

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

GETTING THE JUSTICE DEPARTMENT ON YOUR SIDE *A Guide to Filing a Complaint*

Background

In 2015, the U.S. Department of Justice (DOJ) filed a statement of interest in federal court arguing that it is unconstitutional to criminalize sleeping in public places without providing adequate shelter space in the area. While that case—*Bell v. City of Boise*—is now on appeal, the profusion of state and local laws facilitating abuse of homeless persons makes it likely that the DOJ will be looking for opportunities to use its enforcement powers of intervention or investigation in the future.

Getting Started

You need not be an attorney to file a complaint, but it will be read by lawyers with an eye toward legal options, so working with a local legal aid organization, law school clinic, or pro bono attorney (the Law Center may be able to help find one) may help.

A strong summary at the beginning of your complaint followed by a detailed but concise description of the problem maximizes your chance of getting their attention.

A complaint consists of 3 basic parts: (1) a formal complaint, (2) any appendices, and (3) pertinent court filings.

Vanita Gupta
Principal Deputy Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

1 FORMAL COMPLAINT

RE: Complaint against the [City/County/Other] of [Location], alleging violations of rights guaranteed by the United States Constitution

Dear Principal Deputy Attorney General Gupta:

[Organization] submits this Complaint on behalf of [number of] individuals experiencing homelessness in the [City] of [Location], who are subjected to ongoing policies and practices that unlawfully criminalize the status of being homeless and deprive those individuals of their right to due process under the [4th/8th/14th Amendment(s)] to the U.S. Constitution. [Organization] respectfully requests that the Special Litigation Section:

1. Commence an investigation into...
2. File a 28 U.S.C. § 517 Statement of Interest in the pending case of...

[Next, briefly outline the organization of your complaint. For example:

Part I of this Complaint provides data regarding [City's] homelessness crisis.

Part II provides an overview of the [City]'s recent enactment of [ordinances/laws] aimed at punishing individuals for homelessness.

Part III demonstrates that these [ordinances/laws] have violated [rights].

Part IV details ongoing litigation in the [Court], [Case], [Description].]

[Concisely describe the situation, the ordinances at issue, statistical evidence, patterns of citation, whether there is current or contemplated litigation in the jurisdiction on those issues, and how many individuals have been affected/impacted.]

Respectfully Submitted:

2 APPENDICES

Appendices are not absolutely necessary, but certain supporting documents may be critical to demonstrating the basis of your complaint. These might include:

- empirical studies,
- census reports,
- survey data,
- sections of municipal codes or procedures,
- relevant media articles,

or any other materials too large to embed in the body of the complaint.

3 COURT FILINGS

You need not have an active case to file a complaint, but it is easier for the DOJ to intervene in ongoing litigation than to file a new case. If a suit is contemplated, let them know the timeline and if any research or drafts are available. If your case or a similar case has been filed, include a copy of the court complaint and other important filings, such as

- preliminary injunction motion,
- witness declarations, and
- deposition transcripts.

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WHY FILE A COMPLAINT?

Filing a complaint can be a lot of work, but it can produce a variety of outcomes:

- The DOJ may open its own **investigation** into the police practices and civil rights abuses in your community. This may result in a lawsuit, or a settlement with the city prior to or as a result of the lawsuit, requiring the city to modify its practices to avoid future litigation. These investigations are focused on systemic relief, not damages for any individual. Investigations are huge undertakings, with many more requests than the DOJ has capacity for, so do not be discouraged if they are unable to do so.
- The DOJ may **intervene** to support your position in an existing legal case. Intervening is significantly easier than opening its own investigation, but still a substantial commitment for the agency.
- Even if your complaint does not result in the DOJ taking immediate action in your locality, it will:

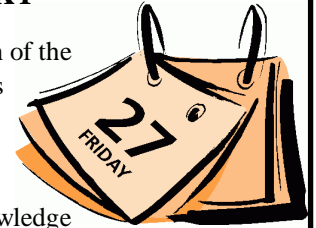
➔ Educate the DOJ attorneys and add to the collective weight of complaints on this topic;

➔ Alert your city to the possible consequences of their continuing criminalization;

➔ May be a hook for organizing or media.

The complaint procedure is a tool; it is up to us as advocates how we are best able to use it.

WHAT TO EXPECT NEXT



- The Special Litigation section of the Civil Rights Division receives many complaints. They try to respond to each individually, and to our knowledge they always, at a minimum, acknowledge receipt of the complaint, but it may take a week or more.
- You can publicize the fact that you filed a complaint and even share the text locally if it benefits your advocacy, but the DOJ will not comment publicly beyond acknowledging receipt until they are ready to act. If the DOJ reaches out for further information, they will likely ask for strict confidentiality until they intervene.
- If there is active litigation, the DOJ prefers to intervene at dispositive motion stages (preliminary injunction, motion to dismiss, or summary judgment). If any of these motions are anticipated, make sure to give the DOJ several months' notice to provide an opportunity to research, draft, and get approval for an intervention.
- Don't expect a quick action from the DOJ. They may go months without responding. It's best not to pester them with constant status inquiries, but if there are relevant updates (news coverage, reports issued, public actions planned, legislative hearings, updates to litigation, etc.) collect them and use the opportunity to send a message to the DOJ and get renewed attention.

EXAMPLE

In October 2015, the Sacramento Regional Coalition to End Homelessness filed a complaint that contains many good elements worth considering. Download it at: <http://goo.gl/RwV9p7>

Filing Your Complaint

Complaints should be addressed to Deputy Assistant Attorney General Vanita Gupta and filed with the Special Litigation Section by email (preferred) to Special.Litigation@usdoj.gov or by fax to (202) 514-0212 or (202) 514-6273 (alt. fax line).

If you submit via email, please copy the following people:

- Timothy Mygatt: Timothy.Mygatt@usdoj.gov
- Sharon Brett: Sharon.Brett@usdoj.gov
- Eric Tars: ETars@nlchp.org
- Your regional DOJ office:
<https://www.justice.gov/crs/about-crs/regional-and-field-offices>

For Assistance, Please Contact:

National Law Center on Homelessness & Poverty

- Eric Tars, Senior Attorney
- ETars@nlchp.org
- (202) 638-2535 x. 120 (phone)

U.S. Department of Justice Special Litigation Section

- (202) 514-6255
- (877) 218-5228 (toll-free)