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STATE BREAKS OWN RULES TO FURTHER RESTRICT RALLIES NEAR CAPITOL

Forced by court order, state also releases details of "Operation De-Occupy Boise"

Boise—The Idaho Department of Administration plans to submit changes to rules limiting rallies and other events on the Capitol mall, despite missing the Department's own deadline. To have its rule changes published in October 2012, the state agency would have had to submit its rule changes no later than August 31, 2012. An attorney for the state, however, acknowledged to the ACLU of Idaho that the Department had not even finalized its rule changes before that deadline. Under the Idaho Administrative Code, agency rule changes "must be submitted no later than 5 p.m. on the closing date for agency filing as listed in the Bulletin Publication Schedule," which lists August 31, 2012, as the final deadline for submitting rules to be reviewed during the 2013 legislative session.

The rule changes represent yet another attempt to continue to squelch the Occupy Boise encampment, which set up protest on the lawns of the old Ada county Courthouse a year ago. According to a draft copy of the changes not made available until September 13, the modifications clarify that the state has prioritized its routine grounds maintenance schedule above civic engagement around the Statehouse, requiring rallies and demonstrations to step aside whenever state groundskeepers deem it necessary. The new rules also continue to expressly regulate all "gatherings" of as few as two people on the grounds around the capitol.

The changes also include a new section which grants state officials sweeping authority to close off entire areas based merely on concerns such as soil being saturated or plants not getting sunlight. "When the dirt beside the legislature gets more protection than the basic American freedom to carry your opinions to the Capitol steps, we've turned the priorities our Forefathers fought to preserve in the Constitution upside down—I'm not surprised at all that my clients are outraged," said Ritchie Eppink, Legal Director of the ACLU of Idaho and one of the attorneys for Occupy Boise, which is challenging the rule changes. "There are so many places to go for recreation throughout this state, but there's just one statehouse. When the State puts picnics above protests at the one place where the people's voice is meant to be heard, it leaves you wondering whether they want to hear that voice at all," Eppink said.

Pursuant to a court order, the State was also forced to reveal its plans for "Operation De-Occupy Boise. The documents, which the federal court ordered released in redacted form despite the State's opposition, revealed emails between law enforcement and state officials about increasing security at the Capitol as a result of Occupy Boise. As part of a later plan, called "Operation De-Occupy Boise" and crafted by Idaho State Police in coordination with the Boise Police Department, the Ada County Prosecuting Attorney's office, and state agencies, the documents also offer insight into an enforcement operation that would have included a "media staging area" and arrests and detention of protesters, despite that the new state's anti-camping statute only authorizes ticketing violators, not arrest.

Occupy Boise's challenge to the anti-camping statute, as well as the Department of Administration's new rules restricting rallies near the Capitol, are still pending before Judge Lynn Winmill in federal court. In commemoration of the one-year anniversary of the global Occupy Wall Street movement, Occupy Boise set up its encampment again yesterday on the grounds of the old Ada County courthouse.

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