.

5 THE COURT: Thank you.

6 Go ahead.

7 MR. ARNISON: Thank you, your Honor.

8 BY MR. ARNISON:

9 Q. Ms. Milne, before we left for the break, we were
10 discussing the cleaning and closure process; do you recall
11 that?

12 A. Yes.

13 Q. And you recall that I asked you the question
14 about why the City decided to go on a block-by-block
15 approach instead of going at a wholesale or all in one
16 fell swoop approach. Can you remind the Court of your
17 answer to that question?

18 A. So yes. They're -- given the number of people in
19 that area, taking it one block at a time allows us to
20 address the needs of those individuals on that one space
21 and make sure that we have resources available for
22 everyone in that one -- on that one block on the day of
23 our engagement efforts.

24 Q. When you say resources available, what do you
25 mean?

1 A. Specifically shelter resources. So it is our
2 goal to offer every single person an indoor place to be
3 when we do these efforts. So we want to make sure we're
4 coordinating with all of our shelter partners, not just
5 City of Phoenix funded shelter partners, but shelter
6 partners within the regional homeless service system to
7 know what is available and what may meet the needs of the
8 individuals on that particular block.

9 Q. A follow-up question to that and maybe a little
10 more pointed, why has the City decided to go at the rate,
11 I believe you testified it was approximately every three
12 weeks give or take; is that right?

13 A. Correct, yes.

14 Q. What's the rationale for going at an every three
15 week cleaning and closure pace?

16 A. So that three weeks allows us to line up those
17 resources, allows us to coordinate with shelter partners
18 to know exactly what is going to be available, what might
19 be opening in that time period, any new resources coming
20 on board, and then really that last few days just before
21 an engagement event is when we start putting our list
22 together of what will be available on the day of cleanup.

23 But really it takes that long because
24 shelters are essentially full. So the City of Phoenix has
25 certainly opened some new things in the last few months,

1 so have some of our partners, but if we were to go any
2 faster, we would immediately fill up. There wouldn't be
3 places to offer people an indoor location if we went any
4 faster than three weeks.

5 Q. I'm going to take one step back. When we talk
6 about engagements, is the Office of Homeless Solutions
7 outreach -- is there an outreach team or something to that
8 effect?

9 A. Yes, we have an outreach team.

10 Q. And does that outreach team engage with
11 unsheltered persons who are living on the streets in the
12 areas where you're cleaning and closing?

13 A. Yes.

14 So our team, as well as our nonprofit
15 partners, CBI and Human Services Campus, engage with every
16 single person on that block in that two-week notification
17 period to know who is there and what they might need, any
18 specifics that might help us find resources for them.

19 Q. And we'll hear from Mr. Hall a little bit later
20 this afternoon, but is one of the things that the City
21 learns through that engagement process whether a person is
22 in fact voluntarily or involuntarily unsheltered? Did
23 that question make sense?

24 A. If you're asking if we're learning if they have a
25 housing resource --

1 Q. That's what I'm asking.

2 A. -- that they aren't utilizing?

3 Yes, we would find that out during that
4 engagement period.

5 Q. So you're trying to determine what -- what
6 services, including but not limited to a shelter, that a
7 person needs?

8 A. Correct.

9 Q. And finding availability and capacity to connect
10 a person with services?

11 A. Correct.

12 So we're finding out not only about the
13 people who are in that area but also about the resources
14 available that might then pair with those individuals.

15 Q. Understood.

16 I want to also make sure I understand
17 something you said earlier. Shelter space availability
18 is -- I can't remember if you said it is essentially zero
19 or something like that; is that correct?

20 A. That's correct. We have brought on several new
21 shelters in the last few months; however, shelter space in
22 our homeless service system is essentially full every
23 night aside from the turnover of people who might be
24 exiting the shelter, correct.

25 Q. So does the three-week time period have or

1 doesn't it have anything to do with creating vacancies in
2 existing shelter space, and if so, can you explain?

3 A. Sure. That's exactly what it has to do with.
4 That gives us time to have people exit the
5 shelter, and then we, as the City of Phoenix, can work
6 with that partner to say, hey, we have a cleanup coming on
7 July 12th, for example, we would like to make sure we have
8 those five beds that you have now reserved for that
9 effort.

10 Q. Understood.

11 So say you did your last cleaning June
12 21st, for the next one, give or take three weeks, there
13 could be at least enough excess capacity with existing
14 shelters and shelters the City is bringing on board to
15 have spaces for involuntarily homeless people to go?

16 A. Yes. We're confident for the 12th and the 19th
17 that we will have plenty of space for people to go.

18 Q. Understood.

19 Can you tell me -- tell the Court since the
20 October 2022 evidentiary hearing in this matter, can you
21 please explain -- explain what new shelters have opened,
22 whether it is through the City itself or the City's
23 partnership with shelter service providers?

24 A. Sure. I'll start with things that the City has
25 had a hand in opening.

1 Q. Thank you.

2 A. In November of 2022, we opened a shelter in
3 partnership with Community Bridges, Inc., called the Rio
4 Fresco shelter, that was 117 beds.

5 Q. Is it a congregate shelter setting?

6 A. It is a noncongregate shelter setting.

7 Q. Noncongregate, okay.

8 So is that -- is it a hotel style?

9 A. Yes.

10 Q. Okay. Continue.

11 A. The second shelter we opened at the beginning of
12 2023 was our I-HELP model shelter in partnership with
13 Lutheran Social Services.

14 Q. Did you say IHELP?

15 A. Yes, IHELP. I can't remember what the acronym
16 stands for offhand, but it, in essence, is a model where
17 different congregations, religious congregations house a
18 group of individuals overnight and the congregation
19 provides the meal for the day, but our partner in Lutheran
20 Social Services provides all case management services,
21 transportation, et cetera.

22 Q. Any others that have come on board?

23 A. Yes. We brought on another hotel noncongregate
24 shelter model on May 29th in partnership with St. Vincent
25 de Paul. And then finally today, we opened another hotel

1 in partnership with a group called Mercy House.

2 Q. You said that was today?

3 A. Today, yes.

4 Q. Okay.

5 A. So those are the ones the City of Phoenix has
6 specifically had a hand in, however there are other
7 organizations not funded through the City of Phoenix that
8 have also brought on shelter capacity as well.

9 Q. Did you say how many shelter beds the May 29th
10 hotel, what's the capacity of the May 29th hotel that was
11 open?

12 A. Fifty individuals.

13 Q. Fifty.

14 And what about Mercy House --

15 THE COURT: Is it 50 or 15?

16 THE WITNESS: Five zero, 50.

17 THE COURT: Five zero. Thank you.

18 BY MR. ARNISON:

19 Q. And I might have missed it, what about the
20 capacity of Mercy House?

21 A. Fifty, five zero.

22 Q. Five zero.

23 So you said in summary those are the
24 shelter facilities that the City has had a hand in itself
25 opening; is that right?

1 A. That's correct.

2 Q. What about those with which the City works or
3 partners, can you explain what efforts the City and those
4 partners have made since the October 2022 hearing?

5 A. Sure.

6 I don't know obviously of all of the
7 different partners. Many municipalities have opened
8 shelters as well, but specifically the human services
9 campus recently opened a noncongregate facility as well to
10 serve 125 individuals, I believe.

11 Q. What is the name of that shelter?

12 A. I don't believe it has a name.

13 Q. That's okay.

14 It is at the human -- you said it is at the
15 Human Services Campus?

16 A. It is not at the Human Services Campus. The
17 Human Service Campus is the operator of that shelter. It
18 is another hotel rental noncongregate facility.

19 Q. Okay. Any others?

20 A. That's the main one I know of. I know the city
21 of Mesa was recently in the news for having purchased a
22 hotel as well.

23 Q. Has CASS brought on any shelter beds since the
24 October hearing?

25 A. So CASS is one of the projects that we have in

1 the pipeline to open, hopefully later this year or early
2 2024.

3 Q. That's coming on board and how many beds will
4 that ideally -- or expected to include?

5 A. That will be 170 beds for individuals age 55 and
6 older.

7 Q. Okay. Is there another shelter from St. Vincent
8 de Paul --

9 A. Yes.

10 Q. -- that you're expecting to bring on?

11 A. We are funding in partnership with Maricopa
12 County in the State of Arizona, we're funding St. Vincent
13 de Paul to open a 100-person shelter, a transitional
14 housing shelter at their Watkins campus.

15 Q. Are you opening any beds -- any shelter
16 facilities that are tailored toward -- let me rephrase
17 that question.

18 Are you working with partners to open any
19 shelter beds in which families can reside?

20 A. Yes. We have two shelter -- two projects in the
21 pipeline with -- one with UMOM and one with the Salvation
22 Army.

23 Q. Can you say the U?

24 A. Oh, I'm sorry. UMOM, United Methodist Outreach
25 Ministries, and one with the Salvation Army.

1 Q. How many beds respectively?

2 A. I believe it is 60 at UMOM and 80 at Salvation
3 Army, and again, those are family units, so one unit might
4 have, you know, six to eight beds in a single unit.

5 Q. I see. There could and presumably will be
6 multiple people in one unit?

7 A. Correct.

8 Q. Okay. Was there recently a sprung structure that
9 the City planned to construct?

10 A. Yes. The city plans to construct its own shelter
11 made up of sprung structures, three sprung structures and
12 some noncongregate converted shipping containers.

13 Q. What, if anything, has happened to the plan for
14 constructing those sprung structures on the site where the
15 City was planning to build?

16 A. We have recently learned that that site is not a
17 possibility for us to use.

18 Q. Why?

19 A. Due to high levels of methane gas on the site.

20 Q. And how did the City come to learn that?

21 A. We were doing soil work on the site which we were
22 aware it needed to be addressed in order to put structures
23 safely on the site. When our Office of Environmental
24 Programs let us know that we needed to do some deep
25 testing of the -- of the environment there, and so we

1 stopped work and tested and preliminary results showed
2 high levels of methane gas.

3 Q. Okay. Is the City -- has the City scrapped the
4 plan for the sprung structures or is it seeking out an
5 alternative location for the sprung structures?

6 A. So we are definitely seeking an alternative
7 location and we still plan to have shelter space for up to
8 280 individuals in the sprung structures and the modular
9 shipping containers.

10 Q. And to be clear, these different sprung
11 structures and modular containers, the shipping
12 containers, they are expected to all be on a single site;
13 is that right?

14 A. That is the plan, yes.

15 Q. Just different -- different structures
16 themselves?

17 A. Correct, yes.

18 Q. Okay, I understand.

19 Ms. Milne, I'm nearing the end of my line
20 of questioning, but I did want to ask you about whether
21 you have any information about the number of unsheltered
22 persons in the Human Services Campus. Is that something
23 that you have an independent knowledge of?

24 A. So the Human Services Campus, Inc., conducts a
25 weekly count of people around -- that are camping outside

1 of its -- of its walls, if you will. In this last
2 Tuesday, there were 580 individuals in the area between
3 7th Avenue, 15th Avenue, Jefferson to the railroad tracks.

4 Q. Are the numbers of unsheltered persons increasing
5 statewide?

6 A. Yes.

7 Q. How do you know that?

8 A. Well, I can speak statewide or probably more
9 appropriately countywide.

10 Q. Let's speak County wide.

11 A. Okay. The Maricopa County -- Maricopa
12 Association of Governments conducts a PIT count or a
13 point-in-time count every year. This year it was
14 conducted on January -- I can't remember the date exactly,
15 late January, and that -- that count showed an increase in
16 the number of people experiencing homelessness throughout
17 the county.

18 We also looked specifically at the City of
19 Phoenix data, which also showed an increase in the number
20 of people experiencing homelessness just within the city.

21 Q. Okay. So is the number of individuals
22 experiencing -- unsheltered individuals experiencing
23 homelessness increasing both within Maricopa County and
24 within the area around the Human Services Campus?

25 A. Actually Maricopa County saw a decrease in the

1 number of unsheltered individuals.

2 Q. Oh, most recently they saw a decrease?

3 A. But the City of Phoenix saw an 8 percent
4 increase.

5 Q. Do you have any idea about --

6 COURT REPORTER: What percent increase?

7 THE WITNESS: An 8 percent. Within the
8 City of Phoenix an 8 percent increase in the number of
9 people experiencing unsheltered homelessness.

10 BY MR. ARNISON:

11 Q. Is that 8 percent within the Human Services
12 Campus area or within the City of Phoenix generally?

13 A. Within the City of Phoenix generally.

14 Q. Do you have any idea about the -- is the
15 population remaining static, increasing, or decreasing in
16 the Human Services Campus area?

17 A. So, again, the City of Phoenix does not conduct
18 the count outside of the Human Services Campus, the campus
19 employees do, and we are copied on the results of that
20 count every week. And so we have seen sort of a -- we
21 have seen an increase in the number of people around the
22 campus, it fluctuates actually weekly.

23 Q. Do you have any idea what the reason is for
24 the -- for the increase?

25 A. I can speak anecdotally about many things --

1 MR. TULLY: Your Honor --

2 THE COURT: Hold on one second.

3 MR. TULLY: -- I'm going to object. That's
4 opinion testimony from a fact witness.

5 THE COURT: Is it a foundational objection?
6 I just want to make sure I understand the objection.

7 MR. TULLY: Well, she's asked -- she's
8 being asked to offer opinion -- expert opinion testimony
9 as to the cause of something rather than a fact question
10 and she's a fact witness, so I'm objecting as to
11 foundation and she's not an expert witness. She can
12 testify to facts.

13 THE COURT: Okay. I'll sustain it as to
14 foundation. If you can just establish foundation for the
15 opinion.

16 BY MR. ARNISON:

17 Q. Do you ever -- do you ever receive information
18 from any of your County partners or local nonprofit
19 partners that give the reasons why an area may be
20 experiencing an increase or decrease in homelessness?

21 A. Yes. I receive information from many regional
22 partners about things that may lead to increasing -- the
23 number of people experiencing homelessness increasing.

24 Q. Have you received any information from any
25 regional partners explaining what the reason or reasons

1 are for the increase in the unsheltered population around
2 the Human Services Campus?

3 A. I have heard reports from our partners around the
4 Human Services Campus, as well as other government
5 partners, that the closing of many sober living homes
6 within the State has resulted in an increase in the number
7 of people experiencing homelessness, specifically around
8 the Human Services Campus.

9 Q. Are you referring to a recent -- are you
10 referring to a recent event where sober living homes
11 closed in the State of Arizona?

12 A. That is correct.

13 Q. Okay. Did you have -- did the City of Phoenix
14 have information that that closure was going -- that the
15 closure of the homes was going to transpire?

16 A. We were briefed that this was an action that was
17 going to be occurring, yes.

18 Q. How much before, if at all, were you briefed that
19 this was going to be occurring, this crackdown on sober
20 living homes would be occurring?

21 A. I believe it was about a week, but I wasn't
22 personally briefed, so...

23 Q. Oh, okay. I'm sorry, you weren't personally?

24 A. I wasn't personally briefed by the State on the
25 closure. That was our Deputy City Manager Gina Montes.

1 MR. ARNISON: I might reserve those
2 questions for her. If you'll give -- if you'll allow me
3 30 seconds, your Honor, I think I might be at the end.

4 THE COURT: Of course.

5 MR. ARNISON: I have no further questions
6 for this witness.

7 THE COURT: All right. Thank you.

8 Any cross?

9 MR. TULLY: Yes, your Honor.

10

11

CROSS-EXAMINATION

12 BY MR. TULLY:

13 Q. Good afternoon, Ms. Milne. I've just got a few
14 questions for you.

15 A. Okay.

16 Q. Your position with the City of Phoenix is with
17 the Office of Homeless Solutions; is that correct?

18 A. That's correct.

19 Q. Okay. And -- and what is the goal of your
20 office?

21 A. The goal of our office is to be a regional
22 partner in our homeless service system to reduce the
23 number of people experiencing unsheltered homelessness and
24 sheltered homelessness in general, to essentially end
25 homelessness within the City of Phoenix.

1 Q. And is there any overall plan to do that?

2 A. Yes. We have a strategy to address homelessness
3 plan that the City adopted in January of 2020, I believe.

4 Q. And you're implementing that plan?

5 A. We're implementing segments of that plan, yes.

6 Q. Your office is not the Office of Nuisance
7 Abatement, correct?

8 A. Correct.

9 Q. All right. Do you know who is responsible for
10 abating nuisances within the City of Phoenix?

11 A. I don't have that information.

12 Q. Okay. When you clean these streets -- when I say
13 you, when the City of Phoenix cleaned the streets, the
14 three streets that you have cleaned and then forced people
15 to remove their tents from, the City of Phoenix put up
16 signs, correct?

17 A. We did put up signs after we completed an
18 engagement effort, yes.

19 Q. And those signs say that the street is closed to
20 abate a public nuisance; isn't that true?

21 A. That is true.

22 Q. All right. Which is directly a result of this
23 Court issuing an order directing the City to abate the
24 public nuisance, true?

25 A. We are closing the streets to camping as a direct

1 result of this court order, yes.

2 Q. All right. Prior to that time, prior to the
3 Court's order, you didn't remove any -- anybody who was
4 setting up a tent, you, the City of Phoenix didn't remove
5 anybody that was setting up tents in the right-of-ways,
6 correct?

7 A. That's incorrect. We had five engagement efforts
8 prior to that court order where we asked every single
9 person in a block area to remove their belongings. We
10 helped them take down their tents, moved them to a safe
11 place where we could then offer them services such as
12 shelter, treatment and other options.

13 Q. But they didn't take it -- they were allowed to
14 and did move back, correct?

15 A. A percentage of the population did voluntarily
16 move back.

17 Q. And others filled the spaces, correct?

18 A. Yes. In some cases that is correct, yes.

19 Q. You were asked a lot of questions about
20 Exhibit 63, do you recall -- were you given Exhibit 63?
21 No.

22 All right. Your Honor, can I?

23 THE COURT: Yes.

24 MR. TULLY: May I?

25 THE COURT: Please.

1 BY MR. TULLY:

2 Q. There you go.

3 Do you recall being asked about -- well,
4 let me -- strike that.

5 Let me ask you this: I've just given you
6 what's been marked as Exhibit 63, true?

7 A. True.

8 Q. Okay. And do you recognize that document?

9 A. I do.

10 Q. All right. And what is that document?

11 A. This is a tracking sheet that we are using to
12 track the number of people that we have engaged and placed
13 in shelter. It is a little bit out of date, but it is a
14 tracking sheet that we used at the City.

15 Q. All right. And you were asked some questions
16 about it by counsel for the City, correct?

17 A. Correct.

18 Q. Okay. Now, for instance, the first one that you
19 did, just the cleaning, was Madison, 12th Street to 13th
20 -- or 12th to 13th Avenue rather; do you see that?

21 A. Yes.

22 Q. And you -- and you engaged 40 people and it says
23 that you put 33 of them in a shelter; is that correct?

24 A. Yes, 33 of them voluntarily went to a shelter.

25 Q. If we went down there today, that same street,

1 what would we see?

2 A. I would imagine you would see people camping on
3 that street.

4 Q. Yeah. Both sides of the street, true?

5 A. True.

6 Q. Okay. The nuisance was not abated on that
7 street?

8 A. Correct.

9 Q. True. Okay.

10 THE COURT: Ma'am, a little louder if you
11 could, please.

12 THE WITNESS: Okay.

13 THE COURT: Thank you.

14 BY MR. TULLY:

15 Q. You mentioned the sprung structure that you're --
16 is it you -- are you involved in looking for the property
17 to build this sprung structure?

18 A. Yes, absolutely.

19 Q. Okay. Where are you with that?

20 A. We have identified several locations and we're
21 doing some due diligence on those locations to find the
22 best one.

23 Q. Okay. In October, when we asked about that, we
24 were -- members of your staff testified that -- strike
25 that. It may be Ms. Montes that testified.

1 But City of Phoenix officials testified
2 that the sprung structure would be built and operational
3 before the summer heat hit; do you recall that?

4 A. That was the plan, yes.

5 Q. And that plan did not materialize, correct?

6 A. Correct.

7 Q. You -- we have been -- we have been told here --
8 there's been a discussion about that the plan is with
9 regard to your Exhibit 63, to do a sweep where you're
10 actually removing tents and not letting them back every
11 three weeks, correct?

12 A. I would absolutely not call it a sweep, no. We
13 engage every individual in an area and offer them a
14 shelter resource. There is no sweeping of people.

15 Q. Okay. I don't want to get in a semantic thing
16 with you, but in -- the plan of the City, I think it was
17 as proposed and back in May, at least, was that these --
18 these engagements in which people are not allowed to go
19 back were to occur every three weeks?

20 A. Correct.

21 Q. All right. They have not occurred every three
22 weeks, have they?

23 A. They have not. Sometimes we do have to make
24 adjustments based on what other factors that are happening
25 at the city. And specifically the 12th and the 19th are

1 occurring because we're bringing on a new shelter and we
2 will have capacity and want to really focus on that
3 capacity and make sure we're utilizing it.

4 Q. All right. Community Bridges, Inc., you
5 mentioned that they are a partner with the City?

6 A. That is correct.

7 Q. Does the City fund them?

8 A. We fund several projects with Community Bridges,
9 Inc.

10 Q. Did you fund the vans that -- does the City fund
11 the vans that move unsheltered individuals around?

12 A. We don't have a specific contract for vans or
13 transportation with Community Bridges, but we have a
14 shelter contract with them, so they might have
15 transportation at that shelter where they are moving
16 people directly to that shelter.

17 Q. All right. You were asked about a whole bunch of
18 projects that were -- I think a lot of them were recently
19 completed, a bunch of hotel spaces and other groups that
20 you were partnering with, it sounded like a number of them
21 have been recently completed; is that correct?

22 A. Yes. In 2022, we brought on 600 new shelter
23 beds. Already in 2023 we have brought on 120 new shelter
24 beds and we have 800 more in various stages of
25 construction in the pipeline.

1 Q. And those 120, they are -- that you brought on
2 this year, they are all full?

3 A. No, one just opened today. So it will be full
4 over the next week. We incrementally invite people to
5 come there.

6 Q. Are you involved in the City's recent
7 announcement that it was going to open a -- what we have
8 been referring to as a structured campground, I don't know
9 if you refer to that, but do you know what I'm talking
10 about?

11 A. Yes, we refer to it as a safe outdoor space.

12 Q. A safe outdoor space, okay.

13 In October, when we had the hearing and the
14 City was asked about constructing something like that, the
15 City personnel testified that it was not something that
16 the City was interested in doing at that time.

17 Do you recall that?

18 A. I recall mentioning that it was in our strategies
19 to address homelessness plan, but it was -- our focus at
20 that time was truly indoor locations, knowing that indoor
21 locations are the safest place for people to be.

22 Q. All right. The safest for someone who is
23 unsheltered, that's the safest place for them to be,
24 correct?

25 A. It is the safest place for anyone to be,

1 especially when it is 116 degrees out. You would want to
2 be in an indoor air-conditioned location.

3 Q. Sure, sure. But it is not -- it is not safer to
4 be on the street than to be in a structured campground.
5 Do you agree with me?

6 A. It is not safer to be on the street. No, I
7 believe a structured campground would be a safer place
8 than on the street, yes.

9 Q. Sure. And the street, leaving people on the
10 street, that doesn't abate the nuisance, you would agree
11 with me about?

12 MR. ARNISON: Objection, it calls for a
13 legal conclusion.

14 THE COURT: Sustained. If you can just
15 rephrase it.

16 MR. TULLY: Sure.

17 BY MR. TULLY:

18 Q. Yeah. All right. If you -- if you build --
19 well, let me ask you this, let me ask you some other
20 questions about this.

21 The safe outdoor space you're -- the City
22 is contemplating, what barriers are this -- is the City
23 anticipating employing for those who would stay at that
24 area?

25 A. I'm not sure I understand the question, but I'll

1 try. So --

2 Q. Well, let me -- no, no, I want you to answer a
3 question that you understand.

4 Is the -- is the City planning on putting a
5 fence around the lot?

6 A. The safe outdoor space that we are looking at is
7 fenced, yes.

8 Q. All right. And does the City anticipate having
9 security or police that are there 24/7?

10 A. The City's plan is to get a nonprofit operator to
11 operate the site and to have that operator on site 24/7,
12 as well as security on site 24/7.

13 Q. And does the City anticipate requiring the
14 operator to enforce any restrictions on the behavior of
15 those who are in the safe outdoor space?

16 A. The safe outdoor space will have a code of
17 conduct that people must agree to when they -- if they
18 choose to move into that space.

19 Q. And where are we in that process?

20 A. So the city council voted to approve the
21 licensing agreement and sale of the property on June 28th,
22 and our plan is to execute that by August 1st, and then
23 move into the property, if all goes as planned, sometime
24 hopefully at the beginning of September.

25 Q. And then at that point the City could -- would

1 the City remove those unsheltered in the zone to that area
2 who are unwilling to take other shelter?

3 A. That is not the plan, no.

4 Q. What is the plan?

5 A. The plan is to continue our block-by-block
6 efforts and offer indoor places where we can, but we want
7 to have an alternative location for the people who aren't
8 ready to go to an indoor location. If they won't be able
9 to remain camping on the block where they are, this will
10 be an alternative location where they can go camp, a safer
11 location than the block they are currently on.

12 In the three efforts that we've had where
13 we have closed down streets to camping, we have had 25
14 individuals say no thank you and not move to an indoor
15 location. So this alternative is for those 25 and the
16 people that we anticipate encountering as we proceed with
17 our block-by-block effort.

18 Q. All right. But -- I'm not sure you were here,
19 but at the beginning of the day, counsel for the City got
20 up and said that you planned every three weeks to clear a
21 street, and by their estimate, it would be done in
22 about -- if they did it every three weeks, in about nine
23 months.

24 The first of September is -- my math is not
25 great. But we're in July, so July, August, oh, September.

1 It is like two months, right? So in two months you've got
2 this area, right, but the City is not going to move all of
3 these people that are surrounding my clients' buildings
4 and living in tents and shelters, you know, homemade
5 shelters, the City is not going to require them to either
6 move there or be subject to arrest or -- or -- or take
7 other action against them?

8 A. The intention of the safe outdoor space is that
9 it will be voluntary just as all of our indoor shelters,
10 it is a voluntary option.

11 Q. So as you sit here today, the only plan that you
12 are aware of that might abate the nuis -- or might remove
13 the individuals who are -- who are illegally living on the
14 streets in and around the zone is your plan to continue
15 this every-three-week effort?

16 A. That is the best way, yes, that we found
17 having 80 percent of the individuals that we're working
18 with move into an indoor location and having an
19 alternative for those 20 percent that aren't ready for
20 that.

21 Q. So far though, I mean, I know there's --
22 there's -- there's always multiple factors, right? I
23 mean, in life, people are complicated, true?

24 A. Agreed.

25 Q. Okay. And so you have done all of these shelter

1 beds in the last year or so, correct?

2 A. Correct.

3 Q. And the problem hasn't -- hasn't gotten any
4 better according to the statistics?

5 A. I think it has gotten a lot better for the people
6 in those beds, yes.

7 Q. All right. But it hasn't gotten better
8 statistically, right? There's more unsheltered
9 individuals, I thought that's what you just testified to?

10 A. But however in both the Maricopa County and the
11 Phoenix PIT count data, the number of sheltered increased
12 by 20 -- over 20 percent in both counts.

13 So in the homeless service system, that is
14 a big win, to have more people in shelter and less people
15 unsheltered and have them working on ending their
16 homelessness is a huge win.

17 Q. Yeah, okay. I mean -- all right.

18 Growing the homeless shelter business is
19 not a win, correct?

20 A. Keeping people from being out and exposed in 116
21 degrees is definitely a win in my book when there were 425
22 heat-related deaths last year, 100 percent it is a win.

23 Q. It would be better -- a win would be if the
24 people didn't become homeless in the first place or were
25 in and out of these shelters at a faster rate, right?

1 A. Agreed. It would be great if we could prevent as
2 many people as possible from entering the homeless service
3 system and exiting quickly, but for that time when they
4 are experiencing homelessness, having an indoor shelter
5 bed is essential in the City of Phoenix and in Maricopa
6 County.

7 Q. And those living unsheltered in the zone
8 currently don't have that, do they?

9 A. We plan to offer them that as we continue in our
10 block-by-block effort.

11 MR. TULLY: I've got no further questions.
12 Thank you.

13 THE COURT: Thank you. Any redirect?

14 MR. ARNISON: Yes, your Honor. Briefly.

15

16 REDIRECT EXAMINATION

17 BY MR. ARNISON:

18 Q. Ms. Milne, the Plaintiffs' Counsel asked to
19 confirm that you are not -- that you're the Office of
20 Homeless Solutions not the office of nuisance abatement;
21 is that correct?

22 A. That's correct.

23 Q. Nevertheless, has the Office of Homeless
24 Solutions taken an active role in removing tents, closing
25 down streets, and engaging people to placement services?

1 A. Yes. We have led in all of that effort, and
2 right now every block that's been engaged that we have
3 closed down has been at our lead, at the Office of
4 Homeless Solutions lead.

5 Q. With respect to the sprung structure that we
6 referenced earlier, what was the cause of the City's
7 decision not to move forward with that location for the
8 sprung structures and the mobile modular units?

9 A. It would be unsafe to house people at that site
10 given the levels of the methane gas.

11 Q. Okay. I wanted to clarify, was the methane gas
12 the cause?

13 A. Yes.

14 Q. Okay. Opposing counsel represented that
15 engagements -- engagement efforts have in fact in some
16 instances not taken place every three weeks, would you
17 agree with that?

18 A. Correct. We have two in the next two weeks, so
19 yes. In some -- some areas we have had -- needed
20 additional time, and then in the next two weeks, we know
21 we'll have capacity, so we're doing two in a row.

22 Q. So in some -- in some instances they have taken
23 place every three weeks?

24 A. Yes.

25 Q. And in some instances it has taken a little

1 longer?

2 A. Correct.

3 Q. In some instances it will be shorter, is that
4 fair to say?

5 A. That is true.

6 Q. Okay. You are not employed by Community Bridges,
7 Inc., CBI, are you?

8 A. No, I am not.

9 Q. Do you know how Community Bridges appropriates
10 their money?

11 A. I do not.

12 Q. You stated earlier that the purpose of a
13 structured campsite is to -- for individuals who are not
14 prepared to go to an indoor shelter space to have
15 another -- an alternative safe space, safer than on the
16 street for them to go; is that right?

17 A. That's correct.

18 Q. I don't know if we heard earlier, how many
19 individuals or sites, maybe tent sites, do you intend to
20 have set up at the safe outdoor space?

21 A. So honestly, as few as possible. We want as many
22 people as possible to go into indoor shelter, that is our
23 ultimate goal. The site that we have identified can have
24 up to several hundred individuals, but again, we're -- we
25 will always encourage people to take an indoor option

1 before moving them to an outdoor location.

2 Q. Okay. But it could hold, you said, several
3 hundred individuals?

4 A. That's correct.

5 Q. What does several hundred mean, is there -- is
6 there a specific number?

7 A. No, we have not. We haven't plotted out the
8 number. We would certainly do that, but we haven't
9 plotted that number out. A rough estimate is up to 400.

10 Q. Even if the City put up to 400 -- plotted out,
11 let me rephrase that.

12 Even if the City plotted out up to 400
13 spaces in the structured campsite, would that be adequate
14 for the total number of individuals that are currently
15 unsheltered living in and around -- or around the Human
16 Services Campus?

17 A. No, it wouldn't.

18 Q. Okay. So even if this -- even if the structured
19 campsite opens, there will still need to be other
20 alternative -- alternatives for those individuals who are
21 involuntarily homeless; is that correct?

22 A. Yes, that's correct.

23 MR. ARNISON: I don't have further question,
24 your Honor.

25 THE COURT: Thank you.

1 Ma'am, I have a couple of questions for
2 you, but let me run through my notes here. Give me just a
3 second.

4 You stated earlier in your testimony
5 that -- and this may have been me misunderstanding, it is
6 not a gotcha question, please understand that -- that the
7 only difference between the pre -- I'm going to call it
8 pre-preliminary injunction cleanings, okay?

9 THE WITNESS: Yes.

10 THE COURT: Meaning the order that I issued
11 back on March 27th of 2023.

12 That the only real difference between the
13 pre-preliminary injunction cleanings and the post
14 preliminary injunction cleanings is that since March 27th
15 those individuals cannot return to the camping area. Is
16 that your testimony?

17 THE WITNESS: That is essentially it. So
18 the only difference is we --

19 THE COURT: Bring your microphone up.

20 THE WITNESS: Oh, I'm sorry.

21 That is essentially correct. The only
22 difference in the sort of what we were calling enhanced
23 cleanups and our new enhanced engagements is that the
24 street is closed to camping, and although people don't
25 have to go with us to shelter or treatment, they won't be

1 able to go back to that block to camp.

2 THE COURT: Okay. The last time the Court
3 held an evidentiary hearing, the Court received pretty
4 extensive testimony at least from the residents, from the
5 Plaintiffs, that the cleanings from prior to the issuance
6 of the March 27th preliminary injunction were just curb to
7 curb, didn't really move anything, really just -- I'm
8 going to use the word sweep, even though I know that
9 you're not wanting to use that, but just a cleaning of the
10 street itself. Do you disagree with that?

11 THE WITNESS: So I believe they were
12 referring to what happens every Monday, Wednesday, and
13 Friday. But when we were to do an enhanced cleanup
14 effort, those efforts that began in December, the five
15 that we did where people could go back to the street, that
16 is not what happened. We removed every single individual,
17 had the street closed down so that our street sweepers,
18 our biohazard team could clean the entire block, so not
19 just down the middle of the street, no.

20 THE COURT: And that may just be because
21 the last evidentiary hearing was in October and your first
22 enhanced cleaning, I believe, was in December, correct?

23 THE WITNESS: Correct, yes.

24 THE COURT: So maybe there's not a conflict
25 in the testimony then.

1 What do you do during an enhanced cleaning,
2 or an enhanced engagement I think you called it, when an
3 individual is not coherent? Maybe -- I don't mean
4 unconscious but not coherent. Maybe there's a mental
5 health issue or there is a substance abuse issue and the
6 person is highly intoxicated, how do you address that?

7 THE WITNESS: So -- and I am not a boots on
8 the ground person, but my team and the two teams that we
9 hire to help us in this effort, human service campus and
10 CBI, are trained professionals, trained behavioral health
11 professionals, so they are able to work with individuals
12 no matter what state they are. We call it meeting someone
13 where they are at.

14 THE COURT: But there has to be a policy.
15 I mean, I assume the policy is not just leave them because
16 they are not responding to you. There has to be some kind
17 of policy that's coming out of your office as to how to
18 address people that are not coherent during these --

19 THE WITNESS: I don't think we have come
20 across anyone who is just not coherent at all.

21 THE COURT: Really. Okay.

22 Exhibit Number 62 was the policy that you
23 had took part in drafting for storing of property, do you
24 remember that?

25 THE WITNESS: Yes.

1 THE COURT: The exhibit that the Court has
2 has "draft" marked on it. Is it an official document now
3 or is it still in draft form?

4 THE WITNESS: It is what we're utilizing,
5 but it is still in draft form.

6 THE COURT: So it hasn't -- who would adopt
7 that, would be it the city council or would it be your
8 office?

9 THE WITNESS: I don't believe so. I think
10 it would just be our office in partnership with the city
11 manager's office.

12 THE COURT: But what we have is what the
13 City is using?

14 THE WITNESS: That is what we're using.

15 THE COURT: What your office is using?

16 THE WITNESS: Yes.

17 THE COURT: And what is the City's plan if
18 the -- if the Court were to not issue a permanent
19 injunction in this case. I mean, what's stopping your
20 office or the rest of the city from taking down the signs
21 saying no camping or allowing people to come back in? I
22 mean, what barrier is there?

23 Really -- let me restate my question.

24 What confidence can you give or assurances
25 can you give either the Court or even the Plaintiffs in

1 this case that this doesn't restart again and we have same
2 mess here in another year?

3 THE WITNESS: Sure. I would say the City
4 is committed to doing this regardless of an injunction.
5 This is sort of why the City created the Office of
6 Homeless Solutions to address issues like this and to
7 offer a humane solution to folks. So I don't think there
8 would be any change in what we were doing if we didn't
9 have an injunction. This is what we know to be the right
10 thing for the people who are currently camping on the
11 streets, as well as what we think is the right thing for
12 the businesses and residents around there as well.

13 THE COURT: Okay. To the extent you know,
14 I might be asking a question that's beyond the scope of
15 your authority. But to the extent you know, has your
16 office been involved in any discussions about making --
17 about putting together a particular ordinance or some
18 other type of -- something beyond a policy in the city to
19 ensure that these procedures stay in place, procedures
20 that you have developed?

21 THE WITNESS: I'm not aware of any
22 ordinance, no.

23 THE COURT: Okay. And like I said, it
24 might be beyond your authority level.

25 Go ahead.

1 THE WITNESS: If anything, I think the fact
2 that they have emboldened us to hire all of these
3 individuals to do this work and to grow our team from
4 nine -- I was the ninth person hired on the team -- to 29
5 today, I think is the evidence that it is sort of --

6 THE COURT: It could be. But as I wrote in
7 the preliminary injunction, one of the concerns that a lot
8 of people have is that sometimes the bureaucracy grows but
9 the results don't. And so the fact that the City has
10 committed more funding to more individuals on staff is
11 evidence but it is not really compelling evidence.

12 THE WITNESS: Well, if I --

13 THE COURT: You don't have to respond to
14 it. We're not going to do it back and forth, but that's
15 the Court's point of view on it.

16 THE WITNESS: Okay.

17 THE COURT: With that being said, for
18 Defendants, is there any follow-up to the Court's
19 questions?

20 MR. ARNISON: No, your Honor.

21 THE COURT: All right. For Plaintiffs?

22 MR. TULLY: No, your Honor.

23 THE COURT: All right. Does either party
24 believe this witness needs to remain subject to recall?

25 MR. ARNISON: We don't believe so, your

1 Honor.

2 MR. TULLY: No, your Honor.

3 THE COURT: All right. Ma'am, thank you
4 for your time, you can step down, and the admonition is
5 lifted as to you. You can remain in the courtroom if you
6 like, it is your call.

7 Defendants.

8 MR. ARNISON: Your Honor, I think we'll
9 conclude today with one short witness. Scott Hall will be
10 the City's next witness.

11 THE COURT: Okay. Mr. Hall.

12 MR. ARNISON: I'll grab him from outside,
13 your Honor.

14 THE COURT: Thank you.

15 Sir, come on up, if you would, and just
16 stand right at the end of that countertop right there.

17 COURT CLERK: Would you please state your
18 name for the record?

19 THE WITNESS: Scott Hall.

20 COURT CLERK: You do solemnly swear the
21 testimony you are about to give will be the truth, the
22 whole truth, and nothing but the truth, so help you God.

23 THE WITNESS: Yes.

24 THE COURT: Please be seated, sir.

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SCOTT HALL,

called as a witness herein, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARNISON:

Q. Good afternoon, Mr. Hall. Your name is Scott
Hall?

A. Yes.

Q. Can you please state your position with the City
of Phoenix?

A. Deputy director, the Office of Homeless Solutions
with the City of Phoenix.

Q. How long have you held that position?

A. Oh, I've been with the City since December of
2021. I came in as a special projects administrator and
then recently was promoted to the deputy director I
believe in somewhere probably around July.

Q. July of last year?

A. Yeah. Of this year.

Q. Oh, you were just recently promoted to the deputy
director?

A. Am I right? No, I'm off on that one. That would
have been last year. Yes, I apologize.

Q. So you were promoted to deputy director in or

1 around July of 2022?

2 A. Correct.

3 Q. Thank you for the clarification.

4 Tell me what your primary duties and
5 responsibilities are, Mr. Hall.

6 A. Overseeing implementation and operation of
7 programs as it relates to the Office of Homeless
8 Solutions.

9 Q. Okay. Would you -- this is kind of a idiomatic
10 way to say it, but would you characterize that as a boots
11 on the ground out there engaging with the unsheltered
12 population?

13 A. Some of the time, yes.

14 Q. Okay. Do you supervise any staff directly who do
15 that?

16 A. Yes.

17 Q. How many staff do you directly supervise?

18 A. Directly, I have two coordinators, one of the
19 coordinators oversees nine positions, which is our liaison
20 positions. The other coordinator oversees our outreach
21 manager or supervisor that oversees our caseworkers, and I
22 believe there's five of those positions.

23 Q. In your capacity as deputy OHS director -- by
24 OHS, do you understand I mean Office of Homeless
25 Solutions?

1 A. Correct.

2 Q. In your capacity as deputy OHS director, are you
3 familiar with the enhanced engagement process?

4 A. Yes, I am.

5 Q. And you have been involved in those enhanced
6 engagements?

7 A. Yes, I have.

8 Q. Have you also been involved in -- well, you've
9 been involved in the enhanced engagements for those that
10 took place before May 10th, 2023, I assume?

11 A. Correct.

12 Q. Have you also been involved with those
13 engagements and closures that took place on and after
14 May 10th of 2023?

15 A. Yes.

16 Q. Okay. What I would like to talk to you briefly
17 about today, Mr. Scott (sic), is how the engagement
18 process happens. When you or a member of your staff, the
19 OHS staff, goes out and engages with an unsheltered person
20 in an area where you're about to clean and close, right?
21 What does that process look like? Can you walk me through
22 that?

23 A. Sure. So once we identify the location where
24 the -- like I say, the first five were the enhanced
25 cleanups and now we're at the state of the enhanced

1 engagements, we would go out and post notification two
2 weeks ahead. And during that two-week period --

3 THE COURT: Can you slow down, sir? Our
4 court reporter is trying to keep up with you.

5 THE WITNESS: Yes, I apologize.

6 THE COURT: No worries.

7 THE WITNESS: During that two-week period,
8 my time, along with outreach providers that we contract
9 with, would then go around also informing people, and
10 people might come in who are new there and inform them
11 about what's coming and trying to offer them services.

12 So it is, you know, trying to create a
13 connection with individuals while also assessing their
14 needs and trying to meet those needs. Some of those needs
15 are shelter, family reunification, IDs, birth
16 certificates, whatever it may be that can help that
17 individual go on to the path of their choosing.

18 BY MR. ARNISON:

19 Q. Okay. You said you began this engagement process
20 about two weeks before; is that correct?

21 A. Yes. In this area, yes.

22 Q. In this area, do you mean the area around the
23 Human Services Campus?

24 A. Correct.

25 Q. Okay, I understand.

1 How -- is there a set number of engagements
2 that you may have with an individual or does it vary from
3 individual to individual?

4 A. It absolutely varies. It varies on where we're
5 at with the stage of connections, sometimes it happens
6 right at the immediate engagement with the individual,
7 sometimes we get the immediate connection and get to
8 resolution, sometimes it takes multiple attempts to get
9 that basic contact and basic information, so it all varies
10 on the individual.

11 Q. So it is individual dependent; is that correct?

12 A. Very much so.

13 Q. Okay. What percentage of your individuals whom
14 you or your office engages would you say have nowhere else
15 to go other than a shelter space provided either by the
16 City or a nonprofit partner?

17 A. That would be almost all. Sometimes we do
18 find -- sometimes we do find an occasional that actually
19 has a shelter bed and might be staying out there, but that
20 is an anomaly to the case. Most people who are
21 unsheltered out there do not have an alternative space to
22 go.

23 Q. You say -- I can't remember if you said virtually
24 all or almost all, could you put a number on it?

25 A. I couldn't put an exact number on it, but if when

1 we engage 50 people, maybe one or two at most have that
2 resource in place or available to them.

3 Q. How do you learn that -- how do you or someone
4 working under your direction learn that information?

5 A. Usually one of two ways, either self-reported
6 from the individual we're working with or looking it up in
7 HMIS, the homeless management information system, that is
8 our regional database for trying to coordinate homeless
9 services within our community.

10 Q. In terms of evaluating availability of shelter
11 space, what is that process?

12 A. It is a pretty complex process, because, you
13 know, City of Phoenix funds some shelter operation, but
14 there's a lot of shelter operation that we don't fund
15 directly. So it is based off relationships and
16 connectivity. So we have, you know, set up large provider
17 stakeholder meetings to coordinate all of the providers
18 that operate the shelter and to get collaboration and buy
19 into the efforts we're doing. So it is a pretty intense
20 engagement and ongoing relationship building to get those
21 resources available and that kind of streamlined
22 communication.

23 THE COURT: Mr. Arnson.

24 MR. ARNISON: Yes.

25 THE COURT: I need you to take control of

1 your witness and slow him down a little bit. It is not
2 your fault, sir, I know you don't do this all of the time,
3 but I've got to make sure that our court reporter keeps
4 up.

5 MR. ARNISON: Sure thing.

6 THE COURT: Please take control.

7 MR. ARNISON: Sure thing.

8 BY MR. ARNISON:

9 Q. So, Scott, what we'll do is we'll just go at an
10 even pace.

11 A. Yes, sir.

12 Q. And whenever I smile at you, let's go at an even
13 pace --

14 A. All right. Got it.

15 Q. All right. All right. So I'll frown until --
16 okay.

17 Okay. So with respect to -- with respect
18 to shelter spaces that are -- shelter spaces determining
19 whether there's availability, is there a centralized
20 database that you can rely on or does it literally require
21 one-on-one communications with different providers?

22 A. It requires one-on-one communication with
23 different providers. There's no centralized availability
24 for shelter space within our community.

25 Q. One thing I want to make sure is clear that I

1 don't know that we have heard testimony of, when we say
2 that the City is closing down a block during an enhanced
3 engagement, what exactly is the City closing down?

4 A. So if you're referring to the day that the actual
5 event takes place where we are -- the last day and placing
6 everybody in that last day, we literally close the street
7 down of that section for safety so that no traffic comes
8 through there while we're working with placing people and
9 mitigating that, and it also means that this is now the
10 next section where we're not allowing the camping to take
11 place.

12 Q. And that camping is not allowed on the sidewalks
13 and right-of-way; is that correct?

14 A. That would be correct.

15 Q. And, of course, not in the street itself, right?

16 A. Correct.

17 Q. Okay. By doing -- my last question is, by doing
18 these enhanced engagements with the unsheltered
19 population, is that how the City determines on a
20 case-by-case basis whether an individual is involuntarily
21 homeless?

22 A. Can you --

23 Q. Sure.

24 Is it because of the engagement process
25 that you know whether someone has a place to go other than

1 a shelter?

2 A. Yes. Without engaging with an individual, we
3 wouldn't know their situation.

4 MR. ARNISON: Okay. I don't have any other
5 questions.

6 THE COURT: Thank you.

7 Any cross?

8

9

CROSS-EXAMINATION

10 BY MR. TULLY:

11 Q. Just a couple. It is Mr. Hall, right?

12 A. Yes, sir.

13 Q. Okay. Counsel called you Mr. Scott, and I was
14 thinking it was --

15 MR. ARNISON: Oh, I'm sorry.

16 BY MR. TULLY:

17 Q. -- it was elementary school or something, or I
18 don't if I had names backwards, you were Hall Scott
19 instead of Scott Hall. Okay.

20 Mr. Hall, I've just get a few questions for
21 you.

22 When you testified -- you testified in
23 October of last year in this matter, correct?

24 A. Yes, sir.

25 Q. Okay. And you testified at that time that the

1 City had a plan to reinstate the enhanced cleanups; do you
2 recall that?

3 A. I believe so, yes.

4 Q. Okay. And you testified that you had spoken to
5 one of my clients, Mr. Francis, about that -- about that
6 plan to reinstate those enhanced cleanups in February or
7 March of '22; do you recall that?

8 A. I couldn't be specific on dates, but when I came
9 on board with the City of Phoenix, we had multiple
10 meetings with the Madison Pioneer Group, and we've had a
11 few of them at Mr. Francis's business talking about the
12 plans and reestablishing enhanced cleanups and so forth.

13 Q. All right. And then those enhanced cleanups
14 didn't start until, you know, eight, nine months later in
15 December of -- of '22, correct?

16 A. Again, I don't have it right in front of me to
17 verify the dates but --

18 Q. Well, we've talked -- I think you do actually.
19 Do you have in front of you an exhibit?

20 A. I've got 35 and 63.

21 Q. All right. Look at 63. Do you recognize that
22 document?

23 A. Yes.

24 Q. And what is that document?

25 A. It's showing the dates and the number of engaged

1 during the enhanced cleanups and also the enhanced
2 engagements.

3 Q. And when is the first?

4 A. 12-16 of '22.

5 Q. All right. And so is that -- is that the date
6 that would have been the first enhanced -- enhanced
7 cleanup?

8 A. I believe so.

9 Q. All right. Did you start -- did you, meaning the
10 City, start enhanced cleanups without enhanced
11 engagements?

12 A. Yes. The only added layer that the enhanced
13 engagement is, is that's the time when we didn't allow
14 people to re-inhabit where they were.

15 Q. Okay. I think we have had testimony from
16 Ms. -- hang on, I'm losing my -- Ms. Milne that -- that
17 the enhanced engagements and the instances where people
18 were removed and not allowed to return, that those were
19 two separate things. That you started enhanced
20 engagements and then you had enhanced engagements where
21 people couldn't come back; is that -- is that correct?

22 A. Enhanced cleanups, where they were allowed to
23 come back, and then enhanced engagements where they
24 weren't, yes.

25 Q. Okay. But -- and maybe I missed it, but I

1 thought her testimony was that you had the same enhanced
2 engagements in terms of talking to the people --

3 A. Uh-huh.

4 Q. -- and getting them in shelters --

5 A. Yes.

6 Q. -- at the enhanced cleanups as you did with
7 the -- with the -- with what you're now referring to as
8 enhanced engagements, where they couldn't come back?

9 A. Correct. If you're referring to the process of
10 engaging people and placing people, it was the same
11 process.

12 Q. Okay. So in December of last year, after the
13 hearing in this case, the City began doing the enhanced
14 engagements with the cleanups, correct?

15 A. Correct.

16 Q. Why didn't the City prevent people from moving
17 back to the property that they had just cleaned?

18 A. So I don't remember specifically those
19 conversations back then, but I know trying to get this
20 process going again, because the City used to do more
21 enhanced cleanups, it stopped because of some resistance
22 with the people staying out there and a lot of nuisances
23 within that. This was us trying to get the momentum and
24 the communication going back with the community and also
25 trying to stay within legal reasons of not allowing, so

1 there was a lot of nuances of that reasoning that I wasn't
2 the end all be all on that, but all of those situations
3 came in place.

4 The Boise decision, making sure that we had
5 legal standing to be able to do that, while also getting
6 the cleanups going again without having a bunch of issues
7 with clients, because client safety was important to us
8 and we didn't want to just do a huge disruption and pace
9 into it, so -- I apologize. Thank you.

10 So to be specific on all of that, I don't
11 know if I could answer that right here without notes in
12 front of me but that was some of the nuance within that.

13 Q. It took the Court's order for the City to
14 actually clean a street and keep it clean, true?

15 A. I would say that was -- that was a factor in it,
16 absolutely.

17 Q. Yeah. Sure.

18 Now, I just -- I want to ask you a
19 question. You had mentioned in response to questioning
20 that when you -- well, strike that.

21 Let me ask you this foundational question.
22 Are you -- during these enhanced engagements, are you
23 personally out there talking to the homeless folks?

24 A. Most of them. There was, I believe, two that I
25 couldn't be at because of other work-related issues, but

1 most of the time I am the one out there from beginning to
2 end coordinating.

3 Q. And have you developed any relationships with any
4 of what we have been calling today during the course of
5 this hearing unsheltered individuals who are living out
6 there?

7 A. Yes, sir.

8 Q. So you know some of these folks?

9 A. Yes, sir.

10 Q. So they have been there awhile?

11 A. Yes, sir.

12 Q. All right. Have some of them have been there
13 more than six months?

14 A. Yes, sir.

15 Q. More than a year?

16 A. Yes, sir.

17 Q. All right. And so when you -- now, you testified
18 I thought that virtually all of them have no other -- is
19 it no other place to go or they just -- or -- I just
20 wasn't clear whether you were testifying that they had no
21 other place to go or whether they were not currently
22 enrolled in a shelter someplace?

23 A. The question I believe I answered was whether or
24 not they had already had an alternative location to stay
25 other than other than a shelter in Phoenix. So I answered

1 that my engagements with people that didn't have an
2 alternative place that they already could stay at, that
3 they needed assistance in getting placement to stay
4 someplace.

5 Q. Okay. So by that, you've -- you're investigating
6 whether they have access to funds?

7 A. Whether or not they were already in a shelter and
8 just staying out there on their own or whether or not they
9 were in some other program.

10 Q. Okay. And how about -- and so -- and that
11 occasionally occurs, people will be -- they will be
12 qualified for a shelter but they live on the street
13 anyway?

14 A. Yeah. It has happened where someone has actually
15 had housing and been out there, but again, that was
16 anomaly and one-offs.

17 Q. All right. Did you force that person -- did
18 anyone from the City force that person to leave and go
19 back to their house?

20 A. Well, the City of Phoenix can't force anybody to
21 go anywhere per se. But when we're working with
22 individuals and they do have a place, yes, we would make
23 that connection and try to reestablish where they were at
24 or if that thing wasn't working for a particular reason,
25 try to do a new placement or a new referral.

1 Q. The -- all right. And so -- and when you say
2 that those percentages in your opinion, is that -- that
3 includes investigating whether they have funds to rent a
4 place?

5 A. Well, funds is all self-reported. So during an
6 assessment of an individual's needs, we do ask about
7 income, but it is all self-report by that individual. The
8 HMIS system I referred to earlier, we don't track or
9 mandate people's income, that's a self-report from an
10 individual.

11 Q. Okay. So as far as you know, the City is --
12 doesn't know whether some of these individuals who are
13 living in the zone actually have the means to pay for
14 their own housing?

15 A. Correct. It could be found out when they do
16 their application for housing and then that income kind of
17 verification, but yes, our outreach teams and our homeless
18 team doesn't do income verification, that's something a
19 housing project would do once they apply for housing or
20 something of that sort.

21 Q. And is the same true for whether they have
22 relatives that might house them?

23 A. Sure. So, again, that's self-report from an
24 individual, and if they tell us they have family members,
25 we try to make those connections, that's part of our

1 process is family reunification.

2 Q. And then is the City at this point categorizing
3 individuals as involuntarily homeless?

4 A. No. A person experiencing homelessness is a
5 person experiencing homelessness, the nuance caricatures
6 people like to put on them, that's not something we do.
7 If someone is experiencing homelessness, we work on trying
8 to resolve that for the individual.

9 Q. All right. And that's what your job is?

10 A. Yes, sir.

11 Q. And your job is not to clean -- it is not to
12 clean the streets of the tents in and around the zone?

13 A. No, I wouldn't say that. Because our office is
14 wholistic. It is not only the individual we're trying to
15 assist that's experiencing homelessness, it is also our
16 communities. So we're very ingrained in our community
17 groups and issues as it relates to, you know, debris left
18 over by homelessness or the negative impact of
19 homelessness.

20 Q. All right. Since you have been at the City,
21 statistically have the number of -- well, of unsheltered
22 homeless in the city and in the zone, have they -- has
23 that decreased or increased?

24 A. Our -- I'm sorry, our regional data, HMIS data
25 has shown that our inflow of people experiencing

1 homelessness is increasing. Our point-in-time count still
2 showed an increase this year as well. So I would say we
3 have seen an increase in sheltered and unsheltered
4 homelessness.

5 MR. TULLY: All right. That's all I have,
6 your Honor. Thank you.

7 THE COURT: Thank you.

8 Any redirect with about nine minutes
9 remaining?

10

11

REDIRECT EXAMINATION

12 BY MR. ARNSON:

13 Q. Mr. Hall, briefly, in the areas that the City has
14 closed during the enhanced engagement process, have
15 individuals returned to those closed areas?

16 A. They have not.

17 Q. Okay. So the increase in population that the
18 City is seeing in the area around the Human Services
19 Campus is not within those closed areas?

20 A. Correct.

21 Q. Okay. So the City's closures have been
22 successful to date in keeping tents, unsheltered persons,
23 et cetera, out of the zone; is that correct?

24 A. Out of those areas, yes.

25 MR. ARNSON: Out of those areas, thank you.

1 I have no further questions, your Honor.

2 THE COURT: Thank you.

3 Does either party believe that this witness
4 should be available for recall?

5 MR. ARNISON: No, your Honor.

6 THE COURT: Plaintiffs?

7 MR. TULLY: No, your Honor.

8 THE COURT: All right. Thank you for your
9 time today, sir.

10 THE WITNESS: Thank you, sir.

11 THE COURT: You are welcome to step down.

12 I'm going to end us a little bit early
13 today at about -- well, eight minutes early. I'll plan on
14 seeing everybody back here or you guys back here at 9:00
15 tomorrow morning, preferably a little bit early.

16 For the rest of you, we're going off the
17 record. I'm still going to remain and talk with counsel
18 up here at the bench, so mill around or do what you need
19 to do, but we're off the record at this point. Thank you.

20 (Proceedings concluded.)

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Exhibit 2

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

FREDDY BROWN, ET AL.,

Plaintiffs,

vs.

CITY OF PHOENIX,

Defendant.

No. CV 2022-010439

Phoenix, Arizona

October 27, 2022

9:03 a.m.

BEFORE THE HONORABLE ALISON BACHUS

TRANSCRIPT OF PROCEEDINGS

Oral Argument and Evidentiary Hearing

Proceedings recorded by electronic sound recording; transcript produced by eScribers, LLC.

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I N D E XOctober 27, 2022

<u>PLAINTIFFS' WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
Freddy Brown	50	58	59	--	--
Ian Francis Likwarz	60	--	--	--	--
Michael Godbehere	92	--	--	--	--
<u>DEFENDANT'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
Gina Montes	115,130	150	168	--	--
Scott Hall	171	189	214	--	--
Brian Freudenthal	220	236	--	--	--

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EXHIBITSPLAINTIFF'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
1	Document from City Council meeting	42	42
2	Photo	42	42
8	Picture of man injecting self at front door	42	42
9-11	Miscellaneous Photos	42	42
12	Photo of passed-out man	42	42
13-17	Photos	42	42
18-19	Photos of man spraying diarrhea on building	42	42
20	Photo of feces	42	42
21	Photo	42	42
22	Picture of tree on fire	42	42
23	Photo of tent fire debris	42	42
24	Photo of Human Services Campus	42	42
25	Photo	42	42
26	Photo of front of building	42	42
28	Photo looking at Madison and 9th from front	42	42
29-32	Miscellaneous Photos	42	42
33	Success stories with Safe Outdoor Spaces	42	42
34-56	Miscellaneous Photos	42	42
57	Cleaning document	167	168



EXHIBITS (CONTINUED)

DEFENDANT'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
50	Point-in-Time street count	42	42
51	List of shelter beds in Phoenix	42	42



APPEARANCES

October 27, 2022

Judge: Alison Bachus

For the Plaintiffs:

Michael G. Bailey

Stephen W. Tully

Ilan Wurman

Witnesses:

Freddy Brown

Ian Francis Likwarz

Michael Godbehere

For the Defendant:

Aaron D. Arnson

Trish Stuhan

Witnesses:

Gina Montes

Scott Hall

Brian Freudenthal



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Phoenix, Arizona

October 27, 2022

(The Honorable Alison Bachus Presiding)

ORAL ARGUMENT AND EVIDENTIARY HEARING:

THE COURT: All right. Good morning, we're on the record now in CV 2022-010439, Brown, et al. v. the City of Phoenix. Can I have your appearances, please, Plaintiffs.

MR. BAILEY: Good morning, Your Honor. Michael G. Bailey along with Stephen W. Tully and Ilan Wurman on behalf of the Plaintiffs.

THE COURT: All right. Good morning. Welcome. Defense?

MR. ARNSON: Good morning, Your Honor. Aaron Arnson and Trish Stuhan on behalf of Defendant, City of Phoenix.

THE COURT: All right. Thank you.

MR. ARNSON: Thank you.

THE COURT: Welcome. I'm Judge Bachus presiding over this matter. So we have set this for a couple of things in succession. The first one is going to be the oral argument, and then the second will be the evidentiary hearing taking up the balance of the day.

As you know, Counsel, we have the entire day set aside for the hearing. And as we had talked about the time is divided between both sides of the V, if you will, equally with us conducting the oral argument first, and then the balance of



1 time going towards the evidentiary hearing.

2 So first, with respect to the oral argument, really
3 this is more going towards the motion to dismiss that's been
4 filed. And then once we move into the evidentiary hearing
5 portion of it, which really goes more obviously to the
6 application for preliminary injunction, if either party wishes
7 to give an opening or a closing vis-à-vis the evidentiary
8 hearing, you're more than welcome to do so.

9 But what I'd like to do is focus the oral argument on
10 the motion to dismiss. And then we'll move to the application
11 for a preliminary injunction. I realize this is a little bit
12 unusual the way that we're doing it, but I wanted to officially
13 use everybody's time. So I appreciate you're being here and
14 conducting both.

15 So with all of that being said, and just a couple
16 preliminary matters. First. Where you decide throughout the
17 day to either sit or stand is up to you. The Court has no
18 preference. So if you want to use the lectern, you're welcome
19 to do so. If you wish to remain seated or standing, for that
20 matter at counsel table, whichever makes you more comfortable.
21 I have no preference.

22 Second, you will see the Court looking down at the
23 computer screen now and then. That is just because I take
24 notes on my computer. I find that my handwriting is bad as it
25 is normally, but especially when I'm trying to write quickly.



1 So if you see me looking at my screen, it's very likely
2 checking my notes or helping with the recording equipment or
3 some of our other technological things, rest assured the Court
4 is not surfing the internet or doing something and is not
5 engaged with this case. But I know people wonder, why is she
6 looking at the screen? That's why.

7 All right. Any preliminary issues we need to talk
8 about before we get started this morning for Plaintiffs?

9 MR. BAILEY: No, Your Honor, other than to let the
10 Court know that Mr. Wurman will be arguing the motion to
11 dismiss. Mr. Tully and I will be doing almost all of the
12 evidence.

13 THE COURT: Okay. All right. Thank you for that.
14 That's helpful. How about from Defense? Any preliminary
15 matters?

16 MR. ARNISON: No, I don't believe that the -- from the
17 Defendants, we have any preliminary matters. Thank you, Your
18 Honor.

19 THE COURT: Okay. All right. Well, thanks. Let's
20 go ahead and get started then with oral argument on the motion
21 to dismiss, which of course was filed by the City. So whenever
22 you're ready, go ahead.

23 MR. ARNISON: Thank you, Your Honor.

24 May it please the Court, Your Honor, Aaron Arnson on
25 behalf of Defendant, City of Phoenix. This case, Your Honor,



1 is about one of the most challenging issues facing our state
2 and our country today. That is the homelessness crisis and how
3 to solve it. Frankly, the City knows how difficult the
4 situation is downtown, and the City indeed sympathizes with the
5 Plaintiffs. The City has heard them, the City has met with
6 them, and is committed to addressing homelessness in
7 Plaintiffs' area and in the City at large.

8 The problem here, and as it goes to Defendant's
9 motion to dismiss, is that Plaintiffs are seeking relief in the
10 wrong forum. Their request for seeking relief runs afoul
11 fundamental separation of powers and principles. The Court
12 should grant the City's motion to dismiss the complaint in its
13 entirety for two key reasons. And I think framing this in a
14 little bit of a different way may assist the Court in making
15 it's judgment.

16 The first is that this case presents nonjusticiable
17 political questions that courts in analogous cases have wisely
18 declined to decide. And the second point is that even if the
19 case presented justiciable issues, which it does not, it would
20 still have to be dismissed because as presented, it fails to
21 state a claim upon which relief can be granted.

22 I'd like to turn first to the issue of -- to the
23 political question issue. First, whether characterized as
24 mandamus, declaratory, or injunctive relief, the conclusion is
25 the same. This case presents nonjusticiable political



1 questions about allocation of resources and law enforcement
2 that this Court should decline to decide. The controlling
3 precedence here -- I'll guide the Court through two controlling
4 precedents, if you will. R. Sensing v. Harris, which is a 2007
5 court of appeals decision, as the Court's aware. And Kromko v.
6 Arizona Board Of Regents, a 2007 Arizona Supreme Court
7 decision.

8 Let's begin with Sensing, which is controlling as to
9 Plaintiffs request mandamus relief. In that case, a Phoenix
10 business owner alleged that people had been standing for a
11 number of years adjacent to the streets next to his business,
12 essentially panhandling. He alleged that there were a number
13 of negative secondary effects that resulted because of that.
14 Trash accumulating in the street, people loitering,
15 trespassing, lower property values, and the like.

16 As here, the Plaintiff filed a verified complaint for
17 seeking a writ of mandamus, specifically to compel the City of
18 Phoenix Chief of Police to enforce the City's antisolicitation
19 ordinance, which the City had repeatedly declined to do. The
20 court -- the superior court granted the City's 12(b)(6) motion,
21 and the court of appeals affirmed. Specifically, the court of
22 appeals held a -- the general rule that mandamus does not lie
23 if the officer is not specifically required to perform and act
24 required by law. And the general rule is that this action of a
25 public officer, specifically law enforcement activities, are



1 generally discretionary, and that discretion may not be
2 controlled by mandamus.

3 Because no specific level or degree of enforcement
4 was mandated by the City code that was a valid exercise of
5 discretion the Court held. And critically, the remedy instead
6 was to quote, "Influence the City's policy makers to change the
7 City's policy and policy and practices regarding enforcement of
8 the ordinance. This was a political question, not appropriate
9 for judicial resolution," end quote.

10 The Court also noted in Sensing that whether the
11 chief's enforcement decision is based on a lack of resources,
12 making other tasks higher priorities, or concerns about the
13 legality or wisdom of enforcing the ordinance, the chief has
14 the discretion to make that decision. Mandamus is not
15 available to override that decision. The facts are strikingly
16 similar, although of course this case deals with unsheltered
17 persons, and that case dealt with a -- an anti-solicitation
18 ordinance.

19 At issue here is City's ordinances prohibiting
20 overnight camping, which Plaintiffs have alleged the City's
21 refusing to enforce. Business owners allege, just like they
22 did in Sensing, that the City has failed to enforce this for a
23 number of years, which has led to the same harmful secondary
24 effects that the Plaintiff alleged that he experienced in
25 Sensing.



1 Like in that case, nowhere in either of these
2 ordinances is there mandatory enforcement. Rather, it's a
3 discretionary action, and the remedy as set forth in Sensing is
4 for Plaintiffs to avail themselves of the political process, to
5 influence policy makers, not to seek judicial relief in the
6 form of a writ of mandamus from the Court.

7 Turning now to the second case that I mentioned
8 earlier, Kromko v. Board Of Regents. That case is controlling
9 as to Plaintiffs' request for declaratory and injunctive
10 relief.

11 THE COURT: Before we go to Kromko, can we just -- I
12 want to go back to Sensing. Sensing really focused on the
13 ordinance and law enforcement choosing, as you've talked about,
14 to not enforce that ordinance for a variety of reasons, and the
15 court of appeals discussed those at length. In Plaintiffs'
16 briefs, they did drop a footnote citing the various ordinances,
17 they've talked about how the City is not enforcing those
18 ordinances, but isn't their discussion broader than just
19 failing to enforce certain ordinances? For example, aren't
20 they saying that the City could be doing other things, not just
21 enforcing ordinances, but perhaps moving the unsheltered
22 persons to alternate locations. So it's not really limited to
23 enforcement of ordinances.

24 MR. ARNISON: Certainly not, Your Honor. It is not
25 limited to the enforcement of, you know, two discrete



1 ordinances that have to do with overnight sleeping or camping.
2 Rather, the Plaintiffs do propose a number of alternative
3 options, right, for the City to be able to relocate and move
4 individuals who are experiencing homelessness from the
5 immediate area. The Court's certainly right about that. I
6 think the important takeaway from that though is that
7 regardless of what the City can -- could do -- and again, I
8 think the complaint on its face, or the briefing on its face,
9 makes it clear that those are things the City could do.
10 They're not things that the City is required to do.

11 A writ of mandamus lies when someone is -- when a
12 public official is failing to take some action, of course,
13 right, that they're required to take by law.

14 THE COURT: It's not discretionary, right?

15 MR. ARNISON: Right. Nondiscretionary. And to the
16 extent that those are a panoply of alternatives available to
17 the City for remediating this issue, those are, on their face,
18 things that are discretionary and within the City's discretion.

19 THE COURT: Okay. Thank you.

20 MR. ARNISON: Thank you.

21 So turning now to Kromko v. Board of Regents, the
22 facts of that are pretty straightforward. The students at one
23 of the public state universities claimed that the proposed
24 tuition increase for a particular academic year was too high
25 and that it ran it foul of a constitutional provision in the



1 Arizona Constitution that says tuition has to be nearly as free
2 as possible. They sought declaratory injunctive relief, same
3 as Plaintiffs are seeking here. And again, the trial court
4 granted the Board of Regents motion to dismiss.

5 The Supreme Court held that there was no actionable
6 basis for suit and upheld the dismissal. The Court ruled that
7 the controversy is nonjusticiable, i.e. -- and this is a
8 quote, i.e.

9 "-- involves a political question when there is a
10 textually demonstrable constitutional commitment of
11 the issue to a coordinate political department, or a
12 lack of judicially discoverable and manageable
13 standards for resolving it."

14 The federal political question, doctrine, which the
15 Court analogized, flows from the basic principle of separation
16 of powers and recognizes that some decisions are entrusted to
17 the -- by the Constitution to branches of government other than
18 the judiciary, and Arizona courts refrain from addressing
19 political questions for the same reasons.

20 The Court concluded that in order to determine how to
21 set tuition, there are no judicially discoverable and
22 manageable standards for determining one when it's
23 constitutionally excessive. And indeed, citing SCOTUS precedent,
24 the Court determined that this is telltale sign of a political
25 question that it should decline to entertain. Here, the



1 request for declaratory and injunctive relief are functionally
2 indistinguishable.

3 Plaintiffs have offered a number of options, as the
4 Court noted just a few minutes ago, but what no one has
5 articulated is what judicially discoverable and manageable
6 standards would exist for determining this case. If the Court
7 granted declaratory injunctive relief and said a nuisance
8 existed and go abate it, when is it abated? When is the --
9 what's the right amount of money to divert to abatement? What
10 is the right level of enforcement? How does the Court enforce
11 it? Is the Court going to act as a special master and
12 specifically enforce a judicial decree? How is that a
13 judicially manageable thing?

14 As the Kromko Court put it, there is no north star to
15 guide a court in making such determination. At best we would
16 be substituting our subjective judgment on what is reasonable
17 under all the circumstances for that of the board and
18 legislature, the very branches of the government to which our
19 Constitution entrusts this very decision. The point is, Your
20 Honor, Sensing and Kromko are controlling. However styled,
21 Plaintiffs' request for mandamus declaratory under injunctive
22 relief present political questions that the Court can and
23 should decline to entertain.

24 Now, we get this case presented other than political
25 questions, the complaint would still have to be dismissed



1 because as presented it fails to state a claim upon which
2 relief can be granted for other substantive reasons. First,
3 we've already discussed the mandamus factor, right? That the
4 general rule is that mandamus can't lie if there's
5 discretionary act -- or cannot lie unless there's a
6 nondiscretionary act that a public official is failing to
7 undertake.

8 The declaratory relief claims likewise should be
9 dismissed. Declaratory relief -- excuse me -- is an improper
10 substitute for a nuisance claim, because granting a declaratory
11 judgment doesn't do anything -- wouldn't necessarily do
12 anything to terminate the uncertainty in this case. The
13 Uniform Declaratory Judgments Act at 12-1836 provides that
14 declaratory judgment is a discretionary decision, of course.
15 And it may be denied where such judgment or decree, if rendered
16 or entered, would not terminate the uncertainty or controversy
17 giving rise to the proceeding.

18 Simply granting a declaratory judgment action saying
19 a nuisance exists with nothing more, with no guiding
20 principles, as Plaintiffs suggests, is not a remedy that will
21 get the parties anywhere. The Court would still have to
22 fashion some kind of relief. And again, tying back to what we
23 just discussed a moment ago, the City is still coming up short
24 on those -- what judicially manageable standards would exist to
25 enforce -- to give -- to make that remedy worth anything.



1 Plaintiffs also seek declaratory relief under article
2 2, section 4 of the Arizona Constitution, which is the State
3 equivalent of the federal due process clause. There is no
4 constitutionally protected interests which Plaintiffs have been
5 deprived of under the due process clause. Now, in their
6 briefing the Plaintiffs are quick to allege, and we frankly
7 agree, that the property owners, the business owners, have a
8 property interest in their real property and their businesses
9 and the land that they own that surely is beyond dispute.

10 The question is whether they have a constitutionally
11 protected interest. We have yet to discover, and Plaintiffs
12 have yet to cite, any case that suggests why the Arizona
13 Constitution should be interpreted any differently than our
14 federal precedent, which has, in a number of cases,
15 demonstrated, for example Town of Castle Rock v. Gonzales,
16 where there's no specific right to enforcement of a particular
17 law. We don't have any case that explains why the Arizona
18 Constitution should deviate when we follow so closely -- when
19 the Arizona courts follow so closely our federal counterpart in
20 interpreting the due process clause.

21 Likewise, the equal protection argument, we're not
22 talking about a constitutionally protected class, right? We're
23 not talking about interstate commerce. We're not talking about
24 a class based on gender, or based on race, or some
25 classification that's entitled to heightened scrutiny in



1 application of a statute, right? We're talking about property
2 owners that are interested in -- understandably interested in
3 having the situation near their businesses remedied. That
4 simply isn't a constitutional claim. And for Plaintiffs to
5 fashion their complaint as a constitutional claim is just not
6 legally correct, at least not based on the precedence that
7 Plaintiffs have provided or that the City has been able to
8 discover.

9 Your Honor, while we're on the subject of
10 constitutional considerations, I want to quickly note that
11 there are significant constitutional and policy concerns here
12 that militate against granting mandamus or against granting
13 declaratory relief or other relief. This case involves over
14 1,000 homeless individuals, unsheltered individuals, that are
15 located in and around Plaintiffs' property -- or around
16 Plaintiffs' properties near the Human Services campus downtown.

17 Under Martin v. Boise, although not entirely
18 exclusive, of course, of City action, a municipality cannot
19 simply arrest and criminally prosecute a person for violating
20 an anti-camping ordinance where there is nowhere else to go.
21 Likewise, Johnson v. City of Grants Pass, which was recently
22 decided last month in the Ninth Circuit, extended that line of
23 reasoning to civil penalties and prohibited civil penalties for
24 sleeping with only rudimentary protection from the elements or
25 sleeping in cars.



1 THE COURT: Well, it's the civil penalties that then
2 can flow into criminal --

3 MR. ARNSON: Correct.

4 THE COURT: -- penalties.

5 MR. ARNSON: Correct, Your Honor.

6 THE COURT: It's not just straight civil; in fact,
7 they limited their holding in that regard. I'm not --

8 MR. ARNSON: Yes. I mean, but the -- now that being
9 said, the ordinances that are at issue here do involve criminal
10 penalties. I can't remember which class of misdemeanor it is,
11 but it's a class something misdemeanor. But Plaintiffs
12 essentially want the Court to grant special action mandamus
13 relief or other relief to skirt around voicing Grants Pass, by
14 saying we know there aren't places for unsheltered individuals
15 to go, but you, Court, can force the City to remove those
16 individuals and force the City to divert resources to build
17 structured campsites, et cetera, among other proposals that
18 Plaintiffs have advanced.

19 Again, this is exactly what Sensing militates
20 against, I would suggest to the Court, right? That those are
21 political questions that are left to the legislative branches
22 of government, that courts historically have not involved
23 themselves in in analogous cases. To conclude, Your Honor, we
24 certainly don't want legal issues to distract from the real
25 problems that Plaintiffs are experiencing downtown. There is a



1 problem downtown, and the City wants to help. And if we
2 proceed with the hearing today, the Court will hear evidence of
3 what the Court -- of what the City is doing to help.

4 But the vehicles for relief that Plaintiffs are
5 seeking are not appropriate here. They have not stated a
6 cognizable claim relief. And so for the foregoing reasons, the
7 City requests that the Court grant the City's motion to
8 dismiss, absent any further questions from the Court.

9 THE COURT: Okay. All right. Thank you.

10 MR. ARNISON: Thank you.

11 MR. WURMAN: Good morning, Your Honor. Ilan Wurman
12 on behalf of the Plaintiffs. Of course I prepared something,
13 and I'm thinking of dumping it in the trash after what I heard.
14 So let me start with something that I wasn't really planning to
15 talk about, which is the political question doctrine, which is
16 what this case is not about. I'd like to say three things
17 about this, Your Honor.

18 The first is they only raise the political question
19 in the reply brief. And so arguably, it's waived, but I want
20 to address it because I do know something about it, and I teach
21 the doctrine. The opposing counsel did cite the doctrine
22 correctly when he said that there are really two prongs. One
23 is is there are judicially manageable standard. The other is
24 if there is an initial textural commitment to one of the
25 political branches of government.



1 But opposing counsel left something out of that test,
2 right? Because any time there's judicial review of government
3 action, by definition there has been a textual commitment -- an
4 initial textual commitment to the government, the political
5 branch is to act first, otherwise we wouldn't be here doing
6 something. The political question doctrine involves situations
7 in which there's a textual commitment to one of the political
8 branches of government, and there's an unquestioning need to
9 adhere to that commitment.

10 So for example, the two central federal political
11 question cases are Luther against Borden from the 1840s, and
12 the Walter Nixon case, Walter Nixon v. United States. This
13 involved what is the legitimate government of Rhode Island when
14 there was a rebellion in Rhode Island, and the president had to
15 call out the militia and decide what the legitimate government
16 of Rhode Island was. And the Nixon case involved whether the
17 senate had legitimately impeached a judge.

18 And the Supreme Court decided yes, that there's an
19 initial textual commitment to the political branches to make
20 this question, and there's no way to backtrack on those
21 questions. They're just not the kind of thing that judges get
22 into, what is the legitimate government of Rhode Island.
23 Whether someone has been lawfully impeached, right? What
24 happens, you have two presidents, you have -- so that's what
25 the political question doctrine is. This has nothing to do



1 with it. There is always an initial textual commitment to the
2 government to act when we are engaged in judicial review of the
3 government. Always the case.

4 The question is, is there a judicially manageable
5 standard? And here, of course, there is, and that's public
6 nuisance and -- which takes me kind of to what I really want to
7 talk about, which is the second argument about the motion to
8 dismiss. Because we say, yeah, they're a public nuisance.
9 There's Armory Park, there's City of Phoenix v. Johnson, there
10 are the statement, and there are the statutes that illustrates
11 what public nuisance is. That's the bread and butter of what
12 judges do; it's judicially manageable standards.

13 The mandamus issue I'll talk about separately. My
14 only point now is to just kind of clear the underbrush. This
15 has nothing to do with political questions. It may be
16 mandamus, no mandamus, but that's a separate issue. So if I
17 may move onto the issue, which is the motion to dismiss, I'd
18 like to say two points initially and then discuss two other
19 points.

20 The first point is quite simply, of course, motion to
21 dismiss are disfavored, which we should keep in mind. And the
22 second point is this is a notice pleading state. As you know,
23 Your Honor, the question is, do they know what we're talking
24 about? Do we know what we're talking about? This is page 6 of
25 their motion to dismiss, quote, "Ultimately the heart of the



1 complaint is public nuisance." They know it, we know it, that
2 should really be the end of this motion to dismiss. But that
3 does raise the question, what is our legal theory? What is our
4 public nuisance theory.

5 And so let me start by saying, Your Honor, what this
6 case is not about. This case is not about City of Boise. That
7 is not what this case is about. Because we aren't challenging
8 the Ninth Circuit decision. They are -- as far as I was aware,
9 they weren't saying that the Ninth Circuit decision preempted a
10 whole bunch of state nuisance laws and City ordinances. We are
11 not asking for mass arrests, and we're not challenging -- you
12 know, we're not asking the City to violate the constitutional
13 rights of unsheltered people, okay? That is not what this case
14 is about.

15 This case is about public nuisance, and specifically
16 Armory Park and City of Phoenix v. Johnson to start
17 (indiscernible) the restatement. Armory Park says the
18 unsheltered population can constitute a nuisance, a public or
19 private nuisance, and City of Phoenix v. Johnson says, you can
20 sue City government for engaging in public nuisances. You put
21 the two cases together and that's basically our case, but more
22 than that.

23 We have the restatement of torts, which is cited in
24 Armory Park and relied upon. And I want to talk a bit about
25 this, because one part of it I didn't cite in my brief. I



1 cited other authorities for the same proposition. But this is
2 restatement. 821B is the central provision. There's
3 821B(2) (a) and 821B(2) (b). I'd like to start with 821B(2) (b),
4 because I did not cite it. I cite it in footnote 6 of my --
5 the response to the motion to dismiss. But I didn't say this:

6 "Circumstances that may sustain a holding that an
7 interference where the public right is unreasonable
8 include whether the conduct is prescribed by a
9 statute, ordinance, or administrative regulation."

10 And just to be clear, we're not saying that -- so
11 we've pled, and we'll show today, by the way -- but we've pled
12 six sub-statutes that define public nuisance that they're
13 violating. We're not saying everybody can sue under the
14 statutes; they can't. But we, otherwise, have a cause of
15 action, because we have a common law cause of action, because
16 we are right there. And the common law therefore gives us a
17 common law cause of action that then incorporates these public
18 nuisance statutes. So we've pled six sub-statutes that show
19 under 821B(2) (b) that this is a public nuisance.

20 And we've also pled, and we'll show today, Your
21 Honor, a violation of 821B(2) (a). Because there is a
22 significant interappearance (sic) with the public health --
23 interference, excuse me -- with the public health, the public
24 safety, the public peace, the public comfort, or the public
25 convenience. In fact, in footnote 1 -- Your Honor, I know you



1 wanted to focus on the motion to dismiss -- footnote 1 of the
2 reply brief, they concede they wouldn't win a motion to dismiss
3 on a public nuisance theory. That plus public notice pleading
4 basically should be the end of this case. So I want to be
5 clear. That's not the end of the case, but the end of their
6 motion to dismiss.

7 We are not asking you, Your Honor, to solve this
8 crisis. That's not what we're asking.

9 THE COURT: Good.

10 MR. WURMAN: What we are asking you to do is to tell
11 the City what it can't do. And what it can't do is violate the
12 law including the public nuisance laws, which are laws that
13 they are bound by. That's what we're asking you to do, to tell
14 them what they can't do. City of Phoenix against Johnson makes
15 a presumption under the law that the City can operate its
16 governmental functions, including maintaining its public
17 spaces, without creating a public nuisance and without
18 violating the constitutional rights of the citizens. That's
19 City of Phoenix v. Johnson. It presumes that they can do it,
20 and they can spare no expense. That's the -- again, the words
21 of City of Phoenix v. Johnson -- in doing so.

22 But if you have any doubt on the score, Your Honor,
23 if their argument, oh, we can't do this without violating the
24 Ninth Circuit decision. We've pled, but that's clearly not the
25 case -- we've pled that there are things they can do;



1 sanctioned camping, other temporary shelters. Of course the
2 Ninth Circuit decision doesn't say anything about not arresting
3 unsheltered individuals who engage in other conduct like public
4 drug use and so on.

5 We've pled, and we'll show today, that these options
6 are available to the City, but they choose not to do it. But
7 they don't get to choose not to violate the law. That's not a
8 choice -- sorry. I should say, they don't get to choose to
9 violate the law. That's not a choice that they get. Which
10 brings me to the last thing I want to talk about, Your Honor,
11 and it's the one I want to focus on the most, because it's
12 really the core of their motion to dismiss, is the relief.

13 If we're right on this public nuisance theory, and
14 we've certainly pled it correctly, we've pled it -- what relief
15 are we entitled to? They say -- and this the reply brief page
16 2, "That the remedy for public nuisance claim is damages."
17 That is not so, Your Honor. Armory Park, look at Armory Park.
18 The supreme court of this state upheld the grant of a
19 preliminary injunction, okay? Additionally, the harm -- the
20 nuisance is ongoing. Part of an ongoing nuisance claim is
21 people have a right to abate it. People who are harmed by it
22 have a right to stop the ongoing wrongful conduct.

23 Everything they say, Your Honor, again, about
24 discretion, policy discretion, legislative discretion, it's
25 just beside the point. Of course they have that discretion up



1 until the point they violate the law. If I may make an
2 analogy, and I want to be clear, I'm just using this for the
3 purposes of relief, okay? I want to draw analogy to Brown v.
4 Board of Education. And before I do so, this case is not Brown
5 v. Board of Education -- this is not the same thing as
6 segregated schools. That's not at all the point of that
7 analogy. It's the relief.

8 What was the relief in that case? There is a
9 declaration that the governments, that the states, that the
10 cities violated the Constitution, that they violated the law
11 that segregated schools were not constitutional. There was a
12 mandate to desegregate with all deliberate speed. And then
13 there was injunctions when it got back to the district courts
14 in the particular municipalities, and school districts, and
15 states. There were mandatory, not just prohibitory, mandatory
16 injunctions telling them, okay, here now is how you have to
17 comply with the mandate.

18 That's the kind of relief we're asking for here. In
19 a way, Your Honor, it really doesn't matter how we get there.
20 We all know what the end result is, that this is a public
21 nuisance, and it has to be abated whether it's a combination of
22 declaratory special action or injunctive relief. Almost
23 doesn't matter, but I think we're entitled to all three. I
24 think we're entitled to all three. So if I may just make two
25 more points -- or just say two more things about the



1 declaratory judgment and special action, because I want to
2 respond to some things they raised in the reply brief.

3 They say for a declaratory judgment action, they say
4 there needs to be an underlying cause of action. That's sort
5 of true. There has to be an underlying legal theory, which
6 usually requires an underlying cause of action, right? Because
7 you need the right to sue. But we have that here. We have --
8 and they don't question that it's public nuisance. Where
9 they're wrong is when they say we have to plead the underlying
10 cause of action. They're wrong because the uniformed
11 declaratory judgment act, adopted by the State, says they're
12 wrong. All the cases they cite are from the Federal
13 Declaratory Judgment Act.

14 The Federal Declaratory Judgment Act is different.
15 It is written as a remedy. And when you think about it, it
16 makes sense. What does it mean to create a cause of action
17 through the declaratory judgment act in diversity? You have to
18 have a state law cause of action and -- it doesn't make any
19 sense. It's written as a remedy, it says it's remedy, but
20 that's not what the uniform DJA says. The uniform DJA
21 contemplates proceedings under it and calls itself a civil
22 action like other civil actions. That's A.R.S. Section
23 12-1839, okay. It's different than the Federal Declaratory
24 Judgment Act.

25 But even if we're wrong about that, Your Honor,



1 again, this is a notice pleading state. They know what we're
2 talking, we know what we're talking about. How exactly would
3 we replead this? Would we change one word? We would say --
4 instead of declare public nuisance we would say "public
5 nuisance", we would just drop the declare word? What would we
6 do? What would we change in the complaint? It's not at all
7 clear to me. So the argument is totally falsified.

8 One last thing I want to say, in the reply brief they
9 suggested that if an adequate remedy at law is available, a
10 declaratory judgment is not available. That is not true. That
11 is not true. Follow the text. Again, the Declaratory Judgment
12 Act says, "Declaratory relief is available whether or not
13 further relief is, or could be claimed." That's A.R.S.
14 12-1831. The federal rules in this case are actually clear. I
15 know I just distinguished the two, but the existence of another
16 adequate remedy does not preclude a declaratory judgment that
17 is otherwise appropriate. That's Federal Rule 57. Exactly
18 what A.R.S. 12-1831 says. They cite one case that seems to
19 suggest otherwise, which this is the Land Department v. O'Toole
20 case where there was an exclusive statute providing exclusive
21 remedy for (indiscernible). It's just totally inapposite.

22 Lastly, Your Honor, let me speak about special action
23 before I may briefly say something on the constitutional
24 claims. We are also entitled to special action relief under
25 both Rule 3(a) and 3(b). Rule 3(a), because they are failing



1 to exercise discretion that they are bound by law to exercise.
2 And 3(b), because they, themselves, are acting unlawfully.
3 They, themselves, are maintaining the nuisance. And so they're
4 exceeding legal authority. That's 3(b).

5 We cited, Your Honor, numerous cases from numerous
6 jurisdictions showing that there's a public duty to remove
7 obstructions and other public nuisances. They cite one case in
8 the reply brief from Iowa, which has -- the City code said
9 something like, well, the City may do this, it may abate that,
10 it may do this, okay. We don't have anything like that in our
11 codes.

12 What about the following provisions? What about
13 A.R.S. Section 9-499(A), which we cite on page 9 of our
14 preliminary injunction brief.

15 "The City shall compel, shall compel owners of
16 property to remove any rubbish, trash, weeds, other
17 accumulation of filth, debris, or dilapidated
18 buildings that constitute a hazard to public health
19 and safety,"

20 not only from their property, but from its continuous
21 sidewalks, streets, and alleys. 13-2917(D), any person who
22 maintains or commits a public nuisance, or who knowingly fails
23 or refuses to perform any legal duty relating to the removal of
24 a public nuisance is guilty of a misdemeanor defining any
25 person to include government entity authority.



1 We did not cite this one, municipal code, Phoenix
2 Municipal Code 27-16, similar to the State statute:

3 "The owner of any land abutting a sidewalk, alley, or
4 street must maintain the sidewalk, alley, or street
5 free from the accumulation of solid waste, other
6 conditions that present a health, fire, or safety
7 hazard."

8 Where's the dissection? The City is -- the property
9 owners would like to do this. They would like to be able to
10 clear tents off of the sidewalks abutting the neighborhoods.
11 The City doesn't let them.

12 This is not discretionary. None of these is
13 discretionary. So there simply is no discretionary here, Your
14 Honor. And even if we're wrong about this being a public duty
15 to abate someone else's public nuisance, it's still the City
16 here that's engaging in the nuisance. And so for that reason
17 we would still be entitled to special action relief under 3(b).

18 I won't say much about the constitutional themes,
19 Your Honor, other than to say, just as a threshold matter, in
20 their reply brief they suggest we'd walk back the claims. What
21 I will say is I would like, of course, to incorporate the
22 arguments we make in the preliminary injection briefing where
23 we elaborate and flesh out the constitutional arguments. I
24 looked through my -- the briefing, and I did not explicitly
25 incorporate those arguments. But of course, we'll flesh those



1 out a lot more in the preliminary injunction briefing.

2 THE COURT: Yes.

3 MR. WURMAN: And the only other thing -- I'll say two
4 more things. On the due process claim, they still haven't
5 grappled with the argument that we're actually alleging State
6 action sufficient to meet -- right, if this is -- if they set
7 it in motion, just as in Armory Park, then we think that's
8 sufficient state action to meet the due process clause under
9 existing law. As for illegal privileges or immunities clause
10 claim, Your Honor, it's true that this argument would not fly
11 under the federal due process clause or the federal equal
12 protection clause.

13 But we have a state equal privileges or immunities
14 clause that the Supreme Court has invited people to argue
15 different standards, should be made. This is, you know -- the
16 case they cite, Coleman against Mesa, it says, you know, the
17 Colemans have not argued that another standard should apply.
18 They are inviting to argue that another standard applies.

19 And we're making -- we're giving you a textualist and
20 historical hook here, the equal privileges or immunities
21 clause, it says the word privileges or immunities of citizens
22 that are antebellum cases that say a privilege of citizenship
23 include protection by the government, including enforcement and
24 protection from physical violence and things like that. And so
25 we are giving you not a case, other than these antebellum



1 cases, but we are giving you a textual hook to make this novel
2 argument that should survive a motion to dismiss because it has
3 not been made before, and the Supreme Court has not ruled on it
4 before.

5 Unless there are any questions, Your Honor, I'll stop
6 there. And I think we -- we think that the motion to dismiss
7 should be, well, dismissed -- overruled, I guess.

8 THE COURT: Let me look at my notes. So just kind of
9 piggybacking off your last point there, Counsel. When we're
10 talking about some of the constitutional issues, I understand
11 the -- your argument about the state privileges and immunity
12 clause, so putting that aside for a second. But for example,
13 on the substantive due process argument, doesn't the federal
14 constitutional case law, the equivalent there, doesn't that
15 control?

16 MR. WURMAN: To be clear, Your Honor, we're actually
17 not making a substantive due process argument. Substantive due
18 process is this idea that there are substantive limits on
19 legislative power. But we're not saying there are substantive
20 limits -- unwritten substantive limits on City power or
21 legislative power. We're actually arguing for a procedural due
22 process violation. And there is a property interest, as they
23 say. And here, it is the City setting in motion actions that
24 lead to interference and deprivations of their possessory
25 property interest and liberty interests.



1 And so that's that difference between here and Castle
2 Rock. So I'm happy to be bound. I don't think this -- our
3 Supreme Court is -- feels itself bound by it. It usually is.
4 And people usually don't argue different standards. But even
5 if that's true, this is different than Castle Rock, it's
6 different than DeShaney (phonetic), because they set in motion
7 the actions of the -- through the public nuisance that they set
8 up, that lead subsequently to the deprivation and interference
9 of Plaintiffs' property and liberty rights. So under a
10 procedural due process, understanding that the Supreme Court
11 has not rejected in Castle Rock or in DeShaney, I think we
12 would still win under that argument.

13 THE COURT: Okay. All right. Thank you.

14 MR. WURMAN: Thank you, Your Honor.

15 THE COURT: Anything by way of reply?

16 MR. ARNISON: Yes, Your Honor. Thank you.

17 Your Honor, a few brief points for rebuttal. I think
18 there are just a few things to highlight that Mr. Wurman
19 discussed. First, Mr. Wurman highlighted the political
20 question doctrine that it's totally nonapplicable here, that it
21 has nothing to do with the request for writ of mandamus.
22 According to the court of appeals, it does have something to do
23 with the writ of mandamus.

24 If you look at, I believe it's paragraph 15 or 16
25 right there in Sensing, it talks specially about that a writ of



1 mandamus won't be granted, and specifically, because the remedy
2 that's available to the Plaintiffs is to be able to petition
3 their -- to petition the City Council leaders -- petition their
4 leaders for a policy remedy, right? It's exactly the kind of
5 nonjudiciable political question that's at issue here.

6 Plaintiffs also raise -- they have tried to draw a
7 lot of similarities between Armory -- the Armory Park case and
8 the City of Phoenix v. Johnson case and our case here. You
9 know, I can speak, at least, to -- at least to the high
10 level -- about how we can distinguish those cases on a high
11 level. Armory Park has nothing to do with -- it has to do with
12 an affirmative action of a nonprofit agency that was
13 distributing a meal a day to homeless individuals, right? So
14 the nonprofit set up shop, they were handing out a meal, and it
15 was causing individuals to congregate in the area surrounding
16 the facility.

17 Here, Plaintiffs are not alleging that the City's
18 taking some sort of affirmative action, right. Rather, they're
19 alleging that, oh, this is what the City is, we think, failing
20 to do, or this is what the City could do. That's different in
21 kind from the case in Armory Park. Likewise, City of Phoenix
22 v. Johnson, some of the other older cases from out of state and
23 in state that Plaintiffs cite, those are cases that have to do
24 with remediating problems that are, again, caused by the City,
25 right? I believe one involves a sewer plant, I believe one



1 involves concrete, right? Some -- I can't remember the exact
2 issue, but -- that involves issues that are remediable that
3 were caused by a public action, right?

4 THE COURT: Right. Johnson was the sewer plant --

5 MR. ARNISON: Yes. Right.

6 THE COURT: -- the homeowners.

7 MR. ARNISON: Yes. Thank you. And so you know,
8 really the distinction that exists here is that we don't have
9 an affirmative action by the City. We don't have something
10 that they're actively causing, nor have Plaintiffs seem to
11 allege that the City's actively causing that. And we're
12 actually talking about people, not concrete. We're talking
13 about people, not a sewer plant, right? And to the point that
14 Plaintiffs have raised about Martin v. Boise and Johnson v.
15 Grants Pass not being at issue here, frankly, we agree that, of
16 course, Martin v. Boise and Johnson v. Grants Pass don't
17 preclude any City action to remediate the homelessness
18 situation downtown. That's not what we're suggesting.

19 But what we are suggesting is that before the Court
20 go and grant -- goes and grants mandamus declaratory injunctive
21 relief, in whatever form the Court may see fit to do, we should
22 at least keep those countervailing constitutional
23 considerations in mind, that they are at play here.

24 In terms of pleading -- a couple more points I think.
25 Plaintiffs have argued that, you know, fairly extensively in



1 their original complaint and in their application about the
2 different potential hooks, as Mr. Wurman put it, for the Court
3 to be able to make a, sort of a novel constitutional ruling.

4 I think the constitutional avoidance doctrine
5 militates well against the Court adopting an alternative scheme
6 for analyzing due process or equal protection arguments. We
7 can avoid those. And indeed, Arizona case law is clear that
8 unless there's some indication that we should interpret it
9 differently, the State provisions of the federal equivalence
10 and the Constitution are indistinguishable, and we should
11 follow the federal provisions.

12 I think I have one more point. Oh, about the issue
13 regarding damages, I did want to bring this up. You know, the
14 case law is actually clear -- or the case law -- sorry, is not
15 clear -- but does indicate -- and in fact I'll grab this -- if
16 the Court will excuse me for a moment.

17 At least two cases are clear, one of which Plaintiffs
18 noted that when another valid remedy is available to Plaintiffs
19 that declaratory judgment sometimes may not lie. It's
20 ultimately discretionary with the Court. Land Department v.
21 O'Toole was one that said the declaratory judgment procedure is
22 not designed to furnish an additional remedy where an adequate
23 one exists.

24 Likewise, in World Co. v. Roosevelt Irrigation
25 District, the Court said,



1 "That a declaratory judgment is not a substitute for
2 an ordinary cause of action, nor is it a proper means
3 of trying a case. Whether relief should be granted
4 is a matter resting in the sound discretion of the
5 trial court, and such relief ought not ordinarily be
6 granted when another adequate remedy is at hand."

7 Certainly, there are some cases I think that the
8 Plaintiffs cited, Hopi Tribe v. City of Flagstaff, that's one
9 of them, that indicate that an alternative remedy, short of
10 damages -- you know, that's more equitable relief -- is
11 available. And that's correct.

12 But I do think that something that should -- that
13 would influence the Court's decision here today is, again, that
14 lack of judicially manageable standards. That lack of ability
15 for the Court to craft a remedy that would give the Plaintiffs
16 what they seek and that would seem to want to make the Court
17 lean more toward not granting the remedy -- the equitable
18 remedies that Plaintiffs seek. Unless the Court has further
19 questions, I'll end there.

20 THE COURT: No. Thank you.

21 MR. ARNISON: Thank you.

22 THE COURT: I appreciate it. All right.

23 The Court will take the motion to dismiss under
24 advisement. We've read the parties filings. We've read many
25 many cases, some of them many times. So thank you for that



1 conversation this morning, Counsel, that was helpful. The
2 Court will issue a brief ruling on that motion. And in an
3 effort to efficiently use everyone's time, as we said, we're
4 going to now move to the evidentiary hearing on the preliminary
5 injunction. Obviously, if the motion to dismiss is granted,
6 then this will be somewhat of a moot issue. But if it's not
7 granted completely then it's good to address everything this
8 morning.

9 So if I could, Mr. Bailey, can I just get a roadmap
10 of where we're going as far as who you're planning on calling,
11 and then I'll ask the same of opposing counsel.

12 MR. BAILEY: Yes, Your Honor. We will be calling
13 during the course of the day -- we're taking one witness out of
14 order, which in some sense is a rebuttal witness anyway -- but
15 we have three property owners --

16 THE COURT: Okay.

17 MR. BAILEY: -- from the area in question.

18 THE COURT: Okay.

19 MR. BAILEY: And the evidence we'll be presenting is
20 really kind of two parts. The first is, what are the
21 conditions in this area that the residence, the owners are
22 dealing with as a result of how the City is maintaining its
23 public streets, sidewalks, rights-of-way, in this area? You
24 will hear, frankly, evidence of deplorable, unlivable,
25 unworkable conditions where it -- really, I mean it's --



1 frankly, it will boggle the Court's mind.

2 The City, itself, will not send employees into the
3 area without a police escort, whether those people are cleaning
4 up human waste; social workers out of the City, environmental
5 people. Nobody goes in there without security, of course,
6 except the people that are there don't get any security, and
7 they'll talk about that. And those conditions kind of will
8 address the first core issue of the case, which is, is this a
9 nuisance or is it not? And that's pretty straightforward. The
10 nuisance is based on these conditions.

11 You'll also hear evidence that, as Aaron said about,
12 you know, the nature of alternative things. And I want to make
13 it clear, as that will come up during the course of the day
14 with all the witnesses and especially the City's witnesses, it
15 is not our position that we, or the Court, should or has to
16 tell them how to resolve this. The question is, it's a
17 nuisance, you resolve it, and the purpose of our questioning on
18 alternative solutions is merely to show that the City can, that
19 this is an abatable nuisance, which is the second part of the
20 inquiry.

21 First, is the nuisance clear? I don't think they're
22 going to contest the conditions and so on. The second
23 questions is, is it abatable? And the point of having the
24 discussion of the policy options that are -- well, it's only to
25 make it very clear that there are options available, and that



1 the City is intentionally maintaining their streets in those
2 condition, because this is a policy choice that they are making
3 in having this go on in this area.

4 You know, we'll have, I suppose, legal argument
5 later. I will make it clear. We'll both show irreparable harm
6 and a balance of the benefits, but where there is a violation
7 of the law by the City, whether it's statutory or common law
8 with the incorporation of statutes or constitutional, those
9 requirements actually don't exist for preliminary injunction.
10 We need not show irreparable harm, but we will.

11 So did you want me to add anything else or?

12 MR. WURMAN: No.

13 MR. TULLY: No. I think that was good.

14 MR. BAILEY: Okay.

15 MR. TULLY: I think that was it.

16 MR. BAILEY: Yeah. I -- I finally note, Your Honor,
17 for opening process issue that the parties have stipulated to
18 the admission of all submitted exhibits --

19 THE COURT: Oh, okay.

20 MR. BAILEY: -- 1 through --

21 UNIDENTIFIED SPEAKER: 56.

22 MR. BAILEY: -- 56 --

23 THE COURT: 56.

24 MR. BAILEY: And so I think by stipulation or
25 jointly, we would now move those into admission.



1 THE COURT: All right. Is that correct that there's
2 a stipulation of Exhibit 1 through 56?

3 MR. ARNISON: Correct, Your Honor. No objection.

4 THE COURT: Okay. 1 through 56 are admitted upon the
5 parties' stipulation.

6 (Exhibits 1 through 56 Received by Stipulation)

7 THE COURT: So it sounds like, Mr. Bailey, we have
8 three property owners that the Court's going to be hearing
9 from, and then the Court's just trying to get an idea of
10 numbers and who folks are calling. Just a general sketch. So
11 we have three property owners. Any other witnesses that you're
12 planning on calling in case you change --

13 MR. BAILEY: We'll have an opinion witness by video
14 conference at the end of the day, Your Honor.

15 THE COURT: Yes. Okay. That's the person who's
16 potentially appearing remotely, is that correct?

17 MR. BAILEY: Right.

18 THE COURT: Okay. All right. And how about from the
19 Defendant with a number of witnesses? Are you planning on
20 calling any witnesses?

21 MR. ARNISON: We do, Your Honor.

22 THE COURT: Okay.

23 MR. ARNISON: The City expects to call three
24 witnesses. All three are City employees.

25 THE COURT: Okay.



1 MR. ARNISON: And then we -- I assume that the --
2 we're going to take that one witness out of order as we kind
3 of -- as we stipulated and the Court's permitted.

4 THE COURT: Yes.

5 MR. ARNISON: So the Plaintiff will -- Plaintiffs'
6 last witness will follow.

7 THE COURT: Okay.

8 MR. ARNISON: I'm happy to -- I know Mr. Bailey gave a
9 little bit of an overview, sort of an opening of the case. I'm
10 happy to reserve that for later. I'm happy to make a statement
11 now to the Court, whatever the Court prefers.

12 THE COURT: So sure. Thanks. So before we do that,
13 before the Court asks for openings, if there are any, I just
14 wanted to get an idea of who we're calling, because if they're
15 in the courtroom now and the Rule is being invoked, then I need
16 to ask them to step outside. And then in addition, if they're
17 in the courtroom already, then I would like to get as many
18 folks as possible, who are in the courtroom and who will be
19 witnesses, sworn in all at the same time, just to save you a
20 little bit of time.

21 So I'm not sure if your witnesses are in the room,
22 Counsel? I see one individual holding his hand -- two --

23 UNIDENTIFIED SPEAKER: Mine's up.

24 THE COURT: Okay. Are any of the City witnesses in
25 the courtroom yet or no? Anyone?



1 MR. ARNISON: Two of the City's witnesses are here.

2 THE COURT: Two of them? Okay.

3 MR. ARNISON: Yes.

4 THE COURT: So what I would do then is invite those
5 individuals to stand and identify themselves for the record.
6 So just say and spell your name because the Court needs that to
7 record, and then administer the oath to you.

8 So I'm going to ask each of you to stand and say and
9 spell your name. And then after everyone has done so, then the
10 clerk's going to administer the oath to all of you at the same
11 time so that we have that done. And then I'm happy to hear any
12 openings that the parties wish to give.

13 MR. ARNISON: Thank you.

14 THE COURT: All right. So we have -- yes, sir. Go
15 ahead.

16 MR. LIKWARZ: So I'll start. Ian Francis Likwarz,
17 spelled I-A-N F-R-A-N-C-I-S, last name L-I-K-W-A-R-Z.

18 THE COURT: Thank you, sir.

19 And anyone else for Plaintiff? Here we go. Thank
20 you, sir.

21 MR. BROWN: Freddy Brown, spelled F-R-E-D-D-Y
22 B-R-O-W-N.

23 THE COURT: Thank you, Mr. Brown.

24 MR. GODBEHERE: I'm Michael Godbehere, spelled
25 M-I-C-H-A-E-L G-O-D-B-E-H-E-R-E.



1 THE COURT: Okay. Thank you, Mr. Godbehere.

2 Anyone -- okay. So from -- on the City? Go ahead,
3 ma'am.

4 MS. MONTES: My name's Gina Montes, spelled G-I-N-A
5 M-O-N-T-E-S.

6 THE COURT: All right. Thank you, ma'am.

7 MR. HALL: Scott Hall, S-C-O-T-T H-A-L-L.

8 THE COURT: Thank you, Mr. Hall.

9 Anyone else? No, that's it.

10 Okay. All right. So now that we have those five
11 individuals identified, if you could all five please stand and
12 raise your right hand the same time, the Court's going to swear
13 you in.

14 (Witnesses Sworn)

15 THE COURT: All right. Thank you. You can have a
16 seat.

17 Counsel, any openings that either side wishes to give
18 at this time? Is anyone asking for a recess before we get
19 started, too? I should ask that. No.

20 MR. BAILEY: No recess, Your Honor. I think Mr.
21 Wurman would like to make a couple of comments in opening.

22 THE COURT: Okay.

23 MR. WURMAN: Yes, ma'am.

24 THE COURT: All right. Go ahead.

25 MR. WURMAN: If I could just stay here. Actually, we



1 don't really have much of an opening. I think my colleague
2 said everything.

3 I would just add one thing, since it bleeds in a bit
4 to this question about the affirmative action, whether the
5 City's caused a nuisance. And I like analogies. I don't know
6 if you saw it earlier. I would like to analogize sort of just
7 a private property owner. All right. If you have a private
8 property owner who goes off to Europe for six months and
9 unsheltered people set up camp on his property, that is not an
10 intentional act. That is not sufficient for public nuisance
11 under the law.

12 But if there's a private property owner who is there,
13 who's not out on vacation and says, yes, please come onto my
14 property, I'm not going to kick you off, I'm not going to call
15 the police, that is a public nuisance for which that person is
16 liable. And that is the position the City is in. They have
17 caused this. And as Mr. Bailey said and will show today, it is
18 their policy choice to have those conditions down there. And
19 that's the only other thing I wanted to add in opening.

20 THE COURT: Okay.

21 MR. WURMAN: Thank you.

22 THE COURT: All right. Thank you.

23 From the City, anything by way of opening?

24 MR. ARNISON: Yes, Your Honor. I -- I think the
25 Court's fairly familiar with at least where we're going



1 factually, so we won't get too deeply into that. A couple of
2 comments in opening.

3 At the end of the day, what this case is going to be
4 about is whether the Court -- is the reach of judicial
5 authority. Right. Can a court compel a local government to
6 remove or arrest or relocate or whatever -- however we want to
7 characterize it for a thousand people from downtown Phoenix
8 because they're living on the street. And that's, in effect,
9 what Plaintiffs want this Court to do by granting an
10 injunction.

11 The City of Phoenix and its residents, of course,
12 have not been spared the effects of the unsheltered crisis. In
13 this particular area of downtown, a lot of individuals
14 congregate in order to receive services from the Human Services
15 Campus and other facilities that are around there. That's a
16 nonprofit organization that provides shelter, meets medical
17 needs, provides nutritional assistance, et cetera. And it's
18 roughly the same area where Plaintiffs' businesses are located.

19 And as Mr. Bailey indicated earlier that -- but one
20 of the main areas of testimonies today, presumably, will be the
21 conditions that business owners and property owners are dealing
22 with down there. The Court will see evidence of that, and Mr.
23 Bailey is correct. The City doesn't necessarily dispute the
24 factual accounts that Plaintiffs will offer. We'll explore
25 exactly what they testify to. But on the whole, the City



1 understands the situation downtown.

2 What the Court will not see, however, is any evidence
3 that the City is the cause of a nuisance that can or should be
4 enjoined. The City of Phoenix, as the evidence will show, does
5 not operate a shelter at the Human Services Campus or anywhere
6 near the area in question. The City does not provide services
7 there other than a homeless outreach team. The City doesn't
8 divert unsheltered individuals to the area around the campus,
9 other than perhaps occasional courtesy rides from P.D. The
10 City doesn't drive people there. It's certainly not through
11 any formal policy or practice, and it's certainly not to go
12 camp downtown. The City doesn't provide tents to sheltered/
13 unsheltered individuals.

14 In short, there's nothing the City's doing to create
15 a nuisance that would be the basis for injunctive relief. To
16 the contrary, the City will demonstrate that it is attempting
17 to go above and beyond to try to remediate the situation in the
18 immediate area that's at issue here and within the City as a
19 whole. The City has invested many, many millions of dollars in
20 ARPA funding. The City opened a new shelter earlier this year
21 in a different location at a cost of \$2.4 million.

22 I believe that our witnesses will testify today --
23 one of our witnesses will testify that we're bringing over 100
24 new beds online within the next month. And we have hundreds of
25 additional new shelter beds that are to be brought online



1 eventually in the coming years. We're undertaking cleanings of
2 the area, including enhanced cleanings that will be back online
3 soon. The City has an active and dedicated police and security
4 presence who protect the residents, businesses, and property
5 owners there. And finally, the evidence will show that we've
6 been working with the Plaintiffs for a really long time, the
7 City has been, to hear and try to resolve the issues that
8 they're no doubt experiencing.

9 And the Court will also hear -- and see and hear
10 about the extreme challenges the City faces in addressing
11 homelessness, not the least of which is an unsheltered
12 population that, as the Court will hear, it's increasing
13 practically daily -- that's inflated from about 250 people last
14 fall to over a thousand people today just in the area
15 immediately downtown -- about inadequate funding, and a City
16 staff that's frankly trying its hardest to fix an endemic and
17 extraordinarily difficult problem, the solution to which none
18 of us have, and that's what Plaintiffs are trying to get the
19 City to resolve today, trying to solve homelessness, to get
20 this issue resolved for them. The City is working toward that,
21 and the evidence will show that there's nothing the City is
22 doing or has failed to do that warrants the grant of an
23 injunction, legal arguments aside. Thank you, Your Honor.

24 THE COURT: Okay. All right. Well, we'll look
25 forward to hearing of the Plaintiffs' first witness. You may



1 call that witness.

2 MR. TULLY: Good morning, Your Honor. Steve Tully.
3 I'm going to be taking first --

4 THE COURT: All right.

5 MR. TULLY: -- witness.

6 Mr. Brown, come on up.

7 THE COURT: All right. Mr. Brown --

8 MR. TULLY: Go up right around.

9 THE COURT: -- come on forward here to the witness
10 stand. You've already been sworn, so you can have a seat. No
11 need to swear you in, of course.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: You bet. Make yourself comfortable.
14 It's right -- yeah, you got it. Right there, sir. There's
15 water up there if you need it.

16 FREDDY BROWN

17 Plaintiff, having been previously sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. TULLY:

20 Q Good morning, Mr. Brown, how are you?

21 A Good. Good morning.

22 Q Could you state your full name for the record.

23 A Full name is Freddy Brown.

24 Q And how old are you, Mr. Brown?

25 A I am 53 years old.



1 Q And what do you do for a living, Mr. Brown?

2 A I run a company that my family owns. We are a casket
3 manufacturer and distributor.

4 Q All right. And where is that business located?

5 A So that business is located between 12th and 13th
6 Avenues with Jefferson frontage in downtown Phoenix.

7 Q And how long has your family owned that property?

8 A We were -- first took that property in 1975.

9 Q Long time.

10 A It's been a while.

11 Q All right. Nearly 50 years?

12 A Yes.

13 Q All right. In the nearly 50 years that your family's
14 owned that property -- well, strike that.

15 Before I ask you that, you've owned the property before
16 there was even a Human Service Campus down there, correct?

17 A Yes.

18 Q All right. Now, in the nearly 50 years your family
19 has owned the property, has there been a problem with tents,
20 people living in tents in the area?

21 A That problem has been the last few years. There was
22 never a problem until probably 2018 is when it originally
23 started.

24 Q All right. And where are these tents located?

25 A So these tents are located on the easements,



1 City-owned property, all along 13th Avenue, 12th Avenue,
2 Madison, 9th Avenue. Just repeatedly.

3 Q All right. Generally sort of an area bounded by
4 what, like 7th Avenue and --

5 A Bounded by 7th Avenue as far west as 15th Avenue.

6 Q Okay. And then from Jefferson south?

7 A From Jefferson, it actually has been spilling over
8 into Washington and then south all the way to Grant Street.

9 Q All right. And what has been the impact that you've
10 noticed since the arrival of the tents and folks living down
11 there in those structures?

12 A The impact for us has been just an increase in trash.
13 And then with the increase of people, we have waste, human
14 waste, paper waste, trash, everything being dumped on the
15 streets or around the streets. With the lack of facilities,
16 they use every corner they can to either urinate or defecate,
17 sometimes in the open, all hours of the day.

18 My employees don't feel safe. I don't feel safe. We
19 try not to be there after dark. We do have a sub shop next
20 door that we used to frequent quite often, and now we don't
21 because we have to send two or three people at one time just in
22 case they get accosted in the process.

23 Q All right. And have you had employees who have
24 suffered violence from the individuals living in these tents
25 down there?



1 A We have had employees attacked violently by one of
2 the homeless individuals. They actually hit him with a pipe
3 several times. We have a lot of verbal confrontations with the
4 people that -- that are in and around our building. And then
5 we've had break-ins of my employees' vehicles in our own
6 parking lot.

7 Q Do you observe any drug use down there on a
8 population?

9 A I observe drug use on a daily basis, out in the open,
10 in front of everybody, standing on street corners. We
11 routinely ask them to please go somewhere else because they
12 don't care how close you are to them when they're using drugs.

13 Q Tell me about, you mentioned about the urination, I
14 think, and the defecation that you've observed there. How has
15 that affected your business? I mean, is this not just
16 something you observe, but is it on your property?

17 A It is on our property. We have sealed up most of the
18 doors and windows to the outside of the property where we do
19 have openings. They urinate, defecate, and then we've had to
20 take extra measures to keep that from coming into our building
21 because it happens so frequently and so much that it comes
22 inside.

23 Q So the people are urinating on your building at such
24 a high rate that you've actually sealed, had to go and seal the
25 doors and windows to prevent the urine from coming through?



1 A Yes.

2 Q You mentioned the drug use and the loitering. Does
3 this occur on your property?

4 A This occurs on my property. My property, according
5 to the City of Phoenix, starts at the end of the sidewalk and
6 goes to my building. It's about a 18- to 24-inch section, and
7 they will openly stand right up next to my building and either
8 sit down, loiter, or use drugs.

9 Q Do you call the police?

10 A Two or three times a day.

11 Q And what is the response that you receive?

12 A That they will send an officer out to investigate.

13 Q And do they send an officer out to investigate?

14 A Most of the time we don't wait around because it can
15 take 30 or 40 minutes. So it's -- myself and my employees have
16 other things we need to accomplish. So we inform them that
17 there's people there loitering, trespassing. We would like
18 them to go ahead and come and take care of it. And then we go
19 on about our business.

20 Q All right. And do they -- do they remove the people,
21 as far as you can tell?

22 A No.

23 Q You observe intoxicated people lying on the
24 sidewalks?

25 A Yes. We have people that are intoxicated, laying on



1 the sidewalks. We've had some of the residents in the area
2 overdose in our driveway. Occasionally, we will call the
3 police because we find somebody completely unresponsive, laying
4 in one of our doorways or sidewalks. It's a challenge.

5 Q And you know, when people are defecating on your
6 property and urinating, who's cleaning that up?

7 A Most of the time it's myself or one of my employees.

8 Q You observe violence increase in the last few years
9 since the -- since the tents have arrived?

10 A The increase in violence is astounding. I mean,
11 there's not a day that goes by that we don't hear yelling and
12 arguing, just in a general. But at least once a week, we see
13 actual physical confrontations involving two to six people.

14 Q And those are people that are living in these tent or
15 other structures that have been constructed in the public right
16 of way?

17 A They are people living in the tents, and then people
18 that come and visit them are also sometimes involved.

19 Q All right. How about sex acts, do you observe any of
20 those?

21 A At least several times a month. We -- my employees
22 or myself will witness somebody urinating out in the open,
23 exposing themselves, exposing themselves on purpose, or
24 having -- performing sex acts right out in the open or in tents
25 with open windows and doors.



1 Q And what have you observed in that regard?

2 A In that regard, kind of hard to give you a whole lot
3 of detail. I mean, there's --

4 Q We'll we're here -- you know, we're here because, you
5 know, I know it's -- you don't want to -- I understand you
6 don't want to be specific, but we need to make a record of some
7 of this, so.

8 A One of our parking structures is gated that we
9 actually share with the -- the campus. And as you're pulling
10 out of that camp -- out of that gate, there is tents on either
11 side. So you look both ways for traffic. Probably at least
12 once a month, I look to the tent on the west side, and the
13 couple that lives there is engaged in open sex acts. You can
14 look at them, and if you catch them (sic) looking at them, all
15 they do is give you dirty looks and continue to do what they
16 do. So it's a -- not a good thing.

17 Q All right. And how about fires? Do you observe any
18 fires created in the area where these tents are?

19 A There is fires. They do use open stoves and fire
20 pits for cooking. And if any kind of wind or anything picks up
21 at all, it's always a danger. We worry more about it now that
22 the temperatures are dropping because in the evening they have
23 bonfires, which encourages them to seek out lumber to burn --
24 or wood, so they will be in our yard, in our dumpsters, or
25 taking our pallets and other things to burn.



1 Q How about the trash? Can you talk about the increase
2 in trash since the tents have been allowed to be placed on
3 the public right of ways?

4 A A huge increase in trash. The City of Phoenix has
5 put two large dumpsters blocking half of 12th Avenue, and they
6 get overfilled. But most of the time, the people that are
7 living on the easements don't walk their trash down there.
8 They just dump their trash right out on the curbs or onto the
9 sidewalk. And then when the wind blows, it's in my property.
10 It's on everybody's property.

11 Q And how about when it rains, what happens then?

12 A When it rains, the soil in and around the area is so
13 soaked with urine and feces that the rain intensifies the
14 smell. So we kind of close down the building. We don't go out
15 front where there is any dirt areas because that just -- it's
16 kind of nauseating.

17 Q All right. So and then with the drug use, are --
18 have there been occasions where you've been required to breathe
19 in the smoke from the drug use?

20 A I am very careful to not be around them. They do --
21 on occasion, when we open some of our doors where we're
22 loading, where it's not in our general parking lot, they will
23 stand right next to our doors while we were going in and out
24 smoking either glass pipes or off of foil, and I specifically
25 ask them, you need to go somewhere else. You're too close to



1 my building. Both myself -- myself and all of my employees are
2 extremely worried about breathing in their smoke or picking up
3 the trash that might have fentanyl residue on it in and around
4 the building.

5 Q Do you observe the City cleaning the streets at all?

6 A I do observe the City cleaning, but it's -- seems
7 haphazard. They will shut down an entire street, clean
8 everything from the curb into the street, but let everything
9 that's staged from the curb to the fence line stay.

10 Q And you see no abatement in the amount of people
11 living in the area?

12 A No.

13 Q No. Thank you, Mr. Brown. I have no further
14 questions for you at this time.

15 A Thank you.

16 THE COURT: All right. Thank you. So now we --
17 turning to the City, gets to ask you questions. So everybody
18 has a --

19 CROSS-EXAMINATION

20 BY MR. ARNISON:

21 Q Good morning, Mr. Brown.

22 A Good morning.

23 Q Thank you for being here today. I think I have a
24 question regarding only one thing that you -- that you add --
25 or that you said. It was regarding the police response when



1 you call the police. I think you mentioned that you call them
2 two or three times a day. Is that right?

3 A Yes.

4 Q Okay. And the police, it sounds as though when you
5 call them, they do respond, right?

6 A They do respond. But even if they are on my
7 property, the -- they ask them if they would like to leave.
8 It's not a direct order. It's not, we're going to process you.
9 It's, could you please go somewhere else?

10 Q Okay. The Phoenix P.D., have they ever -- have they
11 ever removed somebody from your property?

12 A I have had several people removed from our property.
13 They were openly trespassing and have done repeatedly so. We
14 do have an authority to arrest for trespassing on our property.

15 Q So Phoenix has -- so the City of Phoenix Police
16 Department has removed people when they're trespassing on your
17 private property?

18 A Yes. Okay.

19 MR. ARNISON: I don't think I have any more questions.

20 Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 Redirect?

23 MR. TULLY: Just one other question.

24 REDIRECT EXAMINATION

25 BY MR. TULLY:



1 Q Mr. Brown, will the City remove the individuals from
2 the from the public easements or the sidewalks?

3 A No, they will not remove people from the public
4 easements or sidewalks.

5 Q Even if they're drunk or doing drugs?

6 A These -- from what I've witnessed, even if they are
7 drunk or doing drugs.

8 Q Thank you. No further questions.

9 THE COURT: All right. All right. Thank you. You
10 may step down.

11 All right. You may call your next witness.

12 MR. TULLY: Thank you, Your Honor. I call Ian
13 Likwarz.

14 THE COURT: All right. Be seated. All right. Good
15 morning, sir.

16 THE WITNESS: Good morning.

17 THE COURT: Whenever you're ready.

18 MR. TULLY: Thank you, Your Honor.

19 IAN FRANCIS LIKWARZ

20 called as a witness for the Plaintiff, having been previously
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. TULLY:

24 Q Mr. Likwarz, you want to state your full name for the
25 record.



1 A Sure. It's Ian Francis Likwarz.

2 Q And do you go by Mr. Francis?

3 A Ian Francis, yes.

4 Q Okay. And so it's okay if I just call you Mr.
5 Francis here today?

6 A Sure.

7 Q Okay. And Mr. Francis, how old are you?

8 A I just turned 42.

9 Q All right. Well, you look a lot better than that.

10 A Thanks.

11 Q And do you live in Phoenix?

12 A I do. I live downtown Phoenix. I'm a resident of
13 Phoenix, and I've been here for -- since 2007.

14 Q All right. Do you own property in Phoenix?

15 A I do.

16 Q And where's the property that you own located?

17 A So I own several warehouse buildings between 809 and
18 817 West Madison Street in Phoenix. And then I own also
19 property on Jackson Street, 724 West Jackson Street.

20 Q Okay. And just so we can place that, that's located
21 south of Jefferson?

22 A It's south of Jefferson. The buildings I have are
23 right on the corner of 9th Avenue and Madison. And then
24 another one is at 9th Avenue and Jackson.

25 Q Okay.



1 A Yeah.

2 Q And how long have you owned those properties?

3 A So I purchased the first one in 2013.

4 Q Okay. And how about the other ones?

5 A Subsequent were 2014 and '15 that I purchased the
6 remaining ones.

7 Q All right. And do you run a business out of those --
8 out of those properties?

9 A Yeah, I do. So I've got a mattress company, and we
10 run our distribution center out of one of the larger buildings.
11 So we have employees that are working there sometimes seven
12 days a week, but at least five days a week.

13 Q And when the employees park, where do they park?

14 A They generally park on the street, somewhere in the
15 vicinity of either Madison or 9th Avenue or right in that area.

16 Q Okay. Since 2013, when you first purchased the
17 building, have you observed a change in terms of the homeless
18 population around your business?

19 A Oh, a hundred percent, yeah. So when I first bought
20 the buildings back then, you would see people walking up and
21 down the street back and forth from the shelter. And you'd
22 have the occasional person that was intoxicated or drunk
23 walking up and down the street, but it was very singular.
24 Whereas now, it's a -- an astronomical difference. The amount
25 of people that have come to the neighborhood and are continuing



1 to come to the neighborhood every single day, it's just --
2 it's -- it's -- it's hard to focus. It's hard to feel safe.
3 And it is -- it's a disaster.

4 Q And have they built -- these folks that have come to
5 the neighborhood in recent years, have they built structures?

6 A They have. The first I've noticed back in about
7 20 -- late 2012, 20 -- well, I'm sorry, 20, what was it? 2019.
8 I witnessed there was a bus that pulled up into one of our
9 neighbors' parking lots -- Bill Morlan, he owns an electric
10 company across the street. This was during the evening hours,
11 and it was a coach bus, and about 50 people got off the bus and
12 they opened up the containers below the bus, the cargo
13 compartments, and in those containers were hundreds of tents.
14 And they started handing those out. And literally with --
15 within overnight there went from almost nobody camping to
16 everybody was in a tent. So it literally changed overnight.

17 Q And once they put the tents up, they've been able to
18 remain, maybe not the exact same tents, but tents in the area
19 have remained ever since?

20 A They have remained ever since, and it has gotten
21 exponentially worse as the years have gone by, yeah.

22 Q And the tents are located where, in terms of are
23 they in the street? Are they in the right way? Or where they
24 located?

25 A Today, they are generally on the easements. They



1 will also -- on the City-owned easements. They'll also
2 encroach into the street itself on a lot of occasions,
3 especially on Jackson Street, that that's where the worst of it
4 is, where the tents are actually, you know, five, six, seven,
5 eight feet into the street, blocking traffic in a lot of cases,
6 which it's not only impossible to park, but when you're driving
7 your vehicle down those streets, you have to be very cautious
8 about somebody coming out of a tent because you're literally
9 right next to them in your vehicle, in the streets.

10 Q And your business is, as you said, right near where
11 these people are located and camped. Is that correct?

12 A It is, yes.

13 Q All right. I'm going to show you a series of
14 exhibits that we've already admitted today, photos. I'd just
15 have you identify them and explain to the Court what they are.
16 I'm not doing them in order, unfortunately, Court, I didn't do
17 that -- but I'm going to do them hopefully in a manner that
18 makes some sense.

19 So let me -- I want to show you now first, Exhibit
20 21.

21 MR. TULLY: Court?

22 THE COURT: Yes. You may approach, and you need not
23 keep asking to approach now.

24 MR. TULLY: Okay. Thank you.

25 THE COURT: Sure.



1 BY MR. TULLY:

2 Q Do you recognize this exhibit, Exhibit 21?

3 A Yeah. So this would be what the easements look like
4 right now adjacent to my property and a lot of other properties
5 here, which is solid tents against tents inside of the chains.

6 Q All right.

7 A And that looks like it's -- my building is in the
8 distance, so that would be about 9th Avenue and Jefferson
9 Street right there.

10 Q I'm also going to show you now what's been marked as
11 Exhibits 25, 26, and 27. Do you recognize these exhibits?

12 A Yeah, sure, 25, this is -- it looks like near Joel's
13 (phonetic) property, one of our neighbors, and he's got
14 tents -- there's tents on the sidewalk, tents in the street,
15 and the dumpsters are in the street, it looks like at this
16 location, and the sidewalks are -- are blocked.

17 Exhibit 26. 26, additionally more tents up and down
18 the streets, and this one also shows trash that has accumulated
19 in some of the smaller trash units that are overflowing onto
20 the street. I can see a dumpster that's in the street a little
21 further down. This one looks like it could be on Jackson
22 Street facing south.

23 Q That's all right. You go to the next one.

24 A Okay. Okay. 27, this one is actually right adjacent
25 to my building here. This one is also in front of Bill



1 Morlan's property where the -- this is a recent -- a pretty
2 recent one. If you went out there today, what you would expect
3 to see, which is the -- the wall-to-wall tents and encampments
4 100 percent blocking the sidewalk and spilling out into the
5 street with buckets of human feces, it looks like, or I'm
6 assuming that's what's in them, because I've seen them dump
7 them, trash, waste, just everything just spilling over into the
8 streets.

9 Q Let me ask you about that. You observe people
10 disposing of human waste in buckets into the storm drains?

11 A Yes, I have.

12 Q All right. Let me show you now what's been marked as
13 Exhibits 29 and 30. Do you recognize those exhibits?

14 A Yeah. This is also a pretty standard picture of
15 tents. Again, it looks like with some dumpsters that are out
16 in the street. In the distance, it looks like there's some
17 people that are out in the street handing out food and water
18 right near 9th and Madison.

19 Q Okay. And those -- and the --

20 A This one here, 30. Yeah, 30 is pretty typical. Some
21 people don't have tents, they just use tarps, and their tarps
22 are being supported by the chains that are in the easements,
23 and again, just the filth and the trash spilling out in the
24 street. And this one has, it shows pigeons picking through the
25 trash and the food remnants that are in the street, and



1 somebody is lying in -- inside one of the tarps.

2 Q Okay. So those photographs that we just showed,
3 those exhibits, they all show the condition essentially as it
4 is today, still down there?

5 A The worst of those photos show the condition as it --
6 it is today, yeah.

7 Q All right. And this -- these right of ways, the
8 sidewalks, the spilling out in the street of these structures,
9 that goes from approximately what area does that cover?

10 A So from east to west, it goes from 7th Avenue all the
11 way to about 15th Avenue. They stop it. There's a cemetery
12 there that they -- the State keeps clean, and then it goes from
13 generally the railroad tracks, which are south of Jackson, all
14 the way up to Jefferson Street. And like Freddy said, there
15 are a few tents that have started to accumulate north of
16 Jefferson Street.

17 Q All right. And Washington is the street that's sort
18 of just north of Jefferson, correct?

19 A Correct. Yes.

20 Q All right. And we refer to that area as the zone?

21 A That's what has -- it has been referred to, although
22 I hate the term the zone because it -- it gives a negative
23 connotation to our neighborhood.

24 Q All right. Let me show you now a couple of exhibits,
25 Exhibit 47 to 49.



1 A Okay. These are pictures I took of the storm drains
2 that -- these particular ones are on 9th Avenue. There's one
3 on my side and one on the other side of the street. And they
4 show the storm drains that are absolutely filled to the top
5 with tarps, trash, food waste. So there's human feces, quite a
6 bit of that in there. It's absolutely disgusting.

7 Q And when did you take those photos?

8 A So those were take -- were taken probably within the
9 past year.

10 Q Okay.

11 A And -- and -- and the trash has been -- well, I'll
12 tell you, I went by this morning just to kind of look at the
13 storm drains, and there's one on Jackson Street that's
14 completely full. So this has been going on prior to even a
15 year ago.

16 Q All right. So the waste -- obviously the trash waste
17 you observed going into the storm drains and then the human
18 waste being thrown into the storm drains. And do you know
19 where that -- all that trash and human waste goes once it gets
20 in the storm drain?

21 A Yeah. So I did a little research on that because I
22 was curious myself where that ends up, and it ends up in the
23 Rio Salado River Parkway, which is just a few miles south of
24 this area.

25 Q All right. All right. Let me ask you a couple



1 questions about some of the crime that you've observed there?

2 Let me ask you a -- I'm going to show you Exhibits 5 through 7.

3 A Okay. Number 5 here, this was probably taken about a
4 year and a half ago. It was a little bit earlier photo. I can
5 tell by the amount of tents also that -- that are on the
6 properties. This is -- this is a typical scene when there
7 is -- this particular case was, I believe, a stabbing.
8 Somebody had gotten killed in one of the tents. And the
9 police, they will come in to the neighborhood for a couple of
10 hours, and they'll put the crime scene tape up. In some cases,
11 they'll have the crime scene unit there for half of a day
12 trying to figure out what happened.

13 This is a -- a scene that, you know, happens from
14 time to time. You know, I -- I don't have the exact numbers of
15 them, but I've -- I've witnessed them at least a half a dozen
16 or more times where the police have taped off the neighborhood.
17 I go up to them and ask them what's happened, and they'll
18 either say it's been a stabbing or a shooting, and they're
19 investigating.

20 Q And have you seen an increase in this since 2019,
21 since the tents and other structures have arrived?

22 A Yeah. And in fact, it's -- it's the intensity of the
23 increase is to the point where I have had to call 911 because
24 of active shooters, even at 11 o'clock in the morning. And
25 those are on record. The police, they'll come. Sometimes it



1 takes them ten minutes to get there, even on a 911 call. And
2 sure enough, they found the empty casings right outside of my
3 building.

4 Q All right. Let me show you Exhibits 9 and 10.

5 A So these are of a pickup truck that I own. This
6 pickup truck was -- when this happened, was located in a
7 secure, fenced lot that we had. We're leasing one of the
8 neighbors' buildings. And this shows the pickup truck.
9 Somebody had thrown a cinder block through the window in
10 attempt to try and steal what was ever inside of it. And this
11 is the way we found it, with the door open and the windows
12 smashed.

13 Q Okay. And that was -- when did that occur?

14 A That would have been about two years ago.

15 Q Let me show you what's marked as Exhibit 11.

16 A So Exhibit 11, this is the same property that the
17 truck had been broken into. So what's known as the Old Farmer
18 John building, we were leasing that for about two-and-a-half
19 years from the current owners.

20 Q Is that -- I'm sorry to interrupt. Is that in the
21 zone?

22 A It is.

23 Q Okay.

24 A The Farmer John building is on the corner, the -- of
25 9th Avenue and Jackson Street. It'll be on the northwest



1 corner. This building we had leased from the folks that own it
2 as excess space for our mattress inventory that we had. This
3 building got broken into at least three or four times on the
4 inside of the building. This -- this picture shows the amount
5 of locks that we've had to install over and over and over again
6 just to offer some sort of temporary security until we could,
7 you know, fix the door.

8 Q And it shows even though you have four locks that
9 somebody's tried to pound out the door even further. Is that
10 correct?

11 A Yeah. Whoever was breaking into these buildings, I
12 mean, they used, you know, heavy duty steel to -- to bend these
13 metal doors. And we've had, you know, basic things like
14 computers, laptops, iPads taken, which we just use for our
15 inventory system.

16 Q All right.

17 A The building owner, however, on the last time that
18 they broke in, we -- we filed -- it's also on a police report.
19 They had pulled the main breaker to the outside of the building
20 and stripped the entire main service feed of the wire out of
21 the building.

22 Q All right. So safe to say you experienced a
23 increase, dramatic increase in crime?

24 A Horrifically, yes.

25 Q Since 2019?



1 A Yes.

2 Q All right. Let me show you what's been marked as
3 Exhibit 15 here. This --

4 A And so --

5 Q This --

6 A -- this --

7 Q Hang on. Hang -- wait a second.

8 A Sure.

9 Q I got to ask you a question.

10 A Sure.

11 Q Can you describe what that photo depicts?

12 A So this photo, first, I'll say it's on the corner of
13 9th Avenue and Madison. I took it myself. This photo depicts
14 a typical encampment site where somebody without a tent is
15 residing, and they -- I don't know where they find all this
16 stuff, but it is literally -- I don't know how to describe this
17 picture. It's madness to me to look at something like this and
18 to know that there's somebody living in this -- this type of
19 environment in this spot immediate -- immediately in the spot.
20 It's disgusting. There's food. There's human waste. There's
21 debris. There's garbage. And this didn't get cleaned up for a
22 very, very long time. If somebody vacates a spot, you'll have
23 other people that are experiencing homelessness, go in there
24 and ransack it and rifle through it to try and pick through it.

25 Q So that photo depicts a location very near your



1 building, correct?

2 A Directly across the street, yeah.

3 Q Directly across the street. And it's just trash in
4 the right of way, correct?

5 MS. STUHAN: Objection. Leading.

6 A It is.

7 THE COURT: Sustained.

8 THE WITNESS: Well, I'll -- I'll tell you this.

9 THE COURT: Just -- just a moment.

10 THE WITNESS: Sorry.

11 THE COURT: We're just waiting for the next question
12 from --

13 MR. TULLY: Yeah.

14 THE WITNESS: Oh, I'm sorry.

15 THE COURT: I sustained the objection.

16 MR. TULLY: All right. That's fine. It -- I think
17 we've answered that. That's fine. You can put that one down.

18 BY MR. TULLY:

19 Q Let me ask you about Exhibit 17. Do you recognize
20 that?

21 A Sure do. I took this one as well. This picture
22 actually is interesting because this is one of the first photos
23 that I took. And I have the packet that I brought the City
24 dated January 28th, 2020, and that photo --

25 Q Well --



1 A -- was on the cover of this packet. We brought this
2 to the City of Phoenix and the City Council and presented this
3 in the very beginning when this crisis got completely out of
4 hand.

5 Q Okay. Let me just ask you a question. So that's a
6 dumpster that's overflowing?

7 A It is a dumpster --

8 Q Okay.

9 A -- adjacent to the Human Services campus that is
10 overflowing with trash.

11 Q All right. And do you observe that there are
12 dumpsters that the City has placed down in the neighborhood?

13 A Yeah, since this photo was taken, they've been
14 placed -- they have installed several more dumpsters, which
15 they overflow. And not only do they overflow, but if they do
16 get even half full, what we witness are people, homeless
17 individuals that are jumping in these dumpsters, rifling
18 through them, throwing the trash back out on the streets.

19 Q So the dumpsters that are out there, you regularly
20 see them overflowing or the trash in the street?

21 A Correct. They are still either overflowing or the
22 trash is still piled up on the outside of them.

23 Q All right. Now I'm going to show you the most
24 disturbing exhibit we have probably here today.

25 A I know the one.



1 Q It's Plaintiff's Number 20.

2 A So this -- well, this --

3 Q What is Number -- hang on, let me ask you a question.

4 A Sorry.

5 Q What does Exhibit 20 depict?

6 A Exhibit 20, these are pictures that I've taken right
7 outside of my building on my front door, basically up against
8 my building. These are pictures of human feces, some with
9 toilet paper, some without in different states of viscosity, I
10 guess you could say.

11 Q And why have you taken these photographs?

12 A I took these pictures because I needed the City of
13 Phoenix to understand what was happening to us. You know, you
14 can tell anybody that somebody's defecating on or near your
15 property. But when you show them pictures it says a lot more.

16 Q All right. So people are defecating on your
17 property?

18 A On a daily basis. Yes.

19 Q All right. And are they urinating on your property
20 as well?

21 A On a daily basis. Yes.

22 Q And the people that are doing this are coming from
23 the structures that the City has allowed to continue in the
24 right of way?

25 MS. STUHAN: Objection. Leading.



1 THE COURT: Sustained.

2 BY MR. TULLY:

3 Q Do you know where the individuals who have urinated
4 or are defecating on your property are coming from?

5 A They are coming from the immediate area. As the
6 Human Services Campus would state, their clients, so the people
7 that are accessing the services that are in and through the
8 neighborhood. And additional to that, the people that are in
9 the encampments on the easements.

10 Q And who has to clean up that stuff?

11 A That's a great question. So we try to get to it, and
12 I have a person that's onsite that is there 24/7. And in the
13 morning if we see something I will ask this person to go out
14 there and clean off the sidewalk. If that person isn't
15 available, I typically email the Human Services Campus, who
16 also has a small cleanup crew, to get over and clean it up
17 immediately.

18 Q Does the City clean the streets around you?

19 A I'd like to define cleaning a little bit more
20 clearly, but what the City does right now is, at this moment in
21 time, they are sending crews with security teams -- not police
22 officers, private security -- that are going up and down the
23 streets, and they will clean from curb to curb in the center of
24 the street, and then where available they will also clean on
25 the sidewalks. Unfortunately, a lot of the sidewalks are --



1 you can't access them because they're covered with encampments.
2 But they do not clean any space that have people or tents or
3 any sort of structures residing on them.

4 Q And so how long -- does the cleanup make any
5 difference?

6 A It doesn't make any difference in my opinion. If the
7 cleanup happens on a Monday, Wednesday, or Friday and the -- if
8 you look at the streets before they do that type of cleaning
9 and after they do that type of cleaning, it's not a noticeable
10 difference at all.

11 Q All right. And this sanitation problem, the
12 defecation, the urination, the trash, when did this begin?

13 A So this began right when all the tents started to
14 accumulate in the neighborhood because there was no place else
15 for them to go other than on the streets and on our buildings
16 and on our properties.

17 Q And how's the smell around your place?

18 A Noxious. It's, you know, Freddy's right. You know,
19 when it rains it's a horrible smell. It's like being inside
20 one of those outhouses, those porta potties on a hot summer
21 day. It's just a nauseating smell. But I want to point out
22 also that it's probably the worst when it's dry and hasn't
23 rained for a couple months, because when that soil that's
24 latent with human feces and urine, when it dries up people are
25 walking on it, and then the wind picks along and picks up all



1 this dust and all -- filled with human feces, and that's what
2 we're breathing in on a dry summer day when the wind picks up.
3 So that's probably the most dangerous aside from the noxious
4 smell.

5 Q I'm going to ask you about Exhibit 23 and 24.

6 A Exhibit 23 shows a picture that I took, which is on
7 the corner of 8th Avenue and Madison and this is a day after a
8 tent fire. So this is a typical scene where what'll happen is
9 the fires that are going on in and around the encampments will
10 catch the tents on fire. And I'm not sure if this is one or
11 two tents, but this debris from -- from the fire sat like this
12 for, you know, days before anybody even -- I would even say
13 longer than that -- before anybody came and actually cleaned
14 this up. And I don't know who cleaned it up, but it was out
15 there for quite some time. That's a typical tent fire.

16 This next one right here, 24, this is the typical
17 view outside of what is the Human Services Campus where the
18 tents are on the sidewalks, on the easements, out in the
19 streets.

20 Q I'm sorry. I gave you the wrong exhibit.

21 A Sorry.

22 Q I meant to give you 22.

23 A Okay. Exhibit 22, this is another picture that
24 I've -- I took personally. This is one of the neighbor's
25 buildings where there had been a tent fire, and this one was



1 right up against his building. Luckily, the building didn't
2 catch on fire, but the tree that's shown in the picture did
3 catch on fire along with that. I did call this one in to
4 Neighborhood Services and they had it cleaned up within about a
5 day.

6 Q Okay. And so you have observed these structures that
7 have been allowed to be placed in the right of way, you've
8 observed them catch fire?

9 A Yeah. We've actually taken video of actual tents
10 burning. So we -- we've -- we've witnessed the tents on fire.
11 Not only that, we've witnessed the people that have had the
12 little campfires. We've actually had recently there was
13 somebody starting fires in the middle of the streets, and I had
14 to call 911 because one of those fires was burning. This was
15 in the morning when traffic was driving through that street.

16 Q And is this, these fires, are they a fairly regular
17 occurrence?

18 A Yeah. As it gets colder, there's going to be more
19 and more of them. Typically, you'll see them if you drive in
20 that neighborhood at night, you're going to see a couple dozen
21 fires going.

22 Q All right. Now I just want to ask you some questions
23 related to your actual building. I want to show you what's
24 marked --

25 THE COURT: I'm going to stop you just because I



1 think it's a good time for a morning recess.

2 MR. TULLY: Okay.

3 THE COURT: So we'll take a ten-minute recess.

4 Please, be back promptly at 10:50.

5 (Recess at 10:40 a.m., recommencing at 10:51 a.m.)

6 THE COURT: All right. We are back on the record in
7 CV2022-010439. Let the record reflect the presence of all
8 parties' counsel and we have Mr. Francis back on the stand. So
9 whenever you're ready you may resume.

10 MR. TULLY: Thank you, Your Honor.

11 BY MR. TULLY:

12 Q Francis, I want to show you what's marked as Exhibit
13 8. Can you describe that photograph?

14 A I can. So Exhibit 8 is a picture that I took out of
15 my vehicle window. This was sometime in the afternoon,
16 directly outside of my front door. And it shows a gentleman
17 that's sitting right in front of my door, injecting a needle
18 into his arm. This I did call the police, and I did not stop
19 to go into the building. I basically left because I didn't
20 want to get involved with what was happening here, so I left
21 the area and came back within about an hour and he was -- he
22 was gone at that point.

23 Q All right. But that is a man that was openly taking
24 drugs in your front door in the afternoon?

25 A It was broad daylight when -- when this picture was



1 taken. I had pulled up because I wanted to go into my
2 building, and he was blocking the door with injecting a needle
3 into his arm. Yes.

4 Q All right. And I'll ask you a little more about drug
5 use later, but let me just go through some of these other
6 photos. Let me show you what's marked as Exhibit 12.

7 A Exhibit 12, so this is again in front of my door just
8 to the left. And this is presumably a gentleman that is passed
9 out. This again is during, I would say, the mid to late
10 morning, face down with a blanket over his head, who was
11 unresponsive.

12 Q And again, that's right next to your building; is
13 that correct?

14 A He is actually touching my building. Yes.

15 Q All right. Let me show you what's marked as Exhibit
16 16.

17 A 16, this is another doorway in the front of my
18 building. This was taken probably in the late morning, so
19 somebody had been camping out on my porch right in front of my
20 door. And they had vacated and left a pile of debris,
21 clothing, trash, and other things skewn (phonetic) all about
22 the sidewalk and the front porch.

23 Q And the three photos I just showed you, those were
24 all taken since 2019?

25 A Yes.



1 Q These are marked as Exhibits 18 and 19.

2 A So 18 and 19, these are pictures that my partner
3 took. This is broad daylight, middle the day. There is a
4 gentleman here that is -- he -- he is bent over backwards up
5 against my building spraying diarrhea all over the side of my
6 building. Actually, this is the front of my building. And he
7 gets up to take a look and does nothing to leave. He just
8 stands there and he's -- he was out of it, and left a giant
9 mess of diarrhea splattered on the side of my building. But
10 it's -- it's showing him in the action of actually defecating
11 on my building.

12 Q Let me show you Exhibit 24. Where is that located?

13 A So this looks like it's right adjacent to the Human
14 Services Campus. Again, it shows people that are lined up,
15 both in the easements and on the sidewalks and spilling over
16 into the street.

17 Q Sorry. I gave you the wrong one again, but it's all
18 right. Let me show you Exhibit 28.

19 A So 28, this is looking from my front door out to the
20 corner of 9th Avenue and Madison, showing all of the tents
21 which are lined up on all of the easements adjacent, which go
22 down Madison to the west, 9th Avenue to the north and to the
23 south.

24 Q Okay. That's sort of looking out the front of your
25 building?



1 A That's what I get to see when I open my door every
2 day.

3 Q Okay.

4 A Amongst a lot of other things.

5 Q All right. So you've got people living in tent
6 structures across the street from you in the public right of
7 way.

8 A That is correct.

9 Q All right. You've got folks crapping on the side of
10 your building.

11 A Yes.

12 Q Crapping against your building on a daily --

13 MS. STUHAN: Objection. Leading.

14 MR. TULLY: -- basis.

15 THE COURT: All right. Sustained.

16 BY MR. TULLY:

17 Q You've observed people defecating and urinating.
18 Have you observed folks defecating and urinating on your
19 building?

20 A Many times while it was in progress of happening
21 also. Yes.

22 Q All right. Have you observed drug use in and around
23 your building?

24 A Yes. I have quite a bit, from people injecting into
25 their arms, to smoking what I assume are fentanyl pills off of



1 a piece of tin foil, to what I assume are methamphetamines out
2 of a glass pipe.

3 Q All right. And the tin foil, do you have a trash
4 problem with the tin foil?

5 A Yes. They will discard a piece of tin foil, which is
6 about three inches by three inches with a burned residue of the
7 fentanyl pills on them, and they'll leave them all over the
8 sidewalk. They're blowing around in the wind. Yeah.

9 Q And these are people that you've observed were doing
10 these drugs are the folks living in these structures?

11 A These are the folks that are living in these
12 structures on the easements.

13 Q All right. Have you observed any public sex acts by
14 these individuals?

15 A Yes. Initially, when I went to the City Council and
16 presented that back in 2020, one of the things that I had said
17 on record in City Council, I witnessed a gentleman outside of
18 my building, directly laying up against it, who was openly
19 masturbating himself. So that was one of the initial things.
20 I have seen on an afternoon during daylight, this is another
21 example, there was an elderly woman and elderly man that were
22 standing right in front of my building on the sidewalk. The
23 man was standing behind the woman and had his finger inside of
24 her. When I drove up they immediately stopped and kept
25 walking.



1 That's the kind of thing that I've walked up to and
2 witnessed happening, in addition to people laying out in the
3 evening hours, you know, naked on the side of the curb,
4 completely naked. You'll also see people that are escorting or
5 providing sexual services that are walking up and down the
6 street. During the evenings and on the weekends it happens
7 quite often.

8 Q People soliciting?

9 A Soliciting.

10 Q All right. And so these acts of public urination,
11 public defecation, drug use, public sex acts, they affect and
12 impact you and your employees?

13 A Yeah. I mean, it's, you know, it's an image that you
14 can't get out of your head once you've seen it, so you know,
15 it's mental trauma. You know, I don't -- I don't need to see
16 that stuff, and neither do the employees that I have working
17 for me, neither do anybody that I invite to my property.

18 Q All right. In the area which we've talked about
19 earlier that we've referred to as the Zone, although I know you
20 don't like that term, but sort of the community that your
21 buildings are in, are there areas where it appears that there
22 are no tents? Like, there's just a sudden break and there's no
23 tents?

24 A Yes. So typically what you'll see is any property
25 that's adjacent to state-owned land you always see the state



1 troopers out there. Those people don't last usually a day out
2 there. The state trooper will come along and ask them to move,
3 and actually, in some cases, you'll see them being arrested if
4 they're on state property or next to state property. So
5 anything that's owned by the state, it seems like they have a
6 good handle on keeping those areas cleared of the encampments.

7 Q Okay. Now --

8 A And which are completely empty.

9 Q I have asked you a lot of questions about a lot of
10 exhibits and a lot of photographs, and I think you've answered
11 it, but I want to just make clear. The conditions that we've
12 talked about today, the tents, urination, the drug use, all
13 that, is it the same or worse condition that you've seen it
14 since you've been there in the last, you know, couple years?

15 A Absolutely. It's -- it has gotten to the point where
16 it is an uncontrolled situation down there. The City has
17 stopped the more aggressive cleanings, and the police officers
18 themselves have said that this area known as the Zone is off
19 limits to enforcements, so the City will not -- the police
20 officers will not enforce the laws down there. And they have
21 told us specifically, if you want us to enforce the laws, you
22 need to go to your policymakers and tell them to let us do it.

23 Q All right. Let me ask you about Exhibit 33.

24 A So Exhibit 33, this is a project I guess I'm pretty
25 proud of. So about a year-and-a-half ago there was a group of



1 neighborhood community leaders down where we are, along with
2 some service providers that we had been working with, CASS and
3 Phoenix Rescue Mission. We all got together because the
4 problem was out of control at this time, and we wanted to come
5 up with a solution that we could present to the City of Phoenix
6 to be able to solve this problem that was already
7 well-established and communicated with both the property owners
8 and the services providers. How can we handle this problem
9 that is satisfactory to everybody involved, including the
10 people that are -- that are living homeless on the streets?

11 So this project I put together, it's called the Safe
12 Outdoor Spaces, which are SOS communities. And we worked for
13 about nine or so months on putting this presentation together.
14 What it is, basically, illustrates the problems that are
15 happening right now and offers solutions. For example,
16 immediate solutions would be taking, you know, a parking lot,
17 cordoning it off so that it keeps the drug dealers out, the
18 people safe inside, offering them tents, potable water, toilet
19 facilities, and things like that.

20 Q Mr. Francis, let me -- sorry to interrupt.

21 A Sure.

22 Q But let me ask you a specific question about that.
23 So if you look at pages 12 and 13 in your report, and again,
24 this is a report that you -- and you got together with CASS,
25 which is a service provider for homeless at the homeless center



1 down there in your neighborhood, correct?

2 A Correct. Yes.

3 Q And the Phoenix Rescue Mission as well, right?

4 A Correct. Yes.

5 Q Okay. And you included these photographs. Can you
6 tell the Court what these photographs show?

7 A Sure. So we also coordinated with another entity on
8 here which has worked in other cities, and these are what they
9 had guided us to. So for example, these are success stories.
10 So in other cities around the United States are having the same
11 issue. This one shows Santa Rosa, California. And what they
12 have decided to do in this particular situation is take a what
13 looks like a parking lot, could be in a park or some other
14 privately owned City property, and established a corridor
15 around it and erected tents which are evenly spaced. It looks
16 like there's toilet facilities, a wash sanitary facilities,
17 potable water, and I'm assuming hopefully some sort of
18 security.

19 Q Okay. And then the next one, Denver, essentially the
20 same thing?

21 A Same thing in Denver. The difference is the tents
22 here are a little bit more robust for the colder climate, it
23 looks like, but they also have the same type of services. So
24 there's a little trailer it looks like for showers. And also,
25 they have in this case, they have additional tents that have



1 wraparound services. So what that is basically is when you get
2 people in a confined area like this, you don't just want to
3 have them, you know, sitting there doing nothing. There's
4 service providers on site where if somebody wants to get the
5 next level of help they can do that. It's all on site for
6 them.

7 Q Okay. And Mr. Francis, prior to filing this suit,
8 are you aware of whether the City of Phoenix took any action to
9 create, put a fence around a parking area and put up tents and
10 move any of the individuals there?

11 A No. So what we did is in February of 2022, so
12 earlier this year, we presented this to our councilperson,
13 Yassamin Ansari, and also to the City of Phoenix, some of which
14 are in this room, and said look, guys, we came up with a plan.
15 This is -- this is an absolutely workable solution. It's a --
16 we can make this happen. We just need your help, meaning the
17 City of Phoenix help. What we needed, including the service
18 providers, were the places to build these structures. We asked
19 them, could you provide the land? Could you provide the
20 funding? The service providers would provide the -- the
21 operational side of these shelter services.

22 Q The nuisance, the problems, all that down there, as
23 far as you can tell, nothing's happened to fix the problem? To
24 get rid of the nuisance, get rid of the tents, people, the drug
25 use, everything, correct?



1 A It's all still happening in full force down there.

2 MR. TULLY: Thank you. No further questions.

3 THE COURT: All right. Thank you. Any cross?

4 MS. STUHAN: Thank you very much for your time. Your
5 Honor, the City does not have any cross-examination.

6 THE COURT: All right. Thank you.

7 I do have a question for you. You had testified,
8 sir, about the efforts that you have made. And Exhibit 33
9 shows you've put a lot of time and thought into this. When you
10 went to the City Council, what was the result? What happened?

11 THE WITNESS: So we met with Councilwoman Ansari
12 separately from Gina Montes, who is in the room, and I think
13 Scott Hall was there for a brief period of time. And they
14 said, yeah, this looks great. And then we've got to get to our
15 next meeting, and hadn't really heard back of anything. So
16 there was no -- there was nothing said to us that's like, hey,
17 yes, we're going to do this. This is great. We're going to
18 contact the services providers and make this thing happen.

19 And that's what was so disappointing to us and to the
20 people that have created this solution, what we think is a
21 great solution, and there are service providers that feel the
22 same way. And that's why we're at this lawsuit today, because
23 we're tired of waiting around for the City to take action on
24 this. We feel like as private citizens we have done everything
25 that we can to give the City our input and our resources to try



1 and make this happen, and now here we are at a lawsuit.

2 THE COURT: Okay. Thank you.

3 THE WITNESS: Thanks.

4 THE COURT: Now, before you step down, I just need to
5 ask the lawyers if they have any questions for you based on
6 what the Court has asked you.

7 Mr. Tully, any questions for the witness based on
8 what the Court has asked?

9 MR. TULLY: No, Your Honor.

10 THE COURT: All right. What about for the City?

11 MS. STUHAN: No, Your Honor.

12 THE COURT: Okay. All right. Thank you so much.
13 You may step down.

14 All right, you may call your next witness.

15 MR. TULLY: The Plaintiffs call Michael Godbehere,
16 Your Honor.

17 THE COURT: All right. Mr. Godbehere, come on
18 forward.

19 And because we were at a recess after you were sworn
20 in, we'll just remind you that you remain under oath.

21 THE WITNESS: Okay.

22 THE COURT: But there is no need to swear you in once
23 more.

24 MICHAEL GODBEHERE

25 called as a witness for the Plaintiffs, having been previously



1 sworn, testified as follows:

2 THE COURT: All right, Mr. Bailey, go ahead.

3 MR. BAILEY: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. BAILEY:

6 Q Mike, you can state your full name again for the
7 record.

8 A Michael Godbehere.

9 Q As you know, we're here talking today about an area
10 inside the City of Phoenix that roughly goes from 7th Avenue to
11 15th Avenue, and then Jefferson South to the railroad tracks.
12 Do you own property in that area?

13 A I do.

14 Q Tell the Court what kind of property, how long you or
15 your family have owned it.

16 A I own a property that was a family business that was
17 started by my grandfather in 1947, and generations of my family
18 have worked there up until the time when we sold the business
19 in 2012 or '13, I'm not quite sure.

20 Q What kind of business was it?

21 A It was an auto paint supply business. My grandfather
22 was an auto painter. After World War II he went from painting
23 cars to distributing supplies for painting cars.

24 Q There was a time you took over the business?

25 A Yes. There was. Yeah.



1 Q When was that?

2 A That was officially 2005. My father passed away in
3 '05, but he had kind of been retired since.

4 Q Had you spent time at the business prior to 2005?

5 A Yes. Since I was a young teenager, approximately
6 1980 regularly. On a daily basis since 1982.

7 Q And I missed it if you said it, but what's the
8 address of your property?

9 A The address is 1102 through 11010 West Madison
10 Street.

11 Q The north side of Madison and --

12 A That is correct.

13 Q -- 10th Avenue?

14 A 11th Avenue and Madison.

15 Q Between 11th and 10th?

16 A Between 11th and 12th.

17 Q Okay. Where is that in relation to the Human
18 Services Campus?

19 A The Human Services Campus is south of me on the --
20 the entrance there is a block to the west of our address on
21 12th Avenue. And that campus encompasses quite a lot of
22 acreage there directly south of -- of where we're at.

23 Q Okay. Your place across the street is the campus
24 or --

25 A No. There's a distance --



1 Q -- a block south?

2 A I would say there's probably 600-foot distance from
3 our property line to where the campus is at.

4 Q Okay. So you were there regularly for a great number
5 of years. More recently, not as regularly; is that right?

6 A That is correct. After we sold the business the --
7 the new company was -- did the same -- did the same type of
8 thing that we did before, and I was employed there with them as
9 well. But they -- they vacated after two-and-a-half years-
10 worth of a five-year lease. They left.

11 Q And for a period of time, say the last two to three
12 years, do you have any regular contact with the property?

13 A I do. I'm there on a regular basis maintaining the
14 property.

15 Q And what is a regular basis, if you can say?

16 A At minimum, once a week.

17 Q Okay. Having been there or around it for that many
18 years, do you recall when the Human Services Campus went in in
19 that area?

20 A I -- yes, I do. The -- the big complex that's there
21 now, from I don't know, maybe -- maybe that was finished about
22 12 to 15 years ago. But the inception, the very beginning, was
23 back in the early '80s when the homeless shelter was designated
24 in the neighborhood there.

25 Q Okay. And I assume, tell me one way or the other,



1 starting in the '80s when the campus went in, homelessness
2 became an issue generally to the neighborhood, I would think.

3 A Yeah. We saw an increase of individuals on the
4 streets with each -- with each step of enlarging the services
5 in the neighborhood.

6 Q Did it cause the community any problems?

7 A Yes. The type of things that we've discussed
8 earlier, thefts and assaults and robberies and you know, the --
9 the urine and feces and things like this.

10 Q That sounds like exactly what we're talking about
11 today going back to the '80s. Is it different today than it
12 was back then?

13 A It's quite different now. Yes.

14 Q And how do you explain to the Court what the
15 difference is?

16 A Currently, we have permanent structure, tents and
17 other things that are structured as a permanent residence, for
18 lack of a better word, that are there week after week and month
19 after month. It makes it rather impossible to conduct business
20 that way or to have a marketable property. My property is
21 vacant currently, and I haven't been able to market
22 successfully for several years.

23 Q Has the presence of, for lack of a better term,
24 encampments, lessened, worsened, whatever the problems you
25 described that were longstanding? Is it just the same in those



1 respects, or has it gotten better or worse?

2 A It has gotten worse over the last few years. With
3 the -- with the -- with the arrival of so many tents and
4 permanent structures, it just multiplies those problems.

5 Q Prior to, say, 2019, is that a fair --

6 A Yeah.

7 Q -- separation date for what you're describing?

8 A Yeah. There's a very definite distinction of when
9 the -- when the homeless individuals began to -- began to make
10 permanent -- permanent living arrangements. There's a definite
11 difference from before till -- till after that.

12 Q Okay. Let's talk about the changes and impact on
13 your property and general vicinity of your property. I mean,
14 like the right of way and the streets and sidewalks around your
15 property, what has changed? What is the condition of that
16 today, and how is different than it was in the '80s or '90s?

17 A We used to be able to -- to tolerate it and work
18 around that much better, because we had foot traffic, you know,
19 some foot traffic. And as the individuals increased, that
20 increased, of course. But we could still -- we could still
21 operate. We could still come and go without being, kind of,
22 blocked in for the -- you know, we just -- we could just
23 operate at more normally. And as the population increases and
24 the -- and the tents become permanent, it just makes it
25 impossible to conduct business in a regular, normal way.



1 Q When you get to your property any given week, what's
2 your purpose in going?

3 A Cleaning and maintenance and repairs.

4 Q Okay. And in what condition do you normally find
5 your property when you show up?

6 A Normally, I find a lot of trash, the urine and feces,
7 and sometimes I find some damage and vandalism, things like
8 that.

9 Q Okay. How often do you find damage and vandalism?

10 A Every few weeks. Four to -- four to six to eight
11 weeks there's usually something that needs to be repaired.

12 Q What kind of damage?

13 A A lot of tampering with the exterior fencing,
14 disassembling, you know, like literally take tools and
15 disassemble chain link fences and gates to try to gain access
16 presumably. Also, my front door almost got beat in. I got a
17 steel door on the front of the main building that was nearly
18 beat down at one point in time.

19 Q You mentioned earlier a lot of cleanup and trash. Do
20 you find trash outside your property or inside your property,
21 both?

22 A I find them in both places. Yes.

23 Q Okay. Let's talk starting about inside your
24 property. How does the trash get inside your property, if you
25 know?



1 A Some of it can blow in. A lot of it is actually
2 literally thrown in.

3 Q How do you know it's actually thrown in and not blown
4 in?

5 A Well, I find water bottles full with urine that
6 probably couldn't blow in unless they were thrown over the
7 fence.

8 Q Those are plastic? You ever find glass bottles in
9 the same condition?

10 A Glass bottles, not usually like that. Usually they
11 cap the water bottles and throw them. The glass bottles are
12 usually just broken.

13 Q And do you ever find broken glass?

14 A Yes.

15 Q How often?

16 A Usually -- usually every visit there, on every visit.

17 Q Inside your internal section of the property?

18 A Yeah, inside and out.

19 Q Okay. What other kinds of things -- let's focus on
20 inside for now. What other kinds of things do you find inside?

21 A I find -- I find needles. I find food -- food
22 containers, you know, Styrofoam and paper food containers. I
23 find condoms. I find tampons, clothes, articles of clothing,
24 blankets, liquor bottles, and cans.

25 Q The types of things you're describing finding inside,



1 what do you do about it?

2 A Well, I take care not to touch them with my bare
3 hands. I use a trash grabber, which you've probably seen
4 people use before to grab the light stuff. And the heavier
5 stuff I generally use a shovel and a rake. And I put it into a
6 roll around garbage can and then I have to dump it in my
7 personal dumpster -- dumpster that's on my property.

8 Q As you're doing that, do you have any concerns about
9 your health and safety just from biohazardous stuff?

10 A I do. Of course, I don't -- I make every effort not
11 to come in contact with any of that stuff. And I have concerns
12 for my personal safety while I'm -- while I'm not locked inside
13 my property.

14 Q Okay. So let's talk about that. Do you also try to
15 clean up outside of your property?

16 A I do.

17 Q Okay. And the kinds of trash you've described as
18 finding inside, do you also find outside?

19 A Yes. I do.

20 Q Okay. Go through and tell me what you find outside.

21 A The same things that I mentioned before. The -- the
22 containers, the -- the empty cans and bottles, food packaging,
23 and the condoms and needles and so forth, drug-related things.
24 Pretty much the same -- same type of stuff.

25 Q Clean it the same way?



1 A I do clean it the same way. Yeah.

2 Q What's the impact of your cleaning it outside?

3 A It looks good for a short time generally, and it
4 doesn't take long before it looks bad again.

5 Q Describe what you mean by short time or doesn't take
6 long.

7 A Sometimes within matter of hours. I've literally
8 left and been back in a few hours and it looks like I have not
9 cleaned there prior.

10 Q Any problems with vermin, insects? I mean, you have
11 a bunch -- you've described biohazardous stuff.

12 A Yeah.

13 Q Is there anything might give you concern that it
14 could be spreading?

15 A Yeah. Well, there's a -- there's a lot of flies.
16 The flies are a unreasonable amount of flies.

17 Q What does that mean?

18 A Flies that are attracted to the types of smells and
19 trash -- rotting trash that's around the area, just --

20 Q I mean what do you mean by unreasonable amount? Do
21 you mean 10? 13?

22 A You mean flies?

23 Q 200? I mean, yeah.

24 A No. Like thousands of flies. Just -- just an
25 unreasonable amount of flies. They're just -- they're just an



1 amount of flies that's not normal for any other place.

2 Q And do they bother you? I mean, do you have to walk
3 through?

4 A I do. Well, when I do my cleaning they are there.
5 You know, I try to make sure I keep my vehicle's windows closed
6 so that if I accidentally leave my vehicle open then I have
7 flies on my trip home that are in my vehicle. So I do -- I do
8 take care for that.

9 Q Talking about the vandalism we got into a little bit
10 earlier on your property, other than somebody trying to break
11 in your steel door, was there a second issue with the front
12 entry area of your property that was a concern?

13 A Yeah. I've had individuals that are -- are
14 interfering with my ability to get in and get out of my
15 premises.

16 Q Get to that one in a second. Is there any place on
17 your property that people regularly, you believe, urinate?

18 A Yes. On my --

19 Q Okay. Describe that.

20 A On -- so on my front gate entrance that's a large
21 gate big enough for vehicles to go through, there's a building
22 on either side where there's a small -- a small corner where
23 people can urinate. It's a convenient spot that they urinate
24 there frequently.

25 Q Okay. You're only there once a week. How do you



1 know they urinate?

2 A Well, I see them --

3 Q Frequently, I guess.

4 A Well, if you're there for any period of time you can
5 see them, you can observe that day or night. And as Ian was
6 indicating earlier, I've seen genitals on a regular basis from
7 the interior of my property.

8 Q Let me -- any other signs that somebody has urinated
9 on the front fence post?

10 A Yeah.

11 Q Other than you've seen it a couple times while you're
12 there?

13 A No. Well, the smell and the -- the smell and the
14 residue that's left behind there. Yeah.

15 Q Describe the smell and residue.

16 A The smell is there all the time and bad, as you can
17 imagine, from people urinating there dozens of times on a daily
18 basis.

19 Q I want you to talk more about how this actually
20 impacts you. But what do you mean by bad? I mean, yes, things
21 smell bad. Is it something you'd walk past and say --

22 A Definitely.

23 Q -- that was a second of discomfort? Or is it
24 something different?

25 A No. It's there all the time. You can smell it all



1 the time. And it's -- it's overwhelming. The smell is
2 overwhelming, and when I've had visitors to the property they
3 notice that immediately.

4 Q Going back to the outside of your property now,
5 you've been inside, you're fenced in. Do you have concerns
6 while you're inside your property about personal safety?

7 A Yes, I do.

8 Q What are those?

9 A I have had -- I've encountered individuals inside of
10 my premises while I'm there, inside of my exterior while I'm
11 there working. So I have a habit of locking every door or gate
12 behind me to help prevent someone from coming in when I don't
13 know that. The one that I recently encountered had climbed the
14 fence and was in there unbeknownst to me until I discovered it.

15 Q You got sidetracked a little bit with the flies, and
16 I'll take responsibility for that, but was there occasion you
17 found dead rat or rats on your property?

18 A We did find a rat, and I had concern about that. So
19 I did contact the Maricopa County Health Department.

20 Q Okay. And did someone come out and check the dead
21 rat, I guess, to take it and make sure it wasn't --

22 A They did.

23 Q -- diseased?

24 A They came to the premises to investigate that.

25 Q And do you remember what role that person played with



1 the county?

2 A I don't remember her title. She was somebody I had
3 contact with periodically, but she was -- she was there on, I
4 believe, two occasions to my property.

5 Q Did she come alone or was she escorted?

6 A She was escorted by the Phoenix Police.

7 Q On both occasions?

8 A Both cases.

9 Q Do you know why?

10 A Security presumably, that she was not -- she felt
11 uncomfortable to come unescorted.

12 Q Why would somebody feel uncomfortable coming to your
13 property?

14 A It's just the -- it's just the environment. It's the
15 individuals. It's the violence. It's the appearance. It's
16 the perception. It -- it scares people off.

17 Q When you're outside, how often do you have close
18 contact with people in the streets?

19 A Frequently.

20 Q Okay. What does that mean?

21 A I -- I have conversations and I try to be as cordial
22 as I possibly can. I find that method works best for me to
23 avoid conflict, if possible.

24 Q Do you have people approach you that you haven't
25 approached?



1 A Yes.

2 Q How often does that happen?

3 A Generally -- generally on each visit somebody will
4 approach me.

5 Q And what's going through your head as someone's
6 approaching?

7 A I'm cautious, on guard, and wondering what -- what's
8 coming next.

9 Q Just want to quickly go through some of your
10 contacts. Has someone actually assaulted you?

11 A Yes.

12 Q When did that happen generally?

13 A Couple years back.

14 Q And what happened?

15 A This individual was impeding my in and out from my
16 property on a regular basis. And the first few times I asked
17 him to be to one side or the other of my access point, and he
18 was just belligerent about it. He didn't want to cooperate
19 with me. And it escalated over a period of a few weeks, and
20 finally it came to the point where he -- he had made some
21 threats towards me leading up to that. And then finally, at
22 one -- at one point in time he physically punched me, and we
23 ended up having a fist fight there in front of my place.

24 Q And that resulted from you trying to access your
25 property?



1 A Correct.

2 Q Have you been solicited for prostitution or drugs?

3 A Yes. I have.

4 Q How many occasions and which?

5 A On one occasion for sure there was some -- some women
6 that were living in a tent directly outside of my front door,
7 within 15 feet on City right of way. And I was solicited by
8 them, and it was -- it became known to me that they were
9 operating prostitution in that tent from different discussions
10 I had with different people on the -- on the streets there.

11 Q We've talked a little bit about again about what
12 you've observed visually around your property. Talked a little
13 bit about your sense of smell with the overpowering urine by
14 your front gate. Are there other smells generally around your
15 property that you have to deal with?

16 A Well, we're starting to smell the campfires now.
17 There's -- there's campfires and you smell that, smells --
18 smells like that. The, you know, general -- general, you know,
19 trash here and there. Sometimes trash as it sits too long if
20 it's got food in it starts to stink.

21 Q Are there offensive sounds?

22 A Yes.

23 Q Describe what you're talking about.

24 A A lot of arguing and fighting, profanity, cursing.
25 There's just a lot of bad behavior that way, just conflict --



1 conflict going on.

2 Q We've talked so far about your property, both inside
3 and outside in the area of your property. Are you familiar
4 even now with the entire neighborhood that we've talked about?

5 A I am.

6 Q Have you been through it in recent year or years?

7 A I am. I'm in and out of there frequently, regularly.

8 Q And are the conditions you've described to us
9 different from what's going on in the remainder of the area
10 we're talking about, or is it a common story?

11 A The conditions differ -- quite a big difference in
12 where I'm at on Madison Street, Jefferson is the next street to
13 the north of me. Beyond Jefferson Street going north --

14 Q Let me stop you for a second on that. Let's focus
15 now on the area we've talked about just south of Jefferson.

16 A Okay. Just in my --

17 Q Are the conditions you've described common to the
18 area all around south of Jefferson?

19 A Common to that area that they call the Zone, yeah.
20 That area that's south of Jefferson Street between 7th and 15th
21 Avenue.

22 Q And what you're describing isn't just your place?

23 A No, sir.

24 Q Okay. You started to go into Jefferson, although
25 Freddy and Ian both mentioned an extension to Jefferson and



1 Washington, where you are there's no extension to Jefferson and
2 Washington up at 10th, 11th, and 12th; is that right?

3 A Extension of -- of tent camping, is what you're
4 referring to?

5 Q Yes.

6 A I'm not noticing that on the state properties to the
7 north of Jefferson Street, on the north side of Jefferson
8 Street.

9 Q And do you know why there aren't any on the north
10 side of Jefferson Street?

11 A I see rigid enforcement. I observe rigid enforcement
12 from the state police, the state troopers. They do not seem to
13 tolerate much of anything as far as loitering or staying in one
14 place for too much time.

15 Q Ian described his efforts to present a proposal to
16 the City just a few minutes ago.

17 A Yeah.

18 Q In all of your years in the neighborhood, have you
19 ever been part of a group or groups that take issues to the
20 City with what you're confronting --

21 A Yes. I have.

22 Q -- on the conditions?

23 A Yes.

24 Q On how many occasions?

25 A I -- I was regularly involved in meetings at the



1 Human Services Campus. That was community meetings with the
2 Phoenix Police Department, officials from the -- from the
3 campus, and neighbors -- community neighbors, residents and
4 businesses like mine, just trying to find solutions and things
5 that can work -- work to improve the neighborhood from all
6 things, from all parties. There's more, but that's -- that's
7 the first one.

8 Q No. Over the course of years, and we can start going
9 back to 1985, exclude one three-year period from approximately
10 '14 to '17, have things ever gotten better in conditions in the
11 neighborhood?

12 A Yes. They have.

13 Q Apart from '14 to '17.

14 A Yes.

15 Q When was that?

16 A That I'm going to go back, I'm going to take an
17 estimate here and I'm going to say somewhere in the
18 neighborhood of 2008 or so, 2008, '09 or somewhere in that
19 vicinity.

20 Q What happened to make things better?

21 A The Phoenix Police changed their -- changed their
22 enforcement zones to where the Downtown Operations Unit
23 encompassed the area that they call the shelter area. The
24 Downtown Operations division of Phoenix Police used to end at
25 7th Avenue. So they made a change there to where Downtown



1 Operations went all the way down to 15th Avenue to include our
2 neighborhood. And a particular lieutenant came in and did a
3 lot of communication with the community, with residents and
4 businesses and the services for the homeless as well.

5 Q Let me stop you for a second, because I think this
6 was my mistake in the way I asked the question.

7 A Okay.

8 Q You were talking about Lieutenant Lazell?

9 A Yes, sir.

10 Q Okay. So that was '08 to '11. I had in my head it
11 was '14 to '17, but what years was he in charge?

12 A No. If I told you that, I said that incorrectly. I
13 think it was prior to 2014. I believe it was prior to 2014
14 when that -- what that all went on.

15 Q Okay. In any event, was there then one period of
16 time when things got better?

17 A That was that period of time.

18 Q Not a second period of time?

19 A No, sir.

20 Q Otherwise, have things just stayed the same or
21 continuously gotten worse, or something else?

22 A Gotten worse.

23 Q Do you have any reason to believe that the City wants
24 to increase the population in your neighborhood?

25 A Yeah. I have some suspicions.



1 Q Okay. Well, have you spoken with --

2 MR. ARNISON: Objection. Calls for speculation.

3 THE COURT: So --

4 BY MR. BAILEY:

5 Q Your brother is a retired police officer; is that
6 right?

7 A Yes, sir.

8 THE COURT: So you can lay some foundation, but --

9 MR. BAILEY: Okay.

10 BY MR. BAILEY:

11 Q So when did your brother retire?

12 A I want to say it's been five to six years ago.

13 Q Okay. Was there a time you had a conversation with
14 your brother about a formal or informal policy? Don't tell me
15 what the conversation was yet, but about a formal or informal
16 policy of the Phoenix Police Department with respect to what
17 officers do after contacts with homeless individuals?

18 A Yes, there was.

19 Q Okay. When was that conversation?

20 A Probably anywhere around 2005, '06, '07, '08.

21 Q Okay. And was your brother talking when he talked to
22 you -- again, without telling me what it was -- about something
23 he knew himself or just something he's heard, some rumor? Did
24 he know?

25 A Something that he had direct knowledge on.



1 Q Okay. Did he work in the area?

2 A He did.

3 Q Okay. And again, one more question before I ask you.
4 Did what your brother told you appear consistent with what you
5 observed about processes in the neighborhood for the police?

6 A Yes.

7 Q Okay. Since your brother told you that, have you
8 ever seen anything that suggests that policy he told you about
9 does not still exist?

10 A No.

11 Q And have you seen, on the other hand, anything that
12 suggests it does still exist?

13 A Yes.

14 MR. BAILEY: Your Honor, is that enough or?

15 THE COURT: Well, depends on what you're --

16 MR. BAILEY: I mean, I'll ask and we -- I'm sorry.

17 BY MR. BAILEY:

18 Q Tell me what your brother said -- tell the Court what
19 your brother said the City police department's policy was.

20 MR. ARNISON: Objection. Hearsay.

21 THE COURT: Sustained.

22 MR. BAILEY: Is there any foundation that the Court
23 would entertain?

24 THE COURT: No. But it's still calling for
25 out-of-court statements.



1 MR. BAILEY: But it is an admission of party's
2 opponent.

3 THE COURT: For the truth of the matter asserted.

4 MR. BAILEY: It's a representative of the Defendant.

5 THE COURT: Well, I don't --

6 MR. ARNISON: Your Honor, it's not. Sorry, he's
7 talking about what his brother, who's a police officer, from
8 another police officer said to him. He's not here present to
9 testify to offer for the truth of the matter asserted.

10 THE COURT: Right. So --

11 MR. BAILEY: I -- sorry.

12 THE COURT: Go ahead. Go ahead, Mr. Bailey.

13 MR. BAILEY: This is evidence of what a City of
14 Phoenix police officer said to the witness directly, a City of
15 Phoenix police officer with direct knowledge of City policies.
16 There's no double hearsay. It's direct, the officer said to
17 the witness.

18 THE COURT: Okay. Go ahead.

19 MR. ARNISON: Your Honor, if I may. Apparently it's
20 not about a City policy. Apparently, the testimony is that
21 there wasn't a formal City policy. It was rumor. And this
22 took place back in 2008. I'm not sure there's appropriate
23 evidence here that it's not hearsay.

24 THE COURT: Okay. All right. I'm going to sustain
25 the objection. Go ahead.



1 BY MR. BAILEY:

2 Q Have you ever observed the City of Phoenix -- start
3 with yes or no -- City of Phoenix Police Department transport
4 homeless individuals to your neighborhood?

5 A Yes. Yes.

6 Q Okay. And have you observed that any time recently,
7 say in the past three years?

8 A I can't say I've seen it in the last three years.

9 Q Okay. How recently?

10 A Five, six, seven years ago. I saw it frequently for
11 a number of years.

12 MR. BAILEY: That's all I have, Your Honor. Thanks.

13 THE COURT: Okay. Any cross?

14 MR. ARNISON: Your Honor, may I have 30 seconds?

15 THE COURT: Sure.

16 MR. ARNISON: No questions, Your Honor.

17 THE COURT: All right. You can step down. Thank
18 you.

19 THE WITNESS: Thank you.

20 THE COURT: You may call your next witness.

21 MR. BAILEY: Until the deferred witness, Your Honor,
22 we have nothing more right now.

23 THE COURT: Okay. All right. And so we have about
24 20 minutes before the lunch break. You ready to call your
25 first witness then?



1 MS. STUHAN: I'm sorry, Your Honor. Can I just have
2 a brief recess to use the restroom and then come back?

3 THE COURT: Sure. Of course. Why don't we stamp a
4 recess for -- is five minutes good?

5 MS. STUHAN: Five minutes is good.

6 THE COURT: Okay.

7 (Recess at 11:39 a.m., recommencing at 11:46 a.m.)

8 THE COURT: All right, back on the record here at
9 Brown et al v. Phoenix.

10 You ready to call your first witness then?

11 MS. STUHAN: Yes, Your Honor. Thank you. The City
12 of Phoenix calls Gina Montes.

13 THE COURT: All right. Thank you. And just come on
14 forward. Make yourself comfortable, ma'am. And we don't need
15 to swear you in. We'll just remind you that you're under oath.
16 Do you understand that?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: All right. Thank you. Whenever you're
19 ready, Counsel.

20 GINA MONTES
21 called as a witness for the Defendant, having been previously
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. STUHAN:

25 Q Ms. Montes, can you state your name for the record?



1 A It's Gina Montes.

2 Q Ms. Montes, where are you employed?

3 A I'm an employee of the City of Phoenix.

4 Q And what's your position?

5 A I'm a deputy City manager.

6 Q How long have you been in that role?

7 A I've been in that role since May of 2021.

8 Q And what was your prior position?

9 A Previous to that I was an assistant City manager for
10 a neighboring City in Maricopa County.

11 Q How many years total do you have in local government?

12 A I have 28 years in local government, most of that
13 time in management.

14 Q I want to talk a little bit about your current role.
15 As a deputy City manager, what are your primary duties?

16 A My primary duties are to oversee a portfolio of
17 issues and departments. And so the departments I currently
18 oversee are the Housing Department, the Human Services
19 Department, and our Office of Homeless Solutions.

20 Q What's the Office of Homeless Solutions?

21 A The Office of Homeless Solutions is a -- is a
22 function that we recently created, and it -- it is the -- the
23 group of staff that are in charge of overseeing all services
24 with respect to homelessness services, taking things to council
25 and implementing the policies of the council.



1 Q I know you said you recently started. Is there about
2 a time when that was created?

3 A Yes. Officially with the current budget, which
4 started on July 1st, we were authorized for a number of
5 positions to create this new department. Formerly, it was a
6 function of a division of the Human Services Department, and so
7 as part of the budget a new function was created.

8 Q So the Human Services Department used to handle the
9 homeless issues?

10 A Yes.

11 Q Okay. How many new positions have been created?

12 A About ten new positions have -- were created with the
13 fiscal year to be part of this function and a Neighborhood
14 Services Department.

15 Q And that fiscal year was this last July?

16 A July 1, 2022.

17 Q Have those positions been filled yet?

18 A Most of them have been filled. Not all of them have
19 been filled.

20 Q What's the purpose of hiring for these new positions?

21 A So previously, we only had a few positions kind of at
22 that administrative, management level that were able to -- to
23 implement a number of the complex programs and services that we
24 were seeking to implement. In addition, the needs of the
25 community, not just those experiencing homelessness, but



1 neighborhoods, businesses, we have a lot of -- a lot of
2 concerns that they have and following up on those concerns and
3 having adequate customer service was difficult without the
4 staff to handle that. So a number of positions were created
5 specifically to be liaisons to the community as well.

6 The other -- the other two pieces that were created
7 were related to grant writing and administrative functions that
8 are -- that are critical to administering all these contracts
9 for services. And also measuring success, tracking the data,
10 creating outward facing information for the community on the
11 internet, so a dashboard and there's a lot of interest in what
12 we are doing and the success and metrics with respect to
13 homelessness. And so one of the functions that is part of that
14 department would be the data portion of the -- of tracking what
15 we do.

16 Q You mentioned managing contracts. What kind of
17 contracts does the Office of Homeless Solutions manage?

18 A There are many, many contracts for services that we
19 manage. The vast majority of services, actually, we don't
20 directly administer services as the City of Phoenix. We
21 contract with the service providers to do that. So some
22 examples are for shelter operations, for outreach, rapid
23 rehousing, for -- for employment, like job -- job seeking and
24 other supportive services for people experiencing homelessness.

25 Q So one of the things I want to do starting off today



1 is talk to you a little bit about the level of homelessness
2 currently that the City of Phoenix is experiencing. Do you
3 have knowledge about the current number of homelessness in the
4 jurisdiction?

5 A I do. The -- there is an annual count of people who
6 are both sheltered and unsheltered and experiencing
7 homelessness in the community. And that's conducted once a
8 year, either January or February for the whole county, and
9 conducted by the Maricopa Association of Governments. So we
10 participate in that, and the most recent count was in, I
11 believe, January of 2022. So that's the latest hard number
12 that I have on those experiencing homelessness.

13 Q And the Maricopa Association of Governments, is that
14 also called MAG?

15 A Yes.

16 Q What's MAG's role in working through some of these
17 homelessness issues?

18 A Well, MAG administers the federal funding that comes
19 into the community. It's part of what's called the continuum
20 of care. And so there's -- there are resources that they
21 administer and distribute to service providers. And they also
22 coordinate what cities are doing with homelessness. There's a
23 regional plan that was established. And they are part of the
24 continuum also, the information with respect to homelessness.
25 So there's a system called the Homeless Management Information



1 System, and that tracks all of the -- not all, but many -- most
2 of the providers, all of them that are funded through federal
3 dollars. And also, coordinates the entry of people into
4 shelters.

5 Q So does the City of Phoenix have a relationship with
6 an entity like MAG then in trying to address homeless
7 situations?

8 A Yes, we do. The City of Phoenix, we have a lot of
9 relationships with respect to how we're trying to address
10 homelessness. But we are a member agency of MAG, and we also
11 have a representative on -- on the -- the council -- the
12 governing body for the continuum of care.

13 Q And one more time, can you explain to me, what
14 exactly is a continuum of care when you use that word?

15 A Well, the continuum just references the range of
16 services that are needed to help people in their homelessness.
17 So some of the things that I mentioned that we have contracts
18 for as well, so rapid rehousing, transitional housing, and all
19 of those, you know, services that are involved in helping
20 people in their homelessness.

21 Q Okay.

22 MS. STUHAN: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MS. STUHAN:

25 Q I'm handing you what's been marked for identification



1 as Exhibit 50. Do you recognize this document?

2 A I do.

3 Q And what is it?

4 A This is the Point-in-Time street count for
5 unsheltered people that was conducted in 2022, earlier this
6 year.

7 Q I want to break that into a couple pieces. What
8 first is a Point-in-Time count?

9 A So that's an actual physical count of people who are
10 unsheltered, people who are on the street or living in their
11 cars and in the -- and so MAG actually conducts the count and
12 the cities throughout the region participate in that. So
13 Phoenix is a participant in that.

14 Q And is it larger throughout the county?

15 A I'm sorry?

16 Q So does the count consist of more than Phoenix? Does
17 it include other municipalities in Maricopa County?

18 A It's the whole county. Yes.

19 Q You mentioned the word "unsheltered". Is there a
20 difference between homeless and unsheltered?

21 A I would say that unsheltered is a category within
22 homelessness. So you could be homeless and be in a shelter.
23 You could be homeless and couch surfing, you know, going from,
24 you know, just staying with friends. There's a lot of
25 different ways you could be described -- a person could be



1 described as experiencing homelessness. If you're unsheltered,
2 it means you're on the street or you're living in your car.
3 You're not in a safe place.

4 Q So I want to look a little closer at this Exhibit 50.
5 Let's first take a look, Phoenix about midway down towards the
6 bottom. What was the homeless population or the unsheltered
7 street count for Phoenix in 2014?

8 A In 2014 it was 771.

9 Q What was it in 2015?

10 A 994.

11 Q 2016?

12 A 1,235.

13 Q Let's jump to current; 2022, what's the total?

14 A 3,096.

15 Q Was a count conducted in 2021?

16 A The count was not conducted that year.

17 Q Why?

18 A It was not conducted due to COVID. There's a lot of
19 interaction, and so for obvious reasons, not to spread in the
20 pandemic, it was not conducted.

21 Q Has the level of unsheltered street individuals
22 increased in the City of Phoenix since 2014 to 2022?

23 A Yes. It has, significantly.

24 Q What about the county at large?

25 A The same thing has happened in the county at large,



1 from 1,053 in 2014 to 5,029 in 2022.

2 Q Has the City taken any actions to try to address the
3 increasing numbers of unsheltered individuals?

4 A Yes.

5 Q What types of actions has the City taken?

6 A The City has taken a number of actions, not least of
7 which is investing -- allocating, not all of it has -- all of
8 it has been expended yet, but tens of millions of -- of dollars
9 towards -- towards the issue. Tens of millions might be a bit
10 much, might be more than we have, so let me back up for a bit.
11 Let me start with what the City has done in terms of the
12 commitment of staff resources.

13 I mentioned that -- that a whole new division was
14 created and additional positions to provide the staff resources
15 to do what is needed, and so that's the first step in doing
16 that. There was a plan that was created in 2020, and then a
17 task force of community members, service providers that
18 provided input into that plan where very specific interventions
19 were identified for us to pursue.

20 But probably the biggest thing that has happened is
21 just the support to really get directly involved into
22 addressing the issue. So not only -- and that's what the
23 investments are about in terms of the federal dollars that have
24 come in from the pandemic. So we had money that helped us
25 establish additional shelters and additional services, and



1 also -- and that's the federal dollars. But the ongoing
2 general fund commitment that the City has put in place, again
3 starting in July 1, is probably one that -- one of the biggest
4 changes.

5 Q And I want to talk about some of those changes that
6 you're making, but one of the first things I want to dig into a
7 little bit more is when we're talking about some of the
8 increase in homelessness, has the City reviewed some of the
9 underlying causes for that?

10 A We have. There are so many causes of homelessness,
11 and I'm -- I'm not the best person to speak about, you know,
12 all of those underlying causes. Only to say that what we're
13 trying to do is address all of the -- all of the needs that
14 will help people escape and end their homelessness. And so
15 there's a lot of different reasons that they -- people become
16 homeless such that it's difficult to say we're going to prevent
17 all homelessness. What we try to do is identify what are the
18 gaps in the services that are -- that are available to people
19 so that we can provide the intervention and people can accept
20 services.

21 Q And when you mentioned services and service
22 providers, would that include nonprofit providers?

23 A Yes. Those providers are primarily nonprofit
24 organizations that are in that -- in that space of providing
25 services.



1 Q And are there any religious providers?

2 A Some of the organizations that are providers have a
3 religious affiliation, yes. And some are affiliated with the
4 churches.

5 Q So does the City work with multiple types of service
6 providers that target assistance for homeless populations?

7 A Yes. We work with many service providers, all
8 different kinds.

9 Q I'm handing you what's been marked for identification
10 as Exhibit 51. Do you recognize this document?

11 A Yes.

12 MS. STUHAN: And Your Honor, this is small print.
13 I'd like to make it a little larger if we can use our projector
14 here.

15 THE COURT: Okay.

16 MS. STUHAN: Let's see if we can get this to clear up
17 a bit. Just give me one minute. Well, if I can't get it, we
18 can work off of that.

19 BY MS. STUHAN:

20 Q Okay, Ms. Montes, you got your reading glasses on,
21 right?

22 A I do.

23 Q We talked about this. Can you see pretty good with
24 those glasses?

25 A I can -- I can see it.



1 Q All right. Let's take a moment and look at this
2 exhibit in front of you. What is this document?

3 A This document is a list of the available shelter beds
4 in Phoenix. Not available -- shelter beds that exist in
5 Phoenix.

6 Q Okay. Let's break that up. So it says right up on
7 top, PIT Count. What's a PIT Count?

8 A That's the Point-in-Time count of people experiencing
9 homelessness that we discussed.

10 Q Is the PIT count on the shelter beds the same as the
11 PIT count we just looked with the Maricopa Association of
12 Governments?

13 A Yes. There's only one Point-in-Time count. Yes.

14 Q So would the number of unsheltered individuals we saw
15 on the last exhibit be measured the same date that the PIT
16 count is conducted for the shelter bed availability?

17 A I'm not sure what you mean by the question.

18 Q What day or what month did Maricopa Association of
19 Governments perform a Point-in-Time count this year?

20 A I believe it was January, maybe early February. I
21 don't know the exact date.

22 Q And you said that they do a count every year?

23 A Correct.

24 Q So at the same time they're tracking numbers of
25 homelessness, do they also track availability of beds?



1 A Yes.

2 Q So does this document explain the number of beds on
3 that same day that that Point-in-Time count is conducted?

4 A Yes. Yes it does.

5 Q Okay. Let's move next to the -- it also says on top
6 shelter beds available 2015 to 2022. Do you see that?

7 A Correct. Yes.

8 Q What does that mean by shelter beds available?

9 A That's just the number of shelter beds that exist on
10 that date in Phoenix for these providers.

11 Q Could some of these beds have been in use at the time
12 of the Point-in-Time count?

13 A Yes.

14 Q So these aren't necessarily beds that somebody could
15 immediately move into; is that right?

16 A That's correct.

17 Q Okay. I want to talk a little bit about the total
18 number of shelter beds available in Phoenix. If you turn to
19 the second page at the bottom, do you see a total bed capacity?

20 A Yes.

21 Q And the years are listed on the top on the first page
22 and they carry on to the second page. Do you see that?

23 A Yes.

24 Q What was the total bed capacity in the City of
25 Phoenix for 2015?



1 A In 2015 it was 3,624 shelter beds.

2 Q What was the total shelter bed capacity in the City
3 of Phoenix for 2022?

4 A 3,219.

5 Q Why did the number go down?

6 A There -- there probably was a lack of funding. There
7 was changes in funding, costs likely increased of providing the
8 shelter beds.

9 Q Has the City been examining ways to increase shelter
10 space?

11 A Yes. We've been looking at every way we can possibly
12 increase shelter base -- shelter space, shelter beds since I've
13 been with the City.

14 Q And I want to talk about shelter beds also in a
15 little bit, but first, when we compare the number of
16 unsheltered individuals in the City currently with the number
17 of available beds, are there enough beds for everyone?

18 A There are not. In 2022 at the time of the PIT count
19 that 3,219 beds were available and there was more than 2,900
20 people occupying those beds. So the number of beds available
21 on that day of the count, knowing that information, I know that
22 most of the beds were filled at that time.

23 THE COURT: All right, Counsel, is that a good
24 stopping point?

25 MS. STUHAN: Yeah. That's a good stop.



1 THE COURT: Okay. All right. So we will resume
2 following our lunch recess promptly at 1:30. So we'll look
3 forward to seeing you then. Thank you. We'll stand at recess.

4 (Recess at 12:05 p.m., recommencing at 1:28 p.m.)

5 THE COURT: All right. Good afternoon, everyone.
6 We're back on the record in CV2022-010439 following our lunch
7 recess. Are we ready to continue?

8 MS. STUHAN: Yes, Your Honor. We're prepared.

9 THE COURT: Okay. All right. Ms. Montes then, I
10 think.

11 MR. BAILEY: Your Honor, while the witness is
12 returning, I realize I neglected to tell the Court this, just
13 so you're not trying to figure out -- this is the one witness
14 that Mr. Wurman will be handling in our evidentiary hearing, so
15 he's in charge now. But I was also going to ask the Court, can
16 you let us know where we are on time?

17 THE COURT: Sure. So I have one hour 55 for the City
18 and 57 for you.

19 MR. BAILEY: 57?

20 THE COURT: Yes. That's what I have.

21 MR. BAILEY: We have three hours?

22 THE COURT: No. Well, I take time out for the
23 breaks, for the morning and the afternoon recess. So I start
24 with 2:45 on each side, so that's how I came up with that. And
25 I've found to budget 15 minutes per side for breaks, but if we



1 don't take so long for the breaks, then I give you the time
2 back at the end of the day, whatever we have after the last
3 afternoon break, if that makes sense.

4 MR. BAILEY: Okay. Thank you, Your Honor.

5 THE COURT: Sure. All right. Are we ready to
6 proceed then?

7 MS. STUHAN: Yes, Your Honor.

8 THE COURT: Excellent. Okay. All right, so we'll
9 just remind you again, you're under oath. Do you understand
10 that, ma'am?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Okay. Thank you.

13 DIRECT EXAMINATION RESUMED

14 BY MS. STUHAN:

15 Q Ms. Montes, do you still in front of you Exhibit 51?

16 A Yes. I do.

17 Q And that's the one with the shelter beds, correct?

18 A Yes.

19 Q Okay. I'd like to ask you before we move on a couple
20 more questions about the shelter availability in the City of
21 Phoenix. Looking at that chart, look at first the second one
22 down, Area Agency on Aging, Region 1. Do you see that?

23 A Yes.

24 Q And it states it's a DOVES program THDV. Can you
25 describe what type of shelter that is?



1 A I actually don't know the specifics of this
2 particular shelter, but I do know that DV indicates domestic
3 violence, which tells me that this shelter is a special --
4 specializing in people who are -- who are leaving domestic
5 violence situations.

6 Q And let's look down a little further. There's one on
7 Community Bridges which says, "A response hotel." Do you see
8 that?

9 A Yes.

10 Q So are there hotels in addition to other types of
11 shelter spaces available?

12 A Yes. There are some hotels that were -- were made
13 into shelters during the COVID pandemic. Actually, it's not
14 actually completely gone COVID pandemic. And I suspect that
15 that one is a COVID response hotel. Some of them were for
16 quarantining, and others just were additional shelter
17 opportunities.

18 Q And if we look at the years on top, from 2015 to
19 2022, I see bed capacity of 120 in 2021 starting. Do you see
20 that? 120 in 2021.

21 A Sorry, I lost my place real quick. Response hotel,
22 yes.

23 Q So do you have any knowledge, was that a new shelter
24 then that was opened during the pandemic?

25 A I'm sure it was. Yes.



1 Q Going down below, I also see one for transitional
2 housing for working homeless men. Do you see that for House of
3 Refuge Sunnyslope?

4 A Yes.

5 Q Do homeless men that are working have different types
6 of needs than men that aren't working?

7 A Yes. They might have different needs. This
8 particular shelter would be addressing people experiencing
9 homelessness who are ready to -- to work. Who are in a
10 position that they need to find a job, and it's specialized
11 around their needs.

12 Q And what about shelter for families. Do those have
13 different needs?

14 A They do. Family shelters would not include single
15 adults and others. It would not be a congregate setting. It
16 would be just for -- for the families, because you're not going
17 to mix, you know, populations. You need to have it to be safe
18 and in a certain -- set up in a certain way more conducive to
19 families, especially with children who are school age, who may
20 need to go to -- need to go to school and the needs of the
21 parents.

22 Q Do some of these shelters provide housing for
23 children?

24 A I'm not sure if there are any ones that are specific
25 to children. I know there's one for foster -- foster children.



1 Q For foster children?

2 A Um-hum.

3 Q And I guess one thing I want to understand, so
4 there's also one here for heat respite. Do you see that?

5 A Yes.

6 Q What is heat respite?

7 A I don't know which one actually you're pointing at,
8 but I do know --

9 Q Human Services Campus towards the bottom. Do you
10 see?

11 A Oh, yes. Yes.

12 Q What's a heat respite shelter?

13 A Those would be additional -- additional beds that are
14 available during the heat of the summer.

15 Q So can you just explain to me, why are there
16 different types of shelters when we're trying to house the
17 homeless?

18 A We talked earlier about how there's a lot of
19 different reasons people become homeless. And for each of
20 those reasons, they may have different needs that -- different
21 ways that -- that we need to meet their needs in order for them
22 to -- to end their homelessness. And for that reason, there's
23 specialized centers and services to meet a variety of needs.

24 Q And does the City of Phoenix itself operate any of
25 these shelters?



1 A No.

2 Q So what's the City's relationship with these
3 shelters?

4 A For these -- for many of these shelters -- for some
5 we may fund some of the services, but mainly it's a partnership
6 type of relationship where we're as, you know, we're referring
7 people to the services through our outreach provider.

8 Q So an outreach provider, what does an outreach
9 provider do?

10 A We have outreach teams that seek out people who are
11 experiencing homelessness, either because we've gotten a call
12 about someone in need or because they're -- they're in a
13 certain area. We might have an effort in a certain area to try
14 to get people into services, and we have teams that -- that go
15 out and engage with people and try to get them into services of
16 shelter, treatment, whatever their need might be.

17 Q And I know you said on this chart the City of Phoenix
18 doesn't operate any of these, but is the City moving forward or
19 has it opened any shelters by itself?

20 A Yes. In recently, we have taken a more direct
21 approach in identifying properties, vacant buildings, land
22 where we can site shelters. And so we're kind of at the
23 beginning phases of that, but we have recently, in the early
24 part of the year -- of the calendar year in time for the heat,
25 we opened a shelter for 200 adults on Washington Street. And



1 that one we did in conjunction and partnership with the county.
2 And we did -- we are very directly involved in that, although
3 we have a -- we have providers that provide the direct service
4 that we contract with to -- to operate the shelters. And we're
5 also in the process of opening -- erecting another sprung
6 structure for approximately 200, which will be open again
7 before the heat of the summer on some land that the City owns.

8 And so what we traditionally have done, historically
9 have done is put out funding through a request for proposals
10 process, and providers could apply for that funding towards
11 their projects. And while that may be still -- likely still be
12 a process we will do, we have -- we have begun to directly make
13 these projects happen, where in the past we were more of a
14 participant through the funding and less directly involved in
15 finding the sites and locating them and getting them
16 operational.

17 Q Now, you mentioned something, a "sprung structure".
18 What is that?

19 A A sprung structure is a soft-sided building that can
20 be erected pretty quickly and for less cost than -- than a
21 stick built or other type of structure.

22 Q How long does it take to get one of those open?

23 A It -- it depends. It really depends on if you have
24 the land. Assuming that you have land available to -- to
25 procure design firms and contractors; design it, the site; get



1 it through the process; up to making sure it's through building
2 all of our building requirements for the City, because it has
3 to be safe for the occupants; getting all of the utilities to
4 the site, water, electricity, everything you need to have to
5 service the building; and then to identify providers, get
6 contracts with those providers; and for the providers to hire
7 the staff, all of those -- all of those items need to happen;
8 and any ordering for furniture, fixtures, and equipment that
9 need to go into the facility, a rapid time frame, which we are
10 in the process of doing right now, is nine months. And
11 that's -- and that's assuming that there are no supply chain
12 issues or any -- any difficulty in obtaining what we need to
13 get -- to get something up and going. So yes.

14 Q I'm going to hand you what's been marked as
15 Plaintiff's Exhibit 33. Do you recognize this document?

16 A Yes, I do.

17 Q What is this?

18 A This is the proposal that Mr. Francis and a group of
19 property owners around the Human Services Campus, along with
20 Central Arizona -- CASS, Central Arizona Shelter Services and
21 Phoenix Rescue Mission, presented to us early this calendar
22 year; I don't remember the exact date. It might've been
23 February-ish.

24 Q And it says on the bottom -- if I can direct you --
25 it says "Drafted by Ian Francis, February, 2022." Do you see



1 that?

2 A Yes.

3 Q Does that sound about the time that it was presented
4 to the City?

5 A Yes.

6 Q So have you reviewed this proposal?

7 A I have.

8 Q Have you considered the implementation of some of
9 these steps?

10 A Yes, yes. We have considered. And in fact, are
11 implementing -- one of the them, which is this sprung
12 structure -- that is what you see on this exhibit -- the
13 pictures -- that's what those are, are the soft-sided
14 buildings.

15 Q So when you say "on this exhibit." I'm looking at
16 the first page. There's pictures of three soft-sided
17 buildings.

18 A Yes.

19 Q Is that what you're saying is a picture of a sprung
20 structure?

21 A Yes.

22 Q And so can you look at this -- let's move on to the
23 very back. Let's turn to page 12. In addition to the sprung
24 structures, this proposal also looks at a structure campground.
25 Is that fair?



1 A Yes.

2 Q Has the City considered taking that approach as well?

3 A We have considered that approach.

4 Q And is the City planning on implementing it?

5 A At this time, our priority is to find indoor
6 shelter -- indoor safe spaces for people.

7 Q Why is that?

8 A There are a few reasons. The primary reason is
9 because the heat of the summer makes it such that people are in
10 danger. And so we had -- it's been well-publicized, the number
11 of heat-related deaths that have been happening over --
12 happening over the summer months. In fact, there was an
13 increase over this past summer. And the majority of those
14 heat-related deaths were people experiencing homelessness. For
15 a -- for a structured campground, you -- you have most of the
16 same costs that you would have for an indoor shelter, and yet
17 you don't -- yet it's not -- it's not safe for people in the
18 heat. And so the resources that we're deploying are for
19 indoor -- indoor shelter, both congregate. So the group
20 shelters and also noncongregate -- hotels -- we're trying a
21 couple of other innovative options that we can -- we can erect
22 quickly as well.

23 Q Now, those soft-sided sprung structures; can those
24 have things like air-conditioning installed?

25 A Yes. Yeah, they -- they function just like indoor.



1 It's just -- they're not permanent so they're somewhat
2 temporary. They don't last. I think they -- they have about a
3 ten-year life span. And they are -- but they have all the
4 services and utilities, so -- air conditioning, you can have
5 windows -- and everything a building would have.

6 Q So before the break, we talked about the fact that
7 homelessness is going up. Shelter beds aren't adequate to meet
8 it. You mentioned sprung shelters. I also talked about
9 concrete shelter space. What does the process look like --
10 what are the steps involved in opening a new, permanent
11 shelter?

12 A Well, it depends if you're going to construct a
13 building, a brand new building or if you're going to go in in
14 an existing building. For either one, for a congregate
15 setting, you have to have the appropriate zoning in place and
16 adequate -- adequate space. And so -- so right now, and then
17 as I mentioned, the City of Phoenix, we follow all of our own
18 rules that apply to other people in the community and any
19 provider that was putting up any kind of structure -- erecting
20 a shelter.

21 So if you have a -- if you have a building, that if
22 you like what we did for our Washington Respite Shelter that
23 we -- we opened up earlier this year. We had a building and it
24 was in the appropriate zoning and -- but it didn't have -- it
25 was in -- it was not a use that was a residential use. So we



1 had to meet all of the building codes to make it safe for --
2 for human habitation, basically. And we had to get all of the
3 permits to do that. And in addition, because it was close
4 enough -- close to a certain distance from residential, we had
5 to have use permits. So we had to have -- do outreach to the
6 community; we had to have a hearing where we demonstrated that
7 we wouldn't have an adverse impact on the community and the
8 residential surrounding that.

9 So once you kind of get through that process for a
10 shelter, then it's all the same things that I mentioned before
11 in terms of the -- you know, the making the improvements -- you
12 know, all the provider -- accessing the provider any --
13 ordering of any furniture, picturing equipment that's needed
14 for the site.

15 Q So the sprung structure takes about nine months. How
16 long does a brick and mortar shelter take to just put in, start
17 to finish?

18 A In -- in the right -- in the right zoning, with --
19 with everything goes right, you can do it in -- in less than
20 six months for an existing building. If you were building a
21 new building, it would -- it would take at least a year in
22 best-case scenario.

23 Q Is the Office of Homeless Solutions considering
24 things such as opening or building new shelter spaces?

25 A Yes. The -- the Office is actively engaged in



1 identifying buildings and property that would be suitable for
2 additional shelter. I mentioned that the Council has
3 authorized significant funding. Most recently, the second
4 (indiscernible) of the American Rescue Plan Act, more than \$70
5 million for both homeless -- for shelters and affordable
6 housing. And so that funding is available. And we're looking
7 to deploy that funding for -- and specifically, prioritizing
8 the area around the Human Services Campus.

9 The next two opportunities -- we have a hotel with
10 177 rooms that is -- that is opening up in November, and that
11 will specifically prioritize people around the Human Services
12 Campus. And the sprung structure that is -- that is also in
13 the planning phases -- will be open by the summer. We'll do
14 the same thing. We'll have the same priority, in terms of
15 population. And those who are outside -- camped outside of the
16 Human Services Campus.

17 Q I want to ask you a little bit about the Human
18 Services Campus, or you sometimes call HSC?

19 A Yes.

20 Q Who owns the Human Services Campus?

21 A The campus is -- is -- is owned and operated -- much
22 of it is owned by the -- the nonprofit organization; that is
23 the Human Services Campus. There's some land that is owned by
24 providers that's part of that campus. But it's primary --
25 primarily the nonprofit organization, Human Services Campus.



1 Q And forgive me, when you say "providers", what kind
2 of entities are you talking about?

3 A There's -- I'll probably miss some but some of the
4 major ones include: St. Vincent -- St. Vincent de Paul that
5 provides the meals. There's Circle the City, that is the
6 healthcare provider. There is St. Joseph the Worker, that
7 provides work-force development services to -- to those, and
8 there's -- the -- the big one is Central Arizona Shelter
9 Services, or CASS. That's the largest shelter in -- in the
10 State for adults.

11 Q Do you know when the HSC Campus opened?

12 A I believe it was around 2000 -- approximately 2005.

13 Q Who opened it?

14 A At that time, I believe it was -- it was Maricopa
15 County that was the lead in opening that campus and in
16 partnership with -- with other communities, including the City
17 of Phoenix. But it was owned at the time and -- and by the --
18 by Maricopa County.

19 Q So has the City, from its opening until now, owned or
20 managed the day-to-day operations of the HSC Campus?

21 A No.

22 Q You've heard testimony today that there are
23 significant problems around the HSC Campus. Do you disagree
24 with that?

25 A No, I don't disagree with that.



1 Q Has the City taken any actions to try and clean up
2 that area?

3 A We have. And we continue to work through many of the
4 issues involved and -- and trying to communicate with the
5 property owners closely and listening to their concerns. There
6 are a lot of -- a lot of things that we have in the works to
7 do, but mainly -- not mainly, but one of the major efforts is
8 to -- to address the sanitation issues, to address the -- the
9 encampments that are kind of growing in size. And to make it
10 safe from a public health perspective for everyone involved,
11 especially the property owners who are living with this on a
12 daily basis.

13 Q I'd like to talk to you a little bit about the
14 clean-up efforts next. I'm handing you what's been marked as
15 Exhibit 52. Do you recognize this document?

16 A Yes.

17 Q What is this?

18 A This is the -- the working document on the roles and
19 responsibilities for doing more thorough cleaning in the -- in
20 the area where people are -- are encamped, including the -- the
21 spaces on -- on the ground -- underneath. So having to move
22 their items out of where they are, doing thorough cleanings and
23 sanitation, and then letting them return.

24 Q And it says up top, "HSC-enhanced clean-up." Is that
25 the Human Services Campus?



1 A Yes, that's just our refer -- that's -- we're
2 referring to the area around it and yes.

3 Q Who put together these roles and responsibilities?

4 A This was a team effort by staff with -- in the City
5 of Phoenix and multiple departments. And also coordinating
6 with -- with the staff at the Human Services Campus.

7 Q So what's the purpose of this document?

8 A The purpose is to lay out very specifically who is
9 responsible for -- for which -- which activities need to occur
10 in order to really thoroughly clean the area and make it --
11 make it safer for -- for those involved. So the providers, you
12 know, the -- in terms of security, storage of people's
13 belongings, all of the issues that it -- it's actually more
14 complex than it might sound to figure out how to make the area
15 safer for everyone. Streets, public works, they do the trash.
16 All of those departments have a role.

17 Q So has this enhanced clean-up started yet?

18 A It -- it has not. Right now, we're doing street
19 cleaning basically in the street and not -- not in the rights-
20 of-way that are just adjacent -- not in the easements and
21 where people are camped.

22 Q Is there a time line for implementing this enhanced
23 clean-up?

24 A We're -- we're continuing to make sure we have all
25 the details addressed. But our goal is to -- to resume them in



1 December.

2 Q So let's talk a little bit backing up. You mentioned
3 in terms of moving people and their belongings. I want to -- I
4 want to break that up a bit. Let's start with belongings. Can
5 you simply throw belongings away?

6 A No, we cannot throw belongings away, and what we have
7 encountered in the past is that, you know, what -- what may not
8 look like something of value to -- to me or whoever, you know,
9 our staff might be something of value to those who are
10 unsheltered. And so we -- we also have been under a little bit
11 of some scrutiny. We have the Department of Justice pattern or
12 practice investigation. One of the items they're looking at is
13 the possessions of people experiencing homelessness and the
14 City's treatment of those possessions.

15 Q Does the City have to store some of these people's
16 belongings to clean?

17 A There is -- there are some issues with respect to
18 abandoned property and whether or not it is abandoned, and if
19 someone is not with their property, what we do with that
20 property. And so -- so yes. There -- one of the issues we've
21 been solving for is storage options. Not just for people who
22 are -- who are in the encampments around the Human Services
23 Campus, but in general for people experiencing homelessness.
24 If they have a large number of belongings, sometimes that's a
25 barrier to going into certain shelters. They may not be able



1 to take all of their belongings. And then they -- which might
2 make it -- deter them -- often deters people from accepting the
3 services. And so one of the things that we need to address,
4 with respect to homelessness, in general, is that we are --
5 we -- we made substantial progress on is storage -- storage for
6 people's belongings.

7 Q So when you say you've made substantial progress,
8 what does that mean?

9 A It means we have -- we -- we have a location and a --
10 and a draft procedure for what we're going to do in the event
11 of someone not being with their property and -- and how we will
12 treat that property. So that -- and that is one of the key
13 pieces that we have been involved in, addressing in order to
14 really thoroughly address the sani -- the sanitation issues and
15 everything down around the Human Services Campus.

16 Q I'm handing you what's been marked as Exhibit 53. Do
17 you recognize this document?

18 A Yes.

19 Q What is this?

20 A This is the abandoned property procedure that I just
21 mentioned.

22 Q And have you had any role in preparing this
23 procedure?

24 A I have. I've been involved in -- in working with the
25 staff involved to prepare this procedure and review it.



1 Q So can you walk me through, in terms of a clean-up of
2 a homeless encampment, what the primary steps are in doing that
3 clean-up?

4 A I -- I -- like what's -- what are you wanting -- let
5 me just clarify that question.

6 Q Sure.

7 A You want it around for the clean-ups that we're
8 planning to do around the Human Services Campus?

9 Q Yeah. Let's talk about that. So when planning a
10 clean-up for the HSC, we just looked at a time line and
11 abandoned property procedure. Now, what will it look like on
12 the ground? What are the key steps?

13 A So in the event that we encounter property that's
14 aband -- that is unattended, I'll say -- because we wouldn't
15 know if it would be unabandoned. If someone, say, went in to
16 St. Vincent de Paul to get breakfast during the clean-ups and
17 they're not with their property, then we would -- we would tag
18 the property and -- and you know, have a tape around it so to
19 identify what property -- is -- is tagged, and then the -- when
20 the owner came back, they would need -- it would tell them to
21 the Brian Garcia Welcome Center, which is the main entry point
22 to the Human Services Campus and notify them that that's their
23 property. And they would have seven days to do that, and then
24 after -- after the seven days expired, if the property was
25 still there, then we would store that property for a period of



1 time.

2 Q Is that kind of clean-up something that can happen in
3 a day?

4 A No. In the state that it's in now, it's definitely
5 could not happen in day.

6 Q Does the City have any time lines for how long an
7 enhanced clean-up might take?

8 A We don't have an -- an exact time line. The plan is
9 to go section by section, and get as far as we can, within a
10 certain period of time. Because when we do the clean-ups,
11 we'll close the streets off, and that also impacts business
12 owners and other people coming into the area and people are --
13 their long -- their belongings are moved, then it's disruptive
14 to them as well. And so what -- what we'll do is limit it to a
15 certain time frame and move section by section until we get
16 through Mondays, Wednesdays, and Fridays. And then as we get
17 through the whole area and start the process again from the
18 beginning. So I don't have an estimate on how long that would
19 take. I think it's going to take -- the first few times, a bit
20 of time to get through that.

21 Q Is the City working with any other public entities or
22 agencies to try to address the problems of homelessness?

23 A We are. I would consider MAG a public entity. It's
24 counseled government, and there's member cities throughout
25 Maricopa County. And we work with other cities in terms of how



1 we can support their efforts. But our primary partners right
2 now are Maricopa County and the State of Arizona, both the
3 Department of Housing and Department of Economic Security. We
4 are funding partners with them, we work together. They have
5 funded the operations of the Washington Shelter, and then we
6 funded some other parts of that. And then going forward, over
7 the summer, and then going into the future, we'll be splitting
8 the operational costs with them.

9 And then with the State of Arizona, they're a funding
10 partner on the sprung structure as well. And so they're --
11 they're -- they're providing \$7 million towards that -- that
12 facility. Department of Economic Security administers funding
13 sources that also fund operations of, say, Central Arizona
14 Shelter Services and other providers. So we're -- we're in
15 very close coordination and discussion with -- with -- with
16 other jurisdictions. We would like for the other cities in the
17 region to do more. They are beginning to do more than they
18 ever have in the past, but we continue to encourage other
19 jurisdictions outside of Phoenix to do -- to do more, in terms
20 of services.

21 Q Is this an easy problem to solve?

22 A No.

23 Q No further questions.

24 THE COURT: All right.

25 Cross?



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CROSS-EXAMINATION

BY MR. WURMAN:

Q Thank you. Good afternoon. Can I call you Ms. Montes; is that okay? Or do you prefer something different.

A Sure, you can call me Gina.

Q Okay, I'll stick with Ms. Montes for now. Of the 3,000 or so unsheltered individuals that were accounted in a Point-in-Time in January of 2022, approximately how many were counted in the Zone, or Plaintiffs' neighborhoods?

A I don't have the specifics for that -- for on that day off the top of my head; the day of the Point-in-Time. I'm sorry about that.

Q No, it's okay. Would it be fair to say that the unsheltered population in Phoenix is concentrated in the Plaintiffs' neighborhood?

A I would say that that is an area of concentration. There are others, but that is -- that is probably the largest concentration.

Q Okay. So is it fair to day that impact of the unsheltered population in the Plaintiffs' neighborhood far exceeds the impact faced by any other neighborhood?

A I wouldn't disagree with that.

Q Okay. In fact, can I show you Exhibit 36? If I can find it. Do you recognize this document?

A Yes.



1 Q Can you describe to the Court what this document is?

2 A This is the Strategies to Address Homelessness Plan
3 that was approved by the City Council in the fall of 2020.

4 Q Is it on the City's website right now?

5 A Yes.

6 Q Is it fair to say this reflects current City policy?

7 A Yes, it does. It is -- it is one of multiple items.
8 There's a more recent update companion piece to this. But yes,
9 this -- this is --

10 Q Sure. Could you please turn to page 28?

11 A Sure.

12 Q And do you see under "Gaps identified", that kind of
13 big paragraph on that page, starting kind of in the middle,
14 which says, "CASS remains the largest emergency shelter in
15 Arizona." And then it goes on to say, "While the HSC", that's
16 the Human Services Campus, correct?

17 A Yes.

18 Q Partners -- "While the HSC partners provide vital
19 coordinated services and substantial shelter capacity, it has
20 also become a destination for many who do not stay in CASS or
21 not fully engage in services. The result is a fluctuating
22 level of encampments along the street, defecation in public,
23 sometimes on private property, litter and debris, public drug
24 use, lewd acts, theft, and other property and violent crimes."
25 Have I read it so far --



1 A Yes.

2 Q -- correctly? "While the HSC management and
3 providers take care of their immediate property, they do not
4 have the resources to mitigate the neighborhood impacts of
5 those surrounding the neighborhood by their services, which far
6 exceeds impact space by any other neighborhood in Arizona."
7 Did I read that correctly?

8 A Yes.

9 Q Would you say that the conditions described on this
10 page, page 28 of this City of Phoenix document, in Plaintiffs'
11 neighborhood, have those conditions gotten better or worse
12 since 2020 when this document was published?

13 A I was -- I wasn't fully engaged in 2020. I wasn't
14 with the City, but it's probably fair to say that it's gotten
15 worse.

16 Q Okay. Thank you. And is it fair to say, based on
17 your count on your own Point-in-Time numbers, there are more
18 unsheltered people in the City of Phoenix overall this year
19 than there were in 2020; do you remember?

20 A Yes, yes.

21 Q Okay. Thank you. Ms. Montes, the maintenance of the
22 public streets in the City of Phoenix are the responsibility of
23 the City, correct?

24 A Yes.

25 Q Ms. Montes, when there's discharge into storm drains



1 in the City of Phoenix, does that discharge end up in the
2 rivers, washes, and retention basins of the state?

3 A It could, yes.

4 Q Okay. Could you please turn to page 15 of this
5 document? Juggling here myself. Okay. At the bottom of the
6 paragraph that says "Strategies." All right. I'll just read
7 the first sentence of the paragraph, I suppose.

8 "Regional solution that provides shelters throughout
9 Maricopa County so that no one City or neighborhood
10 bears the brunt for providing shelter services for
11 individuals experiencing homelessness today."

12 Read that sentence correct, at the --

13 A Yes.

14 Q Okay at the last -- I'm going to skip a little bit.
15 It says,

16 "The smaller specialty shelters could also include
17 tiny home shelter communities, modular units, or
18 sprung shelters for temporary shelter that can be
19 easily deconstructed when more permanent options are
20 found."

21 Did I read that correctly?

22 A Yes.

23 Q I think I heard in your testimony what a sprung
24 structure is. Can you explain what a modular unit is? I don't
25 believe you had described it earlier, though if I missed it,



1 I --

2 A No, I didn't . There -- there are a number of
3 different kinds of units that are available. There's things
4 like -- they're called pallet homes and they're pretty small
5 units that are kind of pre-fabricated. I mean, there --
6 there's a number of different kinds of dwellings that can be
7 purchased and -- and, you know, plot down.

8 Q And in fact, you mentioned pallet homes.

9 A Yes.

10 Q Do you still have Exhibit 33 in front of you, by any
11 chance? The proposal that Mr. Francis --

12 A Yes.

13 Q Can you look at the last page of that exhibit? Does
14 that show an example --

15 A Yes.

16 Q -- of pallet homes?

17 A Um-hum.

18 Q Okay. Thank you. Since this document was written in
19 2020, the Human Services Campus has added a sprung structure to
20 its campus, correct?

21 A Yes --

22 Q Okay.

23 A -- that the City funded.

24 Q Okay. Now had -- the City, however, has not opened
25 up any modular unit communities or any sprung structures since



1 this document was published, correct?

2 A No, not those items, specifically.

3 Q Okay. But the City did recently approve the
4 construction of a sprung structure, correct --

5 A Yes.

6 Q -- I think that you described earlier? In fact, this
7 was approved at last night's City Council meeting, correct?

8 A Yes.

9 Q Okay. That was one day before this hearing, correct?

10 A Yes.

11 Q And after this lawsuit was filed, correct? I
12 represent to you that the lawsuit was filed in August. Is it
13 fair to say it was approved after the lawsuit was filed?

14 A I would say it was approved. I would say the
15 planning had begun well-before that.

16 Q Okay. I'm going to ask you about that in a moment.
17 In fact, can I show you a document -- this is now marked as an
18 exhibit. However, it was not available to us until the City
19 Council meeting last night. I don't know if you want to -- do
20 you mind if I show a copy to the Judge? Sorry, do you mind if
21 I show a copy to the Judge?

22 A No.

23 UNIDENTIFIED SPEAKER: You should mark it, too.

24 THE COURT: Is this something you wanted to show the
25 Witness too, Counsel?



1 MR. WURMAN: Yes.

2 THE COURT: All right. Let's go ahead and give it to
3 the clerk then, please --

4 MR. WURMAN: Okay.

5 THE COURT: -- and have it marked.

6 (Plaintiff's Exhibit 1 Marked)

7 MR. WURMAN: Thank you. Not sure if you want a spare
8 copy or if you want me to show you the marked --

9 THE COURT: Let's wait for the one that's marked,
10 please. Thank you.

11 MR. WURMAN: Would you like another (indiscernible)?

12 THE COURT: Thank you so much. Appreciate it.

13 BY MR. WURMAN:

14 Q Does this look like the front page formal agenda
15 meet -- a formal agenda for yesterday's City Council meeting?

16 A Yes.

17 Q Okay. And if I represent to you that the first
18 several pages are just table of contents; does that look right
19 to you?

20 A Yes.

21 Q And then the last two to three pages is agenda item
22 number 26, "Homeless services front structure 2."

23 A Yes.

24 Q Did I read that correctly? And this is what was
25 approved at last night's City Council meeting?



1 A Yes.

2 Q Ms. Montes, does this document describe -- and I'm
3 here looking under the summary -- that in addition to the
4 sprung shelter, this will serve a 25 to 50 persons experiencing
5 homelessness with modular units, correct?

6 A Yes.

7 Q And how much did you say the spring structure would
8 house?

9 A 200.

10 Q So together, would it be fair to say that's 250
11 persons that are experiencing homelessness will be served by
12 this structure?

13 A Approximately.

14 Q Okay, thank you. Now on the next page, it says, "A
15 sprung structure campus will be located on a City-owned parcel
16 and is a more rapid and cost-effective way to shelter
17 individuals than a traditional building." Did I read that
18 correctly?

19 A Yes.

20 Q Does the City have any other vacant parcels in its
21 possession?

22 A The City owns a lot of land. A lot -- a lot of
23 parcels. Do I know -- could I tell you right now what every
24 parcel is for and its use and what's vacant or not; I don't
25 know off the top of my head.



1 Q Okay. Do you whether it has some vacant lot, vacant
2 land, vacant parcels?

3 A Yes, yes.

4 Q Okay. Do you have a ballpark -- if I told you if you
5 had more than 20 vacant lots, would you have any idea, or --

6 A The only number I know is those set aside for -- for
7 housing, specifically, the -- for the City as a whole, I don't
8 know.

9 Q Okay. But you -- so you didn't research when you
10 looked for those vacant lots to be made available to housing.
11 You didn't search yourself how many other vacant lots might be
12 appropriate, have you?

13 A I don't have a number off the top of my head. We
14 looked at City land.

15 Q Okay.

16 A Yes.

17 Q Why did you reject some of the City land?

18 A Well, some of them had plans for facilities. Some --
19 some of them were not in the correct zoning. Some of them were
20 not in, you know, that's -- those are the best reasons. We're
21 not looking for --

22 Q Okay.

23 A -- what -- what we could quickly deploy.

24 Q Now, it says here on the first paragraph, if you go
25 back to page 57. That this will cost the City \$270,000. Is



1 that correct?

2 A That is -- that is for the design.

3 Q Okay and not the -- it says here, "Possible
4 construction administration." So this does not include
5 construction costs?

6 A No, that is just the administration of it. This is
7 not for the general contractor who will be constructing the
8 item. This is simply the design.

9 Q Okay. Do you have any idea how much it would cost to
10 construct the structure?

11 A I don't want -- I don't know off the top of my head.

12 Q You don't know.

13 A I don't -- I don't know off the top of my head.

14 Q Okay. Now, when it says here that, "It's a more
15 rapid and cost-effective way to shelter individuals than a
16 traditional building", would you say that the shelter near 28th
17 Street and Washington is an traditional building?

18 A Yes.

19 Q Okay. And I obviously know you didn't construct it;
20 but it was already -- the building was already there.
21 Correct?

22 A Yes.

23 Q Okay. And one more thing before -- it says, "Funding
24 is available for the City's allocation of America Rescue Plan
25 Act" -- this is the first paragraph again, ARPA -- "received



1 from the federal government". So is it fair to say that you
2 are using the ARPA money to finance this proposal?

3 A Yes, along with a grant from the State of Arizona.
4 And I don't believe that's ARPA dollars.

5 Q Okay. Do you know how much the state has given for
6 that project?

7 A \$7 million.

8 Q \$7 million. And it's just for the sprung structure?

9 A It's for the -- the project in its entirety, which
10 will include more than the sprung structure.

11 Q Okay. And in fact, I think you mentioned earlier
12 that the City has received \$70 million in ARPA funding; is that
13 correct? Excuse me. \$70.5 million of ARPA funding, recently,
14 that, the City has allocated to homelessness issues. Is that
15 correct?

16 A Yes, that's how much out of the second trench of --
17 the second round of ARPA has been dedicated out of the City's
18 pot to homelessness and affordable housing, yes.

19 Q Okay. And so of that \$70.5 million, the City of
20 Phoenix is spending \$270,000 on this sprung structure initial
21 phase, correct?

22 A For the design.

23 Q For the design. Okay, great. Ms. Montes, the
24 shelter that you opened up near 20th Street and Washington,
25 that is going to cost the City and the county together \$4.6



1 million to operate between now and the end of 2024, correct?

2 A The City's portion is 4 million and the county's
3 portion is 4.8 million of the operating cost through 2024.

4 Q Okay. And if I represented to you that the City
5 issued a press release -- it's actually, I'll show it to you --
6 okay, that's fine. So how much total expense is that shelter,
7 then, to operate through the end of 2024?

8 A That's -- that's for the operator. I'm not sure if
9 that includes the security and all the other pieces, so I'd
10 have to -- I'd have to refer to back to something. But it's --
11 it's about -- it's -- it's about \$16 million for -- for all of
12 the construction costs -- to get it safe for human habitation,
13 in addition to all of the operating costs over those years.

14 Q Okay. Is it fair to say that it is more expensive
15 than the sprung structure project?

16 A Yes.

17 Q Okay. Thank you. In fact, you know how many sprung
18 structures, if you're serving 250 people, you could serve 2,000
19 people with eight sprung structures. Does that sound about
20 right? Would you trust my math, or --

21 A I just need to correct what I just -- what I just
22 said. It is actually very close in cost to what we're paying
23 for the sprung structure because the state is putting in about
24 7 million. And I'm sorry, I don't have all these numbers.

25 Q Sure.



1 A There's a lot of numbers. I need to have them in
2 front of me for me to tell you exactly.

3 Q Sure.

4 A But -- but the state is putting in about \$7 million,
5 and we will probably be putting in at least that amount of
6 money. The building at 28 -- 39 East Washington was already
7 constructed, so it did cost us a lot to make the -- the changes
8 to make it fit for human habitation. But it's actually pretty
9 comparable in terms of the cost.

10 Q Okay. Even though here it says that "The sprung
11 structure is a more rapid and cost-effective way to shelter
12 individuals than a traditional building"?

13 A Than building a traditional building, yes.
14 Absolutely.

15 Q Okay. So Ms. Montes, on page 58, it says, "The
16 contractor for this project is RPM", correct?

17 A Correct.

18 Q Now it says that, "RPM was not chosen through a
19 competitive process, and that it uses direct, select process,
20 because that reduces the time to procure architectural
21 engineering services." Correct?

22 A Correct.

23 Q When was RPM contacted for this project?

24 A We've been working with RPM. We've been talking with
25 them for several months about their expertise surrounding



1 sprung structures. They were the design firm for the -- the
2 sprung structure on the Human Services Campus, which we started
3 in the summer of 2021. And not long after that, we -- we had
4 discussions with them about future -- future projects. I
5 couldn't give you a time frame for it. But it was -- it was
6 probably a year ago.

7 Q A year ago?

8 A A little less.

9 Q Okay. So when it says here that the direct selection
10 process is authorized by 2 CFR 200.30 C3, can I read that to
11 you? And I think that's a matter of judicial notice, what the
12 code of regulation says. The provision says that
13 "Noncompetitive procurement can only be awarded if one or more
14 of the following circumstances apply: The public exigency or
15 urgency of the requirement will not permit a delay resulting
16 from publicizing and competitive solicitation." Okay, now that
17 I've read that, I guess my question is why was the competitive
18 process, if you've been talking to RPM for a year, why was the
19 process not used?

20 A We have had a number of different projects in the
21 works. And one of the first was 2739. And trying to move
22 through the different opportunities that we had available. We
23 needed to get them -- once we had the funding available -- it
24 was approved in June and we had the summer to kind of work
25 through things -- we needed to move it expeditiously. And --



1 and it is an emergency. It is, you know, we need to get
2 shelters up and going. We want this specifically -- the
3 councilwoman and others were -- in the district were wanting it
4 before the summer.

5 Q Okay.

6 A And so for that reason, we did expedite it.

7 Q Okay, thanks. Ms. Montes, you spoke about the
8 structured campgrounds, or sanctioned campgrounds. What's the
9 term that you used for it that -- with the tents on the lots?

10 A Structures campgrounds.

11 Q Okay. And you said that it was not our priority to
12 implement structured campgrounds. And I think you said that it
13 wasn't your priority because you want to get them off the
14 streets and in shelters, correct?

15 A Indoor, safe space out of the heat --

16 Q Okay.

17 A -- is our priority, yes.

18 Q Okay. Is it fair to say that between now and the
19 nine months when the sprung structures are going to be built
20 that these individuals will be still on the street, regardless
21 of whether they're in structured campgrounds?

22 A That is correct.

23 Q Okay. So when you say it is our priority not to open
24 up a structured campground, just to be clear. The question is
25 whether the homeless individuals will be on the public



1 easements in their current condition or on structured
2 campgrounds, correct?

3 A I didn't say that it was not our priority. I said
4 to do structured campgrounds -- I said our priority is to get
5 indoor space for people. And yes, they -- they will until we
6 get enough shelter beds available for people, yes, they will be
7 outside.

8 Q Okay.

9 A Those who are outside, yeah.

10 Q Okay. Ms. Montes, you're in charge of this Office of
11 Homeless -- I don't remember what you described it as. But if
12 you made it your priority and said forget all of the other
13 priorities, this is our number one priority, could you get the
14 unsheltered population in the Zone into a structured
15 campground?

16 A That's 1,000 people, so I would have to -- we would
17 have to identify kind of where that land would be and get the
18 services going. So it's possible.

19 Q Okay. Have you looked into doing so?

20 A As I mentioned, we have been prioritizing indoor --
21 indoor space for people. The cost is very comparable, and when
22 the heat comes, they're still outdoors in a structured
23 campground.

24 Q Okay. Ms. Montes, not every unsheltered person on
25 the street will accept services, correct?



1 A That's correct.

2 Q Okay. Do you know about what percentage that are on
3 the street accept services, that are currently on the streets
4 in the Point-of-Time count?

5 A I don't -- I don't know that number.

6 Q Okay. I want to ask you about this cleaning
7 document. I think it was Exhibit 52. Is that correct? Do you
8 still have that in front of you?

9 A Yes.

10 Q When was this document drafted?

11 A This has been a working document. So we started
12 it -- I'm not sure -- early summer.

13 Q Okay. Do you see at the bottom where it says that
14 "Security is provided for clean-up employees"?

15 A Yes.

16 Q Why do you provide security for the employees?

17 A When we thoroughly clean the street, it involves --
18 and the rights-of-way -- it involves having people move their
19 belongings. We have a couple pieces to that. It includes some
20 heavy equipment -- a lot of heavy equipment, trucks. We do
21 have people with brooms and we have a bio-hazard team that
22 picks up the bio-hazards as well. Some -- some, you know,
23 raking-type thing, but there's machinery and -- and street-
24 sweeping equipment. And that equipment is -- is -- it can --
25 it can be dangerous for people. And so sometimes we've had



1 people try to, you know, get into the street or you know,
2 and -- and so -- it's -- it's in large part for the safety of
3 people in the area so that they're not, you know, they -- they
4 don't -- we don't injure anyone or hurt anyone in that process.
5 And it's also to close the streets off.

6 Q Okay so when you said --

7 A So that's the purpose.

8 Q And when you said there were bio-hazards in the
9 street, can you describe what kind of bio-hazards?

10 A I think you all described that pretty well --

11 Q Okay.

12 A -- throughout the day, so you're in.

13 Q Okay, great. Is security provided because there's
14 some risk of violence?

15 A It's primarily, like I said, for the safety of
16 everybody around there. So I -- I, you know, I can't say it's
17 not, but it's -- we're -- the primary purpose is -- is so that
18 we don't hurt or injure people that are in the area.

19 Q Okay. No further questions for this witness. Thank
20 you.

21 THE COURT: All right. Thank you.

22 MR. WURMAN: I suppose since we marked it, I'll move
23 it into evidence if there's no objection --

24 THE COURT: Oh, number 57?

25 MR. WURMAN: 57?



1 THE COURT: Okay.

2 MR. ARNISON: No objection.

3 MS. STUHAN: No objection.

4 THE COURT: All right. 57 is admitted.

5 (Plaintiff's Exhibit 57 Received)

6 THE COURT: Thank you. All right.

7 MS. STUHAN: Yeah.

8 REDIRECT EXAMINATION

9 BY MS. STUHAN:

10 Q Ms. Montes, are you an attorney?

11 A No.

12 Q Do you know the intricacies of federal procurement
13 law?

14 A No.

15 Q Let me ask you. Are there times in your experience,
16 working in local government that cities have been able to
17 expedite procurement?

18 A Yes.

19 Q And has the City been working to expedite the
20 building of shelters?

21 A We have.

22 Q I just have a couple more questions. Do you have in
23 front of you Exhibit 33 still?

24 A Yes.

25 Q Can you turn to page 14?



1 A Yes.

2 Q It shows up top "Los Angeles, California." Do you
3 see that?

4 A Yes.

5 Q To your understanding, these are pictures of tiny
6 homes being used in Los Angeles?

7 A Yes.

8 Q Are there pictures of any people living in these
9 homes in this picture?

10 A No. It looks -- it looks brand-new, like it just
11 opened up. But I don't see any people living there.

12 Q Let's go to page 13, the page before it. Up top, do
13 you see "Denver, Colorado"?

14 A Yes.

15 Q Do you see people living in these tents?

16 A Not that I can tell.

17 Q Let's go one more page forward, page 12. Do you see
18 "Santa Rosa, California", up top?

19 A Yes.

20 Q Do you see people living in these tents?

21 A No.

22 Q Ms. Montes, in your research into shelter solutions,
23 are tiny homes and structures campgrounds a solution to the
24 growing problem of homelessness?

25 A In the communities that have -- have the structured



1 campgrounds, they have not solved the issue of homelessness.
2 It's -- it's one option. I think, you know, it's one on a menu
3 of items. But -- but you're not seeing in those cities that --
4 that have these that -- that they're -- that they've solved the
5 issues, is what I would say.

6 Q Are these more recent solutions?

7 A I -- I'm not sure I can speak to that. What --

8 Q So let me -- let me just ask you -- in your
9 experience working with local governments, is creating shelter
10 space for the homeless something that cities have worked with
11 for a long time?

12 A You know, I can only speak to my experience in
13 Arizona. My whole career has been in Arizona. And for the
14 most part, cities have not been directly involved in -- in --
15 in -- as a City leading these projects. They've been funders,
16 you know, of them and participants in -- in -- in partners.
17 But not having erected, you know, shelters a whole lot until --
18 until COVID.

19 Q So the City of Phoenix -- is it fairly new that it's
20 actually moving into building shelters?

21 A Yes, this is new.

22 Q And is something like a structured campground
23 something the City could consider?

24 A It is.

25 Q And is it something the City has considered?



1 A We have.

2 Q Is it something that could be opened in the future,
3 depending on council direction?

4 A It could be.

5 Q Okay. No further questions.

6 THE COURT: All right. All right, thank you. You
7 may step down. All right. You may call your next witness.

8 MR. ARNISON: Thank you, Your Honor. The City calls
9 Scott Hall to the stand.

10 THE COURT: All right, thank you, Mr. Hall. I'll just
11 remind you that you're under oath as well, sir.

12 THE WITNESS: Yes, Your Honor. Thank you.

13 SCOTT HALL

14 called as a witness for the Defendant, having been previously
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. ARNISON:

18 Q Mr. Hall, thank you for joining us today. I
19 appreciate your time. Your name is Scott Hall, for the record?

20 A Yes, sir.

21 Q You're employed by the City of Phoenix?

22 A Yes.

23 Q What's your position with the City of Phoenix, Mr.
24 Hall?

25 A Deputy Director for the Office of Homeless Solutions.



1 Q Okay. How long have you been in your position?

2 A Mid-December of 2021, so about ten months.

3 Q Now, I heard you say office of Homeless Solutions.

4 Is that -- are you are part of that newly hired set of folks
5 that was hired to be on that new team that was established last
6 year?

7 A Yes, I am.

8 Q Okay. If I didn't ask you already, what are your --
9 what are your duties in your role as the director, or deputy?

10 A It's several. But to, you know, to generalize it, it
11 is to oversee the City's funding towards issues as it relates
12 to homelessness and overseeing those contracts, the data, and
13 the operations of some projects.

14 Q I want to ask you some targeted questions today.
15 We've talked a little bit -- you've heard about cleanups,
16 enhanced cleanups, et cetera. Do you have a role with
17 overseeing or handling the cleanups of the areas surrounding
18 the Human Services Campus?

19 A Yes.

20 Q Okay. What is your role with respect to coordinating
21 or managing that process?

22 A Yes. So streets is the normal overseer for anything
23 they clean up on the streets. But since there are humans
24 staying out there that are currently unsheltered, we deemed it
25 appropriate that we would have the social services out there to



1 help guide people to the interventions and safety during those
2 processes to help clean up down around the area.

3 Q Okay. Let's get into that a little bit. So I want
4 to talk about the City's current cleanup efforts if we can.
5 For lack of a better question, can you please explain the
6 cleanup process? How does it work?

7 A Sure. Currently, the City is out there Monday,
8 Wednesday, and Friday of every week. There are signs posted
9 down around the Human Services Campus stating those times. And
10 the streets goes in sometime in the morning, and they have a
11 route that they follow to go through to clean the streets up to
12 the curb.

13 Q When you say a route that they follow, who's "they"?

14 A Streets department.

15 Q The streets department. They are the ones that
16 are -- the streets department is responsible for the actual
17 cleaning?

18 A Yes.

19 Q Okay. And is there -- this involves an actual trash
20 disposal process; is that right?

21 A Yes. They have street sweepers, staff that sweep
22 things. They have other equipment to clean up the streets.

23 Q Okay. You say they're out three times a week,
24 Monday, Wednesday, Friday mornings.

25 A Yes.



1 Q Do they go area by area or in a grid pattern? Or how
2 does that work?

3 A They have a route map. I don't know how to describe
4 it specifically, but it weaves all through the area surrounding
5 down around the Human Services Campus.

6 Q Okay. Similar to like a trash pickup, right?

7 A Yes.

8 Q Okay. I understand. Was there a time that the City,
9 Mr. Hall, was doing more extensive cleanings rather than just
10 picking up the trash in the manner you've described?

11 A Yes.

12 Q Okay. And I think that you and I have discussed
13 before, at least, that those were called enhanced cleanups, and
14 indeed that appears on Exhibit 52, which do you still have that
15 in front of you, Mr. Hall?

16 MR. BAILEY: Object to the foundation as to time.
17 Was there a time?

18 THE COURT: Oh, for when they previously did the
19 enhanced cleanups?

20 MR. BAILEY: Right. Thank you.

21 THE COURT: Yeah, I didn't hear that. So go ahead
22 and --

23 MR. BAILEY: Okay.

24 MR. ARNISON: Sure.

25 THE COURT: -- follow up with (indiscernible).



1 MR. ARNISON: Sure. I'll be happy to -- I'll be happy
2 to go back -- step back a little bit.

3 BY MR. ARNISON:

4 Q Mr. Hall, are you aware of the time frame -- or
5 excuse me -- I guess you answered that you are aware of when
6 these enhanced cleanups happened. Do you have personal
7 knowledge of how far back those were happening and when they
8 stopped?

9 A I do generally know where they stopped. I do not
10 know when they started.

11 Q Okay.

12 A They generally stopped in the area January of 2022.

13 Q Okay. So they would have -- they would have had to
14 have been happening before January of 2022?

15 A Correct.

16 Q Okay. And do you know that because of your
17 experience working with the City of Phoenix --

18 A Yes.

19 Q -- and just being aware that the process was in
20 place --

21 A Yes.

22 Q -- and you were working with the City of Phoenix in
23 January 2022?

24 A Yes.

25 Q Thank you. So I'd like to ask a couple of questions



1 about what those enhanced cleanups entail because we're talking
2 about the street sweeping that we do now, but before, it was
3 more expansive. What did those entail?

4 A Those entailed a -- it was -- at the time, I believe
5 it was a partnership with street's department and P.D. where
6 they would close down sections of the street at a time during
7 that route. And then they would ask people that are staying
8 out there unsheltered to voluntarily move their belongings that
9 they wanted to keep into a staging area. And once all the
10 people were out of that area, they would then come in with
11 heavy equipment and clean up the -- anything that was left in
12 the area.

13 Q Okay. You talk about this partnership between
14 streets and the police department moving belongings to a
15 staging area. What's a staging area?

16 A Just a safe area outside that zone to where the heavy
17 equipment wasn't operating so that everybody was safe.

18 Q Okay. It's a staging area for people or for people's
19 things?

20 A Both.

21 Q Oh, for both. Where people and -- could take their
22 things to go and not be on the street --

23 A Correct.

24 Q -- while it's being cleaned?

25 A Correct.



1 Q Okay. I understand. After that process -- excuse
2 me. After that more extensive cleanup process, were there
3 larger trucks that would come in and take care of the waste
4 pickup?

5 A Yes. They would have front loaders and other heavy
6 equipment.

7 Q Okay. What other heavy equipment?

8 A More street sweepers, like I say, front loaders and
9 more dump trucks, I believe.

10 Q Did the City, during those enhanced cleanups, clean
11 with any chemicals or cleaning products?

12 A I believe they would do -- I don't have the schedule
13 for it, but they would do some sanitation chemicals once a
14 month, I believe, for a period of time.

15 Q You don't have any idea what the chemicals were but
16 the --

17 A I do not.

18 Q Okay. But they were some form of cleaner --

19 A Yes.

20 Q -- or chemical? Okay. At some point, it appears
21 from your testimony in January '22 -- 2022 the City stopped or
22 paused those enhanced cleanups; is that correct?

23 A Correct.

24 Q Was there a particular reason why the City stopped
25 those enhanced cleanups?



1 A There were a few reasons. There were people down
2 there that believed that having people move their belongings to
3 clean up was against their rights. Then there was a set of
4 other individuals that were refusing to move. And then there
5 was other issues where people were being threatened that if
6 they did move and cooperate with the City during the cleanups
7 that things would happen to them. So we paused to make sure we
8 were doing things safely and appropriately.

9 Q Okay. I want to break down what you said into a
10 couple of different parts to make sure I got it all. Okay.

11 So the first one was that there were some individuals
12 downtown. I'm not trying to put words in your mouth; I'm
13 trying to remember what you said. There were some individuals
14 in the downtown area who believed that these individuals didn't
15 have to move their belongings or move themselves for the
16 cleanings; is that right?

17 A Correct.

18 Q Okay. And so you encountered some resistance to the
19 cleanup efforts?

20 A Yes. We had people that would cross the police lines
21 to try to resist during the cleanups saying that it was
22 inhumane making people move and that it was against their
23 rights to have to move to do these cleanings.

24 Q Did that present a safety issue for the City?

25 A Very much so.



1 Q In what way?

2 A With people crossing the lines and then people not
3 being able to move, you cannot operate that type of heavy
4 equipment around people, and you also, to have any kind of
5 cleaning chemicals to sanitize, you couldn't do that around
6 people as well.

7 Q Did you mention that there were threats or
8 retaliation from one party to another? Who was making the
9 threats to whom, to your knowledge?

10 A So once we received the information of the threats,
11 we then reported it to the security of the Human Services
12 Campus, who then communicated with Phoenix P.D. to investigate
13 those, and that's the extent I know of that.

14 Q Let me ask -- let me ask the question a different
15 way. Who was making these threats? Was it if they moved, they
16 were threatened -- the people that were trying to move were
17 threatened?

18 A Yeah. Correct.

19 Q Who was threatening?

20 A So it was -- there was what I would consider
21 advocates. There was one that was telling people that things
22 would happen if they participated in moving. And then there
23 was also people that were currently unsheltered threatening
24 other people that were unsheltered that if they moved, things
25 would happen.



1 Q Okay. Did that present a safety issue as well?

2 A Very much so.

3 Q Okay. I think we heard testimony from Deputy City
4 Manager Montes that the City plans to reinstitute those
5 cleanups.

6 A Yes.

7 Q Okay. And do you have Exhibit 52 in front of you,
8 Mr. Hall?

9 A I do.

10 Q Thank you. If you can, just get it right in front of
11 you there. This is, as we walked through before, the HSC and
12 enhanced cleanup roles and responsibilities. Do you see that
13 there at the top?

14 A I do.

15 Q Okay. And it looks like there's -- we don't need to
16 go through every bullet, but is this a rough plan of how you
17 intend to reinstitute those enhanced cleans?

18 A It is.

19 Q Okay. And I see that you have a number of different
20 groups that you're coordinating with based on this document; is
21 that correct?

22 A Yes. There's a lot of moving parts to this.

23 Q So it would seem. It looks like we have at least two
24 homeless outreach teams -- well, three outreach teams, one from
25 the City of Phoenix, correct? One from HSC?



1 A Yes.

2 Q And then an outreach team from something called CBI.
3 Who is CBI?

4 A Community Bridges Inc. One of -- the behavioral
5 health provider.

6 Q A beer what?

7 A A behavioral health provider.

8 Q Okay. Thank you. How do those organizations
9 interface with each other to provide notice and outreach about
10 the cleanups?

11 A Well, on several aspects. So one, there's a
12 notification period prior to, and then there's one, the
13 operation of the day of cleanup. So the notification prior to,
14 we've had several town halls notifying and getting the word out
15 to people who are unsheltered in the community along with the
16 neighborhoods as well of our intention to go out and get things
17 cleaned up. And that's done through the town halls outreach
18 and fliers as well.

19 The other part is we funded the Human Services Campus
20 for the outreach component, along with Community Bridges, to
21 support us in our effort to not only just ask people to move
22 their belongings, but also engage with them to help resolve
23 their issue of homelessness, because it also creates an
24 engagement opportunity for people.

25 Q I see. So these enhanced cleanups -- or these



1 proposed enhanced cleanups can actually provide another tool
2 that would go towards eradicating homelessness in the City's
3 view?

4 A Yes.

5 Q We talked a little bit earlier about the police
6 department team security being present. Is team security like
7 a contract security -- contracted security provider?

8 A Yes, it is.

9 Q Okay. And we heard testimony earlier that they're
10 there primarily for safety purposes, both of residents and of
11 other individuals for actually performing the services; is that
12 right?

13 A Yes.

14 Q Okay. And you provided testimony earlier, just a
15 few minutes ago, that you had individuals actually previously
16 crossing police lines?

17 A Yes.

18 Q And that there were -- there was heavy -- there's
19 obviously heavy equipment operating during those enhanced
20 cleanups, right?

21 A Yes.

22 Q Okay. So that presents a safety issue. Okay.

23 And if you flip to the next page, we have Exhibit 52.
24 We have the streets, which are contracted teams. And this
25 is -- this is where we actually talk about the street cleaning



1 itself. So do these bullets right there under streets, open
2 paren, "contracted team", close paren, essentially summarize
3 the process for cleaning itself? The enhanced cleaning
4 themselves?

5 A Yes.

6 Q Okay. I noticed that the last area there, A1,
7 involves power washing areas that have been cleared. Would
8 this include the City's rights-of-way?

9 A Yes.

10 Q Would this include areas where individuals have
11 erected tents --

12 A Yes.

13 Q -- or where they're residing on a temporary basis?

14 A Yes.

15 Q Okay. I see the last bullet point is vacuum storm
16 drains as needed. Do you see that there?

17 A Yes.

18 Q Okay. So the City -- does the City currently vacuum
19 out storm drains?

20 A They do.

21 Q Okay. Do you know about how often those occur, or is
22 it, as it indicates here, as needed?

23 A I -- I don't know the frequency, but as needed out
24 there. As soon as we brought it to the attention of streets,
25 they went out there and vacuumed the -- the storm drains out



1 and then put grates over those drains as well.

2 Q When was that?

3 A Oh, I don't have the exact --

4 Q Was it within the last month? Was it within the last
5 three months?

6 A No. That was in the last six months.

7 Q Six months. Okay. Prior to this lawsuit being
8 filed?

9 A Yes.

10 Q We talked a little bit about some outreach efforts
11 from these different teams, CBI, HSC, and the City of Phoenix.
12 How do you intend to proceed? What's the City's plan now going
13 forward? Do you intend to do it all at once? Do you intend to
14 go street by street? What does that look like?

15 A Yes. So our intention is to follow the same time
16 line as days. So where -- our intention is to do it Monday,
17 Wednesday, and Friday. This will not be as expeditious as just
18 the normal street cleaning. With the amount of belongings that
19 people have accumulated, it will take time.

20 So the way we were planning on doing it was following
21 the same map and route that the streets department takes, but
22 only do one block at a time within a five-hour period of that
23 day. Because again, we're moving people, and sometimes, you
24 know, one block can be 40 people, so it's very time consuming,
25 and we also want to be very safe about it.



1 Q Do you intend to provide -- we talked about providing
2 notice to residents of those --

3 A Yeah.

4 Q -- enhanced cleanups. Do you intend to provide any
5 notice to businesses in the area --

6 A Yes.

7 Q -- or property owners in the area?

8 A We have been meeting with local businesses around the
9 area and talking about our intention of getting the cleanup
10 back -- the more thorough cleanups going again.

11 Q Okay. Have you ever met with any of the Plaintiffs
12 in this case about the enhanced cleanup?

13 A I have.

14 Q Have you met -- ever met with any of the witnesses
15 who testified here today about the enhanced cleanup?

16 A I have.

17 Q Okay. Which witness was that -- or witnesses for
18 that?

19 A Ian. I believe all three of them have been to some
20 of the meetings we had with the Madison Pioneers Coalition
21 explaining of us getting the cleanups going again.

22 Q So by Ian, do you mean Mr. Francis, who testified
23 earlier?

24 A Yes, sir.

25 Q Okay. And you believe the other two Plaintiffs have



1 been a part of those conversations?

2 A I believe so. Yeah.

3 Q Okay. And so we know for sure, at least, Mr. Francis
4 was involved in those conversations. Yes?

5 A Yes.

6 Q Okay. And when did those conversations take place?

7 A Again, I started in December. I believe I started
8 meeting with the businesses, and they were down there around
9 January, February -- no. Probably February, March.

10 Q February, March of 2022?

11 A Yes.

12 Q Okay. And I don't need to you get so much into the
13 substance of the discussions, but you did, in fact, say, or --
14 did you, in fact, explain to them the plan that you've laid out
15 here?

16 A Yes.

17 Q I mean, you may not have used the exact words, but --

18 A Well, yeah. And it's -- intricacies of it. I was
19 trying to explain to them that -- why it was taking so long to
20 get them going with all the moving parts that needed to be in
21 place with all these departments, along with storage
22 opportunities and things like that.

23 Q So this plan -- this plan for enhanced cleanups
24 predated the institution -- predated the filing of this
25 lawsuit; is that correct?



1 A Yes.

2 Q Okay. Turn with me to Exhibit 53. If you would get
3 that in front of you, Mr. Hall. And this will be the last
4 subject we talk about.

5 A Okay.

6 Q I see here that we have an abandoned property. It
7 says "HSC enhanced clean up abandoned property procedure". Do
8 you see that at the top?

9 A Yes.

10 Q Okay. And we've heard some testimony earlier today
11 from Ms. Montes about that it was a team effort by the City of
12 Phoenix in coordination with Human Services campus; is that
13 right?

14 A Yes.

15 Q Okay. Or CASS? I can't remember which one of --

16 A Human Services Campus.

17 Q Human Services Campus. Thank you. And so it's the
18 City's obligation, it's your understanding, to manage property
19 that may be abandoned; is that right?

20 A Yes.

21 Q Okay. And are there specific time lines that the
22 City uses or will use for when it's to be considered abandoned?

23 A Yes. So when we're out there and we identify a
24 section where it seems to be abandoned property, we will mark
25 that area off with tape and notification. Within a



1 notification, it will tell them where they can go report that
2 it is their belonging to claim that. After a seven-day period,
3 if no one has claimed that property, we would then store it for
4 30 days in a -- in a offsite --

5 Q Um-hum.

6 A -- storage location and then give another 30 days for
7 claiming of that property.

8 Q Okay. So we have at least -- we have at least more
9 than a month that the City is going to be responsible for
10 maintaining that property; is that right?

11 A Yes.

12 Q Okay. And I believe that's the last page of that
13 document. So at a minimum -- let's recap before I conclude
14 here, Mr. Hall. So at a minimum, we know that the City is
15 engaged in current cleanups, right?

16 A Yes.

17 Q And involves the street sweeping you discussed?

18 A Yes.

19 Q And the City, by December 2022, intends to
20 reinstitute the enhanced cleanups, correct?

21 A Yes.

22 Q And that that will take care of the mess in the
23 right-of-way, along sidewalks, et cetera?

24 A Yes.

25 Q Okay. And that the City is responsible for



1 coordinating with other agencies to get this done --

2 A Yes.

3 Q -- or needs to coordinate, rather, with other
4 agencies to get this done.

5 A Yes.

6 Q Is that a yes?

7 A Yes.

8 Q Okay. And that the City has the -- that there are a
9 lot of moving pieces to this, right?

10 A Very much so.

11 Q And that the City is responsible for maintaining and
12 safeguarding property that may be abandoned, right?

13 A Yes.

14 Q Okay. So Mr. Hall, is it fair to say that even a
15 cleanup of an area is not quite as simple and straightforward
16 as it looks?

17 A Correct.

18 MR. ARNISON: I have no further questions, Your Honor.

19 THE COURT: All right. Thank you.

20 Cross?

21 CROSS-EXAMINATION

22 BY MR. BAILEY:

23 Q Mr. Hall, you were sitting here while Ms. Montes was
24 testifying, right?

25 A Yes, sir.



1 Q And I wouldn't normally ask you to count. But
2 there's nothing she said that you'd disagree with; is that
3 fair? She didn't get anything wrong?

4 A I don't know. I don't know if I heard everything she
5 said or recall everything she said, but I believe I agree with
6 everything she said.

7 Q So you're reserving the right to disagree with her if
8 it comes up?

9 A Sure.

10 Q Okay. Well, let me go to one comment she made, then,
11 right toward the end when Mr. Wurman was asking her about what
12 some of the California cities had done with the temporary
13 emergency shelter space.

14 A Um-hum.

15 Q And I think she said -- I tried to get an exact
16 quote. I don't think I did. But it was words to the effect of
17 in those communities they, referring to the temporary shelters,
18 have not solved the issue of homelessness. Basically saying,
19 well, you could do this for cheaper or -- this is what they
20 did, right. And she said, yeah, but they haven't solved the
21 issue of homelessness.

22 MR. ARNISON: Objection. Outside the scope of direct.

23 THE COURT: That's not a valid objection. Overruled.

24 Go ahead.

25 BY MR. BAILEY:



1 Q Do you need me to repeat it?

2 A Please.

3 Q Okay. Do you agree that the cities in California, by
4 putting up the cheaper temporary emergency shelters, have not
5 solved the issue of homelessness?

6 A I couldn't answer that because I don't know the exact
7 state of homelessness in California.

8 Q Do you think temporary, cheaper, temporary emergency
9 shelters here would solve the issue of homelessness?

10 A I think it'll solve it for that amount of people.
11 What it won't solve for is the inflow of people that are
12 experiencing homelessness.

13 Q It'll solve it for some amount of people, though?

14 A Sure.

15 Q Okay. At least temporarily?

16 A Temporarily, yes.

17 Q Okay. So we'll come back to that in a second. But
18 what it can also solve is what the City's position that you're
19 taking that we can't do anything about the encampment because
20 of City of Boise. Because if there are beds available, you
21 don't have any issue with telling people you can't sleep here,
22 right?

23 A I think it's more complicated than that but --

24 Q Then tell me how.

25 A In what capacity?



1 Q Well, you said it's more complicated than that. How
2 so?

3 A Then it just being related to the -- Boise ruling?

4 Q Oh. Okay. So the City's policy of allowing the
5 encampment is not just related to Boise?

6 A I don't know about a City policy allowing an
7 encampment.

8 Q Well, is the City doing anything to do away with the
9 encampment?

10 A Yes. The City is putting a lot of efforts, money,
11 and resources toward items to help people resolve the issue of
12 homeless, including shelter, housing, and other interventions
13 that go along that path to help people in their homelessness.

14 Q Okay. So let's take a break and talk about what
15 those efforts are getting, kind of bang for the buck. So how
16 many people 2022 PIT count were in the neighborhood we're
17 talking about? If I say the neighborhood we're talking about,
18 is that clear to you what --

19 A Yes, sir.

20 Q -- is that okay? How many people in the 2022 PIT
21 count present there unsheltered in the encampments?

22 A I don't know the exact number for that area. I just
23 know the general number for the unsheltered within Phoenix.

24 Q I know, but what's you're -- you don't know the exact
25 number for that area. It's over a thousand, right?



1 A I -- I don't know at that time.

2 Q Weren't you at the City at that time or --

3 A I --

4 Q -- when did you start?

5 A I was, but --

6 Q I would think you would've been intimately involved
7 in the count.

8 A Very much so.

9 Q And you can't tell us whether there were over a
10 thousand people there?

11 A Right. Because the PIT count is a number for the
12 whole entire City. There was no specification to try to
13 identify the specific spot for the numbers --

14 Q The City --

15 A -- during the count.

16 Q -- didn't track the locations of the homeless?

17 A No. Currently, the number of unsheltered outside the
18 Human Service Campus is counted by the Human Services Campus.
19 If I wanted to go get that number, there is HMIS data where we
20 could go look at geo-mapping of the time of the Point-in-Time
21 count that would extract that number.

22 Q Can we say it's around a thousand? I mean, is it
23 safe to say that? You don't know.

24 A I know it's fluctuated from 200 up to a thousand.
25 That's why I have a hard time trying to say what the number was



1 down there around that time.

2 Q Okay. When was it 200?

3 A If I recall -- again, I don't have the exact dates on
4 that.

5 Q You're confident in saying it was as low as 200, but
6 you can't tell me when?

7 A Yes, sir.

8 Q Was it this year?

9 A Yes.

10 Q That were 200 people -- only 200 people in the
11 encampment this year?

12 A The ebb and flow has been out of there so much it's
13 hard to correlate that number to the dates specifically.

14 Q Well, how did you come up with 200? I mean, this is
15 out of the blue. Why do you think at some point this year
16 there were only 200 people?

17 A Because that's been part of the narrative. That's
18 been part of their numbers being reported out that it's gone
19 from 2-, 250 between 800 to 1,000.

20 Q Reported out by who?

21 A The Human Services Campus.

22 Q Okay. And the Human Services isn't doing a Point-in-
23 Time count. What they're doing is reporting to you how many
24 people they have in service, right?

25 A No. They go out on the street with the outreach team



1 and try to do a count of the people that are unsheltered out
2 around the Human Services Campus.

3 Q How often?

4 A I don't know the frequency of it.

5 Q And they report that to you?

6 A Yes, they do.

7 Q And this is a different number than they're reporting
8 for the HMIS system?

9 A Well, HMIS reports people coming into services that
10 are in shelter, that come to the door, that get scanned in,
11 that do a release of information. There's a whole setup for
12 that.

13 Q They report people who are in the system?

14 A Report people who are coming in.

15 Q I mean, these are people that are in the system?

16 A I -- again, that's a very general statement. To --
17 in order to be in that system, a client would have to agree to
18 be in that system and sign a release of --

19 Q Right.

20 A -- information to do so. So I can't say everybody's
21 in that system.

22 Q So what we can say is that at least at the time of
23 the Point-in-Time count in the City of Phoenix or even in
24 Maricopa County, most of the unsheltered were not in the system
25 for services?



1 A You mean in a shelter bed?

2 Q No, I mean in the system seeking services.

3 A I couldn't answer that.

4 Q Well, you have a HMIS report telling you how many are
5 in the HMIS system for, like, February 1st, right?

6 A Sure.

7 Q Okay. And you could answer that by telling me the
8 difference between the number of people that are in the system
9 for treatment or services on February 1st versus the Point-in-
10 Time count. I mean, that's different, isn't it?

11 A No. There can be people unsheltered out there that
12 are in the HMIS system.

13 Q Of course.

14 A Right.

15 Q That's my point. But when the number of unsheltered
16 is so much higher than the number in the system, HMIS system
17 reports every month the number of people that are unsheltered
18 that are in the services queue, right?

19 A So that's why I think --

20 Q Or waiting list, for lack of a better term. But they
21 are reporting a number monthly and you know --

22 A So the --

23 Q -- that recently was 900 in the country or the City.
24 But that number is different than the count on the street,
25 right?



1 A Well, if you're talking about HMIS, HMIS is -- ours
2 is the whole county. So if you're talking about people in the
3 system, that includes shelter, that includes outreach, that
4 includes supportive services, that includes rapid rehousing,
5 that includes permanent supportive housing, so that number
6 wasn't greater than the unsheltered number. The unsheltered
7 number --

8 Q Of course. And that's, I guess, not the point. The
9 Point-in-Time count also counts homeless who are sheltered?

10 A Sheltered, correct.

11 Q HMIS counts everybody in the system who are receiving
12 a bed?

13 A Yes.

14 Q And they also report people that are in the system
15 that have asked for services that have not yet gotten a bed.
16 They have people that are unsheltered in the HMIS system --

17 A Um-hum.

18 Q -- who are seeking services?

19 A Yes.

20 Q And that number of unsheltered every month is far
21 lower than the actual number of unsheltered you would find in a
22 PIT count if you look for bodies, right?

23 A Again, you have to -- HMIS is done by projects. HMIS
24 isn't just one data point. It's several providers.

25 Q So is the PIT count?



1 A No. The PIT count is -- it's not HMIS project. The
2 PIT count is a count for unsheltered going out in the street
3 and doing surveys. We use HMIS to pull what they call a HIC,
4 the homeless inventory count, to get the number of shelter beds
5 and then how many people were in those shelter beds at the time
6 of that count.

7 Q And how many people are waiting for shelter beds at
8 the time?

9 A There is no number of people waiting for shelter
10 beds.

11 Q If somebody shows up and there's no bed -- today
12 there's no bed, right? If I went down there today, there would
13 be no bed available, right?

14 A That's not accurate.

15 Q Where would a bed be available?

16 A There's turnover in shelters frequently. Tonight --
17 if we're to the pull CASS number from last night, I'm sure it
18 would probably show a handful of beds. Because that bed is
19 that client's bed until a certain time at night, roughly 8
20 o'clock or 9 o'clock, and then when that client doesn't show
21 up, that bed is now made available. And if someone doesn't
22 fill that bed that night, that's considered a vacant bed, or
23 it's available at that time. So there is turnover in shelter
24 beds. It's minimal.

25 Q You've been at the City for ten months, but you've



1 been working with homelessness for a lot longer, right?

2 A Yes, sir.

3 Q How long have you been working?

4 A I've been in the field of behavioral health for about
5 15 years now.

6 Q Okay. Previously at the county?

7 A Previously at the county.

8 Q And you probably are up to date on the various
9 studies that address the issue and report data and that kind of
10 thing, whether it's HMIS and PIT or just studies, right?

11 A Yes, sir.

12 Q You're aware that the number shows that generally, in
13 public encampments, they attract people from other places,
14 right?

15 A Can you clarify that question?

16 Q Well, sure. You're setting up a system where, you're
17 not going to agree with me on this, but essentially, the City
18 of Phoenix is running a no-barrier shelter on the streets of
19 the neighborhood. And that's attractive to people who don't
20 want to be bound by services and requirements that I can't take
21 my drugs in there. I can't take my stuff in there. I can't be
22 drunk in there. There is a sector of the population that likes
23 to be in a situation where they're not going to be bothered for
24 taking drugs and being drunk and whatever else, right?

25 A Well, the amount of people I know that like being



1 homelessness is very few.

2 Q I didn't say -- I didn't say anybody liked being
3 homeless. I said if you're going to be homeless, you prefer to
4 be outside where the police let you take drugs, not inside
5 where the shelter won't. Do you agree with that?

6 A I would -- I would say there's probably people that
7 are addicted out there that struggle going into an indoor
8 facility and being responsible like that, absolutely.

9 Q But you've seen studies on it, surely. You've seen
10 they did a study with the Austin PIT count where they actually
11 check during their PIT count to see how many of you people were
12 from Texas? How many people are from Austin, or did you come
13 from somewhere else? You recall what those numbers were?

14 A In Austin? No, I do not.

15 Q Would it surprise you if 35 percent of the people in
16 the Austin homeless encampment had first become homeless at
17 some other place?

18 A I wouldn't say it'd surprise me, no.

19 Q Same basic story for L.A. Are you familiar with
20 their 2020 PIT count and the percentage of people in
21 encampments that either don't want services or came from
22 someplace else?

23 A No, I'm not familiar with that data.

24 Q Can you at least agree that there's a substantial
25 group of people in any homeless encampment where there's no



1 enforcement of law, free drugs, whatever, where they're finding
2 that place from somewhere else. We don't put a number on it.
3 Just a substantial, meaningful portion of people are showing up
4 because I can be there without being harassed?

5 A Are you asking if places -- when a place is
6 established that people are coming to it because it's
7 attractive to them to be homeless there because of the
8 behaviors?

9 Q Right.

10 A I don't know how to answer that. I --

11 Q Well, yes or no?

12 A There's homelessness all throughout the county and
13 the state and the rest of the City as well. So you know, I
14 honestly, I'm not trying to be -- I just don't know how to
15 answer that.

16 Q Our neighborhood is a special kind of nonenforcement
17 zone. Things don't get enforced in our neighborhood that would
18 be enforced almost anywhere else in the City, right?

19 A I don't believe things are not enforced. Police are
20 down there doing daily police responsibilities every day.

21 Q You talked about the cleanup problems and why we had
22 to suspend the program that actually took the dirty needles and
23 the human feces and the used tampons and the use condoms, et
24 cetera, et cetera, off the street because when the clean group
25 went down, some of the members of the community would get angry



1 and cross the line and make threats.

2 A Yeah.

3 Q I assume they were all arrested and taken to jail for
4 those threats, right?

5 A I don't know about that. I'm not with P.D.

6 Q Huh?

7 A I don't know about that.

8 Q You don't --

9 A I don't know if they ever made any arrests or if they
10 detained anybody.

11 Q You're familiar with the ASU study from 2010 that
12 interviewed those in the encampment and found that 25 to 40
13 percent only were interested in being in a shelter?

14 A I'm not familiar with that study in 2010.

15 Q Okay. Bottom line is shelters, even low-barrier
16 shelters, require some behavioral compliance, right?

17 A Yes, sir.

18 Q And you go from low barrier up and more and more
19 compliant. So you can't take drugs, you can't drink, et
20 cetera, while you're in the shelter?

21 A Yes, sir.

22 Q And you agree that that deters people from having an
23 interest in shelter?

24 A I would say that's a very --

25 Q And there is a term in your advocate community that



1 is called service resistant, right?

2 A Yes, sir.

3 Q What does that mean?

4 A The term is very -- used very generally. It's when
5 people are offered services and refuse to take those services.

6 Q Let's talk about the City's policy. Do you still
7 have exhibits up in front of you?

8 A I do.

9 MR. BAILEY: So which one?

10 MR. TULLY: 36.

11 BY MR. BAILEY:

12 Q I'm going to show you 36 now. Are you familiar with
13 that?

14 A Yes, sir.

15 Q And I know there is a comment about maybe some
16 additions in policy being added since then, but is that -- that
17 still is the policy of the City of Phoenix in its approach to
18 homelessness; is that right?

19 A Yes. I don't know if they would actually title it as
20 a policy, but it is a strategy. Yes.

21 Q One interesting thing that your lawyers in this case
22 wrote in response to this request for an injunction -- and I'm
23 not asking you to comment on legal issues; I just want your
24 take on the framing of this.

25 "A court order would undercut the City's ability to



1 use discretionary power to address the homelessness issue to
2 the satisfaction of the Plaintiffs, homeless advocates, and the
3 homeless themselves." Does that make -- does that make sense
4 to you, that line?

5 A I believe so.

6 Q Okay. You have, when you're creating policy,
7 competing interests, right, and you have priorities, and then
8 you have things that are in tension with those priorities, and
9 you have higher priorities and lower priorities. And you need
10 to find a way to put it all together if you're creating like
11 the City's homelessness policy, right?

12 A Yes, sir.

13 Q So would it be fair to say in balancing that thing --
14 first of all, if we can use (indiscernible). Since she
15 offered, if we can use Gina's words to say your number one
16 goal, the goal of creating a policy, is to solve homelessness.
17 Is that fair?

18 A Yes, sir.

19 Q Okay. It's not to make the neighborhood we're
20 talking about safe. If that were your goal, you'd have a
21 completely different policy, right?

22 A I wouldn't say that's not our goal. I know we
23 need --

24 Q I understand it's a part of it.

25 A Um-hum.



1 Q But your main goal is to solve homelessness?

2 A Yes.

3 Q If your main goal were making the community safe,
4 you'd just arrest everybody, right, who takes drugs and
5 everything else, take down their tents during the day, not let
6 them keep them, don't let them sleep, according to Boise, but
7 that's it? That would change things, wouldn't it? And that
8 would make the community different.

9 A Can you -- I don't know how -- that was a lot in
10 that. Can you --

11 Q Okay. The highest priority in your effort to solve
12 homelessness as the goal. The thinking now with the City of
13 Phoenix, certainly in the broader communities, permanent
14 housing solutions; is that right?

15 A That's the ultimate way to end homelessness, yes.

16 Q Okay. We find somebody a home, whether that's a home
17 they get on their own or public assistance or you know, what
18 you call permanent supportive housing, which is actually buying
19 them a place of their own and providing services. That's where
20 we get the best bang for the buck --

21 A I think --

22 Q -- in solving homelessness?

23 A I think that's a part of it. And then there's also
24 treatment, back with family members or a process to get to
25 there where it might include, you know, different things of,



1 you know, halfway houses or all kinds of avenues to get to that
2 permanent solution. But ultimately, a successful -- if someone
3 wants to be off the street, permanent housing is the answer.

4 Q So that in the City's approach is the highest
5 priority. You care about this neighborhood, no questions about
6 that, but it's not the highest priority. It's a priority
7 that's down lower, right?

8 A Are you asking me if -- if our resources -- if this
9 area is prioritized for resources above the other parts of the
10 City?

11 Q I'm just asking about this individual -- about your
12 consideration of it in the big picture. You care --

13 A I would say --

14 Q -- but it's a lower priority than permanent housing
15 for those experiencing homelessness?

16 A Yeah, I wouldn't agree with that. I would say the
17 majority of my time is spent on solutions for this area and the
18 Human Services Campus and the folks out there.

19 Q Okay.

20 MR. BAILEY: I'm going to try and speed up here a
21 little bit because we're running out of time.

22 BY MR. BAILEY:

23 Q Criminal enforcement is generally harmful to efforts
24 to solve homelessness, right?

25 A I wouldn't say so. If someone's doing true criminal



1 activity, that criminal activity needs to be held accountable
2 for.

3 Q What's true criminal activity versus --

4 A I would leave that up to law enforcement.

5 Q Okay. So are you saying that if law enforcement came
6 into the neighborhood tomorrow and just started enforcing
7 everybody -- arresting everybody for drug paraphernalia, that
8 had a glass pipe or tin foil paper, taking them to jail that
9 that would not affect your big picture efforts to solve
10 homelessness?

11 A I think each one of those cases would be done by an
12 individual basis. I don't know how to answer that because
13 again, I'm not law enforcement.

14 Q Okay. Well, let's talk about the City's policy then
15 since we have it in front of you, and I won't make you go
16 through one by one.

17 A Yes, sir.

18 Q But page 8, the third paragraph.

19 "Homelessness will not be criminalized. The City is
20 committed to ensuring that being homeless is not a
21 crime. While it's expected that members of the
22 community will obey laws, our strategies will address
23 behavior -- to address behavior will be balanced in a
24 way that focuses on interventions that lead to
25 recovery and stable housing."



1 Not on deterrence and punishment, recovery and stable
2 housing, that's how we're going to deal with crime, right?

3 A It doesn't say how we're going to deal with crime.
4 It just said homelessness isn't going to be criminalized, which
5 means not having a home or a place to live isn't a crime.

6 Q We have a gap in our permanent supportive housing,
7 page 16, paragraph 2. "There are not enough PSH units in
8 Phoenix to fully implement the Housing First model. And
9 justice-involved persons are often difficult or impossible to
10 place in PSH." Meaning we don't like it. We prefer not to
11 have our homeless become justice involved, right?

12 A I think we would prefer any human being not to become
13 justice involved.

14 Q And that's referring to criminal justice, right?

15 A I would -- yeah.

16 Q Page 24. Neighborhood engagement.

17 "It is important to note that some of the most
18 serious issues neighborhoods experience are not
19 representative of all people experiencing
20 homelessness because they're behaviors of a small
21 segment of the community and are committing crimes
22 and violating ordinances. This section shouldn't be
23 read to target people who are experiencing
24 homelessness, to penalize them through the justice
25 system or other means."



1 Again, the policy says we prefer our justice system
2 not be involved.

3 A Yeah. Well, again, I don't believe this is listed as
4 a policy within the City. It's a strategy. And our strategy
5 is when aversive things happen, if someone is unsheltered, that
6 shouldn't be the primary thing.

7 Q And then finally, on page 26, second paragraph,
8 strategies on the service resent -- the service resistant
9 individuals, their recommendation is that if somebody who is
10 homeless happens to get caught up in the criminal justice
11 system, we ought to create a diversion program for them where
12 they don't end up with conviction, but they get services.
13 That's a fair assessment of that?

14 A Yes, sir.

15 Q Now, your neighborhood interest that we talked
16 about -- so the question is this the criminal antagonistic with
17 all of your goals, that's, you know, something we can argue
18 about later, but the lower level of a priority that you make
19 for the neighborhood. Let's talk about that for a second with
20 the policy manual. Page 8, eighth paragraph. "While we're
21 committed to leading with services and helping those
22 experiences homelessness, we also would like to identify
23 strategies and interventions to address the impact on property
24 owners."

25 A Um-hum.



1 Q When those property owners experience or sorry --
2 "when those experiencing homelessness seek refuge in or
3 transition through their neighborhoods." Is that an accurate
4 statement?

5 A Yes, sir.

6 Q Okay. You strive, according to page 19, "cleanups
7 reference to meet your goal of healthy and safe right-of-ways
8 in public space. You need funding to accomplish this timely
9 and consistently. The cleaning process has gaps. We need the
10 biohazard cleanups." A lot of what you testified about on
11 direct, right?

12 A Yes.

13 Q Page 24, first paragraph notes that "People are going to
14 going to go to the bathroom outside." And says,

15 "These things and other bathroom and other behaviors
16 and not use garbage cans and so on that can result in
17 neighborhood concerns regarding blight and safety.
18 Many neighborhoods expressed similar concerns. Each
19 neighborhood is impacted differently and requires a
20 unique set of strategies and solutions. However,
21 it's important to note the most effective long-term
22 solutions are providing appropriate housing and
23 services to address for issues for those experiencing
24 homelessness and give tools for recovery and breaking
25 the homelessness cycle."



1 Does that not say that you're putting the long-term
2 success of the program above the neighborhood itself?

3 A Can you point to what you read so I could reread it?

4 Q Yeah. We don't have time, unfortunately.

5 Just the last question, I guess. And I think Mr.
6 Wurman already read this. You identified a gap in this report,
7 which is now two years old. You didn't. The City of Phoenix
8 did, and now you've agreed that the report is an accurate
9 reflection of the policy. And the gap identified under the
10 Human Services Campus neighborhood is,

11 "While the HSC partners provide vital coordinated
12 services and substantial shelter capacity, it has
13 become a destination for many of those who do not
14 stay in CASS or fully engaged in services. The
15 result is a fluctuating level of encampments along
16 the streets, defecation in public, sometimes on
17 private property, litter and debris, public drug use,
18 lewd acts, theft and other property, and violent
19 crimes. Management can take care of -- HSC
20 management and take care of the immediate property,
21 but they don't have the resources to deal with the
22 neighborhoods."

23 So doesn't that sound like two years ago that the
24 City identified a gap? That almost sounds exactly like what
25 the evidence today said. The neighborhood is, you know, just



1 amazingly out of control. It's not livable. Isn't that
2 basically tracking pretty close to the evidence?

3 A Yeah. So once that gap was identified, the City then
4 funded the Human Service Campus to provide seven-day-a-week
5 cleanup --

6 Q So --

7 A -- around their --

8 Q Yeah.

9 A -- campus.

10 Q So let's talk about that because I didn't ask you
11 that. I just asked you if that was the same thing. But what
12 they did come up with is strategies. And they talked about
13 explore developing a private property cleanup program.
14 Continue the installation of gates.

15 And I'm thinking as I'm looking at that word, explore
16 the possibility, and I'm listening to Gina testify today. And
17 she used phrases again and again where just repeat the phrases
18 that were used in these sections of the same problem two years
19 ago. We're in the beginning phases of enhanced cleanup, hasn't
20 started yet, no exact time line. We have goals. We have
21 plans.

22 Just like everything in this document. Goals, plans
23 and nothing for two years, except it, gets worse. And you're
24 coming in today -- nobody's disagreeing about the state of the
25 condition of the neighborhood. But you're coming in today, and



1 you're asking the Court to say, despite those conditions, we
2 plan to do something about it.

3 You heard Mr. Francis testify earlier that they've
4 been at it for a long time do something about it. Yeah, we
5 will. We will. Why should the Court believe the City when you
6 come in today and say you don't need to worry about us because
7 we're taking care of it when it's been going on and on and on
8 and getting worse and worse and worse? Why should the Court
9 believe you?

10 A I don't know why the Court shouldn't believe. But
11 the statement of we haven't done anything since then, I
12 believe, is horribly inaccurate. You know, just within this
13 last year, we've opened up 475 new beds. We have 700 plus new
14 beds coming online in the next year and a half. The majority
15 of those beds will be prioritized for the unsheltered around
16 the Human Services Campus. And that's just a small part of the
17 other items we've gotten in place along with rapid rehousing,
18 housing development, and all the other supportive things that
19 go along with it, and then the ancillary things to support all
20 those process.

21 Q So you going to start clearing out the encampment
22 then --

23 A We're going to start --

24 Q -- now that you have these beds?

25 A Yeah. So we funded for -- to start case conferencing



1 of the individuals out there, to start placing those
2 individuals, and being highly engaging with everybody outside
3 the Human Services Campus.

4 Q Some time?

5 A No. That's already set to take place November 1st.

6 Q That you're going out and taking the people off the
7 street?

8 A It's not about taking people off the street. It's a
9 case conferencing and working with our partners and providers
10 that we work with to help engage people and get them into --

11 Q Those that accept your services, if they want a
12 place, you'll give it to them. Otherwise, they can stay in
13 their tent?

14 A I wouldn't say that. Well, I can't force anybody to
15 go anyplace. I'm not law enforcement or involuntary. But we
16 will continue to engage people. It isn't just, well, we don't
17 want your service, and we wipe our hands of it. We continue to
18 engage, and usually through multiple attempts and engagements,
19 people do finally accept services.

20 MR. BAILEY: Nothing further, Your Honor. Thank you.

21 THE COURT: All right. Thank you.

22 Any redirect?

23 MR. ARNISON: Yes, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. ARNISON:



1 Q Mr. Hall, you walked through a number of things with
2 Mr. Bailey. We won't talk about them all. I'm going to ask
3 you a few specific and direct questions about some of the
4 things Mr. Bailey said. Okay? All right. So is home -- is
5 the unsheltered population in downtown Phoenix a static
6 population?

7 A No.

8 Q The numbers change daily.

9 A Yes.

10 Q Is it difficult to assess who is where and when?

11 A Yes.

12 Q Is there a mechanism to "track the homeless", as Mr.
13 Bailey said?

14 A Limited. Through outreach, we do -- when we do
15 engage, we do geo map and HMIS, but that is only for that one
16 location. So if they move somewhere, it would take another
17 engagement to notify that location.

18 Q I mean, it's not as though there's like some
19 mechanism where you can keep track of a person's whereabouts at
20 all times, even if it were legally allowed, correct?

21 A Correct.

22 Q Okay. Mr. Bailey stated that encampments -- the
23 encampments, quote, "attract people" who don't want to abide by
24 the rules. Do you remember when Mr. Bailey asked you about
25 that?



1 A Yes, I do.

2 Q Is it the encampments that attract people, Mr. Hall,
3 or in your view, is it the services that are offered that draw
4 people to the area?

5 A I again, I don't know exactly what would be the draw.

6 Q Sure. I know you can't speak to a specific instance.

7 A Yeah.

8 Q But the Human Services Campus is located down there,
9 right?

10 A It is, and the Human Service Campus provides vital
11 pieces for people such as IDs, food, clothing, medical, dental,
12 shelter.

13 Q And the biggest shelter provider in the State of
14 Arizona is located within this area, right?

15 A Yes. It's the largest behavioral or -- largest
16 shelter within the state and 600 beds.

17 Q Okay. So presumably, these individuals aren't
18 attracted to a bunch of tents. They're attracted to an area
19 where they can receive vital services, right?

20 A I would agree with that.

21 Q If a person -- can you force anyone to go into a
22 structured campsite?

23 A I cannot.

24 Q Can you or the -- and by you, I mean the City of
25 Phoenix. Can the City of Phoenix force anyone to go to a



1 traditional shelter?

2 A No, they cannot.

3 MR. BAILEY: I object. Calls for a legal conclusion
4 and speculation, foundation.

5 THE COURT: All right. Sustained.

6 BY MR. ARNISON:

7 Q If a person didn't want to go into a shelter -- if a
8 person didn't want to go into either a structured campsite or
9 traditional shelter, they could stay on the street; is that
10 fair to say?

11 A Yes.

12 Q So if someone didn't want to abide by the rules of
13 one facility, they don't have to go into that facility, right?

14 A Correct.

15 Q It doesn't matter whether it takes the form of a
16 structured campsite or whether it takes the form of a
17 traditional shelter?

18 MR. BAILEY: Objection to the leading.
19 Argumentative.

20 THE COURT: All right. I'm going to sustain on
21 leading.

22 BY MR. ARNISON:

23 Q You discussed that the City's goal is to solve
24 homelessness, and Mr. Bailey characterized the City's focus on
25 the neighborhoods as being secondary. Are the things that the



1 neighbors and property owners in this area experiencing not
2 secondary effects of homeless -- are they secondary effects of
3 homelessness?

4 A Yes.

5 Q Okay. So is the idea that if you resolve
6 homelessness, then you solve those secondary effects?

7 A Yes.

8 MR. BAILEY: Objection to the leading.

9 THE COURT: All right. Sustained.

10 BY MR. ARNISON:

11 Q Ms. Montes testified that by December 2022, those
12 enhanced cleanups are expected to begin.

13 A Yes.

14 Q And contrary to what Mr. Bailey said, the City has
15 established the homeless solutions team, which you're a part
16 of?

17 A Yes.

18 Q Okay. And it actually opened up a shelter earlier
19 this year?

20 A Yes.

21 Q Okay. And it actually is tending to, in the very
22 near future, open up a sprung structure on City land?

23 A Yes.

24 MR. BAILEY: Leading.

25 THE COURT: Sustained.



1 BY MR. ARNSON:

2 Q And the City has, in fact, spent tens of millions of
3 dollars?

4 MR. BAILEY: Same objection.

5 THE COURT: Sustained.

6 BY MR. ARNSON:

7 Q Has the City approved funding for another sprung
8 structure?

9 A Yes.

10 Q Did the City do so as recently as last night?

11 A That was the approval for the --

12 Q For the design.

13 A -- design and -- yes.

14 Q All right. And did the City do so as part of its
15 strategy to address the homelessness issue in the City of
16 Phoenix and in the area surrounding the Human Services Campus
17 that's at issue today?

18 A Yes.

19 Q Okay.

20 MR. ARNSON: I don't have any further questions, Your
21 Honor.

22 THE COURT: All right. Thank you.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: You may step down.

25 We'll go ahead and take our afternoon recess at this



1 time. We'll be in recess until 3:30 p.m.

2 (Recess at 3:15 p.m., recommencing at 3:30 p.m.)

3 THE COURT: All right. We are back on the record
4 following our afternoon recess in CV2022-010439. The City had
5 just finished with Mr. Hall. Do you have further witnesses to
6 call?

7 MR. ARNISON: The City has one more witness, Brian
8 Freudenthal.

9 THE COURT: Okay. All right. Come on forward, sir,
10 to the witness stand. Before you take a seat, though, I'll
11 just ask you to raise your right hand so that the clerk can get
12 you sworn in.

13 BRIAN FREUDENTHAL
14 called as a witness for the Defendant, having been duly sworn,
15 testified as follows:

16 THE COURT: All right. Thanks, have a seat.

17 MR. ARNISON: And Your Honor, before I get started, I
18 forgot to ask, can you give the City a quick time check on how
19 much time they have left?

20 THE COURT: Oh, sure. You have an hour remaining.

21 MR. ARNISON: Thank you.

22 MR. BAILEY: And us, Your Honor?

23 THE COURT: You have six minutes remaining.

24 DIRECT EXAMINATION

25 BY MR. ARNISON:



1 Q Okay. Mr. Freudenthal, would you please -- your name
2 is Brian Freudenthal for the record?

3 A That's correct.

4 Q And you're employed by the City of Phoenix?

5 A Yes.

6 Q Okay. What is your position?

7 A I'm the commander over the downtown operations unit
8 in the Central City Precinct.

9 Q Okay. Is that Central City Precinct the area that
10 includes the Human Services Campus?

11 A So the downtown operation unit is the area that
12 includes -- and it all is encompassed within the Central City
13 Precinct.

14 Q Thank you. Okay. So it covers the area that we're
15 talking about today?

16 A Yes.

17 Q Okay. Thank you. How long have you been working in
18 your capacity as commander?

19 A I have been a commander for three years.

20 Q In this area?

21 A I've been in this area for about a year and a half --
22 a little over a year.

23 Q Okay. And how long had you been with the City or --
24 well, let me ask this again. Were you with the City of Phoenix
25 before you became a commander?



1 A Yes.

2 Q Okay. Employed as an officer or sergeant?

3 A So I've gone up through the ranks.

4 Q Okay.

5 A Started as an officer, sergeant, lieutenant, and now
6 commander.

7 Q Okay. Have you worked in this particular area in
8 what now is called the Downtown Operations Unit before this?

9 A Yes.

10 Q As an officer?

11 A Yes.

12 Q Okay. And as --

13 A So it was a different -- it -- the area which we are
14 discussing fell under a different precinct at that time. It
15 fell under the South Mountain Precinct. So at that time, I
16 did -- I did patrol and was responsible for the area
17 surrounding the Human Services Campus as an officer, as a
18 sergeant. And then it moved over to the Central City Precinct
19 while I was a lieutenant. So I again oversaw that area as a
20 lieutenant, and now I'm overseeing as a commander. So at all
21 ranks.

22 Q Okay. I'd like to talk first about the organization
23 of the Downtown Operations Unit. I am saying that right, am I
24 not? Downtown --

25 A Yes.



1 Q -- Operations Unit?

2 A Yes.

3 Q Thank you. Okay. So how many personnel are members
4 of that down -- of the unit?

5 A So Downtown Operations Unit, we have approximately
6 sworn -- 50 sworn.

7 Q 50 sworn?

8 A Approximately, yeah.

9 Q Are there subunits or squads within the Downtown
10 Operations Unit?

11 A Yes.

12 Q What are those?

13 A So we have two day shift patrol squads, which --
14 which perform as a typical patrol unit for the down -- solely
15 for the downtown area. We have two afternoon shift, evening
16 shift teams that are responsible for both patrol but also
17 responsible for special events that occur downtown, such as
18 basketball games, concerts, baseball games. And then we have a
19 crime suppression team that is -- is responsible for the entire
20 downtown area and does -- tries to come up with crime reduction
21 strategies and implement those. And then we have a shelter
22 team. We call them -- still call them the shelter team, but
23 they're responsible for the Human Services Campus and the area
24 surrounding the Human Services Campus.

25 Q So you refer to that squad as the shelter team; is



1 that correct?

2 A Yes.

3 Q Okay. How many sworn law enforcement personnel are
4 part of the shelter team?

5 A So right now we have seven and a sergeant, so eight.

6 Q Seven officers plus a sergeant?

7 A Yes.

8 Q What is their primary role and responsibility, the
9 shelter teams?

10 A So their primary role is to patrol and respond to
11 criminal activity and also liaison with the campus and the
12 businesses surrounding as it relates to crime, safety, and
13 other things going on in the area. They also -- I have a
14 community action officer that's dedicated just to that area
15 that is responsible for responding to complaints and issues
16 concerning business owners that are in that area and -- and the
17 campus itself. And then the sergeant that oversees it.

18 Q Is there any other part of the City that has a
19 special unit dedicated just to patrol and enforcement of that
20 geographic area?

21 A Of that --

22 Q Did that question make sense?

23 A Of that small of an area, no.

24 Q Okay. So you're saying based on size of the area,
25 there's -- I'm going to phrase the question differently. The



1 concentration of law enforcement personnel is higher based on
2 the geographic area; is that correct?

3 A A hundred percent, yes.

4 Q Okay. I see. Does the shelter team respond to calls
5 for service?

6 A Yes.

7 Q Do they do proactive enforcement?

8 A Yes.

9 Q Okay. Let's look real quick at Exhibit 54. I'll
10 bring that to you.

11 MR. ARNISON: May I approach?

12 THE COURT: You may.

13 BY MR. ARNISON:

14 Q All right. Do you recognize that document,
15 Commander?

16 A Yes, I do.

17 Q Now, what is it?

18 A This is a report for activity -- related criminal
19 activity. So it's -- it's a calls for service report. It
20 documents the number of calls, the types of calls, the
21 frequency of calls within a -- a specific grid area. So --

22 Q Let me ask you about that grid area.

23 A Yeah.

24 Q Do you see there at the top third line, at the very
25 top of the page, it says areas of evaluation grid BA26?



1 A Yes.

2 Q Is grid BA26 the area that's at issue today?

3 A So the area that's at issue today falls within that
4 grid.

5 Q I see.

6 A But unfortunately, the -- the grid is -- is bigger
7 than the actual area we are talking about today.

8 Q Understood. Understood. But the area that's at
9 issue today falls within that grid?

10 A Correct.

11 Q And that grid is slightly larger than --

12 A Correct.

13 Q -- the area that we're talking about today?

14 A Correct.

15 Q Okay. I understand. Does this capture the Human
16 Services Campus addresses?

17 A Yes, it does.

18 Q Does the report capture the Andre House?

19 A Yes, it does.

20 Q St. Vincent de Paul?

21 A Yes, it does.

22 Q Does it capture the CASS Central as a shelter?

23 A Yeah. So CASS, St. Vincent de Paul all fall with
24 inside our -- inside the Human Services Campus. So the
25 addresses sometimes, we'll get to 230 South 12th Avenue, which



1 is CASS' address. Sometimes it'll be a call to CASS, but we
2 will still get 206 or 212 South 12th Avenue, which is the
3 welcome center address.

4 As far as Saint Vincent de Paul, typically, we're
5 getting one of those three addresses for a call at Saint
6 Vincent de Paul, and they just clarify it. But it also has its
7 own address.

8 Q Here on this first page of Exhibit 54. Do you see
9 the red number over there in the upper right-hand corner in the
10 third column, percent change?

11 A Yes.

12 Q It looks like we have a percentage change of 43.49
13 percent in call -- a dispatcher call that calls for service.
14 Am I reading that correctly?

15 A That's correct.

16 Q Can you explain -- do you have any knowledge of why
17 that number increased to the degree that it did?

18 A Yeah. So in March -- end of -- mid-March of this
19 year, we came up with a program to co-respond with the fire
20 department to medical calls -- all medical calls that fall
21 within this grid area within -- well, typically within the area
22 surrounding the campus -- the Human Services and the area
23 surrounding, so that increased our calls dramatically. Which
24 if you take any of those calls away, it's harder to identify
25 them through an individual report. But typically, they're



1 under a radio code of 901 --

2 Q Um-hum.

3 A -- which is a -- a person down or person needing
4 assistance. So if you take those out, they're pretty -- calls
5 for service are pretty steadily or -- pretty around -- pretty
6 much around the same, if not -- there probably only a little
7 bit higher now based off of the increased population down
8 there.

9 Q Okay. I want to make sure I understand. So there
10 were calls that were not -- calls for service that were not
11 previously included in the 2021 numbers that were now included
12 in the 2022 numbers?

13 A Correct.

14 Q Okay.

15 A So in 2021, we did not co-respond with the fire
16 department to medical calls.

17 Q Got it.

18 A So we started taking all medical calls in that time
19 frame of mid -- 2022.

20 Q Okay. I understand. So the calls for service, if
21 you extract those medical -- fire medical calls out, are
22 actually remaining roughly stable in absolute numbers?

23 A Correct.

24 Q Since the time that you've been with the City of
25 Phoenix, have you seen an increase in the number of people



1 experiencing homelessness in the area that's in question?

2 A Yes.

3 Q In BA26, within that grid?

4 A Yes.

5 Q Okay. Do you have any idea about the approximate
6 number of individuals in and around the homeless services
7 campus -- Human Services Campus that are there now?

8 A So I do see a report that's generated -- that was
9 discussed earlier. It's generated by the Human Services Campus
10 of the total numbers, and it does -- it is anywhere range from
11 800 to 1,000 now currently.

12 Q Okay. And does that fluctuate -- does that number
13 fluctuate?

14 A It does.

15 Q Okay. Does it fluctuate weekly? Daily?

16 A I believe they do it like every two weeks, to -- I'm
17 not sure if it's a month. It's every two weeks, I believe,
18 they do it if not weekly, so it fluctuates.

19 Q I see. Thank you. I see on page 1 of Exhibit 54 and
20 page 2 as well but let's focus on page 1, in the third column.
21 Do you see the second table there that says "disposition" in
22 the upper left-hand corner? So on Exhibit 54, page 1. I'm on
23 the third column, and there's a table in all caps that says,
24 "DISPOSITION". Do you see that?

25 A Yes.



1 Q Okay. Thank you. What are those -- what are these
2 labels? What do they mean below disposition, accident reports,
3 citation issued, et cetera?

4 A So that -- that would be the officer response to the
5 call, and the disposition is -- so a lot of times we'll get a
6 call that will come out as one type of call, but then when the
7 officer gets there realizes it's a different type of call, and
8 they disposition it -- they dispo it as the actual final call,
9 what the actual call type was, and that's those -- and their
10 actions taken. So did they write a report, did they issue a
11 citation, did they have an interaction, or just no action
12 required?

13 Q Okay. Officers have some degree of discretion
14 whether to take a particular law enforcement action; is that
15 correct?

16 A That's correct.

17 Q Okay. Do officers in your -- in the downtown
18 outreach unit -- or excuse me -- downtown operations unit have
19 discretion as to whether to cite a person for a crime?

20 A Yes.

21 Q Do they have discretion whether to arrest somebody
22 for a crime?

23 A Yes.

24 Q Do they have discretion as to whether to apply one
25 ordinance over another in regard to citing someone for a crime?



1 A Yes.

2 Q Do they have -- do your officers and other law
3 enforcement personnel have discretion whether to not arrest or
4 cite somebody at all?

5 A Yes.

6 Q Okay. I understand discretion. Let's talk about
7 pure responsiveness law enforcement action in response to calls
8 real briefly. We've talked about a few different types of
9 misdemeanors and crimes that or -- even more serious ones today
10 that we heard Plaintiffs' testimony. We've heard about public
11 urination, we've heard about drug use and possession, among
12 many others. Let's talk about just maybe a seemingly simple
13 violation, right, like public urination case. Let's talk about
14 that second.

15 A Sure.

16 Q If that's something we want to talk about, let's talk
17 about that for a second. How would an officer on the street
18 handle a typical call for service for public urination?

19 A Well, typically, the call would come in. The officer
20 receives the call -- I'm sorry. It would go through our -- our
21 call taker who would take the call on the phone. It would then
22 go to a dispatcher who would then, in turn, dispatch it to the
23 officers, and the officers respond to the call. For those
24 types of -- for -- for your example of urination in public,
25 obviously, by the time that call gets to the officer, the



1 individual's already completed the act typically and has moved
2 on.

3 So now the officer has to one, identify the subject
4 that is subject of the report, identify if there's anybody that
5 wants to contact that actually witnessed it and wants to be a
6 victim or witness to the incident, and then they can follow up
7 on it that way.

8 Q Okay. Are oftentimes the people who are the suspects
9 in a public urination issue gone by the time officers arrive?

10 A Yes.

11 Q In general, how willing are individuals who report
12 these crimes, like public urination, to serve as victims or to
13 serve as witnesses in a crime?

14 A Not often.

15 Q If you could give a rough estimate about how often is
16 someone willing to serve as a witness?

17 MR. BAILEY: Objection. Foundation.

18 BY MR. ARNISON:

19 Q In your experience about --

20 THE COURT: Go ahead. Sustained.

21 BY MR. ARNISON:

22 Q In your experience, if you know, about how often is a
23 person willing to serve as a victim or a witness in these
24 cases?

25 MR. BAILEY: Again, Your Honor. I don't understand



1 what time period we're talking about, where this is happening,
2 how many cases.

3 THE COURT: Sustained.

4 MR. BAILEY: How often? One per ten or one in a
5 week?

6 THE COURT: Sustained.

7 MR. ARNISON: Okay.

8 BY MR. ARNISON:

9 Q Are you aware of any instance where a law enforcement
10 officer in the downtown operations unit has refused to respond
11 to a call, Commander?

12 A No.

13 Q Are you aware of any instance where a law enforcement
14 officer in the downtown operations unit has refused to
15 intervene when they've seen a violent crime?

16 A No.

17 Q Are you aware of any instance where a law enforcement
18 officer in the downtown operations unit has refused to
19 intervene when someone's been trespassing on private property?

20 A No.

21 Q One of the allegations in the complaint, Commander,
22 is that the City or the police department may give rides to
23 bring people to the area in question. First of all, does the
24 police department have any -- let's distinguish formal versus
25 informal. Does it have any formal set program to give rides to



1 bring people to the area in and around the Human Services
2 Campus?

3 A So that -- we do not have any policy, no.

4 Q Okay. Are you aware of situations where a, short of
5 a formal program, someone from the police department, whether
6 one of your officers or from some other squad, has given a ride
7 to someone looking to come down to the area?

8 A Yes.

9 Q Okay. Can you explain how that might happen?

10 A Typically, it'd be somebody who -- who is in contact
11 with somebody who is -- either recently become homeless or is
12 unsheltered and is ready to seek services. That officer will
13 then -- we provide a training (indiscernible) for that officer
14 then to drive that individual and actually physically walk them
15 into the welcome center and connect them to the services that
16 they would need and connect them to an individual within the
17 welcome center.

18 Q Okay. So I've heard them referred to as courtesy
19 rides before. So you may give an individual a ride from
20 wherever they are in the City to the Human Services Campus to
21 receive services?

22 A Yes.

23 Q Okay. Is it to take them down to camp in the area?

24 A No. No.

25 Q The P.D. doesn't give rides to take people down to go



1 camp in the area?

2 A No, absolutely not.

3 Q I want to make sure we have that distinction. Are
4 you aware of any instance where a member of the police
5 department has encouraged someone -- unsolicited, encouraged
6 someone to go downtown?

7 A I'm not aware of it.

8 Q Okay.

9 A I mean, so we'll -- we'll encourage people to seek
10 services all the time.

11 Q Sure.

12 A So we'll encourage people to go to the welcome center
13 where we know they can receive the services they need.

14 Q If he sees that someone needs help --

15 A Sure.

16 Q -- he'll tell them where -- where they can get it?

17 A Yes.

18 Q Okay. Are you aware of any instance where a member
19 of the police department has distributed tents to any
20 unsheltered individuals within the City?

21 A Absolutely not.

22 Q Are you aware of any situation where anyone from the
23 City in their official capacity has distributed tents to
24 unsheltered individuals?

25 A I am not aware of that.



1 Q Okay.

2 MR. ARNISON: No further questions.

3 THE COURT: All right.

4 Any cross?

5 CROSS-EXAMINATION

6 BY MR. BAILEY:

7 MR. BAILEY: Just one question, Your Honor.

8 Q Do you have any belief as to why it is that the
9 Capitol Police are able to maintain their jurisdictional area,
10 which is immediately adjacent to this neighborhood, free of
11 encampments, while Phoenix does not?

12 MR. ARNISON: Objection. Foundation.

13 THE COURT: All right. I'm going to sustain the
14 objection. Go ahead. You want to rephrase it or --

15 BY MR. BAILEY:

16 Q Well, do you have a belief as to that?

17 A Well, I believe that people want to be close to
18 the -- the necessary services that they need. So --

19 Q I didn't ask you what your belief was. I just asked
20 you --

21 A You just asked me what I believed.

22 MR. ARNISON: He just asked what his belief was, Your
23 Honor.

24 BY MR. BAILEY:

25 Q I said, well, --



1 THE COURT: The question was his belief.

2 MR. BAILEY: The Judge said try another way. I said
3 do you have a belief. But in light of time, Your Honor, I will
4 stop.

5 THE COURT: Okay.

6 MR. ARNISON: No redirect, Your Honor.

7 THE COURT: Okay.

8 THE WITNESS: Sorry.

9 THE COURT: All right. Thank you. Oh, before you
10 step down, though, could you just say and spell your name for
11 the record --

12 THE WITNESS: Sure.

13 THE COURT: -- for the clerk?

14 THE WITNESS: It's Brian B-R-I-A-N, Freudenthal F as
15 in Frank, R-E-U-D-E-N-T-H-A-L.

16 THE COURT: Thank you. All right. Any further
17 witnesses?

18 MR. ARNISON: No further witnesses from the City.

19 THE WITNESS: Your Honor, do I just -- do I just
20 leave this up here?

21 THE COURT: Yes. You may. Thank you, sir.

22 THE COURT: All right. Do you rest at this time,
23 then?

24 MR. ARNISON: Defense rests at this time.

25 THE COURT: Okay.



1 MR. WURMAN: Your Honor, in light of the five minutes
2 we have remaining, we will obviously not be calling our --

3 THE COURT: All right.

4 MR. WURMAN: -- remote witness.

5 THE COURT: Okay.

6 MR. WURMAN: It would take five minutes to figure out
7 the technology anyway.

8 THE COURT: Okay. I'm sorry. Go ahead.

9 MR. ARNISON: No I -- we would like to be cooperative.
10 If they want to call somebody, it's totally in -- of course,
11 within the Court's discretion, but we would allocate a little
12 of our time if they need to call this individual on rebuttal or
13 whatever, but it's totally up to the Court.

14 THE COURT: All right. Well, if you're willing to
15 yield some of your time, you're welcome to do so if you wish.

16 I'm not sure if you want to attempt to call the
17 witness for a brief period of time or not. We'll need to
18 reserve some time for closing, obviously, but --

19 MR. WURMAN: We appreciate the City's gesture very
20 much. We won't need to call the witness. I think we'd rather
21 reserve any remaining time on top of the 15 minutes for our
22 closing.

23 THE COURT: Okay. All right. So then, at this time,
24 we'll go ahead and move to closings.

25 MR. WURMAN: And I'm sorry, Your Honor, of course,



1 that was assuming that the 15 minutes you said would be
2 allocated if we finished early has been reallocated to us. I'm
3 not sure --

4 THE COURT: Okay.

5 MR. WURMAN: -- if that's the case.

6 THE COURT: So I'm sorry if I'm not following. So we
7 have 50 minutes -- well, wait, no 40 minutes left, give or
8 take. So what that means is if the City is willing to equally
9 divide it, then we'll do 20 and 20.

10 MR. WURMAN: Sure.

11 THE COURT: Okay. So it would be 20 minutes per
12 side. This, of course, is Plaintiffs' application. So your 20
13 minutes would encompass, if we're moving to closing then, which
14 it sounds like we are. And so for the record, though, do
15 Plaintiffs rest at this time?

16 MR. WURMAN: We do, Your Honor.

17 THE COURT: Okay. Thank you.

18 So we'll move to closing arguments at this time. So
19 we would hear any initial close from Plaintiffs, and if you
20 wanted to reserve some of your 20 minutes for rebuttal close,
21 you're more than welcome to do so.

22 All right. So with that, we'll move to closings, and
23 Mr. Wurman, I take it you're arguing. Come on up.

24 MR. WURMAN: Thank you. And on the assumption that I
25 have to reserve my own time, I actually don't know. I'm going



1 to just write it down, and I will try to reserve myself five
2 minutes.

3 THE COURT: All right.

4 MR. WURMAN: Thank you, Your Honor, for your time
5 today. I know it was a long day.

6 There are three things I want to talk about in my
7 closing. The first is just the public nuisance standards and
8 what we've shown at trial. The second is the question of
9 irreparable harm. And the third is I want to respond to what I
10 take to be the City's defense today.

11 So really briefly, just on the standard. I think I
12 went over it a bit at the beginning, but not only do we have
13 Armory Park and City of Phoenix v. Johnson, but we have the
14 restatement 821B. 821B(1) a public nuisance is an unreasonable
15 interference with the right common to the general public. And
16 then we have 821B(2)(a) and (b), which explain circumstances
17 that may sustain a holding of public nuisance, namely in
18 interference with a public right that's unreasonable, include
19 the following: 821B(2)(a) whether the conduct involves a
20 significant interference with the public health, the public
21 safety, the public peace, the public comfort, or the public
22 convenience. Then there's another order before 821B(2)(b),
23 whether the conduct is proscribed by a statute, ordinance, or
24 administrative regulation.

25 I think we've shown both of these starting with



1 821B(2) (a). We've shown that the City is maintaining on land
2 within its control a condition that involves a significant
3 interference with the public health, public safety, public
4 peace, public comfort, or public convenience. In particular, I
5 direct your attention to page 28 of Exhibit 36. The City's own
6 strategies document. They concede that there is widespread
7 drug use, lewd acts, public defecation and that the impact on
8 the Plaintiffs' neighborhood far exceeds that there were -- in
9 any other -- the impact in any other neighborhood.

10 We have, of course, all the photographs we
11 introduced. And I want, Your Honor -- we didn't have time to
12 go over it as much as we might have liked, but Exhibits 54 to
13 56, their own crime data that they just introduced. Can you
14 imagine -- we're talking thousands of calls a year. We're
15 talking about ten calls a day, and of course, calls are
16 underreported. Can you imagine that amount of crime in your
17 neighborhood? Would we have any doubt that such a neighborhood
18 would be in a condition involving a significant interference
19 with the public safety, peace, or comfort?

20 Moving on to 821B(2) (b). Whether the condition is
21 proscribed by a statute, ordinance, or administrative
22 regulation, we've cited in our briefing six. We found more
23 since then. I'll try to highlight them. And we've shown that
24 they're violated today.

25 Public nuisance laws A.R.S. 36-601 -- 36-061. Any



1 place, condition, or building -- any place like a sidewalk, any
2 place, condition, or building that is controlled or operated by
3 any governmental agency -- the Plaintiffs don't control the
4 sidewalks -- and that is not maintained in a sanitary condition
5 is a public nuisance dangerous to the public health.

6 A.R.S. 13-2917(A)(1). It is a public nuisance for
7 anything to be injurious to health, indecent, offensive to the
8 senses. We've shown that in obstruction to the free use of
9 property. Interferes with the comfortable enjoyment of life or
10 property by an entire community or neighborhood. We've shown
11 that.

12 A.R.S. 13-2917(A)(2). This is what I did not cite,
13 unfortunately, in the briefing, but again, it says a public
14 nuisance is to unlawfully obstruct the free passage or use of
15 any public park, square, street, or highway. They violated
16 that.

17 Again, A.R.S. 36-601(1). Any condition or place in a
18 populous area that constitutes a breeding place for flies,
19 rodents, mosquitoes, and other insects capable of transmitting
20 disease-causing organisms. We had my Mike Godbehere's
21 testimony about rodents and flies.

22 36-601(5). All sewage, human excreta, wastewater,
23 garbage, or other organic waste deposited, stored, discharged,
24 or exposed so as to be potential instruments or medium in the
25 transmission of disease to or between any person or persons is



1 declared to be a public nuisance. They admitted -- they all
2 admitted that there are biohazards there. That the conditions
3 of the Zone include a biohazard. That meets the statute
4 exactly.

5 36-601(13). Spitting or urinating on sidewalks or a
6 building used for manufacturing or industrial purposes, like
7 Freddy Brown's building, like Ian Francis' building. What more
8 do we need to show?

9 And of course, in the gold water -- in the terrific
10 amicus brief for which we thank them, they draw the Court's
11 attention to the environmental laws. A.R.S. 49-201 defines
12 that discharge is the direct or indirect addition of any
13 pollutant to the waters of the state. Direct or indirect
14 addition of any pollutants to the waters of the state from a
15 facility. The word pollutant includes fluids -- is defined to
16 include fluids, solid waste, sewage, garbage, sewage, sludge,
17 or any other liquid, solid, gaseous, or hazardous substance.
18 And it defines facility as any area, source, activity, or
19 practice for which there is or with reasonable probability may
20 be a discharge.

21 We showed photos from Ian Francis of the storm
22 drains, Your Honor. We have the testimony of Gina Montes that
23 the fluids and solid waste that goes down the storage storm
24 drains flow into the waters of the state in violation of the
25 statute. So what more do we need to show?



1 We've shown six statutes that indicate the Zone as a
2 public nuisance. We've shown a significant interference with
3 the public health, the public safety, the public peace, the
4 public comfort, or the public convenience. And we have Armory
5 Park and City of Phoenix v. Johnson on top of all that.

6 That leaves, I think, the question -- before I turn
7 to their arguments -- let me just check when I started --
8 okay -- the question of irreparable harm. I want to focus a
9 bit on this because I regret that my briefing was not as good
10 as it could have been on this.

11 I want to direct your attention, in particular, to
12 four cases we cited, and this is on page 5, footnote 1 of our
13 preliminary injunction application, page 12 of a response to
14 their motion to dismiss, and footnote 1 of our reply in support
15 of our preliminary injunction application. We sent McCluskey
16 v. Sparks, Burer v. State (phonetic), Arizona Public Integrity
17 Alliance v. Fontes, and Burton v. Celentano.

18 I suggested in the briefing that if there's a
19 constitutional violation, irreparable harm is presumed. But
20 it's actually any unlawful act by the government, any violation
21 or any violation of statute. And in particular, here, Fontes
22 is pretty clear about this, but I want to look to Burton v.
23 Celentano, which we cite, but I don't elaborate on as much as I
24 would like, court of appeals decision from 1982. It's 134
25 Arizona 594. This involved a preliminary injunction mandating



1 that a private defendant abate a nuisance. And the nuisance
2 was established, again on the probability of success on the
3 merits, because the defendant had been violating a state
4 statute.

5 The question was, did the Plaintiff show reparable
6 harm? The court, again, issued a preliminary mandatory
7 injunction held by the court of appeals. It said when the acts
8 sought to be enjoined have been declared unlawful, Plaintiff
9 need show neither irreparable harm nor balance of the hardships
10 in his favor. That is Burton v. Celentano.

11 So our position is we do not have to show irreparable
12 harm because if you find that the government -- we're likely to
13 succeed on the merits that they violated public nuisance laws
14 as well as the statutes supporting that conclusion. But even
15 if we're wrong about that, Your Honor, I would just remind the
16 Court that Shoen against Shoen says that we must merely show
17 the possibility of such harm. That's what Shoen v. Shoen says.

18 Have we shown the possibility of irreparable harm? I
19 think we've done that beyond question. Take a look at Freddy
20 Brown's testimony. He says they don't go to the sub shop
21 anymore across the street. The sub shop is also a Plaintiff in
22 this case. They lost customers there. Mike Godbehere can't
23 even market his building right now.

24 We also -- we didn't have time to talk about this
25 today, Your Honor, but Exhibit 34 is an email that was sent to



1 one of the Plaintiffs where a customer explains why their
2 business is leaving the location because of the situation
3 involved, and they explain that they lost customers and so on.
4 Loss of customers has been shown in numerous cases to be
5 irreparable harm. And of course, what happens about physical
6 violence and crime? How is that reparable unless the City is
7 going to assume financial responsibility every time a Plaintiff
8 is harmed by an act of violence down there?

9 And then, of course, there's the uncertain nature of
10 the damages, Your Honor, which is also irreparable. This is
11 Ivy Properties holdings, right. Even if it's financial damage,
12 if it's uncertain what those damages -- or what the full
13 damages are, then it's irreparable. Here the harm is still
14 ongoing. How do we know what the full damages are?

15 And of course, you know, there are other time limits
16 and statutes of limitation. So it's a very difficult problem
17 even if there was -- obviously, there's some financial injury.
18 There's plenty of additional irreparable injury, but even the
19 financial injury can be reparable if it's uncertain, and we
20 submit that it is.

21 Let me now turn, Your Honor, to the City's defense
22 today. I think I heard two defenses. I think the first
23 defense I heard was, well, we're doing what we think we can.
24 And I think the second defense is, well, the City's not
25 responsible. I think the evidence shows today -- the evidence



1 of their own witnesses shows today that those defenses fall
2 completely flat. We've done what we can.

3 They have \$70 million of ARPA funding, federal
4 funding. It's not even their money. It's other people's
5 money. And they have lots of land. They don't know what's
6 vacant, what's not because they haven't asked. They haven't
7 checked. They haven't looked for a solution to this problem.
8 Why aren't they doing structured camping?

9 We support all of the solutions, of course, to solve
10 homelessness? We understand that it's a multiple, layered
11 process, but a structured campground would solve the public
12 nuisance problem. Why aren't they doing that? Well, because
13 it's "not our priority", said Gina Montes. "Because it doesn't
14 solve homelessness", said Scott Hall.

15 Well, they don't get to choose what their priorities
16 are if they're violating the law. That's their priority, to
17 stop violating the law. Of all their priorities, we understand
18 that you have to mix and match some. You have to prioritize
19 things. Deprioritize other things. If this is a public
20 nuisance, they don't have a choice. They're violating the law,
21 and they have to do something about that. That's why we need a
22 court order to tell them that if you're violating the law --
23 and answer, well, it's not our priority because it doesn't
24 solve homelessness long term is not an answer. That's why we
25 need a court order to explain that to them. Gina Montes said



1 it may be possible, but they haven't actually done the work to
2 figure out if they could do it. They haven't done the work to
3 figure it out.

4 And I want to draw your attention, Your Honor, to the
5 last thing that Mr. Hall said in response to my colleague's
6 cross-examination. If the only thing you remember from that
7 cross-examination is this last thing, it's that even if they
8 built all the structured campgrounds and if they built all the
9 sprung shelters sufficient to have available beds for anybody
10 who wanted it, they still wouldn't force people off the
11 streets. They still wouldn't do it because Scott Hall says
12 that we don't want to force them. We want to keep engaging
13 them for services.

14 And then Mr. Hall's attorney came up and said, can
15 you even legally force them to do it? Their view is that, oh,
16 we don't have authority to do that, but yes, they do. If there
17 are sufficient beds available, they would have authority to do
18 it. If there are sufficient structure campgrounds, they would
19 have authority to do that. There are all the municipal codes
20 that are violated that are arrestable offenses, are there. Are
21 there.

22 So not only have they not even explored the
23 structured camping possibility, which would solve this problem
24 for the Plaintiffs because it's not a priority. Even if they
25 did it, they still wouldn't do anything about it. That's why



1 we need a court order to tell them that their understanding of
2 the law is wrong.

3 They think that the law precludes the relief that
4 we're seeking. We need to get past this. We need X. They
5 think, well, we can't do X under the law. We can't force them.
6 That's why we need a court order, because we can't get anywhere
7 if they don't have the law right. We can't get anywhere.

8 The second thing is, of course, they say that the
9 City is not responsible. I find this argument, quite frankly,
10 baffling, Your Honor. It seems like the City's strategy today
11 has been to throw CASS, the Central Arizona Shelter Services,
12 under the bus and to throw the Human Services Campus under the
13 bus. Well, with all due respect, they've been there for
14 decades. HSC has been there since 2005. CASS has been there
15 since the 1980s.

16 Our Plaintiffs have been there for a long time.
17 Freddy Brown and his family, Michael Godbehere and his family.
18 They didn't sue until 2022. Why? Because something changed in
19 2019. It wasn't CASS. It wasn't HSC. It was the City
20 allowing camping on their streets. That's what changed.
21 That's what changed. Why they did it, we have our suspicions
22 about Martin v. City of Boise, but the point is that they did
23 it. That's the City's responsibility. It's not the
24 Plaintiffs' responsibility. Who owns the easements? Who owns
25 the easements?



1 Remember when Freddy Brown testified that oh, yeah,
2 I'll call the cops, and they'll come to my property, you know,
3 remove the homeless individuals from my property? Well, they
4 won't remove them from the streets. Why? Freddy Brown doesn't
5 have control over the streets in front of his property; the
6 City does.

7 Again, go back to the statute that says if it's a
8 place owned or controlled by a governmental authority in
9 unsanitary conditions, that's a nuisance. If they don't
10 control it, who does? We don't control the sidewalks. Are
11 they saying that there is this slice of land in downtown, these
12 sidewalks that are controlled by nobody, no private property,
13 no governmental authority? It just exists in the ether with no
14 government -- no control over that property. Someone must
15 control it, and it's not our guys. It's them. It's them. If
16 not the City, then who?

17 And I'd like to reserve the balance of my time for
18 rebuttal. Thank you, Your Honor.

19 THE COURT: All right. You may. Thank you.

20 MR. ARNISON: I think we've got it now, Your Honor. I
21 think we've gotten to the crux of, at the end of the day, what
22 the Plaintiffs are seeking and what they want. And it was in
23 the form of Mr. Wurman's question, why isn't the City doing
24 something different? Why isn't the City building structured
25 campgrounds? Why aren't they forcing people to go somewhere



1 else into a campground?

2 Your Honor, those are questions, but not questions
3 for this Court. Those are questions for the City of Phoenix
4 City Council and its policymakers, Your Honor.

5 We start today -- we end today where we began this
6 morning with the question of whether the Court can or should
7 grant the application for a preliminary injunction given clear
8 separation of powers, principles, and the facts of this case.

9 We know what the City is and is not doing based on
10 the evidence we've heard today. We know that the City has
11 taken steps to remediate homelessness on the whole and within
12 the area to try to remedy homelessness, solve it, and fix the
13 secondary effects of that homelessness.

14 The Plaintiffs don't like the policy choice that the
15 City has made. That isn't a question that the courts resolve,
16 Your Honor. Not in the form of an injunction, not in the form
17 of declaratory or mandamus relief. That's a question for
18 City's policymakers.

19 The City has chosen to, as recently as last night, as
20 we've heard today, divert funding into shelters -- in permanent
21 shelters, into modular facilities, at least the design of
22 another space. They have elected not to make structured
23 campgrounds.

24 If the Plaintiffs do not like the policy choice that
25 the City has directed -- that the City Council has directed,



1 the remedy under Sensing v. Harris and Kromko v. Arizona Board
2 of Regents is not to come here and have the Court sit as a
3 superimposed legislative authority and direct the City Council
4 to take a different action. It is not the remedy.

5 The remedy is to petition their government and the
6 separation of powers principles that are inherent in our
7 Constitution, and they're inherent in the law dictate that
8 result.

9 Now, what else do we know that the City is doing to
10 remediate this issue? We know that the City opened a shelter
11 earlier this year to 200 individuals -- that's for 200
12 individuals. We know that the City approved the design for
13 another sprung structure and opened it or -- is planning to
14 open in the very near future a sprung structure on City land
15 and even more hundreds of beds to come. We know that the City
16 has diverted tens of millions of dollars and will divert
17 further funding from this tranche of ARPA funding.

18 We know that the City, contrary to the statements and
19 suggestions that the City is doing nothing to fix this problem,
20 has established an office of homeless solutions, a homeless
21 outreach team to engage with these individuals to try to get
22 them into permanent homes, which is the policy choice that the
23 City has made. We know that the City is engaging in cleanups,
24 that they are going to engage in enhanced cleanups coming
25 online in December 2022.



1 We know that they're actively patrolling the area.
2 We know that the City has a dedicated shelter team that is
3 specifically assigned to enforce the area in and around the
4 Human Services Campus. No other geographic area so small in
5 the City has such resources allocated to them.

6 We know that they're coordinating with literally all
7 the relevant jurisdictions and nonprofit providers in the area
8 to figure out what is the best way, based on a best practices
9 model, to resolve this issue.

10 Your Honor, as further evidence and as a matter of
11 public record, I will note through the Court that our
12 legislature considered a structured campsite -- considered
13 mandatory structured campsites -- funding contingent on
14 structured campsites twice in the 2021 legislative session and
15 the 2022 legislative session. Those proposals failed in the
16 legislature. That is not to say anything about the merits of
17 the proposal of structured campsites, the merits or demerits of
18 them. It's simply to evidence that, yes, they are political
19 questions that the legislature takes up and that the City takes
20 up, not the court's take up.

21 What do we know the City is not doing? We know the
22 City has never owned the Human Services Campus, and I would
23 correct the record, say that the City is throwing anyone under
24 the bus, simply saying that we're not taking active action to
25 create a nuisance. We don't operate a shelter down in the



1 area, in the Zone, as they call it. We don't divert
2 individuals to that area.

3 The City takes simple actions of telling people where
4 they can obtain services from the Human Services Campus, and
5 the people congregate in the area as a result. We know that
6 they don't give -- that the City is not passing out tents. We
7 know that the City is not giving people rides down to the area
8 except for courtesy rides from police if they need to get
9 somewhere for services.

10 The Plaintiffs haven't -- in contrary to their
11 argument, the Plaintiffs haven't indicated anything that the
12 City is doing as was the case in Armory Park or -- as was the
13 case -- as in the Johnson case, to cause affirmative harm. In
14 fact -- and the suggestion that they're doing nothing is simply
15 unsupported by the record.

16 They're doing something. It's something that the
17 Plaintiffs don't like and don't like that it's not happening
18 quickly enough. That doesn't mean that nothing's happening and
19 that the City isn't taking efforts to abate what is no doubt a
20 terrible condition downtown. We certainly don't dispute that,
21 nor could we. We agree with that. But the question that the
22 City must -- that the Court must order the City to do something
23 different than the policy proposals that they've chosen is
24 simply not legally tenable.

25 We also know that there are all sorts of needs and



1 difficulties at issue here. In Plaintiffs' view, it's as easy
2 as taking a piece of land and allowing people to throw up some
3 tents there.

4 Your Honor, we have heard testimony today from the
5 City's witnesses about the difficulties that are inherent not
6 only with that proposal but with any proposal to remedy
7 homelessness, whether it's a modular home, whether it's a
8 structured campground, whether it's a permanent shelter.

9 We know that people have needs for separate housing
10 based on shelter type and based on their situations. We know
11 there are domestic violence shelters. We know there are
12 working men shelters, heat, respite shelters, family shelters
13 for people with children. Plaintiffs propose clear them out,
14 abandon the current proposal -- abandon their current work, and
15 divert them all into an area that lumps everyone in the same
16 spot. That's not going to serve the purpose that the City is
17 trying to achieve.

18 We also heard questioning as to why the City doesn't
19 set up a structured campground and that we haven't given a
20 rationale for it. Well, that's simply not true. We know that
21 heat is an issue. We heard Assistant City Manager Montes
22 testify to that today. It still doesn't get them into a
23 shelter -- it takes them -- excuse me -- it doesn't get them
24 into permanent housing. It takes them to a different place
25 that's not in front of their businesses, but they're still



1 unsheltered, and they're still living outdoors, and they're
2 still subject to the same risks that they're subject to now.

3 We have another difficulty of an unsheltered
4 population that has more than quadrupled since 2014. We know
5 that we have -- we know that we have a shortage of shelter
6 beds. That was proven by Ms. -- by the testimony of Ms.
7 Montes. The City has decided on the policy of acquiring
8 facilities and/or constructing shelters of various kinds.
9 Plaintiffs want us to do it differently or do it faster or
10 both. That is not grounds for granting a preliminary
11 injunction.

12 Getting back to where we started today, Your Honor,
13 the City knows how difficult the situation is. We heard all
14 about it today, and the City's aware. And the City sincerely
15 sympathizes with what's going on in that area. It is an
16 unmitigated bad situation down there, and we understand that.
17 But whether the Court should use its judicial authority to
18 intrude upon the policy-making authority of the legislature is
19 not something -- that is not something that the Court should do
20 today. And with that, I'll end my argument. Thank you, Your
21 Honor.

22 THE COURT: All right. Thank you.

23 MR. ARNISON: Thank you.

24 MR. BAILEY: Thank you, Your Honor. You can be sure
25 that I will not go over seven minutes.



1 THE COURT: You're fine.

2 MR. BAILEY: So just a few quick points. I don't
3 agree at all with the framing that you just heard. It's not an
4 issue of it's a policy choice that we don't like. We'd really
5 love the legislature to do something, and they just -- it's
6 what they're -- it's what they're doing now is illegal.

7 If you find there's a public nuisance, it's not just
8 this something for the political arena. It means the City has
9 exercised its discretion in a way that violates the law.
10 That's what makes this case different than just an ordinary
11 thing of, you know, political question.

12 So that makes the legislature's rejection irrelevant.
13 You can look at the public debate around why it was rejected.
14 It's irrelevant. We're not asking for structured campgrounds
15 around the whole State of Arizona. We're not asking to solve
16 homelessness around the whole State of Arizona, which is what
17 the legislature was concerned with. We're talking about the
18 Zone. We're talking about the Plaintiffs' neighborhood where
19 there's a public nuisance. There may not be a public nuisance
20 elsewhere.

21 And if structured camping -- and if, by the way, as
22 the City of Boise decision allows, they didn't allow the
23 erection of tents during the day on sidewalks and public
24 easements, and they arrested for other things like drug use and
25 so on. There are any number of things they could do to solve



1 the problem in the Zone if only they wanted to.

2 It isn't just a mere policy disagreement. It's that
3 their policy right now violates the law. That's what this
4 boils down to. If it's a nuisance, it violates the law. Which
5 takes me to the only point I think that they make about it, you
6 know, that the City isn't responsible.

7 I think that they've conceded that it's a nuisance.
8 They haven't said the words, but they haven't challenged it.
9 They haven't challenged the conditions. They've effectively
10 conceded it's a nuisance.

11 Their only defense is unlike Armory Park, well, we
12 didn't open up a shelter. By the way, shelters aren't
13 considered to be public nuisances, and we cite to a footnote in
14 some cases, and we would never sue CASS anyway over this.
15 Okay.

16 I want to go back to the analogy I started with, Your
17 Honor. I know it sounds very corny, okay? But imagine a
18 private property owner that goes off to Europe for six months,
19 and an encampment opens up on his or her front yard. That is
20 not a public nuisance for which that property owner is
21 responsible. But suppose the property owner is there and says,
22 sure, you know you got nowhere else to go, I'm not going to
23 kick you off my property. That is affirmative government
24 action. That is a policy choice that they're making. That's a
25 policy choice that they're making.



1 Again, CASS been there forever. HSC has been there
2 for a long time, almost 20 years. Something changed in 2019.
3 What changed in 2019? That they are allowing the unsheltered
4 population to stay on the streets -- on their streets and on
5 their sidewalks, in public encampments. Now, the whole
6 argument, I think, then, boils down to, okay, well, what can we
7 do about it? And that goes back to my first closing when I
8 opened this up, and I said, we showed a trial, your own
9 witnesses showed at trial, but they're not even asking the
10 right questions because they think the law precludes them, or
11 that they don't have to worry because it's not their priority
12 because it doesn't solve homelessness.

13 We're not here to solve homelessness. We're just
14 here to solve this public nuisance. And we need a court order
15 to tell them that, yes, it's a public nuisance and you know,
16 therefore, you don't have the luxury of deprioritizing the Zone
17 or -- deprioritizing it because it won't solve homelessness.
18 They don't get that luxury.

19 So what are we asking for, Your Honor? We are asking
20 for a preliminary injunction, which, as you know, there will be
21 factual findings and conclusions of law. And in the
22 conclusions of law that state, you know, we are likely to
23 succeed on the merits that this is a public nuisance and that
24 there are things that can be done that doesn't violate City of
25 Boise. That's already 99 percent of the battle because, again,



1 we want relief X, and they think, well, we can't legally give
2 it to you because the law this, the law that. That's why we
3 need a court order telling us we're likely to succeed on the
4 merits of our claim.

5 And then the preliminary injunction, which is
6 specific terms, should say cease maintaining a nuisance on the
7 lands within your control and begin abating the nuisance. And
8 quite frankly, we have other suggestions in the form of an
9 order that we can propose to do it. But we can also have a
10 return hearing in four weeks, six weeks to see if the City's
11 gotten the message, if it needs more specific instructions or
12 more specific injunction.

13 The point is it's a nuisance, and this Court can tell
14 them to just like in the Burton v. Celentano case where there
15 was an injunction -- a preliminary injunction, ordering a
16 defendant to abate a nuisance, just like in Armory Park, a
17 preliminary injunction ordering to abate a nuisance. You can
18 order that. You can order that today as a preliminary
19 judgment. That's all we ask for. We want some clarity on the
20 law and telling them that their policy choice violates the law,
21 and they can't keep doing that.

22 We understand that they have lots of policy options
23 as to how to solve the problem, but what we need is for them to
24 know that they can't keep doing this because this violates the
25 law. That's all we're asking for. Thank you, Your Honor.



1 THE COURT: All right. Thank you.

2 The Court will take the application under advisement.
3 I have been reading along with some of the exhibits as the
4 witnesses have been going through them today, but I certainly
5 haven't had a chance to look at every page of every exhibit,
6 which I always do before entering any rulings. So we will do
7 that, take that in conjunction along with the testimony that's
8 been presented here today and issue a written ruling on both
9 the application as well as the motion to dismiss.

10 We will do that just as soon as we can. Technically,
11 we have 60 days in which to do that. We understand, though,
12 that this is a preliminary injunction, and we always endeavor
13 to get those out much, much quicker than that. So I don't
14 anticipate it taking 60 days, rest assured, but we'll get it
15 out just as soon as we can after giving everything very careful
16 attention that it deserves.

17 I just want to close with sincere gratitude to
18 everyone for being here today and turning everyone's attention
19 to this issue. And I know that many people in this room have
20 experienced this close-up sometimes every day of your life or
21 very close to it, and we appreciate everything that you have
22 done for our community. It's very important, and we thank you
23 for that sincerely.

24 So with that, we will be in recess.

25 And thank you, everyone, for sticking with us through



1 the day.

2 Thank you, Counsel, for your presentation.

3 MR. ARNISON: Thank you, Your Honor.

4 MR. BAILEY: Thank you, Your Honor.

5 MR. WURMAN: Thank you.

6 THE COURT: We'll be adjourned.

7 (Proceedings concluded at 4:18 p.m.)

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CERTIFICATE

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/s/

MELISSA BOYD,
Transcriber

November 21, 2022

/s/

ANGEL ROGERS,
Transcriber

November 21, 2022

/s/

JENNIFER DEL VECCHIO,
Transcriber

November 21, 2022

/s/

ALISON WILSON,
Transcriber

November 21, 2022

/s/

BRIDGITT MYERS, CDLT-279
Transcriber

November 21, 2022



Exhibit 3

Expert Report of Sheila D. Harris, PhD
Freddy Brown et al. v. City of Phoenix
Maricopa County Superior Court CV No. 2022-010439

I am a consultant who works with Government, Private Corporations and Nonprofit organizations with my expertise in housing affordability. Current clients include the City of Phoenix and Phoenix Community Alliance Community Development Corporation. I hold a Ph.D. in Public Administration from Arizona State University where the focus of my dissertation was “The roles of Nonprofit Organizations in the Creation of Affordable Housing.” I have used my studies to guide my efforts to address living conditions for people experiencing homelessness and those with low incomes. Additionally, I have held the position of Executive Director of Phoenix Revitalization Corporation, Program Director for the Phoenix office of the Corporation for Supportive Housing and was Founding Director of the Arizona Department of Housing for Governors Hull and Napolitano. For a period of 18 months (March 2017 to September 2018) I was the Director of the Human Services Campus. Alan Greenspan selected me to serve on the Head Office Board of the Federal Reserve Bank of San Francisco (1999-2004.) I am the first Arizonan to serve on the Head Office Board.

I am receiving compensation for this report and related consulting services. Included in this report are the citations used in preparing this document.

I have been requested to provide historical background information for the area that currently surrounds the Human Service Campus, review the expert report of Dr. Judge Glock, and offer my opinions on homelessness strategies employed by the City of

Phoenix currently being used to address the conditions surrounding the Human Services Campus.

In this role, I have been observing the Cleanups and Engagement Opportunities which began December 12, 2022. Seven of these activities occurred between December 12, 2022, and May 31, 2023. I have observed five of these activities and have offered my feedback and recommendations after the engagements.

HUMAN SERVICES CAMPUS: The area surrounding the Human Service Campus (1202 W. Monroe) is in the area south of the downtown core where warehousing, manufacturing and low-income residential housing has been found since Phoenix was incorporated in 1881. Charles Sargent, Editor of Metro Arizona prepared a report for the 1988 Association of American Geographers Annual Meeting in which he stated, “Lands to the south of downtown historically fared less well are now part of the downtown “zone of discard.” He further states that “...lands south of the downtown and proximate to the railroad developed as warehousing, manufacturing and low-income residential districts.”¹ With the arrival of the Park Central Mall and the Black Canyon Freeway the period between 1955 and 1986, downtown died while the suburbs thrived. While the population of the city was approaching 900,000 in 1986, the Central Business District had shrunk to the size it was in the 1920s when the population was approximately 30,000 people. What remained in downtown Phoenix were pawn shops, Single-room occupancy (SROs) hotels,

¹ Charles Sargent Editor, Metro Arizona, Prepared for the Annual Meeting of the Association of American Geographers, April 6-10, 1988, Phoenix, Arizona, pg. 148.

government, legal and financial services. Thirty years after Park Central Mall opened (1957), retail had completely disappeared from downtown Phoenix.²

On April 7, 1997, Louisa Stark, Ph.D., and her Anthropology students surveyed persons frequenting the Capitol Mall District who were obtaining meals from St. Vincent de Paul Society and Andre House. Both entities still provide meals to anyone in need of a meal. St. Vincent opened a dining hall in 1952 at 433 W. Washington and two years later (1954) moved to an abandoned church located at Ninth Avenue and Madison. Andre House began providing meals in the Capitol Mall area in 1982. On the day of the interviews contacted by Dr. Stark and her students, in 1997, 1,737 meals were served to 948 people. Eighty-four (84) percent of those surveyed (796) indicated they were experiencing homelessness.

Some of those seeking food had lived in Single Residential Occupancy (SRO) Phoenix hotels that had been razed starting the 1960's. Between the 1960s and 1997, 42 hotels and 3,800 rooms were demolished.³ This coupled with the very few public housing units built by the city (1,572) between 1943 and 1975, there was very little housing available for low-income individuals and families.

This background information is useful in understanding that this area of Phoenix has been overlooked since Phoenix was incorporated as a city. In 2005, the Human Services Campus opened to provide food, shelter, clothing, medical services, job assistance to those experiencing homelessness in one location, rather than people wandering

² Charles Sargent Editor, Metro Arizona, Prepared for the Annual Meeting of the Association of American Geographers, April 6-10, 1988, Phoenix, Arizona pg. 93.

³ Louisa R. Stark, Ph.D., "Food for Thought: Meal providers in Downtown Phoenix, A Survey of Patrons," Spring, 1977.

throughout the neighborhood, eating at one place and then wandering throughout the neighborhood to go to CASS (Central Arizona Shelter Services) to sleep and then over to Health Care for the Homeless (now Circle the City) to obtain health care. In the early 2000's, the City of Phoenix, Maricopa County, the State of Arizona, the business community, and several nonprofit organizations (CASS – Central Arizona Shelter Services, St. Vincent de Paul, and dental and health care providers came together to design the Campus, so services could be provided in a single setting. People would no longer have to leave the Campus and wander about the neighborhood for food and shelter.

RESPONSE TO GLOCK REPORT: In response to Dr. Glock's comments paragraphs 4, 5, 6, and 7, no citations are provided for his discussion, so it is difficult to respond to uncorroborated statements. He notes that the "fashionable housing first" model is ineffective because housing also or without mandated treatment will not end homelessness. I agree with that premise, but my experience is that the City of Phoenix has not adopted, nor promotes "Housing First" as the only and preferred way to end homelessness.

Homelessness occurs for many different and distinct reasons and providing only a single housing/shelter solution is not the answer. Housing First is one approach. Campground facilities are also another way to help people, but these two options are not the only ways to end homelessness. People have different circumstances and needs to be addressed. Often it takes repeated contacts to build rapport and trust with others before accepting services. If safety needs are not put in place when persons are moved to other "facilities" at another site, disastrous consequences could result.

For example, a parent experiencing homelessness with children has different needs than a single person does. Mothers with children are especially vulnerable. Placing them with single men, who may have violence and/or sexual predator tendencies, in the same campground could have disastrous consequences.

Another very vulnerable population are youth who have been in foster care, but once they become 18 years of age, they have to leave their housing because they have “aged out” of the system. They lose their housing and supportive services not because of something they did or did not do; they had a birthday. They lose their housing and associated supportive services because they had a birthday and are no longer eligible for assistance.

It is helpful to use an analogy of blood types to further explain this point. There are eight common blood types. They are A+, A-, B+, B-, O+, O-, AB+ and AB-. If you are O+ blood type and you receive a transfusion of A+ it is likely that you will have an adverse reaction or a serious health consequence could occur, resulting in additional trauma. For example, if a single man (hypothetically type O+) is housed in a campground where women and children, (hypothetically type A+) are also housed there, serious adverse consequences could occur. Also having youth (hypothetically type B-) placed in that situation could result in them being victimized and/or learning ways to victimize others. Simply having campgrounds as the solution for everyone to end their homelessness could result in additional trauma and lead to tragic consequences. A one-size fits all approach will not work.

ROLE OF POLICING: Additionally, Dr. Glock reviews the City of Philadelphia’s Kensington Encampment Resolution Pilot (2019) in the eighth paragraph of his report stating that “...camps found ‘near ubiquitous substance use among those staying in the

encampments.” This is not surprising. What is not mentioned in his report is in the section of “Lessons Learned in the Sustainment Phase, Item 6.2.5 There is no model for policing an area overwhelmed by homelessness and opioid use.”⁴ “The role of the police in the ERP (Encampment Resolution Pilot) had, by the admission of the police captain of the 24th District, no apparent precedent for formulating a response to the circumstances around the encampments. Police recognized the futility of a heavy-handed law enforcement approach, repeating frequently that they could not arrest their way out of the situation... Police officials were often excoriated by persons at community meetings and other public functions for what they perceived as police inactivity in the face of open and illegal behaviors. Many aspects of the police’s role in this situation were not in the bounds of traditional policing and more support is needed to further formulate, implement, and communicate a clearer and more proactive role for the police.”⁵

My experience in observing five of the seven Clean Ups/ Engagement Opportunities that have taken place since December 12, 2022, through May 31, 2023, the Phoenix Police Department has taken a specific role and they are only called upon to assist when weapons and/or ammunition are found while cleaning sites. In the two incidents I observed, Outreach staff found the weapons; the Police staff did not. The police did remove the weapons and ammunition when called upon to do so.

It is important to note that the City of Phoenix Office of Homeless Solutions is in charge of these events and coordinates the work of other departments and providers. Many city

⁴ Stephan Metraux et al, “An Evaluations of the City of Philadelphia’s Kensington Encampment Resolution Pilot,” City of Philadelphia, March 5, 2019, <https://philia.gov/media/20190312102914/Encampment-Resolution-Pilot-Report.pdf>

⁵ Ibid, pg. 80.

departments are involved including the Police, Streets, and Sanitation. Nonprofit service providers are also critical to assisting with housing placements, obtaining social services, and transporting people who have been living on the streets to their new home. The creation of this office provides a dedicated focus in ending homelessness in Phoenix. Having the Office as a part of the City Manager's Office sends a strong signal to other City Departments that the work of the Office of Homeless Solutions is a priority of the City.

SERVICE RESISTANCE: Dr. Glock argues in Item 12, that "large numbers of individual in public encampments are what is known as 'service resistant' and without some mandate they will not "willingly leave" to go into shelter but argues that mandates are the way to get unsheltered people off the streets. He cites a study from 2010. No citation is found for this statement.

Techniques for outreach have changed greatly since 2010 and mandates are not best practices. In 2019, the NYU Silver School of Social Work found that bureaucratic barriers rather than resistance to services lead to people not willingly obtaining shelter. Those barriers include facilities that do not have places for pets, or not having sufficient storage to be able to bring all of their belongings with them, or requirements of being separated from their children or partner. Simply telling someone that they must move and mandating that they do so immediately will not result in persons experiencing homelessness finding a place to live but could further traumatize them because they must be parted with their possessions and family. The perspective of New York University Silver Professor

Deborah Padgett states "...homeless people are not 'service resistant,' they are rational actors all too familiar with unkept promises."⁶

The United States Department of Housing and Urban Development (HUD) published guidance in 2019 to Community Responses to Encampments. The Section "Factors that Drive Local Responses" addresses the diversity of perspectives on cleaning up of business areas noting that different entities will have different perspectives. The Street Department wants to make the streets safe to travel upon, Sanitation wants to clear discarded items that make streets unsafe by removing leftover foods and bodily fluids while outreach workers are trying to help people move into a more permanent location. "Those differing views will also influence strategy, or a set of strategies, used by the city to address encampments...and can make comparing interventions across communities difficult."⁷

SHELTER OPTIONS: A variety of shelter options are needed. Historically, shelters in Phoenix would not allow a person experiencing homelessness to bring their pet into shelter. This "rule" presented a barrier to entering shelter for many people. Without their pet, often the only constant in their life, many people experiencing homelessness refused to go into shelter. The City of Phoenix has now opened a shelter that allows pets. Additionally, St. Vincent de Paul is constructing 100 transitional housing units for seniors

⁶ Deborah Pagett, "NYU Silver Study Counters Narrative That Street Homeless Are 'Service Resistant,'" June"
<https://socialwork.nyu.edu/news/2019/nyu-silver-studycountersnarrativethatstreethomelessareservicerer.html>,
June 4, 2019.

⁷ Rebecca Cohen, Will Yetvin and Jill Khadduri, "Understanding Encampments of People Experiencing Homelessness and Community Responses: Emerging Evidence as of Late 2018, United States Department of Housing and Urban Development, Office of Policy Development and Research, January 7, 2019.

that will allow residents to have pets and they are also constructing a veterinary clinic on site to care for the pets.

Dr. Glock indicates that mobility of unsheltered persons is an issue "... that makes mere changes in housing prices in local markets less relevant to solving unsheltered homelessness" and continues that "it is difficult to house local unsheltered persons." The City of Phoenix cannot ban people from moving here, nor can they control rents and mortgages.

When there is a tight housing market as we have now, the supply of housing cannot meet the demand. As a result of this situation housing prices and rents increase for everyone. Landlords are free rents because the lack of supply provides them the opportunity to raise rents because people are willing to pay more because they need a place to live. Landlords can easily increase rents because the supply of housing is small. There are few housing units available so they can charge more for the ones that exist. This is a supply and demand problem.

Now that the pandemic and the regulations that curtailed evictions have ended, more and more people are losing their housing. In the month of May 2023, 6,782 eviction cases were filed by landlords in Maricopa Superior Court.⁸ It is uncertain when this trend will end. Without more housing units at all price points, but especially at the lowest end, more people will become homeless. The churning of the housing market will continue. It will take longer to obtain housing because few units are available. The demand for housing is much greater than the supply.

⁸ Arizona Family Digital News Staff and David Caltabiano, June 2, 2023.

STRATEGIES FOR ENDING HOMELESSNESS: Enforcement is cited as a mechanism to end homelessness by Dr. Glock (Footnote 18.) The document denotes the policies in Colorado where enforcement was used as a strategy to move persons experiencing homelessness resulted in them accepting services. While there was outreach to 610 people and 435 accepted services, this left 175 people without housing and if they continued to stay, they are required to move. This was a temporary solution and in May of 2022 the Denver Post reports that the state of Colorado would be spending \$95 million to create two new campuses to help people transition out of homelessness.⁹ While enforcement may have assisted some people to move to other locations, it did not end homelessness in Denver.

Dr. Glock cites an article (Footnote 19) by Christopher Rufo, “Enhancement Works” stating the City of Burien, Washington gave notice to 50 to 100 people to vacate. Some moved on, some accepted services and the enforcement required police involvement because only one person was arrested. At first glance, this seems to be a recipe for success, but the article later states “...A more compelling objection is the Burien’s policies simply export the homeless to nearby cities and thus don’t solve the problem. And it’s true that most of Burien’s homeless simply moved on, undoubtedly to more permissive cities like Seattle.”¹⁰ Having people who are experiencing homelessness simply move to another community does not end homelessness. It only moves it to another location.

⁹ “New laws establish two Colorado campuses to ‘really more the needle on the homelessness crisis,’” May 17, 2022.

¹⁰ Christopher Rufo, “Enforcement Works,” City Journal, August 23, 2019, <https://www.city-journal.org/article/enforcement-works>.

Additionally, Dr. Glock suggests that “In practice, camp clearings, warnings, and referrals to services are usually enough to clear camps with minimal citations and few if any arrests (Paragraph 22.) I would agree that has been the case in five of the seven CleanUps/Engagement Opportunities conducted by the City of Phoenix that I have observed since December 2022 through May 2023. Very few people who were experiencing homelessness declined assistance. The City of Phoenix has been implementing this strategy quite successfully. Data provided by the City of Phoenix below shows the work that has been done to date.

Table One
City of Phoenix Clean Ups/Engagement Opportunities

DATE	LOCATION	NUMBER OF PERSONS CONTACTED	NUMBER OF PERSONS PLACED
12/16/2022 Clean Up	Madison – 12 th to 13 th Avenue	40	33
01/04/2023 Clean Up	12 th Avenue – Madison to Jefferson	55	42
01/27/2023 Clean Up	11 th Avenue – Madison to Jefferson	23	13
03/03/2023 Clean Up	Madison – 11 th Avenue to 12 th Avenue	29	15
03/29/2023 Clean Up	10 th Avenue – Madison to Jefferson	35	20
05/10/2023 Engagement Opportunity	9 th Avenue – Washington to Jefferson	59	45
05/10/2023 Engagement Opportunity	12 th Avenue – Washington to Jefferson	44	37
		285	205

City of Phoenix, Office of Homeless Solutions, June 7, 2023¹¹

¹¹ City of Phoenix, Office of Homeless Solutions, June 7, 2023

Slightly more than seventy-one (71) percent of the people who had been living on the streets surrounding the Human Services Campus have moved from the streets to housing. People were given choices based upon availability of other housing options. Some have moved into the CASS shelter; others have gone to the City Shelter at 28th Street and Washington; some have gotten hotel rooms. I know of a couple that had to be transported to a hospital because they needed medical care. Arrangements were made to provide shelter for their dog while they were in the hospital.

I did not observe the Clean Ups of January 27 nor March 3, 2023, but was present at the other events. The actions taken by City of Phoenix staff at all levels were professional and caring. City of Phoenix staff were joined by staff from the Human Services Campus and Community Bridges (a nonprofit organization that specializes in aiding people with addictions) to aid in preparation of the Cleanups/Engagement Opportunities. People living on the street that was to be cleaned were notified a minimum of one week and in many cases two weeks prior to the event so they would be aware of what was going to happen and when. In all of my observations, I have never seen anyone surprised that the cleaning/engagement event was going to occur.

CLEANUPS & ENGAGEMENT OPPORTUNITIES: Over time I have seen changes and adaptations to the procedures of the Clean Up/Engagements events. Initially they were called “Clean Ups” but the last two have been called “Engagement Opportunities.” I think that is a good change because these activities are more than “clean ups.” They are opportunities for people to end their homelessness – something much more than having a clean place to sleep. Also, other nonprofit organizations including CASS (Central Arizona Shelter Services) and UMOM (United Outreach Ministries) were actively involved

in the May 31st event. The City is actively engaging with the nonprofit community to aid in ending homelessness.

After each Clean Up/Engagement Opportunity City staff review the events that transpired and makes adjustments to improve future events. Changing the name from “Clean Ups” to “Engagement Opportunities” is more than a name change. It is a recognition of a change in focus from cleaning a place to direct engagement with people who were living on the streets.

In the Structured Camping and Other Alternatives to Public Encampments (Paragraphs 23 through 30) Dr. Glock provides information about several sites throughout the United States and provides some information regarding costs of establishing a site and on-going operations. These are options the City of Phoenix may have already reviewed and could glean possible program options to incorporate into City policies. The costs indicated in this section are from the time periods of 2007 through 2019 so cost estimates and program outcomes will need to be updated and evaluated for possible inclusion for policies that could be adopted by the City of Phoenix.

I was unable to obtain more up-to-date information regarding the Esperanza Community cited by Dr. Glock in Paragraph 30 because the website indicates that they are doing extensive remodeling and are not taking new clients at this time.

<https://toofound.org/esperanza-community>¹²

¹² Esperanza Community – The Other Ones Foundation, <https://www.city-journal.org/article/enforcement-works>.

In Paragraph 31, Dr. Glock opines that the City of Phoenix could rapidly and at a low-cost relative to its other homelessness initiatives establish and operate structured campsites similar to those in other cities. That might be true, but making people move to other locations, or arresting them because they do not want to move results in additional trauma to the people experiencing homelessness and there would be significant backlash to the City of Phoenix. Telling people, they need to move along or be arrested does not end homelessness. Encouraging people to “move along” does not end homelessness. Arresting people does not end homelessness.

OBSERVATIONS REGARDING THE CITY OF PHOENIX ENGAGEMENTS

OPPORTUNITIES: The City of Phoenix has adopted a strategy that provides an individualized approach to ending homelessness on the streets surrounding the Human Services Campus. Care was given to help people decide what items they wished to take with them, as well as items that they wanted to store on the Campus and return later to determine if they wanted to keep any of those items. Also, they also had the option of eliminating items they no longer wished to keep.

The pace of the engagements is reasonable. It is dependent on finding suitable housing for those who are unhoused, obtaining staffing from the City and nonprofit organizations to assist with outreach, and coordination with the Streets Department for physical cleaning of the streets, sidewalks and right of ways.

The first five activities by the City to address assisting people to move off the streets allowed persons that did not want to leave, to return to their previous site. This has resulted in those areas once again filled with people experiencing homelessness and their possessions. The last two activities have a focus on permanent cleaning of the streets

and not allowing anyone to move back or move into the cleaned area. Closing the area one block at a time for cleaning and not allowing people to return is important for meeting long-term goals. It has been disheartening to me to return to the areas that have been previously cleaned, once again filled by people experiencing homelessness. The clearance of 10th Avenue between Madison and Jefferson had resulted in the businesses on 10th Avenue to be able to park their vehicles during the day in off street parking, but on other occasions I have driven past that area after work hours and found it filled with “street feeders” – private citizens wanting to help those experiencing homelessness by providing food. The City of Phoenix does not have the authority to regulate food service operations and third-party street feeders can pose challenges to City-wide cleaning efforts.

I believe the intentions of those providing food to people experiencing homelessness are well intentioned but have detrimental results. During the time I was Director of the Human Services Campus street feeding was a major problem. Individuals would bring a variety of foods and drinks and hand them out to people on the street. Sometimes, when the food ran out, fights erupted because not everyone got something to eat. The responsibility for calming people down fell onto the outreach workers at the Campus. Rarely did the Police become involved.

Food residue was a constant challenge. Discarded food containers and dropped food attracted vermin. A significant amount of time by staff was spent on the aftereffects of street feeding from food remnants, paper plates, plastic bottles that were often left on the street and sidewalks. This became a burden on Campus staff who would have to clear the sidewalks and streets on a daily basis; sometimes three times a day. During the

holidays (Thanksgiving, Christmas, and New Years) many people felt the need to share. They would drive to Campus, unannounced and started handing out whatever they wanted to share including the remains of their Thanksgiving dinner. We worked with the Sanitation and Police departments to direct traffic and clean up the neighborhood after the holidays feeding frenzy. Campus staff felt inundated during these three holidays. City staff told me that the cleanup of the streets after these three holidays resulted in more than 27 tons of trash going into the landfill.

I believe people had good intentions, but it had very detrimental effects on the neighborhood and people being served by the Campus. I saw someone give a person experiencing homelessness near the Campus a huge pie from COSTCO in its original container with no utensils or plates provided to eat it. It was immediately discarded. Another person thought providing alcohol during the holidays would be a nice gift. Unfortunately, some people drank too much alcohol and became ill during the night resulting in them vomiting in the shelter. That was very unpleasant for others nearby and for the staff to clean up the area. One person became so sick he had to be transported to the hospital for alcohol poisoning.

I worked with the City to establish the Heathy Giving Council that worked with churches and others who wanted to provide nourishment for those experiencing homelessness in a more organized and effective way. They still continue to provide this service and it has greatly reduced unused and discarded food in the area and redirected concerned citizens to give in a manner that is helpful. Jerome Parker, Community Pastor at First Christian

Church learned from his work that giving people on the street food and blankets often resulted in trashing the neighborhood.¹³

Jerome and I along with 17 others including neighborhood leaders, service providers, and advocates working to end homelessness were members of the City of Phoenix Strategies to Address Homelessness Task Force and made recommendations to the City in April 2022. Items we focused upon included better use of data to inform decision making, working closely with neighborhoods when establishing new shelters and distributing them throughout the city, and creating a department within the City that focuses on ending homelessness. The Office of Homeless Solutions has been established in response and a team of 28 people will be employed full-time to implement the activities of the office. It is a part of the City Manager's Office to convey to residents and city staff, ending homelessness in Phoenix is a priority of the City.¹⁴

I believe the City is listening. When they opened a new shelter near 28th Street and Washington in an abandoned Department of Motor Vehicles building, significant outreach with the neighborhood was conducted. Several meetings were held, and many opinions were provided, but the group did come to consensus. The shelter has just had its one-year anniversary. Driving by the building one would never know nearly 250 people were living there.

ESTABLISHING A TIMELINE TO COMPLETE CLEARING OF THE AREA SURROUNDING THE HUMAN SERVICES CAMPUS: Setting a date to have the area

¹³ <https://www.azcentral.com/story/news/local/phoenix/2018/11/14/phoenix-pastor-think-before-you-give-holiday-season-homelessness-services-charity/1931636002/>

¹⁴ <https://www.phoenix.gov/humanservicessite/Documents/Task%20Force%20Recommendations%20to%20the%20City%20Manager-Final.pdf>

around the Human Services Campus cleared is exceedingly difficult, if not impossible. So many factors that are out of the control of the City directly affect their ability to address this issue. This is an ever-changing environment in which the City has limited control. For example, the City cannot control the real estate market, but the over-heated housing market has caused housing prices to soar. The spike in housing prices and the lack of supply are putting more and more people with fewer and fewer options to live and at a greater cost than they can necessarily afford. People move here for a new job, or for the weather, or to be near family, and sometimes things do not work out and they become homeless. Others have always lived here, and they are evicted and have no housing replacement option. As housing prices rise, more and more people are finding it harder and harder to obtain housing they can afford.

The world and work of ending homelessness is one in which there is little control or predictability.

I think of my own experience as Director of the Human Services Campus in 2018 versus today. I left the Campus at the end of August 2018. The “Boise” decision occurred in mid-September 2018. That decision greatly affected and changed how providers and cities provide services to those experiencing homelessness. It also has caused confusion about what “are” or “are not” legal policies and procedures.

Secondly, while it has been common for those experiencing homelessness to take illegal substances, the widespread use of Fentanyl has not been seen before. Fentanyl pills can be purchased for twenty cents (\$.20) per pill on the streets of Phoenix. Many people who are experiencing homelessness use drugs. At this low-cost price point, I believe

more and more people will become addicted. Fentanyl is cheap and deadly. When I was Director of the Campus drugs were more expensive and not potent.

These are only two of the many factors that must be addressed to end homelessness. Neither were planned nor expected. Both have caused confusion among many who are working to end homelessness and compounded the difficulty in ending homelessness that is in compliance with the Boise decision, while more and more people are dying daily because of Fentanyl use. Setting an end date to clean up the area around the Human Service Campus could be a goal, but one that has many factors against achievement or even control of the myriad of factors that affect the daily operations of the Campus.

Ending homelessness is a task that is person centric. What helps one person may not help another.

I leave you with a true story about a woman who ended her homelessness. A story that illustrates why it is so difficult to set timelines and outcomes.

Mary (not her real name) is a woman who had ended her homelessness and had just moved into an apartment. She had stabilized her life and was able to feed and clothe herself and her beloved cat. Unfortunately, one day the cat got outside and became quite wet. After retrieving her cat, the woman decided to put her cat in her microwave oven because she thought it would quickly dry her cat. She was right about it quickly drying her cat. It also killed her cat. No one thought to tell her that she should not put her cat in the microwave – not out of neglect - It just never entered anyone's mind that that would happen.

Dated : June 9, 2023

Sheila D. Harris

Sheila D. Harris

SHEILA D. HARRIS, PhD

Sheila D Harris Consulting Services, LLC
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Litchfield Park, AZ 85340
602-463-6315 (cell)
Sheila@harrisconsult.co (email)

EMPLOYMENT HISTORY

SHEILA D HARRIS CONSULTING SERVICES, LLC

Principal

(September 2011 to present)

Using the expertise, I have gained during the past 40+ years of work experience, I provide consulting services in the areas of community/economic development, housing and human services to public and private entities. Customized services are provided for each client based upon their needs. Clients include: Human Services Campus, Cities of Mesa and Phoenix, Arizona; Dominion Development; Native American Connections, Snell and Wilmer, The Salvation Army – Albuquerque, New Mexico and Phoenix, Arizona; WESCAP Investments and West Valley Child Crisis Center.

MOLERA ALVAREZ GROUP

Senior Vice President

(November 2007 – August 2011)

I oversaw housing and economic development consultation for the firm. Areas of expertise included acquisition, rehabilitation and development of multi-family and single-family developments, as well as housing affordability and economic development financing strategies for private sector, local, county, state, and federal governments, and tribal entities. Clients include: Arizona Association of Mortgage Brokers, City of North Las Vegas, Coe and Van Loo, Native American Connections, Mercy Housing Colorado, PTE Real Estate Group, Ruiz Engineering, Snell and Wilmer, and The Salvation Army - Phoenix.

STATE OF ARIZONA

Arizona Department of Housing Director

Arizona Housing Finance Authority Executive Director

(January 2002 – October 2007)

I was the founding Director of the Governor's Office of Housing Development (GOHD) which became the Arizona Department of Housing (ADOH) in October 2002; and the founding Executive Director of the Arizona Housing Finance Authority (AzHFA).

Oversaw a staff of 70 persons and administered a variety of housing development programs including the Continuum of Care (Rural Arizona), Low Income Housing Tax Credits, HOME Investment Partnership Program, Community Development Block Grants, Supportive Housing, State Housing Trust Fund, Housing Opportunities for Persons with AIDS, and Section 8 Federal Tenant-Based Rental Assistance Program. Responsibilities included monitoring and complying with Federal and State regulations of over 45,000 rental units throughout the state. ADOH also provided financial and feasibility analysis for Multi-Family Mortgage Revenue Bonds.

FY 2008 allocations for these programs are approximately \$100 million, including an operational budget of \$4 million. Total ADOH/AzHFA disbursements during my tenure exceeded \$1.5 Billion.

Served as Executive Director of the quasi-governmental entity the Arizona Housing Finance Authority (AzHFA) the entity that administered the Rural Single-Family Mortgage Revenue Bond programs (\$80 million in FY 2008.) Administered this program with the guidance and direction of a seven-member, Governor appointed Board.

Sheila D. Harris, PhD
Page 2 of 5

Also served as Executive Director of the Arizona Housing Commission, a 24-member Governor's appointed, citizen advisory committee and was a member of the Governor's Cabinet, Children's Cabinet and Growth Cabinet.

HARRIS CONSULTING
(July 1998 – 2001)

I provided technical assistance to private and public sector businesses to develop affordable housing, supportive housing, and community and economic development activities. Services focused upon developing strategies to: obtain financing; garner business, community, government, and neighborhood support; and conduct project feasibility analysis that integrates complex governmental and social service programs requirements. Consultation activities also include providing best practice information, organizational development assessment, project feasibility analysis, and program evaluation. Clients included Chicanos Por La Causa, Family Housing Resources, House of Refuge East, Inter-Tribal Council of Arizona, Pinal County Housing Authority, Maricopa County Department of Public Health, Maricopa County Industrial Development Authority, Native American Connections, Inc., Neighborhood Housing Services of Phoenix, Neighborhood Housing Services of Southwest Maricopa County, Phoenix Body Positive, Stardust Foundation, Tempe Community Council, Triple R Behavioral Health, Inc. and *ValueOptions*.

CORPORATION FOR SUPPORTIVE HOUSING - PHOENIX, ARIZONA
Program Director
(August 1995 - September 1998)

Responsible for the creation and development of the Arizona office of the Corporation for Supportive Housing (CSH), a national, non-profit intermediary dedicated to assisting non-profit organizations in the development of permanent, supportive housing for homeless and special needs populations. Provided technical and financial assistance to agencies, which resulted in nearly 200 units of special needs housing being developed which leveraged over \$13 million dollars in additional funds being brought into the community. Oversaw the development of a Maricopa County wide assessment to determine the housing needs of homeless populations and assisted in developing an AIDS housing plan for Maricopa and Pinal counties. During 1997, services were expanded statewide.

CASA DE NUEVA ESPERANZA/PHOENIX REVITALIZATION CORPORATION
President/Executive Director
(July 1990 - July 1995)

In 1990, a concerned group of citizens formed this nonprofit organization to increase the supply of affordable housing in the metropolitan Phoenix area. Created and developed the Affordable Housing Institute whereby via hands-on project application, participants learned the construction and development process of affordable housing. Participants included architects, attorneys, bankers, developers, government officials, real estate agents and brokers, and religious leaders. Arizona State University nominated the Institute for a national award as an innovative program in the Continuing Education field.

While at PRC, I oversaw a variety of community revitalization activities including: the rehabilitation of nearly 100 homes in the Central City South Community and the development of the Neighbors Helping Neighbors, Community Builders and Neighborhood Service Corps programs. Technical assistance was provided to low and moderate-income families wishing to purchase Resolution Trust Corporation properties. In association with Phoenix Memorial Hospital, created school-based health care centers.

HOMEWARD BOUND
Director of Programs
(February 1990 - October 1990)

I was instrumental in development of this nonprofit transitional housing organization. Developed the intake system for families, secured sponsors for the program, and supervised the professional staff. This position required extensive public speaking, knowledge of social services programs, and coordination of public services. I also developed linkages among community sponsors, governing board, staff, and families.

ARIZONA STATE UNIVERSITY - DOWNTOWN CENTER
Assistant Director
(August 1987 - February 1990)

Developed business, governmental, professional and community linkages needed to support activities associated with ASU programs. Duties included writing proposals to expand Downtown Center activities and organizing a series of lectures and discussions regarding affordable housing, and liaison duties among Downtown Center, main campus, and Project PRIME (Program to Increase Minorities in Education). I was responsible for operation of the Downtown Center facility including coordination of space planning for new facility. During the absence of the Director, I assumed administrative functions and duties.

GRADUATE STUDENT
(September 1986 – May 1991)

I completed my Doctorate in Public Administration from Arizona State University. Approved dissertation topic was Non-profit organizations in the creation of affordable housing: Three case studies. Research focused upon the cities of Boston, Chicago and San Francisco and studied efforts by nonprofit housing organizations to produce affordable housing in those communities.

OWNER/BUILDER
Rammed Earth Home
(November 1984 - January 1986)

I supervised the construction of our family residence including all phases of construction from design to completion including obtaining building permits and coordinated the schedule of subcontractors. I also secured loans for construction and permanent financing.

CONSULTANT IN PRIVATE PRACTICE
(January 1981 - July 1983)

Under contract to Rio Salado Community College, I conducted needs assessment studies and assisted the Department of Health Services in developing a needs assessment instrument to determine the size and needs of those with emotional challenges.

ARIZONA CONSORTIUM FOR EDUCATION IN THE SOCIAL SERVICES
(March 1978 - August 1980)

Acting Executive Director and Planner/Evaluator for this Title XX funded educational program for Department of Economic Security (DES) staff. I established a network that provided feedback to Title XX staff, contractors and DES staff concerning development and delivery of specialized training. Continuously updated training activities identified potential problems, obtained reaction from training participants and instructors, and provided testing information and recommendations to DES.

OFFICE OF EMPLOYMENT AND TRAINING
(February 1976 - September 1977)

I held the positions of Planner, Assistant Operations Coordinator and Public Information Officer while administering the Comprehensive Education and Training Act (CETA) for the City of Kansas City, Kansas. My duties included evaluating proposals submitted for funding, conducting on-site monitoring of program activities, and managed computer records of participants enrolled in CETA training activities.

APARTMENT MANAGEMENT
(June 1975 - January 1976)

During graduate school I worked part-time as Assistant Manager of the Crescent Apartments in Lawrence, Kansas while attending graduate school for my Master's degree. My responsibilities included collecting rent, bookkeeping, handling resident complaints and requests, and maintaining a neat and attractive apartment complex of nearly 200 units.

PROJECT COORDINATOR
(March 1974 - May 1975)

While in college I oversaw 300 college students and associated program activities for the Volunteer Services organization. Screened volunteers and provided placement.

EDUCATION

Fannie Mae Foundation Fellow - Senior Executives in State and Local Government Program, John F. Kennedy School of Government, Harvard University, July 2006

Ph. D. Arizona State University, Tempe, Arizona, 1991, Doctor of Philosophy. Approved dissertation topic: Nonprofit organizations in the creation of affordable housing: Three case studies.

M. A. University of Kansas, Lawrence, Kansas, 1978, American Studies - Urban Planning and Process.

B. A. (Summa Cum Laude), Ottawa University, Ottawa, Kansas, 1976, Dynamic Patterns of Individual Development.

SELECTIVE AWARDS

Phoenix Community Alliance, Center City Champion Award, 2020
International Member of the Year and Fellow, Lambda Alpha International Honorary Society, 2019
Certificate of Appreciation, Native American Community Service Center – One Stop Service Center for Native American People, 2009
Central Arizona Shelter Services Dream Catcher Award, 2008
Certificate of Appreciation for Distinguished Contribution, Federal Reserve Board of Governors, Washington, DC, 2004
Citation for Distinguished Service, Federal Reserve Bank of San Francisco, 1999-2004
Distinguished Leadership Award, Congressional Hispanic Caucus Institute, Washington, DC, 2004
Agua Fria Union High School District # 216 Certificate of Appreciation, 2000
Native American Connections, Inc. Recognition of Support to the Native American Community, 2000

MEMBERSHIPS AND PUBLIC SERVICE – 1990 - 2022

Member of the City of Phoenix City Manager Task Force – Strategies to Address Homelessness (January 2021- April 2022)
Phoenix Community Alliance Co-Chair Committee on Social and Housing Advancement (2019 to present)
LAI (Lambda Alpha International) Past International President (2022-2023); International President (2019-2021), International Treasurer, (2015 – 2019); International Assistant Treasurer (2013-2015);
LAI Phoenix Chapter Board Member and Past President (2009 – present)
Human Services Campus Board of Directors (2016 – February 2017)
Frank Lloyd Wright Taliesin West, Board of Stewards, (2013 – 2017)
Director, Federal Reserve Bank of San Francisco (1999 – 2004); Deputy Chairman (2003-2004)
Ex-Officio Member, Arizona Realtors Housing Needs Foundation, Arizona Association of Realtors (2004 – 2007)
Member, Arizona Rural Development Council, (2004 – 2007)
Board Member, Arizona Family Housing Fund, Stardust Companies, (2002 – 2004)
Chairperson, City of Phoenix Housing and Neighborhoods Commission (1996 - 2001)
Board Member, Sunnyslope Village Revitalization Corporation (2001)
Steering Committee Member, Maricopa County Continuum of Care (2000 – 2002 and 2018 - 2019)
Member, City of Phoenix Citizen Bond Committee, Neighborhood Revitalization Subcommittee (2000)
Member, Phoenix Community Alliance (1994 – 2007; 2019 - present)
Member, Herberger Center External Advisory Board, Arizona State University, College of Architecture and Environmental Design (1996 - 2002)
Chairperson, City of Phoenix Community Development Block Grant Citizen Review Committee; Member Enterprise Community Steering Committee (1997 - 1998)
Chairperson, Arizona Department of Environmental Quality Environmental Justice Committee, (1995-1996)
Valley Leadership, Class XVII, (1996)
Chairperson, Community Neighborhood, Education and Service Action Committee, Phoenix Future's Forum (1990-1991)
Elected School Board Member, Litchfield Elementary School District Number 79 (1988-1996); Agua Fria Union High School Number 216 (1997 - 2000)

SHEILA D HARRIS CONSULTING SERVICES

Community/Economic Development/Housing/Human Services

Sheila D. Harris, PhD

Dr. Harris has been involved in the development of affordable housing and ending homelessness for over 35 years. She has taken a multi-disciplinary approach to her work and as a result has amassed significant knowledge and experience in the field.

Her employment career includes serving two Arizona Governors. She is the founding Director of the Arizona Department of Housing and Arizona Housing Finance Authority. During her nearly six-year tenure in those positions she oversaw the financing of more than \$1.5B in housing and community economic development. Additionally, she has served as Executive Director of the Human Services Campus, Program Director for the Arizona Office of the Corporation for Supportive Housing and the founding Executive Director of Phoenix Revitalization Corporation.

In addition to her public service and work experience, Dr. Harris received her doctorate in Public Administration from Arizona State University. Her dissertation focused on the creation of affordable housing. She holds a Master's degree from the University of Kansas and a Bachelor's degree from Ottawa University.

Dr. Harris has been very active in the community and has served on numerous boards and commissions including 12 years as a publicly elected school board member (Litchfield Elementary and Aqua Fria Union High School,) former President of the Phoenix Chapter, and Immediate Past International President of Lambda Alpha International Honorary Society, and is the Co-Chair of the Social and Housing Advancement Committee for Phoenix Community Alliance. She was appointed by then Chairman Greenspan as a member of the Federal Reserve Bank of San Francisco where she served for six years (1999-2004) and served at Deputy Chair of the board for nearly two years. Dr. Harris was the first Arizonan to be chosen to serve on the head office board.

In 2011 she established Sheila D Harris Consulting Services and in that capacity she shares her expertise in housing and economic development activities. Activities include acquisition, rehabilitation and development of multi-family and single family developments, as well as consulting services for private sector, local, county, state and federal governments and tribal entities.

Exhibit 4

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

FREDDY BROWN, et.al.,)	
)	
Plaintiffs,)	
)	
vs.)	CV 2022-010439
)	
CITY OF PHOENIX,)	
)	
Defendants.)	
)	
_____)	

Phoenix, Arizona
July 11, 2023

BEFORE THE HONORABLE SCOTT A. BLANEY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(Bench Trial)

PREPARED FOR:
COPY

MICHELE KALEY, CSR, RPR
Certified Court Reporter #50512
(480) 558-6620

A P P E A R A N C E S

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Phoenix, Arizona
July 11, 2023

P R O C E E D I N G S

(Whereupon, the following proceedings
commenced in open court.)

THE COURT: Good morning. Please be seated.
Give me just a second here, folks. These computers
are going to take a moment to get set up.

All right. We are back on the record in
Freddy Brown, et.al. versus City of Phoenix, CV
2022-010439.

Are plaintiffs ready?

MR. WURMAN: Good morning, your Honor. Ilan
Wurman on behalf of plaintiffs. And we are ready to
proceed.

THE COURT: Thank you. Defendants.

MR. PIERCE: Your Honor, we are.

THE COURT: Thank you. And I think,
Defendants, you have the floor.

MR. PIERCE: We do. Thanks, your Honor. We
call --

THE COURT: Actually, before you call, a
couple housekeeping matters. Does it still look today
that plaintiffs will be done with their rebuttal -- of

1 course, depending upon -- I should probably direct
2 this to defendants first.

3 Does it look like you will be finishing today.

4 MR. PIERCE: Oh, for sure. Your Honor, we
5 have three remaining witnesses.

6 MR. ARNISON: Four.

7 MR. PIERCE: I'm sorry, four, a couple of
8 which are fairly short. We would anticipate probably
9 close to the lunch hour between the cross and the
10 direct as it's been going so far to be -- to be done
11 with our case in chief.

12 THE COURT: Okay. And for plaintiffs, I don't
13 know if you're putting on a rebuttal case or if you're
14 going right into closings.

15 MR. WURMAN: At this point, your Honor, we
16 don't anticipate a rebuttal case.

17 THE COURT: Okay. And so you'd be finishing
18 today, as well, I'm assuming.

19 MR. WURMAN: That is the idea and hope.

20 THE COURT: Okay. When we get to the point
21 where we are going to start closings, either party let
22 me know if you want time to put together your closing.
23 Because we're finishing early, I'm more than happy to
24 give you 30 minutes, an hour, whatever you need to
25 prepare those.

1 The Court's going to ask at that time for
2 proposed findings of fact and conclusions of law.
3 I'll need to know how long you guys need to prepare
4 those. It's really on your timeline, so don't -- you
5 know, make it workable.

6 And then both parties requested in the
7 complaint and in the answer for their attorney's fees.
8 I, at least, need an argument during closing argument
9 as to the basis for those attorney's fees. So just
10 something on the record.

11 And with that, Mr. Pierce, the floor is yours.

12 MR. PIERCE: Okay. Thank you, your Honor. We
13 will call Jeremy Huntoon.

14 THE COURT: Jeremy?

15 MR. PIERCE: Huntoon, H-u-n-t-o-o-n.

16 THE COURT: Sir, come on up, if you would, and
17 just stand at the end of that counter right there.

18 THE CLERK: Would you please state and spell
19 your name.

20 MR. HUNTOON: Yeah. Jeremy Huntoon,
21 J-e-r-e-m-y, last name H-u-n-t-o-o-n.

22 THE CLERK: Thank you. Please raise your
23 right hand.

24 THE COURT: Thank you, sir. Have a seat, if
25 you would.

1 MR. PIERCE: Thank you, your Honor.

2

3

JEREMY HUNTOON,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6

7

DIRECT EXAMINATION

8 BY MR. PIERCE:

9

Q. As a preliminary matter, we've already been
10 warned yesterday we had a court reporter here whose
11 hands, by the end of the day, were probably cramping.

12 Word is out because the court reporter here
13 today already asked us to make sure we speak slowly
14 and clearly so that she can take down the testimony
15 today.

16 So, Mr. Huntoon, would you please do your best
17 to -- to not speak quickly in your answers?

18 A. I will.

19

Q. Awesome. Thank you. Would you share with the
20 court your name and your position with the City of
21 Phoenix?

22

A. Yeah. So I'm Jeremy Huntoon. I'm the
23 Outreach Coordinator for the Office of Homeless
24 Solutions with the City of Phoenix.

25

Q. How long have you held that position?

1 A. I have been employed with the City of Phoenix
2 since November of 2022.

3 Q. So November of 2022, is it -- were you
4 employed with the City before this lawsuit was ever
5 filed?

6 A. I was not.

7 Q. Okay. In fact, were you employed -- did your
8 employment begin after the initial hearing in this
9 case?

10 A. I do not know.

11 Q. Okay. The initial hearing was in October.

12 A. Okay. Then, yes.

13 Q. Thank you. Prior to the start of your
14 employment with -- well, first of all, as an outreach
15 coordinator, what are your job duties and
16 responsibilities?

17 A. My job duties include, I supervise an outreach
18 staff, an internal outreach staff of five. So
19 building up those capabilities, working in identifying
20 any training issues for that team, as well as going
21 out into the community and providing services as
22 needed.

23 Q. And we will talk about some of those here in a
24 little bit.

25 Prior to starting your role as an outreach

1 coordinator, where were you employed?

2 A. I started in the field in 2010.

3 Q. Let me stop you. When you say, "the field,"
4 what do you mean by the field?

5 A. I began non-profit work, so working with
6 homeless individuals, providing services initially at
7 a crisis facility and a detox center overnight.

8 Q. And you said that was in 2010?

9 A. That was in 2010. That was January of 2010.

10 Q. Okay. How long did you hold that position or
11 those positions in that field?

12 A. That particular position was from January to
13 later part of March or possibly beginning of April of
14 the same year. And then beginning in -- in around
15 April of 2010 is when I first held my -- my first
16 homeless outreach position at the Human Service
17 Campus.

18 Q. Okay. So in -- at the Human Service Campus in
19 Phoenix, Arizona?

20 A. Correct, yes.

21 Q. Okay. How long were you in that role?

22 A. I've held a variety of positions on or around
23 the Human Service Campus all the way up until around
24 February of 2022.

25 Q. What did you do in February of 2022?

1 A. I moved and I went and worked up in Oregon
2 for -- from April -- or I'm sorry -- from March until
3 returning here in November.

4 Q. March to November, so approximately --

5 A. Ten-ish months.

6 Q. Okay. Realized it was a lost cause up there.
7 I'm sorry. I'm just kidding.

8 A. No comment.

9 Q. What did you -- what brought you back to
10 Phoenix then, in that November timeframe?

11 A. The employment opportunity with the Office of
12 Homeless Solutions.

13 Q. It sounds like then, from 2010 to today,
14 you've had a significant role in homelessness work; is
15 that right?

16 A. I like to think so, yes.

17 Q. What -- what drove you to that -- to that line
18 of work?

19 A. I have a history of homelessness and substance
20 use myself, which I was able to overcome. I
21 actually -- I don't know -- around 2008 or so, I
22 detoxed with a local non-profit organization. And
23 that's when I first came across positions held within
24 that organization, peer support specialist. And
25 that -- that inspired me. You know, it -- that was

1 the first time that I had ever actually worked with
2 somebody such as myself that overcame similar
3 barriers. And it was a goal that -- that I wanted to
4 achieve.

5 Q. So is working in this area just a job to you?

6 A. It is not. It is a personal passion and a
7 career.

8 Q. How does that personal passion help you
9 perform the functions of your job?

10 A. I would say that personal passion assists
11 me -- it provides that drive to continue to go back
12 out into the field as -- as I know that, if I had ever
13 come to the end of opportunities myself, then I
14 wouldn't be where I am at today.

15 So, you know, having that drive to continue to
16 go out and provide opportunities to individuals to
17 overcome their own barriers is something that's
18 provided me with a particular level of success.

19 Q. And I think you might have even anticipated
20 the next question, which was that, not just the
21 passion but your -- your personal experience with
22 homelessness, how has that helped you have success in
23 your -- in your job?

24 A. I would say that, in the field, it assists me
25 in identifying, you know, trends. It assists me in

1 kind of building that rapport and that relationship
2 with individuals who may initially come across as --
3 as resistant. You know, it's always a firm reminder
4 for me of the struggles I had in overcoming or
5 accepting the need for change in my own personal life.
6 So it helps me to continue to go out there and have
7 that conversation and identify, you know, really
8 meeting that client where they are at.

9 Q. Do you feel that, that that experience and how
10 you go about your job has led to some of the high
11 success rates in terms of the percentage of service
12 acceptance from folks that you work with?

13 A. I would. I would, you know, I would say -- or
14 if I'm conducting a training myself or speaking with
15 staff members, I always like to say we have to lean
16 into the discomfort, you know. So it's not always
17 comfortable to be in a particular environment that we
18 are in. But if we are feeling that discomfort, then
19 the client probably is, as well. So it's just, again,
20 a firm reminder for us to keep moving forward and
21 stay, you know, future oriented, eye on the goal.

22 Q. I'd like to turn your attention to the area
23 around the Human Services Campus and the City's
24 enhanced engagements which have been going on, I guess
25 pretty closely to the time that you started.

1 Are you familiar with the City's enhanced
2 engagement process?

3 A. I am.

4 Q. Can you talk just briefly about your personal
5 work, what you do in the two to three weeks leading up
6 to an engagement. And for context, let's start with
7 May 10th, 2023, where the engagements changed a little
8 bit from just cleaning an area to cleaning and then
9 closing an area to camp -- to camping, how your work
10 has been since those engagements began?

11 A. Yeah. So beginning on May 10th, our
12 conversations had to change, we had to educate, you
13 know, individuals residing within that first
14 identified area that, unlike the previous cleanups
15 where they would be able to return to that particular
16 area, that this time they would not be.

17 And by the time that we got out there, a lot
18 of individuals were already kind of educated through a
19 variety of sources, one being the media. So they
20 already kind of had an understanding, as well as
21 questions of their own. So, really, we just kind of
22 had to pivot.

23 The engagement process of it was -- has always
24 been pretty similar in regards to a, just a tremendous
25 amount of coordination and getting out there and

1 identifying who is residing out there, what their
2 barriers may be, having that conversation, providing
3 that encouragement to go into shelter. And then also,
4 you know, screening for -- if there are other
5 opportunities or natural supports that they may have
6 that, where they could maybe go and kind of divert
7 them away from that shelter bed.

8 Q. So I was going to ask you if you determine,
9 during that engagement, whether the individual has
10 somewhere else to go.

11 Do you do that?

12 A. Yes.

13 Q. And how -- how do you make those
14 determinations? What are some of the ways you do
15 that?

16 A. There's a variety of ways that we do that.
17 You know, when I'm talking to somebody about their
18 history of homelessness, I like to start with current
19 and work your way back, rather than jumping, let's
20 say, two years or ten years back and then working
21 forward.

22 But along, you know, the steps in having that
23 conversation to understand who, what, when, where, why
24 within their homelessness is having that conversation
25 about any natural supports. You know, where's your

1 family? Do you have family? Do you have kids? Do
2 you have parents? You know, is it -- do you have
3 siblings?

4 Is there, you know, anybody else that you
5 haven't spoken to in quite some time? And why would
6 you -- why may you not have spoken to them and, you
7 know, really trying to identify -- it's pretty common
8 practice to want to bring in those natural supports
9 into a person's service plan when possible.

10 Q. In addition to those potential people, do you
11 try to determine whether they have -- do they have
12 access to resources of their own?

13 A. Resources?

14 Q. Like, you know, money or a pension or a
15 disability pension or anything, anything of the sort?

16 A. Yes. Yes.

17 Q. How do you do that?

18 A. Well --

19 Q. And what do you do with that?

20 A. So it's -- again, it's commonplace, you know,
21 as part of an outreach intake, right, or you know, in
22 building that relationship, to get an understanding.
23 You know, what kind of access do they have to
24 healthcare? Do they have healthcare coverage? Are
25 they receiving food stamps?

1 And then is there any source of income that
2 they may have so, that way, you can start to prepare
3 for the appropriate amount of referrals to give them
4 or to staff up -- as an outreach worker, to staff up
5 which shelter case management services are going to be
6 taking that on for the interim while they work with
7 that individual.

8 Q. So then, if, during that process, you
9 determine that someone does, in fact, have an option,
10 a place to go, what do you do with that?

11 A. We -- well, we -- we would contact that
12 individual, and we would work on connecting that
13 individual back to that natural support if it exists.

14 Q. And, of course, without naming names for
15 privacy reasons, but have you had a situation where
16 that has happened; and you have been able to get
17 somebody out of the area around the Human Services
18 Campus to shelter family?

19 A. In being specific to the block, the engagement
20 events, we have had one that comes to mind that we
21 were able to identify had a sister that they were able
22 to go and stay with. And so we communicated with the
23 sister who confirmed that they were, in fact, able to
24 stay there. And we helped them with whatever
25 belongings that they had in that area, and we

1 transported them to that -- it was an apartment, so...

2 Q. As far as you're aware of, did they return to
3 the area around the Human Services Campus?

4 A. Not as far as I'm aware of, no. And I have
5 had -- I did have one follow-up communication with
6 them several weeks after that placement.

7 Q. And so, in a typical engagement situation,
8 would you say there -- when you try to determine if
9 somebody has other access to resources; family,
10 friends, et cetera, what is your, what is your -- what
11 is the typical answer to those things?

12 A. Typically, in that environment, the answer is
13 no. Typically, individuals are self-identifying as
14 homeless with nowhere else to go and amenable to
15 shelter services.

16 Q. Now we've been talking about this in terms of
17 the process leading up to a -- to a cleaning and
18 closing of an area, correct?

19 A. Uh-huh.

20 Q. By the time a -- the day comes for -- like,
21 May 10th or the one that was after that at the end of
22 May, there's been one in June, so there have been
23 three.

24 By the time that day rolls around, how
25 confident are you that the folks that are still there

1 have no other option or place to go?

2 A. Oh, I'm very confident.

3 Q. And how do you come to that level of
4 confidence?

5 A. The weeks and our own continued outreach
6 efforts that go into -- I mean, we are out there
7 multiple times, and sometimes multiple times a day to
8 ensure that, you know, we are contacting as many of
9 those residents on that block as possible.

10 And then, you know, again, not only building
11 that rapport or that relationship, but gathering that
12 information so that way, we are -- we are not only
13 placing into shelter, but we are placing into an
14 appropriate shelter that is able, if there is any
15 special needs that they have, that is able to care for
16 that to the best of their ability.

17 Q. I'm going to show you a couple of documents
18 just real quick, if we can. If I can turn this on.

19 THE COURT: Mr. Pierce, what are we going to
20 be looking at?

21 MR. PIERCE: Oh, sorry.

22 THE COURT: That's all right.

23 MR. PIERCE: This is the infamous Exhibit 63.

24 THE COURT: Thank you.

25 Q. BY MR. PIERCE: And I'm not going to ask you a

1 bunch of questions about this. We've -- I called it
2 infamous because we've talked about it plenty. I
3 think the judge has a strong idea of what it is. But
4 I wanted to get your role in this.

5 What's your role, Jeremy, in these tallies?

6 A. Yeah. I go out to those blocks. I meet with
7 those individuals. I coordinate with the other
8 outreach staff that are going out. I make referrals
9 to some specific teams; if there's any, again, any
10 special needs that I feel that would be appropriate to
11 work with that that outreach team or case management
12 team on.

13 If they're -- if they are already a part of an
14 outreach or case management team, I coordinate to see
15 if we can get them reconnected back to that again. I
16 screen for any medical behavioral health needs. And
17 you know, I ensure that we -- I also communicate and
18 collaborate with the other local shelter providers to
19 ensure that we have enough beds for that -- the
20 morning of for the identified population out there.

21 Q. Exhibit 64, I would like to just show you, as
22 well. This is a document that, the top says:
23 Engagement outcomes from efforts around the Human
24 Services Campus.

25 What role do you have in either putting this

1 document together or getting the information to be
2 able to put in the document?

3 A. Well, leading up to the day of, we keep a
4 running list of those individuals that we come across
5 with as residents within -- within that area. And
6 then I communicate on the spot with our shelter
7 providers in providing the information over to the
8 shelter.

9 So that way -- and I work with the
10 transportation team that's onsite. So by the time the
11 transportation team takes that client to whatever
12 shelter they are placed at, that shelter is ready for
13 the intake. They are aware of the incoming
14 individual. And then I have a staff member onsite
15 that assists me in tracking these outcomes.

16 So that way we are able to provide as much
17 live data within the moment that we can.

18 Q. Terrific. Thank you. One just one more
19 document to show you real quick. And this is
20 Exhibit 72. And it is a Notification of Enhanced
21 Cleaning.

22 Are you familiar with this document?

23 A. I am.

24 Q. The second to last paragraph says that, after
25 the cleaning is complete, you will not be allowed to

1 return to the designated area. And camping on -- in
2 this particular cleaning, 9th Avenue between
3 Washington and Jefferson, will be prohibited.

4 Do you have a part in, first of all,
5 distributing this notice and providing this notice to
6 the people in and around the area that you are going
7 to be clearing?

8 A. Yes.

9 Q. Cleaning?

10 A. Yes, I do. I go out and I -- I refer to it as
11 "flyering" the area. And this is kind of one of many
12 engagement tools that are used. But we -- we go to
13 great lengths to ensure that everybody is very well
14 educated on the upcoming notification of enhanced
15 cleaning that's going on out there.

16 So as I'm out there handing out the flyers, I
17 introduce myself. And I immediately, tent by tent,
18 start to gather as much information as I can.

19 Q. Has the -- that notice that says they will not
20 be able to return, has that been effective?

21 A. As far as -- as far as I know at this time,
22 yeah.

23 Q. Meaning, people are not coming back to those
24 areas?

25 A. I have not been made aware of that, no.

1 Q. Have you seen that?

2 A. I have not, no.

3 Q. Okay. In addition to the unsheltered
4 population, do you, as you work in that -- in that
5 area around the Human Services Campus, do you also
6 have concerns about the property owners in and around
7 the area?

8 A. I do. I mean, I'm highly empathetic, yes.

9 Q. When you say, you're empathetic, what's --
10 what do you mean by that?

11 A. Well, I can understand that it's certainly not
12 ideal for any homeowner or small business owner to,
13 you know, have to have, not only, you know, a homeless
14 population, but anybody just residing, you know, in
15 the right of way in front of their business or home.

16 Q. So as you work to rectify the situation in
17 that area, does that empathy for the property owners
18 in and around the area also drive your work?

19 A. It does. And I have, over the years, had
20 conversations with clients about, you know, that very
21 thing. And the amount of property and, you know, how
22 they are storing it or, you know, various noise levels
23 or, you know, lifestyle choices and how that might
24 impact, you know, the neighborhood and the community
25 as a whole.

1 Q. Do you believe that your work is having an
2 impact?

3 A. I do.

4 MR. PIERCE: That's all I have.

5 THE COURT: Thank you. Any cross?

6 MR. TULLY: Yes, your Honor.

7

8

CROSS EXAMINATION

9 BY MR. TULLY:

10 Q. Good morning, Mr. Huntoon. My name is Steve
11 Tully. I represent the plaintiffs in this matter.

12 A. Good morning.

13 Q. Good morning. I just got a few questions for
14 you. You mentioned that you got sober in 2008?

15 A. Yes.

16 Q. Congratulations on that.

17 A. Thank you.

18 Q. Was that in response to your arrest in 2008?

19 A. I don't recall my last arrest. I wouldn't --
20 I would not say it was in response to, no.

21 Q. No?

22 A. But my own is spiritual decision.

23 Q. Okay. Do you recall being arrested in 2008?

24 A. I do not.

25 Q. Okay. Those individuals living in the Zone,

1 have some of them been living there for long periods
2 of time?

3 A. Yes.

4 Q. All right. Have some been living there over a
5 year?

6 A. Yes.

7 MR. PIERCE: Objection. Foundation. He's
8 only been employed with the City since November of
9 2022.

10 THE COURT: He's already answered it, but --

11 MR. PIERCE: Okay.

12 Q. BY MR. TULLY: Well, I think your counsel laid
13 the foundation that you've worked in that area for a
14 long time, right?

15 A. Yes, I have.

16 Q. Okay. So, and so some of the individuals that
17 live there -- do you know individuals that have been
18 living there more than two years?

19 A. Not off the top of my head, no.

20 Q. Okay. But certainly, over a year, folks have
21 been living there?

22 A. I have -- I can think of individuals that have
23 been living there, off and on, for a certain amount of
24 time that --

25 Q. Yeah.

1 A. -- might include up to a year, yes.

2 Q. All right. And the shelters there, they are
3 not full every day?

4 A. I don't get daily bed reports from all the
5 shelters. But in my experience, they are not at a
6 hundred percent capacity necessarily --

7 Q. All right.

8 A. -- every day. The morning's the best time to
9 act when it comes to available shelter beds.

10 Q. The individuals who are constructing the tents
11 down in the Zone, they are not queued up waiting to
12 get beds in the shelters.

13 True?

14 A. I -- I would not say that's true. Sometimes
15 there are individuals out there that are waiting on
16 particular housing wait lists or shelter bed
17 availability.

18 Q. Some?

19 A. Uh-huh.

20 Q. Okay. But somebody who's got a tent out
21 there, who's got the grill, who's got the TV, who's
22 got whatever else set up, that person is not just
23 waiting for a day or two or three or a week to get
24 into the shelter.

25 Fair?

1 A. I don't know if I'm tracking you on that.

2 Q. If someone -- the shelters are not full every
3 day, right?

4 If I become unhoused, unsheltered, right, and
5 I somehow get to the Zone.

6 A. Uh-huh.

7 Q. And I try to get into the shelter, and they
8 say, hey, there's no room for me, you, right, but my
9 desire is to get into the shelter; and I stay down in
10 the Zone. The next day, I apply. Or the next day, I
11 apply, right. Eventually, I'm going to get into the
12 shelter likely, right?

13 A. I would agree, yes.

14 Q. Right. Right. So I'm not going to need to
15 set up a full-on home and live there for six months
16 because I can't get into the shelter.

17 True?

18 A. Maybe not for a period of six months. But I
19 would say that people go to great lengths to quickly
20 make themselves comfortable in some particular
21 situations.

22 Q. All right. The -- you talked about finding
23 out if people have monies or other places to go.

24 That's self-reporting?

25 A. It is.

1 Q. Right. So you don't take the person's name
2 down, try to get their Social Security number, and do
3 any check to see exactly who they might be related to,
4 if they have felonies, if they -- if there is some
5 other thing out -- or if there's some relative around.

6 You don't perform a search of that kind to
7 confirm whether or not they are, in fact,
8 involuntarily homeless?

9 A. There's -- I feel like there's many layers to
10 that question. So I'm not doing background checks,
11 no.

12 Q. Well, that's basically the question. It's not
13 that --

14 A. So, no, I'm not --

15 Q. I'm tricking you or trying to be --

16 A. I'm not doing background checks.

17 Q. Okay. And you don't see -- if you run across
18 someone who's mentally ill, you're not -- are you
19 informing the City attorney or trying to get a
20 conservatorship over the person?

21 A. No.

22 MR. TULLY: All right. No further questions.

23 THE COURT: Thank you. Any redirect?

24 MR. PIERCE: No, your Honor.

25 THE COURT: All right. Sir, couple real quick

1 questions from the Court.

2 You've referred to -- several times to
3 clients, to your clients. Who specifically are your
4 clients?

5 THE WITNESS: Individuals experiencing
6 homelessness.

7 THE COURT: Okay. So the business owners, the
8 residents down in the Zone are not your clients.

9 THE WITNESS: They are not ones that I would
10 refer to as clients. However, I do have a working
11 relationship with some of them, and we do have
12 communication. If they are -- I want to ensure that,
13 you know, if there is any problems or situations that
14 arise that would be best suit for an outreach
15 approach, that they know who to contact, yes.

16 THE COURT: Okay. How often do you meet with
17 residents or business owners down in the Zone?

18 THE WITNESS: I don't have, like, a regularly
19 occurring meeting scheduled with them. But it's not
20 uncommon for me to be out there, and for some of them
21 to come out and engage me in conversation. Or you
22 know, if I see them, you know, we will have a greeting
23 and maybe touch base on anything that's occurring out
24 there.

25 THE COURT: Okay. And then, when you're

1 coming across some of the individuals in the Zone, the
2 unsheltered population, if you come across somebody
3 who is incoherent, either because of mental illness or
4 intoxication or something like that, how do you handle
5 those situations?

6 THE WITNESS: We --

7 THE COURT: Let me interrupt you --

8 THE WITNESS: Sure.

9 THE COURT: -- just because I want to clarify
10 my question.

11 I'm talking about the situations where you're
12 doing an enhanced engagement or an enhance cleaning
13 where you actually need to move that person, then what
14 would you do?

15 THE WITNESS: In that situation, we would work
16 with Community Bridges in getting them over to one of
17 their crisis facilities, especially if it's
18 intoxication. And if there's -- they are equally
19 equipped to handle, through their psychiatric
20 stabilization units, the behavioral health component.
21 But we also have UPC down the street and then we
22 have --

23 THE COURT: What is UPC?

24 THE WITNESS: Urgent psychiatric care.

25 THE COURT: Okay.

1 THE WITNESS: And then that's where they are
2 able to go and get those needs met. And then we have
3 had Terros on-scene, as well. So we -- at one point,
4 we did request a crisis van which ultimately was not
5 needed, as we were able to provide service to that
6 individual without the need for that intervention.

7 And then if it is severe enough, if there's a
8 danger to self or others, there is a petitioning
9 process that we can go through, as well.

10 THE COURT: Okay. Any follow-up from defense?

11 MR. PIERCE: No, your Honor.

12 THE COURT: Plaintiffs?

13 MR. TULLY: No, your Honor.

14 THE COURT: Does either party believe this
15 witness should remain for recall?

16 MR. PIERCE: No, your Honor.

17 MR. TULLY: No, your Honor.

18 THE COURT: All right. Sir, thank you for
19 your time today. You can step down.

20 THE WITNESS: Thank you.

21 THE COURT: Remain in the courtroom or leave.
22 It's your call.

23 MR. PIERCE: Your Honor, if the Court's
24 prepared for the next witness --

25 THE COURT: Please.

1 MR. PIERCE: -- the defense will call Brian
2 Freudenthal to the stand.

3 THE COURT: Okay. Good morning, sir. Come on
4 up. And if you could stand right at the end of that
5 countertop there.

6 MR. FREUDENTHAL: This side?

7 THE COURT: This one right here.

8 MR. FREUDENTHAL: Oh, okay.

9 THE CLERK: Would you please state and spell
10 your name.

11 MR. FREUDENTHAL: Brian, B-r-i-a-n,
12 Freudenthal, F-r-e-u-d-e-n-t-h-a-l.

13 THE CLERK: Thank you. Please raise your
14 right hand.

15 THE COURT: Thank you. Please have a seat.

16

17 BRIAN FREUDENTHAL,
18 called as a witness herein, having been first duly
19 sworn, was examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. ARNISON:

23 Q. Commander Freudenthal, thank you for being
24 here this morning.

25 For the record, your name is Brian

1 Freudenthal?

2 A. Yes.

3 Q. Correct?

4 A. Yes.

5 Q. And you're employed with the City of Phoenix?

6 A. Yes.

7 Q. What's your position with the City of Phoenix?

8 A. I'm a commander over our Downtown Operations
9 Unit and Homeland Defense Bureau.

10 Q. Okay. A commander in the Phoenix Police
11 Department?

12 A. Yes.

13 Q. Okay. Before we begin, we want to put on the
14 record something that we discussed with the court
15 yesterday. Yesterday, are you aware now that the
16 court invoked the Rule of Exclusion of Witnesses so
17 that fact witnesses would not be present in the
18 courtroom.

19 Are you now aware of that?

20 A. I am.

21 Q. Okay. Yesterday, were you present in the
22 courtroom when the court invoked that rule?

23 A. No.

24 Q. Okay. And so you did not hear the Court
25 invoke the rule?

1 A. I did not.

2 Q. Okay. And as a result, did you end up seeing
3 any portion of the testimony yesterday?

4 A. I did.

5 Q. What portion of the testimony did you see?

6 A. The first half of the testimony all the way up
7 until Rachel Milne testified.

8 Q. Okay. How much of Rachel Milne's testimony
9 did you hear?

10 A. As soon as I heard you say, thank you for
11 waiting in the hall today.

12 Q. Oh --

13 A. That's when I picked up on the fact that you
14 must -- somebody must have invoked the rule.

15 Q. Understood. Okay. So you didn't hear any
16 substance from the defense's witnesses; is that
17 correct?

18 A. Correct.

19 Q. Okay.

20 A. Not at all.

21 Q. Okay. As soon as you learned that the court
22 had invoked the rule, did you stop watching the
23 livestream?

24 A. Yes.

25 Q. Okay. And will anything that you saw from

1 yesterdays proceedings change your testimony today?

2 A. No.

3 Q. And do you intend to truthfully testify in
4 today's proceedings consistent with the oath that you
5 just took?

6 A. Yes, I do.

7 Q. Okay. Thank you. Let's jump back into your
8 employment with the City of Phoenix and Phoenix PD.

9 You testified at the October 2022 evidentiary
10 hearing in this matter, correct?

11 A. Yes.

12 Q. Okay. Please briefly remind the Court about
13 your primary areas of responsibility, specifically
14 with regard to the Downtown Operations Unit?

15 A. So the Downtown Operations Unit comprises of
16 the core downtown area. And it -- the area would be
17 from 7th Street to 7th Avenue north of Van Buren and
18 then north to Roosevelt road south to the railroad
19 tracks.

20 There's a section where we -- we reach out to
21 the capital building. So that goes down Van Buren to
22 19th Avenue, south again to the railroad tracks. And
23 that encompasses the Human Services Campus.

24 Q. Within the Downtown Operations Unit, is there
25 a team that is specifically assigned to the area

1 around the Human Services Campus?

2 A. Yes, there is.

3 Q. Approximately, how many officers or law
4 enforcement personnel are assigned to that area?

5 A. There are nine officers and a sergeant.

6 Q. Okay. Ten all together?

7 A. Correct.

8 Q. What is their primary responsibility with
9 regard to police work or law enforcement activity in
10 the Human Service Campus area?

11 A. They would -- so eight of them are responsible
12 for responding to radio calls. So any -- any 911
13 calls, any crime stop calls, any concerns that are
14 crime related or safety related or in that area.

15 Any calls that come in that need a response
16 from a law enforcement officer, they respond. And
17 they are pretty much solely the officers that respond
18 to that area. They are also responsible for crime
19 suppression efforts in that area and trying to do
20 their best to impact violent crime and property crime
21 and other crimes within that area.

22 Q. Okay. So in other words, primarily day-to-day
23 policing work just specifically targeted to the HSC
24 area?

25 A. Correct.

1 Q. Is that how you say that?

2 A. And then I do have the one other community
3 action officer that is responsive to all the business
4 owners in the campus to help address their concerns
5 specifically and to have that constant line of
6 communication with them.

7 Q. So you said that that person is a community
8 action officer?

9 A. Correct.

10 Q. Is that one of the nine officers that you
11 identified earlier?

12 A. Yes.

13 Q. Okay. So it would be eight patrol officers,
14 and then the one community action officer?

15 A. Correct.

16 Q. And together they comprise the -- is there a
17 name for them? Do they call them the Shelter Team?
18 Do they call them --

19 A. We call them the Shelter Team.

20 Q. Shelter Team, okay. Okay. How long have you
21 served in the commander role for the Downtown
22 Operations Unit?

23 A. Over two years.

24 Q. Okay. Were you previously a commander with
25 the City of Phoenix before you -- let me rephrase that

1 question.

2 How long have you been employed with Phoenix
3 PD?

4 A. I've been employed with Phoenix PD for almost
5 24 years.

6 Q. In different capacities; officer, sergeant?

7 A. Correct.

8 Q. Okay. How long have you been a commander
9 overall?

10 A. Over four years.

11 Q. Okay. And two of those working with the --
12 I'll say DOU, Downtown Operations Unit?

13 A. Correct.

14 Q. Okay. PD keeps crime statistics, correct?

15 A. Yes.

16 Q. Does PD keep statistics that show arrests
17 made?

18 A. Yes.

19 Q. What about statistics that show citations
20 given?

21 A. Yes.

22 Q. Statistics that show bookings made?

23 A. Yes.

24 Q. Is that -- are those records kept through a
25 particular, I'll say bureau or group within the

1 department?

2 A. Yes.

3 Q. What is that group?

4 A. It's our Crime Analysis Team.

5 Q. Crime -- the Crime Analysis Team?

6 A. Yeah.

7 Q. Is Crime Analysis and Research Unit --

8 A. Yes.

9 Q. -- a name?

10 A. CARU, Crime Analysis and Research Unit,
11 correct.

12 Q. So CARU, C-A-R-U?

13 A. Yes.

14 MR. ARNISON: Okay. We have a couple of
15 reports from CARU, so I wanted to make sure that we
16 were identifying what the acronym is.

17 Your Honor, may I approach?

18 THE COURT: Please.

19 MR. ARNISON: Thank you.

20 Q. Commander, I've handed you what's been marked
21 as Exhibit 65. And because it has multiple pages, I
22 wanted you to be able to have it in front of you. And
23 I will put it up on the projector, as well, if we can
24 do that.

25 Commander, do you recognize this document?

1 A. Yes, I do.

2 Q. What is this document?

3 A. It's a report from our Crime Analysis and
4 Research Unit on the arrests and charges that have
5 occurred within the area that we were referring to
6 around this Human Services Campus.

7 Q. So let's delve into that a little bit. At the
8 very top of the page, it says: Phoenix Police
9 Department Adult Arrests in Grid BA-26.

10 Do you see that?

11 A. I do.

12 Q. Okay. What is -- how does the grid system
13 work? Or maybe a better question is, what area does
14 Grid BA-26 cover?

15 A. So this exact area, it's -- because they have
16 to go by grid, they can't use specific streets. It's
17 from 7th Avenue and Van Buren south to -- I'd have to
18 see it. I think on one of these --

19 Q. Let me --

20 A. -- sheets, it actually says the boundaries. I
21 would have to look.

22 Q. Let me make it easier.

23 A. South of Buchanan, I believe, and then west to
24 19th or 15th Avenue.

25 Q. Okay. So let me make it easier. Does it

1 encompass -- does the area Grid BA-26 encompass the
2 Human Service Campus area?

3 A. It does.

4 Q. Okay.

5 A. And I apologize. I think it's Washington, not
6 Van Buren.

7 Q. I see. So BA-26 is what you're saying covers
8 an area that's larger than just the Human Services
9 Campus area, but also includes the Human Services
10 Campus area?

11 A. Yeah. It's slightly larger.

12 Q. Okay.

13 A. For the majority, it's within.

14 Q. Sure. At the third line from the top there,
15 it says that this report is for arrest codes starting
16 with, or at least pertaining to drug offenses and
17 pertaining to morals and conduct offenses.

18 Did I summarize that correctly?

19 A. Yes.

20 Q. And then the date range is June 1, 2022, to
21 March 31, 2023.

22 Did I read that correctly?

23 A. Yes.

24 Q. Okay. Commander, let's look at the -- well,
25 maybe we should, before we dive into what this

1 includes, we should say what it doesn't include. If
2 it -- if this report includes just drug offenses --
3 excuse me, arrests and charges for drug offenses and
4 offenses related to morals and conduct, what sorts of
5 crimes does it exclude?

6 A. Pretty much all of the violent crime that
7 occurs, property crime that occurs outside of just the
8 camping and loitering type citations.

9 Q. Okay.

10 A. All of those, which are plentiful.

11 Q. Okay. And so, which is not to -- is that to
12 say that these crimes that are listed on this report
13 are the only crimes for which charges are brought or
14 arrests are made within BA-26?

15 A. Oh, absolutely not. There's a lot more.

16 Q. Okay. All right. And we will walk through
17 some of those in different exhibits. But looking just
18 at this, can you tell me, based on this report, the
19 total number of arrests, both felony and misdemeanor,
20 that were made for that one-year period within BA-26?

21 A. So 86.

22 Q. Okay. And arrests includes bookings? Does
23 arrests include bookings?

24 A. So that number includes citations in lieu of
25 detention. So there are -- there are six in there

1 that are just citations and not bookings.

2 Q. Okay. Is -- does C -- what is CLDs mean?

3 A. Citation in lieu of detention.

4 Q. Okay. And then were those the citations that
5 you were talking about in the table that says count of
6 arrest?

7 A. Yes.

8 Q. Okay. What about count of charges? Can you
9 tell me how many total charges you see for those
10 crimes related to drug offenses and crimes related to
11 morals and conduct?

12 A. Yes. So that number is obviously a lot
13 higher.

14 Q. Sure.

15 A. So an arrest -- arrest for the -- arrest is
16 just individual, but then charges per arrest -- there
17 are multiple charges that go with one arrest, and
18 that's why the charges are so much higher.

19 Q. Sure. So there could be multiple charges with
20 a single arrest?

21 A. Correct.

22 Q. Sure. How many charges is reflected on that
23 table sort of near the top on the right-hand side of
24 the screen?

25 A. Two hundred sixty-seven.

1 Q. Without going through the whole list, on that
2 sort of fourth table that's there that has a long list
3 of charges, do you see where I'm looking at?

4 A. Yes.

5 Q. Okay. Are there a number of drug offenses
6 listed there?

7 A. Yes.

8 Q. A number of possession and
9 paraphernalia-related offenses there?

10 A. Yes.

11 Q. What about obstructing and resisting police?

12 A. Yes.

13 Q. Is public urination, defecation listed there?

14 A. Yes.

15 Q. What is aggressive solicitation, if you see
16 those last few rows in the table?

17 A. I'm not aware of that one.

18 Q. Okay. And then what about obstructing streets
19 or public areas? Do you see that on the second to
20 last row in that table?

21 A. Yes.

22 Q. Okay. What does obstructing streets or public
23 areas have to do with?

24 A. That includes somebody that's obstructing
25 roadways, obstructing entrances into businesses, into

1 the campus, obstructing sidewalks and those things.

2 Q. How many charges were brought with respect to
3 obstructing streets or public areas if you could look
4 and tell us?

5 A. Thirty-six.

6 Q. Okay. The remainder of this exhibit, I'll
7 represent to you, shows the date on which an arrest
8 was made and the different charges that were brought.

9 Do you see those starting about half way down
10 the page?

11 A. Yes.

12 Q. Okay. This first one here -- we won't go
13 through them all, but just for illustrative purposes,
14 do you see that that first date says June 12, 2022?

15 A. Yes, I do.

16 Q. Okay. And it looks like that was an arrest
17 made for -- made in BA-26 for possession and some
18 drug-related offense.

19 Am I reading that correctly?

20 A. Correct.

21 Q. Okay. And the next one you have -- you have
22 one the day after, June 13, 2022, in BA-26 for a
23 number of charges; narcotics, drug paraphernalia,
24 aggravated assault, criminal trespass.

25 Am I reading that correctly?

1 A. Correct.

2 Q. And resisting arrest. I think I skipped over
3 that one.

4 Okay. And so if you flip to the second page,
5 do you see the second arrest number down, June 22nd,
6 2022?

7 A. Yes, I do.

8 Q. Okay. And it looks like that was an arrest of
9 an individual for obstructing streets or public areas;
10 is that correct?

11 A. Correct.

12 Q. Okay. And we could -- you could go through
13 the remainder of these ten pages on the document. But
14 the point that I am trying to bring up, Commander, is
15 these are all arrests that were made within BA-26; is
16 that right?

17 A. That's correct.

18 Q. And are these all arrests that were made
19 for -- let me start that question again.

20 These were all arrests made in BA-26 and these
21 were all arrests for drug-related offenses. Some of
22 them were arrests for drug-related offenses?

23 A. Some of them, yes.

24 Q. Some of them were arrests for obstructing
25 streets and public areas?

1 A. Yes.

2 Q. Do you recall when the original hearing in
3 this matter was?

4 A. February?

5 Q. If I told you --

6 A. January?

7 Q. -- October, would you --

8 A. I'm sorry. I think the ruling came out in
9 February.

10 MR. TULLY: So stipulated.

11 Q. BY MR. ARNISON: If I told you October 22nd,
12 would you believe me?

13 A. I've got a lot going on.

14 THE COURT: You could probably lead on that
15 one.

16 MR. ARNISON: Yeah.

17 Q. Do you recall the hearing that took place in
18 this matter that took place in October of 2022?

19 A. I do.

20 Q. Thank you. The arrest that I just showed you
21 and a number of the arrests that are on this sheet,
22 did those arrests and charges take place prior to the
23 hearing or after the hearing?

24 A. Prior to.

25 Q. Okay. And then, as we flip through, I mean,

1 just for illustrative purposes, there are also a
2 number of them that took place after the hearing.

3 If you look at the third page, Commander, do
4 you see that there's one that took place November 3rd,
5 2022?

6 A. Yes.

7 Q. November 6, 2022?

8 A. Yes.

9 Q. And so on and so forth?

10 A. Yes.

11 Q. Okay. Thank you. What are some of the
12 challenges that police -- that your team, the Downtown
13 Operations Unit face with respect to enforcement of,
14 say, any of the -- any of the drug crimes that we just
15 looked at on this page -- on that page?

16 A. So substance use disorder in the area around
17 the campus is extremely prevalent. And these
18 individuals are at the lowest point of their lives.
19 And they have reached -- this opioid epidemic is the
20 worst epidemic I have ever experienced in my career.
21 I have been a part of the crack epidemic, the meth
22 epidemic, and now the opioid epidemic.

23 And these individuals are so afraid to get
24 sick and dope sick that their usage, as soon as they
25 get their hands on anything that's opioid related,

1 it's typically either smoked or injected immediately.
2 And it's not something that they hold on to in their
3 pockets. It's not something that they walk around
4 with. It's not something that they keep on their
5 person on a regular basis.

6 So when somebody sees an individual using and
7 they call the police, one, typically, they don't want
8 to be witnesses and they don't want to testify in
9 trial. They don't want to be taken to that level, but
10 they want the police to respond.

11 So we get that call, and we didn't witness it.
12 We didn't see it. We get ahold of that individual,
13 and that individual has rights like everybody else.
14 And we are bound by the Fourth Amendment on search and
15 seizure laws.

16 Q. And I will interrupt you real quick and
17 just -- because we've had a real couple discussions
18 back and forth with the court reporter, if we can take
19 it just a little bit slower.

20 A. Yes.

21 Q. Thank you.

22 A. So when we get the report of somebody using,
23 the challenges are, obviously, one, finding the
24 paraphernalia or the drugs that are being referred to,
25 if they are even there.

1 And, two, we don't typically have witness that
2 is will are want to testify in court to what they saw.
3 We don't -- as I think everybody in here would agree
4 and expect, they are not going to inject and smoke
5 right in front of a patrol car or police officer.

6 So the challenges are there. And to be
7 present when it's occurring, it makes it -- it's
8 challenging. So, typically, when it's located, it's
9 located because it's an arrest for an alternative
10 offense, which is why you see multiple charges on
11 there. And then they are searched incident to that
12 arrest, and that's when the drugs or paraphernalia are
13 located.

14 So we face the same challenges in this area as
15 do you anywhere else in the city. However, it's
16 gotten to the point, like I said, that typically, if
17 they get their hand on one pill, it's gone within
18 minutes.

19 Q. Okay. Although, it would seem from this --
20 from the Exhibit 65 that you have in front of you, it
21 is possible to make arrests, is it?

22 A. Yes.

23 Q. And it is possible to make citations?

24 A. Yes.

25 Q. Okay. Or to issue citations. But am I

1 understanding you correctly that, in every instance of
2 every drug use or drug possession, that's not going to
3 be possible?

4 A. Correct.

5 Q. Okay. I'm going to take back Exhibit 65 from
6 you and give you Exhibit 73.

7 Commander, do you recognize that document?

8 A. Yes, I do.

9 Q. What is this document?

10 A. This is a Crime Suppression Plan.

11 Q. What is a Crime Suppression Plan?

12 A. It provides officers direction on what we
13 would -- what we are looking for, what the sergeant is
14 looking for, what a lieutenant is looking for, what I
15 myself as a commander am looking for and our direction
16 towards how to we would like them to assist -- or how
17 we would like them to suppress crime in specific
18 areas.

19 We identify specific areas. We come up with a
20 plan in how we are going to address violent crime,
21 property crime, drug crimes, depending on the area
22 typically. And we develop a plan on how to best
23 address that.

24 Q. Okay. The title of this document appears to
25 be Downtown Operations Unit, Human Services Area Crime

1 Suppression Plan, March 2023.

2 Did I read that correctly?

3 A. Yes.

4 Q. Okay. Did you have a hand in drafting this
5 document?

6 A. I did not draft it.

7 Q. Okay. You are nevertheless familiar with the
8 document?

9 A. Yes. I reviewed it.

10 Q. Okay. This is the Human Services Area Crime
11 Suppression Plan. Are there -- are Crime Suppression
12 Plans unique to just the Human Services area, or are
13 they sometimes created for areas other than the HSC
14 area?

15 A. They are not unique to the Human Services
16 Campus. They are done in other areas.

17 Q. Okay. Understood. It looks like here at the
18 beginning, on the first page, there are some goals
19 listed and some statistics of what happened on
20 December 16th.

21 Am I seeing that more or less correctly?

22 A. Yes.

23 Q. Okay. From what I can gather, it provides
24 information about some arrests that took place in
25 December. And we can go through that in a second, but

1 I'd like to flip to the second page, which says -- do
2 you see the area, target -- or where it says target
3 area?

4 A. Yes.

5 Q. Okay. So the target area, according to this
6 document, is located between 7th and 15th Avenues from
7 Jefferson Street south to the railroad tracks; is that
8 right?

9 A. Yes.

10 Q. Okay. Do you see the next section that says
11 Crime Reduction Goals?

12 A. Yes.

13 Q. Okay. Without reading them verbatim, can you
14 explain to me what the goals of crime reduction are as
15 set forth in the plan?

16 A. Well, ultimately, the goal is to reduce crime
17 and make the areas; specifically, this area within the
18 area around the Human Services Campus, a safer place
19 to be, a safer place to live, a safer place to work,
20 and a safer place to be.

21 Q. Is the -- is the goal increased safety only
22 for the unsheltered residents in the area?

23 A. No.

24 Q. Who else is -- what else is encompassed in
25 that goal?

1 A. The business owners, the residents, the
2 workers, the employees that are shelter employees,
3 campus employees, and so on.

4 Q. Flipping back to page 1, this Crime
5 Suppression Plan says March 2023.

6 Do you see that?

7 A. Yes.

8 Q. Is that the date that it was ultimately
9 published? I assume that's the date it was ultimately
10 finalized and published; is that correct?

11 A. Yes.

12 Q. Okay. Do you have any independent knowledge
13 whether it was drafted or whether it was in process
14 prior to March 2023?

15 A. Yes, it was.

16 Q. Do you remember about when this Crime
17 Suppression Plan got underway?

18 A. February.

19 Q. Okay. February of 2023?

20 A. Yes. In here, it talks about how there was
21 already a meeting with, yeah, our Drug Enforcement
22 Bureau and that -- I'm sorry. That was March of 2023,
23 that meeting. But this was drafted before that.

24 Q. Okay. If we go to the third page of the
25 document, it's marked at the bottom as

1 PhoenixBrown2560. It looks like there's several
2 priority offenses, things that guys on the beat are
3 looking for.

4 Is that right?

5 A. Yes.

6 Q. Okay. What are -- what's the nature of those
7 offenses, primarily?

8 A. Weapons, drugs, obstructing, trespassing. So
9 it ranges from all of the -- from serious criminal
10 activity to quality of life issues.

11 Q. Okay. What about resources? There's some --
12 there's some things here that -- that I just don't
13 know the lingo.

14 Is this indicating that there were additional
15 resources that were allocated to the Human Services
16 Campus area?

17 A. Yes.

18 Q. What's the nature of those resources? I see a
19 whole lot of things about different squads and Firefly
20 sensors. And maybe you could just summarize it for
21 the Court in 30 seconds or a minute?

22 A. Sure. We brought in extra officers on
23 overtime. We utilized our Drug Endorsement Bureau.
24 We utilized technology. So as we move forward and we
25 continue to struggle with staffing and putting

1 individuals out on the streets in blue suits, we
2 identify ways to force multiply. And one of those
3 ways is utilizing technology through cameras, through
4 Firefly sensors, which will identify when gunshots are
5 fired and provide us a location of the gunshots and
6 sometimes video. And we also put up video cameras.

7 Q. Okay. So let's --

8 A. And license plate readers.

9 Q. Sure. So let's start from the back and work
10 our way forward. So with regard to technology, a
11 Firefly sensor is some sort of device that can detect
12 when a shot is fired and tell you where it was fired;
13 is that right?

14 A. That's correct.

15 Q. Okay. And there may be other cameras that you
16 use in conjunction with it?

17 A. Yes.

18 Q. Were these new resources that were in
19 installed or put in the area on or after March 2023?

20 A. So I believe they were put in before March of
21 2023, but I don't have an exact date. They were put
22 in related to a violent crime that had occurred in the
23 first two months of 2023.

24 Q. I see. So they may -- so they may have gone
25 in -- this enhanced technology may have gone in some

1 time in the early, couple -- first two months of 2023?

2 A. Yes.

3 Q. Okay. You said extra officers or you
4 increased overtime for officers; is that right?

5 A. Correct.

6 Q. Do you know about how much extra overtime the
7 DOU is allocating to the Human Services Campus area?

8 A. I don't have the exact number. I know we
9 brought -- we didn't bring just the officers from the
10 Shelter Team in extra. We also brought in officers
11 from the precinct and officers from patrol to work
12 extra shifts into the -- in the area.

13 Q. Okay. So there would be both overtime from
14 the individuals that are assigned to the DOU and
15 individuals who work overtime that are assigned to
16 different patrols.

17 Is that fair to say?

18 A. Yes.

19 Q. Okay. What are these different squads that
20 I'm seeing on numbers four and five; X81, X82, X83,
21 X84?

22 Are those just numbers of different squads
23 that you are bringing in for that overtime? Is it the
24 same thing?

25 A. Yeah. So those are the Downtown Operations

1 Unit patrol squads. So you have -- these officers
2 work downtown and, also, our events. They work
3 special events. They work other things related to
4 downtown. However, they are not solely responsible
5 for the Human Services Campus, so we brought them in
6 extra; 51 John and -- or I'm sorry -- the 51J and the
7 51K are related to our patrol. They are a patrol team
8 outside of downtown.

9 Q. I think I understand, okay. You mentioned
10 increased overtime and other personnel technology.
11 And there may have been one other things that you
12 mentioned that I have forgotten.

13 Am I incorrect?

14 A. Yeah. So this also identifies our partners
15 outside of the police department.

16 Q. Sure.

17 A. Our Community Bridges partners. I don't think
18 we have listed the Office of Homeless Solutions. I
19 think the officers are so used to working with them,
20 they didn't put them in there. But we did put
21 Community Bridges. That is a close partner with us
22 also in addressing issues down there.

23 Q. Understood. Continuing on in this crime
24 suppression document, do you see where -- the section
25 that says, Strategies?

1 A. Yes.

2 Q. Okay. And it looks like these are strategies
3 related to enhanced cleanups or enhanced engagements;
4 is that correct?

5 A. It does include enhanced cleanups. But there
6 are also times when our officers go out with Community
7 Bridges separate from the cleanups.

8 Q. Okay. I understand. So these are strategies
9 related to engagements or interactions generally with
10 the unsheltered population?

11 A. Correct.

12 Q. Okay. What is the -- what is the strategy --
13 or what are the strategies that your unit has adopted
14 for those interactions?

15 A. So as it relates to criminal activity,
16 officers are advised to make an arrest or citation if
17 it's a serious crime related to drugs, related to
18 violence, related to trespassing, especially anything
19 that has a victim associated with it, that a
20 victim's -- whether it's a property owner or a
21 property crime, they are instructed to make arrests or
22 citations, depending on the severity of it.

23 As it relates to some of the minor ones, we
24 want to educate and warn them first prior to doing the
25 enforcement portion of it.

1 Q. What do you characterize as some of the more
2 minor offenses?

3 A. Such as prohibited use of a right of way,
4 sitting line, those types of ones. We instruct them
5 that there needs to be an assessment and an
6 opportunity to correct the behavior before we do
7 enforcement.

8 Q. Okay. That second paragraph under the
9 strategy section says, "The Project." And I don't
10 know exactly what project means in this context, but
11 it moves into the enforcement phase after the
12 education phase; is that correct?

13 A. Correct.

14 Q. So is it correct that, for those more minor
15 offenses, you take a -- the department takes an
16 educational -- an education and outreach approach,
17 followed by an enforcement approach?

18 A. Correct.

19 Q. Okay. And are there, in fact -- have there,
20 in fact, been situations to your knowledge where
21 members of your team have actually taken enforcement
22 action for obstructing the streets, trespassing on
23 private property, and so forth?

24 A. Yes, numerous times.

25 Q. Okay. Can you recall any within the last --

1 any specifics within the last six months? I may be
2 taxing your -- taxing your memory.

3 A. I can give you one -- well, I know we just
4 recently did one on Jackson. But we did one -- and
5 the reason why it's so -- on the top of my mind is
6 because it took the officer the entire shift to make
7 the arrest. But it was done because the individual
8 was partially blocking the entryway to one of the
9 businesses or a campus over there.

10 And by the time we were able to make the --
11 the individual refused to move, refused services,
12 refused everything. So we did get to the point of the
13 enforcement phase, and we made the arrest. And by the
14 time we were done booking and impounding all of his
15 property from the tent -- through everything that was
16 his property, it took an entire shift to make an
17 arrest.

18 Q. About when was that arrest made?

19 A. I would say about two months ago. I'm not
20 sure on that.

21 Q. Do you remember about --

22 A. I --

23 Q. Oh, go ahead.

24 A. No. I was going to say I'm probably about as
25 accurate as the last hearing.

1 Q. Understood. I hesitate now to ask this
2 follow-up question. Do you remember the approximate
3 location of that arrest?

4 A. Yes. It was 11th Avenue and Jackson.

5 Q. Okay. Thank you. The last section of this
6 Crime Suppression Plan talks about analysis phase of
7 the plan.

8 Do you see where I am looking, analysis phase?

9 A. Yes.

10 Q. It says: "To ensure these crime suppression
11 strategies are successful, the DOU will evaluate crime
12 rates 30 days after the project has begun."

13 Did I summarize that correctly?

14 A. Correct.

15 Q. Okay. If we flip to page -- a page that's
16 marked as PhoenixBrown 2562, do you see where I am
17 looking?

18 A. Yes.

19 Q. Okay. Is this part of that -- well, it looks
20 like this is a Crime Suppression Recap. It seems it
21 may be two -- some inconsistent dates. The dates that
22 are listed at the top say February to March 2023.

23 Do you see that?

24 A. Yes, I do.

25 Q. Okay. But the dates in the table show about

1 March to April.

2 Do you have any idea which of those dates is
3 correct?

4 A. So when -- when he was -- when the sergeant
5 was putting this together, he was doing it just in
6 monthly increments. And I think he had already done
7 one from, at this point of this plan, he had only
8 given me that month.

9 Q. Okay. I see.

10 A. Or that -- because this was -- this was added
11 after the fact because it was the recap. So those
12 dates are when -- February 13th is when he started the
13 program is the way I'm reading this. And then those
14 dates, the recap was done later because we had already
15 started the program.

16 Q. Understood. For this Crime Suppression Recap,
17 it looks like there were 23 felony arrests made during
18 that period?

19 A. During that month, yes.

20 Q. Month, yeah. Sixteen misdemeanor arrests?

21 A. Yes.

22 Q. What are IRs?

23 A. Those are reports, Incident Reports.

24 Q. Okay. And then 104 Incident Reports?

25 A. Correct.

1 Q. Those are not necessarily arrests or charges,
2 right?

3 A. Correct.

4 Q. What are FIs?

5 A. Those are Field Interrogations.

6 Q. Okay. Not necessarily arrests or charges?

7 A. Correct.

8 Q. Okay. What are ATTCs?

9 A. Those are citations.

10 Q. Okay. So and how many citations were issued?

11 A. Twenty-four.

12 Q. What about guns recovered, how many?

13 A. Three.

14 Q. Okay. And stolen vehicles recovered?

15 A. Zero.

16 Q. Okay. Can you give me a little insight, at
17 the bottom of this page in the -- tell us what
18 happened with this one particular enforcement issue on
19 March 30th, 2023, related to seizure of a sawed-off
20 shotgun or there was -- there was one found in the
21 area.

22 Do you recall the details of that?

23 A. Yes. I was working. Our Drug Enforcement
24 Bureau was a part of our plan. And they were down in
25 the area -- I guess you can infer our Drug Enforcement

1 Bureau is undercover, plain clothes, without giving up
2 too much of our tactics.

3 They were behind us, but they were in the
4 area. And they observed an individual with the
5 shotgun. That individual went into a tent. They
6 called in more officers. And they were able to
7 surround the tent and get the people out of the tent
8 and recover the firearm.

9 It involved a foot pursuit. Ultimately, we
10 made the arrest with, I think there was -- I'd have to
11 read this to get exactly how many firearms we
12 recovered. I don't know if it was two -- one or two.
13 But there was a sawed-off shotgun, and then we made
14 multiple arrests for warrants of individuals that were
15 inside the tent.

16 Q. Okay. Thank you. I'm going to flip to
17 Exhibit 74. I won't need to put it in front of you.
18 I will put it up on the screen.

19 Commander, do you recognize that document?

20 A. Yes.

21 Q. What is it?

22 A. It's another recap of arrests made within
23 June 1st to June 28th.

24 Q. Okay. And is this the recap that was made
25 pursuant to that goal listed in the Crime Suppression

1 Plan?

2 A. Yes.

3 Q. Okay. Do you want to walk through for me
4 really quick how many felony arrests for that slightly
5 less than one month period in June were made?

6 A. Yeah. And just so you are -- this is -- the
7 reason why it says June 1st, 2023, is because I had
8 asked for just updates. And I didn't want all of the
9 numbers. I wanted to make sure that the plan is
10 continuing, going and that they are continuing to make
11 these arrests. So that's why it's June, not the
12 entire plan.

13 But 12 felony arrests, 15 misdemeanor arrests,
14 99 reports, 30 field interrogations, three citations,
15 and one gun recovered.

16 Q. Okay. Thank you. Has there been a decrease
17 in property crime in the Human Services Campus area
18 since this Crime Suppression Plan was put into place?

19 A. Yes.

20 Q. Has there been a decrease in violent crime
21 since the Crime Suppression Plan was put into place?

22 A. Yes.

23 Q. Commander, I'm going to put up for you what's
24 marked as Exhibit 75.

25 Do you recognize that document?

1 A. Yes, I do.

2 Q. What is it?

3 A. It's another document from our -- oh, and it
4 does have, yeah, the area for BA-26. But it's a
5 document for -- from our Crime Analysis and Research
6 Unit identifying crime statistics in that area.

7 Q. Okay. And it looks like, do you see that --
8 one, two, three, four, five -- the fifth line down
9 from the top? It says date range, January 1, 2022,
10 through May 31, 2022 compared to January 1, 2023, to
11 May 31, 2023.

12 Do you see that?

13 A. Yes.

14 Q. Okay. So is this document comparing crime
15 statistics from those two time periods?

16 A. Yes.

17 Q. Do you see the third column to the right over
18 here?

19 A. Yes.

20 Q. Okay. What is the percentage change in
21 violent crimes?

22 A. So violent crime was down 11.43 percent.

23 Q. Did you say they went down 11.43 percent?

24 A. Down, correct.

25 Q. Okay. And what about the reduction in

1 property crimes?

2 A. It is down 23.73 percent.

3 Q. What do property crimes include?

4 A. So they are listed over there as it relates to
5 burglary, larceny, theft, motor vehicle theft, arson.

6 Q. Okay. What -- and what do violent crimes
7 include?

8 A. That would be the homicide, sexual assault --
9 rape is what it's listed on there, that's just a
10 tracking term -- robbery, aggravated assault.

11 Q. Crimes are still occurring in the BA-26 area
12 or in the area around the Human Services Campus.

13 Would you agree with that?

14 A. Yes.

15 Q. Okay. But based on this document and your
16 knowledge, is it your position that crime is, in fact,
17 decreasing?

18 A. Yes.

19 Q. Within the Human Services Campus area?

20 A. Yes.

21 Q. Have police been involved in the enhanced
22 engagements at all or the enhanced cleanings at all?

23 A. So we are not involved in the engagement
24 portion of it. There has been one incident where
25 we -- we did have to make an arrest.

1 Q. Okay.

2 A. But we are not involved in the actual
3 engagement portion of it.

4 Q. What was that -- what was that incident? Can
5 you give me any detail on that?

6 A. Yeah. While they were engaging the
7 individuals and connecting them to shelter, the
8 appropriate shelter, one of the individuals threatened
9 one of the outreach workers with a knife. We were
10 then called and responded, and the individual was
11 arrested for the threats and trespassing.

12 Q. Do you recall which enhanced engagement date
13 that took place on?

14 A. No.

15 Q. I'm going to stop --

16 A. It was. I can tell you where.

17 Q. -- asking you.

18 A. It was 12th Avenue between Washington and
19 Jefferson.

20 Q. Thank you. Has there been a situation when
21 police have had to remove weapons found in a tent or
22 in a shelter of some sort?

23 A. Yes. That's another time we were involved.

24 Q. Other than those times, can you recall any
25 other times when police have had to be a part of the

1 enhanced engagement process?

2 A. There was an incident where -- well, it wasn't
3 an incident. There was an individual that had a
4 trailer with a flat tire. Our officer obtained an air
5 compressor and inflated his tire so that he could get
6 to the shelter that he was being provided with.

7 Q. Okay. As I count it, that's three instances
8 when police have had to be involved in the enhanced
9 engagements.

10 Am I right?

11 A. Yes.

12 Q. Okay. Can you recall any others?

13 A. No.

14 Q. Okay. Let's talk real quick about Exhibit 67,
15 okay.

16 Can you see the document okay, Commander, on
17 the screen?

18 A. Yes.

19 Q. Okay. Well, I'll put the whole thing up there
20 for now.

21 Do you recognize this document?

22 A. Yes, I do.

23 Q. And what does it appear to be?

24 A. This is our police department operations
25 orders that directs officers on how to handle calls,

1 on how -- what their responsibilities are. It's -- it
2 runs the gamut of our procedures.

3 Q. And this is a particular operations order,
4 8.4; is that right?

5 A. Correct.

6 Q. Okay. And you've read this document and are
7 familiar with it?

8 A. Yes.

9 Q. I'm going to go to several pages in, the
10 second to last page of the document. It says page 9
11 right at the top. And at the bottom, its Bates number
12 PhoenixBrown 669.

13 All right. Can you see that okay?

14 A. Yes.

15 Q. All right.

16 A. Yes.

17 Q. So throughout this document, you explain that
18 this is the procedure for police officers to follow --

19 A. Yes.

20 Q. -- when making -- when having interactions
21 with a member of the public?

22 A. Yes.

23 Q. Okay. Once we get through to the very end, it
24 looks like number 20 that's listed there, details
25 instructions for the outcome of the interaction; is

1 that correct?

2 A. Yes.

3 Q. Okay. There is something here that says,
4 Courtesy Transport. Would you read Courtesy Transport
5 for us?

6 THE COURT: Where specifically are you,
7 Counsel?

8 MR. ARNISON: I'm on page 9, your Honor, of
9 Exhibit 67.

10 THE COURT: I've got that. I don't see
11 courtesy transport.

12 MR. ARNISON: If you go down, it's that last
13 box in the table.

14 THE COURT: Got it.

15 MR. ARNISON: Yeah.

16 THE COURT: Okay. Go ahead.

17 Q. BY MR. ARNISON: Uh-huh.

18 A. For the good of the community and/or
19 department, the subject was transported to a location
20 that did not offer any type of assistance services and
21 the subject was willing to be transported.

22 Q. Okay. And it gives an example there. It
23 says, "A husband and wife were only arguing. And for
24 the good of the community and the department, the
25 husband was transported to a friend's house."

1 Is that -- that's the example that was given.

2 Did I read that correctly?

3 A. Correct.

4 Q. Okay. Are there many different situations
5 when a courtesy transport might be given?

6 A. Yes.

7 Q. Okay. Can you think of any other situations
8 when -- I mean, surely there are many. But can you
9 think of any other situations when a courtesy
10 transport might occur?

11 A. Sure. Regularly, to hospitals, to our
12 psychiatric care locations. There are many times when
13 individuals are in crisis, but we weren't aren't at
14 the level of a petition. So we give them a courtesy
15 transport to psychiatric care. Individuals that, you
16 know, it's 116 degrees outside, sometimes we give them
17 rides to a cooling station or somewhere to be cooled
18 off. And there are times when officers do transport
19 and give courtesy transports to the Human Services
20 Campus.

21 Q. Okay. Let's talk about the next page, which
22 is the last page of this document. It continues the
23 outcome of interaction. And then it talks about
24 transport for services.

25 So is there some distinction -- maybe it's

1 just a vernacular question. But is there some
2 distinction between a courtesy ride and a transport
3 for services?

4 A. Yes.

5 Q. Okay. But to your understanding, what is the
6 distinction between a courtesy ride and a transport
7 for services? Or are the terms sort of used
8 interchangeably?

9 A. Yeah. I think they are -- the terms in the
10 street are typically used interchangeably. But a
11 courtesy ride, according to policy, would be something
12 that -- somebody you're transporting, like specific to
13 that domestic violence incident, where you are just
14 giving them an opportunity to cool off.

15 The husband or wife wants to be -- go to a
16 friend's house or a relative's house or the cooling
17 station is another one or -- another example of
18 courtesy just to help somebody out, and you're just
19 giving them a ride to help them out.

20 Transport for service is -- it goes back to
21 somebody that, I guess, would be going to a hospital,
22 somebody that would be going to Community Bridges. So
23 Community Bridges transports happen fairly frequently
24 whether you're dealing with an intoxicated individual
25 that -- they provide detox at Community Bridges and

1 typically will get consent and take an individual to
2 help them with detox at Community Bridges locations.

3 And then, again, there is a transport to the
4 Human Services Campus.

5 Q. Okay. Let me ask you about the transports for
6 services to -- there are a few bullet points in there
7 that say transport for services for mental health
8 screenings to agencies such as the UPC, urgent
9 psychiatric care.

10 Is that a situation where an individual is
11 simply dropped off, or is there an actual intake
12 procedure at UPC?

13 A. There is an intake procedure.

14 Q. Okay. So the person is, I assume, being
15 checked in to be evaluated for mental health purposes,
16 right?

17 A. Correct.

18 Q. Okay. And so the person isn't, at that point,
19 roaming around in the area, right?

20 A. Correct.

21 Q. Okay. Where is UPC located, approximate cross
22 streets?

23 A. The main one that gets utilized by the Phoenix
24 Police Department is 7th Avenue and Buckeye.

25 Q. Okay. What about Community Bridges locations?

1 Is it similar that this is -- there's an intake
2 process and not a simple drop-off at Community
3 Bridges?

4 A. Correct. There's an intake process.

5 Q. Okay. And so a person's not, once they have
6 been checked in, presumably not free to walk around in
7 the area?

8 A. Correct.

9 Q. Okay. What about for --

10 A. Can we go back on that?

11 Q. Sure.

12 A. They are free to walk around the area if they
13 decide they no longer want the services.

14 Q. Sure.

15 A. They are free to walk away.

16 Q. Sure. But, of course. My, I guess my
17 question is, there's got -- is there some interaction
18 between the police and Community Bridges to where PD
19 and Community Bridges makes a connection to hand off a
20 person --

21 A. Yes.

22 Q. -- to get to Community Bridges?

23 A. Yes.

24 Q. Okay. That's what I'm trying to get at.

25 A. Yes.

1 Q. And is that also the case for shelters like
2 CASS?

3 A. It would be the Human Services Campus.

4 Q. All right.

5 A. So we would take the individual to the welcome
6 center.

7 Q. Okay.

8 THE COURT: Before you go any further, I want
9 to remind you we are about three minutes away from our
10 break.

11 MR. ARNISON: Thank you, your Honor.

12 THE COURT: Yes.

13 Q. BY MR. ARNISON: Is this policy for transports
14 for services or courtesy rides unique to the Human
15 Services Campus area? Or does it apply citywide?

16 A. It applies citywide.

17 Q. Do you have an idea of what your majority --
18 what the majority of transports for services are? Are
19 they for transports to the Human Services Campus area?

20 Are they primarily for transports to UPC or
21 CDI? Do you have any idea?

22 MR. TULLY: Your Honor.

23 THE COURT: Hold on one second.

24 MR. TULLY: Objection. Foundation.

25 THE COURT: Sustained. Go ahead and establish

1 foundation, please.

2 MR. ARNISON: Sure.

3 Q. Do you have any mechanism by which you are
4 informed -- well, let me put this way.

5 When an officer gives a courtesy ride or
6 transport for services, is there a way that you become
7 informed of what the purpose of that transport was?

8 A. There are radio codes that we use. So,
9 typically -- but they are not all encompassing, right.
10 So, typically, for a transport to Community Bridges,
11 it is -- the radio code would be a 390, 390. And
12 typically for the mental health transports, it's a 918
13 Tom.

14 Now those -- those are commonly used, but
15 they're not always used because it might be related to
16 another radio call that they responded to, and then
17 they decided to make that transport. So there is --
18 there is -- the numbers aren't completely accurate.

19 Just through my experience, I think Community
20 Bridges gets quite a bit, probably takes the majority
21 of those transports, but I can't give you definitive
22 answer to that.

23 Q. Sure. You can't put a firm number on it?

24 A. No.

25 Q. Okay. But you said, based on your experience,

1 Community Bridges ends up getting the bulk of
2 individuals that are transported down for services?

3 A. Through my experience.

4 MR. ARNISON: Okay. I understand.

5 Your Honor, I think if I take two minutes, I
6 can finish at 10:31. Would that be acceptable to the
7 Court?

8 THE COURT: Yes. I will hold you to two
9 minutes.

10 MR. ARNISON: Thank you. All right.

11 Q. Commander Freudenthal, my last set of
12 questions is, did the -- did the City of Phoenix
13 recently -- the Phoenix Police Department recently
14 promulgate an order or a guidance related to camping
15 or obstructing the right of way?

16 A. An order?

17 Q. Yeah. So -- or a bulletin recently put out
18 regarding camping and sleeping?

19 A. Yes.

20 Q. Okay. What was the substance of that
21 bulletin, do you recall?

22 A. They -- it was basically based off of the
23 other lawsuit.

24 Q. Which other lawsuit?

25 A. The ACLU lawsuit related to the property and

1 the citations, 234801 and 2330, that those citations
2 shall not be issued unless there has been an
3 appropriate assessment done for that individual, an
4 appropriate shelter offered to that individual and
5 they refused.

6 Q. Do you remember about when that bulletin was
7 issued?

8 A. About a month ago.

9 Q. Okay. All right.

10 MR. ARNSON: Okay. All right. Thank you,
11 your Honor. That's all I have.

12 THE COURT: All right. Thank you. We are
13 going to save cross, obviously, until after the
14 morning break.

15 Officer, you can step down. Or, Commander --
16 excuse me -- you can step down if you would like. And
17 then we will have you start back on the stand after
18 our break.

19 THE WITNESS: Thank you.

20 THE COURT: Everybody, we are going off the
21 record. We will be back in about 15 minutes. And
22 counsel need to talk about anything beforehand?

23 MR. TULLY: No, your Honor.

24 THE COURT: No for plaintiffs. No for
25 defendants.

1 MR. PIERCE: No.

2 THE COURT: All right. We are off the record.

3 (Recess taken.)

4 THE COURT: We are back on the record in

5 Freddy Brown, et. al. v. City of Phoenix,

6 CV 2022-010439.the commander is still on the

7 witness -- or in the witness box.

8 And you understand you are still under oath,

9 correct?

10 THE WITNESS: Yes.

11 THE COURT: Thank you.

12 Counsel.

13 MR. TULLY: Thank you, your Honor.

14

15 CROSS EXAMINATION

16 BY MR. TULLY:

17 Q. Good morning.

18 A. Good morning.

19 Q. Commander, my name is Steve Tully. I
20 represent the plaintiffs in this matter. I've got
21 some questions for you this morning.

22 You mentioned you were the commander of the
23 unit that covers what's referred to as the Zone.

24 Do you understand that?

25 A. Yes.

1 Q. When I say the Zone, you know the area that
2 I'm speaking about, correct?

3 A. Correct.

4 Q. All right. Things are bad in the Zone?

5 A. Yes.

6 Q. All right. Lots of crime?

7 A. There is a high crime rate in the Zone, yes.

8 Q. Lots of drug use?

9 A. There is, yes.

10 Q. Lots of violence?

11 A. There is a high rate of violent crime in the.

12 Q. Violent crime in the area, all right. Even
13 after the enhanced -- or your latest efforts to step
14 up the policing of the area, still lots of violence
15 occurring there.

16 True?

17 A. It's still high.

18 Q. All right. Higher than most other areas in
19 the city.

20 True?

21 A. True.

22 Q. In fact, was somebody murdered there just
23 three nights ago, two or three nights ago?

24 A. Yes.

25 Q. All right. And the crime that's occurring

1 there, it's not being done by the business owners,
2 Mr. Brown or Mr. Francis.

3 True?

4 A. True.

5 Q. Okay. It's being committed by those who are
6 occupying tents and other makeshift structures in the
7 area; is that correct?

8 A. Yeah. It -- not -- I mean, there's other
9 individuals that come into the area and commit crime.

10 Q. Uh-huh.

11 A. But they are part of --

12 Q. Right.

13 A. -- the individuals committing crime also.

14 Q. Okay. And other people that are coming into
15 the area to commit crimes, primarily, that's -- those
16 are crimes involving those who are in their tents and
17 other structures that have been permitted to be built
18 down in the area, correct?

19 A. Correct.

20 Q. All right. And those -- those -- is it legal
21 to -- to put up a tent on the sidewalk and create a
22 living space in the city of Phoenix?

23 MR. ARNISON: Objection. Calls for legal
24 conclusion.

25 THE COURT: Sustained. There's a different

1 way to ask it.

2 MR. TULLY: Sure.

3 Q. Is it against the City Code for an individual
4 to erect a tent on the sidewalk within the city
5 limits?

6 A. Depends on who you ask.

7 Q. Really? Does it violate a code provision to
8 do so?

9 A. I think that's the question, and that's why we
10 are here today. I -- you --

11 Q. Okay.

12 A. We get consulted by lawyers, and it's
13 difficult to get a straight answer on that one. So is
14 it -- is it -- is there a law on the books that
15 involves camping? Yes.

16 Q. Okay. So it would help for the Court here,
17 this Court to provide some guidance to you in your
18 duties with regard to those who are constructing tents
19 on the, in the right of ways in the Zone?

20 A. So there's two courts, as you're aware of.
21 And it would help that -- if we had a -- it would help
22 if we had a straight answer between the two courts.

23 Q. Okay.

24 A. For me and my team.

25 Q. Right. Because, I mean, you mentioned that

1 you enforced the anti-camping ban against an
2 individual who was -- who had built their -- their
3 structure or tent in an access point, correct?

4 A. Correct.

5 Q. But, obviously, you're not enforcing that
6 against the vast majority of folks that are down
7 there, the camping ban.

8 True?

9 A. It depends on where the tent or the campsite
10 is, correct.

11 Q. Right.

12 A. So whether it's in the roadway or in those
13 type of areas, we will do enforcement. But in the
14 easements is where we have run into that grey area.

15 Q. All right. Where you are not enforcing the
16 camping ban is in the easements?

17 A. So the direction that is given to them -- to
18 the officers and myself is, if the individual has
19 received an assessment and then offered adequate and
20 appropriate shelter, then we will do enforcement.

21 Q. Okay. So if we drive down there today, you're
22 going to see all kinds of tents all along Madison, all
23 of them violating the City Ordinance.

24 True?

25 A. I -- I -- the way I read the ordinance, I

1 would say, yes.

2 Q. Right. Not whether the Court has said you
3 can't -- whether the ordinance can be enforced or not,
4 but the actual ordinance. They've got a camp out
5 there. I mean, people out there with grills and all
6 kinds of stuff, correct?

7 A. Correct.

8 Q. All right. They're just living out there on
9 the street in the -- in the right of ways, on top of
10 the sidewalks, and the rest, correct?

11 A. Correct.

12 Q. All right. And they are doing drugs and all
13 the rest we have discussed already, correct?

14 A. Correct.

15 Q. Okay. It's open, an obvious violation of how
16 the statute is written, correct?

17 So you could -- you could theoretically stop
18 at the first tent and ask the -- you know, and require
19 the person -- inquire of the person why they are there
20 and direct them to move.

21 True?

22 A. Not right now, no.

23 Q. All right. And the only reason you can't do
24 it right now is because that's the direction you've
25 gotten from the lawyers for the City.

1 True?

2 MR. ARNISON: Your Honor, I don't want this to
3 turn into attorney/client privilege territory, so I'm
4 going to object.

5 THE COURT: Give me a second. What's your
6 response to that?

7 MR. TULLY: Well, he's admitted that there's a
8 city ordinance.

9 THE COURT: I'll tell you what. I'm going to
10 cut you off --

11 MR. TULLY: Sure.

12 THE COURT: -- because I think it's easier.
13 If you change your question and take the lawyers out
14 of it and say that's the direction you got from the
15 City, I think it's less offensive. So -- not
16 offensive, but it doesn't offend attorney/client
17 privilege.

18 Q. BY MR. TULLY: The reason you are not
19 enforcing, currently enforcing the City ordinance
20 against camping in the right of ways is at the
21 direction of the City?

22 A. I disagree.

23 Q. All right. Who -- whose direction are you --

24 A. The federal judge.

25 Q. Okay. Okay. Now let me ask you, the Zone

1 proceeded -- the growth of the Zone, right, all those
2 tents, proceeded -- when you say the federal judge,
3 you're talking about Judge Snow's order?

4 A. That's part of it.

5 Q. Okay. Well, I mean, are you referring to a
6 different judge?

7 A. Well, I think -- well, I'm also referring to
8 the 9th Circuit ruling which Judge Snow utilize in his
9 ruling, right.

10 Q. All right. Well, let me ask you -- let me ask
11 you this question. You've been working, not as the
12 commander, but as an officer or lieutenant in and
13 around the area that's now called the Zone for -- for
14 a fairly long time, correct?

15 A. That's correct.

16 Q. And how long?

17 A. The majority of my career.

18 Q. All right. And was there a time when there
19 was no tent city in that area?

20 A. There was.

21 Q. All right. And during that time, did you
22 enforce the City Camping Ban?

23 A. We -- there were times when we issued that
24 citation, but -- yeah, there were times we issued that
25 one, along with the lying/sitting in a public right of

1 way. We have issued those in the past, yes.

2 Q. Sure. And when -- and then individuals would
3 know that that's against the law because, if one set
4 up a tent at that time, the first tent shows up, you
5 enforce the law and have them remove the tent?

6 A. Correct.

7 Q. Okay. And then, at some point, whether it's
8 the 9th Circuit or wherever, you got direction not to
9 do that any longer.

10 True?

11 A. Yes.

12 Q. All right.

13 A. I -- if I can go back? So when that 9th
14 Circuit ruling came out is when I left the area, so I
15 was not the commander. I did not specifically receive
16 that direction. I would disagree. It did go out
17 citywide that we would not utilize those codes --

18 Q. All right.

19 A. -- when it came out, yes.

20 Q. And then a tent city arose?

21 A. It -- the tent city -- I'm sorry. The tents
22 did not come in really until COVID. So I believe the
23 9th Circuit ruling was 2018. And I would say that the
24 tents in the area did not start really popping up
25 until COVID.

1 Q. Okay. But when the first one popped up after
2 COVID, you didn't -- you, meaning, the Phoenix
3 Police -- well, strike that. Let me ask you this.

4 After -- after COVID, when the first tents
5 started popping up, were you working in the Zone then?

6 A. No.

7 Q. Okay. But at that point, obviously, the City
8 wasn't enforcing the ordinance against the tents?

9 A. Correct.

10 Q. All right. And as a result, more and more
11 tents.

12 True?

13 MR. ARNISON: Objection. Calls -- objection,
14 foundation.

15 THE COURT: Overruled. Continue.

16 THE WITNESS: Can you repeat the question?

17 Q. BY MR. TULLY: Yeah. As a result of not
18 enforcing the law against tents, more and more tents,
19 more and more structures were built in the right of
20 ways all around the zone.

21 Isn't that true?

22 A. That could be, yes. That could be true. It
23 could be a deduction you can make.

24 Q. Yeah. Now in the Zone, you were asked a lot
25 about the crime suppression efforts, correct?

1 A. Correct.

2 Q. All right. If the tents and other structures
3 were removed, fair to assume the crime rates will drop
4 precipitously?

5 A. I could tell you, prior to the tents, we still
6 had a high crime rate in that area. Crime did go up
7 with the tents, but it also was related to the amount
8 of people, right. As the more individuals became
9 unsheltered, the crime increased because we had more
10 individuals down there that were either victims or
11 suspects. So it's hard to say it was specifically due
12 to the tents because the numbers increased
13 exponentially.

14 Q. Okay.

15 A. But when -- when we were down there prior to
16 the tents, there were not a thousand people in that
17 area. And there aren't a thousand now, but it did get
18 to -- close to that number at one point.

19 Q. Sure. But I mean, well, it's -- I mean, if
20 there's no tents, there's not going to be a thousand
21 people sitting on the street down there.

22 True?

23 A. Most likely not.

24 Q. Yeah. The last time you testified, you
25 mentioned that you were -- that you -- I mean, that

1 the police were now -- had started accompanying all
2 medical and fire -- well, medical personnel and fire
3 personnel on calls for those services; is that
4 correct?

5 A. Correct.

6 Q. All right. Is that still the case?

7 A. It is.

8 Q. All right. Because those individuals found in
9 the area are too dangerous?

10 A. Yes.

11 Q. All right. You had talked about -- you were
12 asked about the courtesy call -- courtesy rides.

13 Do you recall that?

14 A. Yes.

15 Q. And the courtesy rides for individuals, when
16 you -- when the police take someone down to the
17 welcome center at the Human Services Campus, what do
18 they do with them at that point?

19 A. They are directed to walk them into the Brian
20 Garcia Welcome Center and had have a handoff with the
21 Human Services Campus.

22 Q. All right. And that's the end of the
23 involvement?

24 A. Yes.

25 Q. You don't record who the person at that point?

1 A. Yes, we do --

2 Q. All right.

3 A. -- record it. But how they dispo the call can
4 change. For instance, if you respond to a call of an
5 intoxicated individual, that call radio code is going
6 to be a 390 radio call, which would be intoxicated
7 individual.

8 Now the result of that might be a courtesy
9 transport to CBI for -- or maybe even the campus and
10 do a handoff. That's a bad example. But whatever the
11 call might be, that original call is typically what
12 will stay in code. So it's a little bit harder to
13 track than just a courtesy transport.

14 Q. So --

15 A. So for me to put a number on it, it's just
16 hard to track.

17 Q. Sure. So the City, as far as you know, at
18 least from the police perspective, doesn't know what
19 happens with that person after you drop them off at
20 the shelter?

21 A. No, correct, we do not.

22 Q. All right. May remain down there in the Zone?

23 A. May.

24 Q. All right. And they can, of course, leave.

25 They may not even, after the handoff, they may -- they

1 don't even have to actually seek shelter at the
2 shelter, correct?

3 A. Correct.

4 Q. All right. And then you mentioned one of your
5 partners was the Community Bridges, Inc.; is that
6 correct?

7 A. Correct.

8 Q. And are there times when the police call
9 Community Bridges and Community Bridges takes
10 individuals down to the Human Service Campus?

11 A. I don't know if Community Bridges, they take
12 people down to the -- I can't see an instance where an
13 officer would call them just to take them to the
14 campus. But they do take people down to the campus,
15 yes.

16 Q. Okay. And you -- so you don't recall where --
17 a situation where the police might call Community
18 Bridges and ask them to do it, instead of themselves?

19 A. Well, so they would -- they would be -- there
20 would be a handoff with Community Bridges of that
21 individual. Is it possible then Community Bridges'
22 response is to take them to the campus? That is
23 possible, yeah. But it's not like -- the officer's
24 not going to call them and take them and transport
25 them.

1 Q. Yeah. Have you ever heard of the broken
2 window theory of policing?

3 A. Yes.

4 Q. Is that something that -- well, that's not
5 something that the City's employing in the Zone.

6 True?

7 A. True.

8 Q. Yeah. The tents and other structures that are
9 built there, when you have reason to believe that
10 someone is doing something illegal, do you get a
11 search warrant?

12 A. Yes.

13 Q. That's because the structure is actually the
14 person's home?

15 A. Yes, right. It's their property, yes.

16 Q. All right. The removal of individuals who are
17 setting up tents, it's not -- I mean, you will enforce
18 it at times; for instance, as you mentioned, with
19 somebody blocking the entranceway, correct?

20 A. Correct.

21 Q. And if someone sets up -- I don't know where,
22 if the mayor lives on a street -- but if someone were
23 to set up a tent in front of the mayor's office, they
24 would remove it? You would remove it?

25 A. If it's on private property, yeah, of course

1 we would if it's in the driveway. If it's on an
2 easement, we would follow the procedures that are set
3 forth for a camping violation. If it's just a camping
4 violation, we would follow the procedures that are set
5 forth by the 9th Circuit and Judge Snow.

6 Q. You would go to that person and see if you can
7 get them in a structure?

8 A. Our Office of Homeless Solutions would, yes.

9 Q. Right. And then you would remove the tent?

10 A. Yes.

11 Q. So you wouldn't -- you wouldn't let -- you
12 wouldn't let the tents proliferate in that area?

13 A. Well, that's one individual, as opposed to
14 700.

15 MR. TULLY: Right. Which is -- right,
16 exactly.

17 No further questions.

18 THE COURT: All right. Thank you. Any
19 redirect?

20 MR. ARNISON: Yes, your Honor.

21

22 REDIRECT EXAMINATION

23 BY MR. ARNISON:

24 Q. Commander Freudenthal, has the City ever
25 denied that the rate of crime in the area around the

1 Human Services Campus is high?

2 A. No.

3 Q. And do you -- as you sit here today, do you
4 recognize that it is, what might be termed as a high
5 crime area?

6 A. Yes.

7 Q. Okay. And you, in fact, testified earlier
8 today that crimes still are occurring, correct?

9 A. Yes.

10 Q. Are property crimes still occurring?

11 A. Yes.

12 Q. Okay. Are violent crimes still occurring?

13 A. Yes.

14 Q. Are crimes involving moral conduct still
15 occurring?

16 A. Yes.

17 Q. Are drug offenses still occurring?

18 A. Yes.

19 Q. Okay. Notwithstanding that, those crimes, at
20 least that we know, the violent crime rate is getting
21 better; isn't that right?

22 A. Yes.

23 Q. Okay. And getting better to the tune of about
24 24 and a half percent; is that right?

25 A. Property crimes was 24 and a half percent.

1 Q. Thank you. Property crime is getting better
2 to the tune of 24 and a half percent.

3 What about violent crime, is that getting
4 better?

5 A. Yes.

6 Q. Okay. So is the Phoenix Police Department and
7 the Downtown Operations Unit taking steps that are
8 resulting in a decrease in the crime rate in the area
9 around the Human Services Campus?

10 A. Yes.

11 Q. You talked -- Mr. Tully asked you a couple of
12 questions about direction that you received from who
13 knows who at the City regarding enforcement of camping
14 ordinance or obstructing the right of way.

15 Do you remember that line of questioning from
16 Mr. Tully?

17 A. Yes.

18 Q. Okay. And part of the direction that he
19 represented that it sounds like you received was,
20 without engaging a person, we -- the City won't
21 enforce the camping ordinance without doing an
22 individualized assessment; is that right?

23 A. Correct.

24 Q. Okay. But is that what the City said, or is
25 that what the federal court's order said in the ACLU

1 case that's pending in federal court?

2 MR. TULLY: I'm going to object to foundation.

3 THE COURT: If you can establish foundation,
4 we will go forward with the question.

5 Q. BY MR. ARNISON: Are you familiar with the
6 federal court proceeding that's pending over in --
7 down the street in federal court?

8 A. Yes, I am.

9 Q. Have you testified in that proceeding?

10 A. Yes, I have.

11 Q. Do you know what the -- what the core
12 arguments are from the plaintiffs in that case?

13 A. Yes, I do.

14 Q. Okay. What are they?

15 A. It's the handling of property related to
16 unsheltered or people experiencing homelessness and
17 the citing or arresting of individuals for sleeping,
18 lying-type ordinances, such as camping.

19 Q. Are you aware that the federal court issued a
20 preliminary injunction in December of 2022 against the
21 City of Phoenix?

22 A. Yes, I am.

23 Q. Have you read the content of that order?

24 A. Some of it.

25 Q. Okay. Have you read the important parts about

1 what the City can and can't do?

2 A. Yes.

3 Q. Okay. What did the federal court say, if you
4 know, about what has to be done before the City can
5 enforce laws relating to camping or obstructing
6 sleeping in the right of way?

7 A. That an assessment and offer of appropriate
8 and adequate shelter needs to be offered prior to any
9 enforcement.

10 Q. Does the person -- okay, thank you. That's
11 your understanding.

12 A. Yes.

13 Q. I appreciate that. Okay. We talked about a
14 bulletin that the City, that the PD circulated related
15 to enforcing camping and sleeping bans.

16 Do you recall that discussion?

17 A. Yes, I do.

18 Q. Okay. That bulletin says that the City will
19 indeed continue with and will indeed conduct
20 enforcement actions, does it not?

21 A. Yes.

22 Q. Okay. And does that bulletin say that,
23 upon -- upon an individualized assessment of an
24 unsheltered person, that if a person refuses to leave,
25 enforcement can proceed?

1 A. Yes.

2 Q. Okay. You mentioned the *Martin v. Boise* case,
3 and you also mentioned the federal case.

4 Do you recall that?

5 A. Yes.

6 Q. Okay. You talked a little bit about Mr. --
7 with Mr. Tully about tents.

8 Do you remember that?

9 A. Yes.

10 Q. Okay. So for tents, do you know whether tents
11 can simply be removed without advising someone first?

12 A. Can you rephrase?

13 Q. Sure, I can.

14 A. Can you repeat that question.

15 Q. I can. Can the City simply remove a tent
16 without advising the individual that a tent is going
17 to be removed?

18 A. No.

19 Q. So all these court orders that have been
20 flying back and forth between the state court
21 proceeding and the federal court proceeding, how easy
22 is that for you -- are they for you to reconcile?

23 A. It puts us in a difficult position. It's not
24 easy at all to reconcile the difference between the
25 two suits.

1 Q. Why not?

2 A. Because they appear to conflict, to me.

3 Q. I'm only ask asking for your -- for your read.

4 A. Yeah.

5 Q. Okay. In what respects do they appear to
6 conflict?

7 A. In -- I believe it just appears that one court
8 is saying we are doing too much and the other court is
9 saying we are not doing enough.

10 MR. ARNISON: Okay. I understand.

11 I don't have any further questions, your
12 Honor.

13 THE COURT: All right. Thank you. Do the
14 defendants believe this witness should be available
15 for recall?

16 MR. ARNISON: No, your Honor.

17 THE COURT: Plaintiffs?

18 MR. TULLY: No, your Honor.

19 THE COURT: All right. Thank you for your
20 time, Commander. You can step down.

21 You can either remain or leave. It's up to
22 you.

23 MR. PIERCE: Your Honor, can we get a -- how
24 much time we've got left for our witnesses?

25 THE COURT: You've got three hours, 27

1 minutes, 30 seconds.

2 MR. PIERCE: We won't come close to that.

3 Famous last words, but --

4 THE COURT: Yeah.

5 MR. PIERCE: Okay. Just wanted to make sure
6 we were doing okay.

7 MS. STUHAN: If you are prepared, your Honor,
8 we will call Dr. Sheila Harris to the stand.

9 THE COURT: Okay. Ms. Harris, if you could
10 just stand right at the end of that counter there,
11 please.

12 THE CLERK: Would you please state and spell
13 your name.

14 MS. HARRIS: Sheila Harris, S-h-e-i-l-a,
15 H-a-r-r-i-s.

16 THE CLERK: Thank you.

17 THE COURT: Thank you, ma'am. You can have a
18 seat, please.

19

20 SHEILA HARRIS,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

23

24 ///

25

DIRECT EXAMINATION

1 BY MS. STUHAN:

2 Q. Good morning, Dr. Harris.

3 A. Good morning.

4 Q. Can you introduce yourself to the Court?

5 A. Hi. I'm Sheila Harris, and I have been
6 working in the area of reducing homelessness and
7 developing affordable housing for my entire career,
8 which began in the mid eighties here in Phoenix.

9 Q. I'd like to talk about that a little further.
10 Let's first start with what you are currently doing.

11 Are you working for the City of Phoenix
12 currently?

13 A. Yes. They have asked me to assist this with
14 an expert testimony for their various lawsuits, the
15 two lawsuits that have been have referenced before.

16 Q. Okay. And so is one of those the state court,
17 this lawsuit?

18 A. Yes.

19 Q. And one of them the ACLU lawsuit in the
20 federal court?

21 A. Yes.

22 Q. And you're working on both of those cases?

23 A. Yes.

24 Q. Can you describe to me, for this state court
25 case, your roles and responsibilities as a consultant

1 for Phoenix?

2 A. I have been asked to look at the policies that
3 they are putting in place in trying to address ending
4 homelessness and the engagement opportunities that
5 they are performing, as well as looking at what other
6 communities may be doing that they could learn from.

7 Q. And how long have you worked as a consultant
8 for Phoenix?

9 A. I believe I began about a year ago.

10 Q. Are you being compensated for this work?

11 A. I am.

12 Q. And how much was your hourly rate?

13 A. \$300.

14 Q. Okay. Is that customary in your field of
15 industry?

16 A. Yes, it is. And I've charged that to other
17 law firms as well.

18 Q. Have you written a report of your findings
19 based on your work in this case?

20 A. Yes. I prepared a report.

21 Q. And are you prepared to discuss those findings
22 today?

23 A. Yes.

24 Q. So before we discuss those, I want to take a
25 little bit of time to talk about both your training

1 and your experience, okay.

2 A. Okay.

3 Q. So let's first talk about your educational
4 background. Can you walk me through your educational
5 experiences?

6 A. I have a bachelors degree from Ottawa
7 University. I have a Masters in American Studies from
8 the University of Kansas and I have a PhD from Arizona
9 State University in Public Administration.

10 Q. And what was the focus of your dissertation
11 during your PhD?

12 A. It was the role of non profits in creating
13 affordable housing. And I looked at the communities
14 of Boston, Chicago and San Francisco.

15 Q. So have you had worked with the issues of
16 affordable housing from your PhD to current?

17 A. Yes.

18 Q. Do you currently specialize in any particular
19 fields of study?

20 A. Only those that really influence housing
21 affordability and helping people end homelessness.

22 Q. So let's talk about your actual experience
23 working with homelessness and affordable housing. You
24 were the founding director of the Arizona Department
25 of Housing; is that correct?

1 A. That is correct, yes.

2 Q. Can you describe for me, what is a Department
3 of Housing?

4 What is that?

5 A. It's a state agency, in this particular case,
6 that administers a variety of funding mechanisms, such
7 as the low income housing tax credit, community
8 development block grant funds, other federal funds, as
9 well as the state housing trust fund.

10 Q. When was that created in Arizona?

11 A. We -- it was created in 2002.

12 Q. Did you have any role in that?

13 A. I did not.

14 Q. When did you first get hired to be the
15 director?

16 A. Actually, for the first nine months of the
17 organization, it was the Governor's Office of Housing
18 Development. And then it became the Department of
19 Housing in, I believe, October of 2020 -- 2002, excuse
20 me.

21 Q. And did you start working in that role then in
22 2002?

23 A. Yes. I was --

24 Q. How --

25 A. I was hired by Governor Hull to start the

1 Governor's Office which then became the Housing
2 Department.

3 Q. And then did you continue in that role after
4 Governor Hull?

5 A. Yes. I stayed on for five more years with
6 Governor Napolitano.

7 Q. So you worked with both Governor Hull and
8 Napolitano on housing issues in the state?

9 A. Yes.

10 Q. Now a department, that's a lot of different
11 roles. Do you think it's important to have something
12 like a Department of Housing?

13 A. I think it's important because it can help
14 solidify legislation and -- in its implementation
15 phase. The other part, too, is it brings about a
16 certain amount of accountability because there are
17 many contracts involved, there's many dollars
18 involved. Units are specified that -- to be
19 developed, as well as services provided.

20 So I believe it brings both a continuity or an
21 overall perspective to the housing efforts as deemed
22 appropriate by our state legislature; and, at the same
23 time, making sure that the contracts we have entered
24 into with those individuals are appropriately
25 conducted.

1 Q. On the local level, do -- in your experience,
2 do a lot of cities and towns have an equivalent to a
3 Department of Housing?

4 A. Excuse me one moment.

5 Q. Yeah. Take your time and get water. You're
6 going to be up there a bit.

7 A. Yes. It is very common for cities, counties,
8 and states to have Departments of Housing.

9 Q. Okay. So talking a little bit about the
10 Department of Housing, after you finished that role,
11 did you continue to work in the housing industry?

12 A. Yes.

13 Q. In what role?

14 A. I did consulting work with the Molera Alvarez
15 firm on housing issues that they were pursuing within
16 their organization. And I have also worked in private
17 practice since then.

18 Q. What about the Human Services Campus? Have
19 you had any role with the campus?

20 A. Yes. I was a board member for a few months.
21 And then there was a change in leadership at the
22 campus. And I took over running the campus for about
23 18 months from March of 2017 through August of 2018.

24 Q. So do you have a good understanding of the
25 operation of the Human Services Campus over time?

1 A. Yes.

2 Q. Let's take a minute while we are going through
3 your experience. And if you -- can you describe to me
4 approximately when the Human Services Campus started
5 operating?

6 A. It started approximately, I believe 14 years
7 ago.

8 Q. Why was it created?

9 A. It was created because, in the area where it's
10 conveniently referred to as the Zone, there were
11 several social service providers there. And there
12 were several people seeking services in the area. And
13 they were wandering about in the community; and there
14 was no one place for them to go to sleep, to get food,
15 et cetera.

16 So they might go see St. Vincent de Paul for a
17 meal. They might go over to CASS for a shelter bed.
18 They might go and seek healthcare. And then they
19 might go to Andre House for spiritual guidance, as
20 well as food and clothing and other necessities.

21 Q. And did the City of Phoenix have any ownership
22 over that campus when it was created?

23 A. The City owned a piece, a slice of the
24 property that the campus was on. But when it was
25 created, it became a separate 501c non-profit, the

1 Human Services Campus; and it was governed by the
2 various agencies that were working on that campus.

3 They were consolidated geographically, I think
4 is probably the best way to describe why the campus
5 was created to keep people there wandering about in
6 the neighborhood.

7 Q. And then are there other -- throughout the
8 state of Arizona, are there other places or services
9 where shelter is offered to the homeless?

10 A. Yes.

11 Q. Are there other places where the homeless can
12 go get those spiritual counseling that you mentioned?

13 A. Yes.

14 Q. And food?

15 A. Yes.

16 Q. Is the Human Services Campus one of the larger
17 providers of services to the homeless in the state?

18 A. It is.

19 Q. So going through your time of consulting,
20 we've gone through the Department of Housing
21 consulting, Human Services Campus.

22 Are there any more recent engagements in the
23 area of homelessness or affordable housing that you
24 have been working on?

25 A. I've been working as a volunteer with the

1 Phoenix Community Alliance and their efforts to reduce
2 homelessness in the campus area. And I have also
3 worked with another non-profit that is looking at
4 trying to create more affordable housing.

5 Q. Why did you decide to specialize in these
6 areas of homelessness and affordable housing?

7 A. I sometimes ask myself that question. I think
8 because I understand how important it is to have a
9 home and what that means and how that can influence so
10 many other decisions that you have in your life. And
11 to provide that stability as a foundation, which we
12 talked about here before, is what's critical, I
13 believe, in order for people to be successful.

14 Q. Have you reviewed any academic literature
15 regarding homelessness and affordable housing issues
16 in preparation for your testimony in this case?

17 A. Yes, I have.

18 MS. STUHAN: Your Honor, at this time, we do
19 tender Dr. Harris as an expert in the field of
20 homelessness and affordable housing.

21 THE COURT: Any objection?

22 MR. WURMAN: No objection.

23 THE COURT: The Court finds the witness
24 qualified to render an opinion pursuant to Rule 702.

25 Go ahead.

1 MS. STUHAN: Thank you, your Honor.

2 Q. Dr. Harris, we talked a little bit about the
3 fact that you reviewed some academic literature. But
4 before we get to any of your findings, I'd like to
5 first know what types of information you've reviewed
6 in coming to any of your conclusions.

7 So let me ask a few questions. Have you
8 reviewed any City policies regarding homelessness?

9 A. Yes.

10 Q. Have you reviewed any procedures the City uses
11 for cleanups or enhancing engagements in the area
12 around the Human Services Campus downtown?

13 A. Yes.

14 Q. Have you reviewed or considered any timelines
15 for how the City intends to conduct its cleanup
16 activities?

17 A. Yes.

18 Q. And have you observed any cleanups in the area
19 around the Human Services Campus?

20 A. Yes. I have been to five, I believe, of the
21 seven.

22 Q. So you've been to five of the seven cleanups
23 around the Human Services Campus area?

24 A. Yeah. I was not there in January or
25 March 3rd.

1 Q. Were you there on May 10th?

2 A. Yes.

3 Q. Okay. And I'm going to talk a little bit
4 about those cleanups in -- a little bit later, so we
5 will hold that for a moment. But in addition to
6 reviewing the policies, procedures, and observing
7 cleanups, is there any other key things that you feel
8 you have done to prepare for your testimony in this
9 case?

10 A. I have had discussions with my colleagues,
11 most of whom are not in Arizona, with regards to what
12 other communities are doing to try and address the
13 same issue.

14 Q. So have you looked at comparable cities and
15 towns to compare what they are doing about
16 homelessness, as compared to the city of Phoenix here
17 in Arizona?

18 A. Correct.

19 Q. Okay. Let's next discuss some of your
20 opinions. Dr. Harris, do you have an opinion as to
21 the role of law enforcement in addressing homelessness
22 in the city of Phoenix?

23 A. Yes.

24 Q. What is your opinion?

25 A. My opinion is they can be of great assistance

1 in helping people understand what laws they may be in
2 violation of. They also, I have noticed -- in
3 particular, the officers I have most dealt with would
4 be the ones referred to as the Campus Squad,
5 understand and really are, I believe, motivated to
6 help people ending their homelessness as best they can
7 in their jobs as police officers.

8 Q. I'd like to pause there for a minute. You
9 said the officers "I've" engaged with. Have you met
10 with any of the officers for the City of Phoenix
11 engaged in homelessness?

12 A. Yes.

13 Q. Describe to me the purpose of those meetings?

14 A. It's everything from -- for a while, Commander
15 Freudenthal was on the Board at the Human Services
16 Campus. And there have been representatives from the
17 campus on that Board.

18 Lieutenant Michael Mohler was someone that led
19 the Campus Squad when I was there as director and was
20 particularly helpful on the day in which we had a bomb
21 threat called into the campus and someone was
22 threatening to destroy the campus.

23 Q. Were you there for that encounter?

24 A. I was.

25 Q. And did the police respond?

1 A. Absolutely. They were the ones that told me.
2 They were the ones that had gotten the initial call.

3 Q. And you're here today, so I assume that was
4 resolved?

5 A. It was resolved, yes.

6 Q. Okay. Without injury?

7 A. Without injury.

8 Q. Good news. When we talked about the -- so
9 you're meeting with the police officers, you've been
10 observing some of the work.

11 Have you also observed any of the police roles
12 during an enhanced engagement or cleanup?

13 A. Yes.

14 Q. What are some of your observations of the law
15 enforcement role?

16 A. The one incident I remember was when a firearm
17 was found in one of the tents and the police were
18 called to come in and take that. That was one of the
19 roles of engagement that any volunteer or anyone who
20 was looking at people's possessions, if they came
21 across ammunition or a weapon, they were to let the
22 police know. And the police came and took the weapon
23 away, and that was the end of the encounter.

24 Q. Did you think that was an appropriate role for
25 law enforcement?

1 A. Yes. Because sometimes people are volunteers,
2 and they don't know how to handle firearms. And we
3 certainly don't want anyone to be injured.

4 Q. Are law enforcement taking a primary role in
5 the lead of offering services to homeless?

6 A. I wouldn't say it's a primary role, no.

7 Q. Who takes that, that lead?

8 A. There's a variety of people that take that
9 lead.

10 Q. Walk me through some of those.

11 A. The City, obviously in the enhancement
12 opportunities engagement opportunities, are doing
13 that. But quite frankly, the agencies that work on
14 the campus and Andre House, which is immediately
15 adjacent to the campus, offer those services for
16 engagement 24/7.

17 Q. Andre House, what's Andre House?

18 A. It's a non-profit that is run by Catholic
19 priests, and it is not a part of the campus. It's
20 adjacent to the campus. And they have moved -- they
21 have food, spiritual guidance, clothing, respite.
22 They provide many, many services.

23 Q. Are there several non profits located in that
24 area around the Human Services Campus?

25 A. They are the ones that are not a part of the

1 campus that are the most involved.

2 Q. Okay.

3 A. The rest of the agencies, St. Vincent de Paul
4 that you've heard of, CASS, and the HSC, as well as
5 healthcare providers are on the campus, per se.

6 Q. And do you think, in your training and
7 experience, it is appropriate to have those non profit
8 providers and the Office of Homeless Solutions take
9 the lead in offering those services in the area around
10 the Human Services Campus?

11 A. Yes.

12 Q. Why?

13 A. I think that's what's been missing. I think
14 there have been a lot of people who have been in the
15 area for quite some time offering services, offering
16 assistance; but more so, in a very narrow perspective,
17 as opposed to trying to be integrated.

18 Even though you have all of those services on
19 the campus, they don't necessarily work together. And
20 I think, one of the things that the Office of Homeless
21 Solutions can do through their office is work on how
22 do you make those relationships work better; how do
23 you become more integrated in the services you're
24 providing.

25 Q. And does that include measuring improvements

1 or successes along the way?

2 A. Absolutely, yeah. And you also need to be
3 accountable for how the dollars are spent, how many
4 people are served, what was the outcome of the
5 service.

6 Q. And what about deficiencies in the way the
7 program is working? Does an Office of Homeless
8 Solutions, should it be looking at things like that?

9 A. Absolutely.

10 Q. Based upon your experience with the Phoenix
11 Office of Homeless Solutions, are they taking any role
12 in measuring the effectiveness of its policies and
13 procedures to clean up the area around the Human
14 Services Campus?

15 A. Yes, I think they are. The initial encounters
16 with people on the street were, as -- have been
17 referred to as cleanups. And that was an opportunity
18 to, not only the City of Phoenix staff, such as Jeremy
19 who testified earlier, engaging with people, but the
20 campus staff, as well, which includes Community
21 Bridges, CASS, the Human Services Campus, Andre House.

22 All of those entities have the opportunity to
23 work with people. And sometimes, when you have so
24 many people, it's kind of an over-stimulus situation.
25 So I think one of the challenges is a better

1 coordination of those efforts. At the same time, have
2 them be very outcome driven, which hasn't necessarily
3 been the focus of all the agencies working on the
4 campus.

5 Q. Okay. And so we've talked a little bit about
6 working on the campus. I'd like to break down a
7 little bit what that means. So what type of work
8 happens? If you're doing an enhanced engagement, what
9 is the type of work that you have seen?

10 A. What I have seen is, not only City of Phoenix
11 staff going out prior to the engagement opportunity --
12 we are human people trying to assess where they would
13 like to live, if they would like to move, do they have
14 pets, are they a couple, what are some of the
15 challenges that they have in trying to secure housing.

16 Some of the people that are around the
17 campus -- I would say the vast majority -- don't like
18 to go on to the campus because they don't like to be
19 in a confined area. So that makes it really
20 challenging when you are trying to find someone a
21 place to live that's perhaps used to not having four
22 walls around them.

23 So it's not just what happens on the day of
24 the engagement. It's what's happening with the
25 agencies that are working on the campus, as well as

1 working with the City. It's complicated.

2 Q. So does the City have a role in guiding all
3 these different working relationships?

4 A. I think they do. And I think they are
5 starting to step up to the plate. And they are doing
6 that through contracts that they are having with
7 people on the campus; meaning, agencies on the campus,
8 as opposed to individuals.

9 And I think they are setting a direction that
10 is being communicated through the Office of Homeless
11 Solutions. It makes it easier for people if there's
12 one place they can go and know that that entity, such
13 as the Office of Homeless Solutions, can direct their
14 inquiries or where they can be of assistance.

15 Q. And when we are talking about the Office of
16 Homeless Solutions, do you have an understanding of
17 when that was created?

18 A. I believe it was created less than a year ago,
19 approximately.

20 Q. And do you think it was important to create
21 that type of an office?

22 A. Yes. The City had created a task force on
23 ending homelessness. I was a member of that, as many
24 others were. And one of the recommendations was --
25 part of the challenge was the coordination was

1 lacking. And the overall aspect of looking at how do
2 you address ending homelessness was not available.
3 And it was suggested in that report to create an
4 office that would have that responsibility, so there
5 would be one place for people to go to get help and
6 assistance.

7 Q. So let's take a minute there to talk about
8 this task force. Walk me through, when was this task
9 force formed approximately?

10 A. I think it's probably been a couple of years
11 now.

12 Q. And you were a part of that task force from
13 its creation?

14 A. Yes.

15 Q. What was the goals of the task force?

16 A. It was to provide a lot of citizen input into
17 the City's policies that they were looking at with
18 regards to housing and ending homelessness.

19 And it wasn't just from people in the downtown
20 area. There were also areas, other geographic areas
21 that the City represented; mental health agencies.
22 The police were there.

23 And it was really a directed -- it was led by
24 a consultant that led us through -- I don't know --
25 several, probably 20 meetings, at least, over time to

1 address various aspects of, not only housing, but we
2 also did a little bit of work on the affordable
3 housing side. Because you can't end homelessness if
4 you don't have affordable places for people to live.

5 Q. So is it favorite there were different
6 stakeholders that were involved in that task force?

7 A. Yes.

8 Q. And were some of the downtown business owners
9 having a role or comment period in that process with
10 the task force?

11 A. Yes. I remember Bill Morlan from the Electric
12 Supply Company was a member of the task force. There
13 may have been others.

14 Q. Did the task force ultimately come up with
15 some recommendations for the City?

16 A. They did.

17 Q. And can you summarize some of the key
18 recommendations that came out of that task force?

19 A. One of which was to establish an Office of
20 Homeless Solutions. I don't think we called it that
21 exactly, but we wanted some place where there would be
22 coordination of all the various entities that were
23 providing assistance.

24 We also looked at expanding the role, or maybe
25 not -- the role is the inappropriate word. But,

1 rather, funding permanent housing and how can we
2 support that being done. And we did have people on
3 the task force that had area expertise in doing that.

4 So I have seen that there have been subsequent
5 RFPs that have gone out for conversion of hotels to --
6 into SROs, single resident occupiers, and to take a
7 more active role in creating more units.

8 Q. What is an RFP?

9 A. A Request For Proposal, excuse me.

10 Q. So the task force recommended some additional
11 increases in housing.

12 Is that fair?

13 A. Yeah.

14 Q. And since then, you have seen that there have
15 been these proposals to do that type of construction
16 work?

17 MR. WURMAN: Objection. Leading.

18 THE COURT: Sustained.

19 MS. STUHAN: Sure.

20 Q. Have you reviewed any results from the task
21 force?

22 A. Yes.

23 Q. And have any of the task force work been
24 implemented?

25 A. Well, the Office of Homeless Solutions has

1 been created. There was also recommendations for
2 having additional units to be built. Those -- there
3 have been RFPs put out on those, and some of those are
4 under construction now.

5 Q. So have there been any additional housing
6 units created in Phoenix since your time on the task
7 force two years ago?

8 A. I do not know if they have completed all the
9 RFPs that they have put out for the construction of
10 units. I don't have an answer to that.

11 Q. Okay. Do you know if those RFPs actually went
12 out for public bidding?

13 A. Yes.

14 Q. Okay. Is there any other primary
15 recommendations from the task force that stand out to
16 you today. We have talked about the Office of
17 Homeless Solutions and some of the work for going out
18 for housing.

19 Is there anything else that stands out to you?

20 A. Not that I can think of at the moment.

21 Q. After the task force met, do you know if the
22 City adopted any policies regarding strategies to
23 address homelessness?

24 A. Yes. They adopted the report, which was --
25 were strategies to end homelessness.

1 Q. I'd like to next talk with you about some of
2 those strategies to address homelessness.

3 Have you reviewed that document?

4 A. Yes.

5 Q. Okay. And do you know if that document is
6 still in placed today?

7 A. To the best of my knowledge, it is.

8 Q. Okay. And you mentioned, as part of -- some
9 of those strategies dealing with housing. My question
10 for you is, do you know, in your review of Phoenix's
11 policies, has Phoenix adopted a Housing First Policy?

12 A. Not to my knowledge, no.

13 Q. So let's talk -- break that down a little bit.
14 What do you -- what's your understanding of what a
15 Housing First Policy is?

16 A. Within the world of ending homelessness,
17 there's a variety of ways people address it. And
18 Housing First is one of those methods which,
19 basically, looks towards getting an individual housed
20 and then working around what supportive services they
21 need to be -- to be successful in doing that.

22 That is not to say we don't have permanent
23 supportive housing in our community. We do. But it's
24 not the only thing that the City is doing.

25 Q. So are there other theories or strategies to

1 address homelessness that work, also, with the Housing
2 First model?

3 A. It's sort of like a continuum, you know. And
4 so there are different components and people will be
5 at perhaps different places in their lives. They may
6 ultimately end in permanent supportive housing, or
7 they may ultimately end in living on their own or with
8 a roommate or going back and living with Mom or
9 whatever the case may be.

10 So what I have seen is that we've had efforts
11 and funding with the Department of Housing going out
12 on some RFPs for additional housing. There's also
13 been a lot of money coming through the COVID
14 experience, which has been used to help with hotel
15 vouchers, getting people immediately off the street;
16 and those are other things that have been employed.

17 Q. You mention some of the COVID money. I think
18 that's a time I'd like to talk with you a little bit
19 about; your experience with affordable housing and
20 homelessness from 2020 to current.

21 Did the pandemic play any role in any of the
22 current housing crisis, to your knowledge?

23 A. Absolutely. We had a series of a long period
24 of time when we weren't building housing. We have a
25 huge shortage in our state of housing for everyone.

1 I've heard estimates from 200 to 270,000 units. Some
2 of those would be apartments. Some of those would be
3 homes, a variety of ways in which to come to that.

4 And when you have such a constricted supply,
5 the rents go up. And as a result of that, we've had
6 large numbers of evictions and continue to have large
7 numbers of evictions. I believe in March, Maricopa
8 County had about 6500 evictions filed.

9 And when you have a very hot real estate
10 market, and you have a very depressed number of units,
11 it makes the current units even more expensive and
12 makes it more difficult, not only for people who are
13 on the street, but for others to remain housed.

14 Q. So do you think affordable housing is a part
15 of a solution or a step to addressing homelessness?

16 A. Yes.

17 Q. What about shelter? Are more shelters needed
18 in Phoenix?

19 A. Yes, there are a need for that because there's
20 so many people that are on the street, not just in the
21 area surrounding the Zone.

22 But I think there needs to be an
23 understanding -- also, there needs to be a fluidity
24 that, if we get to the point where we have more units
25 that are affordable so there are fewer people on the

1 street, maybe we don't keep the shelters alive
2 forever. But we are having them so people can get out
3 of the heat, they can start to get services.

4 There is all kinds of barriers that people
5 don't think about, quite frankly, that sort of enter
6 into this equation. One of the challenges at the
7 campus, for instance, is some people won't go into the
8 CASS Shelter because they have to go through a metal
9 detector. They don't want to do that, so they would
10 rather sleep someplace else.

11 Q. And so another place they could sleep is a
12 campground, right?

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes.

16 Q. I'm sorry. She's taking down everything we
17 say, so I need yeses?

18 A. Yes.

19 Q. Or nos or I dont knows.

20 So let's talk a little bit on strategies. Did
21 campgrounds have any consideration in the strategies
22 that the City Council adopted?

23 A. I can't remember if it was mentioned
24 specifically in the report, but I do know there have
25 been discussions about campgrounds being an option.

1 And I believe the City is pursuing that at this point
2 in time.

3 Q. Do you think campgrounds are a viable option
4 for some people?

5 A. Yes.

6 Q. Walk me through your assessment of the utility
7 of a campground for the City of Phoenix?

8 A. For one thing, it could be in a more
9 controlled environment. And I know some of the
10 challenges are people tend to get a lot of
11 possessions.

12 And I know some of the encampment areas look
13 like they were probably three or four tents. It is
14 actually one person who combined three or four tents
15 to be where they were living. So it also reduces --
16 it can be -- there can be screening for people to make
17 sure that there are adequate people there to work with
18 them; that they are not just put into a place and
19 left.

20 So it's -- it's not like you just build a
21 campground and you put every little place where you
22 want people to stay and then you close the door and go
23 away. It still will need supervision, and I do
24 believe that's in the City's plan.

25 Q. You've been out, you said, and observed five

1 of the -- or three of the five cleanings?

2 A. Five of the seven.

3 Q. Five of the seven. Me and numbers. So have
4 you observed some of the interactions with the
5 engagement team with the homeless population?

6 A. Uh-huh, yes.

7 Q. And also, in your experience as Department of
8 Housing and Human Services, have you had discussions
9 and interactions with homeless people?

10 A. Yeah.

11 Q. Do you think that all of the people located in
12 the area around the Human Services Campus could be
13 able to live in a structured campground outside?

14 A. I don't know about all of them, but I think
15 some of them can.

16 One of the things we found in my observation
17 of one of the cleanups is, sometimes people have
18 really severe health issues, and they don't realize
19 how ill they are; and they do need medical attention.
20 So there have been people that have been transported
21 to hospitals and other healthcare has been provided to
22 them.

23 Some people also like more space than the
24 12-by-12 area that has proposed. It's going to have
25 to happen, unfortunately, and -- not unfortunately,

1 improper term. It really needs to be done on an
2 individual basis, but there needs to be a variety of
3 options, campground being one.

4 Q. So variety of options; campground, shelter,
5 congregate, other settings for people to reside when
6 they are in crisis?

7 A. Correct.

8 Q. When you are doing that individualized
9 assessment, in your experience, would the City
10 consider whether somebody is single?

11 A. Yes.

12 Q. Or part of a family unit?

13 A. Or has pets.

14 Q. Talk to me a little bit about pets. Why is
15 that important?

16 A. For some people, this has been the most
17 faithful thing they have had in their lives for quite
18 some time. And it's something that they have a very
19 strong relationship with. They have bonded. It also
20 gives them a purpose to doing something else during
21 the day with their lives. And they -- they like
22 taking care of pets. They bring them comfort.

23 Q. So it's important to have options that allow
24 for pets?

25 A. Yes.

1 Q. When we talk about a campground, do you have
2 any opinion as to whether all segments of the
3 population can safely reside in one area?

4 A. I don't believe that's possible.

5 Q. Why not?

6 A. Particularly, if you have women that have
7 children and -- in with single men, that isn't
8 necessarily a great combination. Sometimes men have
9 been sexual predators, and you just don't know that.
10 Eventually, you may find out, but you certainly don't
11 want to find out at the expense of someone.

12 Also, too, I think it's important for youth to
13 have separate facilities. Because if you can help a
14 young person in their homelessness early in their
15 lives, they don't become chronically homeless. And
16 being around people who have been homeless for many,
17 many years, it may lead them to go down that path, as
18 opposed to striking out and going on their own, the
19 support.

20 Q. So we've talked a little bit about some of
21 those strategies. I'd like to move now to talk about
22 specifically your observations of the enhanced
23 engagements around the Human Services Campus.

24 A. Okay.

25 Q. So can you walk me through what happens during

1 an engagement process?

2 What's the first step?

3 A. Well, the first step of that day has probably
4 happened a couple of weeks before, at least, in that
5 City staff, as well as the other providers that have
6 been mentioned here -- Community Bridges, Human
7 Services Campus, staff, perhaps even people from St.
8 Vincent de Paul -- have contacted and engaged people
9 in saying, okay, this is the block, this is the area
10 that's going to be -- they are coming through and they
11 are going to be cleaning; and can we engage -- can we
12 talk about you living someplace else, other than here?

13 And the other part is, what changed was the
14 first four or five -- I've lost track -- of the
15 cleanups were really cleanups, and people could
16 immediately go back to where they were. Since they
17 have adopted a, more of an engagement strategy, people
18 are not allowed to go back. And so alternative
19 arrangements have to be made and that just can't
20 happen on the day of the cleanup. And that's why
21 people have been going out, I believe up to two weeks
22 prior, to find alternative placements.

23 Q. So when you have observed a cleanup, what time
24 do you show up?

25 A. Usually, around 6:30 in the morning.

1 Q. How long are you there?

2 A. Three to four hours, depends.

3 Q. And what types of activities have you been
4 observing?

5 A. I've been observing people waking up and being
6 greeted: Today's the day. It's time to move. Have
7 you decided what things you want to keep, where you
8 want to store things or what you want stored and what
9 you don't care to keep anymore? Do you know where you
10 are going?

11 Because, in many times, people have already
12 made an arrangement. They know they are going to a
13 hotel room or they know they are going to some other
14 facility ahead of time.

15 After that, then the process begins. And
16 it's, you know, probably anywhere from three to four,
17 sometimes more people helping an individual decide
18 what to keep, what to store, what they're not going to
19 take.

20 Q. So what about the tents? What happens to
21 tents when you are cleaning out a block?

22 A. After everybody has been moved to their new
23 location, and the only thing that's remaining on the
24 streets are the tents and possessions people no longer
25 want, the street department comes in and cleans the

1 sidewalks, cleans the streets, and takes all of the
2 remaining items away.

3 Q. Do -- if people want to keep their belongings,
4 are they -- in your observations, were they allowed
5 to?

6 A. Yes.

7 Q. Is that important?

8 A. It is very important. Sometimes, the places
9 where you are going won't allow to you take certain
10 things or they have limits on the amount of things you
11 can bring.

12 So this way, a person can go with what they
13 know they want, what they know they need; and they can
14 then come back to the campus later and go through
15 their other supplies once they figure out, is this
16 where I want to stay and is this -- and what else do I
17 need from my possessions to take.

18 I believe the storage area on the campus is
19 available for about 45 days after the cleanup for
20 people to come back and get their possessions.

21 Q. So in your observations of the cleanups, is
22 this something that can happen in an hour?

23 A. With some people, yes.

24 Q. Okay.

25 A. With most people, no.

1 Q. So describe one of the times when you can do a
2 cleanup that you have observed relatively quickly?

3 A. There sometimes have been a health scare and
4 somebody just really realizes now, I've got to go.
5 And so, they have already got a plan and they put it
6 in place and they go.

7 There are some people that, you know, say they
8 are ready. And then, when the day comes, they have
9 second thoughts. And there has to be some period of
10 interaction to talk about that. And in some cases,
11 most cases, people do go ahead and move. But in some
12 cases, they don't.

13 Q. What happens -- have you seen, observed any
14 times where somebody doesn't want to move?

15 A. Yes.

16 Q. What happened?

17 A. Generally speaking, they took their
18 possessions and they moved to someplace else on the
19 street.

20 Q. When you say, "they" took their possessions,
21 who is the, "they"?

22 A. The person's possessions. They took their
23 possessions and moved them someplace else.

24 Q. Okay. So during some of these block-by-block
25 cleanups then, have you seen the City close off the

1 area after those people have either moved to a shelter
2 or a campground or moved on their own?

3 A. Yes.

4 Q. And have you seen -- in your observations,
5 have those areas remain closed to camping?

6 A. Yes. One area that I have seen that -- it's
7 no longer camping, but it's where people like to come
8 and do street feeding.

9 And street feeding is -- one of the challenges
10 the City faces, as well as one of the things we talked
11 about in the homeless report, was that allowing people
12 to come and feed out of the goodness of their hearts
13 with the best intentions probably reinforces people
14 remaining there, as opposed to seeking help elsewhere.

15 And there's one street -- I think it is 10th
16 Avenue between Jefferson and Madison -- that, during
17 the daytime, they have cleaned it off and people can
18 park their cars there that work in the businesses
19 there. But I've driven by at night, and I have seen
20 it filled with street feeders and people providing
21 water, tamales, tacos, whatever, on an ad hoc basis.

22 Q. Is the City providing the street feeding?

23 A. No.

24 Q. Who is doing this?

25 A. Generally speaking, it's volunteers, I

1 believe. People on their own.

2 Q. So let's move to talk about some of those --
3 some of those types of obstacles to cleaning?

4 A. Uh-huh.

5 Q. So you mentioned street feeding is an obstacle
6 to cleaning?

7 A. Yes.

8 Q. Are there other primary obstacles that you
9 have seen to cleaning up the downtown area around the
10 Human Services Campus?

11 A. I would say the scope of it is quite enormous,
12 and that takes a lot of resources to address.

13 Q. What do you mean by "the scope"?

14 A. There are so many people with so many
15 possessions, and moving them takes time and also needs
16 to be done with care. And so that's -- it's a huge
17 amount -- it's a huge investment in City staff and
18 time to make that happen.

19 Q. You say, it needs to be done with care. I'm
20 going to -- why does it need to be done with care?
21 Couldn't the City say, you need to leave?

22 A. I don't know that they could.

23 Q. Why not?

24 A. Well, I'm not sure what the law says. We've
25 had discussions about that. And I also think that, if

1 you tell somebody they have to move, they are going to
2 go someplace else and you are going to have to move
3 them again.

4 They are probably not going to be able to go
5 directly into a shelter or go into some place on their
6 own without some assistance. So move it from this
7 place to someplace else, it's not ending homelessness.
8 It's just rearranging it.

9 Q. Could they move to another city?

10 A. The could

11 Q. Move to another neighborhood?

12 A. They could.

13 Q. In your expert opinion, are the City's
14 multiple engagement encounters with the unsheltered
15 population effective at reducing the number of
16 unsheltered homeless in the area around the Human
17 Services Campus?

18 A. They have been, yes.

19 Q. Let's talk a little bit more about some of
20 those obstacles?

21 THE COURT: Before you go any further,
22 Counsel, I want to remind you we are about four
23 minutes away.

24 MS. STUHAN: Perfect.

25 Q. We will talk about one more obstacle,

1 potentially.

2 You've seen some of this trial, discussions
3 about substance abuse and addiction, correct?

4 A. Yes.

5 Q. Can you describe to me, have you seen any
6 changes in the addiction in the State of Arizona
7 during the time you have served from the Director of
8 Housing all the way to the current?

9 A. Yes. The drugs are becoming much more
10 plentiful and much cheaper. For instance, when I was
11 at the campus, we were having more problems with crack
12 cocaine. It was more expensive. It was harder to
13 get.

14 Today, I have been told you can buy a pill, a
15 fentanyl -- what everybody hears about and how
16 incredibly addictive it is -- for 20 cents. So the
17 price of the drugs have become a lot cheaper and a lot
18 more plentiful.

19 Q. Has that impacted the number of homeless on
20 the streets in the city of Phoenix?

21 A. Yes.

22 Q. What about the nation?

23 A. Yes.

24 Q. Let's talk a little bit about the role of
25 addressing those types of substance abuse and

1 addiction.

2 Was that considered in the task force and the
3 strategy that were adopted by the City?

4 A. Yes.

5 Q. So what are some of the primary tools for
6 trying to tackle that type of addiction?

7 A. A lot of it has to do with doing outreach and
8 helping people understand that they can be helped,
9 they can receive services.

10 And a lot of that is done by peer support;
11 meaning, people who themselves have been homeless, who
12 have had substance abuse issues, have managed to
13 resolve those issues. They are no longer homeless.
14 They are no longer addicted, and they turn their lives
15 around.

16 They are some of the greatest ambassadors that
17 are out there. And they are being helped by funding
18 from the City. Community Bridges hires many people
19 who have this substance abuse for peer support
20 positions. Being able to establish a common
21 background and a common way perhaps to end their
22 homelessness.

23 Q. Has the City of Phoenix hired any of these
24 people with that type of substance abuse background
25 and recovery?

1 A. Yes. In fact, you heard Commander Freudenthal
2 talk about CBI, Community Bridges. Many of their
3 outreach peer support people have had homeless
4 experience, as well as drug addiction. And they work
5 hand in hand.

6 Q. What about the Office of Homeless Solutions?

7 A. There is staff there, as well, that has had a
8 lived experience; people who have been homeless, as
9 well as encounters with substance abuse, as well.

10 MS. STUHAN: Great.

11 And, your Honor, I think that's probably a
12 good place to stop for now.

13 Thank you.

14 THE WITNESS: Uh-huh.

15 THE COURT: Give me one second, folks.

16 All right. At this time, we are going to take
17 our break for lunch. We will be back here at 1:30
18 sharp.

19 In the meantime, remember the admonishment
20 still stays, although I don't know if you have any
21 more witnesses, do you?

22 MR. PIERCE: Just the Deputy City Manager.

23 THE COURT: You already know everything we are
24 saying.

25 MR. PIERCE: She's been here the whole time.

1 THE COURT: Okay. With that, I will see you
2 back here at 1:30.

3 We are off the record.

4 (Lunch recess.)

5 THE COURT: All right. We are back on the
6 record in Freddy Brown, et.al. v. City of Phoenix, CV
7 2022-010439.

8 Defendants have their expert witness on the
9 stand.

10 And, Doctor, you understand you're still under
11 oath, correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: Thank you. Go ahead.

14 Q. BY MS. STUHAN: Dr. Harris, before the break,
15 we were discussing obstacles to addressing
16 homelessness around the Human Services Campus. We
17 discussed, so far, I think substance abuse and street
18 feeding.

19 So we are going to begin from there again.
20 Sound good?

21 A. Okay.

22 Q. Okay. Let's talk a little bit about -- on the
23 street feeding, are there any regulations that address
24 or prohibit feeding of the homeless on the public
25 property?

1 A. I don't believe there are. There is some
2 loose language with Maricopa County for people that
3 have food trucks, but that's not what we find. We
4 don't find food trucks coming and selling food to
5 people. We find a lot of church groups, a lot of
6 people who want to do something coming to the area and
7 providing food and water.

8 Q. Was street feeding addressed as one of the
9 issues in your task force activities?

10 A. Yes, it was.

11 Q. What were some of the options to try to
12 address that?

13 A. One was something that has actually occurred,
14 and that was the creation of the Healthy Giving
15 Council. And that is really a lot of churches coming
16 together and deciding that they would not participate
17 in street feeding, but find other ways in which to
18 provide food to people who were less fortunate.

19 Q. And so what is the Healthy Giving Council?

20 A. It's comprised of many churches and synagogues
21 throughout the city. And they have come together and
22 they talk about places in which they know there's
23 going to be gatherings of people who are experiencing
24 homelessness.

25 And they bring together appropriate food.

1 They clean up. Everything is spotless when they come
2 and everything is spotless when they leave.

3 Q. Does the City have any role with this Healthy
4 Giving Council?

5 A. They have adopted it. And one of the members
6 of the task force, Jerome Parker, is leading it. And
7 they started this, I believe about two to three years
8 ago in the Human Services Department. And it may have
9 now morphed into the Office of Homeless Solutions.
10 I'm not sure.

11 Q. So are any of the goals to address some of the
12 issues with street feeding in Phoenix?

13 A. Yes. They are very focused on trying to
14 curtail people's giving. I think people sometimes
15 misunderstand that giving food could be harmful,
16 particularly in the holidays when people are given
17 alcohol or cigarettes as a way to -- people feel --
18 making people try to feel better at the holidays.

19 When I was at the campus, we had a very
20 unfortunate situation where some people drank too much
21 alcohol that was given to them at one of the street
22 feedings. And one person had to be transported to the
23 hospital for alcohol poisoning. And several other
24 people became quite ill that night because they
25 weren't used to drinking alcohol.

1 Q. So in addition to issues with street feeding
2 or substance abuse, are there any other primary
3 obstacles that you're aware of that limit or impair
4 efforts to address homelessness near the Human
5 Services Campus?

6 A. Could you be a little more specific?

7 Q. Yeah. So have you reviewed the City's
8 policies for addressing homelessness around the campus
9 currently?

10 A. Yes.

11 Q. What are some of the primary challenges that
12 you are seeing in actually cleaning up that area and
13 closing down blocks?

14 A. Part of the challenge is that area has always
15 been less than desirable. It was, like, the last
16 quadrant of the old city to ever be developed. And it
17 just kind of became a place for rail yards, lumber
18 yards; and it's never taken on sort of a community or
19 a housing element.

20 So in some respects, it's introducing housing
21 to an area that's always been kind of a service
22 provider area or place where people would have
23 construction equipment, that kind of thing.

24 Q. And has there -- in your opinion, is there
25 enough housing or local income housing in Phoenix to

1 accommodate the number of unsheltered seeking housing?

2 A. No, there is not.

3 Q. And so what are some of the problems?

4 A. Some of the challenges are that, for one
5 thing, everybody talks a lot about Section 8 Vouchers
6 and Housing Choice Vouchers, I believe they are called
7 now. And that's away in which people who are lower
8 income pay 30 percent of their income, and then the
9 match is from the federal government for the balance
10 of the rent.

11 It's a way to integrate people into various
12 apartment complexes without having to build, quote,
13 unquote, a development that's exclusively for people
14 who are low income. The challenge is the City has
15 grown very quickly. We are similar in size to
16 Philadelphia.

17 Philadelphia has about 18,000 vouchers.
18 There's less than 8,000 in Phoenix. So that's a
19 historical challenge. When those were available that
20 cities could apply for, the city was not the size that
21 it is now. And it's no longer available to them to
22 apply for more vouchers.

23 Q. Are there any other primary obstacles that you
24 are seeing in your observations out in the field
25 currently?

1 A. I think what we have talked about sums up the
2 major challenges.

3 Q. Okay. So what I've got is, you've got some
4 street feeding, substance abuse, lack of housing,
5 Section 8; and we previously talked about evictions.

6 Does that sound right?

7 A. Yeah.

8 Q. Okay. With those challenges in mind, in your
9 opinion, Dr. Harris, can you estimate any hard end
10 date where you believe the City of Phoenix should be
11 able to accommodate the unsheltered in the area around
12 the Human Services Campus in some type of other
13 shelter, campground or other location?

14 A. Well, I have heard they suggested nine months.
15 I think that's ambitious, but doable. I am not sure
16 that there is -- it's going to be a challenge to creat
17 campgrounds. It's going to be a challenge to create
18 these other sources, but some of them are in process.
19 So if they say they can do it, then I think that's a
20 reasonable timeline.

21 Q. Dr. Harris, are you familiar with any other
22 cities across the nation and their efforts to address
23 homelessness?

24 A. Yes.

25 Q. And are any of them, in your opinion,

1 comparable to the types of issues that we are seeing
2 in Phoenix?

3 A. Well, Los Angeles is much worse than Phoenix.
4 They probably have ten times as many people on the
5 streets as we do here. And they are also seeing new
6 trends in which people are getting abandoned campers,
7 and they are parking them on the street. And they are
8 living in them legally parked on city streets.

9 And then, when they have to move because there
10 are certain guidelines about you can't park here
11 forever and they leave, sometimes those vehicles
12 cannot be moved. So that creates a whole other
13 challenge of trying to help people end their
14 homelessness.

15 Q. So has Los Angeles -- are there any tools or
16 other strategies from that kind of neighboring city
17 that you believe are helpful to the city of Phoenix?

18 A. I think they shared their experiences, and I
19 know the City has gone to Portland. I know they have
20 gone to other communities, as well.

21 Another example that's often mentioned is
22 Houston. And Houston has the benefit of having much
23 more relaxed zoning requirements. And so it's much
24 easier to cite facilities, such as homeless
25 encampments or campgrounds or shelters because it's

1 easier to do. And it makes it a lot less time
2 consuming and expensive.

3 Q. Are you familiar with some of the efforts to
4 address homelessness in Colorado cities?

5 A. Yes.

6 Q. And have you reviewed the report of Dr. Josh
7 Glock?

8 A. Yes.

9 Q. In your opinion, have some of the cities in
10 Colorado, have their law enforcement strategies been
11 more effective than the City of Phoenix in addressing
12 homelessness?

13 A. They have been different strategies, and I
14 think they have had different results.

15 Q. What do you mean by that?

16 A. Well, I think there's been -- in some cases,
17 there's been more reliance on enforcement. And I
18 think the City here has leaned towards looking at the
19 individual, what the individual needs are, and then
20 deciding how best to proceed.

21 Q. And based on your training and experience, is
22 that a good approach? Are there problems with that
23 approach? How does it stack up?

24 A. It's a good approach for the individual. It's
25 probably more expensive for the City because,

1 generally speaking, you can't just have one encounter
2 and that be the end of the decision that someone wants
3 to move on.

4 Q. What do you mean by you can't just have one
5 encounter?

6 A. You can't just -- generally speaking, someone
7 coming up to you and saying, hey, you need to move,
8 that person probably will move, but they are not going
9 to move to any place that changes their circumstances.
10 They are just going to go someplace else and be
11 homeless.

12 Q. So when you looked at some of the Colorado
13 cities that Dr. Glock examined, did you see that issue
14 of people moving from city to city?

15 A. There is some of that everywhere. It's not
16 just confined to Colorado. There used to be a term
17 within our industry called Greyhound Therapy.

18 Q. What's that?

19 A. One way bus ticket out of town.

20 Q. Is the city using that type of therapy right
21 now?

22 A. No.

23 Q. The last subject I'd like to talk with you
24 about then is what the City's strategies are and your
25 assessment of them. Do you have any opinion as to the

1 effectiveness of the cleanup activities the City has
2 conducted to date?

3 A. There has been, I think about 300 people, give
4 or take -- I don't have the exact number -- that have
5 actually left the campus area and have gotten
6 alternative housing.

7 There have been, since they decided that
8 people cannot move back to areas that have been clean,
9 those areas have remained clean. And that makes a
10 significant difference in what you see when you drive
11 on the streets near the campus. And I think it's an
12 indicator to the neighborhood, as well, that the
13 City's taken responsibility to address some of the
14 conditions that result when you have so many people
15 living on the streets.

16 Q. And I want to talk about those numbers just a
17 little bit more. If I can get the projector turned
18 on?

19 Dr. Harris, I am putting up on the projector
20 what has been marked as Exhibit 64. Let's start at
21 the top.

22 Can you see this exhibit?

23 A. Yes.

24 Q. The top reads, Engagement Outcomes From the
25 Human Services Campus.

1 Do you see that?

2 A. Yes, I do.

3 Q. And so you were just talking about some of the
4 number of people encountered.

5 Have you reviewed this document before?

6 A. I have just seen it in court today, I believe.

7 Q. Okay. Let's talk about some of your
8 understandings though. There is a table placed up top
9 that has date, number encountered, and number placed.

10 Do you see that?

11 A. Yes.

12 Q. And the table goes through some of the numbers
13 that have been placed in this column.

14 Do you see that?

15 A. Yes.

16 Q. All right. So I want to talk about these
17 specific numbers.

18 You were onsite during some of these
19 cleanings; is that correct?

20 A. Yes.

21 Q. Okay. Do you recall about when your first
22 cleaning was?

23 A. I was at the first one December 16th.

24 Q. Okay. So I want to talk about that
25 December 16th.

1 When it says, "placed," did you observe any of
2 those placements?

3 A. I observed people speaking with, not only
4 campus staff, City staff, as well as Community Bridges
5 staff; and having those interactions of, what are we
6 going to take, what are we going to leave, what do you
7 care does not come with you anymore; and then seeing
8 people individually placed in cars or vans or whatever
9 the case may be; and then taken to their alternative
10 shelter.

11 Q. In your opinion, were those placements
12 conducted in a reasonable, appropriate manner?

13 A. Yes.

14 Q. Now if we continue down on this page, we also
15 see that there are some engagement outcomes here.

16 Specifically, let's go down to May 10th.

17 Do you see that?

18 A. Yes.

19 Q. There's a listing of different, looks like
20 locations.

21 Do you see that?

22 A. Yes, I do.

23 Q. I see CBI's High Risk Hotel, CBI's Bridge, CBI
24 Saguaro, Rio Fresco, Washington, Respiro, CASS, HSC
25 Overflow, UMOM Family Shelter, and Diversion.

1 Do you see those areas?

2 A. I do.

3 Q. Are you familiar with what those different
4 types of locations are?

5 A. Yes.

6 Q. Can you briefly describe the -- what are those
7 locations people are being placed into?

8 A. The three that are listed for CBI are
9 different placements that they have. They may be
10 rooms at a hotel that they have under contract, and
11 they also have a couple facilities of their own that
12 they operate.

13 I am not familiar, however, with Rio Fresco.
14 Washington, I believe, is the new shelter that was
15 created by the City at 28th Street and Washington.

16 Respiro is the sprung structure on the Human
17 Services Campus.

18 CASS is either their shelter on the campus or
19 they have another facility, as well.

20 Human Services Campus overflow, that is an
21 option, as well.

22 UMOM was, I think this was the first time that
23 they had been involved in this. And that was because
24 there was a family involved. So all of the other
25 options before were pretty much for single people or

1 couples at the hotel rooms.

2 And then Diversion was actually helping
3 someone decide -- in their homelessness, they might
4 have been offered a bus ticket. They went to meet
5 with a family member, or they have found some other
6 way in which to end their homelessness.

7 Q. Based upon your training and experience, are
8 these types of -- different types of shelters
9 important in locating housing for unsheltered?

10 A. Absolutely. Some of them will allow you to
11 take pets, which is a big thing for many people that
12 are experiencing homelessness. The thought of being
13 separated from their pet, I think some people would
14 rather lose a hand than not be able to take their dog
15 or cat with them.

16 Respiro is relatively new. It's on the Human
17 Services Campus. It's the sprung structure. And some
18 people really like that environment. It's smaller.
19 It's not as big as the CASS Shelter. The CASS Shelter
20 is about 400 people. Respiro is a little over a
21 hundred, I believe.

22 And I think I've also visited the Washington
23 Street Shelter at 28th Street and Washington. That, I
24 believe, has about 250 people staying there. I could
25 be off on those numbers. What was very interesting to

1 me at that particular site was people were able to
2 keep more of it their possessions with them, which
3 gave them a lot of comfort.

4 And they share a parking lot with a, I believe
5 it's a tire repair company. I'm not sure. But it's
6 a -- it's a shared parking lot with an industrial
7 user. And one of the people that was staying at the
8 shelter has actually been hired by them. So his
9 commute is walking across the parking lot to go to
10 work.

11 And they didn't even realize that there was a
12 shelter there. They saw things happening, coming and
13 going, but they had no idea that there was a shelter
14 in their neighborhood.

15 Q. I want to look at just one more exhibit with
16 you. So the exhibit that we are looking at here has
17 been marked as Exhibit 63.

18 Can you see that exhibit?

19 A. Yes.

20 Q. And if you look at this exhibit, it goes
21 through -- I'm going to represent dates of
22 engagements, locations, number of people, some of the
23 totals which we were just talking about, shelter
24 placement, all the way down on the far right to
25 acceptance rate.

1 Do you see that?

2 A. Yes.

3 Q. So when you look at the acceptance rate, going
4 down about midway through the columns to May 10th.

5 Do you see the column for May 10th, 9th Avenue
6 in between Washington and Jefferson?

7 A. Yes.

8 Q. Is it your understanding that, during this
9 cleanup, that the City both closed -- cleaned and
10 closed to future camping?

11 A. Yes, I believe so.

12 Q. Okay. The acceptance rate is 78.3 percent for
13 services.

14 Do you see that?

15 A. Yes.

16 Q. Do you have an opinion as to the effectiveness
17 of that rate? Is that a good rate for the City?

18 A. Yes, it is.

19 Q. Why?

20 A. For one thing, if you look at the previous
21 times, that is towards the top of their ability. It's
22 also housed 60 -- there were 60 people encountered,
23 which is also a lot more people who were asked about
24 having shelter. Forty-five accepted, and that is the
25 highest number.

1 The other part that I think is important to
2 talk about is the diversity of options. So when you
3 look at shelter bed availability, there were people
4 that went to the Washington Shelter, the sprung
5 structure, CASS, hotels. CBI took some folks, as
6 well.

7 So I think the other part that has been good
8 in what has been occurring with the engagement
9 opportunities is there's become more of a diversity of
10 options where people can go. Part of that has been
11 that the City has funded those. They have used
12 dollars that they had, I think through COVID. I could
13 be wrong on the source. But they have been working
14 towards finding different options.

15 Q. So with all of the information and documents
16 you have reviewed, do you think there's a solid end
17 date that you can estimate here today on the stand for
18 addressing some of the issues around the Human
19 Services Campus?

20 A. I don't know what that date would be.

21 Q. In your opinion, has the area been making
22 progress over the last few months?

23 A. It has been making progress over the last few
24 months.

25 Q. Are there any additional steps that you think

1 are key to getting some of the issues addressed in the
2 area around the Human Services Campus?

3 A. The ability to get more housing available,
4 whether that is permanent supportive housing,
5 additional shelters, more hotel vouchers, working with
6 CBI and others to coordinate funds to produce
7 additional housing units, as well as exploring options
8 such as campground, which they have not done in the
9 past.

10 Q. So more to be done?

11 A. More to be done.

12 MS. STUHAN: Thank you. I have no further
13 questions.

14 THE COURT: Thank you.

15 Any cross?

16 MR. WURMAN: Yes, your Honor.

17

18 CROSS EXAMINATION

19 BY MR. WURMAN:

20 Q. Dr. Harris, good afternoon.

21 A. Good afternoon.

22 Q. My name is Ilan Wurman. I'm one of the
23 lawyers for the plaintiffs in this action. We have
24 not met before, correct?

25 A. Correct.

1 Q. Thank you for being here to testify and for
2 all your work in this area. I think it's very
3 important, so thank you for doing that.

4 I have quite a few questions I want to ask you
5 about today starting with the enhanced cleanups that
6 you witnessed. You testified that you witnessed
7 seven -- excuse me -- five of the seven enhanced
8 cleanups and engagements over the past six months,
9 correct?

10 A. Yes.

11 Q. And you testified that these were generally
12 successful, correct?

13 A. Yes.

14 Q. And you testified that most of the people
15 who -- well, you testified that about 300 people have
16 been moved into shelter?

17 A. Yes.

18 Q. Correct?

19 So just to clarify the record -- and I can
20 give you your report if you'd like.

21 A. Uh-huh.

22 Q. Is it fair to say that 205 individuals? Does
23 that ring a bell to you? If I told you that your
24 report said 205 out of 285 who were engaged --

25 A. Yes.

1 Q. -- accepted services over the past six months
2 in those seven engagements.

3 Does that sound right to you?

4 A. Yes.

5 Q. Does that refresh your recollection?

6 A. That does. Thank you.

7 Q. Okay. And 205 out of 285, I think you said in
8 your expert report is about 71, really, it's about
9 72 percent. Does that sound --

10 A. Uh-huh.

11 Q. -- about right to you?

12 A. Yes.

13 Q. Okay. How many of the cleanups did you
14 witness where they were not -- the unsheltered were
15 not allowed to return? Did you say two of those
16 cleanups you witnessed or was it three?

17 A. It's either two or three. I'm sorry. I lose
18 track. All the ones that they have done where they
19 could not return, I have been at.

20 Q. But you testified that you were aware that
21 they were given two weeks notice, correct, before they
22 were --

23 A. One to two weeks --

24 Q. -- going to be asked to move?

25 A. -- notice, yes.

1 Q. Okay. And you've testified that you witnessed
2 pre-engagement engagement, I guess. How should I say
3 it?

4 A. Right.

5 Q. Before the date of the enhanced engagement and
6 I guess the week to two weeks leading up to it, you
7 witnessed City staff engaging with the people on that
8 block, correct?

9 A. I have seen that. I have also seen campus
10 staff at various times do the same.

11 Q. Okay. Do you have any knowledge as to whether
12 new people from other blocks in the Zone moved into
13 the streets where the enhanced engagements were going
14 to be taking place after notice was distributed, but
15 before the day of cleanup?

16 Do you have any knowledge of that?

17 A. I do not personally, no.

18 Q. Okay. Is it possible that word got around
19 because of the advanced notice, and people who wanted
20 to accept services moved into that block?

21 Is that possible?

22 A. That is possible.

23 Q. Thank you. I think we just established that,
24 over the last six months or so, 205 individuals
25 accepted services as a result of these engagements.

1 Do you know how many people are still in the
2 Zone today, unsheltered individuals are still in the
3 Zone today?

4 A. I think that number varies everyday. I do not
5 know an exact number, no.

6 Q. Okay. Okay. Dr. Harris, you testified that,
7 for 18 months between March 2017 and September 2018, I
8 guess the end of August --

9 A. End of August.

10 Q. -- is that more accurate?

11 A. Yeah.

12 Q. Okay. So between March 2017 and August 2018,
13 you were the director of the Human Services Campus,
14 correct?

15 A. Yes.

16 Q. And also, to clarify the record, the Human
17 Services Campus opened up in 2005?

18 A. I believe that's correct.

19 Q. Okay. So that would be 18 years ago, just for
20 the record. It's okay. It's lot of math has been
21 done in this trial probably inaccurately by the
22 lawyers.

23 So the Human Services Campus, you testified
24 was opened to provide a variety of services in one
25 location, right, rather than having people wander

1 about the neighborhood getting food in one place,
2 seeking shelter in another place, seeking healthcare
3 in another place, correct?

4 A. Yeah.

5 Q. I think your words today were, the Human
6 Services Campus was opened to keep people from
7 wandering about in the neighborhood.

8 Do you recall testifying to that today?

9 A. Yes.

10 Q. Can you tell the Court why it was important to
11 open up a single location to stop people from
12 wandering about the neighborhood?

13 A. There was a lot of petty crime happening,
14 people falling asleep on front porch steps, people
15 begging for food. There was also some challenges, I
16 believe, to the businesses because people were afraid
17 to use their services.

18 Q. So is it fair to say, when there are
19 unsheltered individuals wandering about the
20 neighborhood, there's more urination and defecation on
21 both public and private property?

22 A. Yes.

23 Q. Is it fair to say, when there are unsheltered
24 individuals wandering throughout the neighborhood,
25 there's more violence than if they were not wandering

1 throughout the neighborhood?

2 A. Most likely, I would think.

3 Q. Would there be more property crime if they are
4 wandering about the neighborhood than otherwise?

5 A. Yes.

6 Q. Would there be more trash?

7 A. Most likely.

8 Q. Okay. Did opening up the Human Services
9 Campus in 2005 -- and I know this is a bit before you
10 were there -- was that successful in keeping people
11 from wandering in the neighborhood?

12 A. It did.

13 Q. For a period of time, right?

14 A. Yes, it did.

15 Q. It did?

16 A. For a period of time.

17 Q. Okay. Until when -- or from when to when
18 would you say that was successful?

19 A. Not having worked there the entire time --

20 Q. Fair enough.

21 A. -- most recently, the challenges became during
22 COVID. And going forward, I would say that's when
23 it's become a challenge, a severe challenge to the
24 neighborhood.

25 Q. Okay. What about your time there from 2017 to

1 2018? Did the Human Services Campus, its presence
2 succeed in preventing people from wandering about the
3 neighborhood generally when you were there?

4 A. I would say it was less, there was less
5 wandering. There were fewer people -- there were
6 fewer people on the streets.

7 Q. Fewer tents?

8 A. Fewer tents yes.

9 Q. Were there any tents when were the HSC
10 director?

11 A. There were a few, and I couldn't tell you how
12 many.

13 Q. But not a thousand?

14 A. Not a thousand. I can say that, yes.

15 Q. Was there less trash and debris than there is
16 today?

17 A. Yes.

18 Q. Less public --

19 A. Except during the feeding frenzies of
20 Thanksgiving, Christmas and New Years where we had
21 27.85 tons of trash have to be moved just for those
22 three weekends from people coming down to the campus
23 and sharing.

24 Q. During your time there, was there less public
25 urination and defecation than there is today?

1 A. I can't say that I looked for that.

2 Q. Fair enough.

3 A. So --

4 Q. Fair enough. We will leave it at that. To
5 your knowledge, was there less crime than there is
6 today?

7 A. I wouldn't be surprised. But, again, it's not
8 anything --

9 Q. Okay.

10 A. -- that I have looked at or had first-hand
11 knowledge.

12 Q. No problem. Dr. Harris, you testified today
13 that you are familiar with a shelter that's located at
14 28th Street and Washington, correct?

15 A. Yeah.

16 Q. In fact, I think you just testified -- I don't
17 remember who shares the parking lot, but that the
18 business --

19 A. Uh-huh.

20 Q. -- employee or owner had no idea that there
21 was a shelter there, correct?

22 A. Yes.

23 Q. Okay. And I think, in your report, you said
24 something like, driving by the building, one would
25 never know nearly 250 people were living there.

1 Do you recall writing that?

2 A. I do.

3 Q. Why is it the case that no one would know that
4 so many people were living there?

5 A. It looks like every other building on that
6 street.

7 Q. Is the surrounding area clean?

8 A. Pretty clean. It's somewhat industrial.

9 Q. Are there encampments lining the sidewalks
10 around that shelter?

11 A. Not when I was there.

12 Q. And that's in contrast to the sidewalks
13 surrounding the Human Services Campus, correct?

14 A. Yes.

15 Q. What, in your view, is the cause of the
16 difference?

17 A. I think partially because there were very
18 clear expectations about what the shelter on 28th
19 Street and Washington would be.

20 Q. Expectations from whom?

21 A. The City. And having encampments surrounding
22 that building was not something that they would like
23 to have happen.

24 Q. And the City's expectation with respect to the
25 sidewalks surrounding the Zone are different, correct?

1 A. You'd have to ask them.

2 Q. Fair enough. But you're an expert. You've
3 testified about the City's policies and expectations.
4 You just now testified that they made clear that they
5 weren't going to tolerate encampments around the
6 Washington Street shelter, the 28th Street shelter, I
7 should say.

8 To your knowledge, did the City convey similar
9 expectations with respect to the Human Services Campus
10 area; that there shouldn't be tents there?

11 A. I don't know that to be true.

12 Q. Okay. One way or another, you don't know?

13 A. I don't know.

14 Q. Okay. Do you know whether the City allows
15 camping on the sidewalks outside the Washington Street
16 shelter? I'm still talking about 28th and Washington
17 now.

18 A. Uh-huh.

19 Q. Did you know if the City allows it. I'm
20 trying to get at the question a different way?

21 A. I don't know.

22 Q. Okay.

23 A. I honestly do not know.

24 Q. Okay. It's fine. But you have not observed
25 tents there?

1 A. I have not.

2 Q. Okay. Is it fair to say, looking at the
3 Washington Street shelter, that it's possible to have
4 a shelter and homelessness services in a particular
5 space without having encampments surrounding it?

6 Is that fair to say?

7 A. Yes.

8 Q. That's possible. So would you agree with me
9 that the existence of shelter or services does not
10 necessarily lead to the existence of other public
11 encampments surrounding those services or shelters,
12 correct?

13 A. Yes.

14 Q. Thank you. Dr. Harris, you're familiar with
15 the City of *Boise* decision, correct?

16 A. Yes.

17 Q. That decision first came down in the middle of
18 September of 2018, correct?

19 A. Uh-huh.

20 Q. And I say, "first came down." I don't know if
21 you know there was a modified decision yet. But mid
22 September 2018, the first *Boise* decision came down,
23 to the best of your knowledge, correct?

24 A. Yeah.

25 Q. Your time at HSC had just ended, correct?

1 A. Yes.

2 Q. Okay. But despite that, you've written that
3 you noticed that the *Boise* decision greatly affected
4 and changed how providers and cities provide services
5 to those experiencing homelessness, correct?

6 A. Yes.

7 Q. Can you explain to the Court exactly how the
8 *Boise* decision affected and changed how providers and
9 cities provide services to those experiencing
10 homelessness?

11 A. It's created an era of uncertainty. And I
12 think that's probably why we are here today is to try
13 and clarify, what is that.

14 Q. Okay. So if we weren't here today and we
15 didn't receive any guidance from the Court, would
16 there still be that state of unclarity in the future
17 if we weren't here today?

18 A. To the best of my knowledge, yes.

19 Q. To the best of your knowledge, as a result of
20 the *Boise* decision -- let me ask that another way.

21 To the best of your knowledge, did the *Boise*
22 decision affect the City of Phoenix's policies with
23 respect to enforcing anti-camping laws?

24 A. I don't know what their policies are on
25 anti-camping laws.

1 Q. Okay.

2 A. I can't respond.

3 Q. Well, let me ask the question another way.

4 You testified that the situation got worse during
5 COVID in the Zone, correct?

6 A. Yes.

7 Q. Between when the *Boise* decision came down and
8 when COVID began, were there tents in the Zone? In
9 other words, were there tents in the Zone prior to
10 COVID, to the best of your knowledge?

11 A. I believe there were a few. I could not
12 guesstimate or remember how many.

13 Q. Okay. So you don't know one way or another
14 when the proliferation of tents occurred, correct?

15 A. Yes.

16 Q. You testified that things got worse during
17 COVID, but things -- the tents could have come to the
18 zone or arisen in the zone just after the *Boise*
19 decision.

20 For all you know, that could be the case,
21 correct?

22 A. Not to the extent that they are there now.

23 Q. Because as you testified, it fluctuates all
24 the time, correct?

25 A. Right.

1 Q. Okay. Now you also wrote -- you know, this
2 goes a bit into what you already said about
3 uncertainty. But you wrote in your report that the
4 *Boise* decision has caused confusion about what are or
5 are not legal policies and procedures.

6 Do you remember that?

7 A. Uh-huh.

8 Q. That's a yes?

9 A. Yes, I do. Excuse me. Yes.

10 Q. Can you explain to the Court what you meant by
11 that? What confusion has it caused, to the extent --
12 and I mean, you wrote that in your report.

13 Can you tell the Court what you meant by that?

14 A. I think that's why we are here today. It's
15 not clear what that decision means.

16 Q. Okay.

17 A. It's not.

18 Q. To your knowledge -- or in your opinion, is
19 the City of Phoenix currently confused as to what is
20 or is not legal as a result of that decision?

21 A. I think they are working through to create
22 their policies to align with the decision.

23 Q. All right. Do you think clarity from a court
24 would be helpful?

25 A. Yes.

1 Q. Okay. I want to talk to you a bit about
2 service resistance. In your report and I think today,
3 you mentioned that bureaucratic barriers, rather than
4 resistance to services is what lead people to not want
5 to go into shelters, correct?

6 A. That can happen, yes.

7 Q. So, for example, you testified today and you
8 wrote in your report that those barriers include, not
9 having room for pets, not having room for belongings,
10 not having room for partners, correct?

11 A. Yes.

12 Q. I'm going to ask you a terminological
13 question. If I use the term, "involuntarily
14 homeless," what do you understand that term to be?

15 A. Someone became homeless not through any of
16 their efforts.

17 Q. Okay. So I'm asking this because I'm going to
18 ask you a series of questions about involuntary
19 homelessness.

20 Did you read the 9th Circuit decision, by any
21 chance?

22 A. Uh-huh.

23 Q. Okay. If I may, I'm going to define the term
24 as the 9th Circuit uses it --

25 A. Okay.

1 Q. -- for purposes of asking the questions if
2 that's all right.

3 A. Okay.

4 Q. And so I'll just represent to you and the
5 Court that I am reading from the *Johnson v. City of*
6 *Grants Pass* majority opinion from last week regarding
7 the denial of rehearing *en banc*. None of that matters
8 for your purposes, other than they clarify what they
9 mean by, "involuntary homelessness." So this is
10 page 97 of the slip opinion.

11 The opinion repeatedly notes, it only
12 addresses enforcement attempts against involuntarily
13 homeless persons. Individuals qualify as
14 involuntarily homeless only if they do not have access
15 to adequate temporary shelter.

16 Okay. So is it fair to say that the 9th
17 Circuit defines involuntary homelessness as being
18 involuntarily unsheltered.

19 Is that fair? Yes?

20 A. I believe that's the case.

21 Q. Okay. Just, again, I don't want to confuse
22 the Court. When Dr. Glock testified, he talked about
23 sheltered versus unsheltered homelessness. But when
24 the 9th Circuit uses the term, "involuntarily
25 homeless," they mean people out on the street, right,

1 not someone in a shelter, correct, based on that
2 definition?

3 A. I believe, based on that definition. But I
4 also know people become homeless because they get
5 evicted.

6 Q. Sure. And, again, someone might be
7 involuntarily homeless, but end up in a shelter?

8 A. They might.

9 Q. My only point is, the 9th Circuit, when they,
10 "involuntarily homeless," they mean they are on the
11 street, not in a shelter or not in a home, correct,
12 based on what I read to you?

13 A. Based on what you said, yes.

14 Q. Okay. Great. So that's the definition of
15 involuntary homelessness that I'm going to work with
16 here, okay.

17 Dr. Harris, in your opinion, is someone
18 involuntarily homeless that is involuntarily
19 unsheltered if there is a bed for them in a shelter,
20 but they refuse that bed because they must part with a
21 pet? Is that person involuntarily homeless?

22 MS. STUHAN: Objection. Calls for legal
23 conclusion.

24 MR. WURMAN: I don't --

25 THE COURT: Hold on.

1 MR. WURMAN: All right.

2 THE COURT: Overruled. Go ahead and continue.

3 MR. WURMAN: Thank you, your Honor.

4 Q. Let me ask the question again --

5 A. Okay.

6 Q. -- if that's all right.

7 In your opinion, is someone involuntarily
8 homeless if there is a bed for them in a shelter, but
9 they refuse that bed because a condition of accepting
10 it requires them to part with a pet; and they choose
11 not to part with the pet?

12 Are they involuntarily unsheltered, as a
13 result?

14 THE COURT: Before you answer, ma'am, I want
15 to clarify my overruling of the objection. My reason
16 for doing it -- and I'm still overruling the
17 objection -- is because we spent the last three
18 minutes determining the definition of "involuntarily
19 homeless" that counsel is using when questioning the
20 witness.

21 I believe the question is not calling for the
22 witness to state what the 9th Circuit was saying. We
23 just established what definition counsel is using for
24 "involuntarily homeless," and that's why I'm
25 overruling the objection.

1 So go ahead and continue.

2 MR. WURMAN: Thank you, your Honor.

3 Q. Dr. Harris, that means you can answer the
4 question. And the question is, simply, is someone who
5 won't accept an available bed because they would have
6 to part with a pet to do so, to accept that bed, is
7 that person involuntarily homeless under the
8 definition we just agreed on?

9 A. I believe so.

10 Q. You believe that that person is involuntarily
11 homeless still?

12 A. It's hard for me to honestly absorb what you
13 said.

14 Q. Yeah, there is some double negatives maybe --

15 A. Yes.

16 Q. -- that I'm trying not to do?

17 A. Yes.

18 Q. Let me ask --

19 A. That's the problem.

20 Q. Let me ask the question another way. A person
21 who has a shelter bed available, but refuses it
22 because that shelter has a pet policy that they can't
23 comply with, that person nevertheless has access to
24 shelter, correct? They just have to part with their
25 pet.

1 Isn't that true?

2 A. That is the condition.

3 Q. So, yes, they have access to shelter?

4 A. They have access to shelter, but not with
5 their belongings.

6 Q. Correct, okay. Let me put it another way
7 then. And you're welcome to qualify, you know, as
8 much as you feel is appropriate.

9 The person who refuses to give up a pet and
10 therefore stays on the street, rather than goes into
11 shelter, that person has a choice, correct?

12 They can choose to stay on the street with
13 their pet, or they can choose to part with their pet
14 and go into shelter, correct?

15 A. They have a choice. But I would say people
16 that make those kinds of decisions may have some
17 challenges in their logic, if you're --

18 Q. In their logic?

19 A. Yes. From that -- to them, it's much more
20 important to be with their pet. To you, it might not
21 be --

22 Q. Right, okay.

23 A. -- that important to be with your pet.

24 Q. Okay.

25 A. That's their choice.

1 Q. One more way of asking. Having a pet is not
2 biologically compelled, correct?

3 A. Not that I'm aware of.

4 Q. Okay. An unsheltered person with personal
5 property, who can obtain shelter if that person gives
6 up that personal property, is not biologically
7 compelled to keep their property, rather than going
8 into the shelter, correct?

9 It's a choice?

10 A. Could you rephrase that?

11 Q. Sure. Choosing to stay on the street with
12 one's property, rather than going into shelter without
13 property, that's not a biologically-compelled choice.

14 That's a choice that you can choose to part
15 with your property or -- or not, correct?

16 A. Yes.

17 Q. Okay. So it's not biologically-compelled to
18 choose your property over the shelter bed, correct?

19 That's a yes?

20 A. Yes.

21 Q. Now this question might sound callous, but an
22 unsheltered person with a partner who has a shelter
23 bed available, but must part with their partner, is
24 not biologically compelled to choose their partner --
25 to choose staying with their partner over going into

1 the shelter bed, correct?

2 A. Uh-huh, yes.

3 Q. Okay. I don't know if you heard the testimony
4 from Mr. Hall yesterday, but this question is inspired
5 by his testimony.

6 If someone has a house that they could stay
7 in, but they choose to stay on the street, that person
8 is not involuntarily homeless, correct?

9 A. According to what you have told me, yes.

10 Q. Okay. Now you testified earlier today that
11 some individuals in the Zone don't go into shelter
12 because they prefer more space or they don't like a
13 confined space, correct?

14 A. Yes.

15 Q. An individual who refuses to go into a shelter
16 because he prefers to have more space is not
17 biologically compelled to choose more space over going
18 into a shelter, correct?

19 A. Not biologically compelled.

20 Q. Okay. So according to our definition, that
21 person is not involuntarily homeless, correct?

22 A. Given all the caveats we've discussed, yes.

23 Q. Okay. I think you've testified earlier today
24 that an individual -- excuse me -- that some
25 individuals in the Zone don't want to go into shelter

1 because they don't want to go through metal detectors.

2 Do you remember that?

3 A. Yes.

4 Q. Is it fair to say that not wanting to go
5 through a metal detector is not a
6 biologically-compelled action or inaction?

7 A. I think that's reasonable.

8 Q. Okay. You described for the Court earlier
9 today that many individuals experiencing homelessness
10 in the Zone use illegal drugs, correct?

11 A. Yes.

12 Q. And particularly fentanyl?

13 A. Yes.

14 Q. Using illegal drugs is not a
15 biologically-compelled act, correct?

16 A. I don't know that I'm qualified to answer
17 that.

18 Q. Fair enough. Not all human beings use illegal
19 substances, correct?

20 A. That's true.

21 Q. Okay. All human beings need to sleep,
22 correct?

23 A. Yes.

24 Q. All human beings need to eat?

25 A. Yes.

1 Q. All human beings need to urinate and defecate?

2 A. If they want to function as a human being.

3 Q. Correct. Not all human beings need to use
4 drugs, correct?

5 A. To the best of my knowledge. But it does
6 help, if you've got high blood pressure, that you have
7 medicine you can take for that.

8 Q. Sure. Fair enough. Let's start with illegal
9 substances?

10 A. Okay.

11 Q. Fair to say not everyone needs to use illegal
12 substances, correct?

13 A. Yes.

14 Q. Okay. Do shelters allow illegal drug use?

15 A. It occurs.

16 Q. But it's not permitted?

17 A. It's not probably in their operating
18 procedures, shall we say.

19 Q. Okay. Going back to your testimony about
20 fentanyl. Does an unsheltered person who uses
21 fentanyl and is addicted to fentanyl willingly go into
22 a shelter that prohibits drug use?

23 A. Probably not.

24 Q. And, in fact, if that individual went into the
25 shelter, would that be safe for the other persons in

1 the shelter?

2 A. It all depends on the person. Some people
3 just fall asleep.

4 Q. You mean using fentanyl?

5 A. Using fentanyl, yeah.

6 Q. Is that the reaction everybody has to
7 fentanyl?

8 A. Not to my knowledge, but I'm not an expert.

9 Q. Okay. Okay. Fair enough. If someone's
10 addicted to an illegal substance, and a shelter
11 prohibits using that substance in a shelter, how does
12 one get them off the street?

13 A. Not every shelter does. There need to be more
14 options for shelters in our city and our community.

15 Q. Okay. Including those that provide substance
16 abuse treatment?

17 A. Yes.

18 Q. Okay. If an individual who is unsheltered and
19 who is addicted to illegal substances said says, I
20 don't want to go into a substance abuse treatment
21 program, how do we get that person off the street?

22 A. There's a tremendous amount of intervention
23 strategies that CBI and other organizations that do
24 that work employ.

25 Q. And I think you mentioned earlier today that

1 the City of Phoenix's approach to it is outreach, what
2 you described as outreach?

3 A. More than outreach.

4 Q. What do you mean by that?

5 A. They have facilities available for people to
6 come in and do detox. They have facilities where
7 people do outreach and go out into the community and
8 look for people who are having substance abuse
9 challenges. There's whole variety, and I'm not an
10 expert to tell you what all the options are.

11 Q. Okay. Is it fair to say that outreach does
12 not include compelling someone who is addicted to
13 illegal substances to get substance abuse treatment?

14 Is it fair to say that?

15 A. I would say there are people who are very
16 convincing as to why you should do that, but not
17 everybody accepts the service.

18 MR. WURMAN: Okay. Dr. Harris, I'd like to
19 show you Exhibit 53.

20 May I approach your Honor with that exhibit?

21 THE COURT: Please.

22 Q. BY MR. WURMAN: Here you go. Dr. Harris, you
23 are familiar with this document?

24 A. Yes.

25 Q. It's titled, Strategies to Address

1 Homelessness. And at the bottom left there, it says:
2 Task Force Recommendations to the City Manager.

3 Correct?

4 A. Yes.

5 Q. Now you are familiar with this document
6 because, if we go to the last page, it provides for a
7 list of the task force members, and you are listed
8 there, correct?

9 A. Yes.

10 Q. Okay. So you were on the task force that
11 helped produce this report?

12 A. Yes.

13 Q. This report was published in April 2022,
14 correct?

15 A. I believe so.

16 Q. Okay. I'm sure it's -- actually, I don't know
17 if it's in the document itself. But if I told you
18 that, in your expert report, you said it was published
19 in April of 2022, does that refresh your recollection?

20 A. Yes.

21 Q. Okay. And, in fact, all the recommendations
22 in this report were made by consensus, correct?

23 A. That is correct.

24 Q. Okay. And that's what it says on page 1 at
25 the bottom: "The recommendations presented below were

1 made in consensus among the task force members."

2 And on page 2, end of first paragraph: "All
3 decisions regarding recommendations, processes, and
4 logistics remain by consensus among the task force
5 members."

6 Did I read that correctly?

7 A. Yes.

8 Q. And, again, you were on the task force?

9 A. Yes.

10 Q. Okay. Can we turn to page 18 of this Task
11 Force Report, please. And just so we are all on the
12 same page, do you see a pie chart?

13 A. I do.

14 Q. Okay. I'm going to read, I guess, that
15 sentence preceding the pie chart: In a research study
16 involving 100 unsheltered individuals in Downtown
17 Phoenix, we learned that there are diverse reasons why
18 people are not currently in shelter, colon, and then
19 the pie chart.

20 Did I read that accurately?

21 A. Yes.

22 Q. Okay. So this pie chart appears to be -- or
23 is, rather, a demonstrable, you know, exhibiting the
24 results of a survey of a hundred unsheltered
25 individuals in the Zone. Or I should say, in the area

1 around the Human Services Campus, correct?

2 A. I believe that was where it was done.

3 Q. But you're not sure?

4 A. I'm not sure.

5 Q. It says Downtown Phoenix, correct?

6 A. Yeah.

7 MR. WURMAN: Would there be -- your Honor, I
8 have the study that -- the survey that is the basis of
9 this pie chart. I have it here with me. I would like
10 to show it to her just to refresh her recollection.

11 THE COURT: That's fine for refreshing, as
12 long as she's not reading from it.

13 MR. WURMAN: Okay. And I don't know how many
14 copies I have. Would you were like a copy?

15 THE COURT: No. It's not going to be going
16 into the record. So I'm assuming the reasons we are
17 doing it this way is because it's not an exhibit,
18 correct?

19 MR. WURMAN: Correct.

20 THE COURT: Okay.

21 Q. BY MR. WURMAN: If we turn to page 12 of this
22 survey, does that replicate the pie chart that's --
23 that the task force cited on page 18 of the task
24 force?

25 A. It appears to be.

1 Q. Okay. And if I represent to you -- you see
2 the hyperlink to research study? If I were to -- in
3 the Task Force Report. And if I represent to you that
4 I found this survey by clicking on the hyperlink in
5 the Task Force Report, do you have any reason to doubt
6 me?

7 A. I do not.

8 Q. Okay. And if we look at the first page, it
9 says -- oh.

10 Have you seen the study before, Dr. Harris?

11 A. I may have.

12 Q. All right. Let's just -- do you have -- you
13 have no recollection -- it says Downtown Phoenix. Do
14 you have any recollection as to when the study was --
15 when the survey was conducted?

16 A. No.

17 Q. All right. Well, nevertheless, in April 2022,
18 and on page 18 of the task force -- the task force
19 provides this data from this survey of a hundred
20 unsheltered individuals in Downtown Phoenix, correct?

21 A. That's what it says on the title.

22 Q. Okay. So if we look at that pie chart -- and
23 you can look back at the task force report now.

24 A. Uh-huh.

25 Q. Yeah. It says that only 14.3 percent of those

1 involved in the study -- those surveyed in the
2 study -- cited the lack of availability of beds as the
3 reason for their not currently being in shelter,
4 correct?

5 A. Yes.

6 Q. So that means that over 85 percent of
7 unsheltered individuals surveyed in this study of
8 Downtown Phoenix cited some reason, other than lack of
9 available beds, as the reason for their being
10 unsheltered, correct?

11 A. Yes, that's what this says.

12 Q. Okay. Now if we look here, a few unsheltered
13 individuals cited their having pets as the reason for
14 their being unsheltered, correct?

15 A. Yes.

16 Q. 2.4 percent. And let's see. We talked about
17 personal belongings.

18 10.3 percent cited that as the reason for
19 their being unsheltered, correct?

20 A. That's what it says on the chart.

21 Q. And, again, it's -- you were on the task force
22 that provided this pie chart, correct?

23 A. I was on the task force that included this in
24 the report. I did not participate in this document.

25 Q. Okay. And this document, you mean Attachment

1 C or wherever this pie chart is appearing?

2 A. Right. In the unsheltered prospectus, I did
3 not participate in --

4 Q. Oh, sure, sure.

5 A. -- this document.

6 Q. Okay. And, in fact, you can put that away
7 now.

8 A. Okay.

9 Q. We are not really allowed to talk to about it
10 anymore. I was just trying to refresh your
11 recollection. But you did -- you did participate in
12 publishing this task force update from 2022, correct?

13 A. Yes.

14 Q. Okay. And that includes this pie chart?

15 A. Yes, it does.

16 Q. Okay. Moving on to partners and spouse. It
17 appears that 2.3 percent of the unsheltered
18 individuals surveyed, according to pie chart, cited
19 that as the reason that they are currently
20 unsheltered, correct?

21 A. That's what it says.

22 Q. Okay. And 20 percent -- 19.8 percent cited
23 that they did not want to follow curfew or rules as
24 the reason for their being unsheltered, correct?

25 A. That's what it says.

1 Q. Okay. 7.1 percent cited addiction, correct?

2 A. Yes.

3 Q. 5.6 percent cited mental health?

4 A. Yes.

5 Q. And 21.4 percent cited, "other." Do you see
6 that?

7 A. I do.

8 Q. Okay. Do you have any idea what that "other"
9 might be?

10 A. It's really hard to say.

11 Q. Okay. All right. I don't want -- I read the
12 study.

13 A. Uh-huh.

14 Q. I'm not supposed to talk about it, so I'm
15 going to just -- let's just put an asterisk around
16 that 21.4 percent for now.

17 And then it says, 11.1 percent had a criminal
18 background, correct?

19 A. Yes.

20 Q. I presume that's because some shelters don't
21 allow individuals that have criminal backgrounds?

22 A. That's true.

23 Q. Okay. And 4.8 percent cited a disability,
24 correct?

25 A. Yes.

1 Q. I suppose, in your experience, might that be
2 because some shelters can't provide accommodations for
3 certain disabilities?

4 A. That is true.

5 Q. Okay. So I want to be conservative here.
6 Let's assume that individuals with a criminal
7 background can't get into shelter because of rules
8 against criminal backgrounds; those with disability
9 can't get in because they can't be accommodated; and
10 those who want it, cited a lack of available beds --
11 you know, there were no available beds. So that's
12 only 30 percent, again, understanding there's this
13 "other" category.

14 To the extent we know, that's only about
15 30 percent of individuals in the survey who can't
16 access shelter because of their criminal background,
17 disability, or lack of availability, correct?

18 A. That's what this chart says.

19 Q. Okay.

20 A. I don't know the methodology for how the
21 people were selected. I don't know if it was over
22 time, who was included, where they came from. There's
23 a whole host of information. I believe this pie chart
24 was put into the report just to educate and be
25 illustrative of all the different challenges. I think

1 if we were to do the same survey today, you might get
2 completely different results.

3 Q. Fair enough. But these are the results we
4 have in the task force report, which you are a member,
5 correct?

6 A. That's true.

7 Q. Okay. And so putting aside, "other," which
8 again was 21.4 percent, it sounds like about
9 50 percent, right, maybe about 49 percent of
10 individuals cited pets, property, partners, mental
11 health, addiction, or not wanting to follow curfew and
12 rules as the reason for their not being in shelter,
13 correct?

14 A. From this particular study.

15 Q. Correct. Of individuals in Downtown Phoenix,
16 correct?

17 A. Yes.

18 Q. If we assume that the 21.4 percent who
19 selected "other" chose something, other than lack of
20 availability, is it fair to say that that number would
21 increase to 70 percent; cited something, other than
22 lack of availability, criminal background or
23 disability as the reason for their being unsheltered?

24 A. That's what the math says.

25 Q. Okay.

1 A. However, I don't believe you can take this one
2 pie chart and lead to the conclusion that this is the
3 population that is at the campus currently or around
4 the campus currently.

5 Q. Fair enough. Have you conducted other studies
6 that would give us different information?

7 A. I have not.

8 Q. Okay. Are you aware of other studies that
9 would give us additional information?

10 A. I am not aware.

11 Q. Okay. Shifting gears a bit, Dr. Harris. You
12 testified today that unsheltered individuals do often
13 move from city to city, correct?

14 A. Some do.

15 Q. Is there any data of which you are aware that
16 would give us a number or proportion?

17 A. No. And it also depends on the time of year.
18 If you were to do it now, it would be very different
19 than if you did it in December.

20 Q. Okay. Fair enough. I think you testified
21 earlier today, when you were talking about other
22 cities, that those cities that enforce ant camping
23 laws simply move the problem of unsheltered
24 homelessness elsewhere, correct?

25 A. That does happen, yes.

1 Q. Okay. Do you have any sense of where those
2 individuals who do move, where do they move?

3 A. Wherever they can.

4 Q. Okay. Do some move to cities that don't have
5 or don't enforce ant camping laws?

6 A. I am sure some do.

7 Q. Okay.

8 A. I don't know that would be their main reason,
9 but I'm sure that is a reason.

10 Q. Well, I guess, where else would they go?

11 A. That's varied upon the situation. They may
12 have a friend that they want to go see.

13 Q. Okay. So they could stay with a friend,
14 right?

15 A. That's an option.

16 Q. Okay. They could accept services, right?

17 A. That's an option.

18 Q. Okay. So for those who don't have a friend,
19 don't want to accept services in that location in
20 which there is a camping ban in effect that's
21 enforced, where else would they go?

22 A. I don't know quite how to answer that because
23 that seems a very hypothetical question.

24 Q. Okay.

25 A. I don't understand where you are coming from.

1 Q. Sure. I am just -- you're an expert witness.
2 In your years of experience studying housing and
3 trends and homelessness, you do not have an opinion,
4 one way or another, about whether enforcing
5 anti-camping bans moves unsheltered individuals to
6 cities with more permissive laws?

7 You don't have an opinion about that?

8 A. That could be a consequence, yes.

9 Q. Okay. Dr. Harris, shifting gears a bit. You
10 spoke about or testified today about structured
11 campgrounds or sanctioned campsites. You didn't use
12 the term, "safe outdoor space," right?

13 That was someone else?

14 A. Someone else.

15 Q. Okay. So I'll use the term structured
16 campground if that's all right. I think that's what
17 you used earlier?

18 A. Yeah.

19 Q. Okay. I believe you testified today --
20 certainly, you wrote in your report -- that having
21 structure campgrounds isn't a solution for everyone to
22 end their homelessness because a one-size-fits-all
23 approach doesn't work, right?

24 A. Uh-huh.

25 Q. Is that a yes?

1 A. Yes.

2 Q. And I think you did for sure testify today
3 that because families don't have the same need as
4 single men, correct?

5 A. Yes.

6 Q. Okay. It is true though, isn't it, that a
7 vast majority of unsheltered in the zone are single
8 men, correct?

9 A. I would say the majority are single
10 individuals. I don't know the breakdown between male
11 and female.

12 Q. Okay. Right now on the street in the Zone in
13 Phoenix, are there families among people in the Zone?

14 A. Very few.

15 Q. Okay. So mostly single individuals?

16 A. Mostly single individuals or couples.

17 Q. Okay. Or couples, okay. And I think you
18 testified several times today that some people don't
19 want to go into shelters or structured campgrounds
20 even if they don't allow pets, correct?

21 A. That's true.

22 Q. Okay. Is there any reason that a structured
23 campground wouldn't allow pets, property, or partners?

24 A. It would depend upon how it was structured.
25 It can.

1 Q. Okay. So structured campgrounds can allow
2 individuals who don't want to go into traditional
3 shelter because of those restrictions, can allow those
4 individuals to go into the structured campground
5 depending on the rules, right?

6 A. That can be arranged, yes.

7 Q. Okay. And, in fact, that's what the task
8 force recommended, right?

9 A. I believe they did talk about that.

10 Q. Let's turn to page 24 of the task force.
11 Whenever you get there --

12 A. I'm there.

13 Q. So on page 24, Attachment D, Structured
14 Campground Implementation Considerations, that's the
15 title of this page, correct?

16 A. Yes.

17 Q. And it says that one of your recommendations
18 on this task force, or I should say one of the task
19 force's recommendations --

20 A. Thank you.

21 Q. -- was that the City of Phoenix shall set up
22 at least one very low barrier campground. These
23 campground facilities shall be open to all; singles,
24 couples, individuals with pets, possessions, and other
25 groups that can't be accommodated in traditional

1 shelter.

2 Did I read that correctly?

3 A. Yes.

4 Q. Would -- at least to the extent you know, when
5 the task force who made this recommendation, was
6 illegal drug use contemplated in the structured
7 campground, or would that not have been allowed?

8 A. There was actually no discussion about that
9 that I recall.

10 Q. Okay. But -- I don't know if you heard. I
11 think Rachel Milne testified or someone testified that
12 there be a code of conduct. You don't know what the
13 code of conduct would be for City of Phoenix's
14 structured campground?

15 A. I do not.

16 Q. Okay.

17 A. I did not hear that testimony.

18 Q. Okay. But I guess just -- so to be clear, the
19 task force in which you participated recommended that
20 the City create a low barrier structured campground.

21 Yes?

22 A. Yes.

23 Q. And this -- and such a low barrier structured
24 campground would solve, at least temporarily, the
25 problem of individuals with pets, property and

1 partners from being on the street in the Zone,
2 correct?

3 A. Yes.

4 Q. All right. It wouldn't end their
5 homelessness, right?

6 A. Probably not.

7 Q. Okay. But it would get them out of the
8 unregulated campground that is currently around the
9 Human Services Campus, correct?

10 A. Yes.

11 Q. Okay. Dr. Harris, I think you testified today
12 that a structured campground can be erected rapidly
13 and at low cost relative to a city's -- certainly,
14 Phoenix's -- others homelessness initiatives, correct?

15 I think you talked about Houston as an
16 example. But is it fair to say that Phoenix can
17 rapidly and at low cost, relative to its other
18 homelessness initiatives, establish and operate
19 structured campsites similar to those in other cities?

20 Is that fair to say?

21 A. They can do that.

22 Q. Okay.

23 A. I don't know how cheap it will be, but they
24 can do that.

25 Q. Okay. Well, can we go to page 7 of the

1 recommendations --

2 A. Uh-huh.

3 Q. -- of the task force report.

4 By the way, I think I asked you this, but this
5 task force report was presented to the City of
6 Phoenix?

7 A. Yes.

8 Q. The task force was empaneled by the City of
9 Phoenix?

10 A. Yes.

11 Q. Okay. To me, that was obvious. But I see the
12 City of Phoenix symbol on the exhibit, so I was
13 just -- I don't know if that was in the record or not,
14 so I just wanted to clarify that.

15 On the bottom of page 7 -- again, this page is
16 titled Recommendations -- number six: "Develop at
17 least one structured campground to provide temporary
18 and rapid relief to people who cannot or will not
19 enter traditional shelter."

20 Did I read that correctly?

21 A. Yes.

22 Q. Do you know what the task force meant by
23 "rapid relief" here?

24 A. No. I think the concept was, as soon as
25 possible.

1 Q. Can they be erected quickly, structured
2 campgrounds?

3 A. I am not an expert.

4 Q. Okay. That's fine. Let's go to page 23. I'm
5 sorry I'm jumping around so much. This says,
6 Attachment D, Structured Campground Implementation
7 Consideration. I'm just going to read most of this
8 paragraph and ask you if I have read it correctly:

9 "Members of the task force acknowledge the
10 timing required to build or acquire new shelters may
11 take one to two years. The task force recognizes that
12 allowing unregulated camping to occur in
13 neighborhoods, commercial business properties, parks,
14 and other public areas is not good for either the
15 person experiencing homelessness," -- there's a "nor"
16 there. I think that should be an "or", so I'm going
17 to reread that sentence with that correction.

18 So: "Is not good for either the person
19 experiencing homelessness or the area where the
20 unregulated camping is occurring. There are many
21 people who are not ready to enter a traditional
22 shelter and the rules associated with traditional
23 shelters.

24 "Nonetheless, every person experiencing
25 homelessness is entitled to a safe humane place to

1 call home that provides adequate sanitation,
2 availability of food and access to services. The task
3 force is recommending the City of Phoenix develop at
4 least one structured campground to provide temporary
5 and rapid relief to people who cannot or will not
6 enter a traditional shelter."

7 And I will stop there. Other than changing
8 the "nor" to the "or", did I read this correctly?

9 A. Yes, you did. But I'm not sure that it
10 shouldn't be, "nor."

11 Q. Fair enough. Let's not argue about grammar.
12 It never ends well for anybody. Let's stay friends.

13 MR. TULLY: Professors.

14 MR. WURMAN: I just wanted the record to
15 reflect that I wasn't making a mistake when I was
16 speaking.

17 Q. So is it fair to say, according to this task
18 force page, a traditional shelter requires one or
19 two years to build or acquire, correct?

20 A. That's what it says, yes.

21 Q. And it says a structured campground provides
22 quicker relief than that, correct?

23 A. Yes.

24 Q. Okay. So quicker than one to two years, but
25 you can't tell us how much quicker?

1 A. I cannot.

2 Q. Okay. Now it also says here that unregulated
3 camping -- there's that "nor" again. I'm just going
4 it read it as it's written.

5 A. Okay.

6 Q. It says that, "Unregulated camping is not good
7 for either the person experiencing homelessness, nor
8 the area where the unregulated camping is occurring."

9 Correct?

10 A. Yes.

11 Q. Do you know why unregulated camping -- let me
12 start that again.

13 Do you agree that unregulated camping is bad
14 for the person experiencing homelessness?

15 A. I do.

16 Q. You do. And can you explain to the Court why?

17 A. Because they don't have access to things that
18 they need; water, good shelter, food.

19 Q. And the idea of the task force recommendation
20 here is that they would have more access to that in a
21 structured campground than in an unregulated camping
22 environment, correct?

23 A. Yes.

24 Q. Now it also says -- I'm sorry. Do you agree
25 that unregulated camping is bad for the area in which

1 such camping occurs?

2 A. That really has to do with how unregulated it
3 is, how large it is.

4 Q. Do you agree that unregulated camping in the
5 Zone in Downtown Phoenix in the area of the Human
6 Services Campus is bad for the way in which such
7 camping is occurring?

8 A. Yes.

9 Q. Can you tell the Court why?

10 A. Again, there's lack of access to needed
11 services; to food, to shelter, to basic human needs
12 being met.

13 Q. Okay. I think that was your answer for why
14 it's not good for the unsheltered individuals.

15 A. Uh-huh.

16 Q. And I'm just saying that -- I was just reading
17 from the task force report which said, it's also bad
18 for the neighborhood, right, the area?

19 A. Uh-huh.

20 Q. Do you have an answer that's beyond why it's
21 bad for the unsheltered themselves as to why it's bad
22 for the neighborhood?

23 A. Yes. It's disruptive.

24 Q. In what sense?

25 A. In that there may be people blocking access to

1 your driveway. There may be people using your back --
2 using the facilities as a bathroom.

3 Q. And by, "facilities," you mean someone's
4 property?

5 A. Yes.

6 Q. Okay. Now the task force describes a
7 structured campground as a safe humane place in this
8 paragraph, correct?

9 A. Yes.

10 Q. Okay. Are unsheltered individuals living on
11 the street in the Zone currently in a safe humane
12 place?

13 A. No.

14 MR. WURMAN: I might get this done before the
15 break.

16 THE COURT: Okay.

17 MR. WURMAN: Just so everyone will be
18 relieved.

19 Q. Your testimony today, Dr. Harris, was, I think
20 the problem with structured campsites is that they
21 don't end homelessness, correct?

22 A. Yes.

23 Q. Okay. But you would agree that, if there were
24 a structured campsite enough to house those currently
25 engaged in unregulated camping, it would get those

1 individuals out of that situation and into a regulated
2 environment, correct?

3 A. Yes.

4 Q. And that would eliminate all the incidents of
5 unregulated camping that we just talked about, like,
6 defecation, litter obstructions, and so on, correct?

7 A. Yes.

8 Q. Okay. When you were -- well, strike that.

9 Dr. Harris, you testified today, not only with
10 respect to the campsites, but generally about your
11 report, that you were asked to opine about the City's
12 policies with respect to ending homelessness, correct?

13 A. Yes.

14 Q. Okay. Is it your understanding -- and just,
15 I'm asking for your understanding. If you don't know,
16 you don't know. I don't want you to speculate.

17 Is it your understanding that the plaintiffs
18 in this case are asking the City to end homelessness?

19 A. I don't know.

20 Q. You don't know, okay.

21 Dr. Harris, you testified, I think toward the
22 end of your testimony, that it's difficult to set a
23 firm date for the Zone to be fully cleared by the
24 City, correct?

25 A. Yes.

1 Q. Certainly, you cited in your report -- and I'm
2 pretty sure I heard it today -- you cited high housing
3 costs as a problem?

4 A. Yes.

5 Q. Okay. You cited the unpredictability of the
6 real estate market, correct?

7 A. Yes.

8 Q. You mentioned increased drug abuse because of
9 cheap fentanyl, correct?

10 A. Yes.

11 Q. And you mentioned street feeding?

12 A. Yes.

13 Q. Correct, okay.

14 Dr. Harris, do housing costs and the real
15 estate market affect the City's ability to create a
16 structured campground on its own land?

17 A. Other than the fact that there is construction
18 material challenges right now, that would be something
19 that would affect their ability.

20 Q. Oh, Okay. What construction material do you
21 have in mind for a structured campground?

22 A. It's as simple as sometimes getting concrete.
23 There's been challenges for people to get enough
24 concrete to build slabs for properties, for houses,
25 for whatever the case they want to use it.

1 Q. Okay.

2 A. So there's been some material challenges --

3 Q. Okay.

4 A. -- that they would need.

5 Q. Okay. And if the City had a vacant lot that
6 was a dirt lot, does housing costs or the real estate
7 market affect whether the City could allow individuals
8 to put tents on that lot?

9 A. I don't know that it would. I don't know that
10 you would want them on dirt for sanitation purposes.
11 But I'm not an expert. That would be a question I
12 would have.

13 Q. Okay. Fair -- fair enough.

14 Dr. Harris, if there were a structured
15 campsite with a curfew such that unsheltered
16 individuals were not allowed to wander in the Zone
17 after a certain hour, would that solve the problem of
18 nighttime street feedings?

19 A. No.

20 Q. Why not?

21 A. Because you never know when they are going to
22 come.

23 Q. Okay. Fair enough. So they might come to the
24 structured campground?

25 A. Yeah.

1 Q. Okay. And that's where the feeding would
2 occur?

3 A. It might. It also might be that they would
4 park so everybody was going through the neighborhood
5 in order to get to the food.

6 Q. Okay. So is it fair to say that, if there's a
7 sanctioned campsite with a curfew, that wouldn't be
8 sufficient to keep individuals from wandering the
9 streets?

10 A. I'm not sure I understand what you're saying.

11 Q. Well, I guess what I'm getting at is you would
12 still need enforcement, right. You would need to
13 force people into the structured campsite, correct; if
14 you're going to move them into the structured
15 campsite, rather than having them wandering the
16 streets, correct?

17 A. Like, security that they have at the campus
18 now, is that --

19 Q. Sure.

20 A. Yeah.

21 Q. Okay. And assuming such security were in
22 place, would that solve the problem of nighttime
23 feedings?

24 A. It would greatly reduce the chance it would
25 happen.

1 Q. Dr. Harris, I'm almost done. Can we turn to
2 page 12 of the Task Force Recommendations.

3 Do you see, at the very bottom of page 12,
4 bullet four, it says: Commitment that encampments
5 located near the HSC -- that's the Human Services
6 Campus -- are treated the same as encampments located
7 in other areas of the city.

8 Do you see that?

9 A. I do.

10 Q. Do you know what the task force meant by that?

11 A. My recollection is we wanted all the
12 encampments to be equal and the services and the
13 facilities that they provide.

14 Q. So in what sense are the encampments located
15 near the HSC not treated the same as other
16 encampments?

17 A. I don't know that there was a specific site
18 that was in mind. I think this is more of a general
19 principle of how the unsheltered encampments should be
20 structured.

21 Q. So to your knowledge, this doesn't mean --
22 well, let me ask you this; if there are other large
23 encampments in other parts of the city?

24 A. Not to the extent as what is at the Human
25 Services Campus.

1 Q. Okay. Let's turn to the page prior, page 11.
2 Do you see the very last bullet?

3 It says: "Prioritize and provide additional
4 resources and funding to police in neighborhoods that
5 suffer disproportionately."

6 Did I read that correctly?

7 A. Yes.

8 Q. Okay. What neighborhoods suffer
9 disproportionately?

10 A. I don't believe the task force defined the
11 specific neighborhoods.

12 Q. Okay. Do the plaintiffs in this case suffer
13 disproportionately?

14 A. I would say yes.

15 Q. Why did the task force recommend giving more
16 funding to police for these neighborhoods?

17 A. I think they wanted to do what they could to
18 support the police and also to support the
19 neighborhood.

20 Q. In your opinion -- I know you have the task
21 force recommendation in front of you. But in your
22 opinion, is the current police presence in these
23 neighborhoods in the Zone sufficient to deal with the
24 secondary effects that we talked about earlier today
25 of the encampments?

1 A. Such as?

2 Q. Public defecation, urination, crime, property
3 crime, violent crime, trash, debris, obstructions,
4 things like that.

5 Do you think the current police presence is
6 sufficient to deal with those secondary effects?

7 A. Not all of them. And part of what you listed
8 are not under the purview of the police.

9 Q. Like which ones?

10 A. Like the urinary -- using the land for a
11 bathroom, that's not something that I would think --
12 that's more of a health concern than it is a police
13 concern.

14 Q. Okay. Is it possible that it both violates
15 the health statutes and City ordinances against public
16 urination?

17 A. It is very possible, yes.

18 Q. Okay. And if that were the case, is it fair
19 to say to that the police would have a role in
20 enforcing against public urinating?

21 A. Yes, but they are not the sole source.

22 Q. Fair enough. So I think you said that the
23 current police presence is insufficient to deal with
24 the impacts in this particular neighborhood, correct?

25 A. Yes.

1 Q. Okay. My last line of questions. Still on
2 this document, if we can turn to page 3.

3 It says: Key takeaways from the
4 recommendations are that they, and the first bullet is
5 distribute shelters and services throughout the
6 community.

7 Did I read that right?

8 A. Yes.

9 Q. Why is that a recommendation?

10 A. Because I believe the folks on the task force
11 were having challenges in disparate parts of the city.
12 Not everything that needed to be addressed was at the
13 Human Services Campus. There were other areas in
14 Phoenix that also could benefit from having shelters.

15 Q. Okay. Well, let me ask it this way. In your
16 opinion, are shelters and services in Phoenix
17 currently distributed throughout the community, or are
18 they concentrated in the Zone?

19 A. There are many in the Zone. But there are
20 other areas, as well, that have shelters, feeding,
21 dining halls.

22 Q. Okay. Let's try page 10, if you can turn to
23 that, there's a similar bullet. Maybe that will help
24 us along.

25 One of the neighborhood strategies in these

1 recommendations -- I should say, again, the page is
2 titled Recommendations.

3 The third bullet: Support in identifying
4 shelter locations with wraparound services that are
5 equitably distributed in all parts of the city with
6 the best opportunity for success -- and then this
7 appears in parentheses -- to tie to regional and
8 citywide distribution goals.

9 Did I read that correctly?

10 A. Yes.

11 Q. What did the task force, if you know, mean by,
12 "equitably distributed"?

13 A. They wanted to make sure that there were not
14 more encampments created. They wanted to make sure
15 that people had shelter wherever they were in the
16 city.

17 Q. Okay. So is it fair to say that, right now,
18 shelter and service locations are not equitably
19 distributed throughout the city?

20 A. Yes, that's fair.

21 Q. Dr. Harris, if the City opens up a structured
22 campsite in the Zone or near the Zone, right on the
23 edge of the Zone, there's still a risk that that will
24 lead to impacts in the neighborhoods, correct?

25 A. Yes.

1 Q. Because individuals could leave the campsite,
2 correct?

3 A. That is correct.

4 Q. Okay. And in fact -- so if there were a
5 mandate requiring individuals who are unsheltered, at
6 a certain point in the evening, to be in the
7 structured campsite or not, but not -- regardless,
8 either to be not in the streets in the Zone or in the
9 structured campsite, is it fair to say that such an
10 order -- whether it comes from the City of Phoenix or
11 this Court -- would help mitigate the effects of that
12 structured campsite in the Zone?

13 A. Yes.

14 MS. STUHAN: Objection. Speculation.

15 THE COURT: I'm going -- I will sustain the
16 objection. If you want to, establish a foundation for
17 it.

18 Q. BY MR. WURMAN: I guess my question is, can
19 you tell the Court what are some ways that we could
20 prevent a structured campsite in the Zone or near the
21 Zone where it's going to be from having spillover
22 effects in the neighborhood?

23 Is there a way to ensure that?

24 A. Policies would have to be developed to ensure
25 that that happens. And they would need to be with a

1 broad base of people; not just the police, not just
2 people on the campus. But I believe there is a way to
3 make that happen.

4 Q. Okay. And is one possibility an order from a
5 court instructing the City to keep the streets clean
6 after a structured campsite is created?

7 A. I believe that's an option.

8 MR. WURMAN: Okay. Thank you. If I can have
9 one moment?

10 I have no further questions for the witness.

11 THE COURT: All right. Thank you.

12 All right. Folks, at this point, we're going
13 to take our afternoon break for 15 minutes.

14 Before we do, I need to put something on the
15 record. My staff was contacted by the media, members
16 of the media asking how the media specifically could
17 get copies of the exhibits in this case.

18 I spoke with counsel for both parties in
19 chambers before coming out for this hearing. And it
20 was agreed that, of course, the media can -- can seek
21 copies of the exhibits through the PIO for the Court.
22 Or they can seek copies of the exhibits from --
23 counsel for plaintiffs have agreed to serve that role,
24 as well.

25 That's just members of the media. We can't

1 have all members of the public seeking those exhibits
2 for curiosity purposes. So this is an exception that
3 the Court will make, based upon agreement of counsel.

4 All right. With that, we are off the record
5 for 15 minutes.

6 (Recess taken.)

7 THE COURT: Is there going to be a redirect of
8 the doctor?

9 MS. STUHAN: Briefly, your Honor.

10 THE COURT: Okay. And, Doctor, you understand
11 that you're still under oath, correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: Thank you.

14

15 REDIRECT EXAMINATION

16 BY MS. STUHAN:

17 Q. Hello again, your -- Dr. Harris. Couple
18 questions.

19 Is there any model for policing an area
20 overwhelmed by homelessness, in your experience?

21 A. No.

22 Q. If the Court were to order the City to keep
23 the area around the human services clean, in your
24 training and experience, how would the City actually
25 do that?

1 MR. WURMAN: Objection. Foundation.

2 THE COURT: Hold on. Hold on. Question
3 being, if the Court were to order the City to keep the
4 area around the -- overruled. Go ahead and answer, if
5 you know.

6 Q. BY MS. STUHAN: So the question is, how would
7 the City do that, in your training and experience, of
8 cleaning up homeless encampments?

9 A. They would need to develop policies that would
10 outline what needs to be done, how it needs to be
11 done. They need to take into consideration the
12 variety of people needing the services, needing the
13 shelter. There is quite a few things to think
14 through. It's not just something I think you could
15 say, do this. But I do think they have the capability
16 to figure it out.

17 Q. And when you say, "they," who in the City
18 would be involved in that kind of process?

19 A. It would be the City Council giving directions
20 to the City Manager and the Office of Homeless
21 Solutions, as well as the City departments that
22 support those efforts; whether it's housing, streets,
23 police. There would be several people involved.

24 Q. Would decisions have to be made about how best
25 to accomplish that?

1 A. Yes, I think so, before you would go off and
2 do that. And I'm not sure that there are existing
3 policies that they could benefit from other
4 communities that may have done structured camping.
5 That's one option.

6 Q. And so when you talk about keeping an area
7 clean, do you have and understanding of what level of
8 cleanliness is required?

9 A. I don't, no.

10 Q. Do you have any understanding of whether --
11 what level of security might be required to a downtown
12 area to ensure that happens?

13 A. Definitely there would have to be a lot more
14 security; if you were to ensure that no one did
15 anything to take away from the safety of the area.
16 And that's not something that I have any expertise in,
17 quite frankly. I can talk about how to help people.
18 I don't necessarily have information about how to set
19 up those procedures, but I do believe the City has
20 people that do.

21 Q. Are you aware of any other cities that you've
22 reviewed in addressing homelessness that have set up
23 24 hour surveillance of their downtown area?

24 A. I am not.

25 Q. Dr. Harris, I'd like to next talk just a

1 little bit about shelter. You talked a lot during the
2 last examination about whether people are biologically
3 compelled or -- different options in shelters.

4 Can we take a minute and just help me just --
5 can you describe what considerations are made
6 currently in offering shelters to individuals in the
7 city of Phoenix as you have seen it?

8 A. As I have seen it, it takes into account their
9 age, their gender, their ethnicity, whether they are
10 working, do they have mental health issues, do they
11 have health issues, are they -- do they have substance
12 abuse challenges, are there other medical healthcare
13 areas that have to be addressed. There's a whole host
14 of issues because they are all individuals.

15 Q. And does making that individualized assessment
16 matter?

17 A. Absolutely.

18 Q. Why?

19 A. Because you want to ensure that, when someone
20 has an alternative for housing, it helps them the best
21 they possibly can to achieve their ending of
22 homelessness.

23 Q. Do you think simply increasing the level of
24 enforcement of urban camping ordinances would solve
25 the issues in and around the Human Services Campus, in

1 your experience?

2 A. I don't think it would. I think it might make
3 the area look more like a jail or a prison, depending
4 upon how it's structured, how many people are there,
5 what the security level is. There's a whole host of
6 things that need to be considered.

7 Q. Have you reviewed how structured campgrounds
8 work in other cities?

9 A. Not extensively, no.

10 Q. Have you reviewed any policies for how
11 structured campgrounds work in other cities?

12 A. Not really, no.

13 Q. In your opinion, is -- are policies important
14 if there were to be a campground that was operated by
15 the City?

16 A. Absolutely. There have to be.

17 Q. Is that something that the home -- Office of
18 Homeless Solutions would work on?

19 A. Yes. I believe that would be the best place.

20 Q. Okay. And as it stands today, are you aware
21 if the City is working on any of those campground
22 plans currently?

23 A. I know they are trying to move ahead with the
24 one that's close, the structured campground being
25 close to the Human Services Campus. I know that one

1 is in process. I don't know where they are, as far as
2 policies regarding how it's going to be operated.

3 Q. I know we've talked a lot about bureaucracy
4 though, but do you think it is important to have
5 policies before that opens?

6 A. Yes, I do.

7 MS. STUHAN: Thank you, very much. No
8 further questions.

9 THE COURT: Thank you. Couple questions for
10 you doctor.

11 THE WITNESS: Yes, sir.

12 THE COURT: Give me a second. I've got
13 extensive notes from listening to you.

14 Okay. I was a little surprised to hear you
15 say that Commander -- and I might be mispronouncing, I
16 believe it's Freudenthal, Freudenthal -- that
17 Commander Freudenthal was on the governing board of
18 the Human Services Campus; is that correct?

19 THE WITNESS: Yes, I believe it was.

20 THE COURT: Was it at the same time that he
21 was serving as a commander for the area.

22 THE WITNESS: I don't know those time frames
23 to give you a period.

24 THE COURT: Do you know when it was that he
25 was on the governing board?

1 THE WITNESS: I honestly -- I don't know that,
2 to tell you the truth. And I know he was there. My
3 assumption was he was on the board. He may not have
4 been a board member.

5 THE COURT: Okay. Thank you. One of the
6 other statements that's in the -- the task force
7 recommendations, on which you served on the task
8 force, of course, when the recommendations were made,
9 it said that, for the structured campgrounds, there
10 should be no time limits on length of stay.

11 How do you ensure that -- that structured
12 campgrounds or really any kind of shelter is actually
13 transitional and temporary and doesn't become an
14 entitlement that the taxpayers are on the hook for
15 until somebody decides they want to leave?

16 I mean, if you are going to say ahead of time
17 that there's no time limit, how do you enforce the
18 transitional nature of something like that?

19 THE WITNESS: That is a very challenging
20 question. Quite frankly, everything has to be done on
21 an individual basis. I agree with you that making it
22 open-ended, some people would take advantage of that
23 and not move forward and not try and change their
24 homelessness status, so to speak.

25 So it was a consensus document, but I don't

1 necessarily agree that having no time limit is
2 appropriate. But I also don't want it to be like a
3 prison sentence, you know, that you have to stay here
4 or you have to -- it needs to be very individualized,
5 and it needs to be responsive to what is the best way
6 for that person to end their homelessness.

7 THE COURT: Okay. All right. Thank you.
8 For the City, any follow up to the Court's
9 questions?

10 MS. STUHAN: No, your Honor.

11 THE COURT: For the plaintiffs?

12 MR. WURMAN: No, your Honor.

13 THE COURT: All right. Does either party
14 believe this witness should stay for recall?

15 MS. STUHAN: No, your Honor.

16 THE COURT: For plaintiffs?

17 MR. WURMAN: No, your Honor.

18 THE COURT: Thank you, Doctor. You can step
19 down.

20 THE WITNESS: Thank you.

21 THE COURT: Appreciate your time.

22 MR. PIERCE: Thank you, your Honor. Our final
23 witness is Deputy City Manager, Gina Montes.

24 THE COURT: All right. Ma'am, come on up, if
25 you would, please. And just stand right at the end of

1 that countertop right there.

2 THE CLERK: Would you please state and spell
3 your name for the record.

4 MS. MONTES: Gina Montes, G-i-n-a,
5 M-o-n-t-e-s.

6 THE CLERK: Thank you, please raise your right
7 hand.

8 THE COURT: Thank you. Please be seated.

9

10 GINA MONTES,
11 called as a witness herein, having been first duly
12 sworn, was examined and testified as follows:

13

14

DIRECT EXAMINATION

15 BY MR. PIERCE:

16 Q. Good afternoon, Gina. Would you introduce
17 yourself to the Court. Tell the Court what your
18 position is with the City of Phoenix and what your
19 primary job responsibilities are associated with that?

20 A. Yes. I am currently one of the deputy city
21 managers with the City of Phoenix. I oversee four
22 departments; the Human Services Department, the
23 Neighborhood Services Department, Housing Department,
24 the Office of Homeless Solutions -- oh, wait, one
25 more -- and the Office of Heat Response and

1 Mitigation.

2 THE COURT: Okay. And just a reminder, as
3 slow as you can. I know it's not easy.

4 THE WITNESS: I should know better than that.
5 Thank you, your Honor.

6 THE COURT: That's okay.

7 Go ahead, Counsel.

8 MR. PIERCE: Thanks.

9 Q. Gina, can we talk just briefly about your
10 background prior to being in this role? How many
11 years do you have in local government and what
12 positions you have held?

13 A. I have about 28 years in the local government
14 realm. About half of that time has been with the City
15 of Phoenix. I recently joined the City of Phoenix May
16 of 2021. Prior to that, I was with an outlying suburb
17 for almost 15 years. And before that, I had started
18 my career with the City of Phoenix in multiple
19 departments.

20 Q. You mentioned that one of the departments that
21 you oversee is the department we've had extensive
22 discussion over the last couple of days, the
23 Department of Homeless Solutions; is that correct?

24 A. Correct. We call it the Office of Homeless
25 Solutions.

1 Q. And how did it come about that that became a
2 standalone department and when did that happen?

3 A. Prior to the creation of the Office of
4 Homeless Solutions, the services provided to people
5 experiencing homelessness were out of the Human
6 Services Department. We had a division of that
7 department that housed those employees.

8 In about the fall of 19 -- of 2021, after just
9 an increase in homelessness after -- during and after
10 the pandemic, issues surrounding the Human Services
11 Campus, impacts on neighborhoods, a lot of concerns
12 about issues with homelessness, we recognized that
13 there was a need for more capacity to deal with the
14 problems surrounding homelessness.

15 And that includes both those people who are
16 experiencing homelessness and helping them to end
17 their homelessness, but also -- and equally as
18 important -- the impact on community and the impact on
19 neighborhoods. So as a result of those issues, we
20 started discussing how we could -- recognizing that we
21 needed more resources to address that.

22 So in the fall of 2021, approximately, there
23 were discussions with -- and I believe he was
24 Assistant City Manager at the time, the current City
25 Manager Jeff Barton, myself, the Human Services

1 Department staff, Budget and Research to lay out
2 what -- what did we need in order to be able to do
3 multiple things.

4 We needed to implement the Strategies to
5 Address Homelessness Plan that the Council had
6 approved. They approved that in, I believe October of
7 2020, prior to my starting with the City. We also
8 were still in the midst of facilitating the Strategies
9 to Address Homelessness Task Force. And they were
10 created as part of the adoption of the strategies.

11 And the Council directed the City Manager to
12 convene a task force to further address and further
13 evaluate the strategies that they had approved and,
14 also, to make sure that we had adequate community
15 input.

16 And so that was ongoing, and we recognized
17 that there was a lot of -- there were going to be
18 additional recommendations associated with the task
19 force. And then, just in recognition of the need, we
20 did not have the capacity, given the resources to
21 implementing those recommendations and -- or -- nor to
22 adequately -- or to adequately respond to the issues
23 that the community was facing.

24 And so that's how -- that's when that started
25 and -- those discussions, in the fall of 2021.

1 Q. So fall of 2021, and then the beginning of
2 2022 would have been the budget, kind of when the
3 budget starts really kicking in to high gear; is that
4 right?

5 A. Correct.

6 Q. And --

7 A. The process starts in around January of
8 starting to put together the budget. And at that
9 time, we put together a request to the mayor and the
10 city council. And it went into the City Manager's
11 trial budget.

12 And it took -- it takes about, you know, all
13 of the spring to go you go through that process of
14 getting community input. And then the Council
15 approves it at the end of the fiscal year, effective
16 July 1st of each year.

17 Q. So is it -- that process and the development
18 of this department came prior to any lawsuit that was
19 filed in the plaintiffs in this case; is that right?

20 A. That's correct.

21 Q. So speaking to that issue, can you -- can you
22 describe, generally, the goals of the Department of
23 Homeless Solutions?

24 A. Well, the goals are -- are what I -- broadly,
25 are what I described when discussing the reasons that

1 we put it together.

2 So it's to address all of the issues
3 surrounding homelessness; to provide the services to
4 the unsheltered and helping them to end their
5 homelessness; to provide enough capacity to respond
6 and facilitate community -- facilitate is not the
7 right word. Let me back up.

8 To respond and address and liaison with
9 community members, neighborhoods, businesses, in order
10 to address those issues; the impacts of homelessness.
11 And then another, a couple more important -- I mean,
12 equally important pieces -- to make sure that we had
13 the adequate oversight of our contracts.

14 Most of our services are delivered through
15 non-profit partners, as we have discussed in the last
16 few days. And so, in order to make sure that those
17 contracts were being implemented effectively, we
18 really needed the staff to be able to have that
19 adequate oversight.

20 And then, finally, transparency. We had a
21 desire -- ours and the task force -- to be able to
22 demonstrate how we were spending these public dollars,
23 what were the outcomes. We had a lot of questions,
24 particularly, with the increase in homelessness from
25 the community and our City Council about the

1 effectiveness of some of our services; where were the
2 funds going?

3 And so part of the reason -- one of the
4 things -- the pieces added to that menu of items we
5 were addressing is the data and ensuring that we were
6 data driven; that we could display, you know,
7 outwardly -- outward facing information to the public
8 about what we were doing in terms -- to address
9 homelessness.

10 So that's how I would summarize the reasons
11 and the broad goals of the office.

12 Q. Thank you. You mentioned, as a challenge,
13 this increase in homelessness. What were you seeing
14 in and around the time that we are discussing as the
15 department's coming to life?

16 A. During the summer of 2021, shortly after I
17 started with the City of Phoenix, there were
18 approximately 200 people encamped outside the Human
19 Services Campus. And in the fall, I think by
20 December, there were approximately 500 people. And
21 then, by the spring, it had escalated to -- and these
22 are approximate numbers -- but nearly a thousand
23 people encamped outside the Human Services Campus.

24 So although there had been issues with
25 encampments in that area, it really did escalate very

1 rapidly in a short period of time. And as we were
2 looking at the strategies that were in the plan that
3 Council approved, getting recommendations and really
4 working through those with the task force, this
5 increase in homelessness -- and region wide,
6 nationwide -- coupled with an escalating issue of
7 encampments around the Human Services Campus happened
8 all at the same time.

9 Q. And you say the increase in encampments were
10 including things like just an increase in the tents
11 that were seen around that area; is that right?

12 A. Yes. When I refer to encampments, I'm
13 referring to people unsheltered sleeping outdoors in a
14 tent or whatever makeshift structure they might
15 create.

16 Q. Because there's been a lot of, obviously,
17 discussion about that in this -- in this trial as to
18 the area in and around the Human Services Campus and
19 the increase in those things.

20 How does -- or how did the decrease of
21 available shelter space at the time affect this
22 problem?

23 A. Leading up to this time period in the prior
24 three to five years, the region actually had a net
25 decrease in the number of shelter beds available to

1 people experiencing homelessness.

2 And that did have an impact on the ability of
3 people to be in shelter and for them to be
4 unsheltered. And so, given the additional pandemic
5 dollars available, we have been able to recover from
6 that. And we are -- we're trending upward on the
7 number of beds. And, certainly, the City of Phoenix
8 has added many beds through our funding.

9 But the region did lose a significant number
10 of beds in that time period.

11 Q. And you just talked about, you know, we'll
12 call them COVID dollars, for lack of a better term.
13 Let's get into that because it talks -- I want to talk
14 about the budget, not just from the previous cycle
15 that you just explained when the department was
16 created. That went into effect July 1st of 2022.

17 Let's talk about now this -- the next budget
18 cycle, which would have just been adopted and created.
19 What is the budget for the Department of Homeless
20 Solutions? And I don't mean specific numbers, but
21 just generally speaking.

22 A. Well, I can speak generally in terms -- I'd
23 have to have it in front of me to talk about the
24 numbers, but I will describe just generally. We have
25 tripled, essentially tripled the staff resources that

1 are ongoing that are available to it that are, you
2 know, dedicated just in the Office of Homeless
3 Solutions toward addressing homelessness.

4 That does not include Streets, Public Works,
5 and other departments that are also involved in the
6 issue.

7 Q. Now you probably heard the -- the judge asked
8 a question of one of the witnesses at one point in
9 time. You know, spending money to increase staff may
10 not necessarily result in outcomes.

11 How would you respond to that, that question
12 or potential criticism?

13 A. Sure. I understand that, and it's -- it is,
14 from the outside, hard to see why increasing staff
15 would be important. However, it's important for
16 people to understand that people are the -- employees
17 are the ones who do the work. Absent people to do the
18 work, something will not -- cannot get done.

19 I can certainly be involved myself. We have,
20 you know, a small -- we have a director of now the
21 Office of Homeless Solutions. But absent people, they
22 are the ones who do the work. And so -- so that's
23 what I would say to that; that our mayor and Council
24 approved our recommendation to add the resources.

25 And these people that we hired, these

1 additional -- this additional capacity is what is
2 enabling us to address the area around the Human
3 Services Campus in a way that we didn't -- we were not
4 able to do until very recently simply because we
5 needed to get pieces in place for that.

6 We needed shelter. We needed services. We
7 needed a storage policy. We have dueling orders that
8 we are complying with. So in order to -- to move
9 forward, we have to have people to do the work.

10 Q. Okay. If I can show you Exhibit 69, and it's
11 just a couple of pages. So if we could turn this on,
12 I'll show it to you on the screen.

13 Do you recognize this document, Gina?

14 A. Yes.

15 Q. Can you explain to the Court what it is and
16 how it -- how it came about?

17 A. Yes. This is our City Manager's transmission
18 of the -- of the trial budget to City Council from
19 March where, in this memo, he relays the high level
20 items that are being added in his proposed budget,
21 which we call the trial budget.

22 And at this point, it's released to the City
23 Council and the community for public feedback.

24 Q. Does the -- did the trial budget discuss the
25 issues of homelessness?

1 A. Yes, it did. This memo does highlight how
2 much of a priority the issue of addressing
3 homelessness is and was at that time to -- to the City
4 and our recommendations to Council on additional
5 funding.

6 Q. So you're seeing the first page here. And I'm
7 going to turn you to the second page in a minute. But
8 is there anything in that -- in those first few
9 bullets that -- that address the issue of
10 homelessness?

11 A. Yes. The first bullet point, continuity of
12 services for vulnerable populations of \$7.4 million.
13 That represents the addition of general fund dollars
14 to ensure that we can continue operations begun with
15 federal pandemic funds.

16 Q. And this is the second page here. Is there
17 anything on this page that addresses the issues of
18 homelessness?

19 A. Yes. Starting with the second paragraph and
20 the bullet points, that lays out for the Council and
21 the community, other projects and funding that is --
22 that was already being invested into addressing the
23 issue, including 104 -- \$140 million for shelter,
24 rapid rehousing, navigation services, case management,
25 mental and behavioral health, and weather heat

1 respite.

2 It also details the additional shelter beds,
3 affordable housing units, and then additional funds
4 that are being proposed as part of the bond program
5 that's going to voters this November in the areas of
6 housing, human services, and homeless services.

7 Q. Do you believe that these monies are going to
8 go to good uses that, again, don't just get swallowed
9 up in government bureaucracy?

10 A. Absolutely, I believe that's true. That these
11 dollars are critical and have been critical in
12 enabling the City, enabling us to put those pieces --
13 those in place that will address the different issues
14 surrounding homelessness.

15 Q. And so, as you say, put the pieces in place,
16 how far along do you believe you are in this process
17 of addressing the needs, particularly for this case?
18 We can focus on the area in and around the Human
19 Services Campus.

20 A. I would say we are -- we are much further
21 along than we were six months ago. And I would say we
22 are well on the road to addressing the issue. We have
23 begun addressing the issue, and we are -- we have
24 enough pieces in place to continue that effort in
25 order to address the issues and the encampments around

1 the Human Services Campus.

2 Q. Let's turn to the issue of the -- the safe
3 outdoor space or the structured campgrounds that have
4 been -- that have been discussed.

5 Is there a plan to do that?

6 A. Yes. We do have a plan for a safe outdoor
7 space, which is also referred to as a structured
8 campground.

9 Q. Did -- was the hope previously that something
10 would have been up and running and online by now?

11 A. For a safe outdoor space?

12 Q. Yes.

13 A. We have just begun, really, the planning for
14 the safe -- we have just identified a property
15 suitable for a safe outdoor space. So we have been
16 looking. And so I don't think we anticipated that the
17 safe outdoor space would be open by now. But we are
18 hoping -- we are planning, before the end of the
19 summer, that we will have it operationalized, assuming
20 everything goes as planned, which doesn't always
21 happen.

22 Q. What are some of the challenges you face? And
23 maybe -- maybe you could throw into that the issues of
24 even sprung structures too.

25 A. I'm very optimistic, first of all, on the safe

1 outdoor space that we will -- our plans will proceed
2 in the timeframe that we discussed. And I believe
3 Ms. Milne discussed, we were hoping -- we were
4 planning by September 1st.

5 But what needs to happen is the agreements are
6 still being finalized. And we will proceed with
7 executing those. And then additional due diligence is
8 in process. So there are environmental reviews that
9 need to happen before a property is acquired, before
10 the City acquires a property. And so those things are
11 happening.

12 And then we will need to identify an operator.
13 We will have a non-profit operator that will be -- we
14 will engage to operate the safe outdoor space. They
15 will need to hire staff, whoever that is, in order to
16 staff it and bring security onsite.

17 We will have to bring all the facilities that
18 are needed; rest rooms, portable showers, and food
19 service onsite; all of the services that we plan on
20 providing at the safe outdoor space. So that is a lot
21 that needs to happen in a short amount of time -- in a
22 short amount of time.

23 And we -- we are very optimistic and
24 aggressively moving forward to meet that deadline.

25 Q. The space you anticipate, would it be

1 voluntary or would you force people into those spaces?

2 A. Like every option that is provided and made
3 available to the unsheltered, this is voluntary.

4 Q. Can you explain why that's important?

5 A. Well, the unsheltered have their
6 constitutional rights, like any other resident, any
7 other inhabitant of our community and our state. And
8 I don't have an ability to mandate or force someone to
9 go into a space that they choose not to go into.

10 I think the only -- the only time that happens
11 is when law enforcement arrests someone or someone's
12 petitioned. Those are the only two occasions that I
13 am aware of where a governmental entity can forcibly
14 place someone somewhere.

15 Q. What about some of the policies that would
16 need to be adopted as it relates to a safe outdoor
17 space? We've heard a lot of discussion in here about
18 things like curfews and other things like that.

19 Can you expound on that?

20 A. Well, there will certainly be a Code of
21 Conduct, and there will be rules associated with it,
22 similar to a shelter; similar to our low barrier
23 shelters. And so we will have those policies in place
24 before they are started.

25 In terms of a curfew, we do have members of

1 the unsheltered community, people who are unsheltered,
2 people who would be going into the safe outdoor space
3 who have jobs. And some of them work late at night.
4 And, again, the -- there will be a Code of Conduct. I
5 don't anticipate there will be a curfew, but I -- you
6 know, we still have to work out the rules.

7 The other thing I will add is that our, two of
8 our management staff in the Office of Homeless
9 Solutions operated the safe outdoor space that
10 Maricopa County had in place during the pandemic. And
11 they take away many experiences from that, and we have
12 Codes of Conduct as an example from -- and policies
13 and procedures as a starting point. And so we will be
14 embarking on this with experience and lessons learned.

15 And we plan on making it a safe space for all
16 involved and the community.

17 Q. I'd like to turn to, kind of an issue that
18 deals with the timeline and the plan. And, obviously,
19 we've heard testimony about the block-by-block
20 approach in the HSC area and the reasons for that.

21 So we don't have to go into extensive detail
22 there. But you heard, at the very beginning of this,
23 and I shared with the Court that the plan was to keep
24 doing this and get to -- and in about nine months'
25 time, you know, give or take, that whole place should

1 be cleared based on the current plan.

2 The plaintiffs, I think they said put a date
3 at the end of the summer which, in Phoenix, could be
4 three years from now, I guess. That was a joke. It's
5 hot.

6 Is it realistic to be able to clear out the
7 area within -- around the HSC area within a month or
8 two?

9 A. It is not feasible or realistic for us to do
10 it in that short of time period while, at the same
11 time, complying with requirements in the Federal Fund
12 for Empowerment ACLU case and our -- is it an
13 injunction -- court order in the federal case.

14 Q. Is the timeline that I presented in the
15 opening a realistic timeframe for the City to be able
16 to close the areas block by block to camping?

17 A. Yes, it is. It is an ambitious and aggressive
18 timeline, given all of the pieces that need to be in
19 place. But it is -- we believe it is realistic. And
20 we are committed, at a minimum, to that timeframe.

21 Q. You said ambitious though. What could
22 interfere in that process of meeting that sort of a
23 timeline?

24 A. It is difficult to tell the future. And so I
25 have learned that things happen that aren't

1 anticipated. And so I can give a few examples of
2 things like that, but I can --

3 Q. For example, Gina, the sprung structure
4 situation?

5 A. Yes.

6 Q. Did that -- was that -- did that present a
7 challenge that you weren't anticipating?

8 A. Yes. We were proceeding and identified some
9 issues with the land and -- the City-owned land where
10 we planned on putting those sprung structures in. And
11 so those -- those issues resulted in us identifying
12 environmental issues. And so we were not able to
13 proceed on that piece of land. And that is a setback
14 and very disappointing.

15 We could not have anticipated that it would
16 lead down that road. We did know there were some
17 concerns. And so we were working aggressively to get
18 the sprung structure stood up -- and the
19 non-congregate units, as well -- and then this
20 happened.

21 So we are identifying a new site, and that's
22 in process. And so we fully intend to carry out with
23 that plan. It just -- we just had a setback.

24 Q. Are you going to continue with that plan with
25 or without any further injunction by this Court?

1 A. Yes. We are committed to -- to doing that.
2 And it was in process, had been in the works. We had
3 been looking for a site for another shelter prior to
4 the case coming to court. And we will -- we will see
5 it through. We have direction from our Council. We
6 have funding and we have support from our City
7 Manager.

8 Q. You mentioned there was some other potential
9 challenges. In the federal court case that the City
10 is dealing with, are you aware of a recent order on a
11 temporary basis where the Court put a pause on, at
12 least for -- until the Court could hold a hearing on
13 any further enhanced engagements?

14 A. Yes. It's all starting to blend together
15 somewhat. But in December, I believe we were
16 proceeding with our enhanced cleanups, I believe we
17 were calling them at the time. I'm getting my terms
18 mixed up.

19 And at that time, we did have to pause in
20 order for the federal court to hear the case presented
21 by the Fund for Empowerment and the ACLU. And I
22 believe there were concerns on storage and people's
23 belongings and compliance with the 9th Circuit, the
24 *Martin v. Boise* case.

25 Q. And most recently, the May 10th engagement,

1 after that, did something happen in the federal case?

2 A. Yes. I -- yes. Also, in May, there -- after
3 the first enhanced engagement where we began to close
4 the area to camping, following that first engagement,
5 the -- we were brought back into court to address
6 concerns that we were -- we were disposing of people's
7 property.

8 And so I believe that was the case in May.
9 And so we -- we did have to pause briefly while we
10 answered -- while we were -- we appeared in court -- I
11 don't know what the correct term is -- to address
12 those -- those allegations by the Fund for Empowerment
13 and ACLU.

14 Q. Did the Court lift the restrictions of the
15 City to carry forward at that point?

16 A. Yes, the Court did.

17 Q. And so moving to one other area real quick.
18 In this trial, there's been discussion from the
19 plaintiff's expert, maybe some others, about the
20 failures of, quote, unquote, Housing First Policies.

21 Has the City adopted such a policy?

22 A. The City does not have an overriding Housing
23 First Policy. There is a -- it is referenced as a
24 guiding principle among multiple, many principles in
25 the Strategies to Address Homelessness Plan.

1 I do believe that -- that, really, the
2 person's individual circumstances, you know, really --
3 I don't want to say dictate, but -- but help. The
4 evaluation that was described by Jeremy Huntoon and
5 how they work with folks helped to determine where the
6 best place for them would be; whether that's housing
7 if housing is available or whether that's a shelter.

8 It could be substance abuse treatment, mental
9 health services, engaging in those types of services.
10 Housing First is something that's talked about
11 nationally quite a bit. It is not something that we
12 even have the opportunity to do here. We don't have
13 enough, I believe, permanent supportive housing is
14 what was discussed by -- by the other expert witness.

15 It is not an overriding policy. It is
16 something -- one option among many.

17 Q. And you say, one option among many. Have you
18 developed what you believe is a holistic approach to
19 addressing -- and, again, we can focus just on the
20 area in and around the Human Services Campus because
21 that's why we are here -- to be able to resolve the
22 issues there?

23 Have you developed a holistic approach and
24 policies that address all of the issues you're talking
25 about?

1 A. Yes. We have -- we have looked at, what are
2 those services that we need to have in place in order
3 to address the myriad of issues and the myriad of
4 reasons why people are encamped outside the Human
5 Services Campus. And so I would definitely describe
6 that as holistic.

7 We, in order to be effective, we -- we
8 could -- let me back up a little bit.

9 In order to really address the issue and not
10 make it such that we are -- that they are just going
11 to come back. You know, we address a block. And they
12 may go somewhere else, but they might be back. They
13 are in the area.

14 We, as much as possible, have worked to put in
15 place shelter and services options so that -- so that
16 people can move on from their homelessness. And we
17 have a population that has a lot of challenges. I
18 think that's been discussed.

19 And so for us, I think this -- the results and
20 the outcomes so far demonstrate that we have been very
21 effective at trying to address all of those different
22 issues.

23 Q. You just took the question I was about to ask.
24 You said, "in order to be effective," and my question
25 was, do you believe it's been effective, and how?

1 A. Yes, I do believe it has been effective. And
2 the reason I believe that is because those areas that
3 we have addressed -- and, granted, it's not as fast as
4 we would like, as I know the plaintiffs would like --
5 but they have remained clear. They have remained
6 clean.

7 And I would also say that, of those who did
8 not choose to enter into shelter, I believe it's
9 approximately 24 -- 24 of that, of all those folks
10 that we, we encountered and we engaged with chose to
11 go somewhere else in the area. To me, that's --
12 that's success.

13 And to me, long-term, that is the route we
14 want to go. We want to be effective in helping people
15 get off the streets. Not just say, you have --
16 disperse them in the immediate area.

17 Q. And how does that help property owners in and
18 around the area if you do it this way, as opposed to,
19 you know, just simply coming in and enforcing
20 something?

21 MR. TULLY: Object to foundation.

22 THE COURT: I'll sustain. Can you add a
23 little bit of foundation to it.

24 Q. BY MR. PIERCE: Actually, strike that. It's
25 fine.

1 Final question for you. How would you respond
2 to -- you talked about -- I asked you about whether
3 you needed a -- whether there was a court injunction
4 or not, whether you were going to move forward with
5 sprung structures and, obviously, the campground and
6 stuff.

7 But how would you respond to a broader
8 question about whether an injunction would be
9 necessary, not just for the sprung structures, for the
10 campground, but for everything that the City is doing
11 to clean and close the camping the area in and around
12 the Human Services Campus?

13 A. I'm sorry. Can you just --

14 Q. Is there a need for an injunction?

15 A. Oh, thank you.

16 Q. In other words --

17 A. Thank you. Thank you.

18 Q. If no injunction issues --

19 A. Uh-huh.

20 Q. -- how does that change anything with what you
21 are doing as it pertains to cleaning up and closing
22 the areas to camping around the Human Services Campus?

23 A. We are invested as a City in addressing this
24 area around the Human Services Campus for those people
25 out there that are unsheltered; but, in particular,

1 for those property owners, homeowners, business --
2 business owners around there.

3 We are -- we are all in. And we have been
4 working for many months to put the pieces in place in
5 order to be able to address it. And we are not -- we
6 are not going back.

7 MR. PIERCE: No further questions.

8 THE COURT: Thank you.

9 Any cross.

10 MR. TULLY: No, your Honor.

11 THE COURT: Okay. Ma'am, thank you for your
12 time. You can step down. The Court has no questions.
13 Do plaintiffs need some time to prepare?

14 MR. TULLY: No, your Honor. We are ready to
15 go.

16 THE COURT: Defense?

17 MR. PIERCE: No, your Honor. We are ready to
18 go.

19 THE COURT: Okay. Let me throw a couple of
20 things out to you that the Court would like to hear
21 from the parties during the closings. Really, it's
22 one thing apiece.

23 For plaintiff's closing -- and I'm going to go
24 off my notes as I wrote them, but I don't really want
25 to read them to you. The City's argument regarding

1 discretion is a legitimate argument. I want to make
2 clear -- and I hope I was clear about that when I did
3 the preliminary injunction. The Court is walking a
4 tightrope whenever it dips into the discretion,
5 especially in a separations of -- separation of powers
6 argument where the judicial branch is reaching into
7 the executive branch.

8 But the Court was able to find some exceptions
9 to the Discretion Doctrine, as I listed in the
10 preliminary injunction, based upon instances of abuse
11 of discretion and also upon some statutes that do not
12 permit discretion on whether to abate a nuisance. I
13 get that, as well. And the Court did not make those
14 findings lightly.

15 It seems much easier for the Court to find
16 those exceptions when we are talking about a temporary
17 order, a preliminary injunction. But when we are
18 talking about a permanent injunction, which is what
19 plaintiffs are seeking now, it seems like there should
20 be a higher bar. And I'm not saying that because I've
21 seen it in a court case or anywhere else.

22 But it just seems to me that, if I'm going to
23 permanently stick the City with something, as a
24 judicial branch, there should be a high bar for why I
25 can do that. So if you can just address that during

1 your closing, whoever is doing the closing for
2 defendants. For -- or excuse me -- for plaintiffs.

3 For defendants, you already know what my
4 question is going to be. The Court is concerned that
5 the City will not follow through without an order.
6 And there's good reason for that. The City -- yeah,
7 things were, quote, unquote, in the works, but things
8 were not done until we got in this case. That's the
9 bottom line. So anything you can give the Court in
10 your closing about that would be helpful.

11 And with that, Plaintiffs, the floor is yours.

12 MR. TULLY: Thank you, your Honor. Your
13 Honor, this is nuisance suit. Phoenix admits the
14 tents and other structures in the Zone constitute a
15 nuisance.

16 Internal documents describe deplorable
17 conditions. Its witnesses have all testified to the
18 deplorable conditions in the Zone; the trash, human
19 waste, drug use, lewd acts, fires, all cause a
20 nuisance. The Court has found the structures cause
21 nuisance.

22 The City admits the nuisance is on land that
23 it controls. And the City now admits it can eliminate
24 the nuisance in nine months. Why will it take about
25 nine months? The City claims it will take about nine

1 more months because it will not force individuals to
2 remove the tents and other structures they have
3 constructed in the Zone until and unless it can move
4 those individuals to an indoor shelter.

5 This is true, according to Mrs. Milne --
6 Ms. Milne, even if the City's proposed safe outdoor
7 space structured campground is available by
8 September 1st. Even if it's done by September 1st,
9 they are not going to move -- they are not going to
10 force the law.

11 It is illegal for the City to maintain a
12 nuisance. State law specifically prohibits it.
13 ARS Section 36-601 declares that any place, condition,
14 or building that is controlled or operated by any
15 governmental entity -- or agency, rather, and that is
16 not maintained in a sanitary condition is a public
17 nuisance dangerous to the public health.

18 Abating a nuisance is not optional. It is not
19 discretionary. The City has no defense to the
20 nuisance suit. So it attempts to characterize this
21 suit as an act to force the City to solve
22 homelessness. The space -- they spent most of the
23 case asking its witnesses to explain the City's
24 commitment to solving homelessness and arguing that
25 how the City addresses homelessness is within the

1 City's discretion.

2 We have never argued that issue. It's a Straw
3 Man argument. The City's desire to solve homelessness
4 is commendable, but largely irrelevant. The City
5 claims it is hampered in addressing the nuisance by
6 the holdings in *Boise* and *Grants Pass*.

7 But it admits -- admits it has been able to
8 move some two or 300 people -- that testimony
9 differed -- without argue anyone. And those cases do
10 not permit the erection of tents and other structures,
11 grills, gas stoves, et cetera. Those cases only hold
12 that it's illegal to arrest someone for camping on the
13 streets when they have no place else to go, when it's
14 a biological imperative; when they are involuntarily
15 homeless, as the Court defined it.

16 Well, according to Mr. Hall, the City is not
17 even tracking whether individuals are voluntarily or
18 involuntarily homeless. He believes that, in Phoenix,
19 nearly a hundred percent of those without shelter are
20 there involuntarily. Such a number is widely
21 implausible, given the experience of other cities as
22 discussed by Professor Glock and the task force's own
23 estimates as contained in their report.

24 And Mr. Hall's claim is also undermined by his
25 testimony that, even if someone has a home, the City

1 is going to let them squat in the Zone. The City is
2 making no effort to remove the involuntary homeless
3 from the sidewalks. *Boise, Grants Pass* are not the
4 impediment. The impediment is the City.

5 As we have argued, the City can give these
6 involuntarily homeless someplace to go easily and
7 rapidly. The City now concedes that fact. June 28th,
8 date of the contract to build the -- to obtain the
9 land for the structured settle -- structured camping
10 site. And they can -- they anticipate it will be
11 ready 50 days from now.

12 The City argues that no injunction is
13 necessary because the plaintiffs can trust the City to
14 get the job done. All of the evidence -- all of the
15 evidence screams otherwise. You hear, even in
16 Ms. Montes' recent testimony, well, things come up.
17 You know, I don't know about those days. I don't know
18 about nine months, right. Their expert is saying --
19 said the same thing. You know, maybe nine months.

20 Nothing happened, as the Court just mentioned,
21 without this suit. The City would not have cleaned --
22 the City's witnesses testified specifically that they
23 would not have cleaned any streets, any tents from the
24 streets without this Court's order. Not ever removed
25 any. And their officer who spoke today, the

1 commander, admits that he is confused as to what he
2 can do with regard to cleaning the streets without an
3 order from this Court.

4 As I mentioned, the City claims the problem
5 will be solved in nine months. The City claims it's
6 going to clean block by block. And by block by block,
7 the City means one side of the street every three
8 weeks, except it took a month off for June. But, hey,
9 but don't worry, the City says, we're going to catch
10 up. We are going to catch up in July.

11 Well, we worry, your Honor. We worry with
12 reason. The City will find excuses, as we -- as I
13 earlier mentioned. The City will claim that the sober
14 living shutdown increased homelessness, the soil
15 wasn't right; the federal courts, you know, are going
16 to cause us confusion, the high housing costs, the
17 evictions, we don't have enough shelters. Excuses for
18 addressing the nuisance continue.

19 Why should our clients suffer for another nine
20 months while the City gets around to it? We know the
21 City can solve the problem in about 50 days. The City
22 can remove everyone from the Zone once it has a safe
23 outdoor space. It can give the folks the option;
24 moving there, going to a shelter, going to some --
25 going someplace else; and if they have to, going to

1 jail. History tells us jail is unlikely. They will
2 take a different option.

3 The City can solve this problem faster, your
4 Honor. If this was a natural disaster, the City would
5 solve the problem in a week. If 800 people were
6 displaced by a wildfire or a flood, the City could set
7 up temporary shelters and start processing
8 individuals. It would find land, tear up a fence,
9 bring porta-potties in, bring some water. They'd
10 provide tents and cots and start triaging the problem.

11 Unfortunately, this problem is manmade. It's
12 manmade. You heard from the officer. The City's --
13 the City foolishly stopped enforcing its laws and
14 permitted the tents to go up. And this caused the
15 problem to grow tent after tent after tent. My
16 clients should no longer have to be subject to the
17 nuisance.

18 The Court -- we would ask the Court to make a
19 permanent injunction. Why does it need to be
20 permanent? I have a -- we don't believe the law is
21 any different than what we briefed in this case. And
22 so, on the fly, I can't do anymore research or provide
23 you any additional case law, other than that the case
24 law permits the Court to issue an injunction to abate
25 the nuisance.

1 If the Court wants to put a limit on it once
2 the nuisance is abated, you know, maybe -- that may be
3 something. But the -- but the Court needs to issue a
4 permanent injunction forcing them to do -- to abate
5 this nuisance, otherwise it's just not going to be
6 abated. The Court needs to place a deadline on the
7 City. It needs to impose -- and it needs to impose
8 sanctions for every day after that deadline that the
9 City fails to abate the nuisance.

10 This Court asked us to address the attorney's
11 fees issue. And our clients are entitled to
12 attorney's fees, your Honor, in having to bring this
13 suit. They shouldn't have had to bring this suit, but
14 they have. They have been forced to bring it.

15 Your Honor, ARS Sections 12-348(A)(4),
16 12-348(A)(7) provide a legal basis for awarding
17 attorney's fees. A stronger case can be made under
18 Section 12-2030, which states that a court shall award
19 fees and other expenses to any party, other -- other
20 than the state or any political subdivision which
21 prevails by an adjudication on the merits in a civil
22 action brought by the party against the state or any
23 political subdivision to compel an officer to perform
24 an act imposed by law or a duty on the officer. And
25 that's what we are asking for here.

1 We would also seek attorney's fees based on
2 the Private Attorney General Doctrine. I cite to the
3 Court the *Arnold v. Department of Health Services*, 160
4 Ariz. 593, a 1989 case, in which the Court held that a
5 prevailing plaintiff vindicating an important public
6 policy that benefits a large number of people -- which
7 we have here -- requires private enforcement -- which
8 we have needed here -- and is of societal
9 importance -- again, cleaning up the Zone meets all
10 those requirements -- that the Court can award
11 attorney's fees.

12 This is a public nuisance, so it benefits a
13 large number of people. It's a -- the City created
14 the nuisance, and so it's of societal importance to
15 clean it up.

16 So we'd ask that the Court enforce -- well, we
17 appreciate the Court's order to this date for the
18 preliminary injunction, but clearly it's not -- it's
19 not been enough, right. They have cleaned three half
20 streets since this Court's order in March. And what
21 they need to be focused on is -- is abating the
22 nuisance.

23 I appreciate that they are focused -- or they
24 have concerns about the homeless and solving homeless,
25 but they are not the same thing. They can solve

1 homeless on their own time at their own, you know,
2 with regard to all of the things they need to do. But
3 they can solve the nuisance immediately, and they must
4 be ordered to do so.

5 Thank you, your Honor.

6 THE COURT: Thank you, Mr. Tully.

7 Mr. Pierce.

8 MR. PIERCE: Thank you, your Honor. I will
9 start talking as I -- as I hook this up because I know
10 we are short on time. I don't think we should hold
11 Mr. Tully to too high a standard in not being able to
12 address the issue that you asked on the fly as it
13 pertains to the discretionary situation; and that's
14 primarily because there is no -- there is no
15 explanation he -- that he can't tell this Court
16 because we are entitled to that discretion.

17 And before I get into the full substance --
18 where is my -- I can't see the -- oh, there it is.

19 This is a hard case in a couple of different
20 ways, your Honor. By virtue of the fact that we are
21 in an adversarial proceeding, I have to present some
22 things to the Court that may, to the -- do you want to
23 put that in there?

24 MR. ARNISON: Yeah.

25 MR. PIERCE: That may to the -- to the

1 observer here make it sound like we are insensitive to
2 the plaintiff's position. You know, that we are
3 saying they don't have a right to be here. They don't
4 have a legal right to be here. As a matter of law,
5 the Court should dismiss the case.

6 It sounds like we are being insensitive to
7 their position saying, hey, you are in the wrong
8 forum. Go talk to policymakers. Don't go to the
9 Court. I want to make it clear though, your Honor, as
10 we -- as I make those arguments and as we discuss
11 those things, it's not because the City is not
12 interested in the plight of the plaintiffs and other
13 similar folks who are dealing with these situations in
14 and around the Human Services Campus.

15 The evidence in this case has shown that.
16 That the folks who have testified are interested in
17 resolving the issue of homelessness in Phoenix and in
18 the -- particularly around that area both for the
19 people who are there, as well as for all of the
20 property owners in and around it. It is essential
21 that it be a holistic approach so that it can be a
22 solution to the problem and not just a band aid.

23 I want to point out a few things, your Honor.
24 First, the ARS 36-601 is an absolutely red herring.
25 And they have relied on that as if it's a -- as if

1 it's a statutory presumption that, hey, you have a
2 nuisance here. Therefore, we are going to go into
3 court and we are going to compel it; and there's
4 nothing that you can do about it. But, your Honor,
5 it's irrelevant. And it's because, if you just go
6 down to paragraph B in that very statute, it provides
7 the administrative process for handling that,
8 including with a public entity.

9 If the director has reasonable cause -- that's
10 the director of human services -- to believe, from
11 information furnished to the director or from
12 investigation made by the director, that any person is
13 maintaining a nuisance -- the thing they have
14 described in paragraph four -- it goes through an
15 administrative process. It's not to come to court.

16 And so the, this 36-601, 602 or that section
17 is absolutely irrelevant. It's a red herring here.

18 I don't want to forget this before the end
19 because you did ask me to give you some assurances on
20 some things. Let me just explain a few commitments.
21 Obviously, from the evidence, the City has shown that
22 it is going down this path with or without an
23 injunction.

24 Number one, we've got an entire office now
25 that is focused on managing the cleanup and closure

1 aspect, not just the department of -- that Ms. Milne
2 operates, but the folks -- you heard from Jeremy
3 Huntoon. You heard from Scott Hall who are working
4 specifically on this area down in the HSC. We have
5 budgeted for it. July 1, the new budget came into
6 effect. It goes until June 30th. That's within the
7 year. And the budgeted amounts have been set aside
8 and approved.

9 So, look, if we don't use them, we can't use
10 them for other things. We can't shift that stuff
11 around absent Council approval, but that's a
12 significant process. So, again, I'm showing you the
13 commitments that would be in the record here to show
14 that it's -- that it's not necessary.

15 We have contracts for facilities underway. We
16 are about to drop millions and millions of dollars on
17 an open space. The plan is clearly in place. If this
18 Court doesn't grant the order, it would just -- it
19 would be mind-numbing to imagine the City would go,
20 okay, good, we don't have to go pursue that space
21 anymore, given the work that has gone into that.

22 Frankly, your Honor, before this Court ever
23 issued that order, that was in process and was working
24 towards that. You've seen the plan, the policies from
25 the law enforcement team that were being worked on,

1 again, before this Court's order and went into effect
2 in March that is specifically designed to help with
3 the crime around the Human Services Campus area.

4 These are all in the record. It shows that,
5 absent a court order, that is not going to change the
6 movement that the City is making toward this and,
7 again, the discretion that it is entitled to under the
8 law to do that.

9 Now Mr. Tully greatly exaggerated some of the
10 testimony. And in some ways, there actually was a
11 cleaning in June. He said there wasn't a cleaning in
12 June. There was a cleaning in June. That's in the
13 record. And the suggestion that somehow the City is
14 making excuses -- one of the excuses he laid out,
15 there's not enough shelter -- your Honor, I'm sorry,
16 that's -- we are bound by the law on that one.

17 If there is not enough shelter, there is
18 simply nothing we can do to remove somebody. We have
19 to show that somebody who is in that area
20 involuntarily homeless, that we have available space
21 or we are going to find out ourselves in the federal
22 court just like that. So we have to walk this legal
23 tightrope.

24 And by the way, as it pertains to the issue of
25 the federal court -- and we are asking this Court to

1 exercise judicial discretion. Don't worry. At our
2 first available opportunity, we are going to be doing
3 the same thing with the federal court because we
4 believe, for the same reasons we have explained here
5 that this Court should exercise that judicial
6 restraint, we believe the federal court should too.

7 And we are -- and now, the plaintiffs are
8 actually intervenors in that case and are also asking
9 the Court to -- to dismiss that case for standing
10 reasons and other things. So I want to make sure the
11 Court doesn't think that we are -- that we are just --
12 we are picking on the state court saying, hey, you
13 shouldn't get involved in it.

14 We believe this is universal, that this is a
15 doctrine that is universal. The separation of powers
16 issues, the standing issues, they apply, not just to
17 this Court, but to the federal court also. And we
18 hope to be able to present that case to the federal
19 court, as well.

20 Can we just talk briefly about the crime
21 issue? Your Honor, the only evidence that really you
22 received in this case that's -- that was reliable was
23 that one of the plaintiffs contacted the police,
24 showed them a video of an individual brandishing a
25 weapon. The individual was arrested and prosecuted.

1 You've seen the statistics. You saw the
2 numbers. There's no reasonable argument that can be
3 made that the City's not enforcing the law in the area
4 in and around the Human Services Campus. It is. The
5 numbers prove that to be true. So what really the
6 concern appears to be is that crime is still
7 happening, not that the police aren't appropriately
8 responding to it.

9 Your Honor, that's a problem all around the
10 country. And, unfortunately, the city of Phoenix does
11 not have a pre crime unit. And, obviously, it's --
12 I'm putting that a little bit in jest. But the point
13 is, this is why the discretionary decisions of law
14 enforcement and how they -- how they can -- how they
15 work in an area like the Human Services Campus, how
16 they enforce the laws, how they arrest, how they cite,
17 who they cite, and it's an important discretionary
18 decision that it -- that we've learned in *Sensing* from
19 our Court of Appeals, says those activities are
20 discretionary. They are not appropriate mandamus
21 relief.

22 This decision by the US Supreme Court came
23 down very recently, just a few weeks ago. You might
24 have heard about this one. It's obviously on federal
25 issues. But its' -- but it has some real important

1 analogous points here.

2 The issue was that Texas and Louisiana, they
3 were concerned about the immigration crisis and how
4 that's affecting the states and the costs to the
5 states. And those states sued the federal government.

6 And the US Supreme Court said, that's not for
7 the courts to intervene. These are resource
8 constraints and public safety and public welfare needs
9 that the executive branch or, in this case, the City
10 Council and the administrators in the city have to be
11 able to balance many factors when they decide who to
12 arrest, how to arrest, how to -- how to enforce these
13 laws.

14 And then the critical part would be this
15 language right here. This is from Justice Kavanaugh,
16 again, the United States Supreme Court. I underlined
17 a part of his language:

18 If the Court green-lighted this suit, we could
19 anticipate complaints in future years about alleged
20 executive branch under-enforcement of any
21 similarly-worded laws, whether they be drug laws, gun
22 laws, obstruction of justice laws or the like.

23 I might say nuisance laws.

24 We decline to start the federal judiciary down
25 that uncharted path. Our constitutional system of

1 separation of powers contemplates a more restricted
2 role for article three courts.

3 Again, I realize this is not an article three
4 court and those issue are a little different in terms
5 of the constitutional requirements. However, it is
6 analogous. And those principles of why that should be
7 the case are still important here.

8 I'm going to move forward just really quick
9 because I know we are out of -- we are getting out of
10 time.

11 Why should this Court exercise judicial
12 restraint? As we have briefed and as we've explained
13 to you, we believe it is constitutionally required as
14 a separation of powers issue.

15 The legal tight rope that I explained at the
16 very beginning of this case -- and I know that the
17 Court understands it, the *Boise* and the *Grants Pass*
18 decisions -- I will go back just one real quick
19 because this -- I mean, look at this dissenting
20 language from a few days ago of judges who would
21 seemingly adopt the views of the plaintiffs here.

22 And I'm not even suggesting that this Court or
23 anybody else doesn't have those views too. But the
24 dissenting judges noted the constraints that the
25 majority has put on local jurisdictions like us.

1 Assume, for example, that you are a police
2 officer -- this is from the court's language -- and
3 you encounter a homeless person in some public space;
4 say, San Francisco's Civic center near the James R.
5 Browning Building where our court sits -- you can kind
6 of see the irony that they are trying to throw in
7 their decision.

8 Assume further that the person has set up a
9 tent and engaged in other life-sustaining activities,
10 like defecation and urination on the sidewalk nearby.
11 You also know that, pursuant to the City's good faith
12 efforts to comply with the dictates of *Martin*,
13 government workers have conducted outreach and offered
14 temporary housing to the homeless persons in this
15 area.

16 Does that sound familiar? That's what we are
17 doing.

18 Nonetheless, under the majority's reasoning,
19 you are powerless to cite this person even for public
20 defecation because San Francisco has fewer shelter
21 beds than total homeless persons. It is irrelevant
22 that the City already offered this specific person
23 shelter because, quote, the number of homeless persons
24 outnumber the available shelter beds. The cites are
25 there.

1 In a democracy, voters and government
2 officials should be able to debate the efficacy and
3 desirability of these types of enforcement actions.
4 Regrettably, our court has short circuited the
5 political process and declared a reasonable policy.

6 You can see, your Honor, how the dissenters
7 are very concerned about what the majority has done;
8 and there's very good reason for that. But we -- this
9 is what we are dealing with. This is the legal tight
10 rope that we are walking.

11 Your Honor, lack of causation. Courtesy rides
12 are not the issue. That is not a causation issue. So
13 what about not enforcing the laws? Whether to cite,
14 not to cite, it's a discretionary law enforcement
15 decision. That's *Sensing*.

16 You asked me yesterday about the maintenance
17 issue, maintaining a nuisance. Is that enough for
18 causation? It is not. And that is our -- and that's
19 and that's the *Armory Park* decision.

20 Liability for nuisance is imposed on one who,
21 quote, set in motion the forces which eventually
22 caused the tortious act. Liability will arise for a
23 public nuisance when one person's acts set in motion a
24 force or chain of events resulting in the invasion.

25 We did not do that, and the evidence is not

1 there. So there is a lack of causation.
2 Notwithstanding this legal tightrope, our efforts are
3 working. The evidence shows that we are on a path to
4 having that area cleared. The City's results even
5 surprised the plaintiff's expert.

6 We are having an actual -- we are having
7 results that matter. And the plaintiffs expert, they
8 are way beyond what he would have expected. So let
9 the City keep doing this good thing without the burden
10 of further court action.

11 I'm going to skip over this because we are at
12 that -- we are at that time, other than to say that,
13 Judge Glock, frankly, his testimony and report are way
14 more appropriate to be presented to city councils and
15 state legislatures for policymaking decisions. That's
16 why he's presented in so many of those forums, but has
17 never presented in a court before this -- this trial.

18 Of course, we have discussed the immunity
19 issue, so I won't rehash those.

20 Your Honor, we have the right people at the
21 right time. We have got people put in place to a
22 particular expertise with homelessness. I think you
23 saw that probably saw that from Jeremy Huntoon. They
24 can handle this in an appropriate way that's going to
25 be effective. Why are our numbers so high of

1 acceptance? Because we are doing this the right way.

2 This is not just another government
3 bureaucracy. This is not the wheels of government
4 grinding to a halt and not doing anything. The
5 plaintiff's argument that the City's dragging its
6 feet, the City's not doing this is simply belied by
7 the evidence that this Court has heard in this
8 proceeding. And as a result, we would ask the Court
9 to -- to take no further action.

10 Now if the Court wants to not extend the --
11 the Court should not extend the injunction. But if
12 the Court wants to set a rehearing or a resetting of a
13 status conference or something and, you know, at some
14 point in time in the future where -- that the Court
15 feels like, hey, I want to see how things are going
16 even though I haven't mandated something, we'd be
17 amenable to that.

18 That would be something that could be
19 reasonable without overstepping and getting into those
20 discretionary things. And then the Court can
21 evaluate, is the City doing something? Or do I really
22 need to step in.

23 But in this Court's order from March -- and
24 one of the reasons for this hearing -- was for us to
25 describe what we have been doing. And the Court did

1 say, you know, there are myriad actions that would
2 lead to compliance. And, your Honor, our -- my final
3 plea to you is this: If what the City has done since
4 that time, if it doesn't fall within the myriad
5 actions that would lead to compliance, it's pretty
6 difficult to contemplate what would.

7 And so we would ask for you to grant the City
8 the relief that it is requesting in this case. Thank
9 you so much.

10 THE COURT: Thank you, Mr. Pierce.

11 I can give you five minutes.

12 MR. TULLY: Thank you, your Honor. Your
13 Honor, those are interesting arguments. They are just
14 not relevant. I mean, the argument here that they
15 make is that there's discretion in whether to employ
16 law enforcement, how they -- how they enforce the
17 laws. And then he mentioned, even nuisance laws.

18 We are not asking the Court to enforce -- for
19 the Phoenix Police to enforce nuisance laws. We are
20 suing the City because the City is liable for the
21 nuisance. They are the defendant. They are the ones
22 that are violating the nuisance laws.

23 And we're bringing a suit against them which
24 is entirely appropriate and which the *Johnson* case,
25 *Phoenix v. Johnson* says is both legal and appropriate.

1 They are the right defendant. And this Court has
2 everybody power to enter an injunction requiring the
3 City to abate the nuisance. And that's the end of the
4 analysis.

5 And by the way, in a quote from that case, in
6 the *Johnson* case, the Court said: The expense may be
7 great and the vigilance required in the operation and
8 maintenance may be incessant -- incessant -- but minor
9 science teaches us that human care and ingenuity is
10 sufficient for the situation.

11 And it's the same here. Human care and
12 ingenuity is sufficient to abate the nuisance that's
13 in the Zone. But the City, as you've seen from the
14 testimony for the last two days, isn't focused on the
15 problem that my clients -- of my clients; the
16 problem -- the problem for which the City is liable.
17 And that's the nuisance they have created.

18 And they -- they keep -- and they have the
19 ability to -- the City has the ability to address
20 that. Now it may have to get -- build more camping
21 shelters than the one that they have scheduled for
22 September. They might have to build two or three, I
23 don't know.

24 But they are going to -- but the law says, you
25 have to abate the nuisance. It's not an excuse to

1 say, well, you know, this is expensive and this is,
2 you know, there's -- it's complicated and all of that.
3 No, no, no, no, no. Solving homelessness is an issue
4 to begin with. That's complicated. People have all
5 kinds of different ideas.

6 Abating the nuisance can be done, and they
7 have admitted it. The folks have admitted it,
8 including their expert today. And we are just asking
9 the Court to issue an order that requires them to do
10 it because, if anything is clear, they are not doing
11 it without this Court's order.

12 That's all I have.

13 THE COURT: All right. Thank you, Mr. Tully.

14 All right. Folks, the Court's going to take
15 this matter under advisement. I -- I don't say this
16 lightly either. I want to thank the attorneys on both
17 sides for the professionalism you guys have shown.
18 Certainly, the competence that you have shown. This
19 is a difficult case with difficult issues, and the
20 Court has a very difficult decision to make.

21 I -- the Court is allotted 60 days to issue a
22 decision after all the evidence is received. It will
23 not take me that long. I will try to get something
24 out a lot sooner because there's so much resting on
25 this.

1 The -- how long do you need to put together
2 some proposed findings and conclusions?

3 (Discussion off the record.)

4 MR. WURMAN: Your Honor, I think we agree that
5 early August, the first week of August would be fine
6 because we anticipate receiving the transcripts by
7 then, which should enable us to do proposed findings.

8 And if I may take the liberty for a moment,
9 your Honor, the last time we submitted proposed
10 findings prior to the issuance of the preliminary
11 injunction, this Court held oral argument. And we
12 would be eager or happy, if it would help the Court to
13 have a similar oral argument upon the submission of
14 the findings of fact and conclusions of law if the
15 Court would find that helpful.

16 THE COURT: I think we're done.

17 MR. TULLY: Fair enough.

18 THE COURT: Yeah. There's certainly an
19 urgency here. I am going to say that the Court would
20 appreciate -- or the Court will order, I guess I
21 should say, the proposed findings of fact and
22 conclusions of law by August 11th at 5:00 p.m.

23 They will be simultaneously filed, so don't
24 wait on each other. And then I should have a ruling
25 out -- the ruling will probably be written close to

1 that and out shortly thereafter.

2 Anything else the Court can do for plaintiffs?

3 MR. WURMAN: No, your Honor. Thank you.

4 THE COURT: Anything for defendants?

5 MR. PIERCE: No, your Honor. We do appreciate
6 your time here.

7 THE COURT: Thank you. All right. We are off
8 the record.

9 (Matter concluded.)

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C E R T I F I C A T E

I, MICHELE KALEY, do hereby certify that the proceedings had upon the hearing of the foregoing matter are contained fully and accurately in the shorthand record made by me thereof, and that the foregoing typewritten pages of said transcript contain a full, true and correct transcript of my shorthand notes taken by me as aforesaid, all to the best of my skill and ability.

DATED this 18th day of July, 2023.

Michele Kaley /S/
MICHELE KALEY, RPR
CERTIFIED COURT REPORTER
CERTIFICATE NO. 50512

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