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## Fighting Back Against Criminalization of Homelessness: Martin v. City of Boise Case Study

Kaitlyn Dey  
*Portland State University*

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Fighting Back Against Criminalization of Homelessness:

Martin v. City of Boise case study

By

Kaitlyn Dey

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Thesis Advisor

Stephanie Bryson, Ph.D., MSW

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### **Abstract**

As of 2018, Boise, Idaho is the fastest growing city in the entire United States. As the city continues to grow housing and homelessness is becoming a greater concern. The means of addressing homelessness in Boise, however, has relied heavily on criminalization. In 2009, a plaintiff filed a lawsuit against the City of Boise challenging city bans on camping and sleeping in public. The case, *Martin v. City of Boise* (formerly *Bell v. City of Boise*), has set a precedent across the country regarding criminalization of homelessness, positing the laws as a violation of the Eighth Amendment. This thesis uses *Martin v. City of Boise* as a case study to examine criminalization of homelessness and how communities, advocates, and cities can move forward in regards to housing and homelessness.

## Introduction

Boise, Idaho is the fastest growing city in the United States (Sharf, 2018). Alongside all the growth in the city and state of Idaho, housing prices have gone up and homelessness has become increasingly more prevalent. The community have used a variety of tactics to try to address homelessness, but the tactic most used by the city is the use of criminalization ordinances. In 2009, plaintiff represented by Idaho Legal Services and the National Law Center on Homelessness and Poverty filed a lawsuit against the City of Boise challenging two ordinances which banned camping and banned sleeping in public. The case was called *Bell v. City of Boise* which has since been renamed to *Martin v. City of Boise* (University of Michigan Law School, n.d.). After ten years of the case bouncing back between the district courts and the Ninth Circuit Court of Appeals, the case has received attention across the nation. In the midst of this ongoing case, the Department of Justice issued a statement of interest in the case, a controversial encampment called Cooper Court popped up and was subsequently swept by the city, and upscale apartments are increasingly replacing low income housing (Department of Justice, 2015) (Berry, 2015a) (Berg, 2017).

Criminalization of homelessness has become increasingly commonplace across the United States and the urgency to stop criminalization is only increasing (National Law Center on Homelessness & Poverty, 2016). The purpose of this research is to use Boise, Idaho as a case study to further investigate the impacts of criminalization of homelessness and to explore ways in which to fight against criminalization. This case study will involve a literature review followed by interviews with stakeholders, culminating in four recommendations. The hope is to better understand lessons learned and how the Boise community can move forward.

### **Homelessness in Boise, Idaho and beyond**

Modern homelessness in the United States is a direct result of the increased privatization of both housing and public space. Since the 1980s, publicly subsidized housing has decreased and there are fewer options for housing among poor people in the United States (Western Regional Advocacy Project, 2010). Although much of modern homelessness stems from disinvestment and poor policy on the federal level, there are some local policies in both Boise, Idaho and the broader nation which have impacted the current state of homelessness today.

#### *Urban renewal and Gentrification*

Urban renewal and gentrification significantly impact housing accessibility for poor communities, in particular Black and Brown communities. Urban renewal was initiated by the federal government in 1949. The policy was originally framed as an effort to promote housing for low income families in areas where the private sector was not providing. Modern urban renewal districts are often created to increase development and growth, while sprucing up areas which are deemed “deteriorated” or “blighted” (Western Regional Advocacy Project, 2010). It is important to note the term “blight” is often used to refer to areas in which poor Black and Brown people reside (Wells, 2017). In Portland, Oregon, urban renewal severely impacted Black residents in the Albina district. Despite pushback from the Black community in the Albina District, the Portland Development Commission (now Prosper Portland) moved forward with multiple urban renewal districts which uprooted people from their neighborhoods and forced them to relocate. As a result, urban renewal displaced communities (Gibson, 2007).

In Idaho, urban renewal districts are established through city ordinances. Boise created the Boise Redevelopment Agency in 1965. This was tied to “President Lyndon Johnson’s push for the Great Society” (Berg, 2018). The Boise Redevelopment Agency became Capital City

Development Corporation (CCDC) which is the current urban renewal agency in Boise. Under Idaho state statute “CCDC is enabled to ‘prevent or arrest the decay of urban areas’ and to ‘encourage private investment in urban areas.’” (Capital City Development Corporation, 2018).

The first urban renewal district in Boise, Central District in downtown, was created in 1987.

Under Idaho law, urban renewal districts are required to expire after 20 years; however, when the Central District was established the term limit was 30 years (Berg, 2018).

CCDC has five active urban renewal districts: 30th Street, Westside, River Myrtle, Shoreline, and Gateway East. CCDC uses five ‘key strategies’: economic development, infrastructure, mobility, place making, and special projects (CCDC, 2018). Economic development includes projects that help ‘fuel economic growth’ by redeveloping properties. This is also the area in which CCDC collaborates with the City of Boise and their ‘Housing Strategy’. Infrastructure includes things such as ‘streetscape updates’ and ‘street construction’ in hopes to increase investment. Mobility focuses on the ability to move through the city. Currently CCDC is focused on increasing public parking garages as a means to attract ‘new private development investment’. Placemaking focuses on making neighborhoods more ‘desirable’. Finally, special projects focus on supporting local arts and quality of life initiatives. Again, this is used to attract more private development (CCDC, 2018). The CCDC is closely intertwined with Boise City Council. Mayor Dave Bieter serves as the secretary-treasurer of CCDC’s board. Former and current city council members Ben Quintana, Maryanne Jordan, and Scot Ludwig also currently serve on the board (CCDC, n.d.).

Urban renewal projects led by CCDC have proven to be controversial among Boise residents. For one, CCDC received \$60 million in property taxes in the thirty year life-span of the Central District urban renewal district. These property taxes were diverted from the city

school district. Upon the expiration of the Central District in September 2018, CCDC and City Council proposed two new urban renewal districts: Shoreline and Gateway East. The Boise School District raised concerns of the financial impacts of these two new districts (Berg, 2018b). The vote to approve Gateway East by City Council in December, 2018 was particularly contentious. The proposed Gateway East Urban Renewal District encompasses a mobile home community of about 200 called Blue Valley. Blue Valley residents formed a neighborhood association in response to a proposed trucking terminal near their neighborhood. The trucking terminal and the new urban renewal district raised concerns of possibly losing a vital source of affordable housing (Staats, 2018).

Gentrification, similar to urban renewal, is the process of renovating neighborhoods which are deemed 'deteriorated' as a means to attract wealthier residents. Oftentimes neighborhoods experiencing gentrification are predominately Black and Brown. Gentrification typically begins by disinvesting in a neighborhood as a means to attract developers who will then re-develop or re-invest. This results in raising housing prices and displacing the community who lives in the neighborhood. Oftentimes, this process happens in areas where Black and Brown people live. Although some would say it is an inevitable process, difficult to control, it is actually extremely intentional by the powers that be, such as developers, (Portland African American Leadership Forum, 2017).

Boise is currently the fastest growing city in the United States, while Idaho is the fastest growing state (Sharf, 2018) (United States Census Bureau, 2017). As Boise continues to experience large growth spurts, issues of gentrification have begun to arise. Garden City, a city adjacent to Boise and along the Boise River, is home to several mobile home communities and communities experiencing poverty. Many of these communities reside on riverfront property

next to the Boise Greenbelt. The Greenbelt is a biking and walking path along the Boise River, popular among local residents. In recent years, developers have realized the money to be made by developing high-end, riverside housing as a means to attract wealthy residents to the area. As a result, mobile home residents in Garden City are fearing displacement as their neighborhood begins the process of gentrification. Although there are some organizations attempting to mitigate gentrification through construction of affordable housing, such as Neighborworks, displacement is still inevitable. For one, much of the affordable housing ‘is for people on the higher end of the low-income spectrum’, neglecting the neighborhood’s poorest residents (Cotterell, 2015).

Furthermore, the City of Boise proper has experienced similar trends of gentrification. In November 2017, developers proposed to build the first CVS in Boise. The construction of this CVS would demolish five buildings, however, including the ‘Arcade Building’, one of the few affordable housing units in the area. Residents were at risk of being displaced and some expressed concerns of not having anywhere to go. Residents organized against the proposed development, forming an organization called ‘Save Boise Neighborhoods’ (Webb, 2017). Another example is the development of the Fowler apartments in the Central Addition Neighborhood. The Central Addition Neighborhood was home to much of Boise’s working class and was one of the most affordable areas in the city (Idaho Architecture Project, n.d.). Developers from LocalConstruct, a California based agency, saw this area as a prime area for revitalization. They constructed the Fowler Apartments, a high-end apartment building, the most expensive in the city (Berg, 2017). As a result, historical buildings were moved to accommodate the new building (Prentice, 2015a). Furthermore, the developers painted a mural of the buildings formerly residing where the new building was built (Oland, 2018). Developers from



LocalConstruct are proposing two more upscale apartment buildings (Harding, 2019a). In July 2018, Boise City Council approved a controversial two-tower project in the Central Addition neighborhood (Berg, 2018a).

### *Overview of Homelessness in Boise*

The most recent Point in Time survey in Boise, Idaho counted 61 people who were unsheltered at time of the assessment. Point in Time surveyed a total of 225 people. This was a decrease in the 2018 Point in Time count, where they counted 121 unsheltered people. The reasons for the decrease are contested. Some factors may be the opening of New Path, an affordable housing unit, and through the city initiative 'Our Path Home' which helped shelter around 45 people in 2018 (Institute for Community Alliances, 2019). Of those surveyed who were unsheltered, 85% were 25 and over and 14% said they were veterans. There was definitely an overrepresentation of people who identified as non-white; 70% of respondents identified as White (PIT, 2019). White people make up 88% of the population in Boise, Idaho (United States Census Bureau, 2018). People who identified as Black or African American made up 3.28% of those surveyed, despite only making up 1.9% of the population of Boise, Idaho (Institute for Community Alliances, 2019) (United States Census Bureau, 2018). Furthermore, 6.56% of people surveyed identified as Native Hawaiian or Pacific Islander despite only making up .1% of the population of Boise, Idaho (Institute for Community Alliances, 2019) (United States Census Bureau, 2018). On the night of the Point in Time count, 36.07% of people were sleeping in a 'vehicle/car,' 50.82% were sleeping 'on streets/homeless camp,' 6.56% were sleeping in a 'trailer without electricity/water,' and 6.56% were sleeping in 'abandoned property (not meant for habitation)' (Institute for Community Alliances, 2019). Finally, the most common 'disabling

conditions' persons identified with were 'mental health,' 'substance abuse,' and 'physical' (Institute for Community Alliances, 2019).

In 2018, the City of Boise, Boise State University, and the Social Innovation Fund put together a feasibility study to determine the costs of 'chronic homelessness.' The criteria for 'chronically homeless' are "have been homeless for 12 or more months consecutively; or have, in the last 3 years, had 4 or more instances of homelessness totaling 12 or more months; and have a disabling condition (i.e., substance misuse disorder, chronic physical illness or disability, serious mental illness, or developmental disability)" (Fry, 2018). Fry (2018) found the associated costs of chronic homelessness total to over \$5.3 million annually. The majority of the costs (\$2.8 million) are for 'Transport, ER, and Related Hospital Stays'. Furthermore, the other large costs are associated with 'Overnight Shelters' (\$622,500), 'Mental Health Crisis Services' (\$600,000), and 'Policing/Legal' (476,000) (Fry, 2018).

Homelessness in Boise looks a variety of ways for different people. According to La Ganga (2018b) one woman lost her housing after a rent increase which her disability payments could not cover. As a result, she lost her emotional support companion animal because she could not keep the animal in a shelter. Living on the streets did little to help her mental state and she became more depressed. Furthermore, a housing resources coordinator in Boise explained how he has seen people become increasingly hopeless and in the past year he has listened to people talk about suicide for the first in 20 years in his position (La Ganga, 2018b).

### **Criminalization of Homelessness in Boise and beyond**

Criminalization of homelessness is extremely prevalent across the nation. For the purposes of this research, I am defining criminalization of homelessness as policies and practices which make acts of survival illegal or banned as a means to exclude homeless people and people

perceived as homeless from public space. Criminalization of homelessness in Boise follows similar trends of criminalization in other cities. Criminalization takes on a variety of forms, from bans on sleeping in public to increased policing. Understanding the history and current iteration of criminalization of homelessness in the United States can better put into context the implications of *Martin v. City of Boise* in Boise and beyond.

### *History of Criminalization*

Criminalization of homelessness in the United States is rooted in colonialism. In the early days of American colonization, indigenous people were displaced and segregated. Through violence and intimidation, settlers claimed ownership over the land and control over public space. Early colonial America implemented vagrancy laws to control the movement of poor people. Vagrancy laws were based on the Statute of Labourers enacted by England in 1351. This law suppressed the movement of laborers, restricting them to certain areas, in order to improve economic conditions (Ortiz & Dick & Rankin, 2015). Vagrancy is a term originating from the term vagabond. Vagabond is typically defined as anyone who wanders or moves from place to place without a job or home. Early vagrancy laws took the form of warning-out laws and settlement laws. These laws made access to public space limited to residents (as defined by the government). Governments believed newcomers and vagrants would cause an “economic burden” on the colonial towns and settlements, because there would be less jobs for current residents (Ortiz & Dick & Rankin, 2015).

Vagrancy laws continue to evolve over time, targeting various groups of people. Anti-Okie laws, originating in the 1930s and 1940s, targeted farmers who were displaced after the Dust Bowl (called “Okies”). These farmers migrated west, negatively stereotyped for living in “filth.” Western states, such as California, started creating laws punishing okies seeking

permanent residency and those who tried to assist them, effectively banishing vagrants and migrants from entering their state (Ortiz & Dick & Rankin, 2015). Ugly laws had a similar purpose and targeted people who were considered “unsightly.” In particular, people with disabilities were impacted by these laws. These laws explicitly banned visibly disabled people from public spaces, especially people who panhandled (Ortiz & Dick & Rankin, 2015).

Vagrancy laws have an extremely racist element to their creation and enforcement. After emancipation, southern states wanted to find new ways to control the movement of Black people. This led to the introduction of Black Codes from 1865 to 1866. Black Codes limited what jobs Black people could have, how high their wages could be, and where they were allowed to reside. Anyone who violated these laws were subjected to arrest for vagrancy (Robinson, 2017). Following the legacy of Black Codes, Jim Crow laws, originating in 1876, enforced segregation of Black people in public space (Robinson, 2017) (Ortiz & Dick & Rankin, 2015). Sundown towns were another form of policies and actions taken by cities to exclude Black and Brown people from public space. Sundown towns were towns which banned Black and Brown people through a variety of legal and social exclusion tactics (Ortiz & Dick & Rankin, 2015). One of the largest examples of sundown laws is when the State of Oregon attempted to create an “all-white” state in 1844, excluding Black people from residing in Oregon (Brown, 2017).

Modern day anti-homeless criminalization laws are considered to be a revival of historical criminalization and vagrancy laws which excluded people from public space. These laws are largely based off of former vagrancy laws. Current exclusion and criminalization laws are based off of “broken windows theory,” originating from the 1980s, a time when the housing market became increasingly privatized. Broken windows theory posits that livability issues (such as a broken window) will create an environment encouraging behavior considered to be negative

and/or unsightly. Broken windows policies take a “zero-tolerance” approach to what are considered low-level offenses or livability crimes as a means to prevent larger scale criminal acts. Broken windows theory has heavily influenced modern day policing practices (Ortiz & Dick, 2015 & Rankin). Furthermore, the rise in criminalization of homelessness in the United States is correlated to the decrease of funding for low income housing. As the housing crisis continues to grow and more people are living on the streets, cities continue to rely heavily on policing and exclusionary policies instead of getting to the core of the issue (United Nations, 2018). Finally, it is important to note historical and modern exclusion policies are typically enforced at the discretion of police officers, giving police a lot of individual power to control public space (Robinson, 2017) (Ortiz & Dick & Rankin, 2015).

#### *Current Examples of Criminalization*

Many cities across the United States have laws which criminalize the existence of homeless people in public spaces. Criminalization takes the form of criminalization ordinances and more punitive policing practices. Criminalization ordinances take on many forms, including those highlighted by the National Law Center on Homelessness & Poverty (2016): camping bans, bans on sleeping in public, bans on begging/panhandling, bans on loitering, loafing, and vagrancy, bans on sitting or lying down in public, bans on sleeping in vehicles, and bans on sharing food. Criminalization laws have increased dramatically across the country. In particular, city-wide bans on life-sustaining activities, such as the city ordinances challenged in *Martin v City of Boise*, have increased exponentially. Since 2011, city wide camping bans have increased by 60%. Bans on sleeping in vehicles, which has become increasingly more common, increased by 119% since 2011 (National Law Center on Homelessness and & Poverty, 2016). Olson, MacDonald, & Rankin (2015) explained how many criminalization ordinances try to appear

neutral; however, they are explicitly targeting visibly poor people in practice. For example, in Washington, “16 cities criminalize the storage of personal property in public spaces.” Oftentimes, there are not reasonable alternatives, making these ordinances inherently discriminatory (Olson, MacDonald, & Rankin, 2015).

Criminalization ordinances and increased policing are often used in tandem to conduct “sweeps.” Sweeps are the act of police and/or private security forcibly removing people and their belongings from the place they are currently residing in. During sweeps, many people’s personal belongings are confiscated, destroyed, and trashed. Sweeps also continually displace people, requiring people to constantly be moving. Sweeps deprive people of shelter, which is extremely dangerous, especially during the winter time (Western Regional Advocacy Project, 2010, Compassionate Change District, 2019).

Criminalization ordinances and punitive policing practices are often enacted based on the interests of business people and business associations. Often times, words such as “safe,” “sanitized,” and “livability” are used to justify criminalization practices, arguing homelessness is unsightly and poor neighborhoods need to be “cleaned up.” This rhetoric fuels gentrification efforts and strengthens state and corporate control over public space (Western Regional Advocacy Project, 2010). Business improvement districts (BIDs) are a tool used by cities to exclude homeless people from public spaces. BIDs are special districts, usually in downtown areas, that use property assessment fees to provide additional “livability” services, such as security and trash removal, and lobby for the interests of the district. BIDs are made up of property owners and managed by business associations. BIDs use private security to further police homeless people and often lobby for more police and criminalization ordinances (Berkeley Law Policy Advocacy Clinic, 2018). Currently, Boise has one BID, the Downtown

Boise Association (DBA); however, DBA does not have a private security force. The downtown BID extends from Myrtle St. to State St. and 13th St. to 5th St (Downtown Boise Association, n.d.).

In California, homelessness continues to increase and local governments are forced to address the problem. Many cities in California choose to enact criminalization ordinances which push people out of cities as a means to address the problem. According to Berkeley Law Policy Advocacy Clinic (2016), there are an average of 10 laws “restricting life-sustaining activity” per city with a total of 592 laws across California; furthermore, there are 781 additional restrictions. The San Francisco Coalition on Homelessness (2015) found 74% of respondents had been “approached by police in a public space” the preceding year and 70% had been “forced to move from a public space.” Policing and incarceration has increasingly been used as a tactic by the city of San Francisco to control public space; 59% of survey respondents in 2015 said they were “incarcerated in SF County Jail or California State Prison during their lifetime” (San Francisco Coalition on Homelessness, 2015).

In Oregon, there are approximately 224 laws that “restrict, criminalize, and punish people for performing life sustaining activities in public space” (American Civil Liberties Union of Oregon, 2017). In particular, there are approximately 125 laws which ban sleeping and/or camping in public space. Many homeless people in Oregon have experienced harassment from police and private security as a result of these ordinances. American Civil Liberties Union of Oregon (2017) gathered surveys conducted by Western Regional Advocacy Project (WRAP) of 496 homeless people in Oregon. Of the people surveyed, “94 percent reported having been harassed for sleeping in public, and 51 percent had been cited.” In 2017, 52% of arrests in Portland were of homeless people (Woolington & Lewis, 2018). Furthermore, there is a general

sentiment by several grassroots organizations that policing of homeless people in Portland is hampering the ability for people to access community care and services they need to survive (Care Not Cops, 2019).

### *Services as a Form of Policing and Criminalization*

Although many people believe building more shelters is a good way to help people living on the streets, there are many people who do not stay in shelters for a variety of reasons, including several accessibility issues regarding shelters. Shelters often have entrance requirements, such as no substance use and required religious services. They may also ban people for prior convictions. Shelters will also discriminate against certain communities, especially LGBT communities (Skinner & Rankin, 2016). Sometimes shelters separate people from their partners and families. For some, getting to shelters may be difficult depending on location. Shelters often have a limit on how many nights you can stay. Many people have had bad experiences in shelters and feel safer on the streets surrounded by their community they trust. Furthermore, many shelters have unsanitary or unsafe conditions. There are many reasons people do not go to shelters and oftentimes they are stereotyped for choosing to be homeless or being “service-resistant” (Skinner & Rankin, 2016).

Oftentimes, nonprofits that say they are acting in the interest of homeless people are actually emulating functions of the prison industrial complex in a phenomena known as the nonprofit industrial complex. According to INCITE! (2007) the nonprofit industrial complex is a system of relationships between the state, the ruling classes, foundations, and social services/social justice organizations which “results in the surveillance, control, derailment, and everyday management of political movements.” The non-profit industrial complex causes organizations to compete for funding, focusing on securing money rather than serving people. It



often is used to monitor and control radical movements so they can fit into the ‘safe’ capitalist status quo of the United States. Instead of actually addressing the issue, nonprofits often keep elite people in power under the guise of being ‘humanitarian.’ The nonprofit industrial complex is also often used as a guise for the government to continue expanding war, the prison industrial complex, and other profit-generating activities of the United States (INCITE!, 2007).

The non-profit industrial complex is sometimes applied to homeless services, coined as the ‘Homeless Industrial Complex.’ Brady (2016) explained how many service providers and non-profits pay their employees substantial salaries, despite little progress in ending curtailing and ultimately ending homelessness. Instead, shelters can feel like prisons and people are cycled through the system without receiving the resources needed to get out of homelessness and poverty. Furthermore, businesses are contributing millions of dollars to maintain these social services, while homeless people are left with little opportunity or ways out (Brady, 2016).

#### *Tactics of Fighting Against Criminalization*

Historically, exclusion laws have been overturned through a variety of legal fronts. Ultimately, shifting public opinion around the ordinances by highlighting them as discriminatory has successfully worked against exclusion and criminalization laws. There are three main challenges used to deem historical exclusion laws unconstitutional: 1) “violated the Eighth Amendment Cruel and Unusual Punishment clause by punishing a person’s status,” 2) “unconstitutionally vague under the Fourteenth Amendment,” and 3) “failed to provide adequate standards leading to unfettered and discriminatory enforcement discretion by police” (Ortiz, Dick, & Rankin, 2015). There are modern legal fights which have used similar legal tactics. In 2006, *Jones v. City of Los Angeles* challenged the city’s anti-camping ordinance, finding it unconstitutional via the Eighth Amendment (Department of Justice, 2015).

Another tactic used has been the use of Homeless Bill of Rights legislation which would guarantee the right for homeless people to be in public space without police harassment, effectively banning criminalization and exclusion laws such as camping bans and sit/lie laws. The Homeless Bill of Rights is a campaign started by Western Regional Advocacy Project (n.d) and includes six fundamental rights:

1. Right to move freely, rest, sleep and be protected in public spaces without discrimination.
2. Right to occupy a legally parked vehicle.
3. Right to share food and eat in public.
4. Right to legal counsel if being prosecuted.
5. Right to 24-hour access to “hygiene facilities.”
6. Require judges consider necessity defense when hearing homeless related cases.

Homeless Bill of Rights legislation has mostly consisted of Right to Rest legislation which has been proposed statewide in California, Colorado, and Oregon but has yet to pass (Western Regional Advocacy Project, n.d.). Most recently, there was a ballot initiative for a citywide Right to Survive ordinance in Denver which ultimately did not pass (Aguilar, 2019).

In regards to the issue of shelter, many homeless people and homeless advocates have proposed safe encampment sites, such as tiny home villages and safe parking programs. Organized and authorized encampments rooted in self-governance (i.e. run by homeless people) provide several benefits for people living on the streets, including safety and security, community, autonomy, stability, and health. Authorized encampments have proved successful in a variety of cities, including Portland, Oregon and Seattle, Washington (Parr & Rankin, 2018). Safe parking programs are another alternative people have proposed. Safe parking programs allow people who live in their cars a safe place to park their car and sleep in the nighttime. Safe

parking programs have shown to be successful in some Washington and California cities (Ivey, Gilleland, & Rankin, 2018). Safe encampments are often controversial, and cities do not support them initially. As a result, the creation of many safe encampment sites have happened via direct action and illegal means, such as the case of Dignity Village in Portland (Parr & Rankin, 2018). More recently, in 2018, a group of homeless people organized an encampment in a natural area in Northeast Portland called Village of Hope. The encampment was not authorized by the city. Residents and advocates held down the encampment before it got swept, but not before vowing to bounce back (Schmid, 2018).

Some advocates focus more on organizing against policing in general rather than targeting specific criminalization and exclusion laws since police often exclude homeless people from public space using a variety of means beyond the use of explicitly anti-homeless laws. In Portland, a community coalition is calling to reduce the police budget and police hires as a means to shift reliance on policing to non-police community caretaking needs (Care Not Cops, 2019). Policing is inherently about social control which is why some groups are advocating to abolish policing completely. Policing ultimately gives police officers the power to decide what to enforce and who to enforce laws on which often ends in discriminatory practices. Reform efforts have done little to mitigate discrimination which is why there is a push towards abolition and more investment in alternatives (Critical Resistance, n.d.).

### *Criminalization in Boise*

The City of Boise is no exception to the rise of criminalization ordinances across the country. Among these ordinance, Boise City Code § 9-10-02 (the “Camping Ordinance”) and Boise City Code § 6- 01-05 (the “Disorderly Conduct Ordinance”) are the two ordinances challenged in *Martin v. City of Boise*. The “Camping Ordinance,” often referred to as the “anti-

camping ordinance,” bans the use of “any of the streets, sidewalks, parks, or public places as a camping place at any time.” The “Disorderly Conduct Ordinance” bans “[o]ccupying, lodging, or sleeping in any building, structure, or public place, whether public or private . . . without the permission of the owner or person entitled to possession or in control thereof.” These ordinances ban homeless people from performing life-sustaining tasks. These ordinances cause displacement, increased policing, and trauma for individuals living outside.

In 2015, a “tent city” called Cooper Court emerged outside of one of the local shelters, Interfaith Sanctuary. Cooper Court housed around 70 homeless people in Boise with tents lined around the block (Prentice, 2015b). Cooper Court was portrayed as dirty by the public and City of Boise officials. People claimed Cooper Court had drug users, fires were started, and the encampment was overall unsanitary. Residents spoke of Cooper Court as a community. One resident explained how the people living in Cooper Court were a family (Murri, 2015). Cooper Court violated Boise’s anti-camping ordinance, Boise City Code § 9-10-02. The City of Boise and Boise Police Department (BPD) began monitoring the camp (Prentice, 2015b). Eventually, signs and written warnings threatening fines and arrests started appearing around Cooper Court. Residents decided to stay, citing lack of other options and feeling the tent city was a community (Prentice & Berry, 2015a).

As the months went by, residents of Cooper Court consistently received warnings from the City of Boise. This included the city blocking off access to delivery and public safety vehicles. Meanwhile, community members and advocates donated tents, tarps, and other survival gear for the residents. They also expressed the need for alternatives to traditional shelters. In early December 2015, the City of Boise and BPD began prepping to clear out the camp (Prentice & Berry, 2015b). Upon hearing the news the camp was going to be swept, community members and

residents of Cooper Court mobilized against the proposed sweep. The sweep began on the morning of December 4th, 2015. People showed up with signs that said “Homelessness shouldn’t be criminalized” and “Bieter hates Jesus (Jesus was poor & homeless),” among other things. Protesters chanted and faced off with police. Residents of Cooper Court barricaded the entrance to the tent city to protect themselves. Police began kicking people out, taking their belongings, and sending some people to emergency shelters. Police set up a “hospitality tent,” but many residents opted not to go. BPD also recruited volunteers to help with the sweep, which included a member of the III Percent of Idaho, a right-wing militia group (Berry, 2015a).

The American Civil Liberties Union (ACLU) of Idaho organized a rally after the sweep. Rally attendees, including residents of Cooper Court, spoke against criminalization of homelessness. They spoke of the barriers and harms of shelters, the rights of homeless people, harassment by police, and inaction taken by the City of Boise (Murri, 2015). The following City Hall meeting was rife with frustrations. ACLU of Idaho once again organized a demonstration at the meeting. City Hall attendees gave public testimony on the issues, with Mayor Dave Bieter giving some remarks, which did not go over well with the crowd. People began chanting, “Do something now!” which resulted in Mayor Dave Bieter shutting down the meeting. Protesters moved to the Grove, a plaza downtown, with signs and chants (Berry, 2015b).

The aftermath of the sweep of Cooper Court was felt throughout the community. As a result of the sweep, many residents were displaced across the city. BPD officers noticed new people camping in several parts of downtown. Service providers had trouble maintaining contact with residents they had worked with and some lost contact completely. In the following months at least two former residents died on the streets of Boise (Kemp, 2016). Community memorials were organized for those who lost their lives. The community mourned together and shared

memories of their friends (Prentice, 2016). Overall, the sweep of Cooper Court affected many people living on the streets of Boise and the community at large.

Beyond the ordinances under question in *Martin v. City of Boise*, the City of Boise also passed an anti-panhandling ban in 2013 that was ultimately struck down by a judge via a lawsuit filed by the ACLU (American Civil Liberties Union of Montana, 2014). In Nampa, a suburb of Boise, city council members approved authorized city police to put up ten signs which discouraged people from giving money to people panhandling (Talerico, 2018). Despite all of these criminalization laws, there are efforts by organizations in Boise to fight against displacement and find actual solutions to the housing and homelessness crisis. Vanishing Boise, a group started to fight against increased development resulting in displacement, has been fighting against problematic growth in Boise, including during the fight to save Blue Valley and the opposition against a proposed urban renewal district (La Ganga, 2018a) (Staats, 2018). The Boise Homeless Coalition is also working to solve the various issues arising from increased development. In May 2018, the Boise Homeless Coalition organized the ‘PUSH Expo: People and Projects in Partnership, United in Support of those in Homelessness’ which brought together homeless people, advocates, and other community members to work together on the city’s most pressing issues regarding homelessness (Boise Homeless Coalition, 2018).

### **Martin v. City of Boise Background**

*Martin v. City of Boise*, formerly known as *Bell v. City of Boise*, is an ongoing case law which began in 2009. Between the years 2007 and 2009 six currently and former homeless people allege they were cited by Boise Police in violation of one or both of two city ordinances: Boise City Code § 9-10-02 (the “Camping Ordinance”) and Boise City Code § 6- 01-05 (the “Disorderly Conduct Ordinance”) (*Martin v. City of Boise*, 2018). On October 22nd, 2009, these

individuals represented by Idaho Legal Services and the National Law Center on Homelessness and Poverty, filed a complaint alleging the above mentioned ordinances criminalized homelessness, thus being a violation of the Eighth Amendment under cruel and unusual punishment. They also alleged violations of their due process rights under the 14th Amendment. “The plaintiffs sought an injunction against the enforcement of the ordinances, damages under federal civil rights law, and declaratory and injunctive relief voiding the plaintiffs' prior citations and holding the ordinances unconstitutional” (University of Michigan Law School, n.d.).

In response to this litigation, the City of Boise filed for summary judgment. On July 6, 2011, Magistrate Judge Ronald Bush granted the summary judgment. Judge Bush claimed the plaintiffs did not sufficiently demonstrate how the ordinances in questions criminalized homelessness. Judge Bush also ruled the plaintiffs’ claims were mooted as a result of Boise Police clarifying their enforcement protocols and the city amending the camping ordinance to provide a “more precise definition of ‘camping’” (University of Michigan Law School, n.d.). Not backing down, the plaintiffs appealed and the case was heard by the Ninth Circuit on March 7, 2013 by Judges Susan Black, Susan Graber, and Johnnie Rawlinson. The Ninth Circuit panel determined “the plaintiffs’ claims for backward-looking relief were not jurisdictionally barred since they did not seek relief from the state court itself. The court further held the plaintiffs’ claims for prospective relief had not been mooted by the defendants' new "voluntary conduct" in the form of protocols and amendments for the enforcement of the ordinances” (University of Michigan Law School, n.d.).

The City of Boise filed for another summary judgement on August 15, 2013. The district court granted the summary judgment on January 27, 2014 stating the plaintiffs could not bring damages claims because their convictions had not yet been overturned via direct appeal. The

plaintiffs amended their complaint, taking out the damages claims, and left their claim for prospective injunctive and declaratory judgement (University of Michigan Law School, n.d.). On December 31, 2014, the City of Boise then filed a motion to dismiss the case on the grounds the counsel could not locate some of the plaintiffs and therefore there were no active disputes with the City of Boise. On April 20, 2015, the plaintiffs filed for a summary judgment (University of Michigan Law School, n.d.). While this was happening, on August 6, 2015, the United States Department of Justice issued a statement of interest, affirming the plaintiffs' claims the ordinances were criminalizing homelessness thus violating the Eighth Amendment under cruel and unusual punishment. In particular, the Department of Justice raised issue with the lack of shelter access (Department of Justice, 2015). As a result the City of Boise amended the ordinances to make an exception for when shelters are full. On September 28, 2015, the district court, under the opinion of Judge Bush, dismissed the suit in its entirety citing the newly amended ordinance (University of Michigan Law School, n.d.).

The plaintiffs did not give up after the case was dismissed. The case was appealed to the Ninth Circuit for the second time on October 29, 2015. The case, now called *Martin v. City of Boise*, was reviewed by a panel of three judges: Judges Marsha Berzon, Paul Watford, and John Owens. On September 4, 2018, the panel reversed the decision again, affirming the plaintiffs. The Ninth Circuit once again cited the Eighth Amendment. In this ruling the Ninth Circuit also highlighted the barriers to accessing shelter which is why the ordinance amendments made by the City of Boise were not substantial. As a result, the case was once again remanded to the District Court (*Martin v. City of Boise*, 2018).

On November 6, 2018 the City of Boise appealed to the Ninth Circuit requesting a full panel to review the case. The Ninth Circuit denied this motion on April 1, 2019. As the writing



of this thesis, the case is ongoing. The City of Boise appealed the case to the United States Supreme Court. They requested an extension to submit their ‘writ of certiorari’, which consists of the documents reviewed by the Supreme Court. If approved they will have to submit by August 29, 2019 (Harding, 2019b). Many organizations, advocates, and homeless people have already taken action. In Santa Cruz, attorneys halted the sweep of a camp in response to the *Martin v. City of Boise* appeal (Guzman-Lopez, 2019). In Oakland, homeless residents of Lake Merritt, an unauthorized homeless encampment, defied police attempts to sweep their camp by posting printed copies of the case on their camp (BondGraham, 2018).

## **Methods**

### *Research Questions*

For this research I have identified two main questions:

1. What is the impact of *Martin v. City of Boise* on the homeless and homeless advocacy community in Boise, Idaho and surrounding cities in the Ninth Circuit?
2. How can homeless communities, advocates, and organizers move forward in the fight to end criminalization?

### *Study Design*

The design of this research is a case study focusing on a case law regarding criminalization of homelessness, *Martin v. City of Boise* (formerly *Bell v. City of Boise*). The study focuses on the case law itself as well as the local politics surrounding homelessness in Boise, Idaho. This study involved qualitative, semi-structured interviews with stakeholders in the Boise community. Interview questions involved asking about *Martin v. City of Boise*, inquiries about specific work done by the interviewees, knowledge of the current housing situation, knowledge of the local community, and thoughts about alternatives to shelters among other

things. Interviews happened over the phone and interviewees gave verbal consent before participating. This study was reviewed and approved by the Portland State University Human Subjects Internal Review Board (IRB) in September 2018.

### *Sample*

For this case study I interviewed five stakeholders in the Boise community including a lawyer involved in the *Martin v. City of Boise*, a City of Boise representative, two service providers, and a researcher at Boise State University. Each individual was selected and asked to participate due to their knowledge of the homeless community in Boise and/or involvement in *Martin v. City of Boise*. Some participants had lived experience with homelessness and while some did not or did not disclose. All participants currently live in Boise, Idaho.

### *Data Analysis*

Interviews were recorded and transcribed. I reviewed the transcriptions and picked key quotes from each interviewee. I looked for major themes among the conversations with interviewees and found four themes to highlight in the findings section. In the discussion section, I provide further analysis of the quotes and themes in the interviews-- culminating in a list of four recommendations going forward.

## **Findings**

Research participants had many things to say about the current state of housing and homelessness in Boise. Although there were many different opinions, overall, there were several key themes almost every participant spoke to. The themes identified are: 1) Criminalization not effective; 2) Development priorities are problematic; 3) Businesses play a role for better or worse; and 4) Alternatives to shelter. Overall, participants believed there is a lot of work to do going forward but differed on their perspectives of how to do so.

*Criminalization not effective*

Many interviewees believed criminalization of homelessness, such as the laws in question in *Martin v City of Boise*, have only exacerbated homelessness and made it more difficult for homeless individuals to access basic survival needs. This includes shelter, medical needs, and employment among other things. These citations have only created more barriers for homeless people to access housing, despite the City of Boise claiming it wants to increase access to housing. Criminalization laws cause people to circulate through the system, which as a result, costs the city a lot of money and does not help improve anything as noted by one interviewee:

Most of these citations are written because they have an open container. They get outside. They were accused of trespassing for sleeping outside and the citations, they build up in the system. So a homeless person really doesn't have the ability to manage, use transportation. That kind of stuff. So they get the citation but they don't go to the court date. They certainly can't pay the fees. And so the citation turns into a warrant which turns into jail time. So it kind of sticks them in this place where they're in hiding because they know they have the warrant, so they're not going to apply for a job because then there's gonna be a background check which is going to immediately reveal the warrant and they can't apply for housing because the same thing happened. So they just keep reoffending. And living out on the streets spending a single night in jail and it's costing everyone a lot of money and no one's getting better.

One interviewee expressed the importance of the Ninth Circuit ruling from September 4th, 2018 as a means to hopefully mitigate the negative impacts of criminalization ordinances. This interviewee echoed the previous interviewee, explaining some of the effects of these citations and how the legal system makes it difficult for homeless people to navigate the system:

In the more on the ground personal sense for homeless individuals, it hopefully will restrict or, I don't think it will eliminate, but somewhat decrease the difficulties they face with the legal system and the justice system caused by repeated charges against them, arrests, incarcerations. Those effects on those individuals either keeping their employment if they are employed, or interfering with their medical treatment or just disrupting their lives and losing their property by getting arrested and police won't take their property with them. Being separated from their caregivers or families. There's numerous issues that I think individuals who are housed and don't have these difficulties don't even really face on a daily basis, but at any point in time, a homeless individual can have their

property lost or taken to jail or required to attend court proceedings in which they really don't have an attorney to represent them. Or if they do it's about a three second conversation: 'Plead guilty, and you'll get time served.'

One interviewee explained how, due to the low vacancy rate in Boise, although there may be enough housing to house everyone on the streets, landlords are looking for 'model tenants' and may discriminate against people with criminal records:

There are a lot of people in the shelters who, after waiting two or three years, finally get their SSI or disability or Medicaid card. But they can't move out of the shelter because there is no affordable place to go. Landlords won't rent to them because of their history. They've accumulated either tickets or they just don't have good credit. We have such a low vacancy rate here. That drives up the rent of course. They just won't take those people. They're not a model tenant quote unquote, whatever that is. So there's a ripple effect through all of this.

Perceptions of homelessness by the community also contribute to the implementation and use of criminalization laws. Homeless people are often stereotyped as criminal, further promoting the rhetoric used to justify laws such as the camping ban and the ban on sleeping in public. One interviewee explained how the bias created by negative stereotypes of homelessness impacts the enforcement of criminalization laws and how *Martin v City of Boise* challenged this bias:

People who think it's simply solved by criminalizing sleeping outside: They just don't understand or they don't care. One or the other. They just have this stereotype that homeless people are criminal, need to be afraid of them, as opposed to, 'They are mostly the victims of crime.' Homeless individuals are not the vast majority of persons committing criminal acts in Boise or in any other place. It always bothers me that when you read about a crime-- and we've had some here in Boise-- and the newspaper will describe the person as a homeless person...Well, that stereotypes homeless people. They don't, 99% or more of the other criminal actors, they don't put the housed person or the person who lives on the bench in Boise. I don't know what one has to do with the other. If they're going to commit a criminal act for whatever reason, that's not because they're homeless. Homeless is a status, not conduct. That is the underlying basis, constitutional basis, of the *Martin* decision. You can't punish someone for the status of being homeless. You can punish somebody for their conduct. Doesn't matter what it is. Can be trespassing, disorderly conduct, camping, sleeping, any criminal thing just like anybody else. You can't treat them differently. I use the

example, here in Boise, we have a skate park underneath a six lane underpass. They just spent 2 million dollars upgrading this. It is a lighted park yet there is an ordinance that says if you are in a park in the city of Boise after dark, between sunset and sunrise, that you are subject to a ticket. The only people who get a ticket are the homeless people who are there. Not the skaters who are there after dark every day of the year, all hours of the night and sometimes through the night. That law is just being used to harass and single out homeless people. Not because they did anything differently than the skateboarders, the kids on skateboards, some adults, but because they have their backpack with them and they're sitting on a blanket or have a blanket thrown over them. They were there just like anyone else.

Despite many interviewees taking issue with the camping ban and the ban on sleeping in public, one interviewee explained what they perceived to be the justification for the implementation of these laws:

I think the main tenet of putting that policy in place was to say that we can do better than just allowing people to camp. If we say that this is okay then the community will say, 'That's enough,' and we actually think that is not enough, that people actually need a home. That's my perspective, but to me, that's where the city is really moving. We're a good enough community that we can work together to get everyone housed...A tent in the park or a bench, that's not good enough. I think that's part of it. There's a greater opportunity if we think bigger.

When asked what the justification for the camping ban and the ban on sleeping in public are, the City of Boise interviewee explained:

It's simple public health or safety. You know it's when people are in conditions living in a condition where there aren't proper facilities where there aren't proper protections. It's... it's... it's unhealthy and it's unsafe. Again, sanitary conditions can be a challenge obviously. And then also they're more vulnerable. The folks you've heard of in that situation are vulnerable to exploitation. And, if, you know they're a woman or a child, they're more likely to be assaulted or traumatized in some significant way as a result of being on the street. So it's really about that. It is really about the best interest of those people, when there is room, when there is someplace else for them to be other than the street. We believe that they should be there. We believe that they should be availing themselves of those services. And again, you know, our nonprofits will tell you that they'll make room for everybody in our community. So that's the real reason behind it: being able to protect public opportunity.

Although *Martin v City of Boise* is focused on the ordinances in place, the use of policing is integral to the issue at hand. The police, after all, are the ones who enforce the ordinances, often at the discretion of their superiors. One interviewee explained how police play a role:

I know many of the officers, who on a regular basis, deal with the homeless population. They try to be helpful when they can. If they get the direction from their superiors they just have to do it. I think as long as there's not a complaint... If they got a complaint from a business, a person, an individual, I think that they would probably respond and tell them to move on or write them a ticket. I don't know if there has been that much change specifically. They still write a lot of tickets, just not as many camping tickets.

The same interviewee expanded on the ways in which the police continue to issue citations to homeless people on the basis of being homeless, despite the City of Boise claiming they are rarely enforcing the laws in question:

Well, I don't accept the fact that they're not getting charges. [The police] have different ways of doing that. In the skatepark... after dark, they've gone to that approach. According to the city, they've only issued 22 camping tickets this year. I haven't looked at each one of those tickets so I don't know, but they go to these other [citations] so that camping after dark will apply to anyone on the Greenbelt here... not only the underpass where the skatepark is but all the underpasses that are on the Greenbelt. It goes from Capitol Boulevard to Broadway to Fairview. All those areas and along the river, people will hide out in trees and brush to avoid being seen by the police. If they're there, they can be subjected to the 'in the park after dark' ticket. I was in the Grove on Friday at night, came out of the hockey game. I was surprised I saw two persons who were in their sleeping bag off to the side. They were not panhandling. They weren't really where most people go. I just kind of wonder if the police are just letting them stay there. You can't be seen from where these people were from any roadway. Normally a police officer wouldn't be there. A lot of the enforcement, not all of it, are done by officers on bikes because they can get in and out of all these places where a vehicle wouldn't necessarily go. They probably have eased off on the quote unquote 'camping tickets,' but I still think they are citing people on the status of being homeless. They are just using a different approach.

The City of Boise relies primarily on police for outreach efforts with the homeless population, often through the use of bike cops. When asked how the City of Boise is doing outreach to homeless people they responded:

Unfortunately, much of our response around that is through law enforcement and... and their work in making sure that people who are living without shelter right now are safe and are not in a situation that is dangerous as best as possible. That's our biggest concern around those who are who are experiencing homelessness as is. It makes them more vulnerable. It makes women more vulnerable to sexual assault. It makes children more vulnerable to trauma. What we do is kind of a standard operating procedure. Though our bike cops are great. They can tell you the name of just about anybody in the community who is sleeping without shelter in the community, as well as the name of their dog. And they worked really hard to make sure that people are safe and whenever they come across them they remind them, 'Hey, you have resources available to you. You can go to the shelter and stay tonight; you don't have to be out here.' And so whenever they experience someone camping, whenever they experience someone sleeping on the street, that's their first... That's their first goal... to engage with them and have a conversation about why they're here and, 'What has driven you to be here tonight?' Or and 'why aren't you availing yourself of the services that are available to you?' And so that's that's a conversation that they have with them. And and do well for yourself. They do plenty of checks on folks to make sure that they understand what's going on also. I think that's probably our most primary interaction as a city government.

#### *Development priorities are problematic*

As Boise continues to grow, there is a lot of frustration among community members about how Mayor Bieter and the city are handling the growth. Many expressed concern with the city not prioritizing the needs of the community. This included concern about how the city is spending its money and what kind of development they are promoting. One interviewee explained how the city spent 3.5 million dollars to redevelop the front of City Hall, despite claiming they do not have the funds for affordable housing and other basic necessities:

I really have a hard time when the city spends 3.5 million dollars, I call it 'Beiter's patio.' They redeveloped the front of the building completely. 3.5 million dollars but they don't have enough money for affordable housing projects. They'll subsidize developers for high end condos but don't have any money for affordable housing. They make it difficult for people to develop affordable housing. They have different zoning restrictions and requirements that make it too expensive to develop these projects and have them pay for themselves. You don't get those projects. I think they could do a lot more to facilitate construction of affordable housing places. Which is sorely needed, not only homeless, but for low income people who are here. We're the minimum wage state so there are plenty of people, not only disabled, but they can't afford rent increases and can't find people. You

can find those people all over. There are thousands of people waiting for Housing Authority vouchers. If a project comes on it is inundated with people trying to get in. It's a really difficult situation. We hear about it more in places like San Francisco, but it happens here too. We are one of the fastest growing places in the country and rents are high. We've had a lot of apartment complexes that did serve lower income people that closed, remodeled, and charged higher rent. They evicted everybody. Now it's very difficult for even people with vouchers to find a place. Not only the stigmas associated with having a voucher but the market rate, the value of that voucher, is lower than the market rate so they can't rent the place. There's a lot of problems that need to be addressed to start to chip away a lot of these problems.

Furthermore, another interviewee explained how the city is prioritizing expensive housing, most of which is used as Airbnb and other short term rentals instead of investing in affordable and low income housing:

It is very frustrating to watch the city, you know, give tax credits to one condo builder downtown... and then instead of turning it into housing [it becomes] 50/50 of its housing... and then 50 percent of it may turn into Airbnb apartments.

Many interviewees were in agreement saying the homeless population in Boise is a lot more manageable than other cities, but expressed concern with the city not taking serious action to prevent the problem from growing. One interviewee expressed this concern succinctly:

I mean, think about it. I mean, in the entire state of Idaho we have less than 3000 people that are homeless in the entire state. Seriously? We should be [giving housing] to many people... because, you know, we have less homeless in the entire state of Idaho than, you know, Seattle does in just that one city and they're making gains on how to fix it.

Another interviewee explained how, despite not having a homeless population as high as other cities in the region, there is an overemphasis on the 'problems' caused by homeless people which takes away from the city actually taking action on the issue:

To put our homeless situation into context. We have a very manageable homeless situation. We don't have that many homeless people. Not compared to Salt Lake or San Francisco, or Portland, Seattle. Our homeless population is quite manageable. Yeah, you'll see people flying signs downtown occasionally. They don't really cause much of a problem or any problem. I think there are more problems with the bars on Main and 6th than there are with homeless people on



any given night. So, I just, I don't know why that part of it gets so much attention. If they would have more solutions and start addressing the need. I think a lot of these things would melt away.

Although the population is less severe than other cities, as Boise continues to grow it may become a larger issue. The community may not address the issue with as much urgency because it is not as visible as other cities as explained by one interviewee:

The housing crisis in San Francisco proper is so much more acute than the one that is being experienced in Ada County Idaho. Part of it is I don't think [they know] how severe the issue can be. I don't think that the community has realized it because they don't see it. It's a little bit hidden so that's one of my concerns, as a researcher, is how can we look at the data to see how the problem is growing and then communicate it with the decision makers and the people in the business sector so they can make decision to help make sure it doesn't get worse.

*Businesses play a role for better or worse*

The business community in Boise plays a role in the wider issue of housing and homelessness in Boise. Perceptions of the involvement of the business community varied among interviewees. Some interviewees expressed gratitude for some of the business partnerships, while others expressed concern with the business community exacerbating criminalization of homelessness. For better or worse, the business community is treated as a big stakeholder. One of the ways the business community engages with the issue is through Mayor Bieter's 'housing and homelessness roundtables'. One interviewee described the roundtables as such, while also highlighting how the business community mostly gets involved in the issue only when there is an encampment or panhandlers outside of their property:

Boise's mayor, Bieter, pulled together housing and homelessness roundtables that meet every three to four months. The business community have been attending those meetings when those meetings are held. Mostly the business community that have been attending are people that are more engaged with the housing sector. They're landlords, or developers, or that kind of part of the private sector. I would say the greater business community hasn't been as engaged with the issue. That's from my perspective. I do think that certain parts of the business community, their attention is called to homelessness if there is an encampment

near their business or if there's someone kind of on the corner asking for support near their business. So I think that tends to be an event that engages the business community. I haven't personally seen the business community purposefully engaging.

The City of Boise highlighted the housing and homelessness roundtables as a great partnership. They also highlighted other positive ways in which the business community play a role in the issue of housing and homelessness in Boise:

Definitely the homeless roundtable that the mayor put together. You know our hospitals have been amazing partners in this, with those projects, and we're hopeful that they're going to continue to be that. And again, we had a number of those people representing the local business community that were part of that roundtable. [Giving] donations and other things that help make those projects possible. We're all central to that.

One interviewee expressed gratitude with the business partnerships with their organization. Businesses support local social services through donations, volunteerism, and other support projects. At the same time, the interviewee also made note of certain sectors of the business community who take a less compassionate approach and are more focused on getting rid of the sight of homelessness:

Well I can only really speak to my partnership and I feel really supported. I feel that our programs are really supported. There's a lot of people who are in business who understand our challenges and try and help where they can. Through money, volunteerism, food donation. Lots of service projects lots of volunteerism. The place that we have our struggles are the business community that doesn't like the sight of homelessness and they're looking for. A way to kind of get rid of it. So it's no longer visible they're not looking at a way to fix it. They just don't want to see it anymore. And those are more of the local businesses that are very focused on economic growth. You know, Boise's rated as the most livable city, things like that. Their bottom line is they make more money when our city looks better. So they lack compassion. They are the ones who are like 'not in my neighborhood.' They strike down anything that appears to be helping someone that they believe should be helping themselves. You know and you have that everywhere, right? We have our people who are in business who believe in service. We have our people who I guess... believe, 'Do it yourself. You got yourself into this mess, get yourself out of this mess.'

Some businesses actively encourage criminalization efforts by the City of Boise. These business groups such as the Downtown Boise Association, Boise's only business improvement district, are large allies to the city and therefore have a lot of influence with the Mayor and other city officials. Members of the business community have pushed for more criminalization through lobbying at city hall. When asked "Do you feel businesses have played a role in the criminalization of homelessness in Boise?" one interviewee said:

No doubt in my mind. I think that the mayor responds to the downtown business association and other interests. There are political allies and contributors. I think that is very true. I have been to public hearings. I remember the panhandling ordinance, when it got passed, the only people for it were the downtown business association, who got to speak first, and then one individual business person I recall. Everyone else spoke against it, said it wasn't needed. They passed it anyways. It was short-lived. It never went into effect. The federal court had called it a violation of the first amendment before it would ever be enforced.

#### *Alternatives to shelter*

Shelter access was one of the biggest talking points in every interview. There are many people living on the streets of Boise who for various reasons may not be able to access shelters. Access to shelter was also a large point of contention in *Martin v City of Boise*. As a result, many interviewees not only explained why shelters may not be the best option for some homeless people, but also discussed the possibility of creating a safe encampment, tiny home village, and/or safe parking program in the city to help accommodate those who may not want to stay in a shelter. One interviewee explained some of the reasons why people may opt to stay outside rather than go to a shelter:

So when a person opts to be outside, there's a lot of different reasons why but many of them are mental health related. They have a situation where they have post-traumatic stress syndrome, they're schizophrenic, they're whatever it is. Them trying to be inside a shelter is detrimental to their health. It creates bad behavior. They get in trouble. They get kicked out. They lose their stuff. So they're not being belligerent. By not choosing to be in a shelter. They're choosing self-preservation. By being out of the shelter. They'd rather die on the street than

try and survive inside a shelter because of their predisposition to everything that you need to be able to manage in a shelter. So for a city to say you can only sleep outside when the shelters are full, that's looking at one piece of homelessness. Those people who can in fact stay in shelters. 'Shelters full' to one person is different to another. In the wintertime we let people sleep on the floor in our shelter. Our beds are full. But we're really, we're at capacity. We cannot serve everyone that is trying to get a bed that night. The Boise Rescue Mission tends to say we are never full which is kind of difficult for this situation because they have them sleep on the kitchen floor. They'll turn no one away but really, by capacity, they're full.

One of the main arguments made by the plaintiffs in *Martin v. City of Boise* is shelter access is not adequate enough even when shelters are considered to be available. The definition of 'full' is contested, however, as explained by one interviewee:

From their public statements, first of all, they say they don't ticket people who have no place to go. I just know that's false. I don't know how they know that. The way they know that is they set up this system in which they check a shelter is quote on quote full. They don't define what full is. That could be 25 people on a floor. If at 11:00 they call into Boise Police dispatch at Boise State and tell them their full. Well the problem with that is there are two main shelters, Interfaith Sanctuary and Boise Rescue Mission. The Boise Rescue Mission's policy is never to call because they'll never turn anybody away. They will put people on the halls, closets, in the dining room. They will never call. They have never called in the five or six years that this policy has been in place. So they say, 'Voilà, they're not full.' They won't call if they've banned somebody or if they reached their length of stay policy, seventeen days, or refused to attend religious programming because it's not their faith or they don't believe in it. A lot of people if they can't get into Sanctuary which is full on a regular basis or it's full for the men or full for the women or full for the families. There's different ways of being full. They've always said that there's not a problem when there clearly is a problem and everybody knows it.

Many of the efforts to address homelessness in Boise have taken a very one-size fits all approach. One interviewee explained why this approach is problematic and why more innovative approaches need to be taken to address the issue:

... the problem is everybody thinks that we need to do housing in one particular box. Like OK you've got to give everybody an apartment. Housing can be a lot different than that. We have to think outside the box. So part of our ideas behind education and exploration is looking at how many other places have fences. So I know that one of the major things that we've been doing is trying to reach out to

the faith community, faith based community, because you know they could do things with their properties. Other people can't do it because of religious purposes and religious freedom. So for example we have a huge church downtown and they literally have an entire block of empty space. So the block at the square and it could be used for a ton of different things. And of course our push is of low income housing. But of course they live in the North End which, you know, like, 'don't do anything to destroy the North End type of thing'. There's a lot of NIMBYism, not in my backyard. But it's one of those things where you know when you explore and you think outside the box. I mean, there are tons of churches who have [built] housing behind the six foot fence and you don't even know what they are. You just see little tiny homes. Right. You don't see anything else behind the fence so you could do something like that you know and and not the, you know, the true, you know, 'this is the North End, it's beautiful. You know, we got our old style houses', that kind of thing. So there are a ton of ways you can deal with it. The problem is we all think inside the box so that enables the shelters. You know, 'they can come they can stay here at night. They can sign in and you know they can listen to the things, they can speak to a social worker. They can do all of those things. And then tomorrow they can get a flock.' The city doesn't see it and do whatever they want. Well, 'we're doing this and that inside the shelter you know'. So it enabled them. And we have people who think that that's taking care of people who are experiencing homelessness and it's not. You know, shelter is not the same thing of housing.

As a result of shelters not actually being adequate many people are looking towards alternatives to shelters, such as tiny home villages. There are many proponents of this solution, citing success stories from other cities in the region; however, interviewees also expressed receiving pushback from the city in pursuit of this kind of alternative:

I did a study and worked with a psychiatrist. He calls homelessness shades of grey, but everyone wants to fit them into one hall and it's not like that. As a community, it is our responsibility to have options for everyone. We can't just say that shelters are the one and only thing they need because that's not true. They may need to be kept safe outside... There's conversations [about sanctioned camping and tiny home villages]... the city of Boise is not moved by any of those innovations. They strongly believe that is an untenable solution, that they need homes. They need, you know, brooms. Looking at tiny houses, like a community that is self-managed with tents. Anything that is not a legally zoned, built by city code, designation, that's not an option for the city of Boise... I follow Portland quite a bit. I mean [they] are actually breaking ground, kind of proving that it can happen. Unfortunately the city of Boise only hires people from outside Boise to tell us why it doesn't work. They never bring in the expert that tells us why it will work.

One interviewee further detailed what a potential tiny home village could look like if it were implemented in Boise. This interviewee was also flabbergasted as to why the city would be opposed to this alternative. Furthermore, they highlighted attempts to create a tiny home community in Boise and how it played out:

One of the things we're fighting also is the city of Boise itself, right, so the city and I would hope that nobody would say, make this personal. 'This is all Mayor Bieter's fault. It's all his fault.' It's not that. He's very protective of the city. Right. I want the city although not necessarily the politics on a personal level here. I'm going with the idea of, you know, the city of Boise. You know, they say they don't oversee the continuum of care but they do. Right. It's a continuum of care. But they definitely oversees the HUD (Housing and Urban Development) money you know the mini grant the home grants you know those kind of things they oversee all of that. You know, and then that's how they, well, we have this here and we have that there. But the thing of it is with their thumb on it, it really really limits some of the other things that we do. You know, I myself totally 100 percent believe in tiny home communities and I think that they can work and they are known to work in a multitude of places. I mean all across the country across the world actually not just, you know, in Portland with a tent here and a tiny home here. You know, they're real tiny home communities. And everybody has their own place. They could be put together with you know self-contained or you can have a community house where they can all do their showers you know and that's ideal. You know you have a community rec room type of thing with showers and bathrooms and people who oversee that type of thing but then you know everybody else has their own little place. Right. And that's one of the things that I can actually see working. But the city of Boise has fought something like that tooth and nail you know and it is just like why? What's the big deal? Because in reality there is a tiny home community in Boise and they approved it. It's just that nobody wants to see that as a tiny home community. It is that because somebody did and it's not very big. It has like 15 maybe 20 units in it but it used to be old trailer park and somebody went in and they took out all the trailers and they built this little tiny square home. And I believe they're each self-contained right so they each contain a bedroom and a bath. So they're like a studio you know house or something like that. They're really cute. There's nothing to them. I mean it paved so there's no dirt and nobody has a garden or anything like that but they can each have their own character. Somebody can have flowers and stuff. It's pretty neat and well contained. And it's a tiny home community, they just don't call it one. But yeah, it is. But in reality it's like, it's like why can't we sell a tiny home community? I think that would be ideal. Somebody could utilize it but, you know, regulations. I don't know if you've read any of the stories behind a couple of different people who have actually built tiny homes and all of the hoops and regulations and the fines and stuff that they have to go through the zoning and the city was horrendous.

There are also talks of creating a safe parking program because much of Boise's homeless population are people who are living in their cars as one interviewee explained:

Some of them stay in cars. We have a lot of the unseen homeless people. Right now we're trying to find a safe parking place for a couple with a disabled child who is living in an RV and have to move it every day and every night. It's not hooked up to any kind of electrical power because they just can't find a place to live. We're trying to start a safe parking program, where a person who has a vehicle can go over night and not be ticketed. That's another way they do it. They ticket you for camping in your vehicle but they'll also ticket you if you don't move your vehicle within 48 hours.

The massive sweep of Cooper Court also played a large role in igniting the debate around sanctioned camping or 'tent cities' in Boise. Cooper Court highlighted how many of the people living on the streets in Boise would rather stay outside than stay inside the shelters. The sweep of Cooper Court has caused a lot of mistrust and resentment towards the city. Although Cooper Court increased tensions among the community and the city it also ignited more conversation around the issue and encouraged the city to take action as contextualized by one interviewee:

That was a revelation, right, like you can't not see what our homeless population looks like. They were the ones that didn't want to go into shelter. They were outside for so many different reasons it was crazy. I became kind of the volunteer director of Cooper Court cause no one was willing to talk to them, provide services to them, or get to know them. I did get to know them and figured out a lot about what was making them choose outdoors over indoors and a tenable situation that occurred was there was no support to bring supportive services or any kind of damage control for this group. They thought all the people in Cooper Court were bad. Not realizing that some of them were chronically ill and this was their safest choice and other people were coming and preying on them and selling drugs to them and convincing them to give them a tent for... It was the perfect storm of lack of understanding, lack of support, lack of caring and then it ended, you know, with the disbandment of Cooper Court. Lives were lost. There was a lot of bad feelings from both sides of the parties. But what happened was the Path which is a building that now stands, has 40 rooms for 40 of our most chronically homeless people. They have a room, there's supportive services inside that building. It's a housing first model and the reason why we have that building now is because of what Cooper Court revealed and the City of Boise had to respond... When it can't get any worse that's when the city of Boise steps up and comes up with one solution but if we were in fact not criminalizing homelessness and focusing on

affordable housing over luxury housing, if we prevented people from becoming homeless and building shelter for those that are already homeless, that's a better combination, that's like nipping it in the bud. But what's happening is we are making homeless on one side because of how we are handling the housing in Boise and we're not making anything more accessible so there's a good chance there's going to be a tent city again if no one has any place to go. So you solved the problem for a little bit but you didn't solve it all. You gave them a fish instead of a fishing pole.

The City of Boise still maintains Cooper Court was not a solution and similar encampments would not be beneficial. They explained:

There were significant crimes happening in that area, including murders. And, that was, that was something that just simply was not acceptable. And it is not something that the City of Boise is interested in pursuing. So creating those kind of facilities would have the opposite effect of encouraging folks to take advantage of what's available to them.

When asked what the City of Boise's thoughts are regarding safe encampments, tiny home villages, and safe parking programs, they said they would be open to the idea but followed that statement by listing off why it probably would not work:

Tiny homes is something that we would certainly be willing to consider. But the tiny home concept, the housing unit needs to live up to code. It has to be wired right. It has to have plumbing. It has to provide appropriate health and safety measures that your home and my home have. And so that's definitely something that we could do. You know the idea of any kind of other camp again brings up any kind of a sanctioned camp like we've seen in some of the other cities. Those tend to go poorly pretty quickly as a result of that. Again the public health and safety challenges that happen when you have so many people in an area without the proper facilities, without the kind of stability that you know a project like Housing First would provide.

Overall, there are a lot of differing opinions regarding sanctioned camping in Boise. Currently there is no consensus; however, many people have strong opinions on both sides as explained by one interviewee:

There's definitely competing ideas or philosophies on the best way to put on that particular type of solution. I think what the greater continuum's view on it now is that the end goal, an encampment or a non-permanent home isn't where they want people to be for the long run and so trying to bridge that gap from homelessness directly to some kind of permanent housing is more of their focus. So I think the



counterargument is, isn't it better to get someone off the street? Then you have proponents that say, 'Well, you know, we can get people off the street quicker if we modify our zoning code and allow for tiny homes or allow for camping in particular areas; isn't it more important that people are sheltered?' I would say that right now there isn't a single opinion on that across the community. There's differing opinions. So from my perspective, a research perspective and the perspective of where I work at Boise State, that kind of gap in what people believe should happen, that needs to be addressed. Otherwise there will be people fighting one or the other. Maybe that's not going to help get anything done. From my opinion standpoint, it's more about what's best for the community, and the community needs to decide that rather than from my perspective saying the community should be doing this or that.

### **Discussion**

Research participants had varying views regarding homelessness in Boise, Idaho. For the most part, participants did not believe criminalization was an effective way to address the broader issue of homelessness, with one notable exception being the City of Boise. Participants described the impacts of criminalization as making it more difficult for homeless people to access basic needs, such as housing and employment, due to the buildup of citations and jail time received for simply existing. Many people are cycled through the legal system and do not have the resources they need to navigate them. Criminalization does little to help and only exacerbates the issue. The impacts of criminalization of homelessness in Boise, Idaho, as expressed by research participants, closely resembles literature from across the country, including California, Oregon, and Washington (National Law Center on Homelessness & Poverty, 2016; San Francisco Coalition on Homelessness, 2015; Berkeley Law Policy Advocacy Clinic, 2015; American Civil Liberties Union of Oregon, 2017; and Olson, MacDonald, & Rankin, 2015).

The first research question this thesis sought to answer was "What is the impact of *Martin v. City of Boise* on the homeless and homeless advocacy community in Boise, Idaho and surrounding cities in the Ninth Circuit?" Impacts of the case, as noted by some participants, included increased conversation around homelessness in the community, a deterrence of

homeless people receiving citations and jail time, and setting a legal precedent for other cities in the country. The second research question asked was, “How can homeless communities, advocates, and organizers move forward in the fight to end criminalization?” which will be answered in the following section ‘Recommendations Moving Forward’.

Based on information from the literature review and responses from research participants, I propose four recommendations based on the key themes from the interviews: 1) Continue litigation against Boise criminalization ordinances while also focusing on policing practices in general; 2) Focus on housing access over development interests in Boise; 3) Monitor and further investigate business and developer influence on the implementation and use of criminalization ordinances and policing practices; and 4) Create safe encampment sites. These recommendations by no means capture the entirety of what needs to be done in the City of Boise but can serve as an organizing tool for homeless people and advocates to use while planning next steps. Furthermore, any action going forward should center and be led by those most impacted, especially currently homeless people in Boise.

#### *Recommendations Moving Forward*

1. Continue litigation against Boise criminalization ordinances while also focusing on policing practices in general.

The litigation strategy has been successful in bringing the larger conversation around criminalization of homelessness into the public realm. The *Martin v. City of Boise* case and the encampment at Cooper Court were cited as reasons for the city taking action on building more affordable housing, in a time of increased growth and development of luxury housing. Prior to these events, the issue was not seen as pertinent in the way it is now. The case also successfully used legal tactics outlined as historically working to get rid of exclusion laws. This includes the

challenge to the Eighth Amendment citing that the ordinances in question are targeting people based on status over conduct (Ortiz, Dick, & Rankin, 2015). The City of Boise claims they are not citing people on the anti-camping ordinance and ban on sleeping in public as often as they used to. Some research participants cited this as a good thing, as it helps reduce people being cycled through the courts, reducing their ability to find employment and housing.

Despite the city's claims that they are not citing people on the anti-camping ordinance and the ban on sleeping in public very often, they are still finding other means to police and criminalize homeless people in Boise. Police are using different laws, which were not challenged in *Martin v. City of Boise*, to exclude people from spaces and possibly ticket or arrest. This includes the 'park after dark' ordinance, which bans people from being in the park at night. One of the research participants pointed to this law explaining how it is only ever enforced towards homeless people. The enforcement of these laws are extremely similar to the enforcement of the anti-camping ordinance and sleeping ban, however, in the sense they are targeting people based on status rather than conduct as pointed out by one research participant.

Furthermore, the City of Boise cited the police as the main outreach the city does with homeless people. This is a major problem considering police are intimidating to many homeless people, and many homeless people are understandably untrustworthy of police as highlighted by some of the research participants. The city of Boise should shift their focus of relying on police for outreach and find more direct ways to engage homeless people in policies regarding housing and homelessness. Although litigation tactics used in *Martin v. City of Boise* have had successes, the case is still dragging on after ten years. The litigation tactic must be used in tandem with addressing the broader issue of policing of homeless people.

2. Focus on housing access over development interests.

Several research participants were frustrated with the City of Boise's spending and development priorities. Many pointed out how the city is investing a lot in upscale and expensive condos in downtown, but not focusing on creating low income or affordable housing. One person pointed out how this is especially worrisome in a 'minimum wage state' (i.e. Idaho's statewide minimum wage is still the federal 7.25 per hour). Much of the development being referred to was development by the LocalConstruct development company referenced in the literature review, which includes the luxury and controversial Fowler Apartments (Berg, 2017). One research participant was upset the City of Boise was giving tax incentives for these expensive apartments especially because these units are being used for short-term rentals, such as Airbnb. Furthermore, several people explained how the number of homeless people is relatively manageable and will get worse if the city does not take action now. The cost of homelessness was also a large concern of several research participants who believed investing in accessible housing rather than criminalization would be more financially sound. This is further exemplified in the literature review via the feasibility study of housing first versus current costs of homelessness (Fry, 2018).

Going forward, the city should not prioritize expensive development, especially development that does not benefit residents of Boise. The city should focus more on making housing more accessible. The City of Boise pointed to New Path housing as a step in the right direction. Other research participants agreed with this; however, New Path only accounts for people who are deemed chronically homeless, which only impacts a small faction of the homeless community. When creating more housing, the City of Boise needs to consider the diverse needs of the population and not just center chronically homeless people. The City of Boise should also preserve current accessible, low income housing, such as the Blue Valley

community. Things such as urban renewal districts threaten these housing options and should not be promoted as much as they currently are (Staats, 2018).

3. Monitor and further investigate business and developer influence on the implementation and use of criminalization ordinances and policing practices.

Research participants had several differing opinions regarding the business community in Boise. Some participants believed businesses have been helpful through volunteerism and by donating to service providers. Business people, especially those in real estate, were also heavily involved in Mayor Bieter's homeless round tables which is one of the few ways the city directly engages with the community around the issue of homelessness. The homelessness roundtables have involved people from the Capital City Development Corporation (CCDC). The CCDC has been a major steward of urban renewal and includes many city officials on its board (CCDC, 2018) (CCDC, n.d.). CCDC was briefly mentioned by some research participants, but given their relevance to the issue as described in the literature review, more monitoring and investigation of CCDC may be beneficial going forward.

Some participants were frustrated with businesses that did not like the sight of homelessness and just wanted to move people somewhere else. Some participants did feel some people in the business community contributed to the creation and implementation of criminalization ordinances in the city, including the Downtown Boise Association, Boise's only business improvement district (BIDs). Given previous literature which suggests BIDs are sometimes used as a means to exclude homeless people from public space, it would be helpful to monitor and further investigate the Downtown Boise Association's activities regarding homelessness (Berkeley Law Policy Advocacy Clinic, 2018). Currently, the Downtown Boise Association does not have a security program, as many other BIDs do, but given how often

security programs are integral to other BIDs, it could be a possibility going forward (Downtown Boise Association, n.d.).

4. Create safe encampment sites in Boise.

Shelters are not accessible for everyone as exemplified through the literature review and responses from research participants. Many participants were in favor of creating safe encampments since shelters are not accessible to many people. Research participants explained how shelters can be inaccessible for people with mental illness or disabilities. Some people are kicked out of shelters or shelters are an unsafe environment. Some people feel they have more autonomy when they are outside. One participant highlighted the problem with shelters by saying it is a one size fits all solution that does not address the varying needs of the homeless population. As a result, research participants thought safe encampments are beneficial because they allow for another option of shelter, considering current shelter options are not addressing the needs of all people living on the streets. Many participants could think of several areas viable for an encampment and especially advocated for safe parking programs as many people live in their cars. Responses from research participants are similar to what the literature suggests regarding shelter access and authorized encampments (Skinner & Rankin, 2016) (Parr & Rankin, 2018).

The City of Boise believed the amendment to not enforce the ordinances when shelters are full was a good compromise, but some research participants pointed out the flaws of labeling shelters as ‘open.’ Research participants explained how shelters that are ‘open’ may not actually be accessible. For example, many of the shelters will not turn anyone away, opting instead to find creative means to shelter people including having people sleep in hallways, cafeterias, and closets. Despite how much interest there was among participants in creating alternatives to

shelters, such as sanctioned encampments, the City of Boise claimed sanctioned encampments “go poorly pretty quickly” in other cities. This is contradictory, however, to literature which suggests sanctioned encampments have been beneficial for people living on the streets as alternatives to shelters (Parr & Rankin, 2018). Many participants expressed frustration with the city’s unwillingness to authorize safe encampment sites. Much of this resistance, seemingly, came from the events at Cooper Court as cited by the City of Boise in their interview.

Given how much pushback there is from the city, it may be beneficial for homeless people and homeless advocates to create peer-run safe encampment sites without permission from city via direct action, such as the case in Portland (Schmid, 2018). Of course, there is risk in this solution, and it would require extensive planning and community support. Considering the sweep of Cooper Court by the City of Boise, despite protests, there is a chance the community would be swept quickly, which should also be taken into consideration (Berry, 2015a). Furthermore, there should be an emphasis on making sure encampments are peer-run and led by homeless people rather than service providers.

#### *Limitations of Research and Points of Further Inquiry*

One of the key limitations of this research was no currently homeless people were interviewed. I initially intended to interview currently homeless people in Boise, but was unable to due to complications of going to Boise for in-person interviews and time-restraints. Going forward, recommendations and further action should include those most directly impacted, which would include currently homeless people in Boise, Idaho.

This research mostly focused on the ordinances in question in *Martin v. City of Boise*. The ordinances in question pointed to a larger issue of policing of homeless people in cities, including Boise. Further research should focus on policing practices in general and how police

are interacting with and potentially harassing and displacing homeless people in Boise, Idaho and other cities with similar ordinances.

### **Conclusion**

This research set out to determine the implications of the *Martin v. City of Boise* case law and what it means for homeless communities and advocates. Criminalization of homelessness has shown, time after time, to be an ineffective means to address homelessness. This became evident via the interviews of stakeholders in Boise and the costs exemplified in the literature review. Furthermore, shelter access was at the crux of this case study. Shelter is not accessible for many homeless people and criminalizing homeless people for not staying in a shelter is not an appropriate response. Alternatives to shelters have shown to be effective and have a lot of support among community members in Boise. Some of the obstacles Boise community members will face when advocating for these alternatives will include continued pushback from the city and potential pushback from the local business community. As Boise continues to grow, homelessness will become a larger issue. If the city and community acts now, there is still time to mitigate the potential consequences that may ensue in the coming years.



### References

Aguilar, J. (2019, May 7). Denver Initiative 300: Effort to end camping ban fails by a wide margin.

Denver Post. Retrieved from <https://www.denverpost.com/2019/05/07/camping-ban-denver-homeless-initiative-300/>

American Civil Liberties Union of Montana. (2014, January 3). Judge Strikes Down Boise Anti-

Panhandling Ordinance. Retrieved from <https://www.aclumontana.org/en/news/judge-strikes-down-boise-anti-panhandling-ordinance>

American Civil Liberties Union of Oregon. (2017). Decriminalizing Homelessness: Why Right to Rest

Legislation is the High Road for Oregon. Portland, Oregon. Retrieved from:

[https://wraphome.org/wp-content/uploads/2017/08/ACLU-Decriminalizing-Homelessness\\_Report\\_v03.pdf](https://wraphome.org/wp-content/uploads/2017/08/ACLU-Decriminalizing-Homelessness_Report_v03.pdf)

Berg, S. (2017, August 16). These two guys are changing Boise's Downtown, and they're in it for the long haul. Idaho Statesman. Retrieved from

<https://www.idahostatesman.com/news/business/business-insider/article167500422.html>

Berg, S. (2018, July 24a). Two towers are coming to Downtown Boise's Central Addition. What about that sky bridge? Idaho Statesman. Retrieved from

<https://www.idahostatesman.com/news/local/community/boise/article215446095.html>

Berg, S. (2018, December 3b). Businesses here. Housing there. What new city spending may bring to 2 areas of Boise. Idaho Statesman. Retrieved from

<https://www.idahostatesman.com/article222284890.html>

Berry, H. (2015, December 4a). Scenes From the Police Sweep of Boise's Cooper Court. Boise Weekly.

Retrieved from <https://www.boiseweekly.com/boise/scenes-from-the-police-sweep-of-boises-cooper-court/Content?oid=3669274>

- Berry, H. (2015, December 9b). Boise Mayor Dave Bieter Shuts Down City Council Meeting Over Cooper Court Protests. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/boise-mayor-dave-bieter-shuts-down-city-council-meeting-over-cooper-court-protests/Content?oid=3671941>
- Berkeley Law Policy Advocacy Clinic. (2015, February). California's New Vagrancy Laws: The Growing Enactment and Enforcement of Anti-Homeless Laws in the Golden State. Berkeley, California. Retrieved from <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Californias-New-Vagrancy-Laws.pdf>
- Berkeley Law Policy Advocacy Clinic. (2018, September). Homeless Exclusion Districts: How California Business Improvement Districts Use Policy Advocacy and Policing Practices to Exclude Homeless People from Public Space. Retrieved from <https://wraphome.org/wp-content/uploads/2018/09/PAC-BID-Report-2018-web-rev.pdf>
- Boise Homeless Coalition. (2018). PUSH Expo: People and Projects in Partnership, United in Support of those in Homelessness. Retrieved from <https://www.homelesscoalitionboise.com/event/push-expo-sponsored-by-boise-ada-county-homeless-coalition/>
- BondGraham, D. (2018, September 26). Oakland and Berkeley Homeless Sweeps May be Unconstitutional. East Bay Express. Retrieved from <https://www.eastbayexpress.com/oakland/oakland-and-berkeley-homeless-sweeps-may-be-unconstitutional/Content?oid=20536239>
- Brady, D. (2016, June 6). The Homeless Industrial Complex. Get Loud. Retrieved from <http://getlouddholpress.weebly.com/commentary-blog/the-homeless-industrial-complex>

Brown, D. L. (2017, June 7). When Portland banned blacks: Oregon's shameful history as an 'all-white' state. The Washington Post. Retrieved from

[https://www.washingtonpost.com/news/retropolis/wp/2017/06/07/when-portland-banned-blacks-oregons-shameful-history-as-an-all-white-state/?utm\\_term=.7f49ce76bcec](https://www.washingtonpost.com/news/retropolis/wp/2017/06/07/when-portland-banned-blacks-oregons-shameful-history-as-an-all-white-state/?utm_term=.7f49ce76bcec)

Capital City Development Corporation. (2018, August 29). 5-Year Capital Improvement Plan. Retrieved from <https://map.ccdcboise.com/wp-content/uploads/2019/01/CCDC-19-23CIP-DIGITAL-FINAL.pdf>

Care Not Cops. (2019, February). Building Care: Portland Communities Respond to the Violence of Policing. Retrieved from

[https://static1.squarespace.com/static/5a06663f0abd0473f4bc9610/t/5c61af4aeb393107fe18c440/1549905764664/CNC\\_BuildingCare\\_CommunityReport\\_Volume1\\_Winter2019.pdf](https://static1.squarespace.com/static/5a06663f0abd0473f4bc9610/t/5c61af4aeb393107fe18c440/1549905764664/CNC_BuildingCare_CommunityReport_Volume1_Winter2019.pdf)

Compassionate Change District. (n.d.). What are sweeps?. Retrieved from <https://ccdpx.org/what-are-sweeps/>

Cotterell, A. (2015, May 13). Growing Garden City: How 'Inevitable' Gentrification Could Push Out Low-Income Residents. Retrieved from <http://boisestatepublicradio.org/post/growing-garden-city-how-inevitable-gentrification-could-push-out-low-income-residents#stream/0>

Critical Resistance. (n.d.). Abolish Policing. Retrieved from <http://criticalresistance.org/abolish-policing/>

Department of Justice. (2015, August 6). Bell v City of Boise Statement of Interest of the United states.

Retrieved from <https://www.justice.gov/crt/file/761211/download>

Downtown Boise Association. (n.d.). Business Improvement District. Retrieved from

<https://downtownboise.org/about/business-improvement-district>

- Fry, V. C. (2018). Reducing Chronic Homeless via Pay for Success: A Feasibility Report for Ada County, Idaho. Retrieved from <https://static1.squarespace.com/static/57e1fc9c20099e1414dc6070/t/59c00bddcd0f689901ef98a2/1505758179678/161115+Boise+Feasibility+Final.pdf>
- Gibson, K. (2007). Bleeding Albina: A History of Community Disinvestment, 1940-2000. *Transforming Anthropology*, 15(1), 3-25. Retrieved from [http://kingneighborhood.org/wp-content/uploads/2015/03/BLEEDING-ALBINA\\_-A-HISTORY-OF-COMMUNITY-DISINVESTMENT-1940%E2%80%932000.pdf](http://kingneighborhood.org/wp-content/uploads/2015/03/BLEEDING-ALBINA_-A-HISTORY-OF-COMMUNITY-DISINVESTMENT-1940%E2%80%932000.pdf)
- Guzman-Lopez, J. (2019, April 25). Bell v City of Boise Statement of Interest of the United states. In Western Regional Advocacy Project. Retrieved from <https://wraphome.org/2019/04/25/santa-cruz-ordered-to-stop-the-clearing-of-the-gateway-plaza-homeless-camp-in-historic-ruling/>
- Harding, H. (2019, March 11a). 330 upscale apartments are on track to come to Downtown Boise. Here's what to know. *Idaho Statesman*. Retrieved from <https://www.idahostatesman.com/news/business/article227427834.html>
- Harding, H. (2019, June 3b). Boise begins to ask U.S. Supreme Court to hear its appeal in homeless camping case. *Idaho Statesman*. Retrieved from <https://www.idahostatesman.com/news/local/community/boise/article231131103.html>
- Idaho Architecture Project (n.d.). Fowler House. Retrieved from <https://idahoarchitectureproject.org/s/1753/Fowler-House>
- INCITE!. (2007). *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex*. Cambridge, MA: South End Press.

- Institute for Community Alliances. (2019). 2019 Boise City/Ada County Point in Time & Housing Inventory Count. Retrieved from <https://www.icalliances.org/2019-bcac-point-in-time-housing-inventory-count>
- Ivey, T. R., Gilleland, J., & Rankin, S. (2018, May 3). Hidden in Plain Sight: Finding Safe Parking for Vehicle Residents. Seattle University Homeless Rights Advocacy Project. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3173221](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3173221)
- Kemp, B. (2016, May). Harmful, Ineffective Codes: Boise Must Stop Criminalizing Homeless. The Blue Review: Homeless Colloquy. Retrieved from <https://theblureview.org/harmful-codes/>
- La Ganga, M. (2018, February 17a). Then you saw them, now you don't. Development foes lament loss of landmarks, open space. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/news/local/community/boise/article200792329.html>
- La Ganga, M. (2018, November 11b). This Boise woman's story: What can happen when your rent goes up and you can't pay. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/news/local/article221063445.html>
- Martin v. City of Boise (2018) Retrieved from <https://cdn.ca9.uscourts.gov/datastore/opinions/2018/09/04/15-35845.pdf>
- Murri, J. (2015, December 6). Cooper Court Rally: 'The Fire is Going and I'm Going to Put as Much Gasoline on This as I Can'. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/the-fire-is-going-and-im-going-to-put-as-much-gasoline-on-this-as-i-can-supporters-rally-for-cooper-court/Content?oid=3670219>
- National Law Center on Homelessness & Poverty. (2016). No Safe Place: The Criminalization of Homelessness in U.S. Cities. District of Columbia. Retrieved from [https://nlchp.org/wp-content/uploads/2019/02/No\\_Safe\\_Place.pdf](https://nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf)

- Oland, D. (2018, July 25). The Fowler gets an artistic mural for its modern facade. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/latest-news/article215508815.html>
- Olson, J., MacDonald, S., & Rankin, S. (2015, May). Washington's War on the Visibly Poor: A Survey of Criminalizing Ordinances & Their Enforcement. Seattle University Homeless Rights Advocacy Project. Retrieved from <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1001&context=hrap>
- Ortiz, J., Dick, M., Rankin, S. (2015) The Wrong Side of History: A Comparison of Modern and Historical Criminalization Laws" Homeless Rights Advocacy Project. Retrieved from <http://digitalcommons.law.seattleu.edu/hrap/7>
- Parr, E., & Rankin, S. (2018, May). It Takes a Village: Practical Guide for Authorized Encampments. In Seattle University Homeless Rights Advocacy Project. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3173224](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3173224)
- Portland African American Leadership Forum. (2017). The People's Plan. Retrieved from <https://www.paalf.org/paalf-peoples-plan/read-paalf-peoples-plan>
- Prentice, G. (2015, August 4a). Say Goodbye (and Hello) to the Fowler House, Boise Landmark Since 1894. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/say-goodbye-and-hello-to-the-fowler-house-boise-landmark-since-1894/Content?oid=3552737>
- Prentice, G. (2015, September 2b). Welcome to Cooper Court, Boise's Growing Tent City of Homeless. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/welcome-to-cooper-court-boises-growing-tent-city-of-homeless/Content?oid=3579027>
- Prentice, G. (2016, February 2). Memorial Service Will Honor Former Cooper Court Resident, Found Dead in Boise Park. Boise Weekly. Retrieved from

<https://www.boiseweekly.com/boise/memorial-service-will-honor-former-cooper-court-resident-found-dead-in-boise-park/Content?oid=3709589>

Prentice, G., & Berry, H. (2015, November 19a). Signs, Written Warnings at Cooper Court Threaten Fines and/or Jail. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/signs-written-warnings-threatening-fines-and-or-jail-appear-at-cooper-court/Content?oid=3652308>

Prentice, G., & Berry, H. (2015, December 3b). Boise's Tent City at Cooper Court May Be Coming Down. Boise Weekly. Retrieved from <https://www.boiseweekly.com/boise/boises-tent-city-at-cooper-court-may-be-coming-down/Content?oid=3668040>

Robinson, M. A. (2017). Black Bodies on the Ground: Policing Disparities in the African American Community—An Analysis of Newsprint From January 1, 2015, Through December 31, 2015. *Journal of Black Studies*, 48(6), 551–571. <https://doi.org/10.1177/0021934717702134>

San Francisco Coalition on Homelessness. (2015, June). Punishing the Poorest How the Criminalization of Homelessness Perpetuates Poverty in San Francisco. San Francisco, California. Retrieved from <http://www.cohsf.org/Punishing.pdf>

Schmid, T. (2018, February 2). In An Early-Morning Crackdown, the City Swept the New Village of Hope Today. *Portland Mercury*. Retrieved from <https://www.portlandmercury.com/blogtown/2018/02/02/19650397/in-an-early-morning-crackdown-the-city-swept-the-new-village-of-hope-today>

Sharf, S. (2018, February 28). Full List: America's Fastest-Growing Cities 2018. Retrieved from <https://www.forbes.com/sites/samanthasharf/2018/02/28/full-list-americas-fastest-growing-cities-2018/#589592307feb>

- Skinner, S., & Rankin, S. (2007, November 11). Shut Out: How Barriers Often Prevent Meaningful Access to Emergency Shelter. Retrieved from <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1004&context=hrap>
- Sowell, J. (2019, April 1). A court found Boise's homeless camping law unconstitutional. Here's what just happened. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/news/local/community/boise/article228690069.html>
- Staats, D. (2018, December 12). Citizens came to testify on an urban-renewal district. Then Mayor Bieter got annoyed. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/news/business/article222984780.html>
- Talerico, K. (2018, October 15). Want to donate money to panhandlers? Don't waste your money, Nampa says. Idaho Statesman. Retrieved from <https://www.idahostatesman.com/news/local/community/canyon-county/article220047065.html>
- United Nations. (2018, July). Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America. Retrieved from [https://digitallibrary.un.org/record/1629536/files/A\\_HRC\\_38\\_33\\_Add-1-EN.pdf](https://digitallibrary.un.org/record/1629536/files/A_HRC_38_33_Add-1-EN.pdf)
- United States Census Bureau. (2017, December 20). Idaho is Nation's Fastest-Growing State, Census Bureau Reports. Retrieved from <https://www.census.gov/newsroom/press-releases/2017/estimates-idaho.html>
- United States Census Bureau. (2018, July 1). QuickFacts Boise City city, Idaho. Retrieved from <https://www.census.gov/quickfacts/boisecitycityidaho>
- University of Michigan Law School. (n.d.). Case Profile: Bell v City of Boise. In Civil Rights Litigation Clearinghouse. Retrieved from <https://www.clearinghouse.net/detail.php?id=14919>



Webb, A. (2017, November 27). As CVS readies to replace low-cost apartments, at least one resident vows not to leave. Idaho Statesman. Retrieved from

<https://www.idahostatesman.com/news/local/article186792973.html>

Wells, S. (2017, February 22). Is “Blight” Just Another Word for “Black”? Concentrating on Community Assets. Nonprofit Quarterly. Retrieved from

<https://nonprofitquarterly.org/2017/02/22/blight-just-another-word-black-concentrating-community-assets/>

Western Regional Advocacy Project. (n.d.). Homeless Bill of Rights. Retrieved from

<https://wraphome.org/what/homeless-bill-of-rights/>

Western Regional Advocacy Project. (2010). Without Housing: Decades of Federal Housing Cutbacks, Massive Homelessness, and Policy Failures. San Francisco, CA. Retrieved from

<https://wraphome.org/wp-content/uploads/2008/09/WRAPWithoutHousingfederalcutbacks2007report.pdf>

Woolington, R., & Lewis, M. (2018, June 27). Portland homeless accounted for majority of police arrests in 2017, analysis finds. The Oregonian. Retrieved from

[https://www.oregonlive.com/portland/2018/06/portland\\_homeless\\_accounted\\_fo.html](https://www.oregonlive.com/portland/2018/06/portland_homeless_accounted_fo.html)