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## **ACLU of Utah Statement on Pioneer Park Coalition Policy Requests to Salt Lake City**

The ACLU of Utah has followed closely the various public reactions and governmental responses to activities and circumstances in the downtown area of Salt Lake City (specifically, in the Rio Grande/Pioneer Park community). Most recently, the Pioneer Park Coalition (PPC) has announced several “goals” that it hopes to achieve through targeted extension of public resources and enhanced criminalization of status activities by certain individuals in the downtown area.

**While it is understandable that downtown residents and merchants are discomforted and frustrated by the sight of so many poor and vulnerable people living in extreme poverty, the ACLU of Utah strongly recommends that the Salt Lake City Council and other city leaders carefully weigh the many constitutional implications of municipal ordinances aimed at reducing the visibility of these individuals before adopting any of PPC’s stated “goals.”**

Specifically, ordinances that target activities such as loitering, panhandling, camping or sleeping in public and the charitable provision of food and other amenities to people living in poverty have attracted civil rights litigation in the past. Many American cities – including: Boise, Idaho; Honolulu, Hawaii; Ann Arbor, Michigan; Akron, Ohio; Omaha, Nebraska; and Grand Junction, Colorado - have been exposed to lawsuits by the ACLU and other organizations over these types of policies.

Last year, the U.S. Department of Justice filed a Statement of Interest in support of the Boise, Idaho lawsuit, making clear the federal government’s position that the prosecution of people who are homeless or camping in public places, by cities that offer insufficient shelter space and affordable housing options, violates the Eighth Amendment’s prohibition on cruel and unusual punishment.

“Criminally prosecuting those individuals for something as innocent as sleeping, when they have no safe, legal place to go, violates their constitutional rights,” said Principal Deputy Assistant Attorney General Vanita Gupta, with regards to “anti-camping” ordinances aimed at people living in homelessness. “Moreover, enforcing these ordinances is poor public policy.

Needlessly pushing homeless individuals into the criminal justice system does nothing to break the cycle of poverty or prevent homelessness in the future.”

The Department of Justice has made clear that criminalizing conduct that cannot be separated from one’s status is equivalent to criminalizing status. This means that punishing individuals for sleeping outside – when sleeping is an activity that cannot be avoided by any person, and it must be done outside if no safe indoor space is available to that particular person – is unconstitutional under the Eighth Amendment.

Additionally, multiple lawsuits in recent years have similarly established that individuals have a right under the First Amendment to peacefully panhandle (which includes “flying signs” at intersections as long as those activities do not impede traffic or public safety). Any ordinances targeted at “aggressive panhandling” must be very narrowly tailored to protect the public from actual harm (not simply inconvenience or emotional discomfort).

Again, while we sympathize with the frustration and discomfort of Rio Grande business leaders and community members, the answer to that frustration and discomfort cannot be increased criminalization and draconian enforcement. These are expensive, ineffective and short-term approaches that exacerbate rather than alleviate the root causes of poverty and homelessness, while degrading the inclusive and charitable spirit of Utah’s capital city.

We therefore encourage Councilmembers and the Mayor’s Office to tread very carefully when considering the demands of the Pioneer Park Coalition. Implementing ordinances that harshly target loitering, sleeping in public, camping in particular public areas, “roadside meal service” and panhandling, while employing law enforcement “crackdowns” in particular areas, is likely to raise constitutional questions while producing few positive results for our community.

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